

## **Agreements for Sale of Station**

A copy of the Asset Purchase Agreement (“APA”) pertaining to the proposed assignment of license is attached hereto. The following exhibits and schedules to the APA, however, have not been included:

### **Exhibits**

**Exhibit A – Assets**  
**Exhibit B – Excluded Assets**  
**Exhibit C – Escrow Agreement**  
**Exhibit D – Bill of Sale**  
**Exhibit E – Assignment and Assumption**  
**Exhibit F – Assignment of FCC Licenses**  
**Exhibit I – Officer’s Certificate of Seller**  
**Exhibit J – Secretary’s Certificate of Seller**  
**Exhibit K – Officer’s Certificate of Purchaser**  
**Exhibit L – Secretary’s Certificate of Purchaser**

### **Schedules**

**Schedule 1.1(bb) – Individuals with Actual Knowledge of Certain Matters**  
**Schedule 1.1 (kk) – Encumbrances**  
**Schedule 2.1(c)(i) – Excluded Corporate and Trade Names**  
**Schedule 2.1(c)(viii) – Excluded Contracts**  
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**Schedule 2.4 – Allocation of Purchase Price**  
**Schedule 4.3 – Material Defaults**  
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**Schedule 4.10(a) – Owned Real Property**  
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**Schedule 4.11(a) – Litigation**  
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**Schedule 4.12 – Compliance with Laws**  
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**Schedule 4.15 – Business Insurance Policies**

**Schedule 4.17 – Transactions with Affiliates**

**Schedule 4.18– Seller’s Brokers**

**Schedule 6.18– Name Change**

**Schedule 6.21 – Pre-Closing Obligations**

**Schedule 7.1(g) – Required Business Contract and Real Property Lease Consents**

The exhibits schedules identified above contain proprietary information and/or are not germane to the Commission’s consideration of this application. *See LUJ, Inc. and Long Nine, Inc.*, Memorandum Opinion and Order, 17 FCC Rcd. 16980 (2002).

**ASSET PURCHASE AGREEMENT**  
**DATED AS OF NOVEMBER 22, 2022**  
**BY AND BETWEEN**  
**J. F. BROADCASTING, LLC**  
**AND**  
**FORUM COMMUNICATIONS COMPANY**

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Exhibit F	Assignment of FCC Licenses
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Exhibit J	Secretary's Certificate of Seller
Exhibit K	Officer's Certificate of Purchaser
Exhibit L	Secretary's Certificate of Purchaser

### Schedules

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Schedule 1.1 (kk)	Encumbrances
Schedule 2.1(c)(i)	Excluded Corporate and Trade Names
Schedule 2.1(c)(viii)	Excluded Contracts
Schedule 2.1(c)(xiii)	Other Excluded Assets and Rights
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Schedule 4.8	Material Business Licenses
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Schedule 6.18	Name Change
Schedule 6.21	Pre-Closing Obligations
Schedule 7.1(g)	Required Business Contract and Real Property Lease Consents



## ASSET PURCHASE AGREEMENT

**ASSET PURCHASE AGREEMENT** (the “Agreement”) dated as of November 22, 2022, by and between J. F. Broadcasting, LLC, a South Dakota limited liability company (“Seller”), and Forum Communications Company, a North Dakota corporation (“Purchaser”).

### RECITALS

**WHEREAS**, Seller owns and operates full-power television station KWSD (TV), Sioux Falls, South Dakota (FCC Facility ID No. 29121), low-power television station KCWS-LD, Sioux Falls, South Dakota (FCC Facility ID No. 38116), and the broadcast auxiliary stations as listed in Schedule 4.13(a) hereto (each, a “Station” and collectively, the “Stations”), pursuant to certain authorizations issued by the United States Federal Communications Commission (the “FCC”) to Seller;

**WHEREAS**, Purchaser desires to purchase from Seller, and Seller desires to sell to Purchaser, all assets owned, used, or held for use in the operation of the Stations, excluding the Excluded Assets (as defined herein), and in connection therewith, Purchaser has agreed to assume certain liabilities of Seller relating to the Stations, all upon the terms and subject to the conditions set forth herein and in the Operative Agreements (as defined below) (such transactions sometimes being referred to herein as the “Transactions”);

**WHEREAS**, the prior consent of the FCC is required to permit the consummation of the Transactions; and

**WHEREAS**, Seller and Purchaser desire to make certain representations, warranties, covenants and agreements in connection with the Transactions, all as more fully set forth herein.

### AGREEMENTS

**NOW, THEREFORE**, in consideration of the foregoing premises, the mutual covenants, promises, and agreements hereinafter set forth, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged and accepted, the parties hereto hereby agree as follows:

#### **ARTICLE I** **DEFINITIONS**

1.1 Certain Definitions. For all purposes of and under this Agreement, the following terms shall have the respective meanings set forth below:

(a) “Accounts Receivable” means all accounts receivable, notes receivable, and other monies due to Seller for sales and deliveries of goods, performance of services, sale of advertisements, broadcast time and programming, and other business transactions related to the Stations attributable to the period prior to the Effective Time.

(b) “Action” means any claim, action, suit or proceeding, arbitral action, governmental inquiry, audit, notice of violation, litigation, citation, summons, criminal prosecution, or other investigation by or before any Governmental Authority, whether at law or equity.

(c) “Affiliate” means, as applied to any Person, (i) any other Person directly or indirectly controlling, controlled by or under common control with, that Person, or (ii) any director, partner, member, officer, manager, agent, employee, or relative of such Person. For the purposes of this definition, “control” (including with correlative meanings, the terms “controlling,” “controlled by,” and “under common control with”) as applied to any Person, means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of that Person, whether through ownership of voting securities, by contract or otherwise.

(d) “Business Day” means any weekday (Monday through Friday) on which commercial banks in Sioux Falls, South Dakota are open for business.

(e) “Business Intellectual Property” means all Intellectual Property that is used or held for use by Seller primarily in the operation of the Stations as currently conducted, including the Intellectual Property listed on Schedule 4.6.

(f) “Communications Act” means the Communications Act of 1934, as amended, and all rules, regulations and published policies of the FCC promulgated thereunder.

(g) “Confidentiality Agreement” means the Letter of Confidentiality entered into by Seller and Purchaser dated June 28, 2022.

(h) “Contract” means any contract, agreement, sales and purchase orders, indenture, note, bond, instrument, lease, conditional sales contract, mortgage, license, franchise agreement, concession agreement, security interest, guaranty, commitment, undertaking, or other agreement or arrangement, whether written or oral.

(i) “DMA” means the Sioux Falls (Mitchell) Designated Market Area as determined by Nielsen.

(j) “Employee Plan” means: (i) any employee benefit plan, agreement, arrangement or policy, whether subject to ERISA or not, including any retirement, pension, deferred compensation, severance, profit sharing, savings, fringe benefit, group health, retiree medical, dental, life insurance, disability, cafeteria or vacation plan, agreement, policy or arrangement; (ii) any equity or equity-based compensation plan or arrangement; (iii) any bonus or incentive arrangement; and (iv) any severance or termination agreements, policies or arrangements that are not covered by ERISA; in each case that (A) is sponsored, maintained or contributed to or required to be maintained or contributed to by Seller or any ERISA Affiliate, or with respect to which Seller or any ERISA Affiliate has or may have actual or contingent liability or obligation for the benefit of any Business Employee or former employee, director, manager or other service provider of Seller who is or was directly engaged, exclusively, in the operation of the Stations, or (B) Seller has or may have actual or contingent Liability.

(k) “Encumbrance” means any security interest, pledge, mortgage, lien, charge, claim, community property interest, restriction on transfer (such as a right of first refusal or other

similar right), defect of title, option or other right to purchase, encroachment, reservation or other encumbrance of any kind or character, including any restriction on use, voting, transfer, receipt of income or exercise of any other attribute of ownership.

(l) “Enforceability Exceptions” means the exceptions or limitations to the enforceability of Contracts under principles of general application relating to bankruptcy, reorganization, insolvency, moratorium or similar Law affecting creditors’ rights and relief of debtors generally, and rules of law and general principles of equity including, without limitation, rules of law and general principles of equity governing specific performance, injunctive relief and other equitable remedies (regardless of whether such enforceability is considered in a proceeding in equity or at law).

(m) “Environmental Law” means any applicable Law, order, regulation, decree, permit, license, ordinance, or other federal, state, county, provincial, local or foreign governmental published requirements relating to pollution, the protection of human health (from exposure to Hazardous Substances) and the environment, or the discharge or Release of any Hazardous Substance into the environment.

(n) “Equipment” means all machinery, equipment, computers, motor vehicles, aircraft, furniture, fixtures, furnishings, Transmission Equipment, tools, parts and supplies, inventory, advertising and promotional materials, blank films, tapes, telecommunications equipment and all other items of tangible personal property (other than those included in the Excluded Assets) owned or leased by Seller and used or held for use by it primarily in the operation of the Stations as listed and described on Schedule 4.5.

(o) “ERISA” means the Employee Retirement Income Security Act of 1974, as amended, any successor statute thereto, and the rules and regulations promulgated thereunder.

(p) “ERISA Affiliate” means any (if any) Person, trade or business (whether or not incorporated) that at any time before Closing is under common control with Seller pursuant to section 414 of the Internal Revenue Code or section 4001 of ERISA.

(q) “FCC Consent” means the actions of the FCC (including any action duly taken by the FCC’s staff pursuant to delegated authority) granting consent to the assignment of the FCC Licenses necessary for the consummation of the Transactions.

(r) “FCC Licenses” means all of the FCC licenses, permits and other authorizations issued to Seller with respect to the Stations as identified in Schedule 4.13(a).

(s) “Final Order” means any Action by the FCC (including Action by FCC staff pursuant to delegated authority), which has not been vacated, reversed or stayed and with respect to which no appeal, request for stay or petition for rehearing, reconsideration or review to the FCC or to any applicable Governmental Authority is pending and as to which the time for filing any such appeal, request, petition or similar filing has expired or, if filed, the FCC Action has been upheld and no additional appeal, rehearing, review or reconsideration may be sought.

(t) “GAAP” means generally accepted accounting principles in the United States, as consistently applied.

(u) “Governmental Authority” means any government, any governmental entity, political subdivision, department, commission, board, agency or instrumentality, any quasi-governmental authority, and any court, tribunal, or judicial body, in each case whether federal, state, county, provincial, local or foreign.

(v) “Governmental Order” means any statute, rule, regulation, order, writ, judgment, injunction, decree, stipulation or determination issued, promulgated or entered by or with any Governmental Authority.

(w) “Hazardous Substance” means petroleum, petroleum by-products, polychlorinated biphenyls and any pollutant, contaminant or hazardous or toxic substance, material, or waste that is labeled or regulated as such by any Governmental Authority pursuant to an Environmental Law, but excluding de minimis amounts of substances, materials, and wastes customarily used or stored on, or disposed from similar properties for the purpose of cleaning or other maintenance or operations in the Ordinary Course of Business (including without limitation those normally found in motor vehicles and for maintenance of tower/antennas and other broadcast equipment).

(x) “Intellectual Property” means any (i) patents, patent disclosures and related improvements, (ii) trademarks, service marks, trade dress, logos, trade names, call letters, corporate names and second-level domain names, along with any associated goodwill, (iii) copyrights and copyrightable works, (iv) trade secrets and confidential business information (including ideas, formulas, compositions, inventions (whether patentable or unpatentable and whether or not reduced to practice), know-how, research and development information, software, drawings, specifications, designs, plans, proposals, technical data, financial, marketing and business data, pricing and cost information, business and marketing plans and customer and supplier lists and information), (v) registrations and applications to register any of the foregoing, if applicable, and (vi) rights to sue with respect to past and future infringements of any of the foregoing.

(y) “Internal Revenue Code” means the Internal Revenue Code of 1986, as amended, any successor statute thereto, and the rules and regulations promulgated thereunder.

(z) “IRS” means the United States Internal Revenue Service, and any successor agency thereto.

(aa) “IT Assets” means software, information technology equipment, databases, websites, content, e-commerce platforms and associated content and documentation used or held for use in connection the operation of the Stations as presently conducted.

(bb) “Knowledge of Seller”, “Seller’s Knowledge”, “known to Seller” and phrases of similar import mean, with respect to any matter in question relating to Seller, the actual knowledge of such matter by the named individuals listed in Schedule 1.1(bb) hereto, including, but not limited to, the Stations General Manager and Chief Engineer after reasonable due inquiry.

(cc) “Law” means, as in effect on any date of determination, applicable common law or any applicable statute, permit, ordinance, code or other law, rule, regulation, treaty, judgment, requirement or order enacted, adopted, promulgated or applied by any Governmental Authority, including any applicable Governmental Order.

(dd) “Liability” means any indebtedness, obligation and other liability (whether absolute, accrued, matured, contingent (or based upon any contingency), known or unknown, fixed or otherwise, or whether due or to become due), including, any fine, penalty, judgment, award or settlement respecting any judicial, administrative or arbitration proceeding, damage, loss, claim or demand with respect to any Law.

(ee) “License” means any franchise, approval, permit, order, authorization, consent, license, registration or filing, certificate, variance and any other similar right obtained from or filed with any Governmental Authority.

(ff) “Malicious Instruction” means any so-called computer viruses, worms, trap or back doors, Trojan horses, or any other similar instructions, codes, programs, data or materials.

(gg) “Material Adverse Effect” means any event, condition, change, occurrence, development, circumstance, effect or state of facts (each, an “Effect”) that is, or could be reasonably expected to become, individually or in the aggregate with any such other Effect, materially adverse to: (i) the business, results of operations, condition (financial or otherwise) or assets of the Stations, taken as a whole; (ii) the value of the Assets; or (iii) the ability of Seller to consummate the Transactions on a timely basis; provided, however, that “Material Adverse Effect” shall not include any Effect, directly or indirectly, arising out of or attributable to: (A) any changes in applicable Laws; (B) any changes in GAAP or regulatory accounting rules; (C) conditions in the United States or global economy or capital, credit or financial markets generally; (D) Effects generally applicable to the broadcast television industry; (E) hostilities, acts of terrorism or war, or any material escalation of any such hostilities, acts of terrorism or war; and (F) the execution and delivery of this Agreement and the announcement of this Agreement and the Transactions contemplated hereby; except, in the case of clauses (A), (C) and (D), to the extent such Effects have a disproportionate effect on the Stations (relative to other broadcast television stations).

(hh) “Operative Agreements” means, collectively, this Agreement, the Escrow Agreement, the Confidentiality Agreement, the Bill of Sale, the Assignment and Assumption, the Assignments and Assumptions for Leases, the Assignments and Assumptions for FCC Licenses and any other agreement or deed delivered in connection with the Closing, if any.

(ii) “Ordinary Course of Business” means, with respect to a Person, the ordinary and usual course of normal day to day operations of such Person, consistent with such Person’s past practice.

(jj) “Organizational Documents” means, with respect to any Person (other than an individual), the articles or certificate of incorporation, bylaws, certificate of formation, operating agreement, certificate of limited partnership, limited partnership agreement and all other organizational documents of such Person.

(kk) “Permitted Encumbrances” means any: (i) liens for any Taxes, assessments or other governmental charges not yet due and payable or that are being contested in good faith; (ii) mechanics’, carriers’, workmen’s, repairmen’s or other like liens arising or incurred in the Ordinary Course of Business or amounts that are not delinquent and which are not, individually or in the aggregate, material to the Stations or the Assets; (iii) easements, rights of way, zoning ordinances

and other similar encumbrances affecting Real Property which are not, individually or in the aggregate, material to the Stations or the Assets, which do not prohibit or interfere with the current operation of any Real Property and which do not render title to any Real Property unmarketable; (iv) other than with respect to Owned Real Property, liens arising under original purchase price conditional sales contracts and equipment leases with third parties entered into in the Ordinary Course of Business which are not, individually or in the aggregate, material to the Stations or the Assets; (v) non-exclusive licenses of Intellectual Property granted in the Ordinary Course of Business; and (vi) Encumbrances set forth on Schedule 1.1(kk).

(ll) “Person” means any individual, general or limited partnership, firm, corporation, limited liability company, association, trust, unincorporated organization, joint venture or other entity, including any Governmental Authority, and including any successor, by merger or otherwise, of any of the foregoing.

(mm) “Personal Information” means any information that identifies or could be reasonably linked to an identifiable individual.

(nn) “Privacy and Security Laws and Standards” means applicable industry standards concerning the privacy and security of Personal Information, including Payment Card Industry Data Security Standards, and any applicable Law regarding the protection, collection, access, use, storage, disposal, disclosure or transfer of Personal Information and all regulations promulgated hereunder, including the Fair Credit Reporting Act, the Fair and Accurate Credit Transaction Act, the Federal Trade Commission Act, the Privacy Act of 1974, the CAN-SPAM Act, the Telephone Consumer Protection Act, the Telemarketing and Consumer Fraud and Abuse Prevention Act, Children’s Online Privacy Protection Act, state privacy Laws, and U.S. state data security and breach notification Laws.

(oo) “Program Rights” means the rights of the Stations presently existing or obtained after the date of this Agreement and prior to the Closing Date in accordance with the terms of this Agreement, to distribute television programs or shows as part of the programming, including all film and program barter agreements, sports rights agreements, news rights or service agreements, affiliation agreements (including, but not limited to, “pass through” and/or “diginet” affiliation agreements) and syndication agreements related to the Stations, in each case, that are either (x) owned by Seller or (y) licensed to Seller.

(pp) “Real Property” means the Leased Real Property and the Owned Real Property.

(qq) “Release” means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing of a Hazardous Substance into the environment.

(rr) “Straddle Period” any taxable period that includes (but does not end on) the day before the Closing Date.

(ss) “Tax” means any federal, state, local or foreign income, gross receipts, sales, use, ad valorem, employment, severance, transfer, gains, profits, excise, franchise, property, capital stock, premium, minimum and alternative minimum or other taxes, fees, levies, duties,

assessments or charges of any kind or nature whatsoever imposed by any Governmental Authority (whether payable directly or by withholding), together with any interest, penalties (civil or criminal), additions to, or additional amounts imposed by, any Governmental Authority with respect thereto.

(tt) “Tax Return” means a report, return or other information required to be supplied to a Governmental Authority with respect to any Tax.

(uu) “Territory” means the Sioux Falls (Mitchell) Designated Market Area as determined by Nielsen.

(vv) “Transmission Equipment” means all analog, digital and other Equipment owned by Seller and used or held for use in the operations of the Stations, including the antenna, transmitter and all associated transmission equipment, lines and facilities.

1.2 Certain Additional Definitions. For all purposes of and under this Agreement, the following terms shall have the respective meanings ascribed thereto in the respective sections of this Agreement set forth opposite each such term below:

<u>Term</u>	<u>Section</u>
Acquisition Proposal	6.13(a)
Agreement	Preamble
Assets	2.1(b)
Assignment and Assumption	3.2(a)(iii)
Assignment of FCC Licenses	3.2(a)(iv)
Assumed Liabilities	2.2(b)
Bill of Sale	3.2(a)(ii)
Business Contract(s)	2.1(b)(viii)
Business Employee(s)	2.1 (c)(vii)
Business Insurance Policies	4.15
Business License(s)	2.1(b)(vii)
Cap	8.5(a)
Closing	3.1
Closing Date	3.1
Collection Period	6.19
Core Representations	8.1
Damages	8.2
Effect	1.1(gg)
Effective Time	3.1
Escrow Agent	2.3(b)
Escrow Agreement	2.3(b)
Escrow Deposit	2.3(b)
Excluded Assets	2.1(c)
Antenna Lease	3.2(a)(viii)

<u>Term</u>	<u>Section</u>
Antenna Lease Term Sheet	3.2(a)(viii)
Excluded Contracts	2.1(c)(viii)
Excluded Liabilities	2.2(c)
FCC	Recitals
FCC Applications	6.4(b)
Financial Statements	4.9
Four Bridges	2.1(b)(iv)
Improvements	2.1(b)(iii)
Indemnified Party	8.4(a)
Indemnifying Party	8.4(a)
Indemnity Escrow	2.3(c)
Latest Balance Sheet	4.9
Latest Balance Sheet Date	4.9
Leased Real Property	2.1(b)(v)
Material Business License(s)	4.8
Material Contract(s)	4.7(a)
Membership Interest	2.1(b)(xv)
Membership Interest Purchase Agreement	3.2(a)(ix)
MVPD	4.13(c)
Notice of Claim	8.4(a)
Owned Real Property	2.1(b)(iii)
Phase I Environmental Site Assessment	6.11(a)
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Proceeds	6.9(a)
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Purchaser	Preamble
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Restricted Business	6.12(a)
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Third Party Claim	8.4(a)
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Title Commitments	6.10



<u>Term</u>	<u>Section</u>
Transactions	Recitals
Upset Date	9.1(a)(iii)

## ARTICLE II PURCHASE AND SALE OF ASSETS

### 2.1 Purchase and Sale of Assets.

(a) Purchase and Sale. Upon the terms and subject to the conditions set forth herein, at the Closing, Purchaser shall purchase from Seller, and Seller shall irrevocably sell, convey, transfer, assign and deliver to Purchaser, free and clear of all Encumbrances other than Permitted Encumbrances, all right, title and interest of Seller in and to the Assets.

(b) Assets. For all purposes of and under this Agreement, the term “Assets” shall mean, refer to and include all properties, assets, privileges, rights, interests and claims, real, personal or mixed, tangible and intangible, of every type and description (other than the Excluded Assets), that are owned or leased by Seller and used or held for use primarily in connection with the Stations as of the Closing Date, including, but not limited to those assets expressly listed in Exhibit A, attached hereto and incorporated herein. Without limiting the foregoing, the Assets shall include the following, except to the extent that any of the following are included within the Excluded Assets:

(i) the FCC Licenses, including any applications therefor and renewals or modifications thereof between the date hereof and the Closing, and the Stations’ call letters, including all of Seller’s rights to (A) all URLs and internet domain names, social media accounts and mobile apps consisting of or containing any of the Stations’ call letters, and (B) any variations or derivations of, or marks confusingly similar to, any of the foregoing;

(ii) any books and records maintained by Seller in connection with the operation of the Stations, including those necessary to operate the Stations in compliance with the FCC’s rules and regulations, including, but not limited to, the Stations’ public files;

(iii) those parcel(s) of real property, as more fully described in Schedule 4.10(a) hereto (the “Owned Real Property”), and all the rights arising out of the direct or indirect ownership thereof or appurtenant thereto, including all rights, privileges, grants and easements appurtenant to Seller’s interest in the Owned Real Property, together with all buildings, structures, facilities, fixtures and other improvements (“Improvements”) thereon;

(iv) all of right, title and interest of Seller and Four Bridges LLC, a South Dakota limited liability company (“Four Bridges”), to the building addressed as 48178 268<sup>th</sup> Street Brandon, South Dakota 57005 and identified in that certain Warranty Bill of Sale by and between Seller and Four Bridges dated September 18, 2008;

(v) those lease(s) of real property (the “Real Property Leases”), as more fully described in Schedule 4.10(b), as to which Seller is the lessee (the real property demised by a Real Property Lease being called, the “Leased Real Property”), and all Improvements included in the Leased Real Property;

(vi) all Equipment;

(vii) all Licenses possessed by Seller and used or held for use in the operation of the Stations or the ownership of the Assets and all rights thereunder (each a “Business License” and, collectively, the “Business Licenses”);

(viii) all Contracts (other than Real Property Leases, which are the subject of clause (iv) above) to which Seller is a party pertaining to the operation of the Stations and the ownership of the Assets and all rights of Seller thereunder (together with the Real Property Leases, each a “Business Contract” and, collectively, “Business Contracts”);

(ix) to the extent used or held for use by Seller primarily in connection with the Stations, all management and other systems (including computers and peripheral equipment), databases, computer software, computer disks and similar assets and all licenses and rights in relation thereto;

(x) the Business Intellectual Property;

(xi) all prepaid expenses and charges attributable to the period prior to the Effective Time in respect of the Stations and attributable to periods on or after the Effective Time;

(xii) all of Seller’s rights, claims, credits, prepaid expenses, advance payments, security, refunds, rights of recovery, causes of action or rights of set-off against third parties relating to the Stations or the Assets, including claims pursuant to all warranties, indemnities, representations and guarantees made by suppliers, manufacturers, contractors and other third parties in connection with products or services purchased by or furnished to Seller for use in the Stations or affecting any of the Assets;

(xiii) all rights to any Actions of any nature available to or being pursued by Seller to the extent related to the Stations, the Assets or the Assumed Liabilities, whether arising by way of counterclaim or otherwise (subject to Section 2.1(c)(xii));

(xiv) all goodwill associated with the Assets; and

(xv) all of Seller’s right, title and interest in and to all of its membership interests in Four Bridges (the “Membership Interests”).

(c) Excluded Assets. Notwithstanding anything to the contrary herein, Seller shall not convey, assign, or transfer to Purchaser, and Purchaser shall not acquire or have any rights to acquire the following assets, including, but not limited to those assets expressly listed in Exhibit B, attached hereto and incorporated herein (collectively, the “Excluded Assets”):

(i) all of Seller’s rights to (A) the corporate and trade names listed on Schedule 2.1(c)(i), (B) all URLs and internet domain names, social media accounts and mobile apps consisting of or containing any of the foregoing, and (C) any variations or derivations of, or marks confusingly similar to, any of the foregoing (subject to Section 6.18);

(ii) all cash, cash equivalents and securities of Seller;

- (iii) all bank and other depository accounts of Seller;
- (iv) all (A) Tax records and Tax Returns (other than those Tax records and Tax Returns related to personal and real property taxes with respect to the Assets), books of account and other materials not relating to the Assets or the operation of the Stations, (B) Organizational Documents, minute books and all other books and records relating to the organization, existence or ownership of Seller, (C) records, documents, plans and financial records related to the Transactions, and (D) all records relating to other Excluded Assets;
- (v) all refunds of Taxes;
- (vi) all Business Insurance Policies (including, without limitation, title insurance policies) or other insurance policies relating to the Stations, any refunds paid or payable in connection with the cancellation or discontinuance of any insurance policies applicable to the Stations, and any claims made under any such insurance policies;
- (vii) all persons employed by Seller immediately prior to the Closing (whether actively or inactively) (each, a “Business Employee” and, collectively, as the “Business Employees”) and all rights in or any assets associated with or allocated to any Employee Plan;
- (viii) any Business Contract listed on Schedule 2.1(c)(viii) (collectively, the “Excluded Contracts”);
- (ix) all intercompany debts and other obligations due to Seller from any Affiliates of Seller;
- (x) all rights of Seller under this Agreement and the other Operative Agreements, the Purchase Price hereunder, any agreement, certificate, instrument or other document executed and delivered by Seller or Purchaser in connection with the Transactions, or any side agreement between Seller and Purchaser entered into on or after the date of this Agreement;
- (xi) any cause of action or claim relating solely to any event or occurrence with respect to the operation of the Stations prior to the Effective Time;
- (xii) the Accounts Receivable; and
- (xiii) all assets and rights expressly set forth on Schedule 2.1(c)(xiii).

## 2.2 Assumption of Liabilities.

(a) Assumption. Upon the terms and subject to the conditions set forth herein, at the Closing Purchaser shall assume from Seller (and thereafter pay, perform, discharge or otherwise satisfy in accordance with their respective terms), and Seller shall irrevocably convey, transfer and assign to Purchaser, all of the Assumed Liabilities of Seller and no other Liabilities.

(b) Assumed Liabilities. For all purposes of and under this Agreement, the term “Assumed Liabilities” shall mean, refer to and include all Liabilities of Seller: (i) under the Business Contracts validly assigned to Purchaser (other than any Excluded Contracts) to the extent attributable to the periods after the Effective Time (but not arising from any breach of the Business Contracts during the period before the Effective Time); (ii) relating to the Assets attributable to any period of time after the Effective Time; and (iii) Purchaser’s obligations pursuant to Section 3.5.

(c) Excluded Liabilities. Purchaser shall not assume and shall not be responsible to pay, perform or discharge any Liabilities of Seller or any of its Affiliates of any kind or nature whatsoever other than the Assumed Liabilities (the “Excluded Liabilities”). Seller shall, and shall cause each of its Affiliates to, pay and satisfy in due course all Excluded Liabilities which they are obligated to pay and satisfy. Without limiting the generality of the foregoing, the Excluded Liabilities shall include, but not be limited to, the following:

- (i) Liabilities of Seller or its Affiliates under any Employee Plan;
- (ii) Liabilities for indebtedness for borrowed money of Seller;
- (iii) Liabilities for the compensation of the Business Employees for all periods prior to the Effective Time, including payments for all paid time off, vacation or sick leave;
- (iv) Liabilities for Taxes of Seller or any of its Affiliates;
- (v) Liabilities of Seller in respect of transaction costs payable by it pursuant to Section 6.6 hereof;
- (vi) Liabilities of Seller not arising out of or relating to the Stations or the Assets;
- (vii) Liabilities of Seller arising out of or relating to the Stations or the Assets arising during, or attributable to, any period of time before the Effective Time including any Liabilities asserted by the FCC against the Stations with respect to complaints which are covered by the tolling agreement(s), if any, referenced in Section 6.4(c);
- (viii) Liabilities to any Affiliate of Seller;
- (ix) Liabilities related to any Excluded Asset;
- (x) any Liability for Taxes payable with respect to Seller’s transfer of the Assets to Purchaser and Seller’s consummation of the other transactions contemplated by this Agreement, except to the extent of Purchaser’s obligation to pay such Liability under Section 6.6;
- (xi) Liabilities under any Excluded Contract, except to the extent of Purchaser’s obligation to pay such Liability under Section 3.5 of this Agreement;

(xii) Any Liability to or in respect of, or arising out of or in connection with, the employment or cessation of employment by Seller of any Business Employees or former employees of Seller, including (A) an employment or consulting Contract between Seller and any Person, (B) any claim of an unfair labor practice or grievance or any claim under any unemployment compensation, employment standards, pay equity or worker's compensation Law or regulation or under any federal, state or provincial employment discrimination Law or regulation, which shall have been asserted by any Business Employee or former employee of Seller to the extent based on acts or omissions which occurred during the period of or relate to such Business Employee's employment by Seller, (C) any Liability relating to payroll, vacation, personal day or sick pay for any current or former employee, director, officer, consultant or independent contractor of Seller, (D) with respect to any actual or alleged agreements or promises to current or former employees, directors, officers, consultants or independent contractors regarding stock options, equity or equity based compensation plans, programs or arrangements maintained by Seller or any of its Affiliates, and (E) any Liability arising out of or relating to any stay bonus, special waiting bonus or special retention plan or agreement;

(xiii) All Liabilities of Seller or any of its Affiliates arising under this Agreement and any and all other Operative Agreements;

(xiv) All Liabilities under the Excluded Contracts or any other Business Contracts (A) which are not validly and effectively assigned to Purchaser pursuant to this Agreement; (B) which do not conform to the representations and warranties with respect thereto contained in this Agreement; or (C) to the extent such Liabilities arise out of or relate to a breach by Seller of such Contracts prior to Closing;

(xv) All Liabilities arising out of, in respect of or in connection with the failure by Seller or any of its Affiliates to comply with any Law or Governmental Order (including applicable Privacy and Security Laws and Standards);

(xvi) All Liabilities arising with, or relating to, broadcast stations owned or operated by Seller or any of its Affiliates other than the Stations; and

(xvii) All Liabilities arising out of noncompliance with Environmental Laws or Releases or disposal of Hazardous Material on or from the Real Property that existed prior to the Closing, regardless of whether such noncompliance or Releases are discovered after the Closing.

## 2.3 Consideration for Assets.

(a) Purchase Price. The consideration for the Assets shall be: (i) One Million Four Hundred Thousand Dollars (\$1,400,000.00) ;(the "Purchase Price")"; and (ii) the assumption by Purchaser of the Assumed Liabilities pursuant to Section 2.2 hereof. Purchaser shall pay the Purchase Price at Closing as follows: (A) the Escrow Deposit shall be deposited with the Escrow Agent as the Indemnity Escrow (as defined below) pursuant to Section 2.3(c); and (B) the balance of the Purchase Price (i.e., the Purchase Price reduced by the Indemnity Escrow) shall be paid by Purchaser to Seller,

by wire transfer of immediately available funds in accordance with written instructions delivered by Seller to Purchaser at least two (2) Business Days prior to Closing.

(b) Escrow Deposit. At the Closing, Purchaser shall deliver to Citibank, N.A. (the “Escrow Agent”), Fifty Thousand Dollars (\$50,000.00) to be held as an earnest money deposit (“Escrow Deposit”) pursuant to an escrow agreement substantially in the form attached hereto as Exhibit C that will be entered into among Purchaser, Seller and the Escrow Agent effective as of the Closing (the “Escrow Agreement”).

(c) Indemnity Escrow. The Escrow Deposit shall serve as one source of payment of any indemnification obligations of Seller pursuant to Article VIII of this Agreement (the “Indemnity Escrow”). The Escrow Agent will hold the Indemnity Escrow to be distributed pursuant to the terms of the Escrow Agreement and this Agreement. On the date that is six (6) months after the Closing Date, the Escrow Agent will pay to Seller any amounts remaining in the Indemnity Escrow, *minus* the aggregate amount of Damages reasonably estimated by Purchaser under any Notice of Claim properly asserted and previously submitted by Purchaser and then unresolved (or resolved but unpaid). The provisions of Section 8.4 shall govern resolution of any such outstanding claims for Damages.

2.4 Allocation of Purchase Price. The consideration for the Assets provided herein shall be allocated among the various categories of Assets in accordance with their respective fair market values. The parties hereto shall use their reasonable efforts prior to Closing to reach agreement on a reasonable allocation of consideration to such categories of Assets. If Purchaser and Seller reach such agreement, Purchaser and Seller (a) shall execute and file all Tax Returns in a manner consistent with the allocation determined pursuant to this Section 2.4 and Schedule 2.4 and (b) shall not take any position before any Governmental Authority or in any judicial proceeding that is inconsistent with such allocation. Such agreement shall not be a condition to Closing. Seller and Purchaser shall each timely file a Form 8594 with the IRS in accordance with the requirements of Section 1060 of the Internal Revenue Code. In the event that the parties do not agree to a purchase price allocation prior to Closing then each party hereto shall file its own Form 8594.

### **ARTICLE III**

#### **THE CLOSING**

3.1 Time and Place. Subject to the satisfaction or waiver of all conditions set forth in Article VII herein, the consummation of the Transactions shall (a) take place at a closing (the “Closing”) to be held at 9:00 a.m., Central time, on the date which is the third (3rd) Business Day after satisfaction and fulfillment or, if permissible pursuant to the terms hereof, waiver of the conditions set forth in Sections 7.1 and 7.2, or the taking of other action, at the Closing (other than conditions that by their nature are to be satisfied at Closing, but subject to the satisfaction or waiver of such conditions at Closing), (b) be effective as of 12:01 a.m., local Sioux City, South Dakota time, on the Closing Date (the “Effective Time”), and (c) be held remotely by the exchange of signed documents by e-mail or other electronic transmission, in each case, unless another time, date or place is mutually agreed upon in writing by Seller and Purchaser. The date on which the Closing is to occur pursuant to this Section 3.1 is referred to herein as the “Closing Date”. All actions to be taken and all documents to be executed or delivered at Closing will be deemed to have been taken, executed and delivered simultaneously, and no action will be deemed taken and no document will be deemed

executed or delivered until all have been taken, delivered and executed, except in each case to the extent otherwise stated in this Agreement or any such other document.

3.2 Closing Deliveries of Seller. At the Closing, Seller shall deliver, or cause to be delivered, to Purchaser the following (which in the case of any instruments, certificates and other documents shall be dated as of the Closing Date and executed or acknowledged (as applicable) on behalf of Seller by a duly authorized officer thereof), in order to consummate the Transactions, including the transfer of the Assets to Purchaser pursuant to Section 2.1 hereof:

(a) Instruments of Transfer and Assignment.

- (i) The Escrow Agreement;
- (ii) a bill of sale, substantially in the form attached hereto as Exhibit D (the “Bill of Sale”);
- (iii) an instrument of assignment and assumption, substantially in the form attached hereto as Exhibit E (the “Assignment and Assumption”);
- (iv) an assignment and assumption of the FCC Licenses, substantially in the form attached hereto as Exhibit F (the “Assignment of FCC Licenses”);
- (v) certificates of title or origin (or like documents) with respect to any motor vehicles for which a certificate of title or origin evidences title, together with properly completed assignments of such vehicles to be delivered by Seller;
- (vi) customary warranty deeds in a form reasonably acceptable to Purchaser with respect to any Owned Real Property;
- (vii) subject to Section 3.5 hereof, executed consents to the assignment of any Businesses Contract or Business License obtained as of the Closing Date;
- (viii) an antenna lease by and between Purchaser and Seller (the “Antenna Lease”), substantially adhering to the terms set forth on the term sheet attached hereto as Exhibit G (the “Antenna Lease Term Sheet”);
- (ix) a Membership Interest Purchase Agreement, substantially in the form attached hereto as Exhibit H, for the transfer of the Membership Interests from Seller to Purchaser (the “Membership Interest Purchase Agreement”);
- (x) such other instruments of transfer as Purchaser may reasonably request to convey any Assets to Purchaser.

(b) Closing Certificates and Other Documents.

- (i) An officer’s certificate to be delivered by Seller substantially in the form attached hereto as Exhibit I, which shall certify as to the satisfaction of the conditions set forth in Sections 7.1(a), 7.1(b) and 7.1(d) hereof;



(ii) a secretary's certificate to be delivered by Seller substantially in the form attached hereto as Exhibit J, which shall certify that attached thereto are true and complete copies of all resolutions adopted by the board of directors (or the equivalent thereof) of Seller authorizing the execution, delivery and performance of this Agreement and the other Operative Agreements and the consummation of the Transactions, and that all such resolutions are in full force and effect and are all the resolutions adopted in connection with the Transactions; and

(iii) a certificate of Seller certifying as to its non-foreign status which complies with the requirements of Section 1445 of the Internal Revenue Code.

3.3 Closing Deliveries of Purchaser. At the Closing, Purchaser shall make the payment and deliver, or cause to be delivered, to Seller the following (which in the case of any instruments, agreements certificates and other documents shall be dated as of the Closing Date and executed or acknowledged (as applicable) on behalf of Purchaser by a duly authorized officer thereof) in order to pay for the Assets and effect the assumption of all Assumed Liabilities from Seller pursuant to Section 2.2 hereof:

(a) Purchase Price. The payment of the Purchase Price in accordance with Section 2.3(a).

(b) Instruments of Assumption.

(i) The Escrow Agreement;

(ii) the Assignment and Assumption;

(iii) the Assignments and Assumptions for Leases;

(iv) the Assignment and Assumption for FCC Licenses;

(v) the Antenna Lease;

(vi) the Membership Interest Purchase Agreement; and

(vii) all other instruments and certificates of assumption as Seller may reasonably request in order to effectively make Purchaser responsible for all Assumed Liabilities.

(c) Closing Certificates and Other Documents.

(i) An officer's certificate to be delivered by Purchaser substantially in the form attached hereto as Exhibit K, which shall certify as to the satisfaction of the conditions set forth in Sections 7.2(a) and 7.2(b) hereof; and

(ii) a secretary's certificate to be delivered by Purchaser substantially in the form attached hereto as Exhibit L, which shall certify that attached thereto are true and complete copies of all resolutions adopted by the board of directors (or the equivalent thereof)

of Purchaser authorizing the execution, delivery and performance of this Agreement and the other Operative Agreements and the consummation of the Transactions, and that all such resolutions are in full force and effect and are all the resolutions adopted in connection with the Transactions.

3.4 Further Assurances. At and after the Closing, and without further consideration therefor, (a) Seller shall execute, or arrange for the execution of, and deliver to Purchaser such further instruments or documents as Purchaser may reasonably request in order to consummate the Transactions contemplated by this Agreement, and (b) Purchaser shall execute, or shall arrange for the execution of, and deliver to Seller such further instruments or documents as Seller may reasonably request in order to consummate the Transactions contemplated by this Agreement.

3.5 Assignment of Business Contracts and Business Licenses. To the extent that the transfer or assignment hereunder by Seller to Purchaser of any Business Contract or Business License is not permitted or is not permitted without the consent or approval of another Person, any such Business Contract or Business License shall not be assigned by Seller to Purchaser at Closing if such consent or approval is not given or obtained by the Closing or if such assignment at Closing otherwise would constitute a breach thereof or constitute a loss of benefits thereunder. Seller and Purchaser shall use their commercially reasonable efforts to obtain any and all such third party consents or approvals under all Business Contracts or Business Licenses; provided, however, that neither Seller nor Purchaser shall be required to pay or incur any cost or expense to obtain any third-party consent or approval that such party is not otherwise required to pay or incur in accordance with the terms of the applicable Business Contract or Business License, except for usual and customary legal fees and expenses. If any such third-party consent or approval for the assignment or transfer of a Business Contract or Business License is not obtained before the Closing, Seller and Purchaser shall cooperate in any commercially reasonable arrangement designed to provide for Purchaser after the Closing the benefits intended to be assigned to Purchaser under the applicable Business Contract or Business License, including enforcement at the cost and for the account of Purchaser of any and all rights of Seller against the other party thereto arising out of the breach thereof by such other party or otherwise. Upon receipt of any such third-party consent or approval after Closing, the applicable Business Contract or Business License shall be automatically assigned to, and assumed by, Purchaser on the terms hereof without further action by Purchaser or Seller.

#### **ARTICLE IV**

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

Seller hereby represents and warrants to Purchaser as follows:

4.1 Organization. Seller is a limited liability company duly formed, validly existing and in good standing under the Laws of the State of South Dakota, with all requisite power and authority to own, operate or lease the Assets as now owned, operated or leased by it, and to operate the Stations as presently conducted by it.

4.2 Authority. Seller has all requisite limited liability company or corporate power and authority to enter into and deliver this Agreement and the Operative Agreements to which Seller is a party, to perform its obligations hereunder and thereunder, and to consummate the Transactions. The execution and delivery by Seller of this Agreement and the Operative Agreements to which it is a

party, the performance by Seller of its obligations hereunder and thereunder, and the consummation by Seller of the Transactions, have been duly authorized by all necessary limited liability company or corporate action by Seller. This Agreement has been, and the Operative Agreements to which Seller is a party shall at Closing be, duly executed and delivered by Seller. Assuming the due authorization, execution and delivery of this Agreement and the Operative Agreements to which it is a party by Purchaser, this Agreement constitutes, and each of the Operative Agreements to which Seller is a party (when so executed and delivered) will constitute, a legal, valid and binding obligation of Seller, enforceable against it in accordance with its terms, except as such enforceability may be limited by the Enforceability Exceptions.

4.3 No Violation; Third Party Consents. Assuming that all consents, waivers, approvals, orders and authorizations described in Section 4.4 hereto have been obtained and all notifications, registrations, qualifications, designations, declarations or filings with any Governmental Authorities described in Section 4.4 hereto have been made, and, except as set forth in Schedule 4.3 hereto, the execution and delivery by Seller of this Agreement and the Operative Agreements to which Seller is a party, the performance by Seller of its obligations hereunder and thereunder, and the consummation by Seller of the Transactions, do not and will not conflict in any material respect with or violate in any material respect, constitute a material default (or event which with the giving of notice or lapse of time, or both, would constitute a material default) under, give rise to any right of termination, amendment, modification, acceleration or cancellation of any material obligation or loss of any material benefit under, result in the creation of any Encumbrance other than a Permitted Encumbrance on any of the Assets pursuant to, or require Seller to obtain any consent, waiver, approval or action of, make any filing with, or give any notice to any Person as a result of or under, the terms and provisions of (a) the Organizational Documents of Seller, (b) any Business Contract to which Seller is a party or by which any Asset is bound, or (c) any Law applicable to Seller or any of the Assets, or any Governmental Order issued by a Governmental Authority by Seller or any of the Assets is bound or obligated.

4.4 Government Consents. Except the FCC Consent and except as set forth in Schedule 4.4 hereto, no material consent, waiver, approval, order or authorization of, or notification, registration, qualification, designation, declaration or filing with, any Governmental Authority is required on the part of Seller in connection with the execution and delivery by Seller of this Agreement and the Operative Agreements to which Seller is a party, the performance by Seller of its obligations hereunder and thereunder, and the consummation by Seller of the Transactions.

4.5 Title to Assets. Schedule 4.5(a) contains an accurate and complete list of all material items of Equipment owned or leased by Seller as of the date hereof that relate to the programming, production, generation or transmission of the Stations' television broadcast signals, or otherwise having a fair market value of at least \$50,000. Seller has good and marketable title to or a valid leasehold interest in, or otherwise has the right to use, all Assets, free and clear of all Encumbrances except for Permitted Encumbrances. All material tangible Assets are (a) in good operating condition and repair, subject to normal wear and tear, for their current use, and available for use, in the operation of the Stations and the conduct of the Stations as presently conducted, and (b) maintained in compliance with good industry practice and all applicable FCC rules and policies. The Assets are sufficient for the continued operation of the Stations after the Closing in substantially the same manner as conducted prior to the Closing and constitute all of the rights, property and assets necessary to operate the Stations as presently conducted and as conducted in the twelve (12) months prior to the

Closing. Except as set forth in Schedule 4.5(b), none of the Excluded Assets are material to the operation of the Stations as presently conducted.

4.6 Intellectual Property and Proprietary Rights. Schedule 4.6 sets forth a list of all applications and registrations for Business Intellectual Property and sets forth the owner and nature of the interest of Seller therein, and a list of the homepages of the Stations' Internet websites, if any.

(a) Seller is the owner of all right, title and interest in and to each item of Business Intellectual Property and/or has the right to use the Business Intellectual Property in connection with the operation of the Stations as currently conducted.

(b) (i) To the Knowledge of Seller, neither the making, using, selling, offering for sale, importing, copying, distributing, making derivative works, publicly displaying or publicly performing the Business Intellectual Property nor the operation of the Stations as currently conducted infringes or otherwise conflicts with the Intellectual Property rights of any Person and (ii) no claim is pending or, to the Knowledge of Seller, has been threatened with respect to the Business Intellectual Property or in connection with the operation of the Stations as currently conducted.

(c) To the Knowledge of Seller, (i) none of the Business Intellectual Property owned by Seller is being materially infringed, nor (ii) is such Business Intellectual Property being used or available for use by any Person other than Seller.

(d) To Knowledge of Seller, the Stations have taken reasonable precautions to prevent the presence of, and, none of the IT Assets contain or have contained, any Malicious Instruction. The Stations own or have a license, sufficient for the operation of the Stations, to use all IT Assets, all of which rights shall survive unchanged by the consummation of the Transactions contemplated hereby (assuming consent is obtained where required). The IT Assets (i) are sufficient to operate the Stations as currently conducted, (ii) have not experienced any malfunction, failure, breakdown, downtime or continued substandard performance that, alone or in the aggregate, has or would reasonably be expected to result in (A) any substantial disruption or interruption in or to the use of any IT Asset, (B) production websites of the Stations available to the public becoming inoperable or unavailable, (C) any material violation of any applicable Law or (D) any material Liability to the Seller, and (iii) are adequate to allow the Stations to comply in all material respects with data retention, data privacy and security obligations under applicable Law. None of the IT Assets have suffered any security breaches. The Stations have backup and disaster recovery technology, plans, procedures and facilities consistent with industry practices.

4.7 Material Contracts.

(a) Schedule 4.7(a) lists each of the following Contracts (x) by which any of the Assets are bound or affected or (y) to which Seller or any of its Affiliates is a party or by which it is bound in connection with the Stations or the Assets (such Contracts being "Material Contracts");

(i) all Contracts involving aggregate consideration in excess of \$50,000 and which, in each case, cannot be cancelled without penalty or without more than ninety (90) days' notice;

(ii) all Contracts that relate to the acquisition or disposition of any business, a material amount of stock or assets of any other Person or any Real Property (whether by merger, sale of stock, sale of assets or otherwise);

(iii) all Contracts relating to indebtedness (including, without limitation, guarantees) in excess of \$50,000;

(iv) all Contracts with any Governmental Authority;

(v) all Contracts that limit or purport to limit the ability of Seller to compete in any line of business or with any Person or in any geographic area or during any period of time;

(vi) all joint venture, partnership or similar Contracts;

(vii) all Contracts for the sale of any of the Assets or for the grant to any Person of any option, right of first refusal or preferential or similar right to purchase any of the Assets;

(viii) all Contracts to pay or receive any royalty or license fee or to license (either as licensor or licensee) any Intellectual Property (other than any non-exclusive license for the use of any commercially available off the shelf software which was entered into in the Ordinary Course of Business);

(ix) all Real Property Leases;

(x) all Program Rights agreements;

(xi) any retransmission consent agreements;

(xii) any Contract or agreement that is a “local marketing agreement,” time brokerage agreement, joint sales agreement, shared services agreement, management services agreement local news sharing agreement or similar contract applicable to the Stations; and

(xiii) any national sales representation agreement applicable to the Stations.

(b) Except as set forth in Schedule 4.7(b) hereto (i) each Material Contract represents a valid, binding and enforceable obligation of Seller in accordance with the respective terms thereof and, to Seller’s Knowledge, represents a valid, binding and enforceable obligation of each of the other parties thereto, except, in each case, as such enforceability may be limited by the Enforceability Exceptions, (ii) neither Seller nor, to the Knowledge of Seller, any other party is in material breach or default under any Material Contract, (iii) as of the date hereof, to Seller’s Knowledge, no outstanding notice of default has been sent or received by Seller under any Material Contract, (iv) to Seller’s Knowledge, there are no material disputes pending or threatened under any Material Contract and (v) true, correct and complete copies of such Material Contracts have been made available to Purchaser.

4.8 Business Licenses. Except as set forth in Schedule 4.8, Seller owns or possesses all right, title and interest in and to all material Licenses which are necessary for it to conduct the operations of the Stations as currently conducted or for the ownership and use of the Assets (each, a “Material Business License” and, collectively, the “Material Business Licenses”). Schedule 4.8 hereto contains a list of all Material Business Licenses of Seller included in the Assets. All Material Business Licenses have been obtained by Seller and are valid and in full force and effect. All fees and charges with respect to such Material Business Licenses as of the date hereof have been paid in full. No loss or expiration of any such Material Business License has occurred, is pending or, to the Knowledge of Seller, has been threatened, other than (a) the expiration of any such Material Business License in accordance with the terms thereof which may be renewed in the Ordinary Course of Business, or (b) the expiration of the terms of the Material Business Licenses that remain in effect by operation of Law pending disposition of pending renewal applications.

4.9 Financial Statements. Seller has delivered to Purchaser true, correct and complete copies of the following financial statements (collectively, the “Financial Statements”): (a) the unaudited balance sheet of the Station as of December 31, 2021 and December 31, 2020; (b) the related unaudited income statements of the Stations for the years ended December 31, 2021 and December 31, 2020; (c) the unaudited balance sheet (the “Latest Balance Sheet”) of the Stations as of June 30, 2022 (the “Latest Balance Sheet Date”); and (d) the related unaudited income statements of the Station for the three-month period ended on the Latest Balance Sheet Date. The Financial Statements were derived from the books and records of the Station and fairly present, in all material respects, the financial position and results of operations of the Station as of the respective dates thereof and for the respective periods indicated therein, except as otherwise noted therein and subject, in the case of the Latest Balance Sheet and the income statement of the Station for the three-month period ended on the Latest Balance Sheet Date, to normal and recurring year-end adjustments (the effect of which will not be materially adverse). Seller has no Liabilities with respect to the Station, except (i) those which are adequately reflected or reserved against in the Latest Balance Sheet as of the Latest Balance Sheet Date, and (b) those which have been incurred in the Ordinary Course of Business since the Latest Balance Sheet Date and which are not, individually or in the aggregate, material in amount.

#### 4.10 Real Property.

(a) Schedule 4.10(a) lists the address and owner of all Owned Real Property. immediately prior to the Closing, Seller will have good and marketable fee simple title to its respective Owned Real Property free and clear of Encumbrances, other than Assumed Liabilities and Permitted Encumbrances. Seller is not obligated under and is not a party to any option, right of first refusal or other contractual right to purchase, acquire, sell, assign or dispose of any of the Owned Real Property or any portion thereof or interest therein. Except as set forth in Schedule 4.10(a), Seller has not leased or otherwise granted to any Person the right to use or occupy any of the Owned Real Property or any portion of the income or profits from the sale, operation or development thereof.

(b) Schedule 4.10(b) lists the Leased Real Property, which is all of the real property leased to Seller and used or held for use primarily in connection with the Stations. Seller has good leasehold title to its interests in the Leased Real Property, free and clear of all Encumbrances, except for Permitted Encumbrances. With respect to the Leased Real Property, Seller is in peaceable possession under each such Real Property Lease to which it is a party.

(c) Except as may be set forth on schedule 4.10, all of the Real Property has access to public roads or streets, and all utilities and services necessary for the proper and lawful conduct in all material respects and operation of the Stations as now conducted by Seller. There do not exist any actual or, to the Knowledge of Seller, threatened condemnation or eminent domain proceedings, planned public improvements, annexation, special assessments, zoning or subdivision changes, or other adverse claims affecting any of the Owned Real Property, and, within the last two (2) years, Seller has not received any written notice of the intention of any Governmental Authority or other Person to take or use all or any part thereof.

(d) Except as set forth on Schedule 4.10(d), to Seller's Knowledge: (i) there is no private restrictive covenant or governmental use restriction (including zoning) on all or any portion of the Real Property that prohibits or materially interferes with the current use by Seller of the Real Property; and (ii) all material permits required for the occupancy and operation of the Real Property as presently being used by Seller have been obtained and are in full force and effect in all material respects, and, as of the date hereof, Seller has not received any notices of material default or material violations in connection with such items. All Improvements located on the Real Property (A) are in adequate condition and repair (ordinary wear and tear excepted); and (B) are adequate to operate in all material respects the Stations as presently operated by Seller.

#### 4.11 Litigation; Governmental Orders.

(a) Except as set forth in Schedule 4.11(a) or Schedule 4.11(b) hereto, there are no pending or, to the Knowledge of Seller, (i) threatened Actions by any Person or Governmental Authority against or relating to Seller, the Stations, the Assets or the Assumed Liabilities or that challenge or seek to prevent, enjoin or otherwise delay the Transactions, or (ii) requests to preserve information nor any civil investigative demands from any Governmental Authority relating to the potential violation of any Law, that are pending or, to the Knowledge of Seller, threatened in writing against Seller, in respect of the Seller, the Stations, the Assets or the Assumed Liabilities. No event has occurred and, to Seller's Knowledge, no circumstances exist, that may give rise to, or serve as a basis for, any such Action.

(b) Except as set forth in Schedule 4.11(b), Seller is not subject to or bound by any Governmental Order and there are no unsatisfied judgments, penalties or awards against, relating to or affecting the Stations. To Seller's Knowledge, no event has occurred or circumstances exist that may constitute or result in (with or without notice or lapse of time) a violation of any Governmental Order.

4.12 Compliance with Laws. Except as set forth in Schedule 4.12, Seller has in all material respects complied, and is now complying, with all Laws and Governmental Orders applicable to the conduct of the Stations as currently conducted or the ownership and use of the Assets.

#### 4.13 FCC/FAA Matters; Qualifications.

(a) Seller holds the FCC Licenses and all other material registrations, licenses, permits, approvals and regulatory authorizations from a Governmental Authority that are reasonably necessary to entitle it to own or lease, operate and use the assets of the Stations and to carry on and conduct the business of the Stations substantially as conducted immediately prior to the date of this

Agreement. Schedule 4.13(a) contains a list of all FCC Licenses and a list, as of the date hereof, of all pending applications with the FCC used or held by Seller for use in the operation of the Stations. Such FCC Licenses: (i) are valid, subsisting, and in full force and effect; (ii) are not subject to any conditions, except for those conditions appearing on the face of the FCC Licenses and conditions applicable to broadcast television licenses generally; (iii) have been issued by the FCC for full terms customarily issued by the FCC for each class of Stations; and (iv) have not been revoked, suspended, canceled, rescinded or terminated. The FCC Licenses constitute all registrations, licenses, franchises, permits, approvals and regulatory authorizations issued by the FCC to Seller in respect of the Stations and held by the Seller, and constitute all FCC authorizations necessary for the operation of the Stations as of the date of this Agreement.

(b) Except as set forth on Schedule 4.13(b), (i) the Stations are being operated in compliance in all material respects with the Communications Act, the FCC Licenses, and all other Laws applicable to the Stations with respect to the operation of the Stations; (ii) Seller has filed or made all material applications, reports, and other disclosures required by the FCC or the Federal Aviation Administration to be made in respect of the Stations and have or will have at the Closing timely paid all regulatory fees in respect thereof; and (iii) Seller has fulfilled and performed its obligations in all material respects under each of the FCC Licenses. As of the date hereof, there are not any (x) complaints, investigations, proceedings or other Actions pending or, to the Knowledge of Seller, threatened in writing before the FCC with respect to the FCC Licenses, other than proceedings affecting the broadcast television industry generally, or (y) issued or outstanding, by or before the FCC, any (A) orders to show cause, (B) notices of violation, (C) notices of apparent liability or (D) forfeiture orders, in each case, against the Stations or Seller with respect to the Stations that has resulted or would reasonably be expected to result in any action described in the foregoing clause (x) with respect to such FCC Licenses. Except as set forth on Schedule 4.13(b), neither Seller nor the Stations has entered into a consent decree applicable to the Stations, or entered into a tolling agreement or waived any statute of limitations relating to the Stations pursuant to which the FCC may assess any fine or forfeiture or take any other action with respect to any FCC investigation or proceeding, that would be binding on Purchaser and the Stations as of and after the Closing Date. Seller is legally, financially and otherwise qualified under the Communications Act to perform its obligations hereunder, to be the licensee and to own and operate the Stations. There is no fact or circumstance relating to Seller or any of its Affiliates that would reasonably be expected to prevent the FCC under the Communications Act in effect as of the date hereof from granting the FCC Applications (as defined in Section 6.4(b) hereof), that would delay the granting of the FCC Consent, or that would cause the FCC to impose any condition on its granting of the FCC Consent. Seller has no reason to believe that the FCC Applications might not be granted by the FCC in the ordinary course due to any fact or circumstance relating to Seller or any of its Affiliates.

(c) Seller has timely elected mandatory carriage of KWSD on each multichannel video programming distributor (“MVPD”) in the Station’s local television market as defined in 47 C.F.R. §§ 76.55 and 76.66 for the 2021-2023 carriage election cycle. Except as set forth in Schedule 4.13(c) or as has not had and would not reasonably be expected to have, individually or in the aggregate, a material impact on the Stations, since January 1, 2022, (A) to the Knowledge of Seller, no such MVPD has, with respect to carriage in the Stations’ DMA, provided written notice to Seller or the Stations of any material signal quality issue or sought any form of relief from carriage of KWSD from the FCC, (B) to Knowledge of Seller, neither Seller nor the Stations has received any written notice from any such MVPD of such MVPD’s intention to delete KWSD from carriage in



such Stations' DMA, and (C) to the Knowledge of Seller, neither Seller nor the Stations has received written notice of a petition seeking FCC modification of the market in which KWSD is located. Except as set forth on Schedule 4.13(c), to the Knowledge of Seller, KWSD is carried pursuant to mandatory carriage on all material MVPDs in KWSD's local television market (as defined in 47 C.F.R. §§ 76.55 and 76.66 ).

4.14 Environmental Matters. To the Knowledge of Seller, except as disclosed on Schedule 4.14:

(a) The Real Property is in compliance in all material respects with all Environmental Laws applicable to the Stations as presently conducted by Seller.

(b) There is not currently, nor during the past five (5) years has there been, any of the following: (i) handling of any Hazardous Substances on any Real Property except in compliance with applicable legal requirements; (ii) presence of Hazardous Substances on any Real Property except in compliance with applicable legal requirements; (iii) underground tanks for the storage of Hazardous Substances located on any Real Property; and (iv) complaints regarding asbestos, toxic mold, or other indoor air quality issues on any Real Property. There is not currently, nor during the past five (5) years has there been, any Large Quantity Generators of Hazardous Waste, as defined in the Resource, Recovery and Conservation Act (RCRA), 42 U.S.C. § 6901, *et. seq.*, and its implementing regulations, on any property adjacent to the Real Property or any Release of Hazardous Substances that have not been remediated.

(c) There have not within the past five (5) years been any Releases of any Hazardous Substances in excess of reportable quantities at, from, on or under any Real Property.

(d) Seller has obtained any material permits, licenses, registrations and other approvals and has filed all material reports and notifications required under any Environmental Laws in connection with the Assets, and is in compliance in all material respects with all applicable Environmental Laws relating to the Stations. Within the last five (5) years, Seller has not received any written notice of nor, to Seller's Knowledge, is Seller the subject of any Action by any person alleging liability under or noncompliance with any Environmental Law. Seller has delivered to Purchaser copies of all material non-privileged reports, notices, or other documentation relating to Hazardous Substances on the Real Property that are in possession of Seller and that have been obtained within the last five (5) years.

4.15 Insurance. Seller maintains insurance in respect of the Assets and the Stations covering such risks, in such amounts, with such terms and with such insurers as Seller has determined is appropriate in light of the Stations and consistent in all material respects with industry practice (such insurance, the "Business Insurance Policies"). Schedule 4.15 hereto sets forth, as of the date hereof, a true and correct list of all Business Insurance Policies, all of which are in full force and effect in all material respects as of the date hereof. To Seller's Knowledge, there are no claims related to the Business, the Assets or the Assumed Liabilities pending under any the Business Insurance Policies as to which coverage has been questioned, denied or disputed or in respect of which there is an outstanding reservation of rights. To Seller's Knowledge, neither Seller nor any of its Affiliates has received any written notice of cancellation of, premium increase with respect to, or alteration of coverage under, any Business Insurance Policy. To Seller's Knowledge, none of Seller or any of its

Affiliates is in default under, or has otherwise failed to comply with, in any material respect, any provision contained in any Business Insurance Policy.

4.16 Taxes. Seller has timely filed (taking into account all properly obtained extension) all Tax Returns required to be filed by it. At the time of filing, all such Tax Returns were true, complete and correct in all respects. To Seller's Knowledge, all Taxes due and owing by Seller, whether or not shown thereon, have been timely paid. No statute of limitations has been waived and no extension of time during which a Tax assessment or deficiency assessment may be made with respect to any Tax incurred in connection with the Stations has been agreed to, which waiver or extension is still outstanding. To Seller's Knowledge, Seller has timely withheld, collected, deposited, or paid each Tax required to have been withheld, collected, deposited, or paid in connection with amounts allocable, paid, or owing to, or paid by, any employee, independent contractor, customer, taxing authority, or other creditor. To Seller's Knowledge, Seller has complied with all information reporting and backup withholding provisions of applicable Law with respect to such amounts. To Seller's Knowledge, there are no Encumbrances for Taxes (other than for Taxes not yet due and payable) upon the Assets. To Seller's Knowledge, no claim has been made by any taxing authority or governmental body in any jurisdiction where Seller does not file Tax Returns that Seller is, or may be, subject to Tax by that jurisdiction. The Seller is or ever has been a party to or the beneficiary of any Tax exemption, Tax holiday or other Tax reduction Contract or order with respect to the Stations or the Assets.

4.17 Transactions with Affiliates. Except as disclosed on Schedule 4.17, Seller is not currently a party to any Contract with any of its Affiliates, or directors or officers of any such Affiliates that would be an Asset, and none of Seller, any of its Affiliates, or any directors or officers of any such Affiliates has any ownership interest in any assets or property used by Seller or any of its Affiliates with respect to the Stations.

4.18 Brokers. Except as set forth on Schedule 4.18, no finder, broker, agent, financial advisor or other intermediary has acted on behalf of Seller in connection with this Agreement or the Transactions or is entitled to any payment in connection herewith or therewith.

4.19 Privacy and Cybersecurity.

(a) Seller has not, in the past three (3) years, been subject to or received notice of any Action or Governmental Order or claim by any Person or written complaints regarding the protection, collection, access, use, storage, disposal, disclosure or transfer of Personal Information or the violation of any applicable Privacy and Security Law or Standard. To the Knowledge of Seller, no such Action is threatened against Seller.

(b) Seller has not, in the past three (3) years, discovered or been notified of any unauthorized acquisition, use, disclosure, access to, or breach of any Personal Information that: (i) constitutes a breach or a data security incident under any applicable Privacy and Security Law or Standard or any Business Contract; or (ii) materially compromises (individually or in the aggregate) the security or privacy of such Personal Information.

(c) Seller does not have any contractual obligation to maintain Personal Information in a manner that logically separates data of one business from that of another.

(d) Seller has not, in the past three (3) years, reported a breach or compromise of Personal Information to any Person or Governmental Authority, either voluntarily or based on any contractual obligations or Privacy and Security Laws and Standards.

(e) To the Knowledge of Seller, the consummation of Transactions does not violate any Privacy and Security Laws and Standards, contractual obligation related to Personal Information, or Seller privacy policy. Upon the Closing Date, Purchaser will own and continue to have the right to use all Personal Information on identical terms and conditions as Seller enjoyed immediately prior to the Closing Date.

4.20 Absence of Certain Events. Since June 30, 2022: (a) there has not been any Material Adverse Effect on the Stations; (b) Seller has operated the Stations in the Ordinary Course of Business; and (c) there has not been any action or omission that would have been a breach of Section 6.1(b).

4.21 Disclaimer. EXCEPT AS EXPRESSLY PROVIDED IN THIS ARTICLE IV, OR ANY SCHEDULE, CERTIFICATE OR OTHER DOCUMENT DELIVERED BY SELLER PURSUANT TO THIS AGREEMENT, INCLUDING THE OTHER OPERATIVE AGREEMENTS, SELLER DOES NOT MAKE ANY OTHER REPRESENTATIONS OR WARRANTIES OF ANY KIND, NATURE OR DESCRIPTION, EXPRESS OR IMPLIED, INCLUDING, ANY WARRANTY OF TITLE, MERCHANTABILITY OR FITNESS OF ANY ASSET FOR A PARTICULAR PURPOSE OR WITH RESPECT TO ANY PROJECTIONS OR FUTURE FINANCIAL OR OPERATIONAL PERFORMANCE OF THE STATION, ITS BUSINESS, OR THE ASSETS.

## **ARTICLE V**

### **REPRESENTATIONS AND WARRANTIES OF PURCHASER**

Purchaser hereby represents and warrants to Seller as follows:

5.1 Organization. Purchaser is duly incorporated, validly existing and in good standing under the Laws of the State of North Dakota.

5.2 Authority. Purchaser has all requisite corporate power and authority to enter into and deliver this Agreement and the Operative Agreements to which it is a party, to perform its obligations hereunder and thereunder, to consummate the Transactions, and to assume and perform the Assumed Liabilities. The execution and delivery by Purchaser of this Agreement and the Operative Agreements to which it is a party, the performance by Purchaser of its obligations hereunder and thereunder, the consummation by Purchaser of the Transactions, and the assumption and performance of the Assumed Liabilities, have been duly authorized by all necessary requisite corporate action on the part of Purchaser. This Agreement has been, and the Operative Agreements to which Purchaser is a party shall be, duly executed and delivered by Purchaser. Assuming the due authorization, execution and delivery of this Agreement and the Operative Agreements by Seller, this Agreement constitutes, and each of the Operative Agreements to which Purchaser is a party (when so executed and delivered) will constitute, a legal, valid and binding obligation of Purchaser, enforceable against Purchaser in accordance with its terms, except as such enforceability may be limited by the Enforceability Exceptions.

5.3 No Violation; Third Party Consents. Assuming that all consents, waivers, approvals, orders and authorizations described in Section 5.4 hereto have been obtained and all notifications, registrations, qualifications, designations, declarations or filings with any Governmental Authorities described in Section 5.4 hereto have been made, the execution and delivery by Purchaser of this Agreement and the Operative Agreements to which it is a party, the performance by Purchaser of its obligations hereunder and thereunder, the consummation by Purchaser of the Transactions, and the assumption and performance of the Assumed Liabilities, do not and will not conflict in any material respect with or violate in any material respect, constitute a material default (or event which with the giving of notice or lapse of time, or both, would constitute a material default) under, give rise to any right of termination, amendment, modification, acceleration or cancellation of any material obligation or loss of any material benefit under, result in the creation of any Encumbrance other than a Permitted Encumbrance on any of the assets or properties of Purchaser pursuant to, or require Purchaser to obtain any consent, waiver, approval or action of, make any filing with, or give any notice to any Person as a result or under, the terms or provisions of (a) the organizational documents of Purchaser, (b) any Contract to which Purchaser is a party or is bound, or (c) any Law applicable to Purchaser, or any Governmental Order issued by a Governmental Authority by which Purchaser is in any way bound or obligated, except, in the case of clauses (a) and (b) of this Section 5.3, as would not have a material adverse effect on the ability of Purchaser to perform its obligations under this Agreement and the Operative Agreements to which it is a party, to assume and perform the Assumed Liabilities or to consummate on a timely basis the Transactions.

5.4 Governmental Consents. No material consent, waiver, approval, order or authorization of, or registration, qualification, designation, declaration or filing with, any Governmental Authority is required on the part of Purchaser in connection with the execution and delivery by Purchaser of this Agreement and the Operative Agreements to which it is a party, the performance by Purchaser of its obligations hereunder and thereunder, the consummation by Purchaser of the Transactions, the assumption and performance of the Assumed Liabilities, except (a) the FCC Consent and (b) where the failure to obtain such consent, waiver, approval, order or authorization, or to make such registration, qualification, designation, declaration or filing, would not, individually or in the aggregate, have a material adverse effect on the ability of Purchaser to perform its obligations under this Agreement, the Operative Agreements to which it is a party, to assume and perform the Assumed Liabilities or to consummate on a timely basis the Transactions.

5.5 Litigation. There are no pending or, to the knowledge of Purchaser, threatened Actions by any Person or Governmental Authority against or relating to Purchaser (or any Affiliate of Purchaser) or by which Purchaser or its assets or properties are or may be bound which, if adversely determined, would have a material adverse effect on the ability of Purchaser to perform its obligations under this Agreement and the Operative Agreements to which it is a party, to assume and perform the Assumed Liabilities or otherwise impede, prevent or materially delay the consummation of the Transactions.

5.6 Brokers. No finder, broker, agent, financial advisor or other intermediary has acted on behalf of Purchaser in connection with this Agreement or the Transactions or is entitled to any payment in connection herewith or therewith.

5.7 Financing. Purchaser has sufficient cash, available lines of credit or other sources of funds to enable it to make payment of the Purchase Price and any other amounts to be paid by it in accordance with the terms of this Agreement.

5.8 Purchaser's Qualification. Purchase is legally qualified to acquire and to become the FCC licensee of the Stations under the Communications Act, the FCC's rules, regulations, and policies, and any other applicable Law.

## **ARTICLE VI**

### **COVENANTS AND AGREEMENTS**

#### **6.1 Conduct of Business.**

(a) At all times during the period commencing upon the execution and delivery of this Agreement by the parties hereto and terminating upon the earlier of the Closing or the termination of this Agreement pursuant to and in accordance with the terms of Section 9.1 hereof, unless Purchaser shall otherwise consent in writing (which consent shall not be unreasonably withheld, delayed, denied or conditioned), and except as otherwise required by Law or to enable Seller to comply with its obligations hereunder, Seller shall:

(i) conduct the operations of the Stations in the Ordinary Course of Business, except to the extent otherwise provided herein;

(ii) make any material change in any method of accounting or accounting practice utilized in the preparation of the Financial Statements;

(iii) use commercially reasonable efforts to preserve and maintain in all material respects the goodwill of the Stations and the current relationships of Seller with employees, customers, suppliers and others with significant and recurring business dealings with the Stations;

(iv) maintain all Business Licenses (including FCC Licenses) that are material to the conduct of the business of the Stations as currently conducted by Seller, including filing with the FCC Applications to renew any FCC Licenses that have expired or that may expire prior to the Closing Date;

(v) maintain the books of account and records of the Stations in the usual, regular and ordinary manner, consistent with past practices;

(vi) use commercially reasonable efforts to maintain the Equipment in reasonable operating condition (given the age of such property and the use to which such property is put and ordinary wear and tear excepted) in accordance with industry practice;

(vii) utilize the Program Rights of the Stations in the Ordinary Course of Business, and not sell or otherwise dispose of any such Program Rights;

(viii) comply in all material respects with all Laws applicable to the conduct of the Stations or the ownership and use of the Assets; and

(ix) advise Purchaser in writing within two (2) Business Days after Seller obtains Knowledge of any complaint, investigation, proceeding or other Action pending or threatened in writing before any Governmental Authority with respect to the FCC Licenses, the Stations, or the Transactions.

(b) Without limiting the foregoing, and subject to and limited by Section 6.9 hereof, at all times during the period commencing upon the execution and delivery of this Agreement by the parties hereto and terminating upon the earlier of the Closing or the termination of this Agreement pursuant to and in accordance with the terms of Section 9.1 hereof unless Purchaser shall otherwise consent in writing (which consent shall not be unreasonably withheld, delayed, denied or conditioned), Seller shall not take, or cause to be taken, any of the following actions to the extent such actions relate to the Stations:

(i) enter into, materially amend, materially modify or terminate (other than at the expiration of their respective terms or due to a default of the other party thereunder) any (1) Business Contract relating to Program Rights, or (2) other Material Contract other than Material Contracts not involving Liabilities exceeding \$25,000 individually in any twelve-month period or \$75,000 in the aggregate in any twelve-month period for all such Material Contracts;

(ii) (A) sell or make any other disposition of any of the Assets except (x) obsolete assets that are not in use in the operation of the Stations; (y) pursuant to existing Business Contracts; or (z) in the Ordinary Course of Business; and (B) grant or incur any Encumbrance on any of the Assets, other than Permitted Encumbrances;

(iii) incur or assume any debt, obligation or Liability in excess of \$50,000;

(iv) materially amend, materially modify or terminate any Material Business License;

(v) transfer, assign or grant any license or sublicense under or with respect to any Business Intellectual Property (except non-exclusive licenses or sublicenses granted in the Ordinary Course of Business);

(vi) make any capital expenditures in excess of \$50,000 which would constitute an Assumed Liability;

(vii) except in the Ordinary Course of Business, (A) pay, discharge, settle or satisfy any claim, obligation or other Liability (whether absolute, accrued, contingent or otherwise) or (B) otherwise waive, release, grant, assign, transfer, license or permit to lapse any right;

(viii) enter into any settlement or release with respect to any Action relating to the Stations that includes any non-monetary relief that materially would impact the Stations after Closing;

(ix) adopt any plan of merger, consolidation, reorganization, liquidation or dissolution or filing of a petition in bankruptcy under any provisions of federal or state

bankruptcy Law or consent to the filing of any bankruptcy petition against it under any similar Law;

(x) fail to maintain in full force and effect in accordance with their respective term and conditions, or timely file all applications or requests necessary to renew or extend, any of the FCC Licenses, or to not take or fail to take any action that could reasonably be expected to cause the FCC or any other Governmental Authority to institute proceedings for the suspension, revocation or adverse modification of any of the FCC Licenses in any material respect;

(xi) fail to use commercially reasonable efforts to maintain the MVPD carriage of the Stations existing as of the date hereof;

(xii) fail to promptly notify Purchaser of (A) the occurrence of any circumstance, event or action, the existence, occurrence or taking, as applicable, of which would result in any of the representations and warranties of Seller in this Agreement (i) if specifically qualified by materiality or Material Adverse Effect, not being true and complete as so qualified, and (ii) if not qualified by materiality or Material Adverse Effect, not being true and correct in all material respects, in each case when made or as of the Closing; (B) any failure, in any material respect, of Seller to comply with or satisfy any covenant, condition or agreement to be complied with or satisfied by it prior to the Closing; (C) any notice or other communication from any Person alleging that the consent of such Person is or may be required in connection with the Transactions; (D) any notice or other communication from any Governmental Authority in connection with the transactions contemplated by this Agreement; (E) any material adverse change to the Stations or the Assets; (F) any written notice or other written communication, including any written demand, filing, service or institution of any legal action brought by any Person, related to, and adverse to the consummation of, this Agreement or the transactions contemplated herein; (G) the commencement of any action, proceeding, or investigation before the FCC involving the FCC Licenses or that would reasonably be expected to have a Material Adverse Effect; (H) any notice of any material breach, default or termination of a Material Contract; (I) any material written correspondence from any MVPD concerning carriage of the Stations or FCC matters concerning the Stations; and (J) the loss of carriage of the Stations; or

(xiii) enter into any Contract to do any of the foregoing or take any action or omission that would result in any of the foregoing.

6.2 Access and Information. Subject to the terms of the Confidentiality Agreement, at all times during the period commencing upon the execution and delivery hereof by the parties hereto and terminating upon the earlier of the Closing or the termination of this Agreement pursuant to and in accordance with the terms of Section 9.1 hereof, Seller shall permit Purchaser and its authorized agents and representatives to have reasonable access, upon reasonable advance notice and during normal business hours, to the Stations and the Assets and all of its relevant books, records and documents of or relating to the Stations and the Assets, and shall furnish to Purchaser such information and data, financial records and other documents in its possession relating to the Stations and the Assets as Purchaser may reasonably request; provided that such access shall not unduly interrupt the normal operations of the Stations, shall be coordinated through Seller's management,

and shall comply with all applicable Business Contracts, Permitted Encumbrances and Laws. Within thirty (30) days after the end of each calendar month during the period from the date hereof through the Closing, Seller shall provide to Purchaser, with respect to the Stations, the unaudited balance sheet as of the end of such month and the related combined unaudited statement of operations for such month ended of the Stations. Within forty-five (45) days after the end of each quarter during the period from the date hereof through the Closing, Seller shall provide to Purchaser, with respect to the Stations, the unaudited balance sheet as of the end of such quarter and the related combined unaudited statement of operations for such quarter ended of the Stations.

### 6.3 Confidentiality.

(a) The terms of the Confidentiality Agreement are hereby incorporated herein by reference and shall continue in full force and effect from the date hereof until the Closing in accordance with the terms thereof, such that the information obtained by Purchaser, or its officers, employees, agents or representatives, in connection with the negotiation, execution and performance of this Agreement, the consummation of the Transactions, or otherwise, shall be governed by the terms set forth in the Confidentiality Agreement; provided, however, that in the event of the termination of this Agreement, the terms of the Confidentiality Agreement incorporated herein by reference shall survive as set forth therein. The Confidentiality Agreement shall automatically terminate at the Closing without further action by the parties thereto.

(b) From and after the Closing, Seller shall, and shall cause its Affiliates to, hold, and shall use its reasonable best efforts to cause its or their respective representatives to hold, in confidence any and all information, whether written or oral, concerning the Stations, except to the extent that Seller can show that such information (i) is generally available to and known by the public through no fault of Seller, any of its Affiliates or their respective representatives; or (ii) is lawfully acquired by Seller, any of its Affiliates or their respective representatives from and after the Closing from sources which are not prohibited from disclosing such information by a legal, contractual or fiduciary obligation. If Seller or any of its Affiliates or their respective representatives are compelled to disclose any information by judicial or administrative process or by other requirements of Law, Seller shall promptly notify Purchaser in writing and shall disclose only that portion of such information which Seller is advised by its counsel in writing is legally required to be disclosed, provided that Seller shall use reasonable best efforts to obtain an appropriate protective order or other reasonable assurance that confidential treatment will be accorded such information.

### 6.4 Further Actions.

(a) Upon the terms and subject to the conditions set forth in this Agreement (including the terms of Section 6.4(b) hereof), Seller and Purchaser shall each use their respective commercially reasonable efforts to take, or cause to be taken, all appropriate action, and to do, or cause to be done, and to assist and cooperate with the other parties hereto in doing, all things necessary, proper or advisable under applicable Laws to consummate the Transactions, including, without limitation (but subject to Section 3.5): (i) obtaining all necessary Licenses, actions or nonactions, waivers, consents or approvals, authorizations, qualifications and other orders of any Governmental Authorities with competent jurisdiction over the Transactions; and (ii) obtaining all necessary consents, approvals or waivers from third parties. In furtherance (and not in limitation) of the provisions set forth in this Agreement, at all times prior to the Closing, Purchaser and Seller shall



use their respective commercially reasonable efforts to take or cause to be taken all actions necessary or desirable in order to consummate the transactions contemplated by this Agreement as promptly as is practicable. Notwithstanding any provision, this Section 6.4 shall not be deemed to require Purchaser or any Affiliate of Purchaser to divest or agree to divest any station, assets or other interests.

(b) Also in furtherance and not in limitation of Section 6.4(a), not later than ten (10) Business Days after the execution of this Agreement, Purchaser and Seller shall prepare and file with the FCC the requisite applications (collectively, the “FCC Applications”) and other necessary instruments or documents requesting the FCC Consent and thereafter prosecute such applications with all reasonable diligence to obtain the FCC Consent as soon as practicable; provided, however, neither Purchaser nor Seller shall be required to pay consideration to any third party to obtain the FCC Consent. Seller and Purchaser shall cooperate with each other and with the FCC in order to secure the FCC Consent without delay and to promptly consummate the Transactions. The parties shall each pay one-half (½) of the FCC filing fees relating to the Transactions, irrespective of whether the transactions contemplated by this Agreement are consummated; provided, however, that each party shall be responsible for all of its other costs with respect to the preparation, filing, and prosecution of the FCC Applications. Purchaser and Seller each shall oppose any petition to deny or other objection filed with respect to the FCC Applications to the extent such petition or objection relates to such party. Neither Purchaser nor Seller shall take any intentional action that would, or intentionally fail to take such action the failure of which to take would, reasonably be expected to have the effect of materially delaying the receipt of the FCC Consent; provided, however, that Purchaser and Seller will make the FCC Applications and other filings in the ordinary course, including, but not limited to, applications for renewal of license. Purchaser and Seller agree that they will cooperate to make commercially reasonable and mutually acceptable amendments to the FCC Applications as may be necessary or required to obtain the timely grant of the FCC Consent. If the Closing shall not have occurred for any reason within the original effective period of the FCC Consent, and neither party shall have terminated this Agreement under Section 9.1, Purchaser and Seller shall jointly request that the FCC extend the effective period of the FCC Consent. No extension of the FCC Consent shall limit the right of either party to exercise its rights under Section 9.1.

(c) In connection with the efforts referenced in this Section 6.4 to obtain the FCC Consent, Purchaser and Seller shall each use its respective commercially reasonable efforts to (i) cooperate in all respects with each other in connection with any filing or submission and in connection with any investigation or other inquiry, including any proceeding initiated by a private party, (ii) keep the other party informed in all material respects of any material communication received by such party from, or given by such party to, the FCC or any other Governmental Authority and of any material communication received or given in connection with any proceeding by a private party, (iii) permit the other party the opportunity to review in advance any submissions to any Governmental Authority or material agreement that relates to the consummation of the Transactions and (iv) permit the other party to attend any meetings with any Governmental Authority or participate in any communications with any Governmental Authority. Seller shall be permitted by Purchaser to enter into tolling agreements with the FCC to extend the statute of limitations for the FCC to determine or impose a forfeiture penalty against Seller, or other customary agreements with the FCC, in connection with any pending complaint against Seller relating to the broadcast of allegedly obscene, indecent or profane material, or regarding Seller’s compliance with other FCC rules; provided that Purchaser shall have no obligation or liability for any such arrangements Seller enters with the FCC.

(d) Purchaser and Seller shall, in connection with any review of the transactions contemplated hereby by any Governmental Authority other than the FCC, use commercially reasonable efforts to: (i) cooperate in all respects with each other in connection with any communication, filing or submission and in connection with any investigation or other inquiry, including any proceeding initiated by a private party; (ii) keep the other party and its counsel informed of any communication received by such party from, or given by such party to, any such Governmental Authority and of any communication received or given in connection with any proceeding by a private party, in each case regarding any of the transactions contemplated hereby; and (iii) consult with each other in advance of any meeting or conference with any Governmental Authority or, in connection with any proceeding by a private party, with any other Person, and to the extent permitted by such Governmental Authority or other Person, give the other party and its counsel the opportunity to attend and participate in such meetings and conferences. Purchaser shall, on behalf of the parties, control and lead all communications and strategy for dealing with any Governmental Authority other than the FCC or any other Person in connection with the proposed transactions contemplated hereby. Each Party shall pay its own costs (including attorneys' fees) in the event that any Governmental Authority other than the FCC inquires about, investigates, challenges or in any way otherwise requires information about any aspects of the transactions contemplated under this Agreement.

(e) Notwithstanding the foregoing, or anything in this Agreement to the contrary, in no event shall Purchaser or any of its Affiliates be required to, and in no event will Seller agree or permit the Stations to agree, without the prior written consent of Purchaser, to take any of the following actions in connection with obtaining any consents or approvals from any Governmental Authority: (i) sell, license or otherwise dispose of, or hold separate or agree to sell, license or otherwise dispose of, any entities, assets or facilities of Purchaser, any of Purchaser's Affiliates, or the Stations; (ii) terminate, amend or assign existing relationships and contractual rights and obligations of Purchaser, Purchaser's Affiliates or the Stations; (iii) amend, assign or terminate existing licenses or other agreements or enter into such new licenses or other agreements; (iv) otherwise take or commit to take any actions that before or after the Closing would limit Purchaser's or any of its or its Affiliates' or the Stations' freedom of action with respect to, or its ability to retain, one or more of its or its Affiliates' businesses, product lines, licenses, operations, rights, assets or rights or interests therein; (v) defend, contest or otherwise resist any action or order, including any proceeding seeking a temporary restraining order or preliminary injunction, by any Governmental Authority or private party, challenging any of the transactions contemplated hereby, (vi) pay any sums or concede anything of value; or (vii) take any action as a result of any request for additional information and documentary material or other inquiry from any Governmental Authority that is, in the reasonable judgment of Purchaser, reasonably likely to result, directly or indirectly, in Purchaser or any of its Affiliates or the Stations taking any action set forth in the foregoing subsections (i) through (vi).

6.5 Publicity. Seller and Purchaser shall cooperate with each other in the development and distribution of all news releases and other public disclosures relating to the Transactions. Neither Seller nor Purchaser shall issue or make, or allow to have issued or made, any press release or public announcement concerning the Transactions without the consent of the other party hereto, except as otherwise required by applicable Law, but in any event only after giving the other parties hereto a reasonable opportunity to comment on such release or announcement in advance, consistent with such applicable legal requirements.

6.6 Transaction Costs. Purchaser shall pay all transaction costs and expenses (including legal, accounting and other professional fees and expenses) that it incurs in connection with the negotiation, execution and performance of this Agreement and the consummation of the Transactions. Seller shall pay all transaction costs and expenses (including legal, accounting and other professional fees and expenses) that it incurs in connection with the negotiation, execution and performance of this Agreement and the consummation of the Transactions. Purchaser and Seller each shall pay one-half (½) of all transfer Taxes (including sales, use and real property transfer Taxes) and fees and costs of recording or filing all applicable conveyancing instruments associated with the transfer of the Assets from Seller to Purchaser pursuant to this Agreement. Consistent with Section 6.4(b) above, each party shall pay one-half (½) of all FCC filing fees for the FCC Applications. Seller and Purchaser shall cooperate in the preparation, execution and filing of all Tax Returns regarding any transfer Taxes which become payable as a result of the transfer of the Assets from Seller to Purchaser pursuant to this Agreement and shall cooperate to seek an available exemption from such Taxes (as applicable).

6.7 Retention of and Access to Records. From and after the Closing, for a period of four (4) years Purchaser shall preserve all books and records transferred by Seller to Purchaser pursuant to this Agreement. Upon the expiration of such four (4) year period, Purchaser shall provide Seller a reasonable opportunity to obtain copies, at Seller's expense, of any of such books and records. As soon as practicable following the Closing, Purchaser shall deliver to Seller such financial information relating to the Stations in sufficient detail to enable Seller to prepare its financial statements and all Tax Returns of Seller relating to periods ending on or prior to the Closing Date. In addition to the foregoing, from and after the Closing, Purchaser shall afford to Seller, and its counsel, accountants and other authorized agents and representatives, during normal business hours, reasonable access to the employees, books, records and other data relating to the Assets and the Assumed Liabilities in its possession with respect to periods prior to the Closing, and the right to make copies and extracts therefrom, to the extent that such access may be reasonably required (a) to facilitate the investigation, litigation and final disposition of any claims which may have been or may be made against any such party or Person or its Affiliates, and (b) for the preparation of Tax Returns and audits. In order to facilitate the resolution of any claims made by or against or incurred by Purchaser after the Closing, or for any other reasonable purpose, for a period of four (4) years following the Closing, Seller shall: (i) retain the books and records (including personnel files) of Seller which relate to the Stations and its operations for periods prior to the Closing; and (ii) upon reasonable notice, afford Purchaser and its representatives reasonable access (including the right to make, at Purchaser's expense, photocopies), during normal business hours, to such books and records. Neither Purchaser nor Seller shall be obligated to provide the other party with access to any books or records (including personnel files) pursuant to this Section 6.7 where such access would violate any Law.

6.8 Control Prior to Closing. The parties acknowledge and agree that, for the purposes of the Communications Act and any other applicable Law, this Agreement and, without limitation, the covenants in this Article VI, are not intended to, and shall not be construed to, transfer control of the Stations or to give Purchaser any right to, directly or indirectly, control, supervise or direct, or attempt to control, supervise or direct, the programming, operations or any other matter relating to the Stations prior to the Closing Date, and Seller, subject to the terms and conditions set forth in this Agreement, shall have complete control and supervision of the programming, personnel, finances, operations, policies and all other matters relating to the Stations until the Closing.

## 6.9 Risk of Loss.

(a) If, prior to the Closing, any of the Assets shall be damaged or destroyed by fire or other casualty, Seller shall take all reasonable steps to repair, replace and restore the Assets to reasonable operating condition as soon as possible after any loss or damage, it being understood and agreed that all insurance proceeds with respect thereto (“Proceeds”) will be applied to or reserved for such replacement, restoration or repair, but that Seller will have no obligation to repair, replace or restore in excess of the Proceeds (plus any applicable deductible payment), and that Purchaser’s sole remedies if Seller elects not to fully repair, replace or restore will be (i) to terminate this Agreement, or (ii) to close in accordance with Section 6.9(c).

(b) In the event that, prior to Closing, any damage or loss causes material impairment to and prevents broadcast transmissions of the Stations in the normal and usual manner and substantially in accordance with the FCC Licenses (not to include ordinary course scheduled maintenance), Seller will give prompt notice thereof to Purchaser and Purchaser, in addition to its other rights and remedies, will have the right to postpone the Closing Date until five (5) Business Days after transmission in accordance with the FCC Licenses has been resumed, subject to the Upset Date. During the period of postponement, Seller shall use commercially reasonable efforts to resume broadcast transmissions. In the event transmission in accordance with the FCC Licenses cannot be resumed within the effective period of the FCC’s consent to assignment of the FCC Licenses to Purchaser, the parties will join in an application or applications requesting the FCC to extend the effective period of its consent for one or more periods not to exceed one hundred twenty (120) days in the aggregate, subject to the Upset Date. If transmission in accordance with the FCC Licenses has not been resumed so that the Closing Date does not occur by the Upset Date, Purchaser will have the right, by giving written notice to Seller within five (5) Business Days after the expiration of such one hundred twenty (120)-day period, or any such extension thereof, to terminate this Agreement forthwith with respect to such Stations without any further obligation.

(c) If any loss of or damage to the Assets occurs prior to the Closing Date, and repair, replacement or restoration of such Assets to not less than reasonable operating condition has not been made on or before the Closing Date (as the Closing Date may be extended as provided in Section 6.9(b)), or the cost thereof is greater than the Proceeds (plus any applicable deductible), then Purchaser will be entitled, but not obligated, to accept the Assets in their then-current conditions and will receive an abatement or reduction in the Purchase Price in an amount equal to the difference between the amount necessary to fully repair or replace the damaged Assets to a reasonable operating condition and the amount of any unused Proceeds and payment of any related deductible amount. If Purchaser elects to accept damaged Assets at a reduced Purchase Price, the parties agree to cooperate in determining the amount of the reduction to the Purchase Price in accordance with the provisions hereof; provided, further, that in such case, Purchaser shall be deemed to have waived any breach of the representations, warranties or covenants set forth in this Agreement with respect to such loss or damage and Purchaser and Indemnified Party claiming through Purchaser will have no rights to indemnification under Article VIII of this Agreement with respect thereto.

6.10 Title Insurance; Survey. Prior to Closing, Purchaser may obtain, at its sole option and expense, and Seller shall grant Purchaser access to obtain (a) commitments for owner’s and lender’s title insurance policies (ALTA Form 2006) on the Owned Real Property and commitments for lessee’s and lender’s title insurance policies for all Leased Real Property (collectively the “Title

Commitments”), and (b) an ALTA survey on each parcel of Real Property (the “Surveys”); provided, however, that Seller shall provide Purchaser with any existing Title Commitments, title policies and Surveys related to any of the Real Property that are in its possession or control. The Title Commitments will evidence a commitment to issue an ALTA title insurance policy insuring good, marketable and indefeasible fee simple (or leasehold, if applicable) title to each parcel of the Real Property contemplated above for such amount as Purchaser reasonably directs, and will contain no exceptions except for Assumed Liabilities or Permitted Encumbrances. Seller shall reasonably cooperate with Purchaser in obtaining such Title Commitments and Surveys (including by providing customary representations and affidavits to Purchaser’s title company); provided, however, that Seller shall not be required to incur any cost, expense or other Liability in connection therewith inconsistent with Seller’s obligations hereunder. If the Title Commitments or Surveys reveal any Encumbrance on the title, other than Assumed Liabilities or Permitted Encumbrances, Purchaser may notify Seller in writing of such objectionable matter as soon as Purchaser determines that such matter is not an Assumed Liability or Permitted Encumbrance or otherwise a customary title exception, and Seller shall use commercially reasonable efforts to remove such objectionable matter as required pursuant to the terms of this Agreement as promptly as practicable. Seller shall be obligated to remove any lien against the Real Property capable of removal by the payment of money or bonding that is not an Assumed Liability or a Permitted Encumbrance.

6.11 Environmental Assessments; Phase I and Phase II Investigations.

(a) Purchaser, at its sole cost and expense, shall have the right to, within sixty (60) days from the date of this Agreement, engage an environmental consulting firm to conduct a Phase I Environmental Site Assessment and Compliance Review, as such terms are commonly understood (the “Phase I Environmental Site Assessment”), with respect to the Real Property. Within thirty (30) days after the receipt of the Phase I Environmental Site Assessment, Purchaser, with Seller’s approval (which approval shall not be unreasonably withheld, delayed, denied or conditioned), shall engage an environmental consulting firm to conduct a Phase II Environmental Site Assessment or any other test, investigation or review recommended by the environmental consultant that prepared the Phase I Environmental Site Assessment (the “Phase II Environmental Site Assessment”); provided, that such environmental assessment, test, investigation or review shall be conducted only: (i) during regular business hours; (ii) with no less than five (5) Business Days prior written notice to Seller; (iii) in a manner which will not materially interfere with the operation of the Stations or the use of access to or egress from such Real Property; and (iv) with respect to Leased Real Property, shall only be done if the owner of such property consents. Seller shall use commercially reasonable efforts to undertake to obtain such consents as promptly as practicable. If Seller does not approve the conduct of the Phase II Environmental Site Assessment or any other test, investigation or review recommended in the Phase I Environmental Site Assessment, Purchaser may terminate this Agreement, upon written notice to Seller; provided, that, in such case, Seller shall not be entitled to the Escrow Deposit or interest and earnings thereon.

(b) Prior to Closing, or with Purchaser’s consent, after Closing, Seller shall remediate any material violation of applicable Environmental Laws that is identified by the environmental consultant that prepared such Phase I Environmental Site Assessment at its sole cost and expense in respect of the Owned Real Property or Seller’s use of the Leased Real Property, up to a maximum aggregate cost of One Hundred Thousand Dollars (\$100,000). Any such remediation

shall only be required to meet the most cost-effective standard and executed in a reasonable manner, in each case to become compliant with any applicable Environmental Laws.

#### 6.12 Non-Competition; Non-Solicitation.

(a) With the exception of the operation of low-power television station KAUN-LD, Sioux Falls, South Dakota (FCC Facility ID No. 26039) by Seller, any Affiliate of Seller, or any party otherwise covered by the restrictions of this Section 6.12(a), for a period of five (5) years commencing on the Closing Date (the “Restricted Period”), Seller shall not, and shall not permit any of its Affiliates to, directly or indirectly, (i) engage in or assist others in engaging in the operation of a broadcast television station in the Territory (the “Restricted Business”); (ii) have an interest in any Person that engages directly or indirectly in the Restricted Business in the Territory in any capacity, including as a partner, shareholder, member, employee, principal, agent, trustee or consultant; or (iii) cause, induce or encourage any material actual or prospective client, customer, supplier or licensor of the Stations (including any existing or former client or customer of Seller and any Person that becomes a client or customer of the Stations after the Closing), or any other Person who has a material business relationship with the Stations, to terminate or modify any such actual or prospective relationship. Notwithstanding the foregoing, Seller may own, directly or indirectly, solely as an investment, securities of any Person traded on any national securities exchange if Seller is not a controlling Person of, or a member of a group which controls, such Person and does not, directly or indirectly, own two percent (2%) or more of any class of securities of such Person.

(b) During the Restricted Period, Seller shall not, and shall not permit any of its Affiliates to, directly or indirectly, hire or solicit any Person who is or was employed in the Stations during the Restricted Period, or encourage any such employee to leave such employment or hire any such employee who has left such employment, except pursuant to a general solicitation which is not directed specifically to any such employees; provided, that nothing in this Section 6.12 shall prevent Seller or any of its Affiliates from hiring (i) any employee whose employment has been terminated by Purchaser or (ii) after twelve (12) months from the date of termination of employment, any employee whose employment has been terminated by the employee.

(c) Seller acknowledges that a breach or threatened breach of this Section 6.12 would give rise to irreparable harm to Purchaser, for which monetary damages would not be an adequate remedy, and hereby agrees that in the event of a breach or a threatened breach by Seller of any such obligations, Purchaser shall, in addition to any and all other rights and remedies that may be available to it in respect of such breach, be entitled to equitable relief, including a temporary restraining order, an injunction, specific performance and any other relief that may be available from a court of competent jurisdiction (without any requirement to post bond).

(d) Seller acknowledges that the restrictions contained in this Section 6.12 are reasonable and necessary to protect the legitimate interests of Purchaser and constitute a material inducement to Purchaser to enter into this Agreement and consummate the Transactions contemplated by this Agreement. In the event that any covenant contained in this Section 6.12 should ever be adjudicated to exceed the time, geographic, product or service or other limitations permitted by applicable Law in any jurisdiction, then any court is expressly empowered to reform such covenant, and such covenant shall be deemed reformed, in such jurisdiction to the maximum time, geographic, product or service or other limitations permitted by applicable Law. The covenants contained in this

Section 6.12 and each provision hereof are severable and distinct covenants and provisions. The invalidity or unenforceability of any such covenant or provision as written shall not invalidate or render unenforceable the remaining covenants or provisions hereof, and any such invalidity or unenforceability in any jurisdiction shall not invalidate or render unenforceable such covenant or provision in any other jurisdiction.

6.13 No Solicitation of Other Bids.

(a) Seller shall not, and shall not authorize or permit any of its Affiliates or any of its or their representatives to, directly or indirectly: (i) encourage, solicit, initiate, facilitate or continue inquiries regarding an Acquisition Proposal; (ii) enter into discussions or negotiations with, or provide any information to, any Person concerning a possible Acquisition Proposal; or (iii) enter into any agreements or other instruments (whether or not binding) regarding an Acquisition Proposal. Seller shall immediately cease and cause to be terminated, and shall cause its Affiliates and all of its and their representatives to immediately cease and cause to be terminated, all existing discussions or negotiations with any Persons conducted heretofore with respect to, or that could lead to, an Acquisition Proposal. For purposes hereof, “Acquisition Proposal” means any inquiry, proposal or offer from any Person (other than Purchaser or any of its Affiliates) relating to the direct or indirect disposition, whether by sale, merger or otherwise, of all or any portion of the Stations or the Assets.

(b) In addition to the other obligations under this Section 6.13, Seller shall promptly (and in any event within three (3) Business Days after receipt thereof by Seller or its representatives) advise Purchaser orally and in writing of any Acquisition Proposal, any request for information with respect to any Acquisition Proposal, or any inquiry with respect to or which could reasonably be expected to result in an Acquisition Proposal, the material terms and conditions of such request, Acquisition Proposal or inquiry, and the identity of the Person making the same.

(c) Seller agrees that the rights and remedies for noncompliance with this Section 6.13 shall include having such provision specifically enforced by any court having equity jurisdiction, it being acknowledged and agreed that any such breach or threatened breach shall cause irreparable injury to Purchaser and that money damages would not provide an adequate remedy to Purchaser.

6.14 Closing Conditions. From the date hereof until the Closing, each party hereto shall use reasonable best efforts to take such actions as are necessary to expeditiously satisfy the closing conditions set forth in Article VII hereof.

6.15 Further Assurances. Following the Closing, each of the parties hereto shall, and shall cause their respective Affiliates to, execute and deliver such additional documents, instruments, conveyances and assurances and take such further actions as may be reasonably required to carry out the provisions hereof and give effect to the Transactions contemplated by this Agreement and the other Operative Agreements.

6.16 Cooperation on Tax Matters. Purchaser and Seller shall cooperate fully, as and to the extent reasonably requested by the other party, in connection with the filing of Tax Returns and the filing and execution of Tax elections, if required, and any audit, litigation or other proceeding with respect to Taxes. Such cooperation shall include the retention and (upon another party’s request and

at such party's expense) the provision of records and information reasonably relevant to any such audit, litigation, or other proceeding and making employees available on a mutually convenient basis to provide additional information and explanation of any material provided hereunder. Purchaser and Seller further agree, upon the written request of the other party, to use their commercially reasonable efforts to obtain any certificate or other document from any Governmental Authority or any other Person as may be necessary to mitigate, reduce or eliminate any Transfer Tax that could be imposed (including with respect to the transactions contemplated hereby).

6.17 Apportionment of Straddle Period Taxes. All Taxes for a Straddle Period shall be apportioned between Seller and Purchaser as follows: (a) in the case of any Tax based upon or related to income, sales, payroll, or receipts, the apportionment shall be based on a deemed closing of the books as of the end of the Closing Date, and (b) in the case of any other Taxes (such as property Taxes and other ad valorem Taxes), the apportionment shall be based on the number of days of such Tax period included in the Tax period ending on the day before the Closing Date and the number of days of such Tax period on and after the Closing Date. Any Taxes for a Straddle Period shall be timely paid, and all applicable filings, reports and returns shall be filed, as provided by applicable Law. The paying party shall be entitled to reimbursement from the non-paying party for the non-paying party's proportionate amount of such Taxes. Upon payment of any such Taxes, the paying party shall present a statement to the non-paying party setting forth the amount of reimbursement to which the paying party is entitled based on the allocation of such Taxes under this Section 6.17, together with such supporting evidence as is reasonably necessary to calculate the amount to be reimbursed. The non-paying party shall make such reimbursement promptly but in no event later than ten (10) days after the presentation of such statement.

6.18 Name Change. Within twenty (20) Business Days after the Closing Date, Seller will cause each of its Affiliates: to take all other actions necessary, to change all names under which it does business to a name that does not include any Restricted Word. "Restricted Word" means any of the following: (x) the word "KWSD," the word "KCWS" or any other call letters of the Stations; or (y) any word that could reasonably be expected to imply any affiliation with Purchaser or any Affiliate of Purchaser identified on Schedule 6.18. Within thirty (30) days after the Closing Date and at all times thereafter, Seller shall cause each of its Affiliates to not use a name that includes any Restricted Word, including on letterhead or other correspondence, employee business cards, accounts or signage.

6.19 Accounts Receivable. For a period of ninety (90) days after Closing (the "Collection Period"), Purchaser shall, without charge to Seller, use commercially reasonable efforts to collect the Accounts Receivable in the ordinary course of business and shall apply all amounts collected from Seller's account debtors to the oldest account first, unless the advertiser disputes in good faith in writing an older account and designates the payment to a newer account. Purchaser shall not be obligated to affirmatively seek collection of the Accounts Receivable by litigation or other extraordinary methods of collection. Any amounts relating to the Accounts Receivable that are paid directly to Seller shall be retained by Seller. Purchaser shall not discount, adjust or otherwise compromise any Accounts Receivable and Purchaser shall refer any disputed Accounts Receivable to the Seller. Within ten (10) calendar days after the end of the Collection Period, Purchaser shall deliver to Seller a report showing Accounts Receivable collections for the Collection Period and Purchaser shall make a payment, without offset, to Seller equal to the amount of all such collections.



At the end of the Collection Period, collection of any remaining Accounts Receivable shall be returned to Seller.

6.20 Wrong Pockets. Seller shall, or shall cause its Affiliates to, promptly, but in any event within ten (10) Business Days of receipt by Seller, pay or deliver to Purchaser any monies or checks, other than those received in payment of Accounts Receivable, that have been sent to Seller or any of its Affiliates after the Closing to the extent that they are in respect of the Stations or the Assets. Purchaser shall, or shall cause its Affiliates to, promptly, but in any event within ten (10) Business Days of receipt by Purchaser or its Affiliates, pay or deliver to Seller any monies or checks that have been sent to Purchaser or any of its Affiliates after the Closing to the extent that they are not in respect of the Stations or the Assets and to the extent they are in respect of the other businesses of Seller or its Affiliates.

6.21 Pre-Closing Obligations. From the date hereof until the Closing, Seller shall use, and shall cause its Affiliates to use, commercially reasonable efforts (including providing introductions where necessary) to enable Purchaser to obtain the Contracts set forth on Schedule 6.21.

## ARTICLE VII CLOSING CONDITIONS

7.1 Conditions to Obligations of Purchaser. The obligations of Purchaser to consummate the transactions contemplated by this Agreement are subject to the satisfaction or fulfillment at or prior to the Closing of the following conditions, any of which may be waived in whole or in part by Purchaser in writing:

(a) Other than the Core Representations of Seller, all representations and warranties of Seller contained in this Agreement (disregarding any qualifications regarding materiality) shall be true and correct in all material respects at and as of the Closing with the same effect as though such representations and warranties were made at and as of the Closing (other than any representation or warranty that is expressly made as of a specified date, which shall be true and correct as of such date only). The Core Representations of Seller contained in this Agreement shall be true and correct in all respects at and as of the Closing with the same effect as though such representations and warranties were made at and as of the Closing (other than any representation or warranty that is expressly made as of a specified date, which shall be true and correct as of such date only).

(b) Seller shall have performed and complied in all material respects with all the covenants and agreements required by this Agreement to be performed or complied with by it at or prior to the Closing.

(c) There shall be in effect no Law or injunction issued by a court of competent jurisdiction making illegal or otherwise prohibiting or restraining the consummation of the Transactions.

(d) From the date of this Agreement, there shall not have occurred any Material Adverse Effect.

(e) The FCC Consent shall have been granted and become a Final Order and shall be in full force and effect.

(f) Seller shall have delivered to Purchaser all of the certificates, instruments and other documents required to be delivered by it at or prior to the Closing pursuant to Section 3.2 hereof.

(g) Subject to Section 3.5 hereof, the Required Consents shall have been obtained and delivered to Purchaser. For purposes hereof, “Required Consent” shall mean the consents, authorizations, approvals, waivers, or notices relating to the Business Contracts or Real Property Leases set forth on Schedule 7.1(g).

(h) All Encumbrances other than Permitted Encumbrances relating to the Assets shall have been released in full, and Seller shall have delivered to Purchaser written evidence, in form reasonably satisfactory to Purchaser in its sole discretion, of the release of such Encumbrances.

**7.2 Conditions to Obligations of Seller.** The obligations of Seller to consummate the transactions contemplated by this Agreement are subject to the satisfaction or fulfillment at or prior to the Closing of the following conditions, any of which may be waived in whole or in part by Seller in writing:

(a) Other than the Core Representations of Purchaser, all representations and warranties of Purchaser contained in this Agreement shall be true and correct in all material respects at and as of the Closing with the same effect as though such representations and warranties were made at and as of the Closing (other than any representation or warranty that is expressly made as of a specified date, which shall be true and correct as of such date only). The Core Representations of Purchaser contained in this Agreement shall be true and correct in all respects at and as of the Closing with the same effect as though such representations and warranties were made at and as of the Closing (other than any representation or warranty that is expressly made as of a specified date, which shall be true and correct as of such date only).

(b) Purchaser shall have performed and complied in all material respects with the covenants and agreements required by this Agreement to be performed or complied with by it at or prior to the Closing.

(c) There shall be in effect no Law or injunction issued by a court of competent jurisdiction making illegal or otherwise prohibiting or restraining the consummation of the Transactions.

(d) The FCC Consent shall have been granted and become a Final Order and shall be in full force and effect.

(e) Purchaser shall have delivered to Seller the Purchase Price and all of the certificates, instruments and other documents required to be delivered by Purchaser at or prior to the Closing pursuant to Section 3.3 hereof.

## ARTICLE VIII INDEMNIFICATION

8.1 Survival. The representations, warranties, covenants and agreements (other than covenants and agreements to be performed in whole or in part after the Closing, each of which shall survive the Closing in accordance with their terms) made by any party and contained in or made pursuant to this Agreement shall survive (and not be affected in any respect by) the Closing, any investigation conducted by any party hereto and any information which any party may receive, until one (1) year following the Closing Date, whereupon all such representations, warranties, covenants and agreements shall expire and terminate and shall be of no further force or effect; provided, however, that the representations and warranties in Section 4.1 (Organization), Section 4.2 (Seller's Authority), Section 4.5 (Title to Assets), Section 4.16 (Taxes), Section 4.18 (Brokers), Section 5.2 (Purchaser's Authority) and Section 5.6 (Brokers) (collectively, the "Core Representations") shall survive the Closing until the expiration of the applicable statute of limitations with respect to the particular matter that is the subject thereof. In the event that written notice is properly given under this Article VIII with respect to any alleged breach of a representation and warranty to which such party is entitled to be indemnified hereunder prior to the applicable expiration date, such representation and warranty shall continue to survive (with respect to the subject matter of such written notice only) until the applicable claim is finally resolved.

8.2 Indemnification by Purchaser. After the Closing, Purchaser will indemnify Seller, its Affiliates and its and their respective officers, directors, shareholders, employees and representatives (each, a "Seller Indemnified Party") against and hold each such Seller Indemnified Party harmless from and reimburse each such Seller Indemnified Party for all losses, damages, Liabilities and expenses, including reasonable attorneys' fees (collectively, "Damages") which such Seller Indemnified Party may at any time sustain or incur as a result of or arising out of:

- (a) the breach of any representation or warranty of Purchaser herein or in any Operative Agreement;
- (b) the breach of any covenant or agreement of Purchaser contained herein or in any Operative Agreement;
- (c) the Assumed Liabilities; and
- (d) conduct of the Stations or ownership, use, condition, possession or operation of any of the Assets after Closing, other than any such Damages for which Seller is obligated to provide indemnification under Section 8.3 (or for which Seller would have been obligated to provide indemnification under Section 8.3 but for any limitation contained elsewhere in this Article VIII).

8.3 Indemnification by Seller. After the Closing, Seller will indemnify Purchaser, its Affiliates and its and their respective officers, directors, shareholders, employees and representatives (each, a "Purchaser Indemnified Party") against and hold each such Purchaser Indemnified Party harmless from and reimburse each such Purchaser Indemnified Party for all Damages which such Purchaser Indemnified Party may at any time sustain or incur as a result of or arising out of:

- (a) the breach of any representation or warranty of Seller herein or in any Operative Agreement;
- (b) the breach of any covenant or agreement of Seller contained herein or in any Operative Agreement;
- (c) the Excluded Assets and the Excluded Liabilities;
- (d) conduct of the Stations or ownership, use, condition, possession or operation of any of the Assets before Closing (but excluding any Assumed Liability); and
- (e) any Third Party Claim based upon, resulting from or arising out of the business, operations, properties, assets or obligations of Seller or any of its Affiliates (other than the Assumed Liabilities) conducted, existing or arising on or prior to the Closing Date.

#### 8.4 Notification of Claims.

(a) A party entitled to be indemnified pursuant to Section 8.2 or 8.3 (the “Indemnified Party”) shall promptly notify the party or parties liable for such indemnification (the “Indemnifying Party”) in writing of any claim or demand which the Indemnified Party has determined has given or could give rise to a right of indemnification under this Agreement (a “Notice of Claim”); provided, however, that a delay or failure to provide such notice shall not relieve any Indemnifying Party of its obligations, except to the extent that it has been prejudiced by such delay or failure. Any Notice of Claim shall: (i) state with reasonable specificity the basis on which indemnification is being asserted; (ii) set forth the Indemnified Party’s good faith estimate of the amount of Damages for which indemnification is being asserted; and (iii) in the case of third party claims (a “Third Party Claim”), be accompanied by copies of all relevant pleadings, demands and other papers served on the Indemnified Party.

(b) If the Indemnified Party notifies the Indemnifying Party of any Third Party Claim, the Indemnifying Party shall have the right (i) to employ counsel of its choice that is reasonably acceptable to the Indemnified Party to defend any such claim or demand asserted against the Indemnified Party, and (ii) to control and conduct any proceedings or negotiations in connection therewith and necessary or appropriate to defend, in each case, in good faith, the Indemnified Party; provided that the parties believe in good faith (based on facts known at the time) that it is reasonably likely that all or a majority of the Damages sought in the Third Party Claim are within the scope of and subject to indemnification hereunder. The Indemnifying Party shall notify the Indemnified Party in writing, as promptly as possible after its receipt of the Notice of Claim (but in any case within thirty (30) days of receipt by the Indemnifying Party of a Notice of Claim (the “Indemnity Notice Period”)) of its election to defend any such Third Party Claim. Notwithstanding the foregoing, the Indemnifying Party may not assume or control the defense if the named parties to the action giving rise to the Notice of Claim (including any impleaded parties) include both the Indemnifying Party and the Indemnified Party and representation of both parties by the same counsel would be inappropriate (based on a written opinion of outside counsel) due to actual or potential differing interests between them, in which case the Indemnified Party shall have the right to defend the action and to employ counsel reasonably approved by the Indemnifying Party, and, to the extent the matter is determined to be subject to indemnification hereunder, the Indemnifying Party shall reimburse the

Indemnified Party for all reasonable costs associated with such defense. In the event that the Indemnifying Party does assume the defense as provided above, the Indemnified Party shall have the right to participate in such defense (including without limitation, with counsel of its choice), at its own expense, and the Indemnifying Party shall reasonably cooperate with the Indemnified Party in connection with such participation. If the Indemnifying Party does not deliver to the Indemnified Party written notice within the Indemnity Notice Period that the Indemnifying Party will assume the defense of any such claim or litigation resulting therefrom, the Indemnified Party may defend against any such claim or litigation in such manner as it may deem appropriate, at the cost of the Indemnifying Party. Notwithstanding the foregoing, the Indemnifying Party shall not be entitled to assume the defense of any such Third Party Claim if the Third Party Claim (A) seeks an order, injunction or other equitable relief or relief other than monetary damages against the Indemnified Party that the Indemnified Party reasonably determines, after conferring with its outside counsel, cannot be separated from any related claim for monetary damages, or (B) seeks to impose criminal fines, penalties or sanctions.

(c) In the event the Indemnifying Party (i) does not elect to assume control or otherwise participate in the investigation and/or the defense of, or opposition to, any Third Party Claim or (ii) is not entitled to assume control of the investigation or the defense of, or opposition to, any such Third Party Claim, the Indemnifying Party shall be bound by the results obtained by the Indemnified Party with respect to such claim; provided, however, the Indemnified Party shall not have the right to consent or otherwise agree to any monetary or non-monetary settlement or relief, including injunctive relief or other equitable remedies, without the prior written consent of the Indemnifying Party, which consent will not be unreasonably withheld, delayed or conditioned. In the event that the Indemnifying Party assumes control of the investigation of, defense of, or opposition to, any Third Party Claim, the Indemnifying Party shall have the right in good faith to settle or compromise any such claim, provided that (A) at least five (5) Business Days prior notice of such settlement or compromise is given to the Indemnified Party and (B) such settlement or compromise must not require the Indemnified Party to take or refrain from taking any action (provided that Indemnified Party shall not unreasonably withhold its consent to the terms of a mutual release with respect to such claim with the third party making such claim), contain any admission by or on behalf of the Indemnified Party, or otherwise fail to hold the claimant fully harmless with respect to such claim. Notwithstanding the foregoing, in connection with any such settlement or compromise negotiated by the Indemnifying Party, no Indemnified Party shall be required by an Indemnifying Party to (1) enter into any settlement that does not include as an unconditional term thereof the delivery by the Indemnified Party or plaintiff to the Indemnified Party of a release from all liability in respect of such claim or litigation, or (2) enter into any settlement that attributes by its terms any non-indemnified liability to the Indemnified Party.

(d) If a claim, whether a direct claim or a Third Party Claim, requires immediate action, the parties hereto will work in good faith to reach a decision with respect thereto as expeditiously as possible.

#### 8.5 Limitations.

(a) Notwithstanding anything herein to the contrary, no Indemnifying Party shall have any obligation to indemnify any Indemnified Parties pursuant to Sections 8.2(a) or 8.3(a), as the case may be, and no Indemnified Party shall make a claim pursuant to Sections 8.2(a) or 8.3(a).

as the case may be, unless the aggregate amount of Damages sustained or incurred with respect to all claims pursuant to Section 8.2(a) or Section 8.3(a), as the case may be, exceeds \$14,000 (the “Threshold”); provided, that if the aggregate amount of such Damages exceeds the Threshold, the Indemnifying Party shall be liable for all Damages from the first dollar. Notwithstanding anything to the contrary contained in this Agreement, the aggregate maximum indemnifiable liability of any Indemnifying Party pursuant to Sections 8.2(a) or 8.3(a), as the case may be, shall be limited to \$210,000 (the “Cap”); provided, however, that the Cap shall not apply to breaches of Core Representations or fraud; provided, further, that the cumulative indemnification obligation of Seller under Section 8.3(a) shall in no event exceed the Purchase Price. For the avoidance of doubt, the maximum amounts payable under any clause of this Section 8.5(a) shall be reduced by any amount previously paid under Section 8.2(a) of this Agreement, or under Section 8.3(a) of this Agreement, in the aggregate, as applicable.

(b) Notwithstanding anything herein to the contrary, payments by the Indemnifying Party pursuant to Section 8.2 or 8.3 shall be limited to the amount of Damages, if any, that remain after deducting therefrom any insurance proceeds actually recovered by the Indemnified Parties from any third party with respect thereto, reduced by any costs directly associated with recovery and any increase in any insurance related premiums as a result of any insurance claim related to such Damages.

(c) Absent fraud, no claim for indemnification or cause of action arising under or resulting from this Agreement, any other Operative Agreement or any of the Transactions may be asserted by any Indemnified Party against Seller or Purchaser, respectively, for punitive damages or any damages that are not reasonably foreseeable, unless and only to the extent such damages are actually payable by the Indemnified Party to a third party.

(d) Notwithstanding any other provision of this Agreement, Purchaser and Seller acknowledge that the obligation of Seller and Purchaser, as the case may be, to provide indemnification for Damages arising out of Section 8.2 or 8.3 extends only to the Purchaser Indemnified Parties or the Seller Indemnified Parties, as the case may be, and that neither Seller nor Purchaser shall be obligated to provide such indemnification to any other Persons.

(e) The Indemnifying Party and the Indemnified Party shall use their respective commercially reasonable efforts with respect to resolving any Liability or minimizing Damages with respect to which an Indemnifying Party is obligated to indemnify an Indemnified Party to this Article VIII; provided, however, that no Person is required to pursue or attempt to recover any insurance proceeds.

(f) For purposes of this Article VIII, in determining the amount of Damages arising out of, relating to or resulting from, directly or indirectly, a breach of a representation or warranty in this Agreement or in any Operative Agreement (or any proceeding arising out of, relating to or resulting from such a breach), any materiality, Material Adverse Effect or other similar qualification contained in or otherwise applicable to such representation or warranty will be ignored and each such representation and warranty will be read and interpreted without regard to any such qualification.

8.6 Treatment of Indemnity Benefits. All payments made by Seller or Purchaser, as the case may be, to or for the benefit of the other pursuant to any indemnification obligations under this Agreement shall be treated as adjustments to the Purchase Price for Tax purposes and such agreed treatment shall govern for purposes of this Agreement.

8.7 Escrow Recovery. Any Damages payable to a Purchaser Indemnified Party pursuant to this Article VIII shall be satisfied (a) first from the Indemnity Escrow, and (b) to the extent the amount of Damages exceeds the amounts available to the Purchaser Indemnified Party in the Indemnity Escrow, directly from Seller. Disbursements from the Indemnity Escrow will occur pursuant to the terms of this Agreement and the Escrow Agreement.

8.8 Exclusive Remedy. Absent fraud, the parties hereto hereby acknowledge and agree that the sole and exclusive remedy of Purchaser Indemnified Parties and the Seller Indemnified Parties, as the case may be, from and after the Closing with respect to Damages and any and all claims for any breach or liability under this Agreement (except as specifically provided in any other Operative Agreement) shall be solely in accordance with, and limited by, the indemnification provisions set forth in this Article VIII. Nothing in this Section 8.8 shall limit any Person's right to seek and obtain any equitable relief to which any Person shall be entitled or to seek any remedy on account of any party's fraud.

## **ARTICLE IX TERMINATION**

### **9.1 Termination.**

(a) This Agreement may be terminated prior to Closing by either Purchaser or Seller upon written notice to the other following the occurrence of any of the following:

(i) by Purchaser or Seller, if the other party is in material breach or default of this Agreement or does not perform in all material respects the obligations to be performed by it under this Agreement on or prior to the Closing Date and such breach or failure to perform (a) would give rise to the failure of a condition set forth in Section 7.1(a) or Section 7.1(b) (in the case of a breach or default by Seller) or Section 7.2(a) or Section 7.2(b) (in the case of a breach or default by Purchaser), if such breach or failure to perform had occurred at the time scheduled for Closing and (b) such breach has not been substantially cured as set forth in Section 9.1(d);

(ii) by Purchaser or Seller, if there shall be any Law that prohibits consummation of the Transactions or if a Governmental Authority of competent jurisdiction shall have issued a final, nonappealable Governmental Order enjoining or otherwise prohibiting consummation of the Transactions; or

(iii) by Purchaser or Seller, if the Closing has not occurred on or prior to the date that is twelve (12) months from the date of this Agreement (the "Upset Date").

(b) This Agreement may be terminated prior to Closing by mutual written consent of Purchaser and Seller.

(c) If applicable, this Agreement may be terminated prior to Closing by Purchaser pursuant to Section 6.9.

(d) If either party asserts that the other is in material breach or default of this Agreement in a manner that would entitle such party the right to terminate under Section 9.1(a)(i), the non-defaulting party shall, prior to exercising its right to terminate under Section 9.1(a)(i), provide the defaulting party with written notice specifying in reasonable detail the nature of such breach or default. Except for a failure to pay the Purchase Price or otherwise perform any obligations to be performed at the time scheduled for Closing (to which the cure period described hereinafter shall not apply), the defaulting party shall have thirty (30) days from receipt of such notice to cure such default; provided, however, that if the breach or default is incapable of cure within such thirty (30)-day period, the cure period shall be extended as long as the defaulting party is diligently and in good faith attempting to effectuate a cure and there is a reasonable likelihood that a cure will be achieved. Nothing in this Section 9.1(d) shall be interpreted to extend the Upset Date.

(e) Each party agrees to take such action as is necessary or desirable to effectuate the payment of the Escrow Deposit and all interest or earnings thereon as set forth in this Section 9.1, including promptly providing to the Escrow Agent written instructions related to the payment thereof in the manner set forth in the Escrow Agreement.

9.2 Effect of Termination. In the event of a valid termination of this Agreement pursuant to Section 9.1, (i) this Agreement (other than Section 6.3, this Article IX and Article X each of which shall remain in full force and effect) shall forthwith become null and void; (ii) no party hereto (nor any of their respective Affiliates nor any of such party's or any of such Affiliates, directors, officers, shareholders or employees) shall have any Liability or further obligation, except as provided in this Article IX; provided, however, that nothing in this Section 9.2 shall (subject to the limitations in Section 9.1(e)) relieve any party from Liability for any breach of this Agreement prior to termination. Notwithstanding anything to the contrary herein, in no event shall either party be permitted to terminate this Agreement after the Closing.

9.3 Specific Performance. The Parties agree that irreparable damage would occur if any provision of this Agreement were not performed in accordance with the terms hereof and that the Parties shall be entitled to specific performance of the terms hereof, in addition to any other remedy to which they are entitled at law or in equity.

## ARTICLE X MISCELLANEOUS

10.1 Notices. All notices, requests, demands, claims and other communications that are required or may be given pursuant to this Agreement must be in writing and delivered personally against written receipt, by a nationally recognized overnight delivery service, by email or other electronic transmission or by registered or certified mail, return receipt requested, postage prepaid, to the parties at the following addresses (or to the attention of such other Person or such other address as any party may provide to the other parties by notice in accordance with this Section 10.1):



if to Seller, to:

J. F. Broadcasting, LLC  
2424 South Plaza Drive  
Rapid City, South Dakota 57702  
Attention: James F. Simpson  
Email: jsimpson@newscenter1.com

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

Baker & Hostetler LLP  
1050 Connecticut Avenue, NW  
Suite 1100  
Washington, DC 20036  
Attention: Daniel Kirkpatrick  
Email: dkirkpatrick@bakerlaw.com

if to Purchaser, to:

Forum Communications Company  
101 Fifth Street North  
Fargo, North Dakota 58102  
Attention: Bill Rouse  
Email: brouse@forumcom.com

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

Faegre Drinker Biddle & Reath LLP  
2200 Wells Fargo Center  
90 South Seventh Street  
Minneapolis, Minnesota 55402  
Attention: Ryan R. Woessner  
Email: ryan.woessner@faegredrinker.com

Any such notice or other communication will be deemed to have been given if: (i) personally delivered, when so delivered, against written receipt; (ii) sent by a nationally recognized overnight delivery service when so delivered against written receipt, (iii) sent by email when so delivered and the appropriate confirmation is received; or (iv) mailed by registered or certified mail, return receipt requested, postage prepaid and addressed to the intended recipient as set forth above, when so delivered against written receipt. Any notice, request, demand, claim or other communication given hereunder using any other means (including ordinary mail or electronic mail) shall not be deemed to have been duly given unless and until such notice, request, demand, claim or other communication is actually received by the individual for whom it is intended.

10.2 Assignment. Neither this Agreement nor any of the rights, interests or obligations hereunder may be assigned or delegated by Seller or Purchaser without the prior written consent of the other parties and any purported assignment or delegation in violation hereof shall be null and void (except for assignments and transfers by operation of Law); provided, that Purchaser may by written notice to Seller, but without consent of Seller, assign all or any part of its rights and obligations hereunder to one or more Affiliate(s) of Purchaser and Purchaser may assign its rights hereunder in whole or in part as security for any financing of the transactions contemplated hereby, provided, that, in either case, any such assignment does not delay the processing of the FCC Application, the grant of the FCC Consent or the Closing or conflict with any FCC rules or policies; and provided further, that Purchaser shall not be relieved of any Liability pursuant to this Agreement in connection with such assignment. The terms of this Agreement shall bind and inure to the benefit of the parties' respective successors and permitted assigns.

10.3 Amendments and Waiver; Exclusive Remedies. This Agreement may not be modified or amended except in writing signed by the party or parties against whom enforcement is sought. The terms of this Agreement may be waived only by a written instrument signed by the party or parties waiving compliance. No waiver of any provision of this Agreement shall be deemed or shall

constitute a waiver of any other provision hereof (whether or not similar), nor shall such waiver constitute a continuing waiver unless otherwise provided. No delay on the part of any party hereto in exercising any right, power or privilege hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any right, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, power or privilege hereunder. Whenever this Agreement requires or permits consent by or on behalf of a party, such consent shall be given in writing in a manner consistent with the requirements for a waiver of compliance as set forth in this Section 10.3. The rights and remedies herein provided shall be the exclusive rights and remedies available to the parties hereto at law or in equity.

10.4 Entire Agreement. This Agreement and the related documents contained as Exhibits and Schedules hereto or expressly contemplated hereby (including the Operative Agreements), together with the Confidentiality Agreement incorporated herein, contain the entire understanding of the parties relating to the subject matter hereof and supersede all prior written or oral and all contemporaneous oral agreements and understandings relating to the subject matter hereof. The Exhibits and Schedules to this Agreement are hereby incorporated by reference into and made a part of this Agreement for all purposes. In the event of any inconsistency between the statements in the body of this Agreement and those in the other Operative Agreements, the Exhibits and Schedules (other than an exception expressly set forth as such in the Schedules), the statements in the body of this Agreement will control.

10.5 No Third Party Beneficiary. This Agreement is made for the sole benefit of the parties hereto, and their respective successors, executors and permitted assigns, and nothing contained herein, express or implied, is intended to or shall confer upon any other Person any third party beneficiary right or any other legal or equitable rights, benefits or remedies of any nature whatsoever under or by reason of this Agreement (except to the extent that certain third parties are expressly covered by the indemnity herein).

10.6 Governing Law. This Agreement will be governed by and construed and interpreted in accordance with the substantive Laws of the State of South Dakota, without giving effect to any conflicts of Law, rule or principle that might require the application of the Laws of another jurisdiction.

10.7 Neutral Construction. The parties to this Agreement agree that this Agreement was negotiated fairly between them at arms' length and that the final terms of this Agreement are the product of the parties' negotiations. Each party represents and warrants that it has sought and received legal counsel of its own choosing with regard to the contents of this Agreement and the rights and obligations affected hereby. The parties agree that this Agreement shall be deemed to have been jointly and equally drafted by them, and that the provisions of this Agreement therefore should not be construed against a party or parties on the grounds that the party or parties drafted or was more responsible for drafting the provision(s).

10.8 Severability. It is the desire and intent of the parties that the provisions of this Agreement be enforced to the fullest extent permissible under the Laws and public policies applied in each jurisdiction in which enforcement is sought. Accordingly, if any particular provision of this Agreement shall be adjudicated by a court of competent jurisdiction to be invalid, prohibited or unenforceable for any reason, so long as the economic or legal substance of the Transactions is not

affected in any manner materially adverse to any party, such provision, as to such jurisdiction, shall be ineffective, without invalidating the remaining provisions of this Agreement or affecting the validity or enforceability of this Agreement or affecting the validity or enforceability of such provision in any other jurisdiction. Notwithstanding the foregoing, so long as the economic or legal substance of the Transactions is not affected in any manner materially adverse to any party, if such provision could be more narrowly drawn so as not to be invalid, prohibited or unenforceable in such jurisdiction, it shall, as to such jurisdiction, be so narrowly drawn, without invalidating the remaining provisions of this Agreement or affecting the validity or enforceability of such provision in any other jurisdiction. Upon such determination that any term or other provision is invalid, illegal or incapable of being enforced in any manner materially adverse to any party and that such provision cannot be narrowly drawn, the parties shall negotiate in good faith to modify this Agreement so as to effect the original intent of the parties as closely as possible in a mutually acceptable manner in order that the Transactions be consummated as originally contemplated to the fullest extent possible.

10.9 Heading; Interpretation; Schedules and Exhibits. This Agreement has been negotiated by Purchaser, Seller and their respective legal counsel, and legal or equitable principles that might require the construction of this Agreement or any provision of this Agreement against the party drafting this Agreement shall not apply in any construction or interpretation of this Agreement. In this Agreement: (a) the words “hereof,” “herein,” “hereto,” “hereunder,” and words of similar import may refer to this Agreement as a whole and not merely to a specific section, paragraph, or clause in which the respective word appears; (b) words used herein, regardless of the gender specifically used, shall be deemed and construed to include any other gender, masculine, feminine or neuter, as the context requires; (c) any terms defined in this Agreement may, unless the context otherwise requires, be used in the singular or the plural depending on the reference; (d) unless otherwise stated, references to any Section, Article, Schedule or Exhibit are to such Section or Article of, or Schedule or Exhibit to, this Agreement; (e) the words “include”, “includes”, and “including” are deemed in each case to be followed by the words “without limitation”; and (f) the word “shall” denotes a directive and obligation, and not an option. Any reference to any federal, state, local or foreign statute or Law shall be deemed also to refer to all rules and regulations promulgated thereunder, unless the context requires otherwise. Disclosure of information included on any Schedule to this Agreement shall be considered disclosure of such information for all other Schedules, and shall so qualify the applicable representations and warranties to which such other Schedules relate, to the extent that it is reasonably apparent from the face of such disclosure that such disclosure is applicable to such other Schedule. In addition, (x) the fact that any disclosure on any Schedule is not required to be disclosed in order to render the applicable representation or warranty to which it relates true, or that the absence of such disclosure on any Schedule would not constitute a breach of such representation or warranty, shall not be deemed or construed to expand the scope of any representation or warranty hereunder or to establish a standard of disclosure in respect of any representation or warranty, and (y) disclosure of a particular matter on any Schedule shall not be construed to mean that such matter is material .

10.10 Consent to Jurisdiction. EACH PARTY HERETO CONSENTS TO THE EXCLUSIVE JURISDICTION OF THE COURTS OF THE STATE OF SOUTH DAKOTA, OR IF IT HAS OR CAN ACQUIRE JURISDICTION, IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF SOUTH DAKOTA, AND IRREVOCABLY AGREES THAT ALL ACTIONS OR PROCEEDINGS RELATING TO THIS AGREEMENT, ANY AGREEMENT DELIVERED IN CONNECTION HEREWITH OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY MAY BE LITIGATED IN SUCH COURTS. EACH PARTY HERETO

ACCEPTS FOR ITSELF AND IN CONNECTION WITH ITS RESPECTIVE PROPERTIES, GENERALLY AND UNCONDITIONALLY, THE JURISDICTION OF SUCH COURTS AND WAIVES ANY DEFENSE OF FORUM NON CONVENIENS, AND IRREVOCABLY AGREES TO BE BOUND BY ANY JUDGMENT RENDERED THEREBY IN CONNECTION WITH THIS AGREEMENT, ANY AGREEMENT DELIVERED IN CONNECTION HERewith OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY. EACH PARTY HERETO IRREVOCABLY CONSENTS TO THE SERVICE OF PROCESS OUT OF ANY OF SUCH COURTS IN ANY SUCH ACTION OR PROCEEDING BY THE MAILING OF COPIES THEREOF BY REGISTERED OR CERTIFIED MAIL, POSTAGE PREPAID, TO SUCH PARTY AT THE ADDRESS SPECIFIED IN THIS AGREEMENT, SUCH SERVICE TO BECOME EFFECTIVE FIFTEEN (15) CALENDAR DAYS AFTER SUCH MAILING. NOTHING HEREIN SHALL IN ANY WAY BE DEEMED TO LIMIT THE ABILITY OF ANY PARTY HERETO TO SERVE ANY SUCH LEGAL PROCESS, SUMMONS, NOTICES AND DOCUMENTS IN ANY OTHER MANNER PERMITTED BY APPLICABLE LAW.

10.11 Waiver of Jury Trial. EACH PARTY ACKNOWLEDGES AND AGREES THAT ANY CONTROVERSY WHICH MAY ARISE UNDER THIS AGREEMENT IS LIKELY TO INVOLVE COMPLICATED AND DIFFICULT ISSUES, AND THEREFORE IT HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVES ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT AND ANY OF THE AGREEMENTS DELIVERED IN CONNECTION HERewith OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY. EACH PARTY CERTIFIES AND ACKNOWLEDGES THAT (A) NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE SUCH WAIVER, (B) IT UNDERSTANDS AND HAS CONSIDERED THE IMPLICATIONS OF SUCH WAIVER, (C) IT MAKES SUCH WAIVER VOLUNTARILY, AND (D) IT HAS BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION 10.11.

10.12 Counterparts. This Agreement may be executed and delivered (including by electronic transmission) in one or more counterparts, and by the different parties hereto in separate counterparts, each of which when executed shall be deemed to be an original, but all of which taken together shall constitute one and the same agreement.

*[Signature Page Follows]*

**IN WITNESS WHEREOF**, each of the parties hereto has caused this Agreement to be executed by a duly authorized officer as of the date first above written.

**SELLER:**

**J. F. BROADCASTING, LLC**

By: James F. Simpson  
Name: James F. Simpson  
Title: Sole Managing Member

**PURCHASER:**

**FORUM COMMUNICATIONS COMPANY**

By: \_\_\_\_\_  
Name: Bill Rouse  
Title: Chief Operating Officer

**IN WITNESS WHEREOF**, each of the parties hereto has caused this Agreement to be executed by a duly authorized officer as of the date first above written.

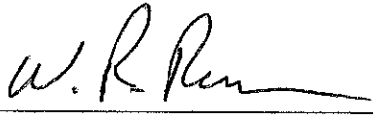
**SELLER:**

**J. F. BROADCASTING, LLC**

By: \_\_\_\_\_  
Name: James F. Simpson  
Title: Sole Managing Member

**PURCHASER:**

**FORUM COMMUNICATIONS COMPANY**

By:  \_\_\_\_\_  
Name: Bill Rouse  
Title: Chief Operating Officer

## Exhibit G

### Antenna Lease Term Sheet

Summary Proposal Term Sheet for Antenna Sharing Agreement between JF Broadcasting and Forum.

- Background
  - KCWS-LD and KAUN-LD both operate from a shared antenna owned by JF.
  - JF will be selling the KCWS-LD FCC license and transmitter to Forum, but retaining the KAUN-LD license, transmitter, antenna, and combiner.
  - The antenna and transmitters are housed on the roof of the Sanford Hospital in downtown Sioux Falls pursuant to an informal, undocumented lease arrangement.
- Terms of Lease
  - JF will continue to own the antenna, and lease to Forum the right to use the antenna and combiner for a rental fee of \$100 per month (the “Antenna Rental Fee”).
  - Each party will own its own transmitter.
  - Each party will pay one half of routine utility costs and monthly rent to Sanford Health, in addition to Forum’s payment of the Antenna Rental Fee (Forum to reimburse JF within 30 days of presentation of bill; current rent)
  - JF will continue to pay rent to Sanford Health.
  - Existing informal agreement with Sanford Health will continue without formalized agreement; if formal agreement is entered into with Sanford Health, the parties will work in good faith to ensure that Forum is added as sublessee.
  - Forum will be allowed to continue to maintain transmitter in current location.
  - Neither party will interfere with the other party’s operation.
  - Both parties will maintain operation in compliance with their FCC licenses and will be solely responsible for its own compliance.
  - In the event Forum requires access to transmitter and antenna space, will provide reasonable advance notice to JF, and JF will work in good faith to coordinate access.
  - Each party will reduce power or suspend operation if necessary to protect workers from RF exposure.
  - Parties will cooperate regarding any required modifications to the facility.
  - No consequential, incidental damages to either party based on breach.
  - Termination clauses
    - Either party may terminate upon destruction of antenna or loss of FCC license.
    - Either party may terminate on 90 days written notice.
    - Lease will terminate on termination of underlying lease with Sanford Health.

JF retains ownership of antenna upon termination.

Exhibit H

Membership Interest Purchase Agreement

*See attached.*



## **MEMBERSHIP INTEREST PURCHASE AGREEMENT**

This Membership Interest Purchase Agreement (this “**Agreement**”), dated as of [●], is entered into by and between J. F. Broadcasting, LLC, a South Dakota limited liability company (“**Seller**”), and Forum Communications Company, a North Dakota corporation (“**Purchaser**”).

### **RECITALS**

**WHEREAS**, Seller and Purchaser are parties to that certain Asset Purchase Agreement dated as of November [●], 2022 (the “**APA**”), whereby Purchaser desires to purchase from Seller, and Seller desires to sell to Purchaser, all assets owned, used, or held for use in the operation of the Stations (as defined therein) (collectively, the “**Transaction**”);

**WHEREAS**, Seller owns 100% of the membership interests (the “**Membership Interests**”) of Four Bridges LLC, a South Dakota limited liability company (the “**Company**”), which represents 100% of the issued and outstanding membership interests of the Company;

**WHEREAS**, the Company’s sole asset is a 50% membership interest (the “**Granite Tower Interest**”) in Granite Tower Company LLC, a South Dakota limited liability company (“**Granite Tower**”), which owns the real estate addressed as 48178 268<sup>th</sup> Street, Brandon, South Dakota 57005, upon which the Stations’ tower sits (the “**Tower Site**”); and

**WHEREAS**, as a condition to close the Transaction, Seller has agreed to sell to Purchaser, and Purchaser has agreed to purchase from Seller, the Membership Interests, subject to the terms and conditions set forth herein.

**NOW, THEREFORE**, in consideration of the mutual covenants and agreements hereinafter set forth and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

### **ARTICLE I PURCHASE AND SALE**

**Section 1.01 Purchase and Sale.** Subject to the terms and conditions set forth herein, at the Closing (as defined herein), Seller shall sell to Purchaser, and Purchaser shall purchase from Seller, all of Seller’s right, title and interest in and to the Membership Interests, free and clear of any mortgage, pledge, lien, charge, security interest, claim or other encumbrance (“**Encumbrance**”), for the consideration specified in Section 1.02.

**Section 1.02 Purchase Price.** The aggregate purchase price for the Membership Interests shall be \$1.00 (the “**Purchase Price**”). Purchaser shall pay the Purchase Price to Seller at the Closing in cash, by wire transfer of immediately available funds in accordance with the wire transfer instructions provided by Seller in writing.

**Section 1.03 Closing** The closing of the transactions contemplated by this Agreement (the “**Closing**”) shall take place simultaneously with the execution of this Agreement on the date of this Agreement (the “**Closing Date**”) remotely by exchange of documents and signatures (or

their electronic counterparts). The consummation of the transactions contemplated by this Agreement shall be deemed to be effective as of 12:01 a.m., local Sioux City, South Dakota time, on the Closing Date.

**Section 1.04 Transfer Taxes.** Purchaser and Seller shall each pay one half (1/2) of all sales, use or transfer taxes, documentary charges, recording fees or similar taxes, charges, fees or expenses, if any, that become due and payable as a result of the transactions contemplated by this Agreement.

## **ARTICLE II REPRESENTATIONS AND WARRANTIES OF SELLER**

Seller represents and warrants to Purchaser that the statements contained in this ARTICLE II are true and correct as of the date hereof. For purposes of this ARTICLE II, “Seller’s knowledge,” “knowledge of Seller” and any similar phrases shall mean the actual knowledge of such matter by the named individuals listed in Schedule 1.1(bb) to the APA, including, but not limited to, the Station’s General Manager and Chief Engineer after reasonable due inquiry.

**Section 2.01 Organization and Authority of Seller; Enforceability.** Seller is a limited liability company duly organized, validly existing and in good standing under the laws of the state of South Dakota. Seller has full limited liability company power and authority to enter into this Agreement and the documents to be delivered hereunder, to carry out its obligations hereunder and to consummate the transactions contemplated hereby. The execution, delivery and performance by Seller of this Agreement and the documents to be delivered hereunder and the consummation of the transactions contemplated hereby have been duly authorized by all requisite limited liability company action on the part of Seller. This Agreement and the documents to be delivered hereunder have been duly executed and delivered by Seller, and (assuming due authorization, execution and delivery by Purchaser) this Agreement and the documents to be delivered hereunder constitute legal, valid and binding obligations of Seller, enforceable against Seller in accordance with their respective terms.

**Section 2.02 No Conflicts; Consents.** The execution, delivery and performance by Seller of this Agreement and the documents to be delivered hereunder, and the consummation of the transactions contemplated hereby, do not and will not: (a) violate or conflict with the certificate of formation, operating agreement, or other organizational documents of Seller; (b) violate or conflict with any judgment, order, decree, statute, law, ordinance, rule or regulation applicable to Seller; (c) conflict with, or result in (with or without notice or lapse of time or both) any violation of, or default under, or give rise to a right of termination, acceleration or modification of any obligation or loss of any benefit under any contract or other instrument to which Seller is a party; (d) result in any violation, conflict with or constitute a default under the Company’s organizational documents or the Declaration of Operating Agreement of the Company, dated September 8, 2008 (as may be amended, restated or modified from time to time, the “**LLC Agreement**”); or (e) result in the creation or imposition of any Encumbrance on the

Membership Interests. Except as disclosed in Schedule 7.1(g) to the APA, no consent, approval, waiver or authorization is required to be obtained by Seller from any person or entity (including any governmental authority) in connection with the execution, delivery and performance by Seller of this Agreement and the consummation of the transactions contemplated hereby.

**Section 2.03 Legal Proceedings.** There is no claim, action, suit, proceeding or governmental investigation (“**Action**”) of any nature pending or, to Seller’s knowledge, threatened against or by Seller (a) relating to or affecting the Membership Interests; or (b) that challenges or seeks to prevent, enjoin or otherwise delay the transactions contemplated by this Agreement. No event has occurred or circumstances exist that may give rise to, or serve as a basis for, any such Action.

**Section 2.04 Financial Interests.** Except for the Granite Tower Interest, the Company owns no assets and has no liabilities.

**Section 2.05 Ownership of Membership Interests.**

(a) Seller is the sole legal, beneficial, record and equitable owner of the Membership Interests, free and clear of all Encumbrances whatsoever.

(b) The Membership Interests were issued in compliance with applicable laws. The Membership Interests were not issued in violation of the organizational documents of the Company or any other agreement, arrangement or commitment to which Seller or the Company is a party and are not subject to or in violation of any preemptive or similar rights of any Person.

(c) Other than the organizational documents of the Company, there are no voting trusts, proxies or other agreements or understandings in effect with respect to the voting or transfer of any of the Membership Interests.

**Section 2.06 LLC Agreement.** Seller has delivered a true, correct and complete copy of the LLC Agreement to the Purchaser, which agreement is in full force and effect and is the only agreement in effect with respect to the matters described therein.

**Section 2.07 Brokers.** Except as set forth in the APA, no broker, finder or investment banker is entitled to any brokerage, finder's or other fee or commission in connection with the transactions contemplated by this Agreement based upon arrangements made by or on behalf of Seller.

**Section 2.08 Non-Foreign Status.** Seller is not a foreign person as defined in Treasury Regulations Section 1.1446(f)-1(b)(4) or Section 1.1445-2.

**Section 2.09 No Subsidiaries.** The Company does not own or have any capital stock or other equity interests in any other person or entity (including any governmental authority), or the right or obligation to acquire any capital stock or equity interests in any other person or entity (including any governmental authority).

**Section 2.10 Taxes.** To Seller's Knowledge, (a) all tax returns (including information returns) required to be filed on or before the Closing Date by the Company have been timely filed, (b) all such tax returns are true, complete and correct in all respects, (c) all taxes due and owing by the Company (whether or not shown on any tax return) have been timely paid, (d) all deficiencies asserted, or assessments made, against the Company as a result of any examinations by any taxing authority have been fully paid, and (e) there are no pending or threatened actions by any taxing authority.

**Section 2.11 Compliance with Laws.** The Company has complied, and is now complying, with all laws applicable to it or its business, properties or assets.

**Section 2.12 Books and Records.** The minute books of the Company have been made available to Purchaser, are complete and correct, and have been maintained in accordance with sound business practices. The minute books of the Company contain accurate and complete records of all meetings, and actions taken by written consent of, the members and the managers, and no meeting, or action taken by written consent, of any such members or managers has been held for which minutes have not been prepared and are not contained in such minute books. At the Closing, all of those books and records will be in the possession of the Company.

**Section 2.13 Real Property.** Schedules 4.10(a) and (b) to the APA lists (a) the street address of each parcel of the real property owned, leased or subleased by the Company, together with all buildings, structures and facilities located thereon (the "**Real Property**"); (b) if such property is leased or subleased to the Company, the landlord under the lease; and (c) the current use of such property. With respect to owned Real Property, Seller has delivered or made available to Purchaser true, complete and correct copies of the deeds and other instruments (as recorded) by which the Company acquired such Real Property, and copies of all title insurance policies, opinions, abstracts and surveys in the possession of Seller or the Company and relating to the Real Property. Except as set forth on Schedules 4.10(a) and (b) to the APA, the Company is not a lessor, sublessor or grantor under any lease, sublease or other instrument granting to any other person or entity (including any governmental authority) any right to the possession, lease, occupancy, or enjoyment of any Real Property. With respect to Real Property leased to or by the Company, Seller has delivered or made available to Purchaser true, complete and correct copies of any leases or subleases affecting the Real Property. The use and operation of the Real Property in the conduct of the Company's business do not violate in any material respect any law, covenant, condition, restriction, easement, license, permit or agreement. No material improvements constituting a part of the Real Property encroach on real property owned or leased by a person or entity (including any governmental authority) other than the Company. There are no Actions pending nor, to the Seller's Knowledge, threatened against or affecting the Real Property or any portion thereof or interest therein in the nature or in lieu of condemnation or eminent domain proceedings.

**Section 2.14 Title to Assets.** The Company has good and valid (and, in the case of owned Real Property, good and marketable fee simple) title to, or a valid leasehold interest in, all Real Property and personal property and other assets reflected in the Financial Statements or acquired after September 30, 2022. All such properties and assets (including leasehold interests) are free and clear of Encumbrances.

**Section 2.15 No Other Representations or Warranties.** Except for the representations and warranties contained in this ARTICLE II, neither Seller nor any member, director, officer, employee or agent of Seller has made or makes any other express or implied representation or warranty, either written or oral, on behalf of Seller.

### **ARTICLE III REPRESENTATIONS AND WARRANTIES OF PURCHASER**

Purchaser represents and warrants to Seller that the statements contained in this ARTICLE III are true and correct as of the date hereof. For purposes of this ARTICLE III, “Purchaser’s knowledge,” “knowledge of Purchaser” and any similar phrases shall mean the actual or constructive knowledge of any director or officer of Purchaser, after reasonable due inquiry.

**Section 3.01 Organization and Authority of Purchaser; Enforceability.** Purchaser is a corporation duly organized, validly existing and in good standing under the laws of the state of North Dakota. Purchaser has full corporate power and authority to enter into this Agreement and the documents to be delivered hereunder, to carry out its obligations hereunder and to consummate the transactions contemplated hereby. The execution, delivery and performance by Purchaser of this Agreement and the documents to be delivered hereunder and the consummation of the transactions contemplated hereby have been duly authorized by all requisite corporate action on the part of Purchaser. This Agreement and the documents to be delivered hereunder have been duly executed and delivered by Purchaser, and (assuming due authorization, execution and delivery by Seller) this Agreement and the documents to be delivered hereunder constitute legal, valid and binding obligations of Purchaser enforceable against Purchaser in accordance with their respective terms.

**Section 3.02 No Conflicts; Consents.** The execution, delivery and performance by Purchaser of this Agreement and the documents to be delivered hereunder, and the consummation of the transactions contemplated hereby, do not and will not: (a) violate or conflict with the articles of incorporation, bylaws or other organizational documents of Purchaser; or (b) violate or conflict with any judgment, order, decree, statute, law, ordinance, rule or regulation applicable to Purchaser. No consent, approval, waiver or authorization is required to be obtained by Purchaser from any person or entity (including any governmental authority) in connection with the execution, delivery and performance by Purchaser of this Agreement and the consummation of the transactions contemplated hereby.

**Section 3.03 Brokers.** No broker, finder or investment banker is entitled to any brokerage, finder's or other fee or commission in connection with the transactions contemplated by this Agreement based upon arrangements made by or on behalf of Purchaser.

**Section 3.04 Legal Proceedings.** There is no Action pending or, to Purchaser's knowledge, threatened against or by Purchaser or any Affiliate of Purchaser that challenges or seeks to prevent, enjoin or otherwise delay the transactions contemplated by this Agreement. No event has occurred or circumstances exist that may give rise or serve as a basis for any such Action.

## **ARTICLE IV CLOSING DELIVERIES**

**Section 4.01 Seller's Deliveries.** At the Closing, Seller shall deliver to Purchaser the following:

(a) A resignation letter from (i) James Simpson as (A) an officer, manager and managing member of the Company and (B) as an officer and manager, as applicable, of Granite Tower, and (ii) any other representatives of Seller serving as an officer or manager of the Company or Granite Tower, as applicable, effective as of the Closing and duly executed by each such individual.

(b) A certificate of the Secretary or Assistant Secretary (or equivalent officer) of Seller certifying as to the resolutions of the board of managers (or equivalent managing body) of Seller, duly adopted and in effect, which authorize the execution, delivery and performance of this Agreement and the transactions contemplated hereby.

(c) A certification meeting the requirements of Treasury Regulations Section 1.1446(f)-2(b)(2) and Treasury Regulations Section 1.1445-2(b) to the effect that Seller is not a foreign person within the meaning of Section 1446(f) or Section 1445 of the Internal Revenue Code of 1986, as amended ("**Code**"), duly executed by the Seller and in form and substance reasonably satisfactory to the Purchaser.

(d) A good standing certificate (or its equivalent) for the Company from the secretary of state of the state of South Dakota dated as of a date within five days before the Closing.

(e) A certificate representing the Granite Tower Interest, duly endorsed for transfer, or accompanied by transfer powers duly endorsed in blank.

(f) A certificate representing the Membership Interests, if such interests are certificated, along with an assignment of the Membership Interests to Purchaser, duly executed by the Seller and in form and substance reasonably satisfactory to the Purchaser.

(g) Evidence of termination, effective as of the Closing, of each of the subleases for the Tower Site between Seller and the Company listed on Schedule 4.10(b) of the APA.

(h) Written evidence of the release of all Encumbrances relating to the Membership Interests, in form reasonably satisfactory to Purchaser.

(i) Such other documents as Purchaser may reasonably request in order to effectuate the transactions contemplated hereby.

**Section 4.02 Purchaser's Deliveries.** At the Closing, Purchaser shall deliver to Seller the following:

(a) The Purchase Price.

(b) Such other documents as Seller may reasonably request in order to effectuate the transactions contemplated hereby.

## **ARTICLE V TAX MATTERS**

**Section 5.01 Allocation of Company Income and Loss.** Purchaser and Seller shall request that the Company allocate all items of Company income, gain, loss, deduction, or credit attributable to the Membership Interests for the taxable year of the Closing based on a closing of the Company's books as of the Closing Date.

## **ARTICLE VI INDEMNIFICATION**

**Section 6.01 Survival of Representations and Covenants.** All representations, warranties, covenants and agreements contained herein and all related rights to indemnification shall survive the Closing for a period of one year following the Closing.

**Section 6.02 Indemnification By Seller.** Subject to the other terms and conditions of this ARTICLE VI, Seller shall defend, indemnify and hold harmless Purchaser, its affiliates and their respective stockholders, directors, officers and employees from and against:

(a) all claims, judgments, damages, liabilities, settlements, losses, costs and expenses, including attorneys' fees and disbursements (a "**Loss**"), arising from or relating to any inaccuracy in or breach of any of the representations or warranties of Seller contained in this Agreement or any document to be delivered hereunder;

(b) any Loss arising from or relating to any breach or non-fulfillment of any covenant, agreement or obligation to be performed by Seller pursuant to this Agreement or any document to be delivered hereunder; or

(c) the amount of any imputed underpayment (as described in Section 6225 of the Code) imposed on the Company and allocable to the Seller or attributable to the Membership Interests during taxable years, or portions thereof, when the Seller owned the Membership Interests (the “**Seller Ownership Period**”), or any other income tax assessment imposed on the Company under any similar provision of state or local law and allocable to the Seller or attributable to the Membership Interests during the Seller Ownership Period.

**Section 6.03 Indemnification By Purchaser.** Subject to the other terms and conditions of this ARTICLE VI, Purchaser shall defend, indemnify and hold harmless Seller, its affiliates and their respective members, managers, officers and employees from and against all Losses arising from or relating to:

(a) any inaccuracy in or breach of any of the representations or warranties of Purchaser contained in this Agreement or any document to be delivered hereunder; or

(b) any breach or non-fulfillment of any covenant, agreement or obligation to be performed by Purchaser pursuant to this Agreement or any document to be delivered hereunder.

**Section 6.04 Indemnification Procedures.** Whenever any claim shall arise for indemnification hereunder, the party entitled to indemnification (the “**Indemnified Party**”) shall promptly provide written notice of such claim to the other party (the “**Indemnifying Party**”). In connection with any claim giving rise to indemnity hereunder resulting from or arising out of any Action by a person or entity who is not a party to this Agreement, the Indemnifying Party, at its sole cost and expense and upon written notice to the Indemnified Party, may assume the defense of any such Action with counsel reasonably satisfactory to the Indemnified Party. The Indemnified Party shall be entitled to participate in the defense of any such Action, with its counsel and at its own cost and expense. If the Indemnifying Party does not assume the defense of any such Action, the Indemnified Party may, but shall not be obligated to, defend against such Action in such manner as it may deem appropriate, including, but not limited to, settling such Action, after giving notice of it to the Indemnifying Party, on such terms as the Indemnified Party may deem appropriate and no action taken by the Indemnified Party in accordance with such defense and settlement shall relieve the Indemnifying Party of its indemnification obligations herein provided with respect to any damages resulting therefrom. The Indemnifying Party shall not settle any Action without the Indemnified Party’s prior written consent (which consent shall not be unreasonably withheld or delayed).

**Section 6.05 Payments.** Once a Loss is agreed to by the Indemnifying Party or finally adjudicated to be payable pursuant to this ARTICLE VI, the Indemnifying Party shall satisfy its obligations within 15 business days of such final, non-appealable adjudication by wire transfer of



immediately available funds. The parties hereto agree that should an Indemnifying Party not make full payment of any such obligations within such 15 business day period, any amount payable shall accrue interest from and including the date of agreement of the Indemnifying Party or final, non-appealable adjudication to and including the date such payment has been made at a rate per annum equal to prime rate published in the Wall Street Journal. Such interest shall be calculated daily on the basis of a 365-day year and the actual number of days elapsed.

**Section 6.06 Tax Treatment of Indemnification Payments.** All indemnification payments made under this Agreement shall be treated by the parties as an adjustment to the Purchase Price for Tax purposes, unless otherwise required by Law.

**Section 6.07 Effect of Investigation.** Purchaser's right to indemnification or other remedy based on the representations, warranties, covenants and agreements of Seller contained herein will not be affected by any investigation conducted by Purchaser with respect to, or any knowledge acquired by Purchaser at any time, with respect to the accuracy or inaccuracy of or compliance with, any such representation, warranty, covenant or agreement.

**Section 6.08 Cumulative Remedies.** The rights and remedies provided in this ARTICLE VI are cumulative and are in addition to and not in substitution for any other rights and remedies available at law or in equity or otherwise.

## **ARTICLE VII MISCELLANEOUS**

**Section 7.01 Expenses.** Except as otherwise provided in Section 1.04, all costs and expenses incurred in connection with this Agreement and the transactions contemplated hereby shall be paid by the party incurring such costs and expenses.

**Section 7.02 Further Assurances.** Following the Closing, each of the parties hereto shall, and shall cause their respective affiliates to, execute and deliver such additional documents, instruments, conveyances and assurances and take such further actions as may be reasonably required to carry out the provisions hereof and give effect to the transactions contemplated by this Agreement.

**Section 7.03 Notices.** All notices, requests, demands, claims and other communications that are required or may be given pursuant to this Agreement must be in writing and delivered personally against written receipt, by a nationally recognized overnight delivery service, by email or other electronic transmission or by registered or certified mail, return receipt requested, postage prepaid, to the parties at the following addresses (or to the attention of such other person or such other address as any party may provide to the other parties by notice in accordance with this Section 7.03):

if to Seller, to:  
J. F. Broadcasting, LLC  
2424 South Plaza Drive  
Rapid City, South Dakota 57702  
Attention: James F. Simpson  
Email: jsimpson@newscenter1.com

with a copy (which shall not constitute notice) to:  
Baker & Hostetler LLP  
1050 Connecticut Avenue, NW  
Suite 1100  
Washington, DC 20036  
Attention: Daniel Kirkpatrick  
Email: dkirkpatrick@bakerlaw.com

if to Purchaser, to:  
Forum Communications Company  
101 Fifth Street North  
Fargo, North Dakota 58102  
Attention: Bill Rouse  
Email: brouse@forumcom.com

with a copy (which shall not constitute notice) to:  
Faegre Drinker Biddle & Reath LLP  
2200 Wells Fargo Center  
90 South Seventh Street  
Minneapolis, Minnesota 55402  
Attention: Ryan R. Woessner  
Email: ryan.woessner@faegredrinker.com

Any such notice or other communication will be deemed to have been given if: (a) personally delivered, when so delivered, against written receipt; (b) sent by a nationally recognized overnight delivery service when so delivered against written receipt, (c) sent by email when so delivered and the appropriate confirmation is received; or (d) mailed by registered or certified mail, return receipt requested, postage prepaid and addressed to the intended recipient as set forth above, when so delivered against written receipt. Any notice, request, demand, claim or other communication given hereunder using any other means (including ordinary mail or electronic mail) shall not be deemed to have been duly given unless and until such notice, request, demand, claim or other communication is actually received by the individual for whom it is intended.

**Section 7.04 Headings.** The headings in this Agreement are for reference only and shall not affect the interpretation of this Agreement.

**Section 7.05 Severability.** If any term or provision of this Agreement is invalid, illegal or unenforceable in any jurisdiction, such invalidity, illegality or unenforceability shall not affect any other term or provision of this Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction. Upon such determination that any term or other provision is invalid, illegal or unenforceable, the parties hereto shall negotiate in good faith to modify the Agreement so as to effect the original intent of the parties as closely as possible in a mutually acceptable manner in order that the transactions contemplated hereby be consummated as originally contemplated to the greatest extent possible.

**Section 7.06 Entire Agreement.** This Agreement and the documents to be delivered hereunder, together with the APA, constitute the sole and entire agreement of the parties to this Agreement with respect to the subject matter contained herein, and supersede all prior and contemporaneous understandings and agreements, both written and oral, with respect to such subject matter. In the event of any inconsistency between the statements in the body of this

Agreement and those in documents to be delivered hereunder, the statements in the body of this Agreement will control.

**Section 7.07 Successors and Assigns.** This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and permitted assigns. Neither party may assign its rights or obligations hereunder without the prior written consent of the other party, which consent shall not be unreasonably withheld or delayed. No assignment shall relieve the assigning party of any of its obligations hereunder.

**Section 7.08 No Third-Party Beneficiaries.** Except as provided in ARTICLE VI, this Agreement is for the sole benefit of the parties hereto and their respective successors and permitted assigns and nothing herein, express or implied, is intended to or shall confer upon any other Person or entity any legal or equitable right, benefit or remedy of any nature whatsoever under or by reason of this Agreement.

**Section 7.09 Amendment and Modification.** This Agreement may only be amended, modified or supplemented by an agreement in writing signed by each party hereto.

**Section 7.10 Waiver.** No waiver by any party of any of the provisions hereof shall be effective unless explicitly set forth in writing and signed by the party so waiving. No waiver by any party shall operate or be construed as a waiver in respect of any failure, breach or default not expressly identified by such written waiver, whether of a similar or different character, and whether occurring before or after that waiver. No failure to exercise, or delay in exercising, any right, remedy, power or privilege arising from this Agreement shall operate or be construed as a waiver thereof; nor shall any single or partial exercise of any right, remedy, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege.

**Section 7.11 Governing Law.** This Agreement will be governed by and construed and interpreted in accordance with the substantive laws of the state of South Dakota, without giving effect to any conflicts of law, rule or principle that might require the application of the laws of another jurisdiction.

**Section 7.12 Submission to Jurisdiction.** EACH PARTY HERETO CONSENTS TO THE EXCLUSIVE JURISDICTION OF THE COURTS OF THE STATE OF SOUTH DAKOTA, OR IF IT HAS OR CAN ACQUIRE JURISDICTION, IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF SOUTH DAKOTA, AND IRREVOCABLY AGREES THAT ALL ACTIONS OR PROCEEDINGS RELATING TO THIS AGREEMENT, ANY AGREEMENT DELIVERED IN CONNECTION HERewith OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY MAY BE LITIGATED IN SUCH COURTS. EACH PARTY HERETO ACCEPTS FOR ITSELF AND IN CONNECTION WITH ITS RESPECTIVE PROPERTIES, GENERALLY AND UNCONDITIONALLY, THE JURISDICTION OF SUCH COURTS AND WAIVES ANY DEFENSE OF FORUM NON CONVENIENS, AND IRREVOCABLY AGREES TO BE BOUND BY ANY JUDGMENT RENDERED THEREBY IN CONNECTION WITH THIS AGREEMENT, ANY

AGREEMENT DELIVERED IN CONNECTION HERewith OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY. EACH PARTY HERETO IRREVOCABLY CONSENTS TO THE SERVICE OF PROCESS OUT OF ANY OF SUCH COURTS IN ANY SUCH ACTION OR PROCEEDING BY THE MAILING OF COPIES THEREOF BY REGISTERED OR CERTIFIED MAIL, POSTAGE PREPAID, TO SUCH PARTY AT THE ADDRESS SPECIFIED IN THIS AGREEMENT, SUCH SERVICE TO BECOME EFFECTIVE 15 CALENDAR DAYS AFTER SUCH MAILING. NOTHING HEREIN SHALL IN ANY WAY BE DEEMED TO LIMIT THE ABILITY OF ANY PARTY HERETO TO SERVE ANY SUCH LEGAL PROCESS, SUMMONS, NOTICES AND DOCUMENTS IN ANY OTHER MANNER PERMITTED BY APPLICABLE LAW.

**Section 7.13 Waiver of Jury Trial.** EACH PARTY ACKNOWLEDGES AND AGREES THAT ANY CONTROVERSY WHICH MAY ARISE UNDER THIS AGREEMENT IS LIKELY TO INVOLVE COMPLICATED AND DIFFICULT ISSUES, AND THEREFORE IT HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVES ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT AND ANY OF THE AGREEMENTS DELIVERED IN CONNECTION HERewith OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY. EACH PARTY CERTIFIES AND ACKNOWLEDGES THAT (A) NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE SUCH WAIVER, (B) IT UNDERSTANDS AND HAS CONSIDERED THE IMPLICATIONS OF SUCH WAIVER, (C) IT MAKES SUCH WAIVER VOLUNTARILY, AND (D) IT HAS BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION 7.13.

**Section 7.14 Specific Performance.** The parties agree that irreparable damage would occur if any provision of this Agreement were not performed in accordance with the terms hereof and that the parties shall be entitled to specific performance of the terms hereof, in addition to any other remedy to which they are entitled at law or in equity.

**Section 7.15 Counterparts.** This Agreement may be executed and delivered (including by electronic transmission) in one or more counterparts, and by the different parties hereto in separate counterparts, each of which when executed shall be deemed to be an original, but all of which taken together shall constitute one and the same agreement.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the date first written above by their respective officers thereunto duly authorized.

**SELLER:**

**J. F. BROADCASTING, LLC**

By: \_\_\_\_\_  
Name: James F. Simpson  
Title: Sole Managing Member

**PURCHASER:**

**FORUM COMMUNICATIONS  
COMPANY**

By: \_\_\_\_\_  
Name: Bill Rouse  
Title: Chief Operating Officer