
ASSET PURCHASE AGREEMENT

by and between

SOVRYN HOLDINGS, INC.

as Buyer,

and

NEW YORK SPECTRUM HOLDING COMPANY, LLC

as Seller

Dated as of September 3, 2021

ASSET PURCHASE AGREEMENT

THIS ASSET PURCHASE AGREEMENT (this “Agreement”) is entered into as of September 3, 2021 (the “Effective Date”), by and between **SOVRYN HOLDINGS, INC.**, a Delaware corporation (“Buyer”), and **NEW YORK SPECTRUM HOLDING COMPANY, LLC**, a Delaware limited liability company (“Seller”) (each a “Party” and, collectively, the “Parties”).

RECITALS

WHEREAS, Seller is the owner and operator of the low power television station listed below (the “Station”), pursuant to certain licenses issued by the Federal Communications Commission (the “FCC”):

Call Sign	Community of License	Facility ID	Licensee	Facility Type	Channel	Status
WXNY-LD	New York, NY	29231	New York Spectrum Holding Company, LLC	LPTV	23	Licensed; Silent

WHEREAS, Seller owns or leases all other assets used in connection with the operation of the Station; and

WHEREAS, on the terms and conditions described herein, Seller desires to sell and Buyer desires to purchase all of the Purchased Assets (as defined below) used in connection with the operation of the Station.

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

ARTICLE 1: SALE AND PURCHASE

1.1 **Purchased Assets**. Subject to the terms and conditions herein contained, Seller shall grant, convey, sell, assign, transfer and deliver to Buyer on the Closing Date (as defined below) certain properties, interests and rights of Seller used or held for use in connection with the business and operations of the Station (collectively, the “Purchased Assets”), but excluding the Excluded Assets (as defined below). The Purchased Assets shall include the following:

(a) **Licenses and FCC Authorizations**. All licenses, authorizations, permits, construction permits, and all pending applications for FCC licenses, permits, and authorizations

applied or issued with respect to the Station by the FCC (the “FCC Authorizations”), by the Federal Aviation Administration (the “FAA”), and by any other federal, state or local governmental authorities in connection with the conduct of the business and operation of the Station, including those listed on Schedule 1.1(a) attached hereto.

(b) **Tangible Personal Property.** The equipment, transmitters, antennas, furniture, fixtures, computers, software, inventory, cables, spare parts and other fixed assets and tangible personal property (including associated manufacturers and vendor warranties) held for use in connection with the conduct of the Channel 23 displacement facility authorized by the FCC, including the tangible property listed and described on Schedule 1.1(b) attached hereto, and any additions and improvements thereto between the Effective Date and the Closing Date (collectively, the “Tangible Personal Property”).

(c) **Contracts.** (i) The contracts, agreements and leases listed on Schedule 1.1(c), including but not limited to the Channel Share Agreement referenced in Section 8.9, and (ii) all other contracts, agreements and leases approved by Buyer in writing which are entered into between the date hereof and the Closing Date (collectively, the “Assumed Contracts”).

(d) **Intangible Property.** All rights to the Station’s call letters and in any trademarks, trade names, service marks, patents, patent applications, internet domain names and associated websites, copyrights, programs and programming material (including program rights), jingles, slogans, logos, and other intangible property owned or leased by Seller and used or useful in the operation of the Station, including those listed on Schedule 1.1(d), and all goodwill associated with the foregoing (collectively, the “Intangible Property”).

(e) **Files and Records.** The Station’s local public files, the Station’s actual cost documentation filings made in connection with the FCC’s Broadcaster Relocation Fund, filings with the FCC relating to the Station, and such other technical information, engineering data, books and records that relate to the Station and the Purchased Assets being conveyed hereunder; all sales and promotional literature, manuals and data, sales and purchase correspondence, advertiser lists, lists of present and former suppliers, and lists of present and former customers that relate to the Station and the Purchased Assets.

(f) **Claims.** Any and all claims and rights against third parties if and to the extent relating to Purchased Assets, including all rights under manufacturers’ and vendors’ warranties.

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

(h) **Relocation Funding.** Subject to the terms of Section 5.3, all rights of Seller to 600 MHz incentive auction broadcast relocation reimbursement funding, whether from the FCC’s Broadcaster Relocation Fund or from any other source.

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

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

(b) **Accounts Receivable.** All accounts receivable of Seller arising from the operation of the Station prior to the Closing which are outstanding and uncollected as of the Closing (the “Accounts Receivable”).

(c) **Insurance.** Any insurance policies, intercompany accounts, promissory notes, amounts due from employees, bonds, letters of credit, or other similar items, any cash surrender value in regard thereto of Seller, and any proceeds from insurance claims made by Seller relating to property or equipment included in the Purchased Assets that has been repaired, replaced or restored by Seller prior to the Closing Date.

(d) **Benefit Plans.** Any pension, profit-sharing or cash or deferred (Section 401(k) or otherwise) plans and trusts and assets thereof, or any other employee benefit plan or arrangement, and the assets thereof.

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

(f) **Excluded Personal Property.** Any tangible and intangible personal property of Seller listed on Schedule 1.2(f).

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

(h) **Employees.** The employees of the Station or of Seller.

(i) **Contracts.** Any contracts or agreements not listed on Schedule 1.1(c).

(j) **Pre-Closing Claims.** Any and all claims and rights against third parties, if and to the extent relating to any event or occurrence before the Closing.

1.3 **Liabilities.** The Purchased Assets shall be transferred by Seller to Buyer free and clear of all debts, security interests, mortgages, trusts, claims, pledges, conditional sales agreements, equipment leases, and other liens, liabilities and encumbrances of every kind and nature (“Liens”), other than for (x) taxes not yet due and payable and (y) Liens that will be discharged prior to Closing (“Permitted Liens”). Buyer shall assume and undertake to pay, discharge and perform all obligations and liabilities relating to the Assumed Contracts arising or occurring after the Closing and relating to the operation of the Station after the Closing. Buyer shall not assume any other obligations or liabilities including (a) any obligations or liabilities under the Assumed Contracts or other Purchased Assets relating to the period prior to the Closing; (b) any obligations or liabilities of Seller which are

unrelated to the Purchased Assets being sold hereunder, (c) any obligations or liabilities relating to employees of Seller (including any pension obligations or pension withdrawal liabilities), (d) any obligations or liabilities relating to the Excluded Assets, (e) any federal, state or local franchise, income or other taxes of Seller, (f) any amounts (other than regulatory fees) due and owing to the FCC prior to the Closing, or (g) any other obligations or liabilities of Seller (collectively, the “Retained Liabilities”).

1.4 **Purchase Price.** The base purchase price to be paid for the Purchased Assets will be Five Million Four Hundred Thousand Dollars (\$5,400,000) (the “Purchase Price”) paid in accordance with the following sentence, subject to the adjustments described below. At Closing Buyer shall (i) pay Three Million Four Hundred Thousand Dollars (\$3,400,000) of the Purchase Price to Seller by wire transfer of immediately available funds and (ii) deliver an executed promissory note and security agreement, secured by the Guarantee (as defined below), to Seller in the amount of Two Million Dollars (\$2,000,000) in the form of Exhibit A attached hereto (the “Promissory Note”).

1.5 **Prorations.** The Parties agree to prorate all expenses arising out of ordinary course of the operation of the Station which are incurred, accrued, or payable, as of 11:59 p.m. local time of the day preceding the Closing. The items to be prorated shall include power and utilities charges, FCC regulatory fees for the most recent assessable year (based on the most recent information available from the FCC about the cost of such regulatory fees for the Station), real and personal property taxes upon the basis of the most recent tax bills and information available, security deposits, and similar prepaid and deferred items. The prorations shall, insofar as feasible, be determined and paid on the Closing Date, with final settlement and payment to be made within forty-five (45) days after the Closing Date.

1.6 **Allocation of Purchase Price.** Buyer and Seller shall negotiate in good faith an allocation of the Purchase Price to the assets acquired hereunder in a manner which complies with Section 1060 of the Internal Revenue Code of 1986, as amended to the date hereof, prior to Closing.

ARTICLE 2: FCC CONSENT; CLOSING

2.1 **FCC Consent; Assignment Application.** Buyer and Seller shall prepare, execute, file, and vigorously prosecute an application to the FCC (the “Assignment Application”) requesting the FCC’s consent (the “FCC Consent”) to the assignment from Seller to Buyer of all FCC Authorizations pertaining to the Station. The Assignment Application shall be filed not later than five (5) days after the date of the execution of this Agreement. Buyer and Seller shall take all reasonable steps to cooperate with each other and with the FCC in order to secure such FCC Consent without delay and to promptly consummate the transaction contemplated in this Agreement. Buyer shall pay the FCC filing fees due in connection with the Assignment Application, one-half of which fees shall be credited against the Purchase Price at the Closing. Each Party shall be responsible for all of its other costs with respect to the preparation, filing and prosecution of the Assignment Application. Seller shall issue a public notice concerning the filing of the Assignment Application in accordance with the requirements of section 73.3580 the FCC’s rules. Buyer and Seller shall promptly notify each other of, and provide copies of, all documents filed with or received from the FCC or any other governmental agency with respect to this Agreement, the Assignment

Application or the transaction contemplated hereby. If either Buyer or Seller becomes aware of any fact which would prevent or delay the FCC Consent, it shall promptly notify the other Party. For purposes of determining the date of the grant of the FCC Consent, the FCC Consent shall be deemed to have been granted on the date reflected on the FCC Form 732.

2.2 **Closing Date; Closing Place.** The closing (the “Closing”) of the transaction contemplated by this Agreement shall occur on a date (the “Closing Date”) that is no more than five (5) business days following the later to occur of the date on which: (a) the FCC Consent has been granted, and (b) all the other conditions to the Closing set forth in Articles 7 and 8 hereof shall have either been waived or satisfied. Seller and Buyer agree to cooperate to the extent necessary to obtain the FCC’s extension of the effectiveness of the FCC Consent as may be required. The Closing shall be held by exchange of documents via email, or as Seller and Buyer may agree.

2.3 **Assignment of Assumed Contracts at Closing.** In the event any Assumed Contract may not be assigned without the consent of any third party, and such consent has not been obtained as of the Closing, then such Assumed Contract will not be deemed assigned to Buyer until such third party consent is obtained. If consent is subsequently obtained or deemed obtained (by virtue of the passage of time) after the Closing, such Assumed Contract shall be deemed assigned by Seller and assumed by Buyer pursuant to this Agreement as of the date of such consent without further action or writing by the Parties. Prior to obtaining any required consent, to the extent permitted by law, Seller agrees to equitably assign its rights in such Assumed Contract to Buyer until such consent is obtained. In doing so, Buyer shall receive all benefits of such Assumed Contract and be obligated to pay any monies owned thereunder, and perform and comply with the terms of such Assumed Contract on Seller’s behalf. Seller shall use commercially reasonable efforts to obtain all consents required to assign the Assumed Contracts to Buyer until each such consent is obtained. If any such consent is not obtained prior to the Closing Date, Seller shall use commercially reasonable efforts to obtain such consent as soon as possible after the Closing Date.

ARTICLE 3: REPRESENTATIONS AND WARRANTIES OF SELLER

Seller makes the following representations and warranties to Buyer:

3.1 **Organization and Authorization.** Seller is a limited liability company duly organized, validly existing, and in good standing under the laws of the State of Delaware and is qualified to do business in any other jurisdiction where such qualification is required by law. Seller has the power and authority to execute and deliver this Agreement and to consummate the transaction contemplated hereby. The execution and delivery of this Agreement and the consummation of the transaction contemplated hereby on Seller’s part, have been, or by Closing will be, duly and validly authorized by Seller, and no other actions on the part of Seller are necessary to authorize the execution and delivery of, or the performance of Seller’s obligations under, this Agreement, or to consummate the transaction contemplated hereby. This Agreement has been duly and validly executed and delivered by Seller. This Agreement constitutes the legal, valid, and binding obligation of Seller enforceable in accordance with its terms, except as may be limited by bankruptcy, insolvency, or other laws affecting generally the enforcement of creditors’ rights or the application of principles of equity.

3.2 **No Defaults.** The execution, delivery, and performance of this Agreement by Seller will not (a) constitute a violation of, or conflict with, any organizational document of Seller, (b) result in a default (or give rise to any right of termination, cancellation, or acceleration) under, or conflict with, any of the terms, conditions, or provisions of any note, bond, mortgage, indenture, contract, agreement, lease, or other instrument or obligation relating to the business of the Station or to which Seller or any of the Purchased Assets may be subject, (c) violate any statute, regulation, order, injunction, or decree of any federal, state, or local governmental authority or agency which is applicable to Seller or any of the Purchased Assets, (d) result in the creation or imposition of any Lien, charge, or encumbrance of any nature whatsoever upon any of the Purchased Assets, other than Permitted Liens, or (e) require the consent or approval of any governmental authority, lending institution, or other third party other than the FCC Consent, except as otherwise noted in Schedule 3.9 hereto.

3.3 **Tangible Personal Property.** Schedule 1.1(b) hereto lists, individually, (i) all Tangible Personal Property that are fixed assets, indicating the cost, accumulated book depreciation (if any) and the net book value of each such fixed asset, and (ii) all other Tangible Personal Property owned by Seller that will be conveyed to Buyer. Seller owns and has, and will have on the Closing Date, good and marketable title to the Tangible Personal Property. Each material item of Tangible Personal Property (a) is in operating condition, (b) has been maintained in a manner substantially consistent with generally accepted standards of good engineering practice, and (c) is capable of being operated in full compliance, in all material respects, with the FCC Authorizations and rules and regulations of the FCC.

3.4 **Real Property.** Seller holds no fee simple ownership interests in real property used in the operation of the Station. Seller holds no leasehold (or license) interests for real property used in the operation of the Station.

3.5 **FCC Authorizations and Other Licenses.**

(a) Schedule 1.1(a) hereto contains a true and complete list of the FCC Authorizations and all other licenses, permits, construction permits, or other authorizations or waivers from governmental or regulatory authorities that are required for the lawful conduct of the business and operations of the Station in the manner and to the full extent that the Station is presently operated. Schedule 1.1(a) includes a true and complete list of the FCC Authorizations, including both active and pending licenses, construction permits, and other applications for authorizations in connection with the operation of the Station. Except as listed on Schedule 1.1(a), the FCC Authorizations and other licenses are in full force and effect, unimpaired by any act or omission of Seller. Seller lawfully holds each of the FCC Authorizations and the other licenses, permits, and authorizations listed on Schedule 1.1(a), none of which is subject to any restrictions or conditions that would limit in any material respect the operations of the Station, other than (i) as may be set forth on the faces of such FCC Authorizations and other licenses, or (ii) as may be applicable to substantial segments of the low power television broadcasting industry.

(b) The Station is silent pursuant to silent authority granted by the FCC, and on June 14, 2021 received from the FCC a waiver of Section 312(g) of the Communications Act in order to continue to operate with silent authority until September 13, 2021. Notwithstanding this silent authority, to the best of Seller's knowledge and belief, the Station is in all material respects

in compliance with the FCC Authorizations, the Communications Act of 1934, as amended, and all regulations and published policies of the FCC (the “Communications Laws”). The Station has not received complaints that the Station, when operating under its Ch. 32 licensed facility, was causing objectionable interference to any other station and has not waived any interference rights except as set forth in Schedule 3.5. There is not now pending, or threatened, any action by or before the FCC to revoke, cancel, rescind, modify, or refuse to renew any of such FCC Authorizations. Except as set forth in Schedule 3.5, Seller has not received any notice of, and has no knowledge of, any pending, issued, or outstanding order by or before the FCC, or of any investigation, order to show cause, notice of violation, notice of apparent liability, notice of forfeiture, or material complaint against the Station or Seller. There are no pending proceedings before the FCC regarding the low power status of the Station, and there has been no notice of inquiry or order to show cause issued by the FCC regarding the low power status of the Station. Seller has paid all FCC regulatory fees due and owing for the Station for the most recent assessable year.

(c) All material reports and filings required to be filed with the FCC by Seller with respect to the operation of the Station have been filed, and all such reports and filings are accurate and complete in all material respects.

(d) To the knowledge of Seller, the tower from which the Station’s Ch. 23 CP facility will broadcast is (i) obstruction marked, (ii) lighted, and (iii) properly registered with the FCC to the extent required by, and in accordance with, applicable law and the rules and regulations of the FCC and the FAA. Seller has made Buyer aware that the Station has been silent or has operated on less than the required minimum schedule for a period of time of more than thirty (30) days during the current license term. Seller affirms that the Station has acted in accordance with the FCC’s rules pertaining to the Station’s periods of silence or periods of reduced operations during the current license term, including obtaining any required FCC authorizations.

3.6 **Title**. Except as set forth on Schedule 3.6 hereof, no Liens exist or have been filed or recorded against the Purchased Assets in the public records of the Secretary of State of Seller’s state of organization or in any other jurisdiction in which the Purchased Assets are located. Any Lien listed on Schedule 3.6 will be fully discharged on or prior to the Closing Date. The instruments to be executed by Seller and delivered to Buyer at the Closing, conveying the Purchased Assets to Buyer, will transfer good and marketable title to the Purchased Assets, free and clear of all Liens other than Permitted Liens.

3.7 **Brokers**. There is no broker or finder or other person who would have any valid claim for a commission or a brokerage fee in connection with this Agreement or the transaction contemplated hereby as a result of any agreement, understanding, or action on the part of Seller. Seller shall hold Buyer harmless from any and all obligations to any broker or finder claiming a commission or fee because of Seller’s actions.

3.8 **Litigation; Compliance with Law**. Seller is not subject to any order, writ, injunction, judgment, arbitration, decision, or decree having a binding effect and affecting the business of the Station or the Purchased Assets or which restrains or enjoins, or purports to restrain or enjoin, or could reasonably be expected to restrain or enjoin, the transaction contemplated hereby, and to Seller’s knowledge no such proceeding is pending. There is no material litigation or administrative investigation or proceeding pending by or against, or, to Seller’s knowledge,

threatened against, Seller which relates to the Station or which could materially and adversely affect any of the Purchased Assets. Seller, with respect to the Station, has complied in all material respects with all applicable laws, regulations, orders, or decrees. To Seller's knowledge, the present uses by Seller of the Purchased Assets do not violate any such laws, regulations, orders, or decrees in any material respect, and Seller has no knowledge of any basis for any claim for compensation or damage or other relief from any violation of the foregoing.

3.9 **Approvals and Consents.** Except as described in Schedule 3.9 hereto, the execution, delivery and performance by Seller of this Agreement and the consummation of the transaction contemplated hereby will not require any consent, permit, license or approval of any person, entity or government or regulatory authority other than the FCC Consent. Any consents required for the assignment of the rights and obligations under the Assumed Contracts (the "**Required Consents**") are set forth on Schedule 3.9.

3.10 **Insurance.** The Tangible Personal Property is in storage. Once installed, Seller will insure the material Purchased Assets that are insurable against loss, injury, or damage at book value. In the event of any loss or damage to the Purchased Assets prior to Closing, any shortfall between insurance proceeds and replacement value will not excuse Seller's obligation to replace or repair the Purchased Assets with comparable assets to the extent required to meet its delivery obligations to Buyer.

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

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

3.13 **Performance of Assumed Contracts.** Schedule 1.1(c) includes all contracts, agreements and leases that relate primarily to the operation of the Station or the ownership of the Purchased Assets (other than contracts for the sale of advertising time), including all programming and film contracts, syndication contracts, national sales representation contracts, employment contracts, retransmission contracts, distribution contracts and network affiliation contracts, real property leases, and income-producing leases and agreements. All Assumed Contracts, including all amendments thereto, have been made available to Buyer by Seller. Seller has fully and timely performed all of its obligations pursuant to each of the Assumed Contracts and is not in material default or breach of any such agreements. Except as set forth in Schedule 3.13, Seller has not received notice from any party to any Assumed Contract that such party contends that Seller is in default or breach under any Assumed Contract. Each of the Assumed Contracts is in full force and effect and, to the knowledge of Seller, there has not been (except as set forth in Schedule 3.13), and is not, any default or breach under any Assumed Contract by the other party to any Assumed Contract. Except as set forth in Schedule 1.1(c) attached hereto, there have been no modifications, extensions, or amendments of any of the Assumed Contracts, whether oral or written, except as may be contemplated by this Agreement. Seller has not been notified by any other party to any Assumed Contract that such party has a present intent to terminate or not to renew any Assumed Contract. Except as set forth in Schedule 3.13, none of the Assumed Contracts included in the Purchased Assets has as the other party an entity controlled by Seller or any of Seller's owners.

3.14 **Absence of Insolvency.** No insolvency proceedings of any character including bankruptcy, receivership, reorganization, composition or arrangements with creditors, voluntary or involuntary, affecting Seller or any of the Purchased Assets, are pending or, to the best knowledge of Seller, threatened, and Seller has not made any assignment for the benefit of creditors, or taken any action with a view to, or which would constitute the basis for the institution of, any such insolvency proceedings.

3.15 **Purchased Assets.** The Purchased Assets include all assets that are owned or leased by Seller and used or held for use in the operation of the Station, in all material respects as currently operated, except for the Excluded Assets.

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

ARTICLE 4: REPRESENTATIONS AND WARRANTIES OF BUYER

Buyer makes the following representations and warranties to Seller:

4.1 **Organization and Standing**. Buyer is a corporation duly organized, validly existing, and in good standing under the laws of the State of Delaware, and as of the Closing Date will be qualified to do business in the State of Delaware, and any other jurisdiction where such qualification is required.

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

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

4.4 **Buyer's Qualification**. Apart from the requirement of obtaining the FCC Consent, Buyer is legally, financially, and technically qualified to acquire, and to become the FCC licensee of, the Station and to perform its obligations under this Agreement without waiver of any law, rule or policy of the FCC or any other governmental entity.

4.5 **Litigation**. Buyer is not subject to any order, writ, injunction, judgment, arbitration, decision, or decree having a binding effect and affecting the business of Buyer or which restrains or enjoins, or purports to restrain or enjoin, or could reasonably be expected to restrain or enjoin, the transaction contemplated hereby, and no such proceeding is pending. There is no material litigation pending by or against, or, to the knowledge of Buyer, threatened against Buyer, that would prevent or materially impede the consummation by Buyer of the transaction contemplated by this Agreement.

4.6 **Brokers.** There is no broker or finder or other person who would have any valid claim for a commission or a brokerage fee in connection with this Agreement or the transaction contemplated hereby as a result of any agreement, understanding, or action on the part of Buyer. Buyer shall hold Seller harmless from any and all obligations to any broker or finder claiming a commission or fee because of Buyer's actions.

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

ARTICLE 5: COVENANTS OF SELLER

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

5.1 **Station Documents.** The records, files and other documents kept in connection with the Station shall be maintained by Seller in the usual and ordinary manner consistent with standard broadcast industry practice. Seller shall maintain the FCC Authorizations in accordance with their terms and in compliance in all material respects with all applicable laws, rules and regulations and all applicable FCC regulations and published policies. Seller shall maintain the FCC Authorizations in full force and effect and shall take all actions necessary to so maintain them, including the timely filing and prosecution of any necessary modification or renewal applications of the FCC Authorizations or other submissions to the FCC.

5.2 **Maintenance of Purchased Assets.** Subject to the Channel Share Agreement, Seller shall maintain the Purchased Assets in good working order consistent with standards of good engineering practice and in accordance with the rules and other requirements of the FCC. Seller will replace any of such property that is used or useful in digital operation of the Station which shall be worn out, lost, stolen, or destroyed with like property of substantially equivalent kind and value.

5.3 **FCC's Post-Auction Repacking Process.**

(a) The Station has a displacement construction permit to operate on Channel 23, as modified (the "Ch. 23 CP"). The Ch. 23 CP expires 7/21/22. The Station has been silent since 6/10/2019 but holds a 312(g) waiver that expires 9/13/2021. Between the date hereof and the Closing Date, Seller shall exercise reasonable due diligence to take all actions reasonably necessary to complete the implementation of the Ch. 23 CP and to ensure the Station complies with all applicable deadlines of the FCC's post-auction transition schedule.

(b) Prior to Closing, Seller shall (i) submit to the FCC any remaining invoices and related documentation for reimbursement via Form 399, and (ii) complete the FCC's Broadcaster Relocation Fund reimbursement close-out procedures. Notwithstanding the foregoing,

in the event that Seller has not submitted all necessary Form 399 reimbursement documentation to the FCC or completed the close-out procedures prior to Closing, within seven (7) days of Closing, Seller shall provide to Buyer all remaining materials necessary for reimbursement and close-out. To the extent that Seller has not received payments due from the FCC for all of the reimbursement invoices submitted by Seller for costs incurred by Seller prior to Closing, Buyer shall cooperate with Seller in good faith to ensure that Buyer's banking information is provided to the FCC to facilitate any remaining disbursements and shall deliver all reimbursement funds received by Buyer but attributable to costs incurred by Seller. Buyer shall deliver such funds to Seller in a timely manner after payments are received, and in any event, within three (3) weeks after disbursement to Buyer.

(c) In connection with any notice that Seller receives from the FCC or any other person with respect to any interference the Station may create, Seller shall: (i) promptly forward such notice to Buyer, (ii) consult in good faith with Buyer regarding options for Seller to pursue in connection with resolution of such interference, and (iii) otherwise take all actions necessary to preserve all rights for the continued use of the FCC Authorizations for the Station.

(d) For purposes of this Agreement, the "FCC's Broadcaster Relocation Fund" means the TV Broadcaster Relocation Fund as defined in section 1453(d) of Title 47 of the United States Code.

5.4 **FCC Compliance.** Seller shall continue to maintain, and if on-air operation recommences prior to Closing, operate the Station in accordance with the terms of the FCC Authorizations and in compliance with all applicable laws and FCC regulations and published policies. Seller will deliver to Buyer, promptly after filing, copies of any material reports, applications, or responses to the FCC, or any material communications from the FCC, or if from any other person directed to the FCC, promptly after receipt by Seller, related to the Station that are filed or received by Seller between the date of this Agreement and the Closing Date. Seller will not file any application with the FCC requesting authority to modify the Station's facilities without Buyer's prior written consent and Seller shall take all actions necessary to (a) keep the FCC Authorizations, including all material permits and applications pending before the FCC, valid and in full force and effect and (b) to preserve all rights for the continued use of all the FCC Authorizations for the Station. Seller shall promptly take all necessary or desirable action to obtain a grant of any required renewal application for the Station, including negotiating and entering into a tolling agreement with the FCC if necessary.

5.5 **Operation of Station in Ordinary Course.** If on-air operation recommences prior to Closing, except as disclosed in writing to and approved in writing by Buyer, Seller shall operate the Station solely in the ordinary course of business and in accordance with past practice (including incurring only ordinary and necessary business expenses consistent with past practices for the Station), and shall pay and perform all of the obligations with respect to the Station (including those required under the Assumed Contracts) in the ordinary course as such obligations become due. Seller shall not amend any Assumed Contract without Buyer's written approval. Seller shall maintain and preserve its goodwill, business relationships, licenses and franchises.

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

5.7 **Disposition of Assets.** Prior to the Closing Date, Seller shall not, without the prior written consent of Buyer, dispose of, sell, lease, or transfer, or agree to sell, lease, or transfer, any of the Purchased Assets, nor create any new Lien on the Purchased Assets.

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

5.9 **Access to Facilities, Files and Records.** At the request of Buyer, Seller shall from time to time give or cause to be given to Buyer full access during normal business hours to the Purchased Assets, licenses, agreements, contracts and equipment with respect to the Station; provided, however, that all such access shall require the express consent of Seller and shall be scheduled in a manner reasonably acceptable to Seller.

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

5.11 **Consummation of Agreement.** Seller shall cooperate with Buyer and use all commercially reasonable efforts to fulfill and perform all conditions and obligations on its part to be fulfilled and performed under this Agreement, and to cause the transaction contemplated by this Agreement to be fully carried out, including the prompt satisfaction of any conditions to Closing set forth herein.

5.12 **Employees.** Seller acknowledges and agrees that Buyer shall have no obligation to offer employment to any employee of Seller or the Station. Buyer or any post-Closing liability with respect to any such employee or for any such employee's benefits of any kind or nature, except to the extent that Buyer shall offer employment to any such employee and then only from and after the time at which such offer shall have been extended, and accepted by such employee, and subject to the terms and conditions thereof.

ARTICLE 6: COVENANTS OF BUYER

Buyer covenants and agrees that from the date hereof until the completion of the Closing:

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

6.2 **Consummation of Agreement.** Buyer shall use all commercially reasonable efforts to fulfill and perform all conditions and obligations on its part to be fulfilled and performed under this Agreement, and to cause the transaction contemplated by this Agreement to be fully carried out.

ARTICLE 7: CONDITIONS TO THE OBLIGATIONS OF SELLER

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

7.1 Representations, Warranties and Covenants.

(a) Each of the representations and warranties of Buyer contained in this Agreement which is qualified in any respect as to materiality was true and correct as of the date when made and is deemed to be made again on and as of the Closing Date and is then true and correct; all other representations and warranties of Buyer contained in this Agreement were true and correct in all material respects as of the date when made and are deemed to be made again on and as of the Closing Date and are then true and correct in all material respects.

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

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

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

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

ARTICLE 8: CONDITIONS TO THE OBLIGATIONS OF BUYER

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

8.1 Representations, Warranties and Covenants.

(a) Each of the representations and warranties of Seller contained in this Agreement which is qualified in any respect as to materiality was true and correct as of the date when made and is deemed to be made again on and as of the Closing Date and is then true and correct; all other representations and warranties of Seller contained in this Agreement were true and correct in all material respects as of the date when made and are deemed to be made again on and as of the Closing Date and are then true and correct in all material respects.

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

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

8.3 **FCC Authorizations.** The FCC Consent has been issued by the FCC with no conditions materially adverse to Buyer.

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

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

8.6 **Required Consents.** Seller shall have obtained and delivered to Buyer all of the Required Consents, if any, described in Schedule 3.9.

8.7 **Liens.** No Liens shall exist or have been filed or recorded against the Purchased Assets in the public records of the Secretary of State of Seller's state of organization or in any other jurisdiction in which the Purchased Assets are located except for those which will be fully discharged on or prior to the Closing Date. Duly executed UCC releases, mortgage terminations or other similar documents or instruments required to transfer the Purchased Assets free and clear of Liens (other than Permitted Liens) in a form reasonably acceptable to Buyer shall have been delivered by Seller.

8.8 **Silent Status.** The Station is currently licensed and silent. The Station's existing silent authority from the FCC ceases on September 13, 2021. Until the Station begins channel share operations pursuant to the Channel Share Agreement (defined below), the Station shall have either (a) resumed licensed operations; (b) resumed limited operations pursuant to special temporary authority from the FCC; or (c) applied for and obtained an additional extension of silent authority from the FCC in order to remain licensed and silent. None of the FCC Authorizations shall have been cancelled or permanently discontinued as a result of the FCC's post-auction repacking process or the FCC's rules related to suspension of operations.

8.9 **Channel Share Agreement.**

(a) Seller shall have entered into a channel sharing and facilities agreement with Major Market Broadcasting of New York, Inc. ("MMBNY") with respect to MMBNY's transmission facilities located at the Bloomberg Tower in New York, NY (the "Channel Share Agreement"), in form and substance reasonably acceptable to Buyer. Pursuant to the FCC's rules and policies for channel sharing, Seller shall have (i) filed an application for, and been granted by the FCC, a modification of the Station's existing licensed facility or construction permit to implement the Channel Share Agreement; (ii) made all necessary preparations to operate on the

channel share facilities in accordance with such authorization; (iii) filed an application for, and been granted by the FCC, a license to operate on the shared facilities; and (iv) complied at all times with such rules and policies governing channel sharing, including without limitation Section 74.799 of the FCC's rules. The Channel Share Agreement shall remain in accordance with the FCC's rules and policies and, upon FCC grant, the Station shall operate on the facilities set forth in the Channel Share Agreement and consented to by the FCC.

(b) In accordance with Section 74.799 of the FCC's rules and any other FCC rules and policies pertaining to channel sharing, Seller shall have provided timely and sufficient notice to MVPDs currently carrying the Station or that may become obligated to carry the Station, that such MVPDs will be required to carry the Station upon the Station entering the Channel Share Agreement.

(c) Seller shall ensure that the Channel Share Agreement provides Seller unconditional authority under the Channel Share Agreement to assign or transfer the Channel Share Agreement to Buyer.

ARTICLE 9: ITEMS TO BE DELIVERED AT CLOSING

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

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

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

(c) an Assignment and Assumption Agreement sufficient to sell, convey, transfer and assign the Assumed Contracts to Buyer free and clear of any Liens, in a form reasonably acceptable to Buyer and Seller (the "Assignment and Assumption Agreement");

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

(e) the Guarantee;

(f) the Required Consents described in Schedule 3.9;

(g) executed releases, in suitable form for filing and otherwise in form and substance reasonably satisfactory to Buyer, of any security interests granted in the Purchased Assets as security for payment of loans and other obligations and of any other Liens (other than Permitted Liens); and

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

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

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

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

(c) the Bill of Sale;

(d) the Assignment and Assumption Agreement;

(e) the FCC Authorizations Assignment and Assumption Agreement;

(f) the Lease Assignment and Assumption Agreements;

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

(h) the Promissory Note; and

(i) a guarantee of Philip A. Falcone guaranteeing the obligations under the Promissory Note in the form of Exhibit B attached hereto (the "Guarantee").

ARTICLE 10: SURVIVAL AND INDEMNITY

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

10.1 **Survival of Representations and Warranties.** Except as stated below, the representations and warranties of Buyer and Seller contained in this Agreement shall survive the Closing for six (6) months from the Closing Date. Except as stated below, neither Seller nor Buyer shall have any liability whatsoever with respect to any representation or warranty unless a claim is made hereunder or an action at law or in equity is commenced prior to expiration of the six (6)-month survival period for such representation or warranty. The covenants and agreements in this Agreement shall survive the Closing until fully performed.

10.2 General Agreement to Indemnify.

(a) Seller on the one hand, and Buyer on the other hand, shall indemnify, defend and hold harmless each other and any employee, representative, agent, director, officer, affiliate or permitted assign of each other (each, an "Indemnified Party") from and against any and all claims,

claims, actions, suits, proceedings, liabilities, obligations, losses and damages, amounts paid in settlement, diminution of value, interest, costs and expenses (including reasonable attorneys' fees, court costs and other out-of-pocket expenses incurred in investigating, preparing or defending the foregoing) (collectively, "Losses") asserted against, incurred or suffered by any Indemnified Party as a result of, arising out of or relating to: (i) the failure of any representation or warranty of the Indemnifying Party made in this Agreement to have been true and correct when made or as of the Closing Date as though such representation or warranty were made at and as of the Closing Date; or (ii) the breach by the Indemnifying Party of any covenant or agreement of such Party contained in this Agreement or any collateral agreement to the extent not waived by the other Party hereto. The term "Losses" shall include a Party's actual out-of-pocket costs and expenses, consequential, indirect, special and punitive damages.

(b) Seller further agrees to indemnify and hold harmless Buyer and any other Indemnified Party of Buyer from and against any Losses asserted against, incurred or suffered by Buyer or any other Indemnified Party of Buyer arising out of, resulting from, or relating to (i) the operation of the Station and ownership of the Purchased Assets prior to the Closing, or (ii) any Retained Liability.

10.3 General Procedures for Indemnification.

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

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

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

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

10.4 **Effect of Knowledge**. The right to indemnification or any other remedy based on representations, warranties, covenants and agreements in this Agreement shall not be affected by any investigation conducted at any time, or any knowledge acquired (or capable of being acquired) at any time, whether before or after the execution and delivery of this Agreement, with respect to the accuracy or inaccuracy of or compliance with, any such representation, warranty, covenant or agreement, waiver of any condition based on the accuracy of any representation or warranty, or on the performance of or compliance with any such covenant or agreements, will not affect the right to indemnification or any other remedy based on such representations, warranties, covenants and agreements.

10.5 **Exclusive Remedy**. The right to indemnification, defense, hold harmless, payment or reimbursement provided in this Article 10 will be the exclusive remedy of any Party with respect to Losses after the Closing with respect to the transaction contemplated by this Agreement (except with respect to willful misconduct and fraud); provided, that nothing in this Agreement shall prevent any party to this Agreement from bringing an action against one or more parties to this Agreement to enforce any of the covenants of any of the other parties to this Agreement.

ARTICLE 11: TERMINATION

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

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

covenants or agreements under this Agreement; and in any of which events such breach or default is not cured within the Cure Period (as defined below), if applicable;

(d) by Buyer as provided in Section 12.6 (Risk of Loss); or

(e) by written notice of Seller to Buyer, or Buyer to Seller: (i) if the Closing has not been consummated within twelve (12) months of the Effective Date of this Agreement; (ii) if, for any reason, the FCC denies or dismisses the Assignment Application and the time for reconsideration or court review under the Communications Laws with respect to such denial or dismissal has expired and there is not then pending with respect thereto a timely filed petition for reconsideration or request for review; or (iii) if, for any reason, the Assignment Application is designated for an evidentiary hearing, provided, however, that the right to terminate this Agreement under this clause (e) shall not be available to any Party whose breach of this Agreement has been the cause of, or resulted in, the failure of the Closing to occur on or before such date.

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

11.3 **Liability; Right to Terminate.** A termination of this Agreement shall not relieve any Party hereto of any liability for which it otherwise would be subject. Notwithstanding anything in this Agreement to the contrary, no Party that is in material breach of this Agreement shall be entitled to terminate this Agreement except with the written consent of the other Party.

11.4 **Results of Termination.**

(a) **Buyer’s Default.** Upon a termination of this Agreement by Seller pursuant to Section 11.1(b) above due to a breach by Buyer of any of its material obligations under this Agreement, Seller’s sole remedy shall be the right to liquidated damages in the amount of Two Hundred Fifty Thousand Dollars (\$250,000). Seller and Buyer each acknowledge that these liquidated damages are reasonable in light of the anticipated harm that would be caused by Buyer’s breach of any of its material obligations under this Agreement and the difficulty of ascertaining damages and proof of loss and that these damages are not a penalty. Buyer shall pay such liquidated damages to Seller by wire transfer of immediately available funds within ten (10) business days after such termination.

(b) **Seller’s Default.** Upon a termination of this Agreement by Buyer pursuant to Section 11.1(c) due to a breach by Seller of any of its material obligations under this Agreement, if Buyer stands willing, ready, and able to close and is not in breach, and if Seller nevertheless refuses to close, Buyer shall be entitled to pursue all legal and equitable remedies against Seller, including, seeking specific performance as provided in Section 11(d) below.

(c) **Other Termination.** Upon a termination of this Agreement for any reason other than as a result of a breach by either Party of its material obligations under this Agreement, neither Party shall have any further obligation to the other under this Agreement.

(d) **Specific Performance.** Seller acknowledges that the Station is a unique asset not readily obtainable on the open market and that, in the event that Seller fails to perform its obligation to consummate the transaction contemplated hereby, money damages alone will not be adequate to compensate Buyer for its injury. Therefore, Seller agrees and acknowledges that in the event of Seller's failure to perform its obligation to consummate the transaction contemplated hereby, Buyer shall be entitled to specific performance of the terms of this Agreement and of Seller's obligation to consummate the transaction contemplated hereby. If any action is brought by Buyer to enforce this Agreement, Seller shall waive the defense that there is an adequate remedy at law, and the prevailing Party in litigation shall be entitled to receive from the non-prevailing Party all court costs, attorney's fees and other out-of-pocket expenses incurred by the prevailing Party in enforcing or defending its rights under this provision.

ARTICLE 12: MISCELLANEOUS

12.1 **Governing Law.** The construction and interpretation of this Agreement shall at all times and in all respects be governed by the laws of the State of New York (exclusive of those relating to conflicts of laws). Any action at law, suit in equity or judicial proceeding arising directly, indirectly, or otherwise in connection with, out of, related to or from this Agreement, or any provision hereof, shall be litigated only in the courts of New York in New York County or federal courts in the Southern District of New York. The Parties hereby consent to the personal and subject matter jurisdiction of such courts and waive any right to transfer or change the venue of any litigation between them.

12.2 **Expenses; Taxes.** Except as provided in Section 2.1 and in this Section 12.2, each Party hereto shall bear all of its expenses incurred in connection with the transaction contemplated by this Agreement, including accounting, engineering and legal fees incurred in connection herewith. Any state or local sales, use, stamp or transfer taxes and other similar taxes payable in connection with consummation of the transactions contemplated herein shall be paid by the Party against whom such taxes are assessed by the applicable governmental authority.

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

12.4 **Confidentiality.** Except for information about the Station and the Purchased Assets acquired by Buyer at the Closing (which shall be deemed confidential information of Buyer at the Closing) and except where such information is known through other lawful sources or where its

disclosure is required in accordance with applicable law, including requirements of the FCC pursuant to the Assignment Application, each of Buyer and Seller shall keep confidential all information obtained by it with respect to the other Party in connection with this Agreement. If the transaction contemplated hereby is not consummated for any reason, Buyer and Seller shall return to each other or destroy, without retaining a copy thereof in any medium whatsoever, any schedules, documents or other written information, including all financial information, obtained from the other in connection with this Agreement and the transaction contemplated hereby.

12.5 **Public Announcements.**

(a) Prior to the Closing Date, no Party shall, without the approval of the other Party hereto, make any press release or other public announcement concerning the transaction contemplated by this Agreement, except (i) to announce that the transaction has been entered into and (ii) as and to the extent that such Party shall be so obligated by law or the rules of any stock exchange, in which case such Party shall give advance notice to the other Party and the Parties shall use their best efforts to cause a mutually agreeable release or announcement to be issued.

(b) Notwithstanding the foregoing, the Parties acknowledge that the rules and regulations of the FCC require that local public notice of the transaction contemplated by this Agreement be made after the Assignment Application has been filed with the FCC and that a copy of this Agreement be included as a material part of the Assignment Application, which will be made available for public inspection at the Station and in the FCC's records. The form and substance of the required public notice, to the extent not dictated by the rules and regulations of the FCC, shall be mutually agreed upon by Seller and Buyer.

12.6 **Risk of Loss.** The risk of loss to any of the Purchased Assets on or prior to the Closing Date shall be upon Seller. Seller shall use all commercially reasonable efforts to repair or replace any damaged or lost Purchased Assets; provided, however, that in the event that any Purchased Asset or Purchased Assets incur(s) damages which are expected to exceed Ten Thousand Dollars (\$10,000) to repair or any Purchased Asset or Purchased Assets having a fair market value of Ten Thousand Dollars (\$10,000), or more, is lost as of the date otherwise scheduled for the Closing, then Buyer may, at its option, upon prior written notice to Seller, either (a) postpone the Closing for a period of up to sixty (60) days while Seller shall repair or replace such Purchased Asset or Purchased Assets, (b) elect to close the transaction contemplated herein with such Purchased Asset or Purchased Assets in their damaged or lost condition, in which case Seller shall assign to Buyer all proceeds of insurance on such damaged or lost Purchased Asset or Purchased Assets, and Buyer shall have the responsibility to repair or replace such damaged or lost Purchased Asset or Purchased Assets, or (c) if such damage or loss exceeds One Hundred Thousand Dollars (\$100,000), may terminate this Agreement without penalty upon written notice to Seller. Should the Station not operate with at least 80% of its full, FCC-licensed facilities for a period of thirty (30) consecutive days, without appropriate notice or application the FCC, and for reasons other than *force majeure*, Buyer may elect to terminate this Agreement without penalty upon giving written notice thereof to Seller.

12.7 **Successors and Assigns.** Except as otherwise expressly provided herein, this Agreement shall be binding upon and inure to the benefit of the Parties hereto, and their respective representatives, heirs, successors and assigns. Seller may not assign this Agreement or any part hereof without the prior written consent of Buyer, which shall not be withheld unreasonably, and

any attempted assignment without such consent shall be void. Buyer may not assign this Agreement or any part hereof, without the prior written consent of Seller, which shall not be unreasonably withheld, conditioned or delayed. In the event of any assignment of this Agreement, the assignee shall enter into a written agreement accepting joint and several liability for all obligations under this Agreement.

12.8 **Notices.** All notices, requests, demands and other communications required or permitted under this Agreement shall be in writing and shall be deemed to have been duly given (a) when personally served, (b) one business day following the day when sent by Federal Express or a similar overnight courier service, expenses prepaid, (c) three business days following the day when sent by postpaid registered or certified mail, or (d) when sent by email (provided that an additional copy is sent within two business days thereafter in accordance with the delivery method set forth in the preceding clauses (a) or (b)), in each case to the Parties at the following addresses:

If to **Seller**, then to:

New York Broadband LLC and New York Spectrum Holding Company, LLC
Suite 100, 12020 Sunrise Valley Drive
Reston VA 20191
Attention: Charles Wong
Email: charles.wong@nybbsat.com

and to (which shall not constitute notice):

Kathleen Victory, Esq.
Fletcher, Heald & Hildreth, PLC
1300 N. 17th Street - Eleventh Floor
Arlington, Virginia 22209
Email: victory@fhhlaw.com

If to **Buyer**, then to:

Sovryn Holdings, Inc.
450 Park Avenue
New York, New York 10022
Attention: Philip A. Falcone
Email: pfalcone@harbingercapital.com

and to (which shall not constitute notice):

Hogan Lovells US LLP
8350 Broad Street, 17th Floor
Tysons, VA 22102
Attention: Richard Horan
Email: richard.horan@hoganlovells.com

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

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

12.10 **Partial Invalidity.** Wherever possible, each provision hereof shall be interpreted in such manner as to be effective and valid under applicable law, but in case any provision contained herein, or its application to any particular circumstance shall, for any reason, be held to be invalid or unenforceable by a court of competent jurisdiction, such provision or such application shall be ineffective to the extent of such invalidity or unenforceability in such jurisdiction, without invalidating the remainder of such provision or any other provisions hereof, or its application in any other circumstance, unless such a construction would be unreasonable, and without invalidating such provision or its application in any other jurisdiction.

12.11 **No Third Party Beneficiaries.** Nothing in this Agreement, express or implied, is intended to or shall confer upon any person other than the Parties and their respective successors and permitted assigns any legal or equitable right, benefit or remedy of any nature under or by reason of this Agreement.

12.12 **Construction.** The Parties have participated jointly in the negotiation and drafting of this Agreement. In the event an ambiguity or question of intent or interpretation arises, this Agreement shall be construed as if drafted jointly by the Parties and no presumption or burden of proof shall arise favoring or disfavoring any Party by virtue of the authorship of any of the provisions of this Agreement. Any reference to any law shall be deemed also to refer to all rules and regulations promulgated thereunder, unless the context requires otherwise. When a reference is made in this Agreement to a Party or to a Section, Exhibit or Schedule, such reference shall be to a Party to, a Section of, or an Exhibit or Schedule to, this Agreement, unless otherwise indicated. All terms defined in this Agreement shall have their defined meanings when used in any Exhibit or Schedule to this Agreement or any certificate or other document made or delivered pursuant hereto, unless otherwise defined therein. Whenever used in this Agreement, "business day" shall mean any day, other than a Saturday or a Sunday or a day on which banking and savings and loan institutions are authorized or required by applicable law to be closed in the State of New York. Whenever the words "include", "includes", "including" or "such as" are used in this Agreement, they shall be deemed to be followed by the words "without limitation". The word "will" shall be construed to have the same meaning and effect as the word "shall". The words "hereof", "herein" and "hereunder" and words of similar import when used in this Agreement shall refer to this Agreement as a whole and not to any particular provision of this Agreement. The word "or" when used in this Agreement is not exclusive. The word "extent" in the phrase "to the extent" means

the degree to which a subject or other thing extends, and such phrase shall not mean simply “if”. Whenever used in this Agreement, any noun or pronoun shall be deemed to include the plural as well as the singular and to cover all genders. Any contract or statute defined or referred to herein means such contract or statute as from time to time amended, supplemented or modified, including (a) in the case of contracts, by waiver or consent and, in the case of statutes, by succession of comparable successor statutes and (b) all attachments thereto and instruments incorporated thereby. The words “asset” and “property” shall be construed to have the same meaning and effect. References to a person are also to its permitted successors and assigns.

12.13 **Email; Counterparts.** This Agreement may be executed by email transmission and in counterparts, each of which shall constitute an original but together will constitute a single document.

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

BUYER:

SOVRYN HOLDINGS, INC.

By: 

Name: Philip A. Falcone

Title: Chief Executive Officer

[Signatures continue on the following page]

SELLER:

**NEW YORK SPECTRUM
HOLDING COMPANY, LLC**

By: 

Name: Charles Wong

Title: Managing Director

[Signature Page to Asset Purchase Agreement]

EXHIBIT A
Promissory Note

[Please see attached]

**SECURED PROMISSORY NOTE
AND SECURITY AGREEMENT**

\$2,000,000

____, 2021

FOR VALUE RECEIVED, and intending to be legally bound, the undersigned, SOVRYN HOLDINGS, INC., a Delaware corporation (“Maker”), promises to pay to the order of NEW YORK SPECTRUM HOLDING COMPANY, LLC, a Delaware limited liability company, and its permitted successors and assigns (“Holder”), the principal sum of Two Million Dollars (\$2,000,000) (the “Principal Sum”) in accordance with the terms of this Secured Promissory Note and Security Agreement (this “Note”), together with interest and any other amounts as further set forth in this Note. This Note is subject to the terms of that certain Asset Purchase Agreement dated as of September 3, 2021 (the “APA”) between Maker and Holder. All capitalized terms used but not defined herein shall have the meanings ascribed to them in the APA.

1. Principal and Interest.

(a) Maker shall pay to Holder the entire amount of the Principal Sum on [●], 2022¹.

(b) No interest shall accrue on the Principal Sum so long as no Event of Default (as defined in Section 8 below) occurs. After an Event of Default has occurred and until the entire Principal Sum plus any other amount due and unpaid shall be paid in full, without limiting any of Holder’s other rights and remedies, all outstanding amounts of the Principal Sum shall bear interest, payable on demand, at an interest rate of two percent (2%) (the “Default Interest Rate”) and shall accrue from the date of the Note until paid in full.

2. Secured Promissory Note. Repayment of Maker’s obligations under this Note is secured by (a) liens upon the tangible property listed and described on Schedule 1.1(b) of the APA and attached hereto as Schedule A (collectively, the “Tangible Personal Property”) as set forth below and (b) a guarantee of Philip A. Falcone, dated as of the date hereof (the “Guarantee”).

3. Additional Payments. Maker further promises to pay to Holder upon demand any and all other sums that may at the time become due and payable under this Note, including costs and expenses and reasonable attorney’s fees incurred in the collection of this Note.

4. Payments. The Principal Sum and any other amounts payable under this Note are payable in lawful money of the United States of America in accordance with the wire instructions provided in writing by Holder to Maker at least five (5) business days prior to the date any such payment is due. Any payment stated to be due on a day on which banks in New York are required or permitted to be closed for business shall be

¹ Date that is the one-year anniversary of the date of this Note.

due and payable on the next business day and, if applicable, such extension of time shall be included in the computation of interest in connection with such payment.

5. No Presentment; Acceleration. Upon the occurrence of an Event of Default, the outstanding Principal Sum and all other sums owed by Maker to Holder in connection with this Note shall immediately become due and payable. Maker hereby expressly waives any presentment for payment, demand for payment, notice of nonpayment or dishonor, protest and notice of protest of any kind.

6. Security Agreement.

(a) This Note shall constitute a security agreement as that term is used in the Uniform Commercial Code (the “UCC”). Maker hereby grants to Holder a security interest in and continuing lien on all of its right, title and interest in, to and under the following, whether now owned or existing or hereafter acquired, and wherever located, in each case other than any Excluded Asset (all of which, collectively, but excluding all Excluded Assets, being hereinafter referred to as the “Collateral”) as collateral security for, the prompt and complete payment or performance in full when due when due (whether at stated maturity, by required prepayment, declaration, demand, by acceleration or otherwise) of Maker’s obligations under this Note:

(i) the Tangible Personal Property;

(ii) any and all claims and rights against third parties if and to the extent relating to the Tangible Personal Property, including all rights under manufacturers’ and vendors’ warranties; and

(iii) all proceeds thereof.

(b) Immediately upon the execution and delivery of this Note, Maker shall file, or cause to be filed, a financing statement naming Maker as “debtor” and Holder as “secured party” and describing the Collateral with the appropriate filing office in the State of Delaware. Each of Maker and Holder hereby confirms no other filing, registration or perfection action shall be required under this Note.

(c) In addition to all other rights, options, and remedies granted to Holder under this Note, upon the occurrence of an Event of Default, Holder may exercise all other rights granted to it under this Note and all rights under the UCC in effect in the applicable jurisdiction(s) and under any other applicable law, and exercise the following rights and remedies (which list is given by way of example and is not intended to be an exhaustive list of all such rights and remedies):

(i) the right to take possession of, send notices regarding, and collect directly the Collateral, with or without judicial process, and to exercise all rights and remedies available to Holder with respect to the Collateral under the UCC in effect in the applicable jurisdiction(s); and

(ii) the right to require Maker at Maker’s expense to assemble all or any part of the Collateral and make it available to Holder at any place designated by Holder.

(d) Maker agrees that a notice received by it at least ten (10) business days before the time of any intended public sale, or the time after which any private sale or other disposition of the Collateral is to be made, shall be deemed to be reasonable notice of such sale or other disposition. At any sale or disposition of Collateral, Holder may (to the extent permitted by applicable law) purchase all or any part of the Collateral.

7. Excluded Assets. Each of Maker and Holder hereby agrees in no event shall the Collateral include or the security interest granted under Section 6(a) hereof attach to (a) the right, title and interest of Maker in the following Purchased Assets: the FCC Authorizations, the Real Property Leases, the Assumed Contracts, the Intangible Property, the Station's files and records, any prepaid items and any funds relating to the relocation funding or (b) any Excluded Asset under the APA.

8. Events of Default. The following events are each an "Event of Default" under this Note:

(a) Maker fails to (i) make any payment of Principal Sum when due and such payment remains unpaid for five (5) business days after the date that such payment is due or (ii) make any payment of interest or other amounts owed to or for the account of Holder under this Note and such payment remains unpaid for five (5) business days after written notice of such failure; or

(b) Maker fails to perform or observe, or cause to be performed or observed, any other term, obligation, covenant, condition or agreement contained in this Note and any such failure shall have continued for a period of ten (10) business days after written notice of such failure.

9. Holder's Rights.

(a) Upon the occurrence of an Event of Default, Holder may, in addition to its rights and remedies under this Note, proceed, to the extent permitted by law, to protect and enforce its rights either by suit in equity or by action at law, or both, whether for the specific performance of any covenant, condition or agreement contained in this Note or in aid of the exercise of any power granted in this Note, or proceed to enforce the payment of this Note or to enforce any other legal or equitable right of Holder. No right or remedy in this Note or in other agreement or instrument to the benefit of Holder is intended to be exclusive of any other right or remedy, and each and every such right or remedy shall be cumulative and shall be in addition to every other right and remedy given under this Note or now or hereafter existing at law or in equity or by statute or otherwise. Without limiting the generality of the foregoing, if the outstanding Principal Sum, or any of the other obligations of Maker to Holder shall not be paid when due, Holder shall not be required to resort to any particular security, right or remedy or to proceed in any particular order of priority, and Holder shall have the right at any time and from time to time, in any commercially reasonable manner and in any order, to enforce its security interests with respect to the Collateral, liens, rights and remedies, or any of them, as it deems appropriate in the circumstances, and apply the proceeds of any Collateral to such obligations of Maker in accordance with Section 13 below.

(b) If an Event of Default has occurred as provided above and Maker has not paid all amounts outstanding, then Maker shall pay to Holder interest in accordance with Section 1(b) above.

10. No Defenses. Maker's obligations under this Note shall not be subject to any set-off, counterclaim or defense to payment that Maker now has or may have in the future.

11. No Waiver. No failure or delay on the part of Holder in exercising any right, power or privilege under this Note, nor any course of dealing between Maker and Holder, shall operate as a waiver of the right, power or privilege, nor shall a single or partial exercise of any right, power or privilege preclude any other or further exercise of, or the exercise of any other, right, power or privilege.

12. Usury Limitation. Notwithstanding anything contained to the contrary in this Note, Holder shall never be entitled to receive, collect or apply as interest any amount in excess of the maximum rate of interest permitted to be charged by applicable law. If Holder receives, collects or applies as interest any such excess, the amount that would be excessive interest shall be applied to the reduction of the Principal Sum; and if the Principal Sum is paid in full, any remaining excess shall be paid to Maker.

13. Application of Payments. Payments will be applied, at Holder's option, first to any fees, expenses or other costs Maker is obligated to pay under this Note, second to any interest due on this Note (if any) and third to the outstanding Principal Sum of this Note. Any proceeds from the sale of the Collateral in excess of the obligations of Maker under this Note shall be promptly paid to Maker.

14. Successors and Assigns. This Note may not be assigned by Maker without the prior written consent of Holder, and any attempted assignment without such prior written consent shall be void. This Note is binding upon, and inures to the benefit of, the respective heirs and permitted successors and assigns of each party.

15. Amendment. This Note may only be amended or modified in a writing signed by each of Maker and Holder.

16. Termination. Upon payment in full of the Principal Sum and all outstanding amounts (if any) under this Note, (a) this Note and all liens created hereunder shall terminate and be of no further force or effect, (b) Maker shall be authorized to file a termination statement in respect of the financing statement referenced in Section 6(b) above and (c) at Maker's request, Holder shall deliver any other appropriate instrument releasing the Collateral from the lien of this Note.

17. Notices. Any notice or demand given under this Note shall be given in the manner set forth in Section 12.8 of the APA.

18. Section Headings. The headings of the several paragraphs of this Note are inserted solely for convenience of reference and are not a part of and are not intended to govern, limit or aid in the construction of any term or provision.

19. Severability. Any provision contained in this Note that is prohibited or unenforceable in any respect in any jurisdiction shall, as to such jurisdiction be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof and any such prohibition or

unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

20. Counterparts. This Note may be executed in counterparts (and by different parties hereto in different counterparts), each of which shall constitute an original, but all of which when taken together shall constitute a single contract. This Note, the Guarantee, the APA and the other documents delivered thereunder, constitute the entire contract between Maker and Holder relating to the subject matter hereof and supersede any and all previous agreements and understandings, oral or written, relating to the subject matter hereof. Delivery of an executed counterpart of a signature page of this Note in electronic format or by electronic signatures shall be effective as delivery of a manually executed counterpart of this Note.

21. GOVERNING LAW. THIS NOTE AND THE RIGHTS AND OBLIGATIONS OF THE PARTIES HEREUNDER OR IN CONNECTION HERewith SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK WITHOUT REGARD TO THE CONFLICTS OF LAW PROVISIONS THEREOF (OTHER THAN SECTION 5-1401 OF THE NEW YORK GENERAL OBLIGATIONS LAW).

22. Submission to jurisdiction; waiver of objection to venue.

(a) Each party hereto hereby irrevocably and unconditionally submits to the exclusive jurisdiction of: (i) the New York State courts sitting in New York County, State of New York, United States of America, and (ii) the United States District Court for the Southern District of New York, in each case including all applicable courts with jurisdiction to hear any appeal therefrom, for purposes of all legal proceedings arising out of or relating to this Note.

(b) Each Party hereto hereby irrevocably waives, to the fullest extent permitted by applicable law, any objection that it may now or hereafter have to the laying of the venue of any such proceeding brought in any such court, any claim that any such proceeding brought in such a court has been brought in an inconvenient forum and any objection based on place of residence or domicile.

23. WAIVER OF TRIAL BY JURY. EACH PARTY HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVES ANY RIGHTS IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION BASED HEREON, OR ARISING OUT OF, UNDER, OR IN CONNECTION WITH, THIS NOTE OR ANY OTHER RELEVANT DOCUMENT, OR ANY COURSE OF CONDUCT, COURSE OF DEALING, STATEMENTS (WHETHER ORAL OR WRITTEN) OR ACTIONS OF SUCH PARTY. EACH PARTY ACKNOWLEDGES AND AGREES THAT IT HAS RECEIVED FULL AND SUFFICIENT CONSIDERATION FOR THIS PROVISION (AND EACH OTHER PROVISION OF EACH OTHER RELEVANT DOCUMENT TO WHICH IT IS A PARTY) AND THAT THIS PROVISION IS A MATERIAL INDUCEMENT FOR EACH PARTY ENTERING INTO THIS NOTE.

[Signatures on following page]

IN WITNESS WHEREOF, the undersigned have executed this Note as of the day and year first above written.

MAKER:

SOVRYN HOLDINGS, INC.

By: _____

Name: _____

Title: _____

HOLDER:

NEW YORK SPECTRUM HOLDING COMPANY,
LLC

By: _____

Name: _____

Title: _____

EXHIBIT B
Guarantee

[Please see attached]

GUARANTEE

This GUARANTEE, dated [●], 2021 (this “Guarantee”), is entered into between PHILIP A. FALCONE (“Guarantor”) and NEW YORK SPECTRUM HOLDING COMPANY, LLC, a Delaware limited liability company (“Holder”).

WHEREAS, Sovryn Holdings, Inc., a Delaware corporation (“Maker”), and Holder entered into a Secured Promissory Note and Security Agreement (the “Note”) dated as of the date hereof in connection with the APA (as defined below); and

WHEREAS, it is a condition precedent to the obligations of Holder under the Asset Purchase Agreement, dated as of September 3, 2021 (the “APA”) between Maker and Holder, that Guarantor guarantee the obligations of Maker under the Note.

NOW, THEREFORE, in consideration of the premises and the covenants hereinafter contained, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. Definitions. In this Guarantee, unless expressly defined in this Guarantee or unless the context otherwise requires, all words and expressions used in the Note have the same meanings when used in this Guarantee (including by reference to the APA).
2. The Guarantee. Guarantor hereby guarantees, as a primary obligor and not as a surety, to Holder and its permitted successors and assigns, the prompt payment and performance in full when due (whether at stated maturity, by required prepayment, declaration, demand, by acceleration or otherwise) of the principal of and interest (including any interest, fees, costs or charges that would accrue but for the provisions of Title 11 of the United States Code after any bankruptcy or insolvency petition under Title 11 of the United States Code) on the Note, in each case strictly in accordance with the terms thereof (such obligations being herein collectively called the “Guaranteed Obligations”). Guarantor hereby agrees that in the case of any extension of time of payment or renewal of any of the Guaranteed Obligations, the same will be promptly paid in full or performed when due (whether at extended maturity, by acceleration or otherwise) in accordance with the terms of such extension or renewal.
3. Waiver of Defenses. Guarantor waives presentment to, demand for payment from and protest to, as the case may be, Maker or any other obligor of any of the Guaranteed Obligations, and also waives notice of protest for nonpayment, notice of acceleration and notice of intent to accelerate. The obligations of Guarantor hereunder shall not be affected by (a) the failure of Holder to assert any claim or demand or to enforce any right or remedy against Maker under the provisions of the Note or any other agreement or otherwise, (b) any extension or renewal of any provision hereof or thereof, (c) the failure of Holder to obtain the consent of Guarantor with respect to any rescission, waiver, compromise, acceleration, amendment or modification of any of the terms or provisions of the Note, (d) the release, exchange, waiver or foreclosure of any security held by Holder for the obligations of Maker under the Note, (e) the failure of Holder to exercise any right or remedy against Maker, or (f) any bankruptcy, reorganization, liquidation, dissolution or receivership proceeding or case by or against Maker, or any change

in the corporate existence, structure, ownership or control of Maker (including any of the foregoing arising from any merger, consolidation, amalgamation, reorganization or similar transaction).

4. Continuing and Unconditional Guarantee. This Guarantee is an absolute, unconditional and continuing guaranty of payment and not of collection. Guarantor waives any right to require that any right to take action against Maker be exhausted or that resort be made to any security prior to action being taken against Guarantor. Guarantor further agrees that the guarantee hereunder shall continue to be effective or be reinstated, as the case may be, if at any time payment of any obligation of Maker, or any part thereof, is rescinded or must otherwise be restored by Holder upon the bankruptcy or reorganization of Maker, or otherwise.
5. Waiver of Subrogation. Guarantor hereby agrees that until the payment in full of the Principal Sum under the Note, Guarantor shall waive any claim and shall not exercise any right or remedy, direct or indirect, arising by reason of any performance by it of the guarantee in Section 1 of this Guarantee, whether by subrogation or otherwise, against Maker or any security for any of the Guaranteed Obligations.
6. Representations and Warranties. Guarantor makes the following representations and warranties to Holder:
 - (a) Guarantor has the power and authority to execute and deliver this Guarantee, and to consummate the transaction contemplated hereby.
 - (b) This Guarantee has been duly and validly executed and delivered by Guarantor.
 - (c) This Guarantee constitutes the legal, valid, and binding agreement of Guarantor enforceable in accordance with its terms, except as may be limited by bankruptcy, insolvency, or other laws affecting generally the enforcement of creditors' rights or the application of principles of equity.
7. Successors and Assigns. This Guarantee may not be assigned by Guarantor without the prior written consent of the Holder, and any attempted assignment without such prior written consent shall be void. This Guarantee is binding upon, and inures to the benefit of, the respective heirs and permitted successors and assigns of each party.
8. Amendment. This Guarantee may only be amended or modified in a writing signed by each of Guarantor and Holder.
9. Termination. Upon payment in full of the Principal Sum and all outstanding amounts (if any) under the Note, (a) this Guarantee shall terminate and be of no further force or effect and (b) at Guarantor's request, Holder shall deliver any appropriate instrument evidencing such termination.

10. Notices. Any notice or demand given under this Guarantee shall be given in the manner set forth in Section 12.8 of the APA, and if delivered to Guarantor, shall be addressed to:

Philip A. Falcone
450 Park Avenue
New York, New York 10022
Email: pfalcone@harbingercapital.com

11. Section Headings. The headings of the several paragraphs of this Guarantee are inserted solely for convenience of reference and are not a part of and are not intended to govern, limit or aid in the construction of any term or provision.

12. Severability. Any provision contained in this Guarantee that is prohibited or unenforceable in any respect in any jurisdiction shall, as to such jurisdiction be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

13. Counterparts. This Guarantee may be executed in counterparts (and by different parties hereto in different counterparts), each of which shall constitute an original, but all of which when taken together shall constitute a single contract. This Guarantee, the Note, the APA and the other documents delivered thereunder, constitute the entire contract among Guarantor, Maker and Holder relating to the subject matter hereof and supersede any and all previous agreements and understandings, oral or written, relating to the subject matter hereof. Delivery of an executed counterpart of a signature page of this Guarantee in electronic format or by electronic signatures shall be effective as delivery of a manually executed counterpart of this Guarantee.

14. GOVERNING LAW. THIS GUARANTEE AND THE RIGHTS AND OBLIGATIONS OF THE PARTIES HEREUNDER OR IN CONNECTION HERewith SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK WITHOUT REGARD TO THE CONFLICTS OF LAW PROVISIONS THEREOF (OTHER THAN SECTION 5-1401 OF THE NEW YORK GENERAL OBLIGATIONS LAW).

15. Submission to jurisdiction; waiver of objection to venue.

(a) Each party hereto hereby irrevocably and unconditionally submits to the exclusive jurisdiction of: (i) the New York State courts sitting in New York County, State of New York, United States of America, and (ii) the United States District Court for the Southern District of New York, in each case including all applicable courts with jurisdiction to hear any appeal therefrom, for purposes of all legal proceedings arising out of or relating to this Guarantee.

(b) Each Party hereto hereby irrevocably waives, to the fullest extent permitted by applicable law, any objection that it may now or hereafter have to the laying of the

venue of any such proceeding brought in any such court, any claim that any such proceeding brought in such a court has been brought in an inconvenient forum and any objection based on place of residence or domicile.

16. WAIVER OF TRIAL BY JURY. EACH PARTY HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVES ANY RIGHTS IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION BASED HEREON, OR ARISING OUT OF, UNDER, OR IN CONNECTION WITH, THIS GUARANTEE OR ANY OTHER RELEVANT DOCUMENT, OR ANY COURSE OF CONDUCT, COURSE OF DEALING, STATEMENTS (WHETHER ORAL OR WRITTEN) OR ACTIONS OF SUCH PARTY. EACH PARTY ACKNOWLEDGES AND AGREES THAT IT HAS RECEIVED FULL AND SUFFICIENT CONSIDERATION FOR THIS PROVISION (AND EACH OTHER PROVISION OF EACH OTHER RELEVANT DOCUMENT TO WHICH IT IS A PARTY) AND THAT THIS PROVISION IS A MATERIAL INDUCEMENT FOR EACH PARTY ENTERING INTO THIS GUARANTEE.

[signatures on following page]

IN WITNESS WHEREOF, each party has duly executed this Guarantee as of the date first above written.

GUARANTOR:

PHILIP A. FALCONE

HOLDER:

**NEW YORK SPECTRUM HOLDING
COMPANY, LLC**

By: _____

Name: Charles Wong

Title: Member