

## PURCHASE AND SALE AGREEMENT

This AGREEMENT (the “*Agreement*”) dated as of June \_\_\_\_\_, 2009, is by and between **The Indiana District of the Lutheran Church, Missouri Synod, Inc.**, a Corporation doing business in the State of Indiana (“*Seller*”), and **Star Educational Media Network, Inc.**, an Indiana domestic non-profit Corporation (“*Purchaser*”).

### PRELIMINARY STATEMENTS

A. Seller is currently the owner of certain assets, and is the licensee and holder of valid and outstanding Federal Communications Commission (FCC) licenses and authorizations for Non-Commercial, Educational FM Broadcast Station WLAB (FCC Facility ID Number 28467), operating on FM Channel 202 (88.3 MHz) licensed to Fort Wayne, Indiana; and FM Translator W215BB (Facility ID Number 85973), operating on FM Channel 215 (90.9 MHz) licensed to Warsaw/Winona Lake, Indiana; and FM Translator W209BA (Facility ID Number 85934), operating on FM Channel 209 (89.7 MHz) licensed to Kendallville, Indiana; ( all of which are referred to hereinafter collectively as the “Station”).

B. Subject to all of the terms and conditions herein, Purchaser desires to purchase from Seller, and Seller desires to sell and assign to Purchaser, the Broadcasting Assets (as defined in Appendix I), including the Licenses, all assets, tangible and intangible, real, personal or mixed, the transmitter site leasehold, and all improvements thereon, equipment at the transmitter site, the studio/office building lease, studio equipment, donor funds on hand and receivable, donor databases and mailing lists, underwriting contracts, call signs, permits, copyrights and trademarks associated with the Station, all in accordance with the terms and subject to the conditions set forth herein.

C. Capitalized terms used and not otherwise defined herein shall have the meaning ascribed to them in Appendix I hereto.

NOW, THEREFORE, in consideration of the covenants contained herein and for other good, valuable and binding consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto intending to be legally bound hereby agree as follows:

### STATEMENT OF AGREEMENT

#### **I. Purchase of Broadcasting Assets, Purchase Price and Method of Payment**

1.1. Purchase of Broadcasting Assets. At Closing: (a) Seller shall assign and deliver to Purchaser, and Purchaser shall accept assignment from Seller of, the FCC Licenses; and (b) Seller shall sell, assign, transfer, convey and deliver to Purchaser, and Purchaser shall purchase from Seller, the other Broadcasting Assets, in each case free and clear of all Encumbrances, except for Permitted Encumbrances. The Closing shall take place on the Closing Date at the offices of the Seller, or at such other place as Purchaser and Seller may agree.

1.2. Purchase Price. For and in full consideration of the assignments, conveyances, and transfers of the Broadcasting Assets described herein, the total purchase price (the

“**Purchase Price**”) to be paid for the Broadcasting Assets shall be One Million Dollars (\$1,000,000.00). The Purchase Price shall be payable in the following manner:

1.2.1 Down Payment. Simultaneously with the execution of this Agreement, Purchaser shall deposit with the Escrow Agent the sum of Fifty Thousand Dollars (\$50,000.00) (the “Down Payment”), which shall be held by the Escrow Agent subject to and in accordance with the terms of the Escrow Agreement<sup>[DMS1]</sup> simultaneously entered into by the parties hereto and the Escrow Agent. At Closing, the Down Payment shall be released by the Escrow Agent to Purchaser as a portion of the Purchase Price pursuant to joint instructions of Seller and Purchaser to the Escrow Agent. Should the Closing not occur for any reason not attributable to Purchaser, the Down Payment and all accrued interest thereon will be returned to Purchaser.

1.2.2 Payment at Closing. At Closing, the remainder of the Purchase Price, the sum of Nine Hundred Fifty Thousand Dollars (\$950,000.00) constituting the remainder of the Purchase Price (adjusted for any prorations per Section 1.5 hereinbelow) will be paid by Purchaser to Seller by certified check or wire transfer of immediately available funds.

1.3. No Liabilities Assumed. Purchaser shall not and does not assume any Liabilities of Seller, other than those expressly set forth on Schedule 1.3 hereof (the “**Assumed Liabilities**”).

1.4. Allocation of Purchase Price. The Purchase Price shall be allocated among the Broadcasting Assets in accordance with an allocation schedule prepared by Purchaser and agreed to by Seller. Purchaser shall prepare the allocation schedule at or prior to Closing, and both Seller and Purchaser shall use such allocation for tax, accounting, and all other purposes.

1.5. Proration. Expenses for all taxes, assessments, utility bills, fees, and any prepaid and deferred items shall be prorated between Seller and Purchaser as of 12:01 a.m. on the Closing Date. Seller shall be responsible for all expense items that have accrued and/or are owing prior to the Closing Date (except to the extent Purchaser has expressly assumed such obligation), and Purchaser shall be responsible for such expense items that accrue and/or are owing on and after the Closing Date. Notwithstanding the foregoing, Purchaser shall be entitled to all donor funds on hand, regardless of when such funds were donated; donor funds pledged but receivable, regardless of when such pledges were made; and any and all outstanding underwriting contracts in effect as of the Closing Date, no matter when entered into. Purchaser shall also be entitled to other income attributable to the Station, or the operation of the Station after 12:01 a.m. on the Closing Date.

1.5.1 Determination. Adjustments or prorations, insofar as feasible shall be determined in accordance with GAAP and based upon Purchaser’s good faith calculation delivered to Seller for Seller’s approval no less than five days prior to the Closing Date and reasonably approved by Seller, with final settlement and payment by the appropriate party occurring no later than 60 days after the Closing Date (the “**Proration Period**”).

1.5.2 Taxes. If the amount of any tax or assessment to be prorated is not known on the Closing Date, such tax shall be apportioned on the basis of the most recent tax assessment.

1.6. Station Employees. Effective as of the close of business on the Closing Date, Seller shall terminate or redeploy all of Seller's employees engaged in the operation of the Station and, if so terminated, will pay such terminated employees all compensation, including but not limited to, wages, commissions, bonuses and accrued vacation pay or compensation for unused sick leave, if any, earned or accrued up to the time of termination, including overtime pay. Seller, in accordance with all applicable laws, shall notify such terminated employees prior to the Closing that as of such date they shall cease to be employees of the Station. Purchaser may, in its sole discretion, extend at Closing to some or all of the Station's terminated employees an offer of employment for hire in accordance with Purchaser's standard hiring practices; provided that Purchaser shall be under no obligation to offer employment to any of the Station's terminated employees.

1.7 Collection of Pledged funds receivable and underwriting contract receivables. Purchaser shall collect funds receivable attributable to the operation of the Station and Seller shall have no obligation with respect thereto. Funds contributed by donors and/or underwriters prior to the Closing Date will be acknowledged for IRS purposes under the Seller's tax exemption and amounts contributed by donors/underwriters on or after the Closing Date will be acknowledged for IRS purposes by Purchaser. Not more than thirty (30) days prior to Closing, Seller shall notify all donors and underwriters that their pledges and/or underwriting agreements are being assigned to Purchaser, and if required, seek their authorization to disclose their private information to Purchaser. Purchaser and Seller shall cooperate in preparing and agree upon the text of said notice to Seller's donors and underwriters.

## **II. Certain Regulatory Matters**

2.1. Application for FCC Consent. Seller and Purchaser will jointly file, as soon as reasonably practicable but in any event not later than five (5) business days after the execution and delivery of this Agreement, with the FCC one or more application(s) requesting the consent of the FCC to the assignment of the FCC Licenses from Seller to Purchaser (the "Assignment Application").

2.2. Cooperation and Notification Regarding FCC Approval. Seller and Purchaser shall prosecute the Assignment Application before the FCC, including opposing any petitions to deny or other objections filed against any of the Applications, with all reasonable diligence, in order to obtain the FCC Consent promptly and in order to carry out the provisions of this Agreement.

2.2.1 If FCC reconsideration or review, or if judicial review, is sought with respect to the Applications or the FCC's consent thereof, by a third party or upon the FCC's own motion, Seller and Purchaser shall cooperate in opposing such requests for FCC reconsideration or review or for judicial review.

2.2.2 Each party shall notify the other party hereto in the event it is or becomes aware of any facts or circumstances that could delay or otherwise affect the FCC approval process or the transactions contemplated by this Agreement. Each of Seller and Purchaser shall make available to the other, promptly after the filing thereof, copies of all reports filed by it on or prior to the Closing Date with the FCC in respect of the Station.

2.2.3 If any FCC consent imposes any condition upon either party hereto, such party shall use its commercially reasonable efforts to comply with such condition. If either party to this Agreement seeks FCC reconsideration or review, or judicial review, of a materially adverse condition imposed by the FCC, the other party shall cooperate fully with the party seeking reconsideration or review of such condition; provided, however, that neither party shall seek or cause to be sought, without the prior written consent of the other party, which consent shall not be unreasonably withheld, FCC reconsideration or review, or judicial review, of any condition or qualification that is not a materially adverse condition. For purposes of this Agreement, a “materially adverse condition” shall not include any condition generally applicable to the broadcast industry or a transaction of this kind.

2.3. Other Applications. The Seller will cooperate with Purchaser in timely filing, on a schedule to be determined by Purchaser, any reasonably necessary or appropriate applications or notices with the FCC. Notwithstanding the foregoing, any application(s) Purchaser seeks to file shall be expressly contingent upon the grant of the Assignment Application and shall be at Purchasers sole cost and expense.

### **III. Representations and Warranties of Seller**

Seller represents and warrants to Purchaser as follows (for purposes of this Agreement, the term “knowledge” or “known” when used with regard to Seller means the actual knowledge of Seller, its agents, principals and employees, on the date hereof and until the Closing Date):

3.1. Organization and Standing. Seller is duly organized, validly existing and in good standing under its jurisdiction of organization. Seller has full power and authority to own and sell or assign the FCC Licenses and the other Broadcasting Assets, to transact the business of operating the Station in which it is currently engaged, and to perform all obligations required to be performed by it hereunder and to consummate the transactions contemplated hereby. Seller is duly qualified to do business in each jurisdiction in which the nature of the business conducted by Seller with respect to the Station requires such qualification, except where the failure to be so qualified would not have a Material Adverse Effect.

3.2. Authorization and Binding Obligations. The execution, delivery and performance by Seller of this Agreement and the instruments contemplated hereby have been, or will by the Closing Date be, duly and validly authorized by all necessary corporate actions and constitute valid and binding agreements of Seller enforceable in accordance with their terms, except as such enforceability may be limited by bankruptcy, insolvency, moratorium or other laws relating to or affecting creditors’ rights generally and the exercise of judicial discretion in accordance with general equitable principles.

3.3. No Contravention; Consents.

3.3.1. No Contravention. The execution, delivery and performance of this Agreement and the other documents to be executed in connection herewith, the consummation of the transactions contemplated hereby and thereby and the compliance with the provisions hereof and thereof by Seller do not: (i) conflict with or violate any provisions of the charter documents

or bylaws of Seller; (ii) result in the breach of, constitute a default under, conflict with or result in the termination or alteration of, the provisions of any agreement or other instrument to which Seller is a party or by which the property of Seller is bound or affected, or result in the creation of any Encumbrance upon any of the Broadcasting Assets; or (iii) violate or conflict with any material laws, regulations, orders, writs, injunctions, decrees or judgments applicable to Seller (with respect to the Station) or any of the Broadcasting Assets.

3.3.2. Consents. Except as identified on Schedule 3.3.2 and FCC consent, no consent, waiver, authorization or approval from, or filing of any notice or report with, any Governmental Authority or other Person is necessary in connection with the execution, delivery or performance by Seller of this Agreement or any of the documents or transactions contemplated hereby.

3.4. Title to the Broadcasting Assets and Licenses. Seller has good, valid and marketable title to, or valid license interests in, the Broadcasting Assets and Licenses to be sold, assigned or transferred by it hereunder, which in each case as of the Closing shall be free and clear of all mortgages, deeds of trust, security interests, pledges, liens, charges, adverse claims, unsatisfied judgments, and any encumbrances of any kind (collectively, “**Encumbrances**”), other than Permitted Encumbrances specifically listed herein.

3.5. Licenses and Authorizations.

3.5.1. Licenses. Schedule 3.5 hereto contains a true and complete list of all FCC Licenses. Seller is the authorized and legal holder of the FCC Licenses. The FCC Licenses comprise all of the licenses, permits and other authorizations necessary under the law to conduct the business and operations of the Station in the manner and to the full extent they are now being conducted, and none of the Licenses is subject to any restriction or condition which would limit the full operation of the Station as presently operated (other than restrictions under the terms of such Licenses themselves or generally applicable to broadcast radio Station under the rules and regulations of the FCC). The Seller’s conduct of the business and operations of the Station has been in accordance with the FCC Licenses. The Station is currently and will on the Closing Date be in compliance in all material respects with the Communications Act of 1934, as amended, and the rules, regulations and policies of the FCC and the Federal Aviation Administration (FAA).

3.5.2. Authorizations. The FCC Licenses are valid and in full force and effect, and have been complied with in all material respects. No investigation, notice of investigation, notice of apparent liability, notice of violation, forfeiture, order, complaint, action or other proceeding is pending or, to the knowledge of Seller, threatened before the FCC or any other Governmental Authority to vacate, revoke, suspend, refuse to renew or modify the FCC Licenses or which could in any manner threaten or adversely affect the FCC Licenses. The FCC Licenses have been renewed in the ordinary course for a full renewal term, without adverse conditions. To the knowledge of Seller, no facts exist and no event has occurred which may result in the revocation, modification, non-renewal or suspension of any of the FCC Licenses; the denial of any pending applications; the issuance of any cease and desist order, the imposition of any administrative actions by the FCC with respect to the FCC Licenses, or which may adversely affect Purchaser’s ability to operate the Station upon consummation of the Closing in accordance with the Licenses and the FCC’s rules and regulations.

3.6. Litigation; Violations. Except for administrative rulemaking or other proceedings of general applicability to the broadcast industry: (a) there is no proceeding or investigation of any nature pending or, to the best of Seller's knowledge, threatened against Seller (in relation to the Station), the FCC Licenses or affecting the same; and (b) no writ, decree, or similar instrument has been rendered or is pending against Seller which would materially and adversely affect the Licenses or the Broadcasting Assets or Seller's ability to perform under this Agreement. There are no claims, actions, suits, inquiries, hearings or investigations pending, or to the best knowledge of Seller, threatened, disputing Seller's ownership of the Station or the Broadcasting Assets.

3.7. Reports. Except as otherwise disclosed in Exhibit 3.5.2., all material reports and other filings currently required to be filed by Seller with the FCC or with any other federal, state, or local governmental agency with respect to the Licenses have been timely filed and complied with and shall continue to be timely filed and be in compliance on a current basis until the Closing Date. All such reports and other filings are (or will be, in the case of future reports) complete and correct as filed in all material respects.

3.8. Taxes. Seller has filed or caused to be filed all returns, declarations of estimated taxes, reports, statements and information statements ("***Tax Returns***") required to be filed by Seller with any taxing authority prior to the date hereof with respect to the Licenses and the Broadcasting Assets, and any such Tax Returns required to be filed after the date hereof but prior to Closing will be filed on or prior to Closing. Seller has paid or caused to be paid any and all Taxes due and payable by Seller with respect to the Licenses and the Broadcasting Assets, and any such Taxes required to be paid after the date hereof but prior to Closing will be paid on or prior to Closing that, if due and not paid, would interfere with Purchaser's full enjoyment of the Broadcasting Assets after Closing, excepting such taxes, assessments, and other levies as will not be due until after the Closing Date and that are to be prorated between Seller and Purchaser pursuant to Section 1.5. No federal, state, local or foreign audits or other administrative or court proceedings are presently pending with regard to any Tax Returns or Taxes of Seller relating to the Licenses and the Broadcasting Assets and Seller has not received written notice from any governmental authority of the expected commencement of such proceedings. There are no liens for unpaid Taxes on the Licenses or the Broadcasting Assets.

3.9. Environmental. Seller represents and warrants that to Seller's knowledge, all activities of Seller with respect to the operation of the Station have been and are being conducted in material compliance with all Environmental Laws. As used herein, (i) the term "Environmental Laws" shall mean any and all state, federal, and local statutes, regulations and ordinances relating to the protection of human health and the environment, and including any historic preservation obligations.

3.10. Disclosure. No representation, warranty or statement made in this Agreement by Seller, and no reports, financial documents, financial reports, data concerning the Station, or its operation, furnished by or on behalf of Seller in connection with this transaction, or in connection with the due diligence conducted heretofore by Purchaser which induced Purchaser to enter into this Agreement or any related transactions between the parties, contains or will contain any untrue statement of material fact or omits to state a material fact necessary in order to make the statements contained herein, in light of the circumstances in which they were made, true and not materially misleading.

3.11. Books and Records. The books and records of the Station are, to the knowledge of Seller, true and correct in all material respects. The records required to be kept by the FCC rules, include all originals and/or copies of all FCC Licenses and Station logs in the possession of Seller as of the Closing Date.

3.12. Real Property. Schedule 1.1(a) describes all interests, including all leasehold interests, in Real Property included in the Broadcasting Assets and the nature of the right, title, or interest that Seller has in such real estate. Seller has delivered to Purchaser a copy of all leases currently existing in which Seller is the Lessee with respect to the operation of the Station. Seller's current use of the real property does not violate in any material respect any of the leases or obligations of Seller thereunder.

3.13. Contracts. Schedule 1.1(d) (Assumed Contracts), lists all material contracts, commitments, agreements, equipment leases, licenses (other than the Licenses), understandings and obligations to which Seller is party or by which Seller or the Broadcasting Assets are bound, that are material and used or useful exclusively in the operation of the Stations and which Purchaser has agreed to assume as Assumed Contracts. Except as noted on Schedule 1.1(d), Seller has delivered to Purchaser true and complete copies of all written Assumed Contracts and true and complete memoranda of all oral Assumed Contracts, including any and all amendments and other modifications thereto. Each of the Assumed Contracts is valid, binding and enforceable in accordance with its terms, except that enforceability thereof may be limited by bankruptcy, insolvency, reorganization or other similar laws affecting creditors' rights generally and by principles of equity regarding the availability of remedies, and is in full force and effect. Seller knows of no existing defaults, and to the best of Seller's knowledge no events or circumstances have occurred which, with or without notice or lapse of time or both, would constitute defaults, under any of the Assumed Contracts which would individually or in the aggregate have a Material Adverse Effect.

3.15. Compliance with Decrees and Laws. There is not outstanding or, to the best knowledge of Seller, threatened, any order, writ, injunction or decree of any court, governmental agency or arbitration tribunal against or involving Seller (relating to the Station) or, to the knowledge of Seller, the other Broadcasting Assets.

#### **IV. Representations and Warranties of Purchaser**

Purchaser represents, warrants and covenants to Seller that:

4.1. Organization and Standing. Purchaser is a nonprofit corporation duly organized, validly existing and in good standing under the laws of the jurisdiction of its organization. Purchaser has full power and authority to own its properties and to transact the business in which it is currently engaged and to perform the obligations required to be performed by it hereunder and to consummate the transactions contemplated hereby. Purchaser is duly qualified to do business and is in good standing in every jurisdiction in which the nature of the business conducted by it requires such qualification.

4.2. Authorization and Binding Obligations. The execution, delivery and performance by Purchaser of this Agreement and the instruments contemplated hereby have been, or as of the Closing Date will be, duly and validly authorized by all necessary corporate actions and

constitute valid and binding agreements of Purchaser enforceable in accordance with their terms except as such enforceability may be limited by bankruptcy, insolvency, moratorium or other laws relating to or affecting creditors' rights generally and the exercise of judicial discretion in accordance with general equitable principles.

4.3. No Contravention. The execution, delivery and performance of this Agreement and the other documents to be executed in connection herewith, the consummation of the transactions contemplated hereby and thereby and the compliance with the provisions hereof and thereof by Purchaser do not and will not, after the giving of notice, or the lapse of time, or otherwise: (i) conflict with or violate any provisions of the organizational documents of Purchaser; (ii) result in the breach of, conflict with, or constitute a default under, the provisions of any agreement or other instrument to which Purchaser is a party or by which the property of Purchaser is bound or affected; or (iii) violate or conflict with any laws, regulations, orders, writs, decrees, injunctions or judgments applicable to Purchaser, including FCC regulations, or require any partner consent or consent under applicable law.

4.4. Litigation. Except for administrative rulemaking or other proceedings of general applicability to the broadcast industry, there is no proceeding or investigation of any nature pending or, to the best of Purchaser's knowledge, threatened against or affecting Purchaser that would adversely affect Purchaser's ability to consummate the transactions contemplated in this Agreement.

4.5. Financial Qualification. Purchaser is financially qualified to perform all obligations under this Agreement, and has either funds on hand, or firm commitments from lenders, sufficient to assure the availability and payment of the Purchase Price and any and all other amounts which Purchaser will be obligated to pay to Seller hereunder on or before the Closing Date and thereafter.

4.6. FCC Matters. Purchaser is legally qualified under FCC rules and policies to become the licensee of the Station. There is no fact known to Purchaser that, under the Communications Act, reasonably may be expected to disqualify Purchaser from holding the FCC Licenses, or that would prevent Purchaser from consummating the transactions contemplated by this Agreement. Purchaser shall take no action that would reasonably be likely to cause disqualification prior to the Closing Date. Purchaser is able to certify to the FCC that it is legally, financially and otherwise qualified to be the licensee of the Station.

## **V. Station Equipment**

Purchaser is satisfied with the condition of the station's equipment as of the date of this Agreement. Should there be any material change in the condition of the equipment between the date hereof and the Closing Date, Seller shall, in its sole discretion, repair or replace such equipment (with equipment of comparable quality and value). In the event the equipment cannot be repaired or replaced prior to Closing, the cost of such repair or the reasonable cost of replacement of equipment will be deducted from the purchase price at Closing as provided in Article X hereof

## **VI. Conduct of Business to Closing**

Seller and Purchaser covenant and agree that pending the Closing:

6.1. Operation of Station. Subject to the provisions of this Agreement, Seller shall continue to operate the Station in the normal and ordinary course and shall use all reasonable efforts to avoid any act that might have a Material Adverse Effect upon the Broadcasting Assets, the Licenses, or the transaction contemplated hereby. Seller shall not, without the prior written consent of Purchaser, transfer the FCC Licenses or any of the other Broadcasting Assets except that Seller shall have the right to replace the Station's equipment and other personal property in the ordinary course of business with equipment or personal property serving the same function and of equal or greater value. For the purposes of this Agreement, "**transfer**" shall be interpreted broadly and shall include but not be limited to any sale, gift, assignment or other disposition, including any disposition under judicial order, legal process, execution, attachment or enforcement of a pledge, trust or other encumbrance. Nor shall Seller, prior to Closing, engage in any reorganization or change of its structure so as to constitute a transfer of control as defined by FCC rules and policies with respect to the Licenses, without the prior consent of Purchaser.

6.2. Litigation and Proceedings. Seller shall notify Purchaser promptly of: (i) any litigation or proceeding commenced, pending or, to its knowledge, threatened, against Seller, the Station, the Licenses or the other Broadcasting Assets which challenges the transactions contemplated hereby or could otherwise have a Material Adverse Effect on the transactions contemplated hereby, and (ii) any material damage to or destruction of the Broadcasting Assets.

6.3. Agreements. Seller shall perform all material obligations required to be performed by it under all contracts, and shall not, without Purchaser's consent, enter into any new agreements pertaining to the operation of the Station which would be binding on Purchaser or the Broadcasting Assets on and after Closing and which would affect the programs aired on the Station.

6.4. Third Party Consents. Except as specified on Schedule 1.1.(d), there are no third party consents required in connection with the assignment of any of the Broadcast Assets to Purchaser.

6.5. No Breach of Representations and Warranties. Neither Seller nor Purchaser shall intentionally take any action or pursue any other course of conduct, or fail to take any action, that would cause any of its representations and warranties made in this Agreement to be untrue, incorrect or inaccurate in any material respect when made, or to become untrue, incorrect or inaccurate thereafter. Purchaser shall not take any action or pursue any course of conduct, or fail to take any action, that would cause any of Seller's representations and warranties made in this Agreement to be untrue, incorrect or inaccurate in any material respect when made, or to become untrue or inaccurate thereafter.

6.6. Temporary FCC Actions and Freezes. Purchaser and Seller expressly agree that in the event that the FCC institutes a freeze or takes similar action with respect to FCC applications or filings generally (as opposed to a specific action taken by the FCC with respect to this transaction or the Licenses), then any obligations of the parties or deadlines contained herein that are impacted or affected by such FCC freeze or similar action shall automatically be

extended for a period of time equal to the period of time that such FCC freeze or similar action is in effect, provided that such extended time period shall not exceed 12 months. No such delay shall create any default on the part of either party hereto.

## **VII. Conditions Precedent to the Obligations of the Parties**

7.1. Conditions To Seller's Obligation To Close. The obligations of Seller to sell, transfer, convey and deliver the Broadcasting Assets and to proceed with the Closing are subject to the satisfaction at or prior to the Closing of each of the following conditions (unless waived in writing by Seller, with the exception of Section 7.1.1, which cannot be waived):

7.1.1. FCC Consent. The FCC shall have granted Final[DMS2] consent to the assignment of the Licenses from Seller to Purchaser .

7.1.2. Consideration. Purchaser shall have delivered to Seller, in accordance with Section 1.2 hereof, the Purchase Price, and shall provide the consideration specified therein, except to the extent that such consideration is to be provided after Closing.

7.1.3. Accuracy of Representations and Warranties. The representations and warranties made herein by Purchaser shall be true and correct in all material respects when made and on and as of the Closing Date with the same force and effect as though made on and as of the Closing Date.

7.1.4. Compliance with Agreement. All of the terms, agreements, covenants and conditions of this Agreement to be performed or complied with by the Purchaser on or prior to the Closing shall have been duly performed or complied with.

7.1.5. No Obstructive Proceeding.

7.1.5.1. No Litigation. No action, suit, investigation, or proceeding shall have been instituted or be pending against any of the parties to this Agreement or any of their Affiliates before any Governmental or Judicial Authority to restrain or prohibit, or to obtain substantial damages in respect of, this Agreement or the consummation of the transactions contemplated hereby, which may reasonably be expected to result in a preliminary or permanent injunction against consummating the transactions contemplated hereby or, if the transactions contemplated hereby were consummated, an order to nullify or render ineffective this Agreement or such transactions, or a Material Adverse Effect on Seller or Purchaser's operation of the Station, or any of them. Neither Purchaser nor Seller is aware of any such action, suit, investigation or proceeding, or the threat of such, as of the date of this Agreement.

7.1.5.2. No Governmental Intervention. Neither of the parties to this Agreement shall have received written notice from any Governmental Authority of: (i) its intention to institute any action or proceeding to restrain or enjoin or nullify or render ineffective this Agreement or the transactions contemplated hereby if consummated, or commence any investigation into the consummation of this Agreement and the transactions contemplated hereby; or (ii) the actual commencement of such an investigation.

7.1.5.3. No Order. No order, decree or judgment of any Governmental Authority shall be subsisting against any of the Parties which would render it unlawful or materially restrain or limit the Parties' ability, as of the Closing Date, to effect the transactions contemplated hereunder in accordance with the terms hereof or Purchaser's ability to operate the Station as presently being conducted or as proposed to be operated by Purchaser.

7.1.6. Officers' Certificates. Purchaser shall have delivered a certificate signed by an authorized officer of Purchaser, to the effect that the conditions set forth herein have been satisfied.

7.1.7. Lender Consent. There are no lender consents required by Seller in order to consummate the transaction pursuant to this Agreement.

7.2. Conditions To Purchaser's Obligation To Close. The obligations of Purchaser to purchase the Broadcasting Assets and to proceed with the Closing are subject to the satisfaction at or prior to the Closing of each of the following conditions (unless waived in writing by Purchaser, with the exception of Section 7.2.1, which cannot be waived):

7.2.1. FCC Consent. The FCC shall have granted Final consent to the assignment of the Licenses from Seller to Purchaser.

7.2.2. Transfer of Documents. Purchaser shall have received the instruments and other documents (in form and substance reasonably satisfactory to its counsel) required to be delivered to it pursuant to Section 8.1 hereof.

7.2.3. Accuracy of Representations and Warranties. The representations and warranties made herein by Seller shall be true and correct in all material respects when made and on and as of the Closing Date with the same force and effect as though made on and as of the Closing Date.

7.2.4. Compliance with Agreement. All of the terms, agreements, covenants and conditions of this Agreement to be performed or complied with by Seller on or prior to the Closing shall have been duly performed or complied with.

7.2.5. No Obstructive Proceeding.

7.2.5.1. No Litigation. No action, suit, investigation, or proceeding shall have been instituted or be pending against any of the parties to this Agreement or any of their Affiliates before any Governmental or Judicial Authority to restrain or prohibit, or to obtain damages in respect of, this Agreement or the consummation of the transactions contemplated hereby which may reasonably be expected to result in a preliminary or permanent injunction against consummating the transactions contemplated hereby or, if the transactions contemplated hereby were consummated, an order to nullify or render ineffective this Agreement or such transactions, or a Material Adverse Effect on the Broadcasting Assets.

7.2.5.2. No Governmental Intervention. Neither of the parties to this Agreement shall have received written notice from any Governmental Authority of: (i) its intention to institute any action or proceeding to restrain or enjoin or nullify or render ineffective

this Agreement or the transactions contemplated hereby if consummated, or commence any investigation into the consummation of this Agreement and the transactions contemplated hereby; or (ii) the actual commencement of such an investigation.

7.2.5.3. No Order. No order, decree or judgment of any Governmental Authority shall be subsisting against any of the Parties that would render it unlawful or materially restrain or limit Purchaser's ability, as of the Closing Date, to effect the transactions contemplated hereunder in accordance with the terms hereof or to operate the Station as presently being conducted.

7.2.6. Officers' Certificates. Seller shall have delivered a certificate signed by an authorized officer of Seller, to the effect that the conditions set forth in herein have been satisfied.

7.2.7. Secretary's Certificate. Seller shall have delivered to Purchaser (a) a copy of a resolution of the Board of Directors, or other applicable governing body of Seller authorizing the sale of the Broadcasting Assets, and (b) certificates of good standing or the equivalent thereof for Seller for the State of Indiana (unless waived by Purchaser).

7.2.8. FCC Matters. On the Closing Date, Seller shall be the owner and holder of the Licenses to the extent that such licenses can be owned or held by Seller under the Communications Act, and the Licenses shall be in full force and effect, valid for the balance of the current license term applicable generally to Non-Commercial, Educational FM Broadcast Stations licensed to communities located in the State of Indiana. Seller shall not have acted or failed to act which resulted in the expiration, revocation, suspension or modification of any of the FCC Licenses, other than those actions taken to effect the assignment of the Licenses to Purchaser in accordance with Sections 2.1 and 2.2 hereof .

7.2.9. No Material Adverse Effect. There shall have been no Material Adverse Effect related to the operation of the Station, the Broadcasting Assets or the Licenses as the result of events first occurring between the date of this Agreement and the Closing Date.

## **VIII. Instruments of Conveyance and Transfer**

8.1. Instruments of Conveyance and Transfer of Personal Property. At the Closing, to effect the transfers, conveyances and assignments from Seller to Purchaser, Seller shall deliver to Purchaser the following, all in form reasonably satisfactory to counsel for each of Seller and Purchaser, and dated as of the Closing Date:

8.1.1. Bills of Sale. Bills of sale for all tangible personal property included in the Broadcasting Assets;

8.1.2. Assignments of Licenses. Assignments of the Licenses and all other authorizations for Seller included in the Broadcasting Assets;

8.1.3. Other Documents. Such other instruments or documents as Purchaser may reasonably request to effect the transfer to Purchaser of the real and personal property

included in the Broadcasting Assets to be transferred, not inconsistent with the obligations of Seller under this Agreement.

### **IX. Risk of Loss; Insurance**

The risk of any loss, damage or impairment, confiscation or condemnation of the Broadcasting Assets or any part thereof from fire, explosion, disaster, flood, accident, riot, insurrection, war, act of God or other similar occurrence shall be borne by Seller at all times prior to the Closing and by Purchaser at all times thereafter. In any such event, the proceeds of, or any claim for any loss payable under, any insurance policy, claim, judgment or award with respect thereto (collectively, the “*Proceeds*”) shall be applied toward the repair, replacement or restoration of such Broadcasting Assets as soon as possible after its loss, impairment, confiscation or condemnation.

### **X. Event of Loss**

In the event that any loss or damage referred to in Article -IX (which individually or in the aggregate has a Material Adverse Effect on the Broadcasting Assets) shall not be restored, replaced or repaired by the Closing Date, Purchaser shall (to the extent all the other representations, warranties, covenants and conditions hereof shall have been satisfied) proceed with the Closing, but the Purchase Price shall be reduced by an amount equal to the fair market value of the loss or damage, less any investment by Seller of any insurance proceeds or other monies toward restoration, repair or replacement of the assets. Such fair market value shall be the replacement value of such Broadcasting Asset as agreed to by the parties.

### **XI. Books and Records**

Purchaser shall be entitled to all records relating to the Broadcasting Assets, including but not limited to, technical information and engineering data, FCC logs, asset history files, and other files, documents and correspondence of Seller relating to the Broadcasting Assets prior to the Closing Date.

### **XII. Possession and Control of Station**

Notwithstanding any other provision of this Agreement, between the date of this Agreement and the Closing Date, Purchaser shall not directly or indirectly control or attempt to control the operations of the Station, and the conduct of such business operations, including control and supervision of programming, shall be the sole responsibility of, and in the complete discretion and independent and separate control of, Seller. Neither title to, nor right to possession of, the Broadcasting Assets shall pass to Purchaser until the Closing Date. Seller will institute no management changes between the date hereof and the Closing date without Purchaser’s advance consent. There will be no material change in station operations between the date hereof and the Closing Date.

### **XIII. Brokers**

Seller represents and warrants to Purchaser that it has engaged Patrick Communications as media broker in connection with this Agreement and the transactions contemplated herein, and no other broker, finder or consultant. Purchaser represents and warrants to Seller that it has engaged Jorgenson Broadcast Brokerage, Inc. in connection with this Agreement and the transactions contemplated herein and no other broker, finder or consultant. Seller and Purchaser each agree to compensate their respective media brokers for their services, and to indemnify and hold the other party harmless from any and all loss, cost, liability, damage and expense (including legal and other expenses incident thereto) in respect of any claim for a broker, finder or consultant's fee or commission or similar payment by virtue of any alleged agreements, arrangements or understandings with the indemnifying party.

### **XIV. Survival; Indemnification**

14.1. Survival. The several representations, warranties and covenants of the Parties contained in this Agreement shall be deemed to have been made on the date of this Agreement and on the Closing Date, shall survive the Closing Date and shall remain operative and in full force and effect for a period of twelve (12) months after the Closing Date.

14.2. Seller's Indemnification. After the Closing, and subject to this Section 14.2, Seller agrees to indemnify, defend and hold Purchaser harmless from and against: any and all Liabilities, known or unknown, actions, suits, proceedings, demands, assessments, judgments, costs and expenses (including reasonable legal and other expenses incident thereto) (collectively, "**Losses**") resulting from causes of action or claims of any kind (excluding any and all claims and liabilities arising or resulting from a breach of any of Seller's representations or warranties or from an inaccuracy in any of Seller's representations hereunder) arising from (a) any untrue representation, breach of warranty, or nonfulfillment of any covenant by Seller contained herein, (b) Seller's operation of the Station and ownership of the Broadcasting Assets prior to Closing, and (c) any and all contracts, agreements, liabilities and obligations of Seller not included in the Assumed Liabilities.

14.3 Purchaser's Indemnification. After the Closing, and subject to this Section 14.3, Buyer agrees to indemnify, defend and hold Seller harmless from and against any and all Losses resulting from causes of action or claims of any kind (excluding any and all claims and liabilities arising or resulting from a breach of any of Purchaser's agreements and warranties or from any inaccuracy in any of Purchaser's representations hereunder) arising from (a) any untrue representation, breach of warranty, or nonfulfillment of any covenant by Purchaser contained herein, (b) Purchaser's operation of the Station and ownership of the Broadcasting Assets on and after Closing and (c) the Assumed Liabilities and any and all liabilities and obligations of Purchaser before and after the Closing.

14.4 Exclusive Remedy. After the Closing, the exclusive remedy of the Parties with respect to any claim of the type described in Sections 14.2 and 14.3 shall be a claim for indemnification pursuant to the terms and conditions of this Article XIV, except in the case of fraud.

## **XV. Default; Termination**

15.1. Default and Cure. If prior to Closing either Party believes the other party to be in material breach or default of its representations, warranties, covenants or obligations hereunder, the non-defaulting party may provide the defaulting party with notice specifying in reasonable detail the nature of such breach or default. If such breach or default cannot be cured, or has not been cured by the earlier of (i) the Closing Date, or (ii) within thirty (30) calendar days after delivery of such notice, then the non-defaulting party giving such notice may (x) terminate this Agreement in accordance with Section 15.2 below or (y) extend the Closing Date by ten (10) business days to permit such cure (but no such extension shall constitute a waiver of the non-defaulting party's right to terminate as a result of such default). Such rights are contingent upon the giving of such notice.

15.2. Termination. This Agreement may be terminated at any time prior to Closing as follows:

15.2.1. Mutual Consent. This Agreement may be terminated by mutual written consent of Seller and Purchaser.

15.2.2. Seller. This Agreement may be terminated on notice by Seller (i) pursuant to Section 15.1 hereof provided Seller is not then in material breach of this Agreement, or (ii) if both the Purchaser and Seller agree that any condition set forth in Section 7.1 (other than Section 7.1.1) cannot be met and has not been waived.

15.2.3. Purchaser. This Agreement may be terminated on notice by Purchaser (i) pursuant to Section 15.1 hereof provided Purchaser is not then in material breach of this Agreement; or (ii) if both the Purchaser and Seller agree that any condition set forth in Section 7.2 (other than Section 7.2.1) cannot be met and has not been waived. 15.2.4. Passage of Time. This Agreement will terminate automatically, unless extended by mutual agreement of the Parties hereto, if Final FCC Consent to assign the Licenses for the Station has not been granted within twelve (12) months of the date of this Agreement, provided that at that time, neither party is in material breach of any provision of this Agreement.

15.3. Effect of Termination. In the event of termination of this Agreement pursuant to Section 15.2, this Agreement shall forthwith become void and the parties shall be released and discharged from any further obligation hereunder except that (i) the agreements, rights and obligations contained in this Article XV (Termination) and in Articles XVI (Confidentiality) and XVII (Miscellaneous) hereof shall survive the termination hereof, and (iii) in the case of fraud in which case such fraudulent party shall be liable for Losses incurred or suffered by the other party as a result of such fraud.

15.4. Remedies; Specific Performance. The Parties hereby agree that, in the event of a material breach of this Agreement by Seller, Purchaser shall be entitled to either (i) specific performance of the obligations of Seller under this Agreement or (ii) termination of this Agreement in accordance with Section 15.2.3 above, which shall be Purchaser's sole remedies hereunder absent Seller's fraud. The Parties hereby further agree that if this Agreement is terminated for any reason other than pursuant to Section 15.2.2(i) as a result of Purchaser's

breach or pursuant to Section 15.2.4, Seller shall be entitled to distribution of the Down Payment as liquidated damages, which shall be Seller's sole remedy hereunder.

## **XVI. Confidentiality**

The parties agree that they shall at all times prior to and for one (1) year after the Closing maintain confidential and not use for any purpose other than the operation of Station, any information relating to this transaction, the Station, the Broadcasting Assets, the Licenses and the other confidential and proprietary information of the other party (other than information in the public domain not as the result of a breach of this Agreement), except: (i) for disclosure to authorized representatives of a party, provided that any such person shall agree to maintain confidential any such information; (ii) as reasonably necessary to the performance of this Agreement; (iii) as authorized in writing by the other party; or (iv) to the extent that disclosure is required by law or the order of any governmental authority under color of law; provided, that, prior to disclosing any information pursuant to this clause (iv), the party from whom disclosure is requested shall have given reasonable prior written notice thereof to the other party and provided such party with the opportunity to contest such disclosure at such party's expense. Neither party shall issue any press releases or communications to the press or general public relating to the transactions contemplated by this Agreement or the terms or existence of this Agreement, without the prior written approval of the other party.

## **XVII. Miscellaneous**

17.1. Costs, Expenses. Each party will be responsible for and bear all of its own costs and expenses (including any expenses of its representatives) incurred at any time in connection with pursuing or consummating the acquisition. All recording costs and fees incurred in connection with the clearing and removing of any liens and encumbrances to which the Broadcasting Assets may be subject, so as to permit Seller to convey good and marketable title to the Broadcasting Assets free and clear of all Encumbrances (other than Permitted Encumbrances), shall be the responsibility of Seller.

17.2. Taxes. The payment of all sales, use, transfer or similar Taxes, documentation stamps, or other charges imposed by any and all Governmental Authorities (excluding any income or gain Taxes) with respect to the transfer of title to the Broadcasting Assets hereunder and the other transactions anticipated hereby shall be the responsibility of the party required by law to pay any such taxes, or if not specified by law, such shall be equally divided between Purchaser and Seller

17.3. Further Assurances. Each party shall, from time to time, upon the request of the other party, execute, acknowledge and deliver to the other party such other documents or instruments, and take any and all actions as are reasonably necessary for the implementation and consummation of the transactions contemplated by this Agreement.

17.4. Notice of Proceedings. Purchaser or Seller, as the case may be, will promptly and in any case within five (5) business days notify the other in writing upon becoming aware of any pending or threatened order or similar issuance restraining or enjoining the consummation of this Agreement or the transactions contemplated hereunder.

17.5. Notices. Any notice, request, demand or consent required or permitted to be given under this Agreement shall be in writing and shall be effective when transmitted and confirmation of receipt is obtained for facsimile transmissions; when delivered personally; one (1) Business Day after sent by recognized overnight courier; and five (5) calendar days after sent by mail, first class, postage prepaid; in each case to the following address or telephone number, as applicable:

If to Seller to: Mr. Larry Jung  
Executive Director for Congressional Resources  
The Indiana District of the Lutheran Church, Missouri Synod, Inc.  
1145 South Barr Street  
Fort Wayne, IN 46802-3135

With a copy to: Dawn M. Sciarrino, Esquire  
Sciarrino & Shubert, PLLC  
5425 Tree Line Drive  
Centreville, VA 20120

If to Purchaser to: Ms. Melissa Montana, President  
Star Educational Media Network, Inc.  
13104 Toscana Passage  
Fort Wayne, IN 46845

With a copy to: Christopher D. Imlay, Esquire  
Booth, Freret, Imlay & Tepper, P.C.  
14356 Cape May Road  
Silver Spring, Maryland 20904-6011

or at such other address as either party shall specify by notice to the other.

17.6. Headings, Entire Agreement, Amendment. The section and subsection headings do not constitute any part of this Agreement and are inserted herein for convenience of reference only. This Agreement embodies the entire agreement between the Parties with respect to the subject matter hereof and supersedes all prior oral or written agreements, understandings, representations and warranties, and courses of conduct and dealing between the Parties on the subject matter hereof. It may not be amended, modified or changed orally, but only in writing signed by the party against whom enforcement of any amendment, modification, change, waiver, extension or discharge is sought.

17.7. Waiver. No waiver of a breach of, or default under, any provision of this Agreement shall be deemed a waiver of such provision or of any subsequent breach or default of the same or similar nature or of any other provision or condition of this Agreement.

17.8. Binding Effect and Assignment. This Agreement shall be binding upon and shall inure to the benefit of the Parties and their successors and permitted assigns. Neither this Agreement nor any obligation hereunder shall be assignable by either Party except with the prior written consent of the other Party which consent may not be unreasonably withheld.

17.9. Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original, but which taken together shall constitute one agreement.

17.10. Exhibits, Schedules and Appendices. The Exhibits, Schedules and Appendices attached to this Agreement are incorporated herein and shall be considered a part of this Agreement for the purposes stated herein, except that in the event of any conflict between any of the provisions of such exhibits and the provisions of this Agreement, the provisions of this Agreement shall control.

17.11. Rights Cumulative. Except as set forth herein, all rights, powers and remedies herein given to Purchaser and Seller are cumulative and not alternative, and are in addition to all statutes or rules of law.

17.12. Governing Law. This Agreement, and the rights and obligations of Purchaser and Seller hereunder, shall be governed by and construed in accordance with the laws of the State of Indiana.

17.13. Severability. If any provision of this Agreement or the application thereof to any Person or circumstance, is held invalid, such invalidity shall not affect any other provision that can be given effect without the invalid provision or application. Any such invalid provision shall be given effect to the extent possible or shall be reformed so as to make it enforceable and valid while preserving the original intent of the Parties.

17.14. Third Party Rights. Neither Seller nor Purchaser assumes any duty hereunder to any other person or entity, and this Agreement shall operate exclusively for the benefit of the parties hereto and their respective affiliated corporations and not for the benefit of any other person or entity.

17.15. Time of Essence. Time is of the essence in the performance of this Agreement.

17.16. Drafting Ambiguities. Each party to this Agreement and its counsel have reviewed and revised this Agreement. The normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Agreement or of any amendments, schedules, appendices or exhibits to this Agreement.

17.17. Entire Agreement. This Agreement and the Schedules, Exhibits and Appendices hereto and thereto constitute the entire contract between the parties hereto pertaining to the subject matter hereof, and supersede all prior and contemporaneous agreements and understandings between the parties with respect to such subject matter, including without limitation the letter of intent dated May 18, 2009.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, each party has caused this Agreement to be duly executed and delivered in its name and on its behalf, all as of the date and year first above written.

**SELLER:**                    **The Indiana District of the Lutheran Church,  
Missouri Synod, Inc.**

By: Rev. Daniel P. May  
Rev. Daniel P. May  
President

**PURCHASER:**            **Star Educational Media Network, Inc.**


By: \_\_\_\_\_  
Ms. Melissa Montana  
President

IN WITNESS WHEREOF, each party has caused this Agreement to be duly executed and delivered in its name and on its behalf, all as of the date and year first above written.

**SELLER:**                    **The Indiana District of the Lutheran Church,  
Missouri Synod, Inc.**

By: \_\_\_\_\_  
Rev. Daniel P. May  
President

**PURCHASER:**            **Star Educational Media Network, Inc.**

By:  \_\_\_\_\_  
Ms. Melissa Montana  
President

## Appendix I

### Defined Terms

“**Agreement**” means this Purchase and Sale Agreement, as the same may be amended, supplemented or otherwise modified from time to time.

“**Broadcasting Assets**” means Seller’s rights, title and interest in and to the properties and assets identified below (but shall not in any event include any Excluded Assets):

(a) Seller’s transmitters, antenna towers, antenna systems, equipment, machinery, furniture, furnishings, fixtures, computers, telephone systems, office equipment, office materials, vehicles and other tangible personal property used or held for use exclusively in connection with the business and operations of the Station (together with such improvements and additions thereto and replacements thereof between the date hereof and the Closing Date), as identified in Schedule 1.1(b) (the “**Tangible Personal Property**”);

(b) The FCC Licenses, and any other licenses, permits and authorizations issued by any Governmental Authority held and used or held for use by Seller exclusively in connection with the business and operations of the Station as of the date hereof, as set forth in Schedule 3.5 hereto, and any additions, renewals and extensions thereto between the date hereof and the Closing Date, including but not limited to any and all FCC construction permits, FAA licenses and other authorizations, and including any and all broadcast auxiliary licenses associated with the Station.

(c) The call letters of the Station and the goodwill related to the Station, and all copyrights, trademarks and servicemarks listed on Schedule 1.1(c), including but not limited to the logos “Star 88.3” and “Family Friendly” (the “**Intellectual Property**”);

(d) All of the Station’s technical information and data, machinery and equipment warranties (to the extent such warranties are assignable), if any, maps, plans, diagrams, blueprints, and schematics used or held for use exclusively in connection with the business and operation of the Station, if any, including filings with the FCC which relate to the Station, and goodwill relating to the foregoing;

(e) All books and records used or held for use exclusively in connection with the business and operations of the Station, including, without limitation, all records required by the FCC to be kept by Seller with respect to the Station and any and all donor lists, databases and mailing lists;

(f) Those other assets used or held for use exclusively in connection with the operations or business of the Station that are listed on the attached Schedule 1.1(i), including but not limited to donor funds on hand or receivable, regardless of when pledged or received; and any underwriter contracts, regardless of when made or entered into.

**“Closing”** means the consummation of the purchase, assignment and sale of the Broadcasting Assets and assumption of the Assumed Liabilities as contemplated hereby.

**“Closing Date”** means a time and business date not later than ten (10) days after the date on which Final FCC Consent has been granted for the Station, and all other conditions specified in Article VII hereof shall have been met (or if applicable, waived), unless otherwise provided for herein or if Purchaser and Seller mutually agree to a different time and date.

**“Encumbrances”** has the meaning set forth in Section 3.4.

**“Escrow Agent”** means Patrick Communications.

**“Excluded Assets”** means assets not owned by Seller but which are personally owned by any equity holder of Seller.

**“FCC”** means the Federal Communications Commission.

**“FCC Consent”** has the meaning set forth in Section 7.2.1.

**“Final”** shall mean action by the FCC: (i) which has not been vacated, reversed, stayed, set aside, annulled or suspended; (ii) with respect to which no timely appeal, timely request for stay, or timely petition for rehearing, reconsideration or review by any Person or governmental entity or by the FCC on its own motion, is pending; and (iii) as to which the time for filing any such timely appeal, timely request, timely petition or for the reconsideration or review by the FCC on its own motion, has expired.

**“Governmental Authority”** means any court or federal, state, municipal or other governmental or quasi-governmental authority, department, commission, board, agency or instrumentality, foreign or domestic, or any employee or agent thereof; or any mediator, arbitrator or similar forum of alternative dispute resolution.

**“Liabilities”** means all claims, obligations, indebtedness, commitments, whether direct or indirect, absolute, accrued, contingent, or otherwise, or due or to become due, asserted or unasserted, matured or unmatured, including without limitation trade accounts payable, accrued liabilities for payroll and related expenses, obligations for borrowed money or for the deferred purchase price of property or services, obligations secured by any Encumbrance on or with respect to any property or assets owned by a Person or acquired by a Person subject thereto (whether or not the obligation secured thereby shall have been assumed), obligations under direct or indirect guarantees, and other obligations (contingent or otherwise) to purchase, to provide funds for payment or otherwise acquire property or to assure a creditor against loss, obligations to reimburse the issuer with respect to letters of credit, liabilities in respect of unfunded accrued vested benefits under any employee benefit plan, capital lease obligations and any other known or unknown obligations or liabilities.

**“Licenses”** has the meaning set forth in the recitals hereto.

***“Material Adverse Effect”*** means an effect on, or change in, the business, financial condition or results of operations of Seller, the Broadcasting Assets and/or the Licenses: i) which is the result of an action taken outside the normal course of business; ii) which is not the result or consequence of an action taken pursuant to any provision of this Agreement; iii) which is not the result or consequence of any action or actions taken by Seller or Seller’s agents which are at the request of, or with the approval of Purchaser; and iv) which has the effect, either individually or when aggregated with other such effects, of jeopardizing the fundamental value of the transactions contemplated by this Agreement. Notwithstanding the foregoing, Material Adverse Effect shall not include the reduction or diminution of donor funds on hand or receivable or underwriting contracts unless such reduction or diminution is caused by the actions of the Seller outside the normal course of the the operation of the Station.

***“Parties”*** shall mean the parties to this Agreement set forth in the recitals hereto and their successors and permitted assignees.

***“Permitted Encumbrances”*** means (a) Encumbrances set forth on Schedule 3.4,

***“Person”*** shall mean any natural person, corporation, partnership, limited liability company, firm, joint venture, joint-stock company, trust, association, unincorporated entity of any kind, trust, governmental or regulatory body or other entity.

***“Proceeds”*** has the meaning set forth in Article IX.

***“Purchase Price”*** has the meaning set forth in Section 1.2.

***“Purchaser”*** has the meaning set forth in the recitals hereto.

***“Seller”*** has the meaning set forth in the recitals hereto.

***“Station”*** has the meaning set forth in the recitals hereto.

***“Tax”*** or ***“Taxes”*** means all federal, state, local, foreign and other taxes, assessments or other governmental charges, including, without limitation, income, estimated income, ad valorem, excise, value-added, gross receipts, business, occupation, franchise, property (real or personal) or environmental tax or premium, sales, use, transfer, stamp, employment or withholding taxes, registration and licensing fees, and other assessments and similar taxes, including, without limitation, interest, penalties, additions in connection therewith (whether disputed or not), and any liability under any provision of foreign, state or local law) or any other tax obligation which Seller has assumed or for which Seller is or was liable.

***“Tax Returns”*** has the meaning set forth in Section 3.8.

**Other Definition Provisions.** The masculine form of words includes the feminine and the neuter and vice versa, and, unless the context otherwise requires, the singular form of words includes the plural and vice versa. The words “herein,” “hereof,”

“hereunder” and other words of similar import when used in this Agreement refer to this Agreement as a whole, and not to any particular section or subsection.