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AGREEMENT OF PURCHASE AND SALE OF ASSETS

This Agreement (this "Agreement") is made as of the 10th day of March, 1995, by and between CHAMELEON RADIO CORPORATION, a Texas corporation ("Buyer"), and LANDRUM ENTERPRISES, INC., a Texas corporation ("Seller").

WITNESSETH:

WHEREAS, Seller owns and operates radio broadcast station KIOX-AM in Bay City, Texas (the "Station"); and

WHEREAS, subject to the required consent of the Federal Communications Commission (the "FCC") and the terms and conditions set forth in this Agreement, Seller desires to sell, and Buyer desires to purchase, all the real property, personal property, tangible and intangible assets of Seller used in the operation of the Station;

NOW, THEREFORE, in consideration of the premises and the mutual covenants, considerations and promises herein made, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

ARTICLE I

PURCHASE AND SALE OF ASSETS

1.1 Sale of Assets. Subject to the terms and conditions set forth in this Agreement, Seller agrees to sell, convey, transfer, assign and deliver to Buyer, free and clear of all liens, claims, and encumbrances (except for Permitted Encumbrances as defined in Section 8.7 hereof), and Buyer agrees to purchase from Seller, all the real property, personal property, tangible and intangible assets used in the operation of the Station as presently being operated (excluding only the Excluded Assets as defined in Section 1.2 hereof), which assets are collectively referred to as the "Assets" and which include, without limitation, the following:

(a) All the personal property, equipment, office machines, supplies, materials, furniture, fixtures, antennae, transmitting, broadcasting and receiving facilities and

Federal Communications Commission

cket No. 96-173 Exhibit No. 3

resented by MMB

Disposition } Identified X
 } Received X
 } Rejected _____

Reporter JS

Date 2-24-97

equipment, control room facilities and equipment, generators and amplifiers, and all other tangible personal property of every kind and character owned by Seller and used in or in connection with the Station or the operation thereof, situated in Matagorda County, Texas including, without limitation, the property set forth and described on Exhibit 1.1A attached hereto (which said Exhibit and all Exhibits hereafter referred to are by such attachment and reference incorporated herein and made a part hereof for all purposes);

(b) All rights, licenses, permits and authorizations issued by any regulatory agency (including, without limitation, the FCC), service marks, copyrights, franchises, and other intangible personal property of the Seller of whatsoever kind and character which are used in or in connection with the operation of the Station, including, without limitation, all business, goodwill, licenses, authorizations and applications listed or referenced on Exhibit 1.1B annexed hereto; provided, however, that Seller shall retain, and the Assets shall not include, the right to use the call letters of the Station; provided, further, that with respect to FCC rights, licenses, permits, authorizations and applications (the "FCC Authorizations") Seller agrees to transfer such FCC Authorizations to Buyer to the extent same are assignable.

(c) All radio time and advertising agreements and all of those certain agreements, arrangements, commitments and understandings, written or oral, expressed or implied, material to the Station or to the operation thereof, to which Seller is a party or by which the Assets are bound which agreements, arrangements, commitments, and understandings are listed, described or referenced on Exhibit 1.1C annexed hereto (unless such agreements, arrangements, commitments or understandings were disapproved by Buyer in writing on or before the Closing Date, as contemplated by Exhibit 1.1C attached hereto);

(d) All real property, including, without limitation, land, improvements, fixtures, buildings, easements, appurtenances and agreements or arrangements of lease or other tenancies or rights of occupancy or use with respect to real property or interests therein and rights-of-way and all similar properties owned by Seller in connection with the Station, which are described or referenced on Exhibit 1.1D annexed hereto;

(e) All inventories (including, without limitation, inventories of materials, supplies and replacement parts and tapes, recorded programs and commercials and Seller's library of records, tapes and recordings) maintained by Seller for, or in connection with, the operation of the Station on the Closing Date; and

(f) All books and records (or copies thereof) owned by Seller and relating to the Assets or to their maintenance or efficient operation or to the business of the Station, including, but not limited to, books of account, journals and ledgers, customer lists, vendor files, repair and maintenance records, files, correspondence, memoranda, blue prints, maps, plats, drawings, specifications and other similar writings and archives.

1.2 Excluded Assets. Notwithstanding the foregoing, the following assets shall be retained by Seller and shall not be sold or transferred to Buyer (such retained assets being herein collectively called the "Excluded Assets"):

(a) Cash, bank balances, monies in possession of any banks or trust companies and similar cash items of Seller on hand on the Closing Date;

(b) Accounts receivable attributable to the Station and arising on or prior to the Closing Date;

(c) All real property owned by Seller which is not described or referenced on Exhibit 1.1D annexed hereto;

(d) All assets owned by Seller related to the operation or business of radio broadcast station KIOX-FM in El Campo, Texas (the "FM Station"), including the call letters "KIOX";

(e) All prepaid expenses, utility and other deposits accrued prior to the Closing Date; and

(f) All books, records and documents of the Seller including, without limitation, Seller's minute books, corporate seal, treasury stock, the name "Landrum Enterprises, Inc." and similar items relating to the corporation or the FM Station and not involving the Station or Assets to be transferred hereunder. Notwithstanding the foregoing, any of Seller's books, records and documents retained by Seller and required by Buyer in connection with the

operation of the Station shall, on reasonable notice, be made available to Buyer for examination and, to the extent reasonably necessary, duplication after the Closing at the office of Seller for a period of one (1) year.

1.3 Purchase Price. In consideration of the sale of the Assets under this Agreement, Buyer shall pay to Seller the sum of One Hundred Fifty Thousand Dollars (\$150,000), subject to adjustment pursuant to Section 1.3(c) (the "Purchase Price"). The Purchase Price is payable as follows:

(a) Simultaneously with the execution of that certain Agreement dated February 13, 1995 between Buyer and Seller, Buyer has paid into escrow, as a deposit against the Purchase Price, the amount of Ten Thousand Dollars (\$10,000), to be applied at the Closing against the Purchase Price. Such deposit will be held by John W. Saunders, Media Broker (the "Broker") until the Closing or earlier termination of this Agreement in accordance with the terms hereof;

(b) At the time the Application (as defined in Section 6.1 hereof) is filed with the FCC, Buyer shall pay into escrow, as a deposit against the Purchase Price, the amount of Fifteen Thousand Dollars (\$15,000), to be applied at the closing against the Purchase Price. Such deposit will be held by the Broker until the Closing or earlier termination of this Agreement in accordance with the terms hereof; and

(c) At the Closing, Buyer shall (i) deliver to the Seller a Promissory Note (in the form attached hereto as Exhibit 1.3) in the amount of One Hundred Thousand Dollars (\$100,000) (the "Promissory Note") and (ii) pay to Seller the additional sum of Twenty-Five Thousand Dollars (\$25,000) in immediately available funds by wire transfer or, at Seller's option, by certified check; provided, however, that Buyer shall have the option at Closing to pay to Seller a cash amount equal to One Hundred and Ten Thousand Dollars (\$110,000) in lieu of the Promissory Note and cash payment required by clauses (i) and (ii) of this Section 1.3(c), in which case the total Purchase Price shall be One Hundred and Thirty-Five Dollars (\$135,000).

1.4 Assumption of Liabilities. At Closing, Buyer shall assume the Assumed Liabilities (as hereinafter defined) pursuant to a written assumption agreement ("Assumption

Agreement") in substantially the form of Exhibit 1.4 attached hereto. As used in this Agreement, the term "Assumed Liabilities" shall mean (i) the liabilities, duties and obligations of Seller which accrue after the Closing Date under those leases, contracts, licenses and other agreements and instruments expressly listed or referenced on Exhibit 1.1C attached hereto (unless such agreements, arrangements, commitments or understandings were disapproved by Buyer in writing on or before the Closing Date, as contemplated by Exhibit 1.1C attached hereto), (ii) any sales tax which may be payable with respect to the sale of the Assets pursuant hereto, and (iii) such other obligations and liabilities of Seller, if any, as Buyer shall expressly agree to assume in the Assumption Agreement. The parties hereto acknowledge and agree that the Assumed Liabilities are the only liabilities and obligations of Seller being assumed by Buyer and that, except to the extent expressly provided in the Assumption Agreement, the Assumed Liabilities shall not include any liability or obligation of Seller of any nature whatsoever existing or incurred by Seller on or prior to the date of the Closing.

1.5 Adjustments and Assumptions. The operation of the Station, and the income and expenses attributable thereto shall, except as otherwise expressly provided in this Agreement, be for the account of Seller up to 12:01 A.M. on the Closing Date and shall thereafter be for the account of Buyer. Expenses such as power and utility charges, lease rents, prepaid time sales agreements, wages, payroll taxes of employees of the Seller who enter the employment of Buyer, and similar prepaid deferred items shall be prorated between the Seller and Buyer. All proration shall be made and paid insofar as feasible on the Closing Date, with the final settlement within ninety (90) days after the Closing Date. In the event of any dispute between the parties as to any such adjustments, such dispute shall be resolved by an independent certified public accountant mutually acceptable to the parties, whose determination shall be binding upon the parties, their successors and assigns, and the fees and expenses of such accountant shall be paid one-half (1/2) by Seller and one-half (1/2) by Buyer.

1.6 Accounts Receivable. Seller shall retain all accounts receivable arising on or prior to the Closing Date relating to the Station. Buyer's sole responsibility with respect to such accounts receivable shall be to forward to Seller any monies delivered by such account debtors ("Pre-

Closing Debtors") to Buyer after the Closing which monies are in payment of such accounts receivable arising on or prior to the Closing Date. Seller retains responsibility for all sales commissions payable with respect to such accounts receivable. Buyer acknowledges that Seller may and Seller will not be prohibited from pursuing its remedies available at law against Pre-Closing Debtors who are in default under accounts receivable arising on or prior to the Closing Date. Without limitation of the foregoing, Buyer further acknowledges and agrees that monies paid to Buyer within 60 days after the Closing Date shall be deemed to be payment of pre-Closing accounts receivable unless the Pre-Closing Debtor indicates otherwise to Buyer and Seller in writing.

1.7 Termination. Subject to the provisions of Section 1.8 hereof, this Agreement may be terminated by:

- (a) The mutual consent of Seller and Buyer.
- (b) Seller at any time on or prior to the Closing Date if (i) any of the representations or warranties of Buyer contained herein shall prove to be inaccurate in any material respect or Buyer shall materially breach any covenant or other obligation imposed on it pursuant to this Agreement, which breach continues unremedied for ten (10) days after notice thereof to Buyer or (ii) the conditions set forth in Section 5.2 hereof shall not have been met by the Closing Date, or under the circumstances described in Section 6.2 hereof.
- (c) Buyer at any time on or prior to the Closing Date if (i) any of the representations or warranties of Seller contained herein shall prove to be inaccurate in any material respect or Seller shall materially breach any covenant or other obligation imposed on it pursuant to this Agreement, which breach continues unremedied for ten (10) days after notice thereof to Seller or (ii) the conditions set forth in Section 5.1 hereof shall not have been met by the Closing Date, or under the circumstances described in Sections 6.2 and 8.7 hereof.
- (d) Seller or Buyer at any time after July 15, 1995, if the Closing Date shall not have occurred by such date for any reason by giving notice of such termination to the other party.

(e) Notwithstanding anything herein to the contrary, the rights and obligations of the Buyer and the Seller, respectively, under Section 1.8 and Section 10.5 hereof shall survive any termination of this Agreement.

1.8 Right to Receive Deposit Upon Termination.

(a) The deposits provided for in Sections 1.3(a) and (b) hereof are being held in escrow by the Broker until the Closing or earlier termination of this Agreement in accordance with the terms hereof.

(b) In the event that this Agreement is terminated by Seller pursuant to Section 1.7(b)(i) hereof or pursuant to Section 1.7(b)(ii) hereof provided that such termination is due to the failure of a condition set forth in subsections (a) or (b) of Section 5.2 hereof, and provided that Seller is not in breach of or default under any term or provision of this Agreement, the Buyer shall forfeit all right, title and interest in such deposits and the Seller shall be entitled to receive the full amount thereof, plus any accrued interest thereon, as liquidated damages for the Buyer's default hereunder (it being agreed that in light of the nature of the Assets, damages are impossible to calculate with any precision, that such amount is a reasonable estimate of Seller's damages in the event of Buyer's default hereunder and such amount is not intended as a penalty).

(c) In the event that this Agreement is terminated (i) pursuant to Section 1.7(a) hereof, (ii) by Seller pursuant to Section 1.7(b)(ii) hereof provided that such termination is due to the failure of a condition set forth in subsections (c) or (d) of Section 5.2 hereof or pursuant to Section 6.2 hereof, (iii) by Buyer pursuant to Section 1.7(c) hereof, or (iv) by either party pursuant to Section 1.7(d) hereof, the Buyer shall be entitled to receive the full amount of such deposit, plus any accrued interest thereon.

ARTICLE II

THE CLOSING

The Closing of the transactions contemplated by this Agreement (the "Closing") shall take place at the offices of Andrews & Kurth L.L.P., located at 600 Travis, 4200 Texas Commerce

Tower, Houston, Texas 77002, at such time as may be agreed upon by the parties on a date not later than ten (10) days following satisfaction of all conditions precedent to Closing set forth in Article V hereof, including without limitation the receipt of a Final Order (as defined in Section 6.3 hereof) of the FCC, but in any event not later than July 15, 1995, unless extended by mutual agreement of Buyer and Seller. The actual date of Closing is herein called the "Closing Date."

ARTICLE III

REPRESENTATIONS AND WARRANTIES OF SELLER

Seller hereby represents and warrants to Buyer that:

3.1 Organization and Authority. Seller is a corporation duly organized, validly existing and in good standing under the laws of the State of Texas, and has full power and authority to enter into this Agreement and to carry out the transactions contemplated hereby. The execution and delivery of this Agreement by Seller has been duly authorized by all necessary corporate action and this Agreement constitutes a valid and binding agreement enforceable against Seller in accordance with the terms hereof. To Seller's actual knowledge, except for obtaining the consent and approval of the FCC and the other required consents and approvals indicated on Exhibit 3.1 attached hereto, Seller has full right, power and authority to sell the Assets to Buyer pursuant to the terms hereof without the consent or approval of any third party or regulatory agency.

3.2 No Defaults. Except as disclosed in Exhibit 3.2 attached hereto, the execution, delivery and performance of this Agreement will not result in a material breach or violation by Seller of, nor constitute a default by Seller under, the Articles of Incorporation or Bylaws of Seller or any contract, permit, license, certificate, franchise, statute, ordinance, rule, regulation, agreement, instrument or order known to Seller and to which Seller is a party or by which Seller or any of the Assets are bound.

3.3 Properties and Liabilities.

(a) All material real and personal property owned or leased by Seller and currently used in the operation of the Station is described in Section 1.1 and Exhibits 1.1A through 1.1D.

Except as described in Section 1.1 and Exhibits 1.1A through 1.1D, there are no other material rights, assets or property used by Seller in connection with the business or the operation of the Station. Seller has (except as disclosed on Exhibit 3.3A hereto) and at Closing will have title to all of the Assets, free and clear of any and all liens, claims, mortgages, conditional sale agreements, charges or encumbrances of any nature whatsoever including, without limitation, those matters disclosed on Exhibit 3.3A hereto, except for the Permitted Encumbrances. All such encumbrances, other than the Permitted Encumbrances, shall be fully discharged and released on or prior to the Closing Date by Seller.

(b) At the Closing, Seller will sell, transfer and convey to Buyer title to the Assets, subject only to the Permitted Encumbrances by means of (i) a Bill of Sale and Assignment substantially in the form of the Bill of Sale and Assignment attached hereto as Exhibit 3.3B (the "Bill of Sale") with respect to the portion of the Assets consisting of personal property, (ii) a special warranty deed substantially in the form of the Special Warranty Deed attached hereto as Exhibit 3.3C (the "Special Warranty Deed") with respect to the portion of the Assets consisting of real property owned by Seller, and (iii) an assignment of leases substantially in the form of the Assignment of Leases attached hereto as Exhibit 3.3D (the "Assignment of Leases") with respect to the portion of the Assets consisting of real property leased by Seller.

(c) To the actual knowledge of Seller, the Assets are in good operating condition and repair (reasonable wear and tear excepted), and no notice of any violation of zoning, building or other regulating laws, statutes, and regulations relating to such property and assets which would materially adversely affect the Assets or operation thereof, has been received and not resolved on or prior to the date hereof.

(d) A true and complete list and description of the insurance policies maintained by or on behalf of Seller with respect to the Station is annexed hereto as Exhibit 3.3E.

3.4 Contracts. Exhibits 1.1C and 1.1D include (or reference) a true and accurate list of each written lease, agreement, commitment and contract and, to the actual knowledge of Seller, any oral lease, agreement, commitment and contract, material to the Station or its operations, to which

Seller is a party or by which Seller or the Assets are bound. True and complete copies of all items referenced on Exhibit 1.1C and 1.1D have been or will be furnished to Buyer prior to Closing.

3.5 Permits and Licenses; Regulatory Compliance. Seller holds all authorizations, permits and licenses from the FCC and other regulatory agencies and authorities necessary for the operation of the Station, including the authorizations, permits and licenses described in Exhibit 1.1B. Seller has complied with, and has operated and is operating the Station in all material respects in accordance with the terms and conditions of all of said authorizations, orders, notices, requirements and other directives and in accordance with the laws, rules and regulations of the FCC and other regulatory agencies and authorities applicable to such operation, the failure to comply with which would jeopardize the transactions contemplated by this Agreement or otherwise materially adversely affect the Assets or the business or operation of the Station by Buyer. No proceedings are pending or, to the actual knowledge of Seller, threatened which may result in the revocation, modification, or suspension of any of said authorizations, the denial of any pending applications, the issuance of a cease and desist order or the imposition of any administrative sanction against Seller.

3.6 Litigation. Except as disclosed on Exhibit 3.6, there is no litigation, proceeding or investigation pending or, to the actual knowledge of the Seller, threatened in which the Seller is or will be a party and which would jeopardize consummation of the transactions contemplated by this Agreement or otherwise materially adversely affect the Assets or the business or operation of the Station by Buyer.

3.7 Employee Matters.

(a) Attached as Exhibit 3.7A hereto is a complete list of all employees of Seller employed in connection with the operation of the Station ("Employees"), together with a written description of the rates of pay and employment benefits (including bonus and vacation policy) applicable to Employees. Except as provided in Exhibit 3.7A, no Employee has any written employment agreement, and there is no Employee whose employment is not terminable at will without severance pay or other penalty.

(b) Seller has, to its actual knowledge, complied with all applicable federal, state, and local laws, ordinances, rules and regulations and requirements relating to the employment of the Employees, including but not limited to the provisions thereof relating to wages, hours, collective bargaining, payment of Social Security, unemployment and withholding taxes. Seller is not, to its actual knowledge, liable for any arrears of wages or any taxes or penalties for failure to comply with any of the foregoing. Seller has not had any written or, to Seller's actual knowledge, oral retirement, pension, profit sharing, bonus, hospitalization, vacation or other employee benefit plan, practice, agreement or understanding with respect to the Employees except as set forth on Exhibit 3.7B hereto.

(c) Seller has no contract, agreement or understanding, written or, to Seller's actual knowledge, oral, with any labor union or other labor organization or employee bargaining group with respect to any of the Employees, nor, to Seller's actual knowledge, has Seller been contacted by any such union, organization or group with respect to representation or organization of the Employees. No labor disturbances by the Employees have arisen or, to Seller's actual knowledge, been threatened which would adversely affect the business or business prospects of Seller or the Assets.

3.8 Taxes. Seller has filed or will file prior to the Closing all income tax returns, sales and use tax returns, all corporate franchise tax returns, any gross receipts or utility tax returns and all real and personal property tax returns which it is required to file with respect to the Assets on or prior to Closing, and has paid or will pay all taxes as shown on such returns and all assessments received to the extent that such taxes and assessments have become due and payable and are not being contested; provided, however, that Seller shall remain liable for all taxes accrued prior to the Closing Date, whether or not contested. Ad valorem and similar taxes relating to the real property being sold to Buyer hereunder for the calendar year of Closing shall be prorated as of Closing. If ad valorem tax information for the year of Closing is not available at the Closing, such proration shall be based upon the calendar year for the year immediately preceding the year of Closing. As soon as the amount of assessed taxes on the real property being sold to Buyer hereunder is finally determined for the year of

Closing, Seller and Buyer shall promptly adjust the proration of such taxes and Seller or Buyer, as the case may be, shall promptly pay to the other any amount required as a result of such adjustment. This Section 3.8 shall specifically survive the Closing.

ARTICLE IV

REPRESENTATIONS AND WARRANTIES OF BUYER

Buyer hereby represents and warrants to the Seller that:

4.1 Corporate Organization, Good Standing and Approval. Buyer is a corporation duly organized, validly existing and in good standing under the laws of the State of Texas and has full power and authority to enter into this Agreement and to carry out the transactions contemplated hereby.

4.2 Authorization. The execution and delivery of this Agreement by Buyer and the performance of the transactions contemplated hereby have been duly and validly authorized by the Board of Directors of Buyer and all other necessary corporate action, and this Agreement constitutes a valid and binding agreement enforceable against Buyer in accordance with its terms.

4.3 Compliance. The execution and delivery of this Agreement and the consummation of the transactions contemplated hereby will not result in the breach of any of the terms and conditions of, constitute a default under or violate the Articles of Incorporation or Bylaws of Buyer, or any agreement, lease, mortgage, note, bond, indenture, license or other material document to which Buyer is a party or by which it is bound, or violate any law, rule, regulation, order, writ, injunction or decree of any court, administrative agency or governmental body.

4.4 Brokerage or Finder's Fee. Buyer has not employed any broker or finder or incurred any liability for any brokerage fees, commissions or finder's fees in connection with the transactions contemplated herein.

4.5 Qualification. To Buyer's knowledge, there are no facts existing which would, under present law (including the Communications Act of 1934, as amended) and present rules, regulations and practices of the FCC, disqualify Buyer as an assignee of the licenses, permits,

applications and authorizations listed on Exhibit 1.1B, or as an owner and/or operator of the Assets and the Station, and Buyer will not take any action which would cause such disqualification. Should Buyer become aware of any such facts, it will promptly notify Seller in writing thereof and use its best efforts to prevent any such disqualification.

4.6 Litigation. There is no judgment or order of any administrative body or court presently outstanding against Buyer and/or its affiliates, subsidiaries or parent corporation which might affect Buyer's ability to consummate the transactions contemplated by this Agreement (including without limitation timely payments of all amounts to become due under the Promissory Note) or which may question the validity of Buyer's execution of this Agreement or of any action taken or to be taken by Buyer pursuant to or in connection with any of the provisions of this Agreement and no such judgment or order is pending or, to the knowledge of Buyer, threatened.

ARTICLE V

CONDITIONS PRECEDENT

5.1 Conditions Precedent to Buyer's Obligation Hereunder. The obligations of Buyer to consummate the transactions contemplated by this Agreement are subject to satisfaction (unless waived in writing by Buyer) of the following conditions precedent:

- (a) Seller shall have performed and complied with all agreements set forth in this Agreement to be performed or complied with by Seller prior to or at the Closing including, without limitation, the agreements and conditions provided in Section 7.1(a).
- (b) All representations, warranties and covenants of the Seller in this Agreement shall be true and correct as of the date hereof and as of the Closing Date, unless otherwise provided by this Agreement.
- (c) All requisite consents by third parties, including the FCC and other government agencies and instrumentalities, to Seller's assignment to Buyer of the permits, licenses, leases, and other executory contracts of Seller requiring such consents, all as indicated on Exhibit 3.1, shall have been obtained.

(d) Buyer shall be able to obtain at Buyer's sole cost, if Buyer so elects, an Owner's Title Insurance Policy guaranteeing Buyer's title to all real property owned or leased by Seller in connection with its operation of the Station including, without limitation, the interests in real property described and referenced on Exhibit 1.1D attached hereto, subject only to the Permitted Encumbrances and the Standard Printed Exceptions.

5.2 Conditions Precedent to Seller's Obligations Hereunder. The obligations of Seller to consummate the transactions contemplated by this Agreement are subject to satisfaction (unless waived in writing by Seller) of the following conditions:

(a) Buyer shall have performed and complied with all agreements set forth in this Agreement to be performed or complied with by Buyer prior to or at the Closing including, without limitation, the agreements and conditions provided in Section 7.1(b).

(b) All representations, warranties and covenants of Buyer in this Agreement shall be true and correct as of the date hereof and as of the Closing Date, unless otherwise provided by this Agreement.

(c) All requisite consents by third parties, including the FCC and other government agencies and instrumentalities, to Seller's assignment to Buyer of the permits, licenses, leases, and other executory contracts of Seller requiring such consents, all as indicated on Exhibit 3.1, shall have been obtained.

(d) Seller shall be able to obtain at Seller's sole cost, if Seller so elects, a Mortgagee's Title Insurance Policy, in the amount of the Promissory Note, with respect to all real property covered by the Owner's Title Insurance Policy referenced in Section 5.1(d) hereof.

ARTICLE VI

FCC APPROVAL

6.1 FCC Approval and Procedure. It is understood that the Closing of this transaction is subject to prior written consent of the FCC including the grant by the FCC of any waivers required under the FCC's Rules and Regulations. The parties shall join in and file with the FCC, within three (3) days from the date hereof, a joint application requesting the FCC's written consent to the

assignment to Buyer as contemplated herein of the FCC permits and licenses and other authorizations for the Station (the "Application"). Each of the parties hereto shall diligently take or cooperate in the taking of all reasonable steps that are necessary or appropriate to expedite the prosecution and favorable consideration of the Application. Each party has been and shall be independently advised by its own counsel and each shall pay its own legal, engineering, accounting and/or other fees and expenses in connection with the preparation and prosecution of the Application and the transactions contemplated hereby, except as otherwise expressly provided herein. Seller will provide all local advertising required by the FCC with respect to the filing of the Application. The costs of publishing notice and any filing, grant or other fees which may be levied by the FCC in connection with this transaction will be paid one-half (1/2) by Seller and one-half (1/2) by Buyer.

6.2 Failure to Receive FCC Approval. If, within 60 days from the date of public notice by the FCC that the joint application referred to in Section 6.1 hereof has been accepted for filing by the FCC, the FCC shall have failed or refused to grant the written consent referred to in Section 6.1 hereof, then either of the parties hereto may terminate this Agreement upon at least ten (10) days written notice to the other; provided, however, that the Closing has not already taken place and such notice of termination is given prior to the date on which such consent shall have been granted and become a Final Order (as hereinafter defined); and provided further, that the party giving such notice shall not be in default under any provisions of this Agreement, which default is the basis for the failure or refusal of the FCC to grant such consent. After any such termination as provided in this Section 6.2, no party to this Agreement shall have any liability to any other party with respect to the subject matter hereof (except with respect to the last sentence of Section 6.1), and this Agreement shall be deemed to have no further force and effect.

6.3 Final Order. For the purpose of this Agreement, a "Final Order" shall mean action by which the FCC consents to the assignment as above described, which action is no longer subject to review or reconsideration by the FCC or to judicial review.

ARTICLE VII
CLOSING MATTERS

7.1 **Procedures.** Upon the satisfaction, or waiver in writing of satisfaction by the party entitled to the benefits thereof, of the conditions precedent set forth in Sections 5.1 and 5.2 hereof, respectively, Buyer and Seller shall cause the Closing to take place, as provided herein.

(a) At the Closing, the obligations of Seller shall be as follows (and the performance of such obligations shall be a condition to the obligations of Buyer to be performed at the Closing):

(i) Seller shall deliver to Buyer a certificate of one of Seller's executive officers confirming the matters referenced in Section 5.1(b) hereof;

(ii) Seller shall execute and deliver to Buyer the Bill of Sale and such other endorsements, assignments and instruments of conveyance in recordable form as may reasonably be requested by Buyer effectively to vest in Buyer good, indefeasible and unencumbered title, subject to the Permitted Encumbrances, in and to the Assets including, without limitation, the Special Warranty Deed and the Assignment of Leases;

(iii) Seller shall deliver to Buyer an Affidavit that Seller is not a "foreign person" (as defined in Internal Revenue Code Section 1445(f)(3) and regulations issued thereunder);

(iv) Seller shall deliver to Buyer true copies of duly adopted corporate resolutions authorizing this transaction in accordance with Section 3.1; and

(v) Seller shall, jointly with Buyer, deliver instructions to Broker regarding release of the deposits (in the aggregate amount of \$25,000 plus any interest and other income earned thereon) from escrow;

(b) At the Closing, the obligations of Buyer shall be as follows (and the performance by Buyer of such obligations shall be a condition precedent to the obligations of Seller to be performed at the Closing):

(i) Unless Buyer shall elect to pay the balance of the Purchase Price in cash as provided in Section 1.3(c), Buyer shall deliver to Seller the Promissory Note referred to in Section 1.3(b) hereof;

(ii) Buyer shall pay to Seller the amount stated in Section 1.3(b) in the manner set forth therein;

(iii) Buyer shall deliver to Seller a certificate of one of Buyer's executive officers confirming the matters referenced in Section 5.2(b) hereof;

(iv) Buyer shall execute and deliver to Seller the Assumption Agreement;

(v) Buyer shall deliver to Seller true copies of duly adopted corporate resolutions authorizing this transaction in accordance with Section 4.2;

(vi) Buyer shall, jointly with Seller, deliver instructions to Broker regarding release of the deposits (in the aggregate amount of \$25,000, plus any interest and other income earned thereon) from escrow;

(vii) Buyer shall execute and deliver to Seller (A) a Security Agreement substantially in the form of Exhibit 7.1A attached hereto (the "Security Agreement"), (B) a Deed of Trust substantially in the form of Exhibit 7.1B attached hereto, and (C) UCC-1 financing statements covering the Collateral (as defined in the Security Agreement); and

(viii) Buyer shall execute and deliver to Seller a Lease Agreement in the form of Exhibit 7.1C attached hereto.

7.2 Timing. All deliveries made and other acts performed at the Closing shall be deemed to have occurred simultaneously.

ARTICLE VIII

COVENANTS

8.1 Seller's Covenants and Agreements. Seller from and after the execution and delivery of this Agreement to and including the earlier to occur of the termination of this Agreement or Closing:

(a) Shall operate the Station and conduct the business thereof in the ordinary and usual course, subject to the restrictions contained in this Agreement, and substantially in accordance with past practices and the terms of the FCC permits and licenses and all applicable laws, rules and regulations, including those of the FCC;

(b) Shall not take any action which would in any material manner interfere with the carrying out of the transactions contemplated by this Agreement;

(c) Without Buyer's prior written consent, shall not make any arrangement for any new, additional or increased benefits plan or any similar plan relating to Seller's Employees or make any changes in management or personnel policies, including vacation policies;

(d) Without Buyer's prior written consent, shall not enter into any contract or commitment relating to the business of the Station or the Assets, except contracts or commitments entered into in the ordinary course of the business of the Station.

(e) Without Buyer's prior written consent, shall not enter into any agreements for the sale of time to advertisers or advertising agencies except upon rates consistent with those charged in the past by Seller in the ordinary course of business for similar agreements and shall not accept any prepayments for advertising services to be rendered after the Closing ;

(f) Without Buyer's prior written consent, shall not sell, transfer, convey, lease, mortgage, hypothecate or otherwise dispose of or encumber any material Assets except in the ordinary course of business of the Station;

(g) Shall use its reasonable best efforts in the ordinary course of business and to the extent consistent with its existing policies and practices, to maintain and preserve intact the organization and business of the Station and to preserve for Buyer the relationship and goodwill of its suppliers, advertisers, advertising agencies, Employees, listeners, and others having business relationships with the Station; and

(h) Upon three (3) business days' prior written notice, Seller shall give to Buyer and its counsel, accountants, engineers and other representatives reasonable access to all of Seller's properties, books, contracts, documents and records pertaining to the Station and the Assets,

and shall furnish Buyer with all such information concerning the affairs of Seller pertaining to the Station and the Assets as Buyer may reasonably request.

8.2 Covenant of Further Assurances. After the Closing, and without further consideration, each of Buyer and Seller shall execute, acknowledge and deliver such further instruments of conveyance, transfer, assumption of liabilities and record and take such other actions as the other may reasonably request in order to complete the transactions contemplated by this Agreement.

8.3 Access to Records Following Closing. Buyer agrees that for a period of two (2) years following the Closing Date it will, and will cause its counsel and independent public accountants to afford to representatives of Seller, including Seller's counsel and accountants, upon three (3) business days' prior written notice, reasonable access to all books, records, files, documents and all other information and data relating to the assets, properties, business and operations of the Seller relating to the operation of the Station prior to the Closing as Seller may from time to time reasonably request.

8.4 Assumption of Seller's Obligations Under Certain Agreements. On and after the Closing Date, Buyer will assume and perform the obligations of the Seller specified in Section 1.4 hereof and under those contracts and agreements and other commitments of the Seller itemized, described or referenced in Exhibit 1.1C attached hereto.

8.5 Survey. As soon as reasonably practical after the date of this Agreement, Buyer at its sole cost may obtain a survey (the "Survey") of the real property owned and/or leased by Seller in connection with the operation of the Station prepared by a licensed and registered surveyor acceptable to Buyer.

8.6 Title Commitment. As soon as reasonably practical after the date of this Agreement, Buyer at its sole cost may obtain an Owner's Title Policy Commitment dated after the date hereof relating to the real property owned and/or leased by Seller in connection with Seller's operation of the Station, the Title Commitment to specify all easements, liens, encumbrances, restrictions, conditions or covenants with respect to the real property owned and/or leased by Seller,

and shall also obtain true, complete and legible copies of all documents referred to as exceptions to title in the Title Commitment to the extent available.

8.7 Buyer's Title Objections. In the event any exceptions or other matters appear in the Title Commitment other than the Standard Printed Exceptions set forth in the Standard Texas Form of Commitment for Title Insurance, or in the event that the Survey shows any other matter that is unacceptable to Buyer in its reasonable judgment, Buyer shall, within ten (10) days after the last to be received of the Survey, the Title Commitment and true, complete and legible copies of all documents referred to in the Title Commitment as exceptions to title, notify Seller in writing of such fact and the reasons therefor ("Buyer's Title Objections"). Upon the expiration of said ten (10) day period, Buyer shall be deemed to have accepted all exceptions to title and all other matters shown on the Title Commitment and the Survey (except for the Buyer's Title Objections if same are timely raised) and such exceptions and matters shall be included in the term "Permitted Encumbrances" as used herein. If Seller is timely notified of Buyer's Title Objections, Seller shall use its reasonable efforts to cure and satisfy same; provided, however, nothing herein shall be construed to obligate Seller to bring any action or proceeding or to incur any expense in excess of \$1,000 to eliminate or cure Buyer's Title Objections. In the event Seller is unable to eliminate or cure Buyer's Title Objections to the satisfaction of Buyer within thirty (30) days following Seller's receipt thereof, Buyer may (as its sole and exclusive remedy) terminate this Agreement by notice in writing to Seller within ten (10) days following the expiration of such thirty (30) day period, and if such notice is not received by Seller within such ten (10) day period Buyer shall be deemed to have waived the Buyer's Title Objections and Buyer shall then accept such title as Seller can deliver without any reduction in the Purchase Price, in which event such uncured Buyer's Title Objections shall be included in the term "Permitted Encumbrances" as used herein. In the event of termination pursuant to this paragraph, the parties hereto shall have no further rights or obligations hereunder (except with respect to the last sentence of Section 6.1) ,and the \$25,000 in deposits (and all interest and other income earned thereon) shall be returned to Buyer.

ARTICLE IX
INDEMNIFICATION

9.1 Indemnification.

(a) **By Seller.** For a period of one year following the Closing Date, Seller shall indemnify, defend and save Buyer, its affiliates, successors, directors, officers and assigns, harmless against and from all liabilities, claims, losses, damages, costs and expenses (including reasonable attorneys' fees) resulting from (i) the conduct of business and operation by Seller of the Station prior to the Closing Date, and (ii) any misrepresentation or breach of any agreement, covenant or warranty by Seller contained in this Agreement. Furthermore, in no event shall Seller be liable to Buyer hereunder for any amount in excess of the Purchase Price.

(b) **By Buyer.** For a period of one year following the Closing Date, Buyer shall indemnify, defend and save Seller, its affiliates, successors, directors, officers and assigns harmless against and from all liabilities, claims, losses, damages, costs, and expenses (including reasonable attorneys' fees) resulting from (i) the operation by Buyer of the Station on and after the Closing Date, and (ii) any misrepresentation or breach of any agreement, covenant or warranty by Buyer contained in this Agreement.

9.2 Claims Pursuant to Indemnities.

(a) If any claim ("Asserted Claim") covered by the foregoing indemnities is asserted against any indemnified party ("Indemnitee"), the Indemnitee shall promptly give the other party ("Indemnitor") notice thereof and give Indemnitor an opportunity to control negotiations toward resolution of such claim without the necessity of litigation and, if litigation ensues, to defend the same with counsel reasonably acceptable to Indemnitee, at Indemnitor's expense, and Indemnitee shall cooperate fully in connection with such defense. Indemnitee shall be entitled to participate in, but not to control, the defense of an Asserted Claim resulting in litigation, at its own cost and expense, if such claim exceeds \$10,000. If Indemnitor fails to assume control of the negotiations prior to litigation or to assume the defense of such action in litigation within 30 days of the time Indemnitor receives notice from the Indemnitee of the

Asserted Claim, Indemnitee shall be entitled, but not obligated, to assume control of such negotiations or defense of such action, and Indemnitor shall be liable to Indemnitee for its expenses reasonably incurred in connection therewith, including reasonable attorneys' fees and disbursements;

(b) In the event that any Indemnitee shall have reasonably concluded that an action, suit or proceeding involves to a significant extent matters beyond the scope of the indemnity agreement contained in Section 9.1, the Indemnitor shall not have the right to direct the defense of such action, suit or proceeding on behalf of such Indemnitee and only that portion of fees and expenses reasonably related to matters covered by the indemnity agreement contained in Section 9.1 shall be borne by the Indemnitor;

(c) In the event that any Indemnitee shall have reasonably concluded that there may be defenses available to such Indemnitee which are different from or additional to those available to the Indemnitor, the Indemnitee shall be entitled to assume control of such defenses and the reasonable expenses incurred by Indemnitee in connection therewith shall be borne by the Indemnitor;

(d) The Indemnitee shall be kept fully informed of all actions, suits or proceedings at all stages thereof. The parties hereto agree to render to each other such assistance as they may reasonably require of each other in order to ensure the proper and adequate defense of any such action, suit or proceeding; and

(e) The Indemnitor shall not make any settlement of any claims without the written consent of the Indemnitee.

9.3 Remedies Cumulative. The remedies provided for in this Article IX shall be cumulative and shall not preclude assertion by the Indemnitee of any other rights or the seeking of any remedies against the Indemnitor.

ARTICLE X

MISCELLANEOUS PROVISIONS

10.1 **Notices.** All notices and other communications required or permitted to be given hereunder shall be in writing and shall be deemed to have been duly given when personally delivered or on the date postmarked when mailed by certified or registered mail, first class, postage prepaid, addressed:

If to Seller to:

Landrum Enterprises, Inc.
1905 West Loop
El Campo, Texas 77437
Attn: J. H. Landrum

With a copy to:

Andrews & Kurth
4200 Texas Commerce Tower
Houston, Texas 77002
Attn: Sarah W. Ray

If to Buyer to:

Chameleon Radio Corporation
10865 Rockley Road
Houston, Texas 77099
Attn: Don Werlinger

or to such other address as may hereafter be specified by written notice given by either party to the other.

10.2 **Applicable Law.** This Agreement has been executed and delivered in the State of Texas, and it shall be governed by and construed and enforced in accordance with the laws of said State (other than the choice of law principles thereof).

10.3 **Assignment.** Buyer shall have the right, upon written notice to Seller, to assign its interest under this Agreement to an "affiliate" of Buyer (as that term is defined in the regulations promulgated under the Securities Exchange Act of 1934). No other assignments of any interest by either party in this Agreement are permitted without the prior written consent of the other party.