

**ATSC 3.0 HOSTING AGREEMENT
CHARLESTON-HUNTINGTON**

This ATSC 3.0 HOSTING AGREEMENT (“**Agreement**”) is dated as of November 1, 2021, by and between Gray Television Licensee, LLC (“**Host Licensee**”) and Gray Media Group, Inc. (together with Host Licensee, the “**Host**”), on one hand, and WVAH Licensee, LLC (“**Guest Licensee**”) and Cunningham Broadcasting Corporation (together with Guest Licensee, the “**Guest**”), on the other hand (each a “**Party**” and together, the “**Parties**”).

- A. The Parties are part of a coordinated effort to deploy the ATSC 3.0 broadcast television transmission standard (“**ATSC 3.0**”), as defined by 47 C.F.R. §73.3801 of the rules of the Federal Communications Commission (the “**FCC**”), in the Charleston-Huntington Designated Market Area (the “**Market**”). The initial transition and deployment plan for the Market is set forth on Exhibit A hereto (the “**Deployment Plan**”).
- B. Host, through Host Licensee, is the FCC licensee of Station WSAZ-TV, Huntington, WV, FCC Facility ID Number 36912 (the “**Host Station**”), which intends to transmit its signal in the ATSC 3.0 broadcast standard.
- C. Guest, through Guest Licensee, is the FCC licensee of Station WVAH-TV, Charleston, WV, FCC Facility ID Number 417 (the “**Guest Station**”), which transmits its signal in the ATSC 1.0 broadcast standard.
- D. Guest and Host wish for Host to transmit certain programming stream(s) of the Guest Station as set forth in the Deployment Plan (individually and collectively the “**Guest Program Stream(s)**”) and any data associated with ancillary and supplementary services permitted by the FCC (“**Guest Data**”) on the Host Station in the ATSC 3.0 format as provided in this Agreement so that Guest may make available such stream(s) and data in the ATSC 3.0 format to the public in the Market.
- E. In connection with this Agreement, Host and Guest have entered into that certain ATSC 1.0 Hosting Agreement of even date herewith pursuant to which Guest has agreed to transmit certain programming stream(s) of the Host Station on Guest Station in the ATSC 1.0 format (“**ATSC 1.0 Hosting Agreement**”) so that Host may continue to make such stream(s) available in the ATSC 1.0 format to the public in the Market after Host converts the Host Station to the ATSC 3.0 standard.

NOW, THEREFORE, taking the foregoing recitals into account, and in consideration of the mutual covenants and agreements contained herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties, intending to be legally bound, hereby agree as follows:

**ARTICLE I.
FCC REQUIRED PROVISIONS**

1.1 FCC Required Provisions. This Agreement sets forth each Party’s rights and responsibilities regarding the following items as required by the FCC’s ATSC 3.0 rules:

- (a) Access to facilities (Section 4.3);
- (b) Allocation of bandwidth (Section 4.1 and Schedule 4.1);

(c) Operation, maintenance, repair, and modification of the Host Station's facilities (Sections 4.3 and 4.4), including a list of all relevant equipment (Schedule 4.3), a description of each Party's financial obligations (Sections 3.1 and 4.4), and any relevant notice provisions (Section 7.1);

(d) Conditions under which this Agreement may be terminated, assigned or transferred (ARTICLE VI and Section 7.5); and

(e) How the Guest Program Stream(s) and any Guest Data may be transitioned off the Host Station (ARTICLE VI).

ARTICLE II. TERM

2.1 Term. The term of this Agreement shall commence on the date hereof, and, unless earlier terminated in accordance with Section 6.1, shall continue until the date that is four (4) years following the Commencement Date, as defined in Section 3.4 (the "**Initial Term**").

2.2 Renewal Term. The Initial Term shall automatically renew for four (4) successive periods of two (2) years (each period collectively with the Initial Term, the "**Term**"), unless either Party delivers written notice of intent not to renew at least one hundred eighty (180) days prior to the end of the then current Term.

ARTICLE III. PREPARATION, COMMENCEMENT, AND MARKET PLANNING

3.1 Initial Upgrades. Host shall, upon reasonable consultation with Guest, identify any equipment purchases, equipment upgrades, modifications, or other capital expenditures necessary to commence simulcasting under this Agreement ("**Initial Capital Expenditures**"). Host shall bear the costs for any Initial Capital Expenditures. Immediately upon execution of this Agreement, Host shall commence making any changes, upgrades, and/or modifications necessary to host the Guest Program Stream(s) and any Guest Data on the Host Station ("**Necessary Changes**") as contemplated by this Agreement. Upon completion of the Necessary Changes, Host shall promptly provide written notice to Guest.

3.2 FCC Applications.

(a) **Initial Filings.** Promptly upon the execution of this Agreement, Host shall file with the FCC an application seeking approval to convert the Host Station to ATSC 3.0 transmissions pursuant to 47 C.F.R. §73.3801(f)(2)(iii), and Guest shall file with the FCC an application seeking approval to commence airing of an ATSC 3.0 signal on the facilities of Host Station pursuant to 47 C.F.R. §73.3801(f)(2)(ii) (the "**Applications**"). Host and Guest shall cooperate in good faith and assist as necessary in the preparation, filing, and prosecution of the Applications, including but not limited to providing any information reasonably requested and necessary for such preparation and filing. Each Party shall bear its own costs and expenses related to the preparation and filing of its respective application and any other FCC filings required pursuant to this Agreement.

(b) **Modification Applications.** Host may file an application with the FCC to modify the Host Station upon prior notice to Guest so long as any proposed change will not result in more

than a *de minimis* loss of predicted population coverage and will continue to satisfy the coverage requirements set forth in 47 C.F.R. § 73.3801(d).

3.3 Pre-Launch Conditions. Following the execution of this Agreement, the obligations of Host to commence transmission of any Guest Program Stream(s) and any Guest Data shall be subject to the fulfillment of the following conditions (the “**Pre-Launch Conditions**”), which the Parties agree to use commercially reasonable efforts to fulfill:

- (a) The FCC shall have granted the Applications;
- (b) To the extent not authorized in the FCC’s grant of the Applications, the FCC shall have granted authority to Host, whether by special temporary authority, license, or otherwise, authorizing the transmission of Host’s ATSC 1.0 program streams on each respective station in the ATSC 1.0 format in accordance with each ATSC 1.0 Hosting Agreement as separate companion channel(s) of Host Station such that Host’s ATSC 1.0 program streams are considered to be originated by Host Station and do not result in a potential violation of the broadcast ownership rules, regardless of whether Host’s ATSC 1.0 program streams (other than Host’s primary stream) are simulcast in the ATSC 3.0 format on the Host Station (such FCC authorization, a “**Companion Channel Authorization**”);
- (c) Each Party, as applicable, shall satisfy the FCC’s notification requirements to consumers and multichannel video program distributors (at such Party’s cost and expense); and
- (d) Guest and Host shall each have obtained all material network and programming consents necessary, if any, for their respective programming streams to be transmitted in the ATSC 3.0 format from the Host Station, including consent from any of ABC, CBS, FOX, NBC, PBS, CW or MyNetwork (the “**Primary Networks**”), as applicable.

3.4 Commencement. Following grant of the Applications, Host shall expeditiously prepare to launch the Guest Program Stream(s) and any Guest Data on the Host Station. Unless otherwise agreed by the Parties, and subject to satisfaction or waiver of the Pre-Launch Conditions, not later than thirty (30) days after the FCC’s grant of the Applications, the Host shall commence transmitting the Guest Program Stream(s) and any Guest Data on the Host Station. The term “**Commencement Date**” means the date upon which Host begins transmitting the Guest Program Stream(s) and/or any Guest Data on the Host Station. As of the date hereof, the projected Commencement Date is December 2, 2021.

3.5 Deployment Plan. The Parties agree to use their best commercially reasonable efforts to effectuate the transition set forth in the Deployment Plan, which efforts shall include seeking all necessary consents required from, and giving all required notices to, third parties, including programmers, redistributors, and landlords. In the event that another station participating in the Deployment Plan is required to host any program stream of either the Host Station or the Guest Station pursuant to an agreement contemplated by the Deployment Plan and fails to host such program stream, then Host and Guest agree to negotiate in good faith to find another host (in ATSC 1.0 or 3.0 format, as applicable) for such program stream. Each Party acknowledges that conditions in the Market during the Term may warrant changes to the Deployment Plan to facilitate the provision of more ATSC 3.0 capacity or programming to stations participating in the Deployment Plan. Each Party agrees to negotiate in good faith with other parties in the Market to implement such changes as to which the Parties mutually agree.

ARTICLE IV. OPERATION AND ONGOING MATTERS

4.1 Allocation of Bandwidth. Guest shall provide the Guest Program Stream(s) and any Guest Data to Host, and Host shall transmit the Guest Program Stream(s) and any Guest Data in the ATSC 3.0 format as provided by Guest, in each case in accordance with the bandwidth allocation plan and terms described in Schedule 4.1 (the “**Allocation Plan**”). Guest may at any time and for any reason elect to discontinue (on either a temporary or permanent basis) the transmission of the Guest Program Stream(s) or any Guest Data on the Host Station, provided that each Party’s respective rights and obligations under this Agreement shall remain in effect unless this Agreement expires or is terminated in accordance with the express provisions hereof.

4.2 Transmission. Except as provided herein, Host shall not alter the Guest Program Stream(s) or any Guest Data as provided by Guest, *provided that* Host shall **(a)** encode, compress, or modulate content in a manner permitted under the Allocation Plan as required to multiplex all streams transmitted by the Host Station and **(b)** implement and use ATSC 3.0 signaling and announcement protocols and standards and related data structures to ensure discovery and identification of the Guest Program Stream(s) in receiver guide information and user interfaces as directed by Guest. With respect to the foregoing, the Guest Program Stream(s) shall be treated by the Host Station in substantially the same manner as the Host Station treats its own content on the Host Station. Host shall provide sufficient bandwidth (including overhead) and redundant connectivity for receiving the primary and backup programming feeds from Guest. Host shall also provide to Guest virtual private network access to Host’s scheduler gateway for the purpose of providing real-time delivery of and support for Guest’s broadcast application. Host shall provide security encryption capabilities for Guest programming.

4.3 Access to Facilities. Host shall provide Guest with reasonable access to the transmitter site and other similar technical facilities of the Host Station (the “**Facilities**”) at all times, including a right to ensure ongoing broadcast operations in the ordinary course consistent with past practices of Host Station (as such practices are made known to Guest) and good engineering practices customary in the television broadcast industry (collectively, “**good engineering practices**”), provided that **(a)** Guest shall exercise such access rights in a manner consistent with good engineering practices and other practices reasonable and customary for the broadcast television industry, and in all events exercising a standard of care similar in all material respects to that of Host as reasonably communicated or made known to Guest (collectively, “**customary station practices**”), and **(b)** in all events, neither Party shall take any action that would be reasonably likely to disrupt or impair in any material respect the operation of the Host Station. If any third-party consent is necessary for Guest’s use of the Facilities, Host shall cooperate with Guest and take all such actions as are reasonably required to obtain such third-party consents. A list of all equipment relevant to the transmission of the Guest Program Stream(s) and any Guest Data on the Host Station is contained in Schedule 4.3, which may be amended over the course of the Term.

4.4 Operation and Maintenance. Except as provided below, Host shall be solely responsible for all costs and expenses relating to the Host Station. Each of Host and Guest shall be solely responsible for **(a)** costs for any necessary link between its station’s studio site and the site from which Host Station transports its signal to the transmitter site for broadcast on the Host Station, **(b)** all expenses related to any equipment solely owned by it, **(c)** its own insurance costs, and **(d)** Guest shall be responsible for any fees or costs imposed by the FCC for the transmission

of Guest Data by the Host Station. Host shall maintain, repair and replace the Facilities in accordance with good engineering practices and use commercially reasonable efforts to ensure that such equipment operates consistent with past practice and, in all events, within the technical parameters set forth on the Host Station's FCC license ("**Required Maintenance**"), with any costs and expenses incurred in connection with such Required Maintenance borne solely by Host; *provided* if Host fails to perform the Required Maintenance within five (5) days following written notice to Host from Guest requesting Host to perform the Required Maintenance, Guest shall have the right to take such actions as are necessary to perform the Required Maintenance and shall be able to seek reimbursement from Host for the reasonable expenses incurred by Guest in performing the Required Maintenance; *provided, further, however*, that Guest shall be solely responsible for the costs of any Required Maintenance that is a direct result of Guest's actions. In the event of planned repairs to the Facilities, Host shall reasonably coordinate such repairs (and any related downtime) with Guest. If the Facilities suffer an unexpected failure requiring the Host Station to temporarily cease broadcasting or operate at reduced power levels, Host shall promptly notify Guest and use commercially reasonable efforts, consistent with good engineering practices, to return the Host Station to operations at its full authorized power.

4.5 Review and Consultation Regarding Operational Matters. Each Party shall identify one or more officers or senior personnel with sufficient authority and technical experience to address operational matters independently or otherwise expeditiously (the "**Principal Liaisons**"). The Principal Liaisons shall meet following the Commencement Date at such times or at such intervals as the Parties may reasonably designate (but no less frequently than once every year), or upon the request of either Party upon appropriate prior notice. The Principal Liaisons shall review (a) the Allocation Plan and other engineering issues related to transmission of the Guest Program Stream(s) and any Guest Data and (b) the application and implementation of new technologies, including compression technologies, in view of technological, logistical, marketplace or regulatory changes, including then-current customary station practices, and to otherwise facilitate cooperation with respect to the purpose of this Agreement.

4.6 Insurance. Each Party shall continuously maintain, at its own expense, as applicable, sufficient insurance with respect to its use of the Host Station facilities and operations from the Host Station transmitter site during the Term and shall (a) when deemed necessary by the insured, name the other Party as an additional insured under such policies and (b) provide thirty (30) days' prior written notice to the other Party of any cancellation or any material reduction of coverage.

4.7 Regulatory Obligations.

(a) *Compliance.* The obligations of the Parties under this Agreement are subject to the Communications Act of 1934, as amended, and the rules, regulations and policies of the FCC (the "**Communications Laws**") and all other applicable laws. Each Party shall comply in all material respects with all applicable federal, state, and local laws, including the Communications Laws (including but not limited to closed captioning, CALM Act, EAS, video description, children's television, station identification, indecency and profanity, sponsorship identification, and political programming rules and policies), with respect to its ownership and operation of the Host Station or Guest Station, as applicable. Each Party will promptly notify the other Party of any material communications to and from the FCC that relate to the other Party's operations which may require coordination. Guest shall be solely responsible for all content provided by Guest airing on the Guest Program Stream(s) or included in any Guest Data.

(b) *Control.* In accordance with the Communications Laws, Host shall control, supervise and direct the day-to-day operation of the Host Station (including Host's employees, programming and finances), and Guest shall control, supervise and direct the day-to-day operation of the Guest Station (including Guest's employees, programming and finances), and nothing in this Agreement is intended to, nor shall be deemed to, affect either Party's responsibilities with respect to the operation of its respective station. Neither Party shall hold itself out as the licensee of the other Party's station. Nothing in this Agreement is intended, nor shall be construed, to establish a joint sales relationship between the Parties. The Parties shall not share or exchange, and shall prohibit their employees and sales representatives from sharing or exchanging, either directly or indirectly, non-public information relating to pricing or pricing strategies, pacing, holding capacity, revenues, or market share.

ARTICLE V. ALLOCATIONS OF RISK

5.1 *Representations, Warranties and Covenants.* Each Party represents and warrants to the other Party that, as of the date hereof: **(a)** it is a corporation, limited liability company, or general partnership (as applicable) duly organized and validly existing under the laws of its place of organization; **(b)** it is in good standing in the jurisdiction of its organization and, if necessary, is qualified to do business in the state in which the Host Station is located; **(c)** it has full power and authority and has taken all corporate action necessary to enter into and perform this Agreement and to consummate the transactions contemplated hereby; and **(d)** this Agreement is its legal, valid and binding obligation, enforceable in accordance with the terms and conditions hereof.

5.2 *Indemnification.*

(a) *Scope.* Each Party shall indemnify, defend and hold harmless the other Party (and such other Party's parents, affiliates, subsidiaries, directors, officers, employees, agents, representatives, and their respective successors and assigns), from and against any and all losses, liabilities, claims, damages, costs, and expenses (including reasonable attorneys' fees) (collectively, "**Losses**") resulting from, arising out of, or relating to:

(i) *Breach of Representations and Warranties.* Any breach of any representation or warranty made by the indemnifying Party under this Agreement;

(ii) *Breach of Covenants.* Failure to comply with the covenants and obligations to be performed by the indemnifying Party under this Agreement; and

(iii) *Post-Commencement Operations.* Solely with respect to the portion of the Term following the Commencement Date, the business and operation of the indemnifying Party's station and, as to Guest, all content, including, but not limited to, the programming, advertising, and any other material, provided by Guest to Host Station broadcast on the Guest Program Stream(s) and in any Guest Data, including with respect to indecency, libel, slander, infringement of trademarks or trade names, infringement of copyrights and proprietary rights, violation of rights of privacy and other violations of rights, the Communications Laws or other applicable laws, except in all instances, to the extent any alteration of the Guest Program Stream(s) or any Guest Data by Host caused the Losses.

(b) *Procedures.* A Party seeking indemnification hereunder shall **(i)** give the indemnifying Party written notice of the relevant claim, **(ii)** reasonably cooperate with the indemnifying Party, at the indemnifying Party's expense, in the defense of such claim, and

(iii) give the indemnifying Party the right to control the defense and settlement of any such claim, except that the indemnifying Party shall not enter into any settlement without the indemnified Party's prior written approval (which shall not be unreasonably withheld, delayed or conditioned). The indemnified Party shall have no authority to settle any claim on behalf of the indemnifying Party; *provided, however*, the indemnified Party shall have the right to participate in the defense of any third-party claim at its own expense assisted by counsel of its own choosing.

(c) *Attorneys' Fees.* The prevailing Party in any lawsuit brought to enforce the performance or compliance of any provision of this Agreement may recover reasonable attorneys' fees and costs from the non-prevailing Party.

5.3 Limitations on Liability. Except (a) to the extent arising from a claim against an indemnified Party by a third party giving rise to a Loss subject to indemnification hereunder or (b) in the case of personal injury, including death, and damages to tangible property caused by the gross negligence or willful misconduct of a Party or its employees, agents, or subcontractors, no indemnifying Party hereunder shall have any liability for any punitive, consequential, indirect, exemplary, special, or incidental loss or damage suffered by the other arising from or related to the performance or nonperformance of this Agreement, including loss of data, profits, interest or revenue or interruption of business, even if such Party has been informed of or might otherwise have anticipated or foreseen the possibility of such losses or damages.

5.4 Dispute Resolution.

(a) *Consultation of Principal Liaisons or Executive Officers.* With respect to any issue, controversy or dispute between the Parties (a "**Dispute**"), the Principal Liaisons shall confer and endeavor to resolve such Dispute. If the Parties are unable to come to an agreement on a given Dispute through the Principal Liaisons, the Parties' respective executive officers (or their designees of appropriate seniority) shall meet and confer in an attempt to resolve the Dispute.

(b) *Non-Binding Mediation.* If such Dispute is not resolved pursuant to Section 5.4(a), or if either Party so elects, the matter may be submitted to a mutually agreeable independent third party with substantial experience and expertise in the business and operation of television broadcast stations (the "**Special Master**") to serve as a non-binding mediator. If the Parties cannot agree on the selection of a Special Master, then each Party shall nominate one person to be the Special Master (the "**Special Master Nominee**") and the two Special Master Nominees shall then determine which of them shall serve as the Special Master Nominee or, if they cannot so determine, then they shall select a third party to serve as the Special Master.

(c) *Judicial Recourse and Available Remedies.* Subject to the last sentence of this Section 5.4(c), nothing contained herein shall otherwise act to limit or modify the Parties' ability to seek recourse through judicial resolution of any matter in accordance with applicable law or, except as set forth in Section 5.3, limit the remedies available hereunder to any Party at law or equity. Notwithstanding the foregoing, each Party hereby irrevocably and unconditionally waives any right it may have to trial by jury in any action arising out of or related to this Agreement or the transactions contemplated by this Agreement.

ARTICLE VI. TERMINATION AND OTHER REMEDIES

6.1 Termination. This Agreement may be terminated as follows:

(a) *Mutual Consent.* The Parties may terminate this Agreement at any time by mutual written agreement.

(b) *ATSC 1.0 Hosting Agreement.* Host may terminate this Agreement effective upon or after the expiration or termination of the ATSC 1.0 Hosting Agreement by giving at least sixty (60) days' prior written notice to the Guest; provided such termination was not a result of a breach by the Host of the ATSC 1.0 Hosting Agreement.

(c) *Material Breach.* Either Party shall have the right to terminate this Agreement upon a breach of this Agreement in any material respect by the other Party (a "**Material Breach**"), which Material Breach is not cured within sixty (60) days after written notice thereof, subject to Section 6.2(c). In the event a Material Breach under this Agreement is not cured within sixty (60) days, the non-defaulting Party may, in lieu of termination, and in its sole discretion, cure the breach, in which event the non-defaulting Party shall be entitled to an offset against its share of expenses owed under this Agreement in the amount of all out-of-pocket costs and expenses reasonably incurred in curing such breach.

(d) *Changed Circumstances.*

(i) *Termination by Host.* Host may at any time terminate this Agreement upon its cessation of operations of Host Station in the ATSC 3.0 standard by giving at least one hundred eighty (180) days' prior written notice to the Guest.

(ii) *Loss of Network Consent.* In the event any of the Primary Networks revoke their grant of rights to either of the Parties to operate as specified under either this ATSC 3.0 Hosting Agreement or the separate ATSC 1.0 Hosting Agreement being entered into contemporaneously herewith, the affected Party shall have the right to terminate this Agreement effective upon ninety (90) days' prior written notice to the other Party.

(e) *Loss of Companion Channel Authorization.* Host may terminate this Agreement in the event that, with respect to any of Host's ATSC 1.0 program streams and despite Host's commercially reasonable efforts, the FCC cancels, withdraws, or does not renew or extend, the Companion Channel Authorization, or the Companion Channel Authorization otherwise is no longer in full force and effect, except to the extent the Companion Channel Authorization is replaced or modified by a subsequent Companion Channel Authorization, or mooted by FCC rule change or FCC declaratory ruling confirming Host's authorization to transmit Host's ATSC 1.0 program stream(s) from the Guest Station in the ATSC 1.0 format consistent with the Companion Channel Authorization.

(f) *Loss of License or Eligibility to Participate.* This Agreement shall automatically terminate upon (i) either Party's loss of its FCC license for its station subject to this Agreement pursuant to a Final Order of the FCC; or (ii) upon a Final Order by the FCC that either Party is ineligible to participate in ATSC 3.0-related hosting arrangements. A "**Final Order**" is an action taken by the FCC, including action taken by FCC staff under delegated authority, which (A) has not been reversed, stayed, enjoined, set aside, annulled or suspended; (B) with respect to which no timely request for stay, petition for rehearing or reconsideration, appeal or certiorari or *sua sponte* action of the FCC with comparable effect shall be pending; and (C) as to which the time for filing any such request, petition, appeal, certiorari or for the taking of any such *sua sponte* action by the FCC shall have expired or otherwise terminated.

6.2 *Effect of Termination.*

(a) *Costs.* In the event of a termination other than pursuant to Section 6.1(c), neither Party shall be liable to the other as a result of such termination for any amounts over those that are due and payable under other provisions of this Agreement.

(b) *Survival.* In the event of the expiration or termination of this Agreement, this Agreement shall upon the effective date of such expiration or termination become null and void and have no effect, and the obligations of the Parties under this Agreement shall terminate, except for Sections 5.1, 5.2, 5.3, 6.2, 6.4, and ARTICLE VII (including any schedules referenced therein), all of which shall survive indefinitely. Nothing in this ARTICLE VI shall relieve either Party of any liability for a breach of this Agreement prior to the expiration or termination hereof. The expiration or termination of this Agreement shall not relieve either Party of any liability or obligation which accrued hereunder prior to the effective date of such expiration or termination, including any payment obligations, nor preclude either Party from pursuing any rights and remedies it may have hereunder or at law or in equity with respect to any breach of this Agreement (e.g., a Party terminating this Agreement pursuant to Section 6.1(c) shall not be precluded from bringing a claim against the other Party for damages due to such other Party's Material Breach) nor prejudice either Party's right to obtain performance of any obligation which accrued hereunder prior to the effective date of such expiration or termination.

(c) *Transition Period.* Notwithstanding anything in this Agreement to the contrary, in the event of the termination of this Agreement pursuant to Section 6.1(c) by Host, Host shall continue to transmit the Guest Program Stream(s) as provided herein and shall continue to provide the access and services set forth in ARTICLE IV for sixty (60) days after the date of termination, or such earlier time as Guest notifies Host.

6.3 *Specific Performance.* In the event of failure or threatened failure by either Party to comply with the terms of this Agreement, the other Party shall be entitled to seek equitable relief restraining such failure or threatened failure and, subject to obtaining any necessary FCC consent, to seek enforcement of this Agreement by an order of specific performance requiring compliance with this Agreement.

6.4 *Remedies Cumulative; Other Rights and Remedies.* The rights and remedies of the Parties hereto shall be cumulative and not alternative. Other than as expressly set forth herein, remedies in the event of breach of a Party's obligations under this Agreement shall include such relief as may be available at law or equity, including injunctive relief (whether temporary or permanent), specific performance, or money damages.

ARTICLE VII. MISCELLANEOUS

7.1 *Notices.* All notices, requests, demands and other communications that are required or may be given pursuant to the terms of this Agreement shall be in writing, and shall, when addressed to a Party at the applicable address set forth on Schedule 7.1 (or at such other address as a Party may designate in accordance with this Section 7.1 upon ten (10) days' prior written notice to the other Party) and when expressly and conspicuously referencing this Agreement, be deemed validly delivered on the date of delivery when delivered in person or by a nationally

recognized overnight courier service maintaining records of receipt, including FedEx, DHL and United Parcel Service.

7.2 Confidential Information.

Except as provided in Section 7.2(b) below, each Party hereto covenants and agrees that it will not at any time during the Term or after the termination of this Agreement disclose to others or use (except to the extent required for the purpose of performing or enforcing this Agreement), any secret, proprietary or confidential information of any other Party hereto, including the terms and conditions contained in this Agreement. The Party receiving such confidential information shall take the same precautions as it takes to protect its own confidential information, but in all events reasonable precautions shall be taken, to preserve its confidentiality. Confidential information shall not be revealed to third parties, other than to **(i)** the Parties' parents, affiliates, subsidiaries, and their respective officers, employees, directors, attorneys, accountants and other legal and financial advisors who need to know such information, without prior written consent of the disclosing Party, and no Party may use any other Party's confidential information for any purpose except for purposes of performing this Agreement; or **(ii)** to one or more actual or prospective investors, lenders, or purchasers and their respective officers, employees, attorneys, accountants and other legal and financial advisors who need to know such information, provided such parties are bound by a non-disclosure agreement consistent with the terms hereof (or in the case of attorneys or accountants, have a similar professional ethical duty).

(a) Information shall not be deemed confidential or otherwise subject to the provisions of Section 7.2(a) above to the extent that a Party in receipt of such information (the "**Receiving Party**") shall be able to establish by competent proof that such information **(i)** was already known to the Receiving Party other than under an obligation of confidentiality, at the time of disclosure; **(ii)** was independently compiled, created, or developed by the Receiving Party without reference to the otherwise confidential information disclosed by the other Party; **(iii)** was a matter of public record or was publicly known at the time of disclosure to the Receiving Party; **(iv)** became a matter of public record or became publicly known after its disclosure to the Receiving Party other than through any act or omission by or on behalf of the Receiving Party in breach of this Agreement; or **(v)** was disclosed to the Receiving Party by a third party who had no obligation to not disclose such information to the Receiving Party. A Receiving Party may further disclose confidential information or information otherwise subject to Section 7.2(a) above to the extent that such disclosure is made in response to a valid order of a court of competent jurisdiction or other governmental authority of competent jurisdiction (including the FCC) ("**Government Inquiry**") but solely to the extent legally required; provided that the Receiving Party shall, to the extent reasonably practicable, give notice to the disclosing Party and a reasonable opportunity for such disclosing Party to seek to quash any such order or obtain a protective order with respect to the information to be disclosed and, the Receiving Party shall redact the terms and conditions of this Agreement to the greatest extent permissible under the Government Inquiry. Nothing in this agreement shall be deemed to expand or limit the rights of either Party under Chapter 90 of Title 18 of the United States Code.

7.3 Force Majeure. Neither Party shall be liable to the other for any default or delay in the performance of its non-monetary obligations under this Agreement to the extent that the default or delay is caused by an event outside of its reasonable control, including a fire, flood, earthquake, war, act of terrorism, pandemic, labor dispute, government or court action, failure of facilities (unless reasonably arising from such Party's failure to maintain or repair such facilities

in accordance with the terms and conditions of this Agreement applicable to such Party), or act of God.

7.4 Governing Law. This Agreement shall be governed by the laws of the State of New York, excluding any conflicts or choice-of-law rule or principle that might otherwise refer construction or interpretation of this Agreement to the substantive law of another jurisdiction.

7.5 Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the Parties hereto and their permitted successors and assigns, if any. No Party may assign this Agreement (including in connection with a change of control of such Party through merger, acquisition, sale or otherwise) without prior written consent of the other Party, *provided, however,* that notwithstanding the foregoing, each Party shall be obligated to assign this Agreement (and without the requirement of the other Party's consent) to any FCC-approved assignee or transferee of such Party's station in connection with any assignment of FCC licenses or transfer of control with respect to the Host Station or Guest Station, as applicable, and such assignee or transferee shall assume and agree to perform this Agreement in a writing delivered to the other Party hereto.

7.6 Waiver. No failure on the part of any person to exercise any power, right, privilege or remedy under this Agreement, and no delay on the part of any person in exercising any power, right, privilege or remedy under this Agreement, shall operate as a waiver of such power, right, privilege or remedy and no single or partial exercise of any such power, right, privilege or remedy shall preclude any other or further exercise thereof or of any other power, right, privilege, or remedy. No person shall be deemed to have waived any claim arising out of this Agreement, or any power, right, privilege or remedy under this Agreement, unless the waiver of such claim, power, right, privilege or remedy is expressly set forth in a written instrument duly executed and delivered on behalf of such person, and any such waiver shall not be applicable or have any effect except in the specific instance in which it is given.

7.7 Amendments. This Agreement may not be amended, modified, altered or supplemented other than by means of a written instrument duly executed and delivered on behalf of all the Parties hereto.

7.8 Severability. If any covenant or provision hereof is determined by a court of competent jurisdiction to be void or unenforceable in whole or in part, it shall not be deemed to affect or impair the validity of any other covenant or provision, each of which is hereby declared to be separate and distinct. If any provision of this Agreement is declared invalid or unenforceable, that provision shall be modified to maintain the essential benefits of the bargain between the Parties hereto to the maximum extent possible, consistent with applicable laws and public policy.

7.9 Relationship of the Parties. The Parties to this Agreement are independent contractors. No Party shall have any right, power, or authority to enter into any agreement for or on behalf of, or incur any obligation or liability of, or to otherwise bind, any other Party. This Agreement is not intended to, and shall not be deemed, interpreted, or construed to create an association, agency, joint venture, partnership, fiduciary, or lessor/lessee relationship between the Parties or to impose any liability attributable to such a relationship upon the Parties.

7.10 No Third-Party Beneficiaries. None of the provisions of this Agreement is intended to provide any rights or remedies to any person other than the Parties hereto and their respective successors and permitted assigns.

7.11 Construction.

(a) *Headings.* The headings contained in this Agreement are for convenience of reference only, shall not be deemed to be a part of this Agreement, and shall not be referred to in connection with the construction or interpretation of this Agreement.

(b) *Interpretation.* For purposes of this Agreement, whenever the context requires: (i) the singular shall include the plural, and vice versa and (ii) “days” shall refer to calendar days, unless otherwise stated. Except where the context requires otherwise, the word “or” has the inclusive meaning represented by the phrase “and/or.” The words “include” and “including” and variations thereof, shall not be deemed to be terms of limitation, but rather shall be deemed to be followed by the words “without limitation.”

(c) *Neutral Construction.* Each Party has been represented by legal counsel and the Parties hereto agree that any rule of construction to the effect that ambiguities are to be resolved against the drafting Party shall not be applied in the construction or interpretation of this Agreement.

7.12 Entire Agreement. This Agreement, together with the Schedules and Exhibits hereto, sets forth the entire understanding of the Parties hereto relating to the subject matter hereof as of the date hereof and supersedes all prior agreements and understandings among or between any of the Parties relating to the subject matter hereof, including any term sheet developed by and among the Parties hereto.

7.13 Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same instrument. The exchange of copies of this Agreement or amendments thereto and of signature pages by facsimile transmission or by email transmission in portable digital format, or similar format, shall constitute effective execution and delivery of such instrument(s) as to the Parties and may be used in lieu of the original Agreement or amendment for all purposes. Signatures of the Parties transmitted by facsimile or by email transmission in portable digital format, or similar format, shall be deemed to be their original signatures for all purposes.

[Signature page follows]

IN WITNESS WHEREOF, the Parties have duly executed this Agreement as of the date first set forth above.

HOST:

**Gray Television Licensee, LLC
and Gray Media Group, Inc.**

By: 

Name: Robert Hollins

Title: SVR - Government Relations & Distribution

GUEST:

**WVAH Licensee, LLC and
Cunningham Broadcasting Corporation**

By: 

Name: Michael Anderson

Title: President

EXHIBIT A Deployment Plan

Charleston-Huntington – Channel Mapping:

BitPath

ATSC 3.0 Channel Plan

Version: 2021_09_16

Market **Charleston-Huntington**

Market Info

DMA Rank 75
Coverage US HH %: 0.353 & US HH (000): 427.0
OTA %: 7.4

Participation Info

Operator Participants: 3
1.0 Hosts: 4
3.0 Hosts: 1
1.0 Stations: 5
3.0 Stations: (if appl)
HD Affili: 5
SD Affili: 17

Notes

Channel Map

1.0 Broadcast				
Calls of Host:	WVAH-TV	WOWK-TV	WQCW	WCHS-TV
HD:		CBS 1080i	CW 1080i	ABC 720p
HD:			NBC 1080i	FOX 720p
HD:				
SD:	Decades 480i	Court TV Mystery 480i	H&I 480i	Antenna TV 480i
SD:	Stadium 480i	Laff 480i	Start TV 480i	True Crime Network 480i
SD:	Comet TV 480i	Rewind TV 480i	Quest 480i	
SD:	Charge!	DABL 480i	Court TV 480i	
SD:	TBD 480i			
SD:	MyNet/Me-TV 480i			
SD:	Circle 480i			
SD:				
SD:				
SD:				
SD:				

3.0 Broadcast (assumes equal allocation of capacity)

Calls of Host:	WSAZ-TV (NBC)
% Alloc:	20.0
Call 2:	WQCW (CW)
% Alloc:	20.0
Call 3:	WOWK-TV (CBS)
% Alloc:	20.0
Call 4:	WVAH-TV (Decades)
% Alloc:	20.0
Call 5:	WCHS-TV (ABC)
% Alloc:	10.0
Call 6:	WCHS-TV (FOX)
% Alloc:	10.0
TOTAL	100

Programming

Call Sign	FAC ID	Operator / Owner	Service	Ch: / Repack Channel (Ph:)	Coverage POPs (000)	Primary	D-2	D-3	D-4	D-5	D-6
WVAH-TV	417	Cunningham Broadcasting Corporation	DT	Ch: 19 / Repack Ch: 24 (Ph:6)	1373.98	Decades (480i)	Stadium (480i)	Comet TV (480i)	Charge! (480i)	TBD (480i)	
WCHS-TV	71280	Sinclair Broadcast Group Inc	DT	Ch: 41 / Repack Ch: 29 (Ph:0)	1355.52	ABC (720p)	FOX (720p)	Antenna TV (480i)			
WOWK-TV	23342	Nexstar Media Group Inc	DT	Ch: 13 / Repack Ch: 10 (Ph:10)	1341.69	CBS (1080i)	Court TV Mystery (480i)	Laff (480i)	Rewind TV (480i)		
WQCW	65130	Gray Television Inc	DT	Ch: 17 / Repack Ch: 15 (Ph:6)	1309	CW (1080i)	H&I (480i)	Start TV (480i)	Quest (480i)	Court TV (480i)	
WSAZ-TV	36912	Gray Television Inc	DT	Ch: 23 / Repack Ch: 22 (Ph:6)	1240.79	NBC (1080i)	MyNet/Me-TV (480i)	Circle (480i)	DABL (480i)	True Crime Network	
WLPX-TV	73189	ION Media Networks Inc	DT	Ch: 39 /	1067.72	ION	Qubo	ION Plus	Infomercials	QVC	HSN

Schedule 4.1 Allocation Plan

1. Definitions.

- a. **“Allocated Capacity”** shall mean Guest Station’s share of the total bandwidth and spectrum capacity of Host Station’s 6 MHz channel, which capacity shall be equally divided among Host Station, Guest Station, and each Other Guest Station measured as a percentage of maximum spectrum resources capable of being utilized as a function of time including an equal division of common overhead spread among Host Station, Guest Station, and each Other Guest Station. For the avoidance of doubt, upon execution of this Agreement and subject to Section 3 of this Schedule 4.1, the Allocated Capacity is twenty percent (20%) of the total bandwidth and spectrum capacity of Host Station’s 6 MHz channel.
- b. **“Other Guest Station”** shall mean any other in-Market broadcast station (other than Host Station and Guest Station) which, pursuant to the Market Deployment Plan, has the right to have video programming or data transport streams transmitted on the Host Station. For the avoidance of doubt, upon execution of this Agreement and subject to Section 3 of this Schedule 4.1, the following stations are each an Other Guest Station and each allocated twenty percent (20%) of the total bandwidth and spectrum capacity of Host Station’s 6 MHz channel hereunder:
 - i. WQCW, Portsmouth, OH (Gray, CW)
 - ii. WOWK-TV, Huntington, WV (Nexstar, CBS)
 - iii. WCHS-TV, Charleston, WV (Sinclair, ABC/FOX)

2. Use of Allocated Capacity. Host shall provide Guest the Allocated Capacity to transmit the Guest Program Stream(s) and any Guest Data on the Host Station. To the extent feasible, supported by the Host Station equipment, and consistent with FCC regulations and Host Station’s FCC license obligations, Guest will be permitted to monitor and/or directly control the Allocated Capacity. Notwithstanding any other provision herein, Host Station shall broadcast the primary Guest Program Stream at a signal and picture quality level (including as to bandwidth and spectrum capacity priority) that is at least equal to that of each other program stream broadcast on the Host Station (except to the extent that Guest has sole control over the signal and picture quality level of the Guest Program Stream or Guest does not deliver the Guest Program Stream consistent with such signal and quality level).

3. Changes to Allocation.

- a. In the event an Other Guest Station no longer has the right to have content transmitted on the Host Station or elects not to exercise such right, Host may at any time replace such departed Other Guest Station with a new station (making it an Other Guest Station hereunder), the Deployment Plan shall be amended accordingly, and the Guest Station’s Allocated Capacity shall remain unaffected by the substitution. However, unless and

until such replacement Other Guest Station's content is being transmitted by the Host Station, the total bandwidth and spectrum capacity of Host Station's 6 MHz channel shall be re-allocated equally among the Host Station, Guest Station, and the then-remaining Other Guest Station(s) (*i.e.*, if there is one (1) Other Guest Station then-remaining, the Allocated Capacity shall mean for such period of time thirty-three and thirty-three hundredths percent (33.33%) of the total bandwidth and spectrum capacity of Host Station's 6 MHz channel).

- b. In addition to Host Station's replacement rights under Section 3(a) of this Schedule 4.1, upon mutual agreement among Host, Guest, and each Other Guest Station, Host may allow another in-Market television broadcast station to become an Other Guest Station with a concomitant effect on the allocated capacity assigned to each guest and Host, respectively, and the Deployment Plan shall be amended accordingly. Notwithstanding anything herein to the contrary, and subject to applicable FCC rules, Host Station, Guest Station, and each Other Guest Station may elect, in its discretion, to make a portion of its respective allocated capacity available to any other party for use under mutually agreed upon terms provided there is no adverse impact upon Host, or upon Host Station's, Guest Station's, or any Other Guest Station's allocated capacity or regulatory compliance.

Schedule 4.3
Relevant Equipment

3.0 Host Equipment
Modulator / Exciter
Exciter LDM Multi PLP Upgrade
Scheduler
Encoder License (lifetime)
Encoder Server (hardware for 5 Video Services)
ATSC Caster
Scheduler Gateway
Stat Mux Server
Test & Measurement Equipment
Installation/Misc. materials
Packager/Mux/Signaling/ESG NRT
PTP/NTP Clock
Microwave Upgrade
PSIP
AEA/EAS package

Schedule 7.1
Contact Information for Notices

If to Host, to:

Gray Media Group, Inc.
4370 Peachtree Road, NE
Atlanta, GA 30319

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

Robert Folliard
4370 Peachtree Road, NE
Atlanta, GA 30319

If to Guest, to:

Cunningham Broadcasting Corporation
2000 W. 41st Street
Baltimore, MD 21211

Attention: Michael Anderson

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

Scott R. Flick, Esq.
Pillsbury Winthrop Shaw Pittman LLP
1200 Seventeenth St., NW
Washington, DC 20036