
**ASSET PURCHASE
AND SALE AGREEMENT**

by and among

MEGA COMMUNICATIONS OF SILVER SPRING, L.L.C.,

MEGA COMMUNICATIONS OF SILVER SPRING LICENSEE, L.L.C.

And

MULTICULTURAL RADIO BROADCASTING, INC.

Dated as of December ____, 2001

ASSET PURCHASE AND SALE AGREEMENT

THIS ASSET PURCHASE AND SALE AGREEMENT (the “*Agreement*”) is made as of this ____ day of December, 2001, by and among **MULTICULTURAL RADIO BROADCASTING, INC.**, a New Jersey corporation (the “*Buyer*”), **MEGA COMMUNICATIONS OF SILVER SPRING, L.L.C.**, a Delaware limited liability company, and **MEGA COMMUNICATIONS OF SILVER SPRING LICENSEE, L.L.C.**, a Delaware limited liability company (Mega Communications of Silver Spring, LLC and Mega Communications of Silver Spring Licensee, LLC are collectively referred to herein as the “*Seller*”).

W I T N E S S E T H:

WHEREAS, the Seller owns and operates radio station WPLC (AM), Silver Spring, Maryland (the “*Station*”) pursuant to authorizations issued by the Federal Communications Commission (the “*FCC*”); and

WHEREAS, the Seller desires to sell, assign, transfer, convey and deliver to the Buyer all of the assets used and useful in operation of the Station on the terms and subject to the conditions of this Agreement and subject to prior consent of the FCC; and

WHEREAS, the Buyer wishes to acquire from the Seller such assets, pursuant to and in accordance with the terms and conditions of this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants, agreements and representations and warranties set forth herein, the parties agree as follows:

1. **Purchase and Sale of Acquired Assets**. Upon the terms and subject to the conditions set forth in this Agreement, and in reliance on the representations, warranties, covenants and agreements made in this Agreement, the Seller hereby agrees to sell, assign, transfer, convey and deliver to the Buyer, and the Buyer hereby agrees to purchase, accept and take from the Seller at the Closing (as defined below), good and marketable title, free and clear from all liens, liabilities and encumbrances, to the following assets (the “*Acquired Assets*”):

1.1 **Licenses**. The licenses, permits and other authorizations issued by the FCC to Seller in connection with the conduct of the business and operations of the Station, and any other licenses, permits and other authorizations issued to Seller by any governmental authority and used in the conduct of the business and operations of the Station (the “*Licenses*”), complete and accurate copies of all of such Licenses being attached hereto as Schedule 1.1;

1.2 **Transmitter and Related Equipment**. The transmitter and related equipment, if any, owned by Seller and used in the conduct of the business and operations of the Station, as more specifically described in Schedule 1.2 attached hereto;

1.3 **Lease**. All of Seller's rights under and interest in that certain lease agreement, a copy of which is attached hereto as Schedule 1.3 (the "***Lease***");

1.4 **Call Letters**. All of Seller's rights in and to the call letters "WPLC";

1.5 **Books and Records**. All files, records, and books of Seller relating to the transmitter site and the FCC (including but not limited to all, the local public files and all reports, forms, statements and filings made by Seller with the FCC); and

1.6 **Warranties**. All of Seller's rights under manufacturers and vendors' warranties relating to the equipment included in the Acquired Assets and all similar rights against third parties relating to items included in the Acquired Assets.

2. **Purchase Price**. As consideration for the transfer of the Acquired Assets, and upon the terms and subject to the conditions set forth in this Agreement, the Buyer agrees to pay to the Seller an aggregate purchase price of Three Million Dollars (\$3,000,000) (the "***Purchase Price***"). The Purchase Price shall be paid as follows:

2.1 **Deposit**. Within three (3) business days following execution by the parties of this Agreement, Buyer shall deposit One Hundred Fifty Thousand Dollars (\$150,000) (the "***Deposit***") with Shook, Hardy & Bacon, L.L.P., as escrow agent, pursuant to the terms of an escrow agreement executed by the parties on or about the date hereof, which Deposit, together with interest thereon, shall be paid to Seller on the Closing Date and credited towards the Purchase Price; and

2.2 **Remaining Balance**. The remaining balance, as adjusted pursuant to Section 5 below, shall be paid by Buyer to Seller on the Closing Date by wire transfer of immediately available funds to the account of Seller designated by Seller.

3. **Closing**.

3.1 Subject to the terms of Subsection 3.3, below, the closing of the transactions contemplated by this Agreement (the "***Closing***") shall take place at such time and place mutually agreed upon in writing by the parties on a date that is no later than fifteen (15) days following the date of initial grant by the FCC of the Assignment Application (as defined in Section 7.1, below).

The term "***Closing Date***" shall mean the date of the Closing. Exclusive possession of the Acquired Assets shall be delivered to the Buyer as of Closing.

3.2 If, after Closing, the FCC or a court of competent jurisdiction takes any action that has the effect of vacating or rescinding the FCC initial grant of the Assignment Application such that the grant does not become a Final Order (as defined below), and such action is no longer subject to further administrative or judicial review, reconsideration, appeal or stay, then the sale transaction

hereunder shall be unwound by Buyer conveying title to the Acquired Assets to Seller, and Seller paying Buyer the Purchase Price paid by Buyer hereunder at the Closing, such that both parties will be returned, to the extent possible, to the status quo ante as of the day before the Closing. Each party shall pay its own expenses in consummating the unwinding of the transaction pursuant to the terms of this subsection 3.2.

3.3 Notwithstanding anything contained herein to the contrary, if a third party files an opposition with regard to the Assignment Application prior to initial grant of the Assignment Application by the FCC, then Buyer, at its option, may, by notice to Seller, choose to schedule the Closing for a date that is within ten (10) days following the date upon which the grant of the Assignment Application becomes a Final Order. For purposes of this Agreement, “*Final Order*” shall mean an action by the FCC: (i) which has not been vacated, reversed, stayed, set aside, annulled or suspended, (ii) with respect to which no timely appeal, request for stay or petition for rehearing, reconsideration or review by any party or by the FCC on its own motion, is pending and (iii) as to which the time for filing any such appeal, request, petition, or similar document or for the reconsideration or review by the FCC on its own motion under the Communications Act of 1934 and the rules and regulations of the FCC, has expired.

3.4 The closing of the transactions contemplated by this Agreement is expressly conditioned upon the grant of the Assignment Application in accordance with this Section 3, and compliance by the parties hereto with the conditions, if any, imposed by the FCC.

4. **Allocation of Purchase Price.** The Buyer and the Seller hereby agree that the respective fair market values of the Acquired Assets, along with the aggregate portion of the Purchase Price to be paid by Buyer for the Acquired Assets, is agreed to and shall be allocated to the respective Acquired Assets as reasonably agreed upon by the parties prior to the Closing (the “*Allocation*”). The Buyer and the Seller agree to file such Allocation with the Internal Revenue Service, if required by any regulations that may be promulgated under Section 1060 of the Internal Revenue Code of 1986, as amended, and to file any other statement or information that may be required pursuant to such regulations.

5. **Prorations.**

5.1. **Proration of Revenues and Expenses.** All revenues and expenses arising from the conduct of the business and operations of the Station shall be prorated between Buyer and Seller in accordance with generally accepted accounting principles as of 12:01 a.m., local time, on the date immediately following the Closing Date. Such prorations shall include rental payments under the Lease and any other expenses and/or revenues attributable to the ownership and operation of the Station prior to the Closing Date.

5.2 **Proration Determination.** At the Closing, Seller and Buyer shall adjust the Purchase Price payable to Seller pursuant to Section 2 to account, to the extent then determinable, for the prorations as set forth above.

6. **Assumption of Obligations**. Subject to the provisions of this Section 6 and Section 5, above, Buyer shall assume and undertake to pay, satisfy or discharge only the liabilities, obligations and commitments of Seller under the Lease, but only to the extent that such liabilities, obligations and commitments shall become due and performable on or after the Closing Date and relate to, or otherwise come into existence as of a result of any act, event or omission that occurs during any period on or after the Closing Date. Except as set forth in this Section 6, Buyer expressly does not, and shall not, assume or be deemed to assume, under this Agreement or otherwise by reason of the transactions contemplated hereby, any other liabilities, obligations, claim, duty, lien, encumbrance or commitments of Seller of any nature whatsoever.

7. **Third Party Consents**.

7.1 **FCC Consent**. The assignment of the Licenses as contemplated by this Agreement is subject to the FCC having granted the Assignment Application as described below.

(a) No later than ten (10) days after the execution of this Agreement, Buyer and Seller shall file an application with the FCC for transfer of the broadcasting license for Station WPLC-AM (the “*Assignment Application*”). Seller and Buyer shall prosecute the Assignment Application with all reasonable diligence and otherwise use their reasonable best efforts to obtain the grant of the Assignment Application as expeditiously as practicable. If the grant of the Assignment Application imposes any condition on any party hereto, such party shall use reasonable efforts to comply with such condition; provided, however, that no party shall be required hereunder to comply with any condition that would have a material adverse effect as determined by the party affected in the exercise of its reasonable judgment. If reconsideration or judicial review is sought with respect to the FCC’s grant of the Assignment Application, the party affected shall oppose such efforts for reconsideration or judicial review vigorously; provided, however, that nothing herein shall be construed to limit either party’s right to terminate this Agreement pursuant to the terms of this Agreement.

(b) If the FCC has not issued its initial grant of the Assignment Application within two hundred forty (240) days after acceptance by the FCC of the Assignment Application, then the Buyer and the Seller shall each have the right to terminate this Agreement by written notice to the other party, it being the intent of the parties that the closing of the transactions contemplated by this Agreement is expressly conditioned upon the grant of the Assignment Application. In such case, the Deposit, plus all accrued interest thereon, shall be immediately returned to Buyer.

7.2 **Third Party Consents**. The Seller shall use its best efforts to obtain any third party consent necessary to transfer or assign the Lease to the Buyer. Buyer shall not be responsible for any fee or penalty payable in conjunction with transfer or, if not transferable, early termination of the Lease.

7.3 **HSR Consent.** Between the date of this Agreement and the Closing Date, the parties shall, if and to the extent required by law, file all reports or other documents required or requested by the Federal Trade Commission (“*FTC*”) or the United States Department of Justice (“*Justice Department*”) under the Hart-Scott-Rodino Antitrust Improvements Act of 1976 (“*HSR Act*”), and all regulations promulgated thereunder, concerning the transactions contemplated hereby, and comply promptly with any requests by the FTC or Justice Department for additional information concerning such transactions, so that the waiting period specified in the HSR Act will expire as soon as reasonably possible after the execution and delivery of this Agreement. Each party agrees to furnish to the other such information concerning such party as such other party needs to perform its obligations under this Section. Seller and Buyer shall each pay one-half of the filing fee due in conjunction with filing the HSR Act application for consent.

8. **Representations, Warranties, and Covenants of the Seller.** Each Seller jointly and severally hereby represents, warrants, and covenants to the Buyer as follows:

8.1 **Corporate Status.** Each Seller is a limited liability company, duly organized, validly existing and in good standing under the laws of the State of Delaware. Seller has all requisite corporate power and authority to own or lease the Acquired Assets and to carry on its business and the operation of the Station as it currently is conducted. Seller is duly qualified to do business and is in good standing in such other jurisdictions, if any, where the nature of the Acquired Assets would require such qualification. Seller has not used any name in the operation of its business other than its name as first set forth above and the Station’s call letters.

8.2 **Authorization of Agreement.** Seller has full corporate power and authority to execute, deliver and perform this Agreement and all other agreements and instruments entered into or delivered in connection with the transactions contemplated hereby. The execution, delivery and performance of this Agreement has been, and all other agreements and instruments entered into or delivered in connection with the transactions contemplated hereby have been, or prior to the Closing will have been, duly and validly authorized by all necessary action of Seller.

8.3 **No Conflict.** The execution, delivery and performance of this Agreement do not violate: (a) any provision of the corporate charter or bylaws of Seller; (b) any provision of, or result in any default under, any mortgage, lien, lease, contract, instrument, order or other judgment, or decision to which Seller is a party or by which the Acquired Assets are bound; or (c) any law applicable to Seller.

8.4 **Binding Agreement.** This Agreement constitutes, and all other agreements and instruments entered into or delivered in connection with the transactions contemplated hereby will constitute, the valid and binding obligations of Seller and are enforceable against Seller (or upon execution and delivery will be enforceable against Seller), in accordance with their respective terms.

8.5 **Governmental Authorizations.** Mega Communications of Silver Spring Licensee, LLC (“*Mega Licensee*”) is the legal holder of the FCC license and authorizations for the Station

as listed in Schedule 1.1 hereto. Seller has delivered to Buyer true and complete copies of the Licenses, including any and all amendments and other modifications thereto. All material reports, forms and statements required to be filed by Seller with the FCC with respect to the Station have been filed and are substantially complete and accurate. Except as disclosed in Schedule 1.1, the public files for the Station are current and have been maintained all in accordance with the rules and regulations of the FCC. To the best knowledge of Seller, there are no facts which would disqualify Mega Licensee as assignor of the Licenses under the Communications Act of 1934, as amended, or the rules and regulations of the FCC. There are no pending, or to Seller's knowledge, threatened proceedings which could result in the revocation, modification or nonrenewal of any of the Licenses, and Seller has no reason to believe that any of the Licenses will not be renewed in their ordinary course.

8.6 **Title to, Interest in and Condition of the Acquired Assets.**

(a) The Seller has and will deliver to Buyer good and marketable title to all of the Acquired Assets, free and clear of any liens, security interests, charges, claims and encumbrances of any nature whatsoever.

(b) The Acquired Assets comprise all of the assets, properties and rights of every type and description used by the Seller in conjunction with, and necessary to, the operation of the Station.

(c) The equipment which comprises part of the Acquired Assets is in good and sound condition, and no repairs are currently required to remedy an existing deficiency in the condition of any of such equipment. Such equipment has been maintained in all material respects in a manner consistent with generally accepted standards of good engineering practice.

8.7 **Lease; 1540.** The Lease is in full force and effect and Seller has neither breached any provision thereof nor is in default thereunder, and there does not exist any event or condition which, with notice or lapse of time, or both, would constitute a default under the Lease. Seller further represents and warrants that it has no lease or other contractual arrangement, whether oral or written, with the owners/operators of Station 1540AM.

8.8 **No Undisclosed Liabilities.** There are no liabilities with respect to the Acquired Assets, other than: (a) the liabilities retained by Buyer under this Agreement, and (b) the liabilities and obligations incurred during the Interim Period (as defined in Section 10.1 below) in the ordinary course of business of the Seller.

8.9 **Consents.** Except for those consents listed on Schedule 8.9 hereto, there is no consent or approval of any third party or governmental body required for the consummation by the Seller of the transactions contemplated by this Agreement.

8.10 **Legal Proceedings.** Other than as described on Schedule 8.10 attached hereto, there are no suits, actions, condemnation actions, claims, administrative, arbitral or other proceedings or governmental investigations (collectively, "***Litigation***") pending or threatened against or affecting the Station or any of the Acquired Assets nor is Seller subject to any writ, judgment, award, decree or order of any court or governmental authority that would affect the Acquired Assets. There is no Litigation pending or threatened against or affecting the Seller that could adversely affect or prevent the consummation of the transactions contemplated hereby, nor is Seller subject to any order of any court or governmental entity that could adversely affect or prevent consummation of the transactions contemplated hereby.

8.11 **Licensure and Compliance with Laws.** The Seller has: (a) complied and is complying with all laws applicable to the operation of the Acquired Assets, and (b) obtained all governmental licenses and permits necessary for the operation of the Acquired Assets. Except as disclosed in Schedule 1.1, Seller has not received notice of, nor is Seller in default under or in breach or violation of, any statute, law, ordinance, decree, order, rule or regulation, or the provisions of any franchise, license or permit, including the Licenses, with respect to the Acquired Assets or the Station. The execution, delivery and performance of this Agreement by the Seller, and the consummation of the transactions contemplated hereby, will not result in any such default or violation or in the creation of any lien, charge or encumbrance upon any of the Acquired Assets. With regard to the Station or the Acquired Assets, except as disclosed in Schedule 1.1, Seller has not been cited by any governmental body or agency for violation of any License, permit, rule, regulation or order within the last three (3) years. No person or party (including, without limitation, governmental agencies of any kind) has made any claim which is presently outstanding, nor is there any basis for any action or proceeding against the Seller arising out of any federal, state or local statute, ordinance or regulation relating to discrimination in employment or employment practices or occupational safety and health standards.

8.12 **Payment of Taxes.** Seller has duly and timely filed all federal, state, local or foreign income, franchise, sales, use, property, excise, payroll, FICA, withholding and other tax returns and forms required to be filed, and has timely paid in full or discharged or will pay in full or discharge as of the Closing all taxes, assessments, excises, interest, penalties, deficiencies and levies required to be paid and pertaining to the Acquired Assets to be transferred hereunder.

8.13 **Accuracy of Statements.** Neither this Agreement nor any Schedule, exhibit, statement, list, document, certificate or other information furnished or to be furnished by or on behalf of the Seller to the Buyer or any representative of the Buyer in connection with this Agreement or any of the transactions contemplated hereby contains or will contain any untrue statement of a material fact.

9. **Representations, Warranties and Covenants of the Buyer:** The Buyer hereby represents, warrants and covenants to the Seller as follows:

9.1 **Status**. The Buyer is a corporation, duly organized, validly existing and in good standing under the laws of the State of New Jersey. The Buyer has all requisite power and authority to own or lease its properties and assets and to conduct its businesses as they currently are being conducted.

9.2 **Authorization of Agreement**. The Buyer has full power and authority to execute, deliver and perform this Agreement and all other agreements and instruments entered into or delivered in connection with the transactions contemplated hereby. The execution, delivery and performance of this Agreement has been, and all other agreements and instruments entered into or delivered in connection with the transactions contemplated hereby have been, or prior to the Closing will have been, duly and validly authorized by all necessary action on the part of the Buyer.

9.3 **Binding Agreement**. This Agreement constitutes, and all other agreements and instruments entered into or delivered in connection with the transactions contemplated hereby will constitute, the valid and binding obligations of the Buyer and are enforceable against the Buyer (or upon execution and delivery will be enforceable against the Buyer) in accordance with their respective terms.

9.4 **Consents**. There is, to the best of Buyer's knowledge, no consent or approval of any third party or governmental body (other than the FCC) required for the consummation by the Buyer of the transactions contemplated by this Agreement.

9.5 **Qualification**. To the best knowledge of Buyer, there are no facts which, under the Communications Act of 1934 as amended, or the existing rules and regulations of the FCC, would disqualify Buyer as an assignee of the Licenses.

10. **Covenants of Seller**. The Seller covenants and agrees with the Buyer as follows:

10.1 **Conduct of Business During Interim Period**. Seller covenants and agrees with respect to the Station that between the date hereof and the Closing Date (the "***Interim Period***"), except as expressly permitted by this Agreement or with the prior written consent of Buyer, Seller shall act in accordance with the following:

(a) Seller shall conduct the business and operations of the Station in the ordinary and prudent course of business, consistent with past practices, and with the intent of preserving the Acquired Assets.

(b) Seller shall not sell or transfer any of the Acquired Assets.

(c) Seller shall operate the Station in all respects in accordance with FCC rules and regulations and the Licenses and with all other laws, regulations, rules and orders, and shall not cause or permit by any act, or failure to act, any of the Licenses to expire, be surrendered, adversely modified, or otherwise terminated, or the FCC to institute any

proceedings for the suspension, revocation or adverse modification of any of the Licenses, or fail to prosecute with due diligence any pending applications to the FCC.

(d) Seller shall upon prior request give Buyer and Buyer's counsel, accountants, engineers and other representatives, full and reasonable access to the Acquired Assets, and will furnish Buyer with all information regarding the Acquired Assets that Buyer may reasonably request.

(e) Seller shall not, nor will Seller permit any affiliate, officer, employee, attorney, accountant, financial advisor or other representative or agent of Seller, to negotiate with, solicit or engage in negotiations with, or provide any non-public information to, or otherwise cooperate with, any third party (other than Buyer) which seeks to or expresses an interest in acquiring all or any substantial part of the equity interests, business or assets of the Station, or for the purpose of otherwise effecting a transaction inconsistent with the transactions contemplated by this Agreement. Furthermore, Seller will not enter into any agreement with or grant any option to any third party in connection with a transaction inconsistent with the transactions contemplated by this Agreement.

(f) Seller shall use its best efforts to preserve the operation of the Station intact.

(g) Seller shall not enter into any agreement or contract regarding the Station nor shall Seller renew, cancel or modify the Lease to be assumed by Buyer hereunder.

10.2 **Interim Period Events.** During the Interim Period, the Seller shall inform the Buyer of any material adverse change to the Acquired Assets, and of events that could result in a material adverse effect. The Seller also shall inform the Buyer of any changes in its representations and warranties under this Agreement. In addition, Seller shall promptly notify Buyer if the Station's normal broadcast transmissions are interrupted, interfered with or in any way impaired for more than 24 hours with notice of the problem and the measures being taken to correct such problem.

11. **Covenants of Buyer.** The Buyer covenants and agrees with the Seller as follows:

11.1 **Interim Period.** The Buyer covenants and agrees with the Seller that during the Interim Period, the Buyer shall promptly inform the Seller if the Buyer becomes aware of any information or event that could delay or prevent the Closing. In addition, the Buyer shall inform the Seller of any changes in circumstances that could cause any of the Buyer's representations and warranties under the Agreement to be inaccurate or incomplete.

11.2 **Confidentiality.** The Buyer shall, and shall cause its officers, counsel and other authorized representatives and affiliated parties to, hold in strict confidence, and not disclose to any other party, and not use to the detriment of the Seller or in any way except in connection with the

transactions contemplated hereby, without the prior written consent of the Seller, all non-public information obtained from the Seller that is clearly marked as “*Confidential*.”

11.3 **No Control of Station**. Prior to the Closing Date, Buyer shall not, directly or indirectly, control, supervise or direct the operations of any Station and such control, supervision and direction shall remain and shall be the sole responsibility of Seller.

12. **Conditions Precedent to the Obligations of the Buyer**. The obligations of the Buyer under this Agreement are subject to the fulfillment at the Closing on the Closing Date, of all of the conditions precedent set forth in this Section 12 and throughout this Agreement; provided, however, that any of such conditions may be waived by Buyer in writing at or prior to the Closing:

12.1 **Continued Truth of Representations and Warranties and Compliance with Covenants**. The representations and warranties of the Seller contained in this Agreement shall be accurate and complete in all material respects on and as of the Closing Date as though such representations and warranties were made on and as of the Closing Date, and Seller shall have performed and complied in all material respects with all terms, conditions, covenants and agreements required by this Agreement to be performed or complied with by the Seller on or prior to the Closing Date.

12.3 **Governmental Consents and Governmental Licenses or Permits**. All governmental consents, licenses and permits necessary for consummation of the transactions contemplated by this Agreement and the Buyer's operation of the Acquired Assets (including the FCC's grant of the Assignment Application) shall have been obtained and delivered to the Buyer and the FTC shall have approved the transactions or the waiting period under the HSR Act shall have expired. Seller shall be the holder of the Licenses, and there shall not have been any modifications which have a material adverse effect on the Station or the conduct of the business and operations of the Station. No proceeding shall be pending which seeks or the effect of which reasonably could be to revoke, cancel, fail to renew, suspend or modify any of the Licenses.

12.4 **Contract Consents**. Duly-executed written consents, in form and substance satisfactory to the Buyer, for transfer of the Lease shall have been obtained and delivered by the Seller to the Buyer.

12.5 **Adverse Proceedings**. There shall be no action, lawsuit or proceeding filed and pending, or any claim or controversy asserted, that could have a material adverse effect on the Acquired Assets. There shall be no unsatisfied or outstanding order, writ, judgment, injunction or decree or any litigation or proceeding filed or threatened that seeks to restrain, prohibit or invalidate the transaction contemplated by this Agreement.

12.6 **Renewal Application**. The FCC shall have granted any pending application for renewal of the Licenses, and such grant shall have become a Final Order.

12.7 **No Material Adverse Change.** No material adverse change (legal, governmental, business or financial) shall have occurred with respect to the Acquired Assets after the date of this Agreement, and no event shall have occurred, which could adversely affect the Acquired Assets.

12.8 **Instruments of Conveyance and Transfer.** Seller shall have delivered to Buyer all bills of sale, endorsements, assignments and other instruments of conveyance and transfer reasonably satisfactory in form and substance to counsel to Buyer, effecting the sale, transfer, assignment and conveyance of the Acquired Assets to Buyer, including, without limitation, the following:

- (a) bills of sale for all tangible personal property;
- (b) assignments of the Licenses;
- (c) an assignment of the Lease;
- (d) estoppel certificates from all landlords of Seller relating to all leased Real Estate;
- (e) assignment and transfer of the books and records, described in Section 1.5 of this Agreement;
- (f) such other instruments, certificates, consents or documents as Buyer may reasonably request in connection with the transfer of any of the Acquired Assets to be transferred to Buyer hereunder or to satisfy Buyer that the conditions to Buyer's obligations hereunder have been satisfied.

13. **Conditions Precedent to the Obligations of the Seller.** The obligations of the Seller under this Agreement are subject to the fulfillment, at the Closing on the Closing Date, of all of the conditions precedent set forth in this Section 13 and throughout this Agreement; provided, however, that any of such conditions may be waived by Seller in writing at or prior to the Closing:

13.1 **Continued Truth of Representations and Warranties.** The representations and warranties of the Buyer contained in this Agreement shall be accurate and complete in all material respects on and as of the Closing Date as though such representations and warranties were made on and as of the Closing Date, and the Buyer shall have performed and complied in all material respects with all terms, conditions, covenants and agreements required by this Agreement to be performed or complied with by the Buyer on or prior to the Closing Date.

13.2 **Approvals and Consents.** All necessary consents, authorizations and approvals of third parties and of governmental agencies referenced under any applicable law, rule, order or regulation for the consummation of the transactions contemplated by this Agreement shall have been

obtained, including the FCC initial grant, (or Final Order if Buyer exercises its rights under Subsection 3.3, above) and the FTC shall have approved the transactions or the waiting period under the HSR Act shall have expired.

13.3 **Delivery of Schedules and Other Materials.** The Buyer shall have delivered to the Seller all of the agreements, transfer and assumption documents and every other document required to be executed and delivered by Buyer pursuant to this Agreement.

14. **Termination.**

14.1 **Termination by Either Party.** Without prejudice to other rights and remedies available to it, either party hereto may, at its option, terminate this Agreement at any time prior to the Closing by giving notice thereof to the other party:

(a) if the Closing has not occurred within two hundred seventy (270) days following acceptance by the FCC of the Assignment Application; or

(b) if a bona fide legal action or proceeding is pending or threatened against such party as of the date of such notice of termination, and an unfavorable judgment, decree or order in such action or proceeding would prevent or make unlawful the consummation of the transactions contemplated by this Agreement; or

(c) if the FCC denies the Assignment Application or designates it for a trial-type hearing; or

(d) by mutual written consent of the parties.

The termination of this Agreement under this Section 14.1 shall not relieve any party of any liability for breach of this Agreement prior to the date of termination.

14.2 **Termination by the Seller.** The Seller may, at its option, terminate this Agreement at any time prior to the Closing, by giving notice thereof to the Buyer, upon the occurrence of any of the following events:

(a) the Buyer breaches any of its obligations under this Agreement, and such breach remains uncured for thirty (30) calendar days after the Buyer has received notice from the Seller of such breach; or

(b) any representation or warranty made by the Buyer in this Agreement shall prove to have been incorrect, incomplete or misleading at the time it was made.

IF SELLER TERMINATES THIS AGREEMENT PURSUANT TO THE TERMS OF THIS SECTION 14.2, THEN SELLER SHALL BE ENTITLED TO \$150,000 AS LIQUIDATED DAMAGES. BUYER AND SELLER AGREE THAT BASED UPON THE CIRCUMSTANCES NOW EXISTING, KNOWN AND UNKNOWN, IT WOULD BE IMPRACTICAL OR EXTREMELY DIFFICULT TO ESTABLISH SELLER-S DAMAGE BY REASON OF BUYER-S DEFAULT. ACCORDINGLY, BUYER AND SELLER AGREE THAT IT WOULD BE REASONABLE AT SUCH TIME TO AWARD SELLER ALIQUIDATED DAMAGES@ EQUAL TO \$150,000. SELLER AND BUYER ACKNOWLEDGE AND AGREE THAT THE APPLICABLE FOREGOING AMOUNTS OF LIQUIDATED DAMAGES ARE REASONABLE AS LIQUIDATED DAMAGES AND SHALL BE SELLER-S SOLE AND EXCLUSIVE REMEDY IN LIEU OF ANY OTHER RELIEF, RIGHT OR REMEDY, AT LAW OR IN EQUITY, TO WHICH SELLER MIGHT OTHERWISE BE ENTITLED BY REASON OF BUYER-S DEFAULT.

Seller-s Initials: _____

14.3 **Termination by the Buyer.** Without prejudice to other rights and remedies available to it, the Buyer may, at its option, terminate this Agreement prior to Closing, by giving notice thereof to the Seller, upon the occurrence of any of the following events:

- (a) the Seller breaches any of its obligations under this Agreement, and such breach remains uncured for thirty (30) calendar days after Seller has received notice from the Buyer of such breach; or
- (b) any representation or warranty made by Seller in this Agreement shall prove to have been incorrect, incomplete or misleading at the time it was made; or
- (c) the Acquired Assets have been damaged or destroyed and Buyer elects to terminate pursuant to Section 16.3.

If Buyer terminates this Agreement pursuant to the terms of this Section 14.3, then the Deposit, together with all interest accrued thereon, shall be immediately returned to Buyer, and Buyer may exercise any and all rights and remedies available to Buyer under applicable law or in equity. In addition, Seller recognizes that, in the event Seller fails or refuses to perform the provisions of this Agreement, monetary damages alone will not be adequate. Buyer shall, therefore, be entitled in such event, in addition to bringing suit at law or equity for money or other damages (which monetary damages shall not exceed \$150,000), to obtain specific performance of the terms of this Agreement. In any action to enforce the provisions of this Agreement, Seller shall waive the defense that there is an adequate remedy at law or equity and Seller agrees that Buyer shall have the right to obtain specific performance of the terms of this Agreement without being required to prove actual damages, post bond or furnish other security.

15. **Indemnification.**

15.1 **Indemnification of Buyer.** Seller shall indemnify, defend and hold Buyer, its members, officers, affiliates, successors and assigns, harmless from and against any claim, liability, loss, damage, judgment or expense (including reasonable attorneys' fees) of any kind or nature arising out of or attributable to: (i) any material inaccuracy in any representation or any breach or failure of any warranty, covenant or agreement of Seller contained herein, or (ii) any failure by Seller to perform or observe, or to have performed or observed, any agreement or condition to be performed or observed by Seller hereunder, or (iii) the failure to comply with any applicable bulk sales or transfer law; or (iv) any event, condition or occurrence which occurs prior to the Closing Date or related to operation of the Station prior to the Closing Date.

15.2 **Indemnification of Seller.** Buyer shall indemnify, defend and hold the Seller, its officers, members, directors, affiliates, successors and assigns, harmless from and against any claim, liability, loss, damage, judgment or expense (including without limitation reasonable attorneys' fees) of any kind or nature arising out of or attributable to (i) any material inaccuracy in any representation or any breach or failure of any warranty, covenant or agreement of the Buyer contained herein, or (ii) any failure by the Buyer to perform or observe, or to have performed or observed, any agreement or condition to be performed or observed under this Agreement or (iii) any event, condition or occurrence which occurs following the Closing Date or related to operation of the Station following the Closing Date.

16. **Miscellaneous Provisions .**

16.1 **Survival of Representations, Warranties, and Covenants.** The representations, warranties, and covenants of the Buyer and the Seller contained in this Agreement shall survive and be enforceable for eighteen (18) months after the Closing Date.

16.2 **Fees and Expenses.** Except as expressly set forth in this Agreement, each of the parties will bear its own expenses in connection with the negotiation and the consummation of the transactions contemplated by this Agreement; provided, however, that all transfer, sales or use taxes or similar charges resulting from the transfer of the Acquired Assets contemplated hereby shall be borne by Seller, and the filing fees with respect to the Assignment Application will be shared equally by Buyer and Seller.

16.2 **Joint and Several Obligations.** All covenants, representations and warranties made by the Seller in this Agreement are made jointly and severally by each Seller; provided, however, both Sellers must act jointly in exercising any rights of termination under this Agreement.

16.3 **Risk of Loss.** The risk of loss or damage to any of the Acquired Assets prior to the Closing Date shall be upon Seller. Seller shall repair, replace and restore any such damaged

or lost Acquired Asset to its prior condition as soon as possible and in no event later than the Closing Date. Except as provided below, if Seller fails to restore or replace a Acquired Asset, Buyer may elect either to terminate this Agreement pursuant to Section 16.3 hereof or to consummate the Closing on the Closing Date. If Seller fails to restore or replace such Acquired Asset, and Buyer does not elect to terminate this Agreement, Seller shall assign to Buyer at Closing their rights under any insurance policy or pay over to Buyer all proceeds of insurance covering such Acquired Assets, damage, destruction or loss. If the restoration and replacement of any damaged or destroyed property has not been completed at the time the Closing would otherwise be held, then unless Seller and Buyer otherwise agree, the Closing Date shall be delayed and shall take place within fifteen (15) days after Seller gives written notice to Buyer of completion of the restoration or replacement of such Acquired Asset, but in no event shall the Closing take place later than thirty (30) days after the outside date for Closing set forth in Section 14.1(a). If the delay in the Closing Date under this Section 16.3 would cause the Closing to fall at any time after the period permitted by the FCC, Seller and Buyer shall file an appropriate request with the FCC for an extension of time within which to complete the Closing.

16.4 **Further Assurances.** After the Closing, Seller shall from time to time, at the request of Buyer and without further cost or expense to the other party, execute and deliver such other instruments of conveyance and transfer and take such other actions as may be reasonably requested in order to more effectively consummate the transactions contemplated hereby to vest in Buyer good and marketable title to the assets being transferred hereunder (including, without limitation, assistance in the collection or reduction to possession of any such assets).

16.5 **Entire Agreement.** This Agreement and the schedules and exhibits hereto embody the entire agreement and understanding of the parties hereto and supersedes any and all prior agreements, arrangements and understandings relating to the matters provided for herein. No amendment, waiver of compliance with any provision or condition hereof or consent pursuant to this Agreement shall be effective unless evidenced by an instrument in writing signed by the party against whom enforcement of any waiver, amendment, change, extension or discharge is sought.

16.6 **Headings.** The headings set forth in this Agreement are for convenience only and will not control or affect the meaning or construction of the provisions of this Agreement.

16.7 **Notices.** Any notice, demand or request required or permitted to be given under the provisions of this Agreement shall be in writing and shall be deemed to have been duly delivered and received (if sent in like manner to all persons entitled to receive a copy) (a) on the date of personal delivery, or (b) on the date of telecopy, fax or similar telephonic transmission during normal business hours, provided that sender has received confirmation of delivery, or (c) on the date of receipt, if mailed by registered or certified mail, postage prepaid and return receipt requested, or (d) on the date of a stamped receipt, if sent by an overnight delivery service, to the following addresses, or to such other addresses as any party may request, in the case of Seller, by notifying Buyer and in the case of Buyer, by notifying Seller:

To Seller:

MEGA Communications of Silver Spring, LLC
MEGA Communications of Silver Spring Licensee, LLC
c/o Activated Communications, LP
767 Fifth Avenue, 50th Floor
New York, New York 10153
Telecopy No.: (212) 754-5789

To Buyer:

Multicultural Radio Broadcasting, Inc.
449 Broadway
New York, New York 10013
Attention: Mr. Arthur Liu
Telecopy No.: (212) 966-1012

Copy to:

Shook, Hardy & Bacon, L.L.P.
600 14th Street, N.W., Suite 800
Washington, D.C. 20005-2004
Attention: Mark Lipp, Esq.
Telecopy No.: (202) 783-4211

16.8 **Like Kind Exchange.** To facilitate Buyer's intent to transfer other property of a like kind and qualifying use for the Acquired Assets as part of a like-kind exchange under Section 1031 of the Internal Revenue Code, Buyer may assign its rights under this Agreement (in whole or in part) to a "qualified intermediary" under section 1.1031(k)-1(g)(4) of the Treasury Regulations and/or to an "exchange accommodation titleholder" ("EAT") in accordance with the safe harbor provisions of Revenue Procedure 2000-37. If Buyer gives notice of such assignment, Seller shall provide Buyer with a written acknowledgment of such notice prior to Closing and shall convey the Acquired Assets (or such portion thereof as is designated in writing by the qualified intermediary and/or EAT) to or on behalf of the qualified intermediary and/or EAT at Closing and otherwise cooperate therewith.

16.9 **Governing Law.** The construction and performance of this Agreement shall be governed by the laws of the State of Maryland, applicable to agreements made and to be performed in the State of Maryland, without regard to its principles of conflicts of law.

16.10 **Counterparts.** This Agreement may be executed in one or more counterparts, each of which will be deemed in original and all of which together will constitute one and the same instrument.

IN WITNESS WHEREOF, the undersigned have executed this Agreement as of the date herein first above-written.

SELLER:

**MEGA COMMUNICATIONS OF SILVER
SPRING, L.L.C.**

By: _____
Name: _____
Title: _____

**MEGA COMMUNICATIONS OF SILVER
SPRING LICENSEE, L.L.C.**

By: _____
Name: _____
Title: _____

BUYER:

**MULTICULTURAL RADIO
BROADCASTING, INC.**

By: _____
Arthur Liu
President