

**ASSET PURCHASE AGREEMENT**

by and between

**THREE RIVERS BROADCASTING, LLC**

and

**BICOASTAL HOLDINGS CO., LLC**

for the Sale and Purchase of

**KCMD FM, GRANTS PASS, OREGON**

ASSET PURCHASE AGREEMENT

THIS ASSET PURCHASE AGREEMENT ("Agreement") made and entered into as of the 18<sup>th</sup> day of November, 2016, by and between THREE RIVERS BROADCASTING, LLC, a Delaware LLC ("Seller"), and BICOASTAL HOLDINGS CO., LLC, a Delaware limited liability company, or its assignee or designee ("Buyer").

BACKGROUND.

- A. Seller holds certain licenses, permits and authorizations issued by the Federal Communications Commission (the "Commission") for the operation of Station KCMD, Grants Pass, Oregon ~~and all translators, if any (collectively, the "Station").~~
- B. Seller owns or leases and desires to sell and/or assign, and Buyer desires to purchase and/or assume certain of the assets, property and business used in the operation of the Station.
- C. The assignment of the license of the Station is subject to the prior approval of the Federal Communications Commission (the "Commission").

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and with the intention of being legally bound, the parties agree as follows:

SECTION I  
ASSETS TO BE SOLD

1.1 On the Closing Date, Seller shall sell, assign, transfer, convey, set over, and deliver to Buyer, and Buyer shall purchase and/or accept assignment of the following (hereinafter collectively the "Assets") free and clear of any liens, encumbrances or liabilities:

1.1.1 Authorizations. All licenses, permits and authorizations issued or granted by the Commission for the operation of, or used in connection with the operation of the Station and all applications filed with the Commission (hereinafter "Commission Authorizations") which are listed in Schedule 1.1.1. All franchises, licenses, permits and authorizations issued by any administrative bodies or licensing authority or governmental or regulatory agency other than the Commission Authorizations used or useful in connection with the operation of the Station (the "Other Authorization")

1.1.2 Tangible Personal Property. All of Seller's rights in and to the fixed and tangible personal property used in the operation of the Station, including, but not limited to the physical assets and equipment, leasehold improvements and music libraries listed in Schedule 1.1.2, together with replacements thereof, additions and alterations thereto, and substitutions therefor, made between the date hereof and the Closing Date (hereinafter collectively the "Tangible Personal Property").

1.1.3 Real Property. All of Seller's rights in and to the land, buildings, improvements, and other real property and all leaseholds and other interests in real property and the buildings and improvements thereon (hereinafter collectively the "Real Property"), consisting of all real property and leases, contracts, easements, options and agreements creating such interests listed and described in Schedule 1.1.3.

1.1.4 Agreements. All Seller's rights to and in the contracts, agreements, and leases, if any to which Seller or the Station are a party listed in Schedule 1.1.4 and to and in the contracts and agreements for the sale of advertising time on the Station in existence on the Closing Date which have been entered into for cash, substantially at rate card rates (hereinafter collectively "Agreements"), together with all contracts, agreements and leases, entered into or acquired by the Seller between the date hereof and the Closing Date which have been approved by Buyer.

1.1.5 Intangibles. All right, title and interest of Seller in and to the call letters "KCMD FM", logos, jingles, marketing plans, copyrights, trademarks, trade names and other intangible property of Seller used or useful in the operation of or otherwise pertaining to the Station as set forth on Schedule 1.1.5 attached hereto and made a part hereof (hereinafter collectively the "Intangibles").

1.1.6 Business Records. Copies of financial records, engineering, advertising reports, programming studies, consulting reports, computing software, marketing data, and business and personnel records relating solely to the business or operation of the Station (hereinafter collectively "Business Records") or to assets or agreements purchased or assumed by Buyer.

1.1.7 Manufacturer and Vendor Warranties. All of Seller's right, title and interest in any manufacturer's and vendor's warranties relating to any of the Station Assets.

1.1.8 Internet Domain Registrations. All of Seller's rights in and to the internet domain registrations of the Station.

Buyer shall have a period expiring on Dec. 1, 2016 (the "Inspection Period") to examine and inspect such agreements, contracts, leases, Intangibles and Business Records, and all other aspects of the Business. Buyer shall have the right for any reason or no reason to terminate the Agreement by written notice to the Seller prior to the expiration of the Inspection Period. If Buyer terminates this Agreement pursuant to the provisions of this section, the deposit monies shall be returned to the Buyer, and neither party shall owe any further obligation under this Agreement to the other, except for such obligations which specifically survive the Closing or termination of this Agreement.

1.2 Excluded Assets. The Assets shall not include the following assets along with all rights, title and interest therein which shall be referred to as the "Excluded Assets":

1.2.1 All cash, cash equivalents or similar type investments of Seller, such as certificates of deposit, Treasury bills and other marketable securities on hand and/or in banks;

1.2.2 Seller's accounts receivable for services performed by it in connection with the operation of the Station prior to the Closing Date (the "Accounts Receivable");

1.2.3 All claims, rights and interest of Seller to any (i) refunds of taxes or fees of any nature whatsoever or (ii) deposits or utility deposits, which in each case relate solely to the period prior to the Closing Date;

1.2.4 All contracts that have terminated or expired prior to the Closing Date in the ordinary course of business and as permitted hereunder;

1.2.5 All contracts of Seller not assumed by Buyer,

1.2.6 The originals of Seller's organizational documents, business organization records, and such other copies of books and records as pertain to the organization, existence or capitalization of Seller and, duplicate copies of such records as are necessary to enable Seller to file its tax returns and reports as well as any other records or materials relating to Seller generally and not involving the operation of the Station, provided that Buyer shall have access to all such records which might remain in the possession of Seller for a period of five (5) years from the Closing Date;

1.2.7 Contracts of insurance, including the cash surrender value thereof, and all insurance proceeds or claims made by Seller prior to the Closing Date;

1.2.8 All pension, profit sharing or cash or deferred (Section 401 (k) or similar) plans and trusts and the assets thereof and any other employee benefit plan or arrangement and the assets thereof, if any, maintained by Seller; and

1.2.9 All other personal assets, whether tangible or intangible, not mentioned herein including but not limited to items of a personal nature not reasonably necessary to the conduct or operation of the Station.

1.3 Excluded Liabilities. The Buyer shall not assume and shall not be responsible for or otherwise be liable for any liability whatsoever of the Seller or any of its Affiliates, whether or not arising from or related to the Business or the Assets (the "Excluded Liabilities"?), and the Seller (or its Affiliate) shall pay, perform and discharge, as and when due, each such Excluded Liability, which include, but are not limited to, the following:

1.3.1 accounts payable of the Seller as of the Closing, whether or not booked or accrued or otherwise reflected on the Seller's accounting records;

1.3.2 any and all Liabilities related to the Seller's operation of the Business prior to the Closing Date, whether predicated on negligence, gross negligence, other tortious conduct, strict liability, breach of warranty or Contract or any other legal theory;

1.3.3 any and all Liabilities arising from or related to any failure to perform, improper performance, warranty or other breach, default or violation of any Assumed Contract by the Seller on or prior to the Closing Date; and any and all Liabilities under any Contract to which the Seller is a party that is not an Assumed Contract;

1.3.4 any and all Liabilities of the Seller with respect to any Action;

1.3.5 any and all Liabilities related to any actual or alleged violation of any Law by the Seller;

1.3.6 any and all Liabilities of the Seller for any Indebtedness (other than the operating leases that are Permitted Encumbrances for which a fully executed assignment agreement or consent to assignment has been delivered to the Buyer prior to the Closing);

1.3.7 any and all Liabilities relating to employees, independent contractors or other service providers of the Seller for all periods ending on or prior to the Closing Date or thereafter with respect to such individual's relationship with the Seller, including workers' compensation and unemployment claims, disability and occupational diseases or any insurance or insurance premiums

relating thereto, in each case without regard to whether such injuries, claims, conditions, events and occurrences are known or otherwise manifest on or prior to the Closing Date, and any bonuses, vacation pay, personal leave, or severance, retention or other compensation obligations of the Seller; all COBRA Obligations; and all Liabilities under the WARN Act that result from the transactions contemplated by this Agreement;

1.3.8 any and all Liabilities arising under or in connection with any (i) "employee benefit plan" of the Seller within the meaning of Section 3(3) of ERISA; (ii) any of the following types of plans, programs or arrangements sponsored or contributed to by the Seller or with respect to which the Seller has any Liability: severance plan, incentive or bonus plan, deferred compensation plan, retention plan, change in control plan, profit sharing plan, retirement plan, welfare plan, vacation or paid-time-off benefit or plan, stock purchase, stock option or equity incentive plan; and (iii) any other employee benefit plan, program or arrangement that is maintained, sponsored or contributed to by the Seller or with respect to which the Seller has any Liability;

1.3.9 any and all Liabilities arising from any generation, storage, use, release, transportation, disposal or arranging for storage, treatment, transportation or disposal of any Hazardous Materials by or on behalf of the Seller or any Affiliate of the Seller or anyone under the control or at the request of the Seller or any Affiliate of the Seller, including any and all Liabilities arising from any Hazardous Materials brought onto any Leased Facility by or on behalf of the Seller or any Affiliate of the Seller or anyone under the control or at the request of the Seller or any Affiliate of the Seller or any contamination or injury to person, property or the environment resulting therefrom, (ii) any and all Liabilities arising from or relating to any and all Hazardous Materials generated by or on behalf of the Seller, (iii) any and all Liabilities arising from or relating to any environmental condition occurring on or prior to the Closing Date at any Leased Facility or any other real property owned, leased, used or operated in connection with the Business whether discovered before, on or after the Closing Date, (iv) any and all Liabilities arising from, relating to or otherwise associated with any real property, site or facility listed or proposed on or prior to the Closing Date for listing on the National Priorities List established pursuant to Environmental Laws or any list established by any other Governmental Entity of sites requiring investigation, response or remediation, or (v) any and all Liabilities relating to any investigation, removal, remediation, restoration, abatement, monitoring and/or reporting relating to any of the matters described in clauses (i) through (iv) of this Section 1.3.9;

1.3.10 any and all Liabilities of the Seller for or relating to any Taxes, including any tax imposed on the Seller under Section 1374 of the Code.

1.3.11 any and all Liabilities resulting from the failure of the Seller to comply with any provisions of "bulk sales," "bulk transfer" or similar Laws of any jurisdiction in connection with the transactions contemplated hereunder;

1.3.12 any and all Liabilities arising out of any business activity of the Seller other than the Business;

1.3.13 any and all Liabilities arising out of the acquisition by the Seller of another business or a

material amount of stock or assets of any other Person (whether by merger, sale of stock, sale of assets or otherwise), including contingent purchase price payments, royalties, indemnification obligations and any other Liabilities to the seller(s) of such businesses;

1.3.14 any and all Liabilities under or arising by reason of this Agreement and the other Transaction Documents, or incurred in connection with the transactions contemplated by this Agreement, including legal and accounting fees and expenses; and

1.3.15 any and all Liabilities relating to the acquisition, ownership, operation, use or disposal of any Excluded Assets.

## **SECTION 2** **PURCHASE PRICE**

2.1 **Purchase Price.** In consideration of Seller's performance of this Agreement, the total purchase price (the "Purchase Price") to be paid by Buyer shall be TWO HUNDRED TWENTY FIVE THOUSAND (\$225,000.00) Dollars.

2.2 **Payment of Purchase Price.** The Purchase Price shall be paid to Seller as follows:

(a) Within five (5) business days of the date of this Agreement, Buyer shall deposit \$5,000.00 (the "Escrow Deposit") in the form of a cashier's or certified check. The Escrow Deposit shall be held and disbursed by Sherman, Silverstein, Kohl, Rose & Podolsky, P.A., 308 Harper Drive, Suite 200, Moorestown, New Jersey 08057 (the "Escrow Agent"), pursuant to an Escrow Agreement in the form attached hereto as Exhibit "B", which Escrow Agreement shall be signed by Seller, Buyer, and Escrow Agent simultaneously with the execution of this Agreement. At the Closing, Seller and Buyer shall cause the escrow agent to apply the Escrow Deposit (and all interest earned thereon) toward payment of the Purchase Price.

(b) At the Closing, Buyer will pay to Seller by wire transfer of immediately available funds to a bank designated by Seller the sum of \$220,000.00 plus the Escrow Deposit and plus or minus any Adjustments made at the Closing pursuant to Section 3 of this Agreement.

2.3 **Allocation of Purchase Price.** The Purchase Price shall be allocated between and among the Assets in the manner set forth on Schedule 2.3 attached hereto and made a part hereof. The parties shall use the Purchase Price allocation set forth on Schedule 2.3 in completing and filing Internal Revenue Code Form 8594 for federal income tax purposes.

## **SECTION 3** **ADJUSTMENTS**

3.1 **Adjustment Time.** The "Adjustment Time" as used herein shall be 12:01 A.M. current local time on the Closing Date.

3.2 **Adjustment Items.** The following items (the "Adjustment Items") shall be prorated as of the Adjustment Time, assuming a 365day year or a 30day or 31day month, as appropriate, and monies shall be paid at Closing in accordance with this Sections 3.2 and 3.3 herein below.

3.2.1 Rentals or other charges, payable or paid in respect of leasehold interests or tenancies, or leased transmitter sites, studios, offices or other Real Property or equipment under any lease or tenancy of Real Property, and any and all equipment leases described in Schedule I.1.2.

3.2.2 Real and personal property taxes and assessments (including sewerage assessments and fees), levied or assessed against or otherwise paid or payable with respect to any of the Assets.

3.2.3 Transferable license, permit, and registration fees, and like items.

3.2.4 Charges for utilities (including but not limited to electricity, fuel, water, basic monthly telephone charges, long distance telephone calls, and sanitation and garbage disposal) furnished to or in connection with the Station.

3.2.5 Unpaid obligations of Seller with respect to any lease, contract, or agreement which Buyer assumes, including, without limitation, prepaid premiums on any insurance policies that Seller has agreed to assign to Buyer and Buyer elects to assume. Security Deposits, if any, shall be refunded by Buyer to Seller.

3.2.6 Other similar items applicable to the Assets and/or attributable to the operations, advertising and/or the business of the Station, it being the intention of the parties that all operations and the business of the Station prior to the Adjustment Time shall be for the account of Seller, and all operations and business of the Station after the Adjustment Time shall be for the account of Buyer.

3.2.7 If the amount of any real or personal property tax to be prorated is not known on the Closing Date, such tax shall be apportioned on the basis of the most recent tax assessment. As soon as the new tax rate and valuation can be ascertained, there shall be a reapportionment and adjustment with respect to such tax even though that final pro ration and adjustment may take place more than sixty (60) days after the Closing Date.

3.2.8 Seller shall notify all persons employed by Seller in connection with the business, of the change of the ownership of the business and shall pay all wages and bonuses owing to such employees (and all vacation, severance pay and fringe benefits to which such employees are entitled) such that any employee of Seller whom Buyer may elect to retain in Buyer's employ shall have no claim against Buyer by reason of any prior employment in Seller's business during Seller's ownership thereof.

3.2.9 The Purchase Price shall be reduced to the extent that the amount of any advertising time remaining to be run on the Station whether under their trade or barter agreements or otherwise as of the Adjustment Time exceeds the value of the goods or services to be received under such trade or barter agreements or other compensation from and after of the Closing Date. For purposes of this Section, the liability of the Station for unperformed time shall be valued according to the Station's prevailing rates as of the Adjustment Time and the value of the goods or services to be received shall be valued at their fair market value as of the Closing Date. The WestWood One Classic Hits barter agreement of 3 minutes per hour with an expiration date of 3/31/2017 is excluded from this section of the agreement.

3.3 Adjustments After Closing Date. Subject to the provisions of Section 3.2.8, if the amount of any items to be adjusted cannot be readily ascertained or agreed upon on the Closing Date, pro ration of such items shall be determined within sixty (60) days after the Closing Date and payment therefor shall be made to the party entitled thereto within ten (10) days after notice of such determination

thereof has been given to Buyer or Seller, as the case may be. In the event of any disputes between the parties as to adjustments, the amounts not in dispute shall nonetheless be paid at the time provided in this Section and such disputes shall be determined by an independent certified public accountant mutually acceptable to the parties. The accountant's resolution of the dispute shall be final and binding on the parties, and a judgment may be entered thereon in any court of competent jurisdiction. The fees and expenses of such accountant shall be paid one-half by Seller and one-half by Buyer.

#### SECTION 4

#### APPLICATION TO AND CONSENT BY COMMISSION

4.1 Commission Consent. Consummation of the purchase and sale provided for herein and the performance of the obligations of Seller and Buyer under this Agreement are subject to the condition that the Commission shall have given its consent in writing, without any condition materially adverse to Buyer, to the assignment of the Commission Authorizations to Buyer.

#### 4.2 Application For Commission Consent.

(a) Seller and Buyer agree to proceed expeditiously and with due diligence and to use their best efforts and to cooperate with each other in seeking the Commission's approval of the transactions contemplated hereunder. Prior to 12/31/16, each party shall have prepared its portion of the Assignment Application and all information, data exhibits, resolutions, statements, and other materials necessary and proper in connection with such Assignment Application and shall have delivered it to Buyer's counsel for filing with the Commission on or before 12/31/16. Each party further agrees expeditiously to prepare Application amendments, respond to oral or written inquiries, and answer pleadings whenever such documents are required by the Commission or its rules.

(b) Except as otherwise provided herein, each party will be solely responsible for the expenses incurred by it in the preparation, filing and prosecution of its respective portion of the Assignment Application. Seller and Buyer shall each be responsible for one-half (1/2) of all filing fees and grant fees imposed by the Commission.

(c) Each party agrees to comply with any condition imposed on it by the Commission, except that no party shall be required to comply with a condition that would have a material adverse effect upon it unless the condition was imposed as the result of a circumstance which constitutes a breach by that party of any of its representations, warranties, or covenants in this Agreement. Buyer and Seller shall oppose any efforts for reconsideration or judicial review of the grant by the Commission of the assignment application (but nothing in this Section shall limit any party's right to terminate this Agreement pursuant to Section 16 of this Agreement).

4.3 Notice of Application. Seller shall, at its expense, give due notice of the filing of the Assignment Application by broadcasting on the Station, and by such other means as may be required by the rules and regulations of the Commission.

#### SECTION 5 ASSUMPTION

5.1 Buyer's Assumed Obligations. Buyer covenants and agrees to assume at Closing and discharge following the Closing all of the unperformed duties of the Seller accruing under the Agreements listed in Schedules 1.1.3 and 1.1.4, but only to the extent that such duties accrue after the Closing Date based on the operation of the Station by Buyer following the Closing Date. Except as specifically assumed by Buyer in this Agreement, Buyer is not assuming any Excluded Liability or any

Liabilities other than those specified in this Agreement. Buyer shall not be obligated to continue the employment of any current employee of the Station.

5.2 **Seller's Liabilities.** Seller shall remain liable for, and covenants to pay, satisfy, or discharge, all liabilities, payments, obligations, and duties under the Agreements or other instruments transferred or assigned to Buyer hereunder, or otherwise relating to the operation of the Station accruing prior to or by reason of events occurring prior to the Closing Date. With respect to any contingent liabilities and any accounts payable of Seller which are not known or due as of the Closing Date, Seller and Buyer agree at the Closing to enter into arrangements reasonably satisfactory to Buyer concerning the payment by Seller of such accounts payable and the satisfaction of any contingent liabilities.

## SECTION 6

### REPRESENTATIONS AND WARRANTIES OF THE SELLER

6.1 **Seller's Best Knowledge.** "To the best of Seller's knowledge" shall mean the knowledge of Seller after (i) due inquiry of all managers, department heads or other similar employee or agent of Seller having responsibility for or holding a position that reasonably could be expected to involve substantial knowledge about the subject matter to which such Seller's Best Knowledge relates; and (ii) due examination of any documents, correspondence or other items contained in the files of Seller or the Station pertaining to such subject matter.

#### 6.2 Standing.

6.2.1 Seller has the full power to own the assets and to carry on the business of the Station as it now is being conducted and is qualified and in good standing in the State of Oregon.

6.2.2 Seller has the full power and authority to enter into this Agreement and to execute all of Seller's Closing Documents that require Seller's signature. The execution, delivery and performance of this Agreement (as of the date of execution of this Agreement and on the Closing Date) and the Seller's Closing Documents (on the Closing Date) are or will be authorized by all necessary corporate action of the Seller.

6.3 **Binding Effect of Agreement.** This Agreement constitutes a valid and binding obligation of Seller enforceable against Seller in accordance with the terms of this Agreement. Upon execution, the Seller's Closing Documents will constitute valid and binding obligations of Seller enforceable against Seller in accordance with their terms. The execution, delivery, and performance of this Agreement or any of the Closing Documents do not violate any provision of the Certificate of Formation or Operating Agreement or other organizational documents of Seller, or contract provision or other commitment to which Seller or the Station is a party or under which it or its property is bound, or any judgment or order, and will not result in the creation or imposition of any lien, charge, security interest, or encumbrance of any nature whatsoever upon any of the Assets.

6.4 **Financial Statements.** Schedule 6.4 contains copies of the following financial statements (collectively the "Financial Statements"): the balance sheets, income statements and statements of cash flow of the Seller as of and for the fiscal years ended ~~2014~~ ~~2015~~ ~~VTD 2016~~ ~~The Financial Statements have been prepared in accordance with generally acceptable principles of accounting consistently applied during the periods covered and are consistent with the books and records of the Seller.~~ In order to aid Buyer's preparation of audited financial statements, Seller will provide Buyer both prior to and following the Closing with access to the Financial Statements as well as all books and records of Seller including but not limited to original books of entry, sales invoices and purchase orders, supporting schedules and reconciliations, internal financial statements, and all documents relating

to the books, records and financial statements pertaining to the Assets conveyed by this Agreement. Seller understands that Buyer may supply financial statements to lending institutions to be reviewed in connection with loan applications or financing arrangements of Buyer, and Seller represents and warrants that any additional financial information furnished to Buyer will be complete and accurate in all respects. The Financial Statements are complete and accurate Not later than 12/15/16 Seller shall furnish to Buyer a balance sheet and income statement of the Seller, as of 9/30/2014 (the "Mid Year Financials") fairly presenting the financial position of the Seller at the date thereof in conformity with generally accepted accounting principles applied on a consistent basis. The Financial Statements and the Mid Year Financials reflect all claims against and all debts and liabilities of the Seller, fixed or contingent, as of the date thereof and the related statements of income, members equity and changes in financial position fairly present the results of the operations of the Seller and the Station and the changes in their financial position for the period indicated. Since 12/11/16 (the "Balance Sheet Date") there has been (x) no material adverse change in the assets or liabilities, or in the business or condition, financial or otherwise, or in the result of operations or prospects, of the Seller, whether as a result of any legislative or regulatory change, revocation of any license or rights to do business, fire, explosion, accident, casualty, labor trouble, flood, drought, riot, storm, condemnation or act of God or other public force or otherwise and (y) no change in the assets or liabilities, or in the business or condition, financial or otherwise, or in the results of operations or prospects, of the Seller in the ordinary course of business; and no fact or condition exists or is contemplated or threatened which might cause such a change in the future.

#### 6.5 Real and Tangible Personal Property.

6.5.1 Real Property. Schedule 1.1.3 attached hereto accurately lists and describes all of the Real Property leased or otherwise held or used by the Station which is being assigned or transferred to the Buyer. The Real Property listed in Schedule 1.1.3 comprises all real property interests necessary to conduct the business or operations of the Station as now conducted. Seller has good and marketable fee simple title, insurable at standard rates, to all of the fee estates (including the improvements thereon) included in the Real Property, free and clear of all liens, mortgages, pledges, covenants, easements, restrictions, encroachments, leases, charges, and other claims and encumbrances of any nature whatsoever, and without reservation or exclusion of any mineral, timber, or other rights or interests, except for normal encumbrances of record such as easements for utilities and liens for real estate taxes not yet due and payable. There are no pending or, to the best of Seller's knowledge, threatened condemnation or eminent domain proceedings that may have a material adverse effect on Buyer's use of the Real Property for the operation of the Station after Closing. To the best of Seller's knowledge, there are no structural defects in the towers, buildings, structures and other improvements located on the Real Property. All utilities that are necessary for the present operation of the Station have been connected to the Real Property and are in working order. To the best of Seller's knowledge, no utility lines serving the Station pass over the lands of others except where appropriate easements or licenses have been obtained. To the best of Seller's knowledge, Seller's use and occupancy of the Real Property comply in all material respects with all regulations, codes, ordinances, and statutes of all Governmental Authorities, including without limitation all zoning, health, environmental protection and sanitary regulations and all occupational safety and health regulations and all occupational safety and health regulations. The transmitting facilities of the Station, including the tower, guy wires and ground systems, are now and on the Closing Date will be located entirely on the confines of the Real Property owned or leased by Seller. Seller represents that it has access to the Real Property as set forth in Schedule 1.1.3. On or before the Closing Date, Seller shall deliver to Buyer a title insurance commitment from a title insurance company acceptable to Buyer. The title insurance commitment shall disclose all easements of record, none of which, other than those set forth in Schedule 1.1.3, shall be to the material detriment of Buyer, and will commit to insure that there are no liens, claims, charges, encumbrances, security interest, equities or encroachments of record other than those set forth in Schedule 1.1.3 and those created by Buyer. The title

insurance will commit to insure the Real Property for its full market value against any claim upon or defect of title other than those set forth in Schedule 1.1.3.

6.5.2 Patents, Trademarks, Copyrights. The Intangible Property includes all call signs, slogans, and logos used to promote or identify the Station. Seller has no knowledge of any infringement or unlawful or unauthorized use of those promotional rights, including without limitation, the use of any call sign, slogan or logo by any broadcast Station or cable systems in the Grants Pass, Oregon marketing area which may be confusingly similar to the call signs, slogans, and logos currently used by the Station.

6.5.3 Tangible Personal Property. Schedule 1.1.2 attached hereto accurately lists all the Tangible Personal Property owned, leased, or otherwise held by the Station and/or Seller which is intended to be conveyed hereunder. Seller represents and warrants that the Tangible Personal Property listed in Schedule 1.1.2 is sufficient to carry out the normal operations of the Station. Seller is the owner of and at Closing, will have good, clear, marketable, and indefeasible title to all of the Tangible Personal Property listed in Schedule 1.1.2, free and clear of all liens, charges, encumbrances, restrictions, debts, demands, or claims of any kind or nature whatsoever.

6.5.4 Condition of Property. The Tangible Property listed in Schedule 1.1.2 (except as expressly noted therein) is in good operating condition subject to normal wear and tear and shall be in substantially the same condition, reasonable wear and tear excepted, on the Closing Date as it was on the date of this Agreement. The Tangible Property is operated in all material respects in compliance with the Commission's regulations and requirements and all Commission Authorizations and Other Authorizations. Seller shall repair, at its sole expense, any equipment that does not meet the representations and warranties set forth in Section 6.5.4. If Buyer claims that the equipment fails to meet the warranties and conditions set forth in Section 6.5.4, and Seller disputes the claim, Buyer and Seller shall jointly retain and pay a consulting engineer to give a report on the disputed items. The consulting engineer's report shall be final, and Seller shall repair, at its sole expense, any equipment that the consulting engineer reports does not meet the representations and warranties set forth in Section 6.5.4. Nothing in this Section shall affect the Buyer's right to demonstrate breaches of warranty at a later time.

6.5.5 Engineering Inspection. Seller agrees that prior to the Closing Date, Buyer's engineer may inspect the equipment of the Station to insure that the equipment complies with all warranties and conditions set forth herein. Seller agrees to extend full cooperation to said engineer, including such access to the equipment and to logs pertaining thereto at such time or times as said engineer shall reasonably request.

6.6 Agreements. Schedule 1.1.4 accurately lists all agreements, leases and other contracts with respect to the Station (except for contracts for the sale of advertising time for cash on the Station sold substantially at rates and upon terms consistent with the Station's customary and normal selling business practices) to which, as of the date hereof, Seller and/or the Station are a party or by which Seller and/or the Station may be bound or obligated in any way. All of the Agreements are in full force and affect, and except as specifically noted on Schedules 1.1.3 and 1.1.4, may be assigned to Buyer without the consent of any third party.

6.7 Authorizations. Seller is the holder of all licenses, permits, and authorizations necessary to operate the business of the Station as it now is being conducted, including, without limitation, all Commission Authorizations and all Other Authorizations. All such Commission Authorizations are validly existing authorizations for the operation of the facilities described therein under the Communications Act of 1934, as amended. There is no action pending nor to Seller's knowledge, threatened, before the Commission or other body to revoke, refuse to renew, suspend or modify any of the

Commission Authorizations or any Other Authorization, or any action which may result in the denial of any pending applications, the issuance of any cease and desist orders, or the imposition of any administrative sanctions whatsoever with respect to the Station or their operation. There is no fact that would, under present law (including the Communications Act of 1934, as amended) and the present rules and regulations of the Commission, disqualify Seller from being the assignor of the Station or that would delay Commission approval of the Assignment Application. Should Seller become aware of any such fact, it will so inform Buyer and will use its best efforts to remove any such disqualification. Seller will not take any action that Seller knows, or has reason to believe, would result in such disqualification.

## 6.8 Litigation and Insurance.

**6.8.1 Litigation: Compliance With Law.** Seller is in compliance in all material respects with all applicable federal, state and local laws, ordinances and regulations, including compliance with the Communications Act and all rules and regulations issued thereunder. Except for proceedings affecting the broadcasting industry in general, there is no complaint, claim, litigation, investigation, or judicial, administrative, or other proceeding of any nature, including, without limitation a grievance, arbitration, or insolvency or bankruptcy proceeding, pending, or to Seller's knowledge, threatened, against the Station, Seller, or any of the Assets being sold or transferred to Buyer, including, without limitation, any proceeding which may (a) adversely affect the Assets or the Commission Authorizations or Other Authorizations to be assigned hereunder, or the operation of the Station or the ability of Buyer to own and operate the Station, or the use, ownership, or operation of any of the Assets by Buyer, (b) restrain or enjoin the Closing or the consummation of the transactions contemplated hereby, or (c) result in the revocation, modification or suspension of the Commission Authorizations or Other Authorizations, or the issuance or imposition of any administrative sanction that might adversely affect the Assets or the Commission Authorizations or Other Authorizations, or the operation of the Station or the ability of Buyer to own and operate the Station or the use, ownership, or operation of any of the Assets by Buyer. In addition, to Seller's knowledge, no such litigation, investigation, or proceeding has been threatened. Seller will give Buyer prompt notice of its discovery of any such basis or the institution or the threat of any such litigation, investigation, or proceeding. Seller is not in default in respect to any judgment, order, writ, injunction decree, rule, or regulation of any applicable court or governmental body, which default could have a materially adverse effect on the Assets or the Station.

**6.8.2 Insurance.** All of the Tangible Personal Property listed in Schedule 1.1.2 is insured, including, without limitation, public liability insurance for the Station, in full force and effect, paying all premiums for all such fire, and extended coverage insurance and such public liability insurance, when due.

## 6.9 Employees and Labor Relations.

**6.9.1 Seller:** (a) is not a party to any collective bargaining agreement, labor agreement or union agreement, written or oral, covering or relating to any of Station's employees and has not recognized, and to Seller's knowledge, is not required to recognize, and has received no demand for recognition by any contract with any of the employees of the Station or to any other employment contract, labor agreement, or union agreement, written or oral; (b) other than as disclosed in the Schedules, has not promulgated any policy or entered into any agreement relating to the payment of pensions, profit sharing, or bonuses to any of its employees whose employment, if terminated or suspended, for which Buyer will be liable, and (c) to Seller's knowledge, has not committed any unfair labor practices.

**6.9.2 Seller** has complied in all material respects with all applicable laws, rules and regulations relating to the employment of labor, including those relating to rates, hours, equal employment opportunity, collective bargaining, and the withholding and payment of taxes and

contributions and has withheld all amounts required by law or agreement to be withheld from the wages or salaries of the Station' employees and is not liable to the employees or any government body for arrears of wages or for any tax or penalty for failure to comply with the foregoing.

#### 6.10 Taxes and Other Matters.

6.10.1 Payment of Taxes. All returns and reports concerning franchise taxes, unemployment insurance, withholding and payroll taxes, sales taxes, personal property taxes, license taxes, social security taxes, and all other reports required to have been filed by the Seller relating to the Assets, the Station, and/or their operation pursuant to any law or regulation have been duly filed, and all taxes, interest, assessments, and penalties which are due to any taxing authority, federal, state, or local, with respect to any tax period ending on or prior to the making of this warranty have been duly paid.

6.10.2 Bankruptcy. No voluntary or, to Seller's knowledge, involuntary petition in bankruptcy, receivership, insolvency, or reorganization with respect to Seller, or petition to appoint a receiver or trustee of Seller's property, has been filed by or, to Seller's knowledge, against Seller. Seller has not made any assignment for the benefit of its creditors, and has not permitted any judgment, execution, attachment or levy against it or against any of its properties to remain outstanding or unsatisfied for more than thirty (30) days.

6.10.3 Environmental Matters. Seller makes the following representations and warranties:

(a) Seller has complied with all laws, rules and regulations of all federal, state, and local governments (and all agencies thereof) concerning the environment, public health and safety, and employee health and safety, and no charge, complaint, action, suit, proceeding, hearing, investigation, claim, demand, or notice has been filed or commenced against Seller alleging any failure to comply with any such law, rule or regulation.

(b) Seller has no liability (and Seller has not handled or disposed of any substance, arranged for the disposal of any substance, or owned or operated any property or facility in any manner that could form the basis for any present or future charge, complaint, action, suit, proceeding, hearing, investigation, claim or demand (under the common law or pursuant to any statute) against Seller giving rise to any liability) for environmental damage to any site, location, or body of water (surface or subsurface) or for environmental illness or personal injury.

(c) Seller has no liability (and there is no basis related to the past or present operation, properties, or facilities of Seller for any present or future charge, complaint, action, suit, proceeding, hearing, investigation, claim, or demand against Seller giving rise to any liability) under the Comprehensive Environmental Response, Compensation and Liability Act, the Resource Conservation and Recovery Act, the Safe Drinking Water Act, the Toxic Substances Control Act, the Refuse Act, of the Emergency Planning and Community Right-to-Know Act (each as amended) or any other law, rule, or regulation of any federal, state or local government (or agency thereof) concerning release or threatened release of hazardous substances, public health and safety, or pollution or protection of the environment.

(d) Seller has obtained and been in compliance with all of the terms and conditions of all permits, licenses, and other authorizations which are required under and has complied with all other limitations, restrictions, conditions, standards, prohibitions, requirements, obligations, schedules, and timetables which are contained in, all federal, state and local laws, rules, and regulations (including all codes, plans, judgments, orders, decrees, stipulations, injunctions, and charges thereunder) relating to public health and safety, worker health and safety, and pollution or protection of the

environment, including laws relating to emissions, discharges, releases, or threatened releases of pollutants, contaminants, or chemical, industrial, hazardous, or toxic materials or wastes into ambient air, surface water, ground water, or lands or otherwise relating to the manufacture, processing, distribution, use, treatment, storage, disposal, transport, or handling of pollutants, contaminants, or chemical, industrial, hazardous, or toxic materials or wastes.

(e) To the Seller's best knowledge, all properties and equipment used in the business of Seller are and have been free of asbestos and asbestos-related products, PCB's, methylone chloride, trichloroethylene, 1,2-trans-dichloroethylene, dioxins, dibenzofurans, and Extremely Hazardous Substances (as defined in Section 302 of the Emergency Planning and Community Right-To-Know Act).

(f) Except as described in Schedule 6.10.3, no pollutant, contaminant, or chemical, industrial, hazardous, or toxic material or waste has ever been manufactured, buried, stored, spilled, leaked, discharged, emitted, or released by Seller, or, to the best of Seller's knowledge, after due investigation, by any other party on any Real Property.

6.10.4 OSHA Matters. Seller is in compliance with the requirements of the Occupational Safety and Health Act and the regulations promulgated thereunder and any similar laws or regulations of any state or local jurisdiction ("OSHA"). Seller has not received any citation from the Occupational Safety and Health Administration or any comparable administration of any state or local jurisdiction (an "Administration") or any Administration inspector setting forth any respect in which the facilities or operation of Seller are not in compliance with OSHA, or the regulations under such act, which non-compliance has not been corrected or remedied to the satisfaction of such Administration or inspector. Seller has heretofore furnished to Buyer copies of all citations heretofore issued to Seller and relating to the Station under OSHA and copies of all correspondence from and to such Administration and any Administration inspectors during the past three (3) years.

6.10.5 No Liabilities Attaching to Buyer. Except as expressly provided in this Agreement, to the best of Seller's knowledge, there are no liabilities of any kind or nature whatsoever of Seller that attach or will, after the consummation of the transaction contemplated hereby, attach to Buyer, including, without limitation, any liability for or arising out of (a) employee withholding, (b) worker's compensation, or (c) unemployment compensation.

6.10.6 Cooperation with Respect to Financing. Seller understands that Buyer's financing for the transaction contemplated by this Agreement may be obtained from secured loans advanced by one or more financial institutions. Seller shall reasonably cooperate with Buyer, Buyer's underwriters, lenders, and their respective agents and representatives, in connection with the arrangements necessary for Buyer to obtain the financing required to consummate this transaction.

6.10.7 No Untrue Statements or Omission. No representation or warranty made by Seller in this Agreement or any Schedule, exhibit, statement, certificate, or other document heretofore or hereafter furnished by Seller, or on its behalf, to Buyer and pursuant to this Agreement or in connection with the transactions contemplated hereby contains or will contain any knowingly untrue statement or knowingly omits to state a material fact necessary to make the statements contained therein not misleading. All representations and warranties of Seller set forth in this Agreement shall be true, complete and accurate in all material respects as of the Closing Date as if made on that date.

## SECTION 7

### WARRANTIES, REPRESENTATIONS AND COVENANTS OF BUYER

Buyer covenants, represents, and warrants as follows:

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7.1 Organization and Standing. Buyer is a limited liability company duly organized validly existing and in good standing under the laws of the State of Delaware, and now and as of the Closing Date, shall be duly qualified to do business and be in good standing in the State of Oregon.

7.2 Authorization and Binding Obligation. Buyer has all necessary power and authority to enter into this Agreement and all of Seller's closing documents that require Buyer's signature. The execution, delivery and performance of this Agreement (as of the date of execution of this Agreement and on the Closing Date) and the Buyer's closing documents (on the Closing Date) are or will be authorized by all necessary officers of the Buyer. This Agreement constitutes a valid and binding obligation of Buyer enforceable against Buyer in accordance with the terms of this Agreement. Upon execution, the Buyer's closing documents will constitute valid and binding obligations of Buyer enforceable against Buyer in accordance with their terms.

7.3 No Contravention. The execution, delivery and performance of this Agreement do not violate any provision of the Operating Agreement of Buyer, or any contract provision or other commitment to which Buyer is bound, or any judgment or order.

7.4 Litigation. Except for administrative rule making or other proceedings of general applicability to the broadcast industry, there is no litigation, proceeding, judgment, claim, action, investigation or complaint, before the Commission, other governmental body, or court, of any nature pending or, to the best of Buyer's knowledge, threatened against or affecting it which would affect Buyer's authority or ability to carry out this Agreement.

7.5 Buyer's Qualifications. There is no fact that would, under present law (including the Communications Act of 1934, as amended) and the present rules and regulations of the Commission, disqualify Buyer from being the assignee of the Station or that would delay Commission approval of the Assignment Application. Should Buyer become aware of any such fact, it will so inform Seller and will use its best efforts to remove any such disqualification. Buyer will not take any action that Buyer knows, or has reason to believe, would result in such disqualification.

7.6 No Untrue Statements or Omission. No representation or warranty made by Buyer in this Agreement or any Schedule, exhibit, statement, certificate, or other document heretofore or hereafter furnished to Seller and pursuant to this Agreement or in connection with the transaction contemplated hereby contains or will contain any knowingly untrue statement or knowingly omits to state a material fact necessary to make the statement contained therein not misleading.

#### SECTION 8 SELLER'S CONDUCT OF BUSINESS PRIOR TO CLOSING AND BUYER'S ACCESS TO INFORMATION

8.1 Affirmative Covenants of Seller. Except as altered pursuant to the Local Marketing Agreement between the Buyer and Seller dated even date herewith (the "Local Marketing Agreement"), from the date of this Agreement until the Closing Date, Seller shall have complete control and supervision of and sole responsibility for the Station and their operation, and during such period, Seller shall:

8.1.1 Operate the Station in accordance with the rules and regulations of the Commission, the Commission Authorizations and the Other Authorizations and file all ownership reports, regulatory fee reports and other documents required to be filed during such period and maintain copies of the Station's required filings.

8.1.2 Maintain all of the Tangible Personal Property and the Real Property, as specified in Schedules 1.1.2 and 1.1.3, so that when the same are delivered to Buyer they shall satisfy all the warranties in all material respects on the part of Seller set forth herein, subject to reasonable wear and tear.

8.1.3 Maintain the existing inventory levels of the Station (including office supplies, spare parts, tubes, equipment and the like) and shall replace inventory items expended, depleted or worn out.

8.1.4 Deliver to Buyer within ten (10) days after filing thereof with the Commission copies of any and all reports, applications, and/or responses relating to the Station which are filed with the Commission on or prior to the Closing Date, including a copy of any Commission inquiries to which the filing is responsive (in the event of an oral Commission inquiry, Seller will furnish a written summary thereof).

8.1.5 Give prompt notice to Buyer of any occurrence that comes to Seller's attention that may constitute a misrepresentation, breach of warranty, or non-fulfillment of any covenant or condition on the part of the Seller or Buyer contained in this Agreement.

8.1.6 Operate the Station in the ordinary course of business and substantially in the same manner as heretofore operating, particularly with regard to maintaining current year budgeted levels for operating expenses in the areas of programming, sales, technical and advertising and promotion.

8.1.7 Follow its usual and customary policies with respect to extending credit for sales of air time and advertising on the Station and with respect to collecting accounts recently arising from such extension of credit.

8.1.8 Use its best efforts to keep the Station and its Assets and properties substantially intact, including their present operation, physical facilities, working conditions, and their relationships with lessors, advertisers, suppliers, customers and employees.

8.1.9 Deliver to Buyer within ten (10) days after filing thereof with the Commission copies of any reports, applications, and/or responses to the Station which are filed with the Commission on or prior to the Closing Date, including a copy of any Commission inquiries to which the filing is responsive (in the event of an oral Commission inquiry, Seller will furnish a written summary thereof).

8.2 **Negative Covenants of Seller.** Between the date hereof and the Closing Date, Seller shall not, with respect to the Assets, the Station, or the operation thereof, without the consent of Buyer:

8.2.1 By any act or omission surrender, modify adversely, forfeit, or fail to renew under regular terms the Commission Authorizations or any Other Authorizations with respect to the Station or give the Commission grounds to institute any proceeding for the revocation, suspension or modification of any such Commission Authorization, or fail to prosecute with due diligence any pending applications with respect to such Commission Authorizations or Other Authorizations.

8.2.2 Other than in the usual and ordinary course of business, sell or dispose of any of the Assets; Seller shall replace all Assets thus disposed of in the usual and ordinary course of business with assets having an aggregate value at least equal to the aggregate value of the Assets sold or otherwise disposed of.

8.2.3 Create or suffer or permit the creation of any mortgage, conditional sales agreement, security interest, lien, hypothecation, pledge, encumbrance, restriction, liability, charge, claim or imperfection of title on any of the Assets or with respect thereto.

8.2.4 Fail to repair or maintain any of its transmitting, studio, and other technical equipment or any other equipment, supplies, and other Tangible Personal Property used or usable in the operations of the Station in accordance with the normal standards of maintenance applicable in the broadcast industry (and in no event at a standard below that standard at the date hereon).

8.2.5 Take any action that could reasonably be expected to result in a material adverse change in the operation, financial condition or prospects of the Station.

8.2.6 Amend, modify or terminate any of the Agreements referred to on Schedule 1.1.4 or any of the leases referred to on Schedule 1.1.3.

8.3 Failure of Broadcast Transmissions. Seller shall give prompt written notice to Buyer if any of the following (a "Specified Event") shall occur and continue for a period in excess of six (6) consecutive hours: (i) the transmission of the regular broadcast programming of the Station in the normal and usual manner is interrupted or discontinued; or (ii) the Station is not operated in accordance with the directional parameters specified in the Station' licenses or are operated at less than ninety percent (90%) of their licensed power. If three (3) or more Specified Events occur prior to the Closing Date each lasting more than six (6) consecutive hours, or if the Station is not operated substantially at the licensed operating parameters for more than five (5) consecutive days, then Buyer may, at its option: (i) terminate this Agreement, or (ii) proceed in the manner set forth in Paragraph 12.1 or 12.2.

8.4 Access to Information. Between the date hereof and the Closing Date, Seller will give to Buyer and its authorized representatives and agents, including engineers, accountants, lawyers, and other representatives, reasonable access during reasonable business hours to the Assets. Seller shall furnish to Buyer such information and materials concerning the Station' affairs as Buyer may reasonably request, so far as such access, information and materials pertain to the operation of the Station.

8.5 Restrictions on Buyer. Nothing contained in this Agreement shall give Buyer any right to control the programming or operations of the Station prior to the Closing Date and Seller shall have complete control of the programming and operation of the Station between the date hereof and the Closing Date and shall operate the Station in conformity with the public interest, convergence and necessity and with all other requirements of law and this Agreement.

#### SECTION 9

#### CONDITIONS FOR CLOSING

9.1 Closing. The Closing of this Agreement shall take place at the offices of Buyer, or such other place as mutually agreed upon in writing by Seller and Buyer, and on a date mutually agreed upon by Buyer and Seller, provided that such date shall be no later than thirty (30) days after the grant by the Commission of the Assignment Application shall have been a Final Order (the "Closing Date"). For purposes of this Agreement, a Final Order means the grant by the Commission of the Assignment Application, shall include but not limited to an order by the Chief, Mass Media Bureau, issued under delegated authority, review, reconsideration or appeal of such order without any motion for review, reconsideration or appeal having been timely filed or instituted by the Commission on its own motion, or (b) in the event of review, reconsideration or appeal, the Commission's order has been affirmed and become final by expiration of the time for further review, reconsideration or appeal to the consummation

of the transactions contemplated herein is in full force and is no longer subject to administrative or judicial review, recall or reconsideration.

9.2 Conditions to Obligations of Buyer. The obligations of the Buyer under this Agreement are subject to the satisfaction of each of the following express conditions (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:

9.2.1 Seller shall have delivered to Buyer the Seller's Closing Documents as described in Section 10.1 below:

9.2.2 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.

9.2.3 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;

9.2.4 Seller shall be the holder of the Commission Authorizations listed in Schedule 1.1.1.

9.2.5 Seller shall have taken all action necessary to consummate this transaction.

9.2.6 Seller shall have delivered to Buyer an inventory of the Tangible Personal Property to be conveyed, current as of the Closing Date. There shall be no material changes between Schedule 1.1.2 and the inventory of Tangible Personal Property as of the Closing Date other than changes that have been agreed to and accepted by Buyer, in its reasonable discretion.

9.2.7 Seller shall have delivered to Buyer an opinion dated the Closing Date from FCC counsel to Seller, in form and substance reasonably satisfactory to counsel for Buyer relating to the Station Licenses and the assignment thereof.

9.2.8 There shall have been no material adverse change in the financial condition of the Seller or the Station between the date hereof and the Closing Date.

9.2.9 The Commission shall have approved the Assignment Application on or before

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9.2.10 The Seller shall have obtained and delivered to the Buyer the consents to the assignment of those Agreements or leases requiring such consent as indicated on Schedule 1.1.3 and Schedule 1.1.4.

9.2.11 The Seller shall have obtained and delivered to Buyer an estoppel certificate signed by each landlord under the leases set forth on Schedule 1.1.3 in form reasonably acceptable to Buyer, confirming that there are no defaults under such Lease.

9.3 Conditions 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, provided

that Seller may, at its election, waive any of such conditions at Closing, notwithstanding that such condition is not fulfilled on the Closing Date:

9.3.1 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.

9.3.2 Buyer shall perform all of the obligations set forth in Section 2 of this Agreement with respect to the payment of the Purchase Price.

9.3.3 Buyer shall have agreed in form reasonably acceptable to Seller to assume all obligations under the Agreements assigned to Buyer which arise on or after the Closing Date.

9.3.4 The Commission shall have approved the Assignment Application on or before

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<sup>9.4</sup> Failure of Conditions Precedent to Obligations of Buyer. In case of the failure of any of the conditions precedent described in Section 9.2 hereof, and if Seller, after having received notice of such failure from Buyer and having had ten (10) days within which to cure same, and has failed to cure same, 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 Section 16 hereof. Buyer shall not be deemed to have waived any failure by Seller to fulfill any of the conditions precedent described in Section 9.2 if Buyer does not have actual knowledge of such failure at the time of Closing.

9.5 Failure of Conditions Precedent to Obligations of Seller. In case of the failure of any of the conditions precedent described in Section 9.3 hereof, and if Buyer, after having received notice of such failure from Seller and having had a reasonable opportunity, has failed to cure the same, 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 Section 16 hereof. Seller shall not be deemed to have waived any failure by Buyer to fulfill any of the conditions precedent described in Section 9.3 if Seller does not have actual knowledge of such failure at the time of Closing.

#### SECTION 10 OBLIGATIONS AT CLOSING

10.1 Closing Documents to be Delivered by Seller. At the Closing, Seller shall deliver to Buyer the following ("Seller's Closing Documents"):

10.1.1 An executed Bill of Sale in form and substance reasonably satisfactory to Buyer transferring to Buyer all Tangible Personal Property to be transferred hereunder.

10.1.2 An executed Assignment and Assumption Agreement in form and substance reasonably satisfactory to Buyer assigning to Buyer the Agreements to be assigned hereunder.

10.1.3 An executed Assignment and Transfer in form and substance reasonably satisfactory to counsel for Buyer assigning and transferring to Buyer all of the Authorizations and the Intangibles.

10.1.4 A general warranty deed conveying to Buyer such parcels of Real Property currently owned by Seller in fee as set forth on Schedule 1.1.3, free and clear of all liens and encumbrances.

10.1.5 A certificate executed by Seller stating that (a) all of the representations and warranties of Seller set forth in this Agreement are in all material respects true, correct and accurate as of the Closing Date, and (b) all covenants set forth in this Agreement to be performed by Seller on or prior to the Closing Date have been performed in all material respects.

10.1.6 Copies of all Business Records.

10.1.7 Possession and/or ownership of and all right, title and/or interest in and to the Assets.

10.1.8 A certificate of good standing (or similar government-issued document) verifying that Seller is a limited liability company validly existing and in good standing under the laws of the State of Oregon.

10.2 Closing Documents to be Delivered by Buyer. At the Closing, Buyer shall deliver to Seller the following ("Buyer's Closing Documents"):

10.2.1 The Purchase Price as provided in Section 2.2

10.2.2 A certificate executed by Buyer's chief executive officer stating that: (a) all of the representations and warranties of Buyer set forth in this Agreement are in all material respects true, correct, and accurate as of the Closing Date, and (b) all covenants set forth in this Agreement to be performed by Buyer on or prior to the Closing Date have been performed in all material respects.

10.2.3 An Assignment and Assumption Agreement executed by Buyer, in form and substance reasonably satisfactory to Seller.

10.2.4 A certified copy of the resolutions of an officer of Buyer authorizing the execution, delivery and performance of this Agreement by Buyer and the consummation of the transactions provided for herein.

10.2.5 A certificate of good standing (or similar government- issued document) verifying that Buyer is a limited liability company validly existing and in good standing under the law of the State of its organization, and is authorized to conduct business in the State of Oregon.

## SECTION 11 BROKERAGE

Seller and Buyer each represent and warrant to the other 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 and Seller hereby agree to indemnify each other from and against any claim of any such obligation or liability by any

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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 the indemnifying party.

## SECTION 12 INDEMNIFICATIONS

12.1 Breach of Seller's Agreements, Representations, and Warranties. Seller shall reimburse Buyer for, and indemnify and hold harmless Buyer from and against, any loss, damage, liability, obligation, deficiency, claim, suit, cause of action, demand, judgment, or expense (including without limitation, payments, fines, penalties, interest, taxes, assessments, and reasonable attorneys' fees and accounting fees), contingent or otherwise, whether incurred or asserted prior to or after the Closing Date, arising out of or sustained by Buyer by reason of:

(a) any breach of any warranty, representation, or agreement of Seller contained under this Agreement or in any certificate or other instrument furnished to Buyer pursuant to this Agreement or in connection with any of the transactions contemplated hereby,

(b) the operation of the Station or the ownership of the Assets prior to Closing (including, but not limited to, any and all claims, liabilities, and obligations arising or required to be performed prior to the Closing Date under the Agreements, or any other lease, contract, or agreement);

(c) any transaction entered into by Seller or arising in connection with the Station or the operation of the business thereof or any of the Assets prior to the Closing; or

(d) any and all actions, suits, or proceedings, incident to any of the foregoing.

12.2 Breach of Buyer's Agreements, Representations and Warranties. Buyer shall reimburse Seller for, and indemnify and hold harmless Seller from and against, any loss, damage, liability, obligation, deficiency, claim, suit, cause of action, demand, judgment, or expense (including without being limited to, payments, fines, penalties, interest, taxes, assessments, reasonable attorneys' fees and accounting fees of any kind or nature), contingent or otherwise, arising out of or sustained by Seller by reason of:

(a) any material breach of any warranty, representation, or agreement of Buyer contained under this Agreement or any certificate or other instrument furnished by Buyer pursuant to this Agreement or in connection with any of the transactions contemplated hereby,

(b) the operation of the Station subsequent to Closing (including, but not limited to, any and all claims, liabilities and obligations arising or required to be performed subsequent to the Closing under the Agreements),

(c) any transaction entered into by Buyer or arising in connection with the Station or the operation of the Station subsequent to the Closing,

(d) any and all liabilities or obligations of Seller specifically assumed by Buyer pursuant to this Agreement, or

(e) any and all actions, suits, or proceedings incident to any of the foregoing.

12.3 **Notice of Claim.** Buyer and Seller agree to give prompt written notice to each other of any claim for indemnification under Sections 12.1 or 12.2 hereof ("Notice of Claim"), which amount is believed to be required to discharge the obligations of the indemnifying party resulting therefrom. Within thirty (30) days after having been given the Notice of Claim, the indemnifying party may deliver to the other party (i) a written notice of objection to the payment of such claim ("Notice of Objection"), which Notice of Objection shall set forth the basis for such objection; or (ii) a written notice that the indemnifying party intends to defend against such claim in good faith ("Notice of Intention to Defend"). If such a Notice of Intention to Defend is delivered, the indemnifying party shall have the right to hold in abeyance its claim for indemnification if and so long as such defense is conducted by the indemnifying party at the latter's expense in a manner effective to protect the indemnified party against such claim. If no Notice of Objection or Notice of Intention to Defend is given within the prescribed thirty (30) day period, the indemnifying party shall promptly pay to the indemnified party the amount set forth in the Notice of Claim. If the parties are unable to resolve any Notice of Claim and corresponding Notice of Objection, either party may take whatever action it deems reasonable, including without limitations the filing of a claim, petition, or other pleading in a court of competent jurisdiction.

#### **SECTION 13** **RISK OF LOSS**

The risk of any loss or damage to the Assets by fire, theft, breakage, explosion, earthquake, accident, flood, rain, storm, riot, act-of-God, or public enemy, or any other casualty or cause, reasonable wear and tear excepted, which impairs the ability of the Station to broadcast is assumed and shall be borne by the Seller at all times before the Closing of this Agreement. If any such loss or damage occurs, Seller shall give prompt written notice of the loss or damage to Buyer, stating with particularity reasonable estimates of loss or damage incurred, the cause of damage, if known, and the extent to which restoration, replacement and repairing the damaged Asset or Assets lost or destroyed is believed reimbursable under any insurance policy with respect thereto. Seller shall promptly take all steps to rebuild, replace, restore or repair any such damaged property at its own cost and expense. In the event that Seller does not fully replace or restore any such lost or damaged Asset or Assets by the time the Closing otherwise would be held, Buyer may, at its option, upon written notice to Seller, either (i) postpone the Closing until such time as the property has been repaired, replaced or restored and the Station returned to its operating status, (ii) terminate this Agreement, or (iii) elect to close without restoration, in which event Seller will deliver all insurance proceeds paid or payable by reason of the loss or damage to Buyer, together with an amount equal to the Seller's deductible under any such policy. If Buyer terminates this Agreement under this Section, each party shall bear its own expenses.

#### **SECTION 14** **FEES AND EXPENSES**

Each party shall pay its own attorneys' fees and expenses which it initiates, creates, or incurs in connection with the negotiation, preparation and execution of this Agreement. Seller and Buyer believe that the consummation of the transactions provided for in this Agreement do not require the payment of local transfer and title fees and sales taxes. In the event any of the aforementioned fees or taxes are imposed, payment shall be made by Seller. Seller shall be responsible for the payment of any title insurance premium, and for any and all recording or transfer fees or taxes related to the transfer and conveyance of any of the Real Property.

#### **SECTION 15** **BULK SALES LAW**

The parties do not believe that any bulk sales or fraudulent conveyance statute applies to the transactions contemplated by this Agreement. Buyer therefore waives compliance by Seller with the requirements of any such statutes, and Seller agrees to indemnify and hold Buyer harmless against any claim made against Buyer by any creditor of Seller as a result of a failure to comply with any such statute.

#### SECTION 16

#### DEFAULT AND TERMINATION

16.1 A party shall "default" under this Agreement if it makes any misrepresentation to the other party in connection with this Agreement, or breaches or fails to perform any of its representations, warranties, or covenants contained in this Agreement.

16.2 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 thirty (30) 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 thirty (30) 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.

16.3 Buyer recognizes that if the transaction contemplated by this Agreement is not consummated as a result of Buyer's default, Seller would be entitled to compensation, the extent of which is extremely difficult and impractical to ascertain. To avoid this problem, the parties agree that if this Agreement is not consummated due to the default of Buyer, Seller shall be entitled to receive as liquidated damages the Escrow Deposit. The parties agree that such amount shall constitute liquidated damages and shall be in lieu of any other remedies to which Seller might otherwise be entitled due to Buyer's wrongful failure to consummate the transaction contemplated by this Agreement. Buyer and Seller acknowledge and agree that liquidated damage amount is reasonable in light of the anticipated harm which will be caused by Buyer's breach of this Agreement, the difficulty of proof of loss, the inconvenience and non-feasibility of otherwise obtaining an adequate remedy, and the value of the transaction to be consummated hereunder.

16.4 Seller agrees that the Assets include unique property that cannot be readily obtained on the open market and that Buyer will be irreparably injured if this Agreement is not specifically enforced. Therefore, Buyer shall have the right, in addition to any and all other remedies available to the Buyer hereunder, at law or in equity, specifically to enforce Seller's performance under this Agreement, and Seller agrees to waive the defense in any such suit that Buyer has an adequate remedy at law and to interpose no opposition, legal or otherwise, as to the propriety of specific performance as a remedy. In the event Seller breaches this Agreement or defaults on the performance of its obligations hereunder, Buyer shall have the right to sue for specific performance or for other remedies available at law or equity in addition to the return of the Escrow Deposit.

16.5 In the event of a lawsuit under this Section 16, the prevailing party shall be entitled to reasonable attorneys' fees in addition to other damages.

#### SECTION 17

#### SURVIVAL OF WARRANTIES

17.1 All representations, warranties, and covenants made by the Seller in this Agreement shall be deemed made for the purpose of inducing the other to enter into this Agreement, and shall survive the Closing and remain operative and in full force and effect.

17.2 Neither the acceptance nor the delivery of property hereunder shall constitute a waiver of any covenant, representation, warranty, agreement, obligation, undertaking, or indemnification of Seller or Buyer contained in this Agreement, all of which shall, unless otherwise specifically provided, survive the Closing hereunder in accordance with the terms of this Agreement and shall be binding upon and inure to the benefit of all of the parties hereto, their heirs, legal representatives, successors and assigns.

#### SECTION 18 ACCOUNTS RECEIVABLE

18.1 **Collection Procedures.** At Closing, Seller shall assign to Buyer all of the Accounts Receivable for purposes of collection only. Buyer shall use such efforts as are reasonable and in the ordinary course of business to collect the Accounts Receivable for a period of one hundred twenty (120) days following the commencement of the Local Marketing Agreement (the "Collection Period"). This obligation, however, shall not extend to the institution of litigation, employment of counsel, or any other extraordinary means of collection. During the Collection Period, neither Seller nor its agents shall make any solicitation of them for collection purposes nor institute litigation for the collection of any amounts due thereunder. All payments received by Buyer during the Collection Period from any person obligated with respect to any of the Accounts Receivable shall be applied first to Seller's account and only after full satisfaction thereof to Buyer's account; provided, however, that if during the Collection Period any account debtor contests in writing the validity of its obligation with respect to any Account Receivable, then Buyer may return that Account Receivable to Seller after which Seller shall be solely responsible for the collection thereof and for the payment of all salesperson's, agency, and representative commissions due with respect to the Accounts Receivable. Buyer shall not incur or cause to be incurred any collateral or outside fees, costs or charges in connection with its efforts at collection of the Accounts Receivable without first having obtained the authorization in writing of Seller. Upon the expiration of the Collection Period, Buyer shall remit to Seller all amounts collected on Seller's behalf (less commissions) together with a report detailing the collection amounts by customer. Within fifteen (15) business days following the expiration of the Collection Period, Buyer shall furnish Seller with a list of the Accounts Receivable collected during the Collection Period. Any of the Accounts Receivable that are not collected during the Collection Period shall be reassigned to Seller after which Buyer shall have no further obligation to Seller with respect to the Accounts Receivable; provided, however, that all funds subsequently received by Buyer without time limitation) that are readily identifiable at the time of payment, whether by accompanying invoice or otherwise, as a payment on any Account Receivable shall be promptly paid over or forwarded to Seller. Buyer shall not have the right to compromise, settle, or adjust the amounts of any Accounts Receivable without Seller's prior written consent, or to withhold any proceeds of the Accounts Receivable or to retain any uncollected Accounts Receivable after the expiration of the Collection Period for any reason whatsoever. Buyer shall deduct from any collected Accounts Receivable the sum equal to all salesperson's, agency, and representative commissions due with respect to the Accounts Receivable, and Buyer shall pay such commissions directly to such salesperson, agency or representative.

#### SECTION 19 NOTICES

19.1 All notices, requests, demands, waivers, consents and other communications required or permitted hereunder shall be in writing and be deemed to have been duly given when delivered in person (against receipt) to the party to be notified at the address set out below or sent by registered or certified

mail, or by express mail or courier, postage prepaid, return receipt requested, addressed to the party to be notified, as follows:

If to Seller;

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

If to Buyer: Michael Wilson, President  
Bicoastal Holdings Co., L.L.C.

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

Paul A. Moses, Managing Director  
Diamond Hill Equity Corporation  
Four Tower Bridge  
200 Barr Harbor Drive, Suite 400  
W. Conshohocken, PA 19428

And to:

Robert E. Schwartz  
Sherman, Silverstein, Kohl, Rose & Podolsky, PA  
308 Harper Drive, Suite 200  
Moorestown, New Jersey 08057

Either party may change its address for notices by written notice to the other given pursuant to this Section. Any notice purportedly given by a means other than as provided in this Section shall be invalid and shall have no force or effect.

#### SECTION 20 NON-COMPETITION

20.1 The Seller agrees that for a period of two (2) years after the Closing, the Seller shall not, unless acting pursuant hereto or with the prior written consent of the Buyer, directly or indirectly:

- (a) solicit for employment or in any other fashion hire any of the employees of the Buyer; or
- (b) own, manage, operate, finance, join, control or participate in the ownership, management, operation, financing or control of, or be connected as an officer, director, employee, partner, principal, agent, representative, consultant or otherwise with any radio station in the Grants Pass, Oregon marketplace.

20.1 The Seller acknowledges that the restrictions contained in this Section 20 are, in view of the nature of the business of the Buyer, reasonable and necessary to protect the legitimate interests of the Buyer, and that any violation of any provisions of this Section 20 will result in irreparable injury to the Buyer. The Seller also acknowledges that the Buyer shall be entitled to temporary and permanent injunctive relief, without the necessity of proving actual damages, and to an equitable accounting of all earnings, profits and other benefits arising from any such violation, which rights shall be cumulative and in addition to any other rights or remedies to which the Buyer may be entitled. In the event of any such violation, the Buyer shall be entitled to commence an action for temporary and

permanent injunctive relief and other equitable relief in any court of competent jurisdiction and Company further irrevocably submits to the jurisdiction of any Oregon court or Federal court sitting in the District of Oregon over any suit, action or proceeding arising out of or relating to Section 20. The Seller hereby waives, to the fullest extent permitted by law, any objection that he may now or hereafter have to such jurisdiction or to the venue of any such suit, action or proceeding brought in such a court and any claim that such suit, action or proceeding has been brought in any inconvenient forum.

## SECTION 21 MISCELLANEOUS

21.1 **Headings.** The headings of the Sections of this Agreement are for convenience of reference only, and do not form a part thereof, and do not in any way modify, interpret or construe the meaning of the sections themselves or the intentions of the parties.

21.2 **Entire Agreement.** This Agreement and any other agreements entered into contemporaneously herewith set forth the entire agreement of the parties and are intended to supersede all prior negotiations, understandings, and agreements and cannot be altered, amended, changed or modified in any respect or particular unless each such alteration, amendment, change or modification shall have been agreed to by each of the parties hereto and reduced to writing in its entirety and signed and delivered by each party. No provision, condition or covenant of this Agreement shall be waived by either party hereto except by a written instrument delivered to the other party and signed by the party consenting to and to be charged with such waiver.

21.3 **Binding Effect and Assignment.** This Agreement shall be binding upon and inure to the benefit of the parties hereto, and their respective successors and assigns. Buyer may assign its rights and benefits under this Agreement. Buyer may, in its discretion, accept title to the Licenses and Authorizations in an entity separate from the other Assets.

21.4 **Additional Documents.** The parties hereto agree to execute, acknowledge and deliver, at or after the Closing Date, such other and further instruments and documents as may be reasonably necessary to implement, consummate and effectuate the terms of this Agreement, the effective vesting in Buyer of title to the Assets, and/or the successful processing by the Commission of the application to be filed with it, as provided in Section 4.2.

21.5 **Counterparts.** This Agreement may be executed in one or more counterparts, all of which, together shall comprise one and the same instrument.

21.6 **Legal Actions.** If either Seller or Buyer initiates any legal action or lawsuit against the other involving this Agreement, the prevailing party in such action or suit shall be entitled to receive reimbursement from the other party for all reasonable attorney's fees and other costs and expenses incurred by the prevailing party in respect of that litigation, including any appeal, and such reimbursement may be included in the judgment or final order issued in such proceeding. Any award of damages following judicial remedy as a result of the breach of this Agreement or any of its provisions shall include an award of prejudgment interest from the date of the breach at the maximum rate of interest allowed by law.

21.7 **Governing Law.** The parties agree that this Agreement and the transaction herein contemplated, shall be interpreted, construed, and enforced under and according to the laws of the State of Delaware.

21.8 Counsel. Each party has been represented by its own counsel in connection with the negotiation and preparation of this Agreement and, consequently, each party hereby waives the application of any rule of law to the effect that any provision of this Agreement shall be interpreted or construed against the party whose counsel drafted that provision.

21.9 Time is of the Essence. Time shall be of the essence in this Agreement and the performance of each and every provision hereof.

21.10 Severability. If any term or provision of this Agreement or its application shall to any extent, is declared to be invalid or unenforceable, the remaining terms and provisions shall not be affected and shall remain in full force and effect and to such extent they are severable; provided, however, neither party shall have any obligation to consummate the transactions contemplated by this Agreement if it is adversely affected in any respect whatsoever and regardless of immateriality by a determination that any term or provision of this Agreement or its application shall, to any extent, be invalid or unenforceable.

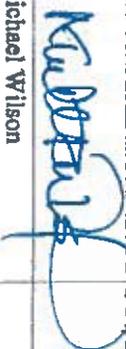
21.11 Publicity. Seller and Buyer agree that all public announcements relating to this agreement or the transactions contemplated hereby, including announcements to employees, will be made only as may be agreed upon in writing by the parties, which consent shall not be unreasonably withheld.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be signed and executed by their proper officers thereunto duly authorized as of the day and year first above written.

SELLER:  
THREE RIVERS BROADCASTING, LLC

By:   
Name: Casey Williams  
Title: Managing Director

BUYER:  
BICOASTAL HOLDINGS CO, L.L.C.

By:   
Name: Michael Wilson  
Title: President