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**ASSET PURCHASE AGREEMENT**

**dated as of August 24, 2012**

**by and among**

**PALM BEACH BROADCASTING LLC**

**AND**

**PALM BEACH BROADCASTING LICENSE LLC**

**AND**

**LINCOLN FINANCIAL MEDIA COMPANY OF FLORIDA**

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## ASSET PURCHASE AGREEMENT

This ASSET PURCHASE AGREEMENT, made as of the 24th day of August, 2012, is by and among Palm Beach Broadcasting LLC, a Delaware limited liability company (“PBB”), and Palm Beach Broadcasting License LLC, a Delaware limited liability company (“PBB License”), and Lincoln Financial Media Company of Florida, a North Carolina corporation (“Buyer”). PBB and PBB License may be referred to herein collectively or individually, as the context indicates, as “Seller.”

### RECITALS

- A. Seller is a party to that certain Asset Purchase Agreement, dated as of April 6, 2012, by and among CBS Radio Stations Inc., a Delaware corporation (“CBS Seller”), and Seller (collectively with the schedules to the extent relating to the Station (as defined below) and exhibits thereto and as may be amended, supplemented or waived from time to time, the “CBS Purchase Agreement”).
- B. CBS Seller is the licensee of and operates radio broadcast station WMSF(FM), formerly known as WEAT-FM, West Palm Beach, FL (Facility ID No. 29567) (“WMSF” or the “Station”) pursuant to licenses issued by the Federal Communications Commission (the “FCC”).
- C. In connection with a Partial Closing (as defined in the CBS Purchase Agreement) on June 1, 2012, under the CBS Purchase Agreement, CBS Seller and Seller entered into that certain Option Agreement dated as of June 1, 2012 (the “CBS Option Agreement”), pursuant to which Seller has the option to purchase, acquire and assume, and CBS Seller will sell, assign and transfer to Seller or its Designated Buyer (as defined in the CBS Option Agreement), the WEAT Option Assets (as defined in the CBS Option Agreement) (the “WMSF Assets”) and the WEAT Option Assumed Obligations (as defined in the CBS Option Agreement), all on the terms and subject to the conditions set forth in the CBS Option Agreement.
- D. Under the FCC’s local radio ownership rule, 47 C.F.R. 73.3555(a)(1), Seller is not permitted to own more than four FM radio stations in the West Palm Beach market and, therefore, Seller and Buyer are entering into this Agreement so that Buyer shall be Seller’s Designated Buyer pursuant to the CBS Option Agreement.
- E. Simultaneously with the execution and delivery of this Agreement, Seller has delivered to CBS Seller (and has provided copies to Buyer) (1) an Exercise Notice (as defined in the CBS Option Agreement) in accordance with Section 1.1(b) of the CBS Option Agreement, which notice states that Buyer is the Designated Buyer, and (2) an LMA Exercise Notice (as defined in the CBS Option Agreement) pursuant to Section 1.2(b) of the CBS Option Agreement, which notice states that Buyer is the Designated Buyer.

F. Simultaneously with the execution and delivery of this Agreement, Buyer and Seller are executing and delivering a sublease agreement pursuant to which Seller will grant to Buyer the right to use the premises leased pursuant to the Tower Lease from and after the Closing (the “*Sublease*”), subject to **Section 4.11** of this Agreement.

G. The CBS Option Agreement provides that the filing of the FCC Application hereunder shall be made concurrently with the filing of the applications that CBS and Seller must file with the FCC requesting its consent to the assignment of certain of the WMSF Assets to Seller and the Closing hereunder shall be scheduled to occur immediately following the closing of the sale of the WMSF Assets to Seller.

H. Definitions of certain capitalized terms used in this Agreement are set forth in **Article XI**.

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

## **ARTICLE I ASSETS TO BE CONVEYED**

**1.1 Station Assets.** Pursuant to the terms and subject to the conditions of this Agreement, at the Closing, Seller shall sell, assign, transfer and convey to Buyer, and Buyer shall purchase from Seller, all of Seller’s right, title and interest in and to all of the following assets and properties of Seller, but excluding the Excluded Assets as hereinafter defined:

(a) all licenses, permits and other authorizations issued to CBS by the FCC with respect to the Station, including those described on Schedule 1.1(a) (the “*FCC Licenses*”), and including any pending applications for or renewals or modifications thereof between the date hereof and the Closing;

(b) all equipment, electrical devices, antennas, cables, tools, hardware, office furniture and fixtures, office materials and supplies, inventory, spare parts and other tangible personal property of every kind and description used or held for use primarily in the operation of the Station and listed or described on Schedule 1.1(b) (the “*Tangible Personal Property*”), except any retirements or dispositions thereof made between the date hereof and Closing in the ordinary course of business consistent with past practice to the extent permitted by **Section 4.2**;

(c) (i) all contracts, agreements, leases and licenses listed or described on Schedule 1.1(c) and (ii) any contracts or agreements set forth on schedule 1.1 of the LMA to the extent not otherwise set forth on Schedule 1.1(c) (the “*Station Contracts*”); and

(d) the Station’s public inspection file, technical information and engineering data, FCC logs and other compliance records of CBS that relate to the operation of the Station, but excluding any such documents to the extent relating to the Excluded Assets, and the rights of CBS Seller in and with respect to the Station’s call sign.

The assets to be transferred to Buyer hereunder are collectively referred to herein as the “*Station Assets*.” The Station Assets shall be delivered as is, where is, without any representation or warranty by Seller except as expressly set forth in **Article II** of this Agreement, in the Seller Ancillary Documents and any certificate delivered pursuant hereto or thereto, as applicable, and Buyer acknowledges that it has not relied on or been induced to enter into this Agreement by any representation or warranty other than those expressly set forth in **Article II** hereof, in the Seller Ancillary Documents and any certificate delivered pursuant hereto or thereto, as applicable. The Station Assets shall be transferred to Buyer free and clear of any liens, mortgages, pledges, security interests, claims, encumbrances, restrictions on transfer, defects of title, or charges of any kind or nature whatsoever (“*Liens*”), other than Permitted Liens of the types described in clauses (a)-(g) of the definition thereof, if any.

**1.2 Excluded Assets.** Buyer acknowledges that the Station Assets shall consist only of those assets expressly described in **Section 1.1** and all other assets are excluded (the “*Excluded Assets*”). Without limiting the generality of the foregoing, the Station Assets do not include any assets sold by CBS Seller to Seller in accordance with the CBS Option Agreement other than the Station Assets, or any rights of Seller under this Agreement, the Seller Ancillary Agreements or the transactions contemplated hereby, or any rights of Seller under the CBS Purchase Agreement, the CBS Option Agreement or the transactions contemplated thereby or any other assets and properties of Seller. Without limitation of the foregoing, Seller covenants and agrees that Seller shall assume the Tower Lease from CBS Seller pursuant to the CBS Option Agreement; provided that, except as set forth in **Section 4.11**, the Tower Lease shall be an Excluded Asset for purposes of this Agreement. Notwithstanding Section 6.3 of the CBS Option Agreement, nothing set forth in this Agreement shall obligate or be deemed to obligate Buyer to offer employment to any employees of the Station or Seller.

**1.3 Assumption of Obligations.** At the Closing, Buyer shall assume and agrees to pay, discharge and perform the following (collectively, the “*Assumed Obligations*”): (i) all obligations of Seller under the Station Contracts to the extent required to be performed at or after the Effective Time (except to the extent arising as a result of a breach of a Station Contract occurring prior to the Effective Time), (ii) all

obligations relating to, or arising under, the FCC Licenses from and after the Effective Time, and (iii) all obligations relating to the Station Assets arising during, or attributable to, any period of time at or after the Effective Time.

**1.4 Retained Liabilities.** Buyer does not assume or agree to assume, pay, discharge or perform, and will not be deemed by reason of the execution and delivery of this Agreement or any agreement, instrument or documents delivered pursuant to or in connection with this Agreement or otherwise by reason of the consummation of the transactions contemplated hereby to have assumed or to have agreed to pay, discharge or perform, any liabilities, obligations or commitments of Seller or any of its Affiliates of any nature whatsoever whether accrued, absolute, contingent or otherwise, other than the Assumed Obligations (the liabilities, obligations and commitments described in this **Section 1.4**, collectively, the “*Retained Liabilities*”), all of which Retained Liabilities shall be paid, discharged and performed by Seller and its Affiliates.

#### **1.5 Purchase Price.**

(a) In consideration for the sale of the Station Assets, Buyer shall, at the Closing, in addition to assuming the Assumed Obligations, pay to Seller the sum of Twelve Million Dollars (\$12,000,000.00) (the “*Purchase Price*”) plus an amount equal to the WMSF Relocation Expenses; provided that Buyer shall not be required to pay any amounts in respect of the WMSF Relocation Expenses in excess of the WMSF Relocation Expenses Cap. The foregoing amounts shall be paid by Buyer by wire transfer of immediately available federal funds pursuant to wire instructions that Seller shall provide to Buyer. Seller shall provide to Buyer, no later than 3 Business Days, prior to the Closing Date invoices, or other supporting documentation as may be reasonably acceptable to Buyer, evidencing the WMSF Relocation Expenses.

(b) If the Change of License Payment Date is a date that is not more than 27 months following the Closing Date, then, on the Change of License Payment Date (of, if not a Business Day, then on the next Business Day following the Change of License Payment Date), Buyer shall pay to Seller, as additional consideration for the sale of the Station Assets hereunder, the sum of One Million Dollars (\$1,000,000.00). No additional amounts shall be owed by Buyer to Seller under this Section 1.5(b) if the Change of License Payment Date is a date that is more than 27 months following the Closing Date. For purposes of calculating the time period set forth in this Section 1.5(b), one month shall be deemed to be equal to 30 days and all calculations shall include the Closing Date. All amounts payable pursuant to this Section 1.5(b) shall be paid by wire transfer of immediately available federal funds pursuant to wire instructions that Seller shall provide to Buyer.

(c) Simultaneously with the execution of this Agreement, Buyer has delivered to Deutsche Bank Trust Company Americas (the “*Escrow Agent*”) the sum of

Two Million Five Hundred Twenty-Six Thousand Dollars (\$2,526,000.00) to be held as an earnest money deposit (“*Escrow Deposit*”) pursuant to an Escrow Agreement of even date herewith. At the Closing, the Escrow Deposit and, at the election of Buyer, the portion of the interest and earnings thereon specified by Buyer, shall be paid to Seller as partial payment of, and a credit against, the cash Purchase Price due at Closing. In the event that this Agreement is terminated pursuant to the terms hereof, the Escrow Deposit shall be made available to Seller or released to Buyer in accordance with **Sections 8.1(f)** and **8.1(g)**. Any portion of the interest and earnings not paid to the Seller as a credit against the Purchase Price at Closing shall be paid to the Buyer. Buyer and Seller shall deliver such instructions to the Escrow Agent as may be necessary to disburse the Escrow Deposit in accordance with the terms of this Agreement.

**1.6 Closing.** Subject to **Section 8.1**, and except as otherwise mutually agreed upon by Seller and Buyer, the consummation of the sale and purchase of the Station Assets and the assumption of the Assumed Obligations hereunder (the “*Closing*”) shall take place (by electronic exchange of the documents to be delivered at the Closing) on the third (3<sup>rd</sup>) Business Day after the date on which the grant of the FCC Consent becomes a Final Order; provided that each of the other conditions to Closing set forth in **Article V** shall have been satisfied or waived (other than those conditions that by their nature are to be satisfied at the Closing, but subject to the satisfaction or waiver of those conditions at the Closing). Alternatively, the Closing may take place at such other time or date as the parties may mutually agree in writing. The date on which the Closing is to occur is referred to herein as the “*Closing Date*.” The effective time of the Closing shall be 12:01 a.m., local Station time, on the Closing Date (the “*Effective Time*”).

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

Seller represents and warrants to Buyer as follows:

**2.1 Existence and Power.** Each Seller is a limited liability company duly organized, validly existing and in good standing under the laws of the jurisdiction of its organization. Each Seller is qualified to do business and is in good standing in each jurisdiction where such qualification is necessary.

**2.2 Authorization.**

(a) The execution and delivery by each Seller of this Agreement, the Escrow Agreement, the Sublease and all of the other agreements, certificates and instruments to be executed and delivered by each Seller pursuant hereto or in connection with the transactions contemplated hereby (collectively, the “*Seller Ancillary Agreements*”), the performance by each Seller of its obligations hereunder and thereunder and the consummation by each Seller of the transactions contemplated hereby and

thereby are within Seller's limited liability company powers and have been duly authorized by all requisite limited liability company action on the part of Seller.

(b) This Agreement has been, and each Seller Ancillary Agreement will be, duly executed and delivered by each Seller. This Agreement (assuming due authorization, execution and delivery by Buyer) constitutes, and each Seller Ancillary Agreement will constitute when executed and delivered by each Seller (assuming due authorization, execution and delivery by the other parties thereto), the legal, valid and binding obligation of such Seller, enforceable against such Seller in accordance with its terms, except as such enforceability may be limited by applicable bankruptcy, insolvency, reorganization, fraudulent conveyance, moratorium or other similar Laws affecting or relating to enforcement of creditors' rights generally and general principles of equity (regardless of whether enforcement is considered in a proceeding at law or in equity).

**2.3 Governmental Authorization.** The execution, delivery and performance by each Seller of this Agreement and each Seller Ancillary Agreement and the consummation of the transactions contemplated hereby and thereby require no action by or in respect of, or filing with or notification to, any Governmental Authority other than (a) the FCC and (b) any such action by or in respect of or filing with any other Governmental Authority as to which the failure to take, make or obtain would not adversely affect the Station Assets in any material respect or each Seller's ability to perform its obligations under this Agreement or the Seller Ancillary Agreements.

**2.4 Noncontravention.** Except as disclosed on Schedule 2.4, the execution, delivery and performance of this Agreement and each Seller Ancillary Agreement by Seller and the consummation of the transactions contemplated hereby and thereby do not and will not (a) violate or conflict with the organizational documents of either Seller; (b) assuming receipt of the consents referenced in **Section 2.3**, conflict with or violate any Law or Governmental Order applicable to either Seller, the Station Assets or the Station; (c) require any consent or other action by or notification to, or filing with, any Person under, constitute a default (or event which with the giving of notice or lapse of time, or both, would become a default) under, give to any Person any rights of termination, amendment, acceleration or cancellation of any right or obligation of Seller or CBS Seller, as applicable, under, or result in the loss of any benefit or creation of any obligation or liability under, any provision of any Station Contract or any material contract or agreement to which Seller is a party (any such circumstance, a "*Triggering Event*"); or (d) result in the creation or imposition of any Lien on any of the Station Assets other than Permitted Liens, except, in the case of clauses (b) and (c), for any such violations, consents, actions, defaults, rights or losses as would not adversely affect the Station Assets in any material respect.

**2.5 Absence of Litigation.** Except as disclosed on Schedule 2.5, there is no Action pending against or, to the Knowledge of Seller, threatened against CBS Seller with respect to the Station or the Station Assets, the Station or any of the Station Assets,

and there is no Action pending against or, to the knowledge of Seller, threatened against Seller, in each case, including, without limitation, any Action that seeks to restrain, enjoin or otherwise prevent or materially delay the consummation of the transactions contemplated by the CBS Option Agreement, this Agreement or the Seller Ancillary Agreements. CBS Seller is not subject to or bound by any Governmental Order that adversely affects the Station or any of the Station Assets, other than those affecting the radio broadcasting industry generally.

## 2.6 FCC Licenses.

(a) Schedule 1.1(a) accurately lists all of the FCC Licenses. Seller has made available to Buyer true, correct, and complete copies of the FCC Licenses, including any and all amendments and modifications thereto. The FCC Licenses were validly issued by the FCC, are validly held by CBS Seller, and are in full force and effect. The FCC License that authorizes a main station radio broadcast station has been issued for the full eight-year term customarily issued for radio broadcast stations in the State of Florida and is not subject to any condition except for those conditions that appear on the face of the FCC Licenses or those conditions applicable to radio broadcast licenses generally.

(b) Except as set forth on Schedule 2.6(b), CBS Seller has no applications pending before the FCC relating to any licenses, permits or other authorizations used in or held for use in connection with the operation of the Station as of the date of this Agreement.

(c) Except as set forth on Schedule 2.6(c), CBS Seller has operated the Station and the related facilities authorized by the FCC Licenses in compliance with the Communications Act of 1934, as amended, and the rules, regulations, and written and promulgated policies of the FCC (collectively, the “*Communications Act*”), and the terms of the FCC Licenses, has filed or made all applications, reports and other disclosures required by the FCC to be made in respect of the Station and the FCC Licenses, and has timely paid all FCC regulatory fees in respect thereof, except where the failure to do so would not, individually or in the aggregate, have a Seller Material Adverse Effect.

(d) Except as set forth on Schedule 2.6(d), to the Knowledge of Seller, (i) there are no applications, petitions, complaints, proceedings (including proceedings related to FM channel allotments) or other actions pending or threatened before the FCC relating to the Station, (ii) there is not pending or threatened any action by or before the FCC to revoke, suspend, cancel, rescind, modify or refuse to renew any of the FCC Licenses, and (iii) there is not now issued or outstanding, pending or threatened, by or before the FCC, any order to show cause, notice of violation, notice of apparent liability, notice of forfeiture or complaint against CBS Seller with respect to the Station that, in the case of any of clauses (i), (ii) or (iii), would reasonably be expected to have, individually

or in the aggregate, a Seller Material Adverse Effect, other than proceedings affecting broadcast radio stations generally.

## **2.7 Station Contracts.**

(a) Each Station Contract is in full force and effect and constitutes the legal and binding obligation of, and is legally enforceable against, CBS Seller in accordance with its terms, and to the Knowledge of Seller, constitutes the legal and binding obligation of, and is legally enforceable against, each of the other parties thereto (subject to bankruptcy, insolvency, reorganization or other similar laws relating to or affecting the enforcement of creditors' rights generally). No default (or event, which with the lapse of time or giving of a notice or both would constitute a default) on the part of CBS Seller and, to the Knowledge of Seller, any other party thereto, exists under any of the Station Contracts, and CBS Seller has not received any written notice thereof or that any party to the Station Contracts, intends to cancel, terminate or materially adversely modify or amend, any such Station Contract.

(b) Seller has made available to Buyer prior to the date of this Agreement true and complete copies of all written Station Contracts (and written summaries of the material terms of all oral Station Contracts), including all amendments, modifications and supplements thereto.

(c) Seller has made available to Buyer on the date of this Agreement true and complete copies of the CBS Purchase Agreement, CBS Option Agreement, the Exercise Notice, the LMA Exercise Notice and the written consent of Capital One, National Association, as administrative agent under that certain Credit and Guaranty Agreement, dated as of June 1, 2012, by and among Seller, as borrower, and the lenders party thereto, to the consummation of the transactions contemplated hereby.

## **2.8 [Intentionally Omitted].**

## **2.9 Real Property.**

(a) CBS Seller does not own any real property used in the operation of the Station. CBS Seller has good and valid leasehold interest in, or has a valid license to occupy, all real property used or necessary in connection with the operation of the Station (the "*Real Property*"). Schedule 2.9(a) includes a list of each lease, sublease, license or similar agreement (the "*Real Property Leases*") pertaining to CBS Seller's use and occupancy of the Real Property. Except as set forth on Schedule 2.9(a), CBS Seller has not granted any oral or written right to any Person (other than Seller) to purchase (including any right of first refusal or right to match), lease, sublease, license or otherwise occupy any of the Real Property.

(b) The Real Property subject to the Real Property Leases constitutes all real property interests of any nature whatsoever primarily used or held for use by the Station, and the Real Property Leases provide sufficient access to the Station's facilities.

(c) Except as set forth on Schedule 2.9(c), there is not pending or, to the Knowledge of Seller, threatened any (i) zoning application or proceeding; (ii) condemnation, eminent domain or taking proceeding; or (iii) other action relating to any Real Property subject to the Real Property Leases or portion thereof or interest therein that in any case would reasonably be expected to result in a Seller Material Adverse Effect. There is no private restrictive covenant or governmental use restriction (including zoning) on all or any portion of such Real Property that prohibits or materially interferes with the current use of such Real Property by the Station. All material permits required for the occupancy and operation of such Real Property as presently being used by CBS Seller or its Affiliates have been obtained and are in full force and effect, and CBS Seller has not received, as of the date hereof, any written notices of default or violations in connection with such items.

(d) Except as set forth on Schedule 2.9(d), (i) the Real Property subject to the Real Property Leases is in material compliance with all applicable Laws and restrictive covenants applicable to such Real Property, (ii) there is full legal and practical access to such Real Property and (iii) the Real Property is served by all utilities and service necessary for the proper and lawful conduct and operation of the Station. CBS Seller has paid all Taxes, assessment or other charges due and payable by CBS Seller with respect to the Real Property and CBS Seller has not received written notice of any past due Taxes, assessment or other charges payable by CBS Seller with respect to such Real Property that have not been paid in full as of the date of this Agreement.

## **2.10 Environmental.**

(a) Except as set forth on Schedule 2.10(a), no Hazardous Material has been generated, stored, treated, transported, disposed or released on, in, from or to the Real Property by CBS Seller or, to the Knowledge of Seller, any other party, in violation of any applicable Environmental Law. Except as set forth on Schedule 2.10(a), CBS Seller has complied in all material respects with all Environmental Laws applicable to the Station, the Station Assets and the Real Property. As of the date hereof, there is no Action pending, or to the Knowledge of Seller, threatened, against CBS Seller asserting that CBS Seller has violated any Environmental Laws applicable to the Station, the Station Assets or the Real Property.

(b) Except as set forth on Schedule 2.10(b), CBS Seller possesses and is in compliance in all material respects with all Environmental Permits required under Environmental Laws to operate the Station as it presently operates. A true and complete list of all such Environmental Permits is set forth in Schedule 2.10(b).

(c) Except as set forth on Schedule 2.10(c), CBS Seller has not received, as of the date hereof, any written communication from a third party, including a Governmental Authority, alleging that CBS Seller's use of the Station Assets is in violation of, or that CBS Seller has liability with respect to the Station, under any Environmental Laws, except to the extent that such allegations have been fully and finally resolved.

(d) Except as set forth in Schedule 2.10(d), to Seller's Knowledge, none of the following is present at the Real Property: (i) underground improvements, including treatment or storage tanks, or underground piping associated with such tanks, used currently or in the past for the management of Hazardous Materials; (ii) any dump or landfill or other unit for the treatment or disposal of Hazardous Materials; (iii) incinerators, cesspools or septic tanks; (iv) filled in land or wetlands; (v) PCBs; or (vi) asbestos-containing materials. CBS Seller has not received, as of the date hereof, any written, or, to the Knowledge of Seller, any other communications reporting or otherwise complaining of poor indoor air quality.

(e) Seller has furnished to Buyer complete copies of all environmental assessments, reports, audits and other documents provided to it by CBS Seller or any representative of CBS Seller that relate to CBS Seller's compliance with Environmental Laws in connection with the Station Assets or the environmental condition of the Real Property.

**2.11 Compliance with Laws.** CBS Seller has complied, and is in compliance, in all material respects, with all Laws and Governmental Orders of any Governmental Authority that are applicable to the ownership and operation of the Station and the Station Assets, and to the Knowledge of Seller, CBS Seller is not under investigation with respect to and has not been threatened in writing to be charged with, any violation of any applicable Law or Governmental Order relating to the Station or the Station Assets, except for those affecting the radio broadcast industry generally.

**2.12 Taxes.** CBS Seller has, in respect of the Station Assets: (i) timely filed all material Tax Returns required to have been filed by it under applicable Law and all such Tax Returns are correct and complete in all material respects, (ii) paid all Taxes which have become due (whether or not shown on any such Tax Returns), and (iii) withheld and paid over to the appropriate Governmental Authority all Taxes required to have been withheld and paid over in connection with amounts paid or owing to any employee, independent contractor, creditor, stockholder, or other third party. None of the Tax Returns filed by or on behalf of CBS Seller with respect to the Station Assets is currently being audited by any Governmental Authority, and there are no other examinations, requests for information or other administrative or judicial proceedings pending with respect to Taxes of CBS Seller, in each case, that would adversely affect Buyer after Closing. Neither the IRS nor any other Governmental Authority has asserted, as of the

date hereof, any deficiency or claim for additional Taxes against, or any adjustment of Taxes relating to, CBS Seller that would adversely affect Buyer after Closing.

**2.13 Title to Station Assets; Condition of Tangible Personal Property.** CBS Seller owns, leases or is licensed to use all of the Station Assets free and clear of Liens other than Permitted Liens. Except for the item on Schedule 1.1(a) identified on such Schedule as an Excluded Asset, the Station Assets constitute all of the tangible personal property necessary to broadcast the Station in compliance with the FCC Licenses and the Communications Act as presently broadcast as of the date hereof. All material items of Tangible Personal Property, taken as a whole, are in normal operating condition, as of the date of this Agreement, ordinary wear and tear excepted. Upon consummation of the transactions contemplated by the CBS Option Agreement, Seller will own or lease all of the Station Assets free and clear of Liens other than Permitted Liens.

**2.14 No Finder.** Except as set forth on Schedule 2.14, no broker, finder or other person is entitled to a commission, brokerage fee or other similar payment in connection with this Agreement, the Seller Ancillary Agreements or the transactions contemplated hereby or thereby as a result of any agreements or action of Seller or any party acting on Seller's behalf. Any such commissions, brokerage fees or other payments shall be borne by Seller.

**2.15 No Other Representation or Warranties; Schedules; Non-Reliance.** Except for representations and warranties expressly set forth in this **Article II**, the Seller Ancillary Agreements and any certificate delivered pursuant hereto or thereto, Seller makes no other express or implied representation or warranty with respect to the Station, the Station Assets or the transactions contemplated by this Agreement, and Seller disclaims any other representations or warranties, whether made by Seller or Seller's Affiliates, officers, directors, employees, agents or representatives. The disclosure of any matter or item in any schedule hereto shall not be deemed to constitute an acknowledgment that any such matter is material or required to be disclosed. Seller acknowledges that, except as expressly set forth in **Article III**, the Buyer Ancillary Agreements and any certificate delivered pursuant hereto or thereto, Buyer makes no representation or warranty with respect to itself or the transactions contemplated by this Agreement.

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

Buyer represents and warrants to Seller as follows:

**3.1 Existence and Power.** Buyer is a corporation duly organized, validly existing and in good standing under the laws of the state of its organization. Buyer is duly qualified to do business and is in good standing in each jurisdiction where such

qualification is necessary, except where the failure to be so qualified and in good standing would not reasonably be expected to have Buyer Material Adverse Effect.

### **3.2 Authorization.**

(a) The execution and delivery by Buyer of this Agreement, the Escrow Agreement, the Sublease and all of the other agreements, certificates and instruments to be executed and delivered by Buyer pursuant hereto or in connection with the transactions contemplated hereby (collectively, the “*Buyer Ancillary Agreements*”), the performance by Buyer of its obligations hereunder and thereunder and the consummation by Buyer of the transactions contemplated hereby and thereby are within Buyer’s corporate powers and have been duly authorized by all requisite corporate action on the part of Buyer

(b) This Agreement has been, and each Buyer Ancillary Agreement will be, duly executed and delivered by Buyer. This Agreement (assuming due authorization, execution and delivery by Seller) constitutes, and each Buyer Ancillary Agreement will constitute when executed and delivered by Buyer (assuming due authorization, execution and delivery by the other parties thereto), the legal, valid and binding obligation of Buyer enforceable against Buyer in accordance with its terms, except as such enforceability may be limited by applicable bankruptcy, insolvency, reorganization, fraudulent conveyance, moratorium or other similar Laws affecting or relating to enforcement of creditors’ rights generally and general principles of equity (regardless of whether enforcement is considered in a proceeding at law or in equity).

**3.3 Governmental Authorization.** The execution, delivery and performance by Buyer of this Agreement and each Buyer Ancillary Agreement, as applicable, and the consummation of the transactions contemplated hereby and thereby require no action by or in respect of, or filing with or notification to, any Governmental Authority other than (a) the FCC and (b) any such action by or in respect of or filing with any other Governmental Authority as to which the failure to take, make or obtain would not adversely affect the ability of Buyer to perform its obligations under this Agreement or the Buyer Ancillary Agreements.

**3.4 Noncontravention.** The execution, delivery and performance of this Agreement and each Buyer Ancillary Agreement by Buyer, and the consummation of the transactions contemplated hereby and thereby do not and will not (a) violate or conflict with the organizational documents of Buyer; (b) assuming receipt of the consents described in **Section 3.3** and the FCC’s consent to the WMSF Modification Application, conflict with or violate any Law or Governmental Order applicable to Buyer; or (c) require any consent or other action by or notification to any Person (other than a Governmental Authority) under, constitute a default under, give to any Person any rights of termination, amendment, acceleration or cancellation of any right or obligation of

Buyer under, any provision of any note, bond, mortgage, indenture, contract, agreement, lease, license, permit, franchise or other agreement or instrument to which Buyer or any of its Affiliates is a party or by which any of Buyer's assets is bound, except, in the case of clauses (b) and (c), for any such violations, consents, actions, defaults, rights or losses as would not adversely affect Buyer's ability to consummate the transactions contemplated hereby or the Buyer Ancillary Agreements in any material respect.

**3.5 Absence of Litigation.** There is no Action pending or, to the Knowledge of Buyer, threatened against Buyer that in any manner challenges or seeks to prevent, enjoin, alter or delay materially the transactions contemplated by this Agreement.

**3.6 FCC Qualifications.** Buyer is legally, financially and otherwise qualified to be the licensee of, acquire, own and operate the Station under the Communications Act. Buyer is legally, financially and otherwise qualified to be the licensee of, acquire, own and operate a radio broadcast station in the Miami-Ft. Lauderdale-Hollywood, Florida Arbitron Radio Market. There are no facts applicable to Buyer's FCC qualifications that, under existing Law, including the Communications Act, (A) could reasonably be expected to prevent or delay (except for any delay as may arise in connection with the WMSF Modification Application) the FCC from granting the FCC Consent, or (B) would disqualify Buyer as an assignee of the FCC Licenses or Buyer as the owner and operator of the other Station Assets. No waiver of any FCC rule or policy relating to the qualifications of Buyer is necessary for the FCC Consent to be obtained.

**3.7 Financing.** As of the Closing Date, Buyer will have sufficient cash, available lines of credit or other sources of immediately available funds to enable it to make payment of the Purchase Price, WMSF Relocation Expenses (subject to the WMSF Relocation Expenses Cap) and any other amounts to be paid by it in accordance with the terms of this Agreement and the Buyer Ancillary Agreements.

**3.8 No Other Representation or Warranties; Non-Reliance.**

(a) Except for representations and warranties contained in this **Article III**, Buyer makes no other express or implied representation or warranty with respect to itself or the transactions contemplated by this Agreement, and Buyer disclaims any other representations or warranties, whether made by Buyer or Buyer's Affiliates, officers, directors, employees, agents or representatives. Buyer acknowledges that, except as expressly set forth in **Article II**, the Seller Ancillary Agreements, and any certificate delivered pursuant hereto or thereto, Seller makes no representation or warranty with respect to any projections, forecasts, business plans, budgets, budget information and similar documentation or other information or estimates (whether financial or otherwise), relating to the Station (or its revenues, expenses or results of operations) that Buyer has received from Seller or any of its Affiliates or representatives.

**3.9 No Finder.** Except as set forth on Schedule 3.9, no broker, finder or other person is entitled to a commission, brokerage fee or other similar payment in connection with this Agreement, the Buyer Ancillary Agreements or the transactions contemplated hereby or thereby as a result of any agreements or action of Buyer or any party acting on Buyer's behalf.

## **ARTICLE IV COVENANTS**

### **4.1 Governmental Approvals.**

(a) **FCC Applications.** The assignment of the FCC Licenses as contemplated by this Agreement is subject to the prior consent and approval of the FCC. Buyer and Seller shall cooperate, and Seller shall enforce its rights under the CBS Option Agreement to cause CBS Seller to cooperate in accordance therewith, in the preparation of the FCC Application and shall provide, and Seller shall enforce its rights under the CBS Option Agreement to cause CBS Seller to provide in accordance therewith, such information as may reasonably be requested by the other party to prepare and file the FCC Application in accordance therewith. Within five days of the date of this Agreement, Buyer shall, and Seller shall enforce its rights under the CBS Option Agreement to cause CBS Seller to, file the FCC Application in accordance therewith. Buyer shall, and Seller shall enforce its rights under the CBS Option Agreement to cause CBS Seller to, prosecute the FCC Application with all commercially reasonable diligence and otherwise use commercially reasonable efforts to obtain the FCC Consent as expeditiously as practicable in accordance therewith. Buyer shall, and Seller shall, or shall enforce its rights under the CBS Option Agreement to cause CBS Seller to, promptly provide to the other party a copy of any pleading, order or other document filed by it or served on it that relates to the FCC Application and shall furnish all information required by the FCC in accordance therewith. Buyer shall not seek a permanent or temporary waiver of the FCC's multiple ownership rules and policies in connection with the FCC Application.

(b) **Governmental Filing or Grant Fees.** Any filing or grant fees imposed by the FCC in connection with this Agreement shall be borne equally by Seller and Buyer.

### **4.2 Conduct of Business and Compliance with CBS Option Agreement.**

- (a) Between the date of this Agreement and the Closing Date,
- (i) Seller shall take all actions to enforce its rights under the CBS Option Agreement in accordance with the CBS Option Agreement and to the extent permitted by applicable Law; provided that Seller shall not exercise any

right to terminate the CBS Option Agreement without the prior written consent of Buyer;

(ii) except as expressly permitted by this Agreement, or with the prior written consent of Buyer, Seller shall not grant any consent requested under Section 5.3 of the CBS Option Agreement;

(iii) except with the prior written consent of Buyer, Seller shall not amend, alter or modify any provision of the CBS Purchase Agreement (to the extent that it relates to the Station or the Station Assets) or CBS Option Agreement;

(iv) Seller shall comply in all material respects with and perform in all material respects all covenants and agreements in the CBS Option Agreement required to be complied with or performed by it, and shall use commercially reasonable efforts to take, or cause to be taken, all reasonably necessary actions, and to do, or cause to be done, and to assist and cooperate with the other parties in doing, all things reasonably necessary or proper to consummate and make effective the transactions contemplated by the CBS Option Agreement in accordance with Seller's obligations hereunder and to cause the conditions set forth in Section Article VII of the CBS Option Agreement to be satisfied;

(v) Seller shall not withdraw, rescind or modify the Exercise Notice or the LMA Exercise Notice without the prior written consent of Buyer; and

(vi) Seller shall not grant or incur or permit to exist a Lien on any of the Station Assets, other than Permitted Liens.

(b) Subject to the provisions of this **Section 4.2**, Buyer shall not, directly or indirectly, control, supervise or direct the operations of the Station prior to the Closing. Such operations shall be the sole responsibility of CBS Seller and shall be in its complete discretion.

(c) Buyer shall indemnify and hold harmless Seller from and against any and all amounts paid by Seller to CBS Seller pursuant to Section 1.2(c) of the CBS Option Agreement as a result of Buyer's actual failure to perform its obligations under the LMA.

### **4.3 Access to Information; Inspections; Confidentiality; Publicity.**

(a) Between the date hereof and the Closing Date, Seller shall, and shall enforce its rights under the CBS Option Agreement, in accordance therewith, to

cause CBS Seller to, furnish to Buyer such information relating to the Station Assets as Buyer may reasonably request, at Buyer's expense and provided such request does not interfere unreasonably with the business of the Station. Seller promptly shall provide Buyer with copies of any information relating to the Station or the Station Assets provided to Seller by CBS Seller or its representative between the date hereof and the Closing Date (including copies of an updates to disclosures schedules relating to the Station or the Station Assets).

(b) Between the date hereof and the Closing Date, upon prior reasonable notice, Seller shall enforce its rights under the CBS Option Agreement to cause CBS Seller to give Buyer and each of its representatives reasonable access to the Station Assets during regular business hours, in accordance therewith; provided, however, that Buyer may not communicate with Station Employees (as defined in the CBS Purchase Agreement) without CBS Seller's prior written consent and any investigation pursuant to this **Section 4.3(b)** shall be conducted in such manner as not to unreasonably interfere with the conduct of the businesses or operations of CBS Seller.

(c) Neither party shall use or disclose to any other Person (except as may be necessary for the consummation of the transactions contemplated hereby, or as required by Law, and then only with prior notice to the other party hereto) this Agreement or any information received from the other party hereto or their agents in the course of investigating, negotiating and performing the transactions contemplated by this Agreement; provided, however, that each party may disclose such information to such party's officers, directors, employees, lenders, advisors, attorneys and accountants who need to know such information in connection with the consummation of the transactions contemplated by this Agreement and who are informed by such party of the confidential nature of such information. Nothing shall be deemed to be confidential information that: (i) is already in such party's possession, provided that such information is not known by such party to be subject to another confidentiality agreement with, or other obligation of secrecy to, the other party hereto or another party, or (ii) becomes generally available to the public other than as a result of a disclosure by such party or such party's officers, directors, employees, lenders, advisors, attorneys or accountants, or (iii) becomes available to such party on a non-confidential basis from a source other than another party hereto or its officers, directors, employees, lenders, advisors, attorneys or accountants, provided that such source is not known by such party to be bound by a confidentiality agreement with, or other obligation of secrecy to, the other party hereto or another party, or (iv) is developed independently by either party without resort to the confidential information of the other party. In the event this Agreement is terminated and the purchase and sale contemplated hereby abandoned, each party shall return or destroy, and certify such destruction in writing to the other party, all information, including all documents, work papers and other written confidential material, obtained by such party from the other party in connection with the transactions contemplated by this Agreement, except that a party may retain confidential information (1) stored pursuant to an automatic electronic back-up or archival system used in the ordinary course of business, (2) to comply with legal or regulatory requirements or applicable professional standards

or (3) stored or retained pursuant to a bona fide document retention policy. This **Section 4.3(c)** replaces and supersedes, in their entirety, any other confidentiality agreements between Buyer and Seller (or their Affiliates) entered into in connection with the transactions contemplated by this Agreement.

(d) No news release or other public announcement pertaining to the transactions contemplated by this Agreement will be made by or on behalf of Seller, on the one hand, or Buyer, on the other hand, without the prior written approval of the other party (such approval not to be unreasonably withheld or delayed) and CBS Seller unless otherwise required by Law or any regulation or rule of any stock exchange binding upon such party. Where any announcement, communication or circular concerning the transactions contemplated by this Agreement is required by Law or any regulation or rule of any stock exchange, it shall be made by the relevant party after consultation, where reasonably practicable, with the other parties and CBS Seller and taking into account the reasonable requirements (as to timing, contents and manner of making or dispatch of the announcement, communication or circular) of the other party and CBS Seller.

#### **4.4 Risk of Loss.**

(a) Seller shall bear the risk of any casualty loss or damage to any of the Station Assets prior to the Closing, and Buyer shall bear such risk on and after the Closing. In the event of any casualty loss or damage to the Station Assets prior to the Closing, Seller shall be responsible for repairing or replacing (as appropriate under the circumstances) any lost or damaged Station Asset (the “*Damaged Asset*”), unless such Damaged Asset was obsolete and unnecessary for the continued operation of the Station consistent with CBS Seller’s past practice and the FCC Licenses. If a Damaged Asset is not repaired or replaced by the date on which the Closing would otherwise occur under this Agreement, then Buyer and Seller shall proceed to Closing (subject to satisfaction or waiver of the conditions to Closing), the proceeds of any insurance covering such Damaged Asset received by Seller shall be assigned to Buyer at Closing, and to the extent such proceeds are not sufficient to cover the reasonable out-of-pocket costs incurred by Buyer in repairing or replacing the Damaged Asset after the Closing, Seller shall reimburse Buyer as soon as practicable after Buyer’s demand therefor by an amount in cash equal to the deficiency.

(b) In the event any Station is off the air prior to the Closing, then Seller shall use commercially reasonable efforts to return, or enforce its rights under the CBS Option Agreement to cause CBS Seller to return, such Station to normal operations as promptly as practicable, in accordance therewith.

**4.5 Consents to Assignment.** After the execution of this Agreement and prior to Closing, Seller and Buyer shall use their commercially reasonable efforts (i) to obtain any third-party consents, provide any notifications or take any other actions

necessary to consummate the transactions contemplated by this Agreement, including obtaining the consents and providing the notices set forth on Schedule 2.4, and (ii) to coordinate and cooperate with CBS Seller with respect to any such any third-party consents, actions, or notifications. Notwithstanding anything in this Agreement to the contrary, this Agreement shall not constitute an agreement to assign any Station Contract or any claim or right or any benefit arising thereunder or resulting therefrom if such assignment, without the consent or other action of a third party thereto, would constitute a breach, contravention or Triggering Event with respect to the applicable Station Contract. If such consent to assign a Station Contract is not obtained prior to the Closing Date, (a) Seller shall use its commercially reasonable efforts (i) to obtain such consent as soon as possible after the Closing Date, (ii) to provide to Buyer the financial and business benefits of any such Station Contract and (iii) to enforce, or to enforce its rights under the CBS Option Agreement to cause CBS Seller to enforce, in accordance therewith, at the request of Buyer, for the account of Buyer, any rights of Seller and CBS Seller arising from any such Station Contract; and (b) to the extent Buyer is provided the financial and business benefits of any such Station Contract, Buyer shall perform, or cause to be performed, the obligations under such Station Contract in accordance with this Agreement and consistent with the obligations of Seller or CBS Seller, as applicable, thereunder. Notwithstanding the foregoing, none of Seller, Buyer, or any of their respective Affiliates shall be required to pay or provide any form of consideration to any third party to obtain any consent.

#### **4.6 Commercially Reasonable Efforts to Close; Notification.**

(a) Upon the terms and subject to the conditions contained herein, each of the parties hereto shall use commercially reasonable efforts to take, or cause to be taken, all actions, and to do, or cause to be done, and to assist and cooperate with the other parties in doing, all things necessary, proper or advisable to consummate and make effective the transactions contemplated by this Agreement (including obtaining the grant of the WMSF Modification Application) as expeditiously as practicable and to ensure that the conditions set forth in **Article V** are satisfied, including using commercially reasonable efforts to cooperate with CBS Seller in connection therewith. Without limiting the generality of the foregoing, Buyer agrees that neither Buyer, nor any person or entity holding an attributable interest in Buyer under the FCC's rules, will acquire, or agree to acquire, an interest in any broadcast radio station, broadcast television station or daily newspaper or other medium if such acquisition would delay or preclude the receipt of the FCC Consent.

(b) Each party shall notify the other party of the initiation or, to the knowledge of Seller or the Knowledge of Buyer, as applicable, threatened initiation of any litigation, arbitration or administrative proceeding that challenges the transactions contemplated hereby, including any challenges to the FCC Application.

**4.7 Further Assurances.** After Closing, each party hereto shall execute all such instruments and take all such actions as any other party may reasonably request, without payment of further consideration, to effectuate the transactions contemplated by this Agreement (including, as applicable, obtaining the grant of the WMSF Modification Application), including the execution and delivery of confirmatory and other transfer documents in addition to those to be delivered at Closing.

**4.8 Post-Closing Access and Cooperation.**

After the Closing, Buyer shall reasonably cooperate with Seller, and at Seller's reasonable request, with CBS Seller, with respect to any third-party Action related to the Retained Liabilities by making available historical records, documents and data included in the Station Assets that it owns; provided that such access shall not unreasonably interfere with Buyer's business and operations. Seller shall reimburse Buyer for all reasonable and necessary out-of-pocket expenses incurred by Buyer in connection with the performance of its obligations under this **Section 4.8**.

**4.9 WMSF-FM Community of License.** Buyer acknowledges and agrees that CBS Seller has filed an application with the FCC to modify the transmission facilities and change the community of license of the Station to Miramar, Florida, a community in the Miami-Ft. Lauderdale-Hollywood, Florida Arbitron Radio Market (the "*WMSF Modification Application*"). Seller shall provide, or enforce its rights under the CBS Option Agreement to cause CBS Seller to provide, in accordance therewith, such information as Buyer may reasonably request with respect to the WMSF Modification Application. Seller shall enforce its rights under the CBS Option Agreement to cause CBS Seller to (as applicable), in accordance therewith, prosecute the WMSF Modification Application with all commercially reasonable diligence and otherwise use commercially reasonable efforts to obtain the FCC grant of the WMSF Modification Application as expeditiously as reasonably practicable. Buyer acknowledges and agrees that the grant of the WMSF Modification Application shall not be a condition to its obligation to consummate the transactions contemplated by this Agreement.

**4.10 [Intentionally Omitted.]**

**4.11 Tower Lease.**

(a) In the event that Seller elects to consummate the transactions contemplated by this Agreement notwithstanding the occurrence of a Determination Event, then, at the Closing, (i) Seller shall assign the Tower Lease to Buyer and the Tower Lease shall constitute a Station Asset and a Station Contract for all purposes hereunder and (ii) the Sublease shall terminate in accordance with its terms.

(b) Following the Closing, if (i) Buyer has been assigned and has assumed the Tower Lease in accordance with **Section 4.11(a)**, and (ii) Buyer terminates

the Tower Lease pursuant to and in accordance with the right of early termination set forth in exhibit D of the Tower Lease, then Seller shall be responsible for, and shall pay to the landlord under the Tower Lease on Buyer's behalf, the termination fee described in exhibit D of the Tower Lease. For the avoidance of doubt, Seller shall not be obligated to make any other payments in respect of the Tower Lease upon a termination thereof by Buyer other than as set forth in the immediately preceding sentence.

## **ARTICLE V CONDITIONS PRECEDENT**

**5.1 Conditions Precedent to Buyer's Obligations.** The obligations of Buyer hereunder to consummate the Closing are subject to satisfaction (or waiver by Buyer), at or prior to the Closing Date, of each of the following conditions:

(a) **Representations, Warranties and Covenants.** The representations and warranties of Seller made in this Agreement shall be true and correct, disregarding all qualifiers and exceptions relating to materiality or Seller Material Adverse Effect, (i) as of the date of this Agreement and (ii) (except to the extent such representations and warranties speak only as of an earlier date, in which case such representations and warranties shall have been true and correct, disregarding all qualifiers and exceptions relating to materiality or Seller Material Adverse Effect, as of such earlier date) as of the Closing as though made at and as of the Closing, except, in both cases, (A) for casualty losses or damages, subject to **Section 4.4** (Risk of Loss) or (B) where the failures to be true and correct, individually or in the aggregate, have not resulted in and would not reasonably be expected to result in a Seller Material Adverse Effect. Seller shall have performed in all material respects all obligations required to be performed by it under this Agreement at or prior to the Closing. Buyer shall have received a certificate dated as of the Closing Date from Seller, executed by an authorized officer of Seller, to the effect of the foregoing and stating that the conditions set forth in this **Section 5.1(a)** have been satisfied.

(b) **Governmental Consents.** The grant of the FCC Consent shall have become a Final Order and shall contain no provision materially adverse to any of Buyer, Buyer's Affiliates, or the Station.

(c) **Adverse Proceedings.** No Governmental Order shall have been rendered against, or shall be in effect with respect to, any party hereto or CBS Seller that would render it unlawful, as of the Closing Date, to effect the transactions contemplated by this Agreement in accordance with its terms.

(d) **Authorization.** Buyer shall have received a true and complete copy, certified by an officer of each Seller, of the resolutions duly and validly adopted by

the members of each Seller evidencing authorization of the execution and delivery of this Agreement and consummation of the transactions contemplated hereby.

(e) **CBS Option Agreement.** The consummation of the transactions contemplated by the CBS Option Agreement shall have occurred immediately prior to, or simultaneously with, the Closing.

(f) **Deliveries.** Seller shall have made or stand willing and able to make all the deliveries required under Sections 6.1 and 6.2.

**5.2 Conditions Precedent to Seller's Obligations.** The obligations of Seller hereunder to consummate the Closing are subject to satisfaction (or waiver by Seller), at or prior to the Closing Date, of each of the following conditions:

(a) **Representations, Warranties and Covenants.** The representations and warranties of Buyer made in this Agreement shall be true and correct, disregarding all qualifiers and exceptions relating to materiality or Buyer Material Adverse Effect, (i) as of the date of this Agreement and (ii) (except to the extent such representations and warranties speak only as of an earlier date, in which case such representations and warranties shall have been true and correct, disregarding all qualifiers and exceptions relating to materiality or Buyer Material Adverse Effect, as of such earlier date) as of the Closing as though made at and as of the Closing except, where the failures to be true and correct, individually or in the aggregate, have not resulted in and would not reasonably be expected to result in a Buyer Material Adverse Effect. Buyer shall have performed in all material respects all obligations required to be performed by it under this Agreement at or prior to the Closing. Seller shall have received a certificate dated as of the Closing Date from Buyer, executed by an authorized officer of Buyer, to the effect of the foregoing and stating that the conditions set forth in this **Section 5.2(a)** have been satisfied.

(b) **Governmental Consents.** The grant of the FCC Consent shall have been obtained and shall be in full force and effect and shall contain no provision materially adverse to Seller or Seller's Affiliates. Seller acknowledges that, as and to the extent set forth in **Section 1.6**, Seller's obligation to consummate the transactions contemplated by this Agreement is not subject to the condition that the grant of the FCC Consent shall have become a Final Order.

(c) **Adverse Proceedings.** No Governmental Order shall have been rendered against, or shall be in effect with respect to, any party hereto or CBS Seller that would render it unlawful, as of the Closing Date, to effect the transactions contemplated by this Agreement in accordance with its terms.

(d) **Authorization.** Seller shall have received a true and complete copy, certified by an authorized representative of Buyer, of the resolutions duly and validly adopted by the board of directors of Buyer evidencing its authorization of the execution and delivery of this Agreement and consummation of the transactions contemplated hereby.

(e) **CBS Option Agreement.** The consummation of the transactions contemplated by the CBS Option Agreement shall have occurred immediately prior to, or simultaneously with, the Closing.

(f) **Deliveries.** Buyer shall have made or stand willing and able to make all the deliveries required under **Sections 6.1** and **6.3** and shall have paid or stand willing to pay the Purchase Price and WMSF Relocation Expenses (subject to the WMSF Relocation Expenses Cap) as provided in **Section 1.5**.

**5.3 Frustration of Conditions Precedent.** For the purposes of this **Article V** and the termination rights under **Section 8.1**, neither party may rely on the failure of any condition set forth in this **Article V** to be satisfied if such failure was caused by such party's failure to act in good faith or to use its commercially reasonable efforts to cause the Closing to occur to the extent required under **Section 4.6**.

## **ARTICLE VI DOCUMENTS TO BE DELIVERED AT THE CLOSING**

**6.1 Documents to be Delivered by Both Parties.** At the Closing, each of Buyer and Seller shall execute and deliver to the other as applicable a duly executed Assignment and Assumption Agreement with respect to the Station Assets, including the Station Contracts, and Assumed Obligations being transferred and assumed at the Closing, substantially in the form of Exhibit A-1.

**6.2 Documents to be Delivered by Seller.** At the Closing, Seller shall deliver to Buyer the following:

- (a) the certificate described in **Section 5.1(a)**;
- (b) the documents described in **Section 5.1(d)**;
- (c) a duly executed Bill of Sale with respect to the Station Assets, substantially in the form of Exhibit A-2;

(d) a duly executed Assignment for the FCC Licenses, substantially in the form of Exhibit A-3;

(e) duly executed and filed UCC-3's and other evidence reasonably satisfactory to Buyer evidencing the release of all Liens on the Station Assets arising under that certain Credit and Guaranty Agreement, dated as of June 1, 2012, by and among Seller, as borrower, the lenders party thereto, and Capital One, National Association, as administrative agent; and

(f) an affidavit stating, under penalties of perjury, Seller's taxpayer identification number and that Seller is not a foreign Person in accordance with Section 1445(b)(2) of the Code and the Treasury Regulations.

**6.3 Documents and Compensation to be Delivered by Buyer.** At the Closing, Buyer shall deliver to Seller the following:

(a) the certificate described in **Section 5.2(a)**;

(b) the documents described in **Section 5.2(d)**; and

(c) the Purchase Price and an amount equal to the WMSF Relocation Expenses (subject to the WMSF Relocation Expenses Cap).

## **ARTICLE VII SURVIVAL; INDEMNIFICATION**

### **7.1 Survival.**

(a) The representations and warranties in this Agreement or in any certificate or document delivered pursuant to **Article V** or **VI** shall survive the Closing for a period of 12 months from the Closing Date, whereupon they shall expire and be of no further force or effect. Notwithstanding the foregoing, (i) the representations and warranties in **Section 2.1** (Existence and Power), **Section 2.2** (Authorization), **Section 2.13** (Title to Station Assets; Condition of Tangible Personal Property) relating to title, **Section 2.14** (No Finder), **Section 3.1** (Existence and Power), **Section 3.2** (Authorization), and **Section 3.9** (No Finder) shall survive in perpetuity (each of the foregoing representations and warranties identified in this clause (i) and the representations and warranties in **Section 2.12** (Taxes) being referred to hereinafter as the "*Fundamental Representations*"), (ii) the representations and warranties in **Section 2.10** (Environmental) shall survive for thirty-six (36) months after the Closing Date, and (iii)

the representations and warranties in **Section 2.12** (Taxes) shall survive until the expiration of the applicable statute of limitations. The covenants and agreements in this Agreement to the extent such covenants and agreements contemplate performance, in whole or in part, after the Closing, shall survive until performed in full, and the covenants and agreements in this Agreement that contemplate performance in whole at or prior to the Closing, shall survive the Closing for a period of 12 months from the Closing Date, whereupon they shall expire and be of no further force or effect.

(b) No claim for indemnification may be brought under this Agreement unless written notice describing in reasonable detail the nature and basis of such claim is given on or prior to the last day of the applicable survival period. In the event such notice is given, the right to indemnification with respect thereto shall survive the applicable survival period until such claim is finally resolved and any obligations thereto are fully satisfied.

## **7.2 Indemnification by Seller.**

(a) Subject to **Section 7.1**, from and after the Effective Time, Seller shall defend, indemnify and hold harmless Buyer, its Affiliates and their respective employees, officers, directors, shareholders and agents (collectively, the “*Buyer Indemnified Parties*”) from and against any and all losses, costs, damages, liabilities, expenses, obligations and claims of any kind (including any Action brought by any Governmental Authority or Person and including reasonable attorneys’ fees and expenses) (“*Losses*”) incurred by such Buyer Indemnified Parties arising out of or resulting from (i) Seller’s breach of any of the representations or warranties contained in this Agreement or in any certificate or document delivered pursuant to **Article V** or **VI** (it being understood that for purposes of this **Section 7.2(a)** any qualification relating to “Seller Material Adverse Effect,” “materiality” or “in any material respect” contained in any such representation or warranty shall be disregarded); (ii) any breach or nonfulfillment of any agreement or covenant of Seller under this Agreement; and (iii) the Retained Liabilities.

(b) Seller shall have no liability to any Buyer Indemnified Party under clause (i) of **Section 7.2(a)** until, and only to the extent that, the aggregate Losses of the Buyer Indemnified Parties under **Section 7.2(a)(i)** exceed an amount equal to \$50,000.00, and the maximum liability of Seller under clause (i) of **Section 7.2(a)** shall be an amount equal to \$2,526,000; provided, however, the foregoing limitations shall not apply to any Losses based upon breach of the Fundamental Representations.

## **7.3 Indemnification by Buyer.**

(a) Subject to **Section 7.1**, from and after the Effective Time, Buyer shall defend, indemnify and hold harmless each Seller, their Affiliates and their

respective employees, officers, directors, members and agents (collectively, the “*Seller Indemnified Parties*”) from and against any and all Losses incurred by such Seller Indemnified Party arising out of or resulting from (i) Buyer’s breach of any of its representations or warranties contained in this Agreement or in any certificate or document delivered pursuant to **Article V** or **VI**; (ii) any breach or nonfulfillment of any agreement or covenant of Buyer under this Agreement; and (iii) the Assumed Obligations.

(b) Buyer shall have no liability to any Seller Indemnified Party under clause (i) of **Section 7.3(a)** until, and only to the extent that, the aggregate Losses of the Seller Indemnified Parties under **Section 7.3(a)(i)** exceed an amount equal to \$50,000.00, and the maximum liability of Buyer under clause (i) of **Section 7.3(a)** shall be an amount equal to \$2,526,000; provided, however, the foregoing limitations shall not apply to any Losses based upon breach of the Fundamental Representations.

**7.4 Procedures.** The indemnified party shall give prompt written notice to the indemnifying party of any demand, suit, claim or assertion of liability by third parties or other circumstances that could give rise to an indemnification obligation hereunder against the indemnifying party (a “*Claim*”), which shall include a sufficient description of and background information explaining the basis for such Claim, but a failure to give or a delay in giving such notice shall not affect the indemnified party’s right to indemnification and the indemnifying party’s obligation to indemnify as set forth in this Agreement (subject to **Section 7.1**), except to the extent the indemnifying party’s ability to remedy, contest, defend or settle with respect to such Claim is thereby prejudiced. The obligations and liabilities of the parties with respect to any third-party Claim shall be subject to the following additional terms and conditions:

(a) The indemnifying party shall have the right to undertake, by counsel or other representatives of its own choosing, the defense or opposition to such Claim. In the event that Seller is obligated to permit CBS Seller to defend or oppose a Claim made hereunder pursuant to the terms of the CBS Purchase Agreement, Seller may assign its rights hereunder to defend or oppose such Claim to CBS Seller; provided that (i) such assignment shall not relieve Seller of any of its obligations hereunder, (ii) such assignment shall not limit or in any way modify any of Buyer’s rights hereunder and (iii) CBS Seller shall not, and Seller shall enforce its rights under the CBS Purchase Agreement, in accordance therewith, to cause CBS Seller not to, take any actions in connection with such defense or opposition that are inconsistent with, or in breach of, this Agreement, including, without limitation, **Section 7.4(c)**.

(b) In the event that the indemnifying party shall elect not to undertake such defense or opposition, or, within 20 days after delivery of written notice of any such Claim from the indemnified party, the indemnifying party shall fail to undertake to defend or oppose, the indemnified party (upon further written notice to the indemnifying party) shall have the right to undertake the defense, opposition, compromise or settlement

of such Claim, by counsel or other representatives of its own choosing, on behalf of and for the account and risk of the indemnifying party.

(c) Anything herein to the contrary notwithstanding, (i) the indemnified party shall have the right, at its own cost and expense, to participate in the defense, opposition, compromise or settlement of a Claim, (ii) the indemnifying party shall not, without the indemnified party's written consent, settle or compromise any Claim or consent to entry of any judgment, except that no consent shall be required for any judgment, settlement or compromise solely for money damages that includes a full release of the indemnified party in respect of such Claim, provided that, with respect to any Claim made pursuant to **Sections 7.2(a)(i) or 7.3(a)(i)**, such judgment, settlement or compromise shall only be permitted so long as such money damages do not exceed the amount remaining under the cap on indemnification set forth in the last sentence of **Section 7.2(c) or Section 7.3(c)** (as applicable), taking into account all previous Claims and any pending Claims, and (iii) in the event that the indemnifying party undertakes defense of or opposition to any Claim, the indemnified party, by counsel or other representative of its own choosing and at its sole cost and expense, shall have the right to consult with the indemnifying party and its counsel or other representatives concerning such Claim and the indemnifying party and the indemnified party and their respective counsel or other representatives shall cooperate in good faith with respect to such Claim.

#### **7.5 Computation of Indemnifiable Losses; Limitation on Indemnification Obligations.**

(a) Any amount payable pursuant to this **Article VII** shall be decreased (i) to the extent of any amounts actually recovered by the indemnified party from any third party (including insurance proceeds) in respect of an indemnifiable Loss, and (ii) by any net Tax benefit actually realized by the indemnified party arising out of an indemnifiable Loss. The indemnifying party and indemnified party shall cooperate in good faith in providing each other the information necessary to determine the Tax benefits, as the case may be, in each case. The indemnified party shall use its commercially reasonable efforts to pursue payment under or from any insurer or third-party in respect of such Losses.

(b) Any liability for indemnification under this **Article VII** shall be determined without duplication of recovery by reason of the state of facts giving rise to such liability constituting a breach of more than one representation, warranty, covenant or agreement.

(c) The indemnified party shall take all commercially reasonable steps to mitigate Losses for which it may claim indemnification pursuant to this Agreement upon and after becoming aware of any event that would reasonably be expected to give rise to any such Losses.

(d) Any indemnification payment hereunder shall be treated as an adjustment to the Purchase Price to the extent permitted by applicable Laws.

## **7.6 Sole Remedy; Limitation on Liability.**

(a) After the Closing, except in the case of another party's fraud, willful misconduct or intentional misrepresentation, the right to indemnification under this **Article VII** shall be the exclusive remedy of any party in connection with any breach or default by another party under this Agreement. Prior to the Closing, or after the termination of this Agreement, nothing in this **Section 7.6(a)** or **Section 7.6(b)** shall preclude any party from seeking the remedies otherwise available to it in accordance with this Agreement.

(b) Neither Seller nor Buyer shall be entitled to recover or make a claim for any amounts in respect of its consequential, incidental or indirect damages, lost profits or punitive or exemplary damages, and, in particular, no "multiples of profits" or "multiple of cash flow" or similar valuation methodology shall be used in calculating the amount of any such Losses, except to the extent awarded by a court of competent jurisdiction in connection with a Claim made by a third party; provided, however, that with respect to claims relating to or arising out of breaches of covenants set forth in this Agreement that are required to be performed prior to Closing, Seller and Buyer shall be entitled to make a claim for consequential, incidental or indirect damages and lost profits, and, to the extent awarded by a court of competent jurisdiction in connection with a Claim by a third party, punitive or exemplary damages, and no "multiples of profits," "multiples of cash flows" and similar valuation methodologies may be used in calculating the amount of any such Losses.

(c) Notwithstanding anything contained in this Agreement to the contrary, Seller shall not be deemed to have breached any of its representations, warranties or covenants contained herein, nor shall Seller have any indemnification or other liability or responsibility to Buyer in respect of any breach of any representations, warranties or covenants, to the extent that the inaccuracy or breach of any such representation, warranty or covenant, is principally caused by (i) any actions taken by or at the direction of Buyer or its Affiliates (or any of their respective officers, directors, employees, agents or representatives) under the LMA, or (ii) the failure of Buyer to perform or discharge any of its obligations as required by the LMA.

## **ARTICLE VIII TERMINATION RIGHTS**

### **8.1 Termination.**

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

(i) subject to Section 8.1(d), if the other party is in material breach or default of this Agreement or does not perform in all material respects the obligations to be performed by it under this Agreement on the Closing Date such that the conditions set forth in **Section 5.1(a)** or **Section 5.2(a)**, as applicable, would not be satisfied on the Closing Date and such breach or default has not been waived by the party giving such termination notice;

(ii) if there shall be any Law that prohibits consummation of the transactions contemplated hereby or if a Governmental Authority of competent jurisdiction shall have issued a final, nonappealable Government Order enjoining or otherwise prohibiting consummation of the transactions contemplated hereby; or

(iii) if the FCC dismisses or denies the FCC Application.

(b) This Agreement may be terminated by either Buyer or Seller if the Closing has not occurred on or prior to the date that is 12 months from the date of this Agreement (the “*Upset Date*”); provided however, if the Closing has not occurred by the Upset Date and all other conditions precedent to the terminating party’s obligations to close as set forth in **Section 5.1** or **Section 5.2**, as applicable, have been satisfied or waived (or, with respect to those conditions that by their terms are to be satisfied at the Closing, stand ready to be satisfied at the Closing) other than the grant of the FCC Consent, the non-terminating party may, at its option, extend the Upset Date for an additional 6 months.

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

(d) If either party asserts that the other is in breach or default of this Agreement, the non-defaulting party shall, prior to exercising its right to terminate under **Section 8.1(a)(i)**, provide the defaulting party with notice specifying in reasonable detail the nature of such breach or default. Except for a failure to pay the Purchase Price or the WMSF Relocation Expenses (subject to the WMSF Relocation Expenses Cap) or otherwise perform any obligations to be performed at the time scheduled for Closing, the defaulting party shall have 20 days from receipt of such notice to cure such default; provided, however, that if the breach or default is incapable of cure within such 20-day period, the cure period shall be extended as long as the defaulting party is diligently and in good faith attempting to effectuate a cure and there is a reasonable likelihood that a cure will be achieved. Nothing in this **Section 8.1(d)** shall be interpreted to extend the Upset Date.

(e) If this Agreement is terminated for any reason other than a Seller Termination Event, then the Escrow Deposit and any interest or earnings thereon shall be returned to Buyer by the Escrow Agent and Buyer shall be entitled to pursue any remedies it may have to the extent provided in **Section 8.2**.

(f) If this Agreement is terminated by Seller pursuant to **Section 8.1(a)(i)** due to Buyer's material default or breach of this Agreement (a "*Seller Termination Event*"), then Seller shall be entitled to the Escrow Deposit as liquidated damages. The parties understand and agree that the amount of liquidated damages represents Seller's and Buyer's reasonable estimate of actual damages and does not constitute a penalty. Notwithstanding any other provision of this Agreement to the contrary, the payment of the Escrow Deposit pursuant to this **Section 8.1(f)** shall be Seller's sole and exclusive remedy for damages of any nature or kind that Seller may suffer under this Agreement, and Seller shall have no further remedy against Buyer for any claim or Loss arising out of, relating to or in connection with this Agreement or the transactions contemplated hereby.

(g) This Agreement may be terminated prior to Closing by Seller upon a Determination Event. If this Agreement is terminated by Seller pursuant to this **Section 8.1(g)**, Seller shall pay Buyer \$250,000 in cash by wire transfer within three (3) Business Days of the date that Seller terminates this Agreement pursuant to this **Section 8.1(g)**. Notwithstanding any other provision of this Agreement to the contrary, the payment of such amount pursuant to this **Section 8.1(g)** shall be liquidated damages and Buyer's sole and exclusive remedy for damages of any nature or kind that Buyer may suffer under this Agreement, and Buyer shall have no further remedy against Seller for any claim or Loss arising out of, relating to or in connection with this Agreement or the transactions contemplated hereby, except, in each case, to the extent arising out of or relating to Seller's fraud, bad faith or willful misconduct (provided that inclusion of any particular term in the Sublease shall not be the basis for any claim for fraud, bad faith or willful misconduct).

**8.2 Effect of Termination.** In the event of a valid termination of this Agreement pursuant to **Section 8.1**, this Agreement (other than **Sections 4.3(c) and (d)** (Confidentiality; Publicity), this **Article VIII** (Termination Rights), **Section 10.1** (Expenses), **Section 10.2** (Benefit and Assignment), **Section 10.3** (No Third Party Beneficiaries), **Section 10.4** (Entire Agreement; Waiver; Amendment), **Section 10.5** (Headings), **Section 10.7** (Governing Law; Waiver of Jury Trial), and **Section 10.8** (Construction), which shall remain in full force and effect) shall forthwith become null and void, and no party hereto (nor any of their respective Affiliates, directors, officers or employees) shall have any liability or further obligation, except as provided in this **Article VIII**; provided, however, that nothing in this **Section 8.2** shall (subject to the limitations in **Section 8.1(f) and Section 8.1(g)**) relieve any party from liability for any breach of this Agreement prior to termination. Notwithstanding anything to the contrary

herein, in no event shall either party be permitted to terminate this Agreement after the Closing.

**8.3 Specific Performance.** In the event of a failure or threatened failure by either party to comply with the terms of this Agreement, the other party shall be entitled to an injunction restraining such failure or threatened failure and, subject to obtaining any necessary FCC consent, to enforcement of this Agreement by a decree of specific performance requiring compliance with this Agreement. Without limiting the foregoing, if all of the conditions set forth in **Section 5.1** have been satisfied and Buyer is obligated to effect the Closing but fails to do so, Seller shall, in addition, to any other remedies available to Seller at law or equity or pursuant to contract, be entitled to specifically enforce Buyer's obligation to consummate the transactions contemplated by this Agreement. In any action to specifically enforce Buyer's obligations hereunder, Buyer shall waive the defense that there is an adequate remedy at law and agrees that Seller shall be entitled to obtain specific performance of Buyer's obligation to close without being required to prove actual damages. Without limiting the foregoing, if all of the conditions set forth in **Section 5.2** have been satisfied and Seller is obligated to effect the Closing but fails to do so, Buyer shall, in addition, to any other remedies available to Buyer at law or equity or pursuant to contract, be entitled to specifically enforce Seller's obligation to consummate the transactions contemplated by this Agreement. In any action to specifically enforce Seller's obligations hereunder, Seller shall waive the defense that there is an adequate remedy at law and agrees that Buyer shall be entitled to obtain specific performance of Seller's obligation to close without being required to prove actual damages.

## **ARTICLE IX TAX MATTERS**

**9.1 Bulk Sales.** Seller and Buyer hereby waive compliance with the provisions of any applicable bulk sales law and no representation, warranty or covenant contained in this Agreement shall be deemed to have been breached as a result of such non-compliance.

**9.2 Transfer Taxes.** Buyer and Seller shall each be responsible for 50% of all Transfer Taxes imposed by any Law in connection with or by reason of the transactions contemplated in this Agreement. The party having the primary responsibility under applicable Law to file any Tax Return with respect to such Transfer Taxes shall timely file such Tax Return (and any other required documentation) with the appropriate Governmental Authority and shall pay any Transfer Taxes due with respect thereto, and the other party shall promptly reimburse the filing party for the non-filing party's share of such Transfer Taxes. Buyer and Seller shall cooperate in the preparation, execution and filing of all such Tax Returns and shall cooperate to seek and to secure any available exemptions from such Transfer Taxes.

**9.3 Taxpayer Identification Numbers.** The taxpayer identification numbers of Buyer and Seller are set forth on Schedule 9.3.

## **ARTICLE X OTHER PROVISIONS**

**10.1 Expenses.** Except as otherwise expressly provided herein, each party shall be solely responsible for and shall pay all costs and expenses incurred by it in connection with the negotiation, preparation and performance of and compliance with the terms of this Agreement (including such party's fees and expenses of counsel).

### **10.2 Benefit and Assignment.**

(a) This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns. Neither party may assign any of its rights or obligations under this Agreement without the other party's prior written consent, which consent may be withheld or delayed in such party's sole discretion.

(b) Notwithstanding anything above to the contrary, Buyer may, with prior notice to Seller, but without Seller's consent, assign any or all of its rights and obligations under this Agreement to an Affiliate; provided that such assignment does not hinder or delay the Closing, the Closing shall not be contingent upon or subject to the completion of any such assignment, such assignment does not relieve Buyer of any liability or obligation under this Agreement, and such assignment does not cause Seller to incur any liabilities or costs. If Buyer gives notice of an assignment pursuant to this **Section 10.2(b)**, the other party shall cooperate with all reasonable requests of Buyer, as the case may be. Buyer shall indemnify and hold Seller harmless from any cost, expense or liability, including attorney's fees, resulting from Seller's participation in any assignment of this Agreement pursuant to this **Section 10.2(b)**.

**10.3 No Third Party Beneficiaries.** Nothing herein, express or implied, shall be construed to confer upon or give to any other Person other than the parties hereto or their permitted successors or assigns, any rights or remedies under or by reason of this Agreement.

**10.4 Entire Agreement; Waiver; Amendment.** This Agreement, the Escrow Agreement, the Buyer Ancillary Agreements, the Seller Ancillary Agreements and the exhibits and schedules hereto and thereto constitute the entire agreement of the parties hereto with respect to the subject matter hereof and thereof and supersede all prior agreements and undertakings, both written and oral, between Seller and Buyer with respect to the subject matter hereof and thereof (including any confidentiality

agreements), except as otherwise expressly provided herein. Any matter that is disclosed in a schedule hereto in such a way as to make its relevance to the information called for by another schedule readily apparent shall be deemed to have been included in such other schedule, notwithstanding the omission of an appropriate cross reference. No amendment, waiver of compliance with any provision or condition hereof, or consent pursuant to this Agreement shall be effective unless evidenced by an instrument in writing signed by the party against whom enforcement of any waiver, amendment, change, extension or discharge is sought. No failure or delay on the part of Buyer or Seller in exercising any right or power under this Agreement shall operate as a waiver thereof, nor shall any single or partial exercise of any such right or power, or any abandonment or discontinuance of steps to enforce such a right or power, preclude any other or further exercise thereof or the exercise of any other right or power.

**10.5 Headings.** The headings set forth in this Agreement are for convenience only and will not control or affect the meaning or construction of the provisions of this Agreement.

**10.6 Computation of Time.** If after making computations of time provided for in this Agreement, a time for action or notice falls on Saturday, Sunday or a Federal holiday, then such time shall be extended to the next Business Day.

**10.7 Governing Law; Waiver of Jury Trial.** The construction and performance of this Agreement shall be governed by the law of the State of New York without regard to its principles of conflict of law. The exclusive forum for the resolution of any disputes arising hereunder shall be the federal or state courts located in New York County, New York, and each party irrevocably waives the defense of an inconvenient forum to the maintenance of any such action or proceeding. BUYER AND SELLER HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVE TRIAL BY JURY IN ANY LEGAL ACTION OR PROCEEDING RELATING IN ANY WAY TO THIS AGREEMENT, INCLUDING ANY COUNTERCLAIM MADE IN SUCH ACTION OR PROCEEDING, AND AGREE THAT ANY SUCH ACTION OR PROCEEDING SHALL BE DECIDED SOLELY BY A JUDGE. Buyer and Seller hereby acknowledge that they have each been represented by counsel in the negotiation, execution and delivery of this Agreement and that their lawyers have fully explained the meaning of the Agreement, including in particular the jury-trial waiver.

**10.8 Construction.** Any question of doubtful interpretation shall not be resolved by any rule providing for interpretation against the party who causes the uncertainty to exist or against the drafter of this Agreement. In this Agreement, (a) the words “hereof,” “herein,” “hereto,” “hereunder,” and words of similar import shall, unless otherwise stated, refer to this Agreement as a whole and not merely to a specific section, paragraph, or clause in which the respective word appears, (b) words used herein, regardless of the gender and number specifically used, shall be deemed and construed to include any other gender, masculine, feminine or neuter, and any other number, singular

or plural, as the context requires, (c) any terms defined in this Agreement may, unless the context otherwise requires, be used in the singular or the plural depending on the reference, (d) unless otherwise stated, references to any Section, Article, Schedule or Exhibit are to such Section or Article of, or Schedule or Exhibit to, this Agreement, (e) the word “including” means including without limitation, (f) unless otherwise stated, references to “Dollars” or “\$” are to U.S. Dollars and (g) the word “shall” denotes a directive and obligation, and not an option. Any reference to any federal, state, local or foreign statute or law shall be deemed also to refer to all rules and regulations promulgated thereunder, unless the context requires otherwise. All Schedules and Exhibits attached to this Agreement shall be deemed part of this Agreement and incorporated herein, where applicable, as if fully set forth herein.

**10.9 Notices.** Any notice, demand or request required or permitted to be given under the provisions of this Agreement shall be in writing, addressed to the following addresses, or to such other address as any party may request in writing.

If to Seller:

Palm Beach Broadcasting LLC  
701 Northpoint Parkway  
West Palm Beach, FL 33407-1950  
Attention: Dean Goodman  
Facsimile: 561-686-7364  
Email: dean@GoodRadio.TV

With a copy, which shall not constitute notice, to:

Dow Lohnes PLLC  
1200 New Hampshire Avenue, NW  
Washington, DC 20036  
Attention: Michael Basile, Esq.  
Facsimile: (202) 776-4556

If to Buyer:

Lincoln Financial Group  
150 N. Radnor Chester Road  
Radnor, PA 19087  
Attention: General Counsel

With a copy, which shall not constitute notice, to:

Paul Hastings LLP  
875 15th Street, N.W.  
Washington, DC 20005  
Attention: Eric Dodson Greenberg, Esq.

Facsimile: (202) 551-0343

Any such notice, demand or request shall be deemed to have been duly delivered and received (a) on the date of personal delivery, or (b) on the date of transmission, if sent by facsimile and received prior to 5:00 p.m. in the place of receipt (but only if a hard copy is also sent by overnight courier), or (c) on the date of receipt, if mailed by registered or certified mail, postage prepaid and return receipt requested, or (d) on the date of a signed receipt, if sent by an overnight delivery service, but only if sent in the same manner to all persons entitled to receive notice or a copy.

**10.10 Severability.** If any term or other provision of this Agreement is invalid, illegal or incapable of being enforced because of any Law or public policy, all other conditions and provisions of this Agreement shall nevertheless remain in full force and effect so long as the economic or legal substance of the transactions contemplated hereby is not affected in any manner materially adverse to either party hereto. Upon such determination that any term or other provision is invalid, illegal or incapable of being enforced, the parties hereto shall negotiate in good faith to modify this Agreement so as to effect the original intent of the parties as closely as possible in a mutually acceptable manner in order that the transactions contemplated hereby be consummated as originally contemplated to the greatest extent possible.

**10.11 Counterparts.** This Agreement may be executed in one or more counterparts, each of which will be deemed an original and all of which together will constitute one and the same instrument. Facsimile or other electronically delivered copies of signature pages to this Agreement, any Buyer Ancillary Agreement, any Seller Ancillary Agreement or any other document or instrument delivered pursuant to this Agreement shall be treated as original signatures for all purposes.

## **ARTICLE XI DEFINITIONS**

**11.1 Defined Terms.** Unless otherwise stated in this Agreement, the following terms when used herein shall have the meanings assigned to them below (such meanings to be equally applicable to both the singular and plural forms of the terms defined);

“*Action*” means any claim, action, suit, arbitration, inquiry, proceeding or investigation by or before any Governmental Authority.

“*Affiliate*” means, with respect to any Person, any other Person directly or indirectly Controlling, Controlled by or under common Control with such Person.

“*Agreement*” shall mean this Asset Purchase Agreement, including the exhibits and schedules hereto, as may be amended or supplemented from time to time.

“*Assumed Obligations*” shall have the meaning set forth in **Section 1.3**.

“*Business Day*,” whether or not capitalized, shall mean every day of the week excluding Saturdays, Sundays and Federal holidays.

“*Buyer*” shall have the meaning set forth in the Preamble to this Agreement.

“*Buyer Ancillary Agreements*” shall have the meaning set forth in **Section 3.2(a)**.

“*Buyer Indemnified Parties*” shall have the meaning set forth in **Section 7.2(a)**.

“*Buyer Material Adverse Effect*” means a material adverse effect on the ability of Buyer to perform its obligations under this Agreement or any Buyer Ancillary Agreement.

“*CBS Option Agreement*” shall have the meaning set forth in the Recitals to this Agreement.

“*CBS Purchase Agreement*” shall have the meaning set forth in the Recitals to this Agreement.

“*CBS Seller*” shall have the meaning set forth in the Recitals to this Agreement.

“*Change of License Payment Date*” means the date on which the FCC grant of the WMSF Modification Application shall have become a Final Order.

“*Claim*” shall have the meaning set forth in **Section 7.4**.

“*Closing*” shall have the meaning set forth in **Section 1.6**.

“*Closing Date*” shall have the meaning set forth in **Section 1.6**.

“*Code*” means the Internal Revenue Code of 1986, as amended.

“*Communications Act*” shall have the meaning set forth in **Section 2.6(c)**.

“*Control*” means, as to any Person, the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such Person, whether through the ownership of voting securities, by contract or otherwise. The terms “Controlled” and “Controlling” shall have a correlative meaning.

“*Damaged Asset*” shall have the meaning set forth in **Section 4.4**.

“*Determination Event*” shall have the meaning set forth on Schedule 8.1.

“*Effective Time*” shall have the meaning set forth in **Section 1.6**.

“*Environmental Laws*” means any Law, whether local, state, or federal, including the Comprehensive Environmental Response, Compensation and Liability Act (“CERCLA”), 42 U.S.C. 9601 et seq., as amended, the Resource Conservation and Recovery Act (“RCRA”), 42 U.S.C. 6901 et seq., as amended, the Clean Air Act (“CAA”), 42 U.S.C. 7401 et seq., as amended, the Clean Water Act (“CWA”), 33 U.S.C. 1251 et seq., as amended, the Occupational Safety and Health Act (“OSHA”), 29 U.S.C., 655 et seq., as amended, and any other federal, state, local or municipal Laws, statutes, regulations, rules or ordinances relating to: (a) releases or threatened releases of Hazardous Material into the environment; (b) Remedial Actions; (c) the presence, use, production, generation, treatment, storage, disposal, labeling, testing, processing, handling, discharging or shipment of Hazardous Material; (d) the regulation of storage tanks; or (e) otherwise relating to protection of public health and safety, worker health and safety, pollution or the protection of the environment.

“*Escrow Agent*” shall have the meaning set forth in **Section 1.5(b)**.

“*Escrow Deposit*” shall have the meaning set forth in **Section 1.5(b)**.

“*Excluded Assets*” shall have the meaning set forth in **Section 1.2**.

“*FCC*” shall have the meaning set forth in the Recitals to this Agreement.

“*FCC Application*” shall mean the application that CBS Seller and Buyer must file with the FCC requesting its consent to the assignment of the FCC Licenses of the Station from CBS Seller to Buyer.

“*FCC Consent*” shall mean the initial action by the FCC granting the FCC Application.

“*FCC Licenses*” shall have the meaning set forth in **Section 1.1(a)**.

“*Final Order*” means an action by the FCC (a) that has not been vacated, reversed, stayed, enjoined, set aside, annulled or suspended, (b) with respect to which no request for stay, motion or petition for rehearing, reconsideration or review, or application or request for review or notice of appeal or *sua sponte* review by the FCC is pending, and (c) as to which the time for filing any such request, motion, petition, application, appeal or notice, and for the entry of orders staying, reconsidering or reviewing on the FCC’s own motion has expired.

“*Fundamental Representations*” shall have the meaning set forth in **Section 7.1**.

“*GAAP*” means United States generally accepted accounting principles as

in effect as of the date hereof, consistently applied.

“*Governmental Authority*” means any federal, state or local or any foreign government, legislature, governmental entity, regulatory or administrative authority, agency or commission or any court, tribunal, or judicial or arbitral body.

“*Governmental Order*” means any order, writ, judgment, injunction, ruling, decree, stipulation, determination or award entered by or with any Governmental Authority.

“*Hazardous Material*” means without regard to amount and/or concentration (a) any element, compound, chemical or other substance that is defined, listed or otherwise classified as a contaminant, pollutant, toxic pollutant, toxic or hazardous substance, extremely hazardous substance or chemical, hazardous waste, medical waste, biohazardous or infectious waste, special waste, or solid waste under Environmental Laws; (b) polychlorinated biphenyls, petroleum or petroleum compounds, asbestos or any asbestos containing materials; (c) any substance exhibiting a hazardous waste characteristic, including but not limited to corrosivity, ignitibility, toxicity or reactivity, as well as any radioactive or explosive materials; and (d) any substance that poses a hazard to human health, safety, natural resources, employees or the environment.

“*Knowledge of Buyer*” or any variant thereof shall mean the actual knowledge of the Chief Executive Officer and Chief Financial Officer of Buyer.

“*Knowledge of Seller*” or any variation thereof means (i) the “Knowledge of Seller,” as defined in the CBS Purchase Agreement and (ii) the actual knowledge of Dean Goodman, which shall be deemed to include any information set forth in the CBS Purchase Agreement.

“*Law*” means any United States (federal, state, local) or foreign statute, law, ordinance, regulation, rule, code, order, judgment, injunction or decree.

“*Liens*” shall have the meaning set forth in **Section 1.1**.

“*LMA*” means that certain Local Marketing Agreement, executed as of the date hereof, by and between CBS Seller and Buyer.

“*Losses*” shall have the meaning set forth in **Section 7.2(a)**.

“*PBB*” shall have the meaning set forth in the Preamble to this Agreement.

“*PBB License*” shall have the meaning set forth in the Preamble to this Agreement.

“*Permitted Liens*” means, as to any property or asset or as to the Station, (a) Liens set forth on Schedule 1.1(b)-1, (b) Liens for Taxes, assessments and other

governmental charges not yet due and payable; (c) zoning laws and ordinances and similar Laws that are not violated by any existing improvement or that do not prohibit the use of the Real Property as currently used in the operation of the Station; (d) any right reserved to any Governmental Authority to regulate the affected property (including restrictions stated in the permits); (e) in the case of any leased asset, (1) the rights of any lessor under such lease agreement or any Lien granted by any lessor and (2) the rights of the grantor of any easement or any Lien granted by such grantor on such easement property, in each case that do not materially adversely affect title to the property subject thereto or impair the continued use of the property in the ordinary course of business of the Station; (f) easements, rights of way, restrictive covenants and other encumbrances, encroachments or other similar matters affecting title that do not materially adversely affect title to the property subject thereto or impair the continued use of the property in the ordinary course of business of the Station; (g) inchoate materialmen's, mechanics', workmen's, repairmen's or other like Liens arising in the ordinary course of business; (h) Liens arising that certain Credit and Guaranty Agreement, dated as of June 1, 2012, by and among Seller, as borrower, the lenders party thereto, and Capital One, National Association, as administrative agent, that are released and discharged at Closing at no cost to Buyer and (i) any other liens of which Seller does not have Knowledge as of the date hereof and that are discharged by Seller or CBS Seller prior to Closing at no cost to Buyer.

*“Person”* means any natural person, general or limited partnership, corporation, limited liability company, firm, association, trust or other legal entity or organization, including a government or political subdivision or an agency or instrumentality thereof.

*“Purchase Price”* shall have the meaning set forth in **Section 1.5(a)**.

*“Real Property Leases”* shall have the meaning set forth in **Section 2.9**.

*“Remedial Action”* means all actions taken (a) to clean up, remove, remediate, contain, treat, monitor, assess, evaluate or in any other way address Hazardous Material in the environment; (b) to prevent or minimize a release or threatened release of Hazardous Material so it does not migrate or endanger or threaten to endanger public health or welfare or the environment; (c) to perform pre-remedial studies and investigations and post-remedial operation and maintenance activities; or (d) pursuant to 42 U.S.C. 9601.

*“Retained Liabilities”* shall have the meaning set forth in **Section 1.4**.

*“Seller”* shall have the meaning set forth in the Preamble to this Agreement.

*“Seller Ancillary Agreements”* shall have the meaning set forth in **Section 2.2(a)**.

“*Seller Indemnified Parties*” shall have the meaning set forth in **Section 7.3(a)**.

“*Seller Material Adverse Effect*” means a material adverse effect on: (a) the ability of Seller to perform its obligations under this Agreement or any Seller Ancillary Agreement or (b) the financial condition, assets, operations or results of operations of the Station; provided, however, that any adverse effect primarily arising out of, resulting from or attributable to any of the following, shall not constitute or be deemed to contribute to a Seller Material Adverse Effect, and otherwise shall not be taken into account in determining whether a Seller Material Adverse Effect has occurred or would be reasonably likely to occur: (i) local, national or global economic conditions generally; (ii) events, circumstances, changes or effects affecting capital or financial markets generally, including the availability of credit or changes in interest rates; (iii) political conditions generally; (iv) events, circumstances, changes or effects affecting the radio broadcasting industry generally; (v) the negotiation, execution or the announcement of, or the consummation of the transactions contemplated by, or the performance of obligations under, this Agreement; (vi) any changes in Law or GAAP or the enforcement or interpretations thereof; (vii) actions specifically permitted to be taken or omitted pursuant to this Agreement or taken with Buyer’s written consent; (viii) any action taken by Buyer or its Affiliates with respect to the transactions contemplated hereby or with respect to the Station (including, for the avoidance of doubt, any action taken in connection with the LMA); (ix) any natural disaster such as a hurricane or earthquake; or (x) any hostilities, acts of war, terrorism or military actions, or any escalation or worsening of any such hostilities, acts of war, sabotage, terrorism or military actions, except, in the case of each of the foregoing clauses (i), (ii), (iii), (iv), (vi), (ix) and (x), to the extent disproportionately affecting the Station relative to other radio broadcast stations operating in the same West Palm Beach-Boca Raton, Florida Arbitron Radio Market.

“*Seller Termination Event*” shall have the meaning set forth in **Section 8.1(f)**.

“*Station*” shall have the meaning set forth in the Recitals to this Agreement.

“*Station Assets*” shall have the meaning set forth in **Section 1.1**.

“*Station Contracts*” shall have the meaning set forth in **Section 1.1(c)**.

“*Sublease*” shall have the meaning set forth in the Recitals.

“*Tangible Personal Property*” shall have the meaning set forth in **Section 1.1(b)**.

“*Tax*” or “*Taxes*” means all federal, state, local or foreign income, excise, gross receipts, ad valorem, sales, use, employment, franchise, profits, gains, property,

transfer, use, payroll, intangible or other taxes, fees, stamp taxes, duties, charges, levies or assessments of any kind whatsoever (whether payable directly or by withholding), together with any interest and any penalties, additions to tax or additional amounts imposed by any Tax authority with respect thereto.

“*Tax Returns*” means all returns and reports (including elections, declarations, disclosures, schedules, estimates and information returns) required to be supplied to a Tax authority relating to Taxes.

“*Tower Lease*” means that certain Tower Lease Agreement, dated December 1, 2011, by and between CBS Seller and WFLX, LLC.

“*Transfer Taxes*” means all excise, sales, use, value added, registration stamp, recording, documentary, conveyancing, transfer and similar Taxes, but, for the avoidance of doubt, excluding any income Taxes.

“*Triggering Event*” shall have the meaning set forth in **Section 2.4(c)**.

“*Upset Date*” shall have the meaning set forth in **Section 8.1(b)**.

“*WMSF*” shall have the meaning set forth in the Recitals to this Agreement.

“*WMSF Assets*” shall have the meaning set forth in the Recitals to this Agreement.

“*WMSF Modification Application*” shall have the meaning set forth in **Section 4.9**.

“*WMSF Relocation Expenses*” means the (i) reasonable fees and expenses paid by Seller as of the Closing Date to Dow Lohnes PLLC and du Treil, Lundin & Rackley, Inc. in connection with the transactions contemplated by the WMSF Modification Application, (ii) the reasonable fees paid by Seller as of the Closing Date to Alex Media, Inc. pursuant to the Contingent Application Agreement dated April 5, 2012, between Seller and Alex Media, Inc. and (iii) the reasonable expenses paid by Seller as of the Closing Date to Ocean Reef Public Radio, Inc. pursuant to the Facilities Modification Agreement dated March 7, 2012, between Seller and Ocean Reef Public Radio, Inc., in each case as evidenced by supporting documentation reasonably acceptable to Buyer.

“*WMSF Relocation Expenses Cap*” means an amount equal to (x) Five Hundred Thousand Dollars (\$500,000.00) plus (y) any WMSF Relocation Expenses in excess thereof that are incurred with the consent of Buyer, such consent to be granted or withheld in Buyer’s reasonable discretion minus (z) any amounts required to be paid by Buyer following the Closing pursuant to the agreements referenced in clauses (ii) and (iii) of the definition of WMSF Relocation Expenses.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the date first written above.

**SELLER:**

PALM BEACH BROADCASTING LLC

By:   
Name: Dean Goodman  
Title: President and CEO

PALM BEACH BROADCASTING  
LICENSE LLC

By:   
Name: Dean Goodman  
Title: President and CEO

**BUYER:**

LINCOLN FINANCIAL MEDIA COMPANY OF  
FLORIDA

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

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the date first written above.

**SELLER:**

PALM BEACH BROADCASTING LLC

By: \_\_\_\_\_  
Name: Dean Goodman  
Title: President and CEO

PALM BEACH BROADCASTING  
LICENSE LLC

By: \_\_\_\_\_  
Name: Dean Goodman  
Title: President and CEO

**BUYER:**

LINCOLN FINANCIAL MEDIA COMPANY OF  
FLORIDA

By:  \_\_\_\_\_  
Name: ROBERT J. BENSON  
Title: PRESIDENT & CEO