

ASSET PURCHASE AGREEMENT

between

VISION BROADCASTING, INC.

AS SELLER

and

HILL COUNTRY BROADCASTING CORPORATION

AS SITE LESSEE

and

TOM D. GAY

AS BUYER

**ASSET PURCHASE AGREEMENT**

THIS ASSET PURCHASE AGREEMENT (the "Agreement"), by and among VISION BROADCASTING, INC., a Delaware corporation ("Vision" or "Seller"), HILL COUNTRY BROADCASTING CORPORATION, a Texas Corporation ("Hill Country") (and together with Vision, the "Selling Parties"), and Tom D. Gay ("Buyer").

RECITALS:

WHEREAS, **Vision** owns and operates FM radio broadcast station KPXS ("KPXS" or "the Station"), Vidalia, Louisiana:

WEREAS **Hill Country** is party to a Commercial Land Lease Agreement made and effective October 1, 2006, between **Hill Country** and Morris Z. Mock, Sr., for the KPXS tower site ("Site Lease");

WHEREAS **Vision** and **Hill Country** are under common control and ownership; and

WHEREAS, **Buyer** desires to acquire assets used or useful in the business and operation of the Station (as more fully described below and including the Commercial Land Lease Agreement made and effective October 1, 2006, between **Hill Country** and Morris Z. Mock, Sr.,

for the KPXS tower site), and **Vision** and **Hill Country** are willing to convey such assets to **Buyer**.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, **Vision**, Hill County, and **Buyer** agree as follows:

## ARTICLE I

### TERMINOLOGY

#### 1.1 DEFINED TERMS.

As used herein, the following terms shall have the meanings indicated:

**AFFILIATE:** With respect to any specified Person, another Person which, directly or indirectly controls, is controlled by, or is under common control with, the specified Person.

**DOCUMENTS:** This Agreement, all Exhibits and Schedules hereto, and each other agreement, certificate or instrument delivered in connection with this Agreement.

**EARNEST MONEY:** As of a given date, the amount deposited as of such date with the Escrow Agent under the Escrow Agreement, together with the interest and other earnings thereon as of such date.

**ESCROW AGENT:** North Louisiana Land & Title, LLC

**ESCROW AGREEMENT:** The Escrow Agreement, dated as of the date hereof, by and among Selling Parties, **Buyer** and the Escrow Agent relating to the deposit, holding, investment, and disbursement of the Earnest Money.

**FCC:** Federal Communications Commission.

**FCC ORDER:** The order or decision of the FCC (or its delegatee) granting its consent to the assignment of the KPXS License to **Buyer**.

**FINAL ACTION:** An action of the FCC that has not been reversed, stayed, enjoined, set aside, annulled or suspended; with respect to which no timely petition for reconsideration or administrative or judicial appeal or SUA SPONTE action of the FCC with comparable effect is pending; and as to which the normally applicable time for filing any such petition or appeal (administrative or judicial) or for the taking of any such SUA SPONTE action of the FCC has expired.

**LIABILITIES:** As to any Person, all debts, adverse claims, liabilities, and obligations, direct,

indirect, absolute or contingent of such Person, whether accrued, vested or otherwise, whether in contract, tort, strict liability or otherwise and whether or not actually reflected, or required by generally accepted accounting principles to be reflected, in such Person's balance sheets or other books and records.

**LIEN:** Any mortgage, deed of trust, pledge, hypothecation, title defect, right of first refusal, security or other adverse interest, encumbrance, easement, restriction, claim, option, lien or charge of any kind, whether voluntarily incurred or arising by operation of law or otherwise, affecting any assets or property, including any agreement to give or grant any of the foregoing, any conditional sale or other title retention agreement, and the filing of or agreement to give any financing statement with respect to any assets or property under the Uniform Commercial Code or comparable law of any jurisdiction.

**LOSS:** With respect to any Person, any and all costs, obligations, liabilities, demands, claims, settlement payments, awards, judgments, fines, penalties, damages, and reasonable out-of-pocket expenses, including court costs and reasonable attorney fees, whether or not arising out of a third party claim.

**MATERIAL ADVERSE CONDITION:** A condition which would adversely affect or impair, in any material respect, the right of **Buyer** to the ownership, use, control or operation of the Station.

**MATERIAL ADVERSE EFFECT:** A material adverse effect on the assets, business, operations, financial condition, or results of operations of the Station taken as a whole, except for any such effect resulting from (i) general economic conditions applicable to the radio broadcast industry, (ii) general conditions in the market in which the Station operates, or (iii) circumstances that are not likely to recur and either have been substantially remedied or can be substantially remedied without substantial cost or delay.

**PERSON:** Except when referring to **Buyer**, any individual, corporation, limited liability company, partnership, joint venture, association, joint-stock company, trust, unincorporated organization, or government or any agency or political subdivision thereof.

**SUBSIDIARY:** With respect to any Person, a corporation, partnership, limited liability company, or other entity of which shares of stock or other ownership interests having ordinary voting power to elect a majority of the directors of such corporation, or other Persons performing similar functions for such entity, are owned, directly or indirectly, by such Person.

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

**TAX RETURN:** Any return, filing, report, declaration, questionnaire, or other document required to be filed for any period with any taxing authority (whether domestic or foreign) in connection with any Taxes (whether or not payment is required to be made with respect to such document).

**TRANSFER TAXES:** All sales, use, conveyance, recording, and other similar transfer Taxes and fees applicable to, imposed upon or arising out of the sale by **Seller** and the purchase by **Buyer** of the Station whether now in effect or hereinafter adopted and regardless of which party such Transfer Tax is imposed upon. Transfer Taxes shall in no event include any net or gross income Taxes.

## ARTICLE II

### PURCHASE AND SALE

#### 2.1 SALE ASSETS.

Upon and subject to the terms and conditions provided herein, on the Closing Date, **Seller** and Hill Country will sell, transfer, assign and convey to **Buyer**, and **Buyer** will purchase from **Seller** and Hill Country, all of **Seller's** and/or Hill Country's right, title, and interest in and to the following tangible and intangible assets used in the operation of the Station as now or previously operated (the "Sale Assets"):

(a) **TANGIBLE PERSONAL PROPERTY.** All transmitter, transmission line, antenna and other broadcast equipment (including, studio equipment, furniture, parts, computers and office equipment, supplies, and programming library), the public file required to be maintained pursuant to the Rules and Regulations of the FCC, and other tangible personal property owned or leased by **Seller** and used in connection with the Station, including but not limited to the applicable items listed on SCHEDULE A together with such modifications, replacements, improvements and additional items, and subject to such deletions there from, made or acquired collectively between the date hereof and the Closing Date in accordance with the terms and provisions of this Agreement (collectively, the "Tangible Personal Property")

(b) **TOWER SITE LEASE.** All interests of **Vision** and **Hill Country** in the Commercial Land Lease Agreement made and effective October 1, 2006, between **Hill Country** and Morris Z. Mock, Sr. (the "Site Lease"), and all fixtures and improvements thereon, together with such additional improvements and interests in real estate made or acquired between the date hereof and the Closing Date.

(c) **PERMITS.** The FCC Licenses, and all other governmental permits, licenses, and authorizations (and any renewals, extensions, amendments, or modifications thereof) currently in effect and now held by **Seller** or hereafter obtained by **Seller** between the date hereof and the Closing Date, that are necessary for or related to the operation of the Station, including, but not limited to the KPXS station license (FCC File No. BRH-20051207ADV) and Studio-Transmitter Link ("STL") license (FCC File No. \_\_\_\_\_).

(d) **RECORDS.** The originals or true and complete copies of all of the books, records, accounts, files, logs, ledgers, and journals pertaining to or used in the operation of the Station, including, but not limited to, computer-readable disk or tape copies of any of such items stored on computer disks or tapes.

(e) **MISCELLANEOUS ASSETS.** Any other tangible or intangible assets, properties or rights of any kind or nature not otherwise described above in this ARTICLE II and now or before Closing owned or used by any **Seller** principally in connection with the operation of the Station, including but not limited to all goodwill of the Station

## **2.2 ASSUMPTION OF LIABILITIES.**

**Buyer** shall not assume or in any manner be liable for any liabilities of **Vision, Hill Country**, or KPXS of any kind or nature, except as to the Tower Site Lease. **Buyer** shall not assume any liability or obligation of Vision, Hill Country, or KPXS of any kind or nature, arising from any other lease, including any lease for the KPXS studio.

## **2.3 EARNEST MONEY.**

(a) Concurrently with the execution of this Agreement, **Buyer** has deposited with the Escrow Agent in immediately available funds the sum of Fifteen-thousand (\$15,000.00) Dollars.

(b) The Escrow Agent shall hold the Earnest Money under the terms of the Escrow Agreement in trust for the benefit of the **Seller** and **Buyer**.

(c) If Closing does not occur, the Earnest Money shall be delivered to **Seller** or returned to **Buyer** in accordance with SECTION 10.2, and if Closing does occur, the Earnest Money shall be applied at Closing as provided in SECTION 2.4(a).

## **2.4 PURCHASE PRICE.**

(a) The purchase price for the Sale Assets ("Purchase Price") shall be One Hundred Fifty Thousand Dollars (\$150,000), payable as follows:

(i) An amount equal to the Earnest Money shall be paid by the Escrow Agent's disbursement of the Earnest Money to **Seller** by wire transfer of immediately available funds pursuant to joint written instructions from **Seller** and **Buyer**.

(ii) The difference of (A) the Purchase Price minus (B) the Earnest Money shall be paid by **Buyer** to **Seller** on the Closing Date by wire transfer of immediately available funds pursuant to written instructions from **Seller** to **Buyer**.

(b) **Seller** shall furnish **Buyer** wire instructions at least two (2) business days prior to the Closing Date.

## ARTICLE III

### REPRESENTATIONS AND WARRANTIES OF SELLER

**Seller and Hill Country** represent and warrant to **Buyer** as follows;

#### 3.1 ORGANIZATION, GOOD STANDING AND REQUISITE POWER

(i) **Vision** is a corporation duly organized, validly existing, and at the time of Closing will be in good standing under the laws of the State of Delaware, and has all requisite power to own, operate, and lease those Sale Assets which it owns and carries on its business.

(ii) **Hill Country** is a corporation duly organized, validly existing and in good standing under the laws of the State of Texas, and has all requisite power to enter into and to assign the Site Lease to **Buyer**.

#### 3.2 AUTHORIZATION AND BINDING EFFECT OF DOCUMENTS.

**Seller and Hill Country** have all requisite corporate power and authority to enter into this Agreement and to consummate the transactions contemplated by this Agreement. The execution and delivery of this Agreement by **Seller and Hill Country** and the consummation of each of the transactions contemplated hereby have been duly authorized by all necessary action (including all necessary shareholder or member approvals, if any) on the part of **Seller and Hill Country**. This Agreement has been duly executed and delivered by **Seller and Hill Country**. This Agreement constitutes the valid and binding obligation of **Seller and Hill Country**, enforceable against **Seller and Hill Country** in accordance with its terms.

#### 3.3 ABSENCE OF CONFLICTS.

The execution, delivery, and performance by **Seller and Hill Country** of this Agreement and consummation by **Seller and Hill Country** of the transactions contemplated hereby and thereby, do not and will not (i) conflict with or result in any breach of any of the terms, conditions, or provisions of, (ii) constitute a default under, (iii) result in a violation of, (iv) give any third party the right to modify, terminate, or accelerate any obligation under, or (v) result in the creation of any Lien upon the Sale Assets under, the provisions of the organizational documents of such Selling Party, any material indenture, mortgage, lease, loan agreement, or other material agreement or instrument to which **Seller or Hill Country** is bound or affected, or any law, statute, rule, judgment, order or decree to which such **Seller or Hill Country** is subject.

#### 3.4 CONSENTS.

The execution, delivery and performance by **Seller and Hill Country** of this Agreement and consummation by **Seller and Hill Country** of the transactions contemplated hereby and thereby, do not and will not require the authorization, consent, approval, exemption, clearance or other action by or notice or declaration to, or filing with, any court, any administrative or other

governmental body (other than the FCC), or any other third party.

### 3.5 SALE ASSETS; TITLE.

(a) **Seller** owns and has good title to, or a valid lessee's or licensee's interest in, all of the Sale Assets free and clear of all Liens.

### 3.6 FCC LICENSES.

(a) **Seller** is the valid and legal holder of all of the Station licenses, permits and authorizations of the Federal Communications Commission ("FCC"), and any action of the FCC with respect to each license is a Final Action with the exception of the FCC Order.

(b) The FCC Licenses (i) are valid and in full force and effect, and constitute all of the licenses, permits and authorizations used in or required for the current operation of the Stations under the Communications Act of 1934, as amended, and the rules, regulations and policies of the FCC thereunder (collectively, the "Act"), and (ii) constitute all the currently in effect licenses and authorizations, including amendments and modifications thereto, issued by the FCC for the operation of the Stations.

(c) Other than as set forth in the FCC Licenses or restrictions applicable to the radio broadcast industry generally, none of the FCC Licenses is subject to any restriction or condition which limits in any material respect the full operation of the applicable Station as now conducted, and as of the Closing Date, none of the FCC Licenses shall be subject to any restriction or condition which would limit in any material respect the full operation of the Station as currently operated.

(d) The Station is being operated by **Seller** in all material respects in accordance with the terms and conditions of the FCC Licenses and the Act, including but not limited to those pertaining to RF emissions.

(e) No applications, complaints, or proceedings are pending or, to the knowledge of **Seller**, are threatened which may result in the revocation, modification, non-renewal, or suspension of any of the FCC Licenses, the denial of any pending applications, the issuance of any cease and desist order or the imposition of any material fines, forfeitures, or other administrative actions by the FCC with respect to the Station or its operation, other than actions or proceedings affecting the radio broadcasting industry in general.

(f) **Seller** has complied in all material respects with all requirements to file registrations, reports, applications, and other documents with the FCC with respect to the Station, and all such registrations, reports, applications, and documents are true, correct and complete in all material respects.

(g) Other than actions or proceedings affecting the radio broadcasting industry in general or facts relating to **Buyer**, **Seller** has no knowledge of matters (i) which might reasonably be

expected to result in the adverse modification, suspension, or revocation of or the refusal to renew any of the FCC Licenses or the imposition of any material fines or forfeitures by the FCC against **Seller**, or (ii) which might reasonably be expected to result in the FCC's denial or delay of approval of the assignment to **Buyer** of any FCC License or the imposition of any Material Adverse Condition in connection with approval of the transfer to **Buyer** of any FCC License.

(h) There are no unsatisfied or otherwise outstanding citations issued by the FCC with respect to any Station or its operation.

(i) True, complete, and accurate copies of all FCC Licenses material to the operation of each Station as now conducted have been delivered by **Seller** to **Buyer**.

(j) Except for the FCC Licenses, there are no material licenses, permits or authorizations from governmental or regulatory authorities required for the lawful operation and conduct of the Stations as previously and currently operated by **Seller**.

### **3.7 TANGIBLE PERSONAL PROPERTY.**

(a) SCHEDULE A lists, as of the date noted on such Schedule, Tangible Personal Property material to the conduct of the business and operations of the Station as now operated which will be conveyed to **Buyer**.

(b) The equipment constituting a part of the Tangible Personal Property used in or necessary for the operation of the Station as now operated by any **Seller** has been properly maintained in all material respects in accordance with industry practices, is in a working order, and complies in all material respects with the Act and other applicable material laws, rules, regulations, and ordinances.

### 3.8 TOWER SITE LEASE.

(a) **Hill Country** holds good title to the lessee's interest under the Site Lease free and clear of all Liens. True and complete copies of the Site Lease, including all amendments, modifications, renewals, and supplements, have been delivered to **Buyer**.

(b) The Site Lease is legal, valid, binding, and enforceable in accordance with its terms; (ii) neither **Seller** nor **Hill Country**, is in material default under the Tower Site Lease; (iii) to the knowledge of **Seller** or **Hill Country**, there has not occurred any event which, after the giving of notice or the lapse of time or both, would constitute a material default under, or result in the material breach of the Site Lease, nor has **Seller** or **Hill Country** received written notice alleging any such event has occurred; (iv) none of the rights of **Hill Country** or **Seller** under the Site lease is subject to termination or modification as a result of the consummation of the transactions contemplated by this Agreement; (v) no consent or approval by any party to the Site Lease is required for the consummation of the transactions contemplated hereby; and (vi) neither **Hill Country** nor **Seller** has granted or been granted any material waiver or forbearance with respect to the Site Lease.

(c) All improvements on the Real Property are in compliance in all material respects with applicable federal, state, and local laws, building codes, ordinances and regulations, including but not limited to zoning and land use laws, ordinances, and regulations, and the use by **Seller** and/or **Hill Country** of each portion of the Real Property subject to the Site Lease complies in all material respects with applicable zoning and land use laws, ordinances, and regulations. **Seller's** and/or **Hill Country's** improvements on the Real Property subject to the Site Lease are in good working condition and repair (subject to ordinary wear and tear).

### 3.9 [Reserved]

### 3.10 LITIGATION.

There are no actions, suits, claims, investigations, or administrative or arbitration proceedings pending or, to the knowledge of **Seller**, threatened against **Seller** before or by any court, arbitration tribunal, or governmental department or agency, domestic or foreign, that relates to KPXS or the Sale Assets; (ii) neither **Seller** nor, to the knowledge of **Seller**, any of the officers or employees of **Seller**, has been charged with, or to the knowledge of **Seller**, is under investigation with respect to, any violation of any provision of any federal, state, foreign, or other applicable law or administrative regulation in respect of such officer's or employee's employment at KPXS or with **Seller**; and (iii) neither **Seller**, any properties or assets of **Seller** nor, to the knowledge of **Seller**, any officer or employee of **Seller** is a party to or bound by any order, arbitration award, judgment or decree of any court, arbitration tribunal, or governmental department or agency, domestic or foreign, in respect of any business practices, the acquisition of any property, or the conduct of any business of **Seller** which, individually or in the aggregate, has had or is reasonably likely to have a Material Adverse Effect or materially impair the ability of any **Seller** to perform its obligations hereunder and consummate the transactions contemplated hereby.

### 3.11 COMPLIANCE WITH LAW.

**Seller** has operated and is operating the Station in all material respects in compliance with the Act and all other material federal, state, and local laws, statutes, ordinances, regulations, licenses, permits or exemptions there from and all applicable orders, writs, injunctions, and decrees of any court, commission, board, agency, or other instrumentality, and, **Seller** has received no written notice of material noncompliance pertaining to any operation of the Station that has not been cured.

### 3.12 ENVIRONMENTAL MATTERS

(a) **Seller** and **Hill Country** have obtained all material environmental, health, and safety permits necessary for the operation of the Station, all such permits are valid and in full force and effect, and **Seller** is in compliance in all material respects with all terms and conditions of such permits.

(b) There is no proceeding pending or, to **Seller's** or **Hill Country's** knowledge, threatened which may result in the reversal, rescission, termination, modification, or suspension of any environmental or health or safety permits necessary for the operation of the Station, and to either **Seller's** or **Hill Country's** knowledge, there is no basis for any such proceeding.

(c) To **Seller's** knowledge, **Seller** has operated and is operating in all material respects in compliance with all material federal, state, local, and other laws, statutes, ordinances and regulations, and licenses, permits, exemptions, orders, writs, injunctions, and decrees of any court, commission, board, agency, or other governmental instrumentality, applicable to such **Seller** relating to environmental matters.

(d) To either **Seller's** or **Hill Country's** knowledge, there are no conditions or circumstances associated with the Sale Assets which may give rise to any material liability or material cost under applicable environmental law. Neither **Seller** nor **Hill Country** owns or uses any electrical or other equipment containing polychlorinated biphenyls.

(e) For the purposes of this SECTION 3.12 (i) "hazardous materials" shall mean any waste, substance, materials, smoke, gas, emissions, or particulate matter designated as hazardous or toxic under any applicable environmental law, and (ii) "environmental law" shall mean any federal, state, local, or other laws, statutes, ordinances, regulations, licenses, permits, or any order, writ, injunction or decree of any court, commission, board, agency or other instrumentality relating to the regulation of hazardous materials.

(f) With respect to the operation of Station, neither **Seller** nor **Hill Country** has filed or, to either **Seller's** or **Hill Country's** knowledge, been required to file any notice under any applicable material law, rule, regulation, order, judgment, injunction, decree, or ruling reporting a release of a hazardous material into the environment, and no notice pursuant to Section 103(a)

or (c) of the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C.A. §§9601 *et seq.* ("CERCLA") or any other applicable environmental law or regulation has been or, to **Seller's** knowledge, was required to be filed.

(g) Neither **Seller** nor **Hill Country** has received any notice letter under CERCLA or any other written notice, and, to either **Seller's** or **Hill Country's** knowledge, there is no investigation pending or threatened, to the effect that either **Seller** or **Hill Country** has or may have material liability for or as a result of the release or threatened release of a hazardous material into the environment or for the suspected unlawful presence of hazardous material thereon nor, to either **Seller's** or **Hill Country's** knowledge, does there exist any basis for such investigation.

### **3.13 BROKER'S OR FINDER'S FEES.**

No agent, broker, investment banker, or other person or firm acting on behalf of or under the authority of any **Seller** is or will be entitled to any broker's or finder's fee or any other commission or similar fee, directly or indirectly, in connection with the transactions contemplated by this Agreement.

### **3.14 INSURANCE**

Each insurance policy currently maintained by **Seller** or **Hill Country** with respect to the assets and business of the Station are in full force and effect, and **Seller** is not in default with respect to its obligations under any such insurance policy and has not been denied insurance coverage thereunder.

## **ARTICLE IV**

### **REPRESENTATIONS AND WARRANTIES OF BUYER**

**Buyer** represents and warrants to **Seller** as follows:

#### **4.1 COMPETENCY**

**Buyer** is a legally competent adult person, subject to no legal incapacity, with all requisite power to own, operate, and lease properties and carry on his business as it is now being conducted and as the same will be conducted following the Closing.

#### **4.2 AUTHORIZATION AND BINDING EFFECT OF DOCUMENTS.**

**Buyer** has all requisite power and authority to enter into this Agreement, to consummate the transactions contemplated by this Agreement, and to own the Sale Assets. This Agreement has been duly executed and delivered by **Buyer**. This Agreement constitutes the valid and binding obligation of **Buyer** enforceable against **Buyer** in accordance with its terms.

#### 4.3 ABSENCE OF CONFLICTS.

The execution, delivery, and performance by **Buyer** of this Agreement and consummation by **Buyer** of the transactions contemplated hereby and thereby, do not and will not (i) conflict with or result in any breach of any of the terms, conditions, or provisions of (ii) constitute a default under, (iii) result in a violation of, or (iv) give any third party the right to modify, terminate, or accelerate any obligation under, any indenture, mortgage, lease, loan agreement, or other agreement or instrument to which **Buyer** is bound or affected, or any law, statute, rule, judgment, order, or decree to which **Buyer** is subject.

#### 4.4 CONSENTS.

The execution, delivery, and performance by **Buyer** of this Agreement and consummation by **Buyer** of the transactions contemplated hereby and thereby, do not and will not require the authorization, consent, approval, exemption, clearance, or other action by or notice or declaration to, or filing with, any court or administrative or other governmental body (other than the FCC), or the consent, waiver or approval of any other Person.

#### 4.5 BROKER'S OR FINDER'S FEES.

No agent, broker, investment banker, or other person or firm acting on behalf of **Buyer** or under its authority is or will be entitled to any broker's or finder's fee or any other commission or similar fee directly or indirectly, from **Buyer** in connection with the transactions contemplated by this Agreement.

#### 4.6 LITIGATION.

There are no legal, administrative, arbitration or other proceedings, or governmental investigations pending or, to the knowledge of **Buyer**, threatened against **Buyer** that would give any third party the right to enjoin or delay the transactions contemplated by this Agreement.

#### 4.7 BUYER'S QUALIFICATION.

**Buyer** is, and at all times between the date hereof and up until and including Closing will be, legally, financially, and otherwise qualified under the Act and all rules, regulations and policies of the FCC, the Department of Justice, the Federal Trade Commission (the "FTC") and any other governmental agency, to acquire and operate the Station. There are no facts or proceedings which would reasonably be expected to disqualify **Buyer** under the Act or otherwise from acquiring or operating the Station or would cause the FCC not to approve the assignment of the FCC Licenses to **Buyer**. **Buyer** has no knowledge of any fact or circumstance relating to **Buyer** that would reasonably be expected to (a) cause the filing of any objection to the assignment of the FCC Licenses to **Buyer**, or (b) lead to a material delay in the processing by the FCC of the applications for such assignment. No waiver of any FCC rule or policy is necessary to be obtained for the grant of the applications for the assignment of the FCC Licenses to **Buyer**,

nor will processing pursuant to any exception or rule of general applicability be requested or required in connection with the consummation of the transactions herein.

#### **4.8 AVAILABILITY OF FUNDS.**

**Buyer** will have available on the Closing Date sufficient funds to enable it to consummate the transactions contemplated hereby.

### **ARTICLE V**

#### **OTHER COVENANTS**

##### **5.1 CONDUCT OF THE STATIONS BUSINESS PRIOR TO THE CLOSING DATE.**

**Seller** covenants and agrees with **Buyer** that from the date hereof through the Closing Date, or the termination of this Agreement if earlier, unless **Buyer** otherwise consents in writing (which consent shall not be unreasonably withheld, delayed or conditioned), **Seller** shall, subject to the fact that the Station is currently off the air, pursuant to an FCC special temporary authorization to remain silent (BLSTA-20070905ACD):

(a) Operate the Station in the ordinary course of business consistent with past practices, including (i) making capital expenditures prior to the Closing Date as are necessary to repair or replace Sale Assets (including goodwill and its relationships with customers, employees, advertisers, suppliers, and other contractors), and (ii) continuing the Station's usual and customary policy with respect to the maintenance of its facilities and equipment;

(b) Operate the Station and otherwise conduct its business in all material respects in compliance with the terms or conditions of its FCC Licenses, the Act, and all other material rules, regulations, laws, and orders of all governmental authorities having jurisdiction over any aspect of the operation of the Station;

(c) Maintain **Seller's** books and records in accordance with generally accepted accounting principles on a basis consistent with prior periods;

(d) Promptly notify **Buyer** in writing of any event or condition which, with notice or the lapse of time or both, would constitute an event of material default under any agreement material to the Sale Assets or the business, operations, financial condition, or results of operations of the Station;

(e) Timely comply in all material respects with agreements which are individually or in the aggregate, material to the Sale Assets or the business, operations, financial condition or results of operations of the Station;

(f) Not sell, lease, grant any rights in or to, or otherwise dispose of; or agree to sell, lease, or

otherwise dispose of, any of the Sale Assets except for dispositions of assets that if material, are replaced by similar assets of substantially equal or greater value or utility;

(g) Maintain technical equipment currently in use in good operating condition and repair except for ordinary wear and tear;

(h) Not enter into any agreement relating to the Station (other than agreements that will be terminated prior to Closing);

(i) Not voluntarily recognize any union as the bargaining representative of any employees of the Station; and

(j) Not take or agree to take any action that would materially delay the consummation of the Closing as contemplated by this Agreement.

## **5.2 MAINTENANCE OF TOWER SITE LEASE**

**Hill Country** covenants and agrees with **Buyer** that from the date hereof through the Closing Date, or the termination of this Agreement if earlier, unless **Buyer** otherwise consents in writing (which consent shall not be unreasonably withheld, delayed, or conditioned), **Hill Country** shall not amend or extend the Site Lease without the prior written consent of **Buyer**.

## **5.3 NOTIFICATION OF CERTAIN MATTERS.**

**Seller** shall give prompt notice to **Buyer**, and **Buyer** shall give prompt notice to **Seller**, of (a) the occurrence, or failure to occur, of any event that would be likely to cause any of their respective representations and warranties contained in this Agreement to be untrue or inaccurate in any material respect at any time from the date hereof to the Closing Date, and (b) any failure on their respective parts to comply with or satisfy, in any material respect, any covenant, condition, or agreement to be complied with or satisfied by either of them under this Agreement.

#### **5.4 FCC FILING.**

(a) Within twenty (20) business days after the execution of this Agreement, **Seller** and **Buyer** shall file all applications with the FCC necessary to obtain the FCC Order, and shall cooperate in taking all commercially reasonable actions necessary and proper to promptly obtain the FCC Order without a Material Adverse Condition and shall cooperate in taking all commercially reasonable action necessary and proper to cause the FCC Order to become a Final Action as soon as practicable, provided that commercially reasonable action shall not include payment or providing of material consideration to settle with an objecting party. **Buyer** and **Seller** shall oppose and file such papers and pleadings with the FCC or other appropriate forum opposing and objecting to any petitions to deny or other objections filed with respect to the application for the FCC Consent and any requests for reconsideration or judicial review of the FCC Consent.

(b) If the Closing shall not have occurred for any reason within the original effective period of the FCC Consent, and neither party shall have terminated this Agreement under ARTICLE X, the parties shall jointly request an extension of the effective period of the FCC Consent. No extension of the effective period of the FCC Consent shall limit the exercise by either party of its right to terminate the Agreement under ARTICLE X.

#### **5.5 TITLE; ADDITIONAL DOCUMENTS.**

At the Closing, Seller shall transfer and convey to **Buyer** good title to all of the Sale Assets free and clear of any Liens. Seller shall execute or cause to be executed such documents, in addition to those delivered at the Closing, as may be necessary to confirm in **Buyer** such title to the Sale Assets and to carry out the purposes and intent of this Agreement, which documents shall be in a form reasonably acceptable to **Buyer** and Sellers.

#### **5.6 INSPECTION AND ACCESS.**

**Seller** will, prior to the Closing Date, make available the assets, books, accounting records, correspondence, and files of Seller (to the extent related to the operation of the Station) for examination by **Buyer**, its attorneys, accountants and agents, with the right to make copies of all or portions of such books, records and files. Such access will be available during normal business hours upon reasonable notice and in such manner as will not unreasonably interfere with the conduct of the business of the Station.

#### **5.7 MATERIAL ADVERSE EFFECT**

**Buyer** and **Seller** will promptly notify the other party of any event of which **Buyer** or **Seller** as the case may be, obtains knowledge which has had or could reasonably be expected to have Material Adverse Effect.

#### **5.8 COMMERCIALY REASONABLE EFFORTS.**

Subject to the terms and conditions of this Agreement, each party will use its commercially reasonable efforts to take all action and to do all things necessary, proper or advisable to satisfy any condition hereunder in its power to satisfy and to consummate and make effective as soon as practicable the transactions contemplated by this Agreement.

#### **5.9 FCC REPORTS AND APPLICATIONS.**

Seller shall file, on a current and timely basis and in all material respects in a truthful and complete fashion until the Closing Date, all reports and documents required to be filed with the FCC with respect to the Station and to maintain the Station's public file in a complete and orderly fashion in full compliance with the Rules and Regulations of the FCC.

#### **5.10 TAX RETURNS AND PAYMENTS.**

**Seller** will timely file with the appropriate governmental agencies all tax returns required to be filed by **Seller** with respect to the Station prior to Closing and timely pay all taxes reflected on such tax returns as owing by the **Seller**.

#### **5.11 NO SOLICITATION.**

From the date hereof until the earlier of Closing or termination of this Agreement, neither the **Seller** or **Hill Country** or any Affiliate of **Seller** or **Hill Country** shall directly or indirectly knowingly discuss, solicit or encourage any proposal or offer from any Person relating specifically to the acquisition or purchase of any interest in **Seller** or any material assets of the Station or any merger, consolidation, or other business combination with **Seller**.

#### **5.12 BULK SALES LAW. [Reserved]**

#### **5.13 TOWER SITE LEASE.**

On the Closing Date, **Buyer** as lessee shall, and Hill Country shall cause the owner of the Tower Site, as lessor, to consent to the assignment of the Tower Site Lease to **Buyer**. **Hill Country** shall also secure from the lessor of the Tower Site confirmation that the lease is not in default, confirm the same, and consent to the assignment.

## ARTICLE VI

### CONDITIONS PRECEDENT TO THE OBLIGATION OF BUYER TO CLOSE

**Buyer's** obligation to close the acquisition of the Sale Assets pursuant to the terms of this Agreement is subject to the satisfaction, on or prior to the Closing Date, of each of the following conditions, unless waived by **Buyer** in writing:

#### 6.1 ACCURACY OF REPRESENTATIONS AND WARRANTIES; CLOSING CERTIFICATE.

(a) The representations and warranties of the **Seller** contained in this Agreement shall be true and correct in all material respects on the date of this Agreement, and on and as of the Closing Date (except for representations and warranties that speak as of a specific date or time which need only be true and complete as of such date or time) with the same effect as though made on and as of the Closing Date except for changes permitted under this Agreement and except where the failure to be true and complete (determined without regard to any materiality or knowledge qualifications therein) does not have a Material Adverse Effect.

(b) **Seller** shall have delivered to **Buyer** on the Closing Date an officer's certificate that the conditions specified in SECTIONS 6.1(a), 6.2, 6.6, 6.8, and 7.6 are satisfied as of the Closing Date.

#### 6.2 PERFORMANCE OF AGREEMENT.

**Seller** shall have performed in all material respects all of its material covenants, agreements, and obligations required by this Agreement to be performed or complied with by it prior to or at Closing.

#### 6.3 FCC ORDER.

(a) The FCC Order shall have been granted without any Material Adverse Condition and shall have become a Final Action, provided, however, that **Buyer** at his sole discretion may waive the requirement that the FCC Order shall have become a Final Action.

(b) Conditions which the FCC Order or any order, ruling, or decree of any judicial or administrative body specifies and requires to be satisfied prior to transfer of the FCC Licenses to **Buyer** shall have been satisfied.

(c) The FCC License of Station as shall be in full force and effect.

#### 6.4 [Reserved]

## 6.5 OPINIONS OF SELLER'S COUNSEL.

Buyer shall have received the written opinion of **Seller's** FCC counsel, dated as of the Closing Date, that (i) **Seller** holds the FCC License of KPXS, and the FCC License (A) is in full force and effect and constitute all of the licenses, permits, and authorizations required by the FCC for the operation of the Station; and (B) constitute all of the licenses and authorizations issued by the FCC to **Seller** for, or in connection with, the operation of the Station, (ii) all authorizations, approvals and consents of the FCC required under the Act to permit the assignment of the FCC License by the **Seller** to **Buyer** have been obtained, are in effect, and have not been reversed, stayed, enjoined, set aside, annulled, or suspended, and (iii) there is no FCC or judicial order, judgment, decree, notice of apparent liability, or order of forfeiture outstanding, and to counsel's knowledge, no action, suit, notice of apparent liability, order of forfeiture, investigation, or other proceeding pending, by or before the FCC or any court of competent jurisdiction against **Seller** that might result in a revocation, cancellation, suspension, non-renewal, short-term renewal or materially adverse modification of the FCC License, except FCC proceedings generally affecting the radio industry. Counsel's opinion may be subject to customary qualifications and limitations.

## 6.6 DELIVERY OF CLOSING DOCUMENTS.

**Seller** shall have delivered or caused to be delivered to **Buyer** on the Closing Date each of the Documents to be delivered pursuant to SECTION 8.2.

## 6.7 NO ADVERSE PROCEEDINGS.

No judgment or order shall have been rendered and remain in effect, and no action or proceeding by any governmental entity shall be pending, against **Buyer**, that would make unlawful the purchase and sale of the Sale Assets as contemplated by this Agreement.

## 6.8 SITE LEASE

**Hill Country**, as lessee, shall have assigned to **Buyer** the Tower Site Lease in a form acceptable to **Buyer**.

## ARTICLE VII

### CONDITIONS PRECEDENT TO THE OBLIGATION OF SELLER TO CLOSE

The obligations of **Seller** to close the sale of the Sale Assets pursuant to the terms of this Agreement is subject to the satisfaction, on or prior to the Closing Date, of each of the following conditions, unless waived by **Seller** in writing:

#### 7.1 ACCURACY OF REPRESENTATIONS AND WARRANTIES.

(a) The representations and warranties of **Buyer** contained in this Agreement shall be true and correct in all material respects on the date hereof, and on and as of the Closing Date with the same effect as though made on and as of the Closing Date except for changes that are not materially adverse to **Seller**.

(b) **Buyer** shall have delivered to Seller on the Closing Date a certificate that the conditions specified in SECTIONS 7.1(a), 7.2 and 6.7 are satisfied as of the Closing Date.

#### 7.2 PERFORMANCE OF AGREEMENT.

**Buyer** shall have performed in all material respects all of its covenants, agreements, and obligations required by this Agreement to be performed or complied with by it prior to or at Closing.

#### 7.3 FCC ORDER.

(a) The FCC Order shall have been granted.

(b) Conditions which the FCC Order or any order, ruling, or decree of any judicial or administrative body specifies and requires to be satisfied prior to transfer of the FCC License to **Buyer** shall have been satisfied.

#### 7.4 [reserved]

#### 7.5 NO ADVERSE PROCEEDINGS.

No judgment or order shall have been rendered and remain in effect, and no action or proceeding by any governmental entity shall be pending, against the **Seller** or **Hill Country** that would restrain or make unlawful the purchase and sale of the Sale Assets as contemplated by this Agreement.

#### 7.6 DELIVERY OF CLOSING DOCUMENTS.

**Buyer** shall have delivered or cause to be delivered to **Seller** on the Closing Date each of the Documents to be delivered pursuant to SECTION 8.3.

## ARTICLE VIII

### CLOSING

#### 8.1 TIME AND PLACE

Closing of the purchase and sale of the Sale Assets pursuant to this Agreement (the "Closing") shall take place at 10:00 o'clock A.M. Central Daylight Savings Time on the fifth business day following satisfaction or waiver of the conditions precedent hereunder to Closing (the "Closing Date").

#### 8.2 DOCUMENTS TO BE DELIVERED TO BUYER BY SELLER

At the Closing, **Seller** shall deliver to, or cause to be delivered to, **Buyer** the following, in each case in form and substance reasonably satisfactory to **Buyer**:

(a) The opinions of **Seller's** FCC counsel, dated the Closing Date, to the effect set forth in SECTION 6.5.

(b) To the extent available from applicable jurisdictions, governmental certificates, dated as of a date as near as reasonably practicable to the Closing Date, showing that **Seller** and **Hill Country** are duly organized and in good standing in its state of formation and, as to **Seller** and **Hill Country**, are qualified to do business in good standing in Louisiana;

(c) A certificate of a Secretary, Assistant Secretary, or Member of **Seller** and **Hill Country** attesting as to the incumbency of each officer or manager of **Seller** and **Hill Country** who executes this Agreement and to similar customary matters;

(d) A bill of sale and other instruments of transfer and conveyance transferring the Sale Assets to **Buyer**, in form acceptable to **Buyer** in its reasonable judgment;

(e) The certificate described in SECTION 6.1(b);

(f) A written instruction of **Seller** to Escrow Agent instructing the Escrow Agent to distribute the Earnest Money as prescribed in SECTION 2.3;

(g) A certificate for each of **Seller** and **Hill Country** dated as of the Closing Date and executed by the **Seller's** and **Hill Country's** Secretary, respectively, certifying that the resolutions, as attached to such certificate, were duly adopted by the **Seller's** and **Hill Country's** Board of Directors, members or managers, respectively, as required to duly authorize and approve the execution of this Agreement and the consummation of the transaction contemplated hereby and that such resolutions remain in full force and effect;

(h) The Tower Site Lease and written confirmation from the owner of the Tower Site that the lease is not in default and that the owner of Tower Site consents to the assignment of the Tower Site Lease to **Buyer** ; and

(i) Such additional information and materials as **Buyer** shall have reasonably requested in writing to evidence the satisfaction of the conditions to its obligation to close hereunder, including without limitation, any documents expressly required by this Agreement to be delivered by **Seller** or **Hill Country** at Closing.

### **8.3 DELIVERIES TO SELLER BY BUYER.**

At the Closing, **Buyer** shall deliver or cause to be delivered to **Seller** the following, in each case in form and substance reasonably satisfactory to **Seller**:

(a) The Purchase Price in accordance with SECTION 2.4;

(b) The certificate described in SECTION 7.1(b);

(c) A written instruction of **Buyer** to Escrow Agent instructing the Escrow Agent to distribute the Earnest Money as prescribed in SECTION 2.3;

(d) Such additional information and materials as **Seller** shall have reasonably requested to evidence the satisfaction of the conditions to their obligation to close hereunder.

## **ARTICLE IX**

### **INDEMNIFICATION**

#### **9.1 SURVIVAL.**

All representations, warranties, covenants, and agreements in this Agreement shall survive the Closing regardless of any investigation, inquiry, or knowledge on the part of any party, and the Closing shall not be deemed a waiver by any party of the representations, warranties, covenants, or agreements of any other party in this Agreement provided, however, that the period of survival shall, (i) with respect to the representations and warranties in SECTION 3.12 (Environmental Matters), end eighteen (18) months after the Closing Date, and (ii) in the case of any other representation or warranty, end twelve (12) months after the Closing Date (in each case, the "Survival Period"). No claim for breach of any representation or warranty may be brought under this Agreement or any other Document unless written notice describing in reasonable detail the nature and basis of such claim is given on or prior to the last day of the applicable Survival Period. In the event such notice of a claim is so given, the right to indemnification with respect to such claim shall survive the applicable Survival Period until the claim is finally resolved and any obligations with respect to the claim are fully satisfied.

## 9.2 INDEMNIFICATIONS BY SELLER AND HILL COUNTRY.

(a) **Seller** and **Hill Country** shall, jointly and severally, indemnify, defend, and hold harmless **Buyer**, employees, Affiliates, successors, and assigns from and against, and pay or reimburse each of them for and with respect to, any Loss (each, a “Buyer’s Loss”) relating to, arising out of or resulting from:

(i) Any breach by any **Seller** of any of its representations, warranties, covenants, or agreements in this Agreement; or

(ii) Any obligation, indebtedness or Liability of **Seller** or **Hill Country** resulting from **Seller’s** operation of the Station or **Seller’s** and **Hill Country’s** ownership of the Sale Assets, regardless of whether disclosed to **Buyer** and regardless of whether constituting a breach by **Seller** or **Hill Country** of any representation, warranty, covenant or agreement hereunder, or

(iii) Noncompliance by **Seller** with the provisions of the Bulk Sales Act, if applicable, in connection with the transactions contemplated by this Agreement.

## 9.3 INDEMNIFICATION BY BUYER

Subject to SECTION 10.2, **Buyer** shall indemnify and hold harmless **Seller** and **Hill Country** and their officers, directors, members, employees, agents, representatives, Affiliates, successors, and assigns from and against, pay or reimburse each of them for and with respect to any Loss relating to, arising out of or resulting from:

(i) Any breach by **Buyer** of any of its representations, warranties, covenants or agreements in this Agreement; or

(ii) **Buyer’s** operation of the Station on or after the Closing Date or **Buyer’s** ownership of the Sale Assets.

## 9.4 ADMINISTRATION OF INDEMNIFICATION.

For purposes of administering the indemnification provisions set forth in SECTIONS 9.2 and 9.3, the following procedure shall apply:

(a) Whenever a claim shall arise for indemnification under this Article, the party entitled to indemnification (the “Indemnified Party”) shall reasonably promptly give written notice to the party from whom indemnification is sought (the “Indemnifying Party”) setting forth in reasonable detail, to the extent then available, the facts concerning the nature of such claim and the basis upon which the Indemnified Party believes that it is entitled to indemnification hereunder.

(b) In the event of any claim for indemnification resulting from or in connection with any claim by a third party; the Indemnifying Party shall be entitled, at its sole expense, either (i) to participate in defending against such claim or (ii) to assume the entire defense with counsel

which is selected by it and which is reasonably satisfactory to the Indemnified Party provided that (A) the Indemnifying Party agrees in writing that it does not and will not contest its responsibility for indemnifying the Indemnified Party in respect of such claim or proceeding and (B) no settlement shall be made and no judgment consented to without the prior written consent of the Indemnified Party which shall not be unreasonably withheld (except that no such consent shall be required if the claimant is entitled under the settlement to only monetary damages actually paid by the Indemnifying Party). If, however, (i) the claim, action, suit, or proceeding would, if successful, result in the imposition of damages for which the Indemnifying Party would not be solely responsible, or (ii) representation of both parties by the same counsel would otherwise be inappropriate due to actual or potential differing interests between them, then the Indemnifying Party shall not be entitled to assume the entire defense and each party shall be entitled to retain counsel (at each such party's own expense) who shall cooperate with one another in defending against such claim.

(c) If the Indemnifying Party does not choose to defend against a claim by a third party, the Indemnified Party may defend in such manner as it reasonably determines is appropriate or settle the claim (after giving notice thereof to the Indemnifying Party) on such terms as the Indemnified Party may deem appropriate, and the Indemnified Party shall be entitled to periodic reimbursement of defense expenses incurred and prompt indemnification from the Indemnifying Party in accordance with this Article.

(d) Failure or delay by an Indemnified Party to give a reasonably prompt notice of any claim (if given prior to expiration of any applicable Survival Period) shall not release, waive, or otherwise affect an Indemnifying Party's obligations with respect to the claim, except to the extent that actual loss or prejudice occurs as a result of such failure or delay. **Buyer** shall not be deemed to have notice of any claim solely by reason of any knowledge acquired on or prior to the Closing Date by an employee of the Station.

## 9.5 MITIGATION AND LIMITATION OF DAMAGES.

Each party hereto agrees to use reasonable efforts to mitigate any losses which form the basis for any claim for indemnification hereunder. Notwithstanding anything contained in this Agreement to the contrary, no party shall be entitled to punitive damages regardless of the theory of recovery. No claim or claims that do not in the aggregate equal or exceed Ten Thousand Dollars (\$10,000.00) (the "Threshold") shall be considered a Loss under this Section; provided that once any claim or claims exceeds the Threshold, the indemnified party shall be entitled to first dollar coverage. Further, the aggregate liability of any party with respect to any Loss or Losses shall not exceed One Hundred Thousand Dollars (\$100,000.00).

## ARTICLE X

### TERMINATION

#### 10.1 RIGHT OF TERMINATION.

This Agreement may be terminated prior to Closing:

- (a) By written agreement of **Seller** and **Buyer**; or
- (b) By written notice from a party that is not then in material breach of this Agreement if:
  - (i) The other party has continued in material breach of this Agreement for thirty (30) days after written notice of such breach from the terminating party is received by the other party; or
  - (ii) On the date that would otherwise be the Closing Date if any of the conditions precedent to the obligations of **Buyer** (in the case of termination by **Buyer**) set forth in SECTIONS 6.1(a), 6.1(b), 6.2, 6.5, and 6.6 of this Agreement, or any of the conditions precedent to the obligations of **Sellers** (in the case of termination by the **Seller**) set forth in SECTIONS 7.1(a), 7.1(b), 7.2 and 7.5 of this Agreement, have not been satisfied or waived in writing by the party with respect to which satisfaction is a condition precedent to its obligation to close (whether or not occurring as the result of a party's material breach of any provision of this Agreement); or
  - (iii) Closing does not occur within twelve (12) months after the date hereof.

## 10.2 OBLIGATIONS UPON TERMINATION.

(a) SECTIONS 12.2 and 12.4 through 12.14 and ARTICLES IX and X shall survive the termination of this Agreement and remain in full force and effect. Each party to this Agreement shall remain liable after termination for breach of this Agreement prior to termination; provided that if Closing does not occur, the aggregate liability of **Buyer** for breach under this Agreement shall be limited as provided in SECTION 10.2(c).

(b) If this Agreement is terminated prior to Closing for any reason other than as specified in SECTION 10.2(c), **Buyer** shall be entitled to the return of the Earnest Money; in which case **Buyer** and **Seller** shall cooperate in taking such action as required under the Escrow Agreement to effect the Escrow Agent's distribution of the Earnest Money to **Buyer**.

(c) If this Agreement is terminated prior to Closing (i) by the Seller pursuant to SECTIONS 10.1(b)(i) or 10.1(b)(ii) or (ii) by either party hereto pursuant to SECTION 10.1(b)(iii) if on the date of such termination pursuant to SECTION 10.1(b)(iii) any of the conditions precedent specified in SECTIONS 6.3 and/or 7.3 shall not have occurred as a result of facts relating to **Buyer**, **Seller's** sole remedy at law or in equity under this Agreement shall be (i) the termination by **Seller** of this Agreement, and (ii) the recovery from **Buyer** of (A) an amount equal to the Earnest Money. In the event of such termination, **Seller** shall be entitled to receive the Earnest Money and **Buyer** and **Seller** shall cooperate in taking such action as required under the Escrow Agreement to effect the Escrow Agent's distribution of the Earnest Money to **Seller**.

## 10.3 TERMINATION NOTICE.

If the terminating party is entitled to terminate this Agreement pursuant to the Subsection of SECTION 10.1 specified in the termination notice, then termination will be deemed effected pursuant to the specified Subsection notwithstanding that termination could be effected pursuant to more than one such Subsection.

## ARTICLE XI

### CONTROL OF STATIONS

Between the date of this Agreement and the Closing Date, **Buyer** shall not control, manage, or supervise the operation of any Station or the conduct of its business, all of which shall remain the sole responsibility and under the control of the applicable **Seller**, subject to such **Seller's** compliance with this Agreement.

## ARTICLE XII MISCELLANEOUS

### 12.1 FURTHER ACTIONS.

From time to time before, at and after the Closing, each party, at its expense and without further consideration, will execute and deliver such documents as reasonably requested by the other party in order more effectively to consummate the transactions contemplated hereby.

### 12.2 PAYMENT OF EXPENSES.

(a) The fees for filing the applications with the FCC under SECTION 5.4, and the Transfer Taxes payable in connection with the transactions contemplated by this Agreement shall be paid fifty percent (50%) by **Seller** and fifty percent (50%) by **Buyer**.

(b) Except as otherwise expressly provided in this Agreement, each of the parties shall bear its own expenses, including the fees of any attorneys and accountants engaged by such party, in connection with the transactions contemplated by this Agreement.

### 12.3 SPECIFIC PERFORMANCE.

**Seller** acknowledges that the Station is of a special, unique, and extraordinary character, and that damages alone are an inadequate remedy for a breach of this Agreement by **Seller**. Accordingly, as an alternative to termination of this Agreement under SECTION 10.1, if **Buyer** is not then in material default hereunder, **Buyer** shall be entitled, in the event of **Seller's** breach, to enforcement of this Agreement (subject to obtaining any required approval of the FCC or the Department of Justice) by a decree of specific performance or injunctive relief requiring **Seller** to fulfill their obligations under this Agreement. Such right of specific performance or injunctive relief shall not be in addition to, but in lieu of, **Buyer's** right to recover damages and to pursue other remedies available to **Buyer** for **Seller's** breach. In any action to specifically enforce **Seller's** obligation to close the transactions contemplated by this Agreement, **Seller** shall waive the defense that there is an adequate remedy at law or in equity and any requirement that **Buyer** prove actual damages. As a condition to seeking specific performance, **Buyer** shall not be required to tender the Purchase Price as contemplated by SECTION 2.4 but shall be required to demonstrate that **Buyer** is ready, willing, and able to tender the Purchase Price as contemplated by such Section.

### 12.4 NOTICES.

All notices, payments (unless otherwise specified herein), demands or other communications given hereunder shall be in writing and shall be sufficiently given if delivered by courier (including overnight delivery service confirmed by telephone), or sent by facsimile transmission (with receipt personally) or sent by registered or certified mail, first class, postage prepaid, addressed as follows:

(a) If to **Buyer**, to:

Tom D. Gay  
101 Main Street (Upstairs)  
P. O. Box  
Columbia, LA 71418  
Fax No.: (318) 649-5874

Copy to:

James J. Popham, Esq.  
333 39<sup>th</sup> St., SW  
Calgary, AB 2Ts 0W8  
Fax No.: (403) 243-5883

And to

James E. Mixon , Esq.  
Mixon & Carroll, PLC  
107 Riser Street  
P. O. Box 1619  
Columbia, LA 71418  
Fax No.: (318) 649-0277

(b) If to **Seller**, to:

Vision Broadcasting, Inc.  
Hill Country Broadcasters Corporation  
2125 Sidney Baker North  
Kerville, TX 78028  
Attn: Larry D. Greenwald, Vice President  
Fax No.: (830) 895-2009

Copy to:

Lee Peltzman, Esq.  
Shainis & Peltzman, Chartered  
1850 M Street, N.W., Suite 240  
Washington, D.C. 20036  
(202) 293-0810

or to such other address as a party may from time to time give notice to the other party in writing (as provided above). Any such notice, payment, demand or communication shall be deemed to

have been given or made (i) if so mailed, on the date indicated on the return receipt, and (ii) if delivered by courier or facsimile transmission, on the date received.

#### **12.5 ENTIRE AGREEMENT.**

This Agreement and the Schedule, executed contemporaneously herewith constitute the entire agreement and understanding between the parties with respect to the subject matter hereof and supersede any prior negotiations, agreements, understandings, or arrangements between the parties hereto with respect to the subject matter hereof.

#### **12.6 BINDING EFFECT; BENEFITS.**

Except as otherwise expressly provided in this Agreement, (i) the terms and provisions of this Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective successors or permitted assigns, and (ii) nothing in this Agreement, express or implied, shall confer on any person other than the parties hereto and their respective successors or permitted assigns any rights, remedies, obligations, or liabilities under or by reason of this Agreement.

#### **12.7 ASSIGNMENT.**

Neither this Agreement nor any of the rights, interests, or obligations hereunder may be assigned by either party without the prior written consent of the other party, provided that **Buyer** may assign all of its rights under this Agreement to a subsidiary of **Buyer**, provided that (i) the representations and warranties of **Buyer** hereunder shall be true and correct in all respects as applied to the assignee, (ii) both **Buyer** and the assignee shall execute and deliver to **Seller** a written instrument in form and substance satisfactory to **Seller** within their reasonable judgment in which both **Buyer** and the assignee agree to be jointly and severally liable for performance of all of **Buyer's** obligations under this Agreement, (iii) such assignment shall not materially delay issuance of the FCC Order and (iv) **Buyer** and the assignees shall deliver such other documents and instruments as reasonably requested by **Seller**, including appropriate certified resolutions of the boards of directors of the assignees.

#### **12.8 GOVERNING LAW.**

This Agreement shall in all respects be governed by and construed in accordance with the laws of the State of Louisiana without regard to its principles of conflicts of laws.

## **12.9 AMENDMENTS AND WAIVERS.**

No term or provision of this Agreement may be amended, waived, discharged, or terminated orally but only by an instrument in writing signed by the party against whom the enforcement of such amendment, waiver, discharge, or termination is sought. Any waiver shall be effective only in accordance with its express terms and conditions, but any such waiver or failure to insist upon strict compliance with any obligation, representation, warranty, covenant, agreement, or condition under this Agreement shall not operate as a waiver of, or estoppel with respect to, any subsequent or other failure.

## **12.10 SEVERABILITY.**

Any provision of this Agreement which is unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such unenforceability without invalidating the remaining provisions hereof and any such unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction. To the extent permitted by applicable law, the parties hereto hereby waive any provision of law now or hereafter in effect which renders any provision hereof unenforceable in any respect.

## **12.11 HEADINGS.**

The captions in this Agreement are for convenience of reference only and shall not define or limit any of the terms or provisions hereof.

## **12.12 COUNTERPARTS.**

This Agreement may be executed in any number of counterparts, and by any party on separate counterparts, each of which shall be an original, and all of which together shall constitute one and the same instrument.

## **12.13 REFERENCES.**

All references in this Agreement to Articles and Sections are to Articles and Sections contained in this Agreement unless a different document is expressly specified. References herein to a "party" shall mean the **Seller** and/or **Hill Country** on one hand and the **Buyer** on the other.

**12.14 SCHEDULES AND EXHIBITS.**

Unless otherwise specified in this Agreement, each Schedule and Exhibit referenced in this Agreement is attached to, and is incorporated by reference into, this Agreement.

Executed as of the dates set forth below.

**VISION BROADCASTING, INC., Seller**

By: [Signature]  
Printed Name: DAVID GREEN  
Its: VP  
Date: 11/7/07

**HILL COUNTRY BROADCASTING CORPORATION, Site Lessee**

By: [Signature]  
Printed Name: AVIS L GARD  
Its: VP  
Date: 11/7/07

**TOM D. GAY, Buyer**

By: \_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Its: \_\_\_\_\_  
Date: \_\_\_\_\_

KPXS Asset Purchase Agreement

Page 30

12.14 SCHEDULES AND EXHIBITS.

Unless otherwise specified in this Agreement, each Schedule and Exhibit referenced in this Agreement is attached to, and is incorporated by reference into, this Agreement.

Executed as of the dates set forth below.

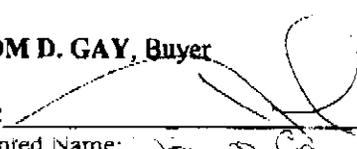
**VISION BROADCASTING, INC., Seller**

By: \_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Its: \_\_\_\_\_  
Date: \_\_\_\_\_

**HILL COUNTRY BROADCASTING CORPORATION, Site Lessee**

By: \_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Its: \_\_\_\_\_  
Date: \_\_\_\_\_

**TOM D. GAY, Buyer**

By:  \_\_\_\_\_  
Printed Name: Tom D. Gay  
Its: owner  
Date: 11/8/07

**KPXS  
ASSET PURCHASE AGREEMENT**

**Schedule A**

Section 2.1 (a) Tangible Personal Property

1. McMartin FM 3.5 Transmitter
2. Goodrich FM 30 Exciter
3. Mosley PC 505 STL Set (transmitter and receiver)
4. Sine System RFC 1B Remote Control System
5. Optimod 8100 audio processor
6. Holly Anne 911 EAS Encoder/decoder
7. NOAA Weather Radio
8. Kenwood FM Receiver
9. Sony FM Receiver
10. Arakkas 8 channel on-air console
11. Technics CD Players (2)
12. Audiocord record/play cart machine
13. Symmetric Mic processor
14. Telos One telephone interface
15. HP computer with musicmatch
16. Rohn 55 tower (approx 190 feet) at transmitter site
17. Rohn 45 tower ( approx 60 feet) at studio
18. STL dish antennas (2)
19. Broadcast antenna 104.7 and associated transmission line