

KZZR-KQHC Contract For Sale

CONTRACT FOR SALE

This Contract for Sale ("Agreement") is entered in this 13th day of May, 2010, by B & H Radio, Inc., an Oregon corporation ("Seller") and Harney County Radio, LLC, a Delaware limited liability company ("Buyer"). Seller and Buyer hereby agree to the sale and purchase of the assets and the assignment of the authorizations issued by the Federal Communications Commission (the "Commission" or "FCC") (the "FCC Authorizations") for operation of broadcast stations KZZR(AM) (FCC Facility ID No. 62265) and KQHC(FM) (FCC Facility ID No. 62264), Burns, Oregon (the "Stations") from Seller to Buyer upon the following terms and conditions.

1. **FCC Approval.** The consummation of this Agreement shall take place on the Closing Date established pursuant to **PARAGRAPH 18** hereof, which Closing Date shall be after the FCC has granted consent to the assignment of the FCC Authorizations from Seller to Buyer.

2. **Assets Included in the Sale.** The assets being sold, transferred, and assigned ("Assets") shall include:

(a) All of the tangible property ("Tangible Property") used or usable in the operation of the Station, including but not limited to the assets listed in the attached **EXHIBIT A**, together with the replacements thereof or additions thereto made between the date of this Agreement and the Closing Date, free and clear of all liens, claims, security interests, and encumbrances of any kind whatsoever. All Tangible Property is being sold AS IS, WHERE IS, with all faults, and without any warranty as to fitness for intended use.

(b) All of the contracts and leases ("Assigned Contracts") as described in **EXHIBIT B**. Buyer will assume all of the Assigned Contracts at the time of Closing. Seller prior to Closing, will obtain all permits, authorizations, and consents of third parties necessary to effectuate the assignment of the

KZZR-KQHC Contract For Sale

Assigned Contracts.

(c) The FCC Authorizations, as identified in **EXHIBIT C** hereto.

(d) All records ("Records") required by the Commission to be maintained by Seller that relate to the operation of the Stations and records which will be necessary for Buyer's operation of the Stations, excluding, however, financial data, journals, and tax returns of Seller. Buyer shall make records available to, and copies thereof, for Seller if so requested by Seller.

(e) All of the real property owned or leased by Seller used in conjunction with the Stations as more particularly described in **EXHIBITS B and D**, subject to the existing lien of the Bank of Eastern Oregon for payment in the approximate amount of Seventy-Two Thousand Dollars (\$72,000.00), which shall be paid off from proceeds of this transaction.

In the event certain of the Assigned Contracts to be included in the Purchased Assets, and the rights and benefits thereunder necessary or appropriate or relating to the conduct of the business and activities of Seller and/or the Stations, are not, by their terms, be assignable, such contracts are identified by an asterisk on **EXHIBIT B**. Anything in this Agreement to the contrary notwithstanding, this Agreement shall not constitute an agreement to assign any such Assigned Contract so identified, and Buyer shall not be deemed to have assumed the same or to be required to perform any obligations thereunder, if an attempted assignment thereof, without the consent of a third party thereto, would constitute a breach thereof or in any way affect the rights under any such Assigned Contract of Buyer or Seller thereunder. However, in such event, upon request of Buyer, Seller will cooperate with Buyer in all lawful ways to provide for Buyer all benefits to which Seller is entitled under such Assigned Contracts so long as Buyer undertakes to perform or cause to be performed the obligations of Seller under such Contracts, and any transfer or assignment to Buyer by Seller of any such Assigned Contract or any right or benefit arising thereunder or resulting therefrom which shall require the

KZZR-KQHC Contract For Sale

consent or approval of any third party shall be made subject to such consent or approval being obtained. Seller will use its best efforts prior to, and if requested by Buyer after, the Closing Date to obtain all necessary consents to the transfer and assignment of the Assigned Contracts. Buyer will cooperate with Seller, to the extent reasonably requested by Seller, to obtain any such consents, *provided, however*, that neither Buyer nor Seller shall have no obligation to make substantial expenditures or grant any substantial financial accommodation to obtain any such consent. Consent to the assignment of all Assigned Contracts marked with a double asterisk (the "Material Contracts") must be obtained as a condition precedent to Buyer's obligation to close the transactions contemplated by this Agreement unless such consent is waived by Buyer.

3. Assets Excluded from Sale. There shall be excluded from this sale cash on hand or in banks, prepaid deposits, and all of Seller's accounts receivable.

4. Purchase Price and Allocation. The purchase price for the Assets ("Purchase Price") is Two Hundred and Forty-Five Thousand Dollars (\$245,000.00). With the execution of this Agreement, Buyer is making a deposit via Cashier's Check in the amount of Five Thousand Dollars (\$5,000.00) (the "Escrow Deposit") with Amerititle ("Escrow Agent"), which sum will be held pursuant to an Escrow Agreement in the form attached as **EXHIBIT E** and paid to Seller at the Closing, with interest on the initial Escrow Deposit up to the Closing Date belonging to Buyer. At Closing, Buyer will authorize the release of the Escrow Deposit, and: (i) pay to Amerititle, on behalf of Seller, the additional sum of Seventy-Two Thousand Five Hundred Dollars (\$72,500.00) (the "Closing Payment") in the form of a bank check, a cashier's check, or other form of immediately available funds; and (ii) a Note and Deed of Trust in the form attached hereto as **EXHIBIT F** in the amount of One Hundred Sixty Seven Thousand Five Hundred Dollars (\$167,500.00) ("Note"), secured by a Security Agreement in the form attached hereto as **EXHIBIT G** and a Guaranty of Leighton and Joan Reed-Nickerson in the

KZZR-KQHC Contract For Sale

form attached hereto as **EXHIBIT H**.

5. Allocation of Purchase Price. The Purchase Price will be allocated in the manner set forth in **EXHIBIT I** hereto.

6. Buyer's Due Diligence. Prior to the execution of this Agreement, Buyer has been afforded the opportunity to inspect and examine the Stations' Assets and records of Seller relating to the operation of Stations. Buyer acknowledges that it is aware of condition of the Stations' Assets.

7. Payment of Certain Expenses. The following items shall be paid by Buyer or Seller and/or *prorated* as of the Closing Date:

(a) All state or local sales taxes, if any, applicable to the transaction shall be borne by Buyer;

(b) All power and utility charges applicable to the operation of the Stations for the month during which the assignment is consummated shall be *prorated* as of the Closing Date;

(c) All FCC annual Regulatory Fees to be paid by Buyer pertinent to the period of Seller's ownership of the Stations shall be *prorated* as of the Closing Date;

(c) All insurance policy premiums which Buyer elects to continue will be *prorated* as of the Closing Date; and

(d) All FCC filing fees for the Assignment Application shall be paid by Buyer.

8. Attorneys' Fees. Each party has retained independent counsel in connection with the preparation and negotiation of this Agreement, and has consulted with and sought advice from such counsel, prior to execution, concerning their respective rights and duties under this Agreement.

Expenses incurred in connection with this Agreement shall be paid by the party incurring that expense.

Buyer alone shall pay fees for the drafting of this Agreement. Seller, however, acknowledges that the attorneys drafting this Agreement for Sale represent only Buyer and not Seller. See also **PARAGRAPH 36** hereof.

KZZR-KQHC Contract For Sale

9. Non-Assumption of Certain Liabilities. Except those liabilities being *prorated* or expressly assumed by Buyer as provided herein, Buyer shall not assume or be obligated to pay any liability incurred by Seller.

10. Representations and Warranties of Seller. Seller hereby covenants, represents, warrants, and agrees that:

(a) Legal Status. Seller is a corporation duly organized, validly existing and in good standing under the laws of the State of Oregon, qualified to do business in the State of Oregon, and with full power to own its assets and carry on its business as now being conducted.

(b) Company Action. Seller has taken all requisite corporate action authorizing Seller to enter into this Agreement and to execute and deliver all bills of sale, assignments, and agreements contemplated hereby, together with such other documents, as may reasonably be requested by Buyer or the Commission.

(c) FCC Authorizations. Seller is the valid holder of the FCC Authorizations issued by the Commission for the operation of Stations. The status of the FCC Authorizations is set forth in **EXHIBIT C** hereto.

(d) Good and Marketable Titles to the Assets. At the time of Closing, Seller will have good and marketable title to the Tangible Property being conveyed and sold under this Agreement free and clear of all liens, mortgages, pledges, and encumbrances of any kind whatsoever. Within ten days prior to Closing, Seller shall provide Buyer with the results of a lien search establishing that there are no liens on the assets being conveyed, or establishing that such liens shall be paid at Closing.

(e) No Pending Litigation or Proceeding. There is no judgment, litigation, proceeding, or investigation by or before the Commission or any other person, firm, or governmental

KZZR-KQHC Contract For Sale

agency pending, or to the knowledge of the Seller, threatened which affects or would affect the right, title, or interest of Seller in the property and assets to be transferred hereunder or which would affect the ownership, use, or possession of the Stations or said property and assets by Buyer.

(f) Assigned Contracts. Seller, to the best of its knowledge, is in full compliance with the terms and conditions of all of the Assigned Contracts listed in **EXHIBIT B** and the performance of this Contract by it will not conflict with or violate the provisions of any contract or instrument binding upon Seller.

(g) Insurance Policies. The policies of insurance presently in force on the Assets subject to this Contract, a list of which has been furnished to Buyer, will remain in full force and effect to the Closing Date and the passage of title to the Assets to Buyer.

(h) Broker or Finder. Seller represent that other than Paramore Real Estate, Christy Young, 398 N. Broadway, Burns, OR 97720, which has participated in this transaction and therefore is entitled to a 4% commission (\$9,800) to be paid by Seller, that it knows of no broker, finder, or intermediary who has been involved in the transactions provided for in this Agreement or who might be entitled to a fee or commission upon the consummation of such transactions. Seller hereby agree to indemnify Buyer from and against any claim of any such obligation or liability by any person, and any expense incurred in defending against any such claim, including reasonable attorneys' fees, that shall have resulted from any conduct, activity, or action taken, or allegedly taken, by Seller.

11. Negative Covenants of Seller. Between the date hereof and the Closing Date, except as contemplated by this Agreement, Seller will not, without the prior written consent of Buyer:

(a) Enter in any union agreements or any other agreements with employees, increase

KZZR-KQHC Contract For Sale

the compensation payable to or to become payable to any employees, or effect any change in the management, personnel policies, or employee benefits of Stations.

(b) Create or assume any new mortgage, security interest, or pledge, or subject to lien or encumbrance any of the Assets or other assets hereafter acquired.

(c) Sell, assign, lease, or otherwise transfer or dispose of any of the Assets, except in the normal and usual course of business in connection with the acquisition of similar Assets.

12. Representations and Warranties of Buyer. The Buyer covenants, represents, and warrants:

(a) Legal Status. Buyer is a limited liability company , and is duly organized, validly existing and in good standing under the laws of the State of Delaware, qualified to do business in the State of Oregon, and has full legal power to own its assets and carry on its business.

(b) Company Action. Buyer has taken all requisite company action authorizing Buyer to enter into this Agreement and to execute and deliver all assignments and agreements contemplated hereby, together with such other documents, as may reasonably be requested by Seller or the Commission.

(c) Legal Qualifications. Buyer knows of no reason why it should not be found duly qualified by the Commission to become the licensee of the Stations, and prior to Closing hereunder will do no act which will disqualify it from becoming such licensee.

(d) Assigned Contracts Fulfillment. Buyer will fulfill after the Closing Date all of the contracts and leases which are assigned to and assured by Buyer and will hold Seller harmless from any breach or alleged breach of the obligations thereof occurring after the Closing Date.

(e) Buyer's Financial Condition. Buyer has the financial ability to complete all the transactions contemplated by this Agreement.

KZZR-KQHC Contract For Sale

(f) Broker or Finder. Buyer represent that other than Paramore Real Estate, Christy Young, 398 N. Broadway, Burns, OR 97720, which has participated in this transaction and therefore is entitled to a 4% commission (\$9,800) to be paid by Seller, that it knows of no broker, finder, or intermediary who has been involved in the transactions provided for in this Agreement or who might be entitled to a fee or commission upon the consummation of such transactions. Buyer hereby agree to indemnify Seller from and against any claim of any such obligation or liability by any person, and any expense incurred in defending against any such claim, including reasonable attorneys' fees, that shall have resulted from any conduct, activity, or action taken, or allegedly taken, by Buyer.

13. Rights of Indemnification.

(a) Seller to Buyer. Buyer does not assume, and shall not be obligated to pay, any liabilities of Seller under the terms of this Agreement or otherwise and shall not be obligated to perform any obligations of Seller, of any kind of manner, except by reason of contracts expressly assumed by the Buyer hereunder and, with respect to such contracts only such obligations which arise subsequent to the Closing, or as herein provided. Seller hereby agrees to indemnify and hold Buyer, its successors, and assigns, harmless from and against: (i) any and all claims, liabilities, and obligations incurred by Seller, including but not limited to, any and all claims, liabilities, and obligations arising or required to be performed prior to the Closing under any contract or instrument assumed by Buyer hereunder; (ii) any and all damages or deficiency resulting from any misrepresentations, breach of warranty, or nonfulfillment of any agreement on the part of Seller under this Agreement, or from any certificate or other instrument furnished to Buyer pursuant to this Agreement, or from any certificate or other instruction furnished to Buyer pursuant to this Agreement, or from any certificate or other

KZZR-KQHC Contract For Sale

instrument furnished to Buyer pursuant to this Agreement, or in connection with any of the transactions contemplated hereby; and (iii) any and all actions, suits, proceedings, damages, assessments, judgments, costs, and expenses, including reasonable attorneys' fees incident to the foregoing provisions. If any claim or liability shall be asserted against Buyer which would give rise to a claim by Buyer against Seller for indemnification under the provisions of this Paragraph, Buyer shall promptly notify Seller in writing of the same and Seller shall be entitled at his own expense to compromise or defend any such claim.

(b) Buyer to Seller. Buyer, in connection with any warranties made, herewith agrees to indemnify and to hold Seller, its successors, and assigns, harmless from and against: (i) any and all claims, liabilities, and obligation incurred by Buyer, including but not limited to, any and all claims, liabilities, and obligations arising or required to be performed subsequent to the Closing under any contract or instrument assumed by Buyer hereunder; (ii) any and all damages or deficiency resulting from any misrepresentations, breach of warranty or nonfulfillment of any agreement on the part of Buyer under this Agreement, or from any misrepresentation of or omission from any certificate or other instrument furnished to Seller pursuant to this Agreement, or in connection with any of the transactions contemplated hereby; and (iii) any and all actions, suits, proceedings, damages, assessments, judgments, costs, and expenses including reasonable attorneys' fees, incident to any of the foregoing provisions. If any claim or liability shall be asserted against Seller which would give rise to a claim by Seller against Buyer for indemnification under the provisions of this Paragraph, Seller shall promptly notify Buyer of the same and Buyer shall be entitled at its own expense to compromise or defend any such claim.

14. Survival of Warranties. All representations and warranties made by the parties herein

KZZR-KQHC Contract For Sale

shall be true on, and as of, the Closing Date. They shall survive the Closing for a period of one (1) year.

15. Risk of Loss. In the event of the loss or destruction of items of Tangible Property prior to the time of Closing, Seller shall notify Buyer of same in writing specifying the loss or damage incurred, the cause thereof, if known, and the insurance coverage. Ordinary wear and tear upon an item of Tangible Property, even if such wear and tear results in retirement from service of such item, shall not be deemed "loss or destruction" for the purposes of this Agreement. In the event lost or destroyed items of Tangible Property are not completely repaired, replaced, or restored on or before the Closing Date hereunder, Buyer may: (a) elect to postpone the Closing until such time as such property has been completely restored, repaired, or replaced, or (b) elect to consummate the Closing and accept the property in its then condition in which event Seller shall assign to Buyer all rights under any insurance covering the same and pay over to Buyer all proceeds of insurance theretofore received covering the property involved and/or appropriate deductions from the purchase price shall be made therefrom.

16. Application to the Commission. The parties agree to file, or cause to be filed, all applications necessary to request the consent of the FCC to the transfer of the FCC Authorizations within five (5) calendar days after the date on which Buyer and Seller have executed this Agreement, and to prosecute such applications in good faith and with due diligence.

17. Failure of Commission to Consent to Assignment. In the event (i) consent to the assignment of the FCC Authorizations is not granted within 180 days from the date on which the application is filed, (ii) if the Commission designates the application for hearing, or (iii) the sale of the Stations pursuant to this Agreement is not consummated within six months hereof, either Buyer or Seller may terminate this Agreement by giving written notice to the other party.

KZZR-KQHC Contract For Sale

18. Time and Place of Closing. The Closing shall take place at Amerititle, Burns, or such other place as the parties shall mutually agree. The Closing Date shall be within ten (10) business days after FCC consent to the assignment has been granted if no petition to deny or informal objection has been filed with the FCC. If any such petition to deny or informal objection is filed, Buyer, at its sole option, may elect to postpone closing until FCC consent to the assignment has become a “Final Order.” For purposes of this Agreement, “Final Order” shall mean action by the FCC (i) which has not been vacated, reversed, stayed, set aside, annulled, or suspended, (ii) with respect to which no timely appeal, request for stay or petition for rehearing, reconsideration, or review by any party or by the FCC on its own motion, is pending, and (iii) as to which the time for filing any such appeal, request, petition, or similar document or for the reconsideration or review by the FCC on its own motion under the Communications Act of 1934, as amended, and the rules and regulations of the Commission, has expired.

19. Conditions Precedent to Obligations of Buyer. The obligations of the Buyer under this Agreement are subject to the satisfaction of each of the following express conditions precedent (provided that Buyer may, at its election, waive any of such conditions on the Closing Date, notwithstanding that such condition is not fulfilled) on the Closing Date:

(a) Seller shall have delivered to Buyer the Seller’s Closing Documents as described in **PARAGRAPH 26** below.

(b) Each of the Seller’s representations and warranties contained in this Agreement or in any Schedule, certificate, or document delivered pursuant to the provisions hereof, or in connection with the transactions contemplated hereby, shall be true and correct in all material respects at and as of the Closing Date with the same force and effect as if each such representation or warranty were made at and as of such time, except in respect of such changes

KZZR-KQHC Contract For Sale

as are contemplated or permitted by this Agreement.

(c) Seller shall have performed and complied in all material respects with all covenants, agreements and obligations required by this Agreement to be performed or complied with by it prior to the Closing Date and shall be in full compliance therewith on the Closing Date.

(d) Seller shall be the holder of the Commission Authorizations and Other Authorizations listed in **EXHIBIT C**.

(e) Seller shall have taken all internal and other actions necessary to consummate this transaction.

(f) There shall be no material changes between **EXHIBIT A** and the inventory of Tangible Personal Property as of the Closing Date other than changes permitted or contemplated herein or that have been agreed to and accepted by Buyer, in its reasonable discretion.

(g) Any parties to any Material Contract as designated pursuant to **PARAGRAPH 2** shall have consented to the assignment of Seller's rights on terms substantially similar to the terms enjoyed by Seller at the time of execution of this Agreement.

(h) The Commission shall have granted its consent to the Assignment Application, and such consent shall be in full force and effect.

(i) Seller shall have provided to Buyer the results of the lien search required in **PARAGRAPH 10(d)**.

20. Conditions Precedent to Obligations of Seller. The performance of the obligations of the Seller under this Agreement is subject to the satisfaction of each of the following express conditions precedent, provided that Seller may, at its election, waive any of such conditions at Closing,

KZZR-KQHC Contract For Sale

notwithstanding that such condition is not fulfilled on the Closing Date:

(a) Each of Buyer's representations and warranties contained in this Agreement or in any certificate or document delivered pursuant to the provisions hereof, or in connection with the transactions contemplated hereby, shall be true in all material respects at and as of Closing Date, as though each such representation or warranty was made at and as of such time, except in respect of such changes as are contemplated or permitted by this Agreement.

(b) Buyer shall perform all of the obligations set forth in **PARAGRAPH 4** of this Agreement with respect to the payment of the Purchase Price, together with all other covenants, agreements and obligations required by this Agreement to be performed or complied with by it prior to the Closing Date and shall be in full compliance therewith on the Closing Date.

(c) Buyer shall have agreed in form reasonably acceptable to Seller to assume all obligations under the Agreements assigned to Buyer arising on or after Closing.

(d) The Commission shall have granted its consent to the Assignment Application, and such consent shall be in full force and effect.

A party shall be in "default" under this Agreement if it makes any material misrepresentation to the other party in connection with this Agreement, or materially breaches or fails to perform any of its representations, warranties, or covenants contained in this Agreement. Non-material breaches or failures shall not be grounds for declaring a party to be in default, postponing the Closing, or terminating this Agreement. If either party believes the other to be in default hereunder, the former party shall provide the other with written notice specifying in reasonable detail the nature of such default. If the default is not curable or has not been cured within fifteen (15) calendar days after delivery of that notice (or such additional reasonable time as the circumstances may warrant provided the party in default undertakes diligent, good faith efforts to cure the default within such fifteen (15)

KZZR-KQHC Contract For Sale

calendar day period and continues such efforts thereafter), then the party giving such notice may terminate this Agreement and/or exercise the remedies available to such party pursuant to this Agreement, subject to the right of the other party to contest such action through appropriate proceedings.

In case of the failure of any of the conditions precedent described in **PARAGRAPH 19** hereof, and if Seller which have not been timely cured, Buyer shall have the right to terminate this Agreement without liability. In addition, if the failure of such condition precedent constitutes a material default by Seller, Buyer shall have the right, at its option, to exercise any or all of its rights or remedies for default provided in Paragraph 23 hereof. Buyer shall not be deemed to have waived any failure by Seller to fulfill any of the conditions precedent described in Paragraph 20 if Buyer does not have actual knowledge of such failure at the time of Closing.

In case of the failure of any of the conditions precedent described in **PARAGRAPH 20** hereof, and if Buyer which have not been timely cured, Seller shall have the right to terminate this Agreement without liability. In addition, if the failure of such condition precedent results from a material default by Buyer, Seller shall have the right, at its option, to exercise any or all of its rights or remedies for default provided in **PARAGRAPH 23** hereof. Seller shall not be deemed to have waived any failure by Buyer to fulfill any of the conditions precedent described in **PARAGRAPH 19** if Seller does not have actual knowledge of such failure at the time of Closing.

21. Prorating Items. When taxes and all other operating expenses are to be *prorated* as of the Closing Date, any net adjustment in favor of Seller shall be paid by Buyer in cash at Closing and any net adjustment in Buyer's favor shall be applied against the Note. Seller shall furnish to Buyer at least four (4) business days prior to the Closing Date a list of all items to be *prorated*.

22. Control of Stations. Until the Closing hereunder, Seller shall have control of the

KZZR-KQHC Contract For Sale

Stations and its equipment and operation. Buyer shall be entitled, however, to reasonable inspection of the premises and assets herein involved and to notice of any unusual problems or developments so that an uninterrupted and efficient transfer to Buyer of the Stations and the Assets and properties to be transferred hereunder may be accomplished.

23. Liquidated Damages and Specific Performance. If Buyer shall be found to be in default under the terms and conditions of this Agreement, Seller shall be entitled to immediate payment of the Escrow Deposit and all interest accrued thereon as liquidated damages, which shall be Seller's sole and exclusive remedy. If Seller shall be in default under the terms and conditions of this Agreement, Buyer shall be entitled to proceed with an action for specific performance, which shall be Buyer's sole and exclusive remedy.

24. Benefit and Construction. This Agreement shall be binding upon and inure to the benefit of the parties hereto, their successors and assigns. This Agreement shall be construed pursuant to the laws of the State of Oregon.

25. Notices. All notices, requests, demands, and other communications required or permitted under this Agreement shall be in writing and shall be deemed to have been duly given when delivered personally (which shall include delivery by Federal Express or other recognized overnight courier service that issues a receipt or other confirmation of delivery) to the party for whom such communication is intended, or five (5) business days after the date mailed by registered or certified mail, return receipt requested, postage prepaid, addressed as follows (or such other address as mayhereafter be provided):

To Seller: B & H Radio, Inc.
c/o Toni & Trevor Carson
625 N. Court St.
Burns, OR 97720

KZZR-KQHC Contract For Sale

Copy to: J. Dominic Monahan

Luvaas Cobb
777 High Street
Suite 300
Eugene, OR 97401

To Buyer: Harney County Radio, LLC.

c/o Leighton M. & Joan M. Reed-Nickerson
5017 NE 269th Ave
Camas, WA 98607

Copy to: Dan J. Alpert

The Law Office of Dan J. Alpert
2121 N. 21st Rd.
Arlington, VA 22201

26. Seller's Performance at Closing. On the Closing Date at the Closing Place, Seller shall execute and deliver or cause to be delivered to Buyer:

(a) An assignment to Buyer of the FCC Authorizations for Stations, together with any and all other related authorizations;

(b) One or more Bills of Sale assigning, transferring, and conveying to Buyer, free and clear of all liens and encumbrances, title to all of the Tangible Property to be acquired by Buyer pursuant to the terms of this Agreement;

(c) An Assignment and Assumption Agreement wherein Seller assigns to Buyer the Assigned Contracts to be assigned by Seller and assumed by Buyer hereunder, together with any necessary consents thereto and copies of the Assigned Contracts, which consents shall confirm that as of Closing, Seller and its stockholders are released from any further liability with respect to each of the Assigned Contracts;

(d) A warranty deed conveying the Real Property to Buyer free and clear of all liens and encumbrances other than the existing lien of the Bank of Eastern Oregon, which shall be paid with the proceeds of this transaction and released upon payment in full. Notwithstanding the

KZZR-KQHC Contract For Sale

forgoing lien, following Closing, Buyer shall be fully responsible for taxes, insurance, and maintenance of all real property;

(e) The files, records, and logs of the Stations; and

(f) Such other assignments, Bills of Sale or other instruments of transfer, assignment or conveyance as may be required by Buyer to effectuate the assignment, transfer, and conveyance to Buyer of all the Assets, rights, privileges, and immunities of Seller which are to be sold, transferred, conveyed, and assigned to Buyer hereunder.

27. **Buyer's Performance at Closing.** At the Closing, Buyer shall execute and/or deliver to Seller:

(a) Instructions to the Escrow Agent directing that the Escrow Deposit be delivered to Seller and the interest to the delivered to the Buyer;

(b) The Closing Payment in the amount of Seventy-Two Thousand Five Hundred Dollars (\$72,500.00), adjusted as provided in **PARAGRAPH 7**;

(c) The Note in the principal amount of One Hundred Sixty Seven Thousand Five Hundred Dollars (\$167,500.00) in the form attached hereto as **EXHIBIT F**;

(d) The Security Agreement in the form attached hereto as **EXHIBIT G**;

(e) The Personal Guaranty of Leighton and Joan Reed-Nickerson in the form attached hereto as **EXHIBIT H**;

(f) Such documents as may be required in order to assume the Assigned Contracts which Buyer has agreed to assume and perform, which documents shall confirm that as of Closing, Seller and the Seller's stockholders are released from any further liability with respect to each of the Assigned Contracts; and

(g) Such other instruments, certificates, schedules, and documents as required by the

KZZR-KQHC Contract For Sale

Note, Personal Guaranty, and the Security Agreement.

28. Amendments and Counterparts. No attempted changes, termination, or waiver of any of the provisions hereof shall be binding unless in writing and signed by the party against whom the same is sought to be enforced. The Agreement may be executed in any number of counterparts, each of which shall be considered an original and no other counterpart need be produced.

29. Additional Documents, Etc. Subsequent to the Closing Date, each party to this Agreement, at the request of the other, shall furnish, execute, and deliver such documents and instruments as the requesting party shall reasonably require as necessary or desirable to carry out the transaction contemplated hereunder.

30. No Reversionary Interest. The parties expressly agree, pursuant to Section 73.1150 of the FCC's rules, that Seller retains no right of reversion of the FCC license, no right to reassignment of the license in the future, and no right to use the facilities of the Stations for any period.

31. Paragraph Headings. Paragraph headings herein have been inserted for reference only and shall not be deemed to limit or otherwise affect, in any manner, or be deemed to interpret in whole or in part, any of the terms or provisions of this Agreement.

32. Entire Agreement. This Agreement, which includes the Exhibits hereto, sets forth the entire understanding of the parties with respect to the subject matter of this Agreement and supersedes any and all prior understandings and agreements, whether written or oral, between the parties with respect to such subject matter.

33. Time of Essence. Time is of the essence for each and every provision of this Agreement.

34. No Third-party Beneficiaries. Nothing in this Agreement, express or implied, is intended to confer upon any person, other than the parties to this Agreement, any right or remedy of

KZZR-KQHC Contract For Sale

any nature whatsoever.

35. Dispute Resolution. In the event there is any dispute between the parties to this Agreement, the parties must mediate any such dispute before commencing any legal action. No party to this Agreement can bring legal action against another party without first participating in mediation, unless one party refuses to submit to mediation and legal action is brought to specifically enforce this mediation provision of this Agreement. If the parties cannot agree upon the person to act as the mediator, then the U.S. Arbitration and Mediation Service in Portland, Oregon, will select a person to act as the mediator. The mediator's charges and expenses shall be split by the parties on a 50/50 basis. Mediation fees and costs do not include each party's attorney fees and costs. Each party shall be responsible for his own attorney fees and costs at mediation. Should the dispute not be resolved by mediation, the parties agree to submit any dispute arising between the parties relating in any way to this Agreement to binding arbitration with the U.S. Arbitration and Mediation Service in Portland, Oregon, and shall utilize such Service's rules of procedure. If the parties cannot agree upon an individual to act as the arbitrator, then the U.S. Arbitration and Mediation Service in Portland, Oregon, will select a person to act as the arbitrator. If the dispute goes to arbitration, the prevailing party will be entitled to its attorney fees and costs incurred in the arbitration process. The decision of an arbitrator will be final and not subject to any appeal and will be enforceable in a court of competent jurisdiction. The arbitration provisions in this Agreement shall not be enforced in the event every indispensable and necessary party to the arbitration cannot be brought within the jurisdiction of the arbitrator. In that event, or in the event that this dispute resolution paragraph is deemed to be unenforceable as to any party, actual or alleged, to this Agreement, then any party, actual or alleged, to this Agreement may enter into any litigation filed by such party relating hereto. Except as provided above in this Paragraph, anyone who refuses to submit to the dispute resolution provisions of this

KZZR-KQHC Contract For Sale

Agreement shall lose all rights under this Agreement. The parties acknowledge that by executing this document, they have waived their right to a jury trial.

36. Representation. This Agreement and the related documents have been prepared by Buyer and Dan J. Alpert, Esq., The Law Office of Dan J. Alpert, 2120 N. 21st Rd., Arlington, VA who represents Buyer only in this matter. Seller acknowledges that it has been advised of this fact and has the right and is encouraged to seek independent legal counsel of its choice regarding its rights and obligations under this Agreement. Seller acknowledges its right to negotiate the terms of this Agreement and agrees that, although the Agreement was drafted by the Buyer, it shall not be interpreted or construed against any party.

37. Assignment. This Agreement shall be binding upon, and shall inure to the benefit of, the successors and permitted assigns of the parties hereto. No party may transfer by operation of law or assign any of its rights, interests, or obligations under this Agreement without the prior written consent of the other party hereto, which consent shall not be unreasonably withheld or delayed, *provided, however*, following Closing Seller may assign and convey any or all its rights under the Note, the Security Agreement, the UCC-1 Financing Statement and the Personal Guarantee to any party of its choosing without the prior consent of the Buyer.

KZZR-KQHC Contract For Sale

IN WITNESS WHEREOF, the parties hereto have caused this Contract for Sale to be executed by their duly authorized officers as of the day and year first above written.

SELLER:

B & H Radio, Inc.

By: 

and

By: 

BUYER:

Harney County Radio, LLC

By: 

Managing Member