

ASSET PURCHASE AGREEMENT

Entered into Between

CENTRAL COMMUNICATIONS, INC.

[*SELLER*]

and

MAVERICK MEDIA III LLC

(**AND AFFILIATES**)

[*BUYER*]

*FOR THE PURCHASE AND SALE OF ASSETS
PERTAINING TO*

RADIO STATIONS

**WECL (FM), Elk Mound, WI, WIAL (FM), Eau Claire, WI, WDRK (FM), Cornell, WI,
WAXX (FM), Eau Claire, WI, WAYY (AM), Eau Claire, WI,
and WEAQ (AM), Chippewa Falls, WI**

December , 2002

ASSET PURCHASE AGREEMENT

THIS ASSET PURCHASE AGREEMENT, made and entered into this 13th day of December, 2002 (this "Agreement") by and among **CENTRAL COMMUNICATIONS, INC.**, a _____ corporation ("Seller") and **MAVERICK MEDIA III LLC**, and its subsidiary entities **MAVERICK MEDIA HOLDINGS OF EAU CLAIRE LLC**, **MAVERICK MEDIA OF EAU CLAIRE LICENSE LLC**, **MAVERICK MEDIA OF EAU CLAIRE LLC**, and **MAVERICK MEDIA OF EAU CLAIRE COMMUNICATIONS LLC** and all Delaware limited liability companies (hereinafter collectively the "Buyer"):

WITNESSETH:

WHEREAS, Seller is the owner, operator, and licensee of Radio Stations **WECL (FM)**, **Elk Mound, WI**, **WIAL (FM)**, **Eau Claire, WI**, **WDRK (FM)**, **Cornell, WI**, **WAXX (FM)**, **Eau Claire, WI**, **WAYY (AM)**, **Eau Claire, WI**, and **WEAQ (AM)**, **Chippewa Falls, WI** ("Stations"), pursuant to valid licenses issued by the Federal Communications Commission ("Commission"); and

WHEREAS, Seller is the owner, operator, and franchise license holder of a **MUZAK and Paging Services** business (the "MUZAK Business") located in the Eau Claire area; and

WHEREAS, Buyer desires to acquire all of the property, assets and rights used, useful or intended for use, in the business and operation of Stations and the MUZAK Business and to acquire certain other rights, privileges and immunities as set forth in this Agreement and to secure an assignment of the licenses and other authorizations issued by the Commission for the operation of Stations and/or the MUZAK Business, and Seller desires to sell, assign, transfer and convey the same to Buyer; and

WHEREAS, Seller and Buyer will not be able to consummate the transactions contemplated by this Agreement and the FCC Licenses may not be assigned until after the Commission has granted its consent and approval to the transactions contemplated by this Agreement;

NOW, THEREFORE, in consideration of the premises and the mutual agreements, promises, covenants and warranties set forth below, the parties intending to be legally bound, agree as follows:

ARTICLE 1. DEFINITIONS.

Unless otherwise stated in this Agreement, the following terms will have the following meanings:

1.1 Acquired Assets means the assets to be sold and purchased pursuant to this Agreement, as further delineated in Article 2 below.

1.2 Agreement means this Asset Purchase Agreement.

1.3 Assignment Application (or Application) refers to an application which the parties will join in and file with the Commission requesting its written consent to the terms of this Agreement and the assignment of the FCC Licenses from Seller to Buyer.

1.4 Assumed Contracts means those contracts, leases and agreements of Seller to be assumed by Buyer, as further described in Sections 2.5 and 2.6.

1.5 Business Day means any calendar day, excluding Saturdays or Sundays on which federally chartered banks in the city of Eau Claire, Wisconsin are regularly open for business.

1.6 Buyer means MAVERICK MEDIA III LLC, and its subsidiary entities MAVERICK MEDIA HOLDINGS OF EAU CLAIRE LLC, MAVERICK MEDIA OF EAU CLAIRE LICENSE LLC, MAVERICK MEDIA OF EAU CLAIRE LLC, and MAVERICK MEDIA OF EAU CLAIRE COMMUNICATIONS LLC or its permitted assigns.

1.7 Closing (or Closing Date) means a date to be designated by Buyer upon which the transactions contemplated by this Agreement will be consummated, which date shall not be earlier than the fifth (5th) nor later than the tenth (10th) Business Day after the Commission's consent to the Assignment Application has become a Final Order. Buyer and Seller may, however, jointly waive finality and, if so, designate an earlier Closing Date following the release of a Public Notice by the Commission that the Application has been approved. If a pre-finality Closing Date is established, Buyer and Seller will execute a rescission and unwind agreement containing terms mutually satisfactory to the Parties.

1.8 Closing Place means the offices of Central Communications, Inc., in Eau Claire, Wisconsin, or such other convenient place as Seller and Buyer mutually agree to.

1.9 Commission (or "FCC") means the Federal Communications Commission, with offices in Washington, D.C.

1.10 Excluded Assets means the following assets of Seller which are not being acquired by Buyer pursuant to this Agreement: All cash on hand or in bank accounts, Seller's accounts receivable, all contracts, agreements or leases other than the

Assumed Contracts, , employee pension, profit sharing, savings plans, trusts and 401(k) plans or the like, together with the assets of such plans or trusts, union contracts or employment agreements, Seller's corporate books and records, except that Seller shall provide Buyer with copies of any financial records that may be necessary to Buyer in making Federal, State, or local tax filings, FCC filings or other filings or correspondence required by Federal, State or local governmental authorities and Seller's interest in the real property that currently houses the offices and on-air studios of the Seller.

1.11 FCC Licenses means all licenses, construction permits, renewals, extensions, modifications, additions and other authorizations issued to or held by Seller from the Commission for the operation of Stations and/or the MUZAK Business, including any auxiliary broadcast licenses or permits.

1.12 Final Order means an order of the Commission, or its staff pursuant to delegated authority, granting its consent and approval to the assignment of the FCC Licenses to Buyer, which order is no longer subject to rehearing, reconsideration or review by the Commission, or to a request for stay, an appeal or review by any court under the Communications Act of 1934, as amended (the "Communications Act"), or the FCC Rules and Regulations.

1.13 Immediately Available Funds means cash, a certified bank cashier's check, or funds immediately available by wire transfer, all in, or payable in, the valid currency and legal tender of the United States.

1.14 knowledge of a Party means the actual knowledge of any officer or management personnel of such Party, as well as the knowledge that any such individual would have after due inquiry into the matter in question.

1.15 Lien (or Liens) means any lien at common law, or any statutory or judgment lien, including any tax lien or mechanic's lien, claim, charge, attachment, garnishment, security interest, encroachment, prescriptive easement, option to purchase, requirement to sell, restriction on transfer or other encumbrance.

1.16 Parties means Seller and Buyer unless otherwise delineated.

1.17 Person means any individual, corporation, partnership, limited liability company, trust, association, joint venture or any other legal or similar entity or quasi-entity.

1.18 Transaction Documents means this Agreement and all agreements, certificates, instruments and other documents executed or delivered pursuant hereto or in connection herewith, including at the Closing.

ARTICLE 2. PURCHASE AND SALE OF ASSETS.

Seller, on the Closing Date at the Closing Place, will sell, assign, transfer, convey, and deliver to Buyer, by instruments in form reasonably satisfactory to Buyer, all of the assets and properties of Seller, real and personal, tangible and intangible, of every kind and description owned or used, useful, or intended for use by Seller, in the business and operation of Stations, and/or the MUZAK Business, including real and personal property, plant and equipment, rights under contracts and leases, inventories, intangibles and goodwill, but excluding the Excluded Assets. Without limiting the generality of the foregoing, the Acquired Assets shall include the following (in each case, excluding the Excluded Assets):

2.1 FCC Licenses. All FCC Licenses and related applications, and all right, title and interest in and to the Call Letters **WECL (FM), WIAL (FM), WDRK (FM), WAXX (FM), WAYY (AM), and WEAQ (AM)**. A list of all FCC Licenses is set forth in **Appendix A**, attached hereto.

2.2 Other Licenses. Other licenses, permits and authorizations issued or granted by any other governmental or regulatory agency or authority.

2.3 Real Property Interests. All land, leasehold and other interests of every kind and description in real property, buildings, structures, towers and improvements, including all easements, rights of way, permits and consents, if any, relating to or used in connection therewith, owned or leased by Seller (except as otherwise provided in this Agreement) as of the date of this Agreement, descriptions of which are set forth in **Appendix B** attached to this Agreement, and those interests acquired between this date and the Closing Date as permitted by this Agreement ("Real Property"). In addition to the descriptions set forth in **Appendix B**, the Real Property Studio Lease ("Studio Lease") is attached hereto as **Appendix B-1**.

2.4 Personal Tangible Assets. All tangible personal property, physical assets, fixtures, leasehold improvements, furniture and equipment, including transmitting and studio equipment, tubes, remote equipment, supplies, record, compact disk and tape libraries, computers and software and data files, vehicles, tools and spare parts whether now owned or subsequently acquired by Seller, used, useful, or intended for use in the operation of Stations or the MUZAK Business, wherever situated, including all items listed in **Appendix C** attached to this Agreement, together with any replacements or additions made between this date and the Closing Date, less any retirements made in the ordinary and usual course of business in connection with the acquisition of replacement property or assets ("Personal Tangible Assets").

2.5 Assumed Contracts. The leases, contracts, franchises and agreements of Seller that Buyer has reviewed and specifically agreed to assume, and that have been listed and described in **Appendix D** attached to this Agreement and initialed by Buyer; and such other agreements as may be in effect now or on the Closing Date that Buyer may elect, in writing to assume. Written consents to the assignments of the Assumed Contracts shall be provided by Seller if required by the terms thereof.

2.6 Advertising Contracts Except as otherwise identified in **Appendix J**, all contracts and agreements for the sale of time on Stations or the MUZAK Business that are for cash and at published rates and those contracts entered into prior to the Closing Date in the usual and ordinary course of business for cash and at published rates that are cancelable on notice to the extent unperformed as of the Closing Date. Buyer shall also have the election to assume any or all other contracts for the sale of time on the Stations or the MUZAK Business. A complete schedule of all such other contracts shall be furnished to Buyer on the Closing Date. Any existing contracts for the sale of time for cash that have been prepaid as of the Closing Date shall be prorated as of the Closing Date.

2.7 Intangible Assets. All intangible property now owned or held by Seller used, or intended for use by Seller for the operation of Stations or the MUZAK Business, including, but not limited to the property listed in **Appendix E**, attached hereto and those acquired between this date and the Closing (“Intangible Assets”), including an unrestricted right to the use of any copyrights, program rights (including all programs and programming materials and elements of whatever form or nature owned or held by Seller, whether recorded on tape or other substance or intended for live performance, and whether completed or in production, and all related common-law and statutory copyrights owned by or licensed to Seller, or used by Seller in connection with the business and operations of the Stations, together with all such programs, materials, elements, and copyrights acquired through the Closing Date), service marks, trademarks, tradenames, “logos”, promotions, jingles, slogans, original copy, trade secrets, proprietary technical information, all other intellectual property rights, computer programs and software (to the extent transferable), in each case, together with all goodwill associated therewith (collectively, “Intellectual Property”).

2.8 Public Inspection Files. A complete set of all documents required to be maintained in each Station's Public Inspection File pursuant to the Rules of the Commission.

2.9 Station Logs and Business Records. The operating and maintenance logs of Stations and the MUZAK Business, together with such files and records pertaining to the operation of Stations or the MUZAK Business as Buyer may reasonably require,

including advertiser lists, advertising studies, sales correspondence, analyses, reports and studies by consultants, promotional materials, credit and sales reports, original versions and copies of all advertising contracts and all other contracts to be assigned under the terms of this Agreement, programming information and studies, engineering studies or reports, technical information, engineering data and Proofs of Performance data required to be kept by the FCC Rules and Regulations.

2.10 Goodwill. All of Seller's goodwill in, and going concern value of, the Stations.

ARTICLE 3. LIABILITIES OF SELLER.

3.1 Assumed Liabilities. The Acquired Assets shall be sold and conveyed to Buyer free and clear of all Liens or other liabilities, except that on the Closing Date, Buyer shall assume and agree to pay and perform those obligations of Seller (the "Assumed Liabilities") that arise after the Closing Date under the Assumed Contracts. Should, however, any such contract not be validly assigned and Buyer not receive the full benefit of all of Seller's rights under it, Buyer shall assume Seller's liabilities only to the extent Buyer obtains such rights and benefits.

3.2 Excluded Liabilities. Buyer will not assume and shall not be obligated to pay, perform or discharge any of Seller's obligations, liabilities, agreements or commitments other than the Assumed Liabilities. Seller shall pay, perform and/or discharge all such obligations, liabilities, agreements and commitments on a timely basis and, in accordance with Article 13 of this Agreement, Seller shall indemnify and hold Buyer harmless from, any loss, liability, damage or expense (including reasonable attorney's fees) arising out of Seller's failure to pay, perform or discharge any of Seller's obligations, liabilities, agreements or commitments other than the Assumed Liabilities (the "Excluded Liabilities"). Without limiting the generality of the foregoing, the Excluded Liabilities shall include, and Buyer shall not assume or be liable for:

3.2.1 any liability, claim or obligation, contingent or otherwise, arising out of the business or operation of Stations, or the MUZAK Business or the Acquired Assets through the Closing Date;

3.2.2 any liability or obligation under any contract that is not an Assumed Contract or relating to a breach prior to the Closing under any such contract or any Assumed Contract;

3.2.3 any liability or obligation for any federal, state or local income or other taxes (subject, in the case of real estate taxes, to proration);

3.2.4 any liability or obligation with respect to any Excluded Asset;

3.2.5 any liability or obligation to any employee or former employee of Seller or Stations or the MUZAK Business attributable to any period of time on or through the Closing Date (including any liability for accrued vacation and holiday pay and allowances);

3.2.6 any severance or other liability arising out of the termination of the employment with Seller of (A) any Designated Employee who is not employed by Seller on the Closing Date, (B) any Designated Employee to whom Buyer offers employment but who does not accept such offer, or (C) any Excluded Employee (together with the Persons described in clauses (A) and (B) above, the "Non-Transferred Employees");

3.2.7 any duty, obligation or liability relating to any employee benefit, pension, 401 (k) or other similar plan, agreement or arrangement provided to employees of Seller (it being agreed that no such plan shall be assumed by Buyer); or

3.2.8 any liability or obligation of Seller arising out of any litigation, proceeding, or claim by any person or entity relating to the business or operation of one or more Stations or the MUZAK Business on or prior to the Closing Date, whether or not such litigation, proceeding, or claim is pending, threatened or asserted before, on, or after the Closing Date.

ARTICLE 4. CONSIDERATION.

4.1 Purchase Price. The purchase price to be paid to Seller for all of the Acquired Assets (as adjusted pursuant to this Agreement, the "Purchase Price") shall be the sum of **EIGHTEEN MILLION DOLLARS (\$18,000,000.00)**, payable in the manner set forth below.

4.2 Allocation. By mutual agreement of the Parties, the Purchase Price will be allocated among the various classes of property, assets and rights as set forth in **Appendix F**. Buyer and Seller agree to be bound by such allocation for all purposes, including, without limitation, reporting and disclosure requirements of the Internal Revenue Service, and shall file returns and reports (including income tax returns) on the basis of such allocation.

4.3 Escrow Agreement. The sum of **SEVEN HUNDRED FIFTY THOUSAND DOLLARS (\$750,000.00)** will be paid by Buyer into an escrow account with Kalil & Co., Inc. (the "Escrow Deposit") at the time of the filing of the Assignment Application. The Escrow Deposit will be governed by the terms of an **Escrow Agreement** attached hereto as **Appendix G**.

4.4 Funds Payable at Closing. On the Closing Date, the Escrow Agent shall pay, out of the Escrow Deposit, the principal amount to the Seller (thereby reducing the remaining amount to be paid by the Buyer to the Seller at the Closing to \$ 17,250,000.00), shall pay to Buyer the amount of the interest accrued on the Escrow Deposit.

4.5 Proration of Income and Expenses.

4.5.1 All income and expenses arising from the conduct of the business and operation of the Stations and the MUZAK Business shall be prorated between Buyer and Seller in accordance with generally accepted accounting principles as of 11:59 p.m., Wisconsin time, on the date immediately preceding the Closing Date. Such prorations shall include, without limitation, all *ad valorem*, real estate and other property taxes (but excluding taxes arising by reason of the transfer of the Acquired Assets as contemplated hereby, which shall be paid as set forth in Section 15.2 of this Agreement), business and license fees, music and other license fees, utility expenses, rents and similar prepaid and deferred items attributable to the ownership and operation of the Stations and the MUZAK Business. Revenues, expenses, taxes, costs and liabilities earned or incurred in connection with particular programs and announcements shall be allocated to the time of performance of such programs and announcements without regard to the date of payment therefor. Salaries, wages, sales commissions, fringe benefit accruals and termination or severance pay for Non-Transferred Employees shall not be prorated but shall be the responsibility of Seller..

4.5.2 The prorations and adjustments contemplated by this Section 4.5, to the extent practicable, shall be made on the Closing Date. As to those prorations and adjustments are not made on the Closing Date, an adjustment and proration shall be made after Closing Date. In the event of any disputes between the Parties as to such adjustments, the amounts not in dispute shall nonetheless be paid at the time asserted to be owing and such disputes shall be resolved by an independent certified public accountant mutually acceptable to the Parties, and the fees and expenses of such accountant shall be paid one-half by Seller and one-half by Buyer. The decision of such accountant shall be conclusive and binding on the Parties. All prorations and adjustments made on the Closing Date shall be paid in the form of an increase or decrease of the amount payable by Buyer at the Closing pursuant to Section 4.4. All prorations and adjustments made after the Closing shall be paid within five (5) Business Days after they are asserted to be owing (or, if disputed, after the determination thereof).

4.6. Other Consideration. To induce the Seller to extend until December 15, 2002 the execution date of this Agreement, Buyer has agreed to reimburse the Seller's

reasonable legal fees incurred through October 31, 2002 (in an amount not to exceed Ten Thousand Dollars (\$10,000.00)) associated with the negotiation and preparation of this Agreement if this Agreement is not signed by December 15, 2002.

ARTICLE 5. OTHER AGREEMENTS.

5.1 NonCompetition Agreement and Post Closing Assistance. It is a material term of this Agreement that, on the Closing Date, Buyer and Seller's Chief Operating Officer, Marion Keith Jones shall enter into a NonCompetition Agreement. The specific terms and conditions of the NonCompetition Agreement are set forth in **Appendix I**, attached hereto.

ARTICLE 6. GOVERNMENTAL CONSENTS.

6.1 FCC Consent. It is specifically understood and agreed that the consummation of the transactions contemplated by this Agreement shall be subject to the prior consent of the Commission without conditions or qualifications materially adverse in Buyer's judgment to Buyer or to the operation of any Station or the MUZAK Business.

6.2 Filing and Prosecution of Assignment Application. Upon the execution of this Agreement, Seller and Buyer will, each at its own expense, proceed expeditiously to prepare and file with the Commission the requisite Assignment Application to secure such consent, together with such other necessary instruments and documents as may be required. Any filing fee or Application processing fee charged by the Commission in connection with the Assignment Application will be shared equally by Buyer and Seller. The parties agree to tender the Application to the Commission within ten (10) days of the date of execution of this Agreement, to thereafter prosecute the Application with diligence, to cooperate with each other in good faith, to use their best efforts to obtain the requisite consent and approval promptly and to carry out the provisions of this Agreement. Each party will promptly provide the others with a copy of any pleading, order or other document served on it relating to the Assignment Application.

6.3 Legal Notice of Assignment Application. Upon the filing of the Assignment Application, Seller shall be responsible for, and shall take the necessary steps, to provide in a timely fashion such legal notice concerning the filing as is required by the FCC Rules and Regulations. Seller shall provide Buyer with evidence of Seller's compliance with the Commission's legal notice requirements.

6.4 Possession and Control. Between the date of this Agreement and the Closing Date, Buyer will not control the operation of Stations or the MUZAK Business, and

Seller will remain responsible for such control. Effective on the Closing Date and thereafter, Seller shall have no control over, nor right to intervene or participate in, the operation of Stations or the MUZAK Business.

ARTICLE 7. TERMINATION RIGHTS.

7.1 Failure to Receive FCC Approval. If the Commission has not acted upon and granted its consent and approval to the Assignment Application within twelve (12) months of the date of this Agreement, or has denied its approval of the Assignment Application, this Agreement, at the option of either Seller or Buyer, and upon fifteen (15) days written notice to the other, will become void; provided, however, that the Party giving such notice is not in default of any of its obligations under this Agreement.

7.2 Material Adverse Change. If a Material Adverse Change occurs between the date of this Agreement and the Closing Date, Buyer may terminate this Agreement by providing of written notice to Seller. For purposes of this Agreement, a "Material Adverse Change" shall mean:

7.2.1 A decline of twenty-five percent (25%) or more of audience shares among listeners *years 25–54* on the Stations, as measured and determined by the most recent *Arbitron Rating Survey* compared to the average of the two previous *Arbitron Ratings Surveys* published by the Arbitron Company for the Eau Claire Radio Market;

7.2.2 The failure of Stations and the MUZAK Business collectively to achieve ninety percent (90%) of the projected revenues from sales made in the ordinary course of business or broadcast cash flow, as set forth in Seller's 2002 Actual and Projections, a copy of which has been provided to Buyer prior to execution of this Agreement, during any 90-day period between the date hereof and the Closing Date;

7.2.3 If any portion of the Acquired Assets exceeding \$50,000 in replacement value shall be lost, damaged or destroyed, sold or otherwise alienated, and such assets have not been replaced by assets having greater or equally value and utility to the operations of the Stations or the MUZAK Business, as applicable, prior to Closing;

7.2.4 Any other material adverse change in the financial condition, business, assets, prospects or operations of the Stations or the MUZAK Business; or

7.2.5 The occurrence or existence of any fact or circumstance that could adversely affect the ability of the Seller to comply with its or his obligations pursuant to the Transaction Documents.

7.4 Broadcast Transmission of Stations Prior to Closing Date. If, prior to the Closing Date, any event occurs which prevents the regular broadcast transmission of any Station in the normal and usual manner in which that Station had been operating, for a period of twenty-four (24) continuous hours or more, Seller shall give prompt written notice to Buyer. If such facilities are not restored so that transmissions are resumed within ten (10) Business Days after such event, Buyer shall have the right, by giving written notice to Seller of its election to do so, to terminate this Agreement.

7.5 Other. This Agreement may also be terminated at any time prior to the Closing Date without liability by Buyer pursuant to Sections 12.1 and/or 12.2 and by Seller pursuant to Section 12.3, of this Agreement.

7.6 Return of Escrow Deposit. Upon termination of this Agreement pursuant to this Article 7 or Section 12.1 or 12.2, the Escrow Deposit and all interest earned thereon shall be returned to Buyer and the Parties shall be released and discharged from any further obligation, except for liability for any breaches of this Agreement by Seller prior to such termination.

ARTICLE 8. REPRESENTATIONS AND WARRANTIES OF SELLER.

Seller hereby represents and warrants to Buyer as follows:

8.1 Organization and Standing. Seller is a corporation duly organized, validly existing, and in good standing under the laws of the State of its incorporation. Seller is duly qualified and authorized to carry on the business of Stations as presently conducted under the laws of the State of Wisconsin, and the business and operation of the Stations and the MUZAK Business, or the ownership of the Acquired Assets do not require Seller to be qualified or authorized to do business in any other jurisdiction.

8.2 Authority. Seller has full power and authority to enter into, and to consummate the transactions contemplated by, the Transaction Documents to which it is a party; the execution and delivery of the Transaction Documents to which it is a party have been duly approved by the Board of Directors and shareholders of Seller; and the Transaction Documents to which it is a party constitute valid and binding obligations of Seller enforceable in accordance with their terms.

8.3 No Conflicts. Neither the execution nor the delivery of Transaction Documents to which it is a party by Seller, nor the performance by Seller of its obligations under such Transaction Documents, nor the consummation of the transaction

contemplated in such Transaction Documents by Seller, either immediately or upon the giving of notice or the lapse of time or both:

8.3.1 Does or will violate, conflict with, constitute a default or an event giving a right to terminate or to accelerate obligations, or require the consent or waiver of or notice to any Person, under the Certificate of Incorporation or the By-Laws of Seller or any law, statute, rule, regulation, ordinance, judgment, decree, order, contract, lease, commitment, agreement, license, permit, franchise, or indenture to which Seller is a party or by which Seller or any Acquired Assets are bound; or

8.3.2 Does or will result in the creation or imposition of any Lien, or give any other Person (other than Buyer) any interest in, or rights to, the Acquired Assets.

8.4 FCC Licenses.

8.4.1 Seller is the holder of the FCC Licenses. The FCC Licenses listed on Appendix A constitute all of the licenses and authorizations required for and/or presently used in the operation of Stations or MUZAK Business as normally operated, and the FCC Licenses are in full force and effect unimpaired by any act or omission of Seller, its officers, directors, stockholders, employees or agents.

8.4.2 Except as Disclosed in **Appendix A**:

(a) There is not pending or threatened any action by the Commission to revoke, cancel, rescind, modify or refuse to renew in the ordinary course any of the FCC Licenses.

(b) There is not pending at the Commission any issued or outstanding, or to the knowledge of Seller threatened, complaint, Notice of Violation, Notice of Apparent Liability or Notice of Forfeiture.

(c) The Stations and the MUZAK Business are operating in compliance with their FCC Licenses, the Communications Act, and the current rules, regulations, and policies of the FCC (together with the Communications Act, the "FCC Rules and Regulations") and Seller has filed all reports, forms and statements required to be filed by Seller with the FCC. Such compliances includes, but is not limited to, FCC Tower Registration, EAS Compliance, proper Tower Lighting and Painting, and payment of Regulatory Fees.

(d) Other than the FCC Licenses, there are no other FCC or other material licenses, permits or authorizations from governmental or regulatory authorities that are required for the lawful conduct of the business and operation of the Stations or the MUZAK Business as currently conducted.

(e) The operation and maintenance by Seller of the towers, antenna systems and other facilities relating to the Stations or the MUZAK Business or used in connection with the transmission of their signals do not violate any regulation, law

or rights of any Person which could have a material adverse impact on the Acquired Assets.

8.5 FCC Qualifications.

8.5.1 Seller is qualified under the FCC Rules and Regulations to assign the FCC Licenses to Buyer.

8.5.2 Seller neither knows, nor with reasonable diligence could know, of any facts which would cause the Commission to withhold its consent to the assignment of the FCC Licenses to Buyer.

8.6 Public Inspection Files. The Public Inspection Files at Stations are in order and have been maintained by Seller in accordance with FCC Rules and Regulations. All reports, applications, correspondence, contracts and other documents required to be included in the Public Inspection Files of each Station are contained in the Public Inspection Files of such Station.

8.7 Personal Tangible Assets. **Appendix C** contains a true and complete list of the Personal Tangible Assets. Those of the Personal Tangible Assets which are leased by Seller as lessee or licensed by Seller as licensee (including as sublessee or sublicensee) are identified as such on **Appendix C**. The Personal Tangible Assets are all of the tangible personal property necessary to operate the Stations and the MUZAK Business in the manner in which they are presently operated. Seller (i) is the lawful owner of all of the Personal Tangible Assets which it purports to own, (ii) has valid leasehold interests in the Personal Tangible Assets of which it purports to be the lessee, and (iii) has valid license rights in the Personal Tangible Assets it purports to be the licensee, in all cases free and clear of any Liens, except for those Liens disclosed in **Appendix L** attached hereto. Seller has delivered to Buyer a true, accurate and complete copy of each lease or license regarding any Personal Tangible Assets of which Seller purports to be lessee or licensee.

8.8 Intellectual Property. **Appendix E** hereto includes a true and complete list of all Intellectual Property. Except as noted on **Appendix E** none of the Intellectual Property was granted to Seller pursuant to any licensing (including sublicensing) agreement under which Seller is the licensee. The Intellectual Assets are all of the intellectual assets necessary to operate the Stations and the MUZAK Business. Except as noted on **Appendix E** no Person has a right to receive a royalty or similar payment in respect of any Intellectual Property pursuant to any contractual arrangements entered into by Seller. Seller has not granted to any other Person any right to use any Intellectual Property pursuant to any licensing or sublicensing agreement. Seller's use of any Intellectual Property has not infringed, is not infringing upon and is not otherwise violating

the rights of any Person in or to such Intellectual Property or the asserted proprietary rights of others, and no notice has been received by Seller that Seller's use of any Intellectual Property infringes upon or otherwise violates any rights of a Person in or to any Intellectual Property or the proprietary rights of others. To the knowledge of Seller, no Person is infringing on any Intellectual Property. The Intangible Assets owned by Seller, including Seller's rights as licensee of the Intellectual Property of which it purports to be a licensee, are free and clear of any Liens, except for the Liens described in **Appendix L** attached hereto.

8.9 Real Property.

8.9.1 **Appendix B** contains descriptions of all the Real Property owned by Seller and all buildings, structures and other improvements thereon. For the purposes of this Section 8.9 and Sections 8.10, 8.13 and 10.1.3, the "Real Property" refers to the real estate interest owned by Seller and all land, buildings and improvements of which Seller is the owner or a tenant (including as a sub-tenant).

8.9.2 Seller has good and marketable title to the Real Property to be conveyed pursuant to this Agreement, free and clear of any and all Liens. Title to the Real Property for the benefit of Buyer shall be insured at the cost of Seller, and Seller shall deliver, at Closing, a Title Insurance Policy from a title insurance company acceptable to Buyer (the "Title Insurance Policy"). Such Title Insurance Policy shall disclose all easements of record, none of which shall be to the material detriment of Buyer, and will insure that there are no Liens of record. Such Title Insurance Policy will insure the Real Property for its full market value against any claim upon or defect of title.

8.9.3 **Appendix B** also contains a description of all real property leases (the "Leases") to which Seller is a party as a tenant (including as a sub-tenant or landlord). The Leases are valid, binding and enforceable in accordance with their terms. Neither Seller nor any other party to any of the Leases is in default under any of the Leases and no condition or event exists which with the giving of notice, passage of time, or both would give rise to any such default, except, in the case of Leases as to which Seller is the lessee a lessee, for immaterial defaults, if any, which would not permit (with the giving of notice or the passage of time, or both) the other party to terminate any such Leases or any of Seller's rights thereunder or to accelerate or increase the rents or other sums payable thereunder. There are no offsets or defenses by Seller, or to Seller's knowledge, any other party under any of the Leases. The assignment to Buyer of any Lease to which Seller is a party as tenant will not permit the landlord (including any sub-landlord) to accelerate the rent, cause the Lease terms to be renegotiated, or constitute a default under the Lease, and will not require the consent or waiver of or notice to any such landlord to the assignment of such Lease. There are no amendments or changes to any of the Leases

which would affect the full use and enjoyment of the leasehold premises, access, parking or use of common areas as provided in the Leases. Seller has delivered to Buyer a true and correct copy of each Lease, in each case together with all amendments, waivers and modifications relating thereto. All improvements, roads, parking facilities and other construction, if any, contemplated by the Leases have been fully constructed, paid for and accepted and approved by the respective parties.

8.9.4 Except as disclosed in **Appendix B** or **Appendix D**, there are no leases, rental agreements, employment contracts, concession contracts, or contracts for service or maintenance to which Seller is a party existing and relating to or connected with the occupancy or operation of any Real Property, and the Seller covenants to hold the Buyer harmless from any claim, demand or cause of action which may be asserted against the Buyer arising from any lease, rental agreement, employment contract, or contract for service or maintenance to the contrary.

8.9.5 There are no variances or special use permits relating to the Real Property which are outstanding or which are required for the operation of Seller's business on the Real Property.

8.9.6 No condemnation of any of the Real Property has occurred; there is no existing notice covering future condemnation; and to Seller's knowledge there is no reason to believe that any Real Property will be condemned. Seller has not received notice and has no knowledge of any pending improvements or special assessments to be made against any of the Real Property by any governmental authority.

8.9.7 The Real Property does not violate any provision of any applicable building code, fire regulation, zoning ordinance or regulation, building restriction, or other governmental ordinance, order or regulation, and the Seller will convey the property free of any such violations. The zoning of the Real Property permits the commercial uses of such property for the location of radio towers, transmitter and transmitter buildings, studios and offices, together with all activities related to or incidental to the operation of Stations and the MUZAK Business.

8.9.8 The transmitting facilities of Stations and other facilities of the Stations and the MUZAK Business and all other related buildings, fixtures, structures and appurtenances are located entirely within the Real Property listed on **Appendix B** and related easements.

8.9.9 **Appendix B-1** contains a Real Property Studio Lease. That Studio Lease covers the real property that currently houses the offices and on-air studios of the Stations.

8.9.10 All utilities required for the operation of the Real Property either enter the Real Property in question through adjoining public streets, or if they pass through

adjoining private land they do so in accordance with valid public easements. All necessary utilities (including, without limitation, water, sewer, electricity and telephone facilities) are available to the Real Property and there exists no threatened limitation or reduction on the quality or quantity, to the knowledge of Seller, of utility services to be furnished to such Real Property. Permanent adequate sewage systems and connections are available to service any Real Property.

8.9.11 There are no notices of violations of law or ordinances, orders or requirements noted in or issued by any department of the State of Wisconsin or any local governmental agency or authority, affecting the Real Property.

8.10 Environmental Matters.

8.10.1 Definitions.

(a) The term "Hazardous Materials" shall mean any substance, material, liquid or gas defined or designated as hazardous or toxic (or by any similar term) under any Environmental Law, including, without limitation, petroleum or petroleum products and friable materials containing more than one percent (1.0%) asbestos by weight.

(b) "Environmental Law" (or "Environmental Laws") shall mean any federal, state, or local law, statute, ordinance, order, rule, regulation, or common law (in each case, together with any order, license, code, plan, decree, judgment, injunction, notice or demand promulgated, issued, approved, arising or entered thereunder) relating to contamination, pollution, protection of workers, the public, or the environment, or relating to actual or threatened releases, discharges, or emissions into the environment.

(c) The term "Environmental Condition" shall refer to any contamination or damage to the environment caused by or relating to the use, handling, storage, treatment, recycling, generation, transportation, release, spilling, leaking, pumping, pouring, emptying, discharging, injection, escaping, leaching, disposal, dumping or threatened release of Hazardous Materials by Seller or its predecessors in interest. With respect to claims by employees, Environmental Condition also includes the exposure of persons to Hazardous Materials at a work place of Seller.

(d) The term "Environmental Lien" shall mean any Lien imposed on or attaching to any of the Acquired Assets by Federal, State, or local court, agency, or regulatory body, pursuant to any Environmental Law.

(e) The term "Environmental Noncompliance" shall mean any violation of, or event or condition that would give any Person any remedy under, any Environmental Law.

8.10.2 Seller's Compliance with Environmental Laws.

(a) Seller, the Acquired Assets, including without limitation the Stations, the Real Property and the Tangible Personal Property, are in full compliance with all Environmental Laws. Except for lubricants, cleaners or other consumer products that are maintained in limited quantities for routine maintenance purposes, there are no Hazardous Materials located at or upon the Acquired Assets, including without limitation the Stations, the Real Property and the Tangible Personal Property, nor have any Hazardous Materials been stored, deposited, or otherwise released there at any time in the past. Seller has, with respect to Stations, the MUZAK Business and the Acquired Assets, including the Real Property and the Tangible Personal Property, obtained all required permits, licenses, approvals, and other authorizations that are required under any Environmental Law. **Appendix M** contains a complete list of all permits, licenses, and other authorizations required to be obtained by the business under any Environmental Laws.

(b) The Seller has fully complied with and is currently in full compliance with all terms and conditions of the required permits, licenses, approvals, and authorizations and is also in full compliance with all other limitations, restrictions, conditions, standards, prohibitions, requirements, obligations, schedules, and timetables contained in the Environmental Laws, including any regulation, license, rule, code, plan, order, decree, judgment, injunction, notice, or demand letter issued, entered, promulgated, or approved there under with respect to the business.

(c) There is no civil, criminal, or administrative action, suit, order, demand, claim, hearing, notice or demand letter, notice of violation, investigation, or proceeding pending or threatened against the Seller or the operation or properties currently or previously owned, leased, or used with respect to Stations or the MUZAK Business relating in any way to the Environmental Laws, including, but not limited to, any license, code, plan, order, decree, judgment, injunction, notice, or demand letter issued, entered, promulgated, or approved there under.

(d) With respect to Stations, the MUZAK Business or the Acquired Assets, including the Real Property and Tangible Personal Property, and including any previously or currently owned, leased, or used properties or operations, there are no past, present, or, to the knowledge of Seller, future events, conditions, circumstances, activities, practices, incidents, actions, or plans that may interfere with or prevent compliance or continued compliance with any Environmental Laws, or that may give rise to any legal liability (whether statutory or common law) or otherwise form the basis of any claim, action, demand, suit, proceeding, hearing, notice of violation, study, or investigation based on or related to the generation, manufacture, processing, distribution, use, treatment, storage, disposal, transport, or handling, or the emission, discharge,

release, or threatened release into the workplace, the community, or the environment of any Hazardous Material.

(e) No Environmental Lien has attached to any of the Acquired Assets, including the Real Property and Tangible Personal Property.

(f) Except as set forth in **Appendix N**, no storage tanks, including above ground and underground storage tanks and associated piping, are now or (to Seller's knowledge) have ever been located on the Real Property. **Appendix N** contains a complete description of each tank now or (to Seller's knowledge) formerly located on the Real Property, including full details on the location, size, use, installation, present and former contents, removal, registration, and any remediation associated with each tank described on **Appendix N**.

(g) Except as set forth in **Appendix N**, no asbestos or asbestos-containing-material is located on or (to Seller's knowledge) has been located on the Real Property. **Appendix N** contains a complete description of the asbestos now or (to Seller's knowledge) once located on the Real Property, including full details of its locations, use, quantity, condition, inspection, release, disposal, and any remediation with respect thereto.

(h) Except as set forth in **Appendix N**, no PCBs or PCB-containing equipment, including electrical transformers and capacitors, are located on or (to Seller's knowledge) have been located on the Real Property. **Appendix N** contains a complete description of all PCBs or PCB-containing equipment now or once located on the Real Property, including full details on location, use, installation, inspection, size, disposal, and condition along with full details on the quantity, release, disposal, and remediation with respect thereto.

(i) None of the Real Property is a wetlands under any Environmental Law and no current or planned activities at any of the Real Property are affected by, will adversely impact upon, or are within 500 feet of, any wetlands.

(j) The operation of Stations and the MUZAK Business and all of the Acquired Assets, including the Real Property and the Tangible Personal Property, are in compliance in all material respects with standards concerning radio frequency radiation exposure recommended in ANSI Standards C95.1 - 1982 or any subsequently adopted Standards to the extent required to be met under applicable rules and regulations of the FCC or the Occupational Safety and Health Administration, and no unresolved claims known to Seller have been made to the contrary.

(k) The Parties agree that the listing of any exception or exceptions in **Appendix N** is for notification purposes only and shall not constitute an acceptance by Buyer of any responsibility or liability for the subject of the exception, nor a release of Seller from responsibility or liability for that exception.

8.11 Financial Information. Seller shall, within ten (10) days of the execution of this Agreement, deliver to Buyer copies of its Balance Sheets and Profit and Loss Statements for the Stations encompassing each of calendar years 1999, 2000, and 2001, and for each full month of 2002 through the execution of this Agreement, together with cash flow analyses and related information and footnotes for those periods. Seller will also provide its work sheets and schedules (including depreciation and amortization schedules) for those periods and make its ledgers and books of account available to Buyer. Unaudited monthly operating and cash flow statements including Profit and Loss Statements, aging reports and accounts receivable and payable agings shall continue to be provided to Buyer, to be delivered within thirty (30) days of the end of each month until Closing. Such financial statements and other information relating to the financial condition and results of operation and cash flows of Seller previously furnished or to be furnished to Buyer by Seller are or will be true and correct and complete. Such financial statements (will be attached in **Schedule A**) fairly and accurately reflect or will fairly and accurately reflect the financial condition, results of operations and cash flows of Seller in accordance with generally accepted accounting principles consistently applied for the periods covered thereby. Since December 31, 2001, there has been no Material Adverse Change .

8.12 Spare Parts and Inventories. The inventories of spare parts and tubes for the technical operating equipment of Stations and the MUZAK Business are at or above the levels normally maintained for Stations and the MUZAK Business.

8.13 Adequacy, Condition and Maintenance of Equipment. All of the Personal Tangible Assets and improvements on the Real Property are in good operating condition and repair and are adequate and suitable for the purpose for which they are intended and for the purpose for which they are presently used.

8.14 Insurance. Seller now has in force adequate property damage, liability and other insurance with respect to the Acquired Assets.

8.15 Litigation. There are no judgments outstanding, nor is any claim, litigation, proceeding or investigation pending, or to the knowledge of Seller, threatened which could, if determined or resolved adversely to Seller, result in a Material Adverse Change or adversely affect the ownership or use of any Acquired Asset by Buyer, and Seller has no knowledge of any fact which could form the basis for such claim, litigation, proceeding or investigation. Neither the Acquired Assets nor Seller with respect to Stations or the MUZAK Business has been operating under or subject to, or in default of, any order, writ, injunction, or decree of any court or federal, state, municipal, or other governmental department, commission, board, agency, or instrumentality, foreign or domestic and Seller has no knowledge of any fact that could give rise to such an order, writ, injunction or

decree. Neither Seller nor any of its officers, directors, stockholders or agents has received any inquiry, written or oral, from any federal, state or local agency concerning the operation or business of Stations or the MUZAK Business which could, if determined or resolved adversely to Seller, result in a Material Adverse Change, and none of them has knowledge of any facts which could form the basis for such an inquiry. There is no litigation or proceeding, or, to Seller's knowledge, any investigation of any nature pending or threatened against or affecting Seller, nor are there facts which would form the basis of any such litigation, proceeding or investigation, which would affect Seller's ability fully to carry out the transactions contemplated by this Agreement. Seller has complied in all material respects with all applicable rules, statutes, ordinances and other laws in the operation of the Stations and the MUZAK Business.

8.16 Contracts and Agreements.

8.16.1 Assumed Contracts. Seller is not in default under any of the Assumed Contracts and all payments, services or other consideration due thereunder have been paid or made by Seller. **Appendix D** is a true and complete list of all of the Assumed Contracts, except contracts for the sale of time described in the first sentence of Section 2.6. Seller has provided Buyer with copies of all written Assumed Contracts, and a written description of the material terms and conditions of each oral Assumed Contract.

8.16.2 ERISA Matters. Seller does not maintain a pension or profit-sharing plan covering the employees of the Stations or the MUZAK Business, and has never maintained a pension or profit-sharing plan for which any liability or obligation exists or may accrue in the future. Seller is not a party to any multi-employer plan covering the current or former employees of the Stations or the MUZAK Business. Seller has not incurred any obligation to the current or former employees of the Stations or the MUZAK Business under, is not in violation of any of the provisions of, and is not subject to any assessment or imposition of any liability or penalty arising under, the Employment Retirement Income Security Act of 1974 or the related provisions of the Internal Revenue Code of 1986, as amended, and has not acted or failed to act in a manner that would give rise to any such liability or penalty. Seller has incurred no obligations or liability to the Pension Benefit Guaranty Corporation.

8.16.3 Union and Employee Agreements. Seller has no written or oral contracts of employment with any employee; is not a party to or subject to any collective bargaining agreements with respect to Stations or the MUZAK Business; and does not have any other contract with any labor union or other labor organization. Seller is not a party to any pending or, to its knowledge, threatened labor dispute affecting Stations or the MUZAK Business. Seller has complied in all material respects with all applicable federal, state, and local laws, ordinances, rules and regulations and requirements relating to the

employment of labor, including provisions relative to wages, hours, collective bargaining and payment of Social Security, unemployment and withholding taxes and is not liable for any arrears of wages or any taxes or penalties for failure to comply with any of the foregoing. Except as set forth in **Appendix O**, Seller has no written or oral retirement, pension, profit-sharing, bonus, hospitalization, vacation or other employee benefit plan, and no such plan is included in the Assumed Contracts.

8.16.4 Contracts for the Sale of Time. Except as specifically shown in **Appendix D and J** to the contrary, all of the contracts for the sale of time on Stations which are to be assigned to Buyer will have been entered into in the normal and usual course of business, will be terminable on notice, and will be for cash, none of which shall have been prepaid unless a reimbursing adjustment for the benefit of Buyer is made at Closing.

8.17 Insolvency. No insolvency proceeding of any character including without limitation, bankruptcy, receivership, reorganization, composition or arrangement with creditors, voluntary or involuntary, under Title 11 of the United States Code or any applicable bankruptcy, insolvency or other similar law, affecting Seller, or any of its assets or properties is pending. Seller has not made any assignment for the benefit of creditors, nor has Seller taken any action with a view to, or which would constitute the basis for, the institution of any such insolvency proceedings. No consent to the appointment of or taking possession by a receiver, trustee or other custodian for all or a material portion of the Seller's property has occurred.

8.18 Taxes.

8.18.1 Seller has filed all federal, state and local tax returns and state franchise tax returns that are required to have been filed, and has paid in full when due all taxes, interest, penalties, assessments and deficiencies that have been assessed or levied against or in respect of Stations, the MUZAK Business and/or the Acquired Assets based upon such returns.

8.18.2 All federal, state, county and local tax returns, reports and declarations of estimated tax, or estimated tax deposits forms required to be filed by Seller in connection with Stations' operations or the MUZAK Business and Seller's real estate or payroll have been duly and timely filed.

8.18.3 Seller has paid all taxes that have become due pursuant to such returns or pursuant to any assessment received by them, and has paid all installments of estimated taxes due; and all taxes, levies and other assessments that Seller is required by law to withhold or to collect have been duly withheld and collected, and have been paid

over to the proper governmental authorities or held by Seller for such payments. All such reports, returns and statements are substantially complete and correct as filed.

8.18.4 There are no pending or, to the knowledge of Seller, threatened, investigations or claims against Seller for or relating to any liability in respect of taxes and, to the knowledge of Seller, no facts or circumstances exist which indicate that any such, investigations or claims in respect of taxes may be brought or are under discussion with any governmental authorities.

8.19 Disclosure. No representation or warranty by Seller and no written statement, schedule or certificate furnished by it pursuant to any covenant, representation or warranty, or pursuant to the Closing, contains, or when given or delivered will contain, any untrue statement of a material fact or will omit to state a material fact necessary to make the statements set forth not misleading. Seller's representations, warranties, written statements, schedules and certifications made or delivered to Buyer provide Buyer with complete and accurate information as to the Acquired Assets, the operation of Stations and the MUZAK Business and the Assumed Liabilities.

8.20 Encumbrances. Except as specifically disclosed in **Appendix L**, none of the Acquired Assets are, as of the date of this Agreement, mortgaged, pledged or subjected to any Lien. At Closing, the Acquired Assets will be delivered free and clear of any and all Liens, including those set forth on **Appendix L** (other than as expressly stated in **Appendix L**).

8.21 Certain Changes. Since December 1, 2002, Seller has not (i) mortgaged, pledged or subjected to Lien, any of the Acquired Assets; (ii) sold or transferred any asset or cancelled any debt or claim except in each case in the ordinary course of business; (iii) increased the compensation payable or to become payable to Stations' or the MUZAK Business' employees, former employees or agents; (iv) suffered any material damage, destruction or loss (whether or not covered by insurance) to or of any asset or property or the acquisition or taking of property by any governmental authority; or (v) experienced any work stoppage.

8.22 Intangibles. A complete list of all Intangible Assets, including any Intellectual Property owned or used by Seller with respect to Stations or in the MUZAK Business, is attached as **Appendix E**. All such Intangible Assets are valid, in good standing and uncontested and Seller possesses adequate rights, licenses or other authority to use all Intangible Assets necessary to conduct the business and operation of Stations and/or the MUZAK Business, as applicable. Seller has not received any notice with respect to any alleged infringement or unlawful or improper use of any of the Intangibles or any other intangible property right owned or claimed by any other Person

and used in connection with the business or ownership of Stations or the MUZAK Business. No director, officer, or employee of Seller has any interest in any Intangible Assets and Seller has not granted any outstanding license or other right to any Intangible Assets. The Intangible Assets, taking into account the Seller's rights therein, are sufficient for the operation of the Stations and the MUZAK Business as presently conducted by Seller.

8.23 Termination of Business Relationships. No supplier of Seller and no Person presently a customer, agent, independent contractor, licensor or licensee of Seller, has notified Seller of any intention to cancel or otherwise terminate its business relationship with Seller relating to the Stations. The foregoing shall not apply to the termination or cancellation of advertising contracts in the normal course of business.

ARTICLE 9. REPRESENTATIONS AND WARRANTIES OF BUYER.

Buyer represents and warrants to Seller the following:

9.1 Organization and Standing. Buyer is a limited liability company, existing under the laws of the State of Delaware and shall be at the time of Closing qualified to do business in the State of Wisconsin.

9.2 Authorization. Buyer has full power and authority to enter into the Transaction Documents to which it is a party, and such Transaction Documents constitute valid and binding obligations of Buyer enforceable in accordance with their terms. The execution, delivery, and performance of such Transaction Documents has been duly and validly authorized by Buyer's managers.

9.3 No Conflicts. The execution, delivery and performance of the Transaction Documents to which it is a party does not and will not violate any provision of Buyer's operating agreement, or result in any breach of, or constitute a default, or require the consent or waiver of or notice to any Person, under, the provisions of any agreement or other instrument to which the Buyer is a party or by which it or its property is bound or affected.

9.4 FCC Qualifications.

9.4.1 Buyer is qualified under the FCC Rules and Regulations to be and become the holder of FCC Licenses.

9.4.2 Buyer has no knowledge of any fact which would cause the Commission to withhold its consent to the assignment of the FCC Licenses to Buyer.

9.5 Litigation. There is not outstanding any judgment or any claim, litigation, proceeding, or to the knowledge of Buyer, any investigation or claim threatened against

Buyer, which might adversely affect Buyer's ability to carry out fully the transactions contemplated by this Agreement, and Buyer knows of no facts which would form the basis for such claim, litigation, proceeding or investigation.

9.6 Disclosure. No representation or warranty by Buyer and no written statement, schedule or certificate furnished by it pursuant to any covenant, representation or warranty, or at the Closing, has, or will when delivered or made, contain any untrue statement of a material fact or omits to state a material fact necessary to make the statements set forth not misleading.

ARTICLE 10. COVENANTS.

10.1 Affirmative Covenants of Seller. Seller shall, through the Closing Date, with respect to Stations and the MUZAK Business:

10.1.1 Representations and Warranties. Take such steps as are necessary to ensure that all representations and warranties of the Seller set forth in this Agreement remain true and correct up to and including the Closing Date.

10.1.2 Continued Operation. Continue to carry on its business and operations, maintain its facilities and equipment, maintain its inventory of supplies, parts and other materials and keep its books of account, records, and files in the ordinary and usual course of business. Seller will keep and maintain the Public Inspection Files of Stations in accordance with FCC Rules and Regulations. Seller shall operate Stations and the MUZAK Business in all material respects in accordance with the terms of the FCC Licenses and in compliance in all material respects with all applicable laws, FCC Rules and Regulations, and Standards of good engineering practice. Seller will promptly execute any necessary application for renewal of any FCC License. Seller will deliver to Buyer, within ten days after filing, copies of any reports, applications or responses to the FCC related to Stations or the MUZAK Business that are filed between the date of this Agreement and the Closing Date. Seller shall cure, prior to Closing, and at Seller's sole expense, any violations, deficiencies or conditions of which it is aware or has been made aware.

10.1.3 Maintenance of Equipment. Maintain in their present good operating condition and shall, at its own expense, keep in a good state of repair and operating efficiency, all of the Personal Tangible Assets and improvements on the Real Property.

10.1.4 Maintenance of Business.

(a) Use its best efforts to preserve the business organization of each Station intact, retain substantially as at the present employees of each Station and

the MUZAK Business, and preserve the good will of the suppliers, customers of each Station and the MUZAK Business, and others having business relations with them,

(b) Make capital expenditures and expenditures for promotion of each Station and the MUZAK Business consistent with its past practice, and

(c) Maintain the quality of each Station's programming consistent with its past practices.

10.1.5 Insurance. Maintain in full force and effect through the Closing Date adequate property damage, liability, and other insurance with respect to the Acquired Assets providing coverage against such risks in at least the amounts provided for by the insurance policies maintained by Seller as the date hereof.

10.1.6 Bulk Sales Law. Comply with any applicable Bulk Sales Law (or, in lieu thereof, at the Closing provide Buyer with an opinion of its legal counsel to the effect that compliance with Bulk Sales Laws is not necessary in order for the Acquired Assets to be transferred to Buyer as contemplated by this Agreement without any claim thereto or thereon in favor of any Person in respect of any Excluded Liability).

10.1.7 Personnel Data. Deliver to Buyer within ten (10) Business Days of the execution of this Agreement an accurate list, certified by an officer of Seller, showing (i) the name of each person who is an employee or independent contractor of any Station or the MUZAK Business, together with a statement of each such person for such services as of December 1 and the basis thereof; (ii) the bonus arrangements for all such employees as of December 1 (iii) a description of any other material compensation or personnel benefits or policies (including, without limitation, pension, profit-sharing, retirement, hospitalization, life, accident, or medical insurance, vacation and other employee benefit plans, agreements, arrangements or understandings) in effect as of December 1; (iv) a listing of any changes in wages, salaries, bonus arrangements or other compensation which may have occurred since such date; and (v) the respective dates of hire or retention of such persons; and such list shall be accurate as of the Closing Date, except for deviations in accordance with Section 10.2.2.

10.1.8 Notification.

(a) Give detailed written notice to Buyer promptly upon the occurrence of, or upon becoming aware of the impending or threatened occurrence of, any breach, or any event or circumstance that would cause or constitute a breach, of any of Seller's representations or warranties contained in this Agreement on the date hereof or on the Closing Date if made thereon.

(b) Promptly notify Buyer in writing upon becoming aware of any order or decree or any complaint praying for an order or decree restraining or enjoining the consummation of the transactions contemplated by this Agreement, or upon receiving any

notice from any governmental department, court, agency, or commission of its intention to institute an investigation into, or institute a suit or proceeding to restrain or enjoin, the consummation of the transactions contemplated by this Agreement, or to nullify or render ineffective this Agreement or such transactions if consummated.

(c) Disclose to Buyer in writing any unusual and significant problems or developments or any competing offers with respect to all or any portion of Stations, the MUZAK Business or the Acquired Assets. Seller shall give prompt written notice to Buyer (i) if any Acquired Asset shall have suffered damage on account of fire, explosion or other cause of any nature which is sufficient to prevent the operation of any Station or the MUZAK Business or (ii) if the regular broadcast transmission of any Station in the normal and usual manner in which it has been operating is interrupted for a period of twenty-four (24) continuous hours or more.

10.1.9 Fulfill Conditions. Use its best efforts to fulfill and perform all conditions and obligations on its part to be fulfilled and performed under this Agreement and to cause the transactions contemplated by this Agreement to be fully carried out.

10.1.10 Provide Access. Allow Buyer and representatives of Buyer, upon reasonable notice and during normal business hours, to inspect the titles, contracts, books of account, records and affairs of Stations and the MUZAK Business. Buyer shall be entitled to all such other information concerning the affairs of Stations and the MUZAK Business as Buyer shall reasonably request.

10.1.11 Consents and Approvals. Use best efforts to obtain any and all consents, transfers, authorizations, or approvals required for the consummation of the transactions contemplated hereby.

10.1.12 Employees. Take such action to provide and ensure that the employment of all employees of the Stations and the MUZAK Business shall be terminable, without liability to Buyer, on and as of the Closing Date. Specifically, in the event of the termination of any such employment, all severance and benefits related to any such employee shall be the sole responsibility of the Seller.

10.1.13 Removal of Liens. Take such steps as are necessary to ensure that any and all Liens against the Acquired Assets which do not secure only Assumed Liabilities shall be removed on or before the Closing Date, and that all documents required to be filed with governmental authorities to record such removal, have been, or will be filed on or before the Closing Date.

10.2 Negative Covenants of Seller. Prior to the Closing Date (and thereafter, as provided in Section 10.2.8), Seller will not, without the prior written consent of Buyer:

10.2.1 No Alienation of Acquired Assets. Sell, lease, transfer, or agree to sell, lease, or transfer any Acquired Asset without notice to Buyer and without

replacement of such asset with an asset of substantially equivalent kind, utility, condition, and value. This does not apply to equipment sold or leased in the ordinary course of business pursuant to MUZAK and paging customer contracts entered into after the date hereof.

10.2.2 No Labor and Employment Contracts. Enter into any contract of employment or collective bargaining agreement, permit any increases or changes in the compensation or benefits of any employees or otherwise hire any employee except to replace any non-managerial or sales employee of any Station or the MUZAK Business whose employment terminates prior to the Closing Date, on substantially the same terms and conditions as the replaced employee.

10.2.3 No Adverse Permits. Apply to the FCC for any construction permit or modification of license which would materially restrict the present operation of any Station or the MUZAK Business, or make any material change in the buildings, leasehold improvements or fixtures of any Station or the MUZAK Business.

10.2.4 No Negotiations for Sale. Hold out any Station or the MUZAK Business for sale, solicit or entertain an offer to purchase the assets of any Station, the MUZAK Business or any Acquired Assets, enter into any negotiations with any Person other than Buyer for the assignment and transfer of the assets to be assigned and conveyed under this Agreement, give an option to any Person to acquire any Station, the MUZAK Business, or any Acquired Assets, or cause or permit any Person to do any of the foregoing.

10.2.5 No New Encumbrances. Create or assume any new mortgage, security interest or pledge, or subject to any Lien, any of the Acquired Assets, whether now owned or later acquired.

10.2.6 No Trade or Barter Agreements. Enter into any trade or barter agreement, or modify or amend any existing such agreement except upon consultation with Buyer.

10.2.7 No Omission of FCC Obligations. By any act or omission of it, its officers, directors, stockholders, employees or agents, surrender, modify, forfeit or fail to seek timely renewal of any FCC Licenses or cause the Commission to institute any proceedings for revocation, cancellation or modification of any FCC License, or fail to prosecute with due diligence, or fail to participate in the prosecution of, the Assignment Application, including all amendments to it, as necessitated by FCC Rules and Regulations, or as requested by the Commission's staff.

10.2.8 No Voluntary Bankruptcy. From the time of execution of this Agreement through the ninety (90) day period after the Closing Date, not commence or take any action to assist in or consent to the entry of an order for relief, or consent to the

appointment of or taking possession by a receiver, or trustee or other custodian for all or a substantial part of its property in connection with, any proceeding of a type described in Section 8.17.

10.2.9 No Breach of Assumed Contracts. Act, or omit to do any act, in a manner so as to cause a breach of any of the Assumed Contracts.

10.2.10 No Violation of Law. Violate, or remain in violation of, any law, statute, rule, governmental regulation or order of any court or governmental regulatory authority (whether Federal, State or Local).

10.2.11 Termination of Contracts. Terminate or cancel any of the Assumed Contracts except in the normal course of business and in accordance with the terms thereof.

10.2.12 No Inconsistent Actions or Omissions. Take any action or omit to take such action which would be inconsistent with Seller's obligations under this Agreement.

10.3 Buyer's Covenants. Between the date hereof and the Closing Date, Buyer shall:

10.3.1 Fulfill Conditions. Use best efforts to fulfill and perform all conditions and obligations on its part to be fulfilled and performed under this Agreement and to cause the transactions contemplated by this Agreement to be fully carried out.

10.3.2 Notification.

(a) Give written notice to Seller promptly upon the occurrence of, or upon becoming aware of the impending or threatened occurrence of, any breach of, or any event or circumstance that would cause or constitute a breach of, any of Buyer's representations or warranties contained in this Agreement on the date hereof or on the Closing Date if made thereon.

(b) Promptly Notify Seller in writing upon becoming aware of any decree or any complaint praying for an order or decree restraining or enjoining the consummation of the transactions contemplated by this Agreement, or upon receiving any notice from any governmental department, court, agency, or commission of its intention to institute an investigation into, or institute a suit or proceeding to restrain or enjoin the consummation of such transactions, or to nullify or render ineffective this Agreement or such transactions if consummated.

10.3.3 Third Party Consents. Cooperate with Seller in providing such information, and taking such other action, as is commercially reasonable to assist Seller in its efforts to obtain any necessary consents to the assignment of Assumed Contracts to Buyer.

10.3.4 *Employment Termination.* Not fewer than thirty (30) days prior to the Closing, provide to Seller a list of up to a maximum ten (10) names of employees of the Stations and the MUZAK Business to whom Buyer does not then intend to offer employment after the Closing. The persons named on that list, together with Marion Keith Jones, Karen Lueck and all part-time employees of Seller are referred to as the "Excluded Employees," and all other employees of the Seller named on **Appendix R** are referred to as the "Designated Employees".

ARTICLE 11. CONDITIONS.

11.1 *Conditions Precedent to Buyer's Obligations.* The obligation of Buyer to consummate the transactions contemplated by this Agreement is subject to the fulfillment prior to or at the Closing Date of each of the following conditions:

11.1.1 *Commission Approval.* That the Commission shall have consented to the Assignment Application without any condition or qualification materially adverse in Buyer's reasonable judgment to Buyer or the operation of one or more of the Stations or the MUZAK Business, and unless such finality waived by Buyer in writing pursuant to Section 1.6, such consent shall have become a Final Order.

11.1.2 *Representations and Warranties.* That the representations and warranties of the Seller contained in this Agreement, and in each other Transaction Document, shall be true and correct as of this date and as of the Closing Date as though such representations and warranties were made at and as of such time (except insofar as the facts or circumstance that cause the same not to be true and correct could not, in the aggregate, result in a Material Adverse Change). Buyer shall be entitled to set off against any obligation to Seller which is or may become due, all reasonable amounts necessary to restore Buyer's position to that which would exist if all such representations and warranties were true or such covenants were fully performed.

11.1.3 *Performance.* That the Seller shall in all material respects have performed and complied with all covenants, agreements and conditions required by this Agreement to be performed or complied with by it prior to or at the Closing Date.

11.1.4 *Proceedings.* That (i) no action or proceeding shall have been instituted before any court or governmental body to restrain or prohibit, or to obtain substantial damages in respect of, the consummation of this Agreement that, in the opinion of Buyer, may be expected to result in an injunction against such consummation or, if consummated, an order to nullify or render ineffective such transactions or the recovery against Buyer of material damages; and (ii) none of the Parties shall have received written notice from any governmental body of its intention to institute any action or proceeding to

restrain or enjoin or nullify this Agreement or the transactions contemplated by it, or to commence any investigation (other than a routine letter of inquiry) into the consummation of the transactions contemplated by this Agreement.

11.1.5 Opinion of Counsel. That Seller shall deliver to Buyer an opinion of Seller's Counsel dated as of the Closing Date substantially in the form of **Appendix P** attached to this Agreement.

11.1.6 Environmental Assessment.

(a) That during the due diligence period, and at its sole expense, Buyer shall have received a Phase I environmental assessment of the Real Property, including the certificate of an environmental engineer selected and paid by Buyer, which assessment Buyer shall promptly share with Seller, stating in substance that, following appropriate inquiry into the previous ownership and uses of the property consistent with good commercial or customary practice, the engineer has concluded that either: (i) there is no Environmental Condition or other condition on or affecting the Real Property that would materially impair the use of the Real Property or violate the Environmental Laws (an "Adverse Condition"); or (ii) each Adverse Condition has been remedied.

(b) If the Phase I environmental assessment concludes that there is an Adverse Condition, it shall be a condition precedent to Buyer's obligation to consummate the transactions contemplated by this Agreement, and it shall be an obligation of Seller under this Agreement, that Seller shall cause to be remedied any such Adverse Condition.

11.1.7 No Material Adverse Change. That there shall have been no Material Adverse Change, and there shall exist no facts or circumstances that, in the aggregate, could result in a Material Adverse Change.

11.1.8 Engineering Report; Seller Response. During the due diligence period, Buyer's engineer will, at Buyer's expense, prepare an Engineering Report concerning the equipment and operation of Stations. Seller shall have delivered a Report prepared by its engineer certifying that there have been no substantial changes relating to such equipment or operations between the date of the Report prepared by Buyer's engineer and the Closing Date, and those deficiencies which were noted in Buyer's Report shall have been corrected.

11.1.9 Title Insurance. Title to the Real Property shall be insured at the cost of Seller, and Seller shall deliver, at Closing, a Title Insurance Policy for the benefit of Buyer from a title insurance company acceptable to Buyer. The Title Insurance Policy shall disclose all easements of record, none of which shall be to the material detriment of Buyer, and will insure that there are no Liens of record. The Title Insurance

Policy will insure the Real Property for its full market value against any claim upon or defect of title.

11.1.10 Closing Deliveries. That Seller shall have made all deliveries to Buyer at Closing required under Section 14.1 of this Agreement.

11.2 Conditions Precedent to Seller's Obligations. The obligation of Seller to consummate the transactions contemplated by this Agreement is subject to the fulfillment prior to or at the Closing Date of each of the following conditions:

11.2.1 Commission Approval. Subject to Buyer's right to waive finality as set forth in Section 1.6, that the Commission shall have consented to the Assignment Application without any condition or qualification materially adverse in Seller's reasonable judgment to Seller.

11.2.2 Representations and Warranties. That the representations and warranties of the Buyer contained in this Agreement, and in the other Transaction Documents, shall be true and correct as of this date and as of the Closing Date as though such representations and warranties were made at and as of such time (except insofar as the facts or circumstances that cause the same not to be true and correct could not, in the aggregate, materially and adversely affect Buyer's performance of its obligations under the Transaction Documents).

11.2.3 Performance. That the Buyer shall in all material respects have performed and complied with all covenants, agreements and conditions required by this Agreement to be performed or complied with by it prior to or at the Closing Date.

11.2.4 Proceedings. That (i) no action or proceeding shall have been instituted before any court or governmental body to restrain or prohibit, or to obtain from Seller substantial damages in respect of, the consummation of this Agreement that, in the opinion of Seller, may be expected to result in an injunction against such consummation or, if consummated, an order to nullify or render ineffective such transactions or the recovery against Seller of material damages; and (ii) none of the Parties shall have received written notice from any governmental body of its intention to institute any action or proceeding to restrain or enjoin or nullify this Agreement or the transactions contemplated by it, or to commence any investigation (other than a routine letter of inquiry) into the consummation of the transactions contemplated by this Agreement.

11.2.5 Closing Deliveries. That Buyer shall have made all deliveries to Seller at Closing required under Section 14.2 of this Agreement.

ARTICLE 12. RIGHTS AND REMEDIES OF PARTIES.

12.1 Risk of Loss. The risk of loss, damage or destruction of or to any of the property or assets to be transferred to the Buyer pursuant to this Agreement from fire or other casualty or cause shall be borne by Seller at all times up to the close of business on the Closing Date, and it will be the responsibility of Seller to repair or cause to be repaired and to repair, replace or restore the lost, damaged or destroyed property to its condition prior to any such loss, damage, or destruction. In the event of any such loss, damage, or destruction, the proceeds of any claim for any loss payable under any insurance policy of Seller will be used to repair, replace, or restore any such property to its former condition subject to the conditions stated below. In the event of any loss, damage or destruction of or to any of the property or assets to be transferred pursuant to this Agreement from fire, casualty or other causes prior to the close of business on the day before the Closing Date, the Seller shall notify Buyer of same in writing immediately. Such Notice shall specify with particularity the loss or damage incurred, the cause (if known or reasonably ascertainable), and all applicable insurance coverage. If the property is not completely repaired, replaced or restored on or before the Closing Date, Buyer, at its sole option, may (a) elect to postpone Closing until such time as the property has been completely repaired, replaced or restored to the reasonable satisfaction of Buyer and, if necessary Seller shall join Buyer in requesting any extension which may be required in order to permit such repair, replacement or restoration to be completed; or (b) elect to effectuate the Closing and accept the property in its then condition, in which event Seller shall assign to Buyer all proceeds of insurance covering such loss, damage or destruction and its rights to pursue and receive the same; or (c) elect to effectuate the Closing and accept the property in its then condition and make appropriate deductions from the purchase price as necessary to restore Stations, the MUZAK Business and the Acquired Assets to their prior condition; or (d) terminate this Agreement and declare it of no further effect.

12.2 Buyer's Rights Upon Default By Seller.

12.2.1 Specific Performance. The Parties mutually agree that all of the assets and property to be assigned and conveyed pursuant to this Agreement are unique and cannot readily be purchased on the open market. For that reason, among others, Buyer will be irreparably damaged in the absence of the consummation of the transactions contemplated by this Agreement. In the event of a default by Seller under this Agreement, Buyer's rights, and the obligations of Seller, shall, at Buyer's election, be enforceable by decree of specific performance, subject to satisfaction of the conditions set forth in Section 11.2. In such event of Seller's default, and if Buyer pursues the remedy of specific performance of this Agreement:

(a) Seller hereby agrees not to raise any defense or objection to Buyer's enforcement action on the grounds that Buyer's damage may be adequately compensated by money damages only.

(b) Buyer shall be entitled to such monetary damages for actual damages of a material nature incurred by Buyer as a result of Seller's breach of any of Seller's representations, covenants, warranties and agreements contained in this Agreement which cannot be, or have not been, cured through the remedy of specific performance of Seller's obligations under this Agreement.

(c) Buyer shall also be entitled to recover all costs of enforcement and reasonable attorney's fees and expenses.

12.2.2 Monetary Damages. In the event of a material breach by Seller of this Agreement, and if Buyer elects not to seek, or is denied, the remedy of specific performance of the obligations of Seller under this Agreement the Buyer shall be entitled to recover from Seller liquidated damages in the amount of **Seven Hundred Fifty Thousand Dollars (\$750,000.00)**. The Parties recognize that it would be extremely difficult and impractical to ascertain the actual damages sustained by Buyer in the event of such a termination and, accordingly, have agreed upon the sum of liquidated damages set forth in this Section 12.2.2. The Parties mutually agree that the payment of such amount is not in the nature of a penalty; that no penalty shall be payable by seller; and that such sum will constitute full payment for any and all damages suffered by Buyer and its Managers and Members, and their sole and exclusive remedy, in the event that this Agreement is terminated by Buyer and Buyer elects not to seek, or is denied, the remedy of specific performance.

12.3 Seller's Remedies Upon Default By Buyer. If all of the conditions set forth in Article 11 have been satisfied or waived in writing (or if all such conditions that have not been satisfied or waived have not been satisfied solely due to Buyer's breach of this Agreement), and the buyer fails to close this transaction, then Seller may terminate this Agreement by notice to Buyer. Such termination will be effective on the tenth Business Day after it is given, unless Buyer then stands ready to consummate the transactions contemplated by this Agreement. The Parties recognize that it would be extremely difficult and impractical to ascertain the actual damages sustained by Seller in the event of such a termination. Accordingly, it has been mutually agreed that, in the event of such termination, Buyer shall forfeit to Seller as liquidated damages the sum of **SEVEN HUNDRED FIFTY THOUSAND DOLLARS (\$750,000.00)** (to be paid in accordance with the Escrow Agreement). The Parties mutually agree that such forfeiture is not in the nature of a penalty; that no penalty shall be payable by Buyer; and that this sum will constitute full payment for any and all damages suffered by Seller, its officers, directors, and

stockholders, and their sole and exclusive remedy, for any breach of this Agreement by Buyer prior to, or for failure to consummate, the Closing.

ARTICLE 13. INDEMNIFICATION.

13.1 Survival of Representations and Warranties. All representations, warranties, and certifications made in the Transaction Documents shall survive the Closing Date for eighteen (18) months; provided, however, that the representations, warranties and certifications regarding environmental matters, title to the Acquired Assets, authority to consummate transactions and tax matters shall survive the Closing Date until the expiration of all applicable statutes of limitations.

13.2 Indemnification of Buyer By Seller. Subject to Section 13.5, Seller shall indemnify and hold Buyer and its attorneys, affiliates, representatives, agents, officers, directors, successors or assigns harmless from and against any and all liabilities, losses, costs, expenses, judgments, orders, settlements, obligations, deficiencies, claims, suits, proceedings (whether formal or informal), investigations, Liens or other damages of any nature, absolute, contingent or otherwise, including, without limitation, costs of suit, attorney's fees and expenses (all of the foregoing items for purposes of this Agreement are referred to as "Damages"), resulting from, arising out of or incurred with respect to:

13.2.1 A breach of any representation, warranty, covenant, agreement or obligation of Seller contained in any Transaction Document or any miscertification or misrepresentation by Seller in, or omission by Seller from, any Transaction Document, so long as, in the case of any such breach of representation or warranty, miscertification or misrepresentation, notice thereof is given to Seller before the expiration of any applicable period specified in Section 13.1 hereof;

13.2.2 The Excluded Liabilities;

13.2.3 Any and all claims, liabilities or obligations of any nature, absolute, contingent, or otherwise relating to the business or operation of the Stations, the MUZAK Business or ownership of the Acquired Assets through the Closing Date, including, without limitation, any Damages arising from or obligations to be performed under any of the Assumed Contracts; or

13.2.4 The absence of any consent or waiver of or notice to any Person that is required in connection with the assignment or transfer of any Assumed Contract or other Acquired Asset or the assumption by Buyer of any Assumed Liability.

The term "Damages" as used in this Agreement is not limited to matters asserted by third-parties against a Party, but includes Damages incurred or sustained by a Party in the absence of third-party claims.

13.2.5 Personal Guarantee of Indemnity Payments. Seller's indemnification obligation under this subsection 13.2 is personally guaranteed by Seller's principal, David L. Nelson in an amount not to exceed One Million Five Hundred Thousand and No/100 Dollars (\$1,500,000.00). Such personal guarantee shall apply to all amounts that may become payable by Seller pursuant to this article 13: (i) to the extent arising out of or relating to any representation, warranty or certification of Seller set forth in any Transaction Document, if the related claim is asserted within the applicable survival period set forth in section 13.1 above, and (ii) in all other cases whenever asserted. The personal guarantee of Seller shall be evidenced by the execution and delivery to Buyer on the Closing Date of the *Indemnification Guaranty Agreement* in form and substance as that set forth in **Appendix H**, attached hereto and made a part hereof.

13.3 Indemnification of Seller By Buyer. Subject to Section 13.5, Buyer shall indemnify and hold Seller and its attorneys, affiliates, representatives, agents, officers, directors, successors or assigns, harmless from and against any Damages resulting from, arising out of, or incurred with respect to:

13.3.1 A breach of any representation, warranty, covenant, agreement or obligation of Buyer contained by Seller, or any miscertification or misrepresentation by Buyer in, or omission by Buyer from any Transaction Document, so long as, in the case of any such breach of representation or warranty, miscertification or misrepresentation, notice thereof is given to Buyer before the expiration of the applicable period specified in Section 13.1;

13.3.2 The Assumed Liabilities; or

13.3.3 Any and all claims, liabilities or obligations of any nature, absolute, contingent, or otherwise relating to the business or operation of the Stations, the MUZAK Business or ownership of the Acquired Assets after the Closing Date, including, without limitation, any Damages arising from or obligations to be performed thereafter under any of the Assumed Contracts.

13.4 Procedures.

13.4.1 Promptly after the receipt by either Party (the "Indemnified Party") of notice of any claim, or the commencement of any action or proceeding, by any Person who is not a Party which may entitle the Indemnified Party to indemnification under this Article, the Indemnified Party shall give the other Party (the "Indemnifying Party") written notice of such claim or the commencement of such action or proceeding and, subject to

Section 13.4.4, shall permit the Indemnifying Party to assume the defense of such claim , action or proceeding or any litigation resulting from such claim with counsel reasonably acceptable to the Indemnified Party. The failure to give the Indemnifying Party timely notice under this subsection shall not preclude the Indemnified Party from seeking indemnification from the Indemnifying Party unless, and then only to the extent, such failure has materially prejudiced the Indemnifying Party's ability to defend the claim, action or proceeding or any litigation resulting from such claim. Failure by the Indemnifying Party to notify an Indemnified Party of its election to defend any such claim, action or proceeding and any litigation resulting from such claim within thirty (30) days after notice thereof shall have been given to the Indemnifying Party shall be deemed a waiver by the Indemnifying Party of its rights to defend the same.

13.4.2 If the Indemnifying Party assumes the defense of any matter pursuant to Section 13.4.1, the Indemnifying Party shall take all steps necessary in the defense or settlement of such matter and hold the Indemnified Party harmless from and against any Damages caused by or arising out of any settlement approved by the Indemnifying Party or any judgment in connection therewith; however, the Indemnified Party may participate, at its expense, in the defense of such matter. The Indemnified Party shall cooperate (at the Indemnifying Party's expense) and make available all books and records reasonably necessary and useful in connection with such defense. Except with the prior written consent of the Indemnified Party, the Indemnifying Party shall not, in the defense of such matter, consent to the entry of any judgment (other than a judgment of dismissal on the merits without cost) or enter into any settlement which does not include as an unconditional term thereof the giving by the claimant or the plaintiff to the Indemnified Party of a release from all Damages in respect of such matter.

13.4.3 If the Indemnifying Party shall not, or shall not be entitled to, assume the defense of any matter pursuant to Section 13.4.1, the Indemnified Party may, but shall have no obligation to, defend against such matter in such manner as it may deem appropriate, and the Indemnified Party may compromise or settle such matter without the Indemnifying Party's consent. Within thirty (30) days of written request, the Indemnifying Party shall promptly reimburse the Indemnified Party for the amount of all Damages incurred by the Indemnified Party in connection with such defense. If no settlement of the claim or litigation is made, the Indemnifying Party shall promptly reimburse the Indemnified Party for the amount of any judgment rendered with respect to such matter.

13.4.4 The Indemnifying Party shall not be entitled to assume the defense of any matter pursuant to Section 13.4.1: (a) if the conduct of such defense by counsel to the Indemnifying Party would be inconsistent with ethical rules applicable to attorneys at law; (b) if the remedy sought or asserted in connection with such matter is not

limited solely to the payment of money damages; (c) if such matter concerns, or could result in the loss of the placement of any restriction, any FCC License; (d) if such matter, if determined or concluded in a matter adverse to the Indemnified Party, could have a material adverse effect on the Indemnified Party; and/or (e) unless the Indemnifying Party agrees in writing that, as between the Parties, the Indemnified Party is solely responsible for all Damages that may arise from or relate to such matter notwithstanding any provision of Section 13.1 or 13.2 and demonstrates to the reasonable satisfaction of the Indemnified Party that it has the financial resources to conduct such defense and pay all such Damages.

13.5 Indemnity Payments. The parties agree that any indemnity payments made pursuant to this Article 13 will be treated by the Parties on all applicable tax returns as an adjustment to the Purchase Price.

ARTICLE 14. CLOSING DELIVERIES.

14.1 Seller's Deliveries at Closing. On the Closing Date at the Closing Place Seller shall to Buyer deliver the following:

14.1.1 An Assignment to Buyer of the FCC Licenses, including all of Seller's right, title and interest in and to all call letters of the Stations, and other governmental licenses and authorizations, executed by Seller.

14.1.2 One or more general warranty deeds in form consistent with local practice conveying to Buyer good and marketable title to the Real Property, executed by Seller, together with a Title Insurance Policy.

14.1.3 One or more Bills of Sale assigning, transferring and conveying to Buyer free and clear title to all of the Personal Tangible Assets, executed by Seller.

14.1.4 An Assignment and Assumption Agreement, assigning to Buyer the Assumed Contracts, executed by Seller together with any consents or waivers of or notices to any other party thereto in order to effect such assignment and/or the assumption of any Assumed Liability thereunder and the originals or certified copies of said documents.

14.1.5 Instructions to the Escrow Agent, executed by Seller, as set forth in Section 4.4.

14.1.6 The Non-competition Agreement set forth in **Appendix I**, executed by Keith Jones.

14.1.7 The Real Property Studio Lease, executed by Seller as set forth in **Appendix B-1**.

14.1.8 An Assignment of all Intangibles Assets owned or held by Seller, executed by Seller.

14.1.9 The files, records, logs and books of account of Stations, together with a certification by Seller that the Public Files of Stations are complete and up to date.

14.1.10 A Certificate of Good Standing from Seller's State of Incorporation, as well as evidence of Seller's right to conduct business in the State of Wisconsin.

14.1.11 A copy of resolutions of Seller's Board of Directors and shareholders, certified by Seller's Secretary, authorizing the execution, delivery and performance of the Transaction Documents to which Seller is a party.

14.1.12 An Incumbency Certificate signed by Seller's corporate Secretary, certifying the name and offices of the officers of Seller and the authenticity of their signatures.

14.1.13 The Engineering Report of Seller's Engineer as described in Section 11.1.8 of this Agreement certified by Seller.

14.1.14 A Certificate of Seller signed by an Officer of Seller that the representations and warranties of Seller contained in the Transaction Documents are true and correct as of the Closing Date and that Seller has in all material respects performed and complied with all covenants, agreements and conditions required by this Agreement to be performed or complied with by it prior to or at the Closing Date, and that the conditions set forth in Sections 11.1.6b) and 11.1.7 have been satisfied.

14.1.15 The Indemnification Guaranty Agreement referenced in Section 13.2.5 herein and in form set forth in **Appendix H**, attached hereto.

14.1.16 A legal opinion of Seller's Counsel in the form set forth in **Appendix P**.

14.1.17 Evidence of compliance by Seller with the Wisconsin Bulk Sales laws with respect to the transfer of the Acquired Assets to Buyer free of any claim thereto or thereon in favor of any Person in respect of any Excluded Liability or a legal opinion of Seller's Counsel that states without material qualification (in the opinion of Buyer's counsel) that such compliance is not required in order to so effect such transfer.

14.1.18 Such other assignments, bills of sale or other instruments of transfer, assignment or conveyance as may be required by Buyer to effectuate the assignment, transfer and conveyance to Buyer of all the assets, property, rights, privileges and immunities of Seller which are to be sold, transferred, conveyed and assigned to Buyer.

14.1.19 A copy of the certificate of occupancy with respect to all of the improvements and additions on the Real Property owned or leased by Seller.

14.2 Buyer's Deliveries at Closing. On the Closing Date at the Closing Place Buyer shall, upon receipt of the releases, assurances and other documentation provided for by this Agreement (including receipt of evidence that any and all mortgages, security interests or encumbrances of any kind in and to all of the assets to be acquired by Buyer have been removed) deliver to Seller the following:

14.2.1 A Certificate of Incumbency of Buyer certifying as to the authenticity of signatures of the officers/members of Buyer.

14.2.2 A Certificate of Buyer that the representations and warranties of Buyer contained in the Transaction Document, are true and correct as of the Closing Date, and that Buyer has in all material respects performed and complied with all covenants, agreements and conditions required by this Agreement to be performed or completed with it prior to or at the Closing Date.

14.2.3 A certified copy of Buyer's enabling resolutions ratifying the execution, performance and delivery of this Agreement.

14.2.4 Instructions to the Escrow Agent, as set forth in Section 4.4, executed by Buyer.

14.2.5 The balance of the Purchase Price less the Escrow Deposit, plus or minus the net of any adjustments provided for by this Agreement in Immediately Available Funds.

14.2.6 The Assignment and Assumption Agreement for Contracts, executed by Buyer.

14.2.7 The Real Property Studio Lease set forth in **Appendix B-1**, executed by Buyer.

14.2.8 The Indemnification Guaranty Agreement set forth in **Appendix H**.

14.2.9 The Non-competition Agreement set forth in **Appendix I**, executed by Buyer.

14.2.10 A legal opinion of Buyer's Counsel in a form set forth in **Appendix Q**.

ARTICLE 15. TAXES, FEES AND EXPENSES.

15.1 Expenses. Except as otherwise expressly set forth in this Agreement, each Party shall be solely responsible for all costs and expense incurred by it in connection with the negotiation and preparation of the Agreement and the consummation of the transactions contemplated hereby.

15.2 Transfer Taxes and Similar Charges. Recordation, transfer and documentary taxes and fees, and any excise, sales or use taxes imposed by reason of the transfer of the Acquired Assets in accordance with this Agreement shall be borne by Seller.

15.3 Governmental Filing or Grant Fees. Any filing or grant fees imposed by any governmental authority the consent of which is required to the transactions contemplated hereby shall be borne equally by Buyer and Seller.

ARTICLE 16. MISCELLANEOUS.

16.1 Finders, Consultants and Brokers. Seller and Buyer mutually represent and warrant that there are no finders, consultants or brokers involved in the transactions contemplated by this Agreement other than Kalil & Co., Inc., ("Kalil"), and that neither Seller nor Buyer has agreed to pay any other brokers commission or finders fee in connection with such transactions, except to Kalil, which commission shall be payable by Buyer.

16.2 Confidentiality. Seller and Buyer each promise, represent and warrant to the other that they will not reveal or disclose to any Unauthorized Person any financial information, account lists, trade secrets, plans of operation (including those relating to format), marketing or sales information, details of their negotiations or information regarding the agreements reached in connection with the proposed purchase and sale of the Acquired Assets; provided that this Section 16.2 shall not prohibit Buyer from disclosing to any Person or using any of the foregoing after the Closing. The term "Unauthorized Person" means any Person other than the Parties, their officers, directors, stockholders, key employees, agents or representative (including legal counsel, accountants, consultants and financiers) who require such information in connection with their employment or professional responsibilities and obligations or the Commission or other agency, as required by law, or as required by subpoena or other legal process. Nothing in this provision shall restrict the Parties from complying with any legal filing requirement, Public File requirement or similar disclosure requirement.

16.3 Press Release. Except for compliance with legal notice requirements, Seller and Buyer will jointly prepare and release any press release or announcement to the public relating to this Agreement and the proposed sale and purchase of the Acquired Assets.

16.4 Assignment.

16.4.1 By Seller. This Agreement may not be assigned by Seller to any Person without the express written consent of Buyer.

16.4.2 *By Buyer.* Prior to the Closing, this Agreement may be assigned by Buyer, to any lender(s) for collateral purposes and to any affiliate of Buyer, provided that, any such affiliated assignee shall be fully qualified to be a licensee of the Commission. Following the Closing, Buyer may assign this Agreement and/or any or all of its rights hereunder to any owner of any Acquired Asset.

16.5 No Third Party Beneficiaries. Nothing herein expressed or implied is intended or shall be construed to confer upon or give to any Person other than the Parties and their successors or permitted assigns, any rights or remedies under or by reason of this Agreement.

16.6 Notices.

16.6.1 Any notices required or permitted to be given under this Agreement by either party to the other may be effected by certified mail, postage prepaid with return receipt requested, or by USPS Express air service, overnight air courier service or same day delivery service, and addressed as follows:

IF TO SELLER:

David L. Nelson, President
Central Communications, Inc.
944 Harlem Street
Altoona, WI 54720
Ph.: 715-832-1530
Fax: 715-832-5329

with copy to:

Vincent A. Pepper, Esquire
Womble Carlyle
1401 Eye Street, NW
7th Floor
Washington, D.C. 20005
Ph.: 202-857-4560
Fax: 202-261-0060

IF TO BUYER:

Gary S. Rozynek, President/COO,
Maverick Media LLC
136 Main Street, #202
Westport CT 06880
Ph.: 203-227-2800
Fax: 203-227-4819

with copy to:

John C. Trent, Esquire
Putbrese Hunsaker & Trent, P.C.
100 Carpenter Dr., Ste. 100
P.O. Box 217
Sterling VA 20167-0217
Ph.: 703-437-8400
Fax: 703-437-8483

16.6.2 Notices shall be addressed to the Parties at the addresses given above, but each party may change its address by written notice in accordance with this Section.

16.6.3 Notice shall be deemed to have been given three Business Days after mailing if sent by certified mail, or on the next Business Day if sent by USPS express mail, overnight air courier, or same day delivery service. The provision of notice by telephone facsimile or to counsel shall not constitute notice under this Agreement.

16.7 Benefit. This Agreement shall be binding upon and inure to the benefit of the Parties, and their respective successors and permitted assigns.

16.8 Other Documents. The Parties shall execute such other documents as may be necessary or desirable to the implementation and consummation of this Agreement.

16.9 Further Assurances. The Parties each pledge to the other that they shall take whatever steps are reasonably necessary, in good faith, and use their best efforts to carry out their obligations under this Agreement in order that the transactions contemplated hereby may be consummated in a complete and expeditious manner.

16.10 Separate Counsel. The Parties have retained independent counsel in connection with the negotiation and preparation of this Agreement, and have consulted with and sought advice from their respective counsel, prior to execution, concerning their respective rights and duties under this Agreement. No presumption will apply in favor of either Party by reason of the fact that either Party or its legal counsel was the principal drafter of this Agreement or any provision hereof.

16.11 Appendices. All Appendices and schedules attached to this Agreement shall be deemed to be part of this Agreement and incorporated in it, where applicable, as if fully set forth in the body of this Agreement. If any provision in any Appendix conflicts with or is not consistent with the provisions of this Agreement, the terms of this Agreement shall govern.

16.12 Counterparts. This Agreement may be signed by any number of counterparts with the same effect as if the signature of each such counterpart were upon the same instrument.

16.13 Headings. The headings of the Articles, Sections and paragraphs of this Agreement are inserted as a matter of convenience and for reference purposes only and in no way define, limit or describe the scope of this Agreement nor the intent of any such Article, Section or paragraph.

16.14 Time of the Essence. Time is deemed to be of the essence with respect to this Agreement.

16.15 Entire Agreement. This Agreement and all Appendices attached hereto and the ancillary documents provided for herein, constitute the entire agreement and understanding of the parties hereto relating to the matters provided for herein and supersede any and all prior agreements, arrangements, negotiations, discussions and understandings relating to the matters provided for herein.

16.16 Amendment. This Agreement may not be amended except by an instrument in writing signed on behalf of each of the Parties.

16.17 Waivers. No waiver of any right under this Agreement or waiver of a breach of it shall be effective unless in writing and signed by the Party or Parties waiving such right or breach. No waiver of any right or waiver of any breach shall constitute a waiver of any other or

similar right or breach and no failure to enforce any right under this Agreement shall preclude or affect the later enforcement of such right.

16.18 Severability. In the event that any one or more of the provisions contained in this Agreement or in any other instrument referred to herein shall, for any reason, be held to be invalid, illegal or unenforceable in any respect, then to the maximum extent permitted by law, such invalidity, illegality or unenforceability shall not affect any other provision of this Agreement or any other such instrument, and this Agreement shall be construed as if such invalid, illegal or unenforceable provision or provisions had not been contained herein.

16.19 Number and Gender. Whenever required by the context, the singular number shall include the plural and the masculine, feminine, or neuter gender shall include all genders.

16.20 Governing Law. This Agreement shall be construed and enforced in accordance with the internal laws of the State of Wisconsin, and not the principles of choice or conflicts of laws otherwise applied in that State.

16.21 Choice of Forum. Any action, suit or other proceeding with respect to this Agreement may be brought in the courts of the State of Wisconsin or of the United States of America for the Western District of Wisconsin, and each party consents to and accepts for itself and in respect of its property, generally and unconditionally, the jurisdiction of these courts.

Each party irrevocably waives any objection, including, without limitation, any objection to the laying of venue or based on the grounds of *forum non convenience*, which it may now or hereafter have to the bringing of any such action, suit or other proceeding in those jurisdictions.

16.22 Waiver of Trial by Jury. The Parties specifically agree to waive their respective rights to trial by jury should any matter relating to or arising out of any Transaction Document be brought before a court.

16.23 Attorneys' Fees. Should any Party institute any action or proceeding at law or in equity to enforce any provision of this Agreement, including an action for declaratory relief, or for damages by reason of an alleged breach of any provision of this Agreement, or otherwise in connection with this Agreement, or any provision hereof, the prevailing party shall be entitled to recover from the losing Party its costs and expenses, including reasonable attorneys' fees and costs for services rendered to the prevailing party in such action or proceeding.

16.24 Accounts Receivable. For a period of one hundred and eighty (180) days after the Closing Date, Buyer shall use reasonable efforts to collect in the normal course of business for the account of Seller the accounts receivable of the Stations and the MUZAK Business outstanding as of the Closing Date. Seller will furnish Buyer with a complete list of such accounts receivable at or as soon as reasonably possible after the Closing. During such 180-day period, Seller will take no actions with respect to the collection of such accounts receivable without Buyer's written consent. Thereafter, Buyer will have no further responsibilities with respect to any uncollected accounts receivable (except to remit promptly to

Seller any amounts subsequently received by it on account of Seller's accounts receivable), and Seller will be free to collect all of Seller's accounts receivable in any manner it deems appropriate. Buyer shall not, without the prior written consent of Seller, compromise or settle for less than full value any of Seller's accounts receivable. Any monies received by Buyer in respect of any Station or the MUZAK Business from any Person who was indebted to Seller as of the Closing Date shall be applied first against such indebtedness, except when and to the extent such account debtor otherwise specifies. The obligations of Buyer under this Section 16.24 will be to collect such accounts receivable in the ordinary and normal course of business and does not extend to the institution of litigation, employment of counsel or a collection agency or any other extraordinary means of collection. Promptly after the fifteenth (15) day of each month after the closing during the term of the 180-day period, Buyer shall remit to Seller all monies collected with respect to Seller's accounts receivable.

16.25 *Miscellaneous.* As used in this Agreement, "include" and "including" shall be interpreted to be illustrative and shall be construed as if the phrase "without limitation" followed such word, whether or not such phrase actually appears herein.

[THE NEXT PAGE IS THE SIGNATURE PAGE ONLY]

[SIGNATURE PAGE]

IN WITNESS WHEREOF, the parties have duly executed this Agreement as of the date and year first above written.

SELLER

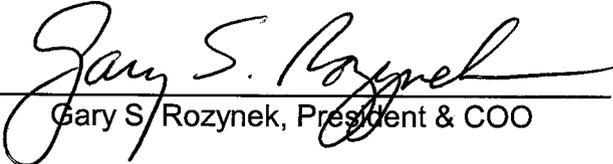
CENTRAL COMMUNICATIONS, INC.

By: _____
David L. Nelson, President

Witness

BUYER:

**MAVERICK MEDIA III LLC
MAVERICK MEDIA HOLDINGS OF
EAU CLAIRE LLC
MAVERICK MEDIA OF EAU CLAIRE
COMMUNICATIONS, LLC
MAVERICK MEDIA OF EAU CLAIRE LLC
MAVERICK MEDIA OF EAU CLAIRE
LICENSE LLC**

By: 
Gary S. Rozynek, President & COO

Witness



APPENDICES

Appendix A	FCC Licenses
Appendix B	Real Property
Appendix B-1	Real Property Studio Lease
Appendix C	Personal Tangible Assets
Appendix D	Assumed Contracts
Appendix E	Intangibles
Appendix F	Allocation of Purchase Price
Appendix G	Escrow Agreement
Appendix H	Indemnification Guaranty Agreement
Appendix I	NonCompetition Agreement
Appendix J	Excepted Advertising Contracts
Appendix K	Intentionally Left Blank
Appendix L	List of Encumbrances
Appendix M	List of Environmental Permits and Licenses
Appendix N	Environmental Exceptions
Appendix O	Seller's Employee Benefits
Appendix P	Opinion of Seller's Counsel
Appendix Q	Opinion of Buyer's Counsel
Appendix R	Designated Employees

Central Communications, Inc
 FCC Licenses
 Exhibit A

	<u>CALL Sign</u>	<u>Freq</u>	<u>City</u>	<u>Expires</u>
Page Call	KNKK202	152.24	Rice Lake, WI	4/1/2009
Page Call	KRS630	152.24	LaCrosse, WI	1/7/2007
Page Call	KTS232	152.24	Eau Claire, WI	4/1/2009
Page Call	KNKJ985	152.15	LaCrosse, WI	4/1/2009
Page Call	KNKJ985	152.15	Black River Falls, WI	4/1/2009
Page Call	KNKJ985	72.58	Black River Falls, WI	4/1/2009
Page Call	KNKJ985	152.15	Tomah, WI	4/1/2009
Page Call	KNKK223	152.15	Stevens Point, WI	4/1/2009
Page Call	KNKK710	75.82	Eau Claire, WI	4/1/2009
Page Call	KNKK710	152.15	Rice Lake, WI	4/1/2009
Page Call	KNKK710	152.15	Eau Claire, WI	4/1/2009
Page Call	KNKC605	158.70	Minong, WI	4/1/2009
Page Call	KNKC605	158.70	Rice Lake, WI	4/1/2009
Page Call	KNKC605	75.78	Rice Lake, WI	4/1/2009
Page Call	KNKC395	158.70	Black River Falls, WI	4/1/2009
Page Call	KNKC395	158.70	Colfax, WI	4/1/2009
Page Call	KNKC395	158.70	Eau Claire, WI	4/1/2009
Page Call	KNKC395	72.34	Colfax, WI	4/1/2009
Page Call	KNKC395	75.70	Colfax, WI	4/1/2009
Page Call	KNKC395	75.70	Eau Claire, WI	4/1/2009
Page Call	KNKI974	158.70	Thorp, WI	4/1/2009
Page Call	KSV988	152.18	Eau Claire, WI	4/1/2009
Page Call	KSV988	152.06	Eau Claire, WI	4/1/2009
WAYY		790	Eau Claire, WI	12/1/2004
WAYY-RPU	KE7882	166.25		
WAYY-RPU	KSE944	166.25		
WAYY-RPU	KFX824	166.25		
WIAL		94.1	Eau Claire, WI	12/1/2004
WECL		92.9	Elk Mound, WI	12/1/2004
WECL-STL	WJPD676	947.50		
WEAQ		1150	Chippewa Falls, WI	12/1/2004
WEAQ-STL	WBS-367	951.50		
WAXX		104.5	Eau Claire, WI	12/1/2004
WAXX-RPU	KK5085	170.15		
WAXX-RPU	KK5085	161.67		
WAXX-RPU	KK5085	161.76		
WAXX-STL	KKN20	942.50		
WDRK		99.9	Cornell, WI	12/1/2004
WDRK-RPU		942.50		