

**ASSET PURCHASE AGREEMENT**

**for**

**the SALE of TELEVISION STATIONS**

**KCWY-DT, CASPER, WYOMING AND  
KGWN-TV, CHEYENNE, WYOMING**

**by and among**

**GRAY MEDIA GROUP, INC.**

**and**

**MARQUEE BROADCASTING WEST, INC.**

**Dated as of JANUARY 30, 2024**

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**EXHIBITS**

- Exhibit A - Form of Bill of Sale and Assignment and Assumption Agreement
- Exhibit B - Form of Assignment of Seller FCC Authorizations
- Exhibit C - Form of Transition Services Agreement

## ASSET PURCHASE AGREEMENT

This **ASSET PURCHASE AGREEMENT**, dated as of January 30, 2024 (this “Agreement”), by and among Gray Media Group, Inc., a Delaware corporation (the “Seller”), on the one hand, and Marquee Broadcasting West, Inc., a Wyoming corporation (the “Buyer”), on the other hand. For the purposes of this Agreement all references to Seller shall mean the Seller and its Affiliates.

### WITNESSETH:

**WHEREAS**, Seller, together with certain of its direct and indirect subsidiaries, owns and operates television broadcast stations KCWY-DT, Casper, Wyoming, KGWN-TV, Cheyenne, Wyoming, and the associated full-power and low power television stations listed on Schedule 3.8(a) hereto (collectively, the “Stations” and, each, a “Station”), pursuant to certain authorizations issued by the Federal Communications Commission (the “FCC”);

**WHEREAS**, on the date of this Agreement, Buyer or its Affiliate and Seller or its Affiliate have entered into a purchase agreement (“Other Purchase Agreement”) relating to a construction permit for KCBU(TV), Price, Utah;

**WHEREAS**, the Buyer desires to purchase the Purchased Assets and assume the Assumed Liabilities, and the Seller desires to sell to the Buyer the Purchased Assets and transfer the Assumed Liabilities, on the terms and subject to the conditions hereinafter set forth; and

**NOW, THEREFORE**, in consideration of the mutual covenants and agreements hereinafter set forth and for other good and valuable consideration (the receipt and sufficiency of which are hereby acknowledged), it is hereby agreed among the parties as follows:

## ARTICLE I

### DEFINITIONS

**Section 1.1 Definitions.** As used in this Agreement, the following terms have the meanings specified or referred to in this Section 1.1:

“**Active Employees**” has the meaning specified in Section 6.2(c).

“**Agreement**” has the meaning specified in the introductory paragraph hereof.

“**Affiliate**” means, with respect to any Person, any other Person which directly or indirectly controls, is controlled by or is under common control with such Person. As used in this definition, the term “control” (including the terms “controlling,” “controlled by” and “under common control with”) shall mean the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a Person, whether through the ownership of voting securities, by contract or otherwise.

“**Agreed Accounting Principles**” means the United States generally accepted accounting principles used in the preparation of the Income Statement.

“**Ancillary Agreements**” means any certificate, agreement, document or other instrument to be executed and delivered in connection with the transactions contemplated by this Agreement.

**“Antitrust Law”** means the HSR Act, the Federal Trade Commission Act, as amended, the Sherman Act, as amended, the Clayton Act, as amended, and any applicable foreign antitrust Laws and all other applicable Laws that are designed or intended to prohibit, restrict or regulate actions having the purpose or effect of monopolization or restraint of trade or lessening of competition through merger or acquisition.

**“Assignment of the Seller FCC Authorizations”** has the meaning specified in Section 2.7.

**“Assumed Liabilities”** has the meaning specified in Section 2.3(c).

**“Bill of Sale and Assignment and Assumption Agreement”** has the meaning specified in Section 2.7(c).

**“Business”** means the business of the Stations (and shall not include the Other Seller Stations or the other businesses or assets of the Seller).

**“Business Day”** means any day on which the principal offices of the Securities and Exchange Commission are open to accept filings and on which banks in the City of Atlanta are not required or authorized to close.

**“Buyer”** has the meaning specified in the introductory paragraph hereof.

**“Buyer Ancillary Agreements”** has the meaning specified in Section 4.2(c).

**“Buyer Group Member”** means the Buyer, its Affiliates, and each of their successors and assigns, and their respective directors, officers, employees and agents.

**“CERCLA”** means the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §§ 9601 et seq., and any regulations promulgated thereunder.

**“Claim Notice”** has the meaning specified in Section 9.3(c).

**“Closing”** has the meaning specified in Section 2.4.

**“Closing Date”** has the meaning specified in Section 2.4.

**“Closing Date Adjustments”** has the meaning specified in Section 2.6.

**“Code”** means the Internal Revenue Code of 1986, as amended.

**“Communications Act”** means the Communications Act of 1934, as amended, and the rules and regulations of the FCC promulgated under the foregoing, in each case, as in effect from time to time.

**“Compliance Showing”** has the meaning specified in Section 5.3.

**“Confidentiality Agreement”** has the meaning specified in Section 5.1.

**“Cutoff Time”** means 11:59 P.M. (central time) on the date immediately prior to the Closing Date.

**“DOJ”** means the U.S. Department of Justice.

**“Employment Agreement”** means any contract or agreement of the Seller with any individual Employee pursuant to which Seller has an actual or contingent liability to provide compensation and/or benefits in consideration for past, present or future services.

**“Employees”** means the individuals employed by the Seller who are listed on Schedule 3.12 and any full-time, part-time and per diem employees who become employed by Seller after the date hereof in accordance with Section 5.4 exclusively in connection with the Business; provided, however, that no such Person shall be considered an “Employee” if he or she is not employed by the Seller at the Closing. For purposes of the foregoing, an individual shall not be considered “not employed” by virtue of the fact that he or she is on authorized leave of absence, sick leave, short or long term disability leave or military leave.

**“Employee Plan”** means each material (i) pension, retirement, profit sharing, deferred compensation, stock bonus or other similar plan, (ii) medical, vision, dental or other health plan, (iii) life insurance plan and (iv) other employee benefit plan, in each case, to which Seller is required to contribute, or which Seller sponsors for the benefit of the Employees of Seller, or under which Employees (or their beneficiaries) of Seller are eligible to receive benefits, including any “employee benefit plan” (as defined in Section 3(3) of ERISA), but in each case excluding any plan that is a “multiemployer plan” within the meaning of ERISA Section 3(37).

**“Employment Commencement Date”** has the meaning specified in Section 6.2(c).

**“Encumbrance”** means any lien, claim, charge, security interest, mortgage, pledge, easement, conditional sale or other title retention agreement, defect in title, covenant or other restrictions of any kind, other than any license of, option to license, or covenant not to assert claims of infringement or misappropriation with respect to, Intellectual Property.

**“Environmental Law”** means all Requirements of Laws relating to or addressing the prevention of pollution, the environment, human health, occupational health or safety, including but not limited to CERCLA, OSHA, RCRA, the Toxic Substances Control Act, 15 U.S.C. §§ 2601 et seq.; the Safe Drinking Water Act, 42 U.S.C. §§ 300(f) et seq.; the Clean Air Act, as amended, 42 U.S.C. §§ 7401 et seq.; the Federal Water Pollution Control Act, 33 U.S.C. §§ 1251 et seq.; the Emergency Planning and Community Right-to-Know Act of 1986, 42 U.S.C. §§ 11001 et seq.; and any state equivalents thereof.

**“ERISA”** means the Employee Retirement Income Security Act of 1974, as amended.

**“Excluded Assets”** has the meaning specified in Section 2.2.

**“Excluded Liabilities”** has the meaning specified in Section 2.3(d).

**“Expense”** means any and all expenses incurred in connection with investigating, defending or asserting any claim, action, suit or proceeding incident to any matter indemnified against hereunder (including court filing fees, court costs, arbitration fees or costs, witness fees, and reasonable fees and disbursements of legal counsel, investigators, expert witnesses, consultants, accountants and other professionals).

**“FCC”** has the meaning specified in the preamble.



**“FCC Applications”** has the meaning specified in Section 5.3(c).

**“FCC Consent”** means action by the FCC (including action by staff acting on delegated authority) granting its consent to the FCC Applications, including the Compliance Showing.

**“FTC”** means the U.S. Federal Trade Commission.

**“Governmental Body”** means any foreign, federal, state, local or other governmental authority, or judicial or regulatory body.

**“Governmental Consents”** means (i) the FCC Consent, and (ii) all authorizations, consents, Orders and approvals of all Governmental Bodies, including any State Attorney General, that are or may become necessary for the execution, delivery and consummation of the transactions contemplated hereby.

**“Governmental Permits”** has the meaning specified in Section 3.8(c).

**“Hazardous Materials”** means any waste, pollutant, hazardous substance, toxic substance, hazardous waste, special waste, regulated or defined as “hazardous,” “toxic” or words of similar import pursuant to any Environmental Law, including asbestos, asbestos containing material, petroleum or petroleum-derived substance or waste, or any constituent of any such substance or waste.

**“HSR Act”** means the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended.

**“Inactive Employees”** has the meaning specified in Section 6.2(c).

**“Income Statement Date”** has the meaning specified in Section 3.3.

**“Indemnified Party”** has the meaning specified in Section 9.3(c).

**“Indemnitor”** has the meaning specified in Section 9.3(c).

**“Independent Accountant”** has the meaning specified in Section 2.6.

**“Intellectual Property”** means (a) patents, (b) Trademarks, (c) copyrights, (d) registrations and applications for registration of any of the foregoing in (a)-(c), and (e) trade secrets, including advertising customer lists, mailing lists, processes, know-how and other proprietary or confidential information.

**“Knowledge of the Seller”** means, as to a particular matter, the actual knowledge, after reasonable inquiry of the following persons: Kevin Latek and Jim Ryan.

**“Laws”** means any and all domestic (federal, state or local) or foreign or provincial laws, statutes, ordinances, rules, published regulations, judgments, orders, injunctions, awards, or agency policies, procedures, requirements or decrees promulgated by any Governmental Body.

**“Loss”** means any and all losses, costs, obligations, liabilities, settlement payments, awards, judgments, fines, penalties, damages, expenses, deficiencies or other charges.

**“Market”** means, with respect to any Station, the “Designated Market Area,” as determined by The Nielsen Company, of such Station.

**“Material Adverse Effect”** means a material adverse effect on (i) the ability of the Seller to perform its obligations under this Agreement, or (ii) the assets, results of operations or financial condition of the Business, taken as a whole; provided, however, that for purposes of determining whether there has been or is reasonably likely to be a “Material Adverse Effect” for purposes of clause (ii), the results and consequences of the following events, occurrences, facts, conditions, changes, developments or effects shall not be taken into account: (a) any changes that generally affect the industries in which the Seller operates or the Market of any Station, (b) resulting from the announcement by the Seller of its intention to sell the Business, including the announcement or pendency of this Agreement or the transactions contemplated hereby, or the facts, circumstances or events relating to any of the Buyer or its Affiliates, or actions taken by any of them including the impact thereof on relationships, contractual or otherwise, with agents, customers, suppliers, vendors, licensees, licensors, lenders, partners, employees or regulators, including the FCC, (c) the taking of any action expressly required by, or the failure to take any action expressly prohibited by, this Agreement, or the taking of any action at the written request or the prior written consent of the Buyer, (d) any failure of the Business to meet internal or external projections or forecasts or any estimates of earnings, revenues or other metrics for any period (provided, however, that any event, occurrence, fact, condition, change, development or effect giving rise to such failure or change may be taken into account in determining whether there has been, or is reasonably likely to be, a Material Adverse Effect, except to the extent otherwise excluded hereunder), (e) any changes in the economy or capital, financial or securities markets generally, including changes in interest or exchange rates, (f) changes in Laws or generally accepted accounting principles (or the interpretation thereof) or in legal, regulatory or political conditions, (g) the commencement, escalation or worsening of any war or armed hostilities or the occurrence of acts of terrorism or sabotage, (h) pandemics (including the COVID-19 pandemic and any and all variants thereof), and (i) earthquakes, hurricanes, floods or other natural disasters.

**“Multi-Station Contract”** has the meaning specified in Section 5.6.

**“MVPD”** means any facilities-based multi-channel video programming distributor, including cable systems, telephone companies and direct broadcast satellite systems.

**“Order”** means any order, judgment, injunction, awards, stipulations, decree or writ handed down, adopted or imposed by, including any consent decree, settlement agreement or similar written agreement with, any Governmental Body.

**“OSHA”** means the Occupational Safety and Health Act, 29 U.S.C. §§ 651 et seq., and any regulations promulgated thereunder.

**“Other Purchase Agreement”** has the meaning specified in the Recitals.

**“Other Seller Stations”** has the meaning specified in Section 5.6.

**“Owned Real Property”** has the meaning specified in Section 3.9(c).

**“Payment Date”** has the meaning specified in Section 2.7.

**“Permitted Encumbrance”** means (a) liens for Taxes, assessments or other governmental charges which are not yet due and payable or Taxes being contested in good faith by appropriate proceedings, (b) terms and conditions of any leases assumed by Buyer, (c) zoning laws and ordinances and similar Laws that are not materially violated by any existing improvement or that do not prohibit the use of the Real Property as currently used in the operation of the Business; (d) any right reserved to any Governmental Body to regulate the affected property; (e) in the case of any leased asset, (i) the rights of any lessor under the applicable lease agreement or any Encumbrance granted by any lessor or any Encumbrance that the applicable lease is subject to, (ii) any statutory lien for amounts that are not yet due and payable or are being contested in good faith, (iii) any subleases listed in any Schedule hereto and (iv) the rights of the grantor of any easement or any Encumbrance granted by such grantor on such easement property; (f) easements, rights of way, restrictive covenants and other encumbrances, encroachments or other similar matters affecting title that do not materially adversely affect title to the property subject thereto or materially impair the continued use of the property in the ordinary course of the Business; (g) inchoate materialmen’s, mechanics’, workmen’s, repairmen’s or other like Encumbrances arising in the ordinary course of business for amounts that are not yet due and payable or that are being contested in good faith by appropriate proceedings; (h) minor defects of title, easements, rights-of-way, restrictions and other Encumbrances not interfering with the present use of the applicable assets subject thereto; (i) any state of facts that an accurate survey or physical inspection would show, provided such facts do not render title unmarketable or interfere with the present use of the applicable Real Property; (j) Encumbrances that will be released prior to or as of the Closing Date, including all mortgages and security interests securing indebtedness of Seller; (k) licenses of Intellectual Property granted in the ordinary course of business that, individually or in the aggregate, do not, and would not reasonably be expected to, materially detract from the value of such Intellectual Property, or interfere with the use thereof by any Station; and (l) any other Encumbrance disclosed on any Schedule hereto.

**“Person”** means any person, employee, individual, corporation, limited liability company, partnership, trust, or any other non-governmental entity or any governmental or regulatory authority or body.

**“Phase 1 Environmental Assessment”** has the meaning specified in Section 5.8.

**“Program Rights”** means all rights of the Stations to broadcast television programs or shows as part of any Station’s programming, including all rights of the Stations under film and program barter agreements, sports rights agreements, news rights or service agreements, affiliation agreements and syndication agreements.

**“Prorated Taxes”** means all personal property, real property, intangible property and other ad valorem Taxes imposed on or with respect to the Business and/or the Purchased Assets for any taxable period that begins on or before and ends after the Closing Date.

**“Purchased Assets”** has the meaning specified in Section 2.1.

**“Purchased Intellectual Property”** has the meaning specified in Section 2.1(f).

**“Purchase Price”** has the meaning specified in Section 2.5.

**“RCRA”** means the Resource Conservation and Recovery Act, 42 U.S.C. §§ 6901 et seq., and any regulations promulgated thereunder.

**“Real Property”** has the meaning specified in Section 3.9(g).

**“Real Property Leases”** has the meaning specified in Section 3.9(g).

**“Release”** means any release, spill, emission, leaking, pumping, injection, deposit, disposal, discharge, dispersal, leaching or migration into the indoor or outdoor environment or into or out of any property, including the movement of Hazardous Materials through or in the air, soil, surface water, groundwater or property.

**“Required Consents”** has the meaning specified in Section 5.3(g).

**“Requirements of Law”** means any foreign, federal, state or local law, rule or regulation, Governmental Permit or other binding determination of any Governmental Body.

**“Retained Names and Marks”** means all (a) Trademarks containing or incorporating the term “Gray”, (b) other Trademarks owned by Seller (other than Trademarks included in the Purchased Intellectual Property), (c) variations or acronyms of any of the foregoing, and (d) Trademarks confusingly similar to or dilutive of any of the foregoing.

**“Seller”** has the meaning specified in the introductory paragraph hereof.

**“Seller FCC Authorizations”** means those Governmental Permits issued to Seller by the FCC with respect to the Stations that are material to the Stations’ operations.

**“Seller Group Member”** means the Seller, its Affiliates, each of their successors and assigns, and their respective directors, officers, employees, agents and representatives.

**“Solvent”** when used with respect to any Person or group of Persons on a combined basis, means that, as of any date of determination, (A) the amount of the “fair saleable value” of the assets of such Person (or group of Persons on a combined basis) will, as of such date, exceed (1) the value of all “liabilities of such Person, including contingent and other liabilities,” as of such date, as such quoted terms are generally determined in accordance with applicable Laws governing determinations of the insolvency of debtors, and (2) the amount that will be required to pay the probable liabilities of such Person (or group of Persons on a combined basis) on its existing debts (including contingent liabilities) as such debts become absolute and matured, (B) such Person (or group of Persons on a combined basis) will not have, as of such date, an unreasonably small amount of capital for the operation of the businesses in which it is engaged or proposed to be engaged following such date and (C) such Person (or group of Persons on a combined basis) will be able to pay its liabilities, including contingent and other liabilities, as they mature.

**“Station”** and **“Stations”** has the meaning specified in the second recital hereof.

**“Station Agreements”** has the meaning specified in Section 3.15.

**“Straddle Period”** means any taxable period beginning on or before and ending after the Closing Date.

**“Surveys”** has the meaning specified in Section 5.7.

**“Tangible Personal Property”** has the meaning specified in Section 2.1(d).

**“Tax”** means any federal, state, local or foreign net income, alternative or add-on minimum, gross income, gross receipts, property, sales, use, transfer, gains, license, employment, payroll, capital stock, escheat, environmental, franchise, social security, stamp, registration and value-added taxes, withholding or minimum tax, or other tax, together with any interest or any penalty, addition to tax or additional amount imposed by any Governmental Body.

**“Tax Return”** means any return, declaration, report, claim for refund or other document relating to Taxes, including any schedule or attachment thereto, and amendment thereof.

**“Termination Date”** has the meaning specified in Section 10.1(c)(v).

**“Title”** has the meaning specified in Section 5.7.

**“Third Person Claim Notice”** has the meaning specified in Section 9.4(c).

**“Trade Agreement”** means any contract, agreement or commitment, oral or written, other than film and program barter agreements, pursuant to which Seller has agreed to sell or trade commercial air time or commercial production services of a Station in consideration for any property or service in lieu of cash.

**“Trademarks”** means trademarks, service marks, Internet domain names, trade dress, trade names, and corporate names, all applications and registrations for the foregoing, and all goodwill connected with the use thereof and symbolized thereby.

**“Transfer Taxes”** means all transfer, documentary, excise, sales, value added, goods and services, use, stamp, registration and other similar taxes, and all conveyance fees, recording charges and other similar fees and charges, incurred in connection with the consummation of the transactions contemplated by this Agreement.

**“Transferred Employees”** has the meaning specified in Section 6.2(c).

**“Treasury Regulation”** means regulations promulgated by the United States Department of the Treasury under the Code.

**“WARN Act”** has the meaning specified in Section 6.2(c).

## ARTICLE II

### PURCHASE AND SALE OF PURCHASED ASSETS

**Section 2.1 Purchase and Sale of Purchased Assets.** Upon the terms and subject to the conditions of this Agreement, at the Closing, Seller shall, or shall cause its Affiliates to, sell, transfer, assign, convey and deliver to the Buyer, and the Buyer shall purchase from the Seller, pursuant to this Agreement, free and clear of all Encumbrances (except for Permitted Encumbrances), all of the right, title and interest of the Seller to the assets, properties and business (excepting only the Excluded Assets) of every kind and description, real, personal or mixed, tangible or intangible, then owned or held by the Seller and used exclusively in the Business (herein collectively referred to as the **“Purchased Assets”**), including, all right, title and interest of the Seller as of Closing to the following (excepting only the Excluded Assets):

(a) (x) The Seller FCC Authorizations and (y) all other assignable Governmental Permits exclusively related to the Stations, and including any applications therefor and renewals or modifications thereof between the date hereof and Closing;

(b) All Owned Real Property and all the rights arising out of the ownership thereof or appurtenant thereto, including all rights, privileges, grants and easements appurtenant to Seller's interest in the Owned Real Property, together with all buildings, structures, facilities, fixtures and other improvements;

(c) All machinery, equipment (including cameras, computers and office equipment), auxiliary and translator facilities, transmitting towers, transmitters, broadcast equipment, antennae, supplies, inventory (including all films, programs, records, tapes, recordings, compact discs, cassettes, spare parts and equipment), vehicles, furniture and other tangible personal property owned by Seller and used exclusively in the Business except for any retirements or dispositions thereof made between the date hereof and Closing in accordance with Section 5.4 ("Tangible Personal Property");

(d) All Intellectual Property owned by the Seller and used exclusively in the Business (the "Purchased Intellectual Property"), including the station call signs for each Station and all Intellectual Property listed or described in Schedule 3.10(a), but, for the avoidance of doubt, excluding any Intellectual Property used in connection with any Other Seller Stations;

(e) Subject to Section 5.6, (i) all contracts and agreements of any Station to the extent such contracts and agreements are for the sale or barter of broadcast time on any Station for advertising or other purposes; (ii) all contracts and agreements of the Seller to the extent such contracts or agreements are for the purchase or lease, as applicable, of merchandise, supplies, equipment or other personal property, or for the receipt of services, in each case used exclusively in the Business; (iii) all contracts and agreements listed or described in Schedule 3.14, and (iv) any other contract or agreement entered into by the Seller exclusively for the Business which (A) is of the general nature described in clauses (b), (c) (g), (h), (i), (j) or (k) of Section 3.14, but which, by virtue of the threshold amounts or other specific terms set forth in such subsections, is not required to be listed in Schedule 3.14 or (B) is entered into after the date hereof consistent with the provisions of Section 5.4 of this Agreement;

(f) All claims or causes of action of the Seller, as applicable, against third parties solely to the extent that any such claims or causes of action arise out of the Purchased Assets or Assumed Liabilities;

(g) All management and other systems (including computers and peripheral equipment), databases, computer software, disks and similar assets owned by the Seller which are used exclusively in the Business, and all licenses of the Seller to the extent relating thereto; ; and

(h) All books and records of the Seller that relate exclusively to the Business, including all files, logs, programming information and studies, technical information and engineering data, news and advertising studies or consulting reports and sales correspondence exclusively relating to the Business excluding records relating to Excluded Assets or the Other Seller Stations.

**Section 2.2 Excluded Assets.** Notwithstanding the foregoing, the Purchased Assets shall not include the following (herein referred to as the "Excluded Assets"):

- (a) Any cash or cash equivalents (including any marketable securities or certificates of deposit) of Seller, other than petty cash held at the Stations;
- (b) All bank and other depository accounts of the Seller;
- (c) All Tangible Personal Property of Seller sold, transferred to a non-Affiliate, retired or otherwise disposed of between the date of this Agreement and Closing;
- (d) All Station Agreements that are terminated or expire (and are not renewed or extended by Seller) prior to Closing;
- (e) All claims, rights and interests of the Seller in and to any refunds of Taxes or fees of any nature whatsoever, including all items of loss, deduction or credit for Tax purposes, in each case, relating to the Business, the Purchased Assets or the Assumed Liabilities for, or applicable to, periods (or portions thereof) ending on or prior to the Closing Date;
- (f) Any rights, claims or causes of action of the Seller against third parties relating to the assets, properties or operations of the Business prior to the Closing Date (including all amounts payable to the Seller, if any, from the United States Copyright Office or such arbitration panels as may be appointed by the United States Copyright Office that relate to the Business prior to the Closing that have not been paid as of the Closing);
- (g) All bonds held, contracts or policies of insurance and prepaid insurance with respect to such contracts or policies;
- (h) The Seller's minute books, stock transfer books, records relating to formation or incorporation, Tax returns and related documents and supporting work papers and any other records and returns relating to Taxes, assessments and similar governmental levies (other than real and personal property Taxes, assessments and levies imposed on the Purchased Assets) and any books and records not exclusively relating to the Business;
- (i) Any rights under any non-transferable shrink-wrapped or click-wrapped licenses of computer software and any other non-transferable licenses of computer software;
- (j) All records prepared in connection with or relating to the sale or transfer of the Stations, including bids received from others and analyses relating to the Stations and the Purchased Assets;
- (k) All rights and claims of Seller, whether mature, contingent or otherwise, against third parties with respect to any Station and the Purchased Assets, to the extent arising during or attributable to any period prior to the Cutoff Time;
- (l) The items designated in Schedule 2.2(l) as "Excluded Assets";
- (m) The Retained Names and Marks;
- (n) All accounts receivable outstanding at the Cutoff Time generated by the Business prior to the Closing (the "Account Receivables");

(o) All Intellectual Property of Seller (other than the Purchased Intellectual Property);

(p) All real and personal, tangible and intangible assets of Seller that are used or held for use in the operation of the Other Seller Stations to the extent that it is used primarily by the Other Seller Stations (including, without limitation, any such assets that are used both in Stations and in the Other Seller Stations);

(q) All records and documents relating to Excluded Assets or to liabilities other than Assumed Liabilities;

(r) All capital stock or other equity securities of the Seller or its Affiliates and all other equity interests in any entity that are owned beneficially or of record by Seller or its Affiliates;

(s) Other than as set forth in Section 6.2, all of the employee benefit agreements, plans or arrangements sponsored or maintained by the Seller or any of its Affiliates (including, without limitation, all Employee Plans) and any assets of any such agreement, plan or arrangement;

(t) Any intercompany receivables of the Business from the Seller; and

(u) Any rights of or payment due to the Seller, under or pursuant to this Agreement or the other agreements with the Buyer or any of its Affiliates contemplated hereby.

### **Section 2.3 Assumption of Liabilities.**

(a) Upon the terms and subject to the conditions of this Agreement, as of the Closing, the Buyer shall assume and shall thereafter be obligated for, and shall agree to pay, perform and discharge in accordance with their terms, the following obligations and liabilities of the Seller, whether direct or indirect, known or unknown (except to the extent such obligations and liabilities constitute Excluded Liabilities):

(i) the liabilities and obligations arising with, or relating to, the operation of the Stations, including the owning or holding of the Purchased Assets, on and after the Closing Date;

(ii) all liabilities and obligations relating to the Business or the Purchased Assets arising out of Environmental Laws, whether or not presently existing, except for liabilities and obligations that are required to be disclosed on Schedule 3.19, but which are not so disclosed;

(iii) subject to Section 5.6, all liabilities and obligations under the Station Agreements and other contracts and agreements included as Purchased Assets (except to the extent that such liabilities or obligations were required by the terms thereof to be discharged prior to the Closing);

(iv) all Taxes (other than any Prorated Taxes or Transfer Taxes) of the Buyer for any Tax period, (ii) any Prorated Taxes for the portion of any Straddle Period beginning after the Closing Date (determined in accordance with Section 6.1) and (iii) any Transfer Taxes that are the responsibility of the Seller pursuant to Section 6.1; and

(v) all liabilities and obligations of the Buyer or its Affiliates pursuant to Section 6.2 hereof.



All of the foregoing to be assumed by the Buyer hereunder are referred to herein as the “Assumed Liabilities.”

(b) The Buyer shall not assume or be obligated for any of, and the Seller shall solely retain, pay, perform, defend and discharge all of, their liabilities or obligations of any and every kind whatsoever, direct or indirect, known or unknown, absolute or contingent, not expressly assumed by the Buyer under Section 2.3(c) and, notwithstanding anything to the contrary in Section 2.3(c), none of the following (herein referred to as “Excluded Liabilities”) shall be “Assumed Liabilities” for purposes of this Agreement:

(i) all Taxes (other than any Prorated Taxes or Transfer Taxes) of Seller for any Tax period, (ii) any Prorated Taxes for the portion of any Straddle Period beginning after the Closing Date (determined in accordance with Section 6.1), and (iii) any Transfer Taxes that are the responsibility of the Buyer pursuant to Section 6.1;

(ii) other than as set forth in Section 6.2, any of the liabilities or obligations under the employee benefit agreements, plans or arrangements sponsored or maintained by the Seller (including, without limitation, all Employee Plans);

(iii) any intercompany payables of the Business owing to any of the Affiliates of the Seller; and

(iv) any Seller liabilities or obligations under this Agreement or the Ancillary Agreements.

**Section 2.4 Closing Date.** Subject to any prior termination of this Agreement pursuant to Section 10.1, the purchase and sale of the Purchased Assets provided for in Section 2.1 (the “Closing”) shall be consummated at 10:00 A.M., central time, three (3) Business Days after the conditions set forth in Articles VII and VIII are satisfied or, if legally permissible, waived (other than those conditions that by their nature are to be satisfied (or validly waived) at the Closing, but subject to such satisfaction or waiver), at the offices of Cooley LLP, 1299 Pennsylvania Avenue, N.W., Suite 700, Washington, DC 20004, unless such time or date is changed by mutual agreement of the Seller and the Buyer (the “Closing Date”). The Closing may be conducted virtually by electronic exchange of executed documents.

**Section 2.5 Purchase Price.** The purchase price for the Purchased Assets (the “Purchase Price”) shall be the full performance by Buyer of its obligations under the Other Purchase Agreement, subject to adjustment as provided in this Agreement. The cash portion of the Purchase Price shall be paid at Closing by wire transfer in immediately available funds to an account(s) designated by Seller.

**Section 2.6 Prorations and Adjustments.**

(a) All income and expenses arising from the Business, including, without limitation, Assumed Liabilities and prepaid expenses, ad valorem and property taxes and assessments (but excluding the Accounts Receivable), annual regulatory fees payable to the FCC, power and utilities charges, and rents and similar prepaid and deferred items shall be prorated between Seller and Buyer in accordance with the Agreed Accounting Principles to reflect the principle that Seller shall be entitled to all income and be responsible for all expenses arising from the Business through the Cutoff Time and Buyer shall be entitled to all income and be responsible for all expenses arising from the

Business after the Cutoff Time. In accordance with Sections 6.2(d) and 6.2(e), Buyer shall receive a positive adjustment with respect to all liabilities for unpaid, accrued vacation of and all unused sick leave accrued by each Transferred Employee assumed by Buyer. Notwithstanding anything in this Section 2.6 to the contrary, (i) except as set forth herein, with respect to Trade Agreements for the sale of time for goods or services assumed by Buyer, if at the Cutoff Time, the Trade Agreements have an aggregate negative balance (i.e., the amount by which the value of air time the Stations are obligated to provide after the Cutoff Time exceeds the fair market value of corresponding goods and services to be received by the Stations after such date), there shall be no proration or adjustment, unless the aggregate negative balance of the Stations' Trade Agreements exceeds \$25,000, in which event only such excess shall be treated as prepaid time sales of the Stations, and adjusted for as a proration in Buyer's favor, (ii) there shall be no proration under this Section 2.6 to the extent there is an aggregate positive balance with respect to the Stations' Trade Agreements and (iii) there shall be no proration under this Section 2.6 for Program Rights agreements except to the extent that any payments or performance due under such Program Rights agreements relate to a payment period that straddles the Cutoff Time in which case the amount payable in the payment period will be prorated based on the number of days in such period. The prorations and adjustments to be made pursuant to this Section 2.6 are referred to as the "Closing Date Adjustments;" provided, that, the Closing Date Adjustment shall not be made at the Closing and shall only be made pursuant to Section 2.6(b).

(b) Within ninety (90) days after the Closing, Buyer shall deliver to Seller a statement of the Closing Date Adjustments, and no later than the close of business on the thirtieth (30) day after the delivery of such statements (the "Payment Date"), Buyer shall pay to Seller, or Seller shall pay to Buyer, as the case may be, any amount due as a result of the adjustment (or, if there is any good faith dispute, the undisputed amount). Except with respect to items that Seller notifies Buyer that it objects to prior to the close of business on the date that is at least one (1) Business Day prior to the Payment Date, the adjustments set forth in Buyer's statement shall be final and binding on the parties effective at the close of business on the Payment Date. If Seller disputes Buyer's determinations or Buyer disputes Seller's determinations of the Closing Date Adjustment, the parties shall consult with regard to the matter and an appropriate adjustment and payment shall be made as agreed upon by the parties within thirty (30) days after the Payment Date. If such thirty (30) day consultation period expires, and the dispute has not been resolved, then the parties shall select BDO USA, LLP or, if such firm is unable to serve in such capacity, a mutually acceptable, nationally recognized independent accounting firm that does not then have a relationship with Seller or Buyer (the "Independent Accountant"), to resolve the disagreement and make a determination with respect thereto as promptly as practicable. The determination by the Independent Accountant on the matter shall be binding. If an Independent Accountant is engaged pursuant to this Section 2.6, the fees and expenses of the Independent Accountant shall be borne by Seller and Buyer in inverse proportion as such parties may prevail on the resolution of the disagreement which proportionate allocation also will be determined by the Independent Accountant and be included in the Independent Accountant's written report, and an appropriate adjustment and payment shall be made within three (3) Business Days of the resolution by the Independent Accountant, which resolution shall be rendered within thirty (30) days after such submission.

## **Section 2.7 Closing Date Deliveries.**

(a) At the Closing, the Seller shall deliver or cause to be delivered to the Buyer (i) a bill of sale and assignment and assumption agreement from the Seller in substantially the form of Exhibit A (the "Bill of Sale and Assignment and Assumption Agreement"), providing for the conveyance of all of the Purchased Assets (other than the Seller FCC Authorizations) and the

assumption of all of the Assumed Liabilities, (ii) an assignment of the Seller FCC Authorizations from the Seller, in substantially the form of Exhibit B (the “Assignment of the Seller FCC Authorizations”), assigning to the Buyer the Seller FCC Authorizations, (iii) a transition services agreement from the Seller, substantially in the form of Exhibit C (the “Transition Services Agreement”), (iv) special warranty deeds (in a form reasonably acceptable to the Buyer) conveying to the Buyer the Owned Real Property, (v) all of the documents and instruments required to be delivered by the Seller pursuant to Article VIII, (vi) specific assignment and assumption agreements duly executed by the Seller relating to any agreements included as Purchased Assets that the Buyer or the Seller have determined to be reasonably necessary to assign such agreements to the Buyer and for the Buyer to assume the Assumed Liabilities thereunder, (viii) a statement of the Accounts Receivables as of a date within 5 days of Closing and (ix) such other documents and instruments as the Buyer has determined to be reasonably necessary to consummate the transactions contemplated hereby.

(b) At the Closing, the Buyer shall deliver to the Seller (i) the Purchase Price, (ii) the Bill of Sale and Assignment and Assumption Agreement, (iii) the Transition Services Agreement, (iv) all of the documents and instruments required to be delivered by the Buyer pursuant to Article VII, (v) specific assignment and assumption agreements duly executed by the Buyer relating to any agreements included as Purchased Assets that the Buyer or the Seller have determined to be reasonably necessary to assign such agreements to the Buyer and for the Buyer to assume the Assumed Liabilities thereunder, and (vi) such other documents and instruments as the Seller has determined to be reasonably necessary to consummate the transactions contemplated hereby.

## **Section 2.8 Further Assurances.**

(a) From time to time following the Closing, the Seller shall execute and deliver, or cause to be executed and delivered, to the Buyer such other instruments of conveyance and transfer as the Buyer may reasonably request or as may be otherwise necessary to effectively convey and transfer to, and vest in, the Buyer and put the Buyer in possession of, any part of the Purchased Assets.

(b) Without limiting Section 5.3(g), to the extent that any Station Agreement or other agreement or contract included as a Purchased Asset cannot be assigned without consent and such consent is not obtained prior to the Closing, the Seller shall use all commercially reasonable efforts to provide the Buyer the benefits of any such agreement and the Buyer shall perform or discharge on behalf of the Seller the obligations and liabilities under such agreement that constitute Assumed Liabilities. In addition to the Buyer’s obligation pursuant to the foregoing sentence, as to any Station Agreement or other agreement or contract included as a Purchased Asset that is not effectively assigned to the Buyer as of the Closing Date but is thereafter effectively assigned to the Buyer, the Buyer shall, from and after the effective date of such assignment, assume, and shall thereafter pay, perform and discharge as and when due, all Assumed Liabilities of the Seller arising under such agreement.

(c) From time to time following the Closing, the Buyer shall execute and deliver, or cause to be executed and delivered, to the Seller such other undertakings and assumptions as the Seller may reasonably request or as may be otherwise necessary to effectively evidence the Buyer’s assumption of and obligation to pay, perform and discharge the Assumed Liabilities.

**Section 2.9 Allocation of Purchase Price.** Following the Closing Date, the Seller shall provide to the Buyer an allocation of the applicable portions of the Purchase Price in accordance with Section 1060 of the Code and the Treasury Regulations promulgated thereunder (and any similar

provisions of state, local, or non-U.S. Law, as appropriate). The Buyer shall provide the Seller with any comments to such allocation within fifteen (15) days after the date of receipt by the Buyer, and the Buyer and the Seller shall negotiate in good faith to finalize such allocation no later than sixty (60) days prior to the earliest due date (taking into account, for these purposes, any applicable extension of a due date) for the filing of a Tax Return to which such allocation is relevant (unless the Buyer does not provide any comments within such fifteen-day period, in which case the Seller's allocation shall be deemed final). If the parties are unable to mutually agree to such allocation then the parties shall have no further obligation under this Section 2.9, and each party shall make its own determination of such allocation for financial and tax reporting purposes, which determination, for the avoidance of doubt, shall not be binding on the other party.

**Section 2.10 Collection of Accounts Receivable.** Seller hereby assign to Buyer the Accounts Receivable for the sale of advertising time only ("Local AR"), effective upon the Cutoff Time, solely for the collection thereof. For a period of 90 days after the Closing Date, Buyer shall use reasonable efforts to collect the Local AR in the normal and ordinary course of business. Neither Buyer's authority nor obligation shall extend to the compromise of the Local AR or the institution of litigation, employment of counsel or a collection agency or any other extraordinary means of collection unless agreed upon by Seller and Buyer in writing. Buyer shall apply all such amounts collected on the Local AR to the debtor's oldest invoice not in dispute first (except that any such amounts collected by Buyer from persons who are also indebted to Buyer for the purchase of advertising time on any Station may be applied to Buyer's account where there is a pre-existing bona fide dispute between the Seller and such account debtor with respect to all of its invoices), and Buyer shall provide to the Seller an aging report and a collections report and shall pay the Seller the full amount collected on the Local AR, within fifteen (15) days after the end of the above-mentioned 90 day period. Any of the Local AR remaining uncollected at the end of such 90 day period shall be re-assigned to Seller for collection; provided, that Buyer shall have the right to retain any amount of the Local AR paid to it without any collection efforts after the end of such 90 day period. All accounts receivable arising out of the conduct of the business and operation of the Station after the Cutoff Time shall be and remain the property of Buyer.

### **ARTICLE III**

#### **REPRESENTATIONS AND WARRANTIES OF THE SELLER**

As an inducement to the Buyer to enter into this Agreement and to consummate the transactions contemplated hereby, Seller represents and warrants to the Buyer as follows:

**Section 3.1 Organization.** Seller is organized, validly existing and in good standing under the laws of its state of incorporation. Seller has the requisite organizational power and authority to operate the Stations as now operated by it, to use the Purchased Assets as now used by it and to carry on the Business as now conducted by it.

**Section 3.2 Authority of the Seller.**

(a) The Seller has the requisite organizational power and authority to execute and deliver this Agreement and the Ancillary Agreements to be executed and delivered by it pursuant hereto, to consummate the transactions contemplated hereby and thereby and to comply with the terms, conditions and provisions hereof and thereof.

(b) The execution, delivery and performance of this Agreement and the Ancillary Agreements by Seller (to the extent a party thereto) has been duly authorized and approved by all necessary organizational action on the part of the Seller and does not require any further authorization or consent on the part of Seller or its Affiliates. This Agreement is, and each other Ancillary Agreement when executed and delivered by Seller (to the extent a party thereto) will be, a legal, valid and binding agreement of the Seller, enforceable in accordance with its respective terms, except in each case as such enforceability may be limited by bankruptcy, moratorium, insolvency, reorganization or other similar laws affecting or limiting the enforcement of creditors' rights generally and except as such enforceability is subject to general principles of equity (regardless of whether such enforceability is considered in a proceeding in equity or at law).

(c) Except for the FCC Consent, and as set forth in Schedule 3.2, none of the execution, delivery and performance by the Seller of this Agreement or the Ancillary Agreements, the consummation by the Seller of the transactions contemplated hereby or thereby or compliance by the Seller with or fulfillment by the Seller of the terms, conditions and provisions hereof or thereof will:

(i) conflict with, result in a breach of the terms, conditions or provisions of, or constitute a default, an event of default or an event creating rights of acceleration, termination or cancellation or a loss of rights under, or result in the creation or imposition of any Encumbrance upon any of the Purchased Assets under, (A) the certificate of incorporation, bylaws or other organizational documents of the Seller, (B) any Station Agreement, (C) any Governmental Permit, (D) any judgment, order, award or decree to which such Person is a party or any of the Purchased Assets is subject or by which such Person is bound, or (E) any material indenture, note, mortgage, lease, guaranty or material agreement to which the Seller is a party, except, in the case of each of the foregoing clauses (B), (C), (D) or (E), as would not, individually or in the aggregate, be reasonably likely to have a Material Adverse Effect; or

(ii) require the approval, consent, authorization or act of, or the making by Seller of any declaration, filing or registration with, any third Person or any foreign, federal, state or local court, Governmental Body, except, in any case, as would not, individually or in the aggregate, be reasonably likely to have a Material Adverse Effect.

**Section 3.3 Financial Statements.** Seller has provided Buyer with the unaudited statements of profits and loss for each Market for the years ended December 31, 2021, December 31, 2022 and December 31, 2023 (the "Income Statement Date"). Except as set forth in Schedule 3.3 or in the accompanying notes, each of such statements presents fairly, in all material respects, the financial position and results of operations of such Station as of their respective dates and for the respective periods covered thereby.

**Section 3.4 Operations Since Income Statement Date.**

(a) Except as set forth in Schedule 3.4(a), from the Income Statement Date, there has been no change in the financial condition or the results of operations of the Business which, individually or in the aggregate, has had or would reasonably be reasonably likely to have a Material Adverse Effect.

(b) Except as set forth in Schedule 3.4(b), from the Income Statement Date through the date of this Agreement, the Business has been conducted in all material respects in the ordinary course other than in connection with the process relating to the sale of the Business.

**Section 3.5    No Undisclosed Liabilities.** Except as set forth in Schedule 3.5, Seller is not subject, with respect to the Business, to any liability (including unasserted claims, whether known or unknown), whether absolute, contingent, accrued or otherwise, which would be included in the Assumed Liabilities and required to be disclosed on a balance sheet of the Business prepared in accordance with the Agreed Accounting Principles or the notes thereto, except for liabilities which are (a) reflected or reserved for on the statements of profits and loss, (b) liabilities incurred in the ordinary course of business since the Income Statement Date, (c) liabilities to be performed in the ordinary course of business pursuant to the Station Agreements and other agreements included in the Purchased Assets, or (d) which, individually or in the aggregate, have not had and would not be reasonably likely to have a Material Adverse Effect.

**Section 3.6    Taxes.**

(a) Except as would not, individually or in the aggregate, reasonably be likely to have a Material Adverse Effect, (i) Seller has filed all material Tax Returns with respect to the Business and the Purchased Assets required to be filed prior to the date hereof and all such Tax Returns were true, correct and complete in all material respects, and have paid all Taxes reflected on such Tax Returns, (ii) Seller is in compliance in all material respects with the provisions of the Code relating to the withholding and payment of Taxes with respect to the Business and the Purchased Assets and have, within the time and in the manner prescribed by Law, withheld from employee wages and paid over to the proper Governmental Body all required amounts, and (iii) there are no Encumbrances for Taxes on any of the Purchased Assets other than Permitted Encumbrances. To the Knowledge of the Seller, (i) no Tax Return relating to the Business or the Purchased Assets is currently under audit or examination by any Governmental Body, and (ii) there are no suits, actions, proceedings or investigations pending with respect to any material Taxes relating to the Business or the Purchased Assets.

(b) The representations and warranties contained in this Section 3.6 are the sole and exclusive representations and warranties of the Seller relating to Taxes.

**Section 3.7    All Assets.** Except for the Excluded Assets, the Purchased Assets constitute all the assets and properties whether tangible or intangible, whether personal, real or mixed, wherever located, that are used by the Seller exclusively in the operation of the Stations.

**Section 3.8    Governmental Permits; FCC Matters.**

(a) As of the date of this Agreement, Seller holds or possesses all registrations, licenses, permits, approvals and regulatory authorizations from a Governmental Body that are reasonably necessary to entitle it to own or lease, operate and use the assets of the Stations and to carry on and conduct the Business substantially as conducted immediately prior to the date of this Agreement (herein collectively called "Governmental Permits"), except for such Governmental Permits as to which the failure to so own, hold or possess would not, individually or in the aggregate, be reasonably likely to have a Material Adverse Effect. Schedule 3.8(a) sets forth a list of each of the Seller FCC Authorizations, held by the Seller as of the date of this Agreement. The Seller FCC Authorizations constitute all material registrations, licenses, franchises, permits, approvals and regulatory authorizations issued by the FCC to the Seller in respect of the Stations and held by the Seller as of the date of this Agreement.

(b) Seller has fulfilled and performed its obligations under each of the Governmental Permits except for noncompliance that, individually or in the aggregate, has not had and

would not be reasonably likely to have a Material Adverse Effect. Each of the Governmental Permits is valid, subsisting and in full force and effect and has not been revoked, suspended, canceled, rescinded or terminated, other than those that the revocation, suspension, cancellation, rescission or termination of which, individually and in the aggregate, would not be reasonably likely to have a Material Adverse Effect.

(c) Each Station is being operated in accordance with the Seller FCC Authorizations and in compliance in all material respects with the Communications Act and all other Laws applicable to such Station, except, in either case, for such noncompliance that, individually or in the aggregate, has not had and would not be reasonably likely to have a Material Adverse Effect. Except as disclosed in Schedule 3.8(c), there is not (i) pending, or, to the Knowledge of the Seller, threatened, any material action or legal proceeding, other than actions or proceedings affecting broadcast television stations generally, by or before the FCC to revoke, suspend, cancel, rescind, terminate, materially adversely modify or refuse to renew in the ordinary course any Seller FCC Authorization (other than, in the case of modifications, proceedings to amend the FCC rules of general applicability), or (ii) issued or outstanding, by or before the FCC, any (A) order to show cause, (B) notice of violation, (C) notice of apparent liability or (D) order of forfeiture, in each case, against any Station, Seller with respect to any Station that has resulted or would reasonably be expected to result in any action described in the foregoing clause (i) with respect to such Seller FCC Authorizations. The Seller FCC Authorizations have been issued by the FCC for full terms customarily issued by the FCC for each class of station, and the Seller FCC Authorizations are not subject to any condition except for those conditions appearing on the face of the Seller FCC Authorizations and conditions applicable to broadcast licenses generally. Seller has (i) paid or caused to be paid all FCC regulatory fees due and payable by it in respect of any Station, and (ii) timely filed all material registrations and reports required to have been filed by it with the FCC relating to the Seller FCC Authorizations except where the failure to do so would not, individually or in the aggregate, be reasonably likely to have a Material Adverse Effect. This Section 3.8 does not relate to Governmental Permits for environmental, health and safety matters which are the subject solely of Section 3.20.

### **Section 3.9     Real Property; Real Property Leases.**

(a) Schedule 3.9(a) contains a brief description of all real property owned by the Seller as of the date of this Agreement exclusively for use in the Business (the “Owned Real Property”). Except as would not be reasonably likely to have a Material Adverse Effect, the Seller has good and valid title (free and clear of any Encumbrances other than Permitted Encumbrances) to the Owned Real Property.

(b) Schedule 3.9(b) sets forth a list of each material lease or similar contract or agreement under which Seller is a lessee of, or occupies, exclusively for use in the Business, any real property owned by any third Person (each such lease, contract or agreement, whether or not material, a “Real Property Lease,” the property leased under the Real Property Leases, the “Leased Real Property,” and together with the Owned Real Property, the “Real Property”) that is in effect as of the date of this Agreement. Except as would not, individually or in the aggregate, be reasonably likely to have a Material Adverse Effect, Seller has a valid leasehold interest in, sub leasehold interest in, or other occupancy right with respect to, the leased or occupied premises under the Real Property Leases in effect as of the date hereof.

(c) Except as would not, individually or in the aggregate, be reasonably likely to have a Material Adverse Effect, neither the whole nor any part of the Owned Real Property nor, to the

Knowledge of the Seller, any property leased by Seller under any Real Property Lease is subject to any pending or threatened suit for condemnation or other taking by any public authority. Except as would not, individually or in the aggregate, be reasonably likely to have a Material Adverse Effect, Seller's use and occupancy of the Real Property complies with all regulations, codes, ordinances and statutes of all applicable governmental entities.

### **Section 3.10 Intellectual Property.**

(a) Schedule 3.10(a) contains a list of all patents and patent applications, trademark, service mark and copyright registrations and applications for registration, and Internet domain name registrations, in each case, that are included in the Purchased Intellectual Property. To the Knowledge of the Seller, (i) each material registration included in the Purchased Intellectual Property is valid and enforceable and (ii) each material registration and pending application included in the Purchased Intellectual Property is subsisting.

(b) Except as would not, individually or in the aggregate, be reasonably likely to have a Material Adverse Effect, to the Knowledge of the Seller, the Business is not infringing, misappropriating or otherwise violating any Intellectual Property owned by any third party. The Buyer acknowledges that the representations and warranties set forth in this Section 3.10(d) are the only representations and warranties the Seller makes in this Agreement with respect to any activity that constitutes, or otherwise with respect to, infringement, misappropriation or other violation of Intellectual Property.

(c) Except as would not, individually or in the aggregate, be reasonably likely to have a Material Adverse Effect, to the Knowledge of the Seller, there are no actions, suits or proceedings by or before any court or any Governmental Body which are pending or, to the Knowledge of Seller, threatened regarding or disputing the ownership, registrability or enforceability, or use by the Seller, of any Purchased Intellectual Property, other than the review of pending patent and trademark applications by applicable Governmental Bodies. Seller is not a party to any outstanding Order that restricts, in a manner material to the Business, the use or ownership of any Purchased Intellectual Property.

**Section 3.11 Title to Tangible Personal Property.** Seller has good and valid title or a valid right to use all of the material Tangible Personal Property included in the Purchased Assets free and clear of all Encumbrances, except for Permitted Encumbrances.

**Section 3.12 Employees.** Schedule 3.12 contains: (a) a list of all full-time, part-time and per diem employees of the Seller as of the date of this Agreement whose employment relates exclusively to the Business; and (b) the current rate of annual base salary provided by the Seller to such employees as of the date hereof.

### **Section 3.13 Employee Relations.**

(a) Seller is not a party to any labor agreement or collective bargaining agreement in respect of any Station or covering any Employee as of the date hereof.

(b) Except as disclosed on Schedule 3.13, as of the date of this Agreement, no unfair labor practice charge against the Seller in respect of any Station is pending or, to the Knowledge of the Seller, threatened before the National Labor Relations Board, any state labor relations board or



any court or tribunal. As of the date of this Agreement, there is no material strike or other material labor dispute pending or, to the Knowledge of the Seller, threatened in respect of any Station.

**Section 3.14 Contracts.** Except as set forth in Schedule 3.14 or any other Schedule hereto, as of the date of this Agreement, Seller is not party to or bound by:

(a) any contract for the purchase, sale, license or lease of material assets used or to be used exclusively in the Business outside of the ordinary course of business which it would reasonably be expected that the Business would make annual payments of \$100,000 or more during any twelve (12) month period or the remaining term of such contract;

(b) any programming agreement relating exclusively to the Business under which it would reasonably be expected that the Business would make annual payments of \$100,000 or more during any twelve (12) month period or the remaining term of such contract;

(c) any retransmission consent agreement with any MVPDs with more than 100 paid subscribers with respect to either Market;

(d) any contract or agreement that is a “local marketing agreement” or time brokerage agreement, joint sales agreement, shared services agreement, management services agreement, local news sharing agreement or similar contract exclusively related to the Business;

(e) any material partnership, joint venture or other similar contract or agreement exclusively related to the Business;

(f) any affiliation agreement with a Big 5 national television network for any Station;

(g) any contract or agreement for capital expenditures with respect to the Business for an amount in excess of \$100,000 during any twelve (12) month period or the remaining term of such contract;

(h) any material Employment Agreement with compensation in excess of \$150,000 other than such service providers that are terminable at will;

(i) any material Real Property Lease; or

(j) any contract (other than any contract of the type described in clauses (a) through (j) above) that exclusively relates to the Business that is not terminable by Seller without penalty on ninety (90) days’ notice or less and which is reasonably expected to involve the payment by the Seller after the date hereof of more than \$100,000 during any twelve (12) month period or the remaining term of such contract.

**Section 3.15 Status of Contracts.** Except as set forth in Schedule 3.15 or in any other Schedule hereto or as, individually or in the aggregate, has not had and would not be reasonably likely to have a Material Adverse Effect, each of the leases, contracts and other agreements listed in Schedule 3.14 (collectively, the “Station Agreements”) constitutes a valid and binding obligation of the Seller and, to the Knowledge of the Seller, the other parties thereto and is in full force and effect (in each case, subject to bankruptcy, insolvency, reorganization or other similar laws relating to or affecting the enforcement of creditors’ rights generally and except as such enforceability is subject to general

principles of equity (regardless of whether such enforceability is considered in a proceeding in equity or at law)). Except as, individually or in the aggregate, has not had and would not be reasonably likely to have a Material Adverse Effect, (i) Seller is not in breach of, or default under, any Station Agreement and, to the Knowledge of the Seller, no other party to any Station Agreement is in breach of, or default under, any Station Agreement, and (ii) to the Knowledge of the Seller, no event has occurred which would result in a breach of, or default under, any Station Agreement (in each case, with or without notice or lapse of time or both). Copies of each of the Station Agreements, together with all amendments thereto, have heretofore been made available to the Buyer by the Seller.

**Section 3.16 No Violation, Litigation or Regulatory Action.** Except as set forth in Schedule 3.16:

(a) Seller is in compliance with all Laws and Orders which are applicable to the Purchased Assets, any Station or the Business, except where the failure to comply would not, individually or in the aggregate, be reasonably likely to have a Material Adverse Effect; and

(b) Since January 1, 2022 and through the date of this Agreement, Seller has not received any written notice of violation of any applicable Laws, except for such violations that, individually or in the aggregate, have not had and would not be reasonably likely to have a Material Adverse Effect; and

(c) As of the date of this Agreement, there are no actions, suits or proceedings by or before any court or any Governmental Body which are pending or, to the Knowledge of the Seller, threatened against Seller in respect of the Purchased Assets, any Station or the Business which would, individually or in the aggregate, be reasonably be likely to have a Material Adverse Effect.

**Section 3.17 Insurance.** Seller maintains, in respect of the Purchased Assets, the Stations and the Business, policies of fire and extended coverage and casualty, liability and other forms of insurance in such amounts and against such risks and losses as are in the judgment of the Seller prudent for the Business. Except as set forth in Schedule 3.17 with respect to the Business, there are no outstanding claims under any insurance policy or default with respect to provisions in any such policy which claim or default, individually or in the aggregate, would be reasonably likely to have a Material Adverse Effect.

**Section 3.18 Employee Plans; ERISA.**

(a) Schedule 3.18 sets forth a list of each Employee Plan in effect as of the date of this Agreement. A true and correct copy of the summary plan description (or other written summary of the material terms) of each such Employee Plan has been made available to the Buyer.

(b) All Employee Plans are in compliance with the provisions of ERISA, the Code and other applicable Laws and the rules and regulations promulgated thereunder to the extent that ERISA, the Code and other applicable Laws and such rules and regulations are intended to apply, except for any noncompliance that, individually or in the aggregate, would be reasonably likely to have a Material Adverse Effect.

**Section 3.19 Environmental Protection.**

(a) Except as set forth in Schedule 3.19:

(i) As of the date of this Agreement, the Business is in compliance with all Environmental Laws, except where the failure to comply would not be reasonably likely to have a Material Adverse Effect;

(ii) Seller has, in respect of the Business, obtained all Governmental Permits required under Environmental Law necessary for its operation, except for such Governmental Permits as to which the failure to so own, hold or possess would not, individually or in the aggregate, be reasonably likely to have a Material Adverse Effect. Seller is in compliance with all terms and conditions of such Governmental Permits except where failure to comply would not be reasonably likely to have a Material Adverse Effect;

(iii) As of the date of this Agreement, Seller, with respect to the Business, is not the subject of any pending or, to the Knowledge of the Seller, threatened action, claim, complaint, investigation or notice of noncompliance or potential responsibility or other proceedings alleging any failure of the Business to comply with, or liability of the Business under, any Environmental Law, except as would not, individually or in the aggregate, be reasonably likely to have a Material Adverse Effect, however, regardless of whether such threatened action, claim, complaint, investigation, or allegation may be deemed to have a Material Adverse Effect, it shall be listed in Schedule 3.19; and

(iv) To the Knowledge of the Seller, there has been no Release of Hazardous Materials at, under, about or from any Real Property reasonably expected to require Seller to conduct any investigation, remediation or other response action, or incur Losses, under Environmental Law except as would not, individually or in the aggregate, be reasonably likely to have a Material Adverse Effect.

(b) The representations and warranties contained in this Section 3.19 are the sole and exclusive representations and warranties relating to Environmental Law or Hazardous Materials.

**Section 3.20 No Finder.** Seller is not obligated to pay any fee or commission to any broker, finder or intermediary for or on account of the transactions contemplated by this Agreement for which the Buyer may become liable.

## ARTICLE IV

### REPRESENTATIONS AND WARRANTIES OF THE BUYER

As an inducement to the Seller to enter into this Agreement and to consummate the transactions contemplated hereby, the Buyer represents and warrants to the Seller as follows:

**Section 4.1 Organization.** Buyer is organized, validly existing and in good standing under the laws of the state of its organization. Buyer has the requisite organizational power and authority to own, lease and operate the properties and assets used in connection with its business as currently being conducted or to be acquired pursuant hereto.

**Section 4.2 Authority of the Buyer.**

(a) The Buyer has the requisite organizational power and authority to execute and deliver this Agreement and all of the other agreements and instruments to be executed and delivered by the Buyer pursuant hereto (collectively, the “Buyer Ancillary Agreements”), to consummate the

transactions contemplated hereby and thereby and to comply with the terms, conditions and provisions hereof and thereof.

(b) The execution, delivery and performance of this Agreement and the Buyer Ancillary Agreements by the Buyer have been duly authorized and approved by all necessary organizational action on the part of the Buyer and its Affiliates and do not require any further authorization or consent on the part of the Buyer or any of its Affiliates. This Agreement is, and each other Buyer Ancillary Agreement when executed and delivered by the Buyer or any of its Affiliates and the other parties thereto will be, a legal, valid and binding agreement of the Buyer or such Affiliates party thereto enforceable in accordance with its respective terms, except in each case as such enforceability may be limited by bankruptcy, moratorium, insolvency, reorganization or other similar laws affecting or limiting the enforcement of creditors' rights generally and except as such enforceability is subject to general principles of equity (regardless of whether such enforceability is considered in a proceeding in equity or at law).

(c) Except for the FCC Consent and as set forth in Schedule 4.2, none of the execution, delivery and performance by the Buyer of this Agreement, or by the Buyer or any of its Affiliates, as applicable, of the Buyer Ancillary Agreements to which it is a party, the consummation by the Buyer or its Affiliates, as applicable, of the transactions contemplated hereby or thereby or compliance by the Buyer or any Affiliates, as applicable, with or fulfillment by the Buyer or its Affiliates, as applicable, of the terms, conditions and provisions hereof or thereof will:

(i) conflict with, result in a breach of the terms, conditions or provisions of, or constitute a default, an event of default or an event creating rights of acceleration, termination or cancellation or a loss of rights under, or result in the creation or imposition of any Encumbrance upon any assets of the Buyer under, (A) the certificate of incorporation, bylaws or other organizational documents of the Buyer, or (B) any material indenture, note, mortgage, lease, guaranty or material agreement, or any judgment, order, award or decree, to which the Buyer or any of its Affiliates is a party; or

(ii) require the approval, consent, authorization or act of, or the making by the Buyer or any of its Affiliates of any declaration, filing or registration with, any third Person or any foreign, federal, state or local court, governmental or regulatory authority or body.

**Section 4.3 Litigation.** Neither the Buyer, nor any of its Affiliates is a party to any action, suit or proceeding pending or, to the knowledge of the Buyer, threatened which, if adversely determined, would reasonably be expected to restrict the ability of the Buyer to consummate promptly the transactions contemplated by this Agreement. There is no order to which the Buyer or any of its Affiliates is subject which would reasonably be expected to restrict the ability of the Buyer to consummate promptly the transactions contemplated by this Agreement.

**Section 4.4 No Finder.** Neither the Buyer nor any of its Affiliates, or any party acting on any of their behalf has paid or become obligated to pay any fee or commission to any broker, finder or intermediary for or on account of the transactions contemplated by this Agreement.

**Section 4.5 Qualifications as FCC Licensee.** Subject to the Compliance Showing, Buyer is legally, financially and otherwise qualified to be the licensee of, and to acquire, own, operate and control, the Stations under the Communications Act, including the provisions relating to media ownership and attribution, foreign ownership and control, and character qualifications. Subject to the

Compliance Showing, there are no facts or circumstances that would, under the Communications Act or any other applicable Laws, (i) disqualify the Buyer as the assignee of the Seller FCC Authorizations with respect to any Station or as the owner and operator of any Station, (ii) delay the FCC's processing of the FCC Applications, or (iii) cause the FCC to impose a material condition or conditions on its granting of the FCC Consent. Other than the Compliance Showing, no waiver of or exemption from, whether temporary or permanent, any provision of the Communications Act, or any divestiture or other disposition by the Buyer or any of their respective Affiliates of any asset or property, is necessary for the FCC Consent to be obtained under the Communications Act.

**Section 4.6 Financial Capacity; Solvency.** The Buyer has, as of the date of this Agreement, and will have as of the Closing Date, on hand (or access through committed credit facilities to) adequate funds to perform all of its obligations under this Agreement (including, but not limited to, payment of the Purchase Price and all fees and expenses required to be paid by Buyer in connection with the transactions contemplated by this Agreement), and there is no restriction or condition on the use of such funds for such purposes or fact or circumstance that, individually or in the aggregate with all other facts and circumstances, could reasonably be expected to prevent or delay the availability of such funds at the Closing. The Buyer is Solvent as of the date of this Agreement and will, immediately after giving effect to all of the transactions contemplated by this Agreement, including payment of the Purchase Price and all other amounts required to be paid, borrowed or refinanced in connection with the consummation of the transactions contemplated by this Agreement and all related fees and expenses, be Solvent at and after the Closing Date.

## **ARTICLE V**

### **ACTION PRIOR TO THE CLOSING DATE**

The respective parties hereto covenant and agree to take the following actions between the date hereof and the Closing Date:

**Section 5.1 Access to the Business.** Upon the written request of the Buyer, the Seller shall afford to the officers and authorized representatives of the Buyer (including independent public accountants, attorneys and consultants) reasonable access during normal business hours, and upon reasonable prior notice, to the offices, properties, employees and business and financial records of the Business to the extent reasonably necessary for Buyer's transition planning and shall furnish to the Buyer or its authorized representatives such additional information concerning the Business as shall be reasonably requested to the extent reasonably necessary for Buyer's transition planning; provided, however, that the Seller shall not be required to violate any obligation of confidentiality or other obligation under applicable Law to which the Seller is subject in discharging their obligations pursuant to this Section 5.1. The Buyer agrees that any such access shall be conducted in such a manner as not to interfere unreasonably with the operations of Business, or the Seller. Notwithstanding the foregoing, Seller shall not be required to (i) take any action which would constitute a waiver of attorney-client or other privilege or would compromise the confidential information of the Seller not related to the Business, (ii) supply the Buyer with any information which, in the reasonable judgment of the Seller, that the Seller is under a contractual or legal obligation not to supply or (iii) permit the Buyer or any of its Affiliates to conduct any sampling of soil, sediment, groundwater, surface water or building material. Any information disclosed to the Buyer by the Seller under this Section 5.1 shall be held in accordance with the Mutual Non-Disclosure Agreement, dated as of January 19, 2024 (the "Confidentiality Agreement"), by and between Seller and Marquee Broadcasting, Inc.

## **Section 5.2     Notification of Certain Matters.**

(a) The Buyer, on the one hand, and the Seller, on the other hand, shall promptly notify the other upon becoming aware of any material breach of any representation or warranty contained in this Agreement including, in the case of the Buyer, upon any of their officers, employees or authorized representatives becoming aware of such a breach as a result of the access to the Business permitted by Section 5.1.

(b) Each party shall promptly notify the other of any action, suit or proceeding that shall be instituted or threatened against such party to restrain, prohibit or otherwise challenge the legality of any transaction contemplated by this Agreement. The Seller shall promptly notify the Buyer, and the Buyer shall promptly notify the Seller, of any lawsuit, claim, proceeding or investigation that may be threatened, brought, asserted or commenced against the other which would have been listed in Schedule 3.16 or would be an exception to Section 4.3 if such lawsuit, claim, proceeding or investigation had arisen prior to the date hereof.

## **Section 5.3     FCC Consent; Other Consents and Approvals.**

(a) As promptly as practicable after the date hereof, but in any event no later than five (5) Business Days hereafter, the Buyer and its Affiliates, as applicable shall file, and the Seller shall file, with the FCC the necessary applications requesting its consent to the Assignment of the Seller FCC Authorizations to the Buyer, as contemplated by this Agreement (the “FCC Applications”). The Seller shall, and the Buyer shall, or shall cause its Affiliates to, cooperate in the preparation of such applications, and will diligently take, or cooperate in the taking of, all necessary, desirable and proper steps, provide any additional information required by the FCC and shall use reasonable best efforts to obtain promptly the FCC Consent. The Seller, on the one hand, and the Buyer, on the other hand, shall bear the cost of FCC filing fees relating to the FCC Applications equally. The Buyer and the Seller shall oppose any petitions to deny or other objections filed with respect to the FCC Applications to the extent such petition or objection relates to any such party. Neither Seller nor Buyer shall, and each shall cause its Affiliates not to, take any intentional action that would, or intentionally fail to take such action the failure of which to take would, reasonably be expected to have the effect of materially delaying the receipt of the FCC Consent. Seller shall take all commercially reasonable actions necessary to promptly obtain grant of the pending application for renewal of any Station’s FCC Authorization (the “Renewal Application”) without any conditions unacceptable to Buyer. As may reasonably be necessary to facilitate the grant of the FCC Consent with respect to any matter arising after grant of the Renewal Application, in the event that in order to obtain the FCC Consent in an expeditious manner, it is necessary for the Buyer or any of its Affiliates to enter into a customary assignment, assumption, tolling, or other similar arrangement with the FCC to resolve any complaints with the FCC relating to any Station, the Buyer shall enter, or cause its Affiliates, as applicable, to enter, into such a customary assignment, assumption, tolling or other arrangement with the FCC.

(b) At any time within fourteen days of the date on which any press release or other public announcement concerning the transactions contemplated by this Agreement is made, Seller shall have the right to (i) supplement or amend any Schedule hereto with respect to any matter that occurred in the ordinary course of business before the date of this Agreement that was omitted or included from such original Schedules or (ii) add any contract, agreement or lease entered into by Seller in the ordinary course of business before the date of this Agreement that was unintentionally omitted from the original Schedule 3.14 and reflected in any Station’s statement of operations (each, a “Schedule Supplement”); provided, that (i) each Schedule Supplement shall be subject to the reasonable review

and acceptance of Buyer in good faith (which acceptance cannot be unreasonably delayed, withheld or conditioned) and (ii) all such contracts, agreements and leases that are so added to Schedule 3.14 in accordance with this Section 5.2(c) shall, for all purposes of this Agreement, be deemed to be Purchased Assets and Buyer shall have no claim against Seller with respect to such additions. Any disclosure in such Schedule Supplement shall not be deemed to have cured any inaccuracy in or breach of any representation or warranty contained in this Agreement, including for purposes of the indemnification or termination rights contained in this Agreement or of determining whether or not the conditions set forth in Section 7.1 have been satisfied; provided however, that Buyer and Seller agree that Buyer shall have the right to terminate this Agreement if the disclosures in any or all Schedule Supplements would, individually or in the aggregate, be reasonably likely to have a Material Adverse Effect.

(c) Buyer, and Sellers acknowledge that under the rules and policies announced by the FCC as of the date of this Agreement, the FCC's local television ownership rules may require the parties to submit a showing demonstrating compliance with the FCC's revised local television ownership rule (the "Compliance Showing"). Seller shall pay all costs of third parties incurred in the preparation of the request for the Compliance Showing. Seller, the Company and Buyer shall cooperate fully in the preparation of the Compliance Showing and shall promptly respond to requests from the FCC to provide information concerning the Compliance Showing or the FCC Applications.

(d) Subject to the terms and conditions herein, the Seller and the Buyer shall, use their respective reasonable best efforts to consummate and make effective the transactions contemplated hereby and to cause the conditions set forth in Article VII and Article VIII to be satisfied as promptly as reasonably practicable after the date hereof, including (i) in the case of the Buyer, the obtaining of all necessary consents, approvals, waivers and authorizations of, actions or nonactions by, and making of all required filings and submissions with, any Governmental Body or any third party required in connection with the transactions contemplated by this Agreement, provided that Buyer shall have no obligation to assume any liability in connection with obtaining the grant of the Renewal Application, (ii) cooperating with each other in (A) determining which filings are required to be made prior to the Closing with, and which consents, approvals, permits, notices or authorizations are required to be obtained prior to Closing from, Governmental Bodies or third parties in connection with the execution and delivery of this Agreement and related agreements, and consummation of the transactions contemplated hereby and thereby and (B) timely making all necessary filings and timely seeking all consents, approvals, permits, notices or authorizations, (iii) the defending of any lawsuits or other legal proceedings, whether judicial or administrative, challenging this Agreement or the consummation of the transactions performed or consummated by such party in accordance with the terms of this Agreement, including seeking to have any stay or temporary restraining order entered by any court or other Governmental Body vacated or reversed and (iv) taking, or causing to be taken, all other actions and doing, or causing to be done, and cooperating with each other in order to do, all other things necessary or appropriate to consummate the transactions contemplated hereby as soon as practicable. The Buyer agrees not to, and shall cause its Affiliates not to, take any action that would reasonably be expected to materially delay, materially impede or prevent receipt of the Governmental Consents.

(e) The Seller and the Buyer shall, and shall cause their respective Affiliates to use reasonable best efforts to obtain all consents and amendments from the parties to the Station Agreements which are required by the terms thereof or this Agreement for the consummation of the transactions contemplated by this Agreement; provided, however, that neither the Seller, the Buyer, nor any of their respective Affiliates shall have any obligation to offer or pay any consideration in order

to obtain any such consents or amendments, including, with respect to the Seller, any obligation to amend, modify or otherwise alter the terms of any contract or agreement with any such party that is not included in the Purchased Assets or, insofar as any Multi-Station Contract relates to Other Seller Stations (as such terms are defined in Section 5.6), the terms thereof relating to Other Seller Stations; and provided, further, that the parties acknowledge and agree that such third party consents are not conditions to Closing, except for the certain third party consent applicable to the Stations set forth on Schedule 5.3(c) (the “Required Consents”); provided, further, that the Buyer may waive the receipt of any Required Consent as a condition to Closing.

#### **Section 5.4     Operations of Stations Prior to the Closing Date.**

(a) Prior to the Closing Date, except as approved by the Buyer (which approval shall not be unreasonably withheld, delayed or conditioned), the Seller shall, and shall cause its Affiliates to, use its commercially reasonable efforts to operate and carry on the Business in all material respects in the ordinary course of the Business, and to the extent consistent therewith (i) continue to promote and conduct advertising on behalf of the Stations at levels substantially consistent with past practice, (ii) keep and maintain the Purchased Assets in good operating condition and repair (wear and tear in ordinary usage excepted), (iii) maintain the business organization of the Stations intact, and (iv) preserve the goodwill of the suppliers, contractors, licensors, employees, customers, distributors and others having business relations with the Business.

(b) Notwithstanding Section 5.4(c) and subject to Section 6.3 regarding control of the Stations, except (w) as expressly contemplated by this Agreement, (x) as set forth in Schedule 5.4(b), (y) as required by applicable Laws or by any Governmental Body of competent jurisdiction, or (z) with the prior written consent of the Buyer (which consent shall not be unreasonably withheld, delayed or conditioned), the Seller shall not, and shall cause each of its Affiliates not to, in respect of the Stations:

(i) enter into any contract or commitment that would be binding on the Buyer after the Closing Date and that involves the payment or potential payment of more than \$150,000 per annum;

(ii) other than those capital expenditures listed in Schedule 5.4(b)(ii), make or authorize any new capital expenditures, other than capital expenditures to address exigent circumstances that do not exceed \$100,000 individually or \$300,000 in the aggregate;

(iii) sell, lease (as lessor), transfer or otherwise dispose of or mortgage or pledge, or impose or suffer to be imposed any Encumbrance on, any of the material assets or properties relating to the Purchased Assets, other than the sale, lease (as lessor), transfer or other disposal of property in the ordinary course of the Business or pursuant to existing contracts or commitments, and other than Permitted Encumbrances;

(iv) fail to use all commercially reasonable efforts to maintain in full force and effect in accordance with their respective terms and conditions, any of the material Seller FCC Authorizations, or to not take or fail to take any action that could reasonably be expected to cause the FCC or any other Governmental Body to institute proceedings for the suspension, revocation or adverse modification of any of the material Seller FCC Authorizations in any material respect;



(v) other than in the ordinary course of the Business, enter into any new, or materially modify the terms of any existing, Employment Agreement with any Employee whose annual compensation would exceed \$100,000 after giving effect to such action;

(vi) in respect of the Business, materially change any accounting period or change in any material respect its accounting methods (or underlying assumptions), principles or practices affecting its assets, liabilities or business, in each case, in effect on the date hereof, except as required by changes in applicable Law;

(vii) materially increase the annual cash compensation of the Employees, other than increases in compensation in accordance with normal compensation practices and consistent with past compensation practices of Employees whose annual compensation would not exceed \$100,000 after giving effect to any such increase and it being agreed that the granting of annual cash incentive bonus awards in the ordinary course shall not constitute an increase in compensation for purposes hereof; or

(viii) agree or commit to do any of the foregoing.

**Section 5.5 Public Announcement.** Neither the Seller, Buyer nor any of their Affiliates shall, without the approval of the other, make any press release or other public announcement concerning the transactions contemplated by this Agreement, except as and to the extent that any such party shall be so obligated by Laws or by the rules, regulations or policies of any national securities exchange or association.

**Section 5.6 Multi-Station Contracts.** Schedule 5.6 contains a list as of the date hereof of contracts and agreements which are included in the Purchased Assets and to which one or more television stations of the Seller (an “Other Seller Station”) is party to, or has rights or obligations thereunder (any such contract or agreement, a “Multi-Station Contract”). The rights and obligations under the Multi-Station Contracts that are assigned to and assumed by Buyer (and included in the Purchased Assets and Assumed Liabilities, as the case may be) shall include only those rights and obligations under such Multi-Station Contracts that are applicable to the Stations. The rights of each Other Seller Station with respect to such contract or agreement and the obligations of each Other Seller Station to such contract or agreement shall not be assigned to and assumed by Buyer (and shall be Excluded Assets and Excluded Liabilities, as applicable). For purposes of determining the scope of the rights and obligations of the Multi-Station Contracts, the rights and obligations under each Multi-Station Contract shall be equitably allocated among (1) the Stations, on the one hand, and (2) the Other Seller Stations, on the other hand, in accordance with the following equitable allocation principles:

(a) any allocation set forth in the Multi-Station Contract shall control;

(b) if there is no allocation in the Multi-Station Contract as described in clause (a) hereof, then any reasonable allocation previously made by the Seller in the ordinary course of business shall control;

(c) if there is no reasonable allocation as described in clause (b) hereof, then then reasonable accommodation (to be determined by mutual good faith agreement of the Seller and Buyer) shall control.

Subject to any applicable third-party consents, such allocation and assignment with respect to any Multi-Station Contract shall be effectuated, at the election of the Seller, by termination of such Multi-Station Contract in its entirety with respect to the Stations and the execution of new contracts with respect to the Stations or by an assignment to and assumption by Buyer of the related rights and obligations under such Multi-Station Contract. The parties shall use commercially reasonable efforts to obtain any such new contracts or assignments to, and assumptions by, Buyer in accordance with this Section 5.6; provided, that, completion of documentation of any such allocation under this Section 5.6 is not a condition to Closing.

**Section 5.7 Title Insurance; Survey.** The Buyer may obtain, at its sole option and expense, and the Seller shall grant the Buyer reasonable access to obtain (a) commitments for owner's and lender's title insurance policies (ALTA Form 2006) on the Owned Real Property and commitments for lessee's and lender's title insurance policies for all Leased Real Property (collectively the "Title Commitments"), and (b) an ALTA survey on each parcel of Owned Real Property (the "Surveys"). Seller has provided the Buyer with any existing title commitments, title policies and Surveys in its possession or control. The Title Commitments will evidence a commitment to issue an ALTA title insurance policy insuring good, marketable and indefeasible fee simple (or leasehold, if applicable) title to each parcel of the Real Property contemplated above for such amount as Buyer reasonably directs and will contain no exceptions except for Assumed Liabilities or Permitted Encumbrances. The Seller shall reasonably cooperate with the Buyer in obtaining such Title Commitments and Surveys (including by providing customary representations and owner affidavits to the Buyer's title company); *provided however*, that Seller shall not be required to incur any cost, expense, or other liability in connection therewith inconsistent with Seller's obligations hereunder. If the Title Commitments or Surveys reveal any Encumbrance on the title, other than Assumed Liabilities or Permitted Encumbrances, the Buyer may notify the Seller in writing of such objectionable matter as soon as the Buyer determines that such matter is not an Assumed Liability or Permitted Encumbrance, and the Seller shall use commercially reasonable efforts to remove such objectionable matter as required pursuant to the terms of this Agreement. The Seller shall be obligated to remedy any title defect that is of a monetary nature and is not an Assumed Liability or Permitted Encumbrance.

**Section 5.8 Environmental Assessments; Phase I and II Investigations.** Buyer, at its sole cost and expense, shall have the right to within sixty (60) days from the date of this Agreement, engage an environmental consulting firm to conduct a Phase I Environmental Site Assessment and Compliance Review, as such terms are commonly understood (the "Phase I Environmental Assessment"); *provided*, that such environmental assessment, test, investigation or review shall be conducted only (i) during regular business hours, (ii) with no less than two (2) Business Days prior written notice to the Seller, (iii) in a manner which will not unduly interfere with the operation of the Stations or the use of access to or egress from the Real Property, (iv) without the damaging any Real Property or Station Asset and without any invasive or destructive methods, and (v) with respect to Leased Real Property, shall only be done if the owner of such property consents. The Seller shall use commercially reasonable efforts to undertake to obtain such consents as promptly as practicable if requested by Buyer. In the event that Buyer wishes to conduct any tests, borings, Phase II environmental site assessments or other due diligence on the Property that may disturb or damage the Assets in any respect, Buyer may do so only with the advance written permission of Seller, which may be withheld or conditioned by Seller in its discretion and shall be subject to such insurance, restoration, indemnity and other requirement as Seller shall reasonably specify. Buyer will restore any disturbed property to its prior condition. Buyer will indemnify and hold Seller harmless from any loss, cost, claim, damage, or expense suffered or incurred by Seller as a result of Buyer's or Buyer's employees', agents', invitees', or permittees' entry upon any Real Property. The Seller shall use commercially

reasonable efforts to remediate any environmental condition that is identified in any such assessment in respect of Owned Real Property at its sole cost and expense only if such condition requires current remediation under applicable Environmental Law. Any such remediation shall only be required to meet the most cost-effective standard and executed in a reasonable manner, in each case to become compliant with any applicable Environmental Laws.

**Section 5.9     Treatment of Other Party's Assets.** In the event that following the Closing Seller or Buyer (and/or any Affiliate thereof) receives or discovers that it holds any asset belonging to the other party, such party shall promptly remit or otherwise transfer such asset to the other party.

## **ARTICLE VI**

### **ADDITIONAL AGREEMENTS**

#### **Section 6.1     Taxes.**

(a)     The Seller shall prepare and timely file or shall cause to be prepared and timely filed each Tax Return for Prorated Taxes that is due on or before the Closing Date. The Buyer shall pay to the Seller promptly upon demand the amount of any Taxes shown as due thereon to the extent constituting an Assumed Liability. The Buyer shall prepare and timely file or shall cause to be prepared and timely filed each Tax Return for Prorated Taxes that is due after the Closing Date. The Seller shall pay to the Buyer promptly upon demand the amount of any Taxes shown as due thereon to the extent constituting an Excluded Liability.

(b)     In the case of any Prorated Taxes for any Straddle Period, the portion of such Prorated Taxes that are allocable to the portion of such Straddle Period ending on the Closing Date and that constitute an Excluded Liability shall be deemed to equal the amount of such Taxes for the entire Straddle Period multiplied by a fraction the numerator of which is the number of calendar days in the portion of the Straddle Period ending on the Closing Date and the denominator of which is the number of calendar days in the entire Straddle Period, and the remaining portion of such Prorated Taxes shall be allocable to the portion of such Straddle Period beginning after the Closing Date and shall constitute an Assumed Liability.

(c)     The Seller and the Buyer shall (i) provide assistance to each other party as reasonably requested in preparing and filing Tax returns with respect to the Business and the Purchased Assets; (ii) make available to each other party as reasonably requested all information, records, and documents relating to Taxes concerning the Business or the Purchased Assets; (iii) retain any books and records that could reasonably be expected to be necessary or useful in connection with any preparation by any other Party of any Tax Return, or for any audit relating to Taxes with respect to the Business or the Purchased Assets; and (iv) cooperate fully, as and to the extent reasonably requested by any other party, in connection with audit with respect to Taxes relating to the Business or the Purchased Assets.

(d)     Any Transfer Taxes shall be borne by the Buyer. The Seller and the Buyer shall reasonably cooperate in the preparation, execution and filing of all Tax Returns, questionnaires, applications or other documents regarding any such Transfer Taxes.

## **Section 6.2     Employees; Employee Benefit Plans.**

(a)     Employment. As of or before the Closing, the Buyer or any of its Affiliates shall offer employment to each Employee who (i) is not then on authorized leave of absence, sick leave, short or long term disability leave, military leave or layoff with recall rights (“Active Employees”); or (ii) is then on authorized leave of absence, sick leave, short or long term disability leave, military leave or layoff with recall rights and who returns to active employment immediately following such absence and within six (6) months of the Closing Date, or such later date as required under applicable Laws (“Inactive Employees”), excluding, in each case, any Employee listed on Schedule 6.2(a). For the purposes hereof, all Active Employees and Inactive Employees who accept an offer of employment from the Buyer and commence employment on the applicable Employment Commencement Date are hereinafter referred to collectively as the “Transferred Employees,” and the “Employment Commencement Date” as referred to herein shall mean (x) as to those Transferred Employees who are Active Employees, the Closing Date, and (y) those Transferred Employees who are Inactive Employees, the date on which the Transferred Employee begins employment with the Buyer or any of its Affiliates. The Buyer shall employ at-will those Transferred Employees who do not have employment agreements with the Seller initially at a monetary compensation (consisting of base salary, and, as applicable, commission rate and annual bonus opportunity) substantially the same as those provided by Seller immediately prior to the Employment Commencement Date. The initial terms and conditions of employment for those Transferred Employees who have Employment Agreements with the Seller shall be as set forth in such Employment Agreements, which shall, to the extent permitted under the applicable agreements, be assigned to Buyer and assumed by Buyer. The Buyer agrees that it or one of its Affiliates shall, for at least one (1) year after the Closing Date, provide each Transferred Employee who remains employed with the Buyer or any of its Affiliates with (i) benefits and compensation that are substantially similar in the aggregate to those provided to other employees of Buyer, as applicable as of the date hereof and (ii) severance benefits in accordance with the terms of the Buyer severance policy, applied in a manner consistent with the manner in which Buyer has applied such policy under similar circumstances, and not amend such program in any way with respect to the Transferred Employees except as required by applicable Law or to increase benefits payable to the Transferred Employees under the program.

(b)     Service Credit. For purposes of determining eligibility to participate, vesting and benefit accrual (other than benefit accrual under a defined benefit pension plan) under any plan maintained by the Buyer or any of its Affiliates in which Transferred Employees are eligible to participate, the Buyer shall, and shall cause its Affiliates to, recognize or cause to be recognized for purposes of eligibility, vesting and benefit accruals each Transferred Employee’s service with the Seller, and with any predecessor employer, to the same extent recognized by the Seller as service with the Buyer or any of its Affiliates to the same extent such service was recognized immediately prior to the Closing, except that such service need not be recognized to the extent such recognition would result in the duplication of benefits for the same period of service.

(c)     Welfare Plans. The Seller shall retain responsibility for and continue to pay all medical, life insurance, disability and other welfare plan expenses and benefits for each Transferred Employee with respect to claims incurred under the terms of the Employee Plans by such Employees and their covered dependents prior to the Employment Commencement Date. Expenses and benefits with respect to claims incurred by Transferred Employees and their covered dependents on or after the Employment Commencement Date shall be the responsibility of the Buyer and its Affiliates. With respect to any welfare benefit plans maintained by the Buyer or any of its Affiliates in which the Transferred Employees are eligible to participate on or after the Employment Commencement Date,

to the extent permitted by Laws, the Buyer shall, and shall cause its Affiliates to (a) cause there to be waived any eligibility requirements or pre-existing condition limitations and (b) give effect, in determining any deductible and maximum out-of-pocket limitations, to amounts paid by such Transferred Employees (and their covered dependents) under the Employee Plans.

(d) Vacation. The Buyer shall assume as of Closing all liabilities for unpaid, accrued vacation of each Transferred Employee as of the Employment Commencement Date, giving service credit under the vacation policy of the Buyer for service with the Seller, and shall permit Transferred Employees to use their vacation entitlement accrued as of Closing in accordance with the policy of the Seller as of Closing for carrying over unused vacation. The value of any positive balance shall be reflected as a Closing Date Adjustment in accordance with Section 2.6.

(e) Sick Leave. The Buyer shall grant credit to Transferred Employees for all unused sick leave accrued by Transferred Employees on the basis of their service during the current calendar year as employees of the Seller that has not been reimbursed by Seller prior to Closing. The value of any positive balance shall be reflected as a Closing Date Adjustment in accordance with Section 2.6.

(f) Payroll Matters.

(i) The Seller and the Buyer shall follow the “standard procedures” for preparing and filing Internal Revenue Service Forms W-2 (Wage and Tax Statements), as described in Revenue Procedure 2004-53 for Transferred Employees. Under this procedure, (i) the Seller shall provide all required Forms W-2 to (x) all Transferred Employees reflecting wages paid and taxes withheld by the Seller prior to the Employment Commencement Date, and (y) all other employees and former employees of the Seller who are not Transferred Employees reflecting all wages paid and taxes withheld by the Seller, and (ii) the Buyer (or one of its Affiliates) shall provide all required Forms W-2 to all Transferred Employees reflecting all wages paid and taxes withheld by the Buyer (or one of its Affiliates) on and after the Employment Commencement Date.

(ii) The Seller and the Buyer shall agree that the parties will follow the standard procedure of Revenue Procedure 2004-53, 2004-2, C.B. 320, whereby each shall be solely responsible for employment tax reporting for employees who may be employed by each of them in the calendar year that includes the Closing Date. The Seller shall provide the Buyer with such employment tax information as the Buyer shall reasonably request in connection with the Buyer’s employment tax reporting obligations for the portion of the calendar year following the Closing

(iii) With respect to garnishments, tax levies, child support orders, and wage assignments in effect with the Seller on the Employment Commencement Date for Transferred Employees and with respect to which the Seller has notified the Buyer in writing, the Buyer shall, and shall cause its Affiliates to, honor such payroll deduction authorizations with respect to Transferred Employees and shall, or shall cause its Affiliates to, continue to make payroll deductions and payments to the authorized payee, as specified by a court or order which was filed with the Seller on or before the Employment Commencement Date, to the extent such payroll deductions and payments are in compliance with applicable Laws, and the Seller will continue to make such payroll deductions and payments to authorized payees as required by Laws with respect to all other employees of the Business who are not Transferred Employees. The Seller shall, as soon as practicable after the Employment Commencement Date, provide the Buyer with such information in the possession of the Seller as may

be reasonably requested by the Buyer and necessary for the Buyer or its Affiliates to make the payroll deductions and payments to the authorized payee as required by this Section 6.2(f).

(g) WARN Act. To the extent WARN Act (as defined below) is applicable, the Buyer shall not, and shall cause its Affiliates not to, take any action on or after the Closing that would cause any termination of employment of any employees by the Seller that occurs before the Closing to constitute a “plant closing” or “mass layoff” under the Worker Adjustment and Retraining Act of 1988, as amended (the “WARN Act”) or any similar state or local Laws, or to create any liability to the Seller for any employment terminations under applicable Laws. To the extent the WARN Act is applicable, the Buyer shall be responsible for all liabilities with respect to any amounts (including any severance, fines or penalties) payable under or pursuant to the WARN Act or any similar state or local Laws with respect to any Employees who do not become Transferred Employees as a result of the failure of the Buyer to extend offers of employment or continued employment as required by Section 6.2 or in connection with events that occur from and after the Closing, and the Buyer shall reimburse the Seller for any such amounts.

(h) Without limiting the generality of Section 11.6, nothing in this Section 6.2, express or implied, is intended to confer on any Person (including any Transferred Employees and any current or former employees of the Seller) other than the parties hereto and their respective successors and assigns, any rights, benefits, remedies, obligations or liabilities (including any third-party beneficiary rights) under or by reason of this Section 6.2. Accordingly, notwithstanding anything to the contrary in this Section 6.2, the parties expressly acknowledge and agree that this Agreement is not intended to create a contract between the Buyer, the Seller or any of their respective Affiliates, on the one hand, and any employee of the Seller on the other hand, and no employee of the Seller may rely on this Agreement as the basis for any breach of contract claim against the Buyer, the Seller or any of their respective Affiliates. Nothing in this Section 6.2 shall constitute an amendment to or modification of any Employee Plan or other compensation or benefit plan, program, policy, agreement or arrangement.

**Section 6.3 Control of Operations Prior to Closing Date**. Notwithstanding anything contained herein to the contrary, the sale of the Purchased Assets contemplated hereby shall not be consummated prior to the grant by the FCC of the FCC Consent. The Seller and the Buyer acknowledge and agree that at all times commencing on the date hereof and ending on the Closing Date, nothing in this Agreement, including Section 5.4, shall be construed to give the Buyer any right to, control, direct or otherwise supervise, or attempt to control, direct or otherwise supervise, any of the management or operations of any Station and Seller shall have complete control and supervision of the programming, operations, policies and all other matters relating to the Stations.

**Section 6.4 Bulk Transfer Laws**. The Buyer hereby waives compliance by the Seller with the provisions of any so-called bulk sales or bulk transfer law of any jurisdiction in connection with the sale of the Purchased Assets to the Buyer hereunder.

**Section 6.5 Use of Names**. The Seller is not conveying ownership rights or granting the Buyer a license to use any of the Retained Names and Marks and, after the Closing, the Buyer shall not and shall not permit any of its Affiliates to use in any manner the Retained Names and Marks or any word that is similar in sound or appearance to such names or marks. In the event the Buyer violates any of its obligations under this Section 6.5, the Seller may proceed against the Buyer in law or in equity for such damages or other relief as a court may deem appropriate. The Buyer acknowledges that a violation of this Section 6.5 may cause the Seller irreparable harm, which may not be adequately

compensated for by money damages. The Buyer therefore agrees that in the event of any actual or threatened violation of this Section 6.5, any of such parties shall be entitled, in addition to other remedies that they may have, to a temporary restraining order and to preliminary and final injunctive relief against the Buyer or any such Affiliate of the Buyer to prevent any violations of this Section 6.5, without the necessity of posting a bond.

## ARTICLE VII

### CONDITIONS PRECEDENT TO OBLIGATIONS OF THE SELLER

The obligations of the Seller under this Agreement to consummate the sale of the Purchased Assets contemplated hereby shall be subject to the satisfaction, fulfillment or, where legally possible, waiver, on or prior to the Closing Date, of the following conditions:

**Section 7.1 No Breach of Covenants and Warranties.** (a) The Buyer shall have performed and complied in all material respects with its covenants and agreements contained herein required to be performed or complied with by it as of or prior to the Closing; and (b) each of the representations and warranties of the Buyer contained in this Agreement shall be true and correct on the Closing Date as though made on the Closing Date (except to the extent that they expressly speak as of a specific date or time other than the Closing Date, in which case they need only have been true and correct as of such specified date or time), except where the failure of such representations and warranties to be true and correct (without giving effect to any qualifiers or exceptions relating to “materiality” set forth in such representations and warranties), individually or in the aggregate, has not had and would not be reasonably likely to have a material adverse effect on the ability of the Buyer to perform its obligations under this Agreement. In addition, the Buyer shall have delivered to the Seller a certificate, dated as of the Closing Date, signed by an executive officer of the Buyer and certifying as to the satisfaction of the conditions specified in this Section 7.1.

**Section 7.2 No Restraint.** There shall not be in effect any Order (whether temporary, preliminary or permanent) issued by or investigation by any U.S. federal or state court of competent jurisdiction preventing the consummation of the sale of the Purchased Assets contemplated hereby.

**Section 7.3 Certain Governmental Approvals.** The FCC Consent shall have been granted and shall be effective.

**Section 7.4 Other Purchase Agreement.** The closing of the transactions contemplated by the Other Purchase Agreement shall have occurred or be occurring simultaneously.

**Section 7.5 Deliveries.** The Buyer shall have made, or stands ready at the Closing to make, the deliveries contemplated by Section 2.7 to the Seller.

## ARTICLE VIII

### CONDITIONS PRECEDENT TO OBLIGATIONS OF THE BUYER

The obligations of the Buyer under this Agreement to consummate the sale of the Purchased Assets contemplated hereby shall, be subject to the satisfaction, fulfillment or, where legally possible, waiver on or prior to the Closing Date, of the following conditions:

**Section 8.1 No Breach of Covenants and Warranties.** (a) The Seller shall have performed and complied with in all material respects its covenants and agreements contained herein required to be performed or complied with by it as of or prior to the Closing; and (b) each of the representations and warranties of the Seller contained in this Agreement shall be true and correct on the Closing Date as though made on the Closing Date (except to the extent that they expressly speak as of a specific date or time other than the Closing Date, in which case they need only have been true and correct as of such specified date or time), except where the failure of such representations and warranties to be true and correct (without giving effect to any qualifiers or exceptions relating to “materiality” or “Material Adverse Effect” set forth in such representations and warranties), would not, individually or in the aggregate, be reasonably likely to have a Material Adverse Effect. In addition, the Seller shall have delivered to the Buyer a certificate, dated as of the Closing Date, signed by an executive officer of the Seller and certifying as to the satisfaction of the conditions specified in this Section 8.1.

**Section 8.2 No Restraint.** There shall not be in effect any Order (whether temporary, preliminary or permanent) issued by or investigation by any U.S. federal or state court of competent jurisdiction preventing the consummation of the sale of the Purchased Assets contemplated hereby.

**Section 8.3 Certain Governmental Approvals.** The FCC Consent shall have been granted and shall be effective. The Renewal Application shall have been granted without imposition of any adverse condition.

**Section 8.4 Other Purchase Agreement.** The closing of the transactions contemplated by each of the Other Purchase Agreement shall have occurred or be occurring simultaneously.

**Section 8.5 Closing Deliveries.** The Seller shall have made, or stand ready at the Closing to make, the deliveries contemplated by Section 2.7 to the Buyer.

## ARTICLE IX

### INDEMNIFICATION

**Section 9.1 Indemnification by the Seller.** From and after the Closing and subject to Section 11.1, the Seller agrees to indemnify and hold harmless the Buyer from and against any and all Losses and Expenses imposed upon, or incurred or suffered by, any Buyer Group Member as a result of or arising out of:

(i) any breach by the Seller of, or any other failure of the Seller to perform, any of its covenants, agreements or obligations pursuant to this Agreement;

(ii) any breach of any warranty or the inaccuracy of any representation of Seller contained or referred to in this Agreement or any certificate delivered by or on behalf of Seller pursuant hereto; or

(iii) the failure of the Seller to perform any Excluded Liabilities.

provided, however, that Seller shall not be required to indemnify and hold harmless pursuant to clause (ii) above with respect to Loss and Expense incurred by Buyer Group Members until, and then only to the extent that, the aggregate amount of all such Loss and Expense exceeds \$30,000 (the



“Deductible”); and, provided, further, that the aggregate amount that Seller shall be required to indemnify and hold harmless pursuant to clause (ii) with respect to Loss and Expense incurred by Buyer Group Members shall not exceed \$600,000 (the “Cap”). Notwithstanding anything herein to the contrary, neither the Deductible nor the Cap shall apply (i) in the case of common law fraud committed by the Seller; (ii) with respect to Seller’s and Seller’s indemnification obligations pursuant to any provision of Section 9.1 other than Section 9.1(ii) (regardless of whether a claim could also be brought under Section 9.1(ii)); or (iii) with respect to any breach of any Seller Fundamental Representations (except, with respect to the Cap, Section 3.11). In addition, Seller shall not be required to indemnify and hold harmless Buyer with respect to Loss and Expense to the extent that such Loss or Expense was included in the Closing Date Adjustment or pursuant to Section 2.6. The indemnification provided for in this Section 9.1 shall terminate twelve (12) months after the Closing Date (and no claims shall be made by any Buyer Group Members under this Section 9.1 thereafter), except that the indemnification by Seller shall continue in any event as to:

(A) the representations and warranties in Sections 3.1, 3.2(a), 3.2(b) and 3.11 (the “Seller Fundamental Representations”), which shall terminate thirty-six (36) months after the Closing;

(B) any Loss or Expense incurred by any Buyer Group Member in connection with or arising out of the failure of Seller to pay or perform any Excluded Liability, as to which no time limitation shall apply; and

(C) any Loss or Expense of which any Buyer Group Member has notified Seller in accordance with the requirements of Section 9.3 on or prior to the date such indemnification would otherwise terminate in accordance with this Section 9.1, as to which the obligation of Seller shall continue until the liability of Seller shall have been determined pursuant to this Article IX, and Seller shall have reimbursed all Buyer Group Members for the full amount of such indemnifiable Loss and Expense (if any) in accordance with this Article IX.

**Section 9.2 Indemnification by the Buyer**. From and after the Closing and subject to Section 11.1, the Buyer agrees to indemnify and hold harmless Seller from and against any and all Losses and Expense imposed upon, or incurred or suffered by, any Seller Group Member as a result of or arising out of:

(i) any breach by the Buyer of, or any other failure of the Buyer to perform, any of its covenants, agreements or obligations in this Agreement;

(ii) any breach by Buyer, or any other failure of Buyer to perform, any of its covenants, agreements or obligations in this Agreement; or

(iii) the failure of the Buyer to perform any of the Assumed Liabilities and, except for claims in respect of which the Seller is obligated to indemnify the Buyer Group Members pursuant to Section 9.1, the Buyer’s (or any successor’s or assignee’s) operation of the Business and/or the ownership and/or use of the Purchased Assets after the Closing Date.

provided, however, that Buyer shall not be required to indemnify and hold harmless pursuant to clause (ii) with respect to Loss and Expense incurred by Seller Group Members until, and then only to the extent that, the aggregate amount of all such Loss and Expense exceeds the Deductible; and, provided, further, that the aggregate amount that Buyer shall be required to indemnify and hold harmless pursuant

to clause (ii) with respect to Loss and Expense incurred by Seller Group Members shall not exceed the Cap. Notwithstanding anything herein to the contrary, neither the Deductible nor the Cap shall apply (i) in the case of common law fraud committed by the Buyer; (ii) with respect to Buyer's indemnification obligations pursuant to any provision of Section 9.2 other than Section 9.2(ii) (regardless of whether a claim could also be brought under Section 9.2(ii)); or (iii) with respect to any breach of any Buyer Fundamental Representations. In addition, Buyer shall not be required to indemnify and hold harmless Seller with respect to Loss and Expense to the extent that such Loss or Expense was included in the Closing Date Adjustment or pursuant to Section 2.6. The indemnification provided for in this Section 9.2 shall terminate twelve (12) months after the Closing Date (and no claims shall be made by any Seller Group Member under this Section 9.2 thereafter), except that the indemnification by Buyer shall continue in any event as to:

(A) the representations and warranties in Sections 4.1, 4.2(a), 4.2(b) and 4.4 (the "Buyer Fundamental Representations"), which shall terminate thirty-six (36) months after the Closing Date;

(B) any Loss or Expense incurred by any Seller Group Member in connection with or arising out of the failure of Buyer to pay or perform any Assumed Liabilities, as to which no time limitation shall apply; and

(C) any Loss or Expense of which any Seller Group Member has notified Buyer in accordance with the requirements of Section 9.3 on or prior to the date such indemnification would otherwise terminate in accordance with this Section 9.2, as to which the obligation of Buyer shall continue until the liability of Buyer shall have been determined pursuant to this Article IX, and Buyer shall have reimbursed all Seller Group Members for the full amount of such Loss and Expense in accordance with this Article IX.

### **Section 9.3 Notice of Claims; Determination of Amount.**

(a) Any party seeking indemnification hereunder (the "Indemnified Party") shall give promptly to the party or parties, as applicable, obligated to provide indemnification to such Indemnified Party (the "Indemnitor") a written notice (a "Claim Notice") describing in reasonable detail the facts giving rise to the claim for indemnification hereunder and shall include in such Claim Notice (if then known) the amount or the method of computation of the amount of such claim, and a reference to the provision of this Agreement or any certificate delivered hereunder upon which such claim is based. Subject to Section 11.1, the failure of any Indemnified Party to give the Claim Notice promptly as required by this Section 9.3 shall not affect such Indemnified Party's rights under this Article IX except to the extent such failure is actually prejudicial to the rights and obligations of the Indemnitor.

(b) In calculating any Loss or Expense there shall be deducted (i) any insurance recovery in respect thereof, (ii) any recovery in respect thereof which is obtained from any other third Person (and no right of subrogation shall accrue hereunder to any such insurer or other third Person) and (iii) any Tax benefit realized by the Indemnified Party arising from any such Loss or Expense.

(c) After the giving of any Claim Notice pursuant hereto, the amount of indemnification to which an Indemnified Party shall be entitled under this Article IX shall be determined: (i) by the written agreement between the Indemnified Party and the Indemnitor; (ii) by a final judgment or decree of any court of competent jurisdiction; or (iii) by any other means to which

the Indemnified Party and the Indemnitor shall agree. The judgment or decree of a court shall be deemed final when the time for appeal, if any, shall have expired and no appeal shall have been taken or when all appeals taken shall have been finally determined. The Indemnified Party shall have the burden of proof in establishing the amount of Losses and Expenses suffered by it.

#### **Section 9.4    Third Person Claims.**

(a) Notwithstanding anything to the contrary contained in Section 9.3, in order for a party to be entitled to any indemnification provided for under this Agreement in respect of, arising out of or involving a claim or demand made by any third Person against the Indemnified Party, such Indemnified Party must notify the Indemnitor in writing, and in reasonable detail, of the third Person claim promptly, but in any event within ten (10) days, after receipt by such Indemnified Party of written notice of the third Person claim, which such notification must include a copy of the written notice of the third Person claim that was received by the Indemnified Party (the “Third Person Claim Notice”). Thereafter, the Indemnified Party shall deliver to the Indemnitor, promptly, but in any event within five (5) Business Days, after the Indemnified Party’s receipt thereof, copies of all notices and documents (including court papers) received by the Indemnified Party relating to the third Person claim. Notwithstanding the foregoing, should a party be physically served with a complaint with regard to a third Person claim, the Indemnified Party must notify the Indemnitor with a copy of the complaint promptly, but in any event within five (5) Business Days, after receipt thereof and shall deliver to the Indemnitor promptly, but in any event within seven (7) Business Days, after the receipt of such complaint copies of notices and documents (including court papers) received by the Indemnified Party relating to the third Person claim. Subject to Section 11.1, the failure of any Indemnified Party to promptly provide a Third Person Claim Notice as required by this Section 9.4 shall not affect such Indemnified Party’s rights under this ARTICLE IX except to the extent such failure is actually prejudicial to the rights and obligations of the Indemnitor.

(b) In the event of the initiation of any legal proceeding against the Indemnified Party by a third Person, the Indemnitor shall have the sole and absolute right after the receipt of a Third Person Claim Notice, at its option and at its own expense, to be represented by counsel of its choice and to control, defend against, negotiate, settle or otherwise deal with any proceeding, claim, or demand which relates to any loss, liability or damage indemnified against hereunder; provided, however, that the Indemnified Party may participate in any such proceeding with counsel of its choice and at its expense. The parties hereto agree to cooperate fully with each other in connection with the defense, negotiation or settlement of any such proceeding, claim or demand. Prior to the time the Indemnified Party is notified by the Indemnitor as to whether the Indemnitor will assume the defense of such proceeding, claim or demand, the Indemnified Party shall take all actions reasonably necessary to timely preserve the collective rights of the parties with respect to such proceeding, claim or demand, including responding timely to legal process. To the extent the Indemnitor elects not to defend such proceeding, claim or demand (or fails to confirm its election) within thirty (30) days after the giving by the Indemnified Party to the Indemnitor of a Third Person Claim Notice, the Indemnified Party may retain counsel, reasonably acceptable to the Indemnitor, at the expense of the Indemnitor, and control the defense of, or otherwise deal with, such proceeding, claim or demand. Regardless of which party assumes the defense of such proceeding, claim or demand, the parties agree to cooperate with one another in connection therewith. Such cooperation shall include providing records and information that are relevant to such proceeding, claim or demand, and making each parties’ employees and officers available on a mutually convenient basis to provide additional information and explanation of any material provided hereunder and to act as a witness or respond to legal process. Whether or not the Indemnitor assumes the defense of such proceeding, claim or demand, the Indemnified Party shall not

admit any liability with respect to, or settle, compromise or discharge, such proceeding, claim or demand without the Indemnitor's prior written consent (which consent shall not be unreasonably withheld, conditioned or delayed). The Indemnitor shall not consent to a settlement of, or the entry of any judgment arising from, any such proceeding, claim or demand without the Indemnified Party's prior written consent (which consent shall not be unreasonably withheld, conditioned or delayed) unless such settlement or judgment (a) relates solely to monetary damages for which the Indemnitor shall be responsible and (b) includes as an unconditional term thereof the release of the Indemnified Party from all liability with respect to such proceeding, claim or demand, in which event no such consent shall be required. After any final judgment or award shall have been rendered by a court, arbitration board or administrative agency of competent jurisdiction and the time in which to appeal therefrom has expired, or a settlement shall have been consummated, or the Indemnified Party and the Indemnitor shall arrive at a mutually binding agreement with respect to each separate matter alleged to be indemnified by the Indemnitor hereunder, the Indemnified Party shall forward to the Indemnitor notice of any sums due and owing by it with respect to such matter and the Indemnitor shall pay all of the sums so owing to the Indemnified Party by wire transfer, certified or bank cashier's check within thirty (30) days after the date of such notice.

(c) The party that has assumed the control or defense of any such proceeding, claim or demand made by a third Person against the other party shall (a) provide the other party with the right to participate in any meetings or negotiations with any Governmental Body or other third Person and reasonable advance notice of any such meetings or negotiations, (b) provide the other party with the right to review in advance and provide comments on any draft or final documents proposed to be submitted to any Governmental Body or other third Person, and (c) keep the other party reasonably informed with respect to such proceeding, demand or claim, including providing copies of all documents provided to, or received from, any Governmental Body or any other third Person in connection with such proceeding, demand or claim. The Buyer Group Members, on the one hand, and the Seller Group Members, on the other hand, covenant and agree to maintain the confidence of all such drafts and comments provided by the other.

To the extent of any inconsistency between this Section 9.4 and Section 6.1(e) with respect to Taxes, the provisions of Section 6.1(e) shall control.

#### **Section 9.5     Limitations; Subrogation; Exclusive Remedies.**

(a) In any case where the Indemnified Party recovers from third Persons any amount in respect of a matter with respect to which the Indemnitor has indemnified it pursuant to this ARTICLE IX, the Indemnified Party shall promptly pay over to the Indemnitor the amount so recovered (after deducting therefrom the full amount of the expenses incurred by it in procuring such recovery), but not in excess of any amount previously so paid by the Indemnitor to or on behalf of the Indemnified Party in respect of such matter.

(b) In the case where the Indemnitor makes any payment to the Indemnified Party in respect of any Loss, the Indemnitor shall, to the extent of such payment, be subrogated to all rights of the Indemnified Party against any third Person in respect of the Loss to which such payment relates. The Indemnified Party and the Indemnitor shall execute upon request all instruments reasonably necessary to evidence or further perfect such subrogation rights.

(c) Except for remedies that cannot be waived as a matter of law and injunctive and provisional relief, if the Closing occurs, this ARTICLE IX shall be the exclusive remedy for

breaches of this Agreement (including any covenant, obligation, representation or warranty contained in this Agreement or in any certificate delivered pursuant to this Agreement) or otherwise relating to the subject matter of this Agreement, including any claims arising under any Environmental Laws.

**Section 9.6 No Special Damages; Mitigation.** Notwithstanding anything to the contrary contained in this Agreement, none of the parties hereto shall have any liability under any provision of this Agreement for any punitive, incidental, consequential, special or indirect damages, including loss of future profits, revenue or income, damages based on any multiple of revenue or income, diminution in value or loss of business reputation or opportunity relating to the breach or alleged breach of this Agreement, regardless of whether such damages were foreseeable, except to the extent such damages are payable to a third Person. Each of the parties agrees to take all reasonable steps to mitigate their respective Losses and Expenses upon and after becoming aware of any event or condition which could reasonably be expected to give rise to any Losses and Expenses that are indemnifiable hereunder, including using its commercially reasonable efforts to obtain insurance proceeds or other recoveries from third Persons in respect thereof.

## **ARTICLE X**

### **TERMINATION**

#### **Section 10.1 Termination.**

(a) Notwithstanding anything contained in this Agreement to the contrary, this Agreement may be terminated at any time prior to the Closing:

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

(ii) by the Seller, if a breach or failure to perform any of the covenants or agreements of the Buyer contained in this Agreement shall have occurred, or there shall be any inaccuracy of any of the representations or warranties of the Buyer contained in this Agreement, and such breach, failure to perform or inaccuracy either individually or in the aggregate would, if occurring or continuing on the Closing Date, give rise to the failure of a condition set forth in Section 7.1, and such breach, failure to perform or inaccuracy if curable, is not cured by, on or before the earlier of (i) the Termination Date or (ii) thirty (30) days following receipt of written notice by Buyer, or which by its nature or timing cannot be cured prior to the Termination Date; provided, however, that the Seller shall not have the right to terminate this Agreement pursuant to this Section 10.1(c)(ii) if Seller is then in breach of any of their respective covenants or agreements contained in this Agreement or any of the representations or warranties of the Seller contained in this Agreement shall be in accurate, and, in any such case would give rise to the failure of a condition set forth in Section 8.1;

(iii) by the Buyer, if a breach or failure to perform any of the covenants or agreements of the Seller contained in this Agreement shall have occurred, or there shall be any inaccuracy of any of the representations or warranties of the Seller contained in this Agreement, and such breach, failure to perform or inaccuracy either individually or in the aggregate would, if occurring or continuing on the Closing Date, give rise to the failure of a condition set forth in Section 8.1, and such breach, failure to perform or inaccuracy if curable, is not cured by, on or before the earlier of (i) the Termination Date or (ii) thirty (30) days following receipt of written notice by Seller, or which by its nature or timing cannot be cured prior to the Termination Date; provided, however, that the Buyer shall not have the right to terminate this Agreement pursuant to this Section 10.1(c)(iii) if Buyer is then

in breach of any of their respective covenants or agreements contained in this Agreement or any of the representations or warranties of the Buyer contained in this Agreement shall be inaccurate, and, in any such case would give rise to the failure of a condition set forth in Section 7.1;

(iv) by the Seller or the Buyer, if any U.S. federal or state court of competent jurisdiction shall have issued a final and nonappealable Order permanently enjoining or otherwise prohibiting the consummation of the sale of the Purchased Assets contemplated hereby;

(v) by the Seller or the Buyer if the Closing shall not have been consummated on or before the nine-month anniversary of the date hereof (the “Termination Date”). Notwithstanding the foregoing, the right to terminate this Agreement under this Section 10.1(c)(v) shall not be available to a party if the failure of the Closing to occur by such date shall be due to the failure of such party to perform or observe the covenants and agreements of such party set forth in this Agreement;

(vi) by the Seller or Buyer, upon the termination of any the Other Purchase Agreement pursuant to the terms thereof; or

(vii) by the Buyer in accordance with Section 5.2(c).

(b) The party desiring to terminate this Agreement pursuant to (c) (other than pursuant to Section 10.1(c)(i)) shall give written notice of such termination to the other party or parties, as applicable.

(c) Subject to clause (d) below, in the event that this Agreement shall be terminated pursuant to Section 10.1(c), all further obligations of the parties under this Agreement (other than Section 5.5, this ARTICLE X and ARTICLE XI, and, for the avoidance of doubt, the Confidentiality Agreement, which, in each case, shall remain in full force and effect) shall be terminated without further liability of any party; provided that nothing herein shall relieve any party from liability for any breach of this Agreement.

(d) If this Agreement is terminated by either party pursuant to Section 10.1(c)(ii) or (iii) then the terminating party shall be entitled to prompt payment on demand from the non-terminating party of the reasonable attorneys’ fees actually incurred by the terminating party in enforcing their rights under this Agreement. The parties understand and agree that the amount of liquidated damages represents such party’s reasonable estimate of actual damages and does not constitute a penalty. The parties hereto acknowledge and agree that the liquidated damages amount is reasonable in light of the substantial but indeterminate harm anticipated to be caused by material breach or default under this Agreement, the difficulty of proof of loss and damages, the inconvenience and non-feasibility of otherwise obtaining an adequate remedy, and the value of the transactions to be consummated hereunder. For the avoidance of doubt, the parties hereto expressly acknowledge and agree that this Section 10.1(d) in no way limits or restricts such party’s ability to exercise their rights to specific performance pursuant to Section 11.15 at any time prior to the termination of this Agreement in accordance with its terms.

**Section 10.2 Withdrawal of Certain Filings.** In the event of termination under the provisions of this ARTICLE X, all filings, applications and other submissions relating to the transactions contemplated by this Agreement as to which termination has occurred shall, to the extent practicable, be withdrawn from the Governmental Body or other Person to which made.

## ARTICLE XI

### GENERAL PROVISIONS

**Section 11.1 Survival of Obligations.** None of the covenants, agreements or obligations shall survive the consummation of the Closing, except to the extent such covenants, agreements and obligations contemplate performance after the Closing, in which case each such covenant, agreement and obligation shall survive until performed. No claim may be brought under this Agreement unless written notice describing in reasonable detail the facts giving rise to the claim is given on or prior to the last day of the applicable survival period. In the event such notice is given, the right to indemnification with respect thereto shall survive the applicable survival period until such claim is finally resolved and any obligations with respect thereto are fully satisfied.

**Section 11.2 Confidential Nature of Information.** Each party agrees that it will treat in confidence all documents, materials and other information which it shall have obtained regarding the other party or parties during the course of the negotiations leading to the consummation of the transactions contemplated hereby (whether obtained before or after the date of this Agreement), the investigation provided for herein and the preparation of this Agreement and other related documents, and, in the event the transactions contemplated hereby shall not be consummated, each party will return to the other party or parties all copies of nonpublic documents and materials which have been furnished in connection therewith. Without limiting the right of either party to pursue all other legal and equitable rights available to it for violation of this Section 11.2 by the other party, it is agreed that other remedies cannot fully compensate the aggrieved party for such a violation of this Section 11.2 and that the aggrieved party shall be entitled to injunctive relief to prevent a violation or continuing violation hereof.

**Section 11.3 Governing Law.** This Agreement and all claims or causes of action (whether in contract, tort or otherwise) that may be based upon, arise out of or relate to this Agreement or the negotiation, execution or performance of this Agreement (including any claim or cause of action based upon, arising out of or related to any representation or warranty made in or in connection with this Agreement or as an inducement to enter into this Agreement) shall be governed and construed in accordance with the internal Laws of the State of Delaware applicable to contracts made and wholly performed within the State of Delaware, without regard to any applicable conflicts of law principles that would result in the application of the Laws of any other jurisdiction.

**Section 11.4 Exclusive Jurisdiction; Court Proceedings.** The parties hereto agree that any suit, action or proceeding seeking to enforce any provision of, or based on any matter arising out of or in connection with, this Agreement or the transactions contemplated hereby shall be brought exclusively in the Chancery Court of the State of Delaware and any state appellate court therefrom or, if such court lacks subject matter jurisdiction, the United States District Court sitting in New Castle County in the State of Delaware, and each of the parties hereby irrevocably consents to the exclusive jurisdiction of such courts (and of the appropriate appellate courts therefrom) in any such suit, action or proceeding and irrevocably waives, to the fullest extent permitted by Law, any objection that it may now or hereafter have to the laying of the venue of any such suit, action or proceeding in any such court or that any such suit, action or proceeding brought in any such court has been brought in an inconvenient forum. Process in any such suit, action or proceeding may be served on any party anywhere in the world, whether within or without the jurisdiction of any such court. Without limiting the foregoing, each party agrees that service of process on such party as provided in Section 11.4 shall be deemed effective service of process on such party. EACH OF THE PARTIES HERETO HEREBY

IRREVOCABLY WAIVES ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL PROCEEDING (WHETHER IN CONTRACT OR TORT OR OTHERWISE) ARISING OUT OF OR RELATED TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY (INCLUDING ANY ACTION, PROCEEDING, CLAIM OR COUNTERCLAIM INVOLVING ANY FINANCING SOURCE AND THEIR RESPECTIVE NONPARTY AFFILIATES).

**Section 11.5 Notices.** Any notice or other communication required or permitted to be delivered to any party under this Agreement shall be in writing and shall be deemed properly delivered, given and received (a) when delivered by hand, by registered mail, by courier or express delivery service or (b) upon confirmation of receipt (other than an automatically-generated confirmation) when sent by electronic mail to the address or email address, as applicable, set forth beneath the name of such party below (or to such other address or email address, as applicable, as such party shall have specified in a written notice given to the other parties hereto):

If to the Seller:

Gray Media Group, Inc.  
4370 Peachtree Rd NE  
Atlanta, GA, 30319  
Attention: Kevin P. Latek  
Email: Kevin.Latek@gray.tv

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

Cooley LLP  
1299 Pennsylvania Ave., NW  
Suite 700  
Washington, DC 20004  
Attention: Maureen Nagle  
Email: mnagle@cooley.com

If to the Buyer, to:

Marquee Broadcasting West, Inc,  
30 N. Gould Street, Suite 24760  
Sheridan, WY 82801  
Attention: Brian Lane  
Email: brian\_lane@wmdt.com

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

BakerHostetler  
1050 Connecticut Ave NW #1100  
Washington, DC 20036  
Attention: Dan Kirkpatrick  
Email: dkirkpatrick@bakerlaw.com



**Section 11.6 Successors and Assigns; Third Party Beneficiaries.**

(a) This Agreement and all of its terms shall be binding upon and inure to the benefit of the parties and their respective successors and permitted assigns, including any successor by a merger or conversion referenced below. Except as provided in this Section 11.6(c) and Section 6.1(c), this Agreement shall not be assigned by any party hereto. Any party (including, for this purpose, Seller) may assign or transfer any of its rights and obligations under this Agreement to any of its Affiliates, provided that no such assignment or transfer materially delays the grant of the FCC Consent and, provided further, that no such assignment or transfer shall operate to relieve a party of any of its liabilities or obligations hereunder.

(b) Nothing in this Agreement, expressed or implied, is intended or shall be construed to confer upon any Person other than the parties and successors and assigns permitted by this Section 11.6 any right, remedy or claim under or by reason of this Agreement.

**Section 11.7 Access to Records after Closing.**

(a) For a period of six (6) years after the Closing Date, the Seller and their representatives shall have reasonable access to all of the books and records of the Business transferred to the Buyer hereunder to the extent that such access may reasonably be required by the Seller in connection with matters relating to or affected by the operations of the Business prior to the Closing Date. Such access shall be afforded by the Buyer upon receipt of reasonable advance notice and during normal business hours. The Seller shall be solely responsible for any costs or expenses incurred by it pursuant to this Section 11.7(c). If the Buyer shall desire to dispose of any of such books and records prior to the expiration of such six (6) year period, it shall, prior to such disposition, give the Seller a reasonable opportunity, at the Seller's expense, to segregate and remove such books and records as the other party may select.

(b) For a period of six (6) years after the Closing Date, the Buyer and its representatives shall have reasonable access to all of the books and records relating to the Business which the Seller may retain after the Closing Date. Such access shall be afforded by the Seller upon receipt of reasonable advance notice and during normal business hours. The Buyer shall be solely responsible for any costs and expenses incurred by it pursuant to this Section 11.7(d). If the Seller shall desire to dispose of any of such books and records prior to the expiration of such six-(6) year period, such party shall, prior to such disposition, give the Buyer a reasonable opportunity, at the Buyer's expense, to segregate and remove such books and records as the other party may select.

**Section 11.8 Entire Agreement; Amendments.** This Agreement, the Exhibits and Schedules referred to herein and the other documents delivered pursuant hereto contain the entire understanding of the parties hereto with regard to the subject matter contained herein or therein, and supersede all prior agreements, understandings or intents between or among any of the parties hereto. The parties hereto, by mutual agreement in writing, may amend, modify and supplement this Agreement.

**Section 11.9 Interpretation.** Article titles and headings to Sections herein are inserted for convenience of reference only and are not intended to be a part of or to affect the meaning or interpretation of this Agreement. The Schedules and Exhibits referred to herein shall be construed with and as an integral part of this Agreement to the same extent as if they were set forth verbatim herein. For purposes of this Agreement, (i) the words "include," "includes" and "including" shall be deemed

to be followed by the words “without limitation,” (ii) the word “or” is not exclusive and (iii) the words “herein”, “hereof”, “hereby”, “hereto” and “hereunder” refer to this Agreement as a whole. Unless the context otherwise requires, references herein (a) to Articles, Sections, Exhibits and Schedules mean the Articles and Sections of, and the Exhibits and Schedules attached to, this Agreement and (b) to an agreement, instrument or other document means such agreement, instrument or other document as amended, supplemented and modified from time to time to the extent permitted by the provisions thereof and by this Agreement. This Agreement, the Buyer Ancillary Agreements and the Ancillary Agreements shall be construed without regard to any presumption or rule requiring construction or interpretation against the party drafting an instrument or causing any instrument to be drafted. References to a “party hereto” or the “parties hereto” or similar phrases shall refer to the Seller and the Buyer. An asset or right shall be deemed to be “exclusively related” to or “exclusively used in” the Business if in the ordinary course of the Business such asset or right is used solely in the Business and is not used by the other businesses and operations of the Seller.

**Section 11.10 Waivers.** Any term or provision of this Agreement may be waived, or the time for its performance may be extended, by the party or parties entitled to the benefit thereof. The failure of any party hereto to enforce at any time any provision of this Agreement shall not be construed to be a waiver of such provision, nor in any way to affect the validity of this Agreement or any part hereof or the right of any party thereafter to enforce each and every such provision. No waiver of any breach of this Agreement shall be held to constitute a waiver of any other or subsequent breach.

**Section 11.11 Expenses.** Except as otherwise expressly provided herein, each of the Seller and the Buyer will pay all of its own respective costs and expenses incident to its negotiation and preparation of this Agreement and to its performance and compliance with all agreements and conditions contained herein on its part to be performed or complied with, including the fees, expenses and disbursements of its counsel and accountants.

**Section 11.12 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 one or more of the provisions contained herein shall, for any reason, be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provisions of this Agreement, and this Agreement shall be construed as if such invalid, illegal or unenforceable provision or provisions had never been contained herein.

**Section 11.13 Execution in Counterparts.** This Agreement may be executed in one or more counterparts, each of which shall be considered an original instrument, but all of which shall be considered one and the same agreement, and shall become binding when one or more counterparts have been signed by each of the parties and delivered to each of the Seller and the Buyer.

**Section 11.14 Disclaimer of Warranties.** Seller makes no representations or warranties with respect to any projections, forecasts or forward-looking information provided to the Buyer. There is no assurance that any projected or forecasted results will be achieved. EXCEPT AS TO THOSE MATTERS EXPRESSLY COVERED BY THE REPRESENTATIONS AND WARRANTIES IN THIS AGREEMENT AND THE CERTIFICATES DELIVERED BY THE SELLER PURSUANT TO SECTION 8.1, THE SELLER IS SELLING THE BUSINESS AND THE PURCHASED ASSETS ON AN “AS IS, WHERE IS” BASIS AND SELLER DISCLAIMS ALL OTHER WARRANTIES, REPRESENTATIONS AND GUARANTIES WHETHER EXPRESS OR IMPLIED. THE SELLER MAKES NO REPRESENTATION OR WARRANTY AS TO MERCHANTABILITY, SUITABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE AND NO IMPLIED

WARRANTIES WHATSOEVER. The Buyer acknowledges that neither the Seller nor any of its representatives or Affiliates nor any other Person has made any representation or warranty, express or implied, as to the accuracy or completeness of any memoranda, charts, summaries or schedules heretofore made available by the Buyer or its representatives or Affiliates or any other information which is not included in this Agreement or the Schedules hereto, and neither the Seller nor any of its representatives or Affiliates nor any other Person will have or be subject to any liability to the Buyer, any Affiliate of the Buyer or any other Person resulting from the distribution of any such information to, or use of any such information by, the Buyer, any Affiliate of the Buyer or any of their agents, consultants, accountants, counsel or other representatives. In making its determination to proceed with the transactions contemplated by this Agreement the Buyer and its Affiliates have relied solely on (a) the results of their own independent investigation and (b) the representations and warranties of Seller expressly and specifically set forth in this Agreement. The Buyer and its Affiliates expressly and specifically disclaim that it they are relying upon or have relied upon any representation or warranty of any kind or nature, whether express or implied, not included in this Agreement that may have been made by any Person, and acknowledge and agree that the Seller expressly and specifically disclaims any such other representations and warranties. However, this Section 11.14 shall not apply to any common law fraud.

**Section 11.15 Specific Performance.** The parties agree that irreparable damage would occur in the event that any provision of this Agreement was not performed in accordance with its specific terms or was otherwise breached or the Closing was not consummated, and that money damages would not be an adequate remedy, even if available. It is accordingly agreed that the parties shall be entitled to an injunction or injunctions, or any other appropriate form of specific performance or equitable relief, to prevent breaches of this Agreement and to enforce specifically the terms and provisions hereof (including the parties' obligations to consummate the Closing) in any court of competent jurisdiction, this being in addition to any other remedy to which they are entitled at law or in equity. Each of the parties agrees that it will not oppose the granting of an injunction, specific performance and other equitable relief on the basis that any other party has an adequate remedy at law or that any award of specific performance is not an appropriate remedy for any reason at law or in equity. Any party seeking an injunction or injunctions to prevent breaches of this Agreement and to enforce specifically the terms and provisions of this Agreement shall not be required to post any bond or other security in connection with any such order or injunction.

[Signatures on following page]

**IN WITNESS WHEREOF**, the parties hereto have caused this Agreement to be executed as of the day and year first above written.

**SELLER**

**GRAY MEDIA GROUP, INC.**


By: 

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Name: Kevin P. Latek  
Title: Executive Vice President

**BUYER**

**MARQUEE BROADCASTING WEST, INC.**

By:   
Name: Brian Lane  
Title: CFO