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**ASSET PURCHASE AGREEMENT,**

**by and among**

**BELA BROADCASTING, LLC,  
PHOENIX 6 BROADCASTING, LLC,  
BELA TV, LLC  
AND  
PHOENIX 6 TV, LLC,**

**as Sellers**

**and**

**HERO BROADCASTING LLC,**

**as Buyer**

**Dated as of December 24, 2007**

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## **ASSET PURCHASE AGREEMENT**

THIS ASSET PURCHASE AGREEMENT is made and entered into as of this 24<sup>th</sup> day of December, 2007, by, between and among BELA BROADCASTING, LLC, a Florida limited liability company ("Bela"), PHOENIX 6 BROADCASTING, LLC, a Florida limited liability company ("Phoenix"), BELA TV, LLC, a Florida limited liability company ("Bela TV"), and PHOENIX 6 TV, LLC, a Florida limited liability company ("Phoenix TV", and together with Bela, Phoenix and Bela TV, the "Sellers", and each individually a "Seller"), and HERO BROADCASTING LLC, a Delaware limited liability company ("Buyer"). The Sellers and Buyer are each referred to in this Agreement a "Party" and collectively as the "Parties."

### **WITNESSETH:**

WHEREAS, Bela TV is the licensee of (i) full power broadcast television station KBEH(TV), Oxnard, California, which operates on analog Channel 63 and digital channel 24, and (ii) broadcast television booster KBEH1, Los Angeles, California, which operates on analog Channel 63 and digital channel 24 (collectively, "KBEH"), all pursuant to authorizations issued by the FCC.

WHEREAS, Phoenix TV is the licensee of (i) full power broadcast television station KMOH-TV, Kingman, Arizona, which operates on analog Channel 6 and digital Channel 19, and (ii) low power television station KEJR-LP, Phoenix, Arizona, which operates on analog Channel 43, Phoenix, Arizona (together, the "Phoenix Stations"), all pursuant to authorizations issued by the FCC.

WHEREAS, as used herein, the terms "Station" or "Stations" refers to KBEH and the Phoenix Stations.

WHEREAS, Bela is the sole member of Bela TV and Phoenix, and Phoenix is the sole member of Phoenix TV.

WHEREAS, Sellers own and operate the Business.

WHEREAS, Sellers desire to sell, assign and transfer to Buyer, and Buyer desires to purchase, certain of the assets owned by Sellers and used or held for use in the operation of the Business, and assume certain of the liabilities of Sellers, on the terms and subject to the conditions set forth herein.

NOW, THEREFORE, in consideration of the above premises and of the mutual covenants, conditions and agreements set forth herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties, intending to be legally bound, hereby agree as follows:

## **ARTICLE 1: DEFINITIONS**

1.1 Definitions. Capitalized terms used in this Agreement shall have the meanings ascribed to them in Annex A, which is incorporated herein by reference into this Agreement and made a part hereof.

1.2 Rules of Construction. Whenever the context requires, any pronoun shall include the corresponding masculine, feminine and neuter forms. Where the context so requires or permits, the use of the singular form includes the plural, and the use of the plural form includes the singular. The words “include,” “includes” and “including” shall be deemed to be followed by the phrase “without limitation.” The term “or” is disjunctive; the term “and” is conjunctive. The term “shall” is mandatory; the term “may” is permissive. All references to “Party” and “Parties” shall be deemed references to parties to this Agreement unless the context shall otherwise require. Except as specifically otherwise provided in this Agreement, a reference to an Article, Annex, Section, Schedule or Exhibit is a reference to an Article or Section of this Agreement or an Annex, Schedule or Exhibit of this Agreement. When used in this Agreement, words such as “herein”, “hereinafter”, “hereby”, “hereof,” “hereto”, “hereunder” and words of similar import shall refer to this Agreement as a whole, including Annexes, Schedules and Exhibits hereto, and not to any particular provision of this Agreement, unless the context clearly requires otherwise. 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.

## **ARTICLE 2: PURCHASE AND SALE**

2.1 Purchase and Sale. Upon all of the terms and subject to all of the conditions of this Agreement, at the Closing, Sellers shall sell, transfer, convey, assign and deliver to Buyer on the Closing Date, and Buyer shall acquire and purchase, free and clear of all Liens (other than Permitted Liens), all of the right, title and interest in, to and under the tangible and intangible assets owned, leased or licensed by Sellers and used or held for use by Sellers in the Business, but excluding the Excluded Assets (such assets being conveyed being collectively referred to herein as the “Assets”) and excluding the Retained Liabilities. Without limiting the generality of the foregoing, the Assets shall include:

(a) the Tangible Personal Property, including the Tangible Personal Property listed on Schedule 2.1(a);

(b) the Licenses and Station Licenses, including the Licenses and Station Licenses listed on Schedule 2.1(b);

(c) the Assumed Contracts, including the Contracts listed on Schedule 2.1(c);

(d) the Intangibles, including the Intangibles listed on Schedule 2.1(d);

- (e) the Records;
- (f) all equipment warranties relating to items included in the Tangible Personal Property to the extent contractually assignable by Sellers;
- (g) all of Sellers' rights in the call letters, names or styles of the Stations and any derivation, variant or modification thereto and any logograms, jingles and other Intangibles incorporating or using such call letters, names or styles;
- (h) all Internet web sites and related agreements, content and databases, domain name registrations and toll free telephone numbers used or held for use in the operation of the Business;
- (i) all such other assets and rights set forth on Schedule 2.1(i) hereof;
- (j) all rights in, to and under the real estate leases and license agreements, including all amendments and modifications thereto, listed on Schedule 2.1(j) (the "Real Property Leases"), with respect to the Real Property;
- (k) all rights in, to and under the personal property leases, including all amendments and modifications thereto, listed on Schedule 2.1(k) (the "Personal Property Leases"), if any;
- (l) the performance and other bonds, security and other deposits, advances, advance payments, prepaid credits and deferred charges listed on Schedule 2.1(l);
- (m) all rights in, to and under the claims for refunds, rebates or other discounts due from suppliers or vendors and rights to offset in respect thereof listed on Schedule 2.1(m);
- (n) the rights of Sellers in the claims, choses in action, rights in action, rights to tender claims or demands to Sellers insurance companies, rights to any insurance proceeds and other similar claims listed on Schedule 2.1(n) and relating to the Business ("Assigned Claims"); and
- (o) subject to Section 2.7, all prepaid expenses, deposits (including security deposits), ad valorem taxes and lease and rental payments relating to the Business existing at the Effective Time;
- (p) all management and other systems (including computers and peripheral equipment), databases, computer software, computer disks and similar assets, as and to the extent used in the Business and, to the extent assignable, all licenses and rights in relation thereto; and
- (q) all goodwill of or relating to the Stations and the Business.

2.2 Excluded Assets. The Assets shall not include any assets not described in Section 2.1 (the "Excluded Assets"). Without limiting the generality of the foregoing, the Excluded Assets shall include:

(a) Cash and Marketable Securities. Cash Equivalents and marketable securities;

(b) Accounts Receivable. All Accounts Receivable;

(c) Certain Debt. All obligations or debt, including any intercompany or intracompany receivable cash balances or debt between or among Sellers and any of their Affiliates or between or among any of their Affiliates;

(d) Charter Documents. Any seals, organizational documents, meeting record books or other records related to the organization of Sellers;

(e) Sellers' Securities. All membership interests, shares of capital stock, promissory notes, partnership interests and all other equity interests and securities of, and related documentation held by or in Sellers;

(f) Corporate Records. Sellers' corporate or limited liability company records and other books and records that relate to internal corporate or limited liability company matters of Sellers, Sellers' account books of original entry with respect to the Station and all original accounts, checks, payment records, Tax Returns and records and other similar books, records and information of Sellers relating to the Business and any other Assets prior to Closing, and duplicate copies of any records as are necessary or desirable to enable Sellers to prepare and file Tax Returns and reports, financial statements and other documents deemed necessary or desirable by Sellers;

(g) Other Stations. Any assets used primarily by any business of Sellers other than the Business, including any rights or obligations relating to an FCC construction permit or license for a full power broadcast television station to operate on analog Channel 38 in Corpus Christi, Texas under the call sign KUQI(TV) (the "Corpus Christi Assets"), and any notes or other consideration received by Corpus 38, LLC and/or the members of Bela in connection with the sale of such Corpus Christi Assets;

(h) Intercompany Accounts. All notes, bonds and other evidences of indebtedness from, or other advances, intercompany accounts, transfers and investments made to or in, any or all of the Sellers, including any such indebtedness relating to the Corpus Christi Assets (all such notes, bonds, evidences of indebtedness, advances, intercompany accounts, transfers and investments, collectively, "Intercompany Accounts");

(i) Employee Benefit Contracts. Sellers' Employee Benefit Plans and contracts of insurance for employee group medical, dental and life insurance plans;

(j) Insurance Policies. All insurance policies, but subject to any Assigned Claim conveyed to Buyer pursuant to Section 2.1(n), and any premium refunds to the extent Buyer terminates such insurance at the Effective Time;



(k) Deposits. Subject to Section 2.7, all deposits and advances, rebates and credits related to any Retained Liability;

(l) Claims. Except for any Assigned Claim, (i) all claims, choses-in-action, rights in action, rights to tender claims or demands to Sellers insurance companies, rights to any insurance proceeds (and other similar claims), and all claims against officers, directors, managers, stockholders and members of Sellers for their actions as such, (ii) any and all contracts or policies of insurance and insurance plans and the assets thereof, promissory notes, amounts due from employees, bonds, letters of credit or other similar items and any cash surrender value with respect thereto, and all rights under any of the foregoing, including any insurance proceeds receivables and (iii) any and all claims of Sellers with respect to transactions and events occurring prior to the Closing Date and all claims for refunds of monies paid to any Governmental Authority (including Tax refunds) and all claims for copyright royalties for broadcast prior to the Closing Date;

(m) Contracts. Any contracts other than the Assumed Contracts, including any and all employment agreements (collectively, the "Excluded Contracts");

(n) Tangible Personal Property. All tangible personal property disposed of or consumed in the Ordinary Course of Business of Sellers, and in compliance with the terms and conditions of this Agreement, between the date of this Agreement and the Closing Date;

(o) Rights Under Certain Agreements. All of Sellers' rights under any transaction agreement, including this Agreement and all other agreements, certificates, instruments, documents and writings delivered by Buyer and/or Sellers in connection with this transaction; and

(p) Schedule 2.2 Assets. The assets listed on Schedule 2.2.

2.3 Assumption of Liabilities. At the Closing, Buyer shall assume and agree to duly and timely pay, discharge, defend and perform as and when due, only the following obligations and liabilities of the Sellers (the "Assumed Liabilities"):

(a) any and all obligations and liabilities of Sellers under the Assumed Contracts and the Licenses and Station Licenses on Schedule 2.1(b) to the extent that such obligations and liabilities arise or accrue after the Effective Time; and

(b) any and all liabilities and obligations of Sellers for any advance payments for which Buyer received an adjustment to the Purchase Price pursuant to Section 2.7.

2.4 Retained Liabilities. Except for the Assumed Liabilities, Buyer shall not assume and shall not be liable or responsible for any contingencies, liabilities or obligations of Sellers or their Affiliates of any kind (the "Retained Liabilities"). Without limiting the foregoing, the Retained Liabilities shall include:

- (a) Any liability attributable to the Excluded Assets;
- (b) Any liability or obligation under or with respect to any Assumed Contract, the Licenses and the Station Licenses, to the extent such liabilities or obligations arise during or have accrued in connection with any period of time through the Effective Time or any liability for payments or amounts due under any Assumed Contract which are payable through the Effective Time;
- (c) Any liability for Taxes attributable to or imposed upon Sellers or their Affiliates, or attributable to or imposed upon the Assets for the period through the Effective Time;
- (d) Any liability for or with respect to any loan, other indebtedness, or account payable, inclusive of interest and fees, including (i) any such liabilities owed to Affiliates of Sellers, and (ii) any liabilities arising from unclaimed or abandoned property arising from the operation of the Business prior to the Closing;
- (e) Any liability arising from accidents, occurrences, misconduct, negligence, or breach of fiduciary duty through the Effective Time, whether or not covered by workers' compensation or other forms of insurance;
- (f) Any liability arising out of any employment agreement or of Sellers' Employee Benefit Plans or any Contract of insurance for employee group medical, dental or life insurance plans;
- (g) Any liability for making payments of any kind to employees (including bonuses, severance payments and any payments owed or paid to any employees as a result of this transaction, the termination of an employee by Sellers, or other claims arising out of the terms of employment with Sellers) or with respect to payroll Taxes;
- (h) Any liability incurred in connection with the Sellers' making or performance of this Agreement and the transaction contemplated hereby;
- (i) Any costs or expenses incurred in connection with shutting down, uninstalling and removing equipment not included in the Assets and any costs or expenses associated with any Contracts that are not Assumed Contracts;
- (j) Any liability for expenses and fees incurred by Sellers incidental to the preparation of the transaction agreements, preparation or delivery of materials or information requested by Buyer, and the consummation of the transaction contemplated hereby, including all broker, counsel and accounting fees;
- (k) Any liability related to or arising from the Sellers' financing of their original acquisition of the Stations or subsequent financing;
- (l) Any liability to any members, directors, officers or shareholders of Sellers;

(m) Any liability arising as a result of any legal or equitable action or judicial or administrative proceeding initiated at any time, to the extent related to any action or omission on or prior to the Closing Date, including any liability for (i) infringement or misappropriation of any intellectual property rights or any other rights of any Person (including any right of privacy or publicity); (ii) defamation, libel or slander; (iii) violations of any federal, state, local, municipal or other law, statute, legislation, constitution, principle of common law, resolution, ordinance, code, order, edict, decree, proclamation, treaty, convention, rule, regulation, permit, ruling, directive, pronouncement, requirement (licensing or otherwise), specification, determination, decision, opinion or interpretation that is issued, enacted, adopted, passed, approved, promulgated, made, implemented or otherwise put into effect by or under the authority of any Governmental Authority, including Environmental Laws or (iv) litigation identified on Schedule 4.9;

(n) Any liability arising out of (i) the presence or release of any materials of environmental concern at the Leased Real Property through the Effective Time, or (ii) the failure of the Sellers to comply with any requirements of Environmental Laws through the Effective Time;

(o) Any liability relating to any intercompany balances between the Business and the Sellers or its members; and

(p) Any liability arising out of the operation of the Business prior to the Closing Date, except to the extent such liability is included in the Assumed Liabilities.

## 2.5 [Intentionally Omitted.]

2.6 Purchase Price. In consideration for the sale, assignment, transfer and delivery of the Assets to Buyer pursuant to the terms and subject to the conditions of this Agreement and the adjustments and prorations in this Agreement, Buyer shall assume the Assumed Liabilities from Sellers and shall pay to Sellers a purchase price equal to One Hundred Million Dollars (\$100,000,000) (the "Purchase Price"), subject to adjustment pursuant to Section 2.7(a). The Purchase Price shall be paid by Buyer to Sellers as follows:

(a) At the Closing, Buyer shall pay or cause to be paid to Sellers the Cash Purchase Price by wire transfer of immediately available funds pursuant to wire transfer instructions, which instructions shall be delivered to Buyer by Sellers at least two (2) Business Days prior to the Closing Date. The Cash Purchase Price means the amount equal to: Ninety Million Dollars (\$90,000,000) (i) less an amount (the "Behar Contribution") equal to the greater of (A) 50% of the amount that Sellers estimate that Robert Behar and Estrella Behar will be entitled to receive from distributions from sales proceeds and (B) \$2,250,000 and (ii) less/plus the estimated adjustments pursuant to Section 2.7(a) as set forth in Sellers' preliminary settlement statement pursuant to Section 2.7(b)(i). Buyer shall cause Holdco to credit the Behar Contribution against the amount payable by Robert Behar for Voting Common Stock in Holdco under that certain Transaction Agreement dated as of even date herewith (the "Transaction Agreement"). The Parties acknowledge that the Behar Contribution will be offset by Bela against any distribution to which Robert Behar may be entitled as a member of Bela, it being

understood that the determination of the amount of the Behar Contribution made in anticipation of the Closing is without prejudice to Bela's final determination of the amounts to be distributed to its members. Sellers agree that Sellers bear the entire risk of the calculation of the Behar Contribution and (without prejudice to any rights of any equity holders of Sellers to assert any claim against any of the Sellers or Robert Behar) that neither Buyer nor Holdco shall have any obligation to refund any portion of the Behar Contribution in the event of any dispute regarding such calculation.

(b) The remaining balance of the Purchase Price – Ten Million Dollars (\$10,000,000) – shall be paid by Buyer's delivery to Bela at the Closing of a convertible note payable by Buyer in the form attached hereto as Exhibit A (the "Convertible Note").

## 2.7 Prorations and Adjustments.

(a) General Rule. The Parties agree to prorate the Assets and Assumed Liabilities, as set forth below. The operation of the Stations and the income and normal operating expenses attributable thereto through 11:59:59 p.m. (local Station time) on the Closing Date (the "Effective Time") shall be for the account of Sellers and thereafter for the account of Buyer and, if any income or expense can be allocated or credited as provided above, then it shall be allocated, charged or prorated accordingly. Such prorations shall include (i) income and expenses for goods or services received both before and after the Effective Time, (ii) power and utilities and phone charges, (iii) any real estate or property taxes, (iv) frequency discounts, (v) FCC regulatory fees, (vi) rents and similar prepaid and deferred items, (vii) prepaid cash (including prepaid rent and excluding prepaid deposits), and (viii) 50 percent of any unearned portion of network compensation payments due under the Network Affiliation Agreement; provided, however, that Bela and Bela TV shall be entitled to the full amount of any Make-Good Payment (as defined in the Network Affiliation Agreement) received by it pursuant to the Network Affiliation Agreement, all of which shall be prorated between Sellers and Buyer as of the Effective Time based on the number of days in the relevant period through and including the Closing Date and the number of the days in the relevant period after the Closing Date. All special assessments and similar charges or liens imposed against any of the Assets in respect of any period of time through the Effective Time, whether payable in installments or otherwise, shall be the responsibility of Sellers and amounts payable with respect to such special assessments, charges or liens in respect of any period of time after the Effective Time shall be the responsibility of Buyer and such charges shall be adjusted as required hereunder.

(b) Manner of Determining Adjustments; Adjustment Reports. The adjustments and prorations pursuant to Section 2.7(a) will be determined in accordance with the following procedures:

(i) Sellers shall prepare and deliver to Buyer not later than three (3) Business Days before the Closing Date a preliminary settlement statement which shall set forth Sellers' good faith estimate of the adjustments to the Purchase Price under Section 2.7(a), which good faith estimate shall be made in accordance with GAAP. The preliminary settlement statement shall contain all information reasonably necessary to determine the prorations under Section 2.7(a), to the extent such adjustments can be

determined or estimated as of the date of the preliminary settlement statement, and such other information as may be reasonably requested by Buyer.

(ii) Buyer will prepare and deliver to Sellers within ninety (90) days after the Closing Date, a statement setting forth Buyer's determination of the prorations and the calculation thereof pursuant to Section 2.7(a), which determination shall be made in accordance with GAAP. Buyer's statement (A) shall contain all information reasonably necessary to determine the prorations under Section 2.7(a) and such other information as may be reasonably requested by Sellers, and (B) shall be certified by Buyer to be true and complete to Buyer's knowledge as of the date thereof. Within thirty (30) days after receiving the statement, Sellers will provide Buyer with any objections or omissions to the computations. If Sellers have no objections, the Party obligated to make payment under the report will do so within five (5) business days after the expiration of the 30-day period, and if Sellers have objections, such obligated Party shall pay all amounts that are undisputed within such time frame. Any disagreement which cannot be resolved by the Parties within thirty (30) days will be resolved by Sellers and Buyer each selecting an independent, disinterested certified public accountant knowledgeable in the broadcast industry to resolve the dispute. If these two accountants cannot resolve the dispute within thirty (30) days after submission to them, then the two accountants shall select a third independent, disinterested certified public accountant knowledgeable in the broadcast industry and the agreement of two of the three accountants shall be binding on the Parties and subject to judicial enforcement. Each of Buyer and Sellers shall bear the costs of its own accountant and one-half of the cost of the third accountant.

## 2.8 Accounts Receivable.

(a) At the Effective Time, Sellers shall designate Buyer as their agent solely for the purpose of collecting the Accounts Receivable. Sellers shall deliver to Buyer, on or immediately after the Effective Time, a complete and detailed statement of the Accounts Receivable. Buyer shall use commercially reasonable efforts in the ordinary course of business to collect the Accounts Receivable during the period (the "Collection Period") beginning at the Effective Time and ending on the one hundred twentieth (120th) day following the Effective Time consistent with Buyer's practices for collection of its accounts receivable. Any payment received by Buyer (i) at any time following the Effective Time, (ii) from a customer of the Stations after the Effective Time that was also a customer of the Stations prior to the Effective Time and that is obligated with respect to any Accounts Receivable and (iii) that is not designated in writing as a payment of a particular invoice or invoices or as a security deposit or other prepayment, shall be presumptively applied to the accounts receivable for such customer outstanding for the longest amount of time and, if such accounts receivable shall be an Accounts Receivable, remitted to Sellers in accordance with Section 2.8(b); provided further, however, that if, prior to the Effective Time, Sellers or, after the Effective Time, Sellers or Buyer received or receives a written notice of dispute from a customer with respect to an Accounts Receivable that has not been resolved, then Buyer shall apply any payments from such customer to such customer's oldest, non-disputed accounts receivable, whether or not an Accounts Receivable. Buyer shall not refer any of the Accounts Receivable to a collection agency or to an attorney for collection without Sellers' written consent. Except as otherwise provided herein, Buyer shall

incur no liability to Sellers for any collected or uncollected Accounts Receivable. During the Collection Period, and provided Buyer is complying with its obligations hereunder, neither Sellers nor any of their agents, without the consent of Buyer, shall make any direct solicitation of any customers owing the Accounts Receivable for collection purposes.

(b) Buyer will advise Sellers of any counterclaims or set-offs that may arise subsequent to the Closing Date with respect to any such Accounts Receivable, and will not compromise or otherwise agree to a reduction in the face amount of any such Accounts Receivable without the prior written consent of Sellers. Buyer shall not take any action (nor shall it omit to take any action) which could reasonably be expected to adversely impact the payment of any such Accounts Receivable. Buyer and Sellers further agree that (i) they will not attempt to influence any customer to allocate payment to invoices other than in accordance with this Section; and (ii) there will be no right of setoff as between Buyer and Sellers hereunder with respect to payments required to be made by Buyer to Sellers under this Section, except for amounts owed under Section 2.7.

(c) On or before the twentieth (20th) day following the end of each calendar month in the Collection Period, Buyer shall (i) deposit into an account identified by Sellers 50 percent of the amounts collected during the preceding month of the Collection Period with respect to the Accounts Receivable in immediately available funds by wire transfer and (ii) deposit the remaining 50 percent into an account designated by MTVN in payment of amounts due under the Network Affiliation Agreement. Buyer shall furnish Sellers with a list of the amounts collected during such calendar month and in any prior calendar months with respect to the Accounts Receivable and a schedule of the amount remaining outstanding under each particular account. At any time during the Collection Period, Sellers shall be entitled to inspect and/or audit the records maintained by Buyer pursuant to this Section 2.8, upon reasonable advance notice and during normal business hours.

(d) Following the expiration of the Collection Period, Buyer shall have no further obligations under this Section 2.8, except that Buyer shall immediately pay over to Sellers any amounts subsequently paid to it with respect to any Accounts Receivable (in accordance with the procedure set forth in the fourth sentence of Section 2.8(a)). Following the Collection Period, Sellers may pursue collections of all the Accounts Receivable, and Buyer shall deliver to Sellers all files, records, notes and any other materials relating to the Accounts Receivable and shall otherwise reasonably cooperate with Sellers for the purpose of collecting any outstanding Accounts Receivable.

### **ARTICLE 3: GOVERNMENTAL APPROVALS AND CONTROL OF STATION**

#### **3.1 FCC Consents.**

(a) The purchase and sale of the Assets as contemplated by this Agreement shall be subject to, and conditioned upon, the receipt of the FCC Consents.

(b) Within five (5) Business Days after the execution and delivery of this Agreement, but in any event no earlier than January 3, 2007, Buyer and Sellers shall prepare,

execute and file with the FCC the Assignment Applications. Buyer and Sellers agree to prosecute the Assignment Applications with all reasonable diligence and take all steps reasonably necessary and otherwise use their commercially reasonable efforts to obtain the FCC Consents as expeditiously as possible, including the filing of all appropriate or necessary supplemental filings and amendments and vigorously contesting and opposing any petitions, objections, challenges or requests for reconsideration thereof. No Party shall take any action not contemplated by this Agreement that such Party knows would adversely affect obtaining the FCC Consents. Each Party will promptly provide the other Party with true, correct and complete copies of all pleadings, orders, filings or other documents served on them related to the Assignment Applications or the FCC Consents. All filing fees related to the Assignment Applications shall be borne equally by Buyer and Sellers.

(c) Each Party agrees to comply with any reasonable condition imposed on it by any FCC Consent, except that no Party shall be required to comply with a condition if compliance with the condition would have a material adverse effect upon it. Notwithstanding anything to the contrary contained in this Agreement, neither Party, nor any investor in any Party, nor any of their respective Affiliates shall be required to sell or otherwise dispose of, hold separate (through the establishment of a trust or otherwise), divest itself of, or limit the ownership or operations of all or any material portion of its businesses, assets or operations.

(d) If the Closing shall not have occurred for any reason within the original effective period of the FCC Consents and this Agreement shall not have been terminated by Buyer or Sellers pursuant to Section 12.1, the Parties hereto shall jointly request an extension (or extensions, as necessary) of the effective period of the FCC Consents. No extension of the FCC Consents shall limit the right of any Party to exercise its rights under Section 12.1.

3.2 Control Prior to Closing. Between the date hereof and the Closing Date, Buyer shall not, directly or indirectly, control, supervise or direct, or attempt to control, supervise or direct, the operation of the Business. Such operation, including complete control and supervision of all programs, employees and policies, shall be the sole responsibility of Sellers.

3.3 [Intentionally Omitted.]

3.4 Other Governmental Consents. Promptly following the date of this Agreement, Buyer and Sellers shall prepare and file with the appropriate Governmental Authorities any notices as well as any other requests for approval or waiver that are required from such Governmental Authorities in connection with the transactions contemplated hereby other than the Assignment Applications, which shall be governed by Section 3.1 above, and shall diligently and expeditiously prosecute, and shall reasonably cooperate with each other in the prosecution of, such requests for approval or waiver and all proceedings necessary to secure such approvals and waivers.

3.5 Governmental Consents Representations and Warranties.

(a) Sellers represent and warrant to Buyer that, except as set forth in Schedule 3.5(a), Sellers know of no fact, reason or proceeding that would reasonably be expected to: (i) disqualify Sellers as the assignor of the Station Licenses or cause the FCC to fail to approve in a timely fashion any Assignment Application or to otherwise delay the ruling upon any Assignment Application; (ii) constitute grounds for the filing of a petition to deny or objection related to the qualifications of Sellers; or require a waiver of any FCC rule, regulation or policy existing as of the date of this Agreement, with respect to Sellers, for the FCC to approve the Assignment Applications; (iii) cause the filing of any objection to any Assignment Application; (iv) disqualify Sellers from consummating the transactions contemplated herein within the times contemplated herein; or (v) otherwise disqualify Sellers from assigning the Station Licenses to Buyer.

(b) Buyer represents and warrants to Sellers that, except as set forth in Schedule 3.5(b), Buyer knows of no fact, reason or proceeding that would reasonably be expected to: (i) disqualify Buyer as the assignee of the Station Licenses or cause the FCC to fail to approve in a timely fashion any Assignment Applications due to Buyer's qualifications to be an FCC licensee or to otherwise delay the ruling upon any Assignment Application; (ii) constitute grounds for the filing of a petition to deny or objection related to the qualifications of Buyer; or require a waiver of any FCC rule, regulation or policy existing as of the date of this Agreement, with respect to Buyer, for the FCC to approve the Assignment Applications due to Buyer's qualifications to be an FCC licensee; (iii) cause the filing of any objection to any Assignment Application; (iv) disqualify Buyer from consummating the transactions contemplated herein within the times contemplated herein; or (v) otherwise disqualify Buyer from receiving the assignment of the Station Licenses from Sellers.

#### **ARTICLE 4: REPRESENTATIONS AND WARRANTIES OF SELLERS**

The Schedules shall be arranged in sections and subsections corresponding to the numbered and lettered sections and subsections contained in Article III and IV. Each Seller, jointly and severally, represents and warrants to Buyer as follows:

4.1 Organization and Standing. Each of Sellers is a limited liability company duly formed, validly existing and in good standing under the laws of the State of Florida, and is duly qualified to conduct business as a foreign limited liability company and in good standing in each jurisdiction in which such qualification is required, except where the failure to be so qualified would not reasonably be expected to have a Material Adverse Effect. Each of Sellers has the requisite limited liability company power and authority to own, lease, and operate its properties and to carry on its business as now conducted and to own, operate and hold under lease its assets and properties as, and in the places where, such assets and properties are currently owned, operated or held, except where the failure thereof would not reasonably be expected to have a material adverse effect on its ability to consummate the transactions contemplated hereby.

4.2 Authorization; Enforceability. The execution, delivery and performance of this Agreement by Sellers and the agreements, documents and instruments required to be executed under this Agreement (the "Ancillary Agreements") to which Sellers are parties, and



the consummation by Sellers of the transactions contemplated hereby and thereby, are within the limited liability company power of Sellers and have been duly authorized by all necessary limited liability company action by Sellers and their respective managers and members, and no approval from or notice to any of the managers and members of Sellers is required regarding the same that has not be obtained or given, as applicable. This Agreement is, and the Ancillary Agreements to which Sellers are parties will be, when executed and delivered by Sellers, the legal, valid and binding obligation of Sellers, enforceable against each of them in accordance with their respective terms, except as such enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium or similar laws affecting the rights of creditors generally and principles of equity, whether considered at law or in equity.

4.3 Absence of Conflicting Agreements; Consents. Except as set forth in Schedule 4.3, neither the execution, delivery or performance by Sellers of this Agreement nor the Ancillary Agreements to which Sellers are parties, nor the consummation of the transactions contemplated hereby or thereby, does or will, after the giving of notice, or the lapse of time or both, or otherwise:

(a) violate, conflict with, contravene, result in a breach of, or constitute a default in any material respect under, any certificate of formation, limited liability company agreement or other governing or organizational instruments of Sellers;

(b) subject to obtaining the FCC Consents, contravene, conflict with, or violate in any material respect any applicable law, statute, ordinance, rule or regulation, or any court or administrative order or process, of any Governmental Authority to which Sellers are parties or by which Sellers or the Assets are bound;

(c) subject to obtaining the requisite Consents for the Assumed Contracts, contravene in any material respect, or constitute a material default under, any Assumed Contract;

(d) require the Consent or notice to any Governmental Authority other than the FCC Consents and consents and notices associated with De Minimis Permits;

(e) require any Consent or other action by or notification to any Person (other than a Governmental Authority), constitute a default under, or give to any Person (other than a Governmental Authority) any rights of termination, amendment, acceleration, cancellation or modification of any right or obligation of any Seller or to a loss of any benefit relating to the Business to which any Seller is entitled under, any provision of any note, bond, mortgage, indenture, contract, agreement, lease, license, permit, franchise or other agreement or instrument to which any Seller is a party or by which any of its assets may be bound, except where the failure to obtain such Consents or notice, or except where such default, would not have a Material Adverse Effect; or

(f) result in the creation or imposition of any Lien (other than Permitted Liens), upon the Assets, except as would not have a Material Adverse Effect.

4.4 Tangible Personal Property. Except as set forth in Schedule 4.4:

(a) Sellers own and have good title to the Tangible Personal Property, free and clear of any and all Liens (other than Permitted Liens);

(b) The Tangible Personal Property is in good operating condition and repair (given the age of such property and the use to which such property is put and ordinary wear and tear excepted);

(c) The Tangible Personal Property includes all items of tangible personal property required to permit Buyer to operate the Business as currently conducted by Sellers; and

(d) Those items of Tangible Personal Property constituting transmitting and studio equipment that are currently used by the Stations in their operations, are each operational, are each in good working condition and repair (reasonable and ordinary wear and tear excepted) and have been serviced and maintained by Sellers in accordance with normal industry standards and practices and applicable FCC rules and regulations.

#### 4.5 Contracts.

(a) Sellers have delivered or made available to Buyer (i) originals or true and complete copies of all written Assumed Contracts, including all amendments, modifications and supplements thereto, and (ii) accurate written summaries of the material terms of all oral Assumed Contracts that are listed on Schedule 2.1(c).

(b) Except as set forth in Schedule 4.5(b):

(i) No Seller is in material default (with the lapse of time or giving of a notice or both) under any Assumed Contract, and, to the Knowledge of Sellers, no other Person that is a party to any such Assumed Contract is in material default thereunder;

(ii) Each of the Assumed Contracts were negotiated at arm's length;

(iii) Each of the Assumed Contracts is assignable by Sellers to Buyer without the consent of any other Person; and

(iv) Each of the Assumed Contracts is valid, binding, enforceable and in full force and effect, in all material respects, and constitutes the legal and binding obligation of the applicable Seller and, to the Knowledge of Sellers, each other Person that is a party thereto in accordance with its terms, except as such enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium or similar laws affecting the rights of creditors generally and principles of equity, whether considered at law or in equity.

#### 4.6 Intangibles.

(a) Schedule 2.1(d) is a complete list as of the date of this Agreement of all material items of Intangibles (exclusive of Licenses and Station Licenses). Sellers have provided or made available to Buyer correct and complete copies of all documents in Sellers' possession establishing or evidencing Sellers' rights to the Intangibles listed on such Schedule 2.1(d). Sellers own or have the right to use the Intangibles, free and clear of Liens (other than Permitted Liens) and have not licensed anyone to use any of the Intangibles.

(b) Except as set forth on Schedule 4.6 and other than with respect to matters generally affecting the television broadcasting industry:

(i) Sellers' rights and interests in the Intangibles listed on Schedule 2.1(d) have been issued or granted to or are owned by Sellers and are valid and, to the Knowledge of Sellers, uncontested, and no material actions, suits or claims for infringement, misappropriation or interference related to Sellers' use of all material items of Intangibles are pending or, to the Knowledge of Sellers, have been threatened against any of Sellers;

(ii) To the Knowledge of Sellers, Sellers' use of the Intangibles does not infringe upon any trademarks, trade names, service marks, service names, copyrights or intellectual property or other proprietary rights owned by any other Person which would reasonably be expected to have a Material Adverse Effect and Sellers have not received written notice from any party that there is a basis for infringement;

(iii) To the Knowledge of Sellers, no other Person has infringed upon the rights of Sellers with respect to the Intangibles which would reasonably be expected to have a Material Adverse Effect;

(iv) To the Knowledge of Sellers, and except as disclosed on Schedule 4.9, there is no trademark, trade name, patent, copyright or Internet domain name owned by a third party that any Seller is using in the Business without valid license to do so; and

(v) The Intangibles constitute all of the intangible property used or held for use in the operation of the Stations and Business and are sufficient to permit Buyer to operate the Stations and Business as currently conducted.

#### 4.7 Real Property; Leases.

(a) No Seller owns fee simple title to any Real Property.

(b) The Real Property Leases constitute all of the licenses, leases or subleases for the use or occupancy of Real Property by Sellers and constitute all of the lease agreements between Sellers and third parties relating or used in connection with the Business. With respect to each such Real Property Lease, except as disclosed in Schedule 4.7(a):

(i) A true and complete copy of each Real Property Lease has been made available to Buyer, and the applicable Seller is not in material breach or in default thereof, and, to the Knowledge of Sellers, no other Person that is a party to any such Real Property Lease is in material breach or default thereunder;

(ii) Each of the Real Property Leases is legal, valid, binding, enforceable and in full force and effect in all material respects, and constitutes the legal and binding obligation of the applicable Seller and, to the Knowledge of Sellers, any other Person that is a party thereto in accordance with its terms, except as such enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium or similar laws affecting the rights of creditors generally and principles of equity, whether considered at law or in equity;

(iii) Each Seller has good and valid leasehold interest in the Real Property conveyed by the Real Property Lease or has a valid license to occupy the Real Property; and

(iv) To the actual knowledge of Robert Behar or Marisol Messir, the Real Property that is the subject of the Real Property Leases is not subject to any suit for condemnation or other taking by any public authority.

(c) The applicable Seller has not assigned, transferred, conveyed, mortgaged, deeded in trust or caused any Lien (other than any Permitted Lien) to exist with respect to any interest of the applicable Seller in such Real Property Lease.

(d) Sellers have full legal and practical access to each parcel of Real Property subject to the Real Property Leases.

(e) There are no parties in possession of any portion of any Real Property other than Sellers, whether as lessees, sublessees, licensees or tenants at will.

(f) Sellers have paid, or shall have paid prior to Closing, all amounts owing to any architect, contractor, subcontractor or materialman for labor or materials performed, rendered or supplied to or in connection with the Real Property. There are no construction, architect, engineering or other agreements relating to uncompleted construction projects entered into by or on behalf of Sellers in connection with any Real Property.

4.8 Conduct of Business. Except as disclosed in Schedule 4.8 or as contemplated or permitted under this Agreement:

(a) Since the Balance Sheet Date, Sellers have conducted the Business in the Ordinary Course of Business;

(b) There has not been any Material Adverse Effect from the Balance Sheet Date through the date hereof; and

(c) Since the Balance Sheet Date, Sellers have not:

(i) made any material amendment to or terminated any Assumed Contract, Real Property Lease or License to which Sellers are parties with respect to the Business, except in the Ordinary Course of Business;

(ii) made any material increase in compensation paid, payable or to become payable by Sellers to the Employees (including any senior management), except in the Ordinary Course of Business;

(iii) incurred material loss of or to any Assets not covered by insurance or voluntarily waived any rights of material value;

(iv) sold, assigned, leased or otherwise transferred or disposed of any tangible or intangible assets used or held for use in the Business, except (A) in the Ordinary Course of Business, (B) in connection with the acquisition of similar or replacement property or assets, (C) inventory sold in the Ordinary Course of Business, or (D) obsolete assets not used or held for use in the Business;

(v) taken any action that has resulted or reasonably would be expected to result in any of the material Assets or portion thereof being mortgaged, pledged or subjected to any Lien other than a Permitted Lien; or

(vi) made any material change in any method of accounting or accounting practice, except for changes that were required by GAAP.

4.9 Litigation. Except as set forth in Schedule 4.9, and except for proceedings (including FCC rulemaking proceedings) generally affecting the television broadcasting industry, there is no decree, judgment, order, litigation, arbitration proceeding or other legal or administrative proceeding pending or, to the Knowledge of Sellers, threatened against Sellers by or before any Governmental Authority that will subject Buyer to liability or which will otherwise affect the Assets, the Business, or Sellers' ability to perform their material obligations under this Agreement, and, there is no such claim, investigation or inquiry pending or to the Knowledge of Sellers, threatened.

4.10 Compliance with Laws. Except with respect to the Communications Act and the rules, regulations and policies of the FCC and the Station Licenses (which are governed by other Sections hereof), (i) Sellers have complied and are in compliance, in all material respects, with all applicable Laws; (ii) Sellers currently own, hold, possess or have applied for, and are in compliance, in all material respects, with, all franchises, permits, licenses, certificates, privileges, immunities, approvals and other authorizations ("Permits"), other than De Minimis Permits, necessary to own or lease, operate and use the Assets and to carry on and conduct the Business and operations of the Stations as currently conducted; (iii) all such permits are in full force and effect in all material respects; and (iv) none of the Sellers are in default or in violation of (and no event has occurred which, with notice or lapse of time or both, would constitute a default or violation) any such Permit in any material respect.

4.11 Taxes. Except as set forth on Schedule 4.11:

(a) All federal, state and local Tax Returns required to be filed by or on behalf of Sellers have been timely filed (subject to any permitted filing date extensions) with the appropriate Governmental Authorities in all jurisdictions in which such returns and reports are required to be filed on or prior to the date hereof, all such returns are accurate and complete in all material respects, and all Taxes owed by Sellers (whether or not shown as due on such Tax Returns) have been paid;

(b) Sellers have withheld and paid all Taxes required to have been withheld and paid in connection with amounts paid to any employee, independent contractor, creditor, member or other third Person and all Forms W-2 and 1099 required with respect thereto have been properly completed and timely filed;

(c) There are no Liens for unpaid Taxes (other than for current Taxes either not yet due and payable or being contested in good faith) upon the Assets and (subject to Section 2.7) there is no unpaid Tax payable by Sellers for which Buyer would become liable by purchasing the Assets hereunder;

(d) To the Knowledge of Sellers, there is no tax dispute or claim concerning any Tax liability of Sellers. None of the Sellers has waived any statute of limitations in respect of any Taxes or agreed to any extension of time with respect to a Tax assessment or deficiency; and

(e) None of Sellers (i) is a party to any Tax sharing or allocation agreement, (ii) has been a member of an affiliated group within the meaning of Code Section 1504(a), or (iii) has any liability for Taxes under Treasury Regulation Section 1.1502-6 (or any similar provision of state, local or foreign law) as a transferee or successor, by contract or otherwise.

#### 4.12 FCC and Other Licenses.

(a) Schedule 2.1(b) identifies and includes a complete list of all Station Licenses and other Licenses relating to the operation of the Business. Except as set forth on Schedule 4.12(a), each such License was validly issued by the FCC, is in full force and effect, has not been revoked, canceled, rescinded, or terminated, and the applicable Seller is the authorized legal holder thereof, and all FCC actions with respect to the Station Licenses are Final Orders. The Licenses and Station Licenses listed on Schedule 2.1(b) constitute all of the licenses, permits and other authorizations required from any Governmental Authority (including the FCC) and required under the Communications Act for the lawful conduct of the Stations as operated by Sellers on the date hereof in accordance with the Station Licenses. The Licenses are not subject to any conditions not listed on the Licenses. Except as set forth on Schedule 4.12(a), the Station Licenses have been issued for the full terms customarily issued to television broadcast stations in the state in which the main station's community of license is located.

(b) Except as set forth on Schedule 4.12(b), and except for any FCC investigations, rulemakings or other proceedings affecting the television broadcasting industry generally, there is no pending or to the Knowledge of Sellers, threatened investigation by or before the FCC, or any order to show cause, notice of violation, notice of apparent liability, notice of forfeiture or complaint by, before or with the FCC with respect to Sellers or a Station. Except as set forth on Schedule 4.12(b), there is not pending any action by or before the FCC to revoke, suspend, cancel, rescind or adversely modify any of the Station Licenses or other Licenses (other than proceedings to amend FCC rules of general applicability) or which would reasonably be expected to result in the issuance of a cease-and-desist order, the imposition of any administrative or judicial sanction with respect to the Stations, or the denial of an application for

renewal of any of the Stations nor do Sellers have Knowledge of any facts that would reasonably be expected to result in any of the above.

(c) Except as set forth on Schedule 4.12(c), Sellers have no applications or requests for waiver pending before the FCC relating to a Station or Stations, and no petition to deny or other objection has been filed to Seller's Knowledge with respect to any pending application relating to a Station or Stations. Except as set forth on Schedule 4.12(c), to Sellers' Knowledge, no application pending before the FCC relating to a Station or Stations will not be granted by the FCC in the ordinary course.

(d) Except as set forth on Schedule 4.12(d), each of KBEH(TV) and KBEH-1, including both analog Channel 63 and digital Channel 24, KMOH-TV, including both analog Channel 6 and digital Channel 19, and KEJR-LP, analog Channel 43, are operating at the maximum power authorized by the Station Licenses and not pursuant to any temporary authority or waiver. Except as set forth in Schedule 4.12(d), to Sellers' Knowledge, no Station may be displaced by any other television station or may be required to reduce operating power or change its operating parameters in order to protect any other television station, whether licensed, authorized or allotted.

(e) Except as set forth on Schedule 4.12(e), Sellers have fulfilled and performed in all material respects their respective obligations under the Communications Act, the Station Licenses and other Licenses, and no event has occurred or condition or state of facts exists which constitutes or, after notice or lapse of time or both, would constitute a violation or non-compliance with the Communications Act or the terms of any such Licenses or Station Licenses. Except as set forth on Schedule 4.12(e), Sellers have not received any written notice of any violation of the Licenses or the Communications Act relating to the Stations nor do Sellers have any Knowledge of any facts that would reasonably be expected to result in such a violation. All material filings, reports and statements that Sellers are required to file with the FCC during the current applicable terms of the Station Licenses have been timely filed and has paid all FCC regulatory fees with respect to the Stations.

(f) None of the Station Licenses or other Licenses are subject to any restrictions or conditions that would limit in any material respect the operation of the Station as currently conducted.

(g) Each of KBEH(TV) and KMOH-TV has been assigned a television channel by the FCC for the provision of digital television ("DTV") service. As of the date of this Agreement, (i) Station KBEH(TV) has constructed its Appendix B digital facilities, and has received a license authorization (BLCDT-20061229AAK); (ii) except as set forth on Schedule 4.12(g), Station KMOH-TV has constructed its Appendix B digital facilities, and has received a license authorization (BLCDT-20060707ABK); and (iii) Station KEJR-LP has filed an application for a digital companion channel on channel 40 (BDCCBTL-20061017ABH). Station KBEH(TV) has been granted special temporary authority to operate an experimental digital booster (File No. BEXPB-20071108AFK), which is currently valid through October 27, 2008.

4.13 Cable and Satellite Matters.

(a) To the Knowledge of Sellers, Schedule 4.13 sets forth:

(i) a list of all multichannel video programming distributors, including cable systems, SMATV, open video systems, MMDS, MDS, Broadband Radio Service and DBS systems (hereinafter “MVPDs”) that carry the Stations’ signal, and the channel on which the Stations’ signals are carried;

(ii) a list of all MVPDs in the respective DMA to which Sellers have provided a must-carry notice or retransmission consent notice in accordance with the provisions of the Communications Act for the three-year period ending December 31, 2008, including a detailed description of the disposition and current status of each unresolved must-carry or retransmission consent notice; and a list of all MVPDs in the respective DMA to which Sellers have not provided any such must-carry or retransmission consent notice;

(iii) a list of all retransmission consent and/or Copyright indemnification Contracts entered into with any MVPD in the respective DMA with respect to a Station for the three-year period ending December 31, 2008, and the expiration date for each such Contract; and

(iv) a list of all retransmission consent and/or Copyright indemnification Contracts entered into with any MVPD other than an MVPD in the respective DMA with respect to a Station as of the date of this Agreement and the expiration date for each such Contract.

(b) Sellers have delivered to Buyer true and complete copies of all material notices, Contracts, correspondence and other items described in clauses (a)(i)-(iv) of this Section 4.13 to which they are a party. Except as set forth on Schedule 4.13, consummation of the transactions contemplated hereunder will not require Consent of any Person with respect to carriage pursuant to a retransmission consent agreement on any MVPD.

(c) Except as set forth in the Schedule 4.13, no MVPD has notified Sellers in writing of any signal quality deficiency or copyright indemnity or other prerequisite to carriage of the Stations’ signals, and no MVPD has declined or refused to carry, or to the Knowledge of Sellers, threatened to decline or refuse to carry, the Stations or disputed in writing the Stations’ right to carriage pursuant to the Stations’ must-carry or retransmission consent election, as the case may be, or notified Sellers in writing of its intention to seek a modification of the market for must-carry purposes.

4.14 Insurance. Schedule 4.14 contains a true and complete list of all insurance policies in respect of the Stations that are in effect as of the date of this Agreement. All policies of insurance listed on Schedule 4.14 are in full force and effect in all material respects as of the date of this Agreement. Sellers maintain customary insurance policies covering their Assets and various occurrences that may be reasonably anticipated to arise in connection with the operation of the Stations.

4.15 Employees.



(a) Schedule 4.15(a) sets forth a true and complete list of all employees of the Stations in connection with the Business (the “Employees”) as of the date set forth on such list showing each of their names, titles and current annual base salary rate. No employment agreement is included in the Assumed Contracts.

(b) Except as set forth in Schedule 4.15(b):

(i) Sellers are not bound by any collective bargaining agreement covering any of the Employees, and, to the Knowledge of Sellers, there exists no organizational effort presently being made or threatened by or on behalf of any labor union with respect to the Employees, and to the Knowledge of Sellers, there is no strike, material labor dispute, request for union representation, work slowdown or stoppage pending or threatened in respect of the Employees, the Stations or the Business; and

(ii) To the Knowledge of Sellers, Sellers are not engaged in any material unfair labor practice or other material unlawful employment practice, and there are no charges relating thereto pending, or, to the Knowledge of Sellers, threatened, against Sellers before the National Labor Relations Board, the Equal Opportunity Commission, the Occupational Safety and Health Review Commission, the Department of Labor or any other Governmental Authority nor has any charge of discrimination been filed against Sellers with the Equal Employment Opportunity Commission, any similar state or local agency or any Governmental Authority.

#### 4.16 Employee Benefit Plans.

(a) Except as set forth in Schedule 4.16, no Seller maintains or is a party to or makes contributions to any of the following: (i) any “employee pension benefit plan,” as such term is defined in Section 3(2) of ERISA; or (ii) any “employee welfare benefit plan,” as such term is defined in Section 3(1) of ERISA. All employee benefit plans maintained by any Seller or to which any Seller is obligated to contribute (“Employee Benefit Plans”) are in all material respects maintained, funded and administered in compliance with ERISA, the Code, and other applicable law.

(b) Except as disclosed in Schedule 4.16, the execution of this Agreement and performance of the transactions contemplated hereby will not in and of itself constitute a triggering event under any Employee Benefit Plan that will result in any payment (whether of severance pay or otherwise) becoming due from Buyer. Each Employee Benefit Plan that is an employee pension benefit plan (other than a plan that is unfunded and covers only employees who are among the select group of management or highly compensated employees of the Sellers), if any, has received a favorable determination letter stating that the plan is qualified under Section 401(a) of the Code, or it is in a prototype or volume submitter plan document whose language has been pre-approved by the IRS as is evidenced by a letter from the IRS, and no event has occurred that is reasonably likely to result in the loss of the qualification of such plan under Section 401(a) of the Code. Except as set forth in Schedule 4.16, no Seller has ever maintained a pension plan subject to Section 412 of the Code or Title IV of ERISA, and no Seller has ever maintained, contributed to or been required to contribute to any employee benefit

plan that is a “multiemployer plan” (as defined in Section 3(37)(A) or (D) of ERISA) as amended by the Multiemployer Pension Plan Amendments Acts of 1980.

(c) There are no actions, suits or claims pending or, to the Knowledge of Sellers, threatened (other than routine claims for benefits) against any Employee Benefit Plan or against the assets of any Employee Benefit Plan. There are no audits, inquiries or proceedings pending or, to the Knowledge of Sellers, threatened by the IRS, the U.S. Department of Labor, or any other Governmental Authority with respect to any Employee Benefit Plan.

4.17 Environmental Compliance. Except as set forth on Schedule 4.17:

(a) Sellers are in compliance in all material respects with all Environmental Laws, and, no action, suit, proceeding, hearing, investigation, charge, complaint, claim, demand, or notice has been filed, commenced or, to the Knowledge of Sellers, threatened against Sellers that: (i) asserts or alleges that Sellers violated any Environmental Laws; (ii) asserts or alleges that Sellers are required to clean up, remove or take remedial or other response action due to the disposal, depositing, discharge, leaking or other release of any Hazardous Substances at the Real Property; or (iii) asserts or alleges that Sellers are required to pay all or a portion of the cost of any past, present or future cleanup, removal, remedial or other response action that arises out of, or is related to, the disposal, depositing, discharge, leaking or other release of any Hazardous Substances by Sellers at any of the Real Property or the disposal or arranging for disposal of any Hazardous Substances by Sellers at off-site facilities, except in each case, where any such violation, clean up, removal or other remedial action or payments would not have a Material Adverse Effect;

(b) Sellers have not stored, deposited, treated, recycled, disposed of, or released any Hazardous Substances at any Real Property owned, leased, used, operated or occupied by Sellers that would subject any owner or operator of such Real Property to material liability for cleanup, removal or some other remedial action under any Environmental Laws;

(c) To the Knowledge of Sellers, there are no tanks or other facilities on, under, or at the Real Property that contain any Hazardous Substances that, if known to be present in soils or ground water, would subject any owner or operator of such Real Property to material liability for cleanup, removal or some other remedial action under any Environmental Laws; and

(d) None of Sellers is subject, as a result of its interest in the Real Property, to any judgment, order or citation related to or arising out of any Environmental Laws, and, to the Knowledge of Sellers, none of Sellers has been named or listed as a potentially responsible party in a matter related to or arising out of any Environmental Laws and to the Knowledge of Sellers there are no past or present facts or circumstances that are reasonably likely to result in a claim that there has been a material violation of an Environmental Law.

(e) Sellers have delivered to Buyer true and correct copies of all environmental assessments or reports (including Phase I and Phase II reports, underground tank

closure reports, spill release reports, wetland ecological studies, etc.) relating to the Real Property or the Business in their possession.

4.18 Brokers. Except for the fees payable to Latin Capital Ventures, which fees shall be paid by Sellers, Sellers do not have any obligation or liability to pay any finders' or brokers' fees or commissions with respect to the transactions contemplated by this Agreement.

4.19 Financial Statements.

(a) Set forth on Schedule 4.19(a) are:

(i) a complete copy of the consolidated audited balance sheets of the years ended December 31, 2005 and December 31, 2006, and the related audited consolidated statements of income, shareholder's equity and cash flows, together with a copy of the reports on such audited information by Sellers' auditors (collectively, the "Audited Financial Statements"); and

(ii) the unaudited consolidated balance sheet of Sellers, dated as of September 30, 2007 (the "Balance Sheet Date") and the related statement of income for the nine (9) month period ended September 30, 2007 (the "Unaudited Financial Statements").

(b) The Audited Financial Statements and the Unaudited Financial Statements have been prepared in accordance with the Records and GAAP and present fairly in all material respects the financial position, results of operations, equity and cash flows of the Sellers on a consolidated basis as of the dates and for the periods indicated, provided that the Unaudited Financial Statements omit footnotes and exclude certain adjustments ordinarily made on year-end financial statements.

(c) Set forth on Schedule 4.19(c) is a list of all intercompany indebtedness between or among the Sellers.

4.20 Solvency.

(a) Sellers are not now insolvent and will not be rendered insolvent by the transactions contemplated hereunder. As used in this section, "insolvent" means either that (i) the sum of the debts and liabilities of each Seller exceeds the present fair market value of such Sellers' assets; or (ii) each Seller is not capable of paying, its debts as they fall due.

(b) Immediately after giving effect to the consummation of the transactions contemplated hereunder: (i) Sellers will be able to pay their liabilities as they become due in the usual course of business, (ii) Sellers will not have unreasonably small capital with which to conduct their present or proposed business, (iii) Sellers will have assets (calculated at fair market value) that exceed their liabilities, and (iv) taking into account all pending and threatened litigation, final judgments against Sellers in actions for money damages are not reasonably anticipated to be rendered at a time when, or in amounts such that, Sellers will be unable to satisfy any such judgments promptly in accordance with their terms (taking into

account the maximum probable amount of such judgments in any such actions and the earliest reasonable time at which such judgments might be rendered) as well as all other obligations of Sellers. The cash available to Sellers, after taking into account all other anticipated uses of the cash, will be sufficient to pay all such debts and judgments promptly in accordance with their terms.

4.21 Full Disclosure.

(a) Except as set forth on Schedules 4.9 and 4.12(b), to the Knowledge of Sellers, there is no claim, demand or investigation pending or threatened against any Seller or any of its Affiliates by or before any Governmental Authority that would reasonably be expected to have a Material Adverse Effect on Sellers.

(b) No representation and warranty set forth in this Article 4 is qualified in any way except as explicitly provided herein.

(c) The conduct of due diligence by Buyer shall in no way limit or modify the representations and warranties made by Sellers in this Article 4.

4.22 Sufficiency of the Assets and Title to Assets. Sellers own good, valid and, in the case of Real Property, marketable title to, or a valid leasehold interest in, all of the Assets, free and clear of all Liens other than Permitted Liens and Liens that will be released at or prior to the Closing. The Assets include all of the assets, properties and rights of every type and description, real, personal and mixed, tangible and intangible, that are necessary for, used or useable in the conduct of the business of owning and operating the Stations in a manner substantially equivalent to the manner in which the Business has been and is now conducted. All inventories of supplies and spare parts necessary or appropriate for the operation of the Stations are at levels substantially consistent with past operations of the Stations, subject to monthly and seasonal variances.

4.23 Accredited Investor. Bela has such knowledge and experience in financial and business matters so as to be capable of evaluating and understanding, and has evaluated and understood, the merits and risks of an investment in Holdco, the Convertible Note and the Voting Common Stock. Bela has been given the opportunity (i) to obtain information and to examine all documents relating to Holdco and Holdco's business, (ii) to ask questions of, and to receive answers from, Holdco concerning Holdco, Holdco's business and the terms and conditions of this investment, and (iii) to obtain any additional information, to the extent Holdco possesses such information or could acquire such information without unreasonable effort or expense, necessary to verify the accuracy of any information previously furnished. All such questions have been answered to Bela's full satisfaction, and all information and documents, records and books pertaining to this investment which Bela has requested have been made available to Bela.

4.24 Convertible Note.

(a) Bela understands and acknowledges that (i) the Convertible Note has not been registered under the Securities Act of 1933, as amended, or the securities laws of any state (collectively, the “Securities Laws”); (ii) there is no public market for the Convertible Note and one may never develop; (iii) Bela’s right to transfer, assign or otherwise dispose of the Convertible Note is restricted by applicable Securities Laws; (iv) Bela has no right to require the Convertible Note to be registered under the Securities Laws and that Holdco has no intention of registering the Convertible Note under such Securities Laws; (v) Bela is acquiring the Convertible Note for its own account for investment purposes only, not as a nominee or agent, and not with a view to the resale, transfer or public distribution of any part thereof, and Bela will not offer or otherwise convey the Convertible Note or any part thereof or any interest therein, except in compliance with applicable Securities Laws and the Stockholders Agreement; and (vi) Holdco makes no, and will not make any, representation or warranty that it will disseminate to the public any current financial or other information concerning Holdco.

(b) Bela understands and acknowledges that the Convertible Note will bear the following legend:

THE SECURITIES REPRESENTED BY THIS JUNIOR SUBORDINATED CONVERTIBLE PROMISSORY NOTE HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AND NO SALE OR DISTRIBUTION OF SUCH SECURITIES MAY BE EFFECTED WITHOUT EITHER AN EFFECTIVE REGISTRATION STATEMENT RELATED THERETO OR AN OPINION OF COUNSEL SATISFACTORY TO THE COMPANY THAT SUCH REGISTRATION IS NOT REQUIRED.

THE SALE, TRANSFER OR ASSIGNMENT OF THE SECURITIES REPRESENTED BY THE CERTIFICATE EVIDENCING THE VOTING COMMON STOCK INTO WHICH THIS JUNIOR SUBORDINATED CONVERTIBLE PROMISSORY NOTE CAN BE CONVERTED ARE SUBJECT TO THE TERMS OF A STOCKHOLDERS AGREEMENT BETWEEN HERO BROADCASTING HOLDING INC. AND ITS STOCKHOLDERS. COPIES OF SUCH AGREEMENT MAY BE OBTAINED BY WRITTEN REQUEST MADE BY THE HOLDER OF RECORD OF THIS JUNIOR SUBORDINATED CONVERTIBLE PROMISSORY NOTE TO THE SECRETARY OF HERO BROADCASTING HOLDING INC.

THIS JUNIOR SUBORDINATED CONVERTIBLE PROMISSORY NOTE IS NOT TRANSFERABLE OR NEGOTIABLE, EXCEPT AS EXPRESSLY PROVIDED IN SECTION 7 HEREOF.

(c) Bela is an “accredited investor” as defined in Rule 501(a) of Regulation D promulgated under the Securities Act.

(d) Bela acknowledges and agrees that the investment in the Convertible Note involves a high degree of risk, which may result in a complete loss of Bela’s investment. Bela is able to bear the economic risk of the investment in the Convertible Note and consequently, without limiting the generality of the foregoing, Bela (a) is able to hold any and all of the Convertible Note it is acquiring for an indefinite period of time, and (b) has a sufficient net

worth to sustain a loss of its entire investment in the Convertible Note. Bela acknowledges that no assurances are, have been or will be made to Bela by Buyer or Holdco in any of these regards.

4.25      Undisclosed Liabilities. Except as otherwise set forth in Schedule 4.25, as to the Business, Sellers have no liability (and there is no reasonable basis for any present or future action, suit, proceeding, hearing, investigation, charge, complaint, claim, or demand against any of them giving rise to any liability), except for (i) liabilities set forth on the face of the Unaudited Financial Statements (rather than in any notes thereto); (ii) liabilities that have arisen after the date of the Unaudited Financial Statements in the Ordinary Course of Business (none of which results from, arises out of, relates to, is in the nature of, or was caused by any breach of contract, breach of warranty, tort, infringement, or violation of law); and (iii) liabilities of the type not required to be reflected as liabilities on a balance sheet prepared in accordance with GAAP.

4.26      Absence of Claims; Business Relationships With Affiliates. Except as set forth on Schedule 4.26, no Affiliate of Sellers, no member of any Seller and no Affiliate of any member of any Seller owns any property or right, tangible or intangible, used by the Business or has any claim or cause of action against the Sellers, in each case, as of the date hereof. Except as set forth on Schedule 4.26 (which disclosure describes in reasonable detail the nature and material terms of each such relationship), no member or Affiliate of any Seller, no Affiliate of a member of any Seller and no officer or director of any Seller owns or leases property to Sellers or is a party to any lease or agreement affecting or relating to the operation of the Stations. Certain Business Practices. No Seller nor any of their respective directors, officers, employees, partners, agents or representatives or any Person acting for or on behalf of Sellers, has directly or indirectly, in any material respect, (i) made any unlawful contribution, gift, bribe, rebate, payoff, influence payment, kickback, or other unlawful payment to any Person, private or public, regardless of what form, whether in money, property, or services (A) to obtain favorable treatment for the Sellers or the Business or secure Assumed Contracts, (B) to pay for favorable treatment for Sellers or the Business or Assumed Contracts secured, (C) to obtain special concessions for the Sellers or the Business or for special concessions already obtained or otherwise violated any provisions of the Foreign Corrupt Practices Act of 1977.

## **ARTICLE 5: REPRESENTATIONS AND WARRANTIES OF BUYER**

Buyer represents and warrants to Sellers as follows:

5.1      Organization and Standing. Buyer is a limited liability company duly organized, validly existing and in good standing under the laws of the State of Delaware and is duly qualified to conduct business, as a foreign limited liability company and is in good standing in each other jurisdiction in which such qualification is required for Buyer to own its assets and conduct its business. Buyer has full power and authority to own, lease, and operate their properties and to carry on its businesses as such is now conducted.

5.2      Authorization; Enforceability. The execution, delivery and performance of this Agreement by Buyer and the Ancillary Agreements to which Buyer is a party, and the

consummation by Buyer of the transactions contemplated hereby and thereby, are within the power of Buyer and have been duly authorized by all necessary action by Buyer and its sole member, and no approval from or notice to any of the members of Buyer is required regarding the same that has not been obtained or given, as applicable. This Agreement is, and the Ancillary Agreements to which Buyer is a party will be, when executed and delivered by Buyer, the legal, valid and binding obligations of Buyer, enforceable against it in accordance with their respective terms, except as such enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium or similar laws affecting the rights of creditors generally and principles of equity, whether considered at law or in equity.

5.3 Absence of Conflicting Agreements; Consents. Neither the execution, delivery or performance of this Agreement by Buyer nor the Ancillary Agreements to which Buyer is a party, nor the consummation of the transactions contemplated hereby or thereby does or will, after the giving of notice, or the lapse of time or both, or otherwise:

(a) violate, conflict with, contravene, result in a breach of, or constitute a default under, any certificate of formation, limited liability company agreement or other applicable organizational or governing instruments or documents of Buyer;

(b) subject to obtaining the FCC Consents, contravene, conflict with or violate in any material respect any applicable law, statute, ordinance, rule or regulation, or any court or administrative order or process, of any Governmental Authority to which either Buyer is a party or by which either Buyer or its assets are bound;

(c) contravene in any material respect, or constitute a material default under, any material contract or agreement to which either Buyer is a party or by which either Buyer or its assets are bound;

(d) other than the FCC Consents require the Consent of or notice to any Governmental Authority; or

(e) require the Consent of any Person under any agreement, arrangement or commitment of any nature which either Buyer is a party to or bound by or which the assets or properties of either Buyer are bound or subject, except where the failure to obtain such Consent would not have a Buyer Material Adverse Effect.

#### 5.4 Holdco Capitalization.

(a) The sole member of Buyer is HERO Broadcasting Inc., a Delaware corporation (“Holdco”). Buyer has delivered to Holdco true and complete copies of the certificate of incorporation and bylaws of Holdco.

(b) The authorized equity securities of Holdco consist of (i) 200,000 shares of voting common stock, par value \$0.01 per share (the “Voting Common Stock”) and (ii) 150,000 shares of non-voting common stock, par value \$0.01 per share (the “Non-Voting Common Stock”).

(c) As of the Effective Time, 19,143 shares of Voting Common Stock and 9,170 shares of Non-Voting Common Stock will be issued and outstanding. In addition, there will be (i) 6,307 shares of Voting Common Stock reserved for options that will have been granted but not yet exercised, (ii) 3,800 shares of Voting Common Stock reserved for issuance in connection with warrants that will have been granted but not yet exercised, (iii) 51,580 shares of Non-Voting Common Stock reserved for issuance in connection with warrants that will have been granted but not yet exercised, and (iv) 10,000 shares of Voting Common Stock reserved for issuance in connection with the conversion of the Convertible Note issued to Bela (the “Convertible Common Stock”). In addition, a sufficient number of authorized, but unissued shares of Voting Common Stock will have been reserved for issuance upon conversion of the Non-Voting Common Stock (including shares of Non-Voting Common Stock into which such warrants are exercisable) and conversion of the Term Loan under that certain Second Lien Credit Agreement to be entered into at Closing. All of the issued and outstanding shares of stock of Holdco will have been duly and validly authorized and issued and fully paid and non-assessable and, except as provided in the Stockholders Agreement, will not be subject to any preemptive right, right of first refusal or similar rights granted by Holdco. All of the issued and outstanding shares of stock of Holdco have been offered, issued and sold by Holdco in material compliance with applicable federal and state securities laws.

(d) Except as set forth in the Transaction Agreement or the exhibits thereto or as provided in this Agreement, (i) no subscription, warrant, option, convertible security or other right (contingent or otherwise) issued by Holdco to purchase or acquire any shares of capital stock of Holdco will be authorized or outstanding at the Effective Time, (ii) there is no commitment of Holdco to issue any subscription, warrant, option, convertible security or other such right or to issue or distribute to holders of any shares of its capital stock any evidences of indebtedness or assets of Holdco, (iii) Holdco has no obligation (contingent or otherwise) to purchase, redeem or otherwise acquire any shares of its capital stock or any interest therein or to pay any dividend or make any other distribution in respect thereof, and (iv) there are no binding agreements between Holdco and any holder of its capital stock relating to the acquisition, disposition or voting of the capital stock of Holdco.

(e) Except as set forth in the Transaction Agreement, the exhibits to the Transaction Agreement or the First Lien Credit Agreement or Second Lien Credit Agreement (both as defined in the Transaction Agreement), Holdco is not a party to any voting trusts or agreements, stockholders agreement, pledge agreements, buy-sell agreements, agreements containing rights of first refusal or preemptive rights, and there are no proxies, in each case, relating to the equity securities of Holdco.

(f) No Person has been granted rights by Holdco with respect to the registration of any capital stock of Holdco under the Securities Act of 1933, as amended.

(g) When issued and delivered to Bela pursuant to this Agreement, the Convertible Common Stock shall be duly authorized, validly issued, fully paid, non-assessable and not subject to any preemptive right, right of first refusal or similar purchase right and will be free and clear of all Liens imposed by or through Holdco, except for restrictions imposed by Securities Laws or “blue sky” laws or the Stockholders Agreement.



(h) Holdco does not own and has never owned, directly or indirectly, any capital stock, voting securities or equity interest in any Person other than Buyer. Holdco has not agreed and is not obligated to make any future investment in or capital contribution in any Person other than Buyer.

5.5 Absence of Litigation. There is no decree, judgment, order, litigation, arbitration proceeding or other legal or administrative proceeding pending or, to the knowledge of Buyer, threatened against either Buyer or any of its Affiliates in any federal, state or local court, or before any other Governmental Authority that could reasonably be expected have a material adverse effect on the financial condition, the business, assets or properties of either Buyer or on Buyer's ability to purchase the applicable Assets under this Agreement or to perform its obligations under this Agreement or any Ancillary Agreement (a "Buyer Material Adverse Effect"). To the knowledge of Buyer, there is no claim, demand or investigation pending or threatened against either Buyer or any of its Affiliates by or before any Governmental Authority that could reasonably be expected to have a Buyer Material Adverse Effect.

5.6 Brokers. Buyer does not have any obligation or liability to pay any finders' or brokers' fees or commissions with respect to the transactions contemplated by this Agreement.

5.7 Financing. Subject to the Transaction Agreement, Buyer has and will have at all times prior to and at the Closing, irrevocable and binding commitments for all funds necessary to consummate the transactions contemplated by this Agreement, including payment of the Purchase Price and all necessary payments required of Buyer in connection with the transactions contemplated under this Agreement. Buyer acknowledges and agrees that the Closing is not contingent upon Buyer obtaining financing to pay the Purchase Price. Buyer has heretofore delivered to Sellers information concerning Buyer's ability to pay the Purchase Price at Closing.

5.8 No Additional Representations and Warranties. Buyer acknowledges that Sellers and any other Person acting for Sellers have not made any representation, warranty or covenant, express or implied, as to the accuracy or completeness of any information regarding the Sellers, except as expressly set forth in this Agreement or the Exhibits, Schedules and Annexes to this Agreement, and Buyer further agrees that Sellers shall not have or be subject to any liability to Buyer or any other Person resulting from the distribution to Buyer, or Buyer's use of any such information, including any memorandum and management presentations prepared or coordinated by Latin Capital Ventures. EXCEPT FOR THE REPRESENTATIONS AND WARRANTIES EXPRESSLY SET FORTH IN THIS AGREEMENT, SELLERS MAKE NO REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, AT LAW, IN EQUITY, OR OTHERWISE, IN RESPECT OF SELLERS OR ANY OF THEIR RESPECTIVE ASSETS, LIABILITIES OR OPERATIONS, INCLUDING ANY IMPLIED REPRESENTATION OR WARRANTY AS TO THE CONDITION, MERCHANTABILITY, SUITABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND SELLERS EXPRESSLY DISCLAIM ANY SUCH REPRESENTATION OR WARRANTY.

5.9 Disclaimer Regarding Estimates and Projections. In connection with Buyer's investigation of Sellers, Buyer has received from Sellers certain estimates, forecasts, plans and projections of Sellers. Buyer acknowledges that there are uncertainties inherent in attempting to make such estimates, forecasts, plans and projections, that Buyer is familiar with such uncertainties, that Buyer is taking full responsibility for making its own evaluation of the adequacy and accuracy of all estimates, forecasts, plans and projections so furnished to it (including the reasonableness of the assumptions underlying such estimates, forecasts, plans and projections), and that Buyer shall have no claim against Sellers or any of their respective Affiliates with respect thereto. Accordingly, Sellers and their respective Affiliates make no representation or warranty with respect to such estimates, forecasts, plans and projections (including any such underlying assumptions).

## **ARTICLE 6: PRE-CLOSING COVENANTS**

6.1 Access. From the date of this Agreement until the earlier of the Closing Date or the termination of this Agreement pursuant to Section 12.1, Buyer and its authorized agents, officers and representatives shall have reasonable access upon reasonable advance notice, during normal business hours, to the offices, corporate-level management employees and Station-level management employees, properties, books and records of the Stations or Assets that Buyer may reasonably request, for purposes of, among other things, engineering inspections. Notwithstanding the foregoing, all of Buyer's inquiries and/or requests for any such information shall be made directly to counsel for Bela, Robert Behar, the Chief Executive Officer of Bela ("CEO"), or Marisol Messir, the Chief Financial Officer of Bela ("CFO"), who shall obtain the information and transmit the same to Buyer. Any conversations between Buyer and any representative or Employee other than such counsel, CEO or CFO (including Station-level management employees) shall be arranged by either such counsel, CEO or CFO. The counsel, CEO, CFO or any other representative of Sellers' corporate office designated by either such counsel, CEO or CFO shall participate in all conversations or meetings between Buyer and any representative or Employee, unless such counsel, CEO or CFO shall otherwise consent in writing. Buyer's access under this Section 6.1 shall be exercised in a manner as to not unreasonably interfere with the Business.

### 6.2 Notice of Certain Events.

(a) From the date of this Agreement until the earlier of the Closing Date or the termination of this Agreement pursuant to Section 12.1, Sellers shall give Buyer prompt written notice of the occurrence of any of the following:

- (i) a loss, taking, condemnation, damage or destruction of or to any of the Assets not covered by insurance and involving in excess of One Hundred Thousand Dollars (\$100,000);
- (ii) the commencement of any proceeding or litigation at law or in equity or before the FCC or any other Governmental Authority that involves the Station Licenses, other than proceedings or litigation of general applicability to the television broadcasting industry;

(iii) any material labor grievance, strike or other material labor dispute;

(iv) any material violation by Sellers of any federal, state or local law, statute, ordinance, rule or regulation known to Sellers;

(v) any notice of breach, default, claimed default or termination of any material Assumed Contract; or

(vi) (A) if a Station is off the air for, in the case of KBEH, including for the avoidance of doubt, KBEH-1, one consecutive hour or, in the case of any other Stations, a continuous period of 12 hours or more or (B) if any Station's normal broadcast transmissions are materially impaired for a continuous period of more than 24 hours.

(b) Sellers and Buyer shall promptly notify the other in writing upon becoming aware of any order or decree or any complaint praying for an order or decree restraining, enjoining or challenging the consummation of this Agreement or the transactions contemplated hereunder (including challenges to the Assignment Applications), or upon receiving any notice from any Governmental Authority of its intention to institute an investigation into, or institute a suit or proceeding to restrain or enjoin the consummation of this Agreement or the transactions contemplated hereby.

### 6.3 Operations Pending Closing.

(a) From the date of this Agreement until the earlier of the Closing Date or the termination of this Agreement pursuant to Section 12.1, Sellers shall:

(i) operate the Business in all material respects in the Ordinary Course of Business, including maintaining expenditures for marketing and promotion efforts in amounts consistent in all material respects with past practices (except where such conduct would conflict with the covenants set forth herein or other obligations under this Agreement);

(ii) operate the Stations in compliance in all material respects with applicable Law, including the Communications Act, and not cause or permit, or agree or commit to cause or permit, by act or failure to act, any of the Station Licenses to expire or to be revoked, suspended or adversely modified, or take or fail to take, any action that would be reasonably likely to cause the FCC or any other Governmental Authority to institute proceedings for the suspension or revocation of any of the Station Licenses;

(iii) maintain the Tangible Personal Property in good operating condition and repair (reasonable wear and tear excepted), and replace with a substantially equivalent asset of substantially equivalent quality or utility any of the Tangible Personal Property that shall not be working or shall be lost, stolen or destroyed, unless such asset is unnecessary for the continued operation of the Stations' consistent with Sellers' past practice and the Station Licenses;

(iv) perform in all material respects all of their obligations under the Assumed Contracts and, with respect to the Business, use commercially reasonable efforts to maintain their relationships with Employees, advertisers, MVPDs, clients, vendors and others having a business relationship with Sellers;

(v) maintain policies of liability and casualty insurance of substantially similar coverage as the policies currently carried with respect to the Business;

(vi) follow the Business's usual and customary policy with respect to (A) extending credit for sales of broadcast time on the Stations and (B) collecting accounts receivable relating to the Stations arising from such extension of credit;

(vii) promptly provide Buyer with copies of all correspondence with MVPDs to and from Sellers concerning must-carry status, retransmission consent and other matters arising under the Cable Act and the Satellite Home Viewer Extension and Reauthorization Act of 2004, and keep Buyer advised of the status of material developments in all negotiations by Sellers with MVPDs concerning such matters;

(viii) exercise commercially reasonable efforts to maintain or cause the maintenance of carriage, if any, of the Stations' signals on all MVPDs; and

(ix) take any and all commercially reasonable steps necessary to comply with the FCC's build-out requirements for digital television stations for which they are currently licensed (except as provided on Schedule 4.12(b)).

(b) From the date of this Agreement until the earlier of the Closing Date or the termination of this Agreement pursuant to Section 12.1, Sellers shall not, without the prior written consent of Buyer, which shall not be unreasonably withheld or delayed:

(i) amend the organizational or governing documents of any of the Sellers;

(ii) make any material change in any method of accounting or accounting practice utilized in the preparation of the Financial Statements, except for any such change required by reason of a concurrent change in GAAP;

(iii) sell, assign, lease, or otherwise transfer or dispose of the Assets, assets no longer used or held for use in the Business or assets transferred or disposed of in connection with the acquisition of replacement property of substantially equivalent, or better, kind and use;

(iv) enter into, or become obligated under, any Contract on behalf of the Business, unless such Contracts (A) require the payment by or on behalf of the Business of consideration consisting of no more than Ten Thousand Dollars (\$10,000), annually per Contract, or Two Hundred Fifty Thousand Dollars (\$250,000), in the aggregate for all such Contracts; (B) will be subject to termination on no more than ninety (90) days' notice; or (C) will be fully performed and satisfied on or prior to the Closing Date;

(v) change, amend, terminate or otherwise modify or agree or commit to change, amend, terminate or otherwise modify any Assumed Contract (other than advertising sales contracts for cash only) in any material respect except for those Assumed Contracts that terminate or expire prior to the Effective Time by their own terms;

(vi) except as required by applicable law or existing Contract, increase the compensation (including wages, salaries and bonuses) that is paid or payable to any Employee; provided, however, that Sellers may pay bonuses to any of the Employees so long as such bonuses do not create any obligations upon Buyer after the Closing Date;

(vii) except as required by applicable law or existing Contract, enter into any collective bargaining agreement applicable to any Employees or otherwise recognize any union as the bargaining representative of any such Employees;

(viii) create, assume or permit to exist any Liens upon any of the Assets, except for Permitted Liens and Liens that will be discharged prior to or on the Closing Date;

(ix) cancel or compromise any material indebtedness or claim of the Sellers, or settle or agree to settle any action to which the Sellers are a party where the terms of such settlement or agreement adversely impact the Sellers, the Assets or the operation of the Business;

(x) allow any Station Licenses or material Permits held by the Sellers to terminate or lapse;

(xi) declare, set aside, make or pay any dividend or other distribution or repurchase, redeem or otherwise acquire any outstanding membership interests or other ownership interests in any of Sellers; or

(xii) make any material change in programming or operations of the Stations or the Station Licenses.

Whenever, pursuant to this Section 6.3, Sellers shall request the consent of Buyer, the request shall be sent to Buyer in accordance with Section 14.4.

6.4 Cooperation; Consents. Buyer and Sellers shall reasonably cooperate with each other and their respective counsel and accountants in connection with any actions reasonably required to be taken as part of their respective obligations under this Agreement, and Buyer and Sellers shall execute such other documents as may be reasonably necessary or desirable to obtain the Consents or consents to assignment to Buyer's lenders for security purposes or to implement and consummate this Agreement. Sellers and Buyer shall each diligently make, and cooperate with the other in making, all commercially reasonable efforts to obtain or cause to be obtained prior to the Closing Date all Consents from third Persons that are parties to Assumed Contracts without any change in the terms or conditions of any Assumed Contract or Station License that would reasonably be expected to be materially less advantageous to the Buyer than those pertaining under the Assumed Contract or Station License as in effect on the date of this Agreement. Anything to the contrary herein notwithstanding, no Party hereto shall be required to pay any fees or provide or deliver any other consideration to any

Person in order to obtain any Consent of such Person (unless otherwise specified in such Assumed Contract). Notwithstanding anything in this Agreement to the contrary, this Agreement shall not constitute an agreement to assign any Asset or any claim or right or any benefit arising thereunder or resulting therefrom if such assignment, without the consent of a third party thereto, would constitute a breach or other contravention of such Asset or in any way materially adversely affect the rights of Buyer or the applicable Seller thereunder. Sellers and Buyer each agree to use commercially reasonable efforts to obtain such Consents, and to take all commercially reasonable actions necessary or desirable to obtain such Consents, including executing such assumption instruments and other documents as may be required in connection with obtaining the Consents. If any such consent is not obtained prior to the Closing Date, or if an attempted assignment thereof would be ineffective or would adversely affect the rights of any Seller thereunder so that Buyer would not in fact receive all such rights, Sellers shall use their best efforts to obtain such consent as soon as possible after the Closing Date, and Sellers and Buyer will cooperate in a mutually agreeable arrangement under which (a) Buyer would obtain the benefits and assume the obligations thereunder in accordance with this Agreement, including sub-contracting, sub-licensing, or sub-leasing to Buyer, or (b) each Seller would enforce for the benefit of Buyer any and all rights of such Seller against a third party thereto. Each Seller shall promptly pay to Buyer when received all monies received by such Seller under any Asset or any claim or right or any benefit arising thereunder after the Effective Time.

6.5 Public Announcements. No Party shall publish, issue or make any press release or make any other public announcement concerning this Agreement or the transactions contemplated by this Agreement without the prior written consent of the other Party; provided, however, that (i) nothing contained in this Agreement shall prevent any Party, after notification to the other Party to the extent legally permissible, from making any filings with Governmental Authorities that, based on advice of legal counsel, may be required in connection with the execution and delivery of this Agreement or the consummation of the transactions contemplated hereby and (ii) Sellers shall be permitted to publish and broadcast public notices concerning the filing of the Assignment Applications in accordance with the requirements of Section 73.3580 of the FCC's rules.

6.6 Efforts. Without limiting the specific obligations of any Party hereto under any agreement or covenant hereunder, each Party hereto shall use commercially reasonable efforts to take all action and do all things necessary in order to consummate the transactions contemplated by this Agreement, including satisfaction, but not waiver, of the closing conditions set forth in Article 8 and Article 9.

6.7 Exclusivity. From the date of this Agreement until the earlier of the Closing Date or the termination of this Agreement pursuant to Section 12.1, Sellers shall not, directly or indirectly, solicit, initiate, encourage or entertain any inquiries or proposals from, or engage in any discussions or negotiations with, any Person other than Buyer concerning any merger, sale of equity interests, sale of assets, business combination or similar transaction involving or affecting ownership or operation of the Business.

## **ARTICLE 7: SPECIAL COVENANTS AND AGREEMENTS**

## 7.1 Employee Matters.

(a) Prior to the Closing, Sellers shall terminate all Employees, as of the Effective Time. Sellers shall be responsible for and shall pay at the Effective Time any compensation or liability under any Employee Benefit Plan sponsored by Sellers or their Affiliates and any liability for unpaid, accrued vacation that may be due as a result of the termination of any Employee, except as may otherwise be required under Section 7.1(c) below. Any notification required by any federal, state, or local law governing mass layoffs or terminations, including the federal Worker Adjustment and Retraining Notification Act of 1988 shall be given by Sellers. Compliance with all such laws shall be Sellers' sole responsibility and liability, except as may otherwise be required under Section 7.1(c) below.

(b) In conjunction with the transactions contemplated by this Agreement, Buyer may, but shall not be obligated to, hire or employ any Employee under any terms and conditions of employment Buyer deems appropriate, in its sole discretion. Notwithstanding anything to the contrary herein, Buyer shall not assume or be deemed to have assumed any obligations or liabilities in connection with any Employees (including under any employment, severance, termination or similar agreements or arrangements or any Employee Benefit Plan), except for liabilities and obligations arising after the Closing Date with respect to any Employee hired by Buyer and then only subject to the terms and conditions expressly agreed upon by Buyer and such Employee, and except as may otherwise be required under Section 7.1(c) below.

(c) If applicable law requires Buyer to do so, Buyer shall be responsible for providing notices and continuation options for any health plans of Sellers that may be required by the Consolidated Omnibus Budget Reconciliation Act of 1985 ("COBRA") for employees of Sellers whose employment with Sellers is terminated in connection with the purchase of the Assets, and for other employees of Sellers (and such employees dependents) entitled to COBRA continuation benefits, but Buyer shall not be responsible for any COBRA notices that were due before the Closing Date.

(d) Pursuant to the "Alternate Procedure" provided in Section 5 of Revenue Procedure 2004-53, 2004-34 IRB 320, to the extent permitted, (i) Sellers and Buyer shall report on a predecessor/successor basis as set forth therein, (ii) Sellers will be relieved from filing a Form W-2 with respect to any Employees that are employed by Buyer for the year that includes the Closing Date, (iii) Buyer will undertake to file (or cause to be filed) a Form W-2 for each such Employee with respect to the entire year (including the portion during which such Employees are employed by a Seller) that includes the Closing Date, and (iv) Sellers agree to cooperate with Buyer and, upon request from Buyer, provide Buyer with information relating to the period during which such Employees are employed by each Seller.

7.2 Further Assurances. From time to time after the Closing Date, upon the reasonable request of any Party hereto, the other Party or Parties hereto shall execute and deliver or cause to be executed and delivered such further instruments of conveyance, assignment, transfer, acceptance and assumption, and take such further action as the requesting Party may

reasonably request in order to fully effectuate the purposes, terms and conditions of this Agreement and the Ancillary Agreements.

7.3 Confidentiality. No Party will use or disclose to any other Person (except as may be necessary for the consummation of the transactions contemplated hereby, or as required by applicable Law, and then, to the extent legally permissible, only with prior notice to the other Party hereto) this Agreement or any information received from any other Party hereto or its agents in the course of investigating, negotiating and performing the transactions contemplated by this Agreement; provided, however, that each Party may disclose such information to such Party's officers, directors, stockholders, members, managers, employees, lenders, potential investors, advisors, attorneys and accountants who need to know such information in connection with the consummation of the transactions contemplated by this Agreement and who are informed by such Party of the confidential nature of such information and agree to be bound by the confidentiality covenants set forth in this Section 7.3. Each Party shall be responsible to the other Party for any breach by its officers, directors, stockholders, managers, members, employees, lenders, potential investors, advisors, attorneys or accountants of such confidentiality covenants. Nothing shall be deemed to be confidential information that: (i) is already in such Party's possession, prior to receipt from the other Party or Parties hereto or their agents, provided that such information is not known by such Party to be subject to another confidentiality agreement with or other obligation of secrecy to the other Party hereto or another Party; (ii) becomes generally available to the public other than as a result of a disclosure by such Party or such Party's officers, directors, stockholders, managers, members, employees, lenders, potential investors, advisors, attorneys or accountants in breach of this Section 7.3; or (iii) becomes available to such Party on a non-confidential basis from a source other than another Party hereto or their advisors, provided that such source is not known by such Party to be bound by a confidentiality agreement with or other obligation of secrecy to the other Party hereto or another Party. If this Agreement is terminated, then each Party will return to the other Party all information, including all documents, work papers and other written confidential material obtained by such Party from the other Party in connection with the transactions contemplated by this Agreement. The covenant contained in this Section 7.3 shall survive for a period of five (5) years from the earlier of the Closing Date or the date in which this Agreement is terminated pursuant to Section 12.1, except that if the Closing occurs, then this Section 7.3 shall no longer apply to Buyer.

7.4 Access to Books and Records. Buyer shall maintain the Records of the Business relating to the period prior to the Closing for a period of seven (7) years after the Closing. Buyer shall provide Sellers or Sellers' representatives reasonable access and the right to copy, at Sellers' expense, for a period of seven (7) years after the Closing Date any books and records relating to the Assets or the Business.

7.5 Non-Solicitation by Buyer. If this Agreement is terminated, then (i) Buyer shall not, beginning on the effective date of termination and continuing for a period of two (2) years thereafter, without the prior written approval of Sellers, directly or indirectly, solicit, encourage, entice or induce any Employee on the date hereof or at any time hereafter that precedes such termination, to terminate his or her employment with Sellers and (ii) Buyer shall not, beginning on the effective date of termination and continuing for a period of two (2) years thereafter, without the prior written approval of Sellers, directly or indirectly, hire any Employee



on the date hereof or at any time hereafter that precedes such termination; provided that general advertisements in the media not directed at the Employees shall not be prohibited by this Section 7.5. Buyer agrees that any remedy at law for any breach by Buyer of this Section 7.5 would be inadequate, and Sellers would be entitled to injunctive relief in such a case, in addition to any other remedies at law to which Sellers may be entitled. If it is ever held that the restrictions placed on Buyer by this Section 7.5 are too onerous and are not necessary for the protection of Sellers, then the Parties agree that any court of competent jurisdiction may reduce the duration or scope hereof, or delete specific words or phrases, and in its reduced form such provision will then be enforceable and will be enforced.

#### 7.6 Risk of Loss.

(a) Sellers shall bear the risk of any casualty loss or damage to any of the Assets prior to the Effective Time. Sellers shall be responsible for repairing or replacing (as appropriate under the circumstances) any lost or damaged Asset (the "Damaged Asset") unless such Damaged Asset was obsolete or unnecessary for the continued operation of the Stations consistent with Sellers' past practice and the Station Licenses. If Sellers are unable to, or do not, repair or replace a Damaged Asset by the date on which the Closing would otherwise occur under this Agreement, then the proceeds of any insurance covering such Damaged Asset shall be assigned to Buyer at Closing, and to the extent such proceeds are not sufficient to cover the reasonable out-of-pocket costs incurred by Buyer in repairing or replacing the Damaged Asset after the Closing, Sellers shall reimburse Buyer by an amount equal to the deficiency.

(b) If a Station is off the air prior to Closing, then Sellers shall use commercially reasonable efforts to return the Station to the air as promptly as practicable in the ordinary course of business. Notwithstanding anything herein to the contrary, if on the day otherwise scheduled for Closing, a Station is off the air or operating with a material reduction in coverage, then Closing shall be postponed until the date five (5) Business Days after such Station returns to the air, and, if applicable, such coverage is substantially corrected, subject to Section 12.1.

7.7 Filing of FCC Applications. Between the date hereof and the Closing Date, at Buyer's request, the applicable Seller shall execute a written statement which specifically grants permission to Buyer to file an application with the FCC on behalf of a Station or Stations contingent upon grant of the Assignment Applications and consummation of transactions contemplated hereby, as required under Section 73.3517(a) of the FCC's rules.

### **ARTICLE 8: CONDITIONS PRECEDENT OF BUYER**

The obligation of Buyer to consummate the transactions to be performed by them at the Closing is subject to the satisfaction of each of the following conditions prior to or at the Closing Date:

#### 8.1 Representations, Warranties and Covenants.

(a) All representations and warranties of Sellers made in this Agreement shall be true and correct in all respects if qualified by materiality or Material Adverse

Effect, or in all material respects if not qualified by materiality or Material Adverse Effect, on and as of the Closing Date as if made on and as of that date and as though the Closing Date were substituted for the date of this Agreement, except: (i) to the extent that any such representations and warranties were made as of a specified date, then as to such representations and warranties, the same shall continue on the Closing Date to have been true and correct in all respects or in all material respects, as the case may be, as of the specified date, (ii) in the case of the representations and warranties in Sections 4.9 (Litigation), 4.11 (Taxes), 4.14 (Insurance), 4.15 (Employees) and 4.16 (Employee Benefit Plans), where the breach of any such representations or warranties does not and is not reasonably expected to have an adverse effect (other than a de minimis adverse effect) on Buyer, the Assets or the Business after giving effect to the transactions contemplated by this Agreement, and (iii) in the case of the representations and warranties in Sections 4.5 (Contracts) and 4.6 (Intangibles) and the first sentence of Section 4.22 (Sufficiency of the Assets and Title to Assets), where the breach of any such representations or warranties does not involve or relate to any Material Assumed Contract, any material Intangible or any material Asset, respectively. “Material Assumed Contracts” means those Assumed Contracts marked with a “\*” on Schedule 2.1(c) (Assumed Contracts), Schedule 2.1(j) (Real Property Leases and License Agreements) and Schedule 4.13 (Cable and Satellite Matters).

(b) Sellers shall have performed and complied in all respects with all covenants and agreements required by this Agreement to be performed or complied with by them prior to or on the Closing Date.

8.2 FCC Consents. The FCC Consents shall have been granted by Final Order and shall contain no conditions materially adverse to Buyer, Holdco or any investor in Holdco.

8.3 Required Consents and Estoppel Certificates. All of the Consents listed on Schedule 8.3 attached hereto and marked with a “\*” (collectively, the “Required Consents”) shall have been obtained and delivered to Buyer. In addition, Sellers shall have delivered estoppel certificates duly executed by the lessors under the Real Property Leases in a form approved by Buyer.

8.4 Absence of Proceedings. No injunction, restraining order or decree of any nature of any Governmental Authority of competent jurisdiction shall be in effect enjoining or preventing consummation of the transactions contemplated by this Agreement or which would materially limit or materially and adversely affect Buyer’s ownership or control of the Assets, the Business or the Stations, and no action or proceeding by or before any Governmental Authority (other than an action or proceeding instituted or threatened by or on behalf of Buyer) shall have been instituted or threatened (and not subsequently dismissed, settled or otherwise terminated) that is reasonably likely to (i) materially restrain, prohibit or invalidate the transactions contemplated by this Agreement or (ii) have a Material Adverse Effect.

8.5 Assignment and Assumption Agreements. Sellers shall have delivered, or caused to be delivered, duly executed assignments and other instruments of conveyance and transfer, in form and substance reasonably satisfactory to counsel to Buyer, effectuating the sale, transfer, assignment and conveyance of the applicable Assets to the Buyer, free and clear of all

Liens (other than Permitted Liens), including the Assignment of Station Licenses, Bill of Sale and Assignment and Assumption Agreements in the forms attached hereto as Exhibit B.

8.6 Certificates. An executive officer of Sellers shall execute and deliver a certificate, dated as of the Closing Date, to Buyer, certifying to the fulfillment of the conditions set forth in Section 8.1. A member, manager, secretary or any other authorized officer of Sellers shall execute and deliver a certificate, dated as of the Closing Date, to Buyer, certifying that (i) the certificates of formation and limited liability company agreements attached thereto are true, correct and complete and in full force and effect and (ii) the resolutions, as attached to such certificate, were duly adopted by the boards of managers (if applicable) and/or members (if required) of Sellers, authorizing and approving the execution of this Agreement and the consummation of the transactions contemplated hereby and that such resolutions remain in full force and effect. Sellers shall deliver a certificate of incumbency to Buyer for the members, managers or officers of Sellers which are duly authorized to execute and deliver this Agreement and the agreements, instruments, certificates and documents contemplated hereby.

8.7 Releases. Sellers shall have delivered payoff and release letters from secured creditors, together with UCC-3 termination statements with respect to any financing statements filed against the Business or any of the Purchased Assets owned by Sellers, terminating all encumbrances (including Tax liens) on any of the Assets owned by Sellers.

8.8 Good Standing Certificates. Sellers shall have delivered Certificates from the Secretary of State of Florida as to Sellers' good standing.

8.9 FIRPTA Certificate. Sellers shall have executed and delivered Certifications of Non-Foreign Status in a form reasonably acceptable to Buyer's counsel.

8.10 Opinions. Sellers shall have delivered an opinion of Sellers' corporate counsel in the form attached hereto as Exhibit C and an opinion of its FCC counsel in the form of Exhibit D hereto.

8.11 Transaction Agreement. The conditions set forth in Section 11 (Closing Conditions) of the Transaction Agreement shall have been satisfied or waived by the party or parties entitled to waive such conditions thereunder as they relate to the obligations set forth in Sections 11(a) or 11(b) as the case may be.

8.12 KEJR-LP Digital Application. The FCC shall have granted Phoenix TV's KEJR-LP digital companion channel application (FCC File No. BDCCDTL-20061017ABH) for the technical facilities currently specified therein, and such FCC grant shall be in full force and effect.

8.13 Other Documents. Sellers shall deliver to Buyer such other documents as may reasonably be required by Buyer or its counsel in order to effectuate the closing of transactions contemplated by this Agreement or otherwise necessary to transfer the FCC Authorizations and the applicable Assets in accordance with the terms hereof and consummate the transaction, and to vest in Buyer and its successors and assigns full, complete, absolute, legal and equitable title to the applicable Assets, free and clear of all Liens (other than Permitted Liens).

If any of the conditions set forth in this Article 8 have not been satisfied prior to or at the Closing Date, then Buyer may waive any such condition (to the extent not prohibited by applicable law) and nevertheless elect to proceed with the consummation of the transactions contemplated hereby. Buyer may not rely on the failure of any condition set forth in this Article 8 if such failure was caused by Buyer's failure to comply with any term or provision of this Agreement.

## **ARTICLE 9: CONDITIONS PRECEDENT OF SELLERS**

The obligation of Sellers to consummate the transactions to be performed by them at the Closing is subject to the satisfaction of each of the following conditions prior to or at the Closing Date:

### **9.1 Representations, Warranties and Covenants.**

(a) All representations and warranties of Buyer made in this Agreement shall be true and correct in all respects if qualified by materiality or Material Adverse Effect, or in all material respects if not qualified by materiality or Material Adverse Effect, on and as of the Closing Date as if made on and as of that date and as though the Closing Date were substituted for the date of this Agreement, except to the extent that any such representations and warranties were made as of a specified date, then as to such representations and warranties, the same shall continue on the Closing Date to have been true and correct in all respects or in all material respects, as the case may be, as of the specified date.

(b) Buyer shall have performed and complied in all respects with all covenants and agreements required by this Agreement to be performed or complied with by Buyer prior to or on the Closing Date.

**9.2 FCC Consents.** The FCC Consents shall have been granted by Final Order.

**9.3 Absence of Proceedings.** No injunction, restraining order or decree of any nature of any Governmental Authority of competent jurisdiction shall be in effect enjoining or preventing consummation of the transactions contemplated by this Agreement, and no action or proceeding by or before any Governmental Authority (other than an action or proceeding instituted or threatened by or on behalf of Sellers) shall have been instituted or threatened (and not subsequently dismissed, settled or otherwise terminated) that is reasonably likely to materially restrain, prohibit or invalidate the transactions contemplated by this Agreement.

**9.4 Purchase Price.** Buyer shall have delivered (i) an amount equal to the Cash Purchase Price to Sellers and (ii) the Convertible Note issued in the name of Bela to Bela.

**9.5 Assignment and Assumption Agreements.** Buyer shall deliver to Sellers duly executed assumption and acceptance agreements, in form and substance reasonably satisfactory to Sellers' counsel, pursuant to which Buyer shall assume and undertake to perform

the Assumed Liabilities, including the Assignment and Assumption Agreements in the forms attached hereto as Exhibit B.

9.6        Certificates. An executive officer of Buyer shall execute and deliver a certificate, dated as of the Closing Date, to Sellers, certifying to the fulfillment of the conditions set forth in Section 9.1. A member, manager, secretary or any other authorized officer of Buyer shall execute and deliver a certificate, dated as of the Closing Date, to Sellers, certifying that (i) the certificates of formation and limited liability company agreement attached thereto are true, correct and complete and in full force and effect and (ii) the resolutions, as attached to such certificate, were duly adopted by sole member (if required) of Buyer, authorizing and approving the execution of this Agreement and the consummation of the transactions contemplated hereby and that such resolutions remain in full force and effect. Buyer shall deliver certificates of incumbency to Sellers for the members, managers or officers of Buyer which are duly authorized to execute and deliver this Agreement and the agreements, instruments, certificates and documents contemplated hereby. Buyer shall deliver a certificate from the Secretary of State of Delaware as to Buyer's good standing.

9.7        Other Documents. Buyer shall deliver to Sellers such other documents as may reasonably be required by Sellers or their counsel in order to effectuate the closing of transactions contemplated by this Agreement.

If any of the conditions set forth in this Article 9 have not been satisfied prior to or at the Closing, then Sellers may waive any such condition (to the extent not prohibited by applicable law) and nevertheless elect to proceed with the consummation of the transactions contemplated hereby. Sellers may not rely on the failure of any condition set forth in this Article 9 if such failure was caused by Sellers' failure to comply with any term or provision of this Agreement.

## **ARTICLE 10: CLOSING**

10.1       Closing. Subject to Section 7.6(b), the closing of the transactions contemplated hereunder ("Closing") shall occur on (a) the later of (i) the date designated by Buyer upon five (5) days prior written notice to Sellers that is no later than ten (10) days after the date on which the FCC Consent has become a Final Order, or if no such prior notice is delivered, then on such tenth (10th) day, and (ii) the date on which each of the other conditions to Closing set forth in Article 8 and Article 9 has been satisfied or waived (other than those conditions that by their nature are to be satisfied at the Closing but subject to the satisfaction or waiver of those conditions at such time), or (b) such other date as Buyer and Sellers may agree upon in writing (the "Closing Date"), and the Closing shall take place at the offices of Akerman Senterfitt located at One S.E. Third Avenue, Suite 2800, Miami, Florida 33131 (or at such other place as the Parties may designate in writing) at 10:00 a.m. (Miami time).

## **ARTICLE 11: SURVIVAL; INDEMNIFICATION**

11.1 Survival. All of the representations and warranties of the Parties hereto contained in the Agreement, and any claims related to any covenant or agreement of the Parties contained in this Agreement that contemplates performance prior to or at the Closing (“Pre-Closing Covenants”), shall survive the Closing and continue in full force and effect for a period of fifteen (15) months after the Closing Date (“Survival Period”), after which such representations, warranties and claims with respect to Pre-Closing Covenants will terminate and be of no further force or effect. The covenants and agreements of the Parties set forth in this Agreement to be performed after the Closing shall survive the Closing until fully performed and discharged. Any claims as to a breach or default of a representation, warranty, or a Pre-Closing Covenant under Section 11.2 or Section 11.3 must be asserted in writing with reasonable particularity by the Party making such claim within the Survival Period, provided that in the event such notice is given within the Survival Period, the right to indemnification with respect thereto shall survive the Survival Period until such claim is finally resolved and any obligations thereto are fully satisfied.

11.2 Indemnification by Sellers.

(a) After the Closing occurs and subject to the survival provisions set forth in Section 11.1, the other limitations set forth in this Article 11 and the other terms and provisions of this Agreement, Sellers, jointly and severally, agree to defend, indemnify and hold harmless Buyer and its directors, officers, employees, Affiliates and assigns (collectively, the “Buyer Indemnified Parties”) from, against, and in respect of all Losses resulting from:

(i) Any breach or inaccuracy of the representations and warranties made by Sellers in this Agreement or in any instrument, certificate, or affidavit delivered by Sellers pursuant to this Agreement at the Closing, provided that such Losses shall be calculated without regard to any materiality qualification contained in any such representation or warranty;

(ii) Any failure by Sellers to perform any Pre-Closing Covenant;

(iii) Any failure by Sellers to perform any covenant or agreement set forth herein or in any certificate, document or instrument prepared, executed and delivered by Sellers to Buyer under this Agreement that contemplates performance after the Closing; and

(iv) the Retained Liabilities and the Excluded Assets.

(b) Anything to the contrary in this Agreement notwithstanding, Sellers’ obligation to indemnify the Buyer Indemnified Parties pursuant to Sections 11.2(a)(i) and (ii) shall, except in the case of common law fraud, be subject to the following limitations: Sellers shall not be required to indemnify or hold Buyer Indemnified Parties harmless until the aggregate amount of Losses for which the Sellers are liable under Sections 11.2(a)(i) and (ii) exceeds an aggregate deductible of 1% of the Purchase Price, and then only with respect to the amount of such Losses in excess of such amount, and the maximum liability of Sellers under Sections 11.2(a)(i) and (ii) shall in no event exceed 10% of the Purchase Price (the “Cap”). Anything to the contrary in this Agreement notwithstanding, Buyer’s sole and exclusive recourse against Sellers under Sections 11.2(a)(i) and (ii) shall, except in the case of common law fraud, be to resort to the Convertible Note as provided in Section 11.2(c) (after which point Sellers shall

have no liability or obligation to indemnify or hold harmless Buyer Indemnified Parties under Sections 11.2(a)(i) or (ii)), and Buyer, on its behalf and on behalf of the other Buyer Indemnified Parties, waives and releases and shall have no recourse against Sellers in excess of such amount in connection with any claim under Sections 11.2(a)(i) or (ii). For the avoidance of any doubt, there shall be no limit on Sellers' obligation to indemnify the Buyer Indemnified Parties for Losses pursuant to Sections 11.2(a)(iii) or (iv) or in the case of common law fraud.

(c) Bela acknowledges and agrees that the Convertible Note shall be used to secure the obligation of Sellers to indemnify the Buyer Indemnified Parties pursuant to this Section 11.2 and shall be the sole recourse of the Buyer Indemnified Parties for payment of any indemnification obligation by Sellers under Sections 11.2(a)(i) or (ii). Bela agrees that it will not sell, transfer, assign or otherwise dispose of the Convertible Note until after the Survival Period has expired (or if an indemnification claim is pending, until after such claim is finally resolved and any obligations thereto are fully satisfied). Any amounts due from Sellers to Buyer under this Section 11.2 shall be offset against the Convertible Note and, with respect to amounts due pursuant to Sections 11.2(a)(iii) and (iv), Buyer shall have recourse directly against Sellers only to the extent that the outstanding principal and interest under the Convertible Note is not sufficient to satisfy such obligation; provided however, that the actual amount subject to offset shall be determined by a final judgment or decree of any court of competent jurisdiction (after all appeals have expired or been finally determined) or settlement between the Parties (with any excess amounts due and owing under such Convertible Note evidenced by a new Convertible Note issued and delivered to Bela upon the expiration of the Survival Period and final resolution or settlement).

(d) Anything to the contrary in this Agreement notwithstanding, no direct or indirect equity or debt holders, officers, directors and/or managers of any Seller, shall have (i) any personal liability to Buyer Indemnified Parties as a result of the breach or default of any representation, warranty, covenant or agreement of Sellers contained herein or otherwise arising out of or in connection with the transactions contemplated hereby or the operations of the Business or (ii) any personal obligation to indemnify the Buyer Indemnified Parties for any claims pursuant to Section 11.2, and Buyer, on its behalf and on behalf of the other Buyer Indemnified Parties, waives and releases and shall have no recourse against any of such related parties as a result of the breach or default of any representation, warranty, covenant or agreement of Sellers contained herein or otherwise arising out of or in connection with the transactions contemplated hereby or the operations of the Business, provided that this Section 11.2(d) shall not limit the personal liability or obligation of any Person for active participation in common law fraud and nothing herein shall release any Person from the performance of its obligations under any other agreement executed by such Person in connection with the transactions contemplated hereby.

### 11.3 Indemnification by Buyer.

(a) After the Closing occurs and subject to the survival provisions set forth in Section 11.1, the other limitations set forth in this Article 11 and the other terms and provisions of this Agreement, Buyer agrees to defend, indemnify and hold harmless Sellers and their respective directors, officers, employees, agents, Affiliates and assigns (collectively, the

“Seller Indemnified Parties”) from, against, and in respect of all Losses relating to or resulting from:

(i) Any breach or inaccuracy of the representations and warranties made by Buyer in or pursuant to this Agreement or in any instrument, certificate, or affidavit delivered by Buyer pursuant to this Agreement at the Closing, provided that such Losses shall be calculated without regard to any materiality qualification contained in any representation or warranty;

(ii) Any failure by Buyer to perform any Pre-Closing Covenant;

(iii) Any failure by Buyer to perform any covenant or agreement set forth herein or in any certificate, document or instrument prepared, executed and delivered by Buyer to Sellers under this Agreement that contemplates performance after the Closing; and

(iv) the Assumed Liabilities.

(b) Anything to the contrary in this Agreement notwithstanding, Buyer’s obligation to indemnify the Seller Indemnified Parties pursuant to Sections 11.3(a)(i) and (ii) shall be subject to all of the following limitations: Buyer shall not be required to indemnify or hold Seller Indemnified Parties harmless until the aggregate amount of Losses for which the Buyer is liable under Sections 11.3(a)(i) and (ii) exceeds an aggregate deductible of 1% of the Purchase Price, and then only with respect to the amount of such Losses in excess of such amount, and the maximum liability of Buyer under Sections 11.3(a)(i) and (ii) shall in no event exceed the Cap. Sellers’ sole and exclusive recourse against Buyer under Sections 11.3(a)(i) or (ii) shall be limited to the Cap (after which point the Buyer shall have no liability or obligation to indemnify or hold harmless Seller Indemnified Parties), and Sellers, on their behalf and on behalf of the other Seller Indemnified Parties, waive and release and shall have no recourse against Buyer in excess of such amount in connection with any claim under Sections 11.3(a)(i) or (ii).

(c) Anything to the contrary in this Agreement notwithstanding, no direct or indirect equity or debt holders, officers, directors and/or managers of Buyer, shall have (A) any personal liability to Seller Indemnified Parties as a result of the breach or default of any representation, warranty, covenant or agreement of Buyer contained herein or otherwise arising out of or in connection with the transactions contemplated hereby or the operations of the Business or (B) any personal obligation to indemnify Seller Indemnified Parties for any claims pursuant to Section 11.3, and Sellers, on their behalf and on behalf of the other Seller Indemnified Parties, waive and release and shall have no recourse against any of such related parties as a result of the breach or default of any representation, warranty, covenant or agreement of Buyer contained herein or otherwise arising out of or in connection with the transactions contemplated hereby or the operations of the Business, provided that this Section 11.3(c) shall not limit the personal liability or obligation of any Person for active participation in common law fraud and nothing herein shall release any Person or Affiliate thereof from the performance of its obligations under any other agreement executed by a Person in connection with the transactions contemplated hereby.



11.4 Indemnification Procedures. The procedures for indemnification under this Agreement shall be as follows:

(a) The Party claiming indemnification (the “Claimant”) shall promptly give notice to the Party from which indemnification is claimed (the “Indemnifying Party”) of any claim, specifying in reasonable detail the factual basis for the claim, the amount thereof, estimated in good faith, all with reasonable particularity and containing a reference to the provisions of this Agreement in respect of which such indemnification claim shall have occurred. If the claim relates to an action, suit or proceeding filed by another Person against Claimant, then such notice shall be given by Claimant within ten (10) Business Days after written notice of such action, suit or proceeding was given to Claimant and shall include true and complete copies of all suit, service and claim documents, all other relevant documents in the possession of the Claimant, and an explanation of the Claimant’s contentions and defenses with as much specificity and particularity as the circumstances permit; provided, however, that the failure or delay of the Claimant to provide such notice shall not release the Indemnifying Party from any of its obligations under this Article 11 unless (and then solely to the extent that) the Indemnifying Party is actually prejudiced thereby.

(b) With respect to claims solely between the Parties, following receipt of notice from the Claimant of a claim, the Indemnifying Party shall have forty-five (45) days to make such investigation of the claim as the Indemnifying Party reasonably deems necessary or desirable, and the Claimant agrees to make available to the Indemnifying Party and its authorized representatives the information relied upon by the Claimant to substantiate the claim. If the Claimant and the Indemnifying Party agree at or prior to the expiration of such forty-five (45)-day period to the validity and amount of such claim, then the Indemnifying Party shall promptly pay to the Claimant the full amount of the claim, subject to the terms and limitations hereof. If the Claimant and the Indemnifying Party do not agree within such forty-five (45)-day period, then the Claimant may seek appropriate remedy at law or equity, as applicable, subject to the terms and limitations contained in this Agreement.

(c) With respect to any claim by any other Person against the Claimant (a “Third Party Claim”), the Indemnifying Party shall have the right at its own expense, to participate in or assume control of the defense of such claim, and the Claimant shall cooperate fully with the Indemnifying Party. If the Indemnifying Party elects to assume control of the defense of any Third Party Claim, then (i) the Claimant shall have the right to participate in the defense of such claim at its own expense and shall not settle or compromise the Third Party Claim and (ii) the Indemnifying Party shall have the power and authority to settle or consent to the entry of judgment in respect of the Third Party Claim without the consent of the Claimant if the judgment or settlement results only in the payment by the Indemnifying Party of monetary relief and includes a release of the Claimant from any and all liability thereunder, and, in all other events, the Indemnifying Party shall not consent to the entry of judgment or enter into any settlement in respect of a Third Party Claim without the prior written consent of the Claimant, which consent shall not be unreasonably withheld or delayed. If the Indemnifying Party does not elect to assume control or otherwise participate in the defense of any Third Party Claim, within twenty (20) days of notice thereof, then the Claimant may defend through counsel of its own choosing and in such manner as it reasonably deems appropriate but the Claimant may only settle such Third Party Claim with the consent of the Indemnifying Party, which consent shall

not be unreasonably withheld or delayed. The Claimant shall make available to the Indemnifying Party or its representatives all records and other materials in the Claimant's possession reasonably required by them for their use in contesting or defending any Third Party Claim. The amount of indemnification to which a Claimant shall be entitled under this Section 11.4 shall be determined by a final judgment or decree of any court of competent jurisdiction (after all appeals have expired or been finally determined) or settlement between the Parties.

#### 11.5 Adjustment to Indemnification Payments.

(a) Any payment made by an Indemnifying Party to Claimant pursuant to Section 11.2 or Section 11.3 shall be reduced by an amount equal to any insurance payments with respect to such claim actually received by the Claimant. The Parties shall be obligated to prosecute, or to cause their appropriate Affiliate to prosecute, diligently and in good faith any claim for Losses with any applicable insurer. In any case where a Claimant or any of its Affiliates recovers from third parties any payments in respect of a matter with respect to which an Indemnifying Party has indemnified and paid to it pursuant to Section 11.2 or Section 11.3, such Claimant shall promptly pay over to the Indemnifying Party the amount so recovered (after deducting therefrom the full amount of the expenses reasonably incurred by it in procuring such recovery), but not in excess of the sum of (i) any amount previously so paid by the Indemnifying Party to or on behalf of the Claimant in respect of such matter and (ii) any reasonable amount expended by the Indemnifying Party and its Affiliates in pursuing or defending any claim arising out of such matter.

(b) To the extent that the Buyer Indemnified Parties receive any net tax benefit as a result of any claims arising under this Article 11, the amount (if any) payable by Sellers on account of such claims shall be reduced by the amount of any net tax benefit received by the Buyer Indemnified Parties (assuming the application of the highest marginal state and federal tax rates applicable to the Buyer Indemnified Party in the year in which such tax benefit is received or tax liability is incurred).

#### 11.6 Additional Indemnification Limitations; Exclusive Remedy. Notwithstanding any other provisions contained in this Agreement to the contrary,

(a) Buyer and Sellers waive any right to recover punitive, special, indirect, exemplary and consequential damages arising in connection with or with respect to Losses under the indemnification provisions of this Agreement, except to the extent that such damages are part of a Third Party Claim. Each Party agrees to use reasonable efforts to mitigate any Losses which form the basis for any claim for indemnification hereunder.

(b) After the Closing, and except as provided in Section 11.2(d) and Section 11.3(c) with respect to common law fraud, the right to indemnification under this Article 11 shall be the sole and exclusive remedy for Buyer or Sellers, as the case may be, for any claim or Loss (whether such claim or Loss in respect thereof is framed in tort, contract or otherwise) arising out of this Agreement or otherwise arising out of or in connection with the transactions contemplated by this Agreement, except for the right of either Buyer or Sellers to seek equitable

relief in connection with the non-performance of any agreement or covenant contained in this Agreement.

(c) All indemnification payments under this Article 11 shall be deemed to be adjustments to the consideration received by Sellers in connection with the transactions contemplated hereunder.

## **ARTICLE 12: TERMINATION**

12.1 Termination. This Agreement may be terminated at any time prior to the Closing as follows:

- (a) by mutual written consent of Sellers and Buyer;
- (b) by Buyer (i) in the event that Sellers have breached any representation, warranty or covenant contained in this Agreement and such breach shall have resulted in a Material Adverse Effect, Buyer has notified Sellers of the breach in writing, and the breach has continued without cure for a period of 30 days after the notice of breach; or (ii) if the Closing shall not have occurred on or before the Termination Date, by reason of the failure of any condition precedent to have occurred under Article 8 hereof (unless the failure results primarily from Buyer's breach of any representation, warranty or covenant contained in this Agreement); and
- (c) by Sellers, (i) in the event that Buyer has breached any representation, warranty or covenant contained in this Agreement, Sellers have notified Buyer of the breach in writing, and the breach has continued without cure for a period of 30 days after the notice of breach; or (ii) if the Closing shall not have occurred on or before the Termination Date, by reason of the failure of any condition precedent to have occurred under Article 9 hereof (unless the failure results primarily from Sellers' breach of any representation, warranty or covenant contained in this Agreement).

Notwithstanding the foregoing, no Party may effect a termination of this Agreement if such Party is in material breach or default of its representations, warranties, covenants or obligations under this Agreement.

12.2 Procedure and Effect of Termination.

- (a) If this Agreement is terminated by either or both of Buyer or Sellers pursuant to Section 12.1, prompt written notice thereof shall forthwith be given to the other Party and this Agreement shall terminate and the transactions contemplated hereby shall be abandoned without further action by any of the Parties hereto; provided that, notwithstanding any termination of this Agreement pursuant to Section 12.1 and subject to the provisions of Section 12.2(b) and Section 12.2(c), no such termination of this Agreement will relieve any Party from liability for any misrepresentation or breach of any representation, warranty, covenant or agreement set forth in this Agreement prior to such termination. All filings, applications and other submissions relating to the transactions contemplated hereby as to which termination has

occurred shall, to the extent practicable, be withdrawn from the Governmental Authority or other Person to which made.

(b) If this Agreement is terminated by Sellers pursuant to Section 12.1(c)(i), then Sellers shall be entitled to be paid Five Million Dollars (\$5,000,000) ( the “Liquidated Damages Amount”) by Buyer. All Parties agree that the payment of the Liquidated Damages Amount is a bona fide liquidated damages provision and is not intended to be, and shall not deemed to be construed as, a penalty. The Parties further recognize and/or agree that (i) the actual damages which Sellers would suffer by virtue of any such termination are impossible to ascertain and would be difficult to prove, (ii) Sellers will incur damages or will be irreparably harmed as a result of any such termination, and (iii) the liquidated damages provision is a fair and reasonable estimate of Sellers’ damages as a result of such termination and such payment is intended by the Parties to provide just compensation for such termination.

(c) Notwithstanding any other provision of this Agreement to the contrary, the payment of the Liquidated Damages Amount shall be Sellers’ sole and exclusive remedy for damages of any nature or kind that Sellers may suffer as a result of Buyer’s breach or default under this Agreement prior to the Closing.

(d) Sellers hereby acknowledges that irreparable damage would occur, and the remedies at law for Buyer would be inadequate, if any term or provision hereof were not performed or observed by Sellers strictly in accordance herewith, and Sellers hereby unconditionally and irrevocably waives any defense that may be available to it that Buyer’s remedies at law are adequate or that Buyer’s injuries are not irreparable. Sellers hereby agree that Buyer may, without posting any bond or other security and in addition to any remedy available to Buyer at law, obtain equitable relief in the form of specific performance, temporary restraining order, temporary or permanent injunction, or any other equitable remedy which may then be available to Buyer.

(e) Notwithstanding any termination of this Agreement pursuant to Section 12.1, the obligations of the Parties described in Section 4.18 (Broker), 5.6 (Broker), 7.3 (Confidentiality), 7.5 (Non-Solicitation by Buyer), 13.2 (Governmental Filing Fees), and 13.3 (Expenses) and this Article 12 will survive any such termination.

12.3 Attorneys’ Fees. In the event of a breach or default by either Party that results in a claim for indemnification under this Agreement, lawsuit or other proceeding for any remedy available under this Agreement, the prevailing Party shall be entitled to reimbursement from the other Party of its reasonable legal fees and expenses (whether incurred in investigation, settlement, arbitration, at trial or on appeal).

### **ARTICLE 13: TAXES; FEES AND EXPENSES**

13.1 Transfer and Other Taxes. All transfer, documentary, sales, use, stamp, registration and other such Taxes and fees, including penalties and interest, if any, but exclusive of any income, franchise or gross receipts Taxes, incurred in connection with this Agreement and

the transactions contemplated herein (collectively, "Transfer Taxes") shall be borne and paid one-half by Buyer and one-half by Sellers. Each Party agrees to cooperate with such other Parties in the timely completion, execution and filing of any documentation required by any local or state Governmental Authority in connection with the Transfer Taxes.

(a) Sellers shall be responsible for and shall pay any Taxes arising or resulting from or in connection with the conduct of the Business or the ownership of the Assets and Station Licenses attributable to the period through the Effective Time. Buyer shall be responsible for and shall pay any Taxes arising or resulting from or in connection with the conduct of the Business or the ownership of the Assets attributable to the period after the Effective Time.

(b) All real property, personal property, ad valorem or other similar Taxes (not including income Taxes) levied with respect to the Assets for a taxable period which includes (but does not end on) the Closing Date shall be apportioned between Buyer and Sellers on a ratable basis, apportioning to Sellers the amount of Tax for the period multiplied by a fraction, the numerator of which shall be the number of days in the period through the Effective Time, and the denominator of which shall be the total number of days in the period, and apportioning the remainder to Buyer.

(c) Sellers shall cooperate with Buyer and provide Buyer with such information as Buyer may reasonably request in order to permit Buyer to determine federal, state and local social security, Medicare, disability and unemployment tax withholding and other obligations with respect to employees of Sellers hired by Buyer, if any, after Closing.

(d) The Parties shall comply with the provisions of Section 1445 of the Code and the Treasury Regulations issued thereunder and other applicable laws.

13.2 Governmental Filing Fees. All FCC filing fees shall be borne by the Parties as set forth in Section 3.1.

13.3 Expenses. Except as otherwise provided in this Agreement, each Party shall pay its own costs and expenses incurred in connection with the authorization, preparation, execution and performance of this Agreement, including all fees and expenses of counsel, accountants, agents and representatives.

#### **ARTICLE 14: MISCELLANEOUS**

14.1 Entire Agreement; Amendment. This Agreement, the Annexes, the Schedules and Exhibits hereto, and all agreements, documents and certificates executed and delivered pursuant to this Agreement in connection with the Closing, collectively constitute the entire agreement between the Parties pertaining to the subject matter hereof, and supersede all prior and contemporaneous agreements, understandings, negotiations and discussions of the Parties, whether oral or written, and there are no warranties, representations or other covenants or agreements between or among the Parties in connection with the subject matter hereof, except

as specifically set forth herein. No amendment, supplement, modification, waiver or termination of this Agreement shall be binding unless executed in writing by the Party to be bound thereby.

14.2      Waivers; Consents. Except as otherwise provided in this Agreement, any failure of any of the Parties to comply with any obligation, representation, warranty, covenant, agreement or condition set forth in this Agreement may be waived by the Party entitled to the benefits thereof only by a written instrument signed by the Party granting such waiver. Any of the conditions to Closing set forth in this Agreement may be waived at any time prior to or at the Closing hereunder by the Party entitled to the benefit thereof. The failure of any Party hereto to enforce at any time any of the provisions of this Agreement shall in no way be construed to be a waiver of any such provision, nor in any way to affect the validity of this Agreement or any part hereof or the right of such Party thereafter to enforce each and every such provision. No waiver of any breach of or non-compliance with this Agreement shall be held to be a waiver of any other or subsequent breach or non-compliance. Whenever this Agreement requires or permits consent by or on behalf of any Party hereto, 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 14.2.

14.3      Benefit; Assignment. This Agreement shall be binding upon and inure to the benefit of Buyer and Sellers and their respective successors and permitted assigns, and shall not confer any rights or remedies upon any Person other than Buyer and Sellers and their respective successors and permitted assigns. No Party to this Agreement may, directly or indirectly, by merger, operation of law, or otherwise, assign either this Agreement or any of its rights, interests or obligations under this Agreement without the prior written consent of the other Party; provided that Buyer may assign its rights under this Agreement to purchase the Assets, in part or in whole, to a direct or indirect wholly-owned subsidiary of Holdco; provided, however, that no such assignment shall relieve any Party from liability hereunder. No assignment consented to under this Agreement shall act as a novation and the assigning Party shall not be released from, and shall remain fully liable for, all of its obligations and liabilities under this Agreement. Any assignment in violation of this Agreement shall be null and void ab initio.

14.4      Notices. All communications, notices, demands and requests required or permitted to be given under the provisions of this Agreement shall be (i) in writing, (ii) sent by confirmed facsimile (with receipt personally confirmed by telephone), delivered by personal delivery or sent by commercial delivery service or certified mail, return receipt requested, (iii) deemed to have been given on the date sent by facsimile if sent on a Business Day before 5:00 p.m. local time of the recipient, and if not then on the next Business Day immediately following, with receipt confirmed, the date of personal delivery or the date set forth in the records of the delivery service or on the return receipt, and (iv) addressed as follows, unless and until either of such Parties notifies the other in accordance with this Section 14.4 of a change of address or change of facsimile number:

- i. If to Sellers: Bela Broadcasting, LLC  
14450 Commerce Way  
Miami Lakes, Florida 33016  
Attention: Robert Behar  
Telephone No.: (305) 863-5724  
Facsimile No.: (305) 863-5701
- With a required copy to: Akerman Senterfitt P.A.  
One S.E. Third Avenue, Suite 2800  
Miami, FL 33131  
Attention: Andrea Fisher Evans, Esq.  
Telephone No.: (305) 982-5533  
Facsimile No.: (305) 374-5095
- ii. If to Buyer: HERO Broadcasting LLC  
14450 Commerce Way  
Miami Lakes, Florida 33016  
Attention: Robert Behar  
Telephone No.: (305) 863-5724  
Facsimile No.: (305) 863-5701
- With a required copy to: Hunton & Williams LLP  
1111 Brickell Avenue  
Suite 2500  
Miami, FL 33131  
Attention: Fernando Alonso  
Dir Tel: (305) 810-2570  
Main Fax: (305) 810-2460

14.5 Counterparts. This Agreement may be executed in several counterparts, each of which shall be deemed an original, but such counterparts shall together constitute but one and the same instrument. This Agreement may be executed and delivered in counterpart signature pages executed and delivered via e-mail or facsimile transmission, and any such counterpart executed and delivered via e-mail or facsimile transmission shall be deemed an original for all intents and purposes.

14.6 Headings. The Table of Contents and Article, Section and other headings set forth in this Agreement, the Annexes, Schedules or Exhibits hereto are inserted or used for convenience of reference only and shall not control or affect the meaning or construction of the provisions of this Agreement.

14.7 Severability. If any provision of this Agreement or the application thereof to any Person or circumstance shall be invalid or unenforceable to any extent, the remainder of this Agreement and the application of such provision to other Persons or circumstances shall not be affected thereby and shall be enforced to the greatest extent permitted by applicable law so long as the economic or legal substance of the transactions contemplated hereby is not affected in any manner materially adverse to any Party. Upon such determination that any term or other provision is invalid or unenforceable, the Parties hereto shall negotiate in

good faith to modify this Agreement so as to effect the original intent of the Parties as closely as possible in an acceptable manner to the end that the transactions contemplated hereby are fulfilled to the greatest extent possible.

14.8 No Reliance. Except as expressly set forth in this Agreement, no Person other than the Parties hereto is entitled to rely on any of the representations, warranties, covenants, agreements, rights or remedies of Buyer or Sellers under or by virtue of this Agreement. Buyer and the Sellers assume no liability to any such Person because of any reliance on the representations, warranties, agreements, rights or remedies of Buyer or the Sellers under or by virtue of this Agreement.

14.9 Governing Law. This Agreement shall be governed, construed and enforced in accordance with the laws of the State of Delaware applicable to contracts made and performed in that State without giving effect to any choice or conflict of law principle, provision or rule (whether the State of Delaware or any other jurisdiction), including all matters of construction, interpretation, validity and performance.

14.10 Consent to Jurisdiction and Service of Process. EACH PARTY HEREBY CONSENTS AND AGREES THAT THE STATE OR FEDERAL COURTS LOCATED IN DELAWARE SHALL HAVE EXCLUSIVE JURISDICTION TO HEAR AND DETERMINE ANY CLAIMS OR DISPUTES BETWEEN THE PARTIES PERTAINING TO THIS AGREEMENT OR TO ANY MATTER ARISING OUT OF OR RELATING TO THIS AGREEMENT. EACH PARTY EXPRESSLY SUBMITS AND CONSENTS IN ADVANCE TO SUCH JURISDICTION IN ANY ACTION OR SUIT COMMENCED IN ANY SUCH COURT, AND EACH PARTY HEREBY WAIVES ANY OBJECTION THAT SUCH PARTY MAY HAVE BASED UPON LACK OF PERSONAL JURISDICTION, IMPROPER VENUE OR FORUM NON CONVENIENS AND HEREBY CONSENTS TO THE GRANTING OF SUCH LEGAL OR EQUITABLE RELIEF AS IS DEEMED APPROPRIATE BY SUCH COURT. EACH PARTY HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVES, TO THE FULLEST EXTENT IT MAY LEGALLY AND EFFECTIVELY DO SO, TRIAL BY JURY IN ANY SUIT, ACTION OR PROCEEDING ARISING HEREUNDER. EACH PARTY HEREBY WAIVES PERSONAL SERVICE OF THE SUMMONS, COMPLAINT AND OTHER PROCESS ISSUED IN ANY SUCH ACTION OR SUIT AND AGREES THAT SERVICE OF SUCH SUMMONS, COMPLAINTS AND OTHER PROCESS MAY BE MADE BY REGISTERED OR CERTIFIED MAIL ADDRESSED TO SUCH PARTY AT THE ADDRESS SET FORTH IN SECTION 14.4 OF THIS AGREEMENT AND THAT SERVICE SO MADE SHALL BE DEEMED COMPLETED UPON THE EARLIER OF SUCH PARTY'S ACTUAL RECEIPT THEREOF OR THREE (3) DAYS AFTER DEPOSIT IN THE UNITED STATES MAELS, PROPER POSTAGE PREPAID.

14.11 No Strict Construction. The language used in this Agreement shall be deemed to be the language chosen by the Parties to express their mutual intent. In the event an ambiguity or question of intent or interpretation arises, this Agreement will be construed as if drafted jointly by the Parties, and no presumption or burden of proof will arise favoring or disfavoring any Person by virtue of the authorship of any of the provisions of this Agreement.



14.12 Saturdays, Sundays and Legal Holidays. If the time period by which any acts or payments required hereunder must be performed or paid expires on a Saturday, Sunday or legal holiday, then such time period shall be automatically extended to the close of business on the next regularly scheduled Business Day.

14.13 Incorporation of Annexes, Exhibits and Schedules.

(a) The Schedules, Exhibits, Annexes and other agreements specifically referred to in and delivered pursuant to, this Agreement are an integral part of it. The inclusion of information in the Schedules shall not be construed as an admission that such information is material to the Sellers. In addition, matters reflected in the Schedules are not necessarily limited to matters required by this Agreement to be reflected in the Schedules. Such additional matters are set forth for informational purposes only and do not necessarily include other matters of a similar nature. Any disclosure that is made in any of the Schedules delivered pursuant to this Agreement shall be deemed to have been disclosed on any other Schedule to the extent it is reasonably apparent that such matter is relevant to the information required under this Agreement on such Schedule.

(b) The following are the Annexes, Exhibits and Schedules annexed hereto and incorporated by reference and deemed to be part of this Agreement:

(i) Annexes:

Annex A	--	Definitions
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(ii) Exhibits:

Exhibit A	--	Form of Convertible Note
Exhibit B	--	Forms of Assignment of Station Licenses, Assignment and Assumption Agreements and Bill of Sale
Exhibit C	--	Form of Corporate Opinion Letter
Exhibit D	--	Form of FCC Opinion Letter

(iii) Schedules:

Schedule 2.1(a)	--	Tangible Personal Property
Schedule 2.1(b)	--	Licenses and Station Licenses
Schedule 2.1(c)	--	Assumed Contracts
Schedule 2.1(d)	--	Intangibles
Schedule 2.1(i)	--	Vehicle Financing Agreements
Schedule 2.1(j)	--	Real Property Leases and License Agreements
Schedule 2.1(k)	--	Personal Property Leases
Schedule 2.1(l)	--	Bonds, Security, Deposits
Schedule 2.1(m)	--	Refunds, Rebates, Discounts

Schedule 2.1(n)	--	Claims, Choses in Actions, Etc.
Schedule 2.2	--	Excluded Assets
Schedule 3.5(a)	--	Exceptions to Sellers Governmental Consents Representations and Warranties
Schedule 3.5(b)	--	Exceptions to Buyer Governmental Consents Representations and Warranties
Schedule 4.3	--	Conflicting Agreements
Schedule 4.4	--	Tangible Personal Property Exceptions
Schedule 4.5(b)	--	Assumed Contracts Exceptions
Schedule 4.6	--	Intangibles Exceptions
Schedule 4.7(a)	--	Leases Exceptions
Schedule 4.8	--	Changes Since the Balance Sheet Date
Schedule 4.9	--	Litigation
Schedule 4.11	--	Taxes
Schedule 4.12(a)	--	Station License Renewals
Schedule 4.12(b)	--	Station License Exceptions
Schedule 4.12(c)	--	Pending FCC Applications
Schedule 4.12(d)	--	Station Displacement
Schedule 4.12(e)	--	Compliance with the Communications Act
Schedule 4.12(g)	--	Digital Facilities
Schedule 4.13	--	Cable and Satellite Matters
Schedule 4.14	--	Insurance
Schedule 4.15(a)	--	Employees
Schedule 4.15(b)	--	Collective Bargaining Agreements; Labor Practices
Schedule 4.16	--	Employee Benefit Plans
Schedule 4.17	--	Environmental Matters
Schedule 4.19(a)	--	Financial Statements
Schedule 4.19(c)	--	Intercompany Indebtedness
Schedule 4.26	--	Absence of Claims; Business Relationships with Affiliates
Schedule 8.3	--	Required Consents

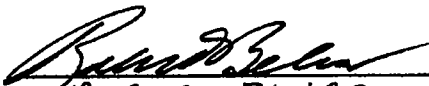
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THE NEXT PAGE IS THE SIGNATURE PAGE]*

IN WITNESS WHEREOF, the Parties have executed this Asset Purchase Agreement as of the day and year first above written.

**BUYER:**

**HERO BROADCASTING LLC**

By: HERO Broadcasting Holding Inc.,  
its sole member

By:   
Name: ROBERT BEHAR  
Title: PRESIDENT / CEO

**SELLERS:**

**BELA BROADCASTING, LLC**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**PHOENIX 6 BROADCASTING LLC**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**BELA TV, LLC**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**PHOENIX 6 TV, LLC**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

IN WITNESS WHEREOF, the Parties have executed this Asset Purchase Agreement as of the day and year first above written.

**BUYER:**

**HERO BROADCASTING LLC**

By: HERO Broadcasting Holding Inc.,  
its sole member

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**SELLERS:**

**BELA BROADCASTING, LLC**

By: \_\_\_\_\_  
Name: Michael Jesselson  
Title: Authorized Representative

**PHOENIX 6 BROADCASTING LLC**

By: \_\_\_\_\_  
Name: Michael Jesselson  
Title: Authorized Representative

**BELA TV, LLC**

By: \_\_\_\_\_  
Name: Michael Jesselson  
Title: Authorized Representative

**PHOENIX 6 TV, LLC**

By: \_\_\_\_\_  
Name: Michael Jesselson  
Title: Authorized Representative

## ANNEX A

### Defined Terms

Capitalized terms used in the Agreement to which this Annex A is attached shall have (unless the context shall otherwise require) the following respective meanings, and all references to Sections, Exhibits, Schedules or Annexes in the following definitions shall refer to Sections, Exhibits, Schedules or Annexes of or to the Agreement:

"Accounts Receivable" shall mean all accounts receivable, billed and unbilled, with respect to the Business existing as of the Effective Time.

"Affiliate" shall mean, with respect to any Person, any other Person directly or indirectly Controlling, Controlled by, or under common Control with such Person.

"Agreement" shall mean this Asset Purchase Agreement, together with the Schedules, the Exhibits and Annexes attached hereto, as the same shall be amended and/or supplemented from time to time in accordance with the terms hereof.

"Ancillary Agreements" shall have the meaning set forth in Section 4.2.

"Assets" shall have the meaning set forth in Section 2.1.

"Assigned Claim" shall have the meaning set forth in Section 2.1(n).

"Assignment Applications" shall mean applications to be filed by Buyer and Sellers with the FCC requesting its consent to the assignment of the Station Licenses from Sellers to Buyer.

"Assumed Contracts" shall mean: (i) all contracts listed on Schedule 2.1(c); (ii) Contracts entered into by Sellers between the date of this Agreement and the Closing Date that Buyer agrees in writing to assume; (iii) other Contracts entered into by Sellers between the date of this Agreement and the Closing Date in compliance with Section 6.3; (iv) the Real Property Leases, (v) the Personal Property Leases and (vi) those Contracts listed on Schedule 2.1(i); provided, however, that Assumed Contracts shall not include Excluded Contracts.

"Assumed Liabilities" shall have the meaning set forth in Section 2.3.

"Balance Sheet Date" shall have the meaning set forth in Section 4.19.

"Behar Contribution" shall have the meaning set forth in Section 2.6(a).

"Bela" shall have the meaning set forth in the introductory paragraph.

"Bela TV" shall have the meaning set forth in the introductory paragraph.

"Business" shall mean the business of operating the Stations, including the broadcasting of television programming, the sale of commercial advertisements and all activities incidental thereto.

"Business Days" shall mean any day excluding Saturdays, Sundays and any day that is a legal holiday under the laws of the United States or is a day on which banking institutions located in Miami, Florida or New York, New York are authorized or required by law or other governmental action to close.

"Buyer" shall have the meaning set forth in the introductory paragraph.

"Buyer Material Adverse Effect" shall have the meaning set forth in Section 5.5.

"Cable Act" shall mean the Cable Television Consumer Protection and Competition Act of 1992, Pub. L. No. 102-385, 106 Stat. 1460 (1992), and the regulations issued by the FCC thereunder.

"Cash Equivalents" shall mean all cash, cash equivalents and cash items of any kind whatsoever, money market instruments, marketable securities, other securities, commercial paper, short-term investments or deposits in banks or other financial institution accounts of any kind, and rights in and to all such accounts.

"Cash Purchase Price" shall have the meaning set forth in Section 2.6(a).

"CEO" shall have the meaning set forth in Section 6.1.

"CFO" shall have the meaning set forth in Section 6.1.

"Claimant" shall have the meaning set forth in Section 11.4(a).

"Closing" shall have the meaning set forth in Section 10.1.

"Closing Date" shall mean the date on which the Closing occurs, as determined pursuant to Section 10.1.

"COBRA" shall have the meaning set forth in Section 7.1(c).

"Collection Period" shall have the meaning set forth in Section 2.8(a).

"Code" shall mean the Internal Revenue Code of 1986, as amended.

"Communications Act" shall mean the Communications Act of 1934, as amended and in effect from time to time, and the rules and written policies of the FCC.

"Consents" shall mean the consents, permits or approvals of Government Authorities and other Persons necessary to transfer the Assets to Buyer or otherwise to consummate the transactions contemplated by this Agreement.

"Contracts" shall mean all contracts, subcontracts, indentures, notes, bonds (including surety bond), loans, instruments, leases, non-governmental licenses, mortgages, franchises, assignments, purchase orders, sale orders, proposals, bids, understandings or commitments and other agreements (including leases for personal or real property and employment agreements), written or oral (including any amendments, supplements, restatements,

extensions and other modifications thereto) of Sellers or to which Sellers are Parties or that are binding upon Sellers and that relate to or affect the Assets or the Business, and (i) that are in effect on the date of this Agreement or (ii) that are entered into by Sellers between the date of this Agreement and the Closing Date, but excluding any Contracts that terminate or expire between the date of this Agreement and the Closing Date.

"Control" (including, with correlative meanings, the terms "controlled by," "controlling" and "under common control with"), as used with respect to any Person, shall mean the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such Person, whether through ownership of voting securities, by contract or otherwise.

"Convertible Common Stock" shall have the meaning set forth in Section 5.4.

"Convertible Note" shall have the meaning set forth in Section 2.6.

"Corpus Christi Assets" shall have the meaning set forth in Section 2.2(g).

"Damaged Asset" shall have the meaning set forth in Section 7.6(a).

"De Minimis Permits" shall mean business licenses, occupancy permits and similar licenses routinely issued by Governmental Authorities upon request.

"Effective Time" shall have the meaning set forth in Section 2.7(a).

"Employee Benefit Plans" shall have the meaning set forth in Section 4.15(a).

"Employees" shall have the meaning set forth in Section 4.15(a).

"Environmental Laws" shall mean any and all federal, state and local statutes, regulations, ordinances, codes and rules, as amended, relating to the discharge or removal of air pollutants, water pollutants or process waste water or hazardous or toxic substances including, the Federal Solid Waste Disposal Act, the Federal Clean Air Act, the Federal Clean Water Act, the Federal Resource Conservation and Recovery Act of 1976, the Federal Comprehensive Environmental Response, Compensation and Liability Act of 1980, each as amended, regulations of the Environmental Protection Agency, and regulations of any state department of natural resources or state environmental protection agency, now in effect.

"ERISA" shall mean the Employee Retirement Income Security Act of 1974, as amended.

"Excluded Assets" shall have the meaning set forth in Section 2.2.

"Excluded Contracts" shall have the meaning set forth in Schedule 2.2(m).

"Exhibits" shall mean those exhibits referenced in this Agreement, which exhibits are hereby incorporated and made a part hereof.

"FCC" shall mean the Federal Communications Commission.

"FCC Consents" shall mean the actions by the FCC granting the Assignment Applications.

"Final Order" shall mean that action shall have been taken by the FCC (including action duly taken by the FCC's staff, pursuant to delegated authority) which shall not have been adversely modified, reversed, stayed, enjoined, set aside, annulled or suspended, with respect to which no timely request for stay, petition for rehearing, appeal or certiorari or sua sponte action of the FCC with comparable effect shall be pending and as to which the time for filing any such petition, appeal, certiorari or for the taking of any such sua sponte action by the FCC shall have expired or otherwise terminate.

"Financial Statements" shall have the meaning set forth in Section 4.18.

"GAAP" shall mean United States generally accepted accounting principles consistently applied, as in effect as of the date hereof.

"Governmental Authority" shall mean any government, legislature, any governmental entity, department, commission, board, bureau, agency or instrumentality and any court, tribunal or judicial or arbitral body, whether federal, state or local, and in each case having jurisdiction over the applicable matter.

"Holdco" shall have the meaning set forth in Section 5.4(a).

"Hazardous Substance" shall mean any substance described in or listed pursuant to 42 U.S.C. § 9601(14) or (33) and shall include petroleum or any fraction thereof.

"Indemnifying Party" shall have the meaning set forth in Section 11.4(a).

"Intangibles" shall mean all copyrights, trademarks, trade names, service marks, service names, licenses, computer programs and computer license interests to the extent owned by Sellers, patents, permits, jingles, proprietary information, trade secrets, technical information and data and other similar intangible property rights and interests (and any goodwill associated with any of the foregoing) applied for, issued to or owned by Sellers or under which Sellers are licensed or franchised and that are used or held for use in the Business; provided, that Intangibles shall not include the Licenses or the Station Licenses.

"Intercompany Accounts" shall have the meaning set forth in Schedule 2.2(h).

"IRS" shall mean the Internal Revenue Service.

"KBEH" shall have the meaning set forth in the Recitals to this Agreement.

"Knowledge of Sellers", or any variation thereof, shall mean the actual knowledge of Robert Behar or Marisol Messir or that which such individual would reasonably be expected to know given his or her position and responsibility with the Sellers.



"Licenses" shall mean all licenses, permits, construction permits and other authorizations issued by Governmental Authorities to Sellers, currently in effect and used in connection with the Business, together with any additions (including renewals or modifications of such licenses, permits and authorizations and applications therefor) thereto.

"Lien" shall mean any mortgage, deed of trust, pledge, hypothecation, security interest, option, encumbrance, conditional sale or title retention arrangement, claim, lien (statutory or otherwise) or charge of any kind or nature whatsoever, whether consensual or nonconsensual and whether arising by agreement or under Law or otherwise, affecting the Assets.

"Liquidated Damages Amount" shall have the meaning set forth in Section 12.2(b).

"Losses" shall mean all losses, liabilities, claims, damages, Taxes, and out-of-pocket costs and expenses (including costs of investigation and defense and reasonable attorneys' fees and expenses, whether arising in disputes between the Parties or with third parties) and obligations.

"Material Adverse Effect" shall mean a material adverse effect on: (i) the financial condition, business, assets or results of operations the Business, in each case taken as whole, exclusive of (A) general changes to the regional, national or international political or economic conditions or financial markets or the economy of the Stations' Designated Market Area (as such term is used by Nielsen) (except to the extent any matter referred to in this clause materially disproportionately affects Sellers taken as a whole or the Business), (B) conditions affecting the national television broadcast industry generally or the television broadcast industry in the Stations' Designated Market Area generally (except to the extent any matter referred to in this clause materially disproportionately affects Sellers taken as a whole or the Business), (C) acts of terrorism or war (whether or not declared), provided such acts of terrorism or war do not, and are not reasonably likely to, disproportionately effect KBEH, (D) the effects of the transactions contemplated by this Agreement, including the effects of the announcement of such transactions and the effects of taking or not taking any action expressly required or contemplated by this Agreement, (E) the performance by Sellers of any action to which Buyer has consented, (F) the taking of any action by or on behalf of Buyer or its Affiliates, representatives or agents after the date of this Agreement with respect to the transactions contemplated hereby, (G) the effects of new or changed legislation, rules or regulations; or (ii) the ability of Sellers, taken as a whole, to perform their material obligations under this Agreement.

"Material Assumed Contracts" shall have the meaning set forth in Section 8.1(a).

"MVPD" shall have the meaning set forth in Section 4.13(a)(i).

"Network Affiliation Agreement" means that certain Network Affiliation Agreement dated November 27, 2006 among Bela, Bela TV, Phoenix and MTV Networks.

"Non-Voting Common Stock" shall have the meaning set forth in Section 5.4(b).

"Ordinary Course of Business" means the ordinary and usual course of business consistent with past practices.

"Party" and "Parties" shall have the meaning set forth in the introductory paragraph.

"Permits" shall have the meaning set forth in Section 4.10

"Permitted Liens" shall mean (a) Liens for taxes not yet due or Liens for taxes being contested in good faith by appropriate proceedings for which adequate reserves determined in accordance with GAAP have been established (and as to which the property subject to any such Lien is not yet subject to foreclosure, sale, collection, levy or loss on account thereof); (b) Liens imposed by law arising in the ordinary course of business such as materialmen's, mechanics', warehousemen's, carrier's, landlords' and other nonconsensual statutory Liens which are not yet due and payable or which are being contested in good faith by appropriate proceedings for which adequate reserves determined in accordance with GAAP have been established (and as to which the property subject to any such Lien is not yet subject to foreclosure, sale or loss on account thereof); (c) Liens (other than Liens imposed under ERISA) consisting of pledges or deposits made in the ordinary course of business to secure payment of worker's compensation insurance, unemployment insurance, pensions or social security programs; (d) Liens arising from good faith deposits in connection with or to secure performance of tenders, bids, leases, government contracts, performance and return-of-money bonds and other similar obligations incurred in the ordinary course of business (other than obligations in respect of the payment of borrowed money); (e) Liens arising from good faith deposits in connection with or to secure performance of statutory obligations and surety and appeal bonds; (f) easements, rights-of-way, restrictions (including zoning restrictions), matters of plat, minor defects or irregularities in title and other similar charges or encumbrances not, in any material respect, impairing the use of the encumbered property for its intended purpose; (g) Liens arising by virtue of any statutory or common law provision relating to banker's liens, rights of setoff or similar rights as to deposit accounts or other funds maintained with a creditor depository institution; or (h) Liens with respect to lease filings for notice purposes only.

"Person" shall mean any natural person, general or limited partnership, corporation, firm, limited liability company or partnership, association, or other legal entity of Governmental Authority.

"Personal Property Leases" shall have the meaning set forth in Section 2.1(k).

"Phoenix" shall have the meaning set forth in the introductory paragraph.

"Phoenix Stations" shall have the meaning set forth in the Recitals to this Agreement.

"Phoenix TV" shall have the meaning set forth in the introductory paragraph.

"Pre-Closing Covenants" shall have the meaning set forth in Section 11.1.

"Purchase Price" shall have the meaning set forth in Section 2.6.

"Real Property" shall mean the real property, all buildings, fixtures (to the extent deemed by applicable law sufficiently affixed to such real property to constitute a fixture) and other improvements thereon or appurtenant thereto that are used or held for use in the Business, and all rights, interests and appurtenances pertaining thereto (and that are used or held or use in the Business) in and to adjacent streets, roads, alleys, easements and rights of way.

"Real Property Leases" shall have the meaning set forth in Section 2.1(j).

"Records" shall mean original or true and complete copies of all books of account, files, data, information and other records used or held for use in the Business, including schematics, technical information, engineering data, programming information, original executed copies, if available, or true and correct copies of all Assumed Contracts, employment records (to the extent permitted by applicable law), customer files, financial and accounting records, lists, plats, architectural plans, drawings, and specifications, purchase and sales records, advertising records, creative materials, advertising and promotional material, and FCC logs, files and records of Sellers relating to the Business.

"Required Consents" shall have the meaning set forth in Section 8.3.

"Retained Liabilities" shall have the meaning set forth in Section 2.4.

"Schedules" shall mean the schedules referred to in this Agreement (as the same may be amended, supplemented, restated or otherwise modified from time to time in accordance with the terms of this Agreement), which schedules are hereby incorporated herein and made a part hereof.

"Securities Laws" shall have the meaning set forth in Section 4.23(b).

"Sellers" shall have the meaning set forth in the introductory paragraph hereof.

"Station Licenses" shall mean the Licenses issued by the FCC in respect of the Stations.

"Stations" shall have the meaning set forth in the Recitals to this Agreement.

"Stockholders Agreement" shall mean the Stockholders Agreement in the form attached as an exhibit to the Transaction Agreement.

"Survival Period" shall have the meaning set forth in Section 11.1.

"Tangible Personal Property" shall mean all machinery, television transmission, production, cable and other equipment (including any transmitters or related equipment or structures), tools, vehicles, trailers, trucks, furniture, office equipment, computers, computer hardware and peripherals, plant, inventory, spare parts and all other tangible personal property owned by Sellers that is used or held for use in the Business.

"Tax" shall mean any federal, state, local, or foreign income, gross receipts, license, payroll, employment, excise, severance, stamp, occupation, premium, environmental

(including taxes under Code Section 59A), customs duties, capital stock, franchise, profits, withholding, social security (or similar), unemployment, disability, real property, personal property, sales, use, transfer, registration, value added, alternative or add-on minimum, estimated, or other tax of any kind whatsoever, including any interest, penalty, or addition thereto, whether disputed or not.

"Tax Returns" shall mean any report, return, information statement, payee statement or other information required to be provided to any Governmental Authority with respect to Taxes, or any amendment thereof including any return of an affiliated, combined or unitary group.

"Termination Date" shall mean the date which is six months from the date of this Agreement.

"Third Party Claim" shall have the meaning set forth in Section 11.4(c).

"Transaction Agreement" shall have the meaning set forth in Section 2.6.

"Transfer Taxes" shall have the meaning set forth in Section 13.1.

"Voting Common Stock" shall have the meaning set forth in Section 5.4(b).