

## ASSET PURCHASE AGREEMENT

THIS AGREEMENT is made and entered into this 14<sup>th</sup> day of November, 2005, by and between CATT Communications, Inc., a New York corporation ("Seller"), and Pembroke Pines, Inc., a New York corporation (the "Buyer").

### Recitals

Seller is the licensee and operator of radio stations WGGO (AM) and WQRT (FM), each licensed to Salamanca, New York (the "Stations"); and

Subject to the consent of the Federal Communications Commission ("FCC"), Buyer desires to acquire the Stations, and all or substantially all of the assets, leases, contracts, agreements, and licenses used or useful in the operation of the Stations, with certain exceptions as provided herein, and Seller desires to transfer such assets to Buyer.

### Agreement

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

1. **Sale and Transfer of Assets.** Subject to and in reliance upon the Closing (as defined below), Seller will sell, assign, transfer and deliver to Buyer the following assets (all of which are hereinafter collectively called the "Assets"):

1.1 **Licenses.** All licenses, permits and authorizations issued by any governmental or regulatory agency and held by Seller which are transferable or assignable, used or useful in the operation of, or in connection with the operation of, the Stations, as listed on Schedule 1.1 (the "Licenses");

1.2 **Real Property.** All real property and any improvements located thereupon owned by Seller used or useful in the operation of the Stations, described on Schedule 1.2 (the "Real Property").

1.3 **Tangible Assets.** All tangible assets of Seller used or useful in the operation of the Stations listed on Schedule 1.3 (the "Tangible Assets");

1.4 **Assigned Contracts.** The leases, contracts and agreements listed on Schedule 1.4, and all oral or written contracts or agreements to air advertising for cash or trade,

to the extent such leases, contracts or agreements pertain to the Stations (collectively, the "Assigned Contracts");

1.5 **Call Letters.** All right, title and interest of Seller in and to the use of the call letters for the Stations (the "Call Letters");

1.6 **Intangible Assets.** All goodwill, copyrights, trademarks or other similar rights, if any, which Seller may have acquired or used in the operation of the Stations as set forth on Schedule 1.6 (the "Intangible Assets"); and

1.7 **Business Records.** All business records of Seller relating to the operation of the Stations, but not including tax records and original journals and ledgers of Seller (the "Business Records");

2. **Excluded Assets.** The Assets to be transferred hereunder shall not, however, include any of Seller's accounts receivable, cash, bank accounts, investments, deposits, books and records pertaining to entity organization, contracts of insurance (including the cash surrender value thereof, and all insurance proceeds or claims made by Seller relating to property or equipment repaired, replaced or restored by Seller prior to the Closing Date), employee pension and other benefit plans or collective bargaining agreements, if any, duplicate copies of such records as are necessary to enable Seller to file its tax returns and reports, as well as any other records or materials relating to Seller generally, and any financial debt or obligation due to the FCC in connection with the Stations by any and all entities with taxpayer identification numbers associated with Seller or the Stations, existing at or before the Closing Date ("FCC Debt"), all of which shall remain the property of Seller.

### 3. **Purchase Price and Payment.**

3.1 **Escrow Deposit.** Upon execution of this Agreement, Buyer shall pay a deposit (the "Deposit") in the amount of Twenty-Five Thousand Dollars (\$25,000.00).

3.2 **Purchase Price.** The Purchase Price for the assets shall be One Million Two Hundred Fifty Thousand Dollars (\$1,250,000.00) (the "Purchase Price"). The Purchase Price shall be paid by Buyer, at Closing, as follows:

(i) By the application of the Deposit towards the Purchase Price; and

(ii) By payment in the amount of Three Hundred Twenty-Five Thousand Dollars (\$325,000.00), subject to the prorations set forth in Sections 3.4, 10.1(i) and (j) to Seller (and/or its designees as set forth in written instructions from Seller), and subject to payments to the holders of Existing Liens, if any, as described in Section 5.5 below.

(iii) Promissory note from Buyer to Seller in the sum of Five Hundred Forty-three Thousand Five Hundred Dollars (\$543,500.00) with interest at the rate of 8% per annum fully

amortized over 10 years personally guaranteed by Robert J. Pfuntner secured by a Security Agreement and UCC 1 filing.

(iv) Promissory note from Buyer to Seller securing the Covenant not to Compete in the sum of Three Hundred Fifty-six Thousand Five Hundred Dollars (\$356,500.00) with interest at the rate of 8% per annum fully amortized over 10 years personally guaranteed by Robert J. Pfuntner secured by a Security Agreement and UCC 1 filing.

(v) Seller agrees to accept a mortgage in the maximum amount of Two Hundred Eighty Thousand Dollars (\$280,000.00) to secure the notes at paragraphs 3.2 (iii) and 3.2 (iv).

**3.3 Allocation of Purchase Price.** The parties shall allocate the Purchase Price as set forth on Schedule 3.3. The asset allocation agreed to by the parties pursuant to this Section 3.3 shall be referred to as the "Allocation." Seller and Buyer agree (i) to jointly complete Internal Revenue Service ("IRS") Form 8594 in the manner required by Section 1060 of the Internal Revenue Code of 1986, as amended (the "Code"), the regulations thereunder and the Allocation, and to separately file such IRS Form 8594 with its federal income tax return for the tax year in which the Closing occurs and (ii) that neither Seller nor Buyer will take a position on any tax return inconsistent with the Allocation without the prior written consent of the other party; *provided, however*, that nothing contained herein shall prevent Buyer or Seller from settling any proposed deficiency or adjustment by any taxing authority based upon or arising out of the Allocation, and neither Buyer nor Seller shall be required to litigate before any court, any proposed deficiency or adjustment by any taxing authority challenging such Allocation. Notwithstanding anything to the contrary in this Agreement, the provisions of this Section 3.3 shall survive the Closing.

**3.4 Trade Accounts.** The Seller's trade and barter accounts, trade contracts and trade commitments receivable and payable as of the Closing Date (the "Trade Accounts") shall be transferred to the Buyer, and Buyer shall assume the same along with all outstanding obligations under the Trade Accounts and all rights to good and/or services due to the Stations for time not yet run, provided however, that if the difference between the cost of any advertising time remaining to be run by the Stations after the Closing Date and the value of the goods and services to be received by the Stations after the Closing Date under the Trade Accounts exceeds \$5,000, then Buyer may deduct from the Purchase Price such excess (above the \$5,000) in accordance with Section 3.2. All Trade Accounts assumed by the Buyer shall be subject to preemption for ordinary paid advertising unless the Contract for such Trade Account expressly provides otherwise.

**4. No Assumption of Liabilities.** Except as otherwise specifically set forth herein, Buyer shall not assume and shall not be obligated to pay any of the liabilities or obligations of Seller, except liabilities and obligations arising or accruing on or after the Closing Date with respect to (i) the Assets conveyed hereunder and (ii) the business and operations of the Stations. Upon assumption by Buyer of the Assigned Contracts, Buyer shall be entitled to all of Seller's rights and benefits thereunder and shall relieve Seller of its obligations arising or accruing after the Closing Date to perform the same.

5. **Seller's Representations and Warranties.** The following representations and warranties shall survive for one (1) year after the Closing Date. The Seller represents and warrants to Buyer as of the date hereof and as of the Closing Date, as follows:

5.1 **Formation, Standing and Power.** The Seller is a corporation duly organized, validly existing and in good standing under the laws of the State of New York. Seller has all necessary power and authority to own, use and transfer its properties and Assets and to transact its business as now being conducted. Other than the State of New York, there are no other jurisdictions in which the character or use of Seller's Assets or the nature of its business makes necessary the licensing or qualification of Seller to do business. Seller has no subsidiaries.

5.2 **Authority for Transaction.** Seller's execution and delivery of this Agreement, its compliance with the provisions hereof and the consummation of all of the transactions contemplated hereby have all been duly and validly authorized by all necessary action on the part of Seller, and this Agreement is valid and binding upon Seller in accordance with its terms.

5.3 **Licenses.** Except as otherwise set forth on Schedule 1.1, Seller is, and on the Closing Date will be, the holder of the Licenses, all of which are in full force and effect. There is not pending or, to the knowledge of Seller, threatened any action by or before the FCC to revoke, suspend, cancel, rescind or modify any of the Licenses (other than proceedings to amend FCC rules of general applicability). The Licenses constitute all of the licenses and authorizations required under the Communications Act of 1934, as amended (the "Federal Communications Act"), or the current rules, regulations and policies of the FCC for the operation of the Stations.

5.4 **Condition of Assets.** The list of Tangible Assets in Schedule 1.3 is a true and complete list as of the date hereof of all material items of tangible personal property owned (or leased) by Seller and used or useful in the operation of the Stations included in the Assets. All Tangible Assets are in operating condition and repair, and have been maintained in accordance with reasonable engineering practice, industry standards and any standards or guidelines imposed by the FCC. On the Closing Date, each item comprising the Tangible Assets shall be in the same or better operating condition as on the date of execution of this Agreement, reasonable wear and tear excepted. Between the signing of this Agreement and the Closing Date, Seller shall use its best efforts to maintain the Assets in operating condition to enable Buyer, upon Closing, to operate the Stations at the same level as currently being operated by Seller.

5.5 **Title.** Schedule 1.2 contains a complete and accurate list, as of the date thereof, of Seller's real property used in the operation of the Station. Seller has, and shall transfer to Buyer or Buyer's assigns at the Closing, fee simple title to the Real Property described on Schedule 1.2 and to each item comprising the Assets other than the Real Property, free and clear of all mortgages, liens, deeds of trust, security interests, pledges, options, restrictions, prior assignments, charges, claims, defects in title and encumbrances of any kind or type whatsoever ("Liens") except for: (i) liens for Taxes (as defined in Section 5.19 below), which are not yet due and payable, accruing before the Effective Time, (ii) Liens of record, but not including the Existing

Liens (as hereinafter defined), (iii) lessees on the Real Property, if any, and disclosed on Schedule 1.4, and (iv) the obligations of Seller arising after the Effective Time, which Buyer has agreed to assume under the Assigned Contracts as described in Section 1.4. The encumbrances described in the foregoing clauses (i) through (iv) are collectively referred to herein as "Permitted Encumbrances." Notwithstanding the foregoing, Seller has disclosed the existence of certain liens against the Asset that are described on Schedule 5.5 hereto (the "Existing Liens"). At or prior to Closing, the Existing Liens shall be released by payment of a portion of the Purchase Price by Buyer to the lienholders. There are no condemnation or eminent domain proceedings pending or, to Seller's knowledge, threatened against the Real Property. Seller has not received any notice alleging that the Real Property fails to comply with applicable zoning laws or the building, health, fire and environmental protection codes of applicable governmental jurisdictions.

**5.6 Contracts, Leases, Agreements, Etc.** Seller has listed all contracts related to the operation of the Stations (and all amendments thereto) on Schedule 1.4, except for contracts for the sale of advertising, and provided to Buyer complete and correct copies of all such contracts and all amendments, modifications, extensions and renewals thereof. The Assigned Contracts, Call Letters and Intangible Assets to be transferred or assigned to Buyer are now and will, on the Closing Date, be in full force and effect. Each such Assigned Contract shall be transferred in accordance with its terms, and approval for transfer, if any, will have been received on or before the Closing Date for the Assigned Contracts delineated with an "\*" on Schedule 1.4.

**5.7 Employees and Agreement Relating to Employment.** The names of all employees of the Stations, their current rate of compensation and all material fringe benefits are as set forth on Schedule 5.7. Except as set forth on Schedule 5.7, there is (i) no written employment contract with any employee of the Stations, (ii) no obligation, contingent or otherwise, under any employment arrangement, (iii) no collective bargaining agreement, (iv) no employee pension, retirement, profit sharing, bonus or similar plan, and (v) no union has been certified or sought recognition as a bargaining agent for any employee of the Stations.

**5.8 Legal Proceedings, Etc.** No litigation, arbitration, mediation, court or administrative proceeding is pending or, so far as is known to the Seller, threatened against Seller relating to the Stations or any Asset to be conveyed hereunder which would materially affect Buyer's use of the Assets, or which would hinder or prevent the consummation of the transactions contemplated by this Agreement, and Seller does not know, or have reasonable grounds to know, of any basis for any such possible proceeding. Seller has not been operating under or subject to, or in default with respect to, any order, writ, injunction or decree relating to the Stations or the Assets of any court or federal, state, municipal or other governmental department, commission, board, agency or instrumentality which would have a material adverse effect on the condition of the Stations or any of the Assets or on the ability of Seller to enter into this Agreement or consummate the transactions contemplated hereby.

**5.9 Compliance with Laws, Regulations, Rules and Orders.** Seller, at Closing, will be in compliance with all material terms and conditions of all laws, regulations and orders applicable to its business and operations relating to the Stations including, without limitation, compliance with the Federal Communications Act and all regulations issued by the

Federal Communications Commission (the "FCC"), and Seller is not charged with violating or, to the knowledge of Seller, threatened with a charge of violating or under investigation with respect to a possible violation of, any provision of any License, or any federal, state or local law or administrative ruling or regulations relating to any aspect of its business, or owe any FCC Debt.

5.10 **No Conflict.** Except for the approval of the FCC, Seller's senior lender and subordinated debtholder identified in Schedule 5.5, and such consents and/or notices as are necessary for assignment of the Assigned Contracts, neither the execution and delivery of this Agreement by Seller, nor compliance by Seller with any of the provisions hereof, nor the consummation of the transactions contemplated hereby, will:

- (a) conflict with or result in a breach of any provision of the Seller's Certificate of Formation or Operating Agreement;
- (b) result in a default, or give rise to any right of termination, cancellation or acceleration, under any term, condition or provision of any contract, encumbrance or other instrument or obligation to which Seller is a party or by which Seller or any of Seller's Assets may be bound;
- (c) violate any order, writ, injunction, decree, statute, rule or regulation applicable to Seller, or any of its Assets; or
- (d) result in the imposition of any lien, charge or encumbrance against the Assets.

5.11 **Operation of Stations.** Except as set forth on Schedule 1.1 and Schedule 1.2, the Stations, at Closing, will be operated in substantial compliance with all laws, regulations and orders, including without limitation, compliance with the Federal Communications Act and all regulations issued by the FCC thereunder, and the terms and conditions of the Licenses. There shall be no FCC Debt due at Closing.

5.12 **Insurance.** The insurance policies owned by Seller or of which Seller is a named beneficiary are now and through the Closing Date will be fully in effect in accordance with their terms, with no default in the payment of premiums on any such policy and, to the knowledge of Seller, no ground for cancellation or avoidance of any portion thereof or for reduction of the coverage provided thereby.

5.13 **Liabilities.** As of the Closing Date, all of Seller's liabilities, relating to the operation of the Stations, except for those liabilities arising on or after the Closing Date relating to the Assigned Contracts, shall have been fully paid and discharged and no creditors of Seller shall have any claim on the Assets for payment of such liabilities, other than the Permitted Encumbrances.

5.14 **No Misleading Statements.** The representations and warranties of Seller herein, or in any Schedule hereto, do not contain any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements contained herein or therein not materially misleading.

5.15 **Broker.** Seller has not incurred or become liable for any other broker's commission or finder's fee relating to the transactions contemplated by this Agreement. Seller agrees to indemnify and hold Buyer harmless from any claims for brokerage fees, finder's fees or commissions asserted by any person acting on Seller's behalf in connection with this transaction.

5.16 **Environmental Matters.** To Seller's knowledge, Seller has complied in all material respects with all laws, rules, and regulations of all federal, state, and local governments (and all agencies thereof) concerning the environment, public health and safety, and employee health and safety, and no charge, complaint, action, suit, proceeding, hearing, investigation, claim, demand, or notice has been filed or commenced against Seller in connection with Seller's ownership or operation of the Stations alleging any failure to comply with any such law, rule, or regulation.

5.17 **Financial Information.** All financial statements regarding operation of the Stations delivered by Seller to Buyer, to Seller's knowledge, present fairly the financial position of Seller and the Stations as of their respective dates and the results of operations for the periods indicated. Collectively, the statements provided shall be referred to as the "Financial Statements." Other than in the normal and ordinary course of business, there are no liabilities or obligations of Seller related to the Stations or the Assets accruing or arising before the date of this Agreement, including FCC Debt, that should be reflected in the most recent Financial Statements that are not so reflected.

5.18 **Bankruptcy.** Seller is neither insolvent nor the subject of bankruptcy or any similar proceeding.

5.19 **Taxes.**

(a) All federal, state and local returns, reports, estimates and other statements ("Returns") required to have been filed by or on the Closing Date with any jurisdiction with respect to Seller and the operation of the Stations with respect to any income, franchise, property, sales, value-added, payroll, withholding, excise, assessment, levy, capital and all other taxes, duties, penalties, assessments or deficiencies of every nature and description (collectively, "Taxes") have been duly and timely filed by Seller and each such Return correctly reflects the amount of Taxes required to be reported and/or paid. Seller has paid all Taxes due and payable by or on the Closing Date that it is required to pay, except to the extent that such amounts are reserved for in Seller's Financial Statements. There are no Taxes that are past due. No consent extending the applicable statute of limitations has been filed by or for Seller with respect to any of such Taxes for any years.

(b) Seller has withheld amounts from its employees working at the Stations in accordance with applicable law. With respect to such employees, Seller has filed all

Returns required to be filed and paid all required Taxes for employee income tax withholding, social security, Medicare and unemployment taxes and other similar taxes and charges, in compliance with the tax withholding provisions of the applicable federal, state and local laws.

6. **Buyer's Representations and Warranties.** The following representations and warranties shall survive for one (1) year after the Closing Date. The Buyer represents and warrants to Seller, as of the date hereof and as of the Closing Date, as follows:

6.1 **Buyer's Qualifications.** Buyer is legally and financially qualified to acquire the Stations. Buyer knows of no fact or circumstance which would, under the federal antitrust laws, the Federal Communications Act, as amended, or the rules, regulations, and policies of the FCC, disqualify or preclude Buyer from being approved as an assignee of the Licenses. Should Buyer become aware of any such fact or circumstance, it will promptly so inform Seller. Buyer will use its reasonable commercial efforts to remove any such disqualification or preclusion; with the understanding that Seller reserves all of its rights hereunder for breach by Buyer. Buyer will not take any action that Buyer knows, or has reason to believe, would result in such disqualification. There are no facts, to the knowledge of Buyer, which, under the Federal Communications Act as amended, or the rules, regulations and policies of the FCC, or the antitrust policies as applied to the broadcasting industry by the Federal Trade Commission and the U.S. Department of Justice, would delay the consummation of the transactions contemplated by this Agreement beyond the normal and customary approval periods for consent of the FCC to assignment of the Licenses to Buyer. Buyer has no reason to believe that the FCC Application contemplated by this Agreement might be challenged by a governmental agency or third party or might not be granted by the FCC in due ordinary course. To Buyer's knowledge, there are no proceedings, complaints, notices of forfeiture, claims, or investigations pending or threatened against Buyer or any principal, officer, director, or owner of Buyer that would impair the qualification of Buyer to assume the FCC Licenses or which would impede Buyer's ability to prosecute FCC applications or seek the grant of the FCC Consents as contemplated hereunder.

6.2 **Formation, Standing and Power.** Buyer is a corporation duly formed, validly existing and in good standing under the laws of the State of New York. Buyer has all necessary power and authority to execute and deliver this Agreement, to comply with the provisions hereof and to consummate the transactions contemplated hereby.

6.3 **Authority for Transaction.** Buyer's execution and delivery of this Agreement, its compliance with the provisions hereof and the consummation of all of the transactions contemplated hereby have been duly and validly authorized by all necessary action on the part of Buyer, and this Agreement is valid and binding upon Buyer in accordance with its terms.

6.4 **No Conflict.** Neither the execution and delivery of this Agreement by Buyer, nor compliance by Buyer with any of the provisions hereof, nor the consummation of the transactions contemplated hereby will:



(a) conflict with or result in a breach of any provision of Buyer's Articles of Incorporation and Bylaws;

(b) result in a default, or give rise to any right of termination, cancellation or acceleration, under any term, condition or provision of any contract, encumbrance or other instrument or obligation to which Buyer is a party or by which it or any of its properties or assets may be bound; or

(c) violate any order, writ, injunction, decree, statute, rule or regulation applicable to Buyer or any of its properties or assets.

Except for the approval of the FCC, no consent, waiver or approval by, notice to or filing with any person or entity is required in connection with the execution and delivery of this Agreement by Buyer, compliance by Buyer with any of the provisions hereof or the consummation of the transactions contemplated hereby.

**6.5 Legal Proceedings, Etc.** There is no legal, equitable, administrative or arbitration action, suit, proceeding or known investigation pending or, to Buyer's knowledge, threatened against or affecting Buyer or any of its assets which, if adversely determined, would adversely affect the ability of Buyer to consummate the transactions contemplated hereby.

**6.6 No Misleading Statements.** The representations and warranties of Buyer herein, or in any Schedule hereto, do not contain any untrue statements of a material fact or omit to state a material fact necessary in order to make the statements contained herein or therein not materially misleading.

**6.7 Broker.** Buyer has not incurred or become liable for any broker's commission or finder's fee relating to the transactions contemplated under this Agreement. Buyer agrees to indemnify and hold Seller harmless from any claims for brokerage fees, finder's fees or commissions asserted by any person acting on Buyer's behalf in connection with this transaction.

## **7. Seller's Covenants.**

### **7.1 Indemnification.**

(a) The sole and exclusive remedy which Buyer shall have against Seller under this Agreement after the Closing Date shall be the right to proceed for indemnification in the manner and only to the extent provided by this Section 7.1. Seller hereby indemnifies Buyer and holds it and its agents, successors and assigns harmless, with respect to demands for indemnification asserted by Buyer, or losses or damages suffered, as provided by this Section 7.1, within one (1) year after the Closing Date from, against and in respect of:

(1) all liabilities, obligations, claims against and contracts of Seller of every kind and nature whatsoever, at any time existing or

asserted, whether or not accrued, whether fixed, contingent or otherwise, whether known or unknown, and whether or not recorded on the books and records of Seller, arising out of or by reason of this or any other transaction or event occurring prior or subsequent to the Closing, which have not been assumed by Buyer; and

(2) all losses, damages and deficiencies resulting from any failure or breach of any representation or warranty, or any breach or nonfulfillment of any covenant or agreement, of Seller made in this Agreement; and

(3) all actions, suits, proceedings, claims, demands, assessments, judgments, fines, amounts paid in settlement, costs and expenses (including reasonable attorneys' fees and expenses) incident to any of the foregoing.

(b) If a demand for indemnification arises out of a claim made against Buyer by a person not a party to this Agreement or affiliated with a party to this Agreement (a "Third Party Claim"), Buyer shall give prompt notice thereof to Seller, stating in reasonable detail the nature of the Third Party Claim, the identity of the Third Party Claimant and the specific representations, warranties or covenants which Buyer contends Seller has breached. Such notice shall also indicate whether Buyer intends to defend against the Third Party Claim. If Buyer shall defend against the Third Party Claim, Seller shall cooperate in all reasonable respects with Buyer in such defense, shall make available to Buyer all records and other materials reasonably required by Buyer in such defense, and shall have the right to participate in such defense. If Buyer does not intend to defend against the Third Party Claim, then Seller may assume defense of the Third Party Claim through legal counsel of its choice reasonably satisfactory to Buyer, in which event Buyer shall cooperate in all reasonable respects with Seller in such defense, and shall make available to Seller and its counsel all records and other materials reasonably required by them in such defense, but Seller shall at all times control such defense. So long as a Third Party Claim is pending and is not resolved, Buyer shall hold in abeyance its demand for indemnification. If Seller reaches a settlement with the Third Party Claimant which results in any liability to Buyer, or if a judgment is rendered against Buyer which judgment is not properly appealed or appealable, then Buyer shall be entitled to indemnification in an amount sufficient to discharge the Third Party Claim, to the extent allowable under paragraph (e) hereof. Each party shall be responsible for its own costs and expenses, including legal fees, incurred in defending a Third Party Claim, except that Seller shall pay Buyer's actual costs and expenses (including legal fees) incurred in connection with defending a claim which is determined adversely to Seller and which shall be found to have constituted a breach of Seller's representations, warranties and covenants hereunder, to the extent allowable under paragraph (e) hereof.

(c) If Buyer asserts a demand for indemnification hereunder, but such demand is not based upon a Third Party Claim, Buyer shall notify Seller thereof, stating in reasonable detail the nature of Buyer's claim and the specific representations, warranties and

covenants which Buyer contends Seller has breached. Seller shall have fifteen (15) days after the effective date of such notice to accept or reject Buyer's demand for indemnification. If Seller accepts such demand for indemnification, it shall pay the amount of indemnification claimed by Buyer. If no acceptance is received by Buyer within such 15-day period, Seller shall be deemed to have rejected the demand. In the event Seller rejects Buyer's demand for indemnification or fails to accept such demand within such 15-day period, the parties shall immediately submit the controversy to arbitration in accordance with the provisions of Section 7.1(d). If the arbitrator(s) render an award in the arbitration proceeding in favor of Buyer, Buyer shall be entitled to indemnification to the extent provided in such award and to the extent allowable under paragraph (e) hereof. If the arbitrator(s) render an award in favor of Seller, Seller shall have no further liability on Buyer's claim. So long as Buyer's claim is pending and is not resolved, Buyer shall hold in abeyance its demand for indemnification.

(d) If there is any disagreement between Buyer and Seller concerning the validity of any demand for indemnification asserted under Section 7.1, then such disagreement shall, as provided by Section 7.1(c) or otherwise on demand of either party, be referred to arbitration in Albany, New York. Buyer and Seller shall attempt to agree on the appointment of a single arbitrator. If they are unable to agree, a panel of three arbitrators shall be appointed: one arbitrator shall be appointed by Buyer, one shall be appointed by Seller, and one shall be appointed by the two arbitrators so appointed. The determination in writing of such arbitrator(s), signed by at least two of them (if there be more than one), shall be final and binding on the parties. Such determination shall be made as soon as practicable after the reference of the claim to arbitration but in no event more than 3 months after such claim is referred to the arbitrator(s). The arbitrators shall be governed by the Commercial Arbitration Rules of the American Arbitration Association then in effect, and shall have full power to make such regulations and to give such orders and directions in all respects as they shall deem expedient, as well as in respect to the claims and differences referred to them, and also with respect to the mode and times of executing and performing any of the acts or things which may be awarded or directed to be done. The arbitrator(s) shall also allocate among the parties the fees and expenses of the arbitrators and the actual costs and expenses (including legal fees) incurred by the parties in connection with the arbitration in an equitable manner consistent with the decision of the arbitrator(s) regarding the resolution of the claims and differences referred to them, which allocation shall form part of the arbitrator(s)' written determination, to the extent allowable under paragraph (e) hereof.

(e) Seller's liability for all claims under this Section 7, including without limitation, Third Party Claims, shall be subject to the following limitations: (i) Seller shall have no liability for claims until the aggregate amount of the Claims incurred exceeds Twenty Five Thousand Dollars (\$25,000.00) (the "Minimum Loss"); after the Minimum Loss is exceeded, Buyer shall be entitled to be paid the entire amount of the claims regardless of the Minimum Loss subject to the limitations on recovery and recourse set forth in this Section 7; and (ii) Seller's aggregate liability for all claims under this Section 7 shall not exceed Two Hundred Twelve Thousand Five Hundred Dollars (\$212,500.00).

**7.2 Access and Information.** Except as otherwise set forth herein, Seller shall give Buyer and its representatives full but reasonable access during normal business hours throughout the period prior to Closing to the operations, properties, books, contracts, agreements, leases, commitments and records of the Station; provided, however, that Buyer shall give Seller reasonable advance notice of exercising this right and the same shall not interfere with Seller's operation of the Stations. Seller shall furnish to Buyer all information concerning the Stations' affairs as Buyer may reasonably request. With respect to the Real Property, as soon as reasonably possible, but no later than thirty (30) days after the date of this Agreement, to the extent that Seller has not already provided the same, Seller shall deliver to Buyer copies, if any, of (A) all existing soil, engineering and environmental reports and studies with respect to the ownership, maintenance, use, occupancy and operation of any parcel of the Real Property in its possession, (B) any existing surveys and plats for any parcel of the Real Property, in its possession, (C) the relevant Seller's source deed for each parcel of Real Property, (D) any and all existing title insurance commitments and title insurance policies for any parcel of the Real Property in its possession, (E) the real property tax bill for the current fiscal year, if issued, for each parcel of Real Property, and (F) any permits issued to Seller by any Governmental Agency and related to the ownership or of any of the Real Property. For a period of forty-five (45) days from and after the date on which the schedules have been completed in accordance with Section 7.7 hereof, Seller will allow Buyer, at Buyer's own expense, to conduct any and all investigations, surveys, examinations and studies for the Real Property as Buyer deems reasonably necessary (the "Real Property Due Diligence"), provided, however, that the Real Property Due Diligence shall be approved by the Seller, in writing, in advance and shall not disrupt Seller's operation of the Stations. Buyer shall indemnify and hold the Seller harmless from all property damage, personal injury, death and any other claims, costs and losses resulting from the access given hereunder or the performance of the Real Property Due Diligence. Buyer shall have a period of forty five (45) days from and after the date on which the schedules have been completed in accordance with Section 7.7 to obtain Phase I environmental surveys and title insurance policy commitment letters with respect to the Real Property.

**7.3 Conduct of Stations' Business.** Prior to Closing, without the written consent of Buyer, Seller shall not enter into any transaction other than those in the ordinary course of the business of the Stations; during the period until Closing the Seller shall operate the Stations in the normal and usual manner; no employment contract shall be entered into by Seller relating to the Stations, unless the same is terminable at will and without penalty; Seller shall not increase the compensation paid any employee of the Stations or hire additional personnel for the Stations, except as required in the ordinary course of business. Seller will maintain in force the insurance in effect on the date hereof; Seller will not make any material change in the price or terms of advertising on the Stations. From November, 1 2005 to closing, Buyer and Seller agree that Buyer will represent WGGO/WQRT as a representative sales firm. Any advertising revenues placed on those stations and run prior to closing will be shared equally between Buyer and Seller.

**7.4 Risk of Loss.** Seller shall bear all risk of loss or damage to any of the Assets to be transferred to Buyer hereunder occurring prior to the Closing. In the event any loss or damage occurs, the proceeds of any insurance policy covering such loss shall be used by Seller

to repair, replace or restore any such loss prior to the Closing; provided, however, that, if the proceeds of such insurance are not sufficient to repair, replace or restore the loss, and Seller does not provide additional funds for such purpose upon request by Buyer, Buyer, if not then in default, may terminate this Agreement. In the event such loss or damage prevents the broadcast transmission of the Station in the normal and usual manner, Seller shall give prompt written notice thereof to Buyer. If Seller cannot restore the facilities so that transmission can be resumed at 80% or more of the Stations' licensed power within one (1) week, Buyer, if not then in default, shall have the right after such period to terminate this Agreement by giving written notice to Seller. In the event of any such termination pursuant to this Section 7.4, neither party shall have any further right or liability hereunder and the Deposit plus all interest earned thereon shall be returned to Buyer.

**7.5 Consummation of Agreement.** Subject to the provisions of Sections 10.1, 10.2 and 11.2 of this Agreement, Seller shall use reasonable commercial efforts to fulfill and perform all conditions and obligations on its part to be fulfilled and performed under this Agreement and to cause the transactions contemplated by this Agreement to be fully carried out.

**7.6 Exclusivity.** Seller will not (i) solicit, initiate, or encourage the submission of any proposal or offer from any person or entity relating to the acquisition of any portion of the Assets (including any acquisition structured as a merger, consolidation, or share exchange), or (ii) participate in any discussions or negotiations regarding, furnish any information with respect to, assist or participate in, or facilitate in any other manner any effort or attempt by any person or entity to do or seek any of the foregoing. Seller will notify Buyer immediately if any person or entity makes any unsolicited proposal, offer, inquiry, or contact with respect to any of the foregoing.

**7.7 Schedules.** In the interest of time, Buyer and Seller are executing this Agreement before preparation of all schedules have been completed. Seller shall use its best efforts to prepare mutually agreeable schedules to this Agreement as soon as reasonably possible after the date of this Agreement, but in no event later than thirty (30) days after the execution hereof. In the event that mutually agreeable schedules are not timely prepared by Seller, following good faith attempts by Buyer and Seller, Buyer may terminate this Agreement without further obligation to Seller, and receive a refund of the Deposit.

## **8. Buyer's Covenants.**

### **8.1 Indemnification.**

(a) The sole and exclusive remedy which Seller shall have against Buyer under this Agreement after the Closing Date shall be the right to proceed for indemnification in the manner and only to the extent provided by this Section 8.1. Buyer hereby indemnifies Seller and holds it and its agents, successors and assigns harmless, with respect to demands for indemnification asserted by Seller, or losses or damages suffered, as provided by this Section 8.1, within one (1) year after the Closing Date from, against and in respect of:

(1) All liabilities, obligations, losses and claims arising out of the operation of the Stations subsequent to the Closing of every kind and nature whatsoever, whether or not accrued, whether fixed, contingent or otherwise, whether known or unknown and whether or not recorded on the books and records, including, but not limited to any and all claims, liabilities and obligations arising or required to be performed under the Assigned Contracts;

(2) All losses, damages and deficiencies resulting from any failure or breach of any representation or warranty, or any breach or non-fulfillment of any covenant or agreement, of Buyer made in this Agreement; and

(3) All actions, suits, proceedings, claims, demands, assessments, judgments, fines, penalties, amounts paid in settlement, costs and expenses (including reasonable attorneys' fees and expenses) incident to any of the foregoing.

(b) If a demand for indemnification arises out of a claim made against Seller by a person not a party to this Agreement or affiliated with a party to this Agreement (a "Third Party Claim"), Seller shall give prompt notice thereof to Buyer, stating in reasonable detail the nature of the Third Party Claim and the specific representations, warranties or covenants which Seller contends Buyer has breached. Such notice shall also indicate whether Seller intends to defend against the Third Party Claim. If Seller shall defend against the Third Party Claim, Buyer shall cooperate in all reasonable respects with Seller in such defense, shall make available to Seller all records and other materials reasonably required by Seller in such defense, and shall have the right to participate in such defense. If Seller does not intend to defend against the Third Party Claim, then Buyer may assume defense of the Third Party Claim through legal counsel of its choice, reasonably satisfactory to Seller, in which event Seller shall cooperate in all reasonable respects with Buyer in such defense and shall make available to Buyer and its counsel all records and other materials reasonably required by them in such defense, but Buyer shall at all times control such defense. So long as a Third Party Claim is pending and is not resolved, Seller shall hold in abeyance its demand for indemnification. If Buyer reaches a settlement with the Third Party Claimant which results in any liability to Seller, or if a judgment is rendered against Seller which judgment is not properly appealed or appealable, then Seller shall be entitled to indemnification in an amount sufficient to discharge the Third Party claim, to the extent allowable under paragraph (e) hereof. Each party shall be responsible for its own costs and expenses, including legal fees, incurred in defending a Third Party Claim except that Buyer shall pay Seller's actual costs and expenses (including legal fees) incurred in connection with defending a claim which is determined adversely to Buyer and which shall be found to have constituted a breach of Buyer's representations, warranties and covenants hereunder, to the extent allowable under paragraph (e) hereof.

(c) If Seller asserts a demand for indemnification hereunder, but such demand is not based upon a Third Party Claim, Seller shall notify Buyer thereof, stating in

reasonable detail the nature of Seller's claim and the specific representations, warranties and covenants which Seller contends Buyer has breached. Buyer shall have fifteen (15) days after the effective date of such notice to accept or reject Seller's demand for indemnification. If Buyer accepts such demand for indemnification, it shall pay the amount of indemnification claimed by Seller. If no acceptance is received by Seller within such 15-day period, Buyer shall be deemed to have rejected the demand. In the event Buyer rejects Seller's demand for indemnification or fails to accept such demand within such 15-day period, the parties shall immediately submit the controversy to arbitration in accordance with the provisions of Section 8.1(d). If the arbitrator(s) render an award in the arbitration proceeding in favor of Seller, Seller shall be entitled to indemnification to the extent provided in such award and to the extent allowable under paragraph (e) hereof. If the arbitrator(s) render an award in favor of Buyer, Buyer shall have no further liability on Seller's claim. So long as Seller's claim is pending and is not resolved, Seller shall hold in abeyance its demand for indemnification.

(d) If there is any disagreement between Seller and Buyer concerning the validity of any demand for indemnification asserted under Section 8.1, then such disagreement shall, as provided by Section 8.1(c) or otherwise on demand of either party, be referred to arbitration in Albany, New York. Buyer and Seller shall attempt to agree on the appointment of a single arbitrator. If they are unable to agree, a panel of three arbitrators shall be appointed: one arbitrator shall be appointed by Buyer, one shall be appointed by Seller, and one shall be appointed by the two Arbitrators so appointed. The determination in writing of such arbitrator(s), signed by at least two of them (if there be more than one), shall be final and binding on the parties. Such determination shall be made as soon as practicable after the reference of the claim to arbitration but in no event more than 3 months after such claim is referred to the Arbitrator(s). The arbitrators shall be governed by the Commercial Arbitration Rules of the American Arbitration Association then in effect, and shall have full power to make such regulations and to give such orders and directions in all respects as they shall deem expedient, as well as in respect to the claims and differences referred to them, and also with respect to the mode and times of executing and performing any of the acts or things which may be awarded or directed to be done. The arbitrators shall also allocate among the parties the fees and expenses of the arbitrators and the actual costs and expenses (including legal fees) incurred by the parties in connection with the arbitration in an equitable manner consistent with the decision of the arbitrator(s) regarding the resolution of the claims and differences referred to them, which allocation shall form part of the arbitrator(s)' written determination, to the extent allowable under paragraph (e) hereof.

(e) Buyer's liability for all claims under this Section 8 shall be subject to the following limitations: (i) Buyer shall have no liability for claims until the aggregate amount of the claims incurred exceeds Twenty Five Thousand Dollars (\$25,000.00) (the "Minimum Loss"); after the Minimum Loss is exceeded, Seller shall be entitled to be paid the entire amount of the claims, regardless of the Minimum Loss subject to the limitations on recovery and recourse set forth in this Section 8; and (ii) Buyer's aggregate liability for all claims under this Section 8 shall not exceed Three Hundred Twenty-five Thousand Dollars (\$325,000.00).

8.2 **Consummation of Agreement.** Subject to the provisions of Sections 10.1, 10.2 and 11.2 of this Agreement, Buyer shall use reasonable commercial efforts to fulfill and perform all conditions and obligations on its part to be fulfilled and performed under this Agreement and to cause the transactions contemplated by this Agreement to be fully carried out.

9. **Application for FCC Approval.**

9.1 **Filing and Prosecution of Application.** Buyer and Seller shall, within three business (3) days from the date of this Agreement, join in an application to be filed with the FCC requesting its written consent to the assignment of the Licenses of the Stations from Seller to Buyer (the "FCC Application"). Buyer and Seller shall proceed with due diligence and promptly take all steps necessary to the expeditious prosecution of such application to obtain the FCC's consent to said assignment of the Licenses, using their best efforts throughout.

9.2 **Expenses.** Each party shall bear its own expenses in connection with the preparation of the applicable sections of the FCC application and in connection with the prosecution of such application. Seller and Buyer will divide and pay equally any filing fee or grant fee imposed by the FCC or any fees or expenses incurred with respect to a joint application.

9.3 **Designation for Hearing.** If, for any reason, with respect to any application for assignment of the Licenses, the staff of the FCC advises that designation for hearing will be required, either party, if not then in default, shall have the right, by written notice to the other party within thirty (30) days of such notification, to terminate this Agreement, in which event neither party shall have any rights or liabilities hereunder and the parties hereto shall instruct the Escrow Agent to promptly return the Deposit plus all interest earned thereon to Buyer.

9.4 **Time of FCC Consent.** If approval of the transfer of the Licenses has not become final (all protests and appeals having been decided or dismissed, or barred by the expiration of time) within twelve (12) months from the date of filing the FCC Application, either party, if not then in default, may terminate this Agreement by giving written notice to the other. Upon such termination, neither party shall have any further right or liability hereunder. Buyer may elect, however, at its sole risk to consummate the transactions contemplated by this Agreement under an FCC approval which has not become final as herein provided.

9.5 **Control of Station.** This Agreement shall not be consummated until the FCC has given its written consent to the transfer of the Licenses of the Stations to the Buyer. Until the Closing, Buyer shall not, directly or indirectly, control, supervise, direct or attempt to control, supervise or direct the operation of the Stations, but such operation shall be the sole responsibility of Seller.

10. **Conditions to Parties' Obligations.**



10.1 **Conditions to Buyer's Obligations.** The obligations of Buyer to complete the transactions provided for herein shall be subject to satisfaction on or before the Closing Date of each of the following conditions:

(a) Representations and warranties: All representations and warranties of Seller contained in this Agreement shall be true and correct in all material respects as of the Closing Date (except as may be otherwise provided in this Agreement), and Buyer shall have received a certificate to that effect, dated the Closing Date, signed by a duly authorized representative of Seller;

(b) Pre-Closing obligations: Seller shall have performed all material obligations required to be performed by Seller hereunder, the performance of which has not been waived by Buyer, and Buyer shall have received a certificate to that effect, dated the Closing Date, signed by a duly authorized representative of Seller;

(c) Due authorization: Seller's execution and delivery of this Agreement, its compliance with the provisions hereof and the consummation of all of the transactions contemplated hereby shall have been duly and validly authorized by all necessary action on the part of Seller, including due authorization and approval thereof by its sole member at a duly called and held meeting or by written consent, and Buyer shall have received a duly certified copy of all actions taken by the Seller's member effecting the same;

(d) Seller's consents, etc.: All necessary notices, filings, consents, waivers and approvals set forth in Schedule 1.4 (and marked with an "\*") shall have been given, made or obtained, as the case may be, by Seller, and Buyer shall have received a true copy of each thereof;

(e) No bar: There shall not be in effect any judgment, decree or order of, or position taken by, any court or administrative body of competent jurisdiction, nor shall there have been any action, suit, proceeding or known investigation instituted or threatened, nor shall any law or regulation have been enacted or any action taken thereunder, which would, in Buyer's reasonable judgment, restrain or prohibit, make illegal, or subject Buyer to material damage as a result of the consummation of the transactions contemplated hereby;

(f) FCC consent: The FCC shall have given the consent contemplated by Section 9, and such consent shall be final;

(g) Real Property Environmental and Title Due Diligence: Buyer shall have received Environmental Phase I reports, title insurance policy commitment letters, and surveys satisfactory to Buyer, in its sole discretion, provided, however, that if Buyer fails to cause such studies, reports and surveys to be completed within the time period specified in Section 7.2 above, Buyer shall be deemed to have waived this condition with respect to such study, report and survey.

(h) Further closing documents: Seller shall have delivered to Buyer the following documents and instruments in form reasonably satisfactory to counsel for Buyer:

(1) Certificate of the Secretary of State of New York attesting to the good standing of the Seller in such jurisdiction as of a date reasonably proximate to the Closing Date;

(2) Warranty Deed conveying all of Seller's interest in the Real Property;

(3) Bill of Sale transferring to Buyer title to the Tangible Assets;

(4) Assignment and Assumption Agreement assigning to Buyer the Licenses, Assigned Contracts, Call Letters, Intangible Assets and Business Records;

(5) Non-competition Agreement in the form of Exhibit B attached hereto.

(i) Prorations: Except as otherwise expressly provided herein, all taxes, assessments, utilities, water and sewage charges shall have been prorated between Buyer and Seller to the Closing Date;

(j) Prepaid credits: Except as otherwise provided herein, all prepaid expenses and advertisements (including, but not limited to, in accordance with Section 3.4) shall have been prorated between Buyer and Seller to the Closing Date;

(k) No Material Change: There shall not have been a material adverse change in the financial condition or business of Seller relating to the operation of the Stations, uncured default by Seller under any Assigned Contract, or any material physical damage or loss to any of the Assets (except where such damage or loss was covered by insurance and/or repair or replacement of the damaged or lost assets has been completed); and

(l) Possession: Seller shall have delivered to Buyer actual possession of the Assets.

**10.2 Conditions to Seller's Obligations.** The obligations of Seller to complete the transactions provided for herein shall be subject to satisfaction on or before the Closing Date of each of the following conditions:

(a) Representations and warranties: All representations and warranties of Buyer contained in this Agreement shall be true and correct in all material respects as of the date hereof and as of the Closing Date as though made on and as of the Closing Date (except as

may be otherwise provided in this Agreement), and Seller shall have received a certificate to that effect, dated the Closing Date, signed by an officer of Buyer;

(b) Pre-Closing obligations: Buyer shall have performed all material obligations required to be performed by it hereunder, the performance of which has not been waived by Seller, and Seller shall have received a certificate to that effect, dated the Closing Date, signed by an officer of Buyer;

(c) Due authorization: Buyer's execution and delivery of this Agreement, its compliance with the provisions hereof and the consummation of all of the transactions contemplated hereby shall have been duly and validly authorized by all necessary corporate action on the part of Buyer, and Seller shall have received a duly certified copy of all actions effecting the same;

(d) No bar: There shall not be in effect any judgment, decree or order of, or position taken by, any court or administrative body of competent jurisdiction, nor shall there have been any action, suit, proceeding or known investigation instituted or threatened, nor shall any law or regulation have been enacted or any action taken thereunder, which would, in Seller's reasonable judgment, restrain or prohibit, make illegal, or subject Seller to material damage as a result of the consummation of the transactions contemplated hereby;

(e) FCC consent: The FCC shall have given the consent contemplated by Section 9;

(f) Further closing documents: Buyer shall have delivered to Seller the following documents and instruments in form reasonably satisfactory to counsel for Seller:

(1) Certificate of the Secretary of the State of New York attesting to the good standing of Buyer in such jurisdiction as of a date reasonably proximate to the Closing Date; and

(2) Assignment and Assumption Agreement by which Buyer assumes the Licenses, Assigned Contracts, Call Letters, Intangible Assets and Business Records.

(g) Prorations: Except as otherwise expressly provided herein, all taxes, assessments, utilities water and sewage charges shall have been prorated between Buyer and Seller to the Closing Date;

(h) Prepaid Credits: Except as otherwise provided herein, all prepaid expenses and advertisements (including, but not limited to, in accordance with Section 3.4) shall have been prorated between Buyer and Seller to the Closing Date; and

(i) Purchase Price: Payment of the Purchase Price as set forth in Section 3.2.

11. **Closing.** Subject to the terms and conditions herein stated, the parties agree as follows:

11.1 **Closing Date.** The Closing of the transaction provided for in this Agreement shall be held not later than thirty (30) days following the date upon which the order of the FCC approving the assignment of the Licenses for the Station from Seller to Buyer has become final (i.e., no action, request for stay, petition for rehearing or reconsideration, or appeal is pending and the time for filing such request, petition, or appeal has expired) (the "Closing Date"). Such Closing shall take place at the offices of Keyser, Maloney & Winner, LLP, or such other place and time as mutually agreed (the "Effective Time"). Notwithstanding the foregoing, Buyer shall have the right to require closing at any time following FCC approval which has not yet become final.

11.2 **Failure to Close; Termination.** This Agreement may be terminated at any time prior to the Closing Date, as follows:

- (a) by the mutual consent of Seller and Buyer;
- (b) as provided by Sections 7.4, 7.7, 9.3, or 9.4 of this Agreement;
- (c) by Buyer, on or after the Closing Date, if Seller has not satisfied the conditions set forth in Section 10.1 and Buyer has satisfied or is prepared and able (but for Seller's defaults) to satisfy the conditions set forth in Section 10.2; and
- (d) by Seller, on or after Closing Date, if Buyer has not satisfied the conditions set forth in Section 10.2 and Seller has satisfied or is prepared and able (but for Buyer's defaults) to satisfy the conditions of Article 10.1.

A termination pursuant to this Section 11.2 shall not relieve any party of any liability it would otherwise have for a willful breach of this Agreement. In the event of any termination as provided by this Section 11.2(a), this Agreement shall thereupon become void and of no effect, without any further liability on the part of any party. If this Agreement is terminated prior to Closing for any reason other than under Section 11.2(d) above, the Deposit shall be returned to Buyer. If this Agreement is terminated pursuant to Section 11.2(d) above and Seller is not in material default of its obligations hereunder, the Deposit shall be paid by Buyer to Seller as liquidated damages and as the exclusive remedy of Seller against Buyer. Seller acknowledges that its damages in the event of termination of this Agreement under the provisions of Section 11.2(d) above would be difficult to determine and that the Deposit is a reasonable and satisfactory substitution for the amount such damages.

11.3 **Specific Performance.** The parties acknowledge that the Stations are of a special, unique and extraordinary character. Upon a material breach by Seller of its representations, warranties, covenants and agreements under this Agreement, Buyer may seek an

injunction restraining any such breach or threatened breach or to enforcement of this Agreement by a decree or decrees of specific performance requiring Seller to fulfill its obligations under this Agreement; provided, however, Buyer shall not be entitled to specific performance if it is in material breach of its representations, warranties, covenants and agreements under this Agreement or if it fails to obtain necessary regulatory approvals pursuant to this Agreement. Buyer may seek monetary damages arising from such material breach by Seller in lieu of specific performance, but Buyer may not seek both specific performance and monetary damages.

**12. Further Covenants.**

**12.1 Taxes.** All taxes originating from this transaction shall be paid by the party responsible by law to pay such tax.

**12.2 Expenses of the Parties.** Except as otherwise expressly provided in this Agreement, all expenses involved in the preparation, negotiation, authorization and consummation of this Agreement and the transactions contemplated hereby, including all fees and expenses of agents, representatives, counsel and accountants, shall be borne solely by the party who shall have incurred the same, and no other party shall have any responsibility with respect thereto.

**12.3 Confidentiality.** Except for necessary disclosure to such party's directors, officers, members, employees, counsel, accountants, lenders and other agents, and except for the disclosure contemplated by Section 9 and such disclosure as may be required by law, each party shall keep the provisions of this Agreement confidential both prior and subsequent to the Closing Date. Without limiting the generality of the foregoing, no party shall make any press release or advertisement with respect to the transactions contemplated hereby without the prior consent of the other party, unless the disclosing party determines, upon the advice of counsel, that such action is required by law, and then the disclosing party shall promptly notify the other party of such disclosure.

**12.4 Broker's Fee.** Each party will be solely responsible for any and all brokerage fees asserted against it by a person or entity claiming entitlement to such fees as a result of this transaction.

**12.5 Further Assurances.** Each party shall cooperate with the other, take such further action, and execute and deliver such further documents, as may be reasonably requested by any other party in order to carry out the terms and purposes of this Agreement. Without limiting the generality of the foregoing, from and after the Closing Date:

(a) each party shall file all tax returns consistent with the Allocation of the Purchase Price set forth in Schedule 3.3, and no party shall take any position on audit or in litigation which is inconsistent with such allocation if such position would result in the payment of any additional tax by, or the disallowance of any deduction or credit to, any other party; and

(b) upon request, each party shall take such action and deliver to the requesting party such further instruments of assignment, conveyance or transfer and other documents of further assurance as in the opinion of counsel to the requesting party may be reasonably desirable to assure, complete and evidence the full and effective transfer, conveyance and assignment of the Assets and possession thereof to Buyer, its successors and assigns, and the performance of this Agreement by Seller and Buyer in all respects.

**12.6 Accounts Receivable.** For a period of one hundred twenty (120) days after the Closing Date Buyer will collect in the normal course of business for the account of Seller the accounts receivable of the Station outstanding as of the Closing Date. Seller will furnish Buyer with a complete list of such accounts receivable at, or as soon as reasonably possible after, the Closing Date. Buyer will not, without the prior written consent of Seller, compromise or settle for less than full value any of Seller's accounts receivable. Any monies received by Buyer from any person who was indebted to Seller as of the Closing Date shall be applied first against said indebtedness, provided, however, that Buyer shall not attempt to influence an account debtor's normal payment practices with respect to such receivables. The obligation of Buyer hereunder will be to collect such accounts receivable in the ordinary and normal course of business and does not extend to the institution of litigation, employment of counsel or a collection agency, or any other extraordinary means of collection. As funds are received by Buyer during the 120-day period, Buyer will remit to Seller all monies collected on the accounts receivable by depositing same within one (2) business days into Seller's account at a bank directed by Seller in writing. Once each month, Buyer will deliver to Seller an updated aged receivables report for all accounts receivable of Seller described in this Section 12.6. After the 120-day period Buyer will have no further responsibilities with respect to any uncollected accounts receivable except to remit promptly to Seller any amounts subsequently received by Buyer on account of Seller's receivables. After the 120-day collection period has lapsed, to prevent disruption of Buyer's continuing relationship with the advertisers on the Stations, Seller shall give the Buyer the opportunity to pay in-full any or all of the Seller's outstanding receivables relating to the Stations at such time (on behalf of said advertiser). Buyer shall exercise its right to pay, in-full, any or all of the Seller's outstanding receivables within ten (10) business days after the end of said 120-day collection period, and Buyer shall deposit the same within one (1) business day into Seller's bank account as set forth above. Barring Buyer's election to timely exercise its rights under this Section 12.6 (and payment thereof), Seller shall be entitled to collect, in any manner it deems convenient, including but not limited to, the institution of litigation, the retention of counsel or the employment of a collection agency, the Seller's outstanding receivables after said 10-day election period. During the 120-day period and thereafter, Seller shall remain solely responsible for any commissions payable to salespersons for the sales that generated the accounts receivable outstanding as of the Closing Date.

### **13. General Provisions.**

**13.1 Survival of Representations, Warranties and Covenants.** The several representations, warranties and covenants of the parties herein contained, and the provisions hereof which by their terms are to be performed after the Closing Date, shall survive the Closing

Date for the periods set forth herein, and shall be effective regardless of any investigation which may have been or may be made at the time by or on behalf of the party to whom such representations, warranties, covenants and agreements are made.

**13.2 Amendment and Waiver.** This Agreement may be amended only by a writing executed by each of the parties hereto. No waiver of compliance with any provision or condition hereof, and no consent provided for herein, shall be effective unless evidenced by an instrument in writing duly executed by the party sought to be charged therewith. No failure on the part of any party to exercise, and no delay in exercising, any of its rights hereunder shall operate as a waiver thereof, nor shall any single or partial exercise by any party of any right preclude any other or future exercise thereof or the exercise of any other right.

**13.3 Assignment.** No party shall assign or attempt to assign any of its rights or obligations under this Agreement without the prior written consent of the other party hereto, provided, however, that upon prior written notice to Seller, Buyer may freely assign some or all of its rights and obligations hereunder to any affiliate entity of Buyer, as long as Buyer remains fully obligated hereunder and such assignment will not delay the FCC's grant of the FCC Application. Any attempted assignment that is not permitted hereunder shall be void and without effect.

**13.4 Notices, Etc.** Each notice, report, demand, waiver, consent and other communication required or permitted to be given hereunder shall be in writing and shall be sent either by registered or certified first-class mail, postage prepaid and return receipt requested, or by nationally recognized overnight courier, addressed as follows:

If to Seller: CATT Communications, Inc.  
P.O. Box 62  
Salamanca, NY 14779  
Attn: Michael Washington

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

Backhaus & Simon P.C.  
Community Bank Building  
North Union Street  
Olean, NY 14760  
Attn: Gerardus A. Backhaus, Esq.

If to Buyer: Pembroke Pines, Inc.  
1705 Lake Street  
Elmira, NY 14901  
Attn: Robert J. Pfuntner

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

Keyser, Maloney & Winner, LLP  
150 Lake Street  
Elmira, NY 14901  
Attn: George H. Winner, Jr., Esq.

Each such notice or other communication given by mail shall be deemed to have been received five (5) days after it is deposited in the United States mail in the manner specified herein, and each such notice or other communication given by nationally recognized overnight courier shall be deemed to have been received on the next business day after it is deposited with such courier for overnight delivery. Any party may change its address for the purpose hereof by giving notice in accordance with the provisions of this Section 13.4.

**13.5 Binding Effect.** Subject to the provisions of Section 13.3, this Agreement shall be binding upon and shall inure to the benefit of the parties and their respective successors and permitted assigns. This Agreement creates no rights of any nature in any person not a party hereto.

**13.6 Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of New York, without regard to the conflicts of law principles thereof that direct the application of the laws of any other jurisdiction, and, except as otherwise set forth herein, any legal action with respect hereto shall be brought exclusively in a state or federal court in the State of New York. The parties hereto waive any and all objections or defenses to jurisdiction of said court in New York.

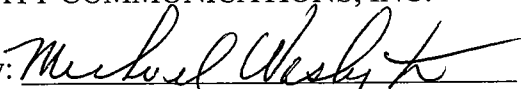
**13.7 Effect of Agreement.** This Agreement sets forth the entire understanding of the parties, and supersedes any and all prior agreements, arrangements and understandings, written or oral, relating to the subject matter hereof.

**13.8 Headings; Counterparts.** The article and section headings of this Agreement are for convenience of reference only and do not form a part hereof and do not in any way modify, interpret or construe the intention of the parties. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the parties have duly executed this Agreement on the date first written above.

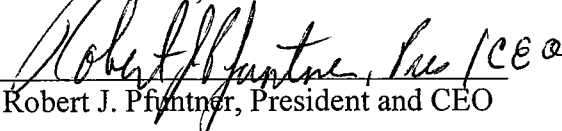
**SELLER:**

CATT COMMUNICATIONS, INC.

By:   
Michael Washington, President

**BUYER:**

PEMBROK PINES, INC.

By:   
Robert J. Pfuntner, President and CEO



STATE OF NEW YORK     )  
                                  ) ss:  
COUNTY OF CHEMUNG    )

On the 4<sup>th</sup> day of November, 2005, before me, the undersigned, a Notary Public in and for said State, personally appeared ROBERT J. PFUNTNER, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies) and that by his/her/their signature on the instrument, the individual or the person upon behalf of which the individual acted, executed the instrument.

Laura M. Oliver  
Notary Public

STATE OF NEW YORK     )  
                                  ) ss:  
COUNTY OF Cattaraugus )

LAURA M. OLIVER, Notary Public  
New York State, Chemung Co. 4968510  
Commission Expires June 25, 2006

On the 10<sup>th</sup> day of November, 2005, before me, the undersigned, a Notary Public in and for said State, personally appeared MICHAEL WASHINGTON, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies) and that by his/her/their signature on the instrument, the individual or the person upon behalf of which the individual acted, executed the instrument.

Gerardus A. Backhaus  
Notary Public

GERARDUS A. BACKHAUS  
Notary Public, Cattaraugus County  
New York State - No. 02BA4662650  
My Commission Expires June 30, 2007