

ASSET PURCHASE AGREEMENT

THIS ASSET PURCHASE AGREEMENT (this “Agreement”) is entered into as of this ___ day of May, 2019 (the “Effective Date”) by and between **MARTIN BROADCASTING COMPANY**, a Mississippi corporation (“Seller”) and **HEATHCOCK COMMUNICATIONS, LLC**, a Mississippi Limited Liability Company (“Buyer”).

RECITALS

WHEREAS, Seller is the licensee and operator of AM radio station WABO Waynesboro, MS (FCC Facility ID No. 40488) and FM radio station WABO-FM, Waynesboro, MS (FCC Facility ID No. 40489) (the “Stations”) pursuant to certain authorizations issued by the Federal Communications Commission (the “FCC”);

WHEREAS, Seller owns other assets used in connection with the operation of the Stations;

WHEREAS, on the terms and conditions described herein, Seller desires to sell and Buyer desires to purchase substantially all of the assets owned or leased by Seller and used in connection with the operation of the Stations; and

WHEREAS, Seller and Buyer have entered into a Time Brokerage Agreement (the “Programming Agreement”) executed contemporaneously with this Agreement, pursuant to which Buyer will provide programming for broadcast on the Stations starting June 1, 2019,

NOW, THEREFORE, taking the foregoing into account, and in consideration of the mutual covenants and agreements set forth herein, the sufficiency of which is hereby acknowledged, the parties, intending to be legally bound, hereby agree to the following terms and conditions:

ARTICLE 1: SALE AND PURCHASE

1.1 **Stations’ Assets**. Subject to the terms and conditions herein contained, Seller shall grant, convey, sell, assign, transfer and deliver to Buyer on the Closing Date (as defined below) the assets, properties, interests and rights of Seller used or useful in connection with the operation of the Stations (collectively, the “Stations’ Assets”), but excluding the Excluded Assets (as defined below). The Stations’ Assets shall include, without limitation, the following:

(a) **Licenses and Authorizations**. All licenses, authorizations, permits, granted construction permits, and all pending applications for FCC licenses, permits, and authorizations applied or issued with respect to the Stations by the FCC (the “FCC Authorizations”) and by any other federal, state or local governmental authorities in connection with the conduct of the business and operation of the Stations, including without limitation those listed on Schedule 1.1(a) attached hereto;

(b) **Tangible Personal Property**. The machinery and equipment, transmitters, antennas, tangible studio equipment, furniture, fixtures, computers, software, inventory, cables, spare parts and other personal property (including associated manufacturer and

vendor warranties) used or held for use in connection with the conduct of the business and operation of the Stations, including, but not limited to all tangible property listed and described on Schedule 1.1(b) attached hereto, and any additions and improvements thereto between the Effective Date and the Closing Date (collectively, the “Tangible Personal Property”);

(c) **Real Property.** All interests in the real property described on Schedule 1.1(c), including any appurtenant easements and improvements located thereon along with any licenses to occupy, (the “*Real Property*”).

(d) **Contracts.** All contracts and agreements listed on Schedule 1.1(d) (the “Assumed Contracts”);

(e) **Accounts Receivable.** All Seller’s Accounts Receivable, if any remain after implementation of the Programming Agreement.

(f) **Intangible Property.** All of Seller’s rights in the call letters of the Stations and in any trademarks, trade names, service marks, patents, patent applications, internet domain names and associated websites, copyrights, programs and programming material (including program rights), jingles, slogans, logos, and other intangible property owned by Seller used or held for use in the operation of the Stations, including without limitation those listed on Schedule 1.1(e), and all goodwill associated with the foregoing, except as specified as part of the Excluded Assets (collectively, the “Intangible Property”), except as otherwise provided in Section 1.2(f);

(g) **Files and Records.** Access to the Stations’ online public inspection files, filings with the FCC relating to the Stations, and such other technical information, engineering data, books and records that relate to the Stations and the Stations’ Assets being conveyed hereunder; all sales and promotional literature, manuals and data, sales and purchase correspondence, advertiser lists, and lists of present and former suppliers that relate to the Station and the Stations’ Assets;

(h) **Claims.** Any and all claims and rights against third parties if and to the extent that they relate to Stations’ Assets, including, without limitation, all rights under manufacturers’ and vendors’ warranties; and

(i) **Prepaid Items.** All deposits, reserves and prepaid expenses relating to the Stations’ Assets and prepaid taxes relating to the Stations’ Assets, pro-rated as of Closing.

1.2 **Excluded Assets.** The following shall be excluded from the Stations’ Assets and retained by Seller (collectively, the “Excluded Assets”):

(a) **Cash.** All cash, cash equivalents or similar investments such as certificates of deposit, treasury bills and other marketable securities on hand and/or in banks and deposits of Seller;

(b) **Insurance.** Any insurance policies, intercompany accounts, promissory notes, amounts due from employees, bonds, letters of credit, or other similar items, any cash surrender value in regard thereto of Seller, and any proceeds from insurance claims made by Seller

relating to property or equipment included in the Stations' Assets that has been repaired, replaced or restored by Seller prior to the Closing Date;

(c) **Tax Refunds**. Any interest in and to any refunds of federal, state or local franchise, income or other taxes of Seller for taxes incurred and actually paid by Seller prior to the Closing;

(d) **Books and Records**. Except as provided in Section 1.1(f), all the financial records, account books and general ledgers, and all corporate records (including organizational documents) of Seller, including tax returns and transfer books; and

(e) **Contracts**. Any contracts or agreements not listed on Schedule 1.1(d) or otherwise agreed to be assumed under Section 1.1(d).

(f) **Corporate Name**. The corporate and trade name of "MARTIN BROADCASTING COMPANY."

(g) **Personal Items**. Certain items of personal property of Nancy Martin and members of her family, to be identified by Seller to Buyer within 30 days after execution of this Agreement.

1.3 **Liabilities**. At Closing, the Stations' Assets shall be transferred by Seller to Buyer free and clear of all debts, security interests, mortgages, trusts, claims, pledges, conditional sales agreements, equipment leases, and other liens, liabilities and encumbrances of every kind and nature ("Liens"), other than for taxes not yet due and payable, Liens that will be discharged on the date of or prior to Closing, real property easements, and Buyer's obligations to perform on and after the Closing Date the obligations arising under the Real Property, Assumed Contracts and other Stations' Assets ("Permitted Liens"). Buyer shall assume and undertake to pay, discharge and perform all obligations and liabilities relating to the Real Property, Assumed Contracts and other Stations' Assets arising or occurring on or after the Closing. Buyer shall not assume (i) any obligations or liabilities under the Real Property, Assumed Contracts or other Stations' Assets relating to the period prior to the Closing; (ii) any obligations or liabilities of Seller which are unrelated to the Stations' Assets being sold hereunder, (iii) any obligations or liabilities relating to employees of Seller (including any pension obligations or pension withdrawal liabilities), (iv) any obligations or liabilities relating to the Excluded Assets, (v) any federal, state or local franchise, income or other taxes of Seller, or (vi) any other obligations or liabilities of Seller.

1.4 **Purchase Price**. The purchase price for the Stations' Assets shall be Three Hundred Thousand Dollars (\$300,000.00) (the "Purchase Price"), subject to the adjustments described below.

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

(a) On the Effective Date of this Agreement, Buyer shall deliver to Seller via wire transfer a nonrefundable deposit in the amount of Fifty Thousand Dollars (\$50,000) (the "Deposit"). This Agreement shall not be binding on Seller until the Seller has received the Deposit. Seller may terminate this Agreement if Seller has not received the Deposit within three (3) business days of the Effective Date of this Agreement.

(b) At the Closing, Buyer shall pay the sum of Two Hundred Fifty Thousand Dollars (\$250,000), by wire transfer, plus or minus any adjustments made at the Closing pursuant to the terms of this Agreement.

1.6 **Prorations**. The parties agree to prorate all expenses arising out of the operation of the Stations which are incurred, accrued, or payable, as of 11:59 p.m. local time of the day preceding the Closing. The items to be prorated shall include, but not be limited to, power and utilities charges, FCC regulatory fees (based on the most recent publicly available information about the cost of such regulatory fees for the Stations), real and personal property taxes upon the basis of the most recent tax bills and information available, security deposits, and similar prepaid and deferred items. The prorations shall, insofar as feasible, be determined and paid on the Closing Date, with final settlement and payment to be made within forty-five (45) days after the Closing Date.

1.7 **Time Brokerage Agreement**. Contemporaneously with this Agreement, Buyer and Seller are entering into a separate Programming Agreement, under which Buyer will provide programming for broadcast on the Stations starting June 1, 2019, and ending on the date of Closing. The Programming Agreement will include a monthly fee payable by Buyer to Seller, reimbursement by Buyer of Seller's operating expenses for the Stations, and an assignment of Seller's Accounts Receivable to Buyer.

ARTICLE 2: FCC CONSENT; CLOSING; ETC.

2.1 **FCC Consent; Assignment Application**. Buyer and Seller shall prepare, execute, file, and diligently prosecute an application to the FCC (the "Assignment Application") requesting the FCC's consent (the "FCC Consent") to the assignment from Seller to Buyer of all FCC Authorizations pertaining to the Station. The Assignment Application shall be filed within ten (10) calendar days after Buyer has obtained Small Business Administration or other financing but in no event later than March 6, 2021. Buyer and Seller shall take all reasonable steps to cooperate with each other and with the FCC in order to secure such FCC Consent without delay and to timely consummate the transaction contemplated in this Agreement, provided, however, that neither Buyer nor Seller shall be required to participate in a trial-type hearing or to a judicial appeal of denial or dismissal of the Assignment Application. Buyer shall pay the FCC filing fee due in connection with the Assignment Application. Each party shall be responsible for all of its other costs with respect to the preparation, filing and prosecution of the Assignment Application. Buyer and Seller shall promptly notify each other of, and provide copies of, all documents filed with or received from the FCC or any other governmental agency with respect to this Agreement, the Assignment Application or the transaction contemplated hereby. If Buyer or Seller becomes aware of any fact which would prevent or delay the FCC Consent or the Final Order (as defined in Section 2.2), it shall promptly notify the other Party.

2.2 **Closing Date; Closing Place**. The closing (the "Closing") of the transaction contemplated in this Agreement shall occur within thirty (30) calendar days after financing becomes available to Buyer, but in no event later than May 31, 2021 (the "Closing Date"), provided that the FCC Consent has been granted and has become a Final Order (as defined below) unless the requirement for a Final Order is waived by Buyer in Buyer's sole discretion, and (ii) the other conditions to the Closing set forth in Articles 7 and 8 hereof shall have either been waived or

satisfied. Seller and Buyer agree to cooperate to the extent necessary to obtain the FCC's extension of the effectiveness of the FCC Consent as may be required. For purposes of this Agreement, the term "Final Order" means action by the FCC consenting to the assignment of the licenses for the Stations to Buyer as proposed in the Assignment Application, and such consent shall not have been reversed, stayed, enjoined, set aside, annulled, or suspended, and with respect to which action no timely request for stay, petition for rehearing, petition for reconsideration, application for review, or notice of appeal is pending, and as to which the times for filing any such request, petition, application, notice, or appeal, or for reconsideration or review by the FCC on its own motion, shall have expired. The Closing shall be held at the offices of Buyer's or Seller's legal counsel in Waynesboro, Mississippi or Hattiesburg, Mississippi (the location to be agreed upon by Seller and Buyer), or by exchange of documents via email, or as Seller and Buyer may agree.

ARTICLE 3: REPRESENTATIONS AND WARRANTIES OF SELLER

Seller makes the following representations and warranties to Buyer:

3.1 **Organization and Authorization.** Seller is a corporation duly organized, validly existing, and in good standing under the laws of the State of Mississippi. Seller has all requisite legal power to own and operate the Stations as currently operated. Seller has the legal power and authority to execute and deliver this Agreement and to consummate the transaction contemplated hereby. The execution and delivery of this Agreement and the consummation of the transaction contemplated hereby on Seller's part, have been duly and validly authorized by Seller and its owners, and no other actions on the part of Seller (or its owners) are necessary to authorize the execution and delivery of, or the performance of Seller's obligations under, this Agreement, or to consummate the transaction contemplated hereby. This Agreement has been duly and validly executed and delivered by Seller. This Agreement constitutes the legal, valid, and binding obligation of Seller enforceable in accordance with its terms, except as may be limited by bankruptcy, insolvency, or other laws affecting generally the enforcement of creditors' rights or the application of principles of equity.

3.2 **No Defaults.** The execution, delivery, and performance of this Agreement by Seller will not (i) constitute a violation of, or conflict with, Seller's organizational documents; (ii) result in a default (or give rise to any right of termination, cancellation, or acceleration) under, or conflict with, any of the terms, conditions, or provisions of any note, bond, mortgage, indenture, agreement, or other instrument or obligation relating to the business of the Stations and to which Seller or any of the Stations' Assets may be subject, except for obligations to be discharged in full on or before the Closing Date; (iii) violate any statute, regulation, order, injunction, or decree of any federal, state, or local governmental authority or agency which is applicable to Seller or any of the Stations' Assets; (iv) result in the creation or imposition of any Lien of any nature whatsoever upon any of the Stations' Assets; or (v) require a notice to or the consent or approval of any governmental authority, lending institution, or other third party other than the FCC Consent and except as otherwise noted in Schedule 3.11 hereto.

3.3 **Tangible Personal Property.** Schedule 1.1(b) hereto contains a list of the material Tangible Personal Property owned by Seller that will be conveyed to Buyer. Seller owns and has, and will have on the Closing Date, good and marketable title to the Tangible Personal Property. Each material item of Tangible Personal Property is operating in full compliance, in all material

respects, with the FCC Authorizations and rules and regulations of the FCC and the FAA. Buyer has inspected the Tangible Personal Property and agrees to accept such property “as is, where is” as of the date of this Agreement, with the risk of changes in condition between the date of this Agreement and the Closing borne by Buyer.

3.4 **Real Property.** The Real Property described on Schedule 1.1(c) is Seller’s sole interest in real estate used in connection with the operation of the Station in the manner in which it is being operated. To the knowledge of Seller, there is no pending condemnation or similar proceeding affecting the Real Property. Seller’s present use of the Real Property is in compliance with in all material respects all applicable zoning codes or other laws. All permanent certificates of occupancy and other consents and approvals required to be obtained by Seller’s for use of the Real Property from any governmental authority, association or board with jurisdiction over the Real Property have been issued and are in full force and effect.

3.5 **Title Commitments.** Promptly after the filing of the Assignment Application, but in all events prior to March 6, 2021, Buyer shall order at its own expense a commitment for owner’s title insurance policy on the Real Property. The title commitment shall evidence a commitment to issue an ALTA title insurance policy from a national recognized title insurance company selected by Buyer, insuring good and marketable fee simple title to the Real Property for such amount as Buyer reasonably directs and will contain no exceptions except for Permitted Liens and such other exceptions, if any, as Buyer deems acceptable. Seller shall reasonably cooperate with Buyer in obtaining such title commitment. Upon receipt of the title commitment, if Buyer notifies Seller in writing of any exception other than Permitted Liens affecting title to the Real Property, Seller shall exercise commercially reasonable effort(s) to remove or, with the consent of Buyer, cause the title insurance company to commit to insure over, such exceptions prior to the Closing.

3.6 **FCC Authorizations and Other Licenses.** Schedule 1.1(a) includes a true and complete list of all FCC authorizations, licenses, granted construction permits, and all pending applications for FCC licenses, permits, and authorizations applied for in connection with the operation of the Stations. Except as listed on Schedule 1.1(a), the FCC Authorizations are in full force and effect, unimpaired by any act or omission of Seller. Seller lawfully holds each of the FCC Authorizations listed on Schedule 1.1(a), none of which is subject to any restrictions or conditions that would limit in any material respect the operations of the Stations, other than (i) as may be set forth on the faces of such FCC Authorizations, or (ii) as may be applicable to substantial segments of the radio broadcasting industry. Seller is operating the Stations in all material respects in compliance with the FCC Authorizations, the Communications Act of 1934, as amended, and all regulations and published policies of the FCC (the “Communications Laws”). To Seller’s knowledge without conducting any independent investigation thereof, (a) the Stations are not causing objectionable interference to any other station (except possibly to FM translators), and (b) there is not now pending, or threatened, any action by or before the FCC to revoke, cancel, rescind, modify, or refuse to renew any of such FCC Authorizations. Seller has not received any notice of, and has no knowledge of, any pending, issued, or outstanding order by or before the FCC, or of any investigation, order to show cause, notice of violation, notice of apparent liability, notice of forfeiture, or material complaint against either the Stations or Seller. All material reports and filings required to be filed with the FCC by Seller with respect to the operation of the Stations have been filed, and all such reports and filings are accurate and complete in all material respects. The operations of the Stations do not exceed permissible levels of exposure to non-ionizing

electromagnetic radiofrequency (“RF”) radiation specified in the FCC’s rules and regulations concerning RF radiation. The Stations have not been silent or operated on less than the required minimum schedule for a period of time of more than thirty (30) days during the current license term.

3.7 **Title Documents.** The instruments to be executed by Seller and delivered to Buyer at the Closing, conveying the Stations’ Assets to Buyer, will transfer good and marketable title to the Stations’ Assets, free and clear of all Liens other than Permitted Liens.

3.8 **Employees.** Between the Effective Date and the Closing Date, Seller will not be obligated to retain any of its employees except as may be required to comply with FCC rules and regulations. Seller will be responsible for all salaries and benefits of its employees through Closing. Seller is not a party or subject to any labor union or collective bargaining agreements with respect to the Stations. Seller, in the operation of the Stations, has complied in all material respects with all applicable laws, rules and regulations relating to the employment of labor, including those related to wages, hours, collective bargaining, occupational safety, discrimination, and the payment of social security and other payroll-related taxes, and it has not received any notice alleging that it has failed to comply in any material respect with any such laws, rules or regulations. No labor union or other collective bargaining representative represents or, to the knowledge of Seller, claims to represent any of the employees of the Stations. To the knowledge of Seller, there is no effort being made to organize the employees or any group of employees of the Stations for purposes of collective bargaining. Seller acknowledges and agrees that Buyer shall have no obligation to offer employment to any employee of Seller or the Station or any post-closing liability with respect to any such employee or for any such employee’s benefits of any kind or nature, except to the extent that Buyer shall offer employment to any such employee and then only from and after the time at which such offer shall have been extended, and accepted by such employee, and subject to the terms and conditions thereof.

3.9 **Brokers.** There is no broker or finder or other person who would have any valid claim for a commission or a brokerage fee in connection with this Agreement or the transaction contemplated hereby as a result of any agreement, understanding, or action on the part of Buyer.

3.10 **Litigation; Compliance with Law.** Seller is not subject to any order, writ, injunction, judgment, arbitration, decision, or decree having a binding effect and affecting the business of the Station or the Stations’ Assets or which restrains or enjoins, or purports to restrain or enjoin, or could reasonably be expected to restrain or enjoin, the transaction contemplated hereby, and to Seller’s knowledge no such proceeding is pending. Except for rule making proceedings or similar proceedings applicable to the radio broadcasting industry in general, there is no material litigation or administrative investigation or proceeding pending by or against, or, to Seller’s knowledge, threatened against, Seller which relates to the Station or which could materially and adversely affect any of the Stations’ Assets. The present uses by Seller of the Stations’ Assets do not violate any such laws, regulations, orders, or decrees in any material respect, and Seller has no knowledge of any basis for any claim for compensation or damage or other relief from any violation of the foregoing.

3.11 **Approvals and Consents.** Except as described in Schedule 1.1(d) hereto, the execution, delivery and performance by Seller of this Agreement and the consummation of the

transaction contemplated hereby will not require any consent, permit, license or approval of any person, entity or government or regulatory authority other than the FCC Consent. Any consents required for the assignment of Seller's rights and obligations under the Assumed Contracts are set forth on Schedule 1.1(d).

3.12 **Insurance**. All of the material Stations' Assets that are insurable are insured against loss, injury, or damage at not less than book value.

3.13 **Environmental Matters**. (i) Seller has not, in connection with its business or assets, generated, used, transported, treated, stored, released or disposed of, or to its knowledge, has suffered or knowingly permitted anyone else to generate, use transport, treat, store, release or dispose of any Hazardous Substance (as defined below) in violation of any applicable environmental law; (ii) there has not been any generation, use, transportation, treatment, storage, release or disposal of any Hazardous Substance in connection with the conduct of Seller's business which has created or might reasonably be expected to create any material liability under any applicable environmental law or which would require reporting to or notification of any governmental entity; (iii) to the knowledge of Seller no asbestos or polychlorinated biphenyl or underground storage tank is contained in or located at any facility used in connection with its business; and (iv) any Hazardous Substance handled or dealt with in any way in connection with Seller's business has been and is being handled or dealt with in all material respects in compliance with all applicable environmental laws. To Seller's knowledge, Seller, the Real Property and the Stations are in compliance in all material respects with all applicable environmental, health and safety laws. There is no action, suit or proceeding pending or, to Seller's knowledge, threatened against Seller or the Stations that asserts that Seller or the Station has violated any environmental, health or safety laws "Hazardous Substance" means substances that are defined or listed in, or otherwise classified pursuant to, any applicable laws as "hazardous substances," "hazardous materials," "hazardous wastes" or "toxic substances," or any other formulation of any applicable environmental law intended to define, list or classify substances by reason of deleterious properties such as ignitibility, corrosivity, reactivity, radioactivity, carcinogenicity, reproductive toxicity and petroleum and drilling fluids, produced waters and other wastes associated with the exploration, development, or production of crude oil, natural gas or geothermal energy.

Buyer may at its discretion and expense, within 45 days after execution of this Agreement conduct environment reviews of the Real Property, including, but not limited to, a Phase I environmental audit (collectively, the "Audit"); provided, however, that no intrusive sampling shall be performed without Seller's prior written approval (which shall not be unreasonably withheld). Seller will use its commercially reasonable efforts to comply with any reasonable request for information made by Buyer or its agents in connection with any such environmental reviews and shall afford Buyer and its agents access to all operations of the Station, including without limitation all areas of the Real Property, at reasonable times and in a reasonable manner in connection with any such environmental reviews. Completion of the Audit is not a condition to Closing.

If any Phase I or any item set forth on Schedule 1.1(c) or any environmental report provided by Seller to Buyer prior to the date of this Agreement identifies a condition requiring remediation under applicable Environmental Laws, then:

(a) Except as set forth below, Seller shall use commercially reasonable efforts to remediate such condition in all material respects in the ordinary course of business; and

(b) If such remediation is not completed prior to Closing, the parties shall proceed to Closing (with Seller's representations and warranties deemed modified to take into account any such condition) and Seller shall remediate such item(s) in all material respects after Closing (and Buyer will provide Seller access and any other reasonable assistance requested by Seller with respect to such obligation).

3.14 **Taxes.** Seller has duly, timely, and in the required manner filed all federal, state, and local income, franchise, sales, use, property, excise, payroll, and other tax returns and forms required to be filed, and has paid in full or discharged all taxes, assessments, excises, interest, penalties, deficiencies, and losses required to be paid. No event has occurred which could impose upon Buyer any liability for any taxes, penalties, or interest due or to become due from Seller from any taxing authority.

3.15 **Performance of Real Property and Assumed Contracts.** Schedules 1.1(c) and 1.1(d) include contracts and agreements that relate primarily to the operation of the Stations or the ownership of the Stations' Assets (other than contracts for the sale of advertising time), including, without limitation, all programming contracts. Seller has timely performed all of its obligations pursuant to all Assumed Contracts and the Trade Agreements in all material respects and is not in material default or breach of any such agreements. Seller has not received notice from any party to any Assumed Contract that such party contends that it is in default or breach under any Assumed Contract. Each of the Assumed Contracts is in full force and effect; and, to the knowledge of Seller, there has not been, and is not, any material default or breach under any Assumed Contract by the other party to any Assumed Contract. Seller will terminate all contracts on or before May 31, 2019, with the exception of those contracts listed in Schedule 1.1(d).

3.16 **Sufficiency of Assets.** The Stations' Assets are sufficient for the conduct of the business and the operation of the Stations as presently operated by Seller.

3.17 **Intellectual Property.** Seller has all right, title and interest in and to all trademarks, service marks, trade names, copyrights and all other intangible property presently used in the operation of the Stations, except for music libraries, jingles, and other program content the rights for which are licensed to Seller by their owners. Schedule 1.1(e) contains a description of all material Intangible Property. Seller has not received any notice or claim alleging infringement or violation of any intellectual property rights relating to the Stations, except as disclosed in Schedule 1.1(e).

3.18 **Absence of Insolvency.** No insolvency proceedings of any character including without limitation, bankruptcy, receivership, reorganization, composition or arrangements with creditors, voluntary or involuntary, affecting the Seller or any of the Stations' Assets, are pending or, to the best knowledge of Seller, threatened, and Seller has made no assignment for the benefit of creditors, nor taken any action with a view to, or which would constitute the basis for the institution of, any such insolvency proceedings.

3.19 **Accuracy of Representations and Statements.** No representation or warranty made by Seller in this Agreement, and no statement made in any certificate, document, exhibit, or schedule furnished or to be furnished by Seller in connection with the transactions herein contemplated, contains or will contain any untrue statement of a material fact or omits or will omit to state any material fact necessary to make such representation or warranty or any such statement not misleading to Buyer in the circumstance under which such representation, warranty, or statement was made.

ARTICLE 4: REPRESENTATIONS AND WARRANTIES OF BUYER

Buyer makes the following representations and warranties to Seller:

4.1 **Organization and Authorization.** Buyer is a limited liability company duly organized, validly existing, and in good standing under the laws of the State of Mississippi. Buyer has the legal power and authority to execute and deliver this Agreement, and to consummate the transaction contemplated hereby. The execution and delivery of this Agreement and the consummation of the transaction contemplated hereby have been duly and validly authorized by Buyer, and no other proceedings on the part of Buyer are necessary to authorize the execution and delivery of, or the performance of Buyer's obligations under this Agreement, or to consummate the transaction contemplated hereby. This Agreement has been duly and validly executed and delivered by Buyer. This Agreement constitutes the legal, valid, and binding agreement of Buyer enforceable in accordance with its terms, except as may be limited by bankruptcy, insolvency, or other laws affecting generally the enforcement of creditors' rights or the application of principles of equity.

4.2 **No Defaults.** The execution, delivery, and performance of this Agreement by Buyer will not (i) conflict with or result in any breach of any provision of the certificate of formation, or other similar organizational documents of Buyer, or (ii) result in a default (or give rise to any right of termination, cancellation, or acceleration) under, or conflict with, any of the terms, conditions, or provisions of any note, bond, mortgage, indenture, agreement, lease, or other instrument or obligation relating to Buyer or its business, except for such defaults (or rights of termination, cancellation, or acceleration) or conflicts as to which requisite waivers or consents have been obtained and delivered to Seller, (iii) violate any statute, regulation, order, injunction, or decree of any federal, state, or local governmental authority or agency which is applicable to Buyer, or (iv) require the consent or approval of any governmental authority, or other third party other than the FCC Consent.

4.3 **Buyer's Qualification.** Apart from the requirement to obtain the FCC Consent, and success in obtaining financing under the auspices of the Small Business Administration or otherwise, Buyer is legally, financially, and technically qualified to acquire, and to become the FCC licensee of, the Station and to perform its obligations under this Agreement. All persons with an attributable ownership in Buyer are U.S. citizens.

4.4 **Litigation.** Buyer is not subject to any order, writ, injunction, judgment, arbitration, decision, or decree having a binding effect and affecting the business of Buyer or which restrains or enjoins, or purports to restrain or enjoin, or could reasonably be expected to restrain or enjoin, the transaction contemplated hereby, and no such proceeding is pending. There is no

material litigation pending by or against, or, to the knowledge of Buyer, or threatened against Buyer, that would prevent or materially impede the consummation by Buyer of the transaction contemplated by this Agreement.

4.5 **Brokers.** There is no broker or finder or other person who would have any valid claim for a commission or a brokerage fee in connection with this Agreement or the transaction contemplated hereby as a result of any agreement, understanding, or action on the part of Buyer.

4.6 **Absence of Insolvency.** No insolvency proceedings of any character including without limitation, bankruptcy, receivership, reorganization, composition or arrangements with creditors, voluntary or involuntary, affecting the Buyer, are pending or, to the best knowledge of Buyer, threatened, and Buyer has made no assignment for the benefit of creditors, nor taken any action with a view to, or which would constitute the basis for the institution of, any such insolvency proceedings.

4.7 **Accuracy of Representations and Statements.** No representation or warranty made by Buyer in this Agreement, and no statement made in any certificate, document, exhibit, or schedule furnished or to be furnished by Buyer in connection with the transactions herein contemplated, contains or will contain any untrue statement of a material fact or omits or will omit to state any material fact necessary to make such representation or warranty or any such statement not misleading to Seller in the circumstance under which such representation, warranty, or statement was made.

ARTICLE 5: COVENANTS OF SELLER

The following terms of this Article 5 shall apply from the Effective Date until the completion of the Closing (except as otherwise permitted by this Agreement).

5.1 **Stations' Documents.** The records, files and other documents kept in connection with the Station shall be maintained by Seller in the usual and ordinary manner consistent with standard broadcast industry practice. Seller shall maintain the FCC Authorizations in accordance with their terms and in compliance in all material respects with all applicable laws, rules and regulations and all applicable FCC regulations and published policies. Seller shall maintain the FCC Authorizations in full force and effect and shall take all actions necessary to so maintain them, including but not limited to the timely filing and prosecution of any necessary modification or renewal applications of the FCC Authorizations or other submissions to the FCC.

5.2 **Maintenance of Stations' Assets.** Except as may otherwise be provided in the Programming Agreement, Seller shall maintain the Stations' Assets in good working order consistent with standards of good engineering practice and will replace any of such property that is used or useful which shall be worn out, lost, stolen, or destroyed with like property of substantially equivalent kind and value.

5.3 **FCC Compliance.** Seller shall continue to operate and maintain the Stations in accordance with the terms of the FCC Authorizations and in material compliance with all applicable laws and FCC regulations and published policies. Seller will deliver to Buyer, promptly after filing, copies of any material reports, applications, or responses to the FCC, or any material communications from the FCC, or if from any other party directed to the FCC, promptly after

receipt by Seller, related to the Station that are filed or received by Seller between the date of this Agreement and the Closing Date. Except in case of need to keep the Stations operating in an emergency situation, Seller will not file any application with the FCC requesting authority to modify the facilities of the Station without Buyer's prior written consent and Seller shall take all actions necessary to keep the FCC Authorizations, including all material permits and applications pending before the FCC, valid and in full force and effect.

5.4 **Operation of Stations in Ordinary Course.** Except as otherwise provided in this Agreement or the Programming Agreement or disclosed in writing to and approved in writing by Buyer, Seller shall operate the Stations solely in the ordinary course of business and in accordance with past practice, and shall pay and perform all of its obligations with respect to the Stations (including those required under the Assumed Contracts) in the ordinary course as such obligations become due. Seller shall not amend any Assumed Contract in a manner that requires fulfillment by either party after the earlier of the Closing Date or commencement of the Programming Agreement without Buyer's written approval.

5.5 **Insurance.** Seller shall maintain in full force and effect through the Closing Date its existing property damage, liability, and other insurance with respect to the Stations' Assets.

5.6 **Disposition of Assets.** Prior to the Closing Date, Seller shall not, without the prior written consent of Buyer, sell, lease, or transfer, or agree to sell, lease, transfer, or otherwise dispose of any of the Stations' Assets valued in excess of \$1,000.00 that are used or useful in operating the Stations without replacement thereof with an asset of equivalent kind, condition, and value that satisfies industry standards for such assets, nor create any new Lien on the Stations' Assets other than Permitted Liens and Liens arising pursuant to, and in accordance with the terms of, this Agreement.

5.7 **Compliance with Law.** Seller shall comply in all material respects with all federal, state, and local laws, rules and regulations in connection with the operation of the Stations.

5.8 **Access to Facilities, Employees, Files and Records.** At the request of Buyer, Seller shall from time to time give or cause to be given to Buyer full access during normal business hours to the Stations' Assets, and all employees, engineering consultants, accounts, books, insurance policies, licenses, agreements, contracts and equipment with respect to the Stations; provided, however, that all such access shall require the express consent of Seller and shall be scheduled at mutually agreeable dates and times in a manner reasonably acceptable to Seller.

5.9 **Representations and Warranties and Covenants.** Seller shall give written notice to Buyer promptly upon learning of the occurrence of any event that would cause or constitute a breach, or that would have caused a breach had such event occurred or been known to Seller prior to the Effective Date, of any of the representations, warranties or covenants contained in this Agreement. Seller shall use commercially reasonable efforts to cure any such event. Updates provided in order to comply with the covenant in this Section 5.10 will not have any impact on Buyer's conditions to Closing or serve to limit Buyer's right to indemnification hereunder.

5.10 **Consummation of Agreement.** Seller shall use all commercially reasonable efforts to fulfill and perform all conditions and obligations on its part to be fulfilled and performed

under this Agreement, and to cause the transaction contemplated by this Agreement to be fully carried out in accordance with its terms.

5.11 **Employees.** Buyer shall have the right, but no obligation, to offer employment to any employee of Seller or the Stations. Buyer shall have no liability with respect to any such employee or for any such employee's benefits of any kind or nature, except to the extent that Buyer shall offer employment to any such employee and then only from and after the time at which such offer shall have been extended, and accepted by such employee, and subject to the terms and conditions thereof. Seller has not entered into any employment, labor, or union agreement or plan (or amendments of any such existing agreements or plan) that will be binding upon Buyer after Closing, or increase the compensation payable to any employee of the Stations, except for bonuses and other compensation payable by Seller in connection with the consummation of the transactions contemplated by this Agreement, (if any).

5.12 **Real Property.** Seller will deliver to Buyer true and complete copies of all deeds and easements held by Seller pertaining to the Real Property and copies of all title policies and surveys in its possession pertaining to the Real Property.

5.13 **Financial Statements.** Seller has delivered to Buyer financial statements of the Stations for calendar years 2015-2017, and has confirmed that those statements are accurate in all material respects.

ARTICLE 6: COVENANTS OF BUYER

Buyer covenants and agrees that from the Effective Date until the completion of the Closing:

6.1 **Representations and Warranties and Covenants.** Buyer shall give written notice to Seller promptly upon learning of the occurrence of any event that would cause or constitute a breach or would have caused a breach had such event occurred or been known to Buyer prior to the Effective Date, of any of the representations, warranties or covenants of Buyer contained in this Agreement. Buyer shall use commercially reasonable efforts to cure any such event. Updates provided in order to comply with the covenant in this Section 6.1 will not have any impact on Seller's conditions to Closing or serve to limit Seller's right to indemnification hereunder.

6.2 **Consummation of Agreement.** Buyer shall use all commercially reasonable efforts to fulfill and perform all conditions and obligations on its part to be fulfilled and performed under this Agreement, and to cause the transaction contemplated by this Agreement to be fully carried out, including, without limitation, diligently pursuing any financing that Buyer may require to complete the Closing.

6.3 **Control.** Notwithstanding any other provision set forth in this Agreement, Buyer agrees that Seller shall have full authority, power and control over the operation of the Station prior to Closing.

ARTICLE 7: CONDITIONS TO THE OBLIGATIONS OF SELLER

The obligations of Seller under this Agreement are subject to the fulfillment of the following conditions prior to or on the Closing Date.

7.1 Representations, Warranties and Covenants.

(a) Each of the representations and warranties of Buyer contained in this Agreement was true and correct in all material respects as of the date when made and is deemed to be made again on and as of the Closing Date and is then true and correct.

(b) Buyer shall have performed and complied with each and every covenant and agreement required by this Agreement to be performed or complied with by it prior to or on the Closing Date.

7.2 **Proceedings.** Neither Seller nor Buyer is subject to any restraining order or injunction (or similar action) and no action is pending which would restrain or prohibit the consummation of the transaction contemplated hereby.

7.3 **FCC Authorizations.** The FCC Consent has been issued by the FCC, with no conditions materially adverse to Seller.

7.4 **Deliveries.** Buyer has complied with each and every one of its obligations set forth in Section 9.2.

ARTICLE 8: CONDITIONS TO THE OBLIGATIONS OF BUYER

The obligations of Buyer under this Agreement are subject to the fulfillment of the following conditions prior to or on the Closing Date.

8.1 Representations, Warranties and Covenants.

(a) Each of the representations and warranties of Seller contained in this Agreement was true and correct in all material respects as of the date when made and is deemed to be made again on and as of the Closing Date and is then true and correct.

(b) Seller shall have performed and complied with each and every covenant and agreement required by this Agreement to be performed or complied with by it prior to or on the Closing Date.

8.2 **Proceedings.** Neither Seller nor Buyer is subject to any restraining order or injunction (or similar action) and no action is pending which would restrain or prohibit the consummation of the transaction contemplated hereby.

8.3 **FCC Authorizations.** The FCC Consent has been issued by the FCC, with no conditions materially adverse to Buyer, and shall have become a Final Order unless finality is waived by Buyer.

8.4 **Due Diligence Issues.** Any environmental or engineering issues identified in Buyer's investigation of the Stations shall have been remedied to Buyer's satisfaction, in its sole discretion reasonably exercised.

8.5 **Deliveries.** Seller has complied with each and every one of the obligations set forth in Section 9.1.

8.6 **Required Consents.** Contracts noted with an asterisk (*) on Schedule 1.1(d), shall be deemed "Required Consents." Seller shall have obtained and delivered to Buyer all of the Required Consents, if any, described in Schedule 1.1(d).

8.7 **Liens.** No Liens shall exist or have been filed or recorded against the stations' Assets in the public records of the Secretary of State of Seller's state of formation or in any other jurisdiction in which the Stations' Assets are located that are not fully discharged prior to or on the Closing Date. Duly executed UCC releases, mortgage terminations or other similar documents or instruments required to transfer the Stations' Assets free and clear of Liens (other than Permitted Liens) shall have been delivered by Seller.

ARTICLE 9: ITEMS TO BE DELIVERED AT CLOSING

9.1 **Deliveries by Seller.** At Closing, Seller shall deliver to Buyer, duly executed by Seller or such other signatory as may be required by the nature of the document:

(a) a certificate for Seller, dated as of the Closing Date, executed by an officer of Seller, certifying on behalf of Seller that the closing conditions specified in Sections 8.1(a) and (b) have been satisfied;

(b) a bill of sale sufficient to sell, convey, transfer and assign the Tangible Personal Property and all other assets included in the Stations' Assets (other than the FCC Authorizations, and Assumed Contracts) to Buyer free and clear of any Liens, in a form reasonably acceptable to Buyer and Seller (the "Bill of Sale");

(c) an assignment and assumption agreement sufficient to assign the FCC Authorizations (including the Station' call letters) to Buyer, in a form reasonably acceptable to Buyer and Seller (the "FCC Authorizations Assignment and Assumption Agreement");

(d) assignment and assumption instruments sufficient to assign the Intangible Property from Seller to Buyer (including any trademarks registered with the Patent and Trademark office and domain name transfers assigning the Stations' domain names (if any) included in the Intangible Property) (collectively the "Intangible Property Assignment Documents").

(e) the Required Consents described in Schedule 1.1(d), if any;

(f) copies of appropriate resolutions, duly adopted, which shall be in full force and effect at the time of the Closing, authorizing the execution, delivery and performance by Seller of this Agreement, and the consummation of the transaction contemplated hereby;

(g) Real Property transfer affidavit, special warranty deeds, and easements;

(h) certification of good standing with the Mississippi Secretary of state, dated not more than three days prior to Closing;

(i) a current Accounts Receivable list (if Seller has any such accounts as of the Closing Date);

(j) UCC termination statements (if any); and

(k) any other documents and instruments of conveyance, assignment and transfer that may be reasonably requested by Buyer to convey, transfer and assign the Stations' Assets to Buyer, free and clear of Liens, except for Permitted Liens.

9.2 **Deliveries by Buyer.** At the Closing, Buyer shall deliver to Seller, duly executed by Buyer or such other signatory as may be required by the nature of the document:

(a) a certificate for Buyer, dated as of the Closing Date, executed by an officer or other authorized representative of Buyer, certifying on behalf of Buyer that the closing conditions specified in Sections 7.1(a) and (b) have been satisfied;

(b) the payment of the Purchase Price in accordance with Section 1.4;

(c) the Bill of Sale;

(d) the FCC Authorizations Assignment and Assumption Agreement;

(e) certification of good standing with the Secretary of State of the State of Mississippi, dated not more than three days prior to Closing;

(f) certified copies of resolutions, duly adopted, which shall be in full force and effect at the time of the Closing, authorizing the execution, delivery and performance by Buyer of this Agreement, and the consummation of the transaction contemplated hereby; and

(g) any other documents and instruments of assumption that may be reasonably necessary to effectuate the Closing on the terms provided in this Agreement.

ARTICLE 10: SURVIVAL AND INDEMNITY

The rights and obligations of Buyer and Seller under this Agreement shall be subject to the following terms and conditions:

10.1 **Survival of Representations and Warranties.** Except as stated below, the representations and warranties of Buyer and Seller contained in this Agreement shall survive the Closing for twelve (12) months from the Closing Date. Except as stated below, neither Seller nor Buyer shall have any liability whatsoever with respect to any representation or warranty unless a claim is made hereunder or an action at law or in equity is commenced prior to thirty (30) calendar days after expiration of the twelve (12) months survival period for such representation or warranty.

10.2 **General Agreement to Indemnify.**

(a) Seller on the one hand, and Buyer on the other hand, shall indemnify, defend and hold harmless each other and any employee, representative, agent, director, officer, owner, affiliate or permitted assign of each other (each, an “Indemnified Party”) from and against any and all claims, actions, suits, proceedings, liabilities, obligations, losses and damages, amounts paid in settlement, diminution of value, interest, costs and expenses (including reasonable attorneys’ fees, court costs and other out-of-pocket expenses incurred in investigating, preparing or defending the foregoing) (collectively, “Losses”) asserted against, incurred or suffered by any Indemnified Party as a result of, arising out of or relating to: (i) the failure of any representation or warranty of the Indemnifying Party (defined below) made in the Agreement to have been true and correct when made or as of the Closing Date as though such representation or warranty were made at and as of the Closing Date; or (ii) the breach by the Indemnifying Party of any covenant or agreement of such party contained in this Agreement or any collateral agreement to the extent not waived by the other Party hereto. The term “Losses” is expressly limited to such Indemnified Party’s actual out-of-pocket costs and expenses and does not and shall not include consequential or punitive damages or damages from lost opportunity unless paid in satisfaction of a Third Party Claim (defined below). Purchase Price Adjustments made pursuant to Section 1.5 of this Agreement shall not be included in any calculation of any Indemnified Party’s total “Losses” for purposes of meeting the Loss threshold provided in Section 10.4

(b) Seller further agrees to indemnify and hold harmless Buyer and any other Indemnified Party of Buyer from and against any Losses asserted against, incurred or suffered by Buyer or any other Indemnified Party of Buyer arising out of, resulting from, or relating to the operation of the Stations and/or the ownership of the Stations’ Assets prior to the Closing, except as may otherwise be provided in the Programming Agreement.

(c) Buyer further agrees to indemnify and hold harmless Seller and any other Indemnified Party of Seller from and against any Losses asserted against, incurred or suffered by Seller or any other Indemnified Party of Seller arising out of, resulting from, or relating to the operation of the Stations and/or the Stations’ Assets from and after the Closing, except as may otherwise be provided in the Programming Agreement.

10.3 **General Procedures for Indemnification.**

(a) The Indemnified Party seeking indemnification under this Agreement shall promptly notify in writing the party or parties against whom indemnification is sought (the “Indemnifying Party”) of the assertion and basis of any claim, or the commencement and basis of any action, suit or proceeding by any third party in respect of which indemnity may be sought hereunder (a “Third Party Claim”) and will give the Indemnifying Party such information with respect thereto as the Indemnifying Party may reasonably request, but failure to give such notice shall not relieve the Indemnifying Party of any liability hereunder (unless the Indemnifying Party has suffered material prejudice by such failure). The Indemnifying Party shall have the right, but not the obligation, exercisable by written notice to the Indemnified Party within thirty (30) days of receipt of notice from the Indemnified Party of the commencement of a Third Party Claim, to assume the defense and control the settlement of such Third Party Claim that involves (and continues to involve) solely money damages; provided, however, that prior to assuming any claim

defense, the Indemnifying Party must show the other Party that they have the financial ability to pay out any potential monetary claim before they are allowed to assume its defense. Failure by the Indemnifying Party to so notify the Indemnified Party shall be deemed a waiver by the Indemnifying Party of its right to assume the defense of such claim.

(b) Whether or not the Indemnifying Party chooses to defend or prosecute any Third Party Claim, the parties hereto shall cooperate in the defense or prosecution thereof and shall furnish such records, information and testimony, and attend such conferences, discovery proceedings, hearings, trials and appeals, as may be reasonably requested in connection therewith.

(c) The Indemnifying Party or the Indemnified Party, as the case may be, shall have the right to participate in (but not control), at its own expense, the defense of any Third Party Claim that the other is defending, as provided in this Agreement, provided that the Indemnifying Party shall pay the cost of defense of both parties by separate counsel if a conflict of interest precludes common representation.

(d) The Indemnifying Party, if it has assumed the defense of any Third Party Claim as provided in this Agreement, shall not consent to, or enter into, any compromise or settlement of, or consent to the entry of any judgment arising from, any such Third Party Claim (which compromise, settlement, or judgment: (i) commits the Indemnified Party to take, or to forbear to take, any action or pay any money; or (ii) does not provide for a complete release by such Third Party of the Indemnified Party) without the Indemnified Party's prior written consent. If the conditions set forth herein are met but the Indemnified Party refused to settle any Third Party Claim, the Indemnifying Party may tender the settlement amount and be relieved of further liability.

(e) The Indemnifying Party shall not be entitled to require that any action be brought against any other person before action is brought against it hereunder by the Indemnified Party, but shall be subrogated to any right of action to the extent that it has paid or successfully defended against any Third Party Claim.

10.4 **Limitations.** Neither Party shall be required to indemnify the other Party under this Article 10 unless (i) written notice of a claim under this Article 10 was received by a Party within thirteen (13) following the Closing, and (ii) the aggregate claim for Losses exceeds \$ 2,000, after which the claimant shall be entitled to recover only such portion of the Losses that exceed such amount. In calculating the amount of Losses to Buyer or Seller under Section 10.2 above, such Losses shall be reduced by any recovery from any third party (including insurance proceeds) as a result of the facts or circumstances giving rise to the Losses. The limitations set forth in this Section 10.4 shall not apply to Third Party Claims against a Party entitled to indemnification under Sections 10.2(b) or (c), but neither Party shall be precluded from asserting a defense based on expiration of applicable statutes of limitations. The right to indemnification or any other remedy based on representations, warranties, covenants and agreements in this Agreement shall not be affected by any investigation conducted at any time, or any knowledge acquired (or capable of being acquired) at any time, whether before or after the execution and delivery of this Agreement, with respect to the accuracy or inaccuracy of or compliance with, any such representation, warranty, covenant or agreement. Waiver of any condition based on the accuracy of any representation or warranty, or on the performance of or compliance with any such covenant or

agreements, will not affect the right to indemnification or any other remedy based on such representations, warranties, covenants and agreements.

10.5 **Exclusive Remedy.** The right to indemnification, defense, hold harmless, payment or reimbursement provided in this Article 10 will be the exclusive remedy of any Party with respect to Losses after the Closing with respect to the transaction contemplated by this Agreement.

ARTICLE 11: TERMINATION

11.1 **Termination.** This Agreement may be terminated at any time prior to Closing:

(a) by the mutual written consent of Seller and Buyer;

(b) by written notice of Seller to Buyer if Buyer: (i) does not satisfy the conditions or perform the obligations to be satisfied or performed by Buyer on or before the Closing Date in any material respect; (ii) breaches in any material respect any of Buyer's representations or warranties; or (iii) defaults in any material respect in the performance of any of Buyer's covenants or agreements under this Agreement or the Programming Agreement; and in any of which events such breach or default is not cured within the Cure Period (as defined below), if applicable;

(c) by written notice of Buyer to Seller if Seller: (i) does not satisfy the conditions or perform the obligations to be satisfied or performed by Seller on or before the Closing Date in any material respect; (ii) breaches in any material respect any of Seller's representations or warranties; or (iii) defaults in any material respect in the performance of any of Seller's covenants or agreements under this Agreement or the Programming Agreement; and in any of which events such breach or default is not cured within the Cure Period (as defined below), if applicable;

(d) by written notice of Seller to Buyer, or Buyer to Seller: (i) if the Closing has not been consummated by 5:00 p.m., Central Daylight Time on May 31, 2020; (ii) if, for any reason, the FCC denies or dismisses the Assignment Application and the time for reconsideration or court review under the Communications Act with respect to such denial or dismissal has expired and there is not then pending with respect thereto a timely filed petition for reconsideration or request for review; or (iii) if, for any reason, the Assignment Application is designated for an evidentiary hearing.

11.2 **Cure Period.** The term "Cure Period" as used herein means a period commencing with the date that Buyer or Seller receives from the other Party written notice of breach or default hereunder and continuing until thirty (30) days thereafter; provided, however, that if the breach or default cannot reasonably be cured within such period but can be cured before the Closing Date, and if diligent efforts to cure promptly commence, then the Cure Period shall continue as long as such diligent efforts to cure continue, but not beyond the Closing Date. Except as set forth below, the termination of this Agreement shall not relieve any Party of any liability for breach or default under this Agreement prior to the date of termination.

11.3 **Liability; Right to Terminate.** A termination of this Agreement shall not relieve any Party hereto of any liability for which it otherwise would be subject. Notwithstanding anything

in this Agreement to the contrary, no Party that is in material breach of or default under this Agreement shall be entitled to terminate this Agreement except with the written consent of the other Party, except neither party shall be precluded from terminating pursuant to Section 11.1(e), unless the material breach or default of the terminating party was a proximate cause of failure to close by May 31, 2020.

11.4 **Payment of Deposit; Specific Performance.**

(a) **Buyer's Default.** Buyer's failure to close by the deadline specified in Section 11.1(e) (or any extension of that deadline consented to by Seller at Seller's sole discretion) because of lack of financing shall be deemed a default by Seller for purposes of Seller's right to terminate. Buyer acknowledges and agrees that retention by Seller of the Deposit shall constitute payment of liquidated damages and not a penalty and that such liquidated damages amount is reasonable in light of the substantial but indeterminate harm anticipated to be caused by Buyer's material breach or default under this Agreement, the difficulty of proof of loss and damages, the inconvenience and nonfeasibility of otherwise obtaining an adequate remedy, and the value of the transactions to be consummated hereunder.

(b) **Seller's Default.** Instead of terminating this Agreement upon a default by Seller, Buyer may seek specific performance as provided in Section 11.4(c) below.

(c) **Specific Performance.** Seller acknowledges that the Stations' Assets are unique assets not readily obtainable on the open market and that, in the event that Seller fails to perform its obligation to consummate the transaction contemplated hereby, money damages alone will not be adequate to compensate Buyer for its injury. Therefore, Seller agrees and acknowledges that in the event of Seller's failure to perform its obligation to consummate the transaction contemplated hereby, Buyer shall be entitled to specific performance of the terms of this Agreement and of Seller's obligation to consummate the transaction contemplated hereby. If any action is brought by Buyer to enforce this Agreement, Seller shall waive the defense that there is an adequate remedy at law.

ARTICLE 12: MISCELLANEOUS

12.1 **Governing Law.** To the extent not governed by federal law, the construction and interpretation of this Agreement shall at all times and in all respects be governed by the laws of the State of Mississippi (exclusive of those relating to conflicts of laws). Any action at law, suit in equity or judicial proceeding arising directly, indirectly, or otherwise in connection with, out of, related to or from this Agreement, or any provision hereof, shall be litigated only in the state or federal courts located in the State of Mississippi. The parties hereby consent to the personal and subject matter jurisdiction of such courts and waive any right to transfer or change the venue of any litigation between them.

12.2 **Expenses; Taxes.** Except as provided in Section 2.1 and in this Section 12.2, each party hereto shall bear all of its expenses incurred in connection with the transaction contemplated by this Agreement, including without limitation, accounting, engineering and legal fees incurred in connection herewith. Any state or local sales, use, stamp or transfer taxes and other similar taxes

payable in connection with consummation of the transactions contemplated herein shall be borne one-half by Buyer and one-half by Seller.

12.3 **Entire Agreement; Amendment; No Waiver.** This Agreement, including the schedules and exhibits hereto, contain the entire agreement and understanding by and between the Parties, and no other representations, promises, agreements, or understanding, written or oral, not contained herein shall be of any force or effect, the terms of which are superseded and replaced by this Agreement. This Agreement may only be amended in a writing signed by the Parties. No oral agreement shall have any effect. No failure or delay in exercising any right hereunder shall be deemed or construed to be a waiver of such right, either prospectively or in the particular instance. This Agreement has been prepared by all of the Parties hereto, and no inference of ambiguity against the drafter of a document therefore applies against any Party hereto.

12.4 **Risk of Loss.** Upon the commencement of the Programming Agreement, the risk of maintaining, repairing and replacing the Tangible Personal Property, as listed in Schedule 1.1(b), will pass to the Buyer. The risk of loss relating to all other Stations' Assets shall be upon Seller on or prior to the Closing Date. Seller shall use all commercially reasonable efforts to repair or replace any damaged or lost Stations Asset not listed in Schedule 1.1(b); provided, however, that in the event that the Stations or any Station Asset incurs damages which is expected to exceed Five Thousand Dollars (\$5,000) to repair or if any Stations' Asset having a fair market value of Five Thousand Dollars (\$5,000) or more is lost as of the date otherwise scheduled for the Closing, then Buyer may, at its option, upon prior written notice to Seller, either (i) postpone the Closing for a period of up to sixty (60) days while Seller shall repair or replace such Stations' Asset, or (ii) elect to close the transaction contemplated herein with the Stations or Stations' Asset in its damaged or lost condition, in which case Seller shall assign to Buyer all proceeds of insurance on the Stations or on such damaged or lost Stations' Asset, and Buyer shall have the responsibility to repair the Stations and/or replace the Stations' Asset.

12.5 **Successors and Assigns.** Except as otherwise expressly provided herein, this Agreement shall be binding upon and inure to the benefit of the Parties hereto, and their respective representatives, heirs, successors and assigns. Seller may not assign this Agreement or any part hereof without the prior written consent of Buyer, which shall not be withheld unreasonably if the assignee is controlled by Nancy Martin or her children. Buyer may not assign this Agreement or any part hereof without the prior written consent of Seller, which shall not be withheld unreasonably if the Assignee is controlled by Buyer's controlling principal as of the date of this Agreement. Any attempted assignment without consent of the other Party shall be void.

12.6 **Notices.** All notices, requests, demands and other communications required or permitted under this Agreement shall be in writing and shall be deemed to have been duly made and received when personally served, or on the first business day of attempted delivery by the U.S. Postal Service documented in postal records,, expenses prepaid, addressed as set forth below:

If to **Seller**, then to:

Martin Broadcasting Company
Attention: Ms. Nancy Martin
P.O. Box 507
Waynesboro, MS 39367-0507

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

Fletcher, Heald & Hildreth, P.L.C.
Attention: Michelle A. McClure, Esq.
1300 N. 17th St., 11th Floor
Arlington, VA 22209-3801

If to **Buyer**, then to:

Heathcock Communications, LLC
Attention: Mr. Jamie Heathcock
600 McIlwain Drive
Waynesboro, MD 39367

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

Miller and Neely, PC
Attention: Jerrold D. Miller, Esq.
3750 University Blvd., West
Kensington, MD 20895

Any party may change the address to which communications are to be sent by giving notice of such change of address in conformity with the provisions of this Section 12.6 providing for the giving of notice.

12.7 **Further Assurances**. From time to time prior to, on and after the Closing Date, each party hereto will execute all such instruments and take all such actions as any other party shall reasonably request, without payment of further consideration, in connection with carrying out and effectuating the intent and purpose hereof and all transactions contemplated by this Agreement, including without limitation the execution and delivery of any and all confirmatory and other instruments in addition to those to be delivered on the Closing Date, and any and all actions which may reasonably be necessary to complete the transaction contemplated hereby. The parties shall cooperate fully with each other and with their respective counsel and accountants in connection with any steps required to be taken as part of their respective obligations under this Agreement.

12.8 **Partial Invalidity**. Wherever possible, each provision hereof shall be interpreted in such manner as to be effective and valid under applicable law, but in case any provision contained herein, or its application to any particular circumstance shall, for any reason, be held to be invalid or unenforceable by the FCC or a court of competent jurisdiction, such provision or

such application shall be ineffective to the extent of such invalidity or unenforceability in such jurisdiction, without invalidating the remainder of such provision or any other provisions hereof, or its application in any other circumstance, unless such a construction would be unreasonable or alter the basic benefits and burdens of the Parties, and without invalidating such provision or its application in any other jurisdiction

12.9 **Facsimile; Counterparts.** This Agreement may be executed in separate counterparts, each of which shall be deemed to be an original and all of which together constitute one and the same agreement. Facsimile and .pdf signatures to this Agreement shall be acceptable and binding.

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

SELLER:

MARTIN BROADCASTING COMPANY

By: *Nancy N Martin*
Name: Nancy N. Martin
Title: President

BUYER:

HEATHCOCK COMMUNICATIONS, LLC

By: *James H. Heathcock, Jr*
Name: Jamie Heathcock
Title: Managing Member

SCHEDULES

- 1.1(a) FCC & Other Governmental Authorizations
- 1.1(b) Tangible Personal Property
- 1.1(c) Real Property Interests
- 1.1(d) Assumed Contracts
- 1.1(e) Intangible Property

Schedule 1.1(a)
FCC & Other Governmental Authorizations

Call Sign: WABO(AM)
FCC Facility ID: 40488
License: FCC CDBS File No. BL-20121016ADP
Expires: June 1, 2020

Call Sign WABO-FM:
License: FCC CDBS File No. BLH-20090727AFB
FCC Facility ID: 40489
Renewed by FCC CDBS File No. BRH-20120130AHD
Expires: June 1, 2020

Broadcast Auxiliary (Remote Pickup) Call Signs:
KJX809
KL2916
KQ9095

Schedule 1.1(b)
Tangible Personal Property

[Inventory to be supplied within 30 days after execution of this Agreement]

Schedule 1.1(c)
Real Property Interests

A. Leased Real Property

None

B. Owned Real Property

Studio-transmitter building, with surrounding land and radio tower, located at:
6746 MS-184, Waynesboro, MS 39367

Schedule 1.1(d)
Assumed Contracts

- Barter agreement for the Kasey Kasem Remix show

Schedule 1.1(e)
Intangible Property

Call letters WABO and WABO-FM

WABO Facebook page