

**ASSET PURCHASE AGREEMENT**

**AMONG**

**GNS MEDIA EVANSVILLE, INC.,**

**QUORUM BROADCASTING OF INDIANA, INC.,**

**AND**

**QUORUM OF INDIANA LICENSE, LLC**

**DATED AS OF APRIL 1, 2003**

## TABLE OF CONTENTS

	<u>Page</u>
<b>ARTICLE I PURCHASE AND SALE OF ASSETS .....</b>	<b>1</b>
1.1 Transfer of Assets .....	1
1.2 Retained Assets .....	4
1.3 Liens and Liabilities.....	5
1.4 Retained Liabilities. ....	6
1.5 Provision of Updated Schedules. ....	8
<b>ARTICLE II PURCHASE/CLOSING.....</b>	<b>8</b>
2.1 Purchase Price .....	8
2.2 Proration.....	9
2.3 Adjustment Procedures. ....	11
2.4 Closing. ....	12
2.5 Deliveries by Seller.....	13
2.6 Deliveries by Buyer. ....	14
2.7 Conditions to Buyer's Obligations.....	15
2.8 Conditions to Sellers' Obligations.....	16
2.9 Tax Matters. ....	17
<b>ARTICLE III PRE-CLOSING COVENANTS.....</b>	<b>18</b>
3.1 Operation and Maintenance of the Business.....	18
3.2 Negative Covenants .....	19
3.3 Buyer's Access.....	21
3.4 FCC Consent.....	22
3.5 Efforts to Close and Material Consents Generally .....	22
3.6 Notice of Certain Events.....	22
3.7 Risk of Loss. ....	23
3.8 Broadcast Transmission Interruption.....	25
3.9 Updating the Seller Disclosure Schedule.....	25
3.10 Exclusivity.....	25
3.11 No Premature Assumption of Control .....	26
3.12 Environmental Reports .....	26
3.13 Make-Goods.....	26
3.14 Provision of Certain Other Information.....	26
3.15 Title and Survey.....	26
<b>ARTICLE IV REPRESENTATIONS AND WARRANTIES OF SELLERS.....</b>	<b>28</b>
4.1 Organization and Power.....	28
4.2 Authorization of Transactions.....	29
4.3 Subsidiaries; Investments.....	29
4.4 Absence of Conflicts.....	29
4.5 Title to, Condition and Sufficiency of Assets.....	30

4.6	Environmental Matters.....	34
4.7	Financial Statements.....	36
4.8	Absence of Changes.....	36
4.9	Motor Vehicles.....	36
4.10	FCC Matters.....	36
4.11	Cable Television Matters.....	37
4.12	Contracts.....	38
4.13	Program Runs.....	38
4.14	Proprietary Rights.....	38
4.15	Litigation.....	39
4.16	No Brokerage.....	39
4.17	Employee Matters.....	40
4.18	Digital Build-Out and Operation.....	41
4.19	Seller Benefit Plans.....	41
4.20	Compliance with Laws.....	41
4.21	Taxes.....	42
4.22	Solvency.....	43
4.23	Full Disclosure.....	43
<b>ARTICLE V REPRESENTATIONS AND WARRANTIES OF BUYER .....</b>		<b>44</b>
5.1	Organization and Power.....	45
5.2	Authorization of Transaction.....	45
5.3	Absence of Conflicts.....	45
5.4	Qualification as a Licensee.....	45
<b>ARTICLE VI TERMINATION AND REMEDIES .....</b>		<b>46</b>
6.1	Termination.....	46
6.2	Effect of Termination.....	47
<b>ARTICLE VII INDEMNIFICATION AND RELATED MATTERS .....</b>		<b>47</b>
7.1	Survival; Absence of Other Representations.....	47
7.2	Indemnification.....	48
7.3	Mitigation.....	50
7.4	Treatment of Indemnification Payments.....	51
<b>ARTICLE VIII ADDITIONAL AGREEMENTS .....</b>		<b>51</b>
8.1	Employees.....	51
8.2	Material Proprietary Rights.....	52
8.3	Cooperation.....	52
8.4	Return of Purchased Assets.....	53
8.5	Records and Documents.....	53
8.6	Bulk Sales.....	53
8.7	Non-Competition.....	53
8.8	Nondisclosure.....	54
8.9	Press Releases and Announcements.....	55
8.10	Specific Performance.....	55
8.11	Expenses.....	56

8.12	Required Consent Assets; Consent-Pending Assets .....	56
<b>ARTICLE IX MISCELLANEOUS.....</b>		<b>57</b>
9.1	Amendment and Waiver .....	57
9.2	Notices .....	57
9.3	Binding Agreement; Assignment.....	58
9.4	Severability .....	58
9.5	No Strict Construction .....	58
9.6	Captions .....	58
9.7	Entire Agreement .....	58
9.8	Counterparts .....	58
9.9	Governing Law .....	59
9.10	Arbitration of Disputes. ....	59
9.11	Attorneys' Fees. ....	60
9.12	Parties in Interest.....	60
9.13	Generally Accepted Accounting Principles.....	60
9.14	Waiver of Jury Trial.....	60
9.15	Other Definitional Provisions .....	60

**CROSS REFERENCES TO DEFINITIONS**

	Page		Page
AAA.....	59	FCC Consents .....	64
Accounts Receivable.....	63	FCC Finality Date.....	64
Adjustment Time .....	9	FCC Regulations.....	65
Affiliate.....	63	Final Order .....	65
Agreement.....	1	Financial Statements .....	36
Assets .....	1	FIRPTA Certificate.....	18
Assignment and Assumption .....	13, 15	GAAP.....	65
Assignment of Leases .....	13	General Assignment and Bill of Sale.....	13
AssignmentConsent .....	56	GovernmentalEntity .....	65
Assumed Contracts .....	2	Improvements .....	34
Assumed Liabilities .....	6	Indemnified Party.....	49
Business .....	63	Indemnifying Party .....	49
Business Day.....	63	Latest Balance Sheet.....	36
Buyer.....	1	Leased Realty.....	33
Buyer Rep Loss.....	49	Leases.....	2
Buyer-Covenant Loss.....	49	Legal Requirement.....	65
Closing .....	12	Liability.....	65
Closing Date.....	13	Lien .....	65
Communications Act .....	63	Loss .....	65
Confidentiality Agreement.....	63	Market Cable System.....	65
Consent .....	63	Material Adverse Effect.....	66
Consent-PendingAsset .....	56	Material Consents .....	66
Continuing Permitted Liens .....	6	Material Contracts.....	38
Contract.....	63	Material Proprietary Rights.....	39
Contractors .....	40	Materials of Environmental Concern.....	66
Deed .....	13	MVPDs .....	37
Deposits and Advances .....	3	Network Affiliation Agreement.....	66
DMA .....	63	Non-AssignableAsset.....	56
Drop-Dead Date .....	46	Noncompetition Period .....	53
DTV Buildout .....	41	Order .....	66
Employee Benefit Plans.....	64	Other Assumed Contracts .....	2
Employment Contracts.....	2	Owned and Leased Vehicles .....	3
Entity.....	64	Owned Realty.....	30
Environmental and Safety Requirements..	64	Parties.....	1
Environmental Lien .....	64	Permitted Liens .....	6
Environmental Reports .....	26	Person.....	66
ERISA .....	64	Personal Property .....	2
Excludable Contract.....	64	Post-Closing Escrow Agent .....	66
FCC .....	1, 64	Post-Closing Escrow Agreement.....	66
FCC Application .....	22	Post-Closing Escrow Fund.....	67
FCC Approval Date .....	64	Post-Closing Period .....	67
FCC Authorizations .....	2	Pre-Closing Escrow Agent.....	67

Pre-Closing Escrow Agreement.....	1	Seller Claims .....	3
Pre-Closing Escrow Fund .....	1	Seller-Covenant Loss .....	48
Pre-Closing Paid Obligations.....	11	Seller-Rep Loss .....	48
Pre-Closing Period .....	67	Sellers.....	1
Proceeding.....	67	Station .....	1
Program Contracts .....	2	Subsidiary .....	6
Program Payments .....	9	Tax .....	67
Proprietary Rights .....	67	Tax Code .....	68
Prorated Obligations .....	11	Tax Return .....	68
Purchase Price .....	8	Threshold Amount .....	48
Quorum .....	1	Time Sale Contracts.....	2
Quorum License.....	1	Trade-Out Payables.....	68
Renewal Date .....	36	Trade-Out Receivables.....	68
Repair Cost.....	23	Trades.....	68
Retained Assets .....	4	Transaction Documents .....	5
Retained Contracts .....	4	Transfer Taxes .....	68
Retained Employment Contracts .....	4	Transferred Records.....	3
Retained Liabilities .....	6, 7	UK Basketball Contracts.....	68
Retained Records .....	5	WARN Act.....	40
Seller Benefit Plans.....	41, 67		

## ASSET PURCHASE AGREEMENT

**THIS ASSET PURCHASE AGREEMENT** (this “**Agreement**”) is entered into as of April 1, 2003, among GNS Media Evansville, Inc., a Delaware corporation (“**Buyer**”), and Quorum Broadcasting of Indiana, Inc., a Delaware corporation (“**Quorum**”), and Quorum of Indiana License, LLC, a Delaware limited liability company (“**Quorum License**” and, together with Quorum, “**Sellers**”). Buyer and Sellers are sometimes referred to as the “**Parties**.” Certain capitalized terms used in this Agreement are defined in the attached Exhibit A.

Sellers are the licensee and operator of broadcast television station WTVW, Evansville, Indiana (the “**Station**”) licensed by the Federal Communications Commission (the “**FCC**”) to broadcast in analog on channel 7 and authorized to broadcast in digital on channel 28. Sellers desire to sell, assign and transfer to Buyer, and Buyer desires to purchase and acquire from Sellers, the assets of the Station, as a going concern, subject to the terms and conditions set forth in this Agreement.

Within three (3) Business Days following the execution and delivery of this Agreement, Quorum, Buyer and the Pre-Closing Escrow Agent will enter into a Pre-Closing Escrow Agreement (as in effect from time to time, the “**Pre-Closing Escrow Agreement**”), pursuant to which Buyer will concurrently deposit immediately available funds in the amount of \$1,000,000.00 (together with all interest and other earnings thereon from time to time, the “**Pre-Closing Escrow Fund**”), to be held and disbursed pursuant to the terms and conditions of the Pre-Closing Escrow Agreement.

The consummation of the transactions contemplated by this Agreement is subject to the prior Consent of the FCC.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

### ARTICLE I PURCHASE AND SALE OF ASSETS

**1.1 Transfer of Assets.** Upon and subject to the terms and conditions stated in this Agreement, on the Closing Date, Sellers will convey, transfer, assign and deliver to Buyer, and Buyer will acquire from Sellers, all of Sellers’ rights in, to and under all assets, rights and properties of Sellers, whether real, personal or mixed, tangible or intangible, and of every kind, character and description, that on the Closing Date are used or held for use by Sellers principally for the business and operation of the Station, as a going concern, but excluding all such assets, rights and properties that constitute Retained Assets (such non-excluded assets, rights and properties being the “**Assets**”); provided, however, at Buyer’s reasonable request no less than five (5) Business Days prior to the Closing Date, Seller shall on the Closing Date convey any Owned Realty to Buyer’s designee, provided, further, that the Buyer shall bear any additional costs or expenses associated with such request. Subject to Section 1.2, the Assets will include each Seller’s rights in, to and under the following:

(a) **FCC Authorizations.** All licenses and authorizations issued by the FCC with respect to the Station and in effect as of the Closing Date (the “**FCC Authorizations**”), as listed on the attached Schedule 1.1A, including all applications therefor and all renewals, extensions, or modifications thereof and additions thereto.

(b) **Tangible Personal Property.** All equipment, vehicles, furniture, fixtures, transmitting towers, antennas, transmitters, satellite earth stations, films, film libraries and news archives, if any, all programs, programming material and inventories and production material of whatever form or nature (whether recorded on film, tape or any other substance or whether intended for live performance, television broadcast or any other medium, and whether completed or in production), office materials and supplies, spare parts and other tangible personal property of every kind and description owned by either Seller and used or held for use by such Seller principally for the business and operation of the Station (the “**Personal Property**”), including the Personal Property listed on Schedule 1.1B.

(c) **Real Property.** The Owned Realty, the Leased Realty and all Improvements thereon and Sellers’ rights under the real property leases listed on the attached Schedule 1.1C (the “**Leases**”).

(d) **Agreements for the Sale of Time.** Each sale order, agreement or other Contract for the sale of advertising or commercial time on the Station (including each Trade) that is (i) existing on the date of this Agreement, or (ii) entered into other than in breach of this Agreement between the date of this Agreement and the Closing Date (collectively, the “**Time Sale Contracts**”).

(e) **Program Contracts.** All program licenses and other Contracts under which either Seller is authorized to broadcast film or other product or programs on the Station and that are (i) in effect on the date of this Agreement or (ii) entered into other than in breach of this Agreement between the date of this Agreement and the Closing Date (collectively, the “**Program Contracts**”), all as described on the attached Schedule 1.1E.

(f) **Other Contracts.** Each written employment contract, excluding the Retained Employment Contracts (such non-excluded contracts, including any renewal thereof that is permitted by Section 3.2(f)(v), being the “**Employment Contracts**”), and each other Contract relating to the Station that is not described in Section 1.1(c), (d) or (e) and that is (i) existing on the date of this Agreement, or (ii) entered into other than in breach of this Agreement between the date of this Agreement and the Closing Date, all as described on the attached Schedule 1.1F (collectively, the “**Other Assumed Contracts**” and, together with the Leases, the Time Sale Contracts and the Program Contracts, the “**Assumed Contracts**”).

(g) **Trademarks, Etc.** All trademarks, service marks, trade names, jingles, slogans, logotypes and other Proprietary Rights, and all goodwill associated with the foregoing, used or held for use by Sellers principally for the business and operation of the Station, including each Seller’s rights to use the call letters “WTVW” and the names or styles “channel 7,” “7-TV,” “TV-7,” “channel 28,” “28-TV,” “TV-28” and any related or variant names and phrases; provided, however, that any rights to the exclusive use of the channel number shall be limited to the Evansville DMA.



(h) **Programming Copyrights.** All program and programming materials and elements of whatever form or nature owned by a Seller and used or held for use by such Seller principally for the business and operation of the Station, whether recorded on tape or any other substance or intended for live performance, and whether completed or in production, and all related common law and statutory copyrights owned by or licensed to either Seller and used or held for use principally for the business and operation of the Station.

(i) **FCC Records.** All logs and other compliance records of either Seller that relate to the operation of the Station, including those required by the FCC to be maintained at the Station.

(j) **Files and Records.** All files and other records of either Seller that relate to the business or operation of the Station, including all related books, records, applications, accounts, canceled checks, payment records and all similar books and records of either Seller relating to the Station (the “**Transferred Records**”).

(k) **Goodwill.** All of each Seller’s goodwill in, and going concern value of, the Station or otherwise associated with any other Asset.

(l) **Prepaid Items.** All prepaid items relating to the Station, excluding those described in Section 1.2(h).

(m) **Trade-Out Receivables.** All Trade-Out Receivables for which a proration adjustment is to be made as of the Adjustment Time.

(n) **Internet Websites.** All internet domain leases and domain names used or held for use by Sellers principally for the business or operations of the Station and described on the attached Schedule 1.1N, the unrestricted right to the use of the HTML content relating to the Station located and publicly accessible from those domain names, and the “visitor” email data bases for those sites.

(o) **Deposits and Advances.** Performance and other bonds, security and other deposits, advances, advance payments, prepaid credits and deferred charges (the “**Deposits and Advances**”); in each case to the extent that they are listed on Schedule 1.1O

(p) **Claims.** All claims, choses-in-action, rights in action, rights to tender claims or demands to the Sellers’ insurance companies, rights to any insurance proceeds, and other similar claims related to the Assets (the “**Seller Claims**”), in each case to the extent that are listed on Schedule 1.1P;

(q) **Owned and Leased Vehicles.** All vehicles owned by Sellers and all rights in, to and under vehicle leases to which any Seller is a party (collectively, the “**Owned and Leased Vehicles**”), including the Owned and Leased Vehicles listed on Schedule 1.1Q; and

(r) **Other Assets.** Except as otherwise provided in this Agreement, all other items of tangible property, whether real, personal or mixed, owned or held by either

Seller and used in the Business or relating to the Station, and any replacements or additions thereto after the date hereof, and all other assets, properties and other rights (including goodwill and intangible assets) of either Seller of every kind and nature used in the Business or relating to the Station, including inventory, Contract rights, licenses, franchise rights, privileges, graphics used to promote or identify the Station, warranties, guaranties and to the extent the same are assignable, business licenses, certificates of occupancy and other governmental and regulatory licenses and permits, and telephone, telex, telecopy and telecommunication numbers.

As used in this Agreement, the terms “Leases,” “Time Sale Contracts,” “Program Contracts” and “Other Assumed Contracts” will not include (i) Contracts of any type described above that are Retained Contracts or Consent-Pending Assets (but only until such time as an Assignment Consent is received and the Consent-Pending Asset is assumed by Buyer pursuant to Section 8.12(c)(i)), (ii) Retained Contracts or (iii) Retained Employment Contracts.

**1.2 Retained Assets.** There will be excluded from the Assets and, to the extent in existence on the Closing Date, retained by Sellers, the following assets (the “**Retained Assets**”):

(a) **Cash.** All cash, cash equivalents, and cash items of any kind whatsoever, certificates of deposit, money market instruments, bank balances, rights in and to bank accounts, and marketable securities held by either Seller.

(b) **Other Sellers’ Claims.** All claims of each Seller related to any Retained Assets.

(c) **Pension Assets, Etc.** Pension, profit sharing, retirement, bonus, stock purchase, savings plans and trusts, 401(k) plans, health insurance plans, and the assets thereof, and all other plans, agreements, or understandings to provide employee welfare, pension or other benefits of any kind for any employees or former employees (or dependents or related persons of any employees or former employees) of either Seller.

(d) **Retained Contracts.** All leases and other Contracts of a type described in Section 1.1(c), 1.1(d), 1.1(e) or 1.1(f) that expire and are not renewed, or that otherwise terminate, prior to the Closing Date (collectively, the “**Retained Contracts**”) and Personal Property disposed of or consumed in accordance with this Agreement after the date of this Agreement.

(e) **Retained Employment Contracts.** Sellers’ employment agreements with the employees set forth on Schedule 1.2E (collectively, the “**Retained Employment Contracts**”).

(f) **Certain Debt.** Any intercompany or intracompany receivable cash balances between either Seller and any of its Affiliates or between any of its Affiliates;

(g) **Tax and Corporate Books and Records.** Subject to the Buyer's access rights under Section 3.3, Tax records (including payroll, unemployment, real estate, and other tax records) and all minutes of meetings of the board of directors or stockholders of either Seller and files and other records that are not Transferred Records (the "**Retained Records**").

(h) **Transaction Documents.** All rights of either Seller pursuant to this Agreement, and the other agreements and instruments delivered pursuant hereto or thereto (collectively, the "**Transaction Documents**").

(i) **Accounts Receivable.** The Accounts Receivable.

(j) **Prepaid Items.** The prepaid items relating to the Station described on the attached Schedule 1.2I.

(k) **Ownership in Quorum License.** The membership interests of Quorum License.

(l) **Rebates and Credits.** All rights in, to and under claims for refunds, rebates or other discounts due from suppliers or vendors and rights to offset in respect thereof.

(m) **Deposits and Advances.** All Deposits and Advances except for those identified in Schedule 1.1O.

(n) **Seller's Claims.** All Seller's Claims except for those identified in Schedule 1.1P.

(o) **Other Retained Assets.** All Consent-Pending Assets and the items described on the attached Schedule 1.2N.

### **1.3 Liens and Liabilities.**

(a) **Permitted Liens.** The Assets will be sold and conveyed to Buyer free and clear of all Liens other than:

(1) Liens for Taxes arising by operation of law and securing the payment of amounts that are not yet due and payable or that are being contested in good faith by appropriate proceedings;

(2) restrictions on transfer imposed under the Communications Act or the FCC Regulations;

(3) easements, covenants, restrictions and similar matter affecting title to the Owned Realty and identified on Schedule B, Section II of Title Commitment #03030148 issued by Chicago Title Insurance Company, dated March 17, 2003, and any other encroachments on title and survey defects that would not impair the use or occupancy of the Owned Realty in the operation of the Business;

(4) zoning, building codes and other land use laws regulating the use or occupancy of the Owned Realty or the activities conducted thereon that are imposed by any Governmental Entity having jurisdiction over such Owned Realty;

(5) easements and encumbrances on the Leased Realty that do not interfere with the use or detract from the value of the Leased Realty;

(6) the lessors' and sublessors' rights under the Leases and leases of personal property by each Seller as lessee that are part of the Assets;

(7) Liens arising by operation of law pursuant to any applicable bulk sales Legal Requirements and that are subject to indemnification by Sellers pursuant to Section 7.2(a)(iv);

(8) any Lien described on the attached Schedule 1.3A; or

(9) any Lien that Sellers will cause to be released at or prior to the Closing

(collectively, the **"Permitted Liens"**). The Liens described in clauses (1) through (8) above are referred to as the **"Continuing Permitted Liens"**).

(b) **Assumption of Sellers' Liabilities Generally.** On the Closing Date, Buyer will assume and agree to pay, satisfy, perform and discharge as and when due, and after the Closing will hold Sellers harmless from and against, the following (the **"Assumed Liabilities"**):

(1) all Liabilities of either Seller pursuant to the Assumed Contracts, to the extent that such Liability arises or accrues after the Adjustment Time (as determined in accordance with Section 2.2) or which relate to any termination of any Employment Contract at Buyer's request after the date of this Agreement (including, but not limited to, severance payments and any payments owed or paid to any employees as a result of the Transaction, the termination of an employee by either Seller, or other claims arising out of the terms of employment with either Seller);

(2) to the extent Buyer receives an adjustment therefor pursuant to Section 2.2(c), all Trade-Out Payables;

(3) any other Liability of either Seller in respect of which Buyer receives an adjustment or credit pursuant to Section 2.2 or 2.3.

The Assumed Liabilities will not include, and except as otherwise provided in this Agreement Buyer will not assume or otherwise become responsible for, any Liability of either Seller that is not described in clause (1), (2) or (3) above (collectively, the **"Retained Liabilities"**).

**1.4 Retained Liabilities.** Except for the Assumed Liabilities, Buyer shall not assume and shall not be liable or responsible for any Retained Liabilities of either Seller, any direct or indirect subsidiary of either Seller (each, a **"Subsidiary"**) or any Affiliate of

either Seller. Without limiting the foregoing, Buyer shall not be obligated to assume, and does not assume, and hereby disclaims any of the following Liabilities of Sellers, their Subsidiaries or their Affiliates:

(a) Any Liability attributable to any assets, properties or Contracts that are not included in the Assets, except Liabilities attributable to Consent-Pending Assets for which Buyer has agreed to be responsible for pursuant to the provisions of Section 8.12(c);

(b) Any Liability for breaches of any Assumed Contract or the Leases on or prior to the Closing Date;

(c) Any Liability for payments or amounts due under any Assumed Contract or the Leases on or prior to the Closing Date, except to the extent Buyer receives an adjustment or credit pursuant to Section 2.2 or 2.3;

(d) Any Liability for Taxes attributable to or imposed upon either Seller or their Affiliates, or attributable to or imposed upon the Assets for the Pre-Closing Period, including the Sellers' share of any Transfer Taxes, except to the extent Buyer receives an adjustment or credit pursuant to Section 2.2 or 2.3;

(e) Any Liability for or with respect to any loan, other indebtedness, or account payable, including any such Liabilities owed to Affiliates of either Seller, except to the extent Buyer receives an adjustment or credit pursuant to Section 2.2 or 2.3;

(f) Any Liability arising from accidents, occurrences, misconduct, negligence, breach of fiduciary duty or statements made or omitted to be made (including libelous or defamatory statements) on or prior to the Closing Date, whether or not covered by workers' compensation or other forms of insurance;

(g) Any Liability arising as a result of any legal or equitable action or judicial or administrative proceeding initiated at any time, to the extent related to any action or omission on or prior to the Closing Date, including any Liability for (i) infringement or misappropriation of any Proprietary Rights or any other rights of any Person (including any right of privacy or publicity); (ii) defamation, libel or slander; or (iii) violations of any Legal Requirements;

(h) Any Liability arising out of any Seller Benefit Plans or any Contract of insurance for employee group medical, dental or life insurance plans;

(i) Any Liability for making payments of any kind to employees, including employees subject to the Retained Employment Contracts, other than those expressly assumed under Section 1.3(b)(i) above or arising on or after the Adjustment Time pursuant to the Employment Contracts, or with respect to payroll Taxes;

(j) Any Liability incurred in connection with the making or performance of this Agreement and the Transaction;

(k) Any costs or expenses incurred in connection with shutting down, deinstalling and removing equipment not purchased by Buyer and any costs or expenses associated with any Contracts not assumed by Buyer hereunder;

(l) Except as otherwise expressly provided for in this Agreement, any Liability for expenses and fees incurred by either Seller incidental to the preparation of the Transaction Agreements, preparation or delivery of materials or information requested by Buyer, and the consummation of the Transaction, including all broker, counsel and accounting fees and Seller's portion of any Transfer Taxes;

(m) Any Liability related to or arising from the acquisition of the Station or the Business by either Seller; and

(n) Any Liability to any directors, officers, shareholders, member or managers of either Seller.

**1.5 Provision of Updated Schedules.** No later than five (5) Business Days prior to the Closing Date the Sellers shall update each of the Schedules provided by the Sellers under the Article I to reflect any changes occurring between the date of this Agreement and such date or shall provide notice to Buyer that no updates are necessary. Sellers shall, for each subsequent day through the Closing Date, be entitled to provide Buyer with any further updates of the Schedules as necessary. Buyer shall promptly review and identify any material reduction in the Assets or any material increase in the Assumed Liabilities identified on the updated schedules, and Sellers and Buyers shall negotiate in good faith appropriate relief with respect to such material changes; provided, however, that in no event shall any such change arising out of actions permitted under Sections 3.1 and 3.2 be deemed to be "material" for purposes of this Section 1.5, it being understood that the Buyer shall assume any reduction in the Assets or increase in the Assumed Liabilities expressly permitted to be incurred under the terms of this Agreement.

## **ARTICLE II** **PURCHASE/CLOSING**

### **2.1 Purchase Price.**

(a) **Amount and Form.** In consideration of Sellers' performance of this Agreement and the transfer and delivery of the Assets to Buyer at the Closing, Buyer will pay an aggregate amount equal to \$44,000,000 (the "**Purchase Price**"), \$43,000,000 of which shall be payable to the Sellers directly from funds available in the Pre-Closing Escrow Account or from the Buyer, and \$1,000,000.00 of which shall be payable into the Post-Closing Escrow Account in accordance with Section 2.6(a) below, as such Purchase Price may be adjusted by the amount of any adjustments made pursuant to Section 2.3, and Buyer will assume the Assumed Liabilities.

(b) **Allocation of Purchase Price.** The Purchase Price shall be allocated among the Assets in proportion to their respective fair market values, determined in accordance with an appraisal by an appraiser retained by Buyer. Buyer and Sellers agree to

file (at such times and in such manner as is required by applicable Legal Requirements) all relevant returns and reports (including Form 8594, Asset Acquisition Statements, and all income and other tax returns) on the basis of such allocation, in each case to the extent permitted by applicable Legal Requirements. The Parties shall promptly advise each other of the existence of any tax audit, controversy or litigation related to any allocation hereunder.

**2.2 Proration.**

(a) **General Allocation Principles.** Except as otherwise provided in this Section 2.2, the ownership and operation of the Station and the Assets, and the revenues, expenses, and liabilities attributable thereto, including power and utilities charges, rents and income, and similar accruing, prepaid and deferred items, will be prorated between Sellers and Buyer in accordance with the principle that

(1) Sellers will be allocated revenues earned or accrued, and expenses, costs and liabilities incurred in or allocable, with respect to the business and operation of the Station or the ownership or operation of the Assets through 11:59 p.m. (Evansville, Indiana, time) on the Closing Date (the “**Adjustment Time**”), and

(2) Buyer will be allocated revenues earned or accrued, and expenses, costs and liabilities incurred in or allocable, with respect to the business and operation of the Station or the ownership or operation of the Assets after the Adjustment Time.

Subject to Section 8.12, Sellers shall remain solely liable with respect to the Retained Liabilities and any other obligation or Liability not being assumed by Buyer in accordance with Section 1.4, including Liability under all Contracts other than Assumed Contracts whether arising before or after Closing Date;

There shall be no adjustment for, and Sellers shall remain solely liable with respect to, all FCC regulatory fees imposed or incurred by reason of Sellers’ ownership of the Station prior to the Closing Date, and, the parties agree that Buyer shall be entitled to include in the Prorated Obligations calculated under Section 2.3(c) below a credit for any such fees to be paid by Buyer in 2003 and attributable to the period prior to the Closing Date based on an agreed upon good faith estimate of such fees.

(b) **Treatment of Program Liabilities.** Notwithstanding Section 2.2(a), as between Buyer and Sellers:

(1) Sellers will be allocated all obligations to make cash payments of license and usage fees pursuant to any Program Contract (including, subject to Section 8.12, any Contract that would be otherwise deemed a Program Contract hereunder but for the lack of a Consent) (“**Program Payments**”) that first become due and payable under the terms of such Program Contract prior to the first day of the calendar month that includes the Closing Date;

(2) Buyer will be allocated all Program Payments that first become due and payable under the terms of the Program Contract in question (including, subject to Section 8.12, any Contract that would be otherwise deemed a Program Contract hereunder but for the lack of a Consent) after the last day of the calendar month that includes the Closing Date; and

(3) with respect to Program Payments that first become due and payable under the terms of the Program Contract in question (including, subject to Section 8.12, any Contract that would be otherwise deemed a Program Contract hereunder but for the lack of a Consent) during the calendar month that includes the Closing Date: (A) Sellers will be allocated a portion of each such Program Payment that is equal to a fraction, the numerator of which is the number of days (if any) during such calendar month that are prior to the Closing Date and the denominator of which is the total number of days during such calendar month, and (B) Buyer will be allocated the remaining portion of such Program Payments.

(c) **For Trades.** Notwithstanding Section 2.2(a), at the Closing, Buyer will acquire the Trade-Out Receivables and will assume the Trade-Out Payables. The purchase price for the Assets will be reduced by the amount, if any, by which the amount of the Trade-Out Payables exceeds the Trade-Out Receivables.

(d) **Billing and Collection of Quorum's Receivables.**

(1) Schedule 2.2D sets forth an accurate and complete breakdown and aging of all Accounts Receivable as of February 28, 2003, which shall be updated immediately preceding the Closing Date.

(2) As of the Closing Date, Sellers appoints Buyer, as Sellers' agent without compensation but without liability except for willful misconduct, to collect the Accounts Receivable. Buyer shall account to Sellers, issue invoices in accordance with Buyer's standard billing procedures for time sold and provided by the Station prior to the Adjustment Time and not invoiced by Quorum prior to the Closing, and remit to Sellers all amounts collected during the period in respect of Accounts Receivable as follows: (a) on or before the twentieth (20th) day of the second complete calendar month after the Closing Date, pay all amounts collected up to the end of the prior month; and (b) on or before the twentieth (20th) day of each succeeding month, remit all amounts collected during the month prior thereto. With each remittance, Buyer shall furnish a statement of the amounts collected and the Persons from whom such amounts were collected. Buyer shall, unless the remittance or an Account Receivable debtor specified otherwise, apply all amounts it receives from or for the benefit of any Account Receivable debtor first to pay the oldest undisputed Accounts Receivable of such debtor before applying any of such amounts to pay any obligation of such debtor to Buyer arising during, or otherwise attributable to, the period after the Closing Date.

(3) Buyer's agency to collect the Accounts Receivable shall expire as of midnight on the one hundred twentieth (120th) day following the Closing Date.



Within fifteen (15) Business Days thereafter, Buyer shall remit to Sellers all amounts collected from the Closing Date until the date thereof not previously remitted. Buyer shall use commercially reasonable collection efforts to collect the Accounts Receivable, but shall not be required to institute any legal proceedings to collect the Accounts Receivable or to otherwise incur any cost or obligation in respect thereof other than in the ordinary course of business. Upon expiration of the agency, Buyer shall reassign all Accounts Receivable that have not been collected or received by Sellers and the parties expressly agree that Buyer shall have no further obligation whatsoever with respect to any such reassigned Accounts Receivable (except to pay Sellers any additional money that Buyer receives from any Person after such 120<sup>th</sup> day with regard to any such reassigned Accounts Receivable).

**2.3 Adjustment Procedures.** The Purchase Price, taking into account the adjustments specified in Sections 2.2(a)-(c) shall be determined in accordance with the following procedures:

(a) **Prorated Obligations.** The Sellers shall, no later than five (5) Business Days prior to the Closing Date, prepare a preliminary document listing by item, all of the expenses, costs, obligations and other Liabilities of the Sellers, including any Deposits or Advances on Schedule 1.10 that will accrue to the benefit of the Buyer after the Closing but excluding any obligations and other Liabilities of the Sellers under the Retained Employment Contracts, (i) to the extent attributable to the operations of the Station and the Business during the period after the Closing Date but paid by Sellers on or prior to the Closing Date (“**Buyer Prorated Obligations**”), and (ii) to the extent attributable to the operations of the Station and Business during the period on or prior to the Closing Date but paid or payable by Buyer after the Closing Date (“**Seller Prorated Obligations**” and, collectively with the Buyer Prorated Obligations, the “**Prorated Obligations**”). For each Prorated Obligation, there shall be listed the estimated aggregate amount thereof actually paid by Sellers on or prior to Closing and any amounts remaining to be paid.

(b) **Offset of Prorated Obligations by Accounts Receivable.** To the extent that the statement of Prorated Obligations prepared by Sellers under Section 2.3(a) indicates that the Seller Prorated Obligations exceed the Buyer Prorated Obligations, during the period set forth in Section 2.2(d) above for the collection of Accounts Receivable Buyer shall be entitled to offset amounts actually collected by Buyer and payable to Sellers under Section 2.2(d) by the net amount of Prorated Obligations otherwise payable to Buyer under Section 2.3(a) above until such amount is reduced to zero. Any unpaid net amount hereunder not offset by amounts collected with respect to the Accounts Receivable shall be included in the Post-Closing Adjustment pursuant to Section 2.3(c) below.

(c) **Post-Closing Adjustment.**

(i) As promptly as possible after the Closing, but in any event not later than ninety (90) days after the Closing Date, Buyer shall deliver to Sellers a final statement setting forth Buyer’s determination of the Purchase Price and the calculation of the unpaid Prorated Obligations. Buyer’s statement shall contain all information reasonably necessary to determine adjustments to the Purchase Price (including

Buyer's best estimate of the FCC regulatory fees attributable to the period prior to the Closing) as contemplated under Sections 2.2(a)-(c) above and, after such delivery, Buyer will furnish Sellers with such other information as may be reasonably requested by Sellers. If Sellers dispute the amount of the Purchase Price adjustment determined by Buyer, Quorum shall deliver to Buyer within thirty (30) days after Seller's receipt of Buyer's statement a statement setting forth Seller's determination of the amount of the Purchase Price adjustment. If Sellers notify Buyer of their acceptance of Buyer's statement, or if Sellers fail to deliver their statement within the period specified in the preceding sentence, Buyer's determination of the Purchase Price adjustment shall be conclusive and binding on the parties as of the last day of the thirty (30) day period. Notwithstanding anything to the contrary contained herein, Prorated Obligations payable by Buyer shall, subject to any determination by an Independent Accounting Firm required pursuant to Section 2.3(c)(ii) below, be expressly limited to amounts listed as payable by Buyer on the final statement delivered under this Section 2.3 as amended by the mutual agreement of the parties from time to time, with any obligations in excess of such amounts remaining obligations of Sellers.

(ii) Sellers and Buyer shall use good faith efforts to resolve any dispute involving the determination of the Purchase Price adjustment. If the parties are unable to resolve the dispute within thirty (30) days following the delivery of Sellers' statement pursuant to Section 2.3(c)(i), Quorum and Buyer shall jointly designate an Independent Accounting Firm to resolve the dispute. The Independent Accounting Firm's resolution of the dispute shall be final and binding on the parties, and a judgment may be entered thereon in any court of competent jurisdiction. Any fees of the Independent Accounting Firm incurred under this Section 2.3(c)(ii) shall be split equally between Quorum and Buyer.

(iii) Payment of all amounts due under this Section 2.3 will be made not later than the fifth (5<sup>th</sup>) Business Day after the value of the net adjustments are finally determined pursuant to Section 2.3.

## **2.4 Closing.**

The closing of the purchase and sale of the Assets and the assumption of the Assumed Liabilities pursuant to this Agreement (the "**Closing**") will occur at the offices of Kirkland & Ellis, New York, New York, at 10:00 a.m., Eastern time, on the fifth Business Day after the FCC Finality Date, or on such other date or at such other place or time as may be mutually acceptable to Buyer and Sellers; provided that, on not fewer than ten Business Days' prior notice, Buyer may designate an earlier date for the Closing. If, on any date for the Closing described in the preceding sentence or specified pursuant to this sentence, any condition of Buyer or either Seller specified in Section 2.5 or Section 2.6 has not been satisfied (and will not be satisfied by the delivery of documents by the Parties at the Closing) or waived by Buyer or Sellers, as the case may be, then the date for the Closing will be extended to any date specified by Buyer to Sellers, with not fewer than five Business Days' prior notice (subject to Buyer's and Sellers' respective conditions to Closing being satisfied or waived on such specified date, and subject to any Party's right to terminate this Agreement pursuant to

Section 6.1). The date upon which the Closing actually occurs is referred to as the “**Closing Date.**”

**2.5 Deliveries by Seller.** At the Closing, each Seller shall (i) take all steps necessary to place Buyer in actual possession and operating control of the Business and the Assets and (ii) deliver the following items, duly executed by the Sellers as applicable, all of which shall be in a form and substance reasonably acceptable to Buyer and Buyer’s counsel:

(a) **General Assignment and Bill of Sale.** General Assignment and Bill of Sale covering all of the applicable Assets, substantially in the form attached hereto as Exhibit B (the “**General Assignment and Bill of Sale**”);

(b) **Assignment and Assumption Agreement.** Assignment and Assumption Agreement, covering all of the Assumed Liabilities, substantially in the form attached hereto as Exhibit C (the “**Assignment and Assumption**”);

(c) **Assignments of Leases.** Assignment of Leases, covering all of the Leases, substantially in the form attached hereto as Exhibit D (the “**Assignment of Leases**”);

(d) **Deed.** A Corporate General Warranty Deed, covering all of the Owned Realty, substantially in the form attached hereto as Exhibit E (the “**Deed**”), duly executed in form for recordation;

(e) **Vendor’s Affidavit.** A vendor’s affidavit in the form most recently published by the Indianapolis Bar Association and sufficient and acceptable to the Title Company so as to allow it to eliminate the standard owner’s exceptions, including the parties’ in possession, mechanic’s lien, and gap exceptions from the Commitment and Title Policy and running to the benefit of the Buyer (or its designee) and the Title Company, insuring title to the Owned Realty, or any portion thereof. In addition, Sellers shall provide certificates evidencing that there are no filings in the office of the County Clerk of VANDERBURGH County, Indiana, nor the office of the Secretary of State, State of Indiana, which indicate a lien or security interest in the Owned Realty or any fixtures or personal Owned Realty located in, on or under the Owned Realty (other than a lien or security interest which will be released at Closing);

(f) **CERCLA Affidavit.** A CERCLA affidavit in the form attached as Exhibit J hereto;

(g) **Other Conveyance Instruments, Documents or Information.** Such other specific instruments of sale, transfer, conveyance and assignment as Buyer may reasonably request, and such other documents as may reasonably be required (including proof of corporate authority) to vest title to the Owned Realty in the Buyer (or its designee), and to enable the Title Company to insure the title thereto, in accordance with the terms of this Agreement;

(h) **Contracts.** Originals, if available, or copies of all Material Contracts and copies, if available, or summaries of all other Assumed Contracts;

(i) **Payoff and Release Letters.** Payoff and release letters from creditors of Seller, together with UCC-3 termination statements with respect to any financing statements filed against the Business or any of the Assets, terminating all Liens (including Tax liens), other than Continuing Permitted Liens, on any of the Assets;

(j) **Books and Records.** The Books and Records;

(k) **Opinion of Counsel.** An opinion of Sellers' counsel, substantially in the form attached hereto as Exhibit F;

(l) **Opinion of FCC Counsel.** An opinion of Sellers' FCC counsel substantially in the form attached hereto as Exhibit G;

(m) **Certificate of Representations and Warranties and Shareholders' and Members' Approval.** Certificates executed on behalf of each Seller by an authorized officer or member of the Seller certifying (i) the matters in Sections 2.7(a), (b) and (d); and (ii) that this Agreement and the Transaction have been approved by all necessary corporate and shareholder action;

(n) **Certificates of Good Standing.** Certificates from the Secretaries of State of Delaware and Indiana as to Quorum's good standing, and a certificate from the Secretary of State of Delaware as to Quorum Licensee's good standing;

(o) **Exempt Status Certifications.** A FIRPTA Certificate, substantially in the form attached hereto as Exhibit H;

(p) **Post-Closing Escrow Agreement.** A copy of the Post-Closing Escrow Agreement in the form attached hereto as Exhibit I executed by the Sellers;

(q) **Pre-Closing Escrow Authorization.** Instructions executed by each Seller authorizing the agent under the Pre-Closing Escrow Agreement authorizing the transfer of all funds on deposit pursuant to the Pre-Closing Escrow Agreement to Sellers; and

(r) **Other Documentation.** Such other certificates, instruments or documents required pursuant to the provisions of this Agreement or otherwise necessary to transfer the Assets in accordance with the terms hereof and consummate the Transaction, and to vest in Buyer and its successors and assigns full, complete, absolute, legal and equitable title to the Assets, free and clear of all Liens other than Permitted Liens.

**2.6 Deliveries by Buyer.** At the Closing, Buyer shall deliver the following items, duly executed by Buyer as applicable, all of which shall be in a form and substance reasonably acceptable to Sellers and Sellers' counsel:

(a) **Wire Transfer.** A wire transfer or deposit to (i) one or more accounts as specified by Quorum in writing at least three (3) days in advance of the Closing, for credit to Quorum's account, including amounts transferred pursuant to the Pre-Closing Escrow Agreement, in the amount of \$43,000,000.00, and (ii) the Post-Closing Escrow Agent in the amount of \$1,000,000.00 for deposit in accordance with the Post-Closing Escrow Agreement;

(b) **Certificate of Representations and Warranties.** A Certificate executed on behalf of Buyer by its President, certifying the matters in Sections 2.8(a) and (b);

(c) **Certificate of Good Standing.** A certificate from the Secretary of State of Delaware as to Buyer's good standing;

(d) **Assignment and Assumption.** A copy of the Assignment and Assumption executed by Buyer;

(e) **Post-Closing Escrow Agreement.** A copy of the Post-Closing Escrow Agreement executed by Buyer; and

(f) **Pre-Closing Escrow Authorization.** Instructions executed by Buyer authorizing the agent under the Pre-Closing Escrow Agreement authorizing the transfer of all funds on deposit pursuant to the Pre-Closing Escrow Agreement to Sellers.

**2.7 Conditions to Buyer's Obligations.** The obligation of Buyer to consummate the Closing Transactions is subject to the satisfaction (or waiver by Buyer in writing) of the following conditions as of the time of the Closing (provided that Buyer may not rely on the failure of any condition precedent set forth in this Section 2.7 to be satisfied if such failure is caused by Buyer's failure to act in good faith or a breach of or failure to perform any of its representations, warranties, covenants or other obligations in accordance with the terms of this Agreement):

(a) (i) Each of the representations and warranties of Sellers in this Agreement shall have been true and correct in all material respects as of the date of this Agreement and shall be true and correct in all material respects as of the Closing Date (or, to the extent such representations and warranties speak only as of an earlier date, they shall be true and correct in all material respects as of such earlier date); and (ii) each of the representations and warranties of Sellers in this Agreement that contain an express materiality qualification shall have been true and correct in all respects as of the date of this Agreement and shall be true and correct in all respects as of the Closing Date (or, to the extent such representations and warranties speak only as of an earlier date, they shall be true and correct in all respects as of such earlier date);

(b) Each Seller in all material respects will have performed and complied with all of the covenants and agreements required to be performed by such Seller under this Agreement at or prior to the Closing;

(c) No action or proceeding before any Governmental Entity will be pending or threatened wherein an unfavorable judgment, decree, injunction or order would prevent the consummation of the Closing Transactions, result in the Closing Transactions being declared unlawful or rescinded or require Buyer or any Affiliate thereof to pay any damages;

(d) Since the date of this Agreement, there will have occurred no event that has had or could reasonably be expected to have a Material Adverse Effect;

(e) The FCC Finality Date will have occurred and all Material Consents will have been obtained and be in full force and effect;

(f) Sellers' shall have executed, delivered and duly filed for record a new release of the mortgage from Petracom Broadcasting of Indiana, Inc. to Bank of Montreal dated August 1, 1995 and recorded August 9, 1995, which new release shall be in a form sufficient to remove the mortgage as an exception to the Title Policy;

(g) A financial institution (as the initial Post-Closing Escrow Agent) reasonably acceptable to Buyer and Quorum will have executed and delivered the Post-Closing Escrow Agreement; and

(h) All proceedings to be taken by Sellers in connection with the consummation of the Closing Transactions and the other transactions contemplated by this Agreement will be reasonably satisfactory in form and substance to Buyer.

**2.8 Conditions to Sellers' Obligations.** The obligations of Sellers to consummate the Closing Transactions are subject to the satisfaction (or waiver by each Seller in writing) of the following conditions as of the Closing Date (provided that Sellers may not rely on the failure of any condition precedent set forth in this Section 2.8 to be satisfied if such failure was caused by either Seller's failure to act in good faith or a breach of or failure to perform any of its representations, warranties, covenants or other obligations in accordance with the terms of this Agreement):

(a) (i) Each of the representations and warranties of Buyer in this Agreement shall have been true and correct in all material respects as of the date of this Agreement and shall be true and correct in all material respects as of the Closing Date (or, to the extent such representations and warranties speak only as of an earlier date, they shall be true and correct in all material respects as of such earlier date); and (ii) each of the representations and warranties of Buyer in this Agreement that contain an express materiality qualification shall have been true and correct in all respects as of the date of this Agreement and shall be true and correct in all respects as of the Closing Date (or, to the extent such representations and warranties speak only as of an earlier date, they shall be true and correct in all respects as of such earlier date);

(b) Buyer in all material respects will have performed and complied with all of the covenants and agreements required to be performed by Buyer under this Agreement at or prior to the Closing;

(c) The FCC Approval Date will have occurred and the FCC Consents will be in effect;

(d) Sellers shall have obtained Assignment Consents for all Required Consent Assets;

(e) No action or proceeding before any Governmental Entity will be pending or threatened wherein an unfavorable judgment, decree, injunction or order would

prevent the consummation of the Closing Transactions, result in the Closing Transactions being declared unlawful or rescinded or require either Seller or any Affiliate thereof to pay any damages;

(f) A financial institution (as the initial Post-Closing Escrow Agent) reasonably acceptable to Buyer and Quorum will have executed and delivered the Post-Closing Escrow Agreement; and

(g) All proceedings to be taken by Buyer in connection with the consummation of the Closing Transactions and the other transactions contemplated by this Agreement will be reasonably satisfactory in form and substance to Sellers.

## **2.9 Tax Matters.**

(a) Notwithstanding any Legal Requirements to the contrary, Sellers, on the one hand, and Buyer, on the other hand, shall each be responsible for and shall pay bear one-half all Transfer Taxes imposed on Buyer, Sellers, or any Asset by reason of the transactions contemplated by this Agreement. Sellers shall, at its own expense, file all necessary tax returns and other documentation with respect to all such Transfer Taxes; *provided, however*, that, if required by any Legal Requirement, Buyer will join in the execution of any such tax returns and other documentation. If a valuation of any property or lease is required in order to determine the amount of any Transfer Taxes then Sellers will determine such valuation in good faith and provide such valuation to Buyer for Buyer's review and approval (which approval shall not be unreasonably withheld). The Parties will not take (or cause to be taken) any position inconsistent with such valuations in connection with any Tax Return or otherwise.

(b) The Sellers shall be responsible for and shall pay any Taxes arising or resulting from or in connection with the conduct of the Business or the ownership of the Assets attributable to the Pre-Closing Period. Buyer shall be responsible for and shall pay any Taxes arising or resulting from or in connection with the conduct of the Business or the ownership of the Assets attributable to the Post-Closing Period.

(c) All real property, personal property, ad valorem or other similar Taxes (not including income Taxes) levied with respect to the Assets or the Business for a taxable period which includes (but does not end on) the Closing Date shall be apportioned between Buyer and Seller in accordance with Sections 2.2 and 2.3.

(d) [Intentionally Deleted.]

(e) Each Seller acknowledges that for state unemployment Tax purposes, each Seller will permit Buyer to apply for a transfer of Sellers' rating account with respect to the Business. Sellers shall deliver to Buyer within ten (10) Business Days hereof, with respect to the Business, copies of each Seller's (i) Internal Revenue Service Form 940, Employer's Annual FUTA returns for 2001 and 2002, (ii) state unemployment tax rate notices for 2001 and 2002, and (iii) benefit change statements that itemize claims charged against the

state account of each Seller in each state in which the Business is operated for the four most recent calendar quarters.

(f) The parties shall cooperate to determine federal, state and local social security, medicare, disability and unemployment tax withholding and other obligations with respect to any employees of Sellers hired by Buyer, if any, after Closing subject to the procedures set forth in Section 2.9(e) above.

(g) The parties shall comply with the provisions of Section 1445 of the Code and the Treasury Regulations issued thereunder and other applicable Legal Requirements. Section 1445 of the Code may require that a portion of the Purchase Price be withheld from Sellers and paid over to the IRS by Buyer. Buyer may also have certain reporting requirements under Section 1445 of the Code, and shall comply with them. To the extent that the cash to be paid over to Sellers at Closing is insufficient to cover Buyer's withholding obligation, Sellers shall provide to Buyer at Closing cash equal to such excess for purposes of making such withholding payment. If Sellers provide Buyer with a certificate of non-foreign status in the time and manner provided in the Treasury Regulations Section 1445-2 (a "**FIRPTA Certificate**") and any similar document required under applicable state laws, and if Buyer is otherwise permitted to rely on such certificate or form under those Treasury Regulations and applicable State laws, Buyer shall not withhold under Section 1445 of the Code or any similar State law, as applicable.

### **ARTICLE III** **PRE-CLOSING COVENANTS**

**3.1 Operation and Maintenance of the Business.** Prior to the Closing, unless Buyer otherwise consents in writing, each Seller will:

(a) use commercially reasonable efforts to conduct the Business of the Station only in the ordinary course of business consistent with past custom and practice;

(b) use commercially reasonable efforts to cause its current insurance (or reinsurance) policies not to be canceled or terminated or any of the coverage thereunder to lapse, unless simultaneously with such termination, cancellation or lapse, replacement policies providing coverage equal to or greater than the coverage under the canceled, terminated or lapsed policies are in full force and effect;

(c) use commercially reasonable efforts to keep in full force and effect its existence and all rights, franchises, Proprietary Rights and contractual rights relating or pertaining to its business, including the FCC Authorizations and the Network Affiliation Agreement;

(d) use commercially reasonable efforts to maintain its present business organization, including the present business operations, physical facilities, working conditions and employees and its present relationships with lessors, licensors, suppliers, customers, independent contractors and others having business relations with it;



(e) use commercially reasonable efforts to maintain the Assets in such state of repair as is necessary for the conduct of its business consistent with their then-present needs and past practices, including replacement in accordance with reasonably prudent business practices of any inoperable, worn out or obsolete Assets with assets of quality consistent with reasonably prudent business practices and then-current needs and, in the event of a condemnation, casualty, loss or other damage to any of the Assets prior to the Closing Date, to the extent it is insured, use commercially reasonable efforts to repair or replace such condemned or damaged property using the proceeds of such condemnation or insurance;

(f) make promotional expenditures in accordance with the Station's past custom and practice;

(g) maintain its Books and Records in accordance with past custom and practice as used in the preparation of the applicable Latest Balance Sheet and the accompanying interim financial statements;

(h) comply in all material respects with all applicable Legal Requirements and all material contractual obligations applicable to its Business, and pay all Liabilities and Taxes that are due and payable (other than any Liabilities and Taxes that are being contested in good faith);

(i) utilize the Program Contracts of the Station and make all payments on Program Contracts in the ordinary course of business and consistent with past practice;

(j) provide Buyer with prompt notice of opportunities, if any, to acquire for the Station and consult with Buyer regarding the entering into Program Contracts having a term of more than twelve (12) months;

(k) take all appropriate, reasonable action in the ordinary course of business and in accordance with FCC guidelines to protect the service areas of the Station from objectionable or unlawful interference from other stations;

(l) use Best Efforts to continue the DTV Buildout in accordance with the schedule set forth in Schedule 4.18; and

(m) provide Buyer with full access and information rights with respect to all of the Station's facilities and operations.

**3.2 Negative Covenants.** Prior to the Closing, without Buyer's prior written consent, neither Seller will:

(a) sell, lease, assign or transfer any material Asset or any material portion of the Assets (other than dispositions of assets in the ordinary course of business that have been or are replaced with assets of equal or greater value and utility);

(b) enter into any Program Contract other than the UK Basketball Contracts under which any payment could be required to be made after the Adjustment Time, unless both the aggregate amount that will become payable under such Program Contract does

not exceed \$25,000, and (ii) the aggregate amount that will become payable under such Program Contract and all other Program Contracts entered into after the date of this Agreement (other than the UK Basketball Contracts) does not exceed \$50,000;

(c) enter into, create, incur or assume (i) any borrowings under capital leases or (ii) any obligations which would have a Material Adverse Effect on Sellers or Buyer's ability to conduct the Business in substantially the same manner and condition as currently conducted by Sellers;

(d) acquire by merging or consolidating with, or by purchasing any equity securities or assets (which are material, individually or in the aggregate, to Sellers) of, or by any other manner, any business or any Entity;

(e) take any action not announced prior to the date of this Agreement to the customers, suppliers or distributors of Sellers, including providing promotions, coupons, or discounts or make or agree to any price increases or decreases, other than in the ordinary course of business;

(f) enter into any Contracts or commitments with another Person except for (i) Time Sales Contracts, (ii) Program Contracts in compliance with Section 3.2(b), (iii) Contracts that will not be assumed by Buyer at the Closing, (iv) Contracts entered into on commercially reasonable terms in the ordinary course of business and which do not exceed \$5,000 in the aggregate, and (v) renewals of Employment Contracts for a term not to exceed one (1) year;

(g) violate any Legal Requirement applicable to Sellers;

(h) breach in any material respect that could give cause for termination, violate, terminate or amend any Assumed Contract or Consent;

(i) fail to file any report or pay any FCC regulatory or filing fee pertaining to the Station which is required to be filed with or paid to the FCC or operate the Station other than in accordance with the Communications Act and the FCC Authorizations;

(j) (i) cause the FCC to institute any Proceedings for the cancellation, revocation, non-renewal or modification of the FCC Authorizations (except as necessary for the DTV Buildout); or (ii) take or permit to be taken any other action within its control that results in material non-compliance with requirements of the Communications Act;

(k) enter into, amend or extend any trade or barter Contracts with respect to the sale of advertising time which create any obligations or liabilities of the Station, except in the ordinary course of business or for advertising time which will have been expended prior to the Closing Date; provided, however, that Sellers shall use Best Efforts to bring the accounts for such Contracts into balance as of the Closing Date;

(l) commence a Proceeding with respect to any Asset or which could impact any rights under any Asset other than (i) for the routine collection of Accounts

Receivables; (ii) for injunctive relief on the grounds that Sellers have suffered immediate and irreparable harm not compensable in money damages if Sellers have obtained the prior written Consent of Buyer; or (iii) with respect to any Asset that is not a material Asset if the Sellers offer to remove such Asset from the Assets to be transferred to Buyer hereunder;

(m) provide any mortgage or lien on any Asset for the benefit of any Person, including any of the customers, officers, employees, directors, members or managers of Seller, other than Permitted Liens;

(n) change its credit practices, accounting methods or practices or standards used to maintain its Books and Records;

(o) make any material change affecting the Business, including (i) changes in arrangements with sales brokers, advertising reps or agencies, market research projects, or advertising and promotion budgets; or (ii) any deferrals of capital expenditures;

(p) hire any new employee other than in the ordinary course of business;

(q) discharge or release any employee from employment prior to the Buyer's notification to Sellers of its intention to hire such employee (provided, however that a Seller may terminate any employee "for cause", as determined by Quorum in good faith, or if such Seller reasonably believes that an employee position is no longer required based on the business needs of the Station) or enter into a Contract or commitment that will be assumed by Buyer to make any severance payment to any such discharged or released employee other than the renewal of Employment Contracts as otherwise permitted under Section 3.2(f)(v) above;

(r) fail to maintain the Assets in good repair, order and condition consistent with Sellers' past practice and all requirements of the FCC, reasonable wear and tear excepted;

(s) enter into any Contract or agree, in writing or otherwise, to take any of the actions described in this Section 3.2, or any action that would make any of its representations or warranties contained in this Agreement untrue or incorrect in any material respect or prevent it from performing or cause it not to perform its covenants hereunder; or

(t) agree or commit to do any of the foregoing.

**3.3 Buyer's Access.** Subject to the provisions of the Confidentiality Agreement, from time to time at Buyer's request prior to the Closing upon reasonable notice and at reasonable times, each Seller will provide to representatives of Buyer and its financing parties, and their respective their agents, employees and accounting, tax, legal and other advisors, access to the Assets, accounts, insurance policies, Contracts, and other Books and Records concerning the Station and the Assets, in each case with reasonable prior notice, during normal business hours, and so long as such access does not unreasonably interfere with the business and operations of the Station.

**3.4 FCC Consent.** On or prior to the fifth Business Day after the date of this Agreement, each of Quorum License and Buyer will (and/or cause its appropriate Affiliate(s) to) complete its portion of the application(s) to the FCC for the FCC Consents (collectively, the “**FCC Application**”) and, together with the other Persons who are required to join in such filings, file the FCC Application with the FCC. Quorum and Buyer will each pay one-half of all applicable FCC Application filing fees. Each Party will diligently take or cooperate in the taking of all reasonable steps that are necessary, proper or desirable to expedite the prosecution to Final Orders of the FCC Application and to obtain any extension of the effectiveness of any FCC Consent that may be required in order to permit the purchase and sale of the Assets to be consummated pursuant to this Agreement; provided, however, that neither Sellers nor Buyer shall have any obligation to participate in any evidentiary hearing on the FCC Application or to pay a third party to obtain an FCC Consent. Quorum will provide Buyer, and Buyer will provide Quorum, with a copy of any pleading, order or other document served on it relating to the FCC Application, unless such pleading, order or other document indicates on its face that it was served upon or delivered to Buyer or Quorum, as the case may be. No Party will, and each Party will use its best efforts not to cause or permit any of its officers, directors, partners, members or other Affiliates to, take any action that could reasonably be expected to materially and adversely affect the likelihood of the grant of any FCC Consent or any FCC Consent becoming a Final Order.

**3.5 Efforts to Close and Material Consents Generally.** Each Party will use commercially reasonable efforts to cause the conditions to Buyer’s and each Seller’s respective obligations to consummate the Closing Transactions to be satisfied (including the preparation, execution and delivery of all agreements and instruments contemplated hereunder to be executed and delivered by such Party in connection with or prior to the Closing). Each Seller will use commercially reasonable efforts (which will mean that it will not be required to make any payment not specifically required by the terms of any Contract or Legal Requirement or agree to any material modification or waiver of any term of any Contract or any other right) to (a) obtain or cause to be obtained prior to the Closing Date all Material Consents other than the FCC Consents, and (b) cause each such Material Consent to be effective as of the Closing Date, and Buyer will cooperate with such efforts. If either Seller makes any request to be released from any liability or obligation owing to any Person of whom any Consent is required, and such request is denied or objected to, such Seller will withdraw such request.

**3.6 Notice of Certain Events.** Quorum will give prompt written notice to Buyer of:

- (a) The receipt by either Seller of a National Labor Relations Board union election petition relating to employees of the Station;
- (b) The receipt by the Station of notice from any Market Cable System carrying the Station’s signal of such Market Cable System’s intention to delete the Station from carriage or change the Station’s channel position on such Market Cable System
- (c) Action taken by any party to the Network Affiliation Agreement or any request made by any such party (or delivery of any notice to the effect that such party intends

to take any action or make any request) with respect to the cancellation, amendment, termination or other modification of the Network Affiliation Agreement.

(d) Action taken by either Seller not in the ordinary course of business and any circumstance or event that could reasonably be expected to have a Material Adverse Effect on the Business;

(e) Any fact, circumstance, event, or action by Seller (i) which, if known on the date of this Agreement, would have been required to be disclosed in or pursuant to this Agreement; or (ii) the existence, occurrence, or taking of which would result in any of the representations and warranties of Seller contained in this Agreement or in any Transaction Agreement not being true and correct when made or at Closing;

(f) A breach of any covenant or obligation of Seller hereunder;

(g) Any circumstance or event which will result in, or could reasonably be expected to result in, the failure of Seller to timely satisfy any of the closing conditions specified in Article 3 of this Agreement;

(h) Any actions, suits or Proceedings threatened against or affecting the Business or the assets or properties of the Station, in any court, or before any arbitrator, or before or by any Governmental Authority;

(i) The termination, modification or suspension or any threatened termination, modification or suspension of any Material Contract or other right which is necessary for the ownership by Buyer of any of the Assets or the operation by Buyer following the Closing Date of any of the Business other than by expiration in accordance with the terms of such Material Contract;

(j) Any notice or other communication from any third party alleging that the Consent of such third party is or may be required in connection with the transactions contemplated by this Agreement; and

(k) Any notice or other communication from the FCC or any other Governmental Authority relating to the FCC Authorizations or any approval or Consent being sought in connection with the transactions contemplated by this Agreement.

### **3.7 Risk of Loss.**

(a) The risk of any loss, damage or impairment, confiscation or condemnation of the Assets or any part thereof from fire or any other casualty or cause shall be borne by Sellers at all times prior to Closing.

(b) If the Assets are damaged or destroyed by fire or other casualty or cause between the date hereof and the Closing Date and the repair cost (i.e., the lesser of the cost to return the damaged Assets to substantially the same condition they were in prior to the fire or other casualty or the cost of replacing such Assets with replacements of similar quality), individually or in the aggregate (the “**Repair Cost**”), will exceed \$500,000, Buyer

shall have the option, subject to requirements of Section 3.7(e): (i) to accept the Assets in their damaged or destroyed condition and reduce the Purchase Price by the Repair Cost; (ii) to accept the Assets in their damaged or destroyed condition without a reduction in the Purchase Price but with Sellers assigning or delivering to Buyer all of Sellers' rights to any insurance proceeds or other proceeds from third parties for such damage or destruction; or (iii) terminate this Agreement by giving written notice to Sellers not later than fifteen (15) days after the Repair Cost is determined. Sellers shall promptly notify Buyer in writing of any fire or other casualty occurring with respect to the Assets. Sellers shall provide Buyer and its agents and contractors with access to any damaged Assets following any fire or other casualty so that Buyer can obtain an estimate of the Repair Cost after Sellers notify Buyer of the fire or other casualty.

(c) If the Assets are damaged or destroyed by fire or other casualty or cause between the date hereof and the Closing Date and the Repair Cost will exceed \$25,000 but is equal to or less than \$500,000, Buyer shall have the option, subject to requirements of Section 3.7(e): (i) to accept the Assets in their damaged or destroyed condition and reduce the Purchase Price by the Repair Cost; or (ii) to accept the Assets in their damaged or destroyed condition without a reduction in the Purchase Price but with Sellers assigning or delivering to Buyer all of Sellers' rights to any insurance proceeds or other proceeds from third parties for such damage or destruction. Sellers shall promptly notify Buyer in writing of any fire or other casualty occurring with respect to the Assets. Sellers shall provide Buyer and its agents and contractors with access to any damaged Assets following any fire or other casualty so that Buyer can obtain an estimate of the Repair Cost after Sellers notify Buyer of the fire or other casualty.

(d) If any of the Assets are damaged or destroyed by fire or other casualty or cause between the date hereof and the Closing Date and the Repair Cost is equal to or less than \$25,000, Buyer shall, subject to requirements of Section 3.7(e), accept the Assets in their damaged or destroyed condition without a reduction in the Purchase Price but with Sellers assigning or delivering to Buyer all of Sellers' rights to any insurance proceeds or other proceeds from third parties for such damage or destruction.

(e) In the event of any damage or destruction described in Section 3.7(b), (c) or (d), any repair or replacement by Sellers in whole or in part shall be (i) commenced by Sellers using commercially reasonable efforts prior to the Closing Date; (ii) conducted in a good and workmanlike manner, using materials, labor and finishes resulting in the repairs being of the same or better quality than immediately prior to the damage; and (iii) subject to the reasonable approval of Buyer. Buyer shall reimburse Sellers for any out-of-pocket costs and expenses incurred by Sellers in connection with approved repairs or replacements of the Assets prior to the Closing Date.

(f) If any condemnation Proceedings are instituted, or notice of intent to condemn is given, with respect to any Owned Realty or Leased Property or portion thereof, Sellers shall promptly notify Buyer thereof. If such condemnation applies to a substantial portion of such Leased Property, so that the condemnation would render the balance of the Leased Property not reasonably suitable for Buyer's purposes, then Buyer shall have the option: (i) to terminate this Agreement; (ii) to consummate the purchase and reduce the

Purchase Price by an amount equal to the diminution in value of such Real Property; or (iii) to consummate the purchase without a reduction in the Purchase Price but with Sellers assigning or delivering to Buyer the condemnation award. If such condemnation does not apply to a substantial portion of the Real Property, then Buyer shall have the option: (i) to consummate the purchase and reduce the Purchase Price by an amount equal to the diminution in value of such Real Property; or (ii) to consummate the purchase without a reduction in the Purchase Price but with Sellers assigning or delivering to Buyer the condemnation award. Prior to Closing, Sellers shall not agree to or accept any compromise or condemnation award without obtaining Buyer's written Consent thereto.

**3.8 Broadcast Transmission Interruption.** Notwithstanding any provision of this Agreement to the contrary, Quorum shall promptly notify Buyer if the Station's normal broadcast transmission is interrupted, interfered with or in any way impaired (in each such case excluding any broadcast interruption, interference or impairment resulting from scheduled outages in connection with the DTV Buildout) and shall describe the measures being taken to correct such problem, *provided, however*, that (i) if operation of the Station is not resumed to its previous operating power and antenna height within three (3) days after such event, (ii) if more than three (3) such events occur within any thirty (30) day period, or (iii) if the Station shall be off the air for more than twenty-four (24) consecutive hours, then Buyer shall have the right to terminate this Agreement without further obligation to Sellers, for a period of thirty (30) days after receiving notice from Sellers of such occurrences described in clauses (i), (ii) or (iii), and the thirty (30) day cure provision set forth in Section 10.1(b) shall not apply. If Buyer chooses not to terminate this Agreement pursuant to this Section 3.8, the Closing shall be deferred until the later of (i) the date which is five (5) days after the end of the termination period set forth above, or (ii) the date on which all other conditions to Closing have been satisfied, but subject always to Buyer's and Sellers' rights under Section 10.1(f) to terminate this Agreement after the Drop-Dead Date.

**3.9 Updating the Seller Disclosure Schedule.** If any event, condition, fact or circumstance that is required to be disclosed pursuant to Sections 3.6, 3.7 or 3.8 would require a change to the Seller Disclosure Schedule if the Seller Disclosure Schedule were dated as of the date of the occurrence, existence or discovery of such event, condition, fact or circumstance, then Sellers shall promptly deliver to Buyer an update to the Seller Disclosure Schedule specifying such change and shall use their Best Efforts to remedy same, as applicable, *provided, however*, that no such update shall be deemed to supplement or amend the Seller Disclosure Schedule for the purpose of (a) determining the accuracy of any of the representations and warranties made by Sellers in this Agreement or (b) determining whether any of the conditions set forth in Section 2.7 have been satisfied.

**3.10 Exclusivity.** Until this Agreement is terminated in accordance with its terms, Sellers will not (and will not cause or permit any Affiliate, director, officer, employee, stockholder or agent of either Seller to), directly or indirectly: (a) solicit, initiate or encourage the submission of any proposal or offer from any Person relating to any (i) liquidation or dissolution of either Seller, (ii) acquisition or purchase of the Assets or the Station, or (iii) similar transaction or business combination involving either Seller, the Assets or the Station; or (b) participate in any discussions or negotiations regarding, furnish any

information with respect to, assist or participate in, or facilitate in any other manner any effort or attempt by any other Person to do or seek any of the foregoing.

**3.11 No Premature Assumption of Control.** Nothing contained in this Agreement will give Buyer any right to control the programming, operations, or any other matter relating to the Station prior to the Closing, and Sellers will have complete control of the programming, operations and all other matters relating to the Station up to the time of the Closing.

**3.12 Environmental Reports.** Buyer may in its discretion within forty-five (45) days after the date of this Agreement retain a consultant to conduct at its expense a Phase I environmental assessment of the Owned Realty or Leased Property or the other Assets and to prepare a report describing all activities and the results of such evaluation and presenting recommendations for any future work, if necessary (the “**Environmental Reports**”). Sellers shall provide reasonable access to all such property for purposes of evaluation and testing required for preparation of the Environmental Reports. Sellers shall cooperate with Buyer or Buyer’s Representatives in preparation of the Environmental Reports and Buyer shall provide Sellers with a copy of such Environmental Reports within ten (10) days of their receipt by Buyer. If Seller and Buyer jointly agree on an appropriate cure for any violation or condition requiring remediation under any applicable Environmental and Safety Law and Sellers shall effect such cure to Buyer’s satisfaction prior to the Closing Date.

**3.13 Make-Goods.** If either Seller entered into any Time Sales Contracts that require any commercial inventory make-goods, Sellers shall use reasonable efforts to satisfy all such make-good obligations prior to the Closing Date. To the extent Sellers do not satisfy such obligations prior to the Closing Date so that any such make-good must be aired after the Closing Date, Buyer shall be entitled to receive from Sellers within five (5) Business Days after Buyer provides Sellers with an affidavit customary in the broadcast industry evidencing the airing of such make-good all amounts received by Sellers from the advertiser prior to Closing attributable to the advertisement aired as a make-good after Closing. If Sellers have not actually received from the advertiser the amounts attributable to the advertisement aired as a make-good after Closing, (i) Sellers shall pay the amounts to Buyer as provided in this Section 3.13 as if Sellers had received such amounts from the advertiser and (ii) any amounts attributable to such advertisement received by Buyer from the advertiser after the Closing shall remain subject to the collect-and-remit procedure described in Section 2.4. Amounts paid by Sellers pursuant to this Section 3.13 shall not be subject to Section 2.2(a) of this Agreement

**3.14 Provision of Certain Other Information.** No later than thirty (30) days prior to the Closing Date the Sellers shall provide Buyer with (i) a written summary of all Times Sale Contracts and Trade-Out Receivables entered into with respect to the Station and which the Buyer is expected to assume at Closing in accordance with the provisions of this Agreement, and (ii) information regarding the accrued and unused paid vacation and other paid leave with respect to certain employees of the Sellers designated by the Buyer.

**3.15 Title and Survey.**



(a) Within ten (10) Business Days following the execution of this Agreement, Buyer shall, at Sellers' expense, procure a title commitment for title insurance covering the Owned Realty, issued by Commercial Title & Settlement Group, a division of Security Title Services, LLC (the "**Title Company**"), through Evansville Title, as title agent, together with legible copies of all recorded documents referenced therein and a special tax search (the "**Commitment**"), by which Commitment the title agent shall agree to issue to Buyer (or its designee), upon recording the Deed, a standard owner's ALTA 92 policy (the "**Title Policy**") in an amount specified by Buyer that does not exceed the lesser of the amount of the Purchase Price allocated to the Owned Realty and \$2,000,000, and without exception for any matters other than Permitted Liens hereunder, if any. Buyer shall have fifteen (15) days from the date of actual receipt of both the Commitment and the survey described in Section 3.15(b) by Buyer and Buyer's attorney in which to examine the Commitment and survey and to give written notice to Sellers, or Sellers' attorney, of its approval or disapproval in Buyer's sole discretion of any matter contained therein that is not a Permitted Lien. Sellers shall have until the Closing Date to cure the objections or defects so specified, and Sellers shall use reasonable diligence to cure the same. If, after the exercise of reasonable diligence, Sellers are unable to correct such objections or defects to the Buyer's reasonable satisfaction, within said period of time, then Buyer shall have the right to cure said defects and reduce the Purchase Price accordingly. Any such defect or objection waived in writing shall become a Permitted Lien. The Commitment shall be updated by the Title Company, at Seller's expense, prior to the Closing Date. Any title exception, other than a prior Permitted Exception hereunder shall be treated as a title defect hereunder.

(b) Upon execution of this Agreement, Sellers shall, at Sellers' expense, procure a boundary survey of the Owned Realty prepared by International Land Surveys, or another duly licensed land surveyor licensed in Indiana chosen by Seller and reasonably acceptable to Buyer. The survey as to the Owned Realty shall comply with ALTA 99 survey requirements and shall:

(1) Set forth an accurate metes and bounds description of the Owned Realty and the acreage thereof to the nearest one-hundredth (.01) acre.

(2) State the gross square feet and the net square feet within the Owned Realty, measured to the nearest one-hundredth (.01) acre. For purposes of this Agreement, "net square feet" shall equal the gross area within the Owned Realty less that portion of the Owned Realty which is subject to easements or dedications for roadway, public ingress or egress;

(3) Locate all existing easements and rights-of-way (setting forth the book and page number of the recorded instruments creating the same), alleys, streets and roads;

(4) Show any encroachments;

(5) Show all existing improvements (such as buildings, power lines, fences, etc.);

- (6) Contain the surveyor's certification to Buyer (or its designee) and the Title Company in commercially acceptable form and substance;
- (7) Show all dedicated public streets providing access and whether such access is paved to the Owned Realty line;
- (8) Contain a certification as to whether the Owned Realty is located in a floodplain;
- (9) State that it is prepared for the Sellers, the Buyer (or its designee), the Buyer's Lender(s), if any, and the Title Company; and
- (10) Shall be sufficient to the Title Company to issue the survey modification endorsement.

In the event the survey, or any recertification thereof, shows any encroachments or any improvements upon, from, or onto the Owned Realty, or on or between any building setback line, lot line, or any easement, or other matter except those acceptable to Buyer, in Buyer's sole discretion, said encroachment, easement, or other matter shall be treated in the same manner as a title defect as described in Section 3.15(a). Buyer shall have fifteen (15) days from the date of actual receipt of the survey by Buyer and Buyer's attorney in which to examine the survey and to give written notice to Sellers, or Sellers' attorney, of its approval or disapproval in Buyer's sole discretion of any matter contained therein that is not a Permitted Lien. Sellers shall have until the Closing Date to cure the objections or defects so specified, and Sellers shall use reasonable diligence to cure the same. If, after the exercise of reasonable diligence, Sellers are unable to correct such objections or defects to the Buyer's reasonable satisfaction, within said period of time, then Buyer shall have the to cure said defects and reduce the Purchase Price accordingly. Any such defect or objection waived in writing shall become a Permitted Lien.

#### **ARTICLE IV**

#### **REPRESENTATIONS AND WARRANTIES OF SELLERS**

As a material inducement to Buyer to enter into this Agreement, Sellers hereby make the representations and warranties set forth in this Article IV as of the date of this Agreement. Sellers agree that, if the Closing occurs, then as of the time of the Closing each representation and warranty set forth in this Article IV will be deemed to be remade by Sellers as of the time of the Closing as a material inducement to Buyer to consummate the Closing Transactions.

**4.1 Organization and Power.** Quorum is a corporation, and Quorum License is a limited liability company, validly existing and in good standing (or having comparable active status) under the laws of the State of Delaware and are qualified to do business in every jurisdiction in which the nature of their business or their ownership of property requires them to be qualified and in which the failure to so qualify could reasonably be likely to have a Material Adverse Effect. Each Seller has full corporate or other power

necessary to own and operate its properties and carry on its business as now conducted and as proposed by it to be conducted.

**4.2 Authorization of Transactions.** Each Seller has full corporate or other power and authority to execute and deliver this Agreement and all other Transaction Documents to which it is a party and to perform its obligations hereunder and thereunder. The board of directors or comparable governing body of each Seller, and each Seller's stockholder(s) or member(s), have duly approved this Agreement and all other Transaction Documents to which such Seller is a party and have duly authorized such Seller's execution and delivery of this Agreement and such Transaction Documents and the performance of such Seller's obligations hereunder and thereunder. No other proceeding or action on the part of either Seller or any of its directors, officers, managers, stockholders or members is necessary to approve and authorize such Seller's execution and delivery of this Agreement or any other Transaction Document to which such Seller is a party or the performance of such Seller's obligations hereunder or thereunder. This Agreement and all other Transaction Documents to which either Seller is a party have been duly executed and delivered by such Seller and constitute the valid and binding agreements of such Seller, enforceable against such Seller in accordance with their terms, except as enforceability hereof or thereof may be limited by bankruptcy, insolvency or other laws affecting creditor's rights generally and limitations on the availability of equitable remedies.

**4.3 Subsidiaries; Investments.** The Assets do not include any shares of capital stock or any other security of, interest or investment in, or loan to, any other Person or any right that is exercisable or exchangeable for or convertible into any capital stock or other security, interest or investment in any other Person.

**4.4 Absence of Conflicts.** Except for the Material Consents and the other Consents described on the attached Schedule 4.4, neither the execution, delivery and performance of this Agreement or any other Transaction Document by either Seller nor the consummation by either Seller of the transactions contemplated hereby or thereby does or will:

(a) (i) conflict with or result in any breach of any of the provisions of, (ii) constitute a default under, (iii) result in a violation of, (iv) give any other party the right to terminate or to accelerate any obligation under, or (v) result in the creation of any Lien upon any Asset, in each case under the provisions of Organizational Documents of either Seller or any indenture, mortgage, lease, loan agreement or other agreement, instrument or Contract or any Legal Requirement by which either Seller or any Asset is affected, or to which either Seller or any Asset is subject; or

(b) give any Governmental Entity (other than the FCC) or other Person the right to (i) approve or challenge the Transaction; (ii) exercise any remedy or obtain any relief under any Legal Requirement or any Order to which either Seller, or any of the Assets or Assumed Liabilities, is subject; (iii) declare a default of, exercise any remedy under, accelerate the performance of, cancel, terminate, modify or receive any payment under any Assumed Contract; or (iv) revoke, suspend or modify any FCC Authorization;

(c) cause either Seller or Buyer to become subject to, or to become liable for the payment of, any Tax (other than Transfer Taxes and Taxes arising from the conduct of the Business or the ownership of the Assets in the ordinary course of business), or cause any of the Assets to be reassessed or revalued by any Governmental Entity;

(d) result in the imposition or creation of any Lien (other than in Buyer's favor) upon or with respect to any of the Assets; or

(e) require either Seller to obtain any Consent or make or deliver any filing or notice to a Governmental Authority other than the FCC.

**4.5 Title to, Condition and Sufficiency of Assets.**

(a) **Owned Properties.** The real property described on the attached Schedule 4.5A (the "**Owned Realty**") constitutes all of the fee simple interests in real property owned by either Seller. With respect to each parcel of Owned Realty, other than as set forth on the attached Schedule 4.5A:

(1) There are no parties other than Sellers in possession of any portion of the Owned Realty as lessees, tenants at sufferance, or trespassers;

(2) No portion of the Owned Realty has been leased to any third party by Quorum at any time during Quorum's ownership of the Owned Realty;

(3) There is no pending or, to Sellers' knowledge and during the period of Sellers' ownership of the Owned Realty, no threatened condemnation or similar proceeding or assessment or litigation affecting the Owned Realty, or any part thereof, nor to Sellers' knowledge is any such proceeding or assessment contemplated by any Governmental Entity;

(4) Quorum is the fee simple owner of the title to the Owned Realty and is duly authorized and empowered to sell said Owned Realty;

(5) Sellers have paid or will pay at or prior to Closing, through the current year, all taxes, charges, debts and other assessments due and payable by Quorum on or prior to the Closing Date with respect to the Owned Realty;

(6) The Owned Realty is not in a flood plain or water district;

(7) There will be no recorded or unrecorded Liens against any of the Owned Realty which will not be satisfied at or prior to Closing other than Continuing Permitted Liens;

(8) Sellers know of no existing condition with respect to the Owned Realty or its operation which violates any Legal Requirement;

(9) Sellers have no knowledge that the Owned Realty is subject to any surface or subsurface ground faults;

(10) To the Sellers' knowledge, no fact or condition exists which would result in the termination of the current access from the Owned Realty (i) to any presently existing highways and/or roads adjoining or situated on the Owned Realty, or (ii) to any existing sewer or other utility facilities servicing, adjoining or situated on the Owned Realty;

(11) Sellers have no knowledge of any pending or contemplated change in any statute, ordinance, rule or other governmental regulation applicable to the Owned Realty; or of any condition of the Owned Realty, which would in any way limit the use of the Owned Realty or diminish its value;

(12) Sellers have not received and have no other knowledge of any notice from any insurance company requesting the performance of any work regarding the Owned Realty or relating to an increase in the insurance premiums applicable to the Owned Realty;

(13) Sellers have all necessary licenses and permits required by any Legal Requirement for the use and operation of the Owned Realty;

(14) All obligations of Sellers arising from the ownership and operation of the Owned Realty and business operated thereon, including, but not limited to salaries, wages, taxes, leasing commissions and the like, have been paid as they become due or will be prorated in accordance with the provisions of Section 2.3;

(15) Except for obligations for which provisions are herein made for pro-ratio or other adjustment after the Closing, there will be no obligations of Sellers with respect to the Owned Realty that will not be satisfied as of the Closing Date;

(16) There are no attachments, executions, assignments for the benefits of creditors or voluntary or involuntary proceedings in bankruptcy or under any other debtor relief laws contemplated by or pending or threatened against either Seller or the Owned Realty;

(17) Sellers know of no repairs that need to be made to the Owned Realty and have no knowledge of any latent structural defects or any other defects of the Owned Realty;

(18) During Quorum's ownership of the Owned Realty, none of the Owned Realty was excavated, no land fill was deposited on or taken from any part of the Owned Realty, nor was any construction debris or other debris (such as, but not limited to, rock, stumps or concrete) buried on any of the Owned Realty, and to Sellers' knowledge, none of the foregoing events occurred with respect to the Owned Realty prior to the time Quorum became the Owner;

(19) To Sellers' knowledge there are no, and during the period of Sellers' ownership of the Owned Realty there have not been any, soil or subsoil

conditions at the Owned Realty which would have a Material Adverse Effect on the use of the Owned Realty for the commercial/industrial use thereon;

(20) To Sellers' knowledge and during the period of Sellers' ownership of the Owned Realty, the Owned Realty has not been designated a landmark, historic building or within a conservancy district;

(21) The Owned Realty is not property as defined by Indiana's Responsible Property Transfer Law (I.C. Section 13-25-3-1 *et seq.*, as amended) and, therefore, Sellers are not required to provide Buyer with a Disclosure Statement; provided, however, if, after execution of this Agreement and/or after the Closing Date, either Seller learns that the Owned Realty comes within the terms of the Responsible Property Transfer Law, then such Seller agrees to provide Buyer with the required Disclosure Document and comply with all other parts of this Legal Requirement;

(22) All of the buildings, fixtures and other improvements constituting a part of the Owned Realty are free from termites, dry rot, other fungi and other forms of deterioration, and any and all damage resulting there from, and the operation thereof as conducted during the twelve-month period prior to the date hereof, as presently conducted and as proposed to be conducted is not in any material respect in violation of any applicable Legal Requirement;

(23) Quorum holds valid and effective certificates of occupancy covering all buildings and improvements constituting a part of the Owned Realty and holds valid and effective underwriters' certificates relating to electrical work, zoning, building, housing, safety, fire and health approvals and all other permits and licenses required by applicable Legal Requirements relating to the operation thereof;

(24) Quorum has not experienced during the three years preceding the date hereof any material interruption in the delivery of adequate quantities of any utilities (including, without limitation, electricity, natural gas, potable water, water for cooling or similar purposes and fuel oil) or other public services (including, without limitation, sanitary and industrial sewer service) required in the operation of the Business;

(25) To Sellers' knowledge and during the period of Sellers' ownership of the Owned Realty, no part of the Owned Realty has been designated as wetlands or inhabited by any endangered species by any governmental agency having jurisdiction;

(26) To Sellers' knowledge and during the period of Sellers' ownership of the Owned Realty, the mineral or other subsurface estates have not been severed from the surface estate;

(27) To Sellers' knowledge and during the period of Sellers' ownership of the Owned Realty, neither the Owned Realty nor any part thereof is

within a special taxing district, nor has any application been made or submitted for the creation thereof, or annexation thereby.

(28) To Sellers' knowledge there are no, and during the period of Sellers' ownership of the Owned Realty there have not been any, impact fee credits attributable to the Owned Realty; and,

(29) There are no oral or written service, maintenance, landscaping, security, management or other similar contracts which affect the operation or maintenance of the Owned Realty, except as set forth on Schedule 1.1F.

(b) **Leased Properties.** The Leases constitute all of the leases and agreements of occupancy of real property to which either Seller is a party. Except as described on the attached Schedule 4.5B:

(1) Each written Lease is in full force and effect and a Seller holds a valid and existing leasehold or subleasehold thereunder in the real property that is subject thereto (collectively, the "**Leased Realty**");

(2) With respect to each written Lease: (i) such Lease is legal, valid, binding, enforceable and in full force and effect; (ii) subject to obtaining any Material Consent or Consent described on the attached Schedule 4.4, the consummation of the Closing Transactions will not cause such Lease to cease to be legal, valid, binding, enforceable and in full force and effect on substantially the same terms as are presently in effect; (iii) neither Seller is in breach in any material respect of, and, to Sellers' knowledge, no event has occurred that, with notice or lapse of time, would constitute such a breach of either Seller or permit termination, modification or acceleration of, such Lease; (iv) to Sellers' knowledge, no other party to such Lease is in breach in any material respect of, and no event has occurred that, with notice or lapse of time, would constitute such a breach or default or permit termination, modification or acceleration of, such Lease; (v) neither Seller (and, to Sellers' knowledge, no other party to such Lease) has repudiated any provision thereof; (vi) there are no material disputes, oral agreements, or forbearances in effect as to such Lease; (vii) such Lease has not been modified in any respect, except to the extent that such modifications are disclosed by the documents delivered to Buyer; (viii) neither Seller has assigned, transferred, conveyed, mortgaged, deeded in trust or caused any Lien (other than any Permitted Lien) to exist with respect to any interest of either Seller in such Lease; and (ix) Sellers have been in lawful possession of the premises covered by each Lease since the commencement of the original term of such Lease.

The Owned Realty and the Leased Realty constitute all of the interests in real property held or used by either Seller. Quorum has delivered to Buyer complete and accurate copies of each of the written Leases, and a written statement of the material terms of each oral lease or holding-over, in each case including all modifications and amendments thereto.

(c) **No Proceedings.** There is no Proceeding in eminent domain or any similar Proceeding pending, or (to Sellers' knowledge) threatened, affecting either Seller's

interest in any Owned Realty or Leased Realty. There exists no writ, injunction, decree, order or judgment outstanding, nor any litigation, pending, or (to Sellers' knowledge) threatened, relating to the ownership, lease, use, occupancy or operation by either Seller of any Owned Realty or Leased Realty.

(d) **Current Use.** Except as set forth on the attached Schedule 4.5E: (i) no use by either Seller of the Owned Realty or Leased Realty violates in any material respect any Legal Requirement, instrument of record or agreement affecting any Owned Realty or Leased Realty, and (ii) there is no violation of any applicable covenant, condition, restriction, easement or agreement, in each case in any manner that could reasonably be expected to have a Material Adverse Effect.

(e) **Condition and Operation of Improvements.** As to each parcel of Owned Realty and, to Sellers' knowledge, as to each parcel of Leased Realty: (i) all components of all buildings, structures and other improvements included upon or within such parcel (the "**Improvements**"), including the roofs and structural elements thereof and the heating, ventilation, air conditioning, air pollution emission capture and abatement, plumbing, electrical, mechanical, sewer, waste water and paving and parking equipment systems and facilities included therein, are in reasonably adequate condition for their present use by Sellers, and there are no facts or conditions affecting any of the Improvements that would, individually or in the aggregate, interfere in any significant respect with the use, occupancy or operation thereof as they are currently used, occupied or operated or proposed by Sellers to be used, occupied or operated; (ii) there are no material structural deficiencies in any buildings located upon such parcel; and (iii) no Improvement or portion thereof is dependent for its access, operation or utility on any land, building or other improvement not included in any Owned Realty or Leased Realty.

(f) **Ownership of Assets.** Sellers own good title to, or a valid leasehold in, all of the Assets, free and clear of all Liens (other than Permitted Liens).

(g) **Condition of the Assets.** The Assets are in a condition that is reasonably sufficient for the conduct of the Business of the Station in the ordinary course and to Sellers' knowledge there are no patent or latent defects with respect thereto. The Assets include all buildings, machinery, equipment and other tangible assets and real property interests, intangible assets and other assets, rights and properties reasonably necessary for or material to the conduct of the Business of the Station as currently conducted and as proposed to be conducted by Sellers.

#### **4.6 Environmental Matters.**

(a) **Compliance Generally.** Sellers have complied in all material respects, and are in compliance in all material respects, with all Environmental and Safety Requirements.

(b) **Permits.** Sellers have obtained and complied in all material respects with, and are in compliance in all material respects with, all permits, licenses and other authorizations that are required pursuant to Environmental and Safety Requirements for the



occupation of their facilities and the operation of their businesses, and, to Sellers' knowledge, such permits, licenses and other authorizations may be relied upon for continued lawful conduct of the business and operations of the Station immediately after the Closing Transactions without reissuance, or other approval or action by any Governmental Entity or other Person.

(c) **Claims.** Neither Seller has received any written claim, complaint, citation, report or other notice regarding any liabilities or potential liabilities (whether accrued, absolute, contingent, unliquidated or otherwise), including any investigatory, remedial or corrective obligations, or natural resources or property damages or personal injuries, attorneys' fees or penalties arising under Environmental and Safety Requirements or relating to the presence or release of Materials of Environmental Concern at any location, nor, to the knowledge of Sellers, are there any past or present facts or circumstances that are reasonably likely to form the basis for any such claim.

(d) **Storage Tanks.** No above-ground or, to Sellers' knowledge and during the period of Sellers' ownership of the Owned Realty, no underground storage tank exists or existed at any property owned, used, leased or occupied in connection with the business or operation of the Station.

(e) **Operations.** No facts, events or conditions relating to the past or present facilities, properties or operations of either Seller will prevent, hinder or limit continued compliance in all material respects with Environmental and Safety Requirements, give rise to any material investigatory, remedial or corrective obligations pursuant to Environmental and Safety Requirements, or give rise to any other material liabilities (whether accrued, absolute, contingent, unliquidated or otherwise) pursuant to Environmental and Safety Requirements, including any Environmental and Safety Requirement relating to onsite or offsite releases or threatened releases of hazardous or otherwise regulated materials, substances or wastes, personal injury, property damage or natural resources damage; provided that nothing in this Section 4.6(e) will constitute a representation or warranty as to the necessity to comply with or to the effect of Environmental and Safety Requirements due to construction, remodeling, or other changes to or additions in operations that may be undertaken by Buyer after the Closing.

(f) **Transaction-Triggered Requirements.** Neither the execution and delivery of this Agreement nor the consummation of the Closing Transactions imposes any obligations for site investigation or cleanup, or notification to or consent of Governmental Entity or any other Person, pursuant to any "transaction-triggered" Environmental and Safety Requirement.

(g) **Liability for Others.** Neither Seller has, either expressly or by operation of law, assumed or undertaken any liability or corrective or remedial obligation of any other Person relating to Environmental and Safety Requirements.

(h) **Environmental Liens.** No Environmental Lien has attached to any Asset arising out of any action or omission of either Seller or, to Sellers' knowledge, any other Person.

**4.7 Financial Statements.**

(a) Attached to this Agreement as Schedule 4.7A are the following (collectively, the **“Financial Statements”**): the unaudited balance sheets of Sellers (on a consolidated basis) as of December 31, 2000, December 31, 2001 and November 30, 2002 and the related statements of income and cash flows for, respectively, the fiscal year ending on December 31, 2000, the fiscal years ending on December 31, 2001 and on December 31, 2002, and the month ending on January 31, 2003 (the unaudited balance sheet as of January 31, 2003 being the **“Latest Balance Sheet”**). Each Financial Statement (in each case including the notes thereto, if any) (i) has been prepared in accordance with GAAP consistently applied, subject to the lack of footnote disclosure and income tax accruals and changes resulting from normal year-end adjustments, and (ii) presents fairly in accordance with GAAP the financial condition of Sellers as of the applicable date and the results of their and changes in cash flow for period covered thereby.

(b) From the date of the Latest Balance Sheet, there has been no change in the financial condition, Business or assets of the Station that would or could reasonably be expected to have a Material Adverse Effect, and Sellers have conducted the Business in the ordinary course of business and in the same manner as it was before the date of the Latest Balance Sheet in all material respects.

**4.8 Absence of Changes.** Since the date of the Latest Balance Sheet, (a) Sellers have conducted the Business in the ordinary course of business; (b) no event or circumstance has occurred that could reasonably have a Material Adverse Effect on Sellers; and (c) other than Sellers’ entry into this Agreement, Sellers have not taken any action, agreed to take any action, or omitted to take any action that would constitute a breach of Section 3.1 (other than Sections 3.1(j), (l) or (m)) or Section 3.2 (other than Sections 3.2(b), (f) or (k)) if such action or omission were taken between the date of this Agreement and the Closing Date.

**4.9 Motor Vehicles.** Schedule 1.1Q sets forth an accurate and complete list of all Owned and Leased Vehicles. All such Owned and Leased Vehicles are (a) properly licensed and registered in accordance with applicable Legal Requirements; (b) insured as set forth in the Sellers Disclosure Schedule; and (c) not subject to any Lien (other than any Permitted Lien).

**4.10 FCC Matters.** The attached Schedule 1.1A contains a complete list of all FCC Authorizations and the dates on which such authorizations are subject to or scheduled for renewal (for each FCC Authorization, the **“Renewal Date”**). Taken together, the FCC Authorizations constitute all of the licenses and authorizations required under the Communications Act and the FCC Regulations for the operation of the Station as currently conducted and as now proposed to be conducted by Sellers. Quorum License is the holder of each FCC Authorization. Sellers have made available to Buyer accurate and complete copies of all of the FCC Authorizations. Each FCC Authorization is in full force and effect and is not subject to or scheduled for renewal prior to the Renewal Date specified for such FCC Authorization on the attached Schedule 1.1A. Each FCC Authorization is valid for the full term thereof, and, to Sellers’ knowledge, no fact or circumstance exists that would cause either Seller to believe that any FCC Authorization will not be renewed for a full and

customary term in the ordinary course with no materially adverse conditions (except with respect to general rule-making and similar matters relating generally to television broadcast stations). There is not pending (or, to Sellers' knowledge, threatened) any action by or before the FCC to revoke, cancel, rescind, modify, or refuse to renew in the ordinary course any FCC Authorization, and there is not now pending, issued or outstanding (or, to Sellers' knowledge, threatened) by or before the FCC, any investigation, order to show cause, cease and desist order, notice of violation, notice of apparent liability, or notice of forfeiture, petition or complaint with respect to either Seller, the Station or any FCC Authorization. The Station is operating in compliance in all material respects with the FCC Authorizations, the Communications Act and the FCC Regulations. Neither Seller has received any written notice to the effect that the Station is causing objectionable interference to the transmissions of any other television station or communications facility or has received any written complaints with respect thereto. To Sellers' knowledge, no other television station or communications facility is causing unlawful interference with the Station's transmissions or the public's reception of the Station's transmissions.

**4.11 Cable Television Matters.**

(a) The attached Schedule 4.11 comprises:

(i) a list of all multichannel video programming distributors, including but not limited to, cable systems, SMATV, open video systems, MMDS, MDS and DBS systems (hereinafter "**MVPDs**") that carry the Station's signal, and the channel on which the Station's signal is carried;

(ii) a list of all MVPDs in the Evansville DMA to which Sellers have provided a must-carry notice or retransmission consent notice in accordance with the provisions of the Communications Act and the FCC Regulations for the three-year period ending December 31, 2005, for cable systems, and, if applicable, the four-year period ending December 31, 2005, for DBS systems, including a detailed description of the disposition and current status of each such must-carry or retransmission consent notice; and a list of all MVPDs in the Evansville DMA to which Seller has not provided any such must-carry or retransmission consent notice;

(iii) a list of all retransmission consent and/or copyright indemnification Contracts entered into with any MVPD in the Evansville DMA with respect to the Station for the three-year period ending December 31, 2005, for cable systems and, if applicable, the four-year period ending December 31, 2005 for DBS systems, and the expiration date for each such Contract; and

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

(b) Seller has delivered to Buyer true and complete copies of all material notices, Contracts, correspondence and other items described in clauses (a)(i)-(iv) of this

Section 4.11. Except as set forth on Schedule 4.11, consummation of the transactions contemplated hereunder will not require Consent of any Person with respect to carriage pursuant to a retransmission consent agreement on any MVPD identified on Schedule 4.11.

**4.12 Contracts.**

(a) Sellers have delivered to Buyer accurate, correct and complete copies of all Contracts material to the conduct of the Business (the “**Material Contracts**”), including all amendments, supplements, modifications and waivers thereof. All Material Contracts are in writing.

(b) Each Material Contract and each other Assumed Contract is currently valid and in full force and effect, and is enforceable by Sellers in accordance with its terms.

(c) (i) Sellers are not in default, and no party has notified Sellers that they are in default, under any Assumed Contract. To the knowledge of Sellers, no event has occurred, and no circumstance or condition exists, that might (with or without notice or lapse of time) (a) result in a violation or material breach of any of the provisions of any Assumed Contract; (b) give any Person the right to declare a default or exercise any remedy under any Assumed Contract; (c) give any Person the right to accelerate the maturity or performance of any Assumed Contract or to cancel, terminate or modify any Assumed Contract; or (d) otherwise have a Material Adverse Effect on Sellers in connection with any Assumed Contract; and

(ii) Sellers have not waived any of its rights under any Assumed Contract.

(d) To the knowledge of Sellers, each Person against which Sellers have or may acquire any rights under any Assumed Contract is (i) solvent and (ii) able to satisfy such Person’s material obligations and liabilities to Sellers.

(e) The performance of the Assumed Contracts will not result in any violation of or failure by Sellers to comply with any Legal Requirement.

(f) The Assumed Contracts, the Retained Employment Contracts and the Consent-Pending Assets constitute all of the Contracts necessary to enable Seller to conduct the Business in the manner in which such Business is currently being conducted and in the manner in which such Business is proposed to be conducted.

**4.13 Program Runs.** With respect to each Program Contract that is in effect on the date of this Agreement, the “Available Runs” specified on the attached Schedule 4.13 is the number of unused exhibitions pursuant to the cash portion, if any, of such Program Contract as of the corresponding date specified on such Schedule.

**4.14 Proprietary Rights.** The attached Schedule 4.14 sets forth a complete and correct list of: (a) all registered Proprietary Rights and all pending applications for registration of Proprietary Rights owned, filed or used by either Seller (other than as licensee)

for the Station, (b) all call letters, if any, used by Sellers with respect to the Station other than “WTVW”, and (c) all other licenses or similar agreements or arrangements to which either Seller is a party either as licensee or licensor for the Proprietary Rights (other than licenses of off-the-shelf software). Except as set forth on the attached Schedule 4.14: (i) taken together, Sellers own and possess all right, title and interest in and to, or have a valid and enforceable right to use, the call letters “WTVW” and each of the registered Proprietary Rights described or required to be described on the attached Schedule 4.14 (the “**Material Proprietary Rights**”), free and clear of all Liens, other than Permitted Liens, and no claim by any third party contesting the validity, enforceability, use or ownership of any of the foregoing is pending or, to Sellers’ knowledge, is threatened; (ii) no loss or expiration of any Material Proprietary Right is pending or, to Sellers’ knowledge, threatened; (iii) neither Seller has received any notice of, nor does either Seller have knowledge of any facts that indicate a likelihood of, any infringement or misappropriation by, or any conflict with, any third party with respect to any Material Proprietary Right, including any demand or request that either Seller license rights from a third party; (iv) neither Seller has in any material respect infringed, misappropriated or otherwise conflicted with any intellectual property rights of any third party and neither Seller has knowledge of any such infringement, misappropriation or conflict that will occur as a result of the continued operation of the Station as it is presently operated or proposed by Sellers to be operated; (v) all Material Proprietary Rights will be fully transferable, alienable or licensable by Buyer without restriction and without payment of any kind to any third party; (vi) the consummation of the transactions contemplated under this Agreement will not result in the loss or, or the diminishment in value of, any Material Proprietary Rights; and (vii) neither this Agreement nor the transaction contemplated herein, including the assignment to Buyer, by operation of law or otherwise, of any Assumed Contracts will result in (A) Buyer granting to a third party any right to, or with respect to, any Material Proprietary Rights owned by, or licensed to, Buyer, (B) Buyer being bound by, or subject to, any noncompete or other restriction on the operation or scope of its businesses, including the Business, or (C) Buyer being obligated to pay royalties or other amounts to any third party except as set forth on Schedule 4.14.

**4.15 Litigation.** Except as set forth on the attached Schedule 4.15 and except for matters affecting the broadcast television industry generally, there are no Proceedings or Orders, or, to Sellers’ knowledge, investigations, existing or pending (or, to Sellers’ knowledge, threatened) against or affecting either Seller at law or in equity, or before or by any court or other Governmental Entity that, if determined adversely to Sellers, could reasonably be expected to have a Material Adverse Effect. To Sellers’ knowledge, no event has occurred, and no condition or circumstance exists, that might directly or indirectly give rise to or serve as the basis for the commencement of any such Proceeding. Sellers have delivered to Buyer true, accurate and complete copies of all pleadings, correspondence and other documents relating to any Proceeding disclosed on Schedule 4.15. No insurance company has asserted in writing that any such Proceeding is not covered by the applicable policy related thereto.

**4.16 No Brokerage.** There are no claims for brokerage commissions, finders’ fees or similar compensation in connection with the transactions contemplated by this

Agreement based on any arrangement or agreement made by or on behalf of either Seller or any Affiliate thereof.

**4.17 Employee Matters.**

(a) **Employees and Contracts.** Except for the Employment Contracts and the Retained Employment Contracts, no employee of either Seller has been granted the right to continued employment by such Seller or to any material compensation following termination of employment with such Seller. Sellers have no knowledge as of the date of this Agreement that any employee or consultant of either Seller (collectively, the “**Contractors**”) intends to terminate his or her employment or other engagement with such Seller, nor as of the date of this Agreement does either Seller have a present intention to terminate the employment or engagement of any Contractor (other than termination in connection with the Closing as contemplated by this Agreement).

(b) **Compensation.** Schedule 4.17 sets forth an accurate, correct and complete list of all employees of each Seller, including each employee’s name, title or position, present annual compensation (including bonuses, commissions and deferred compensation), years of service, and interests in any incentive compensation plan.

(c) **Disputes.** There are no claims, disputes or controversies pending or, to the knowledge of Sellers, threatened involving any employee or group of employees. Neither Seller has suffered or sustained any work stoppage and no such work stoppage is threatened.

(d) **Compliance with Legal Requirements.** Each Seller has complied with all Legal Requirements related to the employment of its employees, including provisions related to wages, hours, leaves of absence, equal opportunity, occupational health and safety, workers’ compensation, severance, employee handbooks or manuals, collective bargaining and the payment of social security and other Taxes. No Seller has any Liability for any violation of any Legal Requirements related to employment and attributable to an event occurring or a state of facts existing prior to the date thereof.

(e) **WARN Act.** Each Seller is in full compliance with the Worker Readjustment and Notification Act (the “**WARN Act**”). (29 USC § 2101), including all obligations to promptly and correctly furnish all notices required to be given thereunder in connection with any “plant closing” or “mass layoff” to “affected employees,” “representatives” and any state dislocated worker unit and local government officials. No reduction in the notification period under the WARN Act is being relied upon by either Seller. Schedule 4.17 sets forth an accurate, correct and complete list of all employees terminated (except with cause, by voluntarily departure or by normal retirement), laid off or subjected to a reduction of more than 50% in hours or work during the two full calendar months and the partial month preceding the date of this Agreement.

(f) **Unions.** Neither Seller has any collective bargaining agreements with any of its employees. There is no labor union organizing or election activity pending or, to the knowledge of Sellers, threatened with respect to either Seller.

**4.18 Digital Build-Out and Operation.** The Station has been assigned digital channel 28 by the FCC for the provision of digital television service and has obtained an extension from the FCC until July 9, 2003 for the commencement of DTV broadcasts. Sellers are in the process of constructing the digital television facilities for the Station and will continue such process until the Closing Date (the “**DTV Buildout**”). Schedule 4.18 describes all material steps taken and to be taken by Sellers to implement the DTV Buildout. In the event the Closing takes place after July 9, 2003, Sellers shall have either (i) commenced DTV broadcasts with reduced power pursuant to special temporary authorization from the FCC which expressly states that such operation meets the FCC’s buildout requirements, (ii) completed the DTV Buildout at full authorized power and filed an application for a covering license with the FCC, or (iii) received one or more valid extensions of the date by which the DTV Buildout must be completed resulting in a construction period that expires no less than three (3) months after the Closing Date. All statements of either Seller to the FCC in requests for extension of the FCC’s deadlines for the provision of digital television service by the Station have been complete and accurate.

**4.19 Seller Benefit Plans.** Each Seller has maintained and funded all of its Employee Benefit Plans (collectively, the “**Seller Benefit Plans**”) in accordance with their terms and all applicable laws. Neither Seller nor any Member of the Controlled Group maintains or contributes to, or has ever maintained or contributed to, any Defined Benefit Plan or Multiemployer Plan. Nothing contained in any of the Seller Benefit Plans will obligate Buyer to provide any benefits to employees, former employees or beneficiaries of employees or former employees, or to make any contributions to any plans from and after the Closing. There are no pending or, to the Sellers’ knowledge, threatened, claims by or on behalf of any Seller Benefit Plan by any employee or former employee or beneficiary covered under any Seller Benefit Plan.

**4.20 Compliance with Laws.**

(a) Each Seller is, and at all times has been, in all material respects in compliance, with each Legal Requirement, including the Communications Act, that is applicable to such Seller or any of such Seller’s properties, assets (including the Assets), operations or businesses (including the Business), and no event has occurred, and no condition or circumstance exists, that might (with or without notice or lapse of time) constitute, or result directly or indirectly in, a default under, a breach or violation of, or a failure comply with, any material Legal Requirement. Neither Seller has received any notice from any third party regarding any actual, alleged or potential violation of any material Legal Requirement.

(b) The Station, its physical facilities, electrical and mechanical systems, and transmitting and studio equipment are operated in all material respects in accordance with the specifications of the FCC Authorizations and in accordance with the Communications Act. The antenna structures owned or used by Sellers are in compliance with the Communications Act and the requirements of the Federal Aviation Administration. The location of the Station’s main studio complies with the Communications Act. All reports and other filings required by the FCC with respect to the FCC Licenses and the Station, including, without limitation, material required to be placed in the Station’s local public inspection files,

have been timely filed. All FCC regulatory fees assessed with respect to the FCC Authorizations have been timely paid.

(c) To the knowledge of Sellers, other than FCC proceedings generally affecting the television broadcast industry, no Governmental Authority has proposed or is considering any Legal Requirement that may affect either Seller, such Seller's properties, assets (including the Assets), operations or businesses (including the Business), or such Seller's rights thereto, except to the extent that any such Legal Requirement, if adopted or otherwise put into effect, individually or in the aggregate, will not have a Material Adverse Effect on such Seller. There is no FCC order, judgment, decree, notice of apparent liability or order of forfeiture outstanding, and no action, suit, notice of apparent liability, order of forfeiture, investigation or other Proceeding pending or, to Sellers' knowledge, threatened, by or before the FCC against either Seller or affecting the FCC Authorizations, except FCC rulemaking proceedings generally affecting the television broadcast industry. Sellers have no knowledge of any reason to believe that the FCC Authorizations will not be renewed in the ordinary course.

#### **4.21 Taxes.**

(a) No claim has ever been made by any Governmental Entity in a jurisdiction where Sellers do not file Tax Returns that it is or may be subject to taxation by that jurisdiction. Schedule 4.21 lists Tax Returns filed by the Seller for taxable periods since 1999. Sellers have delivered or made available to Buyer correct and complete copies of all Tax Returns filed, examination reports and statements of deficiencies assessed or agreed to by Seller identified on Schedule 4.21.

(b) Each Seller has prepared and timely filed or caused to be timely filed, or will have prepared and timely filed or caused to be timely filed before the Closing Date, all Tax Returns required to be filed through the Closing Date, and such Tax Returns are and will be true, correct and complete in all respects. All Taxes owed by either Seller for periods covered by such Tax Returns (regardless of whether such Taxes are shown on such Tax Returns), and all claims, demands, assessments, judgments, costs and expenses connected therewith, have been paid in full or will have been paid in full on a timely basis before the Closing Date. Except as disclosed on Schedule 4.21, Seller is not a party to any action or proceeding, nor to the knowledge of Sellers, is any such action or proceeding contemplated or threatened against either Seller for the assessment or collection of any Taxes, and no written deficiency notices or reports have been received by either Seller in respect of any Taxes. There are no outstanding agreements or waivers extending the statutory period of limitation applicable to any Tax Return of either Seller. Each Seller has withheld and paid all Taxes required to have been withheld and paid in connection with amounts paid or owing to any employee, independent contractor, creditor, stockholder or other third party. Neither Seller has any liability for unpaid Taxes accruing after the date of the Latest Balance Sheet, except for Taxes incurred in the ordinary course of business. There are no liens for Taxes on the properties of either Seller, other than liens for Taxes not yet due and payable.



(c) Neither Seller is obligated under any agreement, contract or arrangement that may result in the payment of any amount that would not be deductible by reason of Section 280G or Section 404 of the Code.

(d) Neither Seller is a party to or bound by any tax indemnity agreement, tax sharing agreement or similar contract. Except with respect to its own status, neither Seller is a party to any joint venture, partnership, or other arrangement or contract which could be treated as a partnership or “disregarded entity” for federal income tax purposes.

(e) Sellers have treated themselves as owner of each of the Assets for Tax purposes. None of the Assets is the subject of a “safe-harbor lease” within the provisions of former Section 168(f)(8) of the Code, as in effect prior to amendment by the Tax Equity and Fiscal Responsibility Act of 1982. None of the Assets directly or indirectly secures any debt the interest on which is tax exempt under Section 103(a) of the Code. None of the Assets is “tax-exempt use property” within the meaning of Section 168(h) of the Code.

(f) Each Seller is a “United States person” within the meaning of Section 7701(a)(30) of the Code.

(g) Quorum is and, at all times since its formation, has been properly classified as a “corporation” for all federal and state income Tax purposes.

(h) Quorum License is and, at all times since its formation, has been properly classified as a “non-entity” for all federal and state income Tax purposes.

**4.22 Solvency.** Sellers are not entering into the Transaction with the intent to hinder, delay or defraud any Person to which it is, or may become, indebted. The Purchase Price is not less than the reasonably equivalent value of the Assets less the Assumed Liabilities. Each Seller’s assets, at a fair valuation, exceed its liabilities, and such Seller is able, and will continue to be able after the Closing of the Transaction, to meet its debts as they mature and will not become insolvent as a result of the Transaction. After the Closing of the Transaction, each Seller will have sufficient capital and property remaining to conduct the business in which it will thereafter be engaged.

**4.23 Full Disclosure.**

(a) Neither this Agreement nor any of the other Transaction Agreements, (i) contains or will contain as of the Closing Date any untrue statement of fact or (ii) omits or will omit to state any material fact necessary to make any of the representations, warranties or other statements or information contained herein or therein (in light of the circumstances under which they were made) not misleading.

(b) To the knowledge of Sellers, there is no fact (other than publicly known facts related exclusively to political or economic matters of general applicability that will adversely affect all Entities comparable to Seller) that may have a Material Adverse Effect on either Seller.

(c) Except for (i) financial forecasts or projections provided by the Sellers (the “**Financial Projections**”) or (ii) the Phase 1 Environmental Assessment prepared by Enviro-Sciences, Inc. on behalf of Petracom Broadcasting, Inc. for the studio site dated June 22, 1995 (the “**1995 Phase 1 Report**”), all of the information set forth in the Schedules attached to this Agreement, and all other information regarding Sellers or Sellers’ properties, assets (including the Assets), operations, businesses (including the Business), Liabilities, past financial performance and net income that has been furnished to Buyer or any of its Representatives by or on behalf of Sellers or any of Sellers’ Representatives in writing, is accurate, correct and complete in all material respects.

(d) All Financial Projections are based on a number of assumptions and estimates that, while presented with numerical specificity and considered reasonable by the Sellers in the context of the Business, are inherently subject to business, economic and competitive uncertainties and contingencies and are based upon assumptions with respect to future business decisions that are subject to change. The Sellers make no representation or warranty regarding the accuracy of the Financial Projections or as to whether the Financial Projections will be achieved other than that the Financial Projections were prepared in good faith and are based on assumptions believed by Sellers to be reasonable as of the date of this Agreement.

(e) The copy of the 1995 Phase 1 Report delivered to the Buyer by Seller is an accurate and complete copy of the copy of the Environmental Phase 1 Report prepared by Enviro-Sciences, Inc. on behalf of Petracom Broadcasting, Inc. that was furnished to ABRY Partners, LLC in connection with the acquisition of the parent company of Sellers by an affiliate of ABRY Partners, LLC in May, 1998. Since the date of such acquisition, neither Seller has received any notice that any information provided in the 1995 Phase 1 Report was incorrect at the time the 1995 Phase 1 Report was issued.

(f) Each representation and warranty set forth in this Article 4 is not qualified in any way whatsoever except as explicitly provided therein, will not merge on Closing or by reason of the execution and delivery of any Contract or the Deed at the Closing, will remain in force on and immediately after the Closing Date, is given with the intention that Liability is not limited to breaches discovered before Closing, is separate and independent and is not limited by reference to any other representation or warranty or any other provision of this Agreement, and is made and given with the intention of inducing Buyer to enter into this Agreement.

## **ARTICLE V**

### **REPRESENTATIONS AND WARRANTIES OF BUYER**

As a material inducement to Sellers to enter into this Agreement, Buyer hereby makes the representations and warranties set forth in this Article V as of the date of this Agreement. Buyer agrees that, if the Closing occurs, then as of the time of the Closing each representation and warranty set forth in this Article V will be deemed to be remade by Buyer as of the time of the Closing as a material inducement to Sellers to consummate the Closing Transactions.

**5.1 Organization and Power.** Buyer is a corporation that is validly existing and in good standing (or has comparable active status) under the laws of Delaware and is qualified to do business in every jurisdiction in which the execution, delivery and performance of its obligations under this Agreement requires it to be so qualified. Buyer has full power and authority to execute, deliver and perform its obligations under this Agreement and the other Transaction Documents to which Buyer is a party.

**5.2 Authorization of Transaction.** Buyer's directors and stockholders have duly authorized this Agreement and the transactions contemplated herein. No other proceedings or actions on the part of Buyer are necessary to approve and authorize Buyer's execution and delivery of this Agreement or any other Transaction Documents to which Buyer is a party or the performance of Buyer's obligations hereunder or thereunder. This Agreement constitutes, and each of the other Transaction Documents to which Buyer is a party will when executed constitute, a valid and binding obligation of Buyer, enforceable against Buyer in accordance with their terms, except as enforceability hereof or thereof may be limited by bankruptcy, insolvency or other laws affecting creditor's rights generally and limitations on the availability of equitable remedies.

**5.3 Absence of Conflicts.** Except for the FCC Consents, neither the execution, delivery and performance of this Agreement or any other Transaction Document by Buyer nor the consummation by Buyer of the transactions contemplated hereby or thereby:

(a) does or will (i) conflict with or result in a breach of any of the provisions of, (ii) constitute a default under, (iii) result in the violation of, (iv) give any third party the right to terminate or to accelerate any obligation under, or (v) require any consent, order, approval, authorization or other action of, or any filing with or notice to, any Governmental Entity or other Person, in each case under the articles or certificate or incorporation, bylaws or similar organizational documents of Buyer or under the provisions of any indenture, mortgage, lease, loan agreement or other agreement or instrument to which Buyer is bound or by which it or any of its assets are affected, or any Legal Requirement to which Buyer or any of its assets is subject, or

(b) without limiting the foregoing, require any Consent of any Governmental Entity or any other Person other than any Material Consent or Consent described on the attached Schedule 4.4 or any Consent that has been obtained.

**5.4 Qualification as a Licensee.** Buyer is legally, financially and otherwise qualified under the Communications Act and the FCC Regulations to purchase and be the transferee or assignee of the FCC Authorizations and the other Assets and the owner and operator of the Assets and the Station. No fact exists that would under the Communications Act or the FCC Regulations disqualify Buyer as the transferee or assignee of the FCC Authorizations or other Assets or as owner and operator of the Assets and the Station, and no waiver of the FCC Regulations will be required in order for the FCC Consents to be granted.

**ARTICLE VI**  
**TERMINATION AND REMEDIES**

**6.1    Termination.**

(a)    Subject to Section 6.1(f), if the FCC (including its staff, pursuant to delegated authority) denies the application for any FCC Consent, then either Quorum or Buyer may terminate this Agreement by notice to the other.

(b)    Subject to Section 6.1(f), either Quorum or Buyer may terminate this Agreement upon notice to the other if the application for any FCC Consent is designated for hearing by the FCC, so long as such notice is given within 15 days after release by the FCC of the related hearing designation order.

(c)    Subject to Section 6.1(f), at any time after the Drop-Dead Date, if the Closing has not occurred, then either Quorum or Buyer may terminate this Agreement by written notice to the other. The **“Drop-Dead Date”** means September 30, 2003; provided that if the FCC Approval Date is after August 15, 2003 and on or prior to September 30, 2003, then the Drop-Dead Date will be the 45<sup>th</sup> day after the FCC Approval Date. In addition, at any time after April 4, 2003, Quorum may terminate this Agreement by written notice to Buyer if Buyer and/or the Pre-Closing Escrow Agent has not executed and delivered the Pre-Closing Escrow Agreement and/or Buyer has not deposited \$1,000,000 with the Pre-Closing Escrow Agent thereunder.

(d)    Subject to Section 6.1(f), at any time prior to the Closing when either Seller is in breach in any material respect of its obligations under this Agreement, Buyer may give Quorum notice describing such breach and stating Buyer’s intention to terminate this Agreement based on such breach. Such termination will be effective on the 30th day after such notice is given, unless each breach described in such notice has been remedied or cured.

(e)    Subject to Section 6.1(f), at any time prior to the Closing when Buyer is in breach in any material respect of its obligations under this Agreement, Quorum may give Buyer notice describing such breach and stating Sellers’ intention to terminate this Agreement based on such breach. Such termination will be effective on the 30th day after such notice is given, unless each breach described in such notice has been remedied or cured; provided that Buyer will have no right to attempt such remedy or cure, and such termination will be effective immediately, if the breach in question is Buyer’s failure to consummate the Closing Transactions on a date for the Closing determined pursuant to Section 2.4(a).

(f)    Quorum may not terminate this Agreement pursuant to Section 6.1(a), (b), (c) or (e) at any time when either Seller is in default of its obligations under this Agreement in any material respect. Buyer may not terminate this Agreement pursuant to Section 6.1(a), (b), (c) or (d) at any time when Buyer is in default of its obligations under this Agreement in any material respect.

**6.2 Effect of Termination.** If this Agreement is terminated as provided in Section 6.1, then this Agreement will forthwith become void and there will be no liability on the part of any Party to any other Party in respect thereof; provided that:

(a) the obligations of the Parties described in this Article VI Sections 8.3 and 8.6, and under the Confidentiality Agreement, will survive any such termination,

(b) if Buyer terminates this Agreement pursuant to Section 6.1(d), then Sellers will be liable for any amount of Buyer's out-of-pocket expenditures that may be recoverable as actual damages in respect of any willful breach of this Agreement, or actual fraud, by either Seller, and

(c) if Quorum terminates this Agreement pursuant to Section 6.1(e), then Buyer will forfeit to Sellers as liquidated damages, and not as a penalty, the Pre-Closing Escrow Fund, and Buyer and Quorum will deliver instructions to the Pre-Closing Escrow Agent to deliver to the Pre-Closing Escrow Fund to Quorum, on behalf of Sellers.

The Parties recognize that it would be extremely difficult and impractical to ascertain the actual damages sustained by Sellers as a result of Buyer's breach of this Agreement and, therefore, have mutually agreed upon the remedy set forth in clause (c) above, which will be Sellers' exclusive remedy prior to the Closing for any breach of this Agreement by Buyer. If Buyer or either Seller terminates this Agreement pursuant to Section 6.1(a), (b), (c) or (d), then Buyer will be entitled to retain the Pre-Closing Escrow Fund, and Buyer and Quorum will deliver instructions to the Pre-Closing Escrow Agent to deliver to the Pre-Closing Escrow Fund to Buyer.

## **ARTICLE VII**

### **INDEMNIFICATION AND RELATED MATTERS**

**7.1 Survival; Absence of Other Representations.** All representations, warranties, covenants and agreements set forth in this Agreement or in any certificate delivered in connection with this Agreement will survive the Closing and the consummation of the Closing Transactions and will not be affected by any examination made for or on behalf of, or any notice to, any Party, the knowledge of any Party or any of their respective officers, directors, stockholders, employees, agents or other representatives; provided that (a) all claims (other than for actual fraud) made after the Closing in respect of any such representations, warranties, covenants or agreements will be made pursuant to, and will be subject to any applicable limitations set forth in, this Article VII, and (b) other than a claim for indemnity in respect of an Assumed Liability, a Retained Liability, an Excluded Asset or Taxes, no Party may make a claim after the Closing based on facts or circumstances of which the claiming Party had knowledge at or prior to the time of the Closing (it being agreed that, if there is any dispute as to whether the claiming Party had such knowledge, then the Party against whom the claim is asserted will have the burden of establishing that the claiming Party had such knowledge). No Party has made or will make in connection with this Agreement any representation or warranty, express or implied, other than as set forth in this Agreement and the schedules attached hereto.

**7.2 Indemnification.**

(a) **By Sellers.** Subject to the limitations set forth in this Section 7.2(a), after the Closing, Sellers, jointly and severally, will indemnify Buyer and hold Buyer harmless from and against any Loss that Buyer may suffer, sustain or become subject to, as a result of:

(i) any breach by either Seller of, or misrepresentation in, any representation or warranty of either Seller set forth in this Agreement other than the representations and warranties set forth in Sections 4.1, 4.2, 4.5, 4.6, 4.17 and 4.21, including any representation or warranty deemed to be remade by either Seller as of the Closing pursuant to the first paragraph of Article IV (any Loss resulting from any such breach or misrepresentation being a **“Seller-Rep Loss”**);

(ii) any breach by either Seller of, or misrepresentation in, any representation or warranty of either Seller set forth in Sections 4.1, 4.2, 4.5, 4.6, 4.17 and 4.21, as any such representation or warranty may be deemed to be remade by either Seller as of the Closing pursuant to the first paragraph of Article IV;

(iii) any breach by either Seller of any covenant or agreement set forth in this Agreement (any Loss resulting from any such breach prior to the Closing being a **“Seller-Covenant Loss”**);

(iv) any noncompliance with applicable bulk sales or fraudulent transfer Legal Requirements in connection with the transactions contemplated by this Agreement; or

(v) any Taxes properly allocable to the Sellers pursuant to the terms hereof;

provided that Sellers’ liability pursuant to this Section 7.2(a) will be subject to the following limitations:

(A) Sellers will not be liable for any Seller-Rep Loss unless and until the aggregate amount of all Seller-Rep Losses and Seller-Covenant Losses exceeds \$10,000 (the **“Threshold Amount”**), in which event Sellers will be liable for all Seller-Rep Losses, but only to the extent they exceed the Threshold Amount,

(B) notwithstanding clause (A) above, Sellers will not be liable for any Seller-Rep Loss or Seller-Covenant Loss unless Buyer gives Sellers written notice asserting the breach or misrepresentation in question on or prior to the first anniversary of the Closing Date, and

(C) notwithstanding clause (A) above, Sellers will not be liable for aggregate Seller-Rep Losses and Seller-Covenant Losses in excess of four million four hundred thousand dollars (\$4,400,000.00).

(b) **By Buyer.** After the Closing, Buyer will indemnify Sellers and hold Sellers harmless from and against any Loss that either Seller may suffer, sustain or become subject to, as the result of:

(i) any breach by Buyer of, or misrepresentation in, any representation or warranty of Buyer set forth in this Agreement, including any representation or warranty deemed to be remade by Buyer as of the Closing pursuant to the first paragraph of Article V (any Loss resulting from any such breach or misrepresentation being a **“Buyer Rep Loss”**);

(ii) any Assumed Liability; or

(iii) any breach by Buyer of any covenant or agreement set forth in this Agreement (any Loss resulting from any such breach prior to the Closing being a **“Buyer-Covenant Loss”**); or

(iv) any Taxes properly allocable to Buyer pursuant to the terms hereof;

provided that Buyer’s liability pursuant to this Section 7.2(b) will be subject to the following limitations:

(A) Buyer will not be liable for any Buyer-Rep Loss unless and until the aggregate amount of all Buyer-Rep Losses and Buyer Covenant Losses exceeds the Threshold Amount, in which event Buyer will be liable for all Buyer-Rep Losses, but only to the extent they exceed the Threshold Amount, and

(B) notwithstanding clause (A) above Buyer will not be liable for any Buyer-Rep Loss or Buyer-Covenant Loss unless either Seller gives Buyer written notice asserting the breach or misrepresentation in question on or prior to the first anniversary of the Closing Date, and Indemnification Procedures.

(C) notwithstanding clause (A) above, Buyer will not be liable for aggregate Buyer-Rep Losses and Buyer-Covenant Losses in excess of one million dollars (\$1,000,000.00).

(c) **Notice of Claim.** Any Party making a claim for indemnification under Section 7.2 (the **“Indemnified Party”**) will notify the Party from whom indemnification is claimed (the **“Indemnifying Party”**) of the claim in writing promptly after receiving written notice of any related action, lawsuit, proceeding, investigation or other claim against it (if by a third party) or discovering the liability, obligation or facts giving rise to such claim for indemnification. Such notice will describe the indemnify claim, the amount thereof (to the extent then quantifiable), and the basis therefor, in each case to the extent known to the Indemnified Party. Any failure to so notify the Indemnifying Party will not relieve the

Indemnifying Party of its obligations under Section 7.2, except to the extent that such failure prejudices the Indemnifying Party.

(d) **Assumption of Defense.** With respect to any third-party claim that gives rise or is alleged to give rise to a claim for indemnity under Section 7.2, the Indemnifying Party, at its option, will be entitled to assume responsibility for and control the defense (including the settlement or attempted settlement) of such claim and to appoint legal counsel to act as lead counsel in conducting such defense.

(e) **Limits of Assumption of Defense.** An Indemnifying Party's rights under Section 7.3(b) are subject to the following limitations:

(i) if the Indemnifying Party elects to assume the defense of any claim, then the Indemnified Party will be entitled to participate in (but not direct) the defense of such claim and to employ legal counsel of its choice for such purpose, but the fees and expenses of such participation and separate counsel will be borne by the Indemnified Party and will not constitute Losses;

(ii) the Indemnifying Party will not be entitled to control of the defense of any claim if, upon petition by the Indemnified Party, a court of proper jurisdiction determines that the Indemnifying Party failed or is failing to vigorously defend such claim; and

(iii) if the Indemnifying Party assumes control of the defense of any claim, then the Indemnifying Party will obtain the prior written consent of the Indemnified Party before entering into any settlement of such claim, if such settlement does not expressly and unconditionally release the Indemnified Party from all liabilities and obligations (other than the payment of any amount to be paid by the Indemnifying Party on the Indemnified Party's behalf) with respect to such claim, with prejudice.

If the Indemnifying Party has the right to, but does not, assume control of the defense of any claim in accordance with this Section 7.2, then the Indemnifying Party may nonetheless participate (at its own expense) in the defense of such claim and the Indemnified Party will consult with the Indemnifying Party in respect of such defense, and the Indemnified Party will not enter into any settlement of such claim that could result in indemnification liability under Section 7.2(a) or 7.2(b) without obtaining the prior written consent of the Indemnifying Party. As used in this Article VII, the term "settlement" refers to any settlement, compromise, consent or similar decree, or election to permit default judgment to be entered, in respect of any claim.

**7.3 Mitigation.** Each Party agrees to use reasonable efforts to seek recovery under any insurance coverage that such Party may have in respect of any Loss and otherwise to use reasonable efforts to mitigate Losses arising out of any matter in respect of which indemnification pursuant to Section 7.2 may be sought.



**7.4 Treatment of Indemnification Payments.** Each Party will treat all payments made pursuant to Section 7.2 as adjustments of the consideration provided by Buyer for the purchase of the Assets for all purposes.

**ARTICLE VIII**  
**ADDITIONAL AGREEMENTS**

**8.1 Employees.**

**(a) Seller Termination.**

(i) Subject to the requirements of the Employment Contracts, Buyer shall have no obligation whatsoever to offer employment to any employee of either Seller and each Seller shall terminate the employment of all of the employees of the Station and any other employees of each Seller engaged in the Business and the operation of the Station effective as of the Closing Date. Upon request from Buyer, but subject to applicable Legal Requirements, each Seller agrees to use best efforts to assist Buyer in selecting employees for new hire, if any, including providing (i) copies of such employee's personnel files and employment records, except for any medical records, and (ii) requesting such employees to execute a release in favor of both Seller and Buyer permitting such Seller to release any such records to Buyer.

(ii) In order to secure an orderly and effective hire of any employees formerly employed by either Seller, such Seller and Buyer shall cooperate, both before and after the Closing Date, to (i) so long as any required release has been obtained, exchange information related to the such employees, including employment records, benefits information, and financial statements and (ii) take any other actions with respect to such employees.

(iii) Nothing in this Section 8.1 shall be construed to entitle any existing employee to continue his or her employment with Buyer for any period of time, nor to interfere with the rights of either Seller to discharge or discipline any existing employee, to change the terms of any existing employee's employment or to amend or terminate any Employee Benefit Plans at any time.

**(b) No Liability for Employee Plans.**

Buyer shall not be required to assume any Seller Benefit Plan or any Liabilities with respect thereto. Nothing herein shall obligate or be deemed to obligate Buyer to create, adopt or maintain any Employee Benefit Plan.

**(c) Compliance with Legal Requirements and Other Obligations.**

Prior to the Closing, at its sole cost and expense, each Seller shall take all actions necessary to comply with all appropriate Legal Requirements in connection with such Seller's employment of its employees, including any Legal Requirements under the WARN Act. Each Seller shall be solely responsible, before and after the Closing, for the payment of any

amounts required to be paid under any Legal Requirement, including the WARN Act and any similar state laws, as a result of the termination or layoff of any employee of such Seller. Prior to the Closing, each Seller shall perform all of its contractual and other obligations in connection with the employment of its employees.

(d) **No Benefit to Seller Employees Intended.**

This Section 8.1 is not intended to, and does not, create any rights or obligations to or for the benefit of anyone other than Buyer and Sellers.

**8.2 Material Proprietary Rights.**

(a) Sellers agree that, from and after the Closing Date, they shall not, and they shall cause their Representatives not to, use any of the Material Proprietary Rights, except as set forth on Schedule 8.2. If either Seller or any assignee of such Seller owns or has any right or interest in any Material Proprietary Rights that cannot be, or for any reason is not, assigned to Buyer at the Closing, such Seller shall grant or cause to be granted to Buyer, at the Closing, a worldwide, royalty-free, fully paid up, perpetual, irrevocable, transferable, sublicensable, and exclusive license to exercise all rights in and to such Material Proprietary Rights.

(b) If Buyer is unable to enforce its Material Proprietary Rights against a third party as a result of any Legal Requirement that prohibits enforcement of such rights by a transferee of such rights, each Seller agrees to assign to Buyer such rights as may be required by Buyer to enforce its Material Proprietary Rights in its own name. If such assignment still does not permit Buyer to enforce its Material Proprietary Rights against the third party, each Seller agrees to initiate proceedings against such third party in such Seller's name, *provided, however*, that Buyer shall be entitled to participate in such proceedings and *provided, further*, that Buyer shall be responsible for the costs and expenses of such proceedings.

**8.3 Cooperation.** After the Closing, upon the request of Buyer, each Seller shall (a) execute and deliver any and all further materials, documents and instruments of conveyance, transfer or assignment as may reasonably be requested by Buyer to effect, record or verify the transfer to, and vesting in Buyer, of each Seller's right, title and interest in and to the Assets, free and clear of all Liens except Permitted Liens, in accordance with the terms of this Agreement; and (b) cooperate with Buyer, at Buyer's expense, to enforce the terms of any Assumed Contracts, including terms relating to confidentiality and Material Proprietary Rights, and to contest or defend against any Proceeding relating to the transaction hereunder or to the operation of the Business before the Closing Date. After the Closing, each Seller shall (w) cooperate with Buyer in its efforts to continue and maintain for the benefit of Buyer those business relationships of such Seller existing prior to the Closing and relating to the Business; (x) satisfy the Retained Liabilities in a manner that is not detrimental to any of such relationships; (y) refer to Buyer all inquiries relating to the Business; and (z) promptly deliver to Buyer (1) any mail, packages and other communications addressed to such Seller relating to the Business and (2) any cash or other property that such Seller receives and that properly belongs to Buyer, including any insurance proceeds, payments with respect to Receivables, and interest payable thereon. Neither Seller nor any of their respective

employees, officers, directors or agents shall take any action that would tend to diminish the value of the Assets after the Closing or that would interfere with the business of Buyer to be engaged in after the Closing, including disparaging the name or business of Buyer.

**8.4 Return of Purchased Assets.** If, for any reason after the Closing, any of the Assets or Assumed Liabilities are ultimately determined to be Excluded Assets or Retained Liabilities, respectively, (a) Buyer shall transfer and convey (without further consideration) to Sellers, and Sellers shall accept, such Assets; (b) Sellers shall assume, and agree to pay, perform, fulfill and discharge (without further consideration) such Assumed Liabilities; and (c) Buyer and Sellers shall execute such documents or instruments of conveyance or assumption and take such further acts which are reasonably necessary or desirable to effect the transfer of such Assets back to Sellers and the re-assumption of such Assumed Liabilities by Sellers.

**8.5 Records and Documents.** For a period of seven (7) years after the Closing, at any Party's request, the other Party or Parties shall provide such Party and its representatives with reasonable access to and the right to make copies of those records and documents related to the Business, possession of which is retained by such Party, as may be necessary or useful in connection with any Party's conduct of its business after the Closing. If during such period any Party elects to dispose of such records and documents, such Party shall give the other Party or Parties sixty (60) days' prior written notice, during which period such Party shall have the right to take such records and documents without further consideration.

**8.6 Bulk Sales.** Subject to Section 7.2(a)(iv), Buyer hereby waives compliance by Sellers with any applicable bulk sales Legal Requirements in connection with the Transaction.

**8.7 Non-Competition.**

(a) For and in consideration of the transaction contemplated herein, during the period commencing with the Closing Date and ending on the second anniversary of the Closing Date (the "**Noncompetition Period**"), neither Seller shall engage in any "**Competitive Activity**" in the "**Restricted Territory**" (as both are defined below).

(b) "**Competitive Activity**" shall mean directly or indirectly (or having any interest in, or performing any services for, any Person directly or indirectly) (i) engaging in any activity that competes in the broadcast television business; (ii) owning, operating or holding an interest in an over-the-air television station; (iii) employing, soliciting for employment, or recommending for employment any Person employed in the operation of the Station during such Person's employment in the operation of the Station or for six (6) months thereafter; or (iv) diverting or attempting to divert from Buyer or any broadcasting Affiliate or Subsidiary of Buyer any business of any kind in which they are engaged, including the solicitation of or interference with any suppliers, contractors, or customers.

(c) "**Restricted Territory**" shall mean the Evansville DMA.

(d) Notwithstanding the foregoing, the provisions of this Section 8.7 shall not prevent either Seller from beneficially owning up to five percent (5%), on a full-diluted basis, of the total shares of all classes of stock outstanding of any corporation having securities listed on the New York Stock Exchange, the American Stock Exchange, or traded on NASDAQ.

(e) It is the understanding of the parties that the scope of the covenants contained in this Section 8.7, both as to time and area covered, are necessary to protect the rights of Buyer and the goodwill that is a part of the Business of Sellers to be acquired by Buyer. It is the parties' intention that these covenants be enforced to the greatest extent (but to no greater extent) in time, area, and degree of participation as is permitted by the law of that jurisdiction whose law is found to be applicable to any acts in breach of these covenants. It being the purpose of this Agreement to govern competition by Sellers in the Restricted Territory, these covenants shall be governed by and construed according to that law (from among those jurisdictions arguably applicable to this Agreement and those in which a breach of this Agreement is alleged to have occurred or to be threatened) which best gives them effect. The prohibitions in each of subsections (a) through (d) above shall be deemed, and shall be construed as separate and independent agreements between Buyer on the one hand, and Sellers respectively, on the other. If any such agreement or any part of such agreement is held invalid, void or unenforceable by any court of competent jurisdiction, such invalidity, voidness, or unenforceability shall in no way render invalid, void, or unenforceable any other part of them or any separate agreement not declared invalid, void or unenforceable; and this Agreement shall in such case be construed as if the invalid, void, or unenforceable provisions were omitted.

(f) The parties agree that the covenants of each Seller not to compete contained in this Section 8.7 may be assigned by Buyer to any Person to whom may be transferred the Business of Seller by the sale or transfer of their business and assets or otherwise. It is the parties' intention that these covenants of each Seller shall inure to the benefit of any Person that may succeed to the Business and Assets of Sellers (as acquired by Buyer under this Agreement) with the same force and effect as if these covenants were made directly with such successor.

(g) The parties agree that, in the event of breach or threatened breach of Sellers' covenants in this Section 8.7, the damage or imminent damage to the value and the goodwill of Buyer and the Business will be irreparable and extremely difficult to estimate, making any remedy at law or in damages inadequate. Accordingly, the parties agree that Buyer shall be entitled to injunctive relief against each Seller in the event of any breach or threatened breach of any of such covenants by such Seller, in addition to any other relief (including damages) available to Buyer under this Agreement or under applicable Legal Requirements.

## **8.8 Nondisclosure.**

(a) Each Seller recognizes and acknowledges that it or he has had in the past, currently has, and in the future may possibly have, access to certain "**Confidential Information**" of Buyer that is a valuable, special and unique asset of the Business. Each

Seller agrees that it shall not disclose such Confidential Information to any Person, for any purpose or reason whatsoever, except (i) to authorized representatives of such Seller and (ii) to counsel and other advisers to Seller provided that such advisers agree to the confidentiality provisions of this Section 8.8.

(b) **“Confidential Information”** shall mean all trade secrets and other confidential and/or proprietary information of a Person, including information derived from reports, investigations, research, work in progress, codes, marketing and sales programs, financial projections, cost summaries, pricing formula, contract analyses, financial information, projections, confidential filings with any state or federal agency, and all other confidential concepts, methods of doing business, ideas, materials or information prepared or performed for, by or on behalf of such Person by its employees, officers, directors, agents, representatives, or consultants. Information shall not be deemed Confidential Information hereunder if (i) such information becomes available to or known by the public generally through no fault of either Seller or (ii) disclosure is required by law or the order of any Governmental Entity under color of law, *provided, however*, that prior to disclosing any information pursuant to this clause (ii), each Seller shall, if possible, give prior written notice thereof to Buyer and, at Buyer’s election, either provide Buyer with the opportunity to contest such disclosure or seek to obtain a protective order narrowing the scope of such disclosure and/or use of the Confidential Information; or (iii) either Seller reasonably believes that such disclosure is required in connection with the defense of a lawsuit against such Seller. Furthermore, information relating to the financial position or results of operations of the Station and/or either Seller prior to the Adjustment Time, and methods of doing business generally by Sellers and their broadcasting Affiliates, shall not be deemed Confidential Information. Nothing herein shall be construed as prohibiting Buyer from pursuing any other available remedy for such breach or threatened breach, including the recovery of damages.

**8.9 Press Releases and Announcements.** Except for any public disclosure that either Party in good faith believes is required by any Legal Requirement (in which case, if practicable, the disclosing Party will give the other Parties an opportunity to review and comment upon such disclosure before it is made):

(a) prior to the Closing, no press release related to this Agreement or any Closing Transaction will be made or issued by any Party without the mutual approval of Quorum and Buyer, and no other announcement generally to the employees, customers or other Persons having business relationships with either Seller or the Station will be made or issued by Buyer without the approval of Quorum; and

(b) after the Closing, neither Seller will make any press release or other public announcement with respect to the Station without Buyer’s consent, and neither Party will make any press release or other public announcement of or with respect to this Agreement or any Closing Transaction without the mutual approval of Quorum and Buyer.

**8.10 Specific Performance.** Sellers acknowledge that the Station and its business and operations are unique, and recognize and affirm that in the event of a material breach of this Agreement by either Seller, monetary damages may be inadequate and Buyer, therefore, may have no adequate remedy at law. Accordingly, in the event of any such

breach, Buyer and/or its successors or permitted assigns may, in addition to any other rights and remedies existing in their favor, enforce their rights and Sellers' obligations hereunder by an action or actions for specific performance, without any requirement of proving actual damages or posting any bond or other security, to the extent permitted by law.

**8.11 Expenses.** Except as otherwise expressly provided herein, Sellers and Buyer each will pay all of their own fees, costs and expenses (including fees, costs and expenses of legal counsel, investment bankers, accountants, brokers or other representatives and consultants and appraisal fees, costs and expenses) in connection with this Agreement and the transactions contemplated by this Agreement.

**8.12 Required Consent Assets; Consent-Pending Assets.**

(a) Certain Assumed Contracts and other Assets (other than FCC Authorizations) are not assignable or transferable (each, a **"Non-Assignable Asset"**) without the Consent of, or waiver by, a third party (each, an **"Assignment Consent"**), either as a result of the provisions thereof or applicable Legal Requirements. Sellers shall use commercially reasonable efforts to obtain each Assignment Consent prior to the Closing Date.

(b) Schedule 8.12B sets forth the Non-Assignable Assets necessary to the conduct of the Business going forward (the **"Required Consent Assets"**) for which an Assignment Consent must be obtained on or prior to the Closing Date, and such Assignment Consent shall confirm the form of the Assumed Contract, together with any amendments and/or supplements thereto, entered into by the parties.

(c) If an Assignment Consent with respect to the Non-Assignable Assets (other than the Required Consent Assets) is not obtained by the Sellers on or prior to the Closing Date, such Asset shall be designated a **"Consent-Pending Asset."** With respect to each Consent-Pending Asset, from and after the Closing Date, (i) Sellers shall use their best efforts to obtain all Assignment Consents as soon as reasonably practicable after the Closing Date and thereafter assign to Buyer such Consent-Pending Assets (and upon any such assignment such assets shall be deemed Assets for all purposes of this Agreement); (ii) Buyer and Sellers will cooperate with one another in any reasonable arrangements to provide Buyer with the benefits of such Consent-Pending Asset (and Buyer may utilize such benefits), and Buyer will assume and timely pay, satisfy, perform, and discharge either Seller's liabilities that arise under such Asset after the Adjustment Time; and (iii) at Buyer's request, Sellers will cooperate with Buyer to the extent reasonably necessary to enforce all rights under each Consent-Pending Asset. In no event shall this Agreement and the related instruments of transfer constitute an assignment or transfer of any Consent-Pending Asset, and, subject to the cooperative arrangements agreed under subclause (ii) above, Buyer shall not assume any of Sellers' rights or obligations under such Consent-Pending Asset, and such Consent-Pending Asset shall not be included in the Assets, until such time as an Assignment Consent has been received with respect to such Consent-Pending Asset.

(d) If Buyer is denied the benefits of any Consent-Pending Asset, or if an Assignment Consent is denied with respect to any Consent-Pending Asset, then Buyer shall have no further liability under this Agreement or otherwise with respect to such Consent-

Pending Assets and the Sellers will be responsible for the obligations of each Seller pursuant to such Asset.

**ARTICLE IX**  
**MISCELLANEOUS**

**9.1 Amendment and Waiver.** This Agreement may be amended and any provision of this Agreement may be waived; provided that any such amendment or waiver (a) will be binding upon either Seller only if such amendment or waiver is set forth in a writing executed by Quorum, and (b) will be binding upon Buyer only if such amendment or waiver is set forth in a writing executed by Buyer. No course of dealing between or among any Persons having any interest in this Agreement will be deemed effective to modify, amend or discharge any part of this Agreement or any rights or obligations of any Party under or by reason of this Agreement. No failure by any Party to insist upon the strict performance of any covenant, agreement or condition of this Agreement or to exercise any right or remedy consequent upon a breach thereof will constitute a waiver of any such breach or any other covenant, agreement or condition.

**9.2 Notices.** All notices, demands and other communications given or delivered under this Agreement will be in writing and will be deemed to have been given when personally delivered or delivered by express courier service. Notices, demands and communications to the Parties will, unless another address is specified in writing, be sent to the address indicated below:

to either Seller:

c/o Quorum Broadcasting of Indiana, Inc.  
10 New England Business Center  
Suite 100  
Andover, Massachusetts 02180  
Attention: David Pulido

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

Kirkland & Ellis  
East 53<sup>rd</sup> Street  
New York, NY 10022  
Attention: John Kuehn, Esq.

to Buyer:

GNS Media Evansville, Inc.  
c/o GNS Media, LLC  
117 Oaks Court  
Pickens, SC 29671  
Attention: G. Neil Smith, President

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

Morrison & Foerster LLP  
1650 Tysons Blvd., Ste. 300  
McLean, VA 22102  
Attention: Mark C. Paist, Esq.

**9.3 Binding Agreement; Assignment.** This Agreement and all of the provisions hereof will be binding upon and inure to the benefit of the Parties and their respective successors and permitted assigns. Neither this Agreement nor any of the rights, interests or obligations hereunder may be assigned by either Seller without the prior written consent of Buyer, and prior to the Closing, neither this Agreement nor any of the rights, interests or obligations hereunder may be assigned by Buyer without the prior written consent of Quorum; provided that, prior to the Closing, Buyer, upon notice to Sellers, may assign its rights under this Agreement, in whole or in part, to any Affiliate of Buyer, so long as such assignment would not (in Sellers' good-faith judgment) prevent or delay the FCC Approval Date or the FCC Finality Date or the satisfaction of any other condition set forth in Section 2.5 or 2.6. Any purported assignment made without any prior written consent required by the preceding sentence will null and void *ab initio*. No assignment made pursuant to this Section 9.3 will release the assigning Party from any liability.

**9.4 Severability.** Whenever possible, each provision of this Agreement will be interpreted in such a manner as to be effective and valid under applicable law, but if any provision of this Agreement is held to be prohibited by or invalid under applicable law, such provision will be ineffective only to the extent of such prohibition or invalidity, without invalidating the remainder of such provision or the remaining provisions of this Agreement.

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

**9.6 Captions.** The captions used in this Agreement are for convenience of reference only and do not constitute a part of this Agreement. Such captions will not be deemed to limit, characterize or in any way affect any provision of this Agreement. All provisions of this Agreement will be enforced and construed as if no caption had been used in this Agreement.

**9.7 Entire Agreement.** This Agreement, the Confidentiality Agreement and the other documents referred to herein contain the entire agreement between the Parties and supersede any prior understandings, agreements or representations by or between the Parties, written or oral, that may have related to the subject matter hereof in any way.

**9.8 Counterparts.** This Agreement may be executed in one or more counterparts, each of which will be deemed an original but all of which taken together will constitute one and the same instrument.



**9.9 Governing Law.** All questions concerning the construction, validity and interpretation of this Agreement will be governed by and construed in accordance with the internal laws of the State of New York, without giving effect to any choice of law or conflict of law provision (whether of the State of New York or any other jurisdiction) that would cause the application of the laws of any jurisdiction other than the State of New York. In furtherance of the foregoing, the internal law of the State of New York will control the interpretation and construction of this Agreement (and all schedules and exhibits hereto), even if under that jurisdiction's choice of law or conflict of law analysis, the substantive law of some other jurisdiction would ordinarily apply.

**9.10 Arbitration of Disputes.** The parties hereby submit to the exclusive jurisdiction of the state and federal courts located in the county of New York, State of New York. Any controversy between the parties regarding the construction or application of this Agreement, and any claim arising out of this Agreement or its breach, shall be submitted to confidential arbitration upon the written request of one party after service of that request on the other party(ies). The parties shall agree upon an arbitrator. In the event that the parties cannot agree on the appointment of an arbitrator, either party may petition the Superior Court of the County of New York to appoint an arbitrator. The terms of the mandatory arbitration are as follows:

(a) **Arbitration of Claims.** This section concerns the resolution of any controversies or claims between or among the parties hereto, including but not limited to those that arise from: (i) the Agreement, as such term is defined above (including any renewals, extensions or modifications of the Agreement); (ii) any document, agreement or procedure related to or delivered in connection with the Agreement; or (iii) any violation of the Agreement; provided that this section shall not dictate the resolution of controversies or claims arising under Sections 8.7 and 8.8 hereof, which shall be governed by the dispute resolution procedures set forth therein. This section does not limit the right of either party to: (i) exercise any self-help remedies provided for herein; or (ii) file an action in a court of law, before, during, or after the arbitration proceeding to obtain a provisional or interim remedy, and/or any ancillary, additional or supplementary remedy.

(b) **Application of AAA Arbitration Rules.** At the request of any party to this Agreement, any such controversies or claims shall be settled by arbitration in accordance with the New York Code of Civil Procedure and under the Commercial Rules of the American Arbitration Association ("AAA"). Notwithstanding the foregoing, neither party shall be entitled to full discovery pursuant to the Federal Rules of Evidence or any corresponding state rule. For purposes of the application of the statute of limitations, the filing of an arbitration pursuant to this paragraph is the equivalent of the filing of a lawsuit, and any claim or controversy which may be arbitrated under this paragraph is subject to any applicable statute of limitations. The arbitrator(s) will have the authority to decide whether any such claim or controversy is barred by the statute of limitations, and, if so, to dismiss the arbitration on that basis. If there is a dispute as to whether an issue is arbitrable, the arbitrator(s) will have the authority to resolve such dispute.

(c) **Enforcement.** The decision that results from an arbitration proceeding may be submitted to any authorized court of law to be confirmed and enforced. The judgment

upon award of the arbitrators shall be final and binding and may be enforced in any court of competent jurisdiction, and each of the parties hereto unconditionally submits to the jurisdiction of such court for the purpose of any Proceeding seeking such enforcement. Subject to the provisions of applicable law and Section 9.10(a), the procedure described in this Section 9.10(c) shall be the exclusive means of resolving disputes arising under this Agreement and all other agreements to be executed in accordance herewith.

(d) **No Waiver.** The institution and maintenance of an action for judicial relief or pursuit of a provisional or ancillary remedy shall not constitute a waiver of the right of any party, including the suing party, to submit the controversy or claim to arbitration or reference if the other party contests the lawsuit.

**9.11 Attorneys' Fees.** If any party brings any suit, action, counterclaim, or arbitration proceeding to enforce the provisions of this Agreement (including without limitation enforcement of any award or judgment obtained with respect to this Agreement), the prevailing party shall be entitled to recover a reasonable allowance for attorneys' fees and litigation expenses in addition to court or arbitration costs.

**9.12 Parties in Interest.** Nothing in this Agreement, express or implied, is intended to confer on any Person other than the Parties and their respective successors and permitted assigns any rights or remedies under or by virtue of this Agreement.

**9.13 Generally Accepted Accounting Principles.** Where any accounting determination or calculation is required to be made under this Agreement, such determination or calculation (unless otherwise provided) will be made in accordance with GAAP and, to the extent consistent therewith, the accounting policies employed by Sellers in the preparation of the Latest Balance Sheet.

**9.14 Waiver of Jury Trial.** AS A SPECIFICALLY BARGAINED INDUCEMENT FOR EACH OF THE PARTIES TO ENTER INTO THIS AGREEMENT (EACH PARTY HAVING HAD OPPORTUNITY TO CONSULT COUNSEL), EACH PARTY EXPRESSLY WAIVES THE RIGHT TO TRIAL BY JURY IN ANY LAWSUIT OR PROCEEDING RELATING TO OR ARISING IN ANY WAY FROM THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREIN.

**9.15 Other Definitional Provisions.** The terms "hereof," "herein" and "hereunder" and terms of similar import refer to this Agreement as a whole and not to any particular provision of this Agreement. Section, clause, Exhibit and Schedule references contained in this Agreement are references to Sections, clauses, Exhibits and Schedules in or attached to this Agreement, unless otherwise specified. Each defined term used in this Agreement has a comparable meaning when used in its plural or singular form. Each gender-specific term used in this Agreement has a comparable meaning whether used in a masculine, feminine or gender-neutral form. As used in this Agreement with respect to either Seller, the term "knowledge" refers to the actual knowledge of J. Daniel Sullivan, David Pulido and Patrick Bratton. As used in this Agreement with respect to Buyer, the term "knowledge" refers to actual knowledge of G. Neil Smith. Whenever the term "including" or "include" is used in this Agreement (whether or not that term is followed by the phrase "but not limited

to” or “without limitation” or words of similar effect) in connection with a listing of items within a particular classification, that listing will be interpreted to be illustrative only and will not be interpreted as a limitation on, or an exclusive listing of, the items within that classification. Each reference in this Agreement to any Legal Requirement will be deemed to include such Legal Requirement as it hereafter may be amended, supplemented or modified from time to time and any successor thereto, unless such treatment would be contrary to the express terms of this Agreement.

\* \* \* \*

**IN WITNESS WHEREOF**, the Parties have executed this Asset Purchase Agreement as of the date first written above.

**GNS MEDIA EVANSVILLE, INC.**

By: \_\_\_\_\_  
Its: \_\_\_\_\_

**QUORUM BROADCASTING OF  
INDIANA, INC.**

By: \_\_\_\_\_  
Its: \_\_\_\_\_

**QUORUM OF INDIANA LICENSE,  
LLC**

By: \_\_\_\_\_  
Its: \_\_\_\_\_

The undersigned, which is the ultimate parent company of Sellers, hereby guarantees the performance and payment of Sellers' obligations under this Asset Purchase Agreement.

**QUORUM BROADCAST HOLDINGS LLC**

By: \_\_\_\_\_  
Its: \_\_\_\_\_

**DEFINED TERMS**

As used in the Purchase Agreement to which this Exhibit A is attached, the following terms will have the following respective meanings:

**“Accounts Receivable”** means all amounts owed to the Sellers for the sale of broadcast time on the Station aired on or prior to the Adjustment Time or for any other services rendered or products delivered by the Sellers on or prior to the Adjustment Time, other than the Trade-Out Receivables.

**“Affiliate”** of any Person means any other Person directly or indirectly controlling, controlled by or under common control with such first Person within the meaning of the Securities Exchange Act of 1934, as amended.

**“Business”** means the business and operations of the Station as currently conducted or as proposed to be conducted by the Sellers.

**“Business Day”** means any day other than (i) a Saturday or Sunday or (ii) a day on which banking and savings and loan institutions are authorized or required by law to be closed in Indiana or South Carolina.

**“Communications Act”** means the Communications Act of 1934, as amended, as in effect from time to time.

**“Confidentiality Agreement”** means the Confidentiality Agreement dated as of December 2, 2002 between The Liberty Corporation and Quorum Broadcasting Company, to which Buyer hereby confirms it has been and is bound to the same extent as The Liberty Corporation.

**“Consent”** means any consent, grant, order, approval, authorization or other action of, or any filing with or notice to or other action with respect to, any Governmental Entity or any other Person that is required for any of the execution, delivery or performance of this Agreement or any other Transaction Document or the consummation of any Closing Transaction or other transaction contemplated hereby or thereby, whether such requirement arises pursuant to any Legal Requirement or Contract, including any of the foregoing that is required in order to prevent a breach of or a default under or a termination or modification of any Contract.

**“Contract”** means any oral or written agreement, instrument, document, lease, employee benefit or welfare plan or other contract (in each case, including any extension, renewal, amendment or other modification thereof) to which either Seller is a party or by which it is bound or to which it or any Asset is subject or that pertains to the business or properties of either Seller or the Station.

**“DMA”** shall mean the Designated Market Area as determined by Nielsen Media Research.

**“Employee Benefit Plans”** shall have the meaning specified in Section 3(3) of ERISA.

**“Environmental and Safety Requirements”** means all Legal Requirements, and all obligations under any Contract, concerning public health and safety, worker health and safety, and pollution or protection of the environment, including all those relating to the presence, use, production, generation, handling, transport, treatment, storage, disposal, distribution, labeling, testing, processing, discharge, release, threatened release, control, or cleanup of any hazardous or otherwise regulated materials, substances or wastes, chemical substances or mixtures, pesticides, pollutants, contaminants, toxic chemicals, petroleum products or byproducts, asbestos, polychlorinated biphenyls, noise or electromagnetic radiation.

**“Environmental Lien”** means any Lien, either recorded or unrecorded, in favor of any Governmental Entity and relating to any liability arising under Environmental and Safety Requirements.

**“Entity”** shall mean any corporation (including any non-profit corporation), general partnership, limited partnership, limited liability partnership, joint venture, estate, trust or company (including any limited liability company or joint stock company).

**“ERISA”** shall mean the Employee Retirement Income Security Act of 1974, as amended.

**“Excludable Contract”** means any Contract, so long as

- (a) such Contract is not a Program Contract;
- (b) such Contract is or has been entered into in the ordinary course of business with a Person that is not an Affiliate of either Seller; and
- (c) either (1) under such Contract Sellers do not have monetary obligations that in the aggregate exceed \$50,000 during any 12-month period, (2) a Seller may cancel or terminate such Contract without additional liability or penalty with notice of 30 days or less, (3) such Contract is a Contract for employment at will or (4) such Contract is a Trade or a Time Sale Contract that provides for the sale of advertising time for cash.

**“FCC”** means the Federal Communications Commission or any successor thereto.

**“FCC Approval Date”** means the first date upon which each FCC Consent has been granted.

**“FCC Consents”** means all Consents of the FCC.

**“FCC Finality Date”** means the first date upon which each FCC Consent has been granted and each such grant has become a Final Order.

**“FCC Regulations”** means all regulations and published policies promulgated by the FCC, under the Communications Act or otherwise, as in effect from time to time.

A **“Final Order”** means any FCC action (a) that has not been reversed, stayed, set aside, enjoined, annulled or suspended (whether under Section 402 or 405 of the Communications Act or otherwise) and (b) as to which (1) no request has been filed for administrative or judicial review, reconsideration, appeal, certiorari or stay and the time for filing any such request and for the FCC to review such FCC action on its own motion has expired, or (2) if such a review, reconsideration or appeal has occurred, such review, reconsideration or appeal has been denied or dismissed and the time for further review, reconsideration or appeal has expired.

**“GAAP”** means United States generally accepted accounting principles, as applied by Sellers and in effect from time to time.

**“Governmental Entity”** means any government, agency, governmental department, commission, board, bureau, court, arbitration panel or instrumentality of the United States of America or any state or other political subdivision thereof (whether now or hereafter constituted and/or existing) and any entity exercising executive, legislative, judicial, regulatory or administrative functions of or pertaining to government.

**“Legal Requirement”** means any of the Communications Act, the FCC Regulations, and all other federal, state and local laws, statutes, codes, rules, regulations, ordinances, judgments, orders, decrees and the like of any Governmental Entity.

**“Liability”** shall mean any debt, obligation, duty or liability of any nature (including any unknown, undisclosed, unmatured, unaccrued, unasserted, contingent, indirect, conditional, implied, vicarious, derivative, joint, several or secondary liability), regardless of whether such debt, obligation, duty or liability would be required to be disclosed on a balance sheet prepared in accordance with generally accepted accounting principles and regardless of whether such debt, obligation, duty or liability is immediately due and payable.

**“Lien”** means any mortgage, pledge, hypothecation, lien (statutory or otherwise), preference, priority, security agreement or other encumbrance of any kind or nature whatsoever (including any conditional sale or other title retention agreement and any lease having substantially the same effect as any of the foregoing and any assignment or deposit arrangement in the nature of a security device).

**“Loss”** means any loss, liability, deficiency, damage or expense, including reasonable legal expenses and costs and any cost or expense arising from or incurred in connection with any action, suit, proceeding, claim or judgment relating to any matter described in clause (i), (ii) or (iii) of Section 7.2(a) or 7.2(b), or in enforcing the indemnity provided by Section 7.2.

**“Market Cable System”** means any U.S. cable television system located within the Station’s market, as defined in Section 76.55(e) of the FCC Regulations.

**“Material Adverse Effect”** means a material adverse effect on the Assets or the business, operations, financial condition or results of operations of the Station (other than as a result of any change, effect or circumstance arising from the execution, delivery or performance of this Agreement or the announcement or pendency of the transactions contemplated hereby, or any change, effect or circumstance to or in (i) the television broadcasting industry generally, including the adoption or implementation of regulatory changes, (ii) general economic conditions in United States or in the Station’s DMA, or (iii) the United States or global financial or capital markets), or on the ability of either Seller to perform its material obligations under this Agreement or any other Transaction Document.

**“Material Consents”** means the FCC Consents, the Consent that is required under the Network Affiliation Agreement, and the Consent that is required under the broadcast tower lease that is described on the attached Schedule 1.1C.

**“Materials of Environmental Concern”** shall mean hazardous or toxic wastes, chemicals, substances, constituents, pollutants or related material, whether solids, liquids, or gases, defined or regulated under § 101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. §§ 6901-6992k; the Toxic Substances Control Act, 15 U.S.C. §§ 2601-2671; the Safe Drinking Water Act, 42 U.S.C. §§ 300f-300j-ll; the Clean Air Act, as amended, 42 U.S.C. §§ 7401-7671q; the Federal Water Pollution Control Act, 33 U.S.C. §§ 1251-1387; the Emergency Planning and Community Right-to-Know Act of 1986, 42 U.S.C. §§ 11001-11050; or any similar federal or state laws, together with petroleum and petroleum products; asbestos and asbestos-containing materials; and polychlorinated biphenyls.

**“Network Affiliation Agreement”** means the network affiliation agreement identified on the attached Schedule 1.1F, as in effect from time to time.

**“Order”** shall mean any: (a) temporary, preliminary or permanent order, judgment, injunction, edict, decree, ruling, pronouncement, determination, decision, opinion, verdict, sentence, stipulation, subpoena, writ or award that is or has been issued, made, entered, rendered or otherwise put into effect by or under the authority of any court, administrative agency or other Governmental Entity or any arbitrator or arbitration panel; or (b) Contract with any Governmental Entity that is or has been entered into in connection with any Proceeding.

**“Person”** means an individual, a partnership, a limited liability company, a corporation, an association, a joint stock company, a trust, a joint venture, an unincorporated organization or any Governmental Entity.

**“Post-Closing Escrow Agent”** means the Escrow Agent, as that term is defined in the Post-Closing Escrow Agreement.

**“Post-Closing Escrow Agreement”** means an agreement among Quorum, Buyer and an escrow agent to be identified, substantially in the form of the attached Exhibit I (with such changes as such escrow agent may reasonably request), as in effect from time to time.



**“Post-Closing Escrow Fund”** means the Escrow Fund, as that term is defined in the Post-Closing Escrow Agreement.

**“Post-Closing Period”** shall mean any Taxable period beginning after the close of business on the Closing Date or, in the case of any Taxable period which includes, but does not begin, after the close of business on the Closing Date, the portion of such period beginning after the close of business on the Closing Date.

**“Pre-Closing Escrow Agent”** means the Escrow Agent, as that term is defined in the Pre-Closing Escrow Agreement.

**“Pre-Closing Period”** shall mean any Taxable period ending on or before the close of business on the Closing Date or, in the case of any Taxable period which includes, but does not end on, the Closing Date, the portion of such period up to and including the Closing Date.

**“Proceeding”** shall mean any action, suit, litigation, arbitration, proceeding (including any civil, criminal, administrative, investigative or appellate proceeding), prosecution, contest, hearing, inquiry, inquest, audit, examination or investigation that is, has been or may in the future be commenced, brought, conducted or heard at law or in equity or before any Governmental Entity or any arbitrator or arbitration panel.

**“Proprietary Rights”** means all of the following items owned by, issued to or licensed to either Seller and related to the Station, along with all income, royalties, damages and payments due or payable at the Closing or thereafter, including damages and payments for past, present or future infringements or misappropriations thereof, the right to sue and recover for past infringements or misappropriations thereof and any and all corresponding rights that, now or hereafter, may be secured throughout the world: patents, patent applications, patent disclosures and inventions (whether or not patentable and whether or not reduced to practice) and any reissue, continuation, continuation-in-part, division, revision, extension or reexamination thereof; trademarks, service marks, trade dress, logos, trade names and corporate names together with all goodwill associated therewith, copyrights registered or unregistered and copyrightable works; mask works; and all registrations, applications and renewals for any of the foregoing; trade secrets and confidential information (including ideas, formulae, compositions, know-how, manufacturing and production processes and techniques, research and development information, drawings, specifications, designs, plans, proposals, technical data, financial, business and marketing plans, and customer and supplier lists and related information); computer software and software systems (including data, databases and related documentation); other proprietary rights; licenses or other agreements to or from third parties regarding the foregoing; and all copies and tangible embodiments of the foregoing (in whatever form or medium), in each case including all rights with respect to the call letters “WTVW”

**“Seller Benefit Plans”** shall have the meaning specified in Section 4.21.

**“Tax”** (and, with correlative meaning, **“Taxes,”** **“Taxable”** and **“Taxing”**) means any (A) federal, state, local or foreign income, gross receipts, franchise, estimated, alternative minimum, add-on minimum, sales, use, transfer, registration, value added, excise,

natural resources, severance, stamp, occupation, premium, windfall profits, environmental (including under Section 59A of the Tax Code), customs, duties, real property, real property gains, personal property, capital stock, social security, unemployment, disability, payroll, license, employee or other withholding, or other tax of any kind whatsoever, including any interest, penalties or additions to tax or additional amounts in respect of the foregoing; (B) liability of any corporation for the payment of any amounts of the type described in clause (A) arising as a result of being (or ceasing to be) a member of any “affiliated group”(as that term is defined in Section 1504(a) of the Tax Code) (or being included in any Tax Return relating thereto); and (C) liability for the payment of any amounts of the type described in clause (A) or (B) as a result of any express or implied obligation to indemnify or otherwise assume or succeed to the liability of any other Person.

“**Tax Code**” means the Internal Revenue Code of 1986, as amended (including, where applicable, the Internal Revenue Code of 1954, as amended).

“**Tax Return**” means any return, declaration, report, claim for refund, information return or other document (including any related or supporting schedules, statements or information) filed or required to be filed in connection with the determination, assessment or collection of Taxes of any Person or the administration of any Legal Requirement relating to any Taxes.

“**Trades**” mean all trade, barter or similar arrangements for the sale of advertising time on the Station other than for cash; provided that any Barter Program Contract will be deemed to constitute a Program Contract, and not a Time Sale Contract or a Trade, for purposes of this Agreement.

“**Transfer Taxes**” shall mean all federal, state, local or foreign sales, use, transfer, real property transfer, mortgage recording, stamp duty, value-added or similar Taxes that may be imposed in connection with the transfer of Assets or assumption of Assumed Liabilities, together with any interest, additions to Tax or penalties with respect thereto and any interest in respect of such additions to Tax or penalties.

“**Trade-Out Payables**” means all obligations of either Seller to provide advertising time in respect of goods or services received by either Seller prior to the Adjustment Time under any Trade, determined in accordance with GAAP.

“**Trade-Out Receivables**” means all current assets of either Seller that are the right to receive goods or services in respect of advertising time furnished by either Seller prior to the Adjustment Time under any Trade, determined in accordance with GAAP.

“**UK Basketball Contracts**” means the University of Kentucky Television Network Agreement dated July 25, 2002 and the Jefferson Pilot Sports – Sports Syndication License Agreement – Southern Conference Basketball dated September 20, 2002, together with all renewals and amendments of either of the foregoing agreements.

**Schedules**

<u>Schedule</u>	<u>Title</u>
1.1 A	FCC Authorizations
1.1 B	Personal Property
1.1 C	Leases
1.1 E	Program Contracts
1.1 F	Other Assumed Contracts
1.1 N	Internet Domains
1.1 O	Deposits and Advances
1.1 P	Seller Claims
1.1 Q	Owned/Leased Vehicles
1.2 E	Retained Employment Contracts
1.2 I	Retained Prepaid Items
1.2 N	Other Retained Assets
1.3 A	Permitted Liens
2.2 D	Accounts Receivables
4.4	Consents
4.5 A	Owned Realty
4.5 B	Leased Realty Disclosures
4.5 E	Realty Use Disclosures
4.7 A	Financial Statements
4.11	Cable Television Matters
4.13	Available Runs
4.14	Proprietary Rights
4.15	Litigation
4.17	Employee Information
4.18	DTV Buildout Plan
4.21	Tax Returns
8.2	Excepted Material Proprietary Rights
8.12 B	Required Consent Assets

**Exhibits**

<u>Exhibit</u>	<u>Title</u>
A	Defined Terms
B	Form of Bill of Sale
C	Form of Assignment
D	Form of Assignment of Leases
E	Form of Corporate Warranty Deed
F	Opinions of Sellers' Counsel
G	Opinions of Sellers' FCC Counsel
H	Form of FIRPTA Certificate
I	Form of Post-Closing Escrow Agreement
J	Form of CERCLA Affidavit