

**AGREEMENT AND PLAN OF MERGER**

**by and between**

**COMMUNITY TELEVISION FOUNDATION OF SOUTH FLORIDA, INC.**

**and**

**WXEL PUBLIC BROADCASTING CORPORATION**

**DATED: July 2, 2015**

## **AGREEMENT AND PLAN OF MERGER**

**THIS AGREEMENT AND PLAN OF MERGER** (this "**Agreement**") is entered into this 2<sup>nd</sup> day of July, 2015, by and between **COMMUNITY TELEVISION FOUNDATION OF SOUTH FLORIDA, INC. ("CTF")**, a Florida not-for-profit corporation, and **WXEL PUBLIC BROADCASTING CORPORATION ("WXEL")**, a Florida not-for-profit corporation.

### **WITNESSETH:**

**WHEREAS**, WXEL was created as a Florida not-for-profit corporation and has qualified as a corporation exempt from federal income taxation pursuant to Section 501(c)(3) of the Internal Revenue Code of 1986 (as amended, the "**IRC**"); and

**WHEREAS**, CTF was created as a Florida not-for-profit corporation and has qualified as a corporation exempt from federal income taxation pursuant to Section 501(c)(3) of the IRC; and

**WHEREAS**, each of the Board of Directors of WXEL, and the Board of Directors of CTF has determined it to be in the best interests of its organization to merge WXEL with and into CTF upon the terms and conditions set forth in this Agreement, and in furtherance of continuing and enhancing public broadcasting service in the South Florida region, recognizing efficiencies, and retaining the culture and histories of each station, all pursuant to the Florida Not For Profit Corporation Act (Chapter 617, Florida Statutes); and

**WHEREAS**, the parties acknowledge that as a consequence of the Merger (as hereinafter defined) contemplated by this Agreement and subject to the prior consent of the Federal Communications Commission ("**FCC**"), CTF will obtain control of all licenses, permits, rights and other authorizations issued by the FCC ("**FCC Licenses**") in connection with the operation of non-commercial television station WXEL-TV, West Palm Beach, Florida (the "**Station**") and, subject to the prior consent of the Florida Board of Education ("**BOE**"), a lease for the studio building and other assets related to the Station;

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

1. **Merger of Entities.** At the Effective Time (as defined below), CTF will change its name to South Florida PBS, Inc., or such similar name as may be agreed upon by the Parties if that such name is unavailable for its intended use ("**SFPBS**") and will adopt and file with the State of Florida amended Articles of Incorporation and will adopt amended Bylaws in the form attached hereto as composite Schedule 1; and WXEL will merge with and into SFPBS (the "**Merger**"), whereupon (a) the separate corporate existence of WXEL shall cease; (b) SFPBS (f/k/a CTF) will be the surviving corporation (the "**Surviving Corporation**") and will continue its corporate existence under the laws of the State of Florida; (c) the Surviving Corporation shall thereafter be known as and named South Florida PBS, Inc. and (d) all of the properties, rights, privileges and powers of WXEL will vest in the Surviving Corporation, and all of the debts, liabilities, obligations and duties of any kind of WXEL will become the debts, liabilities, obligations and duties of the Surviving Corporation; and (e) all new funds received or raised by the Surviving Corporation beginning with the Effective Time, including, without limitation,

funds directed to support of the Merger, or proceeds related to the sale or disposition of any assets, including any funds related to participation in the FCC Spectrum Auction (as defined in Section 5(j) below), shall inure to the Surviving Corporation and be held solely by a to-be-formed tax exempt organization whose charitable purpose is the support of SFPBS ("**SFPBS Foundation**"), unless accepted directly into the operating funds of the Surviving Corporation, in which case such funds will be transferred to the SFPBS Foundation at the discretion of the Board of Directors of the Surviving Corporation.

## **2. Closing Date, Terms and Conditions of Merger.**

a. Closing Date/Effective Time. Upon such date and time as is mutually agreed upon by the parties and subject to the terms and conditions of this Agreement, including Section 9 and Section 10 hereof, the Closing of the Merger will take place ("**Closing Date**"). On the Closing Date, the parties shall execute the Articles of Merger and attached Plan of Merger, attached as Schedule 2(a) hereto (the "**Merger Documents**"). The Merger Documents shall then be filed by the parties with the Florida Secretary of State. The Merger shall become effective at the date and time specified in the evidence of the filing of the Merger Documents with the Florida Secretary of State (the "**Effective Time**").

b. Effect of the Merger. At the Effective Time, WXEL will be merged with and into SFPBS (f/k/a CTF) and SFPBS will continue its corporate existence as a Florida not-for-profit corporation that is exempt from federal taxes pursuant to Section 501(c)(3) of the IRC and shall continue to conduct its activities and its business consistent with the purposes stated in its governing documents and pursuant to applicable state and federal law. At the Effective Time, as a result of the Merger, SFPBS will assume control of the Station and will assume all debt, liabilities, obligations, and duties of WXEL.

c. Directors. Each of WXEL and CTF shall appoint no fewer than 10 and no more than 13 Directors to the initial Board of Directors of SFPBS as of the Effective Time so that the number of Directors appointed by each shall be equal. One additional Director shall be appointed by mutual agreement of each of WXEL and CTF, and such Director shall not have previously been a member of the Boards of Directors of either CTF or WXEL and not employed by either organization directly or indirectly through an Affiliate as an employee, consultant, or in a similar capacity. For purposes of this Agreement, an "**Affiliate**" is a person or entity controlled by, controlling, or under common control with another person or entity. As a result, at the Effective Time, the members of the SFPBS Board of Directors will be composed of these 21 to 27 members, all of whom shall be voting members of the Board. Any Directors of CTF not appointed to the SFPBS Board shall resign as a CTF Director at the Effective Time. Any Directors of WXEL not appointed to the SFPBS Board shall resign as WXEL Directors as of the Effective Time. The initial SFPBS Directors will serve on the SFPBS Board of Directors for terms as specified in the By-Laws of the Surviving Corporation, but in any event through the second anniversary of the Effective Time (the "**Transition Term**"). Such persons will serve on the SFPBS Board of Directors until the election and qualification of their respective successors or until their tenure is otherwise terminated in accordance with the By-Laws of the Surviving Corporation. In the event any Director appointed by WXEL or CTF resigns or otherwise ceases to be a Director prior to the expiration of the Transition Term, a majority of the remaining

Directors appointed by CTF or WXEL, as the case may be, shall appoint such Director's successor.

d. Committees. During the Transition Term, a Strategic Planning Committee will be designated, with such Committee to be co-chaired by the Co-Chairs of the SFPBS Board, and populated by no fewer than two SFPBS Board members, in equal number of CTF and WXEL appointees. Such Committee will be assisted by executive staff, and its purpose will be to guide the strategic vision and operational planning of the integration of CTF and WXEL into SFPBS.

e. Subsidiaries / Affiliates.

(1) ComTel, Inc. ("ComTel"). At the Effective Time, ComTel shall maintain its status as a subsidiary of the Surviving Corporation. For a period of two years from the Effective Time, the Board of Directors of ComTel will be appointed such that six (6) Directors will be appointed by the CTF-designated Directors of SFPBS; and six (6) Directors will be appointed by the WXEL-designated Directors of SFPBS. Thereafter the Board of Directors of ComTel shall be appointed by nomination and vote of the full SFPBS Board of Directors.

(2) WPBT Communications Foundation, Inc. ("WCFI"). WCFI will maintain its tax status as a 501(c)(3) organization and at and following the Effective Time shall support SFPBS as a Type 1 supporting organization. For a period of two years from the Effective Time, the Board of Directors of WCFI will be appointed by SFPBS as follows: six (6) Directors shall be nominated by the CTF-designated Directors of SFPBS and three (3) Directors shall be nominated by the WXEL-designated Directors of SFPBS. Thereafter, WCFI Directors shall be appointed by nomination and vote of the full SFPBS Board of Directors. If during the Transition Term, the Chairman of the WCFI Board of Directors is a CTF designated Director, the Vice Chair for the WCFI Board of Directors shall be a WXEL designated Director and vice versa.

(3) SFPBS Foundation: The SFPBS Foundation shall be formed as a new Florida not-for-profit Corporation and Type 1 supporting organization in support of SFPBS, and shall receive all funds raised for SFPBS on and after the Effective Time. The proposed Articles of Incorporation and By-Laws of the SFPBS Foundation shall be mutually agreed upon in good faith by CTF and WXEL prior to July 31, 2015. For the duration of the Transition Term, the Board of Directors of the SFPBS Foundation shall be as follows: four (4) Directors shall be nominated by CTF-designated Directors of the SFPBS Board, four (4) Directors shall be nominated by WXEL-designated Directors of the SFPBS Board, and one (1) Director shall be the mutually agreed upon designated independent director. If, during the Transition Term, the Chair of the SFPBS Foundation Board is a CTF designated Director, then the Vice Chair shall be a WXEL designated Director, and vice versa. Following the Transition Term, the SFPBS Foundation Directors shall be appointed by nomination and vote of the full SFPBS Board of Directors.

f. Ex-Officio Corporate Officer. The SFPBS Chief Executive Officer will serve as an ex-officio (non-voting) member of the Boards of Directors of SFPBS, SFPBS Foundation, ComTel, and WCFI.

g. Community Advisory Boards. SFPBS shall at all times maintain one or more Community Advisory Boards ("CAB") pursuant to Section 396(k)(7) of the Communications Act of 1934, as amended (the "Act"), and any such CAB(s) will in totality be composed of individuals who are reasonably representative of the diverse needs and interests of the communities served by SFPBS.

h. SFPBS Management. At the Effective Time, Dolores Sukhdeo shall be appointed as CEO of SFPBS pursuant to a three year employment contract with terms and conditions no less favorable than those presently applicable to her employment as President and CEO of CTF and Bernard E. Henneberg shall be appointed as President and CFO of SFPBS as provided for in the budget developed by the Strategic Planning Committee.

3. Approval. As noted in the introduction to this Agreement, this Agreement and the Merger have been duly approved and adopted by each of the entities as follows:

a. WXEL. The Board of Directors of WXEL has approved this Agreement and the Merger.

b. CTF. The Board of Directors of CTF has approved this Agreement and the Merger.

4. Representations and Warranties by WXEL. WXEL represents and warrants to CTF as follows:

a. Organization and Standing. WXEL is a not-for-profit corporation duly organized and validly existing under the Laws of the State of Florida. WXEL has the full corporate power and authority to own, lease and otherwise to hold and operate the Station and to carry on the business of the Station as now conducted, and WXEL has the full corporate power and authority to enter into and perform the terms of this Agreement, the other Merger Documents and the transactions contemplated hereby and thereby.

b. Authorization. The execution, delivery and performance of this Agreement and of the other Merger Documents by WXEL, and the consummation of the transactions by WXEL contemplated hereby and thereby have been duly and validly authorized by all necessary action of the Board of Directors of WXEL and by any other necessary corporate actions of WXEL, respectively (none of which actions has been modified or rescinded and all of which actions are in full force and effect). This Agreement constitutes, and upon execution and delivery each other Merger Document will constitute valid and binding agreements and obligations of WXEL, enforceable against WXEL in accordance with their respective terms, except as the same may be limited by bankruptcy, insolvency, reorganization, moratorium and other similar Laws of general applicability relating to or affecting creditors' rights generally and by the application of general principles of equity.

c. Consents and Approvals; No Conflicts. The execution and delivery of this Agreement and the Merger Documents, and the performance of the transactions contemplated herein and therein by WXEL, will not require any consent, approval, authorization or other action by, or filing with or notification to, any Person or Governmental Authority where the failure to make such filing or obtain such consent will have a Material Adverse Effect (as defined in Section 4(d), except as follows: (i) FCC approval of the transfer of control of WXEL to CTF ("**FCC Consent**"), (ii) the written consent of the Florida BOE to the transfer to CTF of all right, title and interest of WXEL under the BOE Agreements, including, without limitation, a leasehold interest in the building and property at 3401 South Congress Avenue, Boynton Beach, Florida, and any and all production and broadcast equipment provided under the BOE Agreements ("**BOE Written Consent**"), and (ii) the Contracts specified in Section 10 of this Agreement and Schedule 4(c) that may be assigned only with the consent of third parties.

d. Noncontravention. Assuming all consents, approvals, authorizations and other actions described in Section 4(c) have been obtained and all filings and notifications described in Section 4(c) have been made, the execution, delivery and performance of this Agreement and the other Merger Documents by WXEL do not and will not (i) conflict with or violate, or require any consent or approval under, or require a filing be made or notice provided pursuant to, any Law applicable to WXEL or to which the Station is subject or affected, (ii) conflict with or result in any breach, lapse, cancellation or termination of, or constitute a default (or an event which with notice or lapse of time or both would become a default) of, or give rise to any right of termination, cancellation, acceleration or additional liabilities or fees under any contract or agreement to which WXEL is a party, or by which WXEL is bound, or to which the Station is subject or affected, (iii) result in the creation or imposition of any encumbrance on the Station, with the exception of collateral for Interim CTF Advances which is defined in Section 14 of this Agreement, and which shall be incurred as provided for, in Section 14 of this Agreement or as otherwise created or imposed by this Agreement; or (iv) conflict with or violate the organizational documents of WXEL; except, in the cases of subclauses (i) or (ii) of this Section 4(d) where any such conflict or breach would not individually or in the aggregate, have a Material Adverse Effect. For purposes of this Agreement, the terms (w) "**Governmental Authority**" shall mean the government of any nation or any political subdivision thereof, whether at the national, state, territorial, provincial, municipal or any other level, and any agency, authority, instrumentality, regulatory body, court, central bank or other entity exercising executive, legislative, judicial, taxing, regulatory or administrative powers or functions of, or pertaining to, government, (x) "**Law**" shall mean as to any Person, means any law (including common law), statute, ordinance, treaty, rule, regulation, policy or requirement of any Governmental Authority and authoritative interpretations thereon, whether now or hereafter in effect, in each case, applicable to or binding on such Person or any of its properties or to which such Person or any of its properties is subject, (y) "**Material Adverse Effect**" shall mean any change or effect that is materially adverse to the business, financial condition or results of operations, in each case when taken as a whole, of the referenced entity, and (z) "**Person**" shall mean any individual, corporation, limited liability company, trust, joint venture, association, company, limited or general partnership, unincorporated organization, Governmental Authority or other entity.

e. Absence of Litigation. As of the date hereof, except as set forth on Schedule 4(e), there is no order or legal action pending or to the knowledge of WXEL, threatened, in any jurisdiction against WXEL, the Station, or its assets, before any Governmental

Authority, that, individually or in the aggregate, would be reasonably likely to challenge or seek to prevent, enjoin, alter or materially delay or frustrate the transaction contemplated hereby, nor, to the actual or constructive knowledge of WXEL, is there any basis for such legal action or order.

f. FCC Matters. WXEL validly holds the FCC Licenses set forth on Schedule 4(f), which constitute all of the licenses, permits and authorizations from the FCC that are required for the business and operations of the Station as presently conducted. Except as provided on Schedule 4(f), no application, action or proceeding is pending concerning the FCC Licenses, other than proceedings of general applicability to all non-commercial broadcast licenses. Except as provided on Schedule 4(e), no application or legal action is pending and there has been no act or omission that may give rise to or result in the (i) denial of an application for renewal; (ii) the revocation, modification, nonrenewal, cancellation, termination, assignment, transfer of control or suspension of any of the FCC Licenses, including, without limitation, by reason of any activity in connection with participation in the FCC Spectrum Auction; or (iii) the issuance of a cease-and-desist order with respect to the Station or the FCC Licenses. WXEL has delivered to CTF true and complete copies of the current FCC Licenses, including any amendments or modifications thereto. The FCC Licenses are validly held by WXEL, are in full force and effect and are unimpaired by any act or omission of WXEL, its officers, employees, Affiliates or agents, and none is subject to any restriction or condition that would limit in any respect the full operation of the Station. WXEL is not subject to any outstanding judgment or order of the FCC. The Station is being operated in accordance with the terms and conditions of the FCC Licenses, the Act and all rules, regulations and policies of the FCC in all material respects. There are no facts which, under the Act or the existing rules, regulations and policies of the FCC, would disqualify WXEL as the transferor of the Station's licenses, permits or authorizations.

g. Financial Statements: WXEL has delivered or made available to CTF (i) WXEL's audited financial statements for the period ending June 30, 2014, (ii) WXEL's unaudited income statements and balance sheets for the current fiscal year through May 31, 2015 (collectively, (i) and (ii) are the "**Financials**") (iii) WXEL's fiscal year 2016 cash flow projections (the "**2016 Cash Flow Projections**") which Financials and 2016 Cash Flow Projections are attached to this Agreement as composite Schedule 4(g). Prior to December 1, 2015 WXEL will prepare and deliver to CTF cash flow projections for fiscal 2017 reasonably acceptable to CTF after giving consideration to CTF's lending obligations under the terms of this Agreement (the "**2017 Cash Flow Projections**", and together with the 2016 Cash Flow Projections, the "**Cash Flow Projections**"). The books and records of WXEL accurately and fairly reflect WXEL's business and the results of operations and the Financials accurately and fairly present WXEL's financial condition and results of operations as of the respective dates thereof and for the periods therein referred to. The Cash Flow Projections have been prepared in good faith and are based on what WXEL and its management believe to be a reasonable assessment of the future performance of WXEL. CTF has been advised to conduct its own due diligence without reliance solely on the Cash Flow Projections.

h. Reports and Records. All returns, reports, notices, forms, applications, statements and other documents relating to the Station currently required to be filed by WXEL or any of its Affiliates with the FCC or any other Governmental Authority, or with CPB or PBS,

have been filed, and when filed were correct and complete. All such returns, reports, notices, forms, applications, statements and other documents shall continue to be filed by WXEL on a current basis until the Closing Date, and will be correct, and complete in all material respects when filed.

i. Taxes. WXEL has applied for and received a letter from the Internal Revenue Service ("IRS") advising WXEL that the IRS has determined that WXEL is an organization described in 501(c)(3) of the IRC and (i) the IRS has neither revoked nor threatened to revoke its determination, (ii) WXEL has timely filed all tax returns required to be filed, (iii) all such tax returns were correct and complete in all material respects, (iv) all taxes (whether or not shown or required to be shown on any tax return) have been paid, (v) no deficiency for any amount of tax has been asserted or assessed by a taxing authority against WXEL, and (vi) no consent under Section 341(f) of the IRC has been filed with respect to WXEL. There are no examinations of any tax returns of WXEL currently being conducted by the IRS or any other taxing authority and WXEL has not received any notice that the IRS or any other taxing authority intends to conduct such examinations. WXEL currently is not the beneficiary of any extension of time in which to file any tax return. WXEL has not waived any statute of limitations in respect of taxes or agreed to any extension of time with respect to an assessment or deficiency. WXEL has withheld and paid all taxes required to have been withheld and paid in connection with any amounts paid or owing to any employee, independent contractor, creditor, stockholder or other third party, and all Forms W-2 and 1099 required with respect thereto have been properly completed and timely filed.

j. Insurance. Schedule 4(j) contains a list and brief summary of all policies of title, property, fire, casualty, liability, worker's compensation, libel and slander, and all other forms of insurance of any kind relating to the business and operations of the Station and held by WXEL. All such policies: (i) are in full force and effect; (ii) are sufficient for compliance in all material respects by WXEL with all requirements of law and of all material agreements to which WXEL is a party; and (iii) are valid, outstanding, and enforceable policies. WXEL has not reached or exceeded its policy limits for any insurance policy in effect at any time during the past five (5) years. With respect to each policy of insurance listed on Schedule 4(j), all premiums due with respect thereto are currently paid. There have not been any claim(s) relating to the assets or operations of the Station in which the insurer has denied coverage.

k. Grants. Schedule 4(k) sets forth a complete and accurate list and brief description of all grants under which WXEL or Station receive funds or tangible or intangible property or are entitled to receive funds or tangible or intangible property or to purchase or lease property or services at below market rates and which will be assumed by CTF, if eligible. All such grants have been previously delivered to CTF or made available by WXEL for inspection by CTF. With respect to each grant, WXEL has complied with all material requirements of each grant. WXEL does not warrant that CTF will be eligible under such grants.

l. Brokers. None of WXEL or any of its trustees or employees has employed any investment banker, broker or finder, or incurred any Liability for any investment banking fees, brokerage fees, commissions or finders' fees in connection with the Merger.



m. Bankruptcy. No insolvency proceedings of any character, including, without limitation, bankruptcy, receivership, reorganization, composition or arrangement with creditors, voluntary or involuntary, affecting WXEL, the Station or any of the assets, are pending or (to the knowledge of WXEL) threatened, and WXEL has not made any assignment for the benefit of creditors or taken any action in contemplation of or which would constitute the basis for the institution of such insolvency proceedings.

5. Negative Covenants of WXEL. Pending and prior to the Closing, WXEL will not do or agree to do any of the following with respect to the Station and of assets material to its ordinary course of business operations, including the FCC Licenses or any portion thereof, and any of its rights with respect to assets which may be included in the FCC Spectrum Auction (collectively the "**Material Assets**" and individually a "**Material Asset**") in the ordinary course of business without the prior written consent of CTF, which consent will not be unreasonably withheld or delayed:

a. Dispositions; Acquisitions; Mergers. Sell, pledge, assign, mortgage, grant a security interest in, lease, license, encumber or otherwise transfer or dispose of, in whole or in part, any Material Asset other than in the ordinary course of business; acquire, lease or license any property or assets that will become assets hereunder other than in the ordinary course of business; or merge or consolidate in whole or in part with or into any other entity or enter into any contracts or agreements relating thereto or enter into any Local Marketing Agreement (as defined in Section 5(n) below) or other similar agreement, contract or understanding except, in each case, with CTF.

b. Additional Agreements. Acquire or enter into any new Contracts (collectively, "**Additional Agreements**") except Contracts in the ordinary course of business obligating WXEL or the Station to make payments of less than \$25,000 per year in the aggregate. For purposes of this Agreement, the term "**Contracts**" means any contracts, agreements, leases, deeds, mortgages, licenses, instruments, notes, bonds, commitments, undertakings, indentures, joint ventures and all other agreements, commitments and legally binding arrangements, whether written or oral, and all amendments and modifications thereto.

c. Contracts. Terminate, modify or amend any Contracts or Additional Agreements, or waive, release or assign any material rights or claims thereunder, other than in the ordinary course of business.

d. Breaches. Do or omit to do any act which will cause a material breach of or grounds for termination under any Contract or Additional Agreement.

e. Actions Affecting Licenses and FCC Licenses. By any action or failure to act, cause or permit any material license or FCC License to lapse, terminate or expire or be revoked, cancelled, suspended, adversely modified, transferred or disposed of. For purposes of this Agreement, the term "**Licenses**" means, with respect to any Person, any license, permit, authorization, approval, certificates of authority, registration, qualification, easement, rights of way or similar consent or certificate granted or issued to such Person by a Governmental Authority or otherwise.

f. Liabilities and Cash Flow. WXEL will not (i) intentionally incur any material Liabilities outside of the ordinary course of business in connection with the Station, or (ii) allow its cumulative calendar monthly cash flow in any calendar month to vary negatively by more than twelve percent (12%) at the end of such month from the beginning of the period provided for in the relevant Cash Flow Projections after giving effect to the Interim CTF Advances. For purposes of this Agreement, the term “**Liabilities**” means any liability, indebtedness or obligation of any kind (whether accrued, absolute, contingent, matured, unmatured or otherwise, and whether or not required to be recorded or reflected on a balance sheet in accordance with United States generally accepted accounting principles). WXEL’s failure to comply with the provisions of this Section 5(f) shall not constitute a WXEL Breach unless (i) written notice of such violation is given to WXEL by CTF, and (ii) the parties fail to agree on a method to cure such violation following a 30 day period (subject to mutual extension) during which the representatives of the parties endeavor to reach a mutually satisfactory cure for such failure to comply.

g. Expenses. Incur or pay expenses in any calendar month which would cause the cumulative expenses paid, or due and payable as the end of such month in the ordinary course of business to vary by more than ten percent (10%) from beginning of the period provided for in the relevant Cash Flow Projections, except in the case where such expense is critical to maintain any Station asset to maintain its ability to broadcast and such expense is reasonably believed to be reimbursed by any insurance policy or government grant, or if such expense is due to obvious timing issues and such issues are (i) resolved within ninety (90) consecutive days and (ii) do not result in a default being asserted by the counterparty in any material agreement to which WXEL is a party. WXEL’s failure to comply with the provisions of this Section 5(g) shall not constitute a WXEL Breach unless (i) written notice of such violation is given to WXEL by CTF, and (ii) the parties fail to agree on a method to cure such violation following a 30 day period (subject to mutual extension) during which the representatives of the parties endeavor to reach a mutually satisfactory cure for such failure to comply.

h. Taxes. Make any Tax elections that have, or reasonably may be expected to have, a Material Adverse Effect (as defined in Section 4(d)) upon the business and operations of the Station. For purposes of this Agreement, the term “**Tax**” means all federal, state, local, foreign and other income, gross receipts, sales, use, production, ad valorem, transfer, franchise, registration, profits, license, lease, service, service use, withholding, payroll, employment, unemployment, estimated, excise, severance, environmental, stamp, occupation, premium, property (real or personal), real property gains, windfall profits, customs, duties or other taxes, fees, assessments or charges of any kind whatsoever.

i. Encumbrances. Grant, fail to act or take any other action that will result in the imposition of any Encumbrance on the Stations or any Material Asset, other than Permitted Encumbrances. For purposes of this Agreement, the term “**Encumbrance**” means any charge, claim, community property interest, pledge, condition, equitable interest, lien (statutory or other), option, security interest, mortgage, easement, encroachment, right of way, right of first refusal, or restriction of any kind, including any restriction on use, voting, transfer, receipt of income or exercise of any other attribute of ownership. For purposes of this Agreement, the term “**Permitted Encumbrance**” means all encumbrances existing as of the date hereof and otherwise contemplated by the Security Agreement attached to this Agreement as Exhibit E.

j. Competing Transactions. Directly or indirectly initiate, solicit or encourage (including by way of furnishing information or assistance), or take any other action to facilitate, any inquiries or the making of any proposal that constitutes, or may reasonably be expected to lead to, any Competing Transaction (as hereinafter defined), or negotiate with any person or entity in furtherance of such inquiries or to obtain a Competing Transaction, or agree to or endorse any Competing Transaction, or authorize or permit any of the officers, trustees, employees or agents of WXEL or of its Affiliates or any representative retained by WXEL or its Affiliates to take any such action, or otherwise take any action of the effect or intention of which reasonably could be concluded to be to circumvent the intention of this Section 5(j). and WXEL shall promptly notify CTF of all terms of any such inquiries and proposals received by WXEL or any of its Affiliates. If such inquiry or proposal is in writing, WXEL shall deliver or cause to be delivered to CTF a copy of such inquiry or proposal. For purposes of this Agreement, "**Competing Transaction**" shall mean any of the following (i) any merger, consolidation, business combination, or other similar transaction (other than the transactions contemplated by this Agreement); (ii) any sale, lease, exchange mortgage, pledge, transfer or other disposition of 25% or more of the Material Assets in a single transaction or series of transactions; or (iii) any public announcement of a proposal, plan or intention to do any of the foregoing. For the avoidance of doubt, any and all actions related to the FCC Spectrum Auction shall be included within the meaning of action that may reasonably be expected to lead to a Competing Transaction. The "**FCC Spectrum Auction**" refers to the acquisition and repacking of television spectrum authorized by Sections 6402-03 of the Middle Class Tax Relief and Job Creation Act of 2012, Pub. L. No. 112-96.

k. Actions Affecting Representations and Warranties. Take any action that WXEL reasonably expects would cause any of the representations and warranties made by WXEL in this Agreement not to remain true and correct in any material respect.

l. Legal Actions. Settle or compromise, or permit any settlement or compromise of, or fail to defend any legal action pending or threatened against, its Material Assets or the Station, or of which the Stations or its assets are the subject.

m. Agreements. Enter into or amend any written or oral contract, agreement, commitment or arrangement to effectuate any prohibited matter set forth in this Section 5.

n. Local Marketing Agreements. Enter into any arrangement by which a third party would operate or program the Station on behalf of WXEL (a "**Local Marketing Agreement**").

6. **Affirmative Covenants of WXEL.** Prior to the Closing Date, WXEL will:

a. Preserve Existence. Preserve its corporate existence and business organization intact, maintain its existing franchises and licenses, use commercially reasonable efforts to preserve for CTF the relationships of the Station with viewers, members, donors, suppliers, customers, employees and others with whom the Station has business relationships.

b. Normal Operations. Subject to the terms and conditions of this Agreement, (i) carry on the businesses and activities of the Station, in the ordinary course of business; (ii)

pay or otherwise satisfy all obligations (cash and barter) of the Station in the ordinary course of business; (iii) maintain its books of account, records, files and station logs in substantially the same manner as in the ordinary course of business; and (iv) maintain all insurance policies in full force and effect until Closing or replace such policies with policies the coverage of which is similar in all material respects.

c. Maintain Licenses and FCC Licenses. Maintain the Licenses and the FCC Licenses in full force and effect, and comply with all requirements of the Licenses and the FCC Licenses, the Act and the rules and regulations of the FCC and the Corporation for Public Broadcasting (“CPB”).

d. Contracts. Pay and perform its obligations in the ordinary course of business under the Contracts, in accordance with the respective terms and conditions of such Contracts.

e. Access. Cause to be afforded to representatives of CTF reasonable access during normal business hours to offices, properties, assets, books and records, contracts and reports of the Station, as CTF shall from time to time reasonably request; provided, however, that such investigation shall only be upon reasonable notice and shall not unreasonably disrupt the personnel or operations of WXEL or the Station. All requests for access to the offices, properties, assets, books and records, contracts and reports of the Station shall be made to such representatives as WXEL shall designate in writing, which shall be solely responsible for coordinating all such requests and all access permitted hereunder. CTF acknowledges and agrees that neither CTF nor its representatives shall contact any of the employees, customers, suppliers, joint venture partners, or other associates or Affiliates of WXEL or the Station, in connection with the transactions contemplated hereby, whether in person or by telephone, mail or other means of communication, without the specific prior written authorization of such representatives of WXEL. Upon reasonable request by CTF, WXEL shall provide CTF with copies of unaudited balance sheets and statements of income and cash flows of WXEL.

f. Consents. Except as otherwise set forth in this Agreement, use its commercially reasonable best efforts to obtain all consents, approvals and agreements of any third parties necessary to authorize, approve or permit the consummation of the transactions contemplated by this Agreement, including, without limitation, any consent of the parties to the Contracts in order to consummate the transactions contemplated hereby.

g. Promotion; Publicity. Promote and publicize the Station in the ordinary course of business.

h. Corporation for Public Broadcasting Grants. Cooperate with CTF both before and after the Closing in CTF’s request that all future CPB grants or Florida Department of Education grants, if any, to Station for periods after the Closing be paid to SFPBS, f/k/a CTF.

7. Negative Covenants of CTF. Pending and prior to the Closing, CTF will not do or agree to do any of the following without the prior written consent of WXEL, which consent will not be unreasonably withheld or delayed.

a. Dispositions; Acquisitions; Mergers. Sell, transfer or dispose of any broadcast licenses owned or controlled by CTF or all or substantially all of the assets of CTF, including its Affiliates; merge or consolidate in whole or in part with or into any other entity or enter into any contracts or agreements if the effect of such action would be to cede management of its operations to another entity or a change in control of CTF;

b. Actions Affecting Licenses and FCC Licenses. By any action or failure to act, cause or permit any material license or FCC License to lapse, terminate or expire or be revoked, cancelled, suspended, adversely modified, transferred or disposed of;

c. Competing Transactions. Directly or indirectly initiate, solicit or encourage (including by way of furnishing information or assistance), or take any other action to facilitate, any inquiries or the making of any proposal that constitutes, or may reasonably be expected to lead to, any Competing Transaction, or negotiate with any person or entity in furtherance of such inquiries or to obtain a Competing Transaction, or agree to or endorse any Competing Transaction, as defined above, or authorize or permit any of the officers, trustees, employees or agents of CTF or of its affiliates or any representative retained by CTF or its affiliates to take any such action, or otherwise take any action of the effect or intention of which reasonably could be concluded to be to circumvent the intention of this Section 7(c). CTF shall promptly notify WXEL of all terms of any such inquiries and proposals received by CTF or any of its affiliates, or by any such officer, trustee, employee, agent or representative, relating to any of such matters and if such inquiry or proposal is in writing, CTF shall deliver or cause to be delivered to WXEL a copy of such inquiry or proposal.

d. Actions Affecting Representations and Warranties. Take any action that CTF reasonably expects would cause any of the representations and warranties made by CTF in this Agreement not to remain true and correct in any material respect.

**8. Affirmative Covenants of CTF.** Prior to the Closing Date, CTF will:

a. Preserve Existence. Preserve its corporate existence and business organization intact in all material respects, and to the extent material, maintain its existing franchises and licenses, and use commercially reasonable efforts to preserve the relationships of the Station with viewers, members, donors, suppliers, customers, employees and others with whom the Station has business relationships.

b. Normal Operations. Subject to the terms and conditions of this Agreement, (i) carry on its businesses and activities, in the ordinary course of business; (ii) pay or otherwise satisfy all obligations (cash and barter) in the ordinary course of business; (iii) maintain its books of account, records, files and station logs in substantially the same manner as in the ordinary course of business; and (iv) maintain all insurance policies in full force and effect until Closing or replace such policies with policies the coverage of which is similar in all material respects.

c. Maintain Licenses and FCC Licenses. Maintain all material licenses and the FCC Licenses in full force and effect, and comply with all requirements of the Licenses and the FCC Licenses, the Act and the rules and regulations of the FCC and the Corporation for Public Broadcasting.

9. **Representations and Warranties by CTF.** CTF represents and warrants to WXEL as follows:

a. **Organization and Standing.** CTF is a not-for-profit corporation duly organized and validly existing under the Laws of the state of Florida, CTF has the full corporate power and corporate authority to own, lease, and otherwise to hold and operate its station and subsidiaries, and to enter into and perform the terms of this Agreement and the other Merger Documents and to carry out the transactions contemplated hereby and thereby.

b. **Authorization.** The execution, delivery and performance of this Agreement and of the other Merger Documents by CTF, and the consummation of the transactions by CTF contemplated hereby and thereby, has been duly and validly authorized by all necessary actions of the Board of Directors of CTF, and by any other necessary corporate actions of CTF (none of which actions has been modified or rescinded and all of which actions are in full force and effect). This Agreement constitutes, and upon execution and delivery each such other Merger Document will constitute, a valid and binding agreement and obligation of CTF, enforceable against CTF in accordance with its respective terms, except as the same may be limited by bankruptcy, insolvency, reorganization, moratorium and other similar laws of general applicability relating to or affecting creditors' rights generally and by the application of general principles of equity.

c. **Consents and Approvals: No Conflicts.** The execution and delivery of this Agreement and the Merger Documents, and the performance of the transactions contemplated herein and therein by CTF, will not require any consent, approval, authorization or other action by, or filing with or notification to any person or Governmental Authority where the failure to make such filing or obtain such consent will have a Material Adverse Effect, except approvals of the transfer of control of WXEL to CTF by the FCC.

d. **Noncontravention.** Assuming all consents, approvals, authorizations and other actions described in Section 9(c) have been obtained and all filings and notifications described in Section 9(c) have been made, the execution, delivery and performance of this Agreement and the other Merger Documents by CTF do not and will not (i) conflict with or violate, or require any consent or approval under, or require a filing be made or notice provided pursuant to, any Law applicable to CTF, (ii) conflict with or result in any breach, lapse, cancellation or termination of or constitute a default (or an event which with notice or lapse of time or both would become a default) of or give rise to any right of termination, cancellation, acceleration or additional Liabilities or fees under any contract or agreement to which CTF is a party or by which CTF is bound, or (iii) conflict with or violate the organizational documents of CTF; except, in the cases of sub-clauses (i) and (ii) only, where any such conflict, violation or breach would not individually or in the aggregate, have a Material Adverse Effect on CTF.

e. **Qualification of CTF.** CTF is, and pending Closing will be, legally, technically, financially and otherwise qualified under the Act and all rules, regulations and published policies of the FCC to acquire and operate the FCC Licenses in connection with the Station. No waiver of any FCC rule or regulation or published FCC policy is necessary to be obtained for the grant of the applications for the transfer of the FCC Licenses to CTF, nor will processing pursuant to any exception to any published rule of general applicability be requested or

required in connection with the consummation of the transactions herein. Following receipt of the FCC Consent and all other required regulatory and contractual consents, CTF will be qualified to take possession of the Station related thereto pursuant to the transactions contemplated hereby.

f. Absence of Litigation. As of the date hereof, there is no order or legal action pending or, to the knowledge of CTF, threatened in any jurisdiction against CTF before any Governmental Authority that, individually or in the aggregate, would be reasonably likely to challenge or seek to prevent, enjoin, alter or materially delay or frustrate the transaction contemplated hereby, nor is CTF aware of any basis for such legal action or order.

g. No Outside Reliance. CTF has not relied and is not relying on any statement, representation or warranty not made by WXEL during CTF's due diligence or in this Agreement or the other Merger Documents, any Schedule, Exhibit, appendix or annex hereto or thereto or any certificate to be delivered to CTF at the Closing pursuant to this Agreement. CTF is not relying on any projections or other predictions contained or referred to in other materials that have been or may hereafter be provided to CTF or any of its Affiliates, agents or representatives by WXEL or any of its Affiliates, agents or representatives, and WXEL makes no representations or warranties with respect to any such projections or other predictions.

#### 10. Pre-Closing Filings.

a. Applications for FCC Consent. As promptly as reasonably practicable following the execution of this Agreement, but in no event later than ten (10) business days following execution of this Agreement, WXEL and CTF shall jointly file applications with the FCC ("**FCC Applications**") requesting its consent to the transfer of the control of WXEL to SFPBS (f/k/a CTF). WXEL and CTF shall thereafter prosecute such FCC Applications in good faith and with all reasonable diligence and otherwise use commercially reasonable efforts to obtain the approval of such applications by the FCC as expeditiously as practicable; provided, however, that neither WXEL nor CTF shall have any obligation to satisfy any complainant or the FCC by taking any steps that would have a Material Adverse Effect upon WXEL or a Material Adverse Effect upon CTF or upon any or any of its Affiliates, but neither the expense nor inconvenience to a party of defending against a complaint or an inquiry by the FCC shall be considered a Material Adverse Effect on such party unless a party determines in good faith that such expense is commercially unreasonable. CTF and WXEL shall each oppose any petitions to deny or other objections filed with respect to the FCC Applications to the extent such petition or objection relates to such party. If the FCC Consent imposes any condition on any party hereto, such party shall use commercially reasonable efforts to comply with such condition; provided, however, that no party hereto shall be required to comply with any condition that would have a Material Adverse Effect upon it or any of its Affiliates, or to extend the term of this Agreement beyond the first anniversary of the execution of this Agreement. If reconsideration or judicial review is sought with respect to the FCC Consent, the party or parties affected shall exercise commercially reasonable efforts to oppose such attempts for reconsideration or judicial review; provided, however, that nothing in this Section 10(a) shall be construed to limit either party's right to terminate this Agreement pursuant to Section 15.

b. BOE Consent. As promptly as practicable and no later than fifteen (15) days following the execution of this Agreement, WXEL shall submit a written request and take

any and all steps necessary to obtain the written consent of the BOE to the transfer to SFPBS (f/k/a CTF) of all right, title and interest of WXEL in the BOE Agreements ("**BOE Written Consent**"), pursuant to the agreement between South Florida Public Telecommunications, Inc. ("SFPT") and the Board of Education of the State of Florida dated February 10, 1989 (the "**Original Agreement**") and the agreement titled Three Party Agreement and Amendment to Agreement between SFPT, WXEL and the Board of Education dated as of August 12, 1997 (the "**Three Party Agreement**") (collectively both the Original Agreement and the Three Party Agreement are referred to herein as the "**BOE Agreements**"). Both WXEL and CTF agree they shall diligently take, or fully cooperate in the taking of all commercially reasonable steps, including the provision of any additional information reasonably requested, in connection with obtaining the BOE's Written Consent as expeditiously as possible; provided, however, that none of the parties hereto shall have any obligation to take any steps that would have a Material Adverse Effect upon WXEL or any of its Affiliates, or a Material Adverse Effect upon CTF or any of its Affiliates, but neither the expense nor inconvenience to a party shall be considered a Material Adverse Effect or a Material Adverse Effect on such party unless a party determines in good faith that such expense is commercially unreasonable.

c. FJC Written Consent. As promptly as practicable following the execution of this Agreement, WXEL shall submit a written request and take any and all steps necessary to obtain the written consent of FJC to the transfer to CTF of all right, title, and interest of WXEL in the FJC Loan Agreement and Promissory Note dated July 20, 2012. If FJC requires any modification of the terms of the FJC Loan Agreement dated July 20, 2012 as a condition for granting its consent, CTF may negotiate with a third-party lender for the purpose of borrowing any funds necessary to pay the FJC Loan at Closing, and WXEL hereby consents to the terms and conditions of such loan and agrees to enter into the related loan if such terms of the proposed third party loan are as or more favorable to WXEL as the terms of the loan and related consent of FJC, provided that CTF agrees to enter into consultations with WXEL with respect to any proposed third-party loan agreements at least 10 business days before its proposed closing date. Subject to the same consultation period, CTF may elect to pay the FJC Loan at Closing.

d. Barry University Consent. As promptly as practicable following the execution of this Agreement, WXEL shall submit a written request and take any and all steps necessary to obtain the written consent of Barry University to the transfer to CTF of all right, title, and interest of WXEL in the Barry University Promissory Note dated July 20, 2012.

e. PBS Written Consent. As promptly as practicable following the execution of this Agreement, WXEL shall submit a written request and take any and all steps necessary to obtain the written consent of PBS to the transfer to CTF of all right, title, and interest of WXEL in the PBS Dues Payment Plan Agreement dated July 1, 2014, and any successor PBS Dues Payment Plan Agreement.

## **11. Mutual Covenants and Understandings of WXEL and CTF.**

a. Possession and Control. Between the date hereof and the Closing Date, CTF shall not directly or indirectly control, supervise or direct, or attempt to control, supervise or direct, the business and operations of the Station, and such operation, including complete control and supervision of all programming, shall be the sole responsibility of WXEL. On and after the



Effective Time, WXEL shall have no control over, or right to intervene, supervise, or direct, the business and operations of the Station, and such control, supervision, and direction shall be within the sole control of the Surviving Corporation. Pursuant to Section 73.1150 of the FCC's Rules, WXEL shall not retain any right of reversion or reassignment of the FCC Licenses in the future, or any right to use the facilities of the Station for any period after the Effective Time.

b. Risk of Loss. The risk of loss or damage by fire or other casualty or cause to the assets until the Closing Date shall be upon WXEL; provided, however, to the extent such loss exceeds WXEL's insurance coverage, WXEL and CTF shall share equally the cost to restore, replace or repair the assets up to a maximum of \$75,000 each. If WXEL's share of the total uninsured cost of repair exceeds \$75,000, then WXEL may have the option not to repair. In the event of material loss or damage prior to the Closing Date that is not restored, replaced, or repaired as of the Closing Date, CTF shall, at its option, either:

(1) Closing. Proceed with the Merger and receive on the Closing Date, the insurance proceeds or an assignment of the right to receive such insurance proceeds, as applicable, to which WXEL otherwise would be entitled under WXEL's insurance policy, to restore, replace or repair the assets above the amount of the insurance proceeds, whereupon WXEL shall have no further liability to the Surviving Corporation for such loss or damage; or

(2) Termination of Agreement. Terminate this Agreement by written notice to WXEL, whereupon no party to this Agreement shall have any liability to any other party to this Agreement, and this Agreement in its entirety, shall be deemed null, void and of no further force and effect.

c. Public Announcements. Between the date hereof and the Closing Date, WXEL and CTF shall consult with each other before issuing any press release or otherwise making any public statements with respect to this Agreement or the transactions contemplated herein and shall not issue any such press release or make any such public statement without the prior written consent of the other party, which shall not be unreasonably withheld; provided, however, that a party may, without the prior written consent of the other party, issue such press release or make such public statement as may be required by the FCC, BOE or any applicable Law or regulation. In the event that this Agreement is terminated, neither party shall make any public statement that disparages the other. This provision survives the termination of the Agreement.

d. Best Efforts. Subject to the terms and conditions of this Agreement, each party shall use its commercially reasonable best efforts to cause the Merger to occur, including working to resolve any conditions imposed by the FCC or the Florida BOE pursuant to Section 4; provided, however, that no party hereto shall be required to take any actions that would have a Material Adverse Effect on either WXEL or CTF or any of their Affiliates or to extend the term of this Agreement beyond the first anniversary of the execution of this Agreement.

**12. Conditions Precedent to CTF's Obligation to Close.** The obligations of CTF to proceed with the Closing are subject to the satisfaction (or waiver of part or all of an

obligation in writing by CTF at CTF's discretion) at or prior to the Closing of each of the following conditions:

a. Representations, Warranties and Covenants. The representations and warranties of WXEL made in this Agreement shall be true and correct in all material respects on and as of the Closing Date with the same effect as though such representations and warranties had been made on and as of the Closing Date, and except for representations and warranties that speak as of a specific date or time other than the Closing Date (which need only be true and correct in all material respects as of such date or time), and the covenants and agreements of WXEL required to be performed on or before the Closing Date in accordance with the terms of this Agreement shall have been performed in all material respects.

b. Consents. WXEL shall have obtained prior to the Closing Date, in a form reasonably satisfactory to CTF, all consents, authorizations or approvals necessary to effect valid assignments without any material conditions or qualifications being imposed upon SFPBS (f/k/a CTF) of those Contracts listed in Section 10 of this Agreement and on Schedule 4(c), including all necessary consents, authorizations or approvals required to insure the orderly transfer of the NBC Promissory Note and all related payments, pursuant to the NBC Promissory Note, to SFPBS after the Effective Date. Consents obtained by WXEL shall not impose any material additional restrictions on CTF or SFPBS.

c. FCC Consent. The FCC Consent shall have been granted, shall be in full force and effect and shall contain no condition the compliance with which would result in a Material Adverse Effect or a Material Adverse Effect on any party hereto, and shall have become final and non-appealable.

d. BOE Consent. The BOE Consent shall have been obtained without any material conditions or qualifications being imposed upon SFPBS (f/k/a CTF) or any material additional restrictions being placed upon the future use or enjoyment of the property currently provided, or any interest in or rights in such property granted to WXEL, pursuant to the BOE Agreements.

e. Legal Proceedings. No Law, writ, injunction, restraining order or decree of any nature of any court or Governmental Authority of competent jurisdiction shall have been enacted, entered, promulgated or enforced that restrains or prohibits the transactions contemplated by this Agreement.

f. Audited Financial Statements. WXEL shall deliver to CTF an audited financial statement for the year ended June 30, 2015, and an interim financial statement for that portion of the fiscal year ending on the last day of the calendar month which ended at least fifteen (15) business days prior to the Closing Date, showing no Material Adverse Effect from and after July 1, 2015, except as provided for in the Cash Flow Projections, or as otherwise previously authorized and agreed to by CTF.

**13. Conditions Precedent to WXEL's Obligation to Close.** The obligations of WXEL to proceed with the Closing are subject to the satisfaction at or prior to the Closing of each of the following conditions:

a. Representations, Warranties and Covenants. The representations and warranties of CTF made in this Agreement shall be true and correct in all material respects on and as of the Closing Date with the same effect as though such representations and warranties had been made on and as of the Closing Date except for representations and warranties that speak as of a specific date or time other than the Closing Date (which need only be true and correct in all material respects as of such date or time), and the covenants and agreements of CTF required to be performed on or before the Closing Date in accordance with the terms of this Agreement shall have been performed in all material respects.

b. FCC Consent. The FCC Consent shall have been granted, shall be in full force and effect and shall contain no condition the compliance with which would result in a Material Adverse Effect or a Material Adverse Effect on any party hereto, and shall, have become final and non-appealable.

c. BOE Consent. The BOE Consent shall have been obtained without any material conditions or qualifications being imposed upon WXEL.

d. Legal Proceedings. No Law, writ, injunction, restraining order or decree of any nature of any court or Governmental Authority of competent jurisdiction shall have been enacted, entered, promulgated or enforced that restrains or prohibits the transactions contemplated by this Agreement.

**14. Interim Loan.** Provided that WXEL is in compliance in all material respects with regard to the representations and warranties, negative covenants and affirmative covenants provided for in Sections 4, 5 and 6 of this Agreement, but without giving effect to the 30 day consultation period provided for in Section 5(f) and 5(g) (the “**Waiting Periods**”) or any other material provision of the Agreement, except where such compliance has been waived by CTF, modified by the agreement of CTF and WXEL, or reasonably subject to cure (failure to be in such material compliance after giving effect to the Waiting Periods is called a “**WXEL Breach**”), prior to the Closing Date promptly upon receipt of the written request of WXEL, CTF shall advance up to \$1,700,000 to WXEL from time to time in substantially the amounts required as provided for in the Cash Flow Projections (the “**Interim CTF Advances**”). If this Agreement is terminated prior to effectuation of the Merger for any reason whatsoever, all such amounts, along with accrued interest at 4%, shall be due and payable upon the earlier of WXEL’s receipt of funds from the FCC Spectrum Auction or June 30, 2017, without setoff as provided for in the Promissory Note attached to this Agreement as Exhibit A. The Interim CTF Advances shall be secured as provided for in the Security Agreement attached to this Agreement as Exhibit B.

**15. Grounds for Termination.**

a. Termination. This Agreement may be terminated at any time prior to the Closing Date by:

- (1) mutual written consent of WXEL and CTF; or
- (2) by either CTF or WXEL, by written notice of termination delivered to the other party if the Closing has not occurred prior to the first anniversary of

the execution of this Agreement in the case of CTF or the second anniversary of this Agreement in the case of WXEL; or

(3) CTF, in the event of a WXEL Breach, which cannot be, or is not, cured within thirty (30) days after written notice of such breach is given to WXEL (a “**WXEL Default**”); provided, however, that this right to terminate this Agreement shall not be available to CTF if CTF is not in compliance in all material respects with regard to its representations and warranties, negative covenants and affirmative covenants provided for in Sections 7, 8 and 9 or any other material provision of this Agreement (failure to be in such compliance is called a “**CTF Breach**”); or

(4) WXEL, in the event of a CTF Breach of any representation, warranty, covenant or agreement on the part of CTF set forth in this Agreement or any other material provision of the Agreement, except where such compliance has been waived by WXEL, modified by the agreement of WXEL and CTF, or reasonably subject to cure, that cannot be, or is not, cured within thirty (30) days after written notice of such breach is given to CTF (a “**CTF Default**”); provided, however, that this right to terminate this Agreement shall not be available if there has occurred, and/or is continuing, a WXEL Breach; or

(5) CTF, if there exists any fact or circumstance which would constitute a Material Adverse Effect with respect to WXEL which persists for 30 calendar days after written notice thereof is delivered to WXEL by CTF.

b. Effect of Termination. In the event this Agreement is terminated as provided in this Section 15 by CTF, other than as the result of a WXEL Default which specifically results from a breach of Section 5(j) of this Agreement related to a Competing Transaction (a “**Major WXEL Default**”), or by WXEL other than pursuant to a CTF Default which specifically results from a breach of Section 7(c) of this Agreement related to a Competing Transaction (a “**Major CTF Default**”), this Agreement shall be deemed null, void and of no further force or effect, and the parties hereto shall be released from all future obligations hereunder other than with respect to the Interim CTF Advances. If this Agreement is terminated by CTF on account of a Major WXEL Default or by WXEL on account of a Major CTF Default, then at any time prior to the five (5) year anniversary of such termination, WXEL or CTF, as the case may be, or any successor or assign, shall receive, upon payment to the non-terminating party, the greater of (i) fifty percent (50%) of the net proceeds received by WXEL or CTF, as the case may be, on account of one or more FCC Spectrum Auctions occurring prior to such fifth year anniversary, or (ii) an amount equal to the three (3) times the highest principal balance outstanding under the Interim Loan during the term of this Agreement, in each case as liquidated damages. The parties agree that quantifying the harm and loss from termination of this Agreement is inherently difficult, and the agreed-upon payment is not a penalty, but rather a fair, equitable and reasonable measure of damages given the irreplaceable nature of the assets involved in this transaction.

## **16. General Provisions.**

a. Additional Actions, Documents and Information. All parties agree that, at any time, prior to, at or after the Closing Date, they will take or cause to be taken such further actions, and execute, deliver and file or cause to be executed, delivered and filed such further documents and instruments and obtain such consents, as may be reasonably requested by either party in connection with the consummation of the Merger; provided, however, that neither party shall be required to take any actions that would have a Material Adverse Effect upon it or any of its Affiliates or to extend the term of this Agreement beyond the first anniversary of the execution of this Agreement.

b. Costs and Expenses. Except for grant funding underwriting the cost to each party, each party shall bear its own costs and expenses, including all legal, accounting and other costs, whether the transactions contemplated herein are consummated or not.

c. Notices. All notices, demands, requests, or other communications which may be or are required to be given or made by any party to any other party pursuant to this Agreement shall be in writing and shall be (i) hand delivered, (ii) mailed by first-class registered or certified mail, return receipt requested, postage prepaid, (iii) delivered by overnight air courier, or (iv) transmitted by telegram, telex, or facsimile transmission addressed as follows:

If to WXEL:

WXEL Public Broadcasting Corporation  
3401 South Congress Avenue  
Boynton Beach, Florida 33426  
Attn: Bernard Henneberg, CEO  
Facsimile:

And to

Attn: Donald Sussman, President  
Facsimile:

With copy to:

Philip DiComo, Esq.  
Haile, Shaw & Pfaffenberger  
660 U.S. Highway One, Third Floor  
North Palm Beach, Florida 33408  
Facsimile:

If to CTF:

Dolores Sukhdeo, CEO  
Community Television Foundation of South Florida, Inc.  
14901 NE 20<sup>th</sup> Avenue  
Miami, Florida 33181-1121  
Facsimile:

With copy to:

Carmen M. DiRienzo, Esq.  
4 Honey Hollow Court  
Katonah, New York 10536  
Facsimile:

And to

Berger Singerman, LLP  
1450 Brickell Avenue, Suite 1900  
Miami, Florida 33131  
Attn: Shahram M. Siddiqui, Esq. & Morris C. Brown, II Esq.  
Facsimile: (305) 714-4340

or such other address as the addressee may indicate by written notice to the other parties. Each notice, demand, request, or communication which shall be given or made in the manner described above shall be deemed sufficiently given or made for all purposes at such time as it is delivered to the addressee (with the return receipt, the delivery receipt, the affidavit of messenger or (with respect to a telex) the answerback being deemed conclusive but not exclusive evidence of such delivery) or at such time as delivery is refused by the addressee upon presentation.

d. Waiver. No delay or failure on the part of any party hereto in exercising any right, power or privilege under this Agreement or under any other instrument or document given in connection with or pursuant to this Agreement shall impair any such right, power or privilege or be construed as a waiver of any default or any acquiescence therein. No single or partial exercise of any such right, power or privilege shall preclude the further exercise of such right, power or privilege, or the exercise of any other right, power or privilege. No waiver shall be valid against any party hereto unless made in writing and signed by the party against whom enforcement of such waiver is sought and then only to the extent expressly specified therein. No waiver by any party of a breach of any provision of this Agreement shall operate or be construed as a waiver of any other or subsequent breach.

e. Benefit and Assignment. No party hereto shall assign this Agreement, in whole or in part, whether by operation of Law or otherwise, without the prior written consent of the other party hereto; and any purported assignment contrary to the terms hereof shall be null, void and of no force and effect. No Person other than the parties hereto is or shall be entitled to bring any action to enforce any provision of this Agreement against any of the parties hereto, and the covenants and agreements set forth in this Agreement shall be solely for the benefit of, and shall be enforceable only by, the parties hereto or their respective successors and assigns as permitted hereunder.

f. Entire Agreement; Amendment. This Agreement, the Merger Documents and the Schedules and Exhibits hereto contain the entire agreement among the parties with respect to the subject matter hereof and supersedes all earlier discussions, promises, prior oral or written agreements, commitments or understandings with respect to such matters. No promise, agreement, representation or warranty is binding unless expressly set forth herein. No waiver,

amendment, modification or discharge of this Agreement shall be valid or binding unless set forth in writing and duly executed by the party or parties against whom enforcement of the amendment, modification or discharge is sought.

g. Severability. If any part of any provision of this Agreement or any other contract, agreement, document or writing given pursuant to or in connection with this Agreement shall be invalid or unenforceable under applicable law, such part shall be ineffective to the extent of such invalidity or unenforceability only, without in any way affecting the remaining parts of such provisions or the remaining provisions of said contract, agreement, document or writing.

h. Headings. The headings of the sections and subsections contained in this Agreement are inserted for convenience only and do not form a part or affect the meaning, construction or scope thereof.

i. Governing Law. This Agreement, the rights and obligations of the parties hereto, and any claims or disputes relating thereto, shall be governed by and construed under and in accordance with the Laws of Florida, excluding the choice of law rules thereof.

j. Submission to Jurisdiction. In connection with any controversy arising out of or related to this Agreement, the parties hereby irrevocably consent and submit to the jurisdiction of the Federal District Court in and for the Southern District of Florida, if a basis for federal court jurisdiction is present, and, otherwise, to the jurisdiction of the 17<sup>th</sup> Judicial Circuit in and for Broward County, Florida, and agree that all such controversies shall be resolved solely in these jurisdictions. In connection with any controversy arising out of or relating to this Agreement, the parties each irrevocably (i) consent to service of process out of the aforementioned courts, (ii) WAIVE ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL ACTION (WHETHER BASED ON CONTRACT, TORT OR OTHERWISE) AND ANY OBJECTION WHICH IT MAY NOW OR HEREAFTER HAVE TO THE LAYING OF VENUE OF ANY ACTION OR PROCEEDING ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT BROUGHT IN THE AFOREMENTIONED COURTS, (iii) agree that service of process in any such legal action may, to the fullest extent permitted by Law, be effected by mailing a copy of such process by registered or certified mail (or any substantially similar form of mail), postage prepaid, to such party at its address as provided in Section 16(c), and (iv) agree that nothing in the Agreement shall affect the right to effect service of process in any other manner permitted by the applicable Laws of Florida.

k. Signature in Counterparts. This Agreement may be executed in separate counterparts, none of which need contain the signatures of all parties, each of which shall be deemed to be an original, and all of which taken together constitute one and the same instrument. It shall not be necessary in making proof of this Agreement to produce or account for more than the number of counterparts containing the respective signatures of, or on behalf of, all of the parties hereto.

## **17. Further Actions.**

a. Filings. Each of the parties hereto agrees that it will cause to be executed, filed and recorded any document or documents prescribed by the laws of the State of Florida.

Each of the parties further agrees that it will cause to be performed all necessary acts to effect the Merger.

b. Tax Treatment. Following the Effective Time and at a time reasonably determined by the parties, WXEL and CTF shall file all necessary documentation, if any, with the IRS to provide notice of the Merger for purposes of each entity's 501(c)(3) status or otherwise.

c. FCC. CTF and WXEL will notify the FCC of the consummation of the Merger after the Effective Date.

*[Signature page to follow]*




**IN WITNESS WHEREOF**, the parties have caused this Agreement to be executed by their duly authorized representatives on the date referenced above.

WXFL PUBLIC BROADCASTING  
CORPORATION

By:   
Bernard L. Henneberg  
Chief Executive Officer

COMMUNITY TELEVISION FOUNDATION OF  
SOUTH FLORIDA, INC.

By:   
Dolores Sukhdeo  
Chief Executive Officer

List of Exhibits and Schedules:

Exhibit A	Promissory Note
Exhibit B	Security Agreement
Schedule 1	Composite Articles of Incorporation & Bylaws
Schedule 2(a)	Composite Merger Documents
Schedule 4(c)	Contracts
Schedule 4(e)	Litigation
Schedule 4(f)	FCC Licenses
Schedule 4(g)	Composite Financials & 2016 Cash Flow Projection
Schedule 4(j)	Insurance
Schedule 4(k)	Grants

**Exhibit A**

**PROMISSORY NOTE**

[see attached]

## SECURED NEGOTIABLE PROMISSORY NOTE

**\$1,700,000.00**

**July 2, 2015**

**FOR VALUE RECEIVED**, and subject to the terms and conditions set forth herein, **WXEL PUBLIC BROADCASTING CORPORATION ("WXEL")**, a Florida not-for-profit corporation (the "**Maker**"), hereby unconditionally promises to pay to the order of **COMMUNITY TELEVISION FOUNDATION OF SOUTH FLORIDA, INC. ("CTF")** a Florida not-for-profit corporation (the "**Noteholder**", and together with the Maker, the "**Parties**"), the principal amount of **\$1,700,000** or such lesser amount as may be advanced to the Maker from time to time hereunder and pursuant to the Agreement and Plan of Merger dated July 2, 2015 (the "**Merger Agreement**") among the Parties (the "**Loans**"), together with all accrued interest thereon, as provided in this Secured Negotiable Promissory Note (the "**Note**", as the same may be amended, restated, supplemented or otherwise modified from time to time in accordance with its terms).

Part 1. Definitions. Capitalized terms used herein shall have the meanings set forth in this *Part 1*.

"**Applicable Rate**" means the rate equal to 4% per annum.

"**Business Day**" means a day other than a Saturday, Sunday or other day on which commercial banks in New York City are authorized or required by law to close.

"**Default**" means any of the events specified in *Part 7* which constitutes an Event of Default or which, upon the giving of notice, the lapse of time, or both pursuant to *Part 7* would, unless cured or waived, become an Event of Default.

"**Default Rate**" means, at any time, the Applicable Rate plus 6%.

"**Effective Time**" has the meaning set forth in the Merger Agreement.

"**Event of Default**" has the meaning set forth in *Part 7*.

"**FCC Spectrum Auction**" has the meaning set forth in the Merger Agreement.

"**Governmental Authority**" means the government of any nation or any political subdivision thereof, whether at the national, state, territorial, provincial, municipal or any other level, and any agency, authority, instrumentality, regulatory body, court, central bank or other entity exercising executive, legislative, judicial, taxing, regulatory or administrative powers or functions of, or pertaining to, government.

"**Law**" as to any Person, means any law (including common law), statute, ordinance, treaty, rule, regulation, policy or requirement of any Governmental Authority and authoritative interpretations thereon, whether now or hereafter in effect, in each case, applicable to or binding on such Person or any of its properties or to which such Person or any of its properties is subject.

"**Lien**" means any mortgage, pledge, hypothecation, encumbrance, lien (statutory or other), charge or other security interest.

"**Loans**" has the meaning set forth in the introductory paragraph.

"**Maker**" has the meaning set forth in the introductory paragraph.

**“Maturity Date”** means the earlier of (a) the termination of the Merger Agreement by CTF due to a WXEL Default (as defined therein); (b) thirty (30) days following WXEL’s receipt of any proceeds of, related to or derived based upon the FCC Spectrum Auction; (c) June 30, 2018, or (d) the date on which all amounts under this Note shall become due and payable pursuant to *Section Part 8*. At the Effective Time, this Note shall be cancelled and all amounts advanced hereunder be deemed contributed to SFPBS.

**“Merger”** has the meaning set forth in the Merger Agreement.

**“Merger Agreement”** has the meaning set forth in the introductory paragraph.

**“Note”** has the meaning set forth in the introductory paragraph.

**“Noteholder”** has the meaning set forth in the introductory paragraph.

**“Order”** as to any Person, means any order, decree, judgment, writ, injunction, settlement agreement, requirement or determination of an arbitrator or a court or other Governmental Authority, in each case, applicable to or binding on such Person or any of its properties or to which such Person or any of its properties is subject.

**“Parties”** has the meaning set forth in the introductory paragraph.

**“Person”** means any individual, corporation, limited liability company, trust, joint venture, association, company, limited or general partnership, unincorporated organization, Governmental Authority or other entity.

**“Security Agreement”** means the Security Agreement, dated as of the date hereof, by and between the Maker and Noteholder, as the same may be amended, restated, supplemented or otherwise modified from time to time in accordance with its terms.

**“SFPBS”** has the meaning set forth in the Merger Agreement.

## Part 2. Final Payment Date; Optional Prepayments.

1.1 Final Payment Date. The aggregate unpaid principal amount of the Loan, all accrued and unpaid interest and all other amounts payable under this Note shall be due and payable on the Maturity Date.

1.2 Optional Prepayment. The Maker may prepay the Loan in whole or in part at any time or from time to time without penalty or premium by paying the principal amount to be prepaid together with accrued interest thereon to the date of prepayment. No prepaid amount may be reborrowed.

## Part 3. Security Agreement.

1.3 Security Agreement. The Maker’s performance of its obligations hereunder is secured by a security interest in the collateral specified in the Security Agreement.

## Part 4. Interest.

1.4 Interest Rate. Except as otherwise provided herein, the outstanding principal amount of the Loan made hereunder shall bear interest at the Applicable Rate from the date the Loan was made until the Loan is paid in full, whether at maturity, upon acceleration, by prepayment or otherwise.

1.5 Interest Payment Dates. Interest shall be payable at the Maturity Date.

1.6 Default Interest. If any amount payable hereunder is not paid when due (without regard to any applicable grace periods), whether at stated maturity, by acceleration or otherwise, such overdue amount shall bear interest at the Default Rate from the date of such non-payment until such amount is paid in full.

1.7 Computation of Interest. All computations of interest shall be made on the basis of a year of 365/366 days, as the case may be, and the actual number of days elapsed. Interest shall accrue on the Loan on the day on which such Loan is made, and shall not accrue on the Loan on the day on which it is paid.

1.8 Interest Rate Limitation. If at any time and for any reason whatsoever, the interest rate payable on the Loan shall exceed the maximum rate of interest permitted to be charged by the Noteholder to the Maker under applicable Law, such interest rate shall be reduced automatically to the maximum rate of interest permitted to be charged under applicable Law/that portion of each sum paid attributable to that portion of such interest rate that exceeds the maximum rate of interest permitted by applicable Law shall be deemed a voluntary prepayment of principal.

#### Part 5. Payment Mechanics.

1.9 Manner of Payment. All payments of interest and principal shall be made in lawful money of the United States of America no later than 12:00 PM on the date on which such payment is due by wire transfer of immediately available funds to the Noteholder's account at a bank specified by the Noteholder in writing to the Maker from time to time.

1.10 Application of Payments. All payments made hereunder shall be applied first, to the payment of any fees or charges outstanding hereunder, second, to accrued interest and third, to the payment of the principal amount outstanding under the Note.

1.11 Business Day Convention. Whenever any payment to be made hereunder shall be due on a day that is not a Business Day, such payment shall be made on the next succeeding Business Day and such extension will be taken into account in calculating the amount of interest payable under this Note.

1.12 Evidence of Debt. The Noteholder is authorized to record on the grid attached hereto as Schedule A each Loan made to the Maker and each payment or prepayment thereof. The entries made by the Noteholder shall, to the extent permitted by applicable Law, be prima facie evidence of the existence and amounts of the obligations of the Maker therein recorded; *provided, however*, that the failure of the Noteholder to record such payments or prepayments, or any inaccuracy therein, shall not in any manner affect the obligation of the Maker to repay (with applicable interest) the Loan in accordance with the terms of this Note.

Part 6. Representations and Warranties. The Maker hereby represents and warrants to the Noteholder on the date hereof as follows:

1.13 Existence. The Maker is a Florida not-for-profit corporation duly, validly existing and in good standing under the laws of the state of its jurisdiction of organization.

1.14 Power and Authority. The Maker has the power and authority, and the legal right, to execute and deliver this Note and the Security Agreement and to perform its obligations hereunder and thereunder.

1.15 Authorization; Execution and Delivery. The execution and delivery of this Note and the Security Agreement by the Maker and the performance of its obligations hereunder and thereunder have been duly authorized by all necessary corporate action in accordance with all applicable Laws. The Maker has duly executed and delivered this Note and the Security Agreement.

1.16 No Approvals. No consent or authorization of, filing with, notice to or other act by, or in respect of, any Governmental Authority or any other Person is required, which has not been previously obtained, in order for the Maker to execute, deliver, or perform any of its obligations under this Note or the Security Agreement.

1.17 No Violations. The execution and delivery of this Note and the Security Agreement and the consummation by the Maker of the transactions contemplated hereby and thereby do not and will not (a) violate any provision of the Maker's organizational documents; (b) violate any Law or Order applicable to the Maker or by which any of its properties or assets may be bound; or (c) constitute a default under any material agreement or contract by which the Maker may be bound.

1.18 Enforceability. Each of the Note and the Security Agreement is a valid, legal and binding obligation of the Maker, enforceable against the Maker in accordance with its terms except as enforceability may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or similar laws affecting the enforcement of creditors' rights generally and by general equitable principles (whether enforcement is sought by proceedings in equity or at law).

1.19 Representation and Warranties in the Merger Agreement. Each of the Maker's representations and warranties included in the Merger Agreement is true and correct in all material respects.

Part 7. Events of Default. The occurrence of any of the following shall constitute an Event of Default hereunder:

1.20 Failure to Pay. The Maker fails to pay (a) any principal amount of the Loan when due; or (b) interest or any other amount when due and such failure continues for ten (10) business days after written notice to the Maker.

1.21 Breach of Representations and Warranties. Any representation or warranty made or deemed made by the Maker to the Noteholder herein or in the Security Agreement is incorrect in any material respect on the date as of which such representation or warranty was made or deemed made.

1.22 Breach of Covenants. The Maker fails to observe or perform any material covenant, obligation, condition or agreement contained in this Note, the Security Agreement or the Merger Agreement, other than that specified in **Section 1.20** and such failure continues for 30 days after written notice to the Maker.

1.23 Cross-Defaults. The Maker fails to pay when due any of its indebtedness (other than indebtedness under this Note) or any interest or premium thereon when due (whether by scheduled maturity, acceleration, demand or otherwise) and such failure continues after the applicable grace period, if any, specified in the agreement or instrument relating to such indebtedness.

#### 1.24 Bankruptcy.

(a) the Maker commences any case, proceeding or other action (i) under any existing or future law relating to bankruptcy, insolvency, reorganization, or other relief of debtors, seeking to have an order for relief entered with respect to it, or seeking to adjudicate it as bankrupt or insolvent, or seeking reorganization, arrangement, adjustment, winding-up, liquidation, dissolution, composition or other relief with respect to it or its debts, or (ii) seeking appointment of a receiver, trustee, custodian, conservator or other similar official for it or for all or any substantial part of its assets, or the Maker makes a general assignment for the benefit of its creditors;

(b) there is commenced against the Maker any case, proceeding or other action of a nature referred to in clause (a) above which (i) results in the entry of an order for relief or any such adjudication or appointment or (ii) remains undismissed, undischarged or unbonded for a period of 30 days;

(c) there is commenced against the Maker any case, proceeding or other action seeking issuance of a warrant of attachment, execution or similar process against all or any substantial part of its assets which results in the entry of an order for any such relief which has not been vacated, discharged, or stayed or bonded pending appeal within 30 days from the entry thereof;

(d) the Maker takes any action in furtherance of, or indicating its consent to, approval of, or acquiescence in, any of the acts set forth in clause (a), (b) or (c) above; or

(e) the Maker is generally not, or is unable to, or admits in writing its inability to, pay its debts as they become due.

1.25 Judgments. A judgment or decree is entered against the Maker and such judgment or decree has not been vacated, discharged, stayed or bonded pending appeal within 30 days from the entry thereof.

Part 8. Remedies. Upon the occurrence of an Event of Default and at any time thereafter during the continuance of such Event of Default, the Noteholder may at its option, by written notice to the Maker (a) declare the entire principal amount of this Note, together with all accrued interest thereon and all other amounts payable hereunder, immediately due and payable and/or (b) exercise any or all of its rights, powers or remedies under the Security Agreement or applicable law; *provided, however* that, if an Event of Default described in **Section 1.24** shall occur, the principal of and accrued interest on the Loan shall become immediately due and payable without any notice, declaration or other act on the part of the Noteholder.

#### Part 9. Miscellaneous.

##### 1.26 Notices.

(a) All notices, requests or other communications required or permitted to be delivered hereunder shall be delivered in writing to such address as a Party may from time to time specify in writing.

(b) Notices if (i) mailed by certified or registered mail or sent by hand or overnight courier service shall be deemed to have been given when received, (ii) sent by facsimile during the recipient's normal business hours shall be deemed to have been given when sent (and if sent after normal business hours shall be deemed to have been given at the opening of the recipient's business on the next

business day) and (iii) sent by e-mail shall be deemed received upon the sender's receipt of an acknowledgment from the intended recipient (such as by the "return receipt requested" function, as available, return e-mail or other written acknowledgment).

1.27 Expenses. The Maker shall reimburse the Noteholder on demand for all reasonable and documented out-of-pocket costs, expenses and fees (including reasonable expenses and fees of its counsel) incurred by the Noteholder in connection with the transactions contemplated hereby including the negotiation, documentation and execution of this Note and the enforcement of the Noteholder's rights hereunder.

1.28 Governing Law. This Note, the Security Agreement and any claim, controversy, dispute or cause of action (whether in contract or tort or otherwise) based upon, arising out of or relating to this Note and the Security Agreement and the transactions contemplated hereby and thereby shall be governed by the laws of the State of Florida.

1.29 Submission to Jurisdiction.

(a) The Maker hereby irrevocably and unconditionally (i) agrees that any legal action, suit or proceeding arising out of or relating to this Note may be brought in the courts of the State of Florida in the Broward County or of the United States of America for the Southern District of Florida and (ii) submits to the exclusive jurisdiction of any such court in any such action, suit or proceeding. Final judgment against the Maker in any action, suit or proceeding shall be conclusive and may be enforced in any other jurisdiction by suit on the judgment.

(b) Nothing in this *Section 1.29* shall affect the right of the Noteholder to (i) commence legal proceedings or otherwise sue the Maker in any other court having jurisdiction over the Maker or (ii) serve process upon the Maker in any manner authorized by the laws of any such jurisdiction.

1.30 Venue. The Maker irrevocably and unconditionally waives, to the fullest extent permitted by applicable law, any objection that it may now or hereafter have to the laying of venue of any action or proceeding arising out of or relating to this Note in any court referred to in *Section 1.29(b)* and the defense of an inconvenient forum to the maintenance of such action or proceeding in any such court.

1.31 Waiver of Jury Trial. THE MAKER HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL PROCEEDING DIRECTLY OR INDIRECTLY RELATING TO THIS NOTE, THE SECURITY AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY WHETHER BASED ON CONTRACT, TORT OR ANY OTHER THEORY.

1.32 Counterparts; Integration; Effectiveness. This Note and any amendments, waivers, consents or supplements hereto may be executed in counterparts, each of which shall constitute an original, but all taken together shall constitute a single contract. This Note and the Security Agreement constitute the entire contract between the Parties with respect to the subject matter hereof and supersede all previous agreements and understandings, oral or written, with respect thereto. Delivery of an executed counterpart of a signature page to this Note by facsimile or in electronic (i.e., "pdf" or "tif") format shall be effective as delivery of a manually executed counterpart of this Note.

1.33 Successors and Assigns. This Note may be assigned, transferred or negotiated by the Noteholder to any Person at any time without notice to or the consent of the Maker. The Maker may not assign or transfer this Note or any of its rights hereunder without the prior written consent of the



Noteholder. This Note shall inure to the benefit of and be binding upon the parties hereto and their permitted assigns.

1.34 Waiver of Notice. The Maker hereby waives presentment, demand for payment, protest, notice of dishonor, notice of protest or nonpayment, notice of acceleration of maturity and diligence in connection with the enforcement of this Note or the taking of any action to collect sums owing hereunder.

1.35 Amendments and Waivers. No term of this Note may be waived, modified or amended except by an instrument in writing signed by both of the parties hereto. Any waiver of the terms hereof shall be effective only in the specific instance and for the specific purpose given.

1.36 Headings. The headings of the various Sections and subsections herein are for reference only and shall not define, modify, expand or limit any of the terms or provisions hereof.

1.37 No Waiver; Cumulative Remedies. No failure to exercise and no delay in exercising on the part of the Noteholder, of any right, remedy, power or privilege hereunder shall operate as a waiver thereof; nor shall any single or partial exercise of any right, remedy, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege. The rights, remedies, powers and privileges herein provided are cumulative and not exclusive of any rights, remedies, powers and privileges provided by law.

1.38 Severability. If any term or provision of this Note or the Security Agreement is invalid, illegal or unenforceable in any jurisdiction, such invalidity, illegality or unenforceability shall not affect any other term or provision of this Note or the Security Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction.

[SIGNATURE APPEAR ON THE NEXT PAGE]

**IN WITNESS WHEREOF**, the Maker has executed this Note as an instrument under seal as of July 2, 2015.

WXEL PUBLIC BROADCASTING  
CORPORATION

By: \_\_\_\_\_  
Bernard E. Henneberg  
Chief Executive Officer

**2. SCHEDULE A: PAYMENTS ON THE LOAN**

Date of Loan	Amount of Loan	Amount of Principal Paid	Unpaid Principal Amount of Note	Name of Person Making the Notation

**Exhibit B**

**SECURITY AGREEMENT**

[see attached]

## SECURITY AGREEMENT

**THIS SECURITY AGREEMENT**, dated as of July 2, 2015 (as amended, supplemented or otherwise modified from time to time in accordance with the provisions hereof, this "**Agreement**"), made by and between **WXEL PUBLIC BROADCASTING CORPORATION** (the "**Grantor**"), a Florida not-for-profit corporation and **COMMUNITY TELEVISION FOUNDATION OF SOUTH FLORIDA, INC.**, a Florida not-for-profit corporation (the "**Secured Party**" and collectively with the Grantor, the "**Parties**").

### BACKGROUND

**WHEREAS**, the Secured Party may make loans to the Grantor of up to an aggregate principal amount of \$1,700,000 (the "**Loans**") pursuant to a Merger Agreement between the Parties dated on the date hereof (the "**Merger Agreement**"), and a Negotiable Secured Promissory Note from the Grantor to the Secured Party and payable to the order of the Secured Party (the "**Note**"). Capitalized terms used but not otherwise defined herein shall have the meanings assigned to such terms in the Note;

**WHEREAS**, this Agreement is given by the Grantor in favor of the Secured Party to secure the payment and performance of all of the Secured Obligations; and

**WHEREAS**, it is a condition to the obligations of the Lender to make the Loans under Note and the Merger Agreement that the Grantor execute and deliver this Agreement.

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

1. Definitions.

(a) Unless otherwise specified herein, all references to Sections and Schedules herein are to Sections and Schedules of this Agreement.

(b) Unless otherwise defined herein, terms used herein that are defined in the UCC shall have the meanings assigned to them in the UCC. However, if a term is defined in Article 9 of the UCC differently than in another Article of the UCC, the term has the meaning specified in Article 9.

(c) For purposes of this Agreement, the following terms shall have the following meanings:

"**Collateral**" has the meaning set forth in *Section 2*.

"**Event of Default**" has the meaning set forth in the Note.

"**Secured Party's Priority**" means, with respect to any lien and security interest purported to be created in any Collateral pursuant to this Agreement, such lien and security interest is the most senior lien to which such Collateral is subject, subject only to liens and security interests of Senior Debt Holders..

"**Perfection Certificate**" has the meaning set forth in *Section 5*.

"**Proceeds**" means "proceeds" as such term is defined in section 9-102 of the UCC and, in any event, shall include, without limitation, all dividends or other income from the Collateral, collections thereon or distributions with respect thereto.

"**Secured Obligations**" has the meaning set forth in *Section 3*.

"**Senior Debt Holders**" has the meaning set forth in the Merger Agreement.

"**Senior Liens**" means liens and security interests in the Collateral held by Senior Debt Holders.

"**UCC**" means the Uniform Commercial Code as in effect from time to time in the State of Florida or, when the laws of any other state govern the method or manner of the perfection or enforcement of any security interest in any of the Collateral, the Uniform Commercial Code as in effect from time to time in such state.

2. Grant of Security Interest. The Grantor hereby pledges and grants to the Secured Party, and hereby creates a continuing Secured Party's Priority lien and security interest in favor of the Secured Party in and to all of its right, title and interest in and to the following, wherever located, whether now existing or hereafter from time to time arising or acquired (collectively, the "**Collateral**");

(a) all fixtures and personal property of every kind and nature including all accounts (including deposit accounts, securities accounts, health-care-insurance receivables), goods (including inventory and equipment), documents (including, if applicable, electronic documents), instruments, promissory notes, chattel paper (whether tangible or electronic), letters of credit, letter-of-credit rights (whether or not the letter of credit is evidenced by a writing), securities and all other investment property, hereof, general intangibles (including all payment intangibles), money, deposit accounts, and any other contract rights or rights to the payment of money; and

(b) to the maximum extent permitted by applicable law, and subject to Federal Communications Commission approval where necessary, all rights incident or appurtenant to the licenses, permits and authorizations issued by any governmental authority and used in the conduct of the Grantor's business; and

(c) leases, subleases, licenses, contracts and other agreements or instruments concerning the ownership or operation of the Grantor's business including insurance policies and the proceeds thereof, concessions and tenancy and occupancy agreements; and

(d) all Proceeds and products of each of the foregoing, all books and records relating to the foregoing, all supporting obligations related thereto, and all accessions to, substitutions and replacements for, and rents, profits and products of, each of the foregoing, and any and all Proceeds of any insurance, indemnity, warranty or guaranty payable to the Grantor from time to time with respect to any of the foregoing.

3. Secured Obligations. The Collateral secures the due and prompt payment and performance of:

(a) the obligations of the Grantor from time to time arising under the Note, this Agreement, or otherwise with respect to the due and prompt payment of (i) the principal of and premium, if any, and interest on the Loans (including interest accruing during the pendency of any bankruptcy, insolvency, receivership or other similar proceeding, regardless of whether allowed or allowable in such proceeding), when and as due, whether at maturity, by acceleration, upon one or more dates set for prepayment or

otherwise and (ii) all other monetary obligations, including fees, costs, attorneys' fees and disbursements, reimbursement obligations, contract causes of action, expenses and indemnities, whether primary, secondary, direct or indirect, absolute or contingent, due or to become due, now existing or hereafter arising, fixed or otherwise (including monetary obligations incurred during the pendency of any bankruptcy, insolvency, receivership or other similar proceeding, regardless of whether allowed or allowable in such proceeding), of the Grantor under or in respect of the Note and this Agreement; and

(b) all other covenants, duties, debts, obligations and liabilities of any kind of the Grantor under or in respect of the Note or this Agreement or any other document made, delivered or given in connection with any of the foregoing, in each case whether evidenced by a Note or other writing, whether allowed in any bankruptcy, insolvency, receivership or other similar proceeding, whether arising from an extension of credit, issuance of a letter of credit, acceptance, loan, guaranty, indemnification or otherwise, and whether primary, secondary, direct or indirect, absolute or contingent, due or to become due, now existing or hereafter arising, fixed or otherwise (all such obligations, covenants, duties, debts, liabilities, sums and expenses set forth in this **Section 3** being herein collectively called the "**Secured Obligations**").

#### 4. Perfection of Security Interest and Further Assurances.

(a) The Grantor shall, from time to time, as may be required by the Secured Party with respect to all Collateral, immediately take all actions as may be requested by the Secured Party to perfect the security interest of the Secured Party in the Collateral, including, without limitation, with respect to all Collateral over which control may be obtained within the meaning of sections 8-106, 9-104, 9-105, 9-106 and 9-107 of the UCC, as applicable. All of the foregoing shall be at the sole cost and expense of the Grantor.

(b) The Grantor hereby irrevocably authorizes the Secured Party at any time and from time to time to file in any relevant jurisdiction any financing statements and amendments thereto that contain the information required by Article 9 of the UCC of each applicable jurisdiction for the filing of any financing statement or amendment relating to the Collateral, including any financing or continuation statements or other documents for the purpose of perfecting, confirming, continuing, enforcing or protecting the security interest granted by the Grantor hereunder, without the signature of the Grantor where permitted by law, including the filing of a financing statement describing the Collateral as all assets now owned or hereafter acquired by the Grantor, or words of similar effect. The Grantor agrees to provide all information required by the Secured Party pursuant to this Section promptly to the Secured Party upon request.

(c) The Grantor agrees that at any time and from time to time, at the expense of the Grantor, the Grantor will promptly execute and deliver all further instruments and documents, obtain such agreements from third parties, and take all further action, that may be necessary or desirable, or that the Secured Party may reasonably request, in order to create and/or maintain the validity, perfection or priority of and protect any security interest granted or purported to be granted hereby or to enable the Secured Party to exercise and enforce its rights and remedies hereunder or under any other agreement with respect to any Collateral.

(d) The Grantor waives demand, notice, protest, notice of acceptance of this Agreement, notice of loans made, credit extended, Collateral received or delivered or other action taken in reliance hereon and all other demands and notices of any description. The Grantor agrees to any extension or postponement of the time of payment or any other indulgence, to any substitution, exchange or release of or failure to perfect any security interest in any Collateral, to the addition or release of any party or person primarily or secondarily liable, to the acceptance of partial payment thereon and the settlement, compromising or adjusting of any thereof, all in such manner and at such time or times as the Secured

Party may deem advisable. The Secured Party shall have no duty as to the collection or protection of the Collateral or to any income thereon, or as to the preservation of rights against prior parties, nor as to the preservation of any rights pertaining thereto beyond the safe custody thereof. The Grantor further waives, to the fullest extent permitted by law, any and all other suretyship defenses which it may now or in the future have against the Secured Party or with respect to the Secured Obligations.

5. Representations and Warranties. The Grantor represents and warrants as follows:

(a) It has previously delivered to the Secured Party a certificate signed by the Grantor and entitled "Perfection Certificate" ("**Perfection Certificate**"), and that: (i) the Grantor's exact legal name is that indicated on the Perfection Certificate and on the signature page hereof, (ii) the Grantor is an organization of the type, and is organized in the jurisdiction, set forth in the Perfection Certificate, (iii) the Perfection Certificate accurately sets forth the Grantor's place of business (or, if more than one, its chief executive office), and its mailing address, (iv) all other information set forth on the Perfection Certificate relating to the Grantor is accurate and complete and (v) there has been no change in any such information since the date on which the Perfection Certificate was signed by the Grantor.

(b) All information set forth on the Perfection Certificate relating to the Collateral is accurate and complete and there has been no change in any such information since the date on which the Perfection Certificate was signed by the Grantor.

(c) At the time the Collateral becomes subject to the lien and security interest created by this Agreement, the Grantor will be the sole, direct, legal and beneficial owner thereof, free and clear of any lien, security interest, encumbrance, claim, option or right of others except for the security interest created by this Agreement and the Senior Liens.

(d) The pledge of the Collateral pursuant to this Agreement creates a valid and perfected Secured Party's Priority security interest in the Collateral, securing the payment and performance when due of the Secured Obligations.

(e) It has full power, authority and legal right to borrow the Loans and pledge the Collateral pursuant to this Agreement.

(f) Each of this Agreement and the Note has been duly authorized, executed and delivered by the Grantor and constitutes a legal, valid and binding obligation of the Grantor enforceable in accordance with its terms, subject to applicable bankruptcy, insolvency, reorganization, moratorium or other similar laws affecting creditors' rights generally and subject to equitable principles (regardless of whether enforcement is sought in equity or at law).

(g) No authorization, approval, or other action by, and no notice to or filing with, any governmental authority or regulatory body is required for the borrowing of the Loans and the pledge by the Grantor of the Collateral pursuant to this Agreement or for the execution and delivery of the Note and this Agreement by the Grantor or the performance by the Grantor of its obligations thereunder.

(h) The execution and delivery of the Note and this Agreement by the Grantor and the performance by the Grantor of its obligations thereunder, will not violate any provision of any applicable law or regulation or any order, judgment, writ, award or decree of any court, arbitrator or governmental authority, domestic or foreign, applicable to the Grantor or any of its property, or the organizational or governing documents of the Grantor or any agreement or instrument to which the Grantor is party or by which it or its property is bound.



6. Receivables.

(a) If any Event of Default shall have occurred and be continuing, the Secured Party may, or at the request and option of the Secured Party the Grantor shall, notify account debtors and other persons obligated on any of the Collateral of the security interest of the Secured Party in any account, chattel paper, general intangible, instrument or other Collateral and that payment thereof is to be made directly to the Secured Party.

7. Covenants. The Grantor covenants as follows:

(a) The Grantor will not, without providing at least 30 days' prior written notice to the Secured Party, change its legal name, identity, type of organization, jurisdiction of organization, corporate structure, location of its chief executive office or its principal place of business or its organizational identification number. The Grantor will, prior to any change described in the preceding sentence, take all actions reasonably requested by the Secured Party to maintain the perfection and priority of the Secured Party's security interest in the Collateral.

(b) The Collateral, to the extent not delivered to the Secured Party, will be kept at those locations listed on the Perfection Certificate and the Grantor will not remove the Collateral from such locations without providing at least 30 days' prior written notice to the Secured Party. The Grantor will, prior to any change described in the preceding sentence, take all actions reasonably required by the Secured Party to maintain the perfection and priority of the Secured Party's security interest in the Collateral.

(c) The Grantor shall, at its own cost and expense, defend title to the Collateral and the Secured Party's Priority lien and security interest of the Secured Party therein against the claim of any person claiming against or through the Grantor and shall maintain and preserve such perfected Secured Party's Priority security interest for so long as this Agreement shall remain in effect.

(d) The Grantor will permit the Secured Party, or its designee, to inspect the Collateral at any reasonable time, wherever located.

(e) The Grantor will pay promptly when due all taxes, assessments, governmental charges, and levies upon the Collateral or incurred in connection with the use or operation of the Collateral or incurred in connection with this Agreement.

(f) The Guarantor shall provide the Secured Party such financial statements, reports, certificates, and other information or documents concerning the Guarantor, its financial condition and the Collateral as shall be reasonably requested by the Secured Party from time to time. All such information furnished to the Secured Party is, or will be at the time the same is furnished, be true, correct and complete in all respects.

(g) The Guarantor shall not (i) transfer, sell, lease, assign or otherwise dispose of any of the Collateral other than as permitted by the loan documents governing the Senior Liens (and to the extent the consent of the beneficiary of the Senior Lender is required, the Secured Party hereunder shall also have consent rights with respect thereto), (ii) create or incur, or suffer to be incurred or to exist, any mortgage, pledge, security interest, encumbrance, lien or charge of any kind upon the Collateral or upon any income or Proceeds therefrom, other than the Senior Liens and encumbrances, if any, specifically permitted by this Agreement, and (iii) permit any action to be taken that may impair the value of any of the Collateral or the security intended to be afforded hereby (or such amounts shall be deemed to constitute part of the obligations).

8. Secured Party Appointed Attorney-in-Fact.

(a) The Grantor hereby appoints the Secured Party the Grantor's attorney-in-fact, with full authority in the place and stead of the Grantor and in the name of the Grantor or otherwise, from time to time during the continuance of an Event of Default in the Secured Party's discretion to take any action and to execute any instrument which the Secured Party may deem necessary or advisable to accomplish the purposes of this Agreement (but the Secured Party shall not be obligated to and shall have no liability to the Grantor or any third party for failure to do so or take action). This appointment, being coupled with an interest, shall be irrevocable. The Grantor hereby ratifies all that said attorneys shall lawfully do or cause to be done by virtue hereof.

(b) The Guarantor hereby irrevocably authorizes the Secured Party at any time and from time to time to file in any jurisdiction deemed necessary or advisable by the Secured Party financing statements and amendments thereto that (i) describe the Collateral as all assets of the Guarantor or words of similar effect or (ii) contains any other information required by the Code for the sufficiency or filing of any financing statement or amendment. The Guarantor shall pay the cost of filing the same in all public offices when filing is deemed by the Secured Party to be necessary or desirable.

(c) At the request of the Secured Party from time to time, the Guarantor, at its expense, will promptly secure the necessary certificates of title and take all steps necessary to cause the interest of the Secured Party to be properly noted on any certificates of title issued or outstanding with respect to any item of the Collateral that is now or hereafter the subject of a certificate of title or is required by law so to be.

9. Secured Party May Perform. If the Grantor fails to perform any obligation contained in this Agreement, the Secured Party may itself perform, or cause performance of, such obligation, and the expenses of the Secured Party incurred in connection therewith shall be payable by the Grantor; *provided that* the Secured Party shall not be required to perform or discharge any obligation of the Grantor.

10. Reasonable Care; Insurance; Indemnity.

(a) The Secured Party shall have no duty with respect to the care and preservation of the Collateral beyond the exercise of reasonable care. The Secured Party shall be deemed to have exercised reasonable care in the custody and preservation of the Collateral in its possession if the Collateral is accorded treatment substantially equal to that which the Secured Party accords its own property, it being understood that the Secured Party shall not have any responsibility for (a) ascertaining or taking action with respect to any claims, the nature or sufficiency of any payment or performance by any party under or pursuant to any agreement relating to the Collateral or other matters relative to any Collateral, whether or not the Secured Party has or is deemed to have knowledge of such matters, or (b) taking any necessary steps to preserve rights against any parties with respect to any Collateral. Nothing set forth in this Agreement, nor the exercise by the Secured Party of any of the rights and remedies hereunder, shall relieve the Grantor from the performance of any obligation on the Grantor's part to be performed or observed in respect of any of the Collateral.

(b) The Guarantor shall, at its sole cost and expense, have and maintain insurance at all times with respect to the Collateral, with coverage and amounts as shall be consistent with past practices, but in no event less than what comparable entities maintain for similar risks. All such policies of insurance shall name the Secured Party as an additional insured and shall contain endorsements (i) naming the Secured Party as the sole loss payee, (ii) providing that no act or negligence by the Debtor shall affect payment to the Secured Party under such policies, and (iii) that no lapse, cancellation or reduction in amount of the insurance policies shall be effected without at least thirty (30) days prior written notice to the Secured

Party. In the event the Guarantor fails to pay or cause to be paid the premium on any such insurance policy, the Secured Party may pay such premium and the Secured Party shall be promptly reimbursed by the Guarantor therefor (or such amounts shall be deemed to constitute part of the Obligations).

(c) The Guarantor agrees to indemnify and hold Secured Party harmless from and against all costs, damages, expenses, causes of action, claims, losses and liabilities incurred by or threatened against Secured Party which in any way grew out of, result from or relate to this Agreement including, without limitation, any action to enforce this Agreement, except claims, law suits or liabilities resulting from the gross negligence or willful misconduct of Secured Party.

#### 11. Remedies Upon Default.

(a) If any Event of Default shall have occurred and be continuing, the Secured Party, without any other notice to or demand upon the Grantor, may assert all rights and remedies of a secured party under the UCC or other applicable law, including, without limitation, the right to take possession of, hold, collect, sell, lease, deliver, grant options to purchase or otherwise retain, liquidate or dispose of all or any portion of the Collateral. If notice prior to disposition of the Collateral or any portion thereof is necessary under applicable law, written notice mailed to the Grantor at its notice address as provided in **Section 15** hereof ten days prior to the date of such disposition shall constitute reasonable notice, but notice given in any other reasonable manner shall be sufficient. So long as the sale of the Collateral is made in a commercially reasonable manner, the Secured Party may sell such Collateral on such terms and to such purchaser(s) as the Secured Party in its absolute discretion may choose, without assuming any credit risk and without any obligation to advertise or give notice of any kind other than that necessary under applicable law. Without precluding any other methods of sale, the sale of the Collateral or any portion thereof shall have been made in a commercially reasonable manner if conducted in conformity with reasonable commercial practices of creditors disposing of similar property. At any sale of the Collateral, if permitted by applicable law, the Secured Party may be the purchaser, licensee, assignee or recipient of the Collateral or any part thereof and shall be entitled, for the purpose of bidding and making settlement or payment of the purchase price for all or any portion of the Collateral sold, assigned or licensed at such sale, to use and apply any of the Secured Obligations as a credit on account of the purchase price of the Collateral or any part thereof payable at such sale. To the extent permitted by applicable law, the Grantor waives all claims, damages and demands it may acquire against the Secured Party arising out of the exercise by it of any rights hereunder. The Grantor hereby waives and releases to the fullest extent permitted by law any right or equity of redemption with respect to the Collateral, whether before or after sale hereunder, and all rights, if any, of marshalling the Collateral and any other security for the Secured Obligations or otherwise. At any such sale, unless prohibited by applicable law, the Secured Party or any custodian may bid for and purchase all or any part of the Collateral so sold free from any such right or equity of redemption. Neither the Secured Party nor any custodian shall be liable for failure to collect or realize upon any or all of the Collateral or for any delay in so doing, nor shall it be under any obligation to take any action whatsoever with regard thereto. The Secured Party shall not be obligated to clean-up or otherwise prepare the Collateral for sale.

(b) If any Event of Default shall have occurred and be continuing, any cash held by the Secured Party as Collateral and all cash Proceeds received by the Secured Party in respect of any sale of, collection from, or other realization upon all or any part of the Collateral shall be applied in whole or in part by the Secured Party to the payment of expenses incurred by the Secured Party in connection with the foregoing or incidental to the care or safekeeping of any of the Collateral or in any way relating to the Collateral or the rights of the Secured Party hereunder, including reasonable attorneys' fees, and the balance of such proceeds shall be applied or set off against all or any part of the Secured Obligations in such order as the Secured Party shall elect. Any surplus of such cash or cash Proceeds held by the Secured Party and remaining after payment in full of all the Secured Obligations shall be paid over to the Grantor

or to whomsoever may be lawfully entitled to receive such surplus. The Grantor shall remain liable for any deficiency if such cash and the cash Proceeds of any sale or other realization of the Collateral are insufficient to pay the Secured Obligations and the fees and other charges of any attorneys employed by the Secured Party to collect such deficiency.

(c) If the Secured Party shall determine to exercise its rights to sell all or any of the Collateral pursuant to this Section, the Grantor agrees that, upon request of the Secured Party, the Grantor will, at its own expense, do or cause to be done all such acts and things as may be necessary to make such sale of the Collateral or any part thereof valid and binding and in compliance with applicable law.

12. No Waiver and Cumulative Remedies. The Secured Party shall not by any act (except by a written instrument pursuant to **Section 14**), delay, indulgence, omission or otherwise be deemed to have waived any right or remedy hereunder or to have acquiesced in any Default or Event of Default. All rights and remedies herein provided are cumulative and are not exclusive of any rights or remedies provided by law.

13. Security Interest Absolute. The Grantor hereby waives demand, notice, protest, notice of acceptance of this Agreement, notice of loans made, credit extended, Collateral received or delivered or other action taken in reliance hereon and all other demands and notices of any description. All rights of the Secured Party and liens and security interests hereunder, and all Secured Obligations of the Grantor hereunder, shall be absolute and unconditional irrespective of:

(a) any illegality or lack of validity or enforceability of any Secured Obligation or any related agreement or instrument;

(b) any change in the time, place or manner of payment of, or in any other term of, the Secured Obligations, or any rescission, waiver, amendment or other modification of the Note, this Agreement or any other agreement, including any increase in the Secured Obligations resulting from any extension of additional credit or otherwise;

(c) any taking, exchange, substitution, release, impairment or non-perfection of any Collateral or any other collateral, or any taking, release, impairment, amendment, waiver or other modification of any guaranty, for all or any of the Secured Obligations;

(d) any manner of sale, disposition or application of proceeds of any Collateral or any other collateral or other assets to all or part of the Secured Obligations;

(e) any default, failure or delay, willful or otherwise, in the performance of the Secured Obligations;

(f) any defense, set-off or counterclaim (other than a defense of payment or performance) that may at any time be available to, or be asserted by, the Grantor against the Secured Party; or

(g) any other circumstance (including, without limitation, any statute of limitations) or manner of administering the Loans or any existence of or reliance on any representation by the Secured Party that might vary the risk of the Grantor or otherwise operate as a defense available to, or a legal or equitable discharge of, the Grantor or any other grantor, guarantor or surety.

14. Amendments. None of the terms or provisions of this Agreement may be amended, modified, supplemented, terminated or waived, and no consent to any departure by the Grantor therefrom shall be effective unless the same shall be in writing and signed by the Secured Party and the Grantor, and then

such amendment, modification, supplement, waiver or consent shall be effective only in the specific instance and for the specific purpose for which made or given.

15. Addresses For Notices. All notices and other communications provided for in this Agreement shall be in writing and shall be given in the manner and become effective as set forth in the Note, and addressed to the respective parties at their addresses as specified on the signature pages hereof or as to either party at such other address as shall be designated by such party in a written notice to each other party.

16. Continuing Security Interest; Further Actions. This Agreement shall create a continuing Secured Party's Priority lien and security interest in the Collateral and shall (a) subject to **Section 17**, remain in full force and effect until payment and performance in full of the Secured Obligations, (b) be binding upon the Grantor, its successors and assigns, and (c) inure to the benefit of the Secured Party and its successors, transferees and assigns; *provided that* the Grantor may not assign or otherwise transfer any of its rights or obligations under this Agreement without the prior written consent of the Secured Party. Without limiting the generality of the foregoing clause (c), any assignee of the Secured Party's interest in any agreement or document which includes all or any of the Secured Obligations shall, upon assignment, become vested with all the benefits granted to the Secured Party herein with respect to such Secured Obligations.

17. Termination; Release. On the date on which all Secured Obligations have been paid and performed in full, the Secured Party will, at the request and sole expense of the Grantor, (a) duly assign, transfer and deliver to or at the direction of the Grantor (without recourse and without any representation or warranty) such of the Collateral as may then remain in the possession of the Secured Party, together with any monies at the time held by the Secured Party hereunder, and (b) execute and deliver to the Grantor a proper instrument or instruments acknowledging the satisfaction and termination of this Agreement.

18. GOVERNING LAW. This Agreement and the Note and any claim, controversy, dispute or cause of action (whether in contract or tort or otherwise) based upon, arising out of or relating to this Agreement or the Note and the transactions contemplated hereby and thereby shall be governed by, and construed in accordance with, the laws of the State of Florida. The other provisions of Sections of the Note with respect to Jurisdiction Waiver of Jury Trial and related matters are incorporated herein, *mutatis mutandis*, as if a part hereof.

19. Counterparts. This Agreement and any amendments, waivers, consents or supplements hereto may be executed in counterparts (and by different parties hereto in different counterparts), each of which shall constitute an original, but all taken together shall constitute a single contract. Delivery of an executed counterpart of a signature page to this Agreement by facsimile or in electronic (i.e., "pdf" or "tif") format shall be effective as delivery of a manually executed counterpart of this Agreement. This Agreement and the Note, and to the extent they are provided for therein, the Merger Agreement constitute the entire contract among the parties with respect to the subject matter hereof and supersede all previous agreements and understandings, oral or written, with respect thereto.

[SIGNATURE PAGE FOLLOWS]

**IN WITNESS WHEREOF**, the parties hereto have executed this Agreement as of the date above written.

**WXEL PUBLIC BROADCASTING  
CORPORATION**, as Grantor

By: \_\_\_\_\_  
Bernard E. Henneberg  
Chief Executive Officer

**COMMUNITY TELEVISION FOUNDATION  
OF SOUTH FLORIDA, INC.** as Secured Party

By: \_\_\_\_\_  
Dolores Sukhdeo  
Chief Executive Officer