

## **ASSET PURCHASE AGREEMENT**

THIS ASSET PURCHASE AGREEMENT (this "Agreement") is made and entered into as of May 27, 2003, by and among SALISBURY BROADCASTING COLORADO, LLC, a Maryland limited liability company ("Seller"), and NRC BROADCASTING, INC., a Delaware corporation ("Buyer").

### **WITNESSETH:**

WHEREAS, Seller owns, operates and holds certain licenses issued by the Federal Communications Commission (the "FCC") with respect to radio stations KTUN(FM), Eagle, Colorado; KNFO(FM), Basalt, Colorado; KRMR(FM), Hayden, Colorado; KSPN-FM, Aspen, Colorado; and KFMU-FM, Oak Creek, Colorado (each a "Station" and collectively the "Stations"); and

WHEREAS, on the terms and conditions described herein, Seller desires to sell and Buyer desires to acquire substantially all of the assets owned or leased by Seller and used or useful in connection with the operation of the Stations;

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

### **ARTICLE 1. PURCHASE OF ASSETS**

1.1 Transfer of Assets. On the Closing Date (as hereinafter defined), subject to the provisions hereof, Seller shall sell, assign, transfer and convey to Buyer, and Buyer shall purchase from Seller, substantially all of the assets, properties, interests and rights of Seller of whatsoever kind and nature, real and personal, tangible and intangible, which are used or held for use in connection with the operation of the Stations (collectively, the "Station Assets"), free and clear of all liens, encumbrances, debts, security interests, mortgages, trusts, claims, pledges, conditional sales agreements, charges, covenants, conditions or restrictions of any kind (collectively, "Liens"), except for current taxes not yet due and payable and those Liens identified herein (other than those Liens which are expressly identified as Liens that will be released on or before Closing) ("Permitted Liens"). The Station Assets shall include, without limitation, the following (but excluding the assets specified in Section 1.2 hereof and subject to the limitations otherwise set forth in this Section 1.1):

(a) All licenses, permits and other authorizations relating to the Stations held by or issued to Seller by the FCC or any other governmental authority on or prior to the Closing Date, together with renewals or modifications thereof, including, without limitation, the licenses, permits, and authorizations identified on Schedule 1.1(a) attached hereto (the licenses, permits, and authorizations issued by the FCC collectively are referred to herein as the "FCC Licenses," and the FCC Licenses and the licenses, permits and other authorizations issued by any other governmental authority collectively are referred to herein as the "Station Licenses");

(b) All equipment, office furniture and fixtures, office materials and supplies, inventory and other tangible personal property, together with any additions thereto or replacements thereof made between the date hereof and the Closing Date, and less any retirements or dispositions thereof made between the date hereof and the Closing Date which are replaced with items of equal or greater value, consisting solely of the property identified on Schedule 1.1(b) attached hereto (collectively, the “Tangible Personal Property”);

(c) Seller’s right, title and interest in and to the Seller’s contracts, agreements and operating leases (but excluding any lease of real property and any agreement for borrowed money, including any mortgage) written or oral, relating to the operation of the Stations and specifically identified on Schedule 1.1(c) hereto, together with all contracts, agreements and operating leases entered into or acquired by Seller between the date hereof and the Closing Date which Buyer has approved in writing (collectively, the “Contracts”);

(d) All of Seller’s right, title and interest in and to the call letters “KTUN(FM)”, “KNFO(FM)”, “KRMR(FM)”, “KSPN-FM”, and “KFMU-FM”, and all trademarks, trade names, service marks, franchises, copyrights, including registrations and applications for registration of any of them, jingles, logos and slogans, or URLs, domain names, web sites and related design elements, used in the conduct of the business and operation of the Stations and either owned by Seller or licensed to Seller on the date hereof, together with any associated goodwill and any additions thereto between the date hereof and the Closing Date, including but not limited to those described on Schedule 1.1(d) attached hereto (collectively, the “Intellectual Property”);

(e) All of Seller’s right, and interest in and to all of the leases of real property (the “Leases”) held by Seller in connection with the operation of the Stations and all of Seller’s ownership or leasehold rights in and to any buildings, fixtures, and improvements located thereon, together with any additions thereto between the date hereof and the Closing Date, including but not limited to those Leases described on Schedule 1.1(e) hereto (collectively, the “Real Property”); and

(f) All files, records, and books of account relating to, or which are located at the premises of, the Stations, including, without limitation, programming information and studies, technical information and engineering data, news and advertising studies or consulting reports, marketing and demographic data, lists of advertisers, promotional materials, filings with the FCC, copies of all written contracts to be assigned hereunder, logs, the public inspection file and copies of all software programs used in connection with the operation of the Stations.

1.2 Excluded Assets. Notwithstanding anything to the contrary contained herein, it is expressly understood and agreed that the Station Assets shall not include the following assets along with all right, title and interest therein (collectively, the “Excluded Assets”):

(a) All cash, cash equivalents or similar type investments of Seller, such as certificates of deposit, Treasury bills and other marketable securities on hand and/or in banks, and all accounts receivable generated from broadcasts by Seller prior to the Closing Date;

(b) All contracts or agreements to which Seller is a party that (i) have been terminated in accordance herewith, (ii) have expired prior to the Closing Date in the ordinary course of business, or (iii) Buyer has not assumed, as further described in Sections 2.1 and 2.2 hereof;

(c) Seller's corporate seal, minute books, charter documents, corporate stock record books and such other books and records relating to the organization, existence or capitalization of Seller and duplicate copies of such records conveyed to Buyer as are necessary to enable Seller to file its tax returns and reports as well as any other records or materials relating to Seller generally and not involving the Stations' operations;

(d) Contracts of insurance and all insurance proceeds or claims made by Seller relating to property or equipment repaired, replaced or restored by Seller prior to the Closing Date;

(e) Any and all claims made by Seller with respect to transactions prior to the Closing Date and the proceeds thereof, except claims with respect to obligations to be assumed by Buyer pursuant to Section 2.1 hereof;

(f) All other rights, interests or intangible assets of Seller which are not specifically identified in Section 1.1 hereof or which are identified on Schedule 1.2;

(g) Any books and records relating to any of the foregoing, except to the extent that Buyer wishes to make, at its expense, a duplicate copy of such materials (other than those identified in paragraph (c) of this subsection) in order to facilitate its operation of the Stations and conduct of its business; and

(h) All tangible personal property disposed of in the ordinary course of business as permitted under this Agreement.

## **ARTICLE 2. ASSUMPTION OF OBLIGATIONS**

2.1 Assumption of Obligations. Subject to the provisions of Section 2.2 and Section 3.3 hereof, on the Closing Date, Buyer shall assume and undertake to pay, satisfy or discharge the liabilities and obligations of Seller arising or to be performed on or after the Closing Date under or in conjunction with the Contracts, Leases and other Station Assets to be assumed or acquired by Buyer, except obligations which arise after the Closing Date as a result of a default by Seller under any Contract or Lease prior to the Closing Date. All of the foregoing assumed liabilities and obligations shall be referred to herein collectively as the "Assumed Liabilities". In addition to the Assumed Liabilities, Buyer shall also have the indemnification responsibilities set forth in Section 12.3 hereof and Seller shall have the indemnification responsibilities set forth in Section 12.2 hereof.

2.2 Retained Liabilities. Except as set forth in Section 2.1 hereof, Buyer expressly does not, and shall not, assume or be deemed to assume, under this Agreement or otherwise by reason of the transactions contemplated hereby, any liability, obligation, commitment, undertaking, expense or agreement of Seller of any nature whatsoever, including any mortgage

or other agreement for borrowed money, whether known or unknown or absolute or contingent. All of such liabilities and obligations shall be referred to herein collectively as the “Retained Liabilities.” Without limiting the generality of the foregoing, it is understood and agreed that Buyer is not agreeing to assume, and shall not assume, any liability or obligation of Seller to Seller’s employees, including without limitation any such liability or obligation in respect of wages, salaries, bonuses, accrued vacation or sick pay.

### **ARTICLE 3. CONSIDERATION**

3.1 Purchase Price. Upon the terms and subject to the conditions contained in this Agreement, and in consideration for the sale, assignment, transfer and conveyance of the Station Assets, at Closing Buyer shall pay to Seller the aggregate sum of FOUR MILLION SIX HUNDRED SEVENTY-SIX THOUSAND FOUR HUNDRED FORTY-FOUR DOLLARS (\$4,676,444) (the “Purchase Price”). The Purchase Price shall be payable to Seller at Closing as follows:

(a) Buyer shall pay to Seller, by wire transfer of same day Federal funds, the sum of FOUR MILLION THREE HUNDRED EIGHTY-FOUR THOUSAND ONE HUNDRED SIXTY-SIX DOLLARS (\$4,384,166), plus or minus any adjustment to be made pursuant to Section 3.3 hereof; and

(b) Buyer shall execute and deliver to Seller a promissory note in the aggregate principal amount of TWO HUNDRED NINETY-TWO THOUSAND TWO HUNDRED SEVENTY-EIGHT DOLLARS (\$292,278), substantially in the form attached hereto as Exhibit A (the “Note”), and a security agreement substantially in the form attached hereto as Exhibit B (the “Security Agreement”) to secure Buyer’s performance under the Note.

3.2 Allocation of Purchase Price. Buyer and Seller shall exercise their best efforts to determine a mutually agreeable allocation of the Purchase Price prior to Closing. In the event that Buyer and Seller shall be unable to mutually agree upon the allocation by Closing, Buyer and Seller shall select a mutually-agreeable independent certified public accountant (“CPA”) who shall make a determination of the allocation within sixty (60) days after his or her selection. Buyer and Seller agree that the allocation determined by their mutual agreement or otherwise by the CPA, as the case may be, shall be conclusive and binding on Buyer and Seller for all purposes, including without limitation, reporting and disclosure requirements of the Internal Revenue Service. The fees and expenses of the CPA shall be shared equally by Seller and Buyer.

#### 3.3 Proration of Income and Expenses

(a) Except as otherwise provided herein, all income and expenses arising from Seller’s ownership of the Station Assets to be conveyed hereunder shall be prorated between Buyer and Seller in accordance with generally accepted accounting principles as of 12:01 a.m., Mountain time, on the Closing Date (the “Adjustment Time”), on the basis that all income and expenses which accrue prior to the Adjustment Time are for the account of Seller, and all income and expenses which accrue after the Adjustment Time are for the account of Buyer. Such

prorations shall include, without limitation, all real property, ad valorem, and other property taxes (but excluding taxes arising by reason of the transfer of the Station Assets as contemplated hereby, which, shall be paid as set forth in Article 11 of this Agreement), utility charges, business and license fees, music and other license fees currently paid by Seller, FCC regulatory fees, and similar prepaid and deferred items attributable to the ownership of the Stations or the Station Assets. Revenues, expenses, taxes, costs and liabilities earned or incurred in connection with particular programs and announcements shall be allocated to the time of performance of such programs and announcements without regard to the date of payment therefor. Salaries, wages, sales commissions, fringe benefit accruals and termination or severance pay for employees shall not be pro-rated but shall be the sole responsibility of Seller.

(b) On or before the Closing, Seller shall submit a preliminary statement of prorations and adjustments to be made to the Purchase Price (the “Prorations”) at the Closing. Such Prorations shall be made to the Purchase Price to the extent Buyer has no objection. Within sixty (60) days after the Closing Date, Buyer shall submit to Seller an updated statement of Prorations. Within thirty (30) days after its receipt of that statement, Seller shall submit to Buyer any objections to the Prorations. If there is no objection, an appropriate payment from Seller or Buyer, as may be required by the Prorations, shall be made to the other party within ten (10) days thereafter. In the event of any disputes between the parties as to the Prorations, the parties shall endeavor to resolve such dispute within thirty (30) days after Buyer’s receipt of Seller’s objections. If such dispute is not resolved within that 30-day time period, the parties shall immediately select a mutually-agreeable CPA to resolve the dispute, and the fees and expenses of such accountant shall be paid one-half by Seller and one-half by Buyer. The decision of such CPA shall be rendered within one hundred eighty (180) days after the Closing and shall be conclusive and binding on the parties.

#### **ARTICLE 4. GOVERNMENTAL CONSENTS**

4.1 FCC Consent. The transactions contemplated hereby are expressly conditioned on and subject to the prior consent and approval of the FCC to assignment of the FCC Licenses from Seller to Buyer (“FCC Consent”) without the imposition of any conditions on the assignment of the FCC Licenses which are materially adverse to Seller or Buyer.

4.2 FCC Application. Within ten (10) days after execution of this Agreement, each party shall prepare and execute its respective portion of an application for FCC Consent (“FCC Application”) from Seller to Buyer and Seller shall promptly file the completed FCC Application with the FCC. The parties shall thereafter prosecute the FCC Application with all reasonable diligence, including preparation, filing with the FCC and prosecution of any related application as may be reasonably necessary to obtain FCC Consent, and otherwise use commercially reasonable efforts to obtain the grant of the FCC Application as expeditiously as practicable (but no party shall have any obligation to satisfy complainants or the FCC by taking any steps which would have a material adverse effect on such party or any affiliated entity). If the FCC Consent imposes any condition on a party hereto, such party shall use commercially reasonable efforts to comply with such condition; provided, however, that no party shall be required hereunder to comply with any condition that would have a material adverse effect on such party or any affiliated entity. If reconsideration or judicial review is sought with respect to the FCC Consent,

the party affected shall vigorously oppose such efforts for reconsideration or judicial review; provided, however, such party shall not be required to take any action which would have a material adverse effect on such party or any affiliated entity. Nothing in this Section 4.2 shall be construed to limit a party's right to terminate this Agreement pursuant to Article 13 hereof.

## **ARTICLE 5. CLOSING**

5.1 Closing Date. Except as otherwise mutually agreed upon by Seller and Buyer, or as provided by Section 5.2, the consummation of the transactions contemplated herein (the "Closing") shall occur within ten (10) days after the grant of FCC Consent has become a Final Order, as defined below, and on a date to be designated by Buyer in a notice given in writing to Seller at least five (5) days before such Closing is to occur. Notwithstanding the foregoing, Buyer may elect in its sole discretion that the Closing shall occur within ten (10) days after the FCC provides public notice of the FCC Consent, on a date to be designated by Buyer in a notice given in writing to Seller at least five (5) days before such Closing is to occur. A "Final Order" shall be deemed to have occurred on the date upon which the FCC Consent has not been reversed, stayed, enjoined or set aside and with respect to which no timely request for stay, reconsideration, review, rehearing or notice of appeal or determination to reconsider or review is pending, and as to which the time for filing any such request, petition, or notice of appeal or for review by the FCC, and for any reconsideration, stay or setting aside by the FCC on its own motion or initiative, has expired. All actions taken at the Closing will be considered as having been taken simultaneously and no such actions will be considered to be completed until all such actions have been completed.

5.2 Closing Place. The Closing shall be held at 10:00 AM at the offices of Shaw Pittman LLP, 2300 N Street NW, Washington, DC, or such other place as the parties hereto may agree, or by mail.

## **ARTICLE 6. REPRESENTATIONS AND WARRANTIES OF SELLER**

Seller represents and warrants to Buyer as follows:

6.1 Organization and Qualification. Seller is a limited liability company duly organized, validly existing and in good standing under the laws of the State of Maryland, and is qualified to do business in the State of Colorado as a foreign limited liability company. Seller has all necessary power to carry on its business as it is now being conducted.

6.2 Authority.

(a) Seller has all necessary power and authority to enter into this Agreement and all other agreements, documents, certificates and instruments delivered or to be delivered hereunder by Seller (this Agreement and such other agreements, documents, certificates and instruments are referred to herein collectively as the "Seller Documents"), to perform its obligations thereunder, and to consummate the transactions contemplated thereby. The execution and delivery of the Seller Documents by Seller and the consummation by Seller of the transactions contemplated thereby have been, or will be prior to the Closing, as the case may be,

duly authorized by all necessary action on the part of Seller. Each of the Seller Documents has been, or at or prior to the Closing will be, as the case may be, duly executed and delivered by Seller and constitutes, or will constitute at the Closing, as the case may be, a valid and binding obligation of Seller, enforceable against Seller in accordance with their respective terms.

(b) Except as set forth on Schedule 6.2(b), the execution and delivery by Seller of the Seller Documents does not or will not, and the consummation of the transactions contemplated thereby will not: (i) conflict with, or result in a violation of, any provision of the organizational documents of Seller; (ii) constitute or result in a breach of or default (or an event which with notice or lapse of time, or both, would constitute a default) under, or result in the termination or suspension of, or accelerate the performance required by, or result in a right of termination, cancellation or acceleration of any Contract, Lease, or any other material agreement, indenture, covenant, instrument, license or permit by which Seller is bound; (iii) create any Lien upon any of the Station Assets; or (iv) constitute, or result in, a violation of any judgment, ruling, order, writ, injunction, decree, statute, law, rule or regulation applicable to Seller or any of its properties or assets.

(c) Except for the FCC Consent and documents to be filed with the FCC, no consent, approval, order or authorization of, notice to, or registration, declaration of filing with, any governmental entity is necessary in connection with the execution and delivery of the Seller Documents by Seller or the consummation of the transactions contemplated thereby by Seller.

### 6.3 FCC Licenses.

(a) Schedule 1.1(a) hereto contains a true and complete list of the FCC Licenses and all Station applications currently pending before the FCC. Seller is the authorized legal holder of the FCC Licenses. The FCC Licenses are in full force and effect, unimpaired by any act or omission of Seller. The FCC Licenses are all of the licenses, permits or other authorizations from federal governmental and regulatory authorities necessary to the operation of the Stations in the manner and to the full extent as such operations are currently conducted and there are no conditions upon the FCC Licenses except those conditions stated on the face thereof and those conditions applicable to radio stations of the same service and class under the Communications Act of 1934, as amended, and the published rules and policies of the FCC (the "FCC Rules"). No proceedings are pending or threatened (other than proceedings applicable to the radio industry as a whole), and Seller is not aware of any facts which are likely to result in the revocation, modification, non-renewal or suspension of any of the FCC Licenses, the denial of any pending applications related to the FCC Licenses, the issuance of any cease and desist order related to the FCC Licenses, the imposition of any adverse administrative orders or sanctions by the FCC with respect to the FCC Licenses or which may preclude Buyer from operating the Stations in accordance with the FCC Licenses and the FCC Rules.

(b) Except as disclosed on Schedule 1.1(a) hereof, each Station and its transmission facilities are operating in material compliance with the FCC Licenses and the FCC Rules, and Seller shall take all steps reasonably necessary to insure continued compliance therewith pending the Closing. Seller has filed with the FCC all material reports or applications (including payment of any fee, fine or forfeiture due to the FCC as of date hereof) with respect to the FCC Licenses and the Stations. Seller has complied in all material respects with applicable

FCC Rules pertaining to (i) each Station's public file, and (ii) the requirements to maintain logs and other records. All such files, logs, and records required by the FCC are maintained at the Stations in accordance with FCC Rules. If required, the transmission towers are duly registered with the FCC and Federal Aviation Administration. Each Station is currently transmitting its broadcast signal, and shall on the Closing Date be transmitting its broadcast signal, at no less than ninety percent (90%) of its maximum authorized power.

#### 6.4 Tangible Personal Property.

(a) Schedule 1.1(b) hereto contains a true and complete list of the Tangible Personal Property. The Tangible Personal Property which is leased is identified as such on Schedule 1.1(b). The Tangible Personal Property is all of the tangible personal property necessary to operate the Stations in the manner in which they are presently operated. Seller (i) is the lawful owner of all of the Tangible Personal Property it purports to own, (ii) has valid leasehold interests in the Tangible Personal Property it purports to lease, and (iii) has valid license rights (whether as a licensor or licensee) in the Tangible Personal Property it purports to license, in all cases free and clear of any Liens, except for Liens disclosed in Schedule 1.1(b) attached hereto. Seller has delivered to Buyer a true, accurate and complete copy of each lease, license or sublicense regarding any Tangible Personal Property leased, licensed or sublicensed by Seller.

(b) Except as set forth on Schedule 1.1(b), as of the date hereof, each item of material Tangible Personal Property owned by Seller is, as of the Closing Date shall be in good repair and condition, ordinary wear and tear excepted, and has been maintained in accordance with industry practice. For purposes hereof, material Tangible Personal Property shall be any such property valued at \$1000 or more.

6.5 Contracts. Schedule 1.1(c) hereto contains a true and complete list of all Contracts that are to be conveyed to Buyer at the Closing. Seller is not in violation or breach of, nor has Seller received in writing any claim or threat that it has breached any of the terms and conditions of, any Contract. Neither Seller nor, to Seller's knowledge, any other party to any Contract is in default thereunder or breach thereof. Seller has delivered to Buyer a true, accurate and complete copy of each Contract, including all amendments, supplements or modifications thereto or waivers thereunder. Except as set forth on Schedule 1.1(c) or Schedule 6.2(b) attached hereto, neither the execution and delivery by Seller of this Agreement nor the consummation by Seller of the transactions contemplated under this Agreement requires the consent of any party to a Contract or any other agreement or obligation of Seller, whether or not such agreement or obligation is to be assigned to or assumed by Buyer, and any material Contract requiring consent to assignment by a third party is identified on Schedule 1.1(c) with an asterisk.

#### 6.6 Employee and Labor Relations.

(a) Seller is not a party to any contract with any labor organization, nor has Seller agreed to recognize any union or other collective bargaining unit, nor has any union or other collective bargaining unit been certified as representing any of Seller's employees. To Seller's knowledge, there are no organizational efforts currently being made or threatened by or

on behalf of any labor union with respect to employees of Seller. There are no present or threatened work stoppages or labor difficulties relating to the employees of Seller.

(b) Buyer shall have the right, but not the obligation, to employ any current employee of Seller on or after the Closing Date. In such case, Buyer shall be liable for all wages, salaries and payments related to such hired employees which accrue from and after the Closing Date, as such wages, salaries and payments may be mutually agreeable to Buyer and the respective employees (including, without limitation, vacation or other leave, life insurance, or employee benefit plans), and Seller shall remain solely responsible for all such benefits or reimbursements accruing on or before the Closing Date.

6.7 Compliance With Law. The Station Assets and the operation of the Stations are in material compliance with all applicable statutes, laws, ordinances, regulations, rules or orders of any federal, state or local government, department or agency, including, without limitation, energy, environmental, public utility, zoning, building code, health, and employee safety agencies.

6.8 Brokers. There is no broker or finder or other person who would have any valid claim for a commission or brokerage in connection with this Agreement or the transaction contemplated hereby as a result of any agreement, understanding or action by Seller.

6.9 Litigation. Seller is not subject to any judgment, award, order, writ, injunction, arbitration decision or decree with respect to or affecting the Stations or Station Assets. There is no third party claim, litigation, proceeding or investigation pending or, to the best of Seller's knowledge, threatened against Seller with respect to any of the Stations in any federal, state or local court, or before any administrative agency, arbitrator or other tribunal authorized to resolve disputes. There is no third party claim, litigation, proceeding or investigation pending or, to the best of Seller's knowledge, threatened against Seller with respect to any of the Stations, which might have a material adverse effect upon the business, assets or condition, financial or otherwise, of any of the Stations or which seeks to enjoin or prohibit, or otherwise questions the validity of, any action taken or to be taken in connection with this Agreement.

6.10 No Undisclosed Liabilities. Schedule 6.10 hereof contains a list of all material Liens and Permitted Liens with respect to Seller, the Stations and the Station Assets which are not identified elsewhere in this Agreement (including any other Schedule).

6.11 Real Property and Leases

(a) Schedule 1.1(e) attached hereto is a true and complete list of all Leases of Real Property to be conveyed to Buyer at the Closing. The Real Property constitutes the only real property required to operate the Stations in the manner they are presently operated.

(b) Seller has valid leasehold interests in the Leases, free and clear of all Liens (other than those Liens identified in the Leases and Permitted Liens), except for rights of sublessees that are identified on Schedule 1.1(e), and Liens described in Schedule 1.1(e) attached hereto. Seller enjoys peaceful and undisturbed possession under the Leases. To Seller's knowledge, no other party to any Lease is in default thereunder or breach thereof, and each Lease

is valid and in full force and effect. To the knowledge of Seller without specific inquiry, Seller has all legal and practical access to all Real Property.

(c) Seller has not received any notice of, and has no knowledge of, any pending, threatened or contemplated appropriation, condemnation or like proceeding, or of any violation of any applicable zoning law or other law, statute, ordinance, rule, regulation or orders affecting the Real Property or improvements thereon.

(d) Any and all buildings, structures, fixtures, or other improvements located on the Real Property and used in the operation of the Stations are structurally sound and free of material defect.

#### 6.12 Environmental Matters

(a) The term “Hazardous Materials” shall mean any substance, material, liquid or gas defined or designated as hazardous or toxic (or by any similar term) under any Environmental Law, including, without limitation, petroleum products and friable materials containing more than one percent (1.0%) asbestos by weight.

(b) “Environmental Law” shall mean any federal, state, or local law, ordinance, order, rule, or regulation relating to pollution, protection of the environment, or actual or threatened releases, discharges, or emissions into the environment.

(c) The term “Environmental Condition” shall refer to any material contamination or damage to the environment caused by or relating to the use, handling, storage, treatment, recycling, generation, transportation, release, spilling, leaking, pumping, pouring, emptying, discharging, injection, escaping, leaching, disposal, dumping or threatened release of Hazardous Materials by Seller or its predecessors in interest. With respect to claims by employees, Environmental Condition also includes the exposure of persons to Hazardous Materials at a work place of Seller.

(d) The term “Environmental Noncompliance” shall mean any material violation of any Environmental Law.

(e) There are no investigations, inquiries, administrative proceedings, actions, suits, claims, legal proceedings or any other proceedings pending or, to the knowledge of Seller, threatened against Seller that involve, or relate to, Environmental Conditions, Environmental Noncompliance or the release, use or disposal of any Hazardous Materials on the Real Property.

(f) Seller has not released, stored, used or otherwise held any Hazardous Materials on, under or about the Real Property, and to Seller’s knowledge, without specific inquiry, no Hazardous Materials have been released, stored, used or otherwise held on, under or about the Real Property, and there are no underground storage tanks located on or under the Real Property. The Real Property has been maintained by Seller in material compliance with all Environmental Laws.

#### 6.13 Taxes.

(a) Seller has paid or has made adequate provision (in accordance with generally accepted accounting principles) for all Taxes (as hereinafter defined) required to be paid by Seller.

(b) There are no pending or, to the knowledge of Seller, threatened, investigations or claims against Seller for or relating to any liability in respect of Taxes and, to the knowledge of Seller, no facts or circumstances exist which indicate that any such, investigations or claims in respect of Taxes may be brought or are under discussion with any governmental authorities.

(c) To the knowledge of Seller, and except as described on Schedule 6.13 attached hereto, all Taxes required to be withheld by Seller on or before the date hereof have been withheld and paid when due to the appropriate agency or authority.

(d) For the purposes of this Agreement, "Taxes" and "Tax" shall mean all taxes and any tax, including without limitation, all foreign, federal, state, county and local income, sales, employment, profit, payroll, use, trade, capital, occupation, property, excise, value added, unitary, withholding, stamp, transfer, registration, recordation and license tax, taxes measured on or imposed by net worth, and other taxes, levies, imposts, duties, deficiencies and assessments, together with all interest, penalties and additions imposed with respect thereto, including any transferee or secondary liability for taxes and any liability for taxes in connection with, attributable to or arising as a result of being a member of any affiliated, consolidated, combined or unitary group.

6.14 Insurance. All of the Station Assets which are insurable in character are insured against loss, including casualty, injury or damage to the extent and in the manner customary for properties and assets of that nature. Schedule 6.14 attached hereto set forth a list of all such insurance policies, the scope and amounts of coverage for each such policy, and the date of renewal or expiration.

6.15 No Other Agreements to Sell the Stations. Seller has no legal obligation, absolute or contingent, to any other person or firm to sell, assign, or transfer the Station Assets (whether through a merger, reorganization or sale of stock or otherwise) or to enter into any agreement with respect thereto.

6.16 Disclosure. The representations and warranties of Seller herein or in any document, exhibit, statement, certificate or schedule furnished by or on behalf of Seller to Buyer as required by this Agreement do not contain nor will contain any untrue statement of a material fact or omit or will omit to state any material fact necessary in order to make the statements herein or therein, in light of the circumstances under which they were made, not misleading in any material respect.

## **ARTICLE 7. REPRESENTATIONS AND WARRANTIES OF BUYER**

Buyer represents and warrants to Seller as follows:

7.1 Organization, Standing and Power. Buyer is a corporation duly organized, validly existing and in good standing under the laws of the State of Delaware, is qualified to do business in the State of Colorado as a foreign corporation, and has the necessary power to carry on its business as it is now being conducted.

7.2 Authority.

(a) Buyer has all necessary power and authority to enter into this Agreement, the Note and all other agreements, documents, certificates and instruments delivered or to be delivered hereunder by Buyer (the "Buyer Documents"), to perform its obligations thereunder and to consummate the transactions contemplated thereby. The execution and delivery of the Buyer Documents by Buyer and the consummation by Buyer of the transactions contemplated thereby have been duly authorized by all necessary action on the part of Buyer. Each of the Buyer Documents has been, or will be at the Closing, as the case may be, duly executed and delivered by Buyer and constitutes, or will constitute at the Closing, as the case may be, a valid and binding obligation of Buyer, enforceable against Buyer in accordance with their respective terms.

(b) The execution and delivery by Buyer of the Buyer Documents does not or will not, and the consummation of the transactions contemplated thereby will not: (i) conflict with, or result in a violation of, any provision of the Articles of Incorporation or Bylaws of Buyer; (ii) constitute or result in a breach or default (or an event which with notice or lapse of time, or both, would constitute a default) under, or result in the termination or suspension of, or accelerate the performance required by, or result in a right of termination, cancellation or acceleration of any contract, or any other material agreement, indenture, covenant, instrument, license or permit by which such Buyer is bound; or (iii) constitute, or result in, a violation of any judgment, ruling, order, writ, injunction, decree, statute, law, rule or regulation applicable to Buyer.

(c) Other than the FCC Consent, no consent, approval, order or authorization of, notice to, or registration, declaration or filing with, any governmental entity is necessary in connection with the execution and delivery of any of the Buyer Documents by Buyer or the consummation by Buyer of the transactions contemplated thereby, except filings with the FCC.

7.3 Litigation. There are no third party claims, actions, suits, litigation, labor disputes, arbitrations, proceedings or investigations pending or, to the knowledge of Buyer, threatened against Buyer relating to the transactions contemplated by this Agreement or that would materially impair Buyer's ability to fulfill its obligations hereunder.

7.4 Qualification. Assuming that all pending applications with respect to the Stations are granted by the FCC, there are no facts relating to Buyer which, under the Communications Act of 1934, as amended, or the FCC Rules as of the date of execution of this Agreement, would disqualify Buyer as an assignee of the FCC Licenses.

7.5 Disclosure. The representations and warranties of Buyer herein or in any document, exhibit, statement, certificate or schedule furnished by or on behalf of Buyer to Seller as required by this Agreement do not contain nor will contain any untrue statement of a material

fact or omit or will omit to state any material fact necessary in order to make the statements herein or therein, in light of the circumstances under which they were made, not misleading in any material respect.

7.6 Compliance with Laws. Buyer is not in material violation of and has not received any notice asserting noncompliance by Buyer with any applicable statute, law, rule or regulation, whether federal, state, local or otherwise.

7.7 Financial Resources. Buyer has on hand sufficient cash or commitments from credit-worthy financial institutions to fulfill its financial obligations hereunder, including but not limited to payment of the Purchase Price.

## **ARTICLE 8. COVENANTS**

8.1 Operation of Business. Between the date of this Agreement and the Closing Date, Seller shall:

(a) preserve and protect all of the Station Assets in good repair and condition, normal wear and tear excepted;

(b) maintain each Station's books of account and records in the usual and ordinary manner;

(c) not take or permit any other action inconsistent with Seller's obligations hereunder and the consummation of the transactions contemplated hereby;

(d) maintain the insurance policies listed on Schedule 6.14 in full force and effect, with policy limits and scope of coverage not less than is currently provided;

(e) satisfy all trade and barter obligations of the Stations as of the Closing Date;

(f) on or before the Closing Date, pay or discharge any Lien, other than Permitted Liens, with respect to the Seller, the Station or the Station Assets set forth on Schedule 6.10 hereof or disclosed on any other Schedule to this Agreement that is not an express Assumed Liability or Permitted Lien pursuant to this Agreement;

(g) maintain and preserve Seller's rights under the Station Licenses, operate the Stations in material compliance with the FCC Rules and the Station Licenses, maintain each Station's public file in material compliance with FCC Rules, including placement therein of all required documents in relation to the FCC Application, and timely file and prosecute any required extensions of outstanding construction permits, applications or authorizations which may expire prior to the Closing Date; and

(h) conduct each Station's business in the ordinary course consistent with past practices or as required by this Agreement, and, to that end, by way of amplification and not

limitation, Seller shall not, without the prior written consent of Buyer, which shall not be unreasonably withheld or delayed:

- (i) enter into any material agreement, contract or lease with respect to any of the Stations or the Station Assets that (A) imposes an aggregate liability of more than \$5,000, unless cancelable without penalty prior to the Closing Date, or (B) constitutes any option or agreement to sell, assign or transfer the any of the Stations, the Station Assets or control of Seller to any other party;
- (ii) place or allow to be placed on any of the Station Assets any Lien;
- (iii) sell or otherwise dispose of any Station Asset except in accordance with Section 1.1;
- (iv) commit any act or omit to do any act which will cause a breach of any Lease or material Contract or terminate or fail to renew any Lease or material Contract;
- (v) violate in any material respect any law, statute, rule, governmental regulation or order of any court or governmental or regulatory authority (whether Federal, State or local);
- (vi) cause or permit by any act, or failure to act, any of the Station Licenses to expire, be surrendered, adversely modified, or otherwise terminated, or the FCC to institute any proceedings for the suspension, revocation or adverse modification of any of the Station Licenses, or fail to prosecute with due diligence any pending applications to the FCC; or
- (vii) increase the salary, benefits or other compensation payable to any Seller employee, except to the extent consistent with existing practice.

8.2 No Other Bids. Seller shall not, and shall not authorize or permit any officer, director or employee of Seller, or any investment banker, attorney, accountant or other advisor or representative retained by Seller to, solicit, initiate, encourage (including by way of furnishing information), endorse or enter into any agreement with respect to, or take any other action to facilitate, any inquiries or the making of any proposal that constitutes, or may reasonably be expected to lead to, any proposal to purchase, directly or indirectly, any of the Stations. Upon a violation of this Section, in addition to any other remedies available hereunder or at law, Buyer shall be entitled to injunctive relief.

8.3 Access to Information. From the date hereof to the Closing Date, Seller shall afford, and shall cause its respective officers, directors, employees and agents to afford, to Buyer and the officers, employees and agents of Buyer reasonable access during regular business hours to Seller's officers, employees, independent contractors, agents, properties, books, records and contracts relating to the Station Assets, and shall furnish Buyer all financial, operating and other

data and information with respect to the Station Assets as Buyer, through its respective officers, employees or agents, may reasonably request.

#### 8.4 Confidentiality.

(a) Each party shall hold, and shall cause its officers, employees, agents and representatives, including, without limitation, attorneys, accountants, consultants and financial advisors who obtain such information to hold, in confidence, and not use for any purpose other than evaluating the transactions contemplated by this Agreement, any confidential information of another party obtained through the investigations permitted hereunder, which for the purposes hereof shall not include any information which (i) is or becomes generally available to the public other than as a result of disclosure by the party which alleges the information is confidential or its affiliates, (ii) becomes available to a party on a nonconfidential basis from a source, other than the party which alleges the information is confidential or its affiliates, which has represented that such source is entitled to disclose it, or (iii) was known to a party on a nonconfidential basis prior to its disclosure to such party hereunder. If this Agreement is terminated, each party shall deliver, and cause its officers, employees, agents, and representatives, including, without limitation, attorneys, accountants, consultants and financial advisors who obtain confidential information of another party pursuant to investigations permitted hereunder to deliver to such other party all such confidential information that is written (including copies or extracts thereof), whether such confidential information was obtained before or after the execution hereof. For purposes of this Section, all non-public information provided by Seller to Buyer pursuant to this Agreement or for purposes of Buyer's due diligence investigation of the Station Assets shall be deemed to be confidential information, regardless of whether such information (in whatever form) is so marked or designated.

(b) If a party or a person to whom a party transmits confidential information of another party is requested or becomes legally compelled (by oral questions, interrogatories, requests for information or documents, subpoena, criminal or civil investigative demand or similar process) to disclose any of such confidential information, such party or person will provide the other applicable party with prompt written notice so that such party may seek a protective order or other appropriate remedy or waive compliance with Section 8.4(a). If such protective order or other remedy is not obtained, or if the applicable party waives compliance with Section 8.4(a), the party subject to the request will furnish only that portion of such confidential information which is legally required and will exercise its best efforts to obtain reliable assurance that confidential treatment will be accorded such confidential information.

#### 8.5 Notification of Certain Matters.

(a) Seller shall give prompt notice to Buyer, and Buyer shall give prompt notice to Seller, of: (i) any material inaccuracy in any representation or warranty made by such party, or (ii) any failure of the party to comply with or satisfy any material covenant, condition or agreement to be complied with or satisfied by such party under this Agreement; provided, however, that no such notification or failure to give notice shall affect the representations or warranties or covenants or agreements of the parties or the conditions to the obligations of the parties hereunder.

(b) Seller shall give prompt notice to Buyer, and Buyer shall give prompt notice to Seller (and promptly forward any documents, if any) concerning any oral or written communication to or from the FCC concerning the FCC Application.

8.6 Consents and Approvals. Seller shall use commercially reasonable efforts to obtain consent to this transaction from each other party listed in Schedule 6.2(b) and shall use commercially reasonable efforts to obtain any and all other material consents, transfers, authorizations, or approvals (and in the case of each Lease, an Estoppel Certificate in customary form executed by the landlord of the applicable Real Property) required for the consummation of the transactions contemplated by this Agreement other than the FCC Consent, which is governed by Section 4.2. Buyer will cooperate with Seller in obtaining, and providing all information necessary to obtain, such consents.

8.7 Employees. At any time within thirty (30) days before the anticipated Closing Date, on reasonable notice to Seller, Buyer shall be permitted to interview any or all of Seller's Station employees with respect to retaining such employees after the Closing, or alternatively requiring that, at Seller's election, Seller shall either retain such employees after the Closing Date for its own businesses, or shall terminate such employees as of the Closing Date. Buyer shall submit to Seller a list of those employees to be offered employment with Buyer no less than ten (10) days before the Closing Date and shall convey an offer of employment to the selected employees no less than five (5) days before the Closing Date, provided, that Seller shall have no obligation to cause any such employee selected by Buyer for employment by Buyer to accept such offer of employment. Seller hereby covenants that as of the Closing Date, Buyer will have no liability to any present or past employee of the Stations for severance, retirement, pension, bonus, termination, vacation, or other pay, or for hospitalization, major medical, life or other insurance or other employee benefits.

8.8 Control of Stations. Buyer shall not, directly or indirectly, control, supervise or direct the operation of the Stations. Subject to the covenants of Seller contained herein, such operation, including complete control and supervision of all Station programs, employees and policies, shall be the sole responsibility of Seller.

8.9 News Releases. Prior to the Closing Date, and except as required by law, any news releases pertaining to the transactions contemplated hereby shall be reviewed and approved by Buyer and Seller, or their respective representatives, and shall be acceptable to them prior to the dissemination thereof.

## **ARTICLE 9. CONDITIONS**

9.1 Conditions Precedent to Obligations of Buyer. The obligations of Buyer to consummate the transactions contemplated by this Agreement are subject to the fulfillment, prior to or at the Closing, of each of the following conditions, except to the extent Buyer shall have waived in writing satisfaction of such condition:

(a) The representations and warranties made by Seller in this Agreement shall be true and correct in all material respects as of the date of this Agreement and on the Closing Date as though such representations and warranties were made on such date.

(b) Seller shall have performed and complied in all material respects with all covenants, agreements, representations, warranties and undertakings required by this Agreement to be performed or complied with by Seller prior to the Closing.

(c) No governmental authority shall have enacted, enforced, issued or entered any law, rule, regulation or order, including in connection with any action or proceeding brought by a third party (not subsequently dismissed, settled or otherwise terminated), which prohibits or invalidates the transactions contemplated by this Agreement or any other Seller Document or prevents, limits, restricts or impairs the ownership, use or operation of the Station Assets by Buyer, other than an action or proceeding instituted by Buyer.

(d) Seller shall have delivered to Buyer all of the documents required by Section 10.1 hereof.

(e) The FCC Consent shall be a Final Order.

(f) Seller shall have obtained and delivered to Buyer all required third-party consents to the assignment of all material Contracts (as identified on Schedule 1.1(c)) and Leases (as identified on Schedule 1.1(e)) to be conveyed hereunder, which consents shall not have as a condition thereof any modifications to the terms thereof or any payment by Buyer to consummate the assignment; provided, however, that this condition shall be satisfied in the absence of any required third party consent if Seller can arrange for Buyer to have the full benefit of such Contract or Lease for the entire term of the Contract or Lease, without any additional cost or expense to Buyer (in which case Buyer shall, upon Closing, assume the obligations of Seller thereunder).

(g) There shall not be any Liens on the Station Assets other than the Permitted Liens and those Liens to be released at the Closing.

(h) Buyer and AGM Rocky Mountain Broadcasting I, LLC shall simultaneously consummate the transaction for radio stations KSMT(FM), KIDN-FM, KKCH(FM) and KSKE-FM.

9.2 Conditions Precedent to Obligations of Seller. The obligations of Seller to consummate the transactions contemplated by this Agreement are subject to the fulfillment, prior to or at the Closing, of each of the following conditions, except to the extent Seller shall have waived in writing satisfaction of such condition:

(a) The representations and warranties made by Buyer in this Agreement shall be true and correct in all material respects as of the date of this Agreement and on the Closing Date as though such representations and warranties were made on such date.

(b) Buyer shall have performed and complied in all material respects with all covenants, agreements, representations, warranties and undertakings required by this Agreement to be performed or complied with by it prior to the Closing.

(c) No governmental authority shall have enacted, enforced, issued or entered any law, rule, regulation or order, including in connection with any action or proceeding brought by a third party, (not subsequently dismissed, settled, or otherwise terminated) which prohibits or invalidates the transactions contemplated by this Agreement or any other Buyer Document, other than an action or proceeding instituted by Seller.

(d) The FCC Consent shall have been placed on public notice by the FCC and be effective.

(e) Buyer shall have delivered to Seller all of the items required by Section 10.2 hereof.

## **ARTICLE 10. CLOSING DELIVERIES**

10.1 Seller's Deliveries. At the Closing, Seller shall deliver or cause to be delivered to Buyer the following:

- (a) a Bill of Sale for the Tangible Personal Property and Intellectual Property;
- (b) an Assignment and Assumption of the Station Licenses;
- (c) an Assignment and Assumption of Contracts;
- (d) except as otherwise permitted hereunder, executed third party written consents to assignment of each material Contract to be assumed by Buyer for which such consent is required thereunder;
- (e) an Assignment and Assumption of each Lease;
- (f) a Consent, if required, and an Estoppel Certificate executed by the landlord with respect to each Lease;
- (g) written consents from any party that is a Secured Party identified on any UCC-1 Financing Statement of record with respect to Seller, the Stations or Station Assets as shown on the Lien Search, agreeing to amendment or termination of the Liens evidenced thereby upon conditions set forth in such consent;
- (h) such instruments of amendment, termination or release of Liens, all in form and substance reasonably satisfactory to counsel for Buyer, as are necessary to vest in Buyer good and marketable title in and to the Station Assets, including the Leases;
- (i) a certificate, executed by the Manager of Seller certifying to the fulfillment or satisfaction of the conditions set forth in Sections 9.1(a) and (b), with the delivery

of such certificate constituting a representation and warranty of Seller as to the statements set forth therein as of the Closing Date;

(j) updated Schedules to the Agreement reflecting any changes necessary to render the certification contained in such certificate true and accurate on the Closing Date;

(k) resolutions of the Manager of Seller authorizing the execution, delivery and performance of the Seller Documents by Seller and a certificate of good standing from the State of Maryland, and a certificate of good standing as a foreign limited liability company qualified to do business in the State of Colorado from the Secretary of State of Colorado;

(l) an opinion of counsel to Seller in the form of Exhibit C hereto; and

(m) such other documents as Buyer may reasonably request to effectuate and document the transactions contemplated hereby.

10.2 Buyer's Deliveries. At the Closing, Buyer shall deliver or cause to be delivered to Seller the following:

(a) the payment to be made pursuant to Section 3.1(a) hereof and the Note and Security Agreement duly executed by Buyer;

(b) the Assignment and Assumption of Station Licenses;

(c) the Assignment and Assumption of Contracts;

(d) the Assignment and Assumption of each Lease;

(e) a certificate, executed by an officer of Buyer, certifying to the fulfillment or satisfaction by Buyer of the conditions set forth in Sections 9.2(a) and (b), with the delivery of such certificate constituting a representation and warranty of Buyer as to the statements set forth therein as of the Closing Date;

(f) resolutions of the Board of Directors of Buyer authorizing the execution, delivery and performance of the Buyer Documents by Buyer, certified by the secretary of Buyer, and a certificate of good standing from the State of Delaware, and a certificate of good standing as a foreign corporation qualified to do business in the State of Colorado from the Secretary of State of Colorado; and

(g) such other documents as Seller may reasonably request to effectuate and document the transactions contemplated hereby.

## **ARTICLE 11. TRANSFER TAXES, FEES AND EXPENSES**

11.1 Expenses. Except as set forth in Section 11.2 and 11.3 hereof, each party hereto shall be solely responsible for all costs and expense incurred by it in connection with the negotiation and preparation of the Agreement and the transactions contemplated thereby.

11.2 Transfer Taxes and Similar Charges. Buyer and Seller shall share and pay equally all fees for recordation, transfer and documentary taxes, and any excise, sales or use taxes imposed by reason of the transfer of the Station Assets in accordance with this Agreement.

11.3 Governmental Filing or Grant Fees. The FCC Application fee and any other filing or grant fees imposed by any governmental authority the consent of which is required to the transactions contemplated hereby shall be borne equally by Buyer and Seller.

## **ARTICLE 12. INDEMNIFICATION**

12.1 Survival of Representations and Warranties. All representations and warranties made in this Agreement shall survive the Closing for a period of eighteen (18) months from the Closing Date. The right of any party to recover Damages (as defined in Section 12.2 hereof) on any claim shall not be affected by the termination of any representations and warranties as set forth above provided that notice of the existence of such claim has been given by the Indemnified Party (as hereinafter defined) to the Indemnifying Party (as hereinafter defined) prior to such termination.

12.2 Indemnification of Buyer by Seller. Seller shall indemnify and hold Buyer and its attorneys, stockholders, affiliates, representatives, agents, partners, successors or assigns harmless from and against any liability, loss, cost, expense, judgment, order, settlement, obligation, deficiency, claim, suit, proceeding (whether formal or informal), investigation, Lien or other damage, including, without limitation, attorney's fees and expenses, (all of the foregoing items for purposes of this Agreement are referred to as "Damages" and are not limited to matters asserted by third-parties against a party, but includes Damages incurred or sustained by a party caused by breach or default by the other party), resulting from, arising out of or incurred with respect to:

(a) A breach of any representation, warranty, covenant or agreement of Seller contained herein, subject to notice of a claim being given before the expiration of the applicable period specified in Section 12.1 hereof with respect to the representations or warranties by Seller contained herein;

(b) The Retained Liabilities; or

(c) Any and all claims, liabilities or obligations of any nature, absolute or contingent, relating to the business and operation of the Stations prior to the Closing Date.

12.3 Indemnification of Seller by Buyer. Buyer shall indemnify and hold Seller and its respective attorneys, members, affiliates, representatives, agents, officers, directors, successors or assigns, harmless from and against any Damages resulting from, arising out of, or incurred with respect to:

(a) A breach of any representation, warranty, covenant or agreement of Buyer contained herein, subject to notice of a claim being given before the expiration of the applicable period specified in Section 12.1 hereof with respect to the representations and warranties made by Buyer herein;

(b) The Assumed Liabilities; or

(c) Any and all claims, liabilities or obligations of any nature, absolute or contingent, relating to the business and operation of the Stations as conducted by Buyer on and after the Closing Date.

#### 12.4 Procedures.

(a) Promptly after the receipt by any party (the “Indemnified Party”) of notice of (a) any claim or (b) the commencement of any action or proceeding which may entitle such party to indemnification under this Section, such party shall give the other party (the “Indemnifying Party”) written notice of such claim or the commencement of such action or proceeding and shall permit the Indemnifying Party to assume the defense of any such claim, or any litigation or proceeding resulting from such claim. The failure to give the Indemnifying Party timely notice under this subsection shall not preclude the Indemnified Party from seeking indemnification from the Indemnifying Party unless, and then only to the extent, such failure has prejudiced the Indemnifying Party’s ability to defend the claim, litigation or proceeding. If such claim does not arise from the claim of a third party, the Indemnifying Party shall have 30 days after such notice to cure the conditions giving rise to such claim to the Indemnified Party’s satisfaction. Failure by the Indemnifying Party to notify an Indemnified Party of its election to defend any such claim, litigation or proceeding by a third party within 30 days after notice thereof shall have been given to the Indemnifying Party shall be deemed a waiver by the Indemnifying Party of its rights to defend such claim, litigation or proceeding.

(b) If the Indemnifying Party assumes the defense of any such claim, litigation or proceeding resulting therefrom, the Indemnifying Party shall hold the Indemnified Party harmless from and against any Damages caused by or arising out of any settlement approved by the Indemnifying Party or any judgment in connection with such claim, litigation or proceeding resulting therefrom; however, the Indemnified Party may participate, at its expense, in the defense of such claim, litigation or proceeding provided that the Indemnifying Party shall direct and control the defense of such claim, litigation or proceeding. The Indemnified Party shall cooperate and make available all books and records reasonably necessary and useful in connection with the defense. Except with the prior written consent of the Indemnified Party, the Indemnifying Party shall not, in the defense of such claim, or any litigation or proceeding resulting therefrom, consent to the entry of any judgment (other than a judgment of dismissal on the merits without cost) or enter into any settlement which does not include as an unconditional term thereof the giving by the claimant or the plaintiff to the Indemnified Party of a release from all Damages in respect of such claim, litigation or proceeding.

(c) If the Indemnifying Party shall not assume the defense of any such claim, litigation or proceeding resulting therefrom, the Indemnified Party may, but shall have no obligation to, defend against such claim, litigation or proceeding in such manner as it may deem appropriate; provided, however, that the Indemnified Party may not compromise or settle such claim, litigation or proceeding without providing the Indemnifying Party at least fifteen (15) days prior notice of the terms of such settlement and the opportunity (if the Indemnifying Party objects to the settlement or compromise) to immediately assume the defense of the claim. Within 30 days of written request, the Indemnifying Party shall promptly reimburse the

Indemnified Party for the amount of all Damages incurred by the Indemnified Party in connection with the defense against or settlement of such claim, litigation or proceeding. If no settlement of the claim, litigation or proceeding is made, the Indemnifying Party shall promptly reimburse the Indemnified Party for the amount of any judgment rendered with respect to such claim, litigation or proceeding.

(d) Notwithstanding anything to the contrary in this section, no party shall have any obligation to indemnify the other party until the value of the claim exceeds Fifty Thousand Dollars (\$50,000) (the “Threshold Amount”), in which case indemnification shall extend to all Damages, including the Threshold Amount.

(e) Notwithstanding anything to the contrary in this section, in no event shall any party’s indemnification obligation to the other party hereunder exceed the amount of the Purchase Price.

### **ARTICLE 13. TERMINATION RIGHTS**

13.1 Termination. In addition to any termination rights provided for in other sections of this Agreement, this Agreement may be terminated, by written notice given by any party (provided such party is not then in material breach of any of its representations, warranties, covenants or duties hereunder) to the other party hereto, at any time prior to the Closing Date as follows, and in no other manner.

(a) By mutual written consent of the parties;

(b) By either Buyer or Seller if a court or governmental, regulatory or administrative agency or commission of competent jurisdiction shall have issued an order, decree or ruling or taken any other action, in each case permanently restraining, enjoining or otherwise prohibiting the transactions contemplated by this Agreement and such order, decree, ruling or other action shall have become final and nonappealable;

(c) By Buyer, if Seller fails to perform or breaches any of its material representations, warranties, covenants or duties under this Agreement, and Seller has not cured such failure to perform or breach within thirty (30) days after delivery of written notice from Buyer, or pursuant to the provisions of Sections 14.1 hereof (“Seller’s Breach”);

(d) By Buyer, as specifically provided in Section 8.10 and Sections 14.1 and 14.2 hereof;

(e) By Seller, if Buyer fails to perform or breaches any of its material obligations, representations, warranties, covenants or duties under this Agreement, and Buyer has not cured such failure to perform or breach (other than situations involving failure to comply with Section 3.1) within thirty (30) days after delivery of written notice from Seller and, in situations involving failure to comply with Section 3.1, within ten (10) days after delivery of written notice from Seller (“Buyer’s Breach”);

(f) By any party, if the FCC denies the FCC Application, or if the FCC Application is designated for a hearing; or

(g) By any party, if the Closing has not occurred within one year of the execution of this Agreement.

Notwithstanding the foregoing, the provisions of Section 8.4 with respect to confidentiality shall survive termination and shall continue to be binding upon the parties.

13.2 Liability of Buyer. Upon a termination of this Agreement (except for reason of a Buyer's Breach) Buyer shall have no further liability hereunder.

13.3 Liability of Seller. Upon termination of this Agreement (except for reason of a Seller's Breach), Seller shall not have any liability or obligation hereunder.

13.4 Liquidated Damages as Remedy for Buyer's Breach. Buyer and Seller agree that if the Closing does not occur due to a Buyer's Breach as described in the provisions of Section 13.1(e) above, Seller's sole and exclusive remedy under Section 13.1(e) shall be the right of Seller to claim and be paid liquidated damages in an amount equal to five percent (5%) of the Purchase Price (the "Liquidated Damages"), with the understanding (1) that Buyer shall pay the Liquidated Damages to Seller in cash or by wire transfer of federal funds within ten (10) days after the date of termination and (2) that interest shall accrue on the Liquidated Damages at the annual rate of 5%, compounded annually, to the extent the Liquidated Damages are not paid in full on the expiration of that 10-day period. The parties agree that the Liquidated Damages are intended to limit the claims that Seller may have against Buyer in the circumstances described herein, and that the Liquidated Damages provided herein bear a reasonable relationship to the anticipated harm which would be caused by a Buyer's Breach. The parties further acknowledge and agree that the amount of actual loss caused by Buyer's Breach is difficult to estimate with precision and that Seller would not have a convenient and adequate alternative to Liquidated Damages hereunder.

13.5 Specific Performance as Remedy for Seller's Breach. Seller acknowledges and agrees that the Station Assets are unique assets not readily available on the open market, and in the event Seller shall fail to perform its obligations to consummate the transactions contemplated hereby, money damages alone cannot adequately compensate Buyer for its injury. In the event a court of competent jurisdiction finds that Seller has failed to perform its obligations under this Agreement and such finding is no longer subject to appeal, Buyer shall be entitled to specific performance of this Agreement and of Seller's obligation to consummate the transaction contemplated hereby, and Seller shall waive any and all defenses that Buyer has an adequate remedy at law.

## **ARTICLE 14. DAMAGE TO STATION ASSETS**

14.1 Risk of Loss. The risk of loss to any of the Station Assets on or prior to the Closing Date shall be upon Seller. Seller shall use all commercially reasonable efforts to repair or replace any damaged or lost Station Assets; provided, however, that in the event that Station Assets with a value of greater than One Hundred Thousand Dollars (\$100,000) (a "Material

Station Asset”) are damaged or lost as of the date otherwise scheduled for Closing, Buyer may, at its option, either (i) postpone Closing for a period of up to sixty (60) days while Seller repairs or replaces such Station Assets, or (ii) elect to close with the Assets in their current condition, in which case Seller shall assign all proceeds from insurance on such lost or damaged Station Assets to Buyer, and Buyer shall have the responsibility to repair or replace the Station Assets. Seller shall have no responsibility to repair or replace damaged or destroyed Station Assets not covered by insurance if the cost of such repair exceeds One Hundred Thousand Dollars (\$100,000); provided, however, that Seller shall advise Buyer within five (5) business days after being requested to do so whether or not Seller will repair or replace such Material Station Assets. If any Material Station Asset is not replaced or repaired within the aforesaid 60-day period or if Seller shall not advise Buyer within five (5) business days after being requested to do so whether or not Seller will repair or replace such Material Station Asset, Buyer may elect to (A) terminate this Agreement upon written notice to Seller, in which case neither party shall have any liability to the other, except and solely to the extent that the sole cause of such damage or loss is itself a breach by Seller of any representation, warranty or covenant hereunder, in which event Seller shall be liable to Buyer for such breach; provided that Buyer shall have provided Seller with the notice required pursuant to Section 13.1(c), or (B) close on the terms and conditions set forth in clause (ii) above. If any non-material Station Asset is not repaired or replaced within the aforesaid 60-day period, the Closing shall occur within ten (10) days after the expiration of that 60-day period, and Buyer shall receive a credit against the Purchase Price for the value of the damaged non-material Station Asset.

14.2 Transmission Default. Should any Station (i) not operate for a period in excess of seventy-two (72) consecutive hours, or (ii) not operate at more than 90% of its maximum authorized power for a period of thirty (30) consecutive days, or if any Station shall not be operating at more than 90% of its maximum authorized power as of the scheduled Closing Date (either (i) or (ii) a “Transmission Interruption”), and it is reasonably expected that the Transmission Interruption could be remedied within a reasonable time, Buyer may elect to (A) postpone the Closing for a period of up to sixty (60) days while Seller attempts to cure the Transmission Interruption, and if such cure occurs within such sixty (60) day period, then the parties shall consummate the transaction at the earliest practicable date thereafter, or (B) close with the Assets in their current condition, and Buyer shall have the responsibility to cure the Transmission Interruption. If the Transmission Interruption is not cured within that 60-day period set forth in clause (A) above, then Buyer may terminate this Agreement upon notice to Seller, in which case neither party shall have any liability to the other, except and solely to the extent that the cause of such Transmission Interruption is itself a breach by Seller of any representation, warranty or covenant hereunder, in which event Seller shall be liable to Buyer for such breach.

## **ARTICLE 15. MISCELLANEOUS PROVISIONS**

15.1 Benefit and Assignment. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and permitted assigns. No party may voluntarily or involuntarily assign this Agreement or any right or obligation hereunder without the prior written consent of the other party.

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

15.3 Governing Law; Jurisdiction; Venue. This Agreement and the rights of the parties hereto shall be governed, construed and interpreted in accordance with the internal laws of the State of Colorado, without giving effect to the choice of law principles thereof. Jurisdiction and venue for any action arising from or in relation to this Agreement or any provision hereof shall be exclusively in a state or federal court sitting in Denver, Colorado, and each party hereby submits to the jurisdiction of and venue in any such court as the agreed exclusive jurisdiction and venue for any such action.

15.4 Amendment. This Agreement may not be amended except by an instrument in writing signed on behalf of each of the parties hereto.

15.5 Severability. In the event that any one or more of the provisions contained in this Agreement or in any other instrument referred to herein, shall, for any reason, be held to be invalid, illegal or unenforceable in any respect by the order or decision of any court or governmental agency of competent jurisdiction, then to the maximum extent permitted by law, such invalidity, illegality or unenforceability shall not affect any other provision of this Agreement or any other such instrument (unless such invalid, illegal or unenforceable provision is of material benefit to a party hereunder, in which case the parties shall endeavor in good faith to replace the deleted provision with one that restores to the benefit to the party and, absent any agreement to that end within thirty (30) days after the date on which such order or decision becomes final and non-appealable, either party may terminate the Agreement upon notice the other, in which case neither party will have any liability to the other).

15.6 Construction. The language used in this Agreement will be deemed to be language chosen by the parties to express their mutual intent. In the event an ambiguity or question of intent arises, this Agreement will be construed as if drafted jointly by the parties, and no presumption or burden of proof will arise favoring or disfavoring any person or entity by virtue of the authorship of any of the provisions of this Agreement.

15.7 Attorneys' Fees. Should any party hereto institute any action or proceeding at law or in equity to enforce any provision of this Agreement, including an action for declaratory relief, or for damages by reason of an alleged breach of any provision of this Agreement, or otherwise in connection with this Agreement, or any provision hereof, the prevailing party shall be entitled to recover from the losing party or parties reasonable attorneys' fees and costs for services rendered to the prevailing party in such action or proceeding.

15.8 Notices. Unless applicable law requires a different method of giving notice, any and all notices, demands or other communications required or desired to be given hereunder by any party shall be in writing. Assuming that the contents of a notice meet the requirements of the specific Section of this Agreement which mandates the giving of that notice, a notice shall be validly given or made to another party if served either personally or if transmitted by facsimile (with written confirmation of receipt) or other electronic written transmission device or if sent by overnight courier service, and if addressed to the applicable party as set forth below. If such notice, demand or other communication is served personally, service shall be conclusively

deemed given at the time of such personal service. If such notice, demand or other communication is given by overnight courier, or electronic transmission, service shall be conclusively deemed given at the time of confirmation of delivery. The addresses for the parties are as follows:

If to Buyer to:

NRC Broadcasting, Inc.  
1201 Eighteenth Street, Suite 250  
Denver, CO 80202

With a copy to:

David D. Oxenford, Esq.  
Shaw Pittman LLP  
2300 N Street NW  
Washington, D.C. 20037

If to Seller to:

Salisbury Broadcasting Colorado, LLC  
300 East Lombard  
Baltimore, MD 21202  
Attention: Charles Salisbury, Manager

With a copy to:

Dickstein Shapiro Morin & Oshinsky LLP  
2101 L Street, NW  
Washington, DC 20037  
Attention: Lewis J. Paper

Any party hereto may change its or his address for the purpose of receiving notices, demands and other communications as herein provided, by a written notice given in the aforesaid manner to the other parties hereto.

15.9 Entire Agreement. This Agreement, the Schedules and Exhibits attached hereto and the ancillary documents provided for herein, constitute the entire agreement and understanding of the parties hereto relating to the matters provided for herein and supersede any and all prior agreements, arrangements, negotiations, discussions and understandings relating to the matters provided for herein. All Exhibits and Schedules attached hereto or to be delivered in connection herewith are incorporated herein by this reference.

15.10 Waivers. No waiver of any of the provisions of this Agreement shall be deemed or shall constitute a waiver of any other provision hereof (whether or not similar), nor shall such waiver constitute a continuing waiver. No waiver shall be binding unless executed in writing by the party making the waiver.

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

15.12 Counterparts. This Agreement and any ancillary document hereto may be executed in counterpart signature pages, and each such counterpart signature page shall constitute one and the same original signature page.

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

**NRC BROADCASTING, INC.**

By: \_\_\_\_\_  
Its: \_\_\_\_\_

**SALISBURY BROADCASTING  
COLORADO, LLC**

By: \_\_\_\_\_  
Its: \_\_\_\_\_

## EXHIBIT A

### FORM OF PROMISSORY NOTE

U.S. \$292,278

[Month], [Day], 2003

Denver, Colorado

**FOR VALUE RECEIVED**, the undersigned, NRC BROADCASTING, INC., a Delaware corporation (“Maker”) hereby promises to pay to the order of SALISBURY BROADCASTING COLORADO, LLC, a Maryland limited liability company (“Holder”), holder of this Promissory Note (this “Note”), at the address specified below or at such other address as Holder may from time to time designate in writing, the principal sum of Two Hundred Ninety-Two Thousand Two Hundred Seventy-Eight Dollars (\$292,278), together with all accrued and unpaid interest on such outstanding balance, in accordance with the terms and provisions of this Note.

1. Interest. Interest shall accrue on the outstanding principal balance of this Note from [the Closing Date] at a rate equal to the then prevailing prime rate as published in the *Wall Street Journal*, adjusted on the first day of each calendar quarter (January 1, April 1, July 1 and October 1). On the first day of the first quarter occurring at least nine months after the date of this Note, Maker shall pay Holder all interest accrued through and including the last day of the previous quarter. On the first day of each quarter thereafter, Maker shall pay Holder all interest accrued in the previous quarter. Notwithstanding anything in this paragraph to the contrary, interest shall accrue on any unpaid portion of the principal at the annual rate of 10% after an Event of Default as defined in this Note.

2. Principal. The unpaid principal balance together with all interest accrued and unpaid thereon shall be payable on the earlier of (1) three years after the date of this Note or (2) the date on which Maker consummates the sale of substantially all of the assets of any radio station acquired from Holder or the sale of all or substantially all of the voting securities of Holder (the “Maturity Date”). On the Maturity Date, or at such earlier date as Maker may determine, including upon acceleration due to any Event of Default (as hereinafter defined), Maker shall deliver to Holder, by wire transfer of immediately available funds, a sum constituting the unpaid principal balance and all accrued but unpaid interest thereon.

3. Payments. All payments by Maker hereunder shall be in lawful currency of the United States and shall be applied (i) first to costs of collection, if any, (ii) second to the interest due and unpaid under this Note, and (iii) thereafter, to any principal owing under this Note.

4. Prepayment. Maker shall have the right to prepay, in full, without penalty, this Note (together with all accrued interest to the date of prepayment on the amount of principal thus prepaid) at any time (through cash payment or otherwise in accordance with Section 2 hereof).

5. Waiver Regarding Notice. Maker (a) waives presentment, demand and presentation for payment, protest and notice of protest, and, except as otherwise specifically provided herein, any other notices of whatever kind or nature, bringing of suit and diligence in taking any action to collect any sums owing hereunder, (b) agrees that, from time to time, without in any way affecting the obligation of Maker to pay the outstanding principal balance of this Note and any interest accrued thereon and fully to observe and perform the covenants and obligations of Maker under this Note, without giving notice to, or obtaining the consent of, Maker, and without any liability whatsoever on the part of Holder, Holder may, at its option, extend the time for payment of interest hereon and/or principal of this Note, reduce the payments hereunder, release anyone liable on this Note or accept a renewal of this Note, join in any extension or subordination, or exercise any right or election hereunder, (c) to the extent not prohibited by law, waives the benefit of any law or rule of law intended for Maker's benefit or protection as an obligor hereunder or providing for Maker's released or discharge from liability hereon, in whole or in part, on account of any facts or circumstances other than full and complete payment of all amounts due hereunder, (d) shall make the payments due to Holder hereunder without set-off, counterclaim or other countervailing debt or claim, and (e) agrees that this Note is binding on Maker. No one or more of such actions shall constitute a novation or operate to release any party liable for or under this Note, either as Maker or otherwise.

6. Events of Default. Each of the following shall constitute an "Event of Default" hereunder:

A. The failure of Maker to pay when due the principal balance and accrued interest on this Note and the continuation of such default for more than 15 days; or

B. The insolvency of Maker, the commission of an act of bankruptcy by Maker, the execution by Maker of a general assignment for the benefit of creditors, or the filing by or against Maker of a petition in bankruptcy or a petition for relief under the provisions of the federal bankruptcy act or another state or federal law for the relief of debtors and the continuation of such petition without dismissal for 60 days after its filing.

7. Remedies. Upon the occurrence of an Event of Default, Holder may avail itself of any legal or equitable rights which Holder may have at law or in equity or under this Note, including, but not limited to, the right to accelerate the indebtedness due under this Note. Failure to exercise any of the foregoing options upon the occurrence of an Event of Default shall not constitute a waiver of the right to exercise the same or any other option at any subsequent time in respect to the same or any other Event of Default, and no single or partial exercise of any right or remedy shall preclude other or further exercise of the same or any other right or remedy. Holder shall have no duty to exercise any or all of the rights and remedies herein provided or contemplated. If Holder institutes any lawsuit or other formal legal proceeding to enforce its rights hereunder, Maker shall reimburse Holder for all reasonable expenses incurred thereby, including reasonable attorneys fees.

8. Governing Law. The provisions of this Note shall be governed and construed according to the laws of the State of Colorado, without giving effect to its conflicts of laws provisions. Maker further consents to the personal jurisdiction over Maker in the State of Colorado, or any court of Colorado having appropriate subject matter jurisdiction.

9. No Waiver. Neither any course of dealing by Holder nor any failure or delay on its part to exercise any right, power or privilege hereunder shall operate as a waiver of any right or remedy of Holder hereunder unless said waiver is in writing and signed by Holder, and then only to the extent specifically set forth in said writing. A waiver as to one event shall not be construed as a continuing waiver by Holder or as a bar to or waiver of any right or remedy by Holder as to any subsequent event.

10. Notices.

A. All notices hereunder shall be in writing and shall be in writing and shall be deemed given if delivered personally, sent by registered or certified mail (postage prepaid, return receipt requested), or by nationally recognized overnight courier service, as follows:

If to Buyer to:

NRC Broadcasting, Inc.  
1201 Eighteenth Street, Suite 250  
Denver, CO 80202

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

David D. Oxenford, Esq.  
Shaw Pittman LLP  
2300 N Street NW  
Washington, D.C. 20037

If to Seller to:

Salisbury Broadcasting Colorado, LLC  
300 East Lombard  
Baltimore, MD 21202  
Attention: Charles Salisbury, Manager

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

Dickstein Shapiro Morin & Oshinsky LLP  
2101 L Street, NW  
Washington, DC 20037  
Attention: Lewis J. Paper

or to such other address as the person to whom notice is to be given may have specified in a notice duly given to the sender as provided herein. Notices shall be effective when received;

provided, however, that if any notice sent by courier or by certified or registered mail is returned as undeliverable, such notice shall be deemed effective when mailed or given to such courier.

B. Any of the foregoing persons may change the address to which notices are to be delivered to it hereunder by giving written notice to the others as provided in this Paragraph 9.

11. Severability. In the event that any one or more of the provisions of this Note shall for any reason be held to be invalid, illegal or unenforceable in any respect by any court of competent jurisdiction, such invalidity, illegality or unenforceability shall not affect any other provision of this Note, and this Note shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

12. Limitations of Applicable Law. In the event the operation of any provision of this Note results in an effective rate of interest transcending the limit of the usury or any other law applicable to the loan evidenced hereby, all sums in excess of those lawfully collectible as interest for the period in question shall, without further agreement or notice by any party to this Note, be applied to the unpaid principal balance of this Note immediately upon receipt of such monies by Holder, with the same force and effect as though Maker had specifically designated such extra sums to be so applied to the unpaid principal balance and Holder had agreed to accept such extra payment(s) as a prepayment.

13. Captions. The captions herein are for convenience of reference only and in no way define or limit the scope or content of this Note or in any way affect its provisions.

14. Debtor-Creditor Relationship. Holder shall in no event be construed for any purpose to be a partner, joint venturer or associate of Maker, it being the sole intention of the parties to establish a relationship of debtor and creditor.

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**IN WITNESS WHEREOF**, Maker has executed this Promissory Note as of the date first above written.

WITNESS:

MAKER:

NRC BROADCASTING, INC.

\_\_\_\_\_

By: \_\_\_\_\_

Name:

Title:

## **EXHIBIT B**

### **FORM OF SECURITY AGREEMENT**

**THIS SECURITY AGREEMENT** (“Security Agreement”), made as of this \_\_\_ day of \_\_\_\_\_, 2003, by and between (i) NRC BROADCASTING, INC., a Delaware corporation (the “Grantor”), and (ii) SALISBURY BROADCASTING COLORADO, LLC, a Maryland limited liability company (“Lender”).

#### **WITNESSETH:**

This Security Agreement is entered into by the parties in connection with Promissory Note (the “Note”) dated of even date herewith in the aggregate principal amount of Two Hundred Seven Ninety-Two Thousand Seven Two Hundred Twenty-Two Seventy-Eight Dollars (\$292,278), issued by Grantor to Lender in connection with that certain Asset Purchase Agreement dated of even date herewith, pursuant to which Grantor is acquiring the licenses issued by the Federal Communications Commission (the “FCC”) and other assets used or useful in the operation of radio stations KTUN(FM), Eagle, Colorado; KNFO(FM), Basalt, Colorado; KRMR(FM), Hayden, Colorado; KSPN-FM, Aspen, Colorado; and KFMU-FM, Oak Creek, Colorado (each a “Station” and collectively, the “Stations”). Grantor hereby authorizes the filing of financing statements by Lender on the terms and conditions set forth in this Security Agreement.

To secure repayment of all amounts due under the Note (the “Obligations”), the Grantor hereby grants and conveys to the Lender a security interest in the personal and real property and other assets, tangible and intangible, and all other rights and interests described hereunder with respect to and used or held for use in the business or operations of the Stations (the “Station Assets”), including, without limitation:

(a) all machinery, equipment, transmitting towers, broadcast studio equipment, program and music libraries, transmitters, antennas, furnishings, microphones, audio equipment, video equipment, tape recorders, tools, and furniture and all merchandise, inventory, raw materials, work in process, finished goods, and supplies, whether now owned or hereafter acquired by the Grantor or in which the Grantor may now have or hereafter acquire an interest (“Goods”);

(b) All books, records, ledgers, customer lists, correspondence, computer hardware and software, and magnetic or other data storage media pertaining to any of the above-referenced items, whether in the possession of the Grantor or otherwise;

(c) All cash and noncash proceeds and products, including insurance proceeds of, and any indemnity or warranty payable by reason of damage to or loss of, any of the foregoing (the “Proceeds”);

(d) All licenses, franchises, permits and authorizations heretofore or hereafter granted or issued to the Grantor under federal, state or local laws (excluding, however, any licenses, franchises, permits and authorizations issued by the FCC with respect to the Station (the "FCC Licenses") to the extent, and only to the extent, it is unlawful to grant a security interest in such licenses, franchises, permits and authorizations, but including without limitation, to the maximum extent permitted by law, the right to receive all proceeds derived or arising from or in connection with the sale or assignment of such licenses, franchises, permits and authorizations) which permit or pertain to the business of the Grantor with respect to the Station;

(e) All contract rights (including accounts receivable of the Stations), instruments, certificates, securities (certificated or uncertificated), leases, rents, chattel paper, deposits, choses-in-action, patents, trademarks, copyrights, service marks, trade secrets, trade names, literary rights, rights to performance, call letters, and general intangibles, all re-issues, divisions, renewals, extensions, continuations, and continuations-in-part thereof, and goodwill associated with any of the foregoing, now in force or hereafter acquired ("General Intangibles"); and

(f) All Proceeds, substitutions or replacements, of, for and to (a) through (e) above, ((a) through (e) and (f) being herein collectively referred to as the "Collateral").

1. REPRESENTATIONS AND WARRANTIES; COVENANTS.

The Grantor represents, warrants, covenants and agrees as follows:

(a) To pay and perform all of the Obligations according to their terms;

(b) On demand of the Lender to do the following: execute any written agreement and do all other acts necessary to effectuate the purposes and provisions of this Security Agreement, execute any instrument or statement required by law or otherwise in order to perfect, continue or terminate the security interest of the Lender in the Collateral and pay all filing or other costs incurred in connection therewith;

(c) To defend title to the Collateral against all persons and all claims and demands whatsoever, which Collateral, except for the security interest granted or expressly permitted hereby, is lawfully owned by the Grantor free and clear of any and all liens, security interests, claims, charges, encumbrances, taxes and assessments, other than those which secure the Lender and are otherwise permitted hereunder or which do not adversely affect the value or use of the Collateral;

(d) To keep the Collateral free and clear of all material liens, charges, encumbrances, taxes and assessments, except that, notwithstanding the above or any other term or condition stated in this Agreement or any other agreement, Lender acknowledges that the Grantor may grant to a senior lender (being a party who provides more than \$1,000,000 in financing) a first priority lien upon the Collateral. Lender agrees that, in connection with such grant, it will enter into a commercially reasonable subordination agreement (the "Subordination Agreement") with the senior lender to permit the senior lender to perfect such first priority security interest in the Collateral, and including in the terms of such Subordination Agreement, without limitation, that

Lender will file any amendment to financing statements necessary to perfect the senior lender's first priority security interest and lien, and that, if an Event of Default under the Note or hereunder has occurred and is continuing: (i) Lender shall promptly notify the senior lender that such Event of Default has occurred; (ii) that from and after the date of such notice for a period of 180 days Lender shall not exercise any right or remedy available under the Note or hereunder without the express written consent of the senior lender (as long as the senior lender agrees to provide reasonable notice of any intention by the senior lender to exercise any right or remedy available to the senior lender with respect to the Collateral); (iii) that at any time during such period the senior lender may act to cure such Event of Default and Lender shall accept such cure with respect to the Event of Default; and (iv) at any time during such Event of Default all payments from Grantor shall go to the senior lender, and Lender shall remit any payments made under the Note to the senior lender;

(e) Unless otherwise required by Lender, to retain possession of the Collateral during the existence of this Security Agreement and not to sell, exchange, assign, loan, deliver, lease or otherwise dispose of the Collateral without the prior written consent of the Lender; provided, however that Grantor shall have the right to sell or otherwise dispose of Collateral in the usual course of business without the prior written consent of Lender, so long as such items are replaced with comparable items of equal or greater value;

(f) To keep the various items of the Collateral at their present locations, and not to change the location of any Collateral, or permit any such change, without the prior written consent of the Lender;

(f) To pay or cause to be paid when due all taxes, franchise fees and payments, assessments and license fees in any way relating to the Collateral;

(g) Upon request by the Lender, the Grantor will provide the Lender with written reports of the status of the Collateral, or any part thereof, as of the period specified, in form and substance satisfactory to the Lender and not change the location of its books and records without giving the Lender at least thirty (30) days' prior written notice;

(h) By execution of this Agreement, to acknowledge the appointment of the Lender, and any officer or agent of the Lender, as the true and lawful attorney-in-fact of the Grantor with full power at any time, if the Grantor be in default under this or any other agreement (but subject to the right of the senior lender provided hereunder): (i) to enter upon the premises of the Grantor at any time for the purpose of reducing to possession General Intangibles and all cash or non-cash proceeds thereof, or for the purpose of inspecting and/or auditing the books, records and procedures of the Grantor; (ii) to compromise, extend, or renew any of the Collateral or deal with the same as it may deem advisable; (iii) to release, or make exchanges or substitutions, or surrender, all or any part of the Collateral; (iv) to endorse the name of the Grantor upon any items of payment relating to the Collateral; (v) to file financing statements and continuation statements covering the Collateral on behalf of the Grantor, as applicable, it being expressly understood and agreed that (x) the Lender shall not be required or obligated in any manner to make any inquiries as to the nature or sufficiency of any payment received by it or to present or file any claims or take any other action to collect or enforce a payment of any amounts which may have been assigned to it or to which it may be entitled hereunder at any time or times, (y) the Grantor ratifies and approves all acts of its attorney-in-fact hereby appointed, and (z) this

power of attorney is coupled with an interest and shall be irrevocable as long as any of the indebtedness secured hereby shall remain outstanding, and shall not terminate on disability of the Grantor;

(i) To comply with all federal, state and local laws and regulations applicable to its business, whether now in effect or hereinafter enacted, and upon request of the Lender, will furnish to the Lender evidence of compliance therewith; and

(j) To immediately notify the Lender in writing of any change in or discontinuance of any Grantor's place or places of business.

## 2. EVENTS OF DEFAULT.

For the purposes of this Security Agreement, and subject to any applicable cure period set forth in the Note or, with respect to this Agreement, upon notice to Grantor and expiration of thirty (30) days after such notice for Grantor to cure such default (other than an Event of Default under the Note, in which case no further cure period shall be provided except as provided pursuant to the Note), each of the following shall constitute an "Event of Default" hereunder:

(a) An Event of Default shall have occurred under the Note;

(b) If the Grantor fails to comply with or perform any material provision of this Security Agreement; or

(c) If any material representation, warranty or covenant made or given by the Grantor in connection with this Security Agreement shall prove to have been incorrect or misleading or breached in any material respect on or as of the date when made (or remade).

## 3. CERTAIN REMEDIES UPON DEFAULT. Upon the occurrence of an Event of Default (giving effect to any applicable cure period), at the option of the Lender:

(a) The Obligations shall immediately become due and payable in full without notice or demand, and the Lender shall have all of the rights, remedies and privileges with respect to repossession, retention and sale of the Collateral and disposition of the proceeds as are accorded to the Lender by the applicable sections of the Uniform Commercial Code in the State of Colorado (as the same may be amended from time to time, the "UCC").

(b) Without limiting the provisions of the foregoing clause (a), the Lender may also (i) enter upon the Grantor's premises, peaceably by the Lender's own means or with legal process, and take possession of the Collateral, render it unusable or dispose of the Collateral on such premises, and the Grantor agrees not to resist or interfere; and (ii) require the Grantor to assemble the Collateral (to the extent that it is movable) and make it available to the Lender at a place to be designated by the Lender. The Lender agrees that unless the Collateral is perishable or threatens to decline speedily in value or is of a type customarily sold on a recognized market, the Lender will give the Grantor reasonable notice of the time and place of any public sale thereof or of the time after which any private sale or any other intended disposition thereof is to

be made. The requirements of reasonable notice will be met if such notice is mailed, postage prepaid, to the appropriate person at the address shown above, at least ten (10) days before the time of sale or disposition.

(c) The Lender shall be entitled, in its own name or in the name of the Grantor, or otherwise, but at the expense and cost of the Grantor, to collect, demand, receive, sue for and/or compromise any and all of the Receivables, and to give good and sufficient releases therefor, to endorse any checks, drafts or other orders for the payment of monies payable in payment thereof and, in its discretion, to file any claims or take any action or proceeding, either in its own name or in the name of the Grantor, or otherwise, which the Lender may deem necessary or advisable. It is expressly understood and agreed, however, that the Lender shall not be required or obligated in any manner to make any inquiries as to the nature or sufficiency of any payment received by it or to present or file any claims or take any other action to collect or enforce a payment of any amounts which may have been assigned to it or to which it may be entitled hereunder at any time or times.

(d) Upon any default hereunder, the Lender's reasonable attorney's fees and the legal and other expenses of pursuing, searching for, receiving, taking, keeping, storing, advertising and selling the Collateral shall be chargeable to the Grantor.

(e) If the Grantor shall default in the performance of any of the provisions of this Security Agreement on its part to be performed, the Lender may perform the same for the Grantor's account, and any monies expended in so doing shall be chargeable with interest to the Grantor and added to the indebtedness secured hereby.

(f) Waiver of or acquiescence in any default by the Grantor, or failure of the Lender to insist upon strict performance by the Grantor of any warranties or agreements in this Security Agreement, shall not constitute a waiver of any subsequent or other default or failure.

(g) Grantor shall take any action that Lender may reasonably request in order to enable Lender to obtain and enjoy the full rights and benefits granted to Lender hereunder, including without limitation, all rights necessary to obtain, use, sell, assign or otherwise transfer control of the FCC Licenses. Without limiting the generality of the foregoing, upon the occurrence of an Event of Default, at the written request of Lender and at Grantor's sole cost and expense, Grantor shall (i) assist Lender in obtaining any required FCC approval for any action or transaction contemplated hereby, including preparing, signing and filing with the FCC and/or any other governmental body with jurisdiction thereover, the assignor's or transferor's portion of any application or applications for consent to the assignment of license necessary or appropriate under the Act or the rules and regulations of the FCC or any other governmental body for approval of any sale, assignment or transfer to Lender or any other person or entity of any or all Collateral (including without limitation any FCC Licenses), and (ii) execute all applications and other documents and take all other actions requested by Lender to enable Lender, its designee, any receiver, trustee, or similar official or any purchaser of all or any part of the Collateral to obtain from the FCC or any other governmental body any required authority necessary to operate the broadcasting business of Grantor. If the Grantor shall refuse to sign any application or other document necessary to be filed with the FCC or any other governmental body to enable Lender

to exercise its rights hereunder, Lender may secure an order from a court of competent jurisdiction authorizing the clerk of the court or some other designee to sign such application or other document on behalf of Grantor.

4. ADDITIONAL RIGHT OF THE LENDER TO USE AND OPERATE COLLATERAL.  
Upon the occurrence of any Event of Default hereunder:

(a) Subject to the provisions of the UCC, any required prior approval of the FCC, and any other applicable law, the Lender shall have the right and power to take possession of all or any part of the Collateral and to exclude the Grantor and all persons claiming under the Grantor wholly or partly therefrom, to the extent necessary, thereafter to hold, store and/or use, operate, manage and control the Collateral. Upon any such taking of possession, the Lender may, from time to time, at the expense of the Grantor, make all such repairs, replacements, alterations, additions and improvements to and of the Collateral as the Lender may deem proper. In any such case, subject to the prior approval of the FCC, to the extent necessary, the Lender shall have the right to manage and control the Collateral and to carry on the business and exercise all rights and powers of the Grantor respecting the Collateral, all as the Lender shall deem best, including the right to enter into any and all such agreements with respect to the leasing and/or operation of the Collateral or any part thereof as the Lender may see fit; and the Lender shall be entitled to collect and receive all rents, issues, profits, fees, revenues and other income of the same and every part thereof. Such rents, issues, profits, fees, revenues and other income shall be applied to pay the expenses incurred in (i) holding and operating the Collateral; (ii) performing all maintenance, repairs, replacements, alterations, additions and improvements which the Lender may be required or elect to make, if any; and (iii) paying all taxes, assessments, insurance and other charges upon the Collateral or any part thereof, and all other payments, which the Lender may be required or authorized or elect to make (including legal costs and attorneys' fees). Any remaining rents, issues, profits, fees, revenues and other income shall be applied to the payment of the Obligations. Without limiting the generality of the foregoing, the Lender shall have the right to apply for and have a receiver appointed by a court of competent jurisdiction in any action taken by the Lender to enforce its rights and remedies hereunder in order to manage, protect or preserve the Collateral or continue the operation of the business of the Grantor. The Lender shall also have the right to collect all revenues and profits of the Grantor's business and apply the same to the payment of all expenses and other charges of any such receivership until a sale or other disposition of the Collateral shall be finally made and consummated.

5. FCC APPROVAL. Notwithstanding anything to the contrary contained herein, the Lender will not take any action pursuant to this Security Agreement which would constitute or result in any assignment of an FCC License or any change of control of the ownership or management of the Station if such assignment of FCC License or change of control would require under then existing law (including the written rules and regulations promulgated by the FCC), the prior approval of the FCC, without first obtaining such approval of the FCC. The Grantor agrees to take any action which the Lender may reasonably request in order to obtain and enjoy the full rights and benefits granted to the Lender by this Security Agreement and each other agreement, instrument and document delivered to the Lender in connection herewith or in any document evidencing or securing the Collateral, including specifically, at the Grantor's own

cost and expense, the use of its best efforts to assist in obtaining approval of the FCC for any action or transaction contemplated by this Security Agreement which is then required by law.

6. ASSIGNMENT. The Lender may assign its interests in this Security Agreement without the express written consent of Grantor.

7. NO ASSUMPTION OF DUTIES. The rights and powers granted to the Lender hereunder are being granted in order to preserve and protect the Lender's security interest in and to the Collateral granted hereby and shall not be interpreted to, and shall not, impose any duties on the Lender in connection therewith.

8. FINANCING STATEMENTS. The Lender is hereby authorized to file Financing Statements covering the Collateral.

9. MISCELLANEOUS. Captions used herein are inserted only as a matter of convenience and for reference, and in no way define, limit or describe the scope of this Security Agreement or the intent of any provision hereof. The gender and number used in this Security Agreement are used as reference terms only and shall apply with the same effect whether the parties are of the masculine or feminine gender, corporate or other form, and the singular shall likewise include the plural.

10. BINDING EFFECT. The terms, warranties and agreements herein contained shall bind and inure to the benefit of the respective parties hereto, and their respective legal representatives, successors and assigns. The terms and conditions of this Security Agreement may not be waived, modified or amended orally, but may be waived, modified or amended only by an agreement in writing signed by the parties against whom any waiver, modification or amendment is sought. Any provisions in this Security Agreement which are or are declared invalid under any law shall not invalidate any other provision of this Security Agreement.

11. CHOICE OF LAW; VENUE AND JURISDICTION; SERVICE OF PROCESS. This Security Agreement shall be interpreted, and the rights and liabilities of the parties hereto determined, in accordance with the laws of the State of Colorado, without regard to its principals of conflicts of law. Venue for any adjudication hereof shall be only in the state and Federal courts sitting in Denver, Colorado, to the jurisdiction of which courts Grantor hereby submits, as the agreement of such party, as not inconvenient and not subject to review by any court other than such courts in Denver, Colorado. Any notice, or service of any summons and/or complaint hereunder and any other process which may be served on the Grantor in any action in respect hereto, may be made by registered mail or by delivering a copy of such process to the address specified in the Note. The Grantor agrees that this submission to jurisdiction and consent to service of process are reasonable and made for the express benefit of the Lender.

12. WAIVER OF JURY TRIAL. THE GRANTOR WAIVES ALL RIGHT TO TRIAL BY JURY OF ALL CLAIMS, DEFENSES, COUNTERCLAIMS AND SUITS OF ANY KIND DIRECTLY OR INDIRECTLY ARISING FROM OR RELATING TO THIS INSTRUMENT OR THE DEALINGS OF THE PARTIES IN RESPECT HERETO. THE GRANTOR ACKNOWLEDGES THAT THIS IS A WAIVER OF A LEGAL RIGHT AND

THAT IT MAKES THIS WAIVER VOLUNTARILY AND KNOWINGLY AFTER CONSULTATION WITH, OR THE OPPORTUNITY TO CONSULT WITH, COUNSEL OF ITS CHOICE. THE GRANTOR AGREES THAT ALL SUCH CLAIMS, DEFENSES, COUNTERCLAIMS AND SUITS SHALL BE TRIED BEFORE A JUDGE, WITHOUT A JURY.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

**IN WITNESS WHEREOF**, the parties have executed this Security Agreement on the day and year first above written.

GRANTOR:

**NRC BROADCASTING, INC.**

By: \_\_\_\_\_

Its: \_\_\_\_\_

LENDER:

**SALISBURY BROADCASTING  
COLORADO, LLC**

By: \_\_\_\_\_

Its: \_\_\_\_\_

**EXHIBIT C**

**FORM OF OPINION OF SELLER'S COUNSEL**

[DATE]

NRC Broadcasting, Inc.  
1201 Eighteenth Street  
Suite 250  
Denver, CO 80202

Attn: \_\_\_\_\_

RE: Radio Stations KTUN(FM), Eagle, CO; KNFO(FM), Basalt, CO; Hayden, CO; KSPN-FM, Aspen, CO; and KFMU-FM, Oak Creek, CO

Dear \_\_\_\_\_:

[STANDARD DSMO Language]

Based upon the foregoing, and subject in all respects to the qualifications and limitations set forth in this letter, we are of the following opinions:

1. Schedule A annexed hereto identifies those licenses (the "Station Licenses") that have been issued by the FCC under Part 73 of its rules and that are held by the Licensee. The Station Licenses listed on Schedule A are in full force and effect. The Station Licenses authorize the operation of a radio station on the identified frequency in the specified community of license.

2. The Station Licenses listed on Schedule A are not subject to any conditions outside the ordinary course except as may be set forth on the face of such Station Licenses.

3. To our knowledge, there is no proceeding pending before the FCC which seeks to revoke, suspend, cancel or rescind any of the Station Licenses listed on Schedule A, except for proceedings that affect the radio broadcasting industry generally.

4. Except as identified in Schedule B, to our knowledge, (a) there is no unsatisfied adverse FCC order, decree, or ruling outstanding against Seller, any Station, or any of the Station Licenses, and (b) there is no proceeding, complaint, or investigation against Seller, any Station, or any of the Station Licenses pending or threatened before or by the FCC that could reasonably

be expected to have a material adverse effect upon Seller, any Station, or any of the Station Licenses.

5. The FCC has granted its consent (the “FCC Consent”) to the assignment to Buyer of each of the Station Licenses listed on Schedule A. The FCC Consent has become effective under the FCC Rules. [The time within which any party in interest other than the FCC may ordinarily seek administrative or judicial reconsideration or review of the grant of the FCC Consent has expired and no petition or application for such reconsideration or review was timely filed with the FCC or the appropriate court, and the time within which the FCC ordinarily may review the FCC Consent on its own motion has expired and the FCC has not undertaken such review.]

This opinion is (i) solely for your information in connection with the transactions contemplated under the Purchase Agreement, (ii) not to be relied upon by any other person or entity for any reason (iii) not to be quoted in whole or in part or otherwise referred to in any document except as directly a part of and related to such transactions, (iv) based on the facts and law as of the date of this letter, and we disclaim any responsibility to advise you of any change in fact or law which may affect the opinions in this letter, and (v), except as otherwise required by applicable law, not to be filed with or provided to any government agency or any other entity or person whatsoever.

Very truly yours,