

**UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION**

<b>In re:</b>	)	<b>Case No.: 18-41671-705</b>
	)	<b>Honorable Charles E. Rendlen, III</b>
<b>MGTF RADIO COMPANY, LLC, et al.,</b>	)	<b>Chapter 11</b>
	)	<b>Jointly Administered</b>
<b>Debtors.</b>	)	
	)	
	)	

**NOTICE OF FILING OF PLAN SUPPLEMENT**

PLEASE TAKE NOTICE that MGTF Radio Company, LLC and WPNT, Inc. as Debtors and Debtors-in-Possession (“Debtors”) in accordance with their Joint Chapter 11 Plan of Reorganization dated November 13, 2018 (the “Plan”) has caused to be filed with the United States Bankruptcy Court for the Eastern District of Missouri draft versions of the documents that support and supplement the Plan (the “Plan Supplement”).

PLEASE TAKE FURTHER NOTICE that the documents contained in the Plan Supplement are not final, are subject to ongoing review by the Debtors, the Holders of the Senior Secured Claims and the Holders of the Unsecured Mezzanine Loan Claims and remain subject to approval in accordance with the Plan, and such documents may be altered, amended, modified, or supplemented; provided that if any Plan Supplement document is altered, amended, modified, or supplemented in any material respect, the Debtors will file a redline of such document with the Bankruptcy Court.

Respectfully submitted,

CARMODY MACDONALD P.C.

By: /s/ Robert E. Eggmann  
ROBERT E. EGGMANN #37374MO  
THOMAS H. RISKE #61838MO  
120 S. Central Avenue, Suite 1800  
St. Louis, Missouri 63105  
(314) 854-8600  
(314) 854-8660 – FAX  
[ree@carmodymacdonald.com](mailto:ree@carmodymacdonald.com)  
[thr@carmodymacdonald.com](mailto:thr@carmodymacdonald.com)

ATTORNEYS FOR DEBTORS

**Confidential Settlement Communication**  
**Subject to Federal Rule of Evidence 408**

**INITIAL OUTLINE FOR PLAN TREATMENT TERMS UNDER A CONSENSUAL PLAN OF  
REORGANIZATION**

This initial term sheet (the “Term Sheet”) constitutes a non-binding, high level outline of the principal terms and conditions regarding the treatment of the claims of the senior secured lenders and the mezzanine lenders under a consensual plan of reorganization (the “Plan”) under chapter 11 of title 11 of the United States Code (the “Bankruptcy Code”) to be filed by MGTF Radio Company, LLC, a Missouri limited liability company (“MGTF”), and WPNT, Inc., a Pennsylvania corporation (“WPNT”, and together with MGTF, collectively, the “Debtors”).

THIS TERM SHEET DOES NOT CONSTITUTE (NOR SHALL IT BE CONSTRUED AS) AN OFFER WITH RESPECT TO ANY SECURITIES OR A SOLICITATION OF ACCEPTANCES OR REJECTIONS AS TO ANY PLAN, IT BEING UNDERSTOOD THAT SUCH A SOLICITATION, IF ANY, ONLY WILL BE MADE IN COMPLIANCE WITH APPLICABLE PROVISIONS OF SECURITIES, BANKRUPTCY AND/OR OTHER APPLICABLE LAWS.

THIS TERM SHEET IS PROTECTED BY RULE 408 OF THE FEDERAL RULES OF EVIDENCE AND ANY OTHER APPLICABLE STATUTES OR DOCTRINES PROTECTING THE USE OR DISCLOSURE OF CONFIDENTIAL SETTLEMENT DISCUSSIONS. NOTHING HEREIN SHALL BE DEEMED TO BE AN ADMISSION OF FACT OR LIABILITY BY ANY PARTY.

THE TRANSACTIONS DESCRIBED HEREIN WILL BE SUBJECT TO THE NEGOTIATION AND COMPLETION OF DEFINITIVE DOCUMENTS INCORPORATING THE TERMS SET FORTH HEREIN AND THE CLOSING OF ANY TRANSACTION SHALL BE SUBJECT TO THE TERMS AND CONDITIONS SET FORTH IN SUCH AGREED DEFINITIVE DOCUMENTS.

<b>Overview of Plan Concept</b>	This Term Sheet contemplates the restructuring of the Debtors pursuant to a Plan to be filed in the chapter 11 cases styled as <i>In re MGTF Radio Company, LLC</i> , Case No. 18-41671 and <i>In re WPNT, Inc.</i> , Case No. 18-41672, each of which are jointly administered under Case No. 18-41671 in the United States Bankruptcy Court for the Eastern District of Missouri (the “Bankruptcy Court”) and sets forth the terms under which (a) BSP Agency, LLC (“BSP Agency”), in its capacity as administrative agent, and Business Development Corporation of America, in its capacity as lender (collectively, the “Senior Secured Lenders”), each under that certain Credit Agreement dated as of September 29, 2014 (as amended, modified, restated or supplemented from time to time, the “Senior Secured Credit Agreement”) and (b) BSP Agency, in its capacity as administrative agent, and Business Development Corporation of America, in its capacity as lender (collectively, the “Mezzanine Lenders”, and with the Senior Secured Lenders,
---------------------------------	---

	the “Lenders”), each under that certain Subordinated Credit Agreement dated as of September 29, 2014 (as amended, modified, restated or supplemented from time to time, the “Mezzanine Credit Agreement”), in each case, will agree to consensual treatment of their claims against the estates of the Debtors under a Plan.
<b>Plan Effective Date</b>	Subject to an order issued by the Bankruptcy Court confirming the Plan pursuant to section 1129 of the Bankruptcy Code, the Plan will have an Effective date of no later than [____], 2018 (the “Plan Effective Date”).
<b>Cash Distribution</b>	On the Plan Effective Date, Senior Secured Lenders will receive a cash distribution equal to the amount of: <ul style="list-style-type: none"> <li>• Accrued and unpaid interest under the Senior Secured Credit Agreement</li> <li>• Unpaid amounts in respect of Hedging Obligations and interest thereon</li> <li>• Accrued and unpaid fees and expenses</li> </ul>
<b>Claim Allowance</b>	Under the Plan, (i) the Senior Secured Lenders will have an allowed claim against the Debtors in the amount of approximately \$37,995,536.61, plus all unpaid accrued interest, fees and other charges (the “First Lien Claims”) and (ii) the Mezzanine Lenders will have an allowed claim against the Debtors in the amount of approximately \$24,717,429.53, plus prepetition interest, fees and other charges (the “Mezzanine Claims”).
<b>Debt Issuance</b>	In addition to the Equity Issuance (defined below), for full release and satisfaction of the First Lien Claims and Mezzanine Claims, respectively, on the Plan Effective Date, the Lenders will collectively receive new senior secured debt on the following terms (the “Debt Issuance”): <ul style="list-style-type: none"> <li>• \$62.7mm term loan secured by a lien on substantially all of the assets of each of the Reorganized Companies (as defined below)</li> <li>• Each of the Reorganized Companies (as defined below) shall be a primary obligor under the New Facility (as defined below) .</li> <li>• L+600 (1% LIBOR floor), payable quarterly</li> <li>• Amortization of \$1.5mm per annum, payable in quarterly installments</li> <li>• Maturity of 5 years from Plan Effective Date</li> <li>• Quarterly 100% excess cash sweep applied to term loan; provided, however, that the excess cash sweep shall be capped in an amount such that cash after giving effect to the excess cash sweep shall not be less than \$2mm.</li> <li>• Limitations on cash distributions, including management fees, salaries, bonuses, dividends, etc.: TBD, but customary for a loan of this nature.</li> <li>• Financial covenants that give rise to event of default:</li> </ul>

	<ul style="list-style-type: none"> <li>○ Maximum Net Leverage Ratio:                             <ul style="list-style-type: none"> <li>▪ Dec 18, Mar 19, Jun 19, Sep 19 – 7.0X</li> <li>▪ Dec 19, Mar 20 – 6.25X</li> <li>▪ Jun 20, Sep 20 – 5.75X</li> <li>▪ Dec 20, Mar 21, Jun 21 – 5.25X</li> <li>▪ Sep. 21 – 4.75X</li> <li>▪ Dec 21, Mar 22 – 4.50X</li> <li>▪ Jun 22, Sep 22 – 4.00X</li> <li>▪ Dec 22 and thereafter 3.5X</li> </ul> </li> <li>○ Fixed Charge Coverage Ratio: 1.0</li> <li>• Other affirmative and negative covenants TBD, but customary for a loan of this nature. The Reorganized Debtors (i) shall make tax distributions to BSP Agency (or its successors) and (ii) shall be allowed to make tax distributions to the Reorganized Debtors’ other equity holders subject to customary limitations.</li> <li>• Such other reasonable terms otherwise set forth in definitive documentation in form and substance acceptable to the Debtors, Senior Secured Lenders and Mezzanine Lenders (the foregoing terms, collectively, the “New Facility”)</li> </ul>
--	--

<b>Corporate Reorganization and Equity Issuance</b>	<p>On the Plan Effective Date, all equity interests (including common stock, preferred stock and any options, warrants, profit interest units, or rights to acquire any equity interests) in WPNT shall be transferred to a newly formed holding corporation, owned by Existing Equity Holders (“WPNT Holdco, Inc.”).</p> <p>WPNT Holdco, Inc. shall establish a new wholly-owned limited liability corporation (“WPNT, LLC”).</p> <p>WPNT will merge into WPNT, LLC with WPNT, LLC surviving. Pursuant to the Plan, equity interests in WPNT, LLC shall be allocated as follows:</p> <ul style="list-style-type: none"> <li>• 66% to WPNT Holdco, Inc.;</li> <li>• 33% of the equity interests to the Lenders; and</li> <li>• [1%] to one of the Existing Equity Holders.</li> </ul> <p>MGTF shall maintain its existing corporate organizational structure (but shall elect to be treated as a partnership for federal income tax purposes) (following the Plan Effective Date, and with WPNT, LLC, the “Reorganized Debtors”). Equity interests in MGTF shall be allocated as follows:</p> <ul style="list-style-type: none"> <li>• 66% to a newly formed holding corporation, owned by Existing Equity Holders (“MGTF Holdco, LLC”);</li> <li>• 33% of the equity interests to the Lenders; and</li> </ul>
---	--

	<ul style="list-style-type: none"><li>• [1%] to one of the Existing Equity Holders.<sup>1</sup></li></ul> <p>The equity interests to be issued by WPNT, LLC and MGTF on the Plan Effective Date will be referred to as the “New Equity.”</p>								
Existing Equity	<p><b>Treatment.</b> On the Plan Effective Date, the existing holders of the equity of the Debtors (the “Existing Equity Holders”) will receive 100% of the equity in WPNT Holdco, Inc. and MGTF Holdco, LLC and a de minimis equity interest ([1%]) in each of each of WPNT, LLC and MGTF. Such equity will be referred to as the “Rollover Equity”.</p> <p><b>Voting.</b> Impaired, entitled to vote to accept or reject the Plan.</p>								
First Lien Claims and Mezzanine Claims	<p><b>Treatment.</b> On the Plan Effective Date, and in addition to the Debt Issuance, for full release and satisfaction of the First Lien Claims and Mezzanine Claims, respectively, in the event the Lenders vote to accept the Plan, the Lenders will be issued equity in each of WPNT, LLC and MGTF as follows:</p> <ul style="list-style-type: none"><li>• 33% New Equity (fully diluted) in each of WPNT, LLC and MGTF; and</li><li>• contingent additional equity in each of WPNT, LLC and MGTF equal to an additional 4.5% (fully diluted) on each Measurement Date, up to a maximum of 51% (fully diluted) of each of WPNT, LLC and MGTF if Adjusted EBITDA for the quarter preceding the Measurement Date is less than, <u>or</u> unrestricted cash is below, the levels listed below on the relevant Measurement Date (the “Additional Equity”):</li></ul> <table><tr><th>Measurement Date</th><th>Additional Equity</th><th>LTM Adjusted EBITDA</th><th>Unrestricted Cash</th></tr><tr><td>last business day of each quarter starting with [Q4 2018]</td><td>4.5% per Measurement Period (until 51% is reached)</td><td>\$9mm LTM</td><td>\$0.5mm</td></tr></table> <p>Such New Equity and Additional Equity will be referred to as the “Lender Equity”, whenever issued.</p> <p><b>Voting</b> Impaired, entitled to vote to accept or reject the Plan.</p>	Measurement Date	Additional Equity	LTM Adjusted EBITDA	Unrestricted Cash	last business day of each quarter starting with [Q4 2018]	4.5% per Measurement Period (until 51% is reached)	\$9mm LTM	\$0.5mm
Measurement Date	Additional Equity	LTM Adjusted EBITDA	Unrestricted Cash						
last business day of each quarter starting with [Q4 2018]	4.5% per Measurement Period (until 51% is reached)	\$9mm LTM	\$0.5mm						

<sup>1</sup> [Sequencing of steps TBD based on tax consequences.]

<b>Equity purchase rights</b>	WPNT Holdco, Inc., MGTF Holdco, LLC, and/or the Existing Equity Holders may purchase the Lender Equity in the Reorganized Debtors at a price based on an implied TEV of \$80mm.						
<b>Lender Equity Reversion</b>	<p>If the New Facility is paid down, in full, prior to either the Initial Debt Paydown Date or the Outside Debt Paydown Date, the Lenders shall transfer New Equity in each of the Reorganized Debtors to each of WPNT Holdco, Inc. and MGTF Holdco, LLC, respectively, according to the below schedule:</p> <table border="1"> <tr> <th>Debt Paydown Date</th><th>Reverting Equity</th></tr> <tr> <td>12 months from the Plan Effective Date (the “Initial Debt Paydown Date”)</td><td>25% of New Equity issued to Lenders</td></tr> <tr> <td>24 months from the Plan Effective Date (the “Outside Debt Paydown Date”)</td><td>20% of New Equity issued to Lenders</td></tr> </table>	Debt Paydown Date	Reverting Equity	12 months from the Plan Effective Date (the “Initial Debt Paydown Date”)	25% of New Equity issued to Lenders	24 months from the Plan Effective Date (the “Outside Debt Paydown Date”)	20% of New Equity issued to Lenders
Debt Paydown Date	Reverting Equity						
12 months from the Plan Effective Date (the “Initial Debt Paydown Date”)	25% of New Equity issued to Lenders						
24 months from the Plan Effective Date (the “Outside Debt Paydown Date”)	20% of New Equity issued to Lenders						
<b>Governance Issues</b>	<p>[Board and corporate structure (<i>i.e.</i>, formation of additional holdcos, etc.) to be discussed.]</p> <p>The board of directors of each of the Reorganized Debtors will be composed of up to 5 members.</p> <ul style="list-style-type: none"> <li>• The holders of a majority of the equity outstanding at any time will have the right to appoint the majority (<i>i.e.</i>, 3 members) of the boards of directors.</li> <li>• The holders of the minority of the equity outstanding at any time will have the right to appoint the minority (<i>i.e.</i>, 2 members) of the boards of directors and, if such appointment is not made, board observation rights.</li> </ul> <p>WPNT Holdco, Inc. and/or MGTF Holdco, LLC, as directed by the Existing Equity Holders, will enter into shareholder agreements with the Lenders (and the Reorganized Debtors) reflecting customary minority equity protective provisions including co-sale rights, preemptive rights and anti-dilution protection. In addition, the shareholder agreements will permit the majority equity holders to consummate a sale transaction for all or substantially all of the business to a non-affiliate.</p> <p>Neither of the Reorganized Debtors shall file for bankruptcy without unanimous approval of its board of directors. In the event that any of WPNT Holdco, Inc., MGTF Holdco, LLC, WPNT, LLC, and MGTF (the “Reorganized Companies”)</p>						

	file for bankruptcy subsequent to the Plan Effective Date, the Existing Equity Holders will covenant not to take a position, or to take any actions to cause any of the Reorganized Companies to take the position, that the automatic stay prevents the issuance of Additional Equity and shall not oppose or take any action to cause the Reorganized Companies to oppose any motion to lift the automatic stay, to the extent required and if filed, to allow for the issuance of Additional Equity.
<b>Administrative and Priority Claims</b>	<p><b>Treatment.</b> Allowed administrative and allowed priority claims will be paid in full in cash on the Plan Effective Date, or as otherwise determined in the discretion of the Debtors.</p> <p><b>Voting.</b> Not classified; non-voting.</p>
<b>Other Secured Claims</b>	<p><b>Treatment.</b> On the Plan Effective Date, holders of allowed secured claims other than the Lenders, if any (“Other Secured Claims”) will receive either (i) payment in full in cash of the unpaid portion of its allowed Other Secured Claim, including any interest thereon required to be paid under section 506(b) of the Bankruptcy Code (or if payment is not then due, in accordance with the terms of such allowed Other Secured Claim), (ii) reinstatement pursuant to section 1124 of the Bankruptcy Code, (iii) the collateral securing such allowed Other Secured Claim, plus any interest thereon required to be paid under section 506(b) of the Bankruptcy Code, or (iv) such other recovery necessary to satisfy section 1129 of the Bankruptcy Code.</p> <p><b>Voting.</b> Unimpaired, not entitled to vote.</p>
<b>General Unsecured Claims</b>	<p><b>[TO BE DISCUSSED.]</b></p> <p><b>Treatment.</b> On the Plan Effective Date, the holders of allowed general unsecured claims will receive either (i) [TBD/Assume Payment in Full] or (ii) such other recovery necessary to satisfy section 1129 of the Bankruptcy Code.</p> <p><b>Voting.</b> Unimpaired, not entitled to vote.]</p>
<b>Releases</b>	In form and substance satisfactory to the Debtors and the Lenders, the Plan and order confirming the Plan will provide customary releases (including third party releases) and exculpation provisions, in each case, to the fullest extent permitted by law, for the benefit of the Debtors, the Senior Secured Lenders, the Mezzanine Lenders, and such entities’ respective current and former affiliates and such entities’ and their current and former affiliates’ current and former officers, managers, directors, equity holders (regardless of whether such interests are held directly or indirectly), predecessors, successors, assigns, subsidiaries, and each of their current and former officers, managers, directors, equity holders, principals, members, employees, agents, managed accounts or funds, management companies, fund advisors, advisory board members, financial advisors, partners,



	attorneys, accountants, investment bankers, consultants, representatives, and other professionals, each in their capacity as such; provided, however, any such releases shall not include and shall expressly exclude any prior holders of the debt evidenced by the Senior Secured Credit Agreement.
<b>Tax Issues</b>	<p>The terms of the restructuring contemplated by this Term Sheet will be structured to preserve favorable tax attributes of the Debtors to the extent practicable.</p> <p>Tax issues related to the tax treatment of BSP Agency's debt or equity interests in the Debtors under the terms of the restructuring TBD.</p>
<b>Regulatory Issues</b>	To be discussed.
<b>Discharge</b>	Customary discharge provisions.
<b>Injunction</b>	Customary injunction provisions.
<b>Chapter 11 Plan Milestones</b>	<ul style="list-style-type: none"> <li>• The hearing on the Disclosure Statement will have been heard by the Bankruptcy Court on or before [35] calendar days following agreement on the terms provided for herein.</li> <li>• The hearing on Plan confirmation will have been heard by the Bankruptcy Court on or before [65] calendar days following the hearing on the Disclosure Statement.</li> <li>• The Bankruptcy Court will have entered an order, in form and substance satisfactory to BSP Agency, confirming the Chapter 11 Plan (the "Plan Confirmation Order") on or before [5] calendar days following the hearing on Plan confirmation.</li> <li>• The Effective Date will have occurred not later than [21] calendar days following the entry of the Plan Confirmation Order.</li> </ul> <p>[Note: Dates subject to input from counsel, and reasonable cushion for administrative delays]</p>

<b>Conditions to the Plan of Reorganization</b>	The Plan will include conditions to the effectiveness of the Plan relating to the capital structure of the Debtors, the absence of securities or indebtedness not discharged on the Plan Effective Date of the Debtors other than the Equity and the Debt Issuance, and such other matters as BSP Agency shall reasonably request.
---	--



<p><b>Executory Contracts and Unexpired Leases</b></p>	<p>The Debtors may seek to assume or reject executory contracts and unexpired leases after consultation with, and with the reasonable consent of, BSP Agency. The Plan will provide that the executory contracts and unexpired leases that are not assumed or rejected as of the Effective Date (either pursuant to the Chapter 11 Plan or a separate motion) will be deemed assumed pursuant to section 365 of the Bankruptcy Code. For the avoidance of doubt, the reasonable consent of BSP Agency will be required with respect to all decisions to assume or reject, including the deemed rejection of executory contracts and unexpired leases pursuant to the Plan.</p>
<p><b>Other Items</b></p>	<p>The Reorganized Debtors are entitled to one equity cure per calendar year, which cure shall be considered cash and adjusted EBITDA for purposes of determination of any Additional Equity; provided that any such equity cure would be subject to the ECF sweep.</p> <p>In addition to current reporting requirements, the Reorganized Debtors will implement additional reasonable and satisfactory reporting requirements to the Lenders to include, but not limited to 13-week cash flow reporting (bi-weekly through June 30, 2019, monthly thereafter), A/R and A/P aging reports, and KPI reporting as appropriate.</p> <p>The Reorganized Debtors intend to investigate potential claims against prior holders of the debt evidenced by the Senior Secured Credit Agreement (“Potential Claims”). The Reorganized Debtors would contemplate applying 100% of any net recoveries from such claims as a paydown to the New Facility. Any fees and expenses (i) incurred in connection with such efforts or (ii) non-recurring in nature consistent with those included in calculations of Adjusted EBITDA previously provided to BSP Agency or its advisors shall be an addback for purposes of calculating Adjusted EBITDA, and all financial definitions, including Adjusted EBITDA, are to be finalized in definitive documentation upon completion of pro forma calculations; provided, that, (x) the Reorganized Debtors shall only be entitled to spend up to \$200,000 in fees and expenses in connection with investigating or prosecuting Potential Claims, provided, that the Reorganized Debtors may pledge portions of the proceeds of Potential Claims to attorneys that agree to pursue the Potential Claims on a contingency basis; and (y) it being understood that the Lenders shall be indemnified by the Reorganized Companies for any hypothetical claims that may arise from the prosecution of the Potential Claims under the credit agreement for the New Facility.</p>

**AGREEMENT AND PLAN OF REORGANIZATION  
UNDER IRC § 368(a)(1)(F)**

This Agreement and Plan of Reorganization (“**Agreement**”) is dated as of [\_\_\_\_\_, 2019] (“**Effective Date**”) by and among MGTF RADIO COMPANY, LLC., a Missouri limited liability company (“**Target**”); MGTF HOLDCO, LLC, a Delaware limited liability company (“**Holdco**”); MICHAEL J. FRISCHLING, GREGG J. FRISCHLING, and TODD FRISCHLING (collectively the “**Member Group**”); and BENEFIT STREET PARTNERS, a Delaware limited liability company (“**Lender**”). The unit holders within the Member Group shall individually be referred to as a “**Member**” from time to time.

**RECITALS**

- A.** The Member Group owns all of the issued and outstanding units of Target.
- B.** Since its organization on June 3, 2014, Target has been engaged in, among other things, the operation of a radio advertising business (the “**Business**”).
- C.** The [Managers and Member Group] of Target, with the authorization of the Trustee in Bankruptcy of the United States Bankruptcy Court of the Eastern District of Missouri, Eastern Division (“**Trustee in Bankruptcy**”), have determined that it would be in the best interests of Target to form HoldCo and contribute the Member Group’s units in Target to HoldCo, primarily for the purposes of enhancing the success of the Business and refinancing debt of Target.
- D.** The Member Group has agreed to accept the issuance of all of the shares of HoldCo in exchange for the Member Group’s units in Target and in the same proportionate share as each Member owned in Target.
- E.** The result of the reorganization contemplated by this Agreement is intended to be that of an “F” reorganization of Target pursuant to Internal Revenue Code (the “**Code**”) Section 368(a)(1)(F) and following the model established by Revenue Ruling (Rev. Rul.) 2008-18. As a result of these steps, the Member Group will own 100% of the issued and outstanding units of HoldCo and Target, with the Member Group thereby continuing to actively conduct the Business and refinance the debt of Target.
- F.** Pursuant to this Agreement and the plan of reorganization approved by the Trustee in Bankruptcy, Lender shall be the creditor of new debt in Target in exchange for a portion of the prior debt of Target (as a result of the contribution of Target) after which Target shall issue 33% of the membership interests in Target to the Lender in exchange for the remaining portion of the prior debt of Target. As a result of the distribution of 33% of the membership interests in Target to Lender, Target becomes regarded as a partnership for federal income tax purposes in accordance with Rev. Rul. 99-5.
- G.** The result of the “F” reorganization and refinancing of debt, as well as the new ownership of Lender in Target pursuant to this Agreement, as approved by the Trustee in Bankruptcy, is that the Member Group will indirectly own 67% of the membership interests in Target and Lender will directly own 33% of the membership interests in Target.

**AGREEMENT**

In consideration of the matters described above, and of the mutual benefits and obligations set forth in this Agreement, the parties agree as follows:

- 1. Intent of Parties.** The parties intend that the transactions contemplated by this Agreement will qualify as a tax-free “F” reorganization, in which (A) a new limited liability company, HoldCo, is formed and, (B) effective on the date after the contribution of the units of the Target into HoldCo, a “check the box” election is

---

<sup>1</sup> Confirm corporate authority.

made to treat Target as a disregarded entity for income tax purposes, (C) a portion of the historic debt of Target is exchanged for new debt of Target, then (D) 33% of the membership interests in Target are issued to Lender in exchange for a portion of the historic debt of Target, resulting in Target becoming a partnership for US federal income tax purposes pursuant to Rev. Rul. 99-5. The parties agree (i) not to take actions inconsistent with the foregoing except as required by law, and (ii) to take all actions necessary or desirable to effectuate such treatment by the applicable taxing authorities.

2. **Formation of HoldCo and Contribution of Stock.** Holdco was organized on [\_\_\_\_\_, 2019], for the purpose of accomplishing the intended transactions of the parties as set forth in this Agreement. Effective as of [11:59 P.M. Central Time as of \_\_\_\_\_, 2019] (the “**Closing Date**”), the Member Group shall contribute all of its units in Target to HoldCo, pursuant to a Contribution Agreement among each Member in the Member Group and HoldCo, dated as of the Closing Date.

3. **Check the Box Election by Target.** Effective on the date after the contribution of the Member Group’s units in Target to Holdco, Target will make a “check the box” election to treat Target as a disregarded entity for income tax purposes, in accordance with Section 368(a)(1)(F) of the Code and Rev. Rul. 2008-18.

4. **Membership Interest Purchase by Lender in Target.** After the effective time of the “check the box” election of Target, Target shall (a) issue, in exchange for a portion of the historic debt of Target, new debt of Target, and then (b) issue, in exchange for a portion of the historic debt of Target, 33% of its membership interests to Lender.

5. **Election Under Section 754 of the Code.** After a period of time has passed after the distribution of 33% of the membership interest in Target to Lender, Target shall make an election under Section 754 of the Code.

6. **Representations of Target.** Target represents and warrants:

- (a) this Agreement and the documents referenced herein have been approved and accepted by the Members and Managers of Target in accordance with its Articles of Organization and Operating Agreement;
- (b) neither the execution and delivery of this Agreement nor the consummation of the transactions contemplated hereby will violate the terms of any contract or other agreement to which Target is a party, and, except for the Trustee in Bankruptcy, no consent or approval of any other party or any governmental or regulatory body is required to consummate the transactions contemplated hereby;
- (c) the assets of the Business are all of the assets needed for the operation of the Business;
- (d) the ownership of Target is comprised of [INSERT AMOUNT] units, which have been duly authorized and validly issued and is owned beneficially and of record by the Members, with Member Group owning 100% of the units, and
- (e) this Agreement has been duly and validly executed and delivered by Target and constitutes a legal, valid and binding obligation of Target, enforceable against Target in accordance with its terms.

7. **Representations of HoldCo.** HoldCo represents and warrants:

- (a) this Agreement has been approved and accepted by the members and managers of HoldCo in accordance with its Articles of Organization and Operating Agreement;
- (b) neither the execution and delivery of this Agreement nor the consummation of the transactions contemplated hereby will violate the terms of any contract or other agreement to which HoldCo is

a party, and, except for the Trustee in Bankruptcy, no consent or approval of any other party or any governmental or regulatory body is required to consummate the transactions contemplated hereby;

- (c) After the Closing Date, the Member Group will own 100% of the units of HoldCo and possesses good and marketable title to all of the issued and outstanding shares of HoldCo;
- (d) [Except as restrictions might be established by the Trustee in Bankruptcy,] the units of HoldCo are freely assignable and transferable, and there are no existing liens, security interests or encumbrances of any kind or nature relating to any of the units of HoldCo, and
- (e) this Agreement has been duly and validly executed and delivered by HoldCo and constitutes a legal, valid and binding obligation of HoldCo, enforceable against HoldCo in accordance with its terms.

**8. Representations of Members.** Each Member represents and warrants:

- (a) neither the execution and delivery of this Agreement nor the consummation of the transactions contemplated hereby will violate the terms of any will, trust, contract or other agreement to which Member is a party, and, except for the Trustee in Bankruptcy, no consent or approval of any other party or any governmental or regulatory body is required to consummate the transactions contemplated hereby;
- (b) that each Member's representations relied upon to qualify the transaction contemplated in this Agreement are true and correct, and
- (c) this Agreement has been duly and validly executed and delivered by each Member and constitutes a legal, valid and binding obligation of each Member, enforceable against each Member in accordance with its terms.

**9. Representation of Lender.** The Lender represents and warrants:

- (a) neither the execution and delivery of this Agreement nor the consummation of the transactions contemplated hereby will violate the terms of any will, trust, contract or other agreement to which Lender is a party, and, except for the Trustee in Bankruptcy, no consent or approval of any other party or any governmental or regulatory body is required to consummate the transactions contemplated hereby, and
- (b) this Agreement has been duly and validly executed and delivered by the Lender and constitutes a legal, valid and binding obligation of the Lender, enforceable against the Lender in accordance with its terms.

**10. Confidentiality.** Except as set forth in Section 14, and except as to any attorney or representative either party chooses to consult regarding this Agreement or as otherwise required by law or if required for the purpose of properly responding to a request by a government authority (including but not limited to the Trustee in Bankruptcy), the parties agree not to disclose any information regarding the substance of this Agreement, the transactions contemplated hereunder or the information set forth in the ancillary documents relating to the transactions contemplated hereunder, or the financial and business information of Target, HoldCo, the Member Group, Lender or the Business. The parties' respective obligations under this Section 10 shall survive the closing of all of the transactions contemplated hereunder.

**11. Amendment and Modification.** No amendment, modification, supplement, termination, consent or waiver of any provision of this Agreement, nor consent to any departure therefrom, will in any event be effective unless the same is in writing and is signed by the party against whom enforcement of the same is sought. Any

waiver of any provision of this Agreement and any consent to any departure from the terms of any provision of this Agreement is to be effective only in the specific instance and for the specific purpose for which given.

**12. Counterparts.** This Agreement may be executed by the parties on any number of separate counterparts, and all such counterparts so executed constitute one agreement binding on all the parties notwithstanding that all the parties are not signatories to the same counterpart.

**13. Execution of Counterparts.** For purposes of this Agreement, a document (or signature page thereto) signed and transmitted by facsimile machine or electronic mail or with an electronic signature is to be treated as an original document. The signature of any party thereon, for purposes hereof, is to be considered as an original signature, and the document transmitted is to be considered to have the same binding effect as an original signature on an original document. At the request of any party, any facsimile or electronic mail version of this document is to be re-executed in original form by the parties who executed the facsimile or electronic mail document. No party may raise the use of a facsimile machine or electronic mail or the fact that any signature was transmitted through the use of a facsimile machine or electronic mail or with an electronic signature as a defense to the enforcement of this Agreement or any amendment or other document executed in compliance with this Section 13.

**14. Entire Agreement.** This Agreement constitutes the entire agreement among the parties pertaining to the subject matter hereof and supersedes all prior agreements, letters of intent, memorandums of understandings, negotiations, understandings, and discussions of the parties, whether oral or written.

**15. Further Assurances.** The parties will execute and deliver such further instruments and do such further acts and things as may be required to carry out the intent and purpose of this Agreement.

**16. Publicity.** It is the intention of the parties to use reasonable efforts to reach agreement on the wording of any news releases or other public announcements by Target, HoldCo, the Member Group, Lender or any of their respective affiliates, pertaining to this Agreement. In the absence of circumstances requiring otherwise, any such releases or public announcements shall be submitted to the other party for its comment and approval prior to release.

**17. Legal Fees.** In the event any party brings suit to construe or enforce the terms hereof, or raises this Agreement as a defense in a suit brought by another party, the prevailing party is entitled to recover its attorneys' fees and expenses.

**18. Assignment; Successor and Assigns.** Neither this Agreement nor any of the rights, interests or obligations hereunder shall be assigned by any of the parties hereto (whether by operation of law or otherwise) without the prior written consent of the other parties. All provisions of this Agreement are binding upon, inure to the benefit of, and are enforceable by or against, the parties and their respective heirs, executors, administrators or other legal representatives and permitted successors and assigns.

**19. Governing Law.** This Agreement and the rights and obligations of the parties hereunder are to be governed by and construed and interpreted in accordance with the laws of the State of Delaware applicable to contracts made and to be performed wholly within Delaware, without regard to choice or conflict of laws rules.

*[signature page follows]*

WHEREFORE, the parties have executed this Agreement as of the Effective Date.

**“TARGET”:**

MGTF RADIO COMPANY, LLC

By\_\_\_\_\_

Print Name:\_\_\_\_\_

Title:\_\_\_\_\_

**“HOLDCO”:**

MGTF HOLDCO, LLC

By\_\_\_\_\_

Print Name:\_\_\_\_\_

Title:\_\_\_\_\_

**“THE MEMBER GROUP”:**

\_\_\_\_\_  
MICHAEL J. FRISCHLING

\_\_\_\_\_  
GREGG J. FRISCHLING

\_\_\_\_\_  
TODD FRISCHLING

**“LENDER”:**

BENEFIT STREET PARTNERS, LLC

By\_\_\_\_\_

Print Name:\_\_\_\_\_

Title:\_\_\_\_\_

*[remainder of page intentionally left blank]*

**AGREEMENT AND PLAN OF REORGANIZATION  
UNDER IRC § 368(a)(1)(F)**

This Agreement and Plan of Reorganization (“**Agreement**”) is dated as of [REDACTED], 2019 (“**Effective Date**”) by and among WPNT, INC., a Pennsylvania corporation (“**Target**”); WPNT HOLDCO, Inc., a Delaware corporation (“**Holdco**”); WPNT, LLC, a Delaware limited liability company (“**Survivor**”); SAUL M. FRISCHLING, MICHAEL J. FRISCHLING, GREGG J. FRISCHLING, and TODD FRISCHLING (collectively the “**Shareholder Group**”); and BENEFIT STREET PARTNERS, a Delaware limited liability company (“**Lender**”). The shareholders within the Shareholder Group shall individually be referred to as a “**Shareholder**” from time to time.

**RECITALS**

**A.** The Shareholder Group owns all of the issued and outstanding shares of Target.

**B.** Since its incorporation on January 26, 1984, Target has been engaged in, among other things, the operation of virtual channel 22 and is a MyNetworkTV-affiliated television station originally based in Pittsburgh, Pennsylvania (the “**Business**”).

**C.** The [REDACTED] Board of Directors and Shareholder Group<sup>1</sup> of Target, with the authorization of the Trustee in Bankruptcy of the United States Bankruptcy Court of the Eastern District of Missouri, Eastern Division (“**Trustee in Bankruptcy**”), have determined that it would be in the best interests of Target to form HoldCo and contribute the Shareholder Group’s stock in Target to HoldCo, and then convert Target into Survivor, primarily for the purposes of enhancing the success of the Business and refinancing debt of Target.

**D.** The Shareholder Group has agreed to accept the issuance of all of the shares of HoldCo in exchange for the Shareholder Group’s shares in Target and in the same proportionate share as each Shareholder owned in Target.

**E.** The result of the reorganization contemplated by this Agreement is intended to be that of an “F” reorganization of Target pursuant to Internal Revenue Code (the “**Code**”) Section 368(a)(1)(F) and following the model established by Revenue Ruling (Rev. Rul.) 2008-18. As a result of these steps, the Shareholder Group will own 100% of the issued and outstanding stock of HoldCo and Target converts into Survivor, with the Shareholder Group thereby continuing to actively conduct the Business and refinance the debt of Target through Survivor.

**F.** Pursuant to this Agreement and the plan of reorganization approved by the Trustee in Bankruptcy, Lender shall be the creditor of new debt in Survivor in exchange for a portion of the prior debt of Survivor (as a result of the conversion of Target) after which Survivor shall issue 33% of the membership interests in Survivor to the Lender in exchange for the remaining portion of the prior debt of Survivor. As a result of the distribution of 33% of the membership interests in Survivor to Lender, Survivor becomes regarded as a partnership for federal income tax purposes in accordance with Rev. Rul. 99-5.

**G.** The result of the “F” reorganization and refinancing of debt, as well as the new ownership of Lender in Survivor pursuant to this Agreement, as approved by the Trustee in Bankruptcy, is that the Shareholder Group will indirectly own 67% of the membership interests in Survivor and Lender will directly own 33% of the membership interests in Survivor.

---

<sup>1</sup> Confirm corporate authority.



## AGREEMENT

In consideration of the matters described above, and of the mutual benefits and obligations set forth in this Agreement, the parties agree as follows:

1. **Intent of Parties.** The parties intend that the transactions contemplated by this Agreement will qualify as a tax-free “F” reorganization, in which (A) a new corporation, HoldCo, and a new limited liability company, Survivor, are formed and, (B) effective immediately after the contribution of the stock of the Target into HoldCo, a Qualified Subchapter S Subsidiary (QSub) election is made to treat Target as a disregarded entity for income tax purposes, then (C) Target converts into Survivor and, (D) a portion of the historic debt of Survivor is exchanged for new debt of Survivor and, finally (E) 33% of the membership interests in Survivor are issued to Lender in exchange for a portion of the historic debt of Survivor, resulting in Survivor becoming a partnership for US federal income tax purposes pursuant to Rev. Rul. 99-5. The parties agree (i) not to take actions inconsistent with the foregoing except as required by law, and (ii) to take all actions necessary or desirable to effectuate such treatment by the applicable taxing authorities.
2. **Formation of HoldCo and Contribution of Stock.** Holdco was incorporated on [\_\_\_\_\_, 201\_\_\_\_], for the purpose of accomplishing the intended transactions of the parties as set forth in this Agreement. Effective as of [11:59 P.M. Central Time as of \_\_\_\_\_, 2019] (the “**Closing Date**”), the Shareholder Group shall contribute all of its shares of stock in Target to HoldCo, pursuant to a Contribution Agreement among each Shareholder in the Shareholder Group and HoldCo, dated as of the Closing Date.
3. **QSub Election by Target.** Effective immediately after the contribution of the Shareholder Group’s stock in Target to Holdco, Target will make a Qualified Subchapter S Subsidiary (“**QSub**”) election to treat Target as a disregarded entity for income tax purposes, in accordance with Section 368(a)(1)(F) of the Code and Rev. Rul. 2008-18.
4. **Conversion of Target.** After the effective time of Target’s QSub election, pursuant to 15 Pa.C.S.A. §351(a)(3) and 6 DE Code §18-214 (2012 through 146th Gen Ass), Target converts into Survivor pursuant to a Statement of Conversion and in accordance with applicable state statutes governing the conversion of the entities, such that all of the assets, enforceable debts, obligations and liabilities of Target shall vest and devolve on the Survivor.
5. **Membership Interest Purchase by Lender in Survivor.** After the effective time of the conversion of Target, Survivor shall (a) issue, in exchange for a portion of the historic debt of Survivor, new debt of Survivor, and then (b) issue, in exchange for a portion of the historic debt of survivor, 33% of its membership interests to Lender.
6. **Election Under Section 754 of the Code.** After a period of time has passed after the distribution of 33% of the membership interest in Survivor to Lender, Survivor shall make an election under Section 754 of the Code.
7. **Representations of Target.** Target represents and warrants:
  - (a) this Agreement and the documents referenced herein have been approved and accepted by the Shareholders and Board of Directors of Target in accordance with its Articles of Incorporation and Bylaws;
  - (b) neither the execution and delivery of this Agreement nor the consummation of the transactions contemplated hereby will violate the terms of any contract or other agreement to which Target is a party, and, except for the Trustee in Bankruptcy, no consent or approval of any other party or any governmental or regulatory body is required to consummate the transactions contemplated hereby;

- (c) [Except for assets under the control of the Trustee in Bankruptcy,] Target has good and marketable title to all assets to be transferred to Survivor and all such assets will be transferred on the effective date of the conversion of Target and as such filings are accepted by applicable state offices in accordance with applicable state statutes;
- (d) the assets of the Business transferred to Survivor as a result of the conversion of Target are all of the assets needed for the operation of the Business;
- (e) the capital stock of Target is comprised of 100 Shares, which have been duly authorized and validly issued and are owned beneficially and of record by the Shareholders, with Shareholder Group owning 100 voting shares, and
- (f) this Agreement has been duly and validly executed and delivered by Target and constitutes a legal, valid and binding obligation of Target, enforceable against Target in accordance with its terms.

**8. Representations of HoldCo.** HoldCo represents and warrants:

- (a) this Agreement has been approved and accepted by the shareholder and board of directors of HoldCo in accordance with its Articles of Incorporation and Bylaws;
- (b) neither the execution and delivery of this Agreement nor the consummation of the transactions contemplated hereby will violate the terms of any contract or other agreement to which HoldCo is a party, and, except for the Trustee in Bankruptcy, no consent or approval of any other party or any governmental or regulatory body is required to consummate the transactions contemplated hereby;
- (c) After the Closing Date, the Shareholder Group will own 100% of the common stock of HoldCo and possesses good and marketable title to all of the issued and outstanding shares of HoldCo;
- (d) [Except as restrictions might be established by the Trustee in Bankruptcy,] the shares of HoldCo are freely assignable and transferable, and there are no existing liens, security interests or encumbrances of any kind or nature relating to any of the shares of HoldCo, and
- (e) this Agreement has been duly and validly executed and delivered by HoldCo and constitutes a legal, valid and binding obligation of HoldCo, enforceable against HoldCo in accordance with its terms.

**9. Representations of Shareholders.** Each Shareholder represents and warrants:

- (a) neither the execution and delivery of this Agreement nor the consummation of the transactions contemplated hereby will violate the terms of any will, trust, contract or other agreement to which Shareholder is a party, and, except for the Trustee in Bankruptcy, no consent or approval of any other party or any governmental or regulatory body is required to consummate the transactions contemplated hereby;
- (b) that each Shareholder's representations relied upon to qualify the transaction contemplated in this Agreement are true and correct, and
- (c) this Agreement has been duly and validly executed and delivered by each Shareholder and constitutes a legal, valid and binding obligation of each Shareholder, enforceable against each Shareholder in accordance with its terms.

10. **Representation of Lender.** The Lender represents and warrants:
- (a) neither the execution and delivery of this Agreement nor the consummation of the transactions contemplated hereby will violate the terms of any will, trust, contract or other agreement to which Lender is a party, and, except for the Trustee in Bankruptcy, no consent or approval of any other party or any governmental or regulatory body is required to consummate the transactions contemplated hereby, and
  - (b) this Agreement has been duly and validly executed and delivered by the Lender and constitutes a legal, valid and binding obligation of the Lender, enforceable against the Lender in accordance with its terms.
11. **Confidentiality.** Except as set forth in Section 17, and except as to any attorney or representative either party chooses to consult regarding this Agreement or as otherwise required by law or if required for the purpose of properly responding to a request by a government authority (including but not limited to the Trustee in Bankruptcy), the parties agree not to disclose any information regarding the substance of this Agreement, the transactions contemplated hereunder or the information set forth in the ancillary documents relating to the transactions contemplated hereunder, or the financial and business information of Target, HoldCo, the Shareholder Group, Lender or the Business. The parties' respective obligations under this Section 11 shall survive the closing of all of the transactions contemplated hereunder.
12. **Amendment and Modification.** No amendment, modification, supplement, termination, consent or waiver of any provision of this Agreement, nor consent to any departure therefrom, will in any event be effective unless the same is in writing and is signed by the party against whom enforcement of the same is sought. Any waiver of any provision of this Agreement and any consent to any departure from the terms of any provision of this Agreement is to be effective only in the specific instance and for the specific purpose for which given.
13. **Counterparts.** This Agreement may be executed by the parties on any number of separate counterparts, and all such counterparts so executed constitute one agreement binding on all the parties notwithstanding that all the parties are not signatories to the same counterpart.
14. **Execution of Counterparts.** For purposes of this Agreement, a document (or signature page thereto) signed and transmitted by facsimile machine or electronic mail or with an electronic signature is to be treated as an original document. The signature of any party thereon, for purposes hereof, is to be considered as an original signature, and the document transmitted is to be considered to have the same binding effect as an original signature on an original document. At the request of any party, any facsimile or electronic mail version of this document is to be re-executed in original form by the parties who executed the facsimile or electronic mail document. No party may raise the use of a facsimile machine or electronic mail or the fact that any signature was transmitted through the use of a facsimile machine or electronic mail or with an electronic signature as a defense to the enforcement of this Agreement or any amendment or other document executed in compliance with this Section 14.
15. **Entire Agreement.** This Agreement constitutes the entire agreement among the parties pertaining to the subject matter hereof and supersedes all prior agreements, letters of intent, memorandums of understandings, negotiations, understandings, and discussions of the parties, whether oral or written.
16. **Further Assurances.** The parties will execute and deliver such further instruments and do such further acts and things as may be required to carry out the intent and purpose of this Agreement.
17. **Publicity.** It is the intention of the parties to use reasonable efforts to reach agreement on the wording of any news releases or other public announcements by Target, HoldCo, Survivor, the Shareholder Group, Lender or any of their respective affiliates, pertaining to this Agreement. In the absence of circumstances

requiring otherwise, any such releases or public announcements shall be submitted to the other party for its comment and approval prior to release.

**18. Legal Fees.** In the event any party brings suit to construe or enforce the terms hereof, or raises this Agreement as a defense in a suit brought by another party, the prevailing party is entitled to recover its attorneys' fees and expenses.

**19. Assignment; Successor and Assigns.** Neither this Agreement nor any of the rights, interests or obligations hereunder shall be assigned by any of the parties hereto (whether by operation of law or otherwise) without the prior written consent of the other parties. All provisions of this Agreement are binding upon, inure to the benefit of, and are enforceable by or against, the parties and their respective heirs, executors, administrators or other legal representatives and permitted successors and assigns.

**20. Governing Law.** This Agreement and the rights and obligations of the parties hereunder are to be governed by and construed and interpreted in accordance with the laws of the State of Delaware applicable to contracts made and to be performed wholly within Delaware, without regard to choice or conflict of laws rules.

*[signature page follows]*

WHEREFORE, the parties have executed this Agreement as of the Effective Date.

**“TARGET”:**

WPNT, INC.

By \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

**“HOLDCO”:**

WPNT HOLDCO, INC.

By \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

**“THE SHAREHOLDER GROUP”:**

\_\_\_\_\_  
SAUL M. FRISCHLING

\_\_\_\_\_  
MICHAEL J. FRISCHLING

\_\_\_\_\_  
GREGG J. FRISCHLING

\_\_\_\_\_  
TODD FRISCHLING

**“LENDER”:**

BENEFIT STREET PARTNERS, LLC

By \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

*[remainder of page intentionally left blank]*

## STOCK CONTRIBUTION AGREEMENT

This Stock Contribution Agreement (“**Agreement**”) is dated as of [ ], 2019 [ ] (the “**Effective Date**”), by and among WPNT HOLDCO, INC., a Delaware corporation (“**Company**”); and SAUL M. FRISCHLING, MICHAEL J. FRISCHLING, GREGG J. FRISCHLING, and TODD FRISCHLING (collectively the “**Shareholder Group**”). The shareholders within the Shareholder Group shall individually be referred to as a “**Shareholder**” from time to time.

- A. The Shareholder Group owns all of the issued and outstanding shares of the common stock, [ ]\$\_\_\_\_.00 par value [ ], of WPNT, Inc., a Pennsylvania corporation (“**WPNT**”).
- B. The Company was formed on [ ], 2019 [ ].
- C. Subject to the terms and conditions set forth herein, and simultaneously with the formation of the Company, each Shareholder in the Shareholder Group wishes to contribute all of his, her or its respective stock in WPNT to the Company as an initial capital contribution in return for the issuance of stock in Company.
- D. The contribution pursuant to this Agreement is intended to be a part of an “F” reorganization of WPNT for US federal income tax purposes.

**NOW, THEREFORE**, in consideration of the mutual promises and agreements herein contained, the delivery, receipt, adequacy and sufficiency of which is hereby acknowledged, the parties hereto hereby agree as follows:

### ARTICLE 1

#### CONTRIBUTION OF STOCK OF WPNT, INC.; ISSUANCE OF STOCK BY COMPANY; CAPITAL CONTRIBUTION

**1.1 Contribution of Stock in WPNT.** As of the Effective Date and in exchange for shares of the Company, the Shareholder Group hereby contributes, grants, assigns, transfer, and delivers unto Company, and Company hereby accepts from the Shareholder Group, all of the Shareholder Group’s right, title and interest in and to the 100 shares of common stock of WPNT, [ ]\$\_\_\_\_.00 par value [ ], owned by owned by the Shareholder Group, which constitutes 100% of the issued and outstanding shares of common stock in WPNT.

**1.2 Capital Contribution.** Effective as of the date hereof, Company shall reflect the contribution of the common stock of WPNT by the Shareholder Group to Company as a capital contribution in exchange for shares of the Company on its books and records.

**1.3 Deliveries to Effectuate the Transaction.**

- (a) On or before the Effective Date, each Shareholder of the Shareholder Group shall have executed and delivered or caused to be delivered their respective certificates of common stock in WPNT, duly endorsed and accompanied by stock powers executed in blank.
- (b) The parties hereto hereby agree to, from time to time, upon reasonable request, execute and deliver such other instruments of conveyance and transfer and take such other actions as may be reasonably necessary to more effectively consummate the transactions contemplated hereby.

**1.4 Closing.** The transactions contemplated hereby shall be closed and effective as of the Effective Date.

## **ARTICLE 2**

### **REPRESENTATIONS AND WARRANTIES OF THE SHAREHOLDER GROUP**

Each Shareholder in the Shareholder Group hereby makes the following representations and warranties to Company, which are true, accurate and complete at the date hereof:

**2.1 Ownership.** Each Shareholder in the Shareholder Group is the lawful record owner of his, her or its respective shares of common stock of WPNT, has good title to such stock free and clear of any and all liens, encumbrances, security agreements, equities, options, claims or charges. Except as established by the Trustee in Bankruptcy, there are no existing options, calls or commitments of any character whatsoever, or agreements to grant the same, relating to such shares.

**2.3 Authority; Litigation.** Each of the Shareholders in the Shareholder Group has the power and authority to execute and deliver this Agreement and to consummate the transactions contemplated hereby.

**2.4 No Violations.** The consummation of the transactions contemplated by this Agreement will not result in or constitute a default or event that, with notice, lapse of time or both, or the occurrence or non-occurrence of any other event would be a default, breach or violation of any contract, agreement, commitment, indenture, mortgage, deed of trust, or other agreement, instrument or arrangement to which any Shareholder in the Shareholder Group is a party.

## **ARTICLE 3**

### **REPRESENTATIONS AND WARRANTIES OF COMPANY**

Company hereby makes the following representations and warranties to the Shareholder Group, which are true, accurate and complete at the date hereof:

**3.1 Organization.** Company is a corporation duly formed, validly existing, and in good standing under the laws of the State of Delaware.

**3.2 Authority; Litigation.** Company has the power and authority to execute and deliver this Agreement and to consummate the transactions contemplated hereby. The execution and delivery by Company of this Agreement and all other documents necessary to consummate the transactions contemplated hereby, have been duly authorized; no other proceedings on the part of any other person or entity whether pursuant to the Articles of Incorporation or By-Laws of Company or by law or otherwise, are necessary to authorize Company to enter into this Agreement and all other documents necessary to consummate the transactions contemplated hereby. There are no actions, suits or proceedings pending or, to Company's current actual knowledge, threatened before or by any court, arbitrator or governmental body against or involving Company or its affiliates or affecting this Agreement or the transactions contemplated hereby which, individually or in the aggregate, if adversely determined, might have a materially adverse effect on the validity of this Agreement.

**3.3 No Violations.** The consummation of the transactions contemplated by this Agreement will not result in or constitute a default or event that, with notice, lapse of time or both, or the occurrence or non-occurrence of any other event would be a default, breach or violation of any contract, agreement, commitment, indenture,



mortgage, deed of trust, or other agreement, instrument or arrangement to which Company or its affiliates is a party.

#### **ARTICLE 4**

##### **MISCELLANEOUS**

**4.1 Notice.** Any notices given under this Agreement shall be deemed to be effectively given when delivered personally, or one day after sent, postage prepaid, by a nationally recognized air courier that guarantees overnight delivery, or three days after placed in the United States mail, postage prepaid, certified or registered mail, to the address of such party as maintained in the corporate records of Company.

**4.2 Waiver of Compliance; Consents.** Any failure of a party to comply with any obligation, covenant, agreement, or condition herein may be waived by the party entitled to the benefit thereof; provided, however, such waiver or failure to insist upon strict compliance with such obligation, covenant, agreement or condition shall not operate as a waiver of, or estoppel with respect to, any subsequent or other failure. Whenever this Agreement requires or permits consent by or on behalf of any party hereto, such consent shall be given in writing (unless otherwise provided in this Agreement).

**4.3 Counsel Fees and Expenses.** If any party breaches this Agreement, then the non-breaching party(ies) shall be entitled to receive from the breaching party the reasonable costs and expenses of enforcing this Agreement (including reasonable attorneys' fees and costs).

**4.4 Entire Agreement; Severability.** This Agreement supersedes all prior negotiations between the parties hereto and contains the entire understanding between them. It may be modified only by a writing duly executed by each of the parties hereto or their successors or assigns. If any provision of this Agreement shall be determined to be contrary to law and unenforceable by any court of law, the remaining provisions shall be severable and enforceable in accordance with their terms.

**4.5 Assignment.** This Agreement shall not be assignable by any party. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and to their respective successors and permitted assigns.

**4.6 Counterparts.** This Agreement may be executed by the parties on any number of separate counterparts, and all such counterparts so executed constitute one agreement binding on all the parties notwithstanding that all the parties are not signatories to the same counterpart.

**4.7 Execution of Counterparts.** For purposes of this Agreement, a document (or signature page thereto) signed and transmitted by facsimile machine or electronic mail or with an electronic signature is to be treated as an original document. The signature of any party thereon, for purposes hereof, is to be considered as an original signature, and the document transmitted is to be considered to have the same binding effect as an original signature on an original document. At the request of any party, any facsimile or electronic mail version of this document is to be re-executed in original form by the parties who executed the facsimile or electronic mail document. No party may raise the use of a facsimile machine or electronic mail or the fact that any signature was transmitted through the use of a facsimile machine or electronic mail or with an electronic signature as a defense to the enforcement of this Agreement or any amendment or other document executed in compliance with this Section 4.7.

**4.8 Governing Law.** This Agreement and all rights and obligations of the parties shall be governed, construed and interpreted under and pursuant to the laws of the State of Delaware without regard to its conflicts or choice of laws provisions.

*[signature page follows]*

**SIGNATURE PAGE TO**  
**CONTRIBUTION AGREEMENT**

IN WITNESS WHEREOF, the foregoing agreement has been executed and delivered as of the date first set forth above.

**“COMPANY”**

WPNT HOLDCO, INC.

By \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

**“SHAREHOLDER GROUP”**

\_\_\_\_\_  
SAUL M. FRISCHLING

\_\_\_\_\_  
MICHAEL J. FRISCHLING

\_\_\_\_\_  
GREGG J. FRISCHLING

\_\_\_\_\_  
TODD FRISCHLING

*[remainder of page intentionally left blank]*

THE SALE OF UNITS IN THE COMPANY HAS NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE “SECURITIES ACT”), OR QUALIFIED UNDER ANY STATE SECURITIES LAWS IN RELIANCE UPON EXEMPTIONS THEREFROM. THE MEMBERSHIP INTERESTS MAY NOT BE OFFERED OR SOLD ABSENT AN EFFECTIVE REGISTRATION UNDER THE SECURITIES ACT AND QUALIFICATION UNDER SUCH STATE SECURITIES LAWS, UNLESS EXEMPTIONS FROM SUCH REGISTRATION AND QUALIFICATION REQUIREMENTS ARE AVAILABLE. THE COMPANY HAS THE RIGHT TO REQUIRE ANY POTENTIAL TRANSFEROR OF UNITS IN THE COMPANY TO DELIVER AN OPINION OF COUNSEL ACCEPTABLE TO THE COMPANY PRIOR TO ANY TRANSFER TO THE EFFECT THAT AN EXEMPTION FROM REGISTRATION AND QUALIFICATION IS AVAILABLE FOR SUCH TRANSFER. ADDITIONAL SUBSTANTIAL RESTRICTIONS ON TRANSFER OF THE UNITS ARE SET FORTH IN THIS AGREEMENT.

AMENDED AND RESTATED  
LIMITED LIABILITY COMPANY AGREEMENT  
OF  
MGTF RADIO COMPANY, LLC  
Dated as of \_\_\_\_\_, 2019

[NTD: Certain provisions herein are open to discussions of the parties, regardless of whether such provisions are flagged herein.]

**AMENDED AND RESTATED**  
**LIMITED LIABILITY COMPANY AGREEMENT**  
**OF**  
**MGTF RADIO COMPANY, LLC**

This Amended and Restated Limited Liability Company Agreement (this “Agreement”) of MGTF RADIO COMPANY, LLC, a Delaware limited liability company (the “Company”), dated as of \_\_\_\_\_, 2019 (the “Effective Date”), is made by and among the Members, and amends and restates in its entirety that certain Operating Agreement of the Company dated effective as of June 3, 2014, as amended from time to time.

In consideration of the mutual covenants contained in this Agreement, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Members agree as follows:

**ARTICLE I**  
**ARTICLE I DEFINITIONS**

**1.1. Definitions.** In addition to the terms defined elsewhere in this Agreement, the following terms shall have the indicated meaning:

“Act” means the Delaware Limited Liability Company Act, as amended from time to time.

“Additional Equity Issuance Trigger” means, on any date of measurement, either: (a) the LTM Adjusted EBITDA of the Company and WPNT on a consolidated basis is less than .1125 multiplied by the Implied Total Enterprise Value; or (b) the Unrestricted Cash of the Company and WPNT on a consolidated basis is less than .00625 multiplied by the Implied Total Enterprise Value.

“Additional Equity Issuance Trigger Date” means the last day of any Calendar Quarter with respect to which an Additional Equity Issuance Trigger occurs. Notwithstanding the foregoing, in the event that the Frischling Member Group believes that the Company will: (a) have an Additional Equity Issuance Trigger on the last day of any Calendar Quarter or (b) fail to comply on the last day of any Calendar Quarter with the requirements of the financial covenants set forth in any loan documents for the Loan, then the Frischling Member Group shall have the right to make cash contributions to the Company with respect to such Calendar Quarter in accordance with Section 6.20(e) of the Credit Agreement (such amount contributed, the “Cure Amount”), subject to all terms and conditions set forth therein. Notwithstanding any other provision herein, the payment of any Cure Amount by the Frischling Member Group shall be deemed to be a permitted Capital Contribution by such payor(s) but under no circumstance shall any such payment entitle the Frischling Member Group to any additional Units or Equity Securities on account of any Cure Amount.

“Additional Equity Securities” means Equity Securities other than (a) Equity Securities issued on the Effective Date or in accordance with the specific terms of this Agreement (including

Section 2.7(b)); (b) Equity Securities issued as a distribution or upon any subdivision or split of any Equity Securities; (c) Equity Securities issued in connection with the merger, consolidation, acquisition or similar business combination involving the Company and approved by the Board; (d) Equity Securities issued as consideration paid to a Person in connection with the initial capitalization of a joint venture or similar strategic arrangement; and (e) Equity Securities constituting Units issued to officers, employees, Directors, and any other service providers to the Company or any Subsidiary in connection with any equity incentive plan or other arrangement approved by the Board and by a Class A Member Majority.

“Additional Transferred Consideration” is defined in Section 11.2(g).

“Adjusted Capital Account Deficit” means, with respect to any Member, a deficit balance in such Member’s Capital Account as of the end of the fiscal year after giving effect to the following adjustments: (a) Credit to such Capital Account the additions, if any, permitted by Treasury Regulations §§ 1.704- 1(b)(2)(ii)(c) (referring to obligations to restore a capital account deficit), 1.704-2(g)(1) (referring to “partnership minimum gain”) and 1.704-2(i)(5) (referring to a partner’s share of “partner nonrecourse debt minimum gain”), and (b) Debit to such Capital Account the items described in §§ 1.704-1(b)(2)(ii)(d)(4), (5) and (6) of the Treasury Regulations. This definition of Adjusted Capital Account Deficit is intended to comply with the provisions of Treasury Regulation § 1.704-1(b)(2)(ii)(d).

“Adjusted Properties” is defined in Section 9.2.

“Affiliate” means with respect to a Person, any other Person that, directly or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, such Person. As used in this definition, the word “control” means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a Person, whether through ownership of voting securities, by contract or otherwise.

“Agreement” is defined in the introductory paragraph.

“Applicable Rate” means the highest combined marginal ordinary income or capital gain, as the case may be, federal and state tax rates for an individual residing in the State of Pennsylvania.

“Approved Sale” is defined in Section 11.3(a).

“Available Cash” means, at any time of determination, the amount of cash and Cash Equivalents held by the Company, less such cash reserves deemed necessary by the Board in its discretion to pay on a timely basis the Company’s taxes.

“Bankruptcy” means, with respect to a Person, any of the following acts or events: (a) making an assignment for the benefit of creditors; (b) filing a voluntary petition in bankruptcy; (c) becoming the subject of an order for relief or being declared insolvent or bankrupt in any federal or state bankruptcy or insolvency proceeding; (d) filing a petition or answer seeking a reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief under any Law; (e) filing an answer or other pleading admitting or failing to contest the material allegations of a petition filed against it in a proceeding of the type described in clause (c) or (d) of

this definition; (f) making an admission in writing of an inability to pay debts as they mature; (g) giving notice to any governmental authority that insolvency has occurred, that insolvency is pending, or that operations have been suspended; (h) seeking, consenting to, or acquiescing in the appointment of a trustee, receiver, or liquidator of all or any substantial part of its properties; or (i) the expiration of 90 days after the date of the commencement of a proceeding against such Person seeking reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief under any Law if the proceeding has not been previously dismissed, or the expiration of 60 days after the date of the appointment, without such Person's consent or acquiescence, of a trustee, receiver, or liquidator of such Person or of all or any substantial part of such Person's properties, if the appointment has not previously been vacated or stayed, or the expiration of 60 days after the date of expiration of a stay, if the appointment has not been previously vacated.

"Board" is defined in Section 5.1(a).

"Board Observer" means a representative(s) appointed by a Lender Member Group Majority in accordance with Section 5.1(b). Any such Board Observer is hereby appointed until such time as he/she is removed from such appointment by a Lender Member Group Majority. Any such Board Observer shall be a non-voting representative and shall be permitted to attend all meetings of the Board in the capacity of a board observer and not a Board member or Director. The Board shall (a) give each Board Observer prior written notice of all such meetings, at the same time as notice is furnished to the Board Members, (b) provide to each Board Observer all material notices, documents and information furnished to the members of the Board in connection with each meeting, whether at or in anticipation of a meeting, an action by written consent or otherwise, at the same time as such materials are furnished to such members of the Board, and (c) provide to the Board Observer copies of the minutes of all such meetings at the same time as such minutes are furnished to the members of the Board.

"Breaching Holder" is defined in Section 11.4(c).

"Business Day" means any day other than a Saturday or Sunday or other day upon which banks are authorized or required to close in the State of Delaware.

"Business Opportunity Group" is defined in Section 6.6.

"Calendar Quarter" means each calendar quarter ending March 31, June 30, September 30 and December 31, commencing March 30, 2019. [DISCUSS]

"Capital Accounts" is defined in Section 10.2(a).

"Capital Contribution" means for any Member at the particular time in question the aggregate of the dollar amounts of any cash and Cash Equivalents contributed by such Member to the capital of the Company, plus the fair market value (as otherwise determined by the Board) of any property contributed by such Member to the capital of the Company.

"Carrying Value" The initial "Carrying Value" of property contributed to the Company by a Member means the value of such property at the time of contribution as determined in good faith by the Board. The initial Carrying Value of any other property shall be the adjusted basis of such property for federal income tax purposes at the time it is acquired by the Company. The initial

Carrying Value of a property shall be reduced (but not below zero) by all subsequent depreciation, cost recovery, depletion and amortization deductions with respect to such property as taken into account in determining profit and loss. The Carrying Value of any property shall be adjusted from time to time in accordance with Section 10.2(b) and Treasury Regulation § 1.704-1(b)(2)(iv)(m), and to reflect changes, additions or other adjustments to the Carrying Value for dispositions, acquisitions or improvements of Company properties, as deemed appropriate by the Board.

“Cash Equivalents” means, as to the Company: (a) investments in direct obligations of the United States of America or of any agency or instrumentality thereof whose obligations constitute full faith and credit obligations of the United States of America, *provided* that any such obligations shall mature within one year of the date of acquisition thereof; (b) investments in commercial paper rated at least P-1 by Moody’s or at least A-1 by S&P (or, if at any time neither Moody’s or S&P shall be rating such obligations, an equivalent rating from another nationally recognized rating service) maturing within one year of the date of issuance thereof; (c) certificates of deposit or bankers’ acceptances maturing within one year from the date of acquisition thereof and issued or accepted by any Lender or by any commercial bank organized under the laws of the United States of America or any state thereof or the District of Columbia that (i) is at least “adequately capitalized” (as defined in the regulations of its primary federal banking regulator) and (ii) has Tier 1 capital (as defined in such regulations) of not less than \$100,000,000; (d) investments in repurchase obligations with a term of not more than seven days for underlying securities of the types described in clause (a) above entered into with any bank meeting the qualifications specified in clause (c) above, provided all such agreements require physical delivery of the securities securing such repurchase agreement, except those delivered through the Federal Reserve Book Entry System; (e) marketable short-term money market or similar securities having a rating of at least P-2 by Moody’s or A-2 by S&P (or, if at any time neither Moody’s or S&P shall be rating such obligations, an equivalent rating from another nationally recognized rating service); and (f) investments in any money market mutual funds that (i) invest solely, and which are restricted by their respective charters to invest solely, in investments of the type described in the immediately preceding clauses (a), (b), (c), and (d) above, and (ii) have net assets of not less than \$1,000,000,000.

“Class A Member” means a holder of any Class A Units, including its permitted successors and assigns. As of the Effective Date, the Class A Members are set forth on Exhibit A. Unless the context indicates otherwise, a reference in this Agreement to the Class A Members shall mean all Class A Members.

“Class A Member Majority” means the Class A Members that own, in the aggregate, more than 50% of all the issued and outstanding Class A Units.

“Class A Percentage” means, with respect to a Class A Member, at any time of determination, a percentage, the numerator of which is the number of issued and outstanding Class A Units held by such Member, and the denominator of which is the total number of issued and outstanding Class A Units.

“Class A Units” is defined in Section 2.7(a).



“Code” means the Internal Revenue Code of 1986, as amended from time to time. Any reference in this Agreement to a specific section or sections of the Code shall be deemed to include a reference to any corresponding provision of any successor Law.

“Company” is defined in the introductory paragraph and as used throughout this Agreement references to the “Company” shall include the Company, direct and indirect wholly-owned Subsidiaries, except where not applicable based on context.

“Company Minimum Gains” means partnership minimum gain as defined in Treasury Regulation § 1.704-2(f).

“Confidential Information” means information concerning the properties, operations, business, trade secrets, technical know-how and other non-public information and data of or relating to the Company or any of its Subsidiaries, its and their properties and any technical information with respect to any project of the Company or any of its Subsidiaries.

“Credit Agreement” means that certain Credit Agreement of even date among the Company, WPNT, BSP Agency, LLC as Administrative Agent and the Lenders and Guarantors from time to time party thereto.

“Cure Amount” is defined in the definition of Additional Equity Issuance Trigger Date.

“Cure Right” is defined in the definition of Additional Equity Issuance Trigger Date.

“Director” is defined in Section 5.1(a).

“Drag-Along Member Recipients” is defined in Section 11.4(a).

“Drag-Along Notice” is defined in Section 11.4(a).

“Drag-Along Sellers” is defined in Section 11.4(a).

“Drag-Along Transaction” is defined in Section 11.4(a).

“Dragging Member” is defined in Section 11.4(a).

“EBITDA” [NTD: ADD DEFINITION FROM CREDIT AGREEMENT]

“Excess Additional Equity Securities” is defined in Section 2.8(b).

“Exercising Class A Member” is defined in Section 2.8(a).

“Effective Date” is defined in the introductory paragraph.

“Equity Security” means any Membership Interest (including any Unit) or similar security, any warrants, options or other rights to directly or indirectly acquire Units or other Membership Interests, securities containing equity features and securities containing profit participation features, or any security or instrument convertible or exchangeable, directly or indirectly, with or without consideration, into or for any Units or other Membership Interest or similar security

(including convertible notes), or any security carrying any warrant or right to subscribe for or purchase any Units or other Membership Interest or similar security, or any such warrant or right.

“Executive Officer” means each of the following officers of the Company as appointed by the Board: chief executive officer, president and any future officer position that is created by the Board.

“Extended ROFO Offer Price” is defined in Section 11.2(b).

“Extension Notice” is defined in Section 11.2(e).

“Frischling Member Group” means all of the Class A Unit holders (and all of their successors and assigns) other than the Lender Member Group.

“Frischling Member Group Majority” means Members of the Frischling Member Group that own, in the aggregate, more than 50% of all the issued and outstanding Units held by all Members of the Frischling Member Group.

“Fund Indemnitors” is defined in Section 5.6(g).

“GAAP” means generally accepted accounting principles in the United States, consistently applied.

“Implied Total Enterprise Value” means Eighty Million Dollars (\$80,000,000). **[NTD: Open regarding adjustment to formula in the event of a sale transaction.]**

“Indemnified Parties” is defined in Section 5.6(a).

“Initial Debt Paydown Date” means [ONE YEAR FROM THE PLAN EFFECTIVE DATE].

“Law” or “Laws” means all applicable international, federal, state, provincial, territorial, tribal, local and similar laws (statutory or common), rules, ordinances, regulations, grants, concessions, franchises, licenses, orders, directives, judgments, decrees, restrictions and other similar requirements, whether legislative, municipal, administrative or judicial in nature.

“Lender” means Business Development Corporation of America, a \_\_\_\_\_ organized under the laws of \_\_\_\_\_. **[NTD: DISCUSS OID and the lenders party to the Credit Agreement from time to time.]**

“Lender Member Group” means Lender and all of its successors and assigns.

“Lender Member Group Majority” means Member(s) of the Lender Member Group that own, in the aggregate, more than 50% of all the issued and outstanding Units held by all Members of the Lender Member Group.

“Lender Original Units” means solely those Units initially issued to the Lender Member Group on the effective date of the Plan of Reorganization.

“Lien” means any mortgage, deed of trust, lien (statutory or otherwise), pledge, hypothecation, charge, deposit arrangement, preference, priority, security interest, option, right of first refusal or other transfer restriction or encumbrance of any kind (including preferential purchase rights, conditional sales agreements or other title retention agreements, and the filing of or agreement to give any financing statement under the Uniform Commercial Code or comparable Law of any jurisdiction to evidence any of the foregoing).

“Liquidation Event” is defined in Section 7.3.

“Loan” means the loan(s) described in the Credit Agreement.

“LTM Adjusted EBITDA” means [NTD: INSERT DEFINITION FROM LOAN DOCUMENTS]

“Major Decision” is defined in Section 5.10.

“Member” means a Person designated as a Member of the Company on Exhibit A attached to this Agreement, a Person admitted as an additional Member pursuant to Section 2.7 and a Person admitted as a substituted Member pursuant to Section 11.8.

“Member Nonrecourse Debt Minimum Gain” means partner nonrecourse debt minimum gain as defined Treasury Regulation § 1.704-2(i)(4).

“Membership Interest” means, with respect to any Member, (a) that Member’s status as a Member, (b) that Member’s Capital Account and share of the Profits, Losses and other items of income, gain, loss, deduction and credits of, and the right to receive distributions (liquidating or otherwise) from, the Company under the terms of this Agreement, (c) all other rights, benefits and privileges enjoyed by that Member (under the Act or this Agreement) in its capacity as a Member, including that Member’s rights to vote, consent and approve those matters described in this Agreement, and (d) all obligations, duties and liabilities imposed on that Member under the Act or this Agreement in its capacity as a Member. Membership Interests shall be denominated in Units.

“Net Debt” means [NTD: INSERT DEFINITION FROM LOAN DOCUMENTS]

“New Equity” means 330,000 Class A Units issued to the Lender Member Group on the Effective Date, and any other Units issued to any Member of the Lender Member Group at any time thereafter.

“New Issue Date” is defined in Section 2.8(a).

“Non-Transferring ROFO Members” is defined in Section 11.2(a).

“Objection Notice” is defined in Section 11.2(g).

“Offered Units” is defined in Section 11.2(b)(i).

“Order” means, with respect to any Person, all judgments, injunctions, orders and decrees of all governmental authorities in any legal, administrative or arbitration action, suit, complaint,

charge, hearing, mediation, inquiry, investigation or proceeding in which such Person is a party or by which any of its properties or assets are bound.

“Organization” means any sole proprietorship, firm partnership (including any general, limited or limited liability partnership), corporation, limited liability company, joint stock company, trust, unincorporated association or organization, joint venture, or other entity or organization of whatever nature.

“Other Consideration Notice” is defined in Section 11.2(g).

“Outside Debt Paydown Date” means **[NTD: 2 YEARS FROM THE PLAN EFFECTIVE DATE]**.

“Purchase Agreement” is defined in Section 11.2(f).

“Partnership Representative” is defined in Section 6.5(b).

“Person” means a natural person, corporation, joint venture, partnership, limited liability partnership, limited partnership, limited liability limited partnership, limited liability company, trust, estate, business trust, association, governmental authority or any other entity.

“Plan of Reorganization” means the Joint Chapter 11 Plan of Reorganization of MGTF Radio Company, LLC and WPNT, Inc. filed on [\_\_\_\_\_, 2018, and confirmed by the United States Bankruptcy Court for the for the Eastern District of Missouri on [\_\_\_\_\_, 2019.

“Post-TEFRA Partnership Audit Rules” are defined in Section 6.5(b).

“Preemptive Rights Offering Notice” is defined in Section 2.8(a).

“Prime Rate” means a rate per annum equal to the lesser of (a) an annual rate of interest that equals the floating commercial loan rate as published in the Wall Street Journal from time to time as the “Prime Rate,” adjusted in each case as of the banking day in which a change in the Prime Rate occurs, as reported in the Wall Street Journal; provided, however, that if such rate is no longer published in the Wall Street Journal, then it shall mean an annual rate of interest that equals the floating commercial loan rate of Citibank N.A., or its successors and assigns, announced from time to time as its “base rate,” adjusted in each case as of the banking day in which a change in the base rate occurs, and (b) the maximum rate permitted by Law.

“Profit” or “Loss” means the income or loss of the Company as determined under the capital accounting rules of Treasury Regulation § 1.704-1(b)(2)(iv) for purposes of adjusting the Capital Accounts of Members including the provisions of paragraphs 1.704-1(b)(2)(iv)(g) and 1.704-1(b)(4) of those regulations relating to the computation of items of income, gain, deduction and loss.

“Proposed Consideration” is defined in Section 11.2(g).

“Proposed Purchaser” means a Person or group of Persons that a Member proposes as a purchaser of all or a portion of the Units of such Member.

“Purchasing Member” is defined in Section 11.2(c).

“Regulatory Allocations” is defined in Section 8.2(h).

“Related Party” means, with respect to any Person, (a) each Affiliate of such Person, (b) each officer, director, member, manager or partner of the Person or and such Person’s Affiliates, (c) any spouse, ancestor, descendant, or sibling of such Person or any Person described in clause (b) of this definition, and (d) any trust, family partnership or other entity established for the benefit of such Person or any Person described in clauses (b) or (c) of this definition.

“Repurchase Notice” is defined in Section 6.9.

“ROFO Notice” is defined in Section 11.2(a).

“ROFO Offer Period” is defined in Section 11.2(b).

“ROFO Offer Price” is defined in Section 11.2(b).

“Right of First Offer” is defined in Section 11.2(a).

“Sale Event” means any direct or indirect (a) merger, reorganization, recapitalization or consolidation of both the Company [and]/[or] WPNT with or into any other Person or sale of Units of the Company by its Members, in each such case in which the holders of the Units of the Company immediately prior to such merger, consolidation or sale hold less than a majority of the equity securities of the successor or surviving Person entitled to vote in the election of members of the board of directors thereof (or Persons performing similar functions), or (b) sale of all or substantially all of the assets of the Company or WPNT. **[NTD: Open whether there must be a sale of both the Company and WPNT in order to constitute a Sale Event or whether the sale of only one of the Company or WPNT would also constitute a Sale Event.]**

“Securities Act” means the Securities Act of 1933, as amended from time to time. Any reference in this Agreement to a specific section or sections of the Securities Act shall be deemed to include a reference to any corresponding provision of future Law.

“Selling Group” is defined in Section 11.3(a).

“Sharing Ratio” means, with respect to a Member, at any time of determination, a percentage, the numerator of which is the number of issued and outstanding Units held by such Member, and the denominator of which is the total number of issued and outstanding Units.

“Subsidiary” means, with respect to the Company, any Organization of which more than fifty percent (50%) of (a) the total voting power (whether by way of contract or otherwise) of issued and outstanding shares of capital stock or other equity interests (including limited liability company or partnership interests) entitled (without regard to the occurrence of any contingency) to vote in the election of directors, managers or trustees thereof or (b) the issued and outstanding

shares of capital stock or other equity interests (including limited liability company or partnership interests) is at the time owned or controlled, directly or indirectly (e.g., through another Subsidiary), by (i) the Company or (ii) the Company and/or one or more of its Subsidiaries. For the avoidance of doubt, a Subsidiary of the Company includes direct and indirect Subsidiaries (e.g., a Subsidiary of a Subsidiary).

“Tag Notice” is defined in Section 11.3(a).

“Tag Participation Notice” is defined in Section 11.3(b).

“Tax Distribution” is defined in Section 7.1.

“Tax Matters Partner” is defined in Section 6.5(a).

“Third Party Transfer” is defined in Section 11.2(e).

“Transfer” means, with respect to any asset, including Units or any portion thereof, including any right to receive distributions from the Company or any other economic interest in the Company, a sale, assignment, transfer, conveyance, gift, exchange or other disposition of such asset, whether such disposition be voluntary, involuntary or by merger, exchange, consolidation or operation of Law, including the following: (a) in the case of an asset owned by a natural person, a transfer of such asset upon the death of its owner, whether by will, intestate succession or otherwise; (b) in the case of an asset owned by a Person that is not a natural person, a distribution of such asset, including in connection with the dissolution, liquidation, winding up or termination of such Person (other than a liquidation under a deemed termination solely for tax purposes); and (c) a disposition in connection with, or in lieu of, a foreclosure of a Lien; provided, however, that a Transfer shall not include the creation of a Lien.

“Transferee” is defined in Section 11.2(a).

“Transferor” is defined in Section 11.2(a).

“Treasury Regulations” means regulations issued by the Department of Treasury under the Code. Any reference in this Agreement to a specific section or sections of the Treasury Regulations shall be deemed to include a reference to any corresponding provision of future regulations under the Code.

“Unrestricted Cash” means [ADD DEFINITION FROM FINANCING DOCUMENTS].

“Unit” is defined in Section 2.7(a).

“Waiver Period” is defined in Section 11.2(e).

“WPNT” means WPNT, LLC, a Delaware limited liability company.

**1.2. Interpretation.** Unless the context of this Agreement clearly requires otherwise, references to the plural include the singular, to the singular include the plural, and to the part include the whole. Unless the context of this Agreement clearly requires otherwise, use of

masculine, feminine and neutral pronouns will not be a specific reference to either gender or lack thereof. The words “include” and “including,” and variations thereof, shall not be deemed to be terms of limitation, but rather shall be deemed to be followed by the words “without limitation.” The term “or” has the inclusive meaning represented by the term “and/or.” The words “hereof,” “herein,” “hereunder,” and similar terms in this Agreement refer to this Agreement as a whole and not to any particular provision of this Agreement. References to “Articles,” “Sections,” “Subsections,” “Exhibits,” and “Schedules” are to Articles, Sections, Subsections, Exhibits, and Schedules, respectively, of this Agreement, unless otherwise specifically provided. Terms defined in this Agreement may be used in the singular or the plural. The recitals of this Agreement are intended to be a part of, and are hereby incorporated into, this Agreement in their entirety (including, for the avoidance of doubt, the definitions set forth therein).

**1.3. Accounting Terms.** Accounting terms used in this Agreement and not otherwise defined have the meaning ascribed to them under GAAP, except for footnotes and similar matters as determined by the Board.

## **ARTICLE II THE LIMITED LIABILITY COMPANY**

**2.1. Formation.** The Frischling Member Group has previously formed the Company pursuant to the Act with the Class A Members as its members and has been operating under the Operating Agreement dated June 3, 2014, pursuant to which the Class A Members have made certain capital contributions to the Company. The Members hereby amend and restate the Company’s operating agreement in its entirety by entering into this Agreement. The Members agree that the Company shall be governed by the terms and conditions set forth in this Agreement. To the fullest extent permitted by the Act, this Agreement shall control as to any conflict between this Agreement and the Act or as to any matter provided for in this Agreement that is also provided for in the Act.

**2.2. Name.** The name of the Company shall be “MGTF RADIO COMPANY, LLC.”

**2.3. Certificate of Formation.** The Members have previously caused a certificate of formation that complies with the requirements of the Act to be properly filed with the Delaware Secretary of State. The Members shall execute such further documents (including amendments to the certificate of formation) and take such further action as shall be appropriate or necessary to comply with the requirements of Law for the formation, qualification or operation of a limited liability company in all states and counties where the Company may conduct its business.

**2.4. Registered Office and Agent; Principal Place of Business.** The location of the registered office of the Company and the Company’s registered agent at such address shall be determined by the Board. The location of the principal place of business of the Company shall be at such location as the Board may from time to time select.

**2.5. Purpose.** The business of the Company shall be the conduct of any business or activity that may be lawfully conducted by a limited liability company organized pursuant to the Act. The business of the Company may be conducted directly by the Company or indirectly through one or more other companies, joint ventures or other arrangements.



**2.6. The Members.** The name, business address, number of Units, class, preference capital, Sharing Ratio and Participation Threshold, if applicable, of each Member are set forth on Exhibit A attached to this Agreement. Upon the admission of additional or substituted Members in accordance with this Agreement, or upon receipt by the Company from a Member of written notice of a change of such Member's address or electronic mail address, the Board on behalf of the Company shall update Exhibit A attached to this Agreement to reflect the then current membership and notice information. Notwithstanding anything to the contrary in this Agreement, the update by the Board of Exhibit A pursuant to this Section 2.6 shall be considered an administrative act and shall not be considered an amendment to this Agreement, nor shall it be a condition precedent before any Person is admitted as Member.

**2.7. Authorized Units; Issuance of Additional Membership Interests.**

(a) The Membership Interests authorized to be issued by the Company shall be denominated in units (each, a "Unit"). As of the Effective Date, the Company is authorized to issue 2,000,000 Units. The Company shall have one class of Units, designated as (i) the Class A Units (the "Class A Units"). The Class A Units shall entitle the holder thereof to the rights set forth in this Agreement with respect to the Class A Units. As of the Effective Date, there are 2,000,000 authorized Class A Units.

(b) On the thirty-fifth (35<sup>th</sup>) Business Day after each Additional Equity Issuance Trigger Date that the Loan is not repaid in full the Company shall issue to the Lender Group Member (irrespective of whether the Lender Group Member owns any Class A Units at such time) a number of Class A Units equal to 4.5% of the then aggregate outstanding Class A Units (determined on a fully diluted basis) held by all Members after the issuance of such Class A Units; provided, however, the maximum aggregate amount of such Class A Units issued under this Section 2.7(b) shall not exceed an amount of Class A Units (determined on a fully diluted basis) that would cause the Lender Member Group to hold more than 51% of the Class A Units held by all Members, solely taking into account Lender Original Units and the Class A Units issued to the Lender Member Group pursuant to this Section 2.7(b) and then held by the Lender Member Group at the time of such calculation but not any other Class A Units the Lender Member Group may otherwise acquire.

(c) The Class A Members shall be entitled to vote under this Agreement or as required by the Act at the rate of one vote for each Class A Unit. Notwithstanding anything in this Agreement to the contrary, only Class A Members (and not transferees of Class A Members who are not themselves admitted as Class A Member in accordance with the terms of this Agreement) shall have voting rights under this Agreement.

**2.8. Preemptive Rights.**

(a) To the extent the Company proposes to issue or sell Additional Equity Securities to any Person in exchange for cash consideration, each Class A Member shall have the preemptive right to acquire or subscribe for any such Additional Equity Securities pro rata based on its Class A Percentage. At least 60 Business Days prior to the issuance of any such Additional Equity Securities, the Board shall cause the Company to send written notice to each Class A Member (a "Preemptive Rights Offering Notice") specifying the type and quantity of Additional

Equity Securities to be issued by the Company and the price (payable in cash) and other material terms and conditions of the issuance, including the proposed date of issuance (the “New Issue Date”), the proposed purchaser (if then known) and the percentage of such Additional Equity Securities that such Class A Member is entitled to acquire or subscribe for, as the case may be. Each Class A Member may elect to exercise its right pursuant to this Section 2.8(a) by delivering written notice to the Board no later than 5 Business Days prior to the New Issue Date specifying the maximum number of Additional Equity Securities that such Class A Member wishes to purchase (including the number of such Additional Equity Securities it would purchase if one or more other Class A Members do not elect to purchase all of their respective Class A Percentages). On or before the New Issue Date, each Class A Member exercising its rights under this Section 2.8(a) (an “Exercising Class A Member”) shall pay to the Company the purchase price for such Additional Equity Securities in immediately available funds and upon receipt of such payment the Company shall issue such Additional Equity Securities to such Class A Member. Failure of a Class A Member to respond within the time set forth above, or to pay the purchase price on or before the New Issue Date, shall be deemed an election by such Class A Member not to exercise its preemptive right under this Agreement with respect to such issuance. If a Class A Member fails to exercise its preemptive right set forth in this Agreement with respect to any issuance of any Additional Equity Securities, such failure shall not be deemed a waiver of further or additional preemptive rights in connection with subsequent issuances of Additional Equity Securities in the Company (but, for the avoidance of doubt, shall constitute a waiver of such Class A Member’s right to purchase any Excess Additional Equity Securities in the applicable offering of Additional Equity Securities).

(b) After complying with the procedure set forth in Section 2.8(a), any Additional Equity Securities that remain available for purchase or subscription (such amount, the “Excess Additional Equity Securities”), may be purchased by each Exercising Class A Member on a pro rata basis, based upon the relative Class A Percentages of each of the Exercising Class A Member in accordance with such procedures and time frame as determined by the Board in its discretion.

(c) If any Excess Additional Equity Securities remain outstanding after the offer contemplated by this Section 2.8, such remaining Excess Additional Equity Securities may be sold by the Company at a price no lower, and otherwise on terms and conditions not materially more favorable to the proposed purchaser, than those set forth in the notice to the Class A Members, at any time within ninety (90) Business Days following the delivery of the notice pursuant to Section 2.8(a).

(d) The provisions of this Section 2.8 are subject in all events to the repurchase rights of the Frischling Member Group described in Section 6.9.

**2.9. Term.** The Company shall have perpetual existence; provided, however, that the Company shall be dissolved upon the occurrence of an event set forth in Section 12.2.

**2.10. No Unit Certificates.** The Company shall not issue certificates representing the Units unless directed to do so by the Board.

### ARTICLE III CAPITAL CONTRIBUTIONS

**3.1. Capital Contributions.** The Class A Members have made Capital Contributions to the Company as set forth on the books and records of the Company. The Capital Account of each Class A Member on the Effective Date is set forth opposite the Member's respective name on Exhibit A attached to this Agreement.

**3.2. Additional Capital Contributions.** Subject to the approval of the Board, the Class A Members may, but shall not be obligated to, make additional Capital Contributions to the Company in accordance with their respective Class A Percentages (and the provisions of Section 2.8 of this Agreement).

**3.3. No Third Party Right to Enforce.** No Person shall have the right to require any Member to contribute capital under this Agreement, and specifically no lender or other third party shall have any such rights.

**3.4. Return of Contributions.** Except to the extent of the distributions contemplated by this Agreement, no Member shall be entitled to the return of any part of its Capital Contributions, or Capital Account or to be paid interest in respect of either its Capital Account, or its Capital Contributions. No unrepaid Capital Contribution shall constitute a liability of the Company (except to the extent of the distributions contemplated by this Agreement), the Board or any Member or any Affiliate or direct or indirect owner of any Member. A Member is not required to contribute or to lend cash or property to the Company to enable the Company to return any Member's Capital Contributions, or Capital Account. The provisions of this Section 3.4 shall not limit a Member's rights under Article XII.

**3.5. Discretionary Loans.** If at any time the Company has insufficient Available Cash and reserves to conduct its business and operations consistent with its ordinary and usual course, the Members may, if approved by the Board and the Class A Member Majority, plus the approval of the Class A Lender Member Majority, but shall not be obligated to, advance all or any portion of such cash deficiency to the Company. If, following approval by the Board and the approval, if any, required under Section 5.10, more than one Member elects to make such advance, the electing Members shall make the advance in proportion to their respective Class A Percentages. All advances made pursuant to this Section 3.5 shall constitute a loan from the advancing Members to the Company, shall bear interest at the Prime Rate plus a percentage to be reasonably established by the Board and shall not be considered as part of the Company's equity or Members' Capital Contributions or Capital Account. Any such loan shall be subordinate to any loans from any then-existing third party lender to the Company if required by such lender, and shall be repaid prior to any other distributions to the Members.

### ARTICLE IV REPRESENTATIONS, WARRANTIES AND COVENANTS

**4.1. General Representations and Warranties.** Each Member represents and warrants to the other Members and the Company solely as to itself as follows:

(a) If it is an entity, it is the type of legal entity specified in Exhibit A of this Agreement, duly organized and in good standing under the Laws of the jurisdiction of its organization and is qualified to do business and is in good standing in those jurisdictions where necessary to carry out the purposes of this Agreement;

(b) If it is an entity, the execution, delivery and performance by it of this Agreement and all transactions contemplated in this Agreement are within its entity powers and have been duly authorized by all necessary entity actions;

(c) This Agreement constitutes its valid and binding obligation, enforceable against it in accordance with its terms, except as enforcement may be limited by Bankruptcy, insolvency, moratorium and similar Laws affecting the enforcement of creditors' rights generally and by general principles of equity; and

(d) The execution, delivery and performance by it of this Agreement will not conflict with, result in a breach of or constitute a default under any of the terms, conditions or provisions of (i) any applicable Law, (ii) if it is an entity, its governing documents, or (iii) any agreement or arrangement to which it or any of its Affiliates is a party or that is binding upon it or any of its Affiliates or any of its or their assets.

**4.2. Conflict and Tax Representations.** Each Member represents and warrants to the other Members and the Company solely as to itself as follows:

(a) Such Member has been advised that (i) a conflict of interest exists among the Members' individual interests, (ii) this Agreement has tax consequences, and (iii) it should seek independent counsel in connection with the execution of this Agreement;

(b) Such Member has had the opportunity to seek independent counsel and independent tax advice prior to the execution of this Agreement and no Person has made any representation of any kind to it regarding the tax consequences of this Agreement; and

(c) This Agreement and the language used in this Agreement are the product of all parties' efforts and each party hereby irrevocably waives the benefit of any rule of contract construction that disfavors the drafter of an agreement.

**4.3. Investment Representations and Warranties.** In acquiring an interest in the Company, each Member represents and warrants to the other Members and the Company solely as to itself that it is acquiring such interest for its own account for investment and not with a view to its sale or distribution. Each Member recognizes that investments such as those contemplated by this Agreement are speculative and involve substantial risk. Each Member further represents and warrants that the other Members have not made any guaranty or representation upon which it has relied concerning the possibility or probability of profit or loss as a result of its acquisition of an interest in the Company.

**4.4. Survival.** The representations, warranties and covenants set forth in this Article IV shall survive the execution and delivery of this Agreement and any documents of Transfer provided under this Agreement.

**ARTICLE V**  
**ARTICLE V COMPANY MANAGEMENT**

**5.1. Board of Directors.**

(a) The Company shall be managed by a committee of individuals established to manage the Company and its business and affairs (this committee is referred to as the “Board” and the individuals appointed to the Board are referred to as the “Directors”). The Board, acting as a group, shall be the “Manager” of the Company (as that term is defined in the Act). A Director shall not individually be considered a manager of the Company under the Act. An individual shall not be deemed to hold a Membership Interest by virtue of serving as a Director. Except as specifically provided in this Agreement, the Board may exercise all powers of the Company and may do all such lawful acts and things as are not specifically required by statute or by this Agreement to be exercised or done by the Members. The Board shall obtain the approval required by Section 5.10 prior to approving any Major Decision.

(b) The number of Directors shall be five (5) and such number shall not be amended except in connection with an amendment to this Agreement approved in accordance with Section 14.1. Directors shall be appointed as follows: (i) two (2) Directors shall be appointed by the Lender Member Group, from time to time, when the Lender Member Group holds less than a majority of the Class A Units, and three (3) Directors shall be appointed by the Lender Member Group, from time to time, when the Lender Member Group holds a majority of the Class A Units, and (ii) the Frischling Member Group, from time to time, shall appoint the balance of the five (5) Directors. If the Lender Member Group shall, at any time, appoint a number of Directors that is less than the total number of Directors that they are entitled to appoint, then the Lender Member Group may, but is not obligated to, appoint Board Observer(s) in the place and stead of the unappointed Directors. **[NTD: Open whether WPNT will provide for 4 directors appointed by Frischling Member Group prior to Lender Member Group owning a majority of Class A Units, in which case it is proposed the Lender Member Group would appoint 3 directors prior to the Lender Member Group owning a majority of Class A Units.]**

(c) In the event of a vacancy in the office of any Director, a successor shall be appointed to hold office by the Members that appointed such Director, subject to Section 5.1(c). A Director so appointed shall hold office until his or her successor is duly appointed or until his or her earlier death, resignation or removal.

(d) A Director may be removed at any time upon delivery of a written instruction to the Board by the Member(s) appointing such Director, provided that if at any time the Lender Member Group’s holdings exceed 50% of the Class A Units when it immediately prior had the right to appoint two (2) Directors, the Frischling Member Group shall have five (5) Business Days after receipt of notice of the holdings of the Lender Member Group exceeding 50% of the Class A Units to remove one of the Directors appointed by the Frischling Member Group, and the Lender Member Group shall have the right to appoint such replacement Director. If the Frischling Member Group fails to remove one of its appointed Directors within such five (5) Business Days’ period, the Lender Member Group shall have the right to remove one of the Directors appointed by the Frischling Member Group and appoint such Director’s replacement. If, on the other hand, at any time the Lender Member Group ceases to hold more than 50% of the



Class A Units when it immediately prior had the right to appoint three (3) Directors, the Lender Member Group shall have five (5) Business Days after its holdings cease to exceed 50% of the Class A Units to remove one of the Directors appointed by it, and the Frischling Member Group shall have the right to appoint such replacement Director. If the Lender Member Group fails to remove one of its appointed Directors within such five (5) Business Days' period, the Frischling Member Group shall have the right to remove one of the Directors appointed by the Lender Member Group and appoint such Director's replacement. Other than as set forth in this Section 5.1(d), a Director may not be removed.

(e) A Director may resign at any time by giving written notice to that effect to the Board. Any such resignation shall take effect at the time of the receipt of that notice or any later effective time specified in that notice; and, unless otherwise specified in that notice, the acceptance of the resignation shall not be necessary to make it effective. Any vacancy caused by any such resignation or by the death of any Director or any vacancy for any other reason shall be filled as provided in Section 5.1(c), and any Director so elected to fill any such vacancy shall hold office until his successor is appointed or until his earlier death, resignation or removal.

(f) Regular meetings of the Board shall be held at such time and at such place (either inside or outside the State of Delaware) as the Board may designate, including by telephone. Special meetings of the Board may be held on the call of the chairman of the Board (if a chairman has been appointed) or by any Director upon at least five Business Days (if the meeting is to be held in person) or three Business Days (if the meeting is to be held by conference, telephone or similar communications) oral or written (including by electronic mail) notice to the Directors, or upon such shorter notice as may be approved by all of the Directors. Any Director may waive such notice.

(i) Any meeting of the Board may be held in person and by means of a conference, telephone or similar communication equipment by means of which all Directors and other individuals participating in the meeting can hear each other, and such telephone or similar participation in a meeting shall constitute presence in person at the meeting.

(ii) A majority of Directors then in office present in person (including by telephone or other means of real-time electronic participation and communication) or represented by proxy shall constitute a quorum of the Board for purposes of conducting business. At all times when the Board is conducting business at a meeting of the Board, a quorum of the Board must be present at such meeting. If a quorum shall not be present at any meeting of the Board, then the Directors present at the meeting may adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum shall be present.

(iii) Any decisions to be made by the Board must be approved by the affirmative vote of a majority of the Directors then in office; provided, however, that, in addition to the foregoing, any Major Decision shall be subject to the approval requirements set forth in Section 5.10. Each Director shall be entitled to one vote per issue presented at any duly convened meeting.

(iv) For purposes of determining a quorum with respect to a particular proposal, and for purposes of casting a vote for or against a particular proposal, a Director may be

deemed to be present at a meeting and to vote if the Director has granted a signed written proxy to another Director who is present at the meeting, authorizing the other Director to cast the vote that is directed to be cast by the written proxy with respect to the particular proposal that is described with reasonable specificity in the proxy. Except as provided in this clause (iv), Directors may not vote or otherwise act by proxy.

(v) Attendance of a Director at any meeting shall constitute a waiver of notice of such meeting, except where a Director attends a meeting for the express purpose of objecting to the transaction of any business at such meeting on the grounds that the meeting is not lawfully called or convened. Neither the business to be transacted at, nor the purpose of, any meeting of the Board need be specified in the notice or waiver of notice of such meeting.

(vi) Notwithstanding any provision contained in this Agreement, any action of the Board may be taken by unanimous written consent without a meeting. Any such action taken by the Board without a meeting shall be effective only if the written consent or consents are in writing, set forth the action so taken, and are signed by all members of the Board (provided, however, that, in addition to the foregoing, any Major Decision shall be subject to the approval requirements set forth in Section 5.10).

(vii) Any Director may designate in writing an individual to act as the temporary substitute for such Director at any meeting of the Board that such Director is unable to attend, and attendance at any meeting of the Board by any such designated individual shall be deemed to constitute attendance at such meeting by the Director for whom such individual is designated. Any such written designation of a designated substitute shall specify (A) contact information for the designated individual so that notices of meetings may be duly delivered to the designated individual, and (B) the period of time for which the designated individual shall have the powers of the absent Director, which period of time shall not exceed 45 days. Any such designated individual who attends a meeting of the Board as a temporary substitute as aforesaid shall have all the powers that the absent Director has in respect of that meeting, and no written proxy shall be required to be submitted to the substitute Director. If a Director provides written notice to the chairman of the Board and the other Directors that such Director has appointed a temporary substitute, then in calling a meeting of the Board in accordance with this Section 5.1(f), the chairman or the Director calling such meeting shall provide notice of such meeting (but only if such meeting is called by the chairman or another Director after such officer or director receives notice of the designated substitute) to the designated individual.

(viii) If all of the Directors meet at any time and place by means of a conference, telephone or similar communication equipment by means of which all Directors and other individuals participating in the meeting can hear each other and consent to the holding of a meeting at such time and place, such meeting shall be valid without call or notice, and any Company action that may be taken at a meeting of the Board may be taken at such meeting.

(g) Unless approved by the Board in accordance with Section 5.10, the Directors shall not be entitled to compensation for serving on the Board, provided any Director who is not an officer of the Company or any of its direct or indirect Subsidiaries may be compensated up to \$50,000 per annum for serving on the Board. Directors may be paid their reasonable out-of-pocket expenses, if any, of attendance at each meeting of the Board.



(h) The Board may elect any one of the Directors to be the chairman of the Board. The chairman, in his or her capacity as the chairman of the Board, shall not have any of the rights or powers of an Executive Officer or any special voting rights except as provided in Section 5.2.

(i) Minutes of all meetings of the Board shall be kept and distributed to each Director as soon as reasonably practicable following each meeting. If no objection is raised in writing following receipt of minutes or in any event at the next meeting of the Board, then such minutes shall be deemed to be accurate and shall be binding on the Directors and the Company with respect to the matters dealt with therein.

## **5.2. Management Authority.**

(a) The Board shall have the authority on behalf of the Company to make all decisions with respect to the Company's business without the approval of the Members, except as otherwise expressly provided in this Agreement. In connection with the implementation, consummation or administration of any matter within the scope of the Board's authority, each Director, acting on behalf of the Board, is authorized, without the approval of the Members, to execute and deliver on behalf of the Company contracts, instruments, conveyances, checks, drafts and other documents of any kind or character to the extent the Board deems it necessary or desirable. The Board may delegate to officers, employees, agents or representatives any or all of the foregoing powers by authorization identifying specifically or generally the powers delegated or acts authorized.

(b) In connection with the operation of the Company, the following items shall be designated as actions that may only be taken after consideration and approval by the Board and not by any officer or Member (without limiting any required approvals under Section 5.10)[, each of which in addition to requiring the approval of a majority of the Board shall require the approval of at least one Director appointed by the Lender Member Group and one Director appointed by the Frischling Member Group] **[NTD: Open whether Board approval also requires the approval of at least one Director appointed by the Lender Member Group and one Director appointed by the Frischling Member Group]**:

(i) Increasing the compensation of any Member of the Frischling Member Group or any Affiliate.

(ii) Filing a voluntary bankruptcy or similar proceeding (or failing to contest any bankruptcy or similar proceeding filed against the company or any subsidiary).

(iii) Subject to Section 12.2, dissolving or liquidating the Company or any Subsidiary.

(iv) Adopting, approving or amending an annual operating budget.

(v) Making capital expenditures other than (A) as contemplated by the annual operating budget or (B) in excess of an aggregate of \$100,000 if not contemplated by the annual operating budget, provided that any Executive Officer, acting alone, without the approval

of the Board, may make capital expenditures that are not contemplated by the annual operating budget in an aggregate amount of up to \$100,000 in any calendar year.

(vi) Incurring indebtedness for borrowed money in excess of \$100,000 or that is otherwise prohibited under the Credit Agreement.

(vii) Guaranteeing any indebtedness.

(viii) Acquiring any real property.

(ix) Confessing judgment in, commencing or settling any material litigation, or arbitration or other material dispute.

(x) Committing to do any of the foregoing.

**5.3. Reliance by Third Parties.** No third party dealing with the Company shall be required to ascertain whether the Board or any Company officer is acting in accordance with the provisions of this Agreement. All third parties may rely on a document executed by any Director or by any Company officer as binding on the Company. The foregoing provisions shall not apply to third parties who are Affiliates or Related Parties of any such Person executing any such document.

**5.4. Liability Insurance.** The Company shall maintain directors' and officers' liability insurance coverage (for the benefit of all Directors and officers) on terms and conditions and in such amounts as are customary for a company of similar size and in a similar industry as the Company and its Subsidiaries (with such terms, coverage amounts, conditions and provider(s) being reasonably acceptable to the Board).

**5.5. Fiduciary Duties; Exculpation.**

(a) To the fullest extent permitted by Law (including Section 18-1101(c) and of the Act):

(i) Subject to Section 6.6, no Member, solely in its capacity as a Member, shall owe any duty (including fiduciary duties) to the Company, any of the Members or any other Person that is a party to or is otherwise bound by this Agreement, in connection with any act or failure to act, whether under this Agreement, thereunder or otherwise; provided, however, that this clause (i) shall not eliminate the implied contractual covenant of good faith and fair dealing;

(ii) each Director shall owe all fiduciary duties to the Company and the Members as if such Director was a director of a Delaware corporation;

(iii) no Member, solely in its capacity as a Member, nor any Director, shall have any personal liability to the Company, any of the Members, or any other Person that is a party to or is otherwise bound by this Agreement for monetary damages in connection with any act or failure to act, or breach, whether under this Agreement, thereunder or otherwise; provided, however, that this clause (iii) shall not limit or eliminate liability for (x) any act or omission that

constitutes fraud or a bad faith violation of the implied contractual covenant of good faith and fair dealing, or (y) any intentional breach of this Agreement.

(b) If any provision of Section 5.5(a) is held to be invalid, illegal or unenforceable (subject to Section 5.5(d)), the duties and the personal liability of (x) each Member, solely in its capacity as a Member and (y) each Director, to the Company, any of the Members or any other Person that is a party to or is otherwise bound by this Agreement shall be eliminated to the greatest extent permitted under the Act.

(c) Other than with respect to each Member to the extent to which Section 5.5(a) is applicable (unless Section 5.5(a) and Section 5.5(b) are held to be invalid, illegal or unenforceable, in which case this Section 5.5(c) shall apply to each Member, solely in its capacity as (i) a Member or (ii) a Director), subject to Law and Section 5.5(d), no Indemnified Party in its capacity as a Member of the Company shall be liable, in damages or otherwise, to the Company, the Members or any of their respective Affiliates for any act or omission performed or omitted by it (including any act or omission performed or omitted by it in reliance upon and in accordance with the opinion or advice of experts, including of legal counsel as to matters of law, of accountants as to matters of accounting, or of investment bankers or appraisers as to matters of valuation), except for any act or omission with respect to which a court of competent jurisdiction has issued a final, nonappealable judgment that such Indemnified Party was grossly negligent, engaged in willful misconduct or intentionally breached this Agreement.

(d) Notwithstanding anything else to the contrary in this Section 5.5, each officer of the Company shall have fiduciary duties to the Company and such fiduciary duties of such officer shall be those of an officer of a Delaware corporation under the Delaware General Corporation Law.

## **5.6. Indemnification.**

(a) To the fullest extent permitted by Law, the Company shall and does hereby agree to indemnify and hold harmless against any liabilities and pay all judgments and claims against each Member, each Director, and each Executive Officer (the “Indemnified Parties”, each of which shall be a third party beneficiary of this Agreement solely for purposes of this Section 5.6), from and against any loss or damage incurred by them or by the Company for any act or omission taken or suffered by the Indemnified Parties (including any act or omission taken or suffered by any of them in reliance upon and in accordance with the opinion or advice of experts, including of legal counsel as to matters of law, of accountants as to matters of accounting, or of investment bankers or appraisers as to matters of valuation) by reason of the fact that he or she is or was a Member, Director or Executive Officer of the Company or any Subsidiary, while serving as a Member, Director, or Executive Officer, is or was serving at the request of the Company as a director, officer, manager, employee or agent of another corporation, limited liability company, partnership, joint venture, trust or other enterprise, including costs and reasonable attorneys’ fees and any amount expended in the settlement of any claims or loss or damage, except with respect to any act or omission that a court of competent jurisdiction has issued a final, nonappealable judgment that, (i) with respect to any Indemnified Party (including any Executive Officer), such Indemnified Party was engaged in willful misconduct or intentionally breached this Agreement and (ii) with respect to any Executive Officer, such Executive Officer was grossly negligent [or

breached any fiduciary duty]. **[NTD: Open whether Executive Officers will not be entitled to indemnification for any breach of fiduciary duties and whether other Indemnified Parties will be entitled to indemnification for gross negligence.]**

(b) The satisfaction of any indemnification obligation pursuant to Section 5.6(a) shall be from and limited to Company assets (including insurance and any agreements pursuant to which the Company, its Members, Directors, Executive Officers or employees are entitled to indemnification) and no Member, in such capacity, shall be subject to personal liability.

(c) Expenses reasonably incurred by an Indemnified Party in defense or settlement of any claim that may be subject to a right of indemnification under this Agreement shall be advanced by the Company prior to the final disposition thereof upon receipt of an undertaking by or on behalf of such Indemnified Party to repay such amount to the extent that it shall be determined upon final adjudication after all possible appeals have been exhausted that such Indemnified Party is not entitled to be indemnified under this Agreement.

(d) The Company may purchase and maintain insurance on behalf of one or more other Indemnified Parties and other Persons against any liability that may be asserted against, or expense that may be incurred by, any such Person in connection with the Company's activities, whether or not the Company would have the power to indemnify such Person against such liability under the provisions of this Agreement.

(e) Notwithstanding any other provision of this Section 5.6, the Company may pay or reimburse reasonable out-of-pocket expenses incurred by an Indemnified Party in connection with his or her appearance as a witness or other participation in a proceeding related to or arising out of the business of the Company at a time when he or she is not a named defendant or respondent in the proceeding.

(f) If this Section 5.6 or any portion hereof shall be invalidated on any ground by any court of competent jurisdiction, then the Company shall nevertheless indemnify and hold harmless each Indemnified Party as to costs, charges and expenses (including reasonable attorneys' fees), judgments, fines and amounts paid in settlement with respect to any action, suit or proceeding, whether civil, criminal, administrative or investigative to the fullest extent permitted by any applicable portion of this Section 5.6 that shall not have been invalidated and to the fullest extent permitted by applicable law.

(g) Any rights to indemnification under this Section 5.6 shall be in addition to any rights that any of the Indemnified Parties may have at common law or otherwise and shall remain in full force and effect. Each of the parties to this Agreement hereby acknowledges that certain Indemnified Parties may have certain rights to indemnification, advancement of expenses and/or insurance (excluding the Company and its subsidiaries, collectively, the "Fund Indemnitors") and hereby agrees that (i) the Company is the indemnitor of first resort it being understood, for the avoidance of doubt, that the obligations of the Company under this Agreement to the Indemnified Parties are primary and any obligation of the Fund Indemnitors to advance expenses or to provide indemnification (including through director and officer insurance policies) for the same expenses or liabilities incurred by the Indemnified Parties are secondary); (ii) subject to the limitations set forth in this Agreement, the Company shall be required to advance the full

amount of expenses incurred by such Indemnified Parties and shall be liable for the full amount of all expenses, judgments, penalties, fines and amounts paid in settlement to the extent legally permitted and as required by the terms of this Agreement (or any other agreement between the Company and such Indemnified Parties), without regard to any rights such Indemnified Parties may have against the Fund Indemnitors; and (iii) the Company irrevocably waives, relinquishes and releases the Fund Indemnitors from any and all claims against the Fund Indemnitors for contribution, subrogation or any other recovery of any kind in respect thereof. The Company further agrees that no advancement or payment by the Fund Indemnitors on behalf of any Indemnified Party with respect to any claim for which such Indemnified Party has sought indemnification from the Company shall affect the foregoing and the Fund Indemnitors shall have a right of contribution and/or be subrogated to the extent of such advancement or payment to all of the rights of recovery of such Indemnified Party against such party. The Company and the Indemnified Parties agree that the Fund Indemnitors are express third-party beneficiaries of the terms of this Section 5.6(g).

#### **5.7. Executive Officers.**

(a) The Board may, from time to time, designate one or more individuals to serve as Executive Officers of the Company. Any Executive Officers designated pursuant to this Section 5.7 shall have such titles and authority and perform such duties as the Board may, from time to time, delegate to them. In addition, if the title given to a particular Executive Officer is one commonly used for officers of a business corporation, the assignment of such title shall constitute the delegation to such Executive Officer of the authority and duties that are normally associated with that office, subject to any specific delegation of authority and duties made to such Executive Officer, or restrictions placed thereon, by the Board. Each Executive Officer shall hold office until his or her successor is duly designated, until his or her death or until he or she resigns or is removed in accordance with Section 5.7(b). Any number of offices may be held by the same Person. The salaries or other compensation, if any, of the Executive Officers of the Company shall be fixed from time to time by the Board, subject to the terms and conditions of any written agreement between such Executive Officer and the Company, if any, provided that no Director who is an Executive Officer or a Related Party of an Executive Officer may approve the salary or other compensation of such Executive Officer.

(b) Any Executive Officer may resign at any time by giving written notice thereof to the Board. An Executive Officer may be removed, either with or without cause, by the Board whenever in its judgment the best interests of the Company will be served thereby; provided, however, that such removal shall be subject to the terms and conditions of any written agreement between such Executive Officer and the Company, if any, and without prejudice to any such contract rights contained therein. Designation of an Executive Officer to serve the Company shall not, by itself, create contract rights.

**5.8. Affiliate Transactions.** In addition to those transactions, agreements, contracts and undertakings specifically set forth in this Agreement, the Board may cause the Company to enter into transactions, agreements, contracts and undertakings with any Director, any Member, or any of their respective Affiliates or Related Parties, so long as such transactions, agreements, contracts or undertakings (including any amendments, modifications or renewals thereof) have been approved by the Board (including at least one Director appointed by the Lender Member Group

and one director appointed by the Frischling Member Group) and by a Class A Member Majority and meet the standard set forth in Section 5.10(a).

**5.9. Committees.**

(a) The Board may, from time to time, create such committees as may be permitted by Law. Such committees appointed by the Board shall consist of one or more other members of the Board (including at least one Director appointed by the Lender Member Group and one director appointed by the Frischling Member Group, except where such committee is established in connection with a conflict with respect to the Lender Member Group or the Frischling Member Group, in which case such conflicted Member shall not have the right to have one of its Director designees serve on such committee). Each committee so created shall have such powers and perform such duties as may be prescribed by the resolution or resolutions creating such committees, but in no event shall any such committee have the power to make Major Decisions.

(b) The Board may at any time increase or decrease the number of members of a committee or terminate the existence of a committee. The membership of a committee member shall terminate on the date of his death, voluntary resignation or removal from the committee or from the Board. The Board may at any time for any reason remove any individual committee member and the Board may fill any committee vacancy created by death, resignation, removal or increase in the number of members of the committee. The Board may designate one or more Directors as alternate members of any committee, who may replace any absent or disqualified member at any meeting of the committee.

(c) Unless the Board shall otherwise provide, regular meetings of any committee created in accordance with this Section 5.9 shall be held at such times and places as are determined by the Board, or by any such committee, and when notice thereof has been given to each member of such committee, no further notice of such regular meetings need be given thereafter. Special meetings of any such committee may be held at any place that has been determined from time to time by such committee, and may be called by any Director who is a member of such committee, upon notice to the members of such committee of the time and place of such special meeting given in the manner provided for the giving of notice to members of the Board under Section 5.1(f) of the time and place of special meetings of the Board. Notice of any special meeting of any committee may be waived in writing at any time before or after the meeting and will be waived by any Director by attendance thereat, except when the Director attends such special meeting for the express purpose of objecting, at the beginning of the meeting, to the transaction of any business because the meeting is not lawfully called or convened. Unless otherwise provided by the Board in the resolutions authorizing the creation of the committee, a quorum shall exist only if all members appointed to such committee are present, and the act of a majority of those present at any meeting at which a quorum is present shall be the act of such committee.

**5.10. Major Decisions.** No Member, manager, Director, officer, employee, agent or representative of the Company shall have any authority to bind or take any action on behalf of the Company with respect to any Major Decision unless such Major Decision has been approved by a Class A Member Majority, plus the approval of each of (x) the Lender Member Group Majority



and (y) the Frischling Member Group Majority, provided that the matters described in subsection (i) below shall require only the approval of a Class A Member Majority, provided, further, that the matters described in subsection (j) below shall require the approval of a Class A Member Majority[, plus the approval of the Lender Member Group Majority]. Only the following matters shall constitute “Major Decisions”: **[NTD: Open whether a sale of assets, other than a Sale Event, will also require the consent of the Lender Member Group Majority.]**

(a) Entering into any contract (including any amendment, modification or renewal thereof) or other transaction with, or paying any amounts or making any financial accommodations to or on behalf of, any Member or a Related Party of a Member; provided, however, that this Section 5.10 shall not be applicable to, (i) transactions having terms that are no less favorable to the Company or Subsidiary, as applicable, than the Company or Subsidiary would obtain in a comparable arm’s length basis transaction, (ii) the execution, delivery or performance of those contracts, documents, instruments, and transactions entered into in accordance with and contemplated by this Agreement, and (iii) compensation authorized by Section 5.7(a);

(b) Except for Class A Units issued to the Lender Member Group pursuant to Section 2.7(b), the issuance of Equity Securities after the date of this Agreement; **[NTD: Open whether this provision is limited to issuances in the context of an initial capitalization of a joint venture or similar strategic arrangement.]**

(c) Except as provided herein, redeeming any Units of any Member or a Related Party of a Member;

(d) Materially changing the business of the Company (including through its Subsidiaries);

(e) Borrowing funds from a Member or Related Party thereof;

(f) Amending, modifying, changing or restating any of the documents evidencing, securing or relating to the Loan, the Credit Agreement, or any refinancing thereof;

(g) Any determination or adjustment of the Carrying Value as provided herein;

(h) Effecting any merger, recapitalization or reorganization;

(i) Entering in to or contracting to enter in to any Sale Event; or

(j) Other than a Sale Event, any direct or indirect sale, transfer, or other disposition of any asset of the Company or WPNT, including the equity of any of their respective, direct or indirect, Subsidiaries, in a single transaction or a series of related transactions. **[NTD: Open whether an exercise of the Repurchase Right has an effect on the Lender Member Group’s right to approve decisions in (h), (i) and (j).]**

**5.11. Subsidiaries.** Each of the provisions of this Article V shall apply, *mutatis mutandis*, to each Subsidiary.



## ARTICLE VI MEMBERS

**6.1. Limited Liability.** The liability of each Member shall be limited as provided by the Act. Except as permitted under this Agreement, a Member shall take no part in the control, management, direction or operation of the affairs of the Company, and shall have no power to bind the Company in its capacity as a Member.

**6.2. Meetings; Written Consent.** Meetings of the Members shall not be required for any purpose. Any action required or permitted to be taken by Members may be taken without a meeting if the action is evidenced by a written consent describing the action taken and is signed by the requisite number of Members necessary to approve the action to be taken. Action taken under this Section 6.2 shall be effective when the required number of Members have signed the consent, unless the consent specifies a different effective date. Unless otherwise provided herein, any decisions to be made by the Members must be approved by the affirmative vote of Members representing a majority of the Units outstanding. If a majority of the Members meet at any time and place (including telephonically) and consent to the holding of a meeting at such time and place, such meeting shall be valid without call or notice, and any Member action that may be taken at a meeting of the Members may be taken at such meeting so long as the requisite number of Members necessary to approve the action to be taken have voted in favor of such action.

**6.3. No Member Fees.** Except as otherwise provided in this Agreement, no Member shall be entitled to compensation for attendance at Member meetings or for time spent in its or his capacity as a Member.

**6.4. No State Law Partnership.** The Members intend that the Company not be a partnership (including a limited partnership) or joint venture, and that no Member or Director be a partner or joint venturer of any other Member or Director, for any purposes other than federal, state and local income tax purposes, and this Agreement may not be construed to suggest otherwise. Except as otherwise required by the Act, other Law and this Agreement, no Member shall have any fiduciary duty to any other Member.

**6.5. Company Representative.**

(a) **Tax Matters Partner.** Except as provided in Section 6.5(b), the Board will appoint a Member to act as the tax matters Member, which initially will be \_\_\_\_\_, to act in the same capacity as the “Tax Matters Partner” of a partnership as referred to in Section 6231(a)(7)(A) of the Code. The Board in its discretion and at the appropriate time or times will make or choose not to make all tax elections available to the Company at the partnership level.

(b) For any taxable year of the Company in which, and to the extent that, the provisions of Subchapter C of Chapter 63 of the Code, as amended by the Bipartisan Budget Act of 2015 (together with any proposed, temporary or final Treasury Regulations promulgated at any time thereunder, the “Post-TEFRA Partnership Audit Rules”) apply to the Company, the Board shall appoint for the Company a person to serve as the “Partnership Representative” as such term is defined in Section 6223(a) of the Post-TEFRA Partnership Audit Rules.

(i) \_\_\_\_\_ is hereby appointed as the initial Partnership Representative. The Partnership Representative shall appoint the “designated individual” to act on its behalf in accordance with the applicable Treasury Regulations. The Company shall reimburse the Partnership Representative for all expenses reasonably incurred in connection with all examinations of the Company’s affairs by any taxing authority, including any resulting tax proceedings, and the Partnership Representative is authorized to expend Company funds for professional services and costs associated therewith. The Partnership Representative may rely on the advice or services of any lawyers, accountants, tax advisers, or other professional advisers or experts and shall not be liable for any damages, costs, or losses to any persons, any diminution in value or any liability whatsoever arising as a result of its so relying.

(ii) The Partnership Representative shall promptly provide the Company and all Members and former Members with copies of any material notices received by the Partnership Representative in connection with any proceeding or potential adjustment relating to the Company that is subject to the Post-TEFRA Partnership Audit Rules, and shall use commercially reasonable efforts to keep the Members informed of all such proceedings or potential adjustments.

(iii) The Partnership Representative shall have authority to act on behalf of the Company and make all relevant decisions regarding application of the Post-TEFRA Partnership Audit Rules, including, but not limited to, any elections under the Post-TEFRA Partnership Audit Rules or any decisions to settle, compromise, challenge, litigate, or otherwise alter the defense of any proceeding before the Internal Revenue Service if the Members or any of their constituent partners or members could be affected thereby; provided, however, that the Partnership Representative shall not settle, compromise or otherwise resolve any tax matter which may reasonably be expected to have a material and adverse effect on the Lender Member Group without the written consent of Lender. A Partnership Representative who has resigned or has had his or her designation revoked is prohibited from making any decisions or taking any action binding the Company once the IRS receives proper notice of the resignation or revocation; the Partnership Representative shall have no authority to appoint a successor partnership representative.

(iv) Notwithstanding other provisions of this Agreement to the contrary, if any “partnership adjustment” (as defined in Section 6241(2) of the Code) is determined with respect to the Company, the Partnership Representative may cause the Company to elect pursuant to Section 6226 of the Code to have such adjustment passed through to the Members for the year to which the adjustment relates (i.e., the “reviewed year” within the meaning of Section 6225(d)(1) of the Code). In the event that the Partnership Representative has not caused the Company to so elect pursuant to Section 6226 of the Code, then any “imputed underpayment” (as determined in accordance with Section 6225 of the Code) or “partnership adjustment” that does not give rise to an “imputed underpayment” shall be apportioned among the Members of the Company for the taxable year in which the adjustment is finalized in such manner as may be necessary (as determined by the Partnership Representative in good faith), so that, to the maximum extent possible, the tax and economic consequences of the partnership adjustment and any associated interest and penalties are borne by the Members based upon their interests in the Company for the reviewed year; provided, however, that the Partnership Representative shall use commercially

reasonable efforts to ensure that no Member shall bear the economic burden of any tax that is properly allocable to any other Member.

(v) The Members agree to cooperate in good faith to timely provide information requested by the Partnership Representative as needed to comply with the Post-TEFRA Partnership Audit Rules, including without limitation to make (and take full advantage of) any elections available to the Company under the Post-TEFRA Partnership Audit Rules. Each Member agrees that, upon reasonable request of the Partnership, such Member shall take such actions as may be necessary or desirable (as determined in good faith by the Partnership Representative) to (1) allow the Company to comply with the provisions of Section 6226 of the Code so that any “partnership adjustments” are taken into account by the Members rather than the Company; (2) utilize the provisions of Section 6225(c) of the Code including, but not limited to, filing amended tax returns with respect to any “reviewed year” (within the meaning of Section 6225(d)(1) of the Code) or utilizing the alternative procedure to filing amended returns, to reduce the amount of any “partnership adjustment” otherwise required to be taken into account by the Company; or (3) otherwise allow the Company and its Members to address and respond to any matters arising under the Post-TEFRA Partnership Audit Rules.

(vi) At the written request of the Board, each Member or former Member is required to contribute to the Company such Member’s proportionate share of tax, penalties, additions to tax and interest imposed on and paid by the Company under the Post-TEFRA Partnership Audit Rules based on such Member’s or former Member’s allocable share of the income or gain in the year to which such adjustment relates; provided, however, that in the determination of each Member’s allocable share pursuant to this Section 6.5(b)(vi), the Board shall use commercially reasonable efforts to ensure that no Member bears the economic burden of any tax properly allocable to another Member.

(vii) The provisions contained in this Section 6.5(b) shall survive the dissolution of the Company, the withdrawal of any Member, or transfer of any Member’s interest in the Company.

(viii) The Partnership Representative, the “designated individual”, the Tax Matters Partner and each officer, director, employee, and agent of each of them shall be entitled to indemnification pursuant to the provisions of Section 5.6 of this Agreement as if they were a Director.

**6.6. Other Business Opportunities; Conflicts.** Each Member expressly acknowledges that each and every Member, Director and manager and each of their respective stockholders, directors, officers, controlling persons, partners (limited and general), members, managers and employees (collectively, the “Business Opportunity Group”) have business interests and engage in business activities and commercial transactions in addition to those relating to the Company (including those that may compete with the Company and/or its Subsidiaries). Each Member agrees (and to the fullest extent permitted by Law, hereby waives and agrees not to assert any claim to the contrary) that no member of the Business Opportunity Group[, other than any of the Frischling Member Group,] shall be obligated to present any particular investment or business opportunity to the Company or the Board even if such opportunity is of a character that, if presented to the Company or the Board, could be undertaken by the Company and/or any

Subsidiary, and, in fact, each member of the Business Opportunity Group[, other than any of the Frischling Member Group,] shall have the right to undertake any such opportunity for itself, for its own account or on behalf of another or to recommend any such opportunity to other Persons. Notwithstanding the foregoing provisions of this Section 6.6, nothing in this Section 6.6 shall derogate or otherwise affect the confidentiality obligations of each Member pursuant to Section 14.3. **[NTD: Open whether members of the Frischling Member Group are permitted to pursue competing business opportunities.]**

**6.7. Information Relating to the Company.** Upon request, the Company shall supply to any Class A Member any information required to be available and to be provided to Members under the Act. To the maximum extent permitted by the Act and subject to the sole discretion of the Board, the Company hereby restricts the availability of and disclaims any obligation to provide information to any Member that is not a Class A Member. Without limiting the generality of the foregoing, and subject to Section 18-305 of the Act, the Board from time to time, in its sole discretion, may establish reasonable standards (including what documents may be furnished at what time and location and at whose expense) to govern the Members' right to obtain from the Company information concerning the Member's interest as a member of the Company. In addition to such standards, a Member's right to such information shall also be conditioned upon (a) such Member making reasonable demand of the Board and (b) the purpose for the Member's request being reasonably related to the Member's interest as a member of the Company.

**6.8. Approval Rights.** Each Member hereby acknowledges and agrees that such Member is not entitled to any dissenter's rights, appraisal rights or similar rights under Section 18-210 of the Act or otherwise.

**6.9. Repurchase Rights.**

(a) All, but not less than all of the Units held by the Lender Member Group shall be subject to purchase by the Frischling Member Group (in such proportions among the Frischling Member Group as the members of the Frischling Member Group may agree) pursuant to the terms and conditions set forth in this Section 6.9. **[NTD: Open whether all Units held by the Lender Member Group are subject to the repurchase right or only the Units originally issued to the Lender Member Group.]**

(b) (i) At any time a Frischling Member Group Majority may elect to purchase all, but not less than all, of the Units held by the Lender Member Group by delivery of written notice (the "Repurchase Notice") to each Member of the Lender Member Group. The Repurchase Notice shall set forth that all of the Units are to be acquired from the Lender Member Group and the corresponding purchase price. The Repurchase Notice shall also describe the closing date which must be no later than 30 calendar days after the date of the Repurchase Notice. The Repurchase Notice may be given at any time, provided that the Repurchase Notice may not be given [on or after] 30 Business Days [before] the date of any of the following: (1) a Preemptive Rights Offering Notice; (2) a Tag Notice; (3) a Drag-Along Notice; (4) negotiating or entering into, or contracting to enter into, any Sale Event as described in Section 5.10(i); or (5) the announcement or occurrence of a Liquidation Event. If the Frischling Member Group so elects to exercise such repurchase option, then the Lender Member Group shall sell all of the Units owned by the Lender Member Group, and the purchase price, as applicable, shall be paid to the Lender

Member Group as hereinafter provided. **[Open whether the repurchase right can be exercised after a Preemptive Rights Offering Notice, a Tag Notice, a Drag-Along Notice, negotiating or entering into, or contracting to enter into, any Sale Event, or the announcement or occurrence of a Liquidation Event.]**

(ii) The closing of any purchase transaction pursuant to this Section 6.9 shall take place on a date determined by the purchasers that is not less than 10 calendar days nor more than 30 calendar days after the giving of the Repurchase Notice. At the Repurchase Notice closing the purchase price shall be paid to the Lender Member Group in cash or immediately available funds. If any distribution to the Members is announced or approved by the Board prior to such closing, and if any such distribution is not made or to be made in connection with a Sale Event, then the Lender Member Group shall be entitled to be paid any such distribution in addition to the purchase price to be paid in connection with the Repurchase Notice.

(c) The purchase price for all of the Units and all of the WPNT Member Units held by the Lender Member Group shall be paid in cash and based on the aggregate amount that the Lender Member Group would hypothetically receive on the date of the Repurchase Notice determined as if: (i) the assets of the Company and WPNT were sold in cash (to the extent WPNT has not been the subject of a Sale Event) for the Implied Total Enterprise Value; (ii) the amount of the Net Debt was subtracted therefrom; and (iii) the sum of (i) minus (ii) were then distributed to the Members in accordance with Section 7.3, all as determined by the Board in its good faith and reasonable judgement.

(d) [The rights to repurchase the Units held by the Lender Member Group under this Section 6.9 shall be freely assignable by the Frischling Member Group to the transferee in a Transfer of all of the Units of the Frischling Member Group.] **[NTD: Open whether this subsection (d) should remain.]**

## ARTICLE VII DISTRIBUTIONS TO THE MEMBERS

**7.1. Tax Distributions.** Subject to the limitations in Section 7.5, the Board shall cause the Company to advance to each Member annually (and in any event prior to April 15 of the following fiscal year) an amount of Available Cash equal to the excess, if any, of (i) the product of (A) the Applicable Rate multiplied by (B) the Company's net taxable income (if any) estimated by the Board to be allocable to such Member from the beginning of the fiscal year through the end of such fiscal year (including any taxable income attributable to a Code Section 704(c) adjustment or allocation and giving effect to any adjustment pursuant to an election under Code Section 754) over (ii) the total distributions pursuant to Sections 7.2 and 7.3 or advances pursuant to this Section 7.1 previously or contemporaneously made to such Member for such fiscal year. All advances to Members pursuant to this Section 7.1 (each, a "Tax Distribution") shall be treated as advances against distributions otherwise payable to the Members under Sections 7.2 and 7.3. At the discretion of the Board, (x) the amount of Tax Distributions to be made to the Members may be reduced by the amount of distributions (other than Tax Distributions) previously made to the Members during such period pursuant to this Agreement, and by the amounts withheld pursuant to Section 7.7 and (y) the Board, in its discretion, may cause the Company to make more frequent Tax Distributions, including quarterly or other distributions for tax purposes.



**7.2. Non-Liquidating Distributions.** Except as provided in Sections 7.1, 7.3, or 12.3, the Board shall have the sole and absolute discretion to determine whether the Company will make any distributions to the Members, and if so, the timing, amount and form (cash or property; provided that all Members shall receive the same form of distribution) of any distributions to the Members. At any time prior to a Liquidation Event and subject to Board approval and Laws, the Board may cause the Company to make distributions of Available Cash in such aggregate amounts as the Board shall determine to the Members proportionately in accordance with their Sharing Ratios.

**7.3. Liquidating Distributions.** All distributions made in connection with the sale or exchange of all or substantially all of the Company's assets and all distributions made in connection with the liquidation of the Company (each, a "Liquidation Event") after payment of all debts and liabilities of the Company including without limitation all expenses of the Company in accordance with Section 12.3(b) and all sale-related expenses, and after setting aside appropriate Company reserves for post-closing contingent liabilities as determined by the Board in its discretion, shall be made to the Members, promptly following the Liquidation Event, in the amounts and the form (cash or property; provided that all Members shall receive the same form of distribution), as determined by the Board in its reasonable discretion. Such distributions in connection with a Liquidation Event shall be made to the Members proportionately in accordance with their Sharing Ratios.

**7.4. Distributions in Kind.** During the existence of the Company, no Member shall be entitled or required to receive as distributions from the Company any Company asset other than money. In-kind distributions of assets in connection with the dissolution and winding up of the Company shall be governed by Article XII.

**7.5. General Limitation on Distributions.** Notwithstanding any provision in this Article VII to the contrary, the Company shall not make a distribution to any Member if (a) there is insufficient Available Cash, as determined by the Board in its sole discretion, or (b) such distribution would be prohibited under any agreement pursuant to which indebtedness of the Company or any of its Subsidiaries is issued to a senior lender, but only if at such time the Company or any of its Subsidiaries is in default under such agreement, or (c) such distribution would be prohibited under Section 18-607 of the Act (Limitations on Distributions) or any successor provision or other applicable Law, or (d) the Company is unable at the time of the proposed distribution, or would be unable immediately following such proposed distribution, to pay its debts as they become due.

**7.6. Withholding.** Each Member hereby authorizes the Company to withhold from or pay on behalf of or with respect to such Member any amount of federal, state, local or foreign taxes that the Company is required to withhold or pay with respect to any amount distributable or allocable to such Member pursuant to this Agreement, including, without limitation, any taxes required to be withheld or paid by the Company pursuant to Code § 1446 or any other applicable sections of the Code. Amounts withheld or offset from or on behalf of or with respect to a Member pursuant to this Section 7.6 or Section 14.15 shall be treated distributions made to such Member under Sections 7.2, 7.3 and 12.3.

## **ARTICLE VIII ALLOCATION OF PROFITS AND LOSSES**

### **8.1. In General.**

(a) This Article VIII provides for the allocation among the Members of Profit and Loss for purposes of crediting and debiting the Capital Accounts of the Members. Article IX provides for the allocation among the Members of taxable income and tax losses.

(b) Except as provided in Sections 8.2 and 8.3(c), all Profits and Losses and, to the extent necessary, individual items of income, gain, loss or deduction, of the Company shall be allocated among the Members in a manner such that, after giving effect to the special allocations set forth in Sections 8.2 and 8.3 or elsewhere in this Agreement, the Capital Account of each Member, immediately after making such allocation, is, as nearly as possible, equal (proportionately) to (i) the distributions that would be made to such Member pursuant to Section 7.3 if the Company were dissolved, its affairs wound up and its assets sold for cash equal to their Carrying Value, all Company liabilities were satisfied (limited with respect to each nonrecourse liability to the Carrying Value of the assets securing such liability), and the net assets of the Company were distributed in accordance with Section 7.3 to the Members immediately after making such allocation, minus (ii) such Member's share of Company Minimum Gain and Member Nonrecourse Debt Minimum Gain, computed immediately prior to the hypothetical sale of assets. For purposes of allocating Profits and Losses any other items pursuant to this Section 8.1(b) (or 8.2, as applicable). Notwithstanding the foregoing, the Board may make such allocations as it in good faith deems reasonably necessary to give economic effect to the provisions of this Agreement taking into account such facts and circumstances as the Board deems reasonably necessary for this purpose.

**8.2. Regulatory Allocations and Other Allocation Rules.** Notwithstanding Sections 8.1 and 8.3:

(a) Loss Limitation. The Losses allocated pursuant to Section 8.1 shall not exceed the maximum amount of Losses that can be so allocated without causing such Member to have an Adjusted Capital Account Deficit at the end of any fiscal year. In the event some but not all of the Members would have Adjusted Capital Account Deficits as a consequence of an allocation of Losses pursuant to Section 8.1, the limitation set forth in this Section 8.2(a) shall be applied on a Member by Member basis so as to allocate the maximum permissible Losses to each Member under Treasury Regulations § 1.704-1(b)(2)(ii)(d). All Losses in excess of the limitations set forth in this Section 8.2(a) shall be allocated to the Members in proportion to their Sharing Ratios. This Section 8.2(a) shall be interpreted consistently with the loss limitation provisions of Treasury Regulations § 1.704-1(b)(2)(ii)(d).

(b) Minimum Gain Chargeback. Except as otherwise provided in Treasury Regulations § 1.704-2(f), if there is a net decrease in partnership minimum gain (as defined in Treasury Regulations §§ 1.704-2(b)(2) and 1.704-2(d)(1)) during any fiscal year, each Member shall be specially allocated items of Company income and gain for such fiscal year (and, if necessary, subsequent fiscal years) in an amount and in the manner required by Treasury Regulations §§ 1.704-2(f) and 1.704-2(j)(2). This Section 8.2(b) shall be interpreted consistently



with the “minimum gain” provisions of Treasury Regulations § 1.704-2 related to nonrecourse liabilities (as defined in Treasury Regulations § 1.704-2(b)(3)).

(c) Member Minimum Gain Chargeback. Except as otherwise provided in Treasury Regulation § 1.704-2(i)(4), if there is a net decrease in partner nonrecourse debt minimum gain (as defined in Treasury Regulations §§ 1.704-2(i)(2) and 1.704-2(i)(3)) attributable to partner nonrecourse debt (as defined in Treasury Regulations § 1.704-2(b)(4)) during any fiscal year, each Member who has a share of the partner nonrecourse debt minimum gain attributable to such Member’s partner nonrecourse debt, determined in accordance with Treasury Regulations § 1.704-2(i)(5.1), shall be specially allocated items of Company income and gain for such fiscal year (and, if necessary, subsequent fiscal years) in an amount and in the manner required by Treasury Regulations §§ 1.704-2(i)(4) and 1.704-2(j)(2). This Section 8.2(c) shall be interpreted consistently with the “minimum gain” provisions of Treasury Regulations § 1.704-2 related to partner nonrecourse liabilities (as defined in Treasury Regulations § 1.704-2(b)(4)).

(d) Qualified Income Offset. In the event any Member unexpectedly receives any adjustments, allocations, or distributions described in Treasury Regulations §§ 1.704-1(b)(2)(ii)(d)(4), 1.704-1(b)(2)(ii)(d)(5) or 1.704-1(b)(2)(ii)(d)(6), items of Company income and gain shall be specially allocated to such Member in an amount and manner sufficient to eliminate, to the extent required by the Treasury Regulations, the Adjusted Capital Account Deficit, if any, of such Member as quickly as possible. This Section 8.2(d) shall be interpreted consistently with the “qualified income offset” provisions of Treasury Regulations § 1.704-1 (b)(2)(ii)(d).

(e) Nonrecourse Deductions. Any non-recourse deduction (as defined in Treasury Regulations § 1.704-2(b)(1)) for any fiscal year shall be allocated to the Class A Members in proportion to their respective Sharing Ratios.

(f) Member Nonrecourse Deductions. Any partner nonrecourse deductions (as defined in Treasury Regulations §§ 1.704-2(i)(1) and 1.704-2(i)(2)) for any fiscal year shall be specially allocated to the Member who bears the economic risk of loss with respect to the partner nonrecourse debt (as defined in Treasury Regulations § 1.704-2(b)(4)) to which such Member nonrecourse deductions are attributable in accordance with Treasury Regulations § 1.704-2(i)(1).

(g) Section 754 Adjustments. To the extent an adjustment to the adjusted tax basis of any Company asset is required pursuant to Code section 732(d), Code section 734(b) or Code section 743(b), the Capital Accounts of the Members shall be adjusted pursuant to Treasury Regulations § 1.704-1(b)(2)(iv)(m).

(h) Curative Allocations. The allocations under Sections 8.2(a) through (g) (the “Regulatory Allocations”) are intended to comply with certain requirements of the Treasury Regulations. It is the intent of the Members that, to the extent possible, all Regulatory Allocations shall be offset either with other Regulatory Allocations or with special allocations of other items of Company income, gain, loss or deduction pursuant to this Article VIII. Therefore, notwithstanding any other provision this Article VIII (other than the Regulatory Allocations), the Company shall make such offsetting special allocations of Company income, gain, loss or deduction in whatever manner it determines appropriate so that, after such offsetting allocations are made, each Member’s Capital Account balance is, to the extent possible, equal to the Capital

Account balance such Member would have had if the Regulatory Allocations were not part of this Agreement and all Company items were allocated pursuant to Section 8.1. In exercising its reasonable discretion under this Section 8.2(h), the Board shall take into account future Regulatory Allocations under Sections 8.2(a) through (g) that are likely to offset other Regulatory Allocations previously made.

**8.3. Other Allocation Rules.**

(a) Profits, Losses, and any other items allocable to any period shall be determined on a daily, monthly, or other basis, as determined by the Board using any permissible method under Code section 706 and the Regulations thereunder.

(b) Solely for purposes of determining a Member's proportionate share of the "excess nonrecourse liabilities" of the Company within the meaning of Treasury Regulations § 1.752-(a)(3), the Members' interests in Profits shall be their Sharing Ratios.

(c) [To the extent permitted by Treasury Regulations § 1.704-2(h)(3), the Company shall treat distributions of Available Cash as having been made from the proceeds of a nonrecourse liability (as defined in Treasury Regulations § 1.704-2(b)(3)) or a partner nonrecourse debt (as defined in Treasury Regulations § 1.704-2(b)(4)) only to the extent that such distributions would not cause or increase an Adjusted Capital Account Deficit for any Member.]<sup>1</sup>

(d) The foregoing provisions and the other provisions of this Agreement relating to the maintenance of Capital Accounts are intended to comply with Treasury Regulations Section 1.704-1(b) and shall be interpreted and applied in a manner consistent with such regulations. Section 8.1(b) may be amended at any time by the Board if necessary, in the opinion of tax counsel to the Company, to comply with such regulations, so long as any such amendment does not materially change the relative economic interests of the Members.

**8.4. Intent of Allocations.** The parties intend that the foregoing allocation provisions of this Article VIII shall produce final Capital Account balances of the Members so that liquidating distributions that are made in accordance with Section 7.3 (after unpaid loans and interest thereon, including those owed to Members have been paid) will equal, as closely as possible, the Members' final Capital Account balances immediately prior to such liquidating distributions. To the extent that the allocation provisions of this Article VIII would fail to produce such final Capital Account balances, (i) such provisions shall be amended by the Board if and to the extent necessary to produce such result, and (ii) Profits and Losses of the Company for the current year and prior open years (or items of gross income and deduction of the Company for such years) shall be reallocated by the Board among the Members to the extent it is not possible to achieve such result with allocations of items of income (including gross income) and deduction for the current year and future years, as approved by the Board.

---

<sup>1</sup> Note to Carmody: is there anything in particular that this provision is directed at, or is this Carmody's standard form? Haven't typically seen this provision so curious if there's any particular issue in play.

## ARTICLE IX ALLOCATION OF TAXABLE INCOME AND TAX LOSSES

**9.1. Allocation of Taxable Income and Tax Losses.** Except as provided in Sections 9.2 and 9.3, each item of income, gain, loss and deduction of the Company for federal income tax purposes shall be allocated among the Members in the same manner as such item is allocated for book purposes under Article VIII.

**9.2. Allocation of Section 704(c) Items.** The Members recognize that with respect to property contributed to the Company by a Member and with respect to property revalued in accordance with Treasury Regulations § 1.704-1(b)(2)(iv)(f) (referred to as “Adjusted Properties”), there will be a difference between the agreed values or Carrying Values, as the case may be, of such property at the time of contribution or revaluation, as the case may be, and the adjusted tax basis of such property at that time. All items of tax depreciation, cost recovery, depletion, amortization and gain or loss with respect to such contributed properties and Adjusted Properties shall be allocated among the Members to take into account the book tax disparities with respect to such properties in accordance with the provisions of sections 704(b) and 704(c) of the Code and Treasury Regulations [§ 1.704-3(b)]<sup>2</sup>.

**9.3. Integration with Section 754 Election.** [All items of income, gain, loss, deduction and credits recognized by the Company for federal income tax purposes and allocated to the Members in accordance with the provisions of this Agreement and all basis allocations to the Members shall be determined without regard to any election under section 754 of the Code that may be made by the Company; provided, however, such allocations, once made, shall be adjusted as necessary or appropriate to take into account the adjustments permitted by sections 734 and 743 of the Code.]<sup>3</sup>

**9.4. Allocation of Tax Credits.** The tax credits, if any, with respect to the Company’s property or operations shall be allocated among the Members in accordance with Treasury Regulations § 1.704-1 (b)(4)(ii).

## ARTICLE X ACCOUNTING AND REPORTING

**10.1. Books.** The Board shall cause the Company to maintain complete and accurate books of account of the Company’s affairs at the principal office of the Company. The Company’s books shall be kept on an accrual basis method of accounting. Subject to the requirements of Law, the fiscal year of the Company shall end on December 31 of each year.

**10.2. Capital Accounts.**

(a) The Board shall cause the Company to maintain a separate capital account for each Member and such other Member accounts as may be necessary or desirable to comply

---

<sup>22</sup> 704(c) allocation methodology to be discussed. Does the Company project material initial 704(c) amounts?

<sup>3</sup> NTD: to discuss whether there are any special concerns that this provision relates to.

with the requirements of Law (“Capital Accounts”). Each Member’s Capital Account shall be maintained in accordance with the provisions of Treasury Regulations § 1.704-1(b)(2)(iv).

(b) Consistent with and as permitted in the provisions of Treasury Regulations § 1.704- 1(b)(2)(iv)(f), the Capital Accounts of all Members and the Carrying Values of all Company properties may be adjusted upwards or downwards to reflect any unrealized gain or unrealized loss with respect to such Company property (as if such unrealized gain or unrealized loss had been recognized upon an actual sale of such property for the amount of its fair market value, as determined by the Board in good faith , immediately prior to the event giving rise to revaluation under this Section 10.2(b), and had been allocated among the Members pursuant to Article VIII). In determining such unrealized gain or unrealized loss, the fair market value of Company properties as of the date of determination shall be determined by the Board in good faith.

(c) A transferee of a Company interest shall succeed to the Capital Account attributable to the Company interest Transferred.

**10.3. Transfers During Year.** In order to avoid an interim closing of the Company’s books, the allocation of Profits and Losses under Article VIII between a Member who Transfers part or all of its interest in the Company during the Company’s accounting year and his transferee, or to a Member whose Sharing Ratio varies during the course of the Company’s accounting year, may be determined pursuant to any method chosen by the Board; provided, however, that any Profit or Loss attributable to extraordinary items related to the sale of Company property shall be allocated to the owner of the interest in the Company at the time the Profit or Loss attributable to the extraordinary item was realized.

**10.4. Reports.** The Board shall cause the Company to deliver to the Class A Members the following financial statements and reports at the times indicated below:

(a) Monthly Reports. Within 30 days after the end of each fiscal month of the Company, commencing with the fiscal month of the Company ending [\_\_\_\_], the Company’s and its Affiliates’ combined, combining and consolidating balance sheet as at the end of such fiscal month and the related combined, combining and consolidating statements of income and retained earnings and of cash flows for such fiscal month and for the elapsed portion of the fiscal year-to-date period then ended, each in reasonable detail, prepared by the Company in accordance with GAAP, setting forth comparative figures for the corresponding fiscal month in the prior fiscal year (starting [\_\_\_\_]) and comparable budgeted figures for such fiscal month.

(b) Quarterly Reports. Within 45 days after the end of each fiscal quarter of the Company, commencing with the fiscal quarter ending [\_\_\_\_], the of the Company’s and its Affiliates’ combined, combining and consolidating balance sheet as at the end of such fiscal quarter and the related combined, combining and consolidating statements of income and retained earnings and of cash flows for such fiscal quarter and for the elapsed portion of the fiscal year-to-date period then ended, each in reasonable detail, prepared by the of the Company in accordance with GAAP, setting forth comparative figures for the corresponding fiscal quarter in the prior fiscal year and comparable budgeted figures for such fiscal quarter.

(c) Annual Statements. Within [120] days after the close of each fiscal year of the of the Company, a copy of the Company's and its Affiliates' combined, combining and consolidating balance sheet as of the last day of the fiscal year then ended and the Company's and its Affiliates' combined, combining and consolidating statements of income, retained earnings, and cash flows for the Fiscal Year then ended, and accompanying notes thereto, each in reasonable detail showing in comparative form the figures for the previous fiscal year, accompanied by an unqualified opinion of a firm of independent public accountants of recognized national standing, selected by the Company, to the effect that the combined financial statements have been prepared in accordance with GAAP and present fairly in accordance with GAAP the combined financial condition of the Company and its Affiliates as of the close of such fiscal year and the results of their operations and cash flows for the fiscal year then ended and that an examination of such accounts in connection with such financial statements has been made in accordance with generally accepted auditing standards; provided that, with respect to the Company's and its Affiliates' fiscal year ending [\_\_\_\_], within 180 days after the close of such fiscal year, the Company shall deliver a draft of the audited financial statements otherwise required by this Section 10.4(c), which draft may include a qualification only with respect to the "going concern" of the Company and tis Affiliates. **[NTD: The time period for delivering annual financial statements is open.]**

(d) The Board shall cause the Company to provide to the Members such other reports, audits, financial statements and tax returns as the Board shall determine.

The Company shall furnish to each Member such information with respect to the Company (including a schedule setting forth such Member's distributive share of the Company's income, gain, loss, deduction and credit as determined for federal tax income purposes and any K-1 tax information (or a reasonable estimate thereof) by no later than 90 days after the end of each fiscal year of the Company) as is necessary to enable such Member to prepare such Member's federal, state and local income tax returns.

**10.5. Section 754 Election.** If requested by a Class A Member, the Company shall make the election provided for under Section 754 of the Code. Any cost incurred by the Company in implementing such election at the request of any Class A Member shall be promptly reimbursed to the Company by the requesting Class A Member.

**10.6. Classification as a Partnership.** Except as provided for in Section 11.3 or for so long as the Company has one (1) Member, the Company shall be taxable as a partnership for federal income tax purposes pursuant to Treasury Regulations Section 301.7701-3(b)(1)(i). During such time, neither the Company nor any Member shall (i) take any position for U.S. federal income tax purposes that is not consistent with the foregoing (except to the extent otherwise required by Law or a good faith resolution of a tax contest), or (ii) take any action that would result in the Company being taxed as other than a partnership" for federal income tax purposes, including electing to be taxed as other than a "partnership" by filing Form 8832, "Entity Classification Election" without the prior written consent of the Frischling Member Group.



## ARTICLE XI TRANSFER OF MEMBER'S INTEREST

**11.1. Restrictions on Transfers and Liens.** No Member shall Transfer or create a Lien on all or any portion of its Units except as permitted by this Article XI. Any attempted Transfer of, or creation of a Lien on, any portion of Units not in accordance with the terms of this Article XI shall be null and void ab initio and of no legal effect. [NTD: Open whether there will be any additional transfer restrictions or permitted transfers.]

### **11.2. Right of First Offer.**

(a) If a Member (a "Transferor") proposes to Transfer, in a single transaction or a series of related transactions, all or any portion of its Units (a "Transferee"), other than by way of a Transfer to an Affiliate, such Transferor shall not be entitled to Transfer such Units without first offering such shares for sale (the "Right of First Offer") to the other Members (the "Non-Transferring ROFO Members") by giving notice to the Non-Transferring ROFO Members in accordance with Section 11.2(b) below (a "ROFO Notice").

(b) The Transferor shall provide the Non-Transferring ROFO Members with a ROFO Notice offering to sell the relevant shares of Units for a specified cash price per share of Units (the "ROFO Offer Price"), which offer shall be irrevocable for a period of 15 calendar days after the date of delivery of the ROFO Notice (such period being the "ROFO Offer Period"), or if all of the Offered Units (as defined below) must be purchased by the Non-Transferring ROFO Members in accordance with the provisions of Section 11.2(e), for a period ending 10 calendar days after the date of delivery of an Extension Notice (as hereinafter defined) (such period being the "Extended ROFO Offer Period"). The ROFO Notice shall specify:

(i) the number of Units offered to be sold to the Non-Transferring ROFO Members (the "Offered Units");

(ii) the ROFO Offer Price;

(iii) the terms of payment and any other terms and conditions which the Offered Units are offered to be sold to the Non-Transferring ROFO Members; and

(iv) whether all of the Offered Units must be purchased by the Non-Transferring ROFO Members in accordance with the provisions of Section 11.2(e).

(c) Each Non-Transferring ROFO Member shall be entitled to accept the offer to purchase the Offered Units on the terms and conditions set forth in the ROFO Notice by notifying the Transferor in writing of such Non-Transferring ROFO Member's (a "Purchasing Member") acceptance of the offer and indicating in such written acceptance the number of Offered Units that such Purchasing Member agrees to purchase from the Transferor (which, subject to Section 11.2(e), may be all or any portion of the Offered Units). Any Non-Transferring ROFO Member that does not accept the offer to purchase Offered Units within the ROFO Offer Period or the Extended ROFO Offer Period, as applicable, shall be deemed to have waived all of such Non-Transferring ROFO Member's right to purchase Offered Units pursuant to this Section 11.2, and the Transferor shall thereafter, subject to the rights of any Purchasing Member pursuant to this

Section 11.2, be free to Transfer the Offered Units to any Person in accordance with the terms of Section 11.2(f).

(d) If the Purchasing Members notify the Transferor that in the aggregate they desire to acquire more shares of Units than the total number of Offered Units identified in the ROFO Notice, then the number of Offered Units allocated to each Purchasing Member shall equal the product of (i) the number of Offered Units that such Purchasing Member agreed to purchase pursuant to Section 11.2(c) and (ii) the ratio of (x) the total number of Offered Units identified in the ROFO Notice to (y) the aggregate number of Offered Units that the Purchasing Members together agreed to purchase pursuant to Section 11.2(c).

(e) If the ROFO Notice contains a provision specifying that the Non-Transferring ROFO Members must accept the offer to purchase all of the Offered Units offered to be sold pursuant to this Section 11.2 in order for the Right of First Offer to be validly exercised, then no Offered Units shall be subject to the Right of First Offer unless (i) the Purchasing Members accept the offer to purchase, in the aggregate, all or more than all of the Offered Units prior to the expiration of the ROFO Offer Period, (ii) if the condition in clause (i) of this sentence is not satisfied, the Purchasing Members accept the offer to purchase, in the aggregate all or more than all of the Offered Units prior to the expiration of the Extended ROFO Offer Period, or (iii) the Transferor waives the condition that the Non-Transferring ROFO Members must accept the offer to purchase all of the Offered Units offered to be sold pursuant to this Section 11.2 in order for the Right of First Offer to be validly exercised prior to the expiration of the Extended ROFO Offer Period (such period being the “Waiver Period”). If the ROFO Notice contains a provision specifying that the Non-Transferring ROFO Members must accept the offer to purchase all of the Offered Units offered to be sold pursuant to this Section 11.2 in order for the Right of First Offer to be validly exercised, and the condition in clause (i) of the preceding sentence is not satisfied as of the expiration of the ROFO Offer Period, then the Transferor shall notify the Purchasing Members of such fact in writing promptly after the expiration of the ROFO Offer Period (such written notice, an “Extension Notice”).

(f) If any Non-Transferring ROFO Member accepts the offer to purchase any of the Offered Units within the ROFO Offer Period (or, if applicable, the Extended ROFO Offer Period), such purchase shall be consummated within 15 calendar days after the close of the ROFO Offer Period (or, if applicable, the Extended ROFO Offer Period or the Waiver Period); provided that such 15-calendar-day period shall be extended by as much as 210 additional calendar days in order to satisfy any approvals required to be obtained from any governmental agency or body having jurisdiction over the relevant parties to such purchase. If the Non-Transferring ROFO Members do not accept the offer to purchase all of the Offered Units within the ROFO Offer Period or Extended ROFO Offer Period, as applicable, the Transferor may Transfer any remaining portion of the Offered Units to any Person(s) (any such Transfer, a “Third Party Transfer”) so long as (i) the Transferor and such Person(s) execute a definitive transaction agreement related to the Transfer of such Offered Units (a “Purchase Agreement”) within 45 calendar days after the expiration of the ROFO Offer Period (or, if applicable, the Extended ROFO Offer Period), (ii) the closing of such sale occurs within 45 calendar days after the signing of the Purchase Agreement, provided that such 45 calendar day period shall be extended by as much as 180 additional calendar days in order to satisfy any approvals required to be obtained from any governmental agency or body having jurisdiction over the relevant parties to such purchase, (iii) the sale price of each such



Offered Share is not less than 95% of the ROFO Offer Price, (iv) such sale is on terms and conditions no more favorable to the Transferee than those specified in the ROFO Notice (other than with respect to the sale price as provided in clause (iii) of this sentence) and (v) if the applicable ROFO Notice required all of the Offered Units to be purchased by the Non-Transferring ROFO Members in accordance with the provisions of Section 11.2(e) and such requirement was not duly waived by the Transferor during the Waiver Period, such sale is for all of the remaining portion of the Offered Units. In the event that the Transferor does not complete any such proposed Transfer to any Person(s) within such applicable time period, the provisions of this Section 11.2 shall apply as if no ROFO Notice had ever been provided to the Non-Transferring ROFO Members and all notification periods set forth in this Section 11.2 shall be reset.

(g) If the Offered Units are proposed to be Transferred in a Third Party Transfer for consideration other than cash exclusively (the “Proposed Consideration”) or the Offered Units are to be Transferred by the Transferor together with other consideration (the “Additional Transferred Consideration”), the Transferor shall provide notice thereof (a “Other Consideration Notice”) to the Non-Transferring ROFO Members within five calendar days after the execution of the applicable Purchase Agreement. Each Other Consideration Notice shall include, as applicable, a description of the Proposed Consideration, as well as a cash equivalent valuation of the Proposed Consideration as of the date of the Other Consideration Notice prepared by a reputable third party valuation professional, or the Additional Transferred Consideration. Each Non-Transferring ROFO Member shall be entitled to dispute the cash equivalent valuation of any Proposed Consideration by sending a notice in writing (an “Objection Notice”) to the Transferor within 10 calendar days from the date of receipt of the applicable Other Consideration Notice if such Non-Transferring ROFO Member believes, in good faith, that the Proposed Consideration does not satisfy the terms of Section 11.2(f). If any Non-Transferring ROFO Member delivers an Objection Notice and the Transferor and each Non-Transferring ROFO Member that delivered an Objection Notice cannot agree on a cash equivalent valuation of the Proposed Consideration within a period of 20 calendar days from the date of the applicable Other Consideration Notice, the cash equivalent valuation of the Proposed Consideration shall be conclusively determined by a valuation firm of national recognition, which firm shall be selected by the Company and be reasonably acceptable to the Transferor and each of the Non-Transferring ROFO Members that delivered an Objection Notice. The cost of such valuation shall be allocated (i) if the aggregate value of such consideration, as determined by such valuation firm, proposed to be given in exchange for the Offered Units is not sufficient to satisfy the requirements of clause (iii) of Section 11.2(f), to the Transferor and (ii) otherwise, to the Non-Transferring ROFO Members that delivered an Objection Notice, divided equally. In any Transfer that includes Proposed Consideration, the ROFO Offer Price shall include the cash equivalent valuation of the Proposed Consideration, as determined under this Section 11.2(g). The Transferor may not Transfer the Offered Units in the proposed Third Party Transfer until a determination that the Proposed Consideration satisfies the terms of Section 11.2(f) has been made in accordance with the terms of this Section. In any Transfer that includes Additional Transferred Consideration, the ROFO Offer Price shall include the aggregate consideration for the Offered Units and the Additional Transferred Consideration, which shall be included in the Transfer to Purchasing Member(s).

(h) The provisions of this Section 11.2 are subject in all events to the rights of the Frischling Members Group described in Section 6.9], provided that the Frischling Member Group shall not be entitled to exercise any such repurchase set forth in Section 6.9 if it would result

in the Lender Member Group receiving less than the ROFO Price under this Section 11.2]. **[NTD: Open whether the repurchase right can be exercised after a ROFO Notice.]**

### **11.3. Sale Participation Rights.**

(a) Subject to Section 11.2, if any group of Class A Members (whether one or more of such Class A Members, a “Selling Group”) receives a bona fide written offer from a third party that is not a Related Party of a Class A Member to purchase 20% or more of Class A Units in the Company, for cash, securities or other consideration, and the Selling Group makes a determination to sell their Class A Units in accordance with the offer (an “Approved Sale”), then the Selling Group shall deliver written notice of such proposed sale to the other Class A Members (the “Tag Notice”), which shall include the material terms of such Approved Sale and shall attach the most recent drafts of any agreements or written offers from the Proposed Purchaser setting forth the terms of such sale or other disposition.

(b) Within the period beginning 10 days following receipt of the Tag Notice and ending 30 days following receipt of the Tag Notice, each Class A Member receiving such Tag Notice shall notify the Board in writing (the “Tag Participation Notice”) if such Class A Member elects to participate in such sale on a pro rata basis and on the same terms and conditions specified in the Tag Notice. If any Class A Members receiving the Tag Notice do not so notify the Board within 20 days after receipt of the Tag Notice, such Class A Member will be deemed to have elected not to participate in the Approved Sale. Each Class A Member timely electing to participate may elect to sell the percentage of the Units then owned by such participating Class A Member as is equal to the percentage of the Class A Units owned by the Selling Group that the Selling Group has determined to sell.

(c) Any Approved Sale shall be consummated within 60 days following the expiration of the election period described in Section 11.3(b). The Board and the Selling Group shall keep the Board and the participating Class A Members so electing advised regarding the timing of any such sale and shall provide them with the most recent drafts of the transaction documents. The participating Class A Members shall not be required to accept any terms, conditions, agreements or undertakings in connection with any such sale other than those described in the Tag Notice.

(d) The provisions of this Section 11.3 are subject in all events to the repurchase rights of the Frischling Member Group described in Section 6.9], provided that the Frischling Member Group shall not be entitled to exercise any such repurchase set forth in Section 6.9 if it would result in the Lender Member Group receiving less consideration than a Transfer in connection with an Approved Sale under this Section 11.3.] **[NTD: Open whether repurchase right can be exercised after Tag Notice is sent.]**

### **11.4. Forced Sale Right.**

(a) One or more Members holding greater than fifty percent (50%) of the issued and outstanding Units (such Member or Members, the “Dragging Member”) may give notice (a “Drag-Along Transaction Notice”) to all of the other Members (the “Drag-Along Member Recipients,” and, together with the Dragging Members, the “Drag-Along Sellers”) that the

Dragging Members intend to enter into (or have agreed to vote the Securities they own, or to execute a written consent in lieu thereof, in favor of) a transaction or series of related transactions involving the Transfer of greater than fifty percent (50%) of the issued and outstanding Units to any Person (other than to a Related Party of any Dragging Member) or to cause the Company to merge or consolidate with (other than one in which the Members immediately prior to such merger or consolidation own a majority, directly or indirectly, of the equity of the survivor or acquiror), or sell, lease, transfer, license exclusively or otherwise dispose of all or substantially all of the assets of the Company and its Subsidiaries (taken as a whole) to, any Person (other than to a Related Party of any Dragging Member) in one or more bona fide arms-length transactions (each, a “Drag-Along Transaction”), and that the Dragging Member requires the Drag-Along Member Recipients to participate in such transaction (which shall include the requirement that each Drag-Along Member Recipient severally (but not jointly) makes the same representations, warranties and covenants as the Dragging Member makes with respect to themselves in their capacity as Members and owners of Units in connection with such Drag-Along Transaction). Such notice shall also specify (i) the amount and form of consideration to be received by the Drag-Along Sellers or the Company and any other consideration to be received directly or indirectly by any Drag-Along Seller or its Affiliates in connection with such Drag-Along Transaction regardless of whether such consideration relates to the Units to be Transferred in connection with such Drag-Along Transaction (which amount and form of consideration shall be the same and which other material terms and conditions shall be identical for each of the Drag-Along Sellers), (ii) any other material terms and conditions of the proposed Drag-Along Transaction, including a copy of the proposed definitive agreement (if available), (iii) the identity of the proposed transferee in the proposed Drag-Along Transaction, (iv) the date of anticipated completion of the proposed Drag-Along Transaction (which date shall be not less than fifteen (15) days after the date of such notice), and (v) the action or actions reasonably requested or required of each Drag-Along Member Recipient (without limiting those that may be reasonably requested or required in the future) in order to complete or facilitate such proposed Drag-Along Transaction (including (A) the Transfer of Units owned by the Drag-Along Member Recipient, (B) the voting by such Drag-Along Member Recipient in favor of the Drag-Along Transaction and the transactions contemplated thereby and the waiver of any related appraisal or dissenters’ rights or (C) the execution and delivery of any merger, asset purchase, security purchase, recapitalization or other agreement, as applicable). Upon receipt of such notice, each Drag-Along Member Recipient shall be obligated to take the actions referred to in subclause (v) above and any other actions reasonably requested by the Dragging Member in connection with the Drag-Along Transaction; provided, however, that with respect to any securities exercisable for, convertible into or exchangeable for Units, the price per Unit shall be reduced by the exercise price of such security or, if required pursuant to the terms of such security or such Drag-Along Transaction, the owner thereof must exercise, convert or exchange such other relevant security and Transfer the relevant underlying Unit (rather than the security) (in each case, net of any amounts required to be withheld by the Company in connection with such exercise), provided, further, that, notwithstanding anything herein to the contrary, the Board shall be permitted to determine the appropriate manner of treatment of all outstanding securities in connection with such Drag-Along Transaction in accordance with the terms of such Securities. Notwithstanding anything herein to the contrary, if any Member is given an option as to the form of consideration to be received in connection with a Drag-Along Transaction, then each other Member shall have the same option with respect to the form of consideration.

(b) If a Drag-Along Transaction contemplates the Transfer of less than all of the issued and outstanding Units of the Company, then each Drag-Along Seller shall Transfer a number of Units equal to the product of the following: (i) the number of Units owned by such Drag-Along Seller multiplied by (ii) a fraction, the numerator of which is the aggregate number of Units being Transferred in such Drag-Along Transaction and the denominator of which is the aggregate number of all issued and outstanding Units as of the date of the Drag-Along Transaction.

(c) Subject to Section 11.4(d), each Member may be required to enter into any several (but not joint) indemnification or contribution or other agreement reasonably requested and entered into by the Dragging Member to ensure compliance with the Drag-Along Transaction. Execution of this Agreement or a joinder to this Agreement constitutes the binding agreement of each Member to sell all of his, her or its Units on the same terms and conditions set forth in the Drag-Along Notice, including the making of the same representations and warranties, subject to Section 11.4(d). Each Member hereby appoints the Dragging Member(s) as such Dragged Member's attorney-in-fact to implement the sale of such Member's Units in the event such Member is not available or refuses to cooperate in the Drag-Along Transaction in accordance with the terms of this Agreement.

(d) Notwithstanding anything to the contrary, no Member shall be required to make any representations, warranties, covenants or indemnities that are joint or joint and several or that pertain to matters other than: (i) title to the Units held by such Member, (ii) such Member's capacity, authority or power to consummate the Drag-Along Transaction, (iii) conflicts with laws, conflicts with contracts, organizational documents and Orders applicable to such Member, or (iv) broker and similar fees payable by such Member. Notwithstanding anything to the contrary, in no event shall any Member be required to indemnify any Person in an aggregate amount in excess of the net cash proceeds actually paid to and received by such Member in any Drag-Along Transaction, except in the case of fraud.

(e) All fees and expenses incurred in connection with a Drag-Along Transaction shall be paid by the Company (if not by the buyer) and no Drag-Along Seller shall be obligated to pay any such fees and expenses.

(f) The provisions of this Section 11.4 are subject in all events to the repurchase rights of the Frischling Member Group described in Section 6.9[, provided that in any Drag-Along Transaction in which any Member of the Frischling Member Group is a Dragging Member, the Lender Member Group shall be entitled to the greater of the consideration paid under (i) Section 6.9 and (ii) this Section 11.4]. **[NTD: Open whether the repurchase right can be exercised after a Drag-Along Transaction Notice has been sent.]**

**11.5. Redemption.** The provisions of the other provisions of Article XI shall not apply to the redemption of Units by the Company described in this Section 11.5. The Lender Member Group shall transfer and assign to the Company for no consideration 82,500 Class A Units if the Loan is paid in full on or before the Initial Debt Paydown Date. The Members of the Lender Group shall transfer assign to the Company for no consideration 66,000 Class A Units if the Loan is paid in full after the Initial Debt Paydown Date and on or before the Outside Debt Paydown Date. If there is more than one member of the Lender Member Group, then any such transfer and assignment shall be in proportion to the Units of the New Equity held by each member of the

Lender Member Group. The closing of any such transaction shall be held within 10 Business Days after the payment of the Loan in full. At the closing of any such transaction each and every member of the Lender Group shall jointly and severally be deemed to make the following representations and warranties to the Company with respect to the appropriate portion of the New Equity described above:

- (a) Each member of the Lender Group has the right, power and authority to transfer the contemplated portion of the New Equity to the Company; and
- (b) Upon the completion of the transfer and assignment of the contemplated portion of the New Equity to the Company, the Company will hold title to the contemplated portion of the New Equity free and clear of all Liens except those created under this Agreement; and
- (c) Notwithstanding anything to the contrary herein, no consent, approval or authorization of any person or entity, nor any declaration, filing or registration with any governmental entity is required to be made or obtained in connection with the consummation of the transfer and assignment of the contemplated portion of the New Equity to the Company.
- (d) The provisions of this Section 11.5 are subject in all events to the rights of the Frischling Member Group described in Section 6.9.

**11.6. Substitution of a Member.**

(a) Transferees of Member interests described in this Article XI shall automatically become a Member. No other transferee (by conveyance, foreclosure, operation of law or otherwise) of all or any portion of Units, including transferees who are permitted transferees pursuant to Article XI, shall become a substituted Member. A transferee of Units, whose Transfer complies with Article XI, shall succeed to all of the rights and interest of its transferor in the Company, subject only to the requirements of Section 11.7. Any Transfer of Units that does not comply with Article XI shall be void *ab initio*, and such transferee shall have no other right to participate in the management of the business and affairs of the Company or to become a Member.

(b) If a Member shall be dissolved, merged or consolidated, its successor in interest shall have the same obligations and rights to profits or other compensation that such Member would have had if it had not been dissolved, merged or consolidated, except that the representative or successor shall not become a substituted Member without the consent of the Board, which consent may be withheld in the sole discretion of the Board. Such a successor in interest who receives the requisite consent to become a Member shall succeed to all of the rights and interests of its predecessor. A successor in interest who does not receive the requisite consent to become a Member shall not have any right to vote, shall be entitled only to the distributions to which its predecessor otherwise would have been entitled and shall have no right to participate in the management of the business and affairs of the Company or to become a Member.

**11.7. Admission as a Member.** As conditions to its admission as a Member, (a) any assignee, transferee or successor of a Member or acquiror of Units shall execute and deliver a joinder to this Agreement substantially in the form of Exhibit B, which the Company shall accept and countersign as promptly as practicable, and (b) such assignee, transferee or successor shall pay all reasonable expenses (if any) in connection with its admission as a substituted Member.



Pursuant to this Section 11.7, the Company shall promptly amend Exhibit A to reflect any issuance or acquisition of Units and any such admission. Without limiting the foregoing, any transferee that has not become a substituted Member shall nonetheless be bound by the provisions of this Article XI with respect to any subsequent Transfer. Upon admission of the transferee as a substituted Member, the transferor shall have no further obligations under this Agreement with respect to that portion of its interest Transferred to the transferee; provided, however, that no Member or former Member shall be released, either in whole or in part, from any liability of such Member to the Company pursuant to this Agreement or otherwise that has accrued through the date of such Transfer (whether as the result of a voluntary or involuntary Transfer) of all or part of such Member's interest in the Company unless the Board agrees to any such release.

## **ARTICLE XII RESIGNATION, DISSOLUTION AND TERMINATION**

**12.1. Resignation.** No Member shall have any right to voluntarily resign from the Company. When a transferee of all or any portion of a Member's Units becomes a substituted Member pursuant to Section 11.8, the transferring Member shall cease to be a Member with respect to the portion of the Units so Transferred.

**12.2. Dissolution.** The Company shall be dissolved upon the occurrence of any of the following:

(a) The consent of a Class A Member Majority and the Board (which shall include the consent of at least one Director appointed by the Lender Member Group and one Director appointed by the Frischling Member Group); or

(b) The sale of all or substantially all of the assets of the Company.

**12.3. Liquidation.** Upon dissolution of the Company, the Board shall appoint in writing one or more liquidators (who may be Members or Directors) who shall have full authority to wind up the affairs of the Company and to make a final distribution as provided in this Agreement. The liquidator shall continue to operate the Company properties with all of the power and authority of the Board. The steps to be accomplished by the liquidator are as follows:

(a) As promptly as possible after dissolution and again after final liquidation, the liquidator shall cause a proper accounting to be made by the Company's independent accountants of the Company's assets, liabilities and operations through the last day of the month in which the dissolution occurs or the final liquidation is completed, as appropriate, including in such accounting the Profit or Loss resulting from the actual or deemed sale or distribution of the Company's properties, as provided in Section 10.2(b).

(b) The liquidator shall cause the Company to pay all of the debts and liabilities of the Company (including payments under phantom equity plans of the Company, if any) or otherwise make adequate provision therefor (including the establishment of a cash escrow fund for contingent liabilities in such amount and for such term as the liquidator may reasonably determine). The liquidator shall then cause the Company to, by payment of cash or property (at the election of the liquidator, and, in the case of property, valued as of the date of termination of the Company at its fair market value by an appraiser selected by the liquidator), distribute to the



Members such amounts as are required to distribute all remaining amounts to the Members in accordance with Section 7.3. For purposes of this Article XII, a distribution of an asset or an undivided interest in an asset in kind to a Member shall be considered a distribution of an amount equal to the fair market value of such asset or undivided interest. Each Member shall have the right to designate another Person to receive any property that otherwise would be distributed in kind to that Member pursuant to this Section 12.3.

(c) Any real property distributed to the Members shall be conveyed by special warranty deed and shall be subject to the operating agreements and all Liens, contracts and commitments then in effect with respect to such property, which shall be assumed by the Members receiving such real property.

(d) Except as expressly provided in this Agreement, the liquidator shall comply with any applicable requirements of the Act and all other Laws pertaining to the winding up of the affairs of the Company and the final distribution of its assets. Liquidation of the Company shall be completed within the time limits imposed by Treasury Regulations § 1.704-1(b)(2)(ii) and (g).

(e) The distribution of cash or property to the Members in accordance with the provisions of this Section 12.3 shall constitute a complete return to the Members of their respective Capital Contributions, and Capital Account and a complete distribution to the Members of their respective interests in the Company and all Company property. Notwithstanding any other provision of this Agreement, no Member shall have any obligation to contribute to the Company, pay to any other Member or pay to any other Person any deficit balance in such Member's Capital Account.

**12.4. Certificate of Cancellation.** Upon the completion of the distribution of the Company's assets as provided in this Article XII, the Company shall be terminated and the Person acting as liquidator shall file a certificate of cancellation and shall take such other actions as may be necessary to terminate the Company.

## ARTICLE XIII NOTICES

**13.1. Method of Notices.** All notices required or permitted by this Agreement shall be in writing and shall be hand delivered or sent by registered or certified mail, or by electronic mail, and shall be effective when personally delivered, or, if mailed, on the date set forth on the receipt of registered or certified mail, or if sent by electronic mail, when sent to the recipient's email address(es) at their respective addresses set forth on Exhibit A. Any Member may give notice from time to time changing its respective address for that purpose.

**13.2. Computation of Time.** In computing any period of time under this Agreement, the day of the act, event or default from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, Sunday or legal holiday, in which event the period shall run until the end of the next day that is not a Saturday, Sunday or legal holiday.

## ARTICLE XIV ARTICLE XIV GENERAL PROVISIONS

**14.1. Amendment.** Except as otherwise provided herein, this Agreement may not be amended except by an instrument in writing signed by Members constituting a Lender Member Group Majority and a Frischling Member Group Majority; provided, however, that this Agreement may not be amended without the written consent of all Members if such amendment would adversely and disproportionately affect the rights and preferences of any Members (whether in their capacity as Members, Directors or Officers).

**14.2. Waiver.** Except as otherwise provided in this Agreement, rights under this Agreement may not be waived except by an instrument in writing signed by the party sought to be charged with the waiver.

**14.3. Confidentiality.** Each Member, Director and Advisory Board Member will keep confidential and not use, reveal, provide or transfer to any third party any Confidential Information it obtains or has obtained concerning the Company or any of its Subsidiaries, except (a) to the extent that disclosure to a third party is required by Law, provided that such disclosing party shall provide to the Board prompt notice of any such disclosure to the extent permitted by applicable Law, (b) information that, at the time of disclosure, is generally available to the public (other than as a result of a breach of this Agreement or any other confidentiality agreement to which such Person is a party or of which it has knowledge), as evidenced by generally available documents or publications, (c) information that was in its possession prior to disclosure (as evidenced by appropriate written materials) and was not acquired directly or indirectly from the Company or any of its Subsidiaries, (d) to the extent disclosure is necessary or advisable, to its, the Company's, or any Company's Subsidiary's employees, consultants or advisors for the purpose of carrying out their duties under this Agreement, (e) to banks or other financial institutions or agencies or any independent accountants or legal counsel or investment advisors employed by the Board, the Company or any Member, to the extent disclosure is necessary or advisable to obtain financing, (f) to a Member or Director or to their respective Affiliates (including employees, partners, and equity holders of any of the foregoing), (g) to a Person designated by the Company or any of their respective financial planners, accountants, attorneys or other advisors (who agree to be bound or are bound by confidentiality), or (h) to a bona fide good faith proposed transferee of Units who agrees in writing to be bound by the provisions of this Section 14.3. The obligation of each Member and Director not to disclose Confidential Information except as provided in this Agreement shall not be affected by the termination of this Agreement or the replacement of any Member or Director. Notwithstanding the foregoing or anything to the contrary in this Agreement, any Member or Director (and any employee, representative or agent of such Person) may disclose to any and all Persons, without limitation of any kind, the tax treatment and tax structure of the transactions provided for by this Agreement, and all materials of any kind (including opinions or other tax analysis) that are provided to it relating to such tax treatment and tax structure, except that (1) tax treatment and tax structure shall not include the identity of any existing or future Member or Director, or any of their respective Affiliates, other than the disclosing party, and (2) this sentence shall not permit disclosure to the extent that nondisclosure is necessary in order to comply with Laws, including federal and state securities Laws.

**14.4. Public Announcements.** Except as required by Law, no Member shall make any press release or other public announcement or public disclosure relating to this Agreement, the subject matter of this Agreement or the activities of the Company without the consent of the Board.

**14.5. Governing Law.** This Agreement shall be construed in accordance with and governed by the Laws of the State of Delaware, excluding its conflicts of laws rules that would result in the application of law of a jurisdiction other than the State of Delaware.

**14.6. Arbitration.** Each Member, on its own behalf and on behalf of the Company, hereby agrees to submit all controversies, claims and matters of difference arising under or relating to this Agreement or the Company to arbitration seated in New York, New York in accordance with the provisions and procedures set forth in Schedule 14.6. Without limiting the generality of the foregoing, the following shall be considered controversies for this purpose: (a) all questions relating to the interpretation or breach of this Agreement; (b) all questions relating to any representations, negotiations and other proceedings leading to the execution of this Agreement, the formation of the Company, or the issuance of Units; and (c) all questions as to whether the right to arbitrate any such question exists. Notwithstanding the foregoing, each Member and the Company shall have the right to seek and obtain such temporary or preliminary injunctive relief from a court of competent jurisdiction to which it may be entitled pending a final determination by arbitration of the dispute to which such relief relates.

**14.7. Consequences Upon Divorce.** If a Member who is a natural person shall ever become legally divorced, then in connection with the property settlement that occurs with respect to such divorce, the Member shall use his or her commercially reasonable efforts to acquire from his former spouse all of such spouse's interest, if any, in such Member's Units. Any spouse of a Member that acquires any Units or other interest in the Company by operation of law or otherwise in connection with a divorce or other property settlement in consideration of marriage or divorce, agrees to cooperate in the Transfer of such interest to his or her spouse or former spouse pursuant to this Section 14.7.

**14.8. Covenant to Obtain Spouse's Signature.** Each Member who is a natural person shall cause such Member's spouse to execute a spousal counterpart signature page to this Agreement in the form attached to this Agreement as Exhibit C. If a Member who is a natural person and who is not married as of the date such Person becomes a Member should ever marry or is married as of the date such Person becomes a Member and becomes divorced and then remarries, as the case may be, during the term of this Agreement, then such Member covenants and agrees that he shall use commercially reasonable efforts to cause such Member's spouse to execute a spousal counterpart signature page to this Agreement in the form attached to this Agreement as Exhibit C. Any spouse of a Member that executes this Agreement is doing so solely to evidence such spouse's consent and agreement to take such actions as may be necessary to comply with the applicable provisions of this Agreement.

**14.9. Entire Agreement.** This Agreement embodies the entire understanding and agreement among the parties concerning the Company and supersedes any and all prior negotiations, understandings or agreements in regard thereto.

**14.10. References.** References to a Member or Director, including by use of a pronoun, shall be deemed to include masculine, feminine, singular, plural, individuals, partnerships or corporations where applicable. References in this Agreement to terms in the singular shall include the plural and vice versa.

**14.11. U.S. Dollars.** References in this Agreement to “Dollars” or “\$” shall refer to U.S. dollars and all payments and all calculations of amount under this Agreement shall be made in Dollars.

**14.12. Counterparts.** This Agreement may be executed and delivered in two or more counterparts, each of which when executed and delivered shall be an original, and all of which when executed shall constitute one and the same instrument. The exchange of copies of this Agreement and of signature pages by electronic image scan transmission in .pdf shall constitute effective execution and delivery of this Agreement as to the parties and may be used in lieu of the original Agreement for all purposes. Signatures of the parties transmitted by electronic image scan transmission in .pdf means shall be deemed to be their original signatures for all purposes.

**14.13. Additional Documents; Intellectual Property Matters; No Avoidance.** The parties to this Agreement covenant and agree to execute such additional documents and to perform additional reasonable acts as are or may become necessary or convenient to carry out the purposes of this Agreement. Each Member agrees (a) to cooperate with the Company and its Subsidiaries and counsel, to the extent reasonably requested, in the registration, issuance, protection, perfection, contest, or defense of the intellectual property of the Company or its Subsidiaries and (b) to make reasonably available their personnel, to provide any testimony and access to their books and records in connection with, and to provide the Company and its Subsidiaries with such other assistance as the Company may reasonably request, in each case at the sole expense of the Company (except as results from a breach of this Agreement), for the purpose of protecting the intellectual property of the Company. Each Member agrees that such Member will not, through reorganization, consolidation, merger, dissolution, or sale or other transfer of assets, or by any other voluntary act, avoid or seek to avoid the observance or performance of any of the covenants, stipulations, or conditions to be observed or performed in this Agreement by such Member.

**14.14. No Third Party Beneficiaries.** This Agreement is for the sole benefit of the parties to this Agreement and the Directors, and, except as expressly set forth in this Agreement (including Section 5.6), no other Person is intended to be a beneficiary of this Agreement or shall have any rights under this Agreement.

**14.15. Offset.** Whenever the Company is to pay any sum to any Member or other holder of Units, any amounts that such Member or other holder owes to the Company or any of its Subsidiaries may be deducted and withheld from that sum before payment and retained by the Company until (a) the Company and such Member or holder reach a written agreement with respect to the payment of the offset amounts, or (b) the entry of a final, non-appealable order by a court of competent jurisdiction which resolves any dispute between the Company and such Member or holder with respect to such offset amount.

**14.16. Counsel to the Company.** Counsel to the Company may also be counsel to the Board but not any Director individually nor any Member. The Board may execute on behalf of

the Company and the Members any consent to the representation of the Company that counsel may request pursuant to the Missouri Rules of Professional Conduct or similar rules in any other jurisdiction, other than consenting to the representation of any Director individually or any Member. As of the date of this Agreement, the Company has selected Carmody MacDonald P.C. ("Company Counsel") as legal counsel to the Company, which Company Counsel may be fired at any time in the Board's sole discretion. Each Member acknowledges that Company Counsel does not and shall not be permitted to represent any Member in its capacity as a Member.

[Signatures on next page]

SIGNATURE PAGE TO  
AMENDED AND RESTATED  
LIMITED LIABILITY COMPANY AGREEMENT  
OF  
MGTF RADIO COMPANY, LLC

The parties have executed this Amended and Restated Limited Liability Company Agreement to be effective as of the Effective Date.

MEMBERS:

Michael Frischling, an individual

Date: \_\_\_\_\_



SIGNATURE PAGE TO  
AMENDED AND RESTATED  
LIMITED LIABILITY COMPANY AGREEMENT  
OF

MGTF RADIO COMPANY, LLC

Gregg Frischling, an individual

Date: \_\_\_\_\_

SIGNATURE PAGE TO  
AMENDED AND RESTATED  
LIMITED LIABILITY COMPANY AGREEMENT  
OF

MGTF RADIO COMPANY, LLC

Todd Frischling, an individual

Date: \_\_\_\_\_

SIGNATURE PAGE TO  
AMENDED AND RESTATED  
LIMITED LIABILITY COMPANY AGREEMENT  
OF  
MGTF RADIO COMPANY, LLC

“LENDER”

Business Development Corporation of

America

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

Name: \_\_\_\_\_

Date: \_\_\_\_\_

Exhibit A

Members' Names, Addresses, Capital Accounts, Sharing Ratios, Units and Participation  
Thresholds as of \_\_\_\_\_, 20\_\_\_\_

<b>Member's Name and Address</b>	<b>Type and Number of Units Held</b>	<b>Capital Account</b>	<b>Sharing Ratio</b>	<b>Participation Threshold</b>
Michael Frischling	223,400 Class A Units	TBD	22.34%	N/A
Gregg Frischling	223,300 Class A Units	TBD	22.33%	N/A
Todd Frischling	223,300 Class A Units	TBD	22.33%	N/A
Business Development Corporation of America	330,000 Class A Units	TBD	33%	N/A
<b>TOTAL</b>	1,000,000 Class A Units		100%	

Exhibit B  
Form of Joinder Agreement

The undersigned is executing and delivering this joinder agreement (this “Joinder Agreement”) pursuant to the Amended and Restated Limited Liability Company Agreement of MGTF Radio Company, LLC, a Delaware limited liability company, dated as of \_\_\_\_\_, 2019 (as amended, supplemented or otherwise modified in accordance with the terms thereof, the “LLC Agreement”). Capitalized terms used but not defined in this Joinder Agreement shall have the respective meanings ascribed to them in the LLC Agreement.

By executing and delivering this Joinder Agreement to the LLC Agreement, the undersigned hereby agrees to be admitted as a Member of the Company and to become a party to, to be bound by, and to comply with the provisions of the LLC Agreement in the same manner as if the undersigned were an original signatory to such agreement as a Member. In connection therewith and without limiting the foregoing, effective as of the date hereof the undersigned hereby makes the representations and warranties contained in the LLC Agreement.

Accordingly, the undersigned has executed and delivered this Joinder Agreement as of the \_\_\_ day of \_\_\_\_\_, 2\_\_\_\_.

\_\_\_\_\_  
Signature of Member

\_\_\_\_\_  
Print Name of Member

\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Address of Member

Acknowledged and accepted:

MGTF Radio Company, LLC

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

Name:

Title:

Exhibit C  
Spousal Signature Page



[NTD: Certain provisions herein are open to discussions of the parties, regardless of whether such provisions are flagged herein.]

---

CREDIT AGREEMENT

among

MGTF RADIO COMPANY, LLC and  
WPNT, LLC,  
as Borrowers,

THE GUARANTORS  
FROM TIME TO TIME PARTY HERETO,

THE LENDERS  
FROM TIME TO TIME PARTY HERETO,

and

BSP AGENCY, LLC, a Delaware limited liability company,  
as Administrative Agent

DATED AS OF [\_\_\_\_], 2019

---

## TABLE OF CONTENTS

SECTION	HEADING	PAGE
SECTION 1.	DEFINITIONS; INTERPRETATION.....	2
Section 1.1	Definitions.....	2
Section 1.2	Interpretation.....	22
Section 1.3	Change in Accounting Principles.....	22
Section 1.4	Rounding.....	23
SECTION 2.	THE CREDIT FACILITIES.....	23
Section 2.1	Term Loan Commitments.....	23
Section 2.2	Reserved.....	23
Section 2.3	Reserved.....	23
Section 2.4	Applicable Interest Rates .....	23
Section 2.5	[Reserved] .....	24
Section 2.6	[Reserved] .....	24
Section 2.7	Scheduled Principal Payments; Maturity of Loans.....	24
Section 2.8	Prepayments.....	24
Section 2.9	Place and Application of Payments .....	26
Section 2.10	[Reserved] .....	27
Section 2.11	[Reserved] .....	27
Section 2.12	Evidence of Indebtedness .....	27
Section 2.13	Fees .....	28
Section 2.14	[Reserved] .....	28
Section 2.15	Appointment of Borrowers' Agent as Agent for Borrowers .....	28
SECTION 3.	CONDITIONS PRECEDENT.....	28
Section 3.1	[Reserved] .....	28
Section 3.2	Conditions Precedent .....	28
SECTION 4.	THE COLLATERAL AND GUARANTIES.....	32
Section 4.1	Collateral.....	32
Section 4.2	Liens on Real Property.....	32
Section 4.3	Guaranties .....	33
Section 4.4	Further Assurances.....	33
SECTION 5.	REPRESENTATIONS AND WARRANTIES.....	33
Section 5.1	Organization and Qualification.....	33
Section 5.2	Authority and Enforceability .....	33
Section 5.3	Financial Reports .....	34
Section 5.4	No Material Adverse Change.....	34
Section 5.5	Litigation and Other Controversies.....	34
Section 5.6	True and Complete Disclosure.....	34
Section 5.7	Margin Stock.....	34
Section 5.8	Taxes .....	35
Section 5.9	ERISA .....	35

Section 5.10	Subsidiaries .....	35
Section 5.11	Compliance with Laws .....	35
Section 5.12	Environmental Matters.....	35
Section 5.13	Investment Company .....	36
Section 5.14	Intellectual Property.....	36
Section 5.15	Good Title .....	36
Section 5.16	Labor Relations .....	36
Section 5.17	Governmental Authority and Licensing.....	36
Section 5.18	Approvals .....	36
Section 5.19	Affiliate Transactions.....	37
Section 5.20	Solvency.....	37
Section 5.21	No Broker Fees .....	37
Section 5.22	No Default.....	37
Section 5.23	OFAC.....	37
Section 5.24	[Reserved] .....	37
Section 5.25	Other Agreements and Documents .....	37
Section 5.26	Regulatory Authorizations .....	37
SECTION 6.	COVENANTS. ....	38
Section 6.1	Information Covenants.....	38
Section 6.2	Inspections; Field Examinations .....	41
Section 6.3	Maintenance of Property and Insurance; Environmental Matters .....	42
Section 6.4	Compliance with Laws .....	42
Section 6.5	ERISA .....	42
Section 6.6	Payment of Taxes.....	43
Section 6.7	Preservation of Existence.....	43
Section 6.8	Transactions with Affiliates .....	43
Section 6.9	Restrictions or Changes and Amendments .....	43
Section 6.10	Change in the Nature of Business .....	43
Section 6.11	Indebtedness.....	43
Section 6.12	Liens.....	44
Section 6.13	Consolidation, Merger, and Sale of Assets .....	45
Section 6.14	Advances, Investments, and Loans .....	46
Section 6.15	Restricted Payments.....	46
Section 6.16	Limitation on Restrictions.....	47
Section 6.17	Limitation on Issuances of New Ownership Interests by Subsidiaries .....	47
Section 6.18	Limitation on the Creation of Subsidiaries .....	47
Section 6.19	Operating Accounts .....	47
Section 6.20	Financial Covenants.....	48
Section 6.21	Compliance with OFAC Sanctions Programs.....	50
Section 6.22	[Reserved] .....	50
Section 6.23	Subordinated Debt .....	50
Section 6.24	License Subsidiary .....	50
Section 6.25	Post-Closing Matters.....	51
Section 6.26	Capital Expenditures for Kansas City Headquarters .....	51

SECTION 7. EVENTS OF DEFAULT AND REMEDIES. ....	51
Section 7.1 Events of Default .....	51
Section 7.2 Non-Bankruptcy Defaults .....	53
Section 7.3 Bankruptcy Defaults .....	53
Section 7.4 [Reserved] .....	53
Section 7.5 Notice of Default.....	53
SECTION 8. CHANGE IN CIRCUMSTANCES AND CONTINGENCIES. ....	53
Section 8.1 [Reserved] .....	54
Section 8.2 Illegality .....	54
Section 8.3 Inadequacy of LIBO Rate .....	54
Section 8.4 Increased Costs .....	54
SECTION 9. THE ADMINISTRATIVE AGENT. ....	55
Section 9.1 Appointment and Authorization of Administrative Agent .....	55
Section 9.2 Administrative Agent and Its Affiliates .....	55
Section 9.3 Exculpatory Provisions .....	55
Section 9.4 Reliance by Administrative Agent.....	57
Section 9.5 Delegation of Duties .....	57
Section 9.6 Non-Reliance on Administrative Agent and Other Lenders.....	57
Section 9.7 Resignation of Administrative Agent and Successor Administrative Agent.....	57
Section 9.8 [Reserved] .....	58
Section 9.9 [Reserved] .....	58
Section 9.10 [Reserved] .....	58
Section 9.11 Authorization to Enter into, and Enforcement of, the Collateral Documents and Guaranty.....	58
Section 9.12 Administrative Agent May File Proofs of Claim.....	59
Section 9.13 Collateral and Guaranty Matters.....	59
SECTION 10. MISCELLANEOUS. ....	60
Section 10.1 Taxes .....	60
Section 10.2 Mitigation Obligations; Replacement of Lenders.....	63
Section 10.3 No Waiver, Cumulative Remedies .....	64
Section 10.4 Non-Business Days .....	64
Section 10.5 Survival of Representations .....	65
Section 10.6 Survival of Indemnities.....	65
Section 10.7 Sharing of Payments by Lenders .....	65
Section 10.8 Notices; Effectiveness; Electronic Communication .....	65
Section 10.9 Successors and Assigns; Assignments and Participations .....	67
Section 10.10 Amendments .....	71
Section 10.11 Headings .....	72
Section 10.12 Expenses; Indemnity; Damage Waiver.....	72
Section 10.13 Set-off .....	73
Section 10.14 Governing Law; Jurisdiction; Etc .....	73
Section 10.15 Severability of Provisions .....	74

Section 10.16	Excess Interest .....	75
Section 10.17	Construction.....	75
Section 10.18	Lender's Obligations Several.....	75
Section 10.19	USA Patriot Act .....	75
Section 10.20	Waiver of Jury Trial.....	75
Section 10.21	Treatment of Certain Information; Confidentiality.....	76
Section 10.22	Counterparts; Integration; Effectiveness.....	76
Section 10.23	Joint and Several Obligations .....	76
SECTION 11. THE GUARANTEES. ....		77
Section 11.1	The Guarantees .....	77
Section 11.2	Guarantee Unconditional .....	78
Section 11.3	Discharge Only upon Facility Termination Date; Reinstatement in Certain Circumstances .....	78
Section 11.4	Subrogation .....	79
Section 11.5	Subordination.....	79
Section 11.6	Waivers .....	79
Section 11.7	Limit on Recovery .....	79
Section 11.8	Stay of Acceleration.....	79
Section 11.9	Benefit to Guarantors .....	79
Section 11.10	[Reserved] .....	80
Section 11.11	Guarantor Covenants .....	80
Signature Pages .....		S-1
EXHIBIT A	Term Note	
EXHIBIT B	Compliance Certificate	
EXHIBIT C	Assignment and Assumption	
EXHIBIT D	Additional Guarantor Supplement	
SCHEDULE 1	Commitments	
SCHEDULE 3.2(bb)	Pending Litigation	
SCHEDULE 5.10	Subsidiaries	
SCHEDULE 5.25	Material Agreements	
SCHEDULE 6.11	Indebtedness	
SCHEDULE 6.20	Historical EBITDA and Capital Expenditures	
SCHEDULE 6.25	Post-Closing Matters	

## CREDIT AGREEMENT

This Credit Agreement is entered into as of [\_\_\_\_], 2019, by and among WPNT, LLC, a Delaware limited liability company (“WPNT”), and MGTF RADIO COMPANY, LLC, a Missouri limited liability company (“MGTF Radio”; WPNT and MGTF Radio are each individually referred to herein as a “Borrower” and are collectively referred to herein as the “Borrowers”), the direct and indirect Subsidiaries of the Borrowers from time to time party to this Agreement, as Guarantors, the various institutions from time to time party to this Agreement, as Lenders, and BSP AGENCY, LLC, a Delaware limited liability company, as Administrative Agent.

### WITNESSETH:

WHEREAS, each of WPNT, Inc. and MGTF Radio Company, LLC (collectively, the “Original Borrowers”) is a debtor and debtor-in-possession in a case pending under chapter 11 of the Bankruptcy Code (the cases of the Original Borrowers being referred to collectively as the “Chapter 11 Cases” and individually as a “Chapter 11 Case”). The Original Borrowers have continued to operate their businesses and manage their properties as debtors-in-possession pursuant to Sections 1107 and 1108 of the Bankruptcy Code (defined below).

WHEREAS, prior to the commencement of the Chapter 11 Cases, Business Development Corporation of America (in such capacity, the “Mezzanine Lender”) extended credit to the Original Borrowers pursuant to that certain Subordinated Credit Agreement dated as of September 29, 2014 (as amended, restated, supplemented or otherwise modified from time to time, the “Mezzanine Credit Agreement”) by and among the Original Borrowers, BSP Agency, LLC (in its capacity as administrative agent to the Mezzanine Lender) and the Mezzanine Lender.

WHEREAS, after the commencement of the Chapter 11 Cases, Business Development Corporation of America purchased and currently holds the senior secured indebtedness of the Original Borrowers issued under that certain Credit Agreement dated as of September 29, 2014 (as amended, restated, supplemented or otherwise modified from time to time, the “Senior Secured Credit Agreement”) by and among the Original Borrowers, BSP Agency, LLC (as successor in interest to Fifth Third Bank, in its capacity as administrative agent) and Business Development Corporation of America as lender (in such capacity, the “Senior Secured Lender”) and the related loan documents.

WHEREAS, the Original Borrowers filed a [Joint Plan of Reorganization] dated [\_\_\_\_] (as amended, restated, supplemented or otherwise modified from time to time, the “Plan of Reorganization”), in accordance with section 1129 of the Bankruptcy Code.

WHEREAS, (a) the Senior Secured Lender held an allowed claim against the Original Borrowers in the amount of approximately \$[37,956,104.28]<sup>1</sup> (the “Senior Secured Claims”) and (b) the Mezzanine Lender held an allowed claim against the Original Borrowers in the amount of approximately \$[24,489,734.88]<sup>2</sup> (the “Mezzanine Claims”).

WHEREAS, pursuant to the Plan of Reorganization, (a) WPNT, Inc. merged into WPNT with WPNT surviving and (b) MGTF Radio maintained its existing corporate organizational structure.

---

<sup>1</sup> NTD: Amount remains subject to reconciliation.

<sup>2</sup> NTD: Amount remains subject to reconciliation.



WHEREAS, pursuant to the Plan of Reorganization, for full release and satisfaction of the First Lien Claims and Mezzanine Claims, respectively, (i) the Senior Secured Lender and the Mezzanine Lender are receiving new senior secured indebtedness of the Borrowers, jointly and severally, upon the terms and in the amounts set forth herein and in the other Loan Documents and (ii) 54th Street Equity Holdings, Inc., an Affiliate of the Senior Secured Lender and the Mezzanine Lender, is receiving minority equity interests in each of the Borrowers.

NOW, THEREFORE, in consideration of the mutual agreements set forth in this Agreement, the parties to this Agreement agree as follows:

## **SECTION 1. DEFINITIONS; INTERPRETATION.**

**Section 1.1 Definitions.** The following terms when used herein shall have the following meanings:

*“Adjusted LIBO Rate”* means the rate per annum (rounded upwards, if necessary, to the next 1/100th of 1%) determined by Administrative Agent pursuant to the following formula:

$$\text{Adjusted LIBO Rate} = \frac{\text{the greater of (a) the LIBO Floor and (b) LIBO Rate}}{1 - \text{Reserve Percentage}}$$

For purposes of this calculation, (i) “LIBO Rate” means the London Interbank Offered Rate per annum (determined by Administrative Agent) 2 Business Days prior to the first day of any Interest Period for which the Adjusted LIBO Rate is applicable as published by Reuters Monitor Money Rate Service and displayed on the LIBO page as the “Libo Rate” (or, if Reuters is not available, then as published by Bloomberg or Dow Jones-Telerate and displayed on page 3750 as the BBA LIBOR, as applicable) (or, in any such instance, as published by such other service or displayed on such other page as may replace such service or page for the purpose of displaying rates or prices comparable to the designated rate) for the offering of Dollar deposits by leading banks in the London interbank market for a period of approximately 3 months and in an amount approximately equal to the amount outstanding hereunder to which such LIBO Rate will be applicable and (ii) the “Adjusted LIBO Rate” shall in no event be less than the LIBO Floor. If more than one such rate is displayed on such page or its replacement, then the LIBO Rate will be the arithmetic mean of such displayed rates. If the first day of the applicable Interest Period is not a Business Day, then the applicable LIBO Rate will be the rate in effect on the immediately preceding Business Day. For purposes of this calculation, (a) “Reserve Percentage” means that percentage (expressed as a decimal) prescribed by the FRB (or any other governmental or administrative agency or funding source to which Administrative Agent is subject) for determining the reserve requirements (including any basic, supplemental, marginal or emergency reserves) for deposits of Dollars with maturities of comparable duration in a non-U.S. or an international banking office and (b) “LIBO Floor” means 1.00% per annum.

*“Administrative Agent”* means BSP Agency, LLC, a Delaware limited liability company, as contractual representative for itself and the other Lenders and any successor pursuant to Section 9.7.

*“Administrative Questionnaire”* means, with respect to each Lender, an Administrative Questionnaire in a form supplied by the Administrative Agent and duly completed by such Lender.

*“Affiliate”* means any Person directly or indirectly controlling or controlled by, or under direct or indirect common control with, another Person. A Person shall be deemed to control another Person for the purposes of this definition if such Person possesses, directly or indirectly, the power to direct, or cause the direction of, the management and policies of the other Person, whether through the ownership of voting securities, common directors, trustees or officers, by contract or otherwise; *provided* that, in any event for

purposes of this definition, any Person that owns, directly or indirectly, 5% or more of the securities having the ordinary voting power for the election of directors or governing body of a corporation or 5% or more of the partnership or other ownership interest of any other Person (other than as a limited partner of such other Person) will be deemed to control such corporation or other Person.

*"Agreement"* means this Credit Agreement.

*"Applicable Margin"* means, with respect to Loans, the rate per annum equal to six percent (6.00%); provided, that to the extent Section 2.4(c) is in effect, *"Applicable Margin"* shall mean the rate per annum equal to five percent (5.00%).

*"Approved Fund"* means any Person (other than a natural person) that is (or will be) engaged in making, purchasing, holding or otherwise investing in commercial loans and similar extensions of credit in the ordinary course of its business and that is administered or managed by (a) a Lender, (b) an Affiliate of a Lender or (c) an entity or an Affiliate of an entity that administers or manages a Lender.

*"Assignment and Assumption"* means an assignment and assumption entered into by a Lender and an Eligible Assignee (with the consent of any party whose consent is required by Section 10.9(b)(iii)), and accepted by the Administrative Agent, in substantially the form of Exhibit C or any other form approved by the Administrative Agent.

*"Authorized Representative"* means those persons shown on the list of officers provided by the Borrowers pursuant to Section 3.2 or on any update of any such list provided by the Borrowers to the Administrative Agent, or any further or different officers of the Borrowers so named by any Authorized Representative of the Borrowers in a written notice to the Administrative Agent.

*"Bankruptcy Code"* means title 11 of the United States Code, as amended from time to time.

*"Bankruptcy Court"* means the United States Bankruptcy Court for the Eastern District of Missouri.

*"Base Rate"* means for any day, the rate per annum equal to the greatest of: (a) the rate of interest quoted in the print edition of The Wall Street Journal, Money Rates Section as the "Prime Rate" (currently defined as the base rate on corporate loans posted by at least 75% of the nation's 30 largest banks), as in effect from time to time, or if such rate is unavailable in such publication then a similar rate in another publication mutually agreed to between the Borrowers and the Administrative Agent, with any change in the Base Rate resulting from a change in said prime rate to be effective as of the opening of business on the date of the relevant change in said prime rate, (b) the sum of (i) the Federal Funds Rate, *plus* (ii) .50% and (c) the sum of (i) the Adjusted LIBO Rate, *plus* (ii) 1.00%.

*"Borrower"* and *"Borrowers"* are each defined in the introductory paragraph of this Agreement.

*"Borrowers' Agent"* means MGTF Radio.<sup>3</sup>

*"Business Day"* means any day (other than a Saturday or Sunday) on which banks are not authorized or required to close in New York, New York.

*"Capital Expenditures"* means, with respect to any Person for any period, the aggregate amount of all expenditures (actually paid in cash) by such Person during that period for the acquisition or leasing

---

<sup>3</sup> Borrowers to confirm.

(pursuant to a Capital Lease) of fixed or capital assets or additions to property, plant, or equipment (including replacements, capitalized repairs, and improvements) which should be capitalized on the balance sheet of such Person in accordance with GAAP; provided, however, that any such expenditures actually paid in cash in connection with the buildout of the Borrowers' new office in Kansas City in an amount not to exceed [\$X00,000]<sup>4</sup> in the aggregate shall be excluded for purposes of this definition.

*"Capital Lease"* means any lease of Property which in accordance with GAAP is required to be capitalized on the balance sheet of the lessee.

*"Capitalized Lease Obligation"* means, for any Person, the amount of the liability shown on the balance sheet of such Person in respect of a Capital Lease determined in accordance with GAAP.

*"Cash Equivalents"* means, as to any Person: (a) investments in direct obligations of the United States of America or of any agency or instrumentality thereof whose obligations constitute full faith and credit obligations of the United States of America, *provided* that any such obligations shall mature within one year of the date of acquisition thereof; (b) investments in commercial paper rated at least P-1 by Moody's or at least A-1 by S&P (or, if at any time neither Moody's or S&P shall be rating such obligations, an equivalent rating from another nationally recognized rating service) maturing within one year of the date of issuance thereof; (c) certificates of deposit or bankers' acceptances maturing within one year from the date of acquisition thereof and issued or accepted by any Lender or by any commercial bank organized under the laws of the United States of America or any state thereof or the District of Columbia that (i) is at least "adequately capitalized" (as defined in the regulations of its primary federal banking regulator) and (ii) has Tier 1 capital (as defined in such regulations) of not less than \$100,000,000; (d) investments in repurchase obligations with a term of not more than seven days for underlying securities of the types described in clause (a) above entered into with any bank meeting the qualifications specified in clause (c) above, *provided* all such agreements require physical delivery of the securities securing such repurchase agreement, except those delivered through the Federal Reserve Book Entry System; (e) marketable short-term money market or similar securities having a rating of at least P-2 by Moody's or A-2 by S&P (or, if at any time neither Moody's or S&P shall be rating such obligations, an equivalent rating from another nationally recognized rating service); and (f) investments in any money market mutual funds that (i) invest solely, and which are restricted by their respective charters to invest solely, in investments of the type described in the immediately preceding clauses (a), (b), (c), and (d) above, and (ii) have net assets of not less than \$1,000,000,000.

*"Change in Law"* means the occurrence, after the date of this Agreement, of any of the following: (a) the adoption or taking effect of any law, rule, regulation or treaty, (b) any change in any law, rule, regulation or treaty or in the administration, interpretation, implementation or application thereof by any Governmental Authority, or (c) the making or issuance of any request, rule, guideline or directive (whether or not having the force of law) by any Governmental Authority; *provided*, that notwithstanding anything herein to the contrary, (x) the Dodd-Frank Wall Street Reform and Consumer Protection Act and all requests, rules, regulations, guidelines or directives thereunder or issued in connection therewith and (y) all requests, rules, guidelines or directives promulgated by the Bank for International Settlements, the Basel Committee on Banking Supervision (or any successor or similar authority) or the United States or foreign regulatory authorities, in each case pursuant to Basel III, shall in each case be deemed to be a "Change in Law", regardless of the date enacted, adopted or issued.

---

<sup>4</sup> NTD: Amount remains open to negotiations; Debtors have requested an amount equal to \$400,000.

*“Change in Management”* means any two of Todd Frischling, Gregg Frischling and Michael Frischling cease to be active in the management of the business of the Borrowers; *provided* that the foregoing shall not constitute a Change in Management under this Agreement if any such Person who ceases to be active in the management of the business of the Borrowers is replaced within sixty (60) days by a party satisfactory to the Administrative Agent in its sole discretion.

*“Change of Control”* means the Permitted Holders collectively cease at any time and for any reason (including death or incapacity) to own, legally and beneficially, at least 51% of the Ownership Interests and 100% of the Voting Stock of each of the Borrowers.

*“Chapter 11 Cases”* is defined in the preamble to this Agreement.

*“Closing Date”* means the date of this Agreement or such later Business Day upon which each condition described in Section 3.2 shall be satisfied or waived in a manner acceptable to the Administrative Agent in its discretion.

*“Code”* means the Internal Revenue Code of 1986, or any successor statute thereto.

*“Collateral”* means all properties, rights, interests, and privileges from time to time subject to the Liens granted to the Administrative Agent, or any security trustee therefor, by the Collateral Documents.

*“Collateral Access Agreement”* means any landlord waiver, warehouse, processor or other bailee letter or other agreement, in form and substance satisfactory to the Administrative Agent, between the Administrative Agent and any third party (including any bailee, consignee, customs broker, or other similar Person) in possession of any Collateral or any landlord of a Loan Party for any real property where any Collateral is located, as such landlord waiver, bailee letter or other agreement may be amended, restated, or otherwise modified from time to time.

*“Collateral Documents”* means the Mortgages, the Security Agreement, the Pledge Agreement, and all other security agreements, pledge agreements, control agreements, assignments, financing statements and other documents pursuant to which Liens are granted to the Administrative Agent by the Loan Parties or such Liens are perfected, and as shall from time to time secure or relate to the Secured Obligations or any part thereof.

*“Commitments”* means the Term Loan Commitments.

*“Commodity Exchange Act”* means the Commodity Exchange Act (7 U.S.C. § 1 et seq.).

*“Communications”* is defined in Section 10.8(d)(ii).

*“Communications Laws”* means, collectively, the Communications Act of 1934, the rules and published policies of the FCC promulgated thereunder and the courts’ interpretation of the foregoing.

*“Compliance Certificates”* means a certificate of a Designated Officer or other officer of the Borrowers acceptable to Administrative Agent in the form of Exhibit B attached hereto.

*“Confirmation Date”* means the date on which the Clerk of the Bankruptcy Court enters the Confirmation Order on the docket of the Bankruptcy Court with respect to all of the Chapter 11 Cases.

*“Confirmation Order”* is defined in Section 3.2(p).

*“Connection Income Taxes”* means Other Connection Taxes that are imposed on or measured by net income (however denominated) or that are franchise Taxes or branch profits Taxes.

*“Contingent Obligation”* means as to any Person, any obligation of such Person guaranteeing or intended to guarantee any Indebtedness (*“primary obligations”*) of any other Person (the *“primary obligor”*) in any manner, whether directly or indirectly, including, any obligation of such Person, whether or not contingent, (a) to purchase any such primary obligation or any Property constituting direct or indirect security therefor, (b) to advance or supply funds (i) for the purchase or payment of any such primary obligation or (ii) to maintain working capital or equity capital of the primary obligor or otherwise to maintain the net worth or solvency of the primary obligor, (c) to purchase property, securities or services primarily for the purpose of assuring the owner of any such primary obligation of the ability of the primary obligor to make payment of such primary obligation or (d) otherwise to assure or hold harmless the holder of such primary obligation against loss in respect thereof; *provided, however*, that the term Contingent Obligation shall not include endorsements of instruments for deposit or collection in the ordinary course of business or entered into in the ordinary course of business in connection with any contractual arrangement, including Capital Expenditure, Investment or disposition of assets permitted under this Agreement (other than such obligations with respect to Indebtedness). The amount of any Contingent Obligation shall be deemed to be an amount equal to the stated or determinable amount of the primary obligation in respect of which such Contingent Obligation is made or, if not stated or determinable, the maximum reasonably anticipated liability in respect thereof (assuming such Person is required to perform thereunder) as determined by such Person in good faith.

*“Controlled Group”* means all members of a controlled group of corporations, limited liability companies, partnerships and all trades or businesses (whether or not incorporated) under common control which, together with any Loan Party, are treated as a single employer under Section 414(b) or (c) of the Code and, for purposes of Section 302 of ERISA and Section 412 of the Code, under section 414(b), (c), (m), and (o) of the Code.

*“Credit”* means the Term Credit.

*“Damages”* means all damages, liabilities, costs, expenses, losses, judgments, diminutions in value, fines, penalties, demands, claims, cost recovery actions, lawsuits, administrative proceedings, orders, response action, removal and remedial costs, compliance costs, investigation expenses, consultant fees, attorneys’ and paralegals’ fees and litigation expenses.

*“Debtor Relief Laws”* means the Bankruptcy Code and all other liquidation, conservatorship, bankruptcy, assignment for the benefit of creditors, moratorium, rearrangement, receivership, insolvency, reorganization, or similar debtor relief laws of the United States of America or other applicable jurisdictions from time to time in effect.

*“Default”* means any event or condition the occurrence of which would, with the passage of time or the giving of notice, or both, constitute an Event of Default.

*“Designated Officer”* means (a) each president, secretary, assistant secretary, and any comparable officer of any of the Borrowers, and (b) each of the Frischling Principals, in their capacities as officers or directors of any of the Borrowers and any individual who succeeds or replaces any Frischling Principal in his capacity as an officer of any of the Borrowers.

*“Disposition”* means the sale, lease, conveyance or other disposition of Property, other than sales or other dispositions expressly permitted under Sections 6.13(a), 6.13(b) or 6.13(c).



“Dollars” and “\$” each means the lawful currency of the United States of America.

“EBITDA” means, with reference to any period, Net Income for such period *plus* (1) the sum of all amounts deducted in arriving at such Net Income amount in respect of (a) Interest Expense for such period, (b) federal, state, and local income taxes for such period, (c) depreciation of fixed assets and amortization of intangible assets for such period, (d) any other non-recurring fees and expenses incurred in connection with tax and accounting related matters related to the Chapter 11 Cases or Plan of Reorganization to the extent incurred after the Effective Date, (e) fees and expenses in connection with investigating or prosecuting potential claims against prior holders of the debt evidenced by the Senior Secured Credit Agreement (other than BSP Agency, LLC, Business Development Corporation of America or any of their affiliated entities) in an amount not to exceed \$200,000 in the aggregate *minus* (2) the aggregate amount of all Permitted Cash Distributions during such period (but excluding any such Permitted Cash Distributions prior to the Closing Date and Tax Distributions) *plus or minus* (3) the impact related to FASB’s lease accounting standard change, ASU 2016-02, Leases (Topic 842), set to take effect in fiscal 2020, such that figures are calculated consistent with accounting standards as of the Closing Date; *provided*, that, for purposes of calculating EBITDA of the Borrowers and their Subsidiaries for (x) the Fiscal Quarters ended June 30, 2018, September 30, 2018 and December 31, 2018, EBITDA for each of the Fiscal Quarters during such periods shall be equal to the amounts for EBITDA for such Fiscal Quarters set forth on Schedule 6.20 and (y) any of the months ended January 31, 2019, February 28, 2019 and March 30, 2019 for which any period of such month is on or before the Closing Date, EBITDA for each of the months ended during such period shall be equal to the amounts for EBITDA for such month set forth on Schedule 6.20.<sup>5</sup>

“Effective Date” means a Business Day on or after the Confirmation Date, on which (i) no stay of the Confirmation Order is in effect, and (ii) the conditions precedent to the effectiveness of the Plan of Reorganization specified in Article [ ] of the Plan of Reorganization have been satisfied or waived by the parties entitled to the benefit of those conditions as set forth therein.

“Eligible Assignee” means any Person that meets the requirements to be an assignee under Section 10.9(b)(iii), 10.9(b)(v) and 10.9(b)(vi) (subject to such consents, if any, as may be required under Section 10.9(b)(iii)).

“Environmental Claim” means any investigation, notice of violation, demand, allegation, action, suit, injunction, judgment, order, consent decree, penalty, fine, lien, proceeding or claim (whether administrative, judicial or private in nature) arising pursuant to or in connection with: (a) an actual or alleged violation of any Environmental Law, (b) any Hazardous Material, (c) any actual or threatened abatement, removal, investigation, remediation or corrective or response action required by Environmental Laws or any Governmental Authority, or (d) any actual or alleged damage, injury, threat or harm to human health, safety natural resources or the environment.

“Environmental Law” means any applicable Legal Requirement pertaining to (a) the protection, conservation, use or management of the environment, human health and safety, natural resources and wildlife, (b) the protection or use of surface water or groundwater, (c) the management, manufacture, possession, presence, use, generation, transportation, treatment, storage, disposal, Release, threatened Release, investigation, abatement, removal, remediation or handling of, or exposure to, any Hazardous

---

<sup>5</sup> NTD: Definition continues to be negotiated, as Debtors require additional add-backs for (i) any fees paid to the Administrative Agent pursuant to Section 2.3, (ii) payments, fees, costs and expenses made pursuant to any retention or incentive plan approved by the board of directors of such Borrower and (iii) any fees paid to any director that is not an officer of the Borrowers or any of their direct or indirect Subsidiaries for serving as director on the board of directors of such Borrower.



Material, or (d) any Release of Hazardous Materials to air, land, surface water or groundwater, and any amendment, rule, regulation, order or directive issued thereunder.

“*ERISA*” means the Employee Retirement Income Security Act of 1974.

“*Event of Default*” means any event or condition identified as such in Section 7.1.

“*Event of Loss*” means, with respect to any Property, any of the following: (a) any loss, destruction or damage of such Property or (b) any condemnation, seizure, or taking, by exercise of the power of eminent domain or otherwise, of such Property, or confiscation of such Property or the requisition of the use of such Property.

“*Excess Interest*” is defined in Section 10.16.

“*Excluded Deposit Account*” means a deposit account the balance of which consists exclusively of (and is identified when established as an account established solely for the purposes of) (a) withheld income Taxes and federal, state, local or foreign employment Taxes in such amounts as are required in the reasonable judgment of a Loan Party to be paid to the Internal Revenue Service or any other U.S., federal, state or local or foreign government agencies within the following month with respect to employees of such Loan Party, (b) amounts required to be paid over to an employee benefit plan pursuant to DOL Reg. Sec. 2510.3-102 on behalf of or for the benefit of employees of any Loan Party, (c) amounts which are required to be pledged or otherwise provided as security pursuant to any requirement of any Governmental Authority or foreign pension requirement and (d) amounts to be used to fund payroll obligations (including, but not limited to, amounts payable to any employment contracts between any Loan Party and their respective employees).

“*Excluded Equity Issuances*” means (a) the issuance by any Subsidiary of equity securities to any Borrower or any Guarantor, as applicable, (b) the issuance of equity securities by any Borrower to any Person that is an equity holder of such Borrower prior to such issuance (a “*Subject Holder*”) so long as such Subject Holder did not acquire any equity securities of such Borrower so as to become a Subject Holder concurrently with, or in contemplation of, the issuance of such equity securities to such Subject Holder, and (c) the issuance of equity securities of any Borrower to directors, officers and employees of such Borrower and its Subsidiaries pursuant to employee stock option plans (or other employee incentive plans or other compensation arrangements) approved by such Borrower’s board of directors (or similar governing body).

“*Excluded Licenses*” means each FCC License that is an authorization, license, or permit granted by the FCC with respect to which the FCC has not consented or otherwise approved a security interest therein in favor of the Administrative Agent, or any security trustee therefor.

“*Excluded Property*” means (a) any fee-owned real property with a fair market value of less than \$250,000, unless requested by the Administrative Agent after the occurrence and during the continuation of an Event of Default; (b) any leased real property with a fair market value of less than \$250,000, unless requested by the Administrative Agent after the occurrence and during the continuation of an Event of Default; (c) any equipment securing purchase money indebtedness or Capitalized Lease Obligations if the granting of a Lien to any third party is prohibited by the agreement(s) setting forth the terms and conditions applicable to such Indebtedness, but only if such Indebtedness and the Liens securing the same are permitted by Sections 6.11(d) and 6.12(e); *provided* that if and when the prohibition which prevents the granting of a Lien in any such Property is removed, terminated or otherwise becomes unenforceable as a matter of law (including, without limitation, the termination of any such security interest resulting from the satisfaction of the Indebtedness secured thereby), and notwithstanding any previous release of Lien provided by the

Administrative Agent requested in connection with respect to any such Indebtedness, the Excluded Property will no longer include such Property, and the Administrative Agent will be deemed to have, and at all times to have had, a security interest in such Property and the Collateral will be deemed to include, and at all times to have included, such Property without further action or notice by any Person; (d) any permit or license (other than Excluded Licenses, which are the subject of clause (f) below) issued to any Loan Party as the permit holder or licensee thereof or any lease to which any Loan Party is lessee thereof, in each case only to the extent and for so long as the terms of such permit, license, or lease effectively (after giving effect to Sections 9-406 through 9-409, inclusive, of the Uniform Commercial Code in the applicable state (or any successor provision or provisions) or any other applicable law) prohibit the creation by such Loan Party of a security interest in such permit, license, or lease in favor of the Administrative Agent or would result in an effective invalidation, termination or breach of the terms of any such permit, license or lease (after giving effect to Sections 9-406 through 9-409, inclusive, of the Uniform Commercial Code in the applicable state (or any successor provision or provisions) or any other applicable law), in each case unless and until any required consents are obtained; *provided* that, the Excluded Property will not include, and the Collateral shall include and the security interest granted in the Collateral shall attach to, (x) all proceeds, substitutions or replacements of any such excluded items referred to herein unless such proceeds, substitutions or replacements would constitute excluded items hereunder, (y) all rights to payment due or to become due under any such excluded items referred to herein, and (z) if and when the prohibition which prevents the granting of a security interest in any such Property is removed, terminated, or otherwise becomes unenforceable as a matter of law, the Administrative Agent will be deemed to have, and at all times to have had, a security interest in such property, and the Collateral will be deemed to include, and at all times to have included, such Property without further action or notice by any Person; (e) Excluded Deposit Accounts; and (f) Excluded Licenses; *provided* that, if and when the prohibition which prevents the granting of a security interest in such Excluded Licenses without FCC consent or other approval is removed, terminated or otherwise becomes unenforceable as a matter of law, the Excluded Property will no longer include such Excluded Licenses, and the Administrative Agent will be automatically and immediately deemed to have, and, to the maximum extent permitted by law, at all times to have had, a security interest in such Excluded Licenses, and the Collateral will be automatically and immediately deemed to include, and, to the maximum extent permitted by law, at all times to have included, such Excluded Licenses without further action or notice by any Person; *provided* further that, notwithstanding the foregoing and to the maximum extent permitted by law without FCC consent or other approval, the Excluded Property shall not at any time include any and all general intangibles of the License Subsidiaries, including general intangibles associated with the Excluded Licenses, including the economic value and private rights associated with such Excluded Licenses, and including the right to receive any and all monies, proceeds, and other consideration for any such Excluded Licenses from any sale, assignment, transfer, conveyance, or other disposition of any such Excluded Licenses and any goodwill and other general intangibles associated therewith.

*“Excluded Taxes”* means any of the following Taxes imposed on or with respect to a Recipient or required to be withheld or deducted from a payment to a Recipient, (a) Taxes imposed on or measured by net income (however denominated), franchise Taxes, and branch profits Taxes, in each case, (i) imposed as a result of such Recipient being organized under the laws of, or having its principal office or, in the case of any Lender, its applicable lending office located in, the jurisdiction imposing such Tax (or any political subdivision thereof) or (ii) that are Other Connection Taxes, (b) in the case of a Lender, U.S. federal withholding Taxes imposed on amounts payable to or for the account of such Lender with respect to an applicable interest in a Loan or Commitment (or otherwise pursuant to any Loan Document) pursuant to a law in effect on the date on which (i) such Lender acquires such interest in the Loan or Commitment or becomes a party to this Agreement (other than pursuant to an assignment request by the Borrowers under Section 10.2(b)) or (ii) such Lender changes its lending office, except in each case to the extent that, pursuant to Section 10.1, amounts with respect to such Taxes were payable either to such Lender’s assignor immediately before such Lender became a party hereto or to such Lender immediately before it changed its

lending office, (c) Taxes attributable to such Lender's failure to comply with Section 10.1(g), and (d) any U.S. federal withholding Taxes imposed under FATCA.

"*FAA*" means the Federal Aviation Administration or any successor Governmental Authority exercising similar functions.

"*Facility Termination Date*" means the date on which the Commitments are terminated, and the principal of and interest on the Loans and all other Obligations payable by the Borrowers and the other Loan Parties under this Agreement and all other Loan Documents (other than any contingent or indemnification obligations not then due) shall have been paid in full in cash.

"*FATCA*" means Sections 1471 through 1474 of the Code, as of the date of this Agreement (or any amended or successor version of such sections that are substantively comparable and not materially more onerous to comply with) and any current or future regulations or official interpretations thereof, any agreements entered into pursuant to Section 1471(b)(1) of the Code, and any applicable intergovernmental agreements.

"*FCC*" means the Federal Communications Commission or any of its Bureaus or offices, or any successor Governmental Authority exercising similar functions.

"*FCC License*" means any license, authorization, permit, consent, franchise, ordinance, registration, certificate, agreement, determination or other right filed with, granted by or entered into by the FCC that permits or authorizes the operation of radio stations.

"*Federal Funds Rate*" means for any day, the rate per annum (expressed, as a decimal, rounded upwards, if necessary, to the next higher one one-hundredth of one percent (1/100 of 1%)) equal to the weighted average of the rates on overnight federal funds transactions with members of the Federal Reserve System, as published by the Federal Reserve Bank of New York on the Business Day next succeeding such day; provided, (a) if such day is not a Business Day, the Federal Funds Rate for such day shall be such rate on such transactions on the next preceding Business Day as so published on the next succeeding Business Day, and (b) if no such rate is so published on such next succeeding Business Day, the Federal Funds Rate for such day shall be the average rate charged to BSP Agency, LLC or any Lender reasonably selected by the Administrative Agent on such day on such transactions as reasonably determined by the Administrative Agent.

"*Financial Covenant Default*" is defined in Section 6.20(c).

"*Fiscal Quarter*" means any of the quarterly accounting periods of the Borrowers and their Subsidiaries ending on March 31, June 30, September 30 and December 31 of each year.

"*Fiscal Year*" means any of the annual accounting periods of the Borrowers and their Subsidiaries ending on December 31 of each year.

"*Fixed Charge Coverage Ratio*" means, at any time the same is to be determined, the ratio of (a) EBITDA for the four consecutive Fiscal Quarters then most recently ended *less* the sum of (i) Capital Expenditures made by the Borrowers and their Subsidiaries during the same four consecutive Fiscal Quarters, (ii) federal, state, and local income taxes paid in cash by the Borrowers and their Subsidiaries<sup>6</sup> during the same four consecutive Fiscal Quarters, (iii) Tax Distributions paid in cash by the Borrowers and

---

<sup>6</sup> NTD: Definition continues to be negotiated, as Debtors require that a parenthetical be inserted to read "(other than those required to be made either in connection with the Plan of Reorganization)".

their Subsidiaries<sup>7</sup> during the same four consecutive Fiscal Quarters, and (iv) Restricted Payments (other than Tax Distributions and Permitted Cash Distributions) paid in cash by the Borrowers and their Subsidiaries during the same four consecutive Fiscal Quarters, to (b) Fixed Charges for the same four consecutive Fiscal Quarters; *provided* that, for the purpose of calculating the numerator of the Fixed Charge Coverage Ratio for the Borrowers and their Subsidiaries for any period ending on or prior to [\_\_\_\_], (x) Capital Expenditures for each of the fiscal quarters during such period shall be equal to the amounts for Capital Expenditures for such fiscal quarters set forth on Schedule 6.20; and (y) the deductions set forth in clauses (ii) and (iii) of the definition of Fixed Charge Coverage Ratio for the applicable measurement period shall equal (A) for the measurement period ending on [\_\_\_\_], the amount of such deductions during the period from [\_\_\_\_] through [\_\_\_\_] multiplied by 4, (ii) for the measurement period ending on [\_\_\_\_], the amount of such deductions during the period from [\_\_\_\_] through [\_\_\_\_] multiplied by 2, and (ii) for the measurement period ending on [\_\_\_\_], the amount of such deductions during the period from [\_\_\_\_] through [\_\_\_\_] multiplied by 4/3.

*“Fixed Charges”* means, with reference to any period, the sum of (a) all scheduled payments of principal made or to be made during such period with respect to Indebtedness of the Borrowers and their Subsidiaries (excluding any and all Liquidity Recapture Payments), *plus* (b) the cash portion of any Interest Expense for such period; *provided* that, for the purpose of calculating the Fixed Charges for the Borrowers and their Subsidiaries for any period ending on or prior to [\_\_\_\_], Fixed Charges for the applicable measurement period shall equal (i) for the measurement period ending on [\_\_\_\_], the amount of such Fixed Charges during the period from [\_\_\_\_] through [\_\_\_\_] multiplied by 4, (ii) for the measurement period ending on [\_\_\_\_], the amount of such Fixed Charges during the period from [\_\_\_\_] through [\_\_\_\_] multiplied by 2, and (ii) for the measurement period ending on [\_\_\_\_], the amount of such Fixed Charges during the period from [\_\_\_\_] through [\_\_\_\_] multiplied by 4/3.

*“Foreign Lender”* means a Lender that is not a U.S. Person.

*“Foreign Subsidiary”* means each Subsidiary that is organized under the laws of a jurisdiction other than the United States of America or any state thereof or the District of Columbia.

*“Frischling Principals”* means Saul Frischling, Todd Frischling, Gregg Frischling and Michael Frischling.

*“GAAP”* means generally accepted accounting principles set forth from time to time in the opinions and pronouncements of the Accounting Principles Board and the American Institute of Certified Public Accountants and statements and pronouncements of the Financial Accounting Standards Board (or agencies with similar functions of comparable stature and authority within the U.S. accounting profession), which are applicable to the circumstances as of the date of determination.

*“Governmental Authority”* means the government of the United States of America, any other nation or any political subdivision thereof, whether state or local, and any agency, authority, instrumentality, regulatory body, court, central bank or other entity exercising executive, legislative, judicial, taxing, regulatory or administrative powers or functions of or pertaining to government (including the FCC, the FAA, any PUC, any Tower Registration Authority, and any supra-national bodies such as the European Union or the European Central Bank).

*“Guarantee”* of or by any Person (the *“guarantor”*) means any obligation, contingent or otherwise, of the guarantor guaranteeing or having the economic effect of guaranteeing any Indebtedness or other

---

<sup>7</sup> NTD: Definition continues to be negotiated, as Debtors require a parenthetical be inserted to read “(other than those required to be made either in connection with the Plan of Reorganization)”.

obligation of any other Person (the “*primary obligor*”) in any manner, whether directly or indirectly, and including any obligation of the guarantor, direct or indirect, (a) to purchase or pay (or advance or supply funds for the purchase or payment of) such Indebtedness or other obligation or to purchase (or to advance or supply funds for the purchase of) any security for the payment thereof, (b) to purchase or lease property, securities or services for the purpose of assuring the owner of such Indebtedness or other obligation of the payment thereof, (c) to maintain working capital, equity capital or any other financial statement condition or liquidity of the primary obligor so as to enable the primary obligor to pay such Indebtedness or other obligation or (d) as an account party in respect of any letter of credit or letter of guaranty issued to support such Indebtedness or obligation; *provided* that the term Guarantee shall not include endorsements for collection or deposit in the ordinary course of business.

“*Guarantors*” means and includes, subject to Section 6.25, each direct and indirect Subsidiary of the Borrowers (other than the License Subsidiaries), and each Borrower, in its capacity as a guarantor of the Secured Obligations of another Loan Party.

“*Guaranty Agreements*” means and includes the Guarantee of the Loan Parties provided for in Section 11, and any other guaranty agreement executed and delivered in order to guarantee the Secured Obligations or any part thereof in form and substance acceptable to the Administrative Agent.

“*Hazardous Material*” means any hazardous, toxic or harmful chemical, substance, waste, compound, material, product or byproduct subject to or regulated under Environmental Laws, including but not limited to radon, asbestos, polychlorinated biphenyls, petroleum (including crude oil or any fraction thereof) and lead.

“*Holdco Pledgors*” means, collectively, WPNT Holdco, Inc. and MGTF Holdco, LLC.

“*Indebtedness*” means for any Person (without duplication) (a) all indebtedness of such Person for borrowed money, whether current or funded, or secured or unsecured, (b) all indebtedness of such Person for the deferred purchase price of Property or services, (c) all indebtedness created or arising under any conditional sale or other title retention agreement with respect to Property acquired by such Person (even though the rights and remedies of the seller or lender under such agreement in the event of a default are limited to repossession or sale of such Property), (d) all indebtedness of such Person secured by a purchase money mortgage or other Lien to secure all or part of the purchase price of Property subject to such mortgage or Lien, whether or not such Person has assumed or become liable for the payment of such indebtedness, (e) all indebtedness secured by any Lien upon property of such Person, (f) all Capitalized Lease Obligations of such Person, (g) any existing reimbursement, payment or similar obligations of such Person in respect of bankers’ acceptances, letters of credit and other extensions of credit whether or not representing obligations for borrowed money, (h) all obligations of such Person to purchase, redeem, retire, defease or otherwise make any payment in respect of any Ownership Interest in such Person or any other Person or any warrant, right or option to acquire such Ownership Interest, valued, in the case of a redeemable preferred interest, at the greater of its voluntary or involuntary liquidation preference plus accrued and unpaid dividends, (i) [reserved], (j) any indebtedness, whether or not assumed, secured by Liens on Property acquired by such Person at the time of acquisition thereof, (k) all obligations under any so-called “synthetic lease” transaction entered into by such Person, (l) all obligations under any so-called “asset securitization” transaction entered into by such Person, and (m) all Contingent Obligations of such Person in respect of indebtedness referred to in clauses (a) through (l) above, it being understood that the term “Indebtedness” shall not include (i) payables, purchase orders, and accrued expenses arising in the ordinary course of business or (ii) obligations of such Person in respect of (x) payment of bonuses or other deferred compensation to employees of such Person or any of its Subsidiaries, and (y) any purchase price adjustment, earnout or deferred payment obligation of a similar nature incurred in connection with an Acquisition. Notwithstanding the foregoing, Indebtedness shall not include any leases in effect on the



Closing Date, as the same may be amended, modified, extended, restated, renewed, or replaced from time to time, that are recharacterized as debt under FASB's lease accounting standard change, ASU 2016-02, Leases (Topic 842), set to take effect in fiscal 2020.

*"Indemnified Taxes"* means (a) all Taxes, other than Excluded Taxes, imposed on or with respect to any payment made by or on account of any obligation of any Loan Party under any Loan Document and (b) to the extent not otherwise described in (a), Other Taxes.

*"Indemnatee"* is defined in Section 10.12(b).

*"Interest Expense"* means, with reference to any period, the sum of all interest charges (including imputed interest charges with respect to Capitalized Lease Obligations and all amortization of debt discount and expense, and other banking fees, discounts, charges and commissions) of the Borrowers and their Subsidiaries for such period determined on a combined basis in accordance with GAAP. Notwithstanding the foregoing, Interest Expense shall not include any such amounts related to any leases in effect on the Closing Date, as the same may be amended, modified, extended, restated, renewed, or replaced from time to time, that are recharacterized as debt under FASB's lease accounting standard change, ASU 2016-02, Leases (Topic 842), set to take effect in fiscal 2020.

*"Interest Period"* means, as to the Loan, the period (x) commencing on the Closing Date and (y) ending on the last day of each calendar month thereafter; *provided* that any Interest Period that would otherwise end on a day that is not a Business Day shall be extended to the next succeeding Business Day.

*"Investment"* means any investment in any Person, whether by means of a loan or advance, guarantee of obligations, purchase of equity or obligations, acquisition of all or any substantial part of the assets or business of any Person or any division thereof, entry into joint ventures or partnerships, purchase or ownership of a futures contract or otherwise becoming liable for the purchase or sale of currency or other commodities at a future date in the nature of a futures contract.

*"IRS"* means the United States Internal Revenue Service.

*"Legal Requirement"* means any treaty, convention, statute, law, common law, regulation, ordinance, license, permit, governmental approval, injunction, judgment, order, consent decree, restriction or other requirement of any Governmental Authority.

*"Lenders"* means and includes the banks, financial institutions and other lenders from time to time party to this Agreement, as a "Lender" hereunder, including each assignee Lender pursuant to Section 10.9.

*"LIBO Floor"* has the meaning set forth in the definition of "Adjusted LIBO Rate".

*"LIBO Rate"* has the meaning set forth in the definition of "Adjusted LIBO Rate".

*"License Subsidiaries"* means, collectively, the MGTF License Subsidiary and the WPNT License Subsidiary.

*"Lien"* means any lien, mortgage, deed of trust, pledge, assignment as collateral security, security interest, charge, or encumbrance in the nature of security in respect of any Property, including the interests of a vendor or lessor under any conditional sale, Capital Lease or other title retention arrangement, and any option, trust, UCC financing statement or other preferential arrangement having the practical effect of any of the foregoing.



*“Liquidity Recapture Payment”* is defined in Section 2.8(b)(ii).

*“Loan”* means the Term Loan.

*“Loan Documents”* means this Agreement, the Notes (if any), the Collateral Documents, the Guaranty Agreements, and each other agreement, instrument or document to be delivered hereunder or thereunder or otherwise in connection therewith.

*“Loan Party”* means each of the Borrowers and each of the Guarantors.

*“Management Fees”* means all fees, charges and other amounts paid (excluding salaries and other compensation, such as bonus payments, paid in the ordinary course of business) for services provided by and to become due to the Frischling Principals in consideration for, directly or indirectly, management, consulting or similar services.

*“Margin Stock”* shall have the meaning given to such term in Regulation U of the Board of Governors of the Federal Reserve System.

*“Material Adverse Effect”* means (a) a material adverse change in, or material adverse effect upon, the business, condition (financial or otherwise) operations, performance, or Properties of the Borrowers or of the other Loan Parties and their Subsidiaries taken as a whole, (b) a material impairment of the ability of the Loan Parties taken as a whole to perform their material obligations under any Loan Document or (c) a material adverse effect upon (i) the legality, validity, binding effect or enforceability against the Loan Parties taken as a whole of any Loan Document or the rights and remedies of the Administrative Agent and the Lenders thereunder or (ii) the perfection or priority of any Lien granted under any Collateral Document; provided, however, the events leading up to the filing of the Chapter 11 Cases or that have occurred since the filing of the Chapter 11 Cases that have been disclosed in writing (including electronic communication) to the Administrative Agent, the Lenders or their respective representatives prior to the date hereof, and the act and effects caused directly by the filing of the Chapter 11 Cases, shall not, in and of itself, be deemed to constitute or give rise to a Material Adverse Effect.

*“Material Agreement”* means:

(a) any agreement (or group of related agreements) for the lease of personal property to or from any Person providing for lease payments in excess of \$1,000,000 per annum;

(b) any agreement (or group of related agreements) for the purchase or sale of raw materials, commodities, supplies, products, or other personal property, or for the furnishing or receipt of services, the term of which extends over a period of more than one year from the date hereof or which involves consideration in excess of \$1,000,000;

(c) any agreement concerning a partnership or joint venture;

(d) any agreement (or group of related agreements) under which a Borrower or any of its Subsidiaries has created, incurred, assumed, or guaranteed any Indebtedness, or any Capitalized Lease Obligation, in excess of \$1,000,000 or under which a Person has imposed a lien on any of the Borrowers’ or their Subsidiaries’ Property;

(e) any profit sharing, stock option, stock purchase, stock appreciation, deferred compensation, severance, or other material plan or arrangement for the benefit of any Borrower’s current or former directors, officers, and employees;

(f) any agreement for the employment of any individual on a full-time, part-time, consulting, or other basis providing annual compensation in excess of \$500,000 or providing material severance benefits.

(g) any agreement under which any Borrower or any Subsidiary of any Borrower has advanced or loaned any amount to any of its managers, officers, and employees outside the ordinary course of business consistent with past custom and practice (including with respect to quality and frequency);

(h) any agreement under which the consequences of a default or termination would have a Material Adverse Effect;

(i) other than as described in clause (g) above, any agreement under which any Borrower or any Subsidiary of any Borrower has loaned any other Person amounts in the aggregate exceeding \$1,000,000;

(j) other agreement (or group of related agreements) entered into other than in the ordinary course of business, the performance of which involves consideration in excess of \$1,000,000; and

(k) the Nielsen Agreements.

*“Maximum Rate”* is defined in Section 10.16.

*“Mezzanine Claims”* is defined in the preamble to this Agreement.

*“Mezzanine Credit Agreement”* is defined in the preamble to this Agreement.

*“Mezzanine Lender”* is defined in the preamble this Agreement.

*“MGTF Radio”* is defined in the introductory paragraph of this Agreement.

*“MGTF License Subsidiary”* means MGTF Media Company, LLC, a Missouri limited liability company and a Wholly-owned Subsidiary of MGTF Radio.

*“Moody’s”* means Moody’s Investors Service, Inc.

*“Mortgages”* means, collectively, **[the Leasehold Deed of Trust and Security Agreement with Assignment of Rents from WPNT for the benefit of the Administrative Agent, relating to certain real property leased as of the Closing Date and located in the State of Missouri]**<sup>8</sup> and any other mortgages or deeds of trust delivered to the Administrative Agent pursuant to Section 4.2.

*“Net Cash Proceeds”* means, as applicable, (a) with respect to any Disposition by a Person, cash and cash equivalent proceeds received by or for such Person’s account, net of (i) reasonable direct costs relating to such Disposition and (ii) sale, use or other transactional taxes paid or payable by such Person as a direct result of such Disposition, (b) with respect to any Event of Loss of a Person, cash and cash equivalent proceeds received by or for such Person’s account (whether as a result of payments made under any applicable insurance policy therefor or in connection with condemnation proceedings or otherwise), net of reasonable direct costs incurred in connection with the collection of such proceeds, awards or other

---

<sup>8</sup> To be updated to reflect current fee owned properties and leasehold interests.

payments, and (c) with respect to any offering of Ownership Interests of a Person or the issuance of any Indebtedness by a Person, cash and cash equivalent proceeds received by or for such Person's account, net of reasonable legal, underwriting, and other fees and expenses incurred as a direct result thereof.

*"Net Income"* means, with reference to the applicable period, the net income (or net loss) of the Borrowers and their Subsidiaries for such period computed on a combined basis in accordance with GAAP; *provided* that, there shall be excluded from Net Income (a) the net income (or net loss) of any Person (other than a Subsidiary) in which a Borrower or any of its Subsidiaries has an Ownership Interest in, except to the extent of the amount of dividends or other distributions actually paid to such Borrower or any of its Subsidiaries during such period, (b) the undistributed earnings of any Subsidiary to the extent that the declaration or payment of dividends or similar distributions by such Subsidiary is not at the time permitted by the terms of any contractual obligation (other than under any Loan Document) or Legal Requirement applicable to such Subsidiary and (c) any gains (or losses) resulting from unusual and infrequent items.

*"Net Leverage Ratio"* means, as of the date of determination thereof, the ratio of (a)(i) Total Funded Debt of the Borrowers and their Subsidiaries as of such date minus (ii) unrestricted cash or Cash Equivalents not to exceed \$2,000,000 in the aggregate to (b) EBITDA as of the last day of the period of four Fiscal Quarters most recently ended.<sup>9</sup>

*"Nielsen Agreements"* means, collectively, [(a) that certain Radio Station License Agreement to Receive and Use Nielson Audio PPM Data and Estimates dated as of September 18, 2014 by and between Nielson Audio, Inc. f/k/a Arbitron, Inc. and MGTF Radio Company, LLC and all attachments thereto, and (b) that certain Radio Station License Agreement to Receive and Use Arbitron PPM Data and Estimates dated as of June 25, 2012 by and between Arbitron Inc. and WPNT, LLC (as successor by merger to WPNT, Inc.) and all attachments thereto.]<sup>10</sup>

*"Non-Consenting Lender"* means any Lender that does not approve any consent, waiver or amendment that (a) requires the approval of all affected Lenders or all Lenders, in each instance in accordance with the terms of Section 10.10, and (b) has been approved by the Required Lenders.

*"Note"* and *"Notes"* mean the Term Notes.

*"Obligations"* means all obligations of each Borrower to pay principal and interest on the Loans (including all after the commencement of an insolvency proceeding regardless of whether allowed or allowable in whole or in part as a claim in such insolvency proceeding), all fees and charges payable hereunder, and all other payment obligations of any Loan Party arising under or in relation to any Loan Document, in each case whether now existing or hereafter arising, due or to become due, direct or indirect, absolute or contingent, and howsoever evidenced, held or acquired, and including all interest costs, fees, and charges after commencement of an insolvency proceeding regardless of whether allowed or allowable in whole or in part as a claim in such insolvency proceeding.

*"OFAC"* means the United States Department of Treasury Office of Foreign Assets Control.

*"OFAC Event"* means the event specified in Section 6.21(c).

---

<sup>9</sup> NTD: Definition to be reviewed and confirmed by the parties.

<sup>10</sup> NTD: Borrowers to confirm whether new agreements will be put into place or whether the existing agreements will be assigned.

*“OFAC Sanctions Programs”* means all laws, regulations, and Executive Orders administered by OFAC, including the Bank Secrecy Act, anti-money laundering laws (including the Patriot Act)), and all economic and trade sanction programs administered by OFAC, any and all similar United States federal laws, regulations or Executive Orders, and any similar laws, regulations or orders adopted by any State within the United States.

*“OFAC SDN List”* means the list of the Specially Designated Nationals and Blocked Persons maintained by OFAC.

*“Organization Documents”* means, (a) for any corporation, the certificate or articles of incorporation, the bylaws, or code of regulations, or other similar document and any certificate of designations or instrument relating to the rights of shareholders of such corporation, (b) for any partnership, the partnership agreement or other similar agreement and, if applicable, certificate of limited partnership, (c) for any limited liability company, the operating agreement, limited liability company agreement, or other similar agreement, and articles or certificate of formation of such limited liability company, and (d) with respect to any joint venture, trust or other form of business entity, the joint venture or other applicable agreement of formation or organization and any agreement, instrument, filing or notice with respect thereto filed in connection with its formation or organization with the applicable Governmental Authority in the jurisdiction of its formation or organization and, if applicable, any certificate or articles of formation or organization of such entity.

*“Original Borrowers”* is defined in the preamble to this Agreement.

*“Other Connection Taxes”* means, with respect to any Recipient, Taxes imposed as a result of a present or former connection between such Recipient and the jurisdiction imposing such Tax (other than connections arising from such Recipient having executed, delivered, become a party to, performed its obligations under, received payments under, received or perfected a Lien under, engaged in any other transaction pursuant to or enforced any Loan Document, or sold or assigned an interest in any Loan or Loan Document).

*“Other Taxes”* means all present or future stamp, court or documentary, intangible, recording, filing or similar Taxes that arise from any payment made under, from the execution, delivery, performance, enforcement or registration of, from the receipt or perfection of a security interest under, or otherwise with respect to, any Loan Document, except any such Taxes that are Other Connection Taxes imposed with respect to an assignment (other than an assignment made pursuant to Section 10.2(b)).

*“Ownership Interest”* means all shares, interests, participations, control rights, transfer rights, rights to purchase, options, warrants, general or limited partnership interests, limited liability company interests or other equivalents (regardless of how designated) of or in a corporation, partnership, limited liability company or equivalent entity, whether voting or nonvoting, including common stock, preferred stock or any other “equity security” (as such term is defined in Rule 3a11-1 of the Rules and Regulations promulgated by the Securities and Exchange Commission (17 C.F.R. § 240.3a11-1) under the Securities and Exchange Act of 1934).

*“Participant”* is defined in Section 10.9(d).

*“Participant Register”* is defined in Section 10.9(d).

*“Patriot Act”* means the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001, Pub. L. 107-56.

“*PBGC*” means the Pension Benefit Guaranty Corporation or any Person succeeding to any or all of its functions under ERISA.

“*Percentage*” means for any Lender its Term Loan Percentage.

“*Perfection Certificate*” means a perfection certificate, in form and detail satisfactory to the Administrative Agent, setting forth the assets of the Borrowers and such other information as the Administrative Agent may request.

“*Permitted Cash Distributions*” means cash dividends on, or other cash distributions in respect of, any class or series of Ownership Interest in the Borrowers.

“*Permitted Holder*” means each of 54th Street Equity Holdings, Inc. (and its Affiliates), Saul Frischling, Todd Frischling, Gregg Frischling and Michael Frischling, together, in each case, with any of their respective estate planning trusts established for the benefit of such Frischling Principals and their families, and any partnership, limited liability company, corporation or other legal entity established for estate planning purposes for the benefit of such Frischling Principals and their families.

“*Permitted Lien*” is defined in Section 6.12.

“*Person*” means any natural person, partnership, corporation, limited liability company, association, trust, unincorporated organization or any other entity or organization, including a Governmental Authority.

“*Plan*” means any employee pension benefit plan covered by Title IV of ERISA or subject to the minimum funding standards under Section 412 of the Code that either (a) is maintained by a member of the Controlled Group (including any Borrower) for current or former employees of a member of the Controlled Group (including any Borrower) and to which a member of the Controlled Group (including any Borrower) is then making or accruing an obligation to make contributions or has within the preceding five plan years made contributions or under which a member of the Controlled Group (including any Borrower) is reasonably expected to incur liability or (b) is maintained pursuant to a collective bargaining agreement or any other arrangement under which more than one employer makes contributions and to which a member of the Controlled Group (including any Borrower) is then making or accruing an obligation to make contributions or has within the preceding five plan years made contributions or under which a member of the Controlled Group (including any Borrower) is reasonably expected to incur liability.

“*Plan of Reorganization*” is defined in the preamble to this Agreement.

“*Platform*” is defined in Section 10.8(d).

“*Pledge Agreement*” means that certain Pledge Agreement dated as of the date hereof among the Holdco Pledgors and the Administrative Agent.

“*Property*” means, as to any Person, all types of real, personal, tangible, intangible or mixed property owned by such Person whether or not included in the most recent balance sheet of such Person and its Subsidiaries under GAAP.

“*PUC*” means any state public service or public utility commission or other state Governmental Authority that exercises jurisdiction over the rates or services or the acquisition, construction or operation of any communications system of any Person who owns, constructs or operates any communications

system, in each case by reason of the nature or type of the business subject to regulation and not pursuant to laws and regulations of general applicability to Persons conducting business in such state.

*“Radio Towers”* means, collectively, the wireless communication towers owned, leased, or managed by one or more of the Loan Parties and their Subsidiaries.

*“Recipient”* means (a) the Administrative Agent and (b) any Lender.

*“Register”* is defined in Section 10.9(c).

*“Regulatory Authorization”* means any authorization, approval, consent, franchise, license, covenant, order, ruling, permit, certification, exemption, notice, declaration or similar right, undertaking or other action of, to or by any of the FCC, the FAA, any PUC or any Tower Registration Authority, including any FCC License and any Tower Registration.

*“Related Parties”* means, with respect to any Person, such Person’s Affiliates and the partners, directors, officers, employees, agents, trustees, administrators, managers, advisors and representatives of such Person and of such Person’s Affiliates.

*“Release”* means any placing, spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, disposing or migrating into the environment, including the exacerbation of existing environmental conditions and the abandonment or discarding of barrels, drums, containers, tanks or other receptacles containing or previously containing any Hazardous Material.

*“Relevant Period”* is defined in Section 6.20(c).

*“Required Lenders”* means, as of the date of determination thereof, Lenders whose outstanding Loans constitute more than 50% of the sum of the total outstanding Loans. For the purposes of this definition, any Lender and its Affiliates shall constitute a single Lender.

*“Reserve Percentage”* is defined in the definition of “Adjusted LIBO Rate”.

*“Resignation Effective Date”* is defined in Section 9.7(a).

*“Restricted Payments”* means (i) any dividends on or any other distributions in respect of any class or series of Ownership Interests, (ii) any purchase, redemption or other acquisition or retirement of Ownership Interests, and (iii) any payment of Management Fees by any Borrower or any of its Subsidiaries.

*“S&P”* means Standard & Poor’s Ratings Services Group, a Standard & Poor’s Financial Services LLC business.

*“Secured Obligations”* means the Obligations, whether now existing or hereafter arising, due or to become due, direct or indirect, absolute or contingent, and howsoever evidenced, held or acquired (including all interest, costs, fees, and charges after the entry of an order for relief against any Loan Party in a case under the Bankruptcy Code or any similar proceeding, whether or not such interest, costs, fees and charges would be an allowed claim against such Loan Party in any such proceeding).

*“Security Agreement”* means that certain Security Agreement dated as of the date hereof among the Loan Parties and the Administrative Agent.

*“Senior Secured Claims”* is defined in the preamble to this Agreement.



*“Senior Secured Credit Agreement”* is defined in the preamble to this Agreement.

*“Senior Secured Lender”* is defined in the preamble to this Agreement.

*“Solvent”* or *“Solvency”* means, when used with respect to any Person, that, as at any date of determination, (a) the amount of the *“present fair saleable value”* of the assets of such Person will, as of such date, exceed the amount of all *“liabilities of such Person, contingent or otherwise”* as of such date, as such quoted terms are determined in accordance with applicable federal and state laws governing determinations of the insolvency of debtors, (b) such Person will not have, as of such date, an unreasonably small amount of capital with which to conduct its business, and (c) such Person will be able to pay its debts as they mature. The amount of contingent liabilities at any time shall be computed as the amount that, in the light of all the facts and circumstances existing at such time, represents the amount that can reasonably be expected to become an actual or matured liability.

*“Specified Contribution Cure Right”* is defined in Section 6.20(e).

*“Specified Contribution Period”* means, as applicable, the thirty (30) day period beginning on the date that either (i) the quarterly financial statements are delivered under Section 6.1(b) for such Relevant Period or (ii) the annual financial statements are delivered under Section 6.1(a), but solely to the extent permitted by the proviso set forth in Section 6.20(c)(ii).

*“Specified Contributions”* means, for any period, any cash contribution by the Frischling Member Group, in an amount not less than the Minimum Specified Contribution Amount in accordance with Section 6.20(e), to either Borrower during the Specified Contribution Period; provided, that (i) the Borrowers shall have provided, in each such case, evidence reasonably satisfactory to the Administrative Agent that the funds from the Specified Contribution shall have been deposited into the operating account therefor and (ii) no debt securities, Ownership Interests or other consideration shall be issued in consideration of such cash contribution.

*“Subordinated Debt”* means any Indebtedness owing to a Person by that is subordinated in right of payment to the prior payment of the Secured Obligations pursuant to subordination provisions approved in writing by the Administrative Agent in its reasonable discretion, which Indebtedness shall have interest rates, payment terms, maturities, amortization schedules, covenants, defaults, remedies and other material terms that are acceptable in form and substance to the Administrative Agent and which subordination provisions shall contain restrictions on enforcement, restrictions on payment, subordination terms, and other material terms that are acceptable in form and substance to the Administrative Agent.

*“Subsidiary”* means, as to any particular parent corporation or organization, any other corporation or organization more than 50% of the outstanding Voting Stock of which is at the time directly or indirectly owned by such parent corporation or organization or by any one or more other entities which are themselves subsidiaries of such parent corporation or organization. Unless otherwise expressly noted herein, the term *“Subsidiary”* means a Subsidiary of any Borrower or of any of its direct or indirect Subsidiaries.

*“Tax Distributions”* means distributions by any Borrower during any Fiscal Year (not more frequently than four times annually with respect to federal income tax liability), to permit each member or shareholder, as applicable, of such Borrower to make estimated tax payments with respect to the taxable income of such Borrower attributable to him or her equal to 100% of the product of such income and the sum of the marginal tax rates deemed applicable to such income (as reasonably determined by the Borrower’s officers or managers in accordance with such Borrower’s Organizational Documents as in effect on the Closing Date).

“*Taxes*” means any and all present or future taxes, levies, imposts, duties, deductions, withholdings (including backup withholding), assessments, fees or other charges imposed by any Governmental Authority, including any interest, additions to tax, liabilities or penalties applicable thereto.

“*Term Credit*” means the credit facility for the Term Loan described in Section 2.1.

“*Term Loan*” is defined in Section 2.1.

“*Term Loan Commitment*” means, as to any Lender, the obligation of such Lender to accept its Term Loan under the Plan of Reorganization on the Closing Date in the principal amount not to exceed the amount set forth opposite such Lender’s name on Schedule 1 attached hereto and made a part hereof. The Term Loan Commitments of the Lenders aggregate \$[ ] on the Closing Date.

“*Term Loan Percentage*” means, for each Lender, the percentage of the Term Loan Commitments represented by such Lender’s Term Loan Commitment or, if the Term Loan Commitments have been terminated or have expired, the percentage held by such Lender of the aggregate principal amount of the Term Loan then outstanding.

“*Term Note*” is defined in Section 2.12(d).

“*Total Funded Debt*” means, at any time the same is to be determined, the sum (but without duplication) of all Indebtedness (other than unfunded Indebtedness) of the Borrowers and their Subsidiaries at such time determined on a combined basis in accordance with GAAP, giving pro forma effect to any payment required by Section 2.8(b)(iii).<sup>11</sup>

“*Tower Registration*” means any license, authorization, permit, consent, franchise, ordinance, registration, certificate, agreement, determination or other right filed with, granted by or entered into by a Governmental Authority that permits or authorizes the ownership, construction, management or maintenance of a Radio Tower or the use of a Radio Tower for communications.

“*Tower Registration Authority*” means a Governmental Authority that has accepted registration of, or otherwise taken all necessary action with respect to, a Tower Registration.

“*Transactions*” shall mean, collectively, the transactions to occur on or prior to the Closing Date pursuant to the Loan Documents, including (a) the execution, delivery and performance of the Loan Documents and the issuance of the Term Loan hereunder; and (b) the payment of all fees and expenses to be paid on or prior to the Closing Date and owing in connection with the foregoing.

“*UCC*” is defined in Section 1.2.

“*Unfunded Vested Liabilities*” means, for any Plan at any time, the amount (if any) by which the present value of all vested nonforfeitable accrued benefits under Section 4001(a)(16) of ERISA under such Plan exceeds the fair market value of all Plan assets allocable to such benefits, all determined as of the then most recent valuation date for such Plan in accordance with the assumptions used for funding the Plan pursuant to Section 412 of the Code for the applicable plan year, but only to the extent that such excess represents a potential liability of a member of the Controlled Group to the PBGC or the Plan under Title IV of ERISA.

---

<sup>11</sup> Definition to be reviewed and confirmed by the parties.

“U.S. Person” means any Person that is a “United States Person” as defined in Section 7701(a)(30) of the Code.

“U.S. Tax Compliance Certificate” is defined in Section 10.1(g)(ii).

“Voting Stock” of any Person means Ownership Interests of any class or classes (however designated) having ordinary power for the election of directors or other similar governing body of such Person (including general partners of a partnership), other than Ownership Interests having such power only by reason of the happening of a contingency.

“Welfare Plan” means a “welfare plan” as defined in Section 3(1) of ERISA.

“Wholly-owned Subsidiary” means, at any time, any Subsidiary of which all of the issued and outstanding Ownership Interests (other than directors’ qualifying Ownership Interests as required by law) are owned by any one or more of the Borrowers and the Borrowers’ other Wholly-owned Subsidiaries at such time.

“Withholding Agent” means any Loan Party and the Administrative Agent.

“WPNT” is defined in the introductory paragraph of this Agreement.

“WPNT License Subsidiary” means WPNT Media Subsidiary, LLC a Missouri limited liability company and a Wholly-owned Subsidiary of WPNT.

**Section 1.2 Interpretation.** The definitions of terms herein shall apply equally to the singular and plural forms of the terms defined. Whenever the context may require, any pronoun shall include the corresponding masculine, feminine and neuter forms. The words “include,” “includes” and “including” shall be deemed to be followed by the phrase “without limitation.” The word “will” shall be construed to have the same meaning and effect as the word “shall.” Unless the context requires otherwise (a) any definition of or reference to any agreement, instrument or other document herein shall be construed as referring to such agreement, instrument or other document as from time to time amended, supplemented or otherwise modified (subject to any restrictions on such amendments, supplements or modifications set forth herein), (b) any reference herein to any Person shall be construed to include such Person’s successors and permitted assigns, (c) the words “herein,” “hereof” and “hereunder,” and words of similar import, shall be construed to refer to this Agreement in its entirety and not to any particular provision hereof, (d) all references herein to Sections, Exhibits and Schedules shall be construed to refer to Sections of, and Exhibits and Schedules to, this Agreement, (e) any reference to any law or regulation herein shall, unless otherwise specified, refer to such law or regulation as amended, modified or supplemented from time to time, and any successor of such law or regulation and (f) the words “asset” and “property” shall be construed to have the same meaning and effect and to refer to any and all tangible and intangible assets and properties, including cash, securities, accounts and contract rights. All references to time of day herein are references to New York, New York, time unless otherwise specifically provided. Where the character or amount of any asset or liability or item of income or expense is required to be determined or any consolidation or other accounting computation is required to be made for the purposes of this Agreement, it shall be done in accordance with GAAP except where such principles are inconsistent with the specific provisions of this Agreement. All terms that are used in this Agreement which are defined in the Uniform Commercial Code of the State of New York as in effect from time to time (“UCC”) shall have the same meanings herein as such terms are defined in the UCC, unless this Agreement shall otherwise specifically provide.

**Section 1.3 Change in Accounting Principles.** (a) Except as otherwise expressly provided herein, all accounting terms not otherwise defined herein shall have the meanings assigned to them in

conformity with GAAP. Financial statements and other information required to be delivered by the Loan Parties to the Administrative Agent and Lenders pursuant to Section 3.2(k) and Section 6.1 shall be prepared in accordance with GAAP as in effect at the time of such preparation. If at any time any change in GAAP or in the consistent application thereof would affect the computation of any financial covenant or requirement set forth in any Loan Document, and either the Borrowers or the Required Lenders shall object in writing to determining compliance based on such change, then the Lenders and Borrowers shall negotiate in good faith to amend such financial covenant, requirement or applicable defined terms to preserve the original intent thereof in light of such change to GAAP, provided that, until so amended such computations shall continue to be made on a basis consistent with the most recent financial statements delivered pursuant to Section 3.2(k) and Section 6.1 as to which no such objection has been made.

(b) Notwithstanding the above, for purposes of determining compliance with any covenant (including the computation of any financial covenant) contained herein, Indebtedness of the Borrowers and their Subsidiaries shall be deemed to be carried at 100% of the outstanding principal amount thereof, and the effects of FASB ASC 825 and FASB ASC 470-20 on financial liabilities shall be disregarded.

**Section 1.4 Rounding.** Any financial ratios required to be maintained pursuant to this Agreement (or required to be satisfied in order for a specific action to be permitted under this Agreement) shall be calculated by dividing the appropriate component by the other component, carrying the result to one place more than the number of places by which such ratio is expressed herein and rounding the result up or down to the nearest number (with a rounding up if there is no nearest number).

## **SECTION 2. THE CREDIT FACILITIES.**

**Section 2.1 Term Loan Commitments.** Subject to the terms and conditions of this Agreement and the Plan of Reorganization, each Lender hereunder that holds any outstanding revolving or term loans or other obligations of the Original Borrowers under the Senior Secured Credit Agreement or Mezzanine Credit Agreement hereby agrees that, effective as of the Closing Date, any outstanding loans and other obligations due and owing to such Lender under the Senior Secured Credit Agreement or Mezzanine Credit Agreement, as applicable, are hereby satisfied by the deemed issuance of securities hereunder on the Closing Date in the form of a term loan (the "*Term Loan*") in the aggregate amount of such Lender's Term Loan Commitment, as such amounts may be adjusted or reduced pursuant to the terms hereof. No amount of the Term Loan may be reborrowed once it is repaid.

**Section 2.2 Reserved.**

**Section 2.3 Reserved.**

**Section 2.4 Applicable Interest Rates.**

(a) Except as otherwise set forth herein, the Loan shall bear interest on the unpaid principal amount thereof from the Closing Date through repayment (whether by acceleration or otherwise) thereof at a rate per annum equal to the Adjusted LIBO Rate plus the Applicable Margin.

(b) As soon as practicable after 11:00 a.m. on the first Business Day of each Interest Period, the Administrative Agent shall determine (which determination shall, absent manifest error, be final, conclusive and binding upon all parties) the interest rate that shall apply to the Loans during the then current Interest Period and shall promptly give notice thereof (in writing or by telephone confirmed in writing) to the Borrowers and each Lender.

(c) While any Event of Default exists or after acceleration, the Borrowers shall pay interest (after as well as before entry of judgment thereon to the extent permitted by law) on the principal amount of all Loans and other amounts owing by them at a rate per annum equal to the sum of 2.00% per annum plus the Base Rate plus the Applicable Margin.

(d) Interest payable pursuant to this Section 2.4 shall be computed on the basis of a year of 360 days for the actual number of days elapsed in the period during which it accrues. In computing interest on any Loan, the date of the issuance of such Loan or the first day of an Interest Period applicable to such Loan shall be included, and the date of payment of such Loan shall be excluded.

(e) Except as otherwise set forth herein, interest on the Loan shall accrue on a daily basis and shall be payable in arrears (i) on the last day of each March, June, September and December; (ii) upon any prepayment of that Loan, to the extent accrued on the amount being prepaid; and (iii) at maturity, including final maturity.

**Section 2.5** [Reserved].

**Section 2.6** [Reserved].

**Section 2.7** Scheduled Principal Payments; Maturity of Loans. The Borrowers shall make principal payments on the Term Loan in equal installments on the last Business Day of each March, June, September, and December in each year, commencing with the calendar quarter ending **[March 31, 2019]** (unless any such day is not a Business Day, in which event such payment is due on the immediately preceding Business Day) with the amount of each such principal installment equal to \$375,000; it being further agreed that a final payment comprised of all principal and interest not sooner paid on the Term Loan, shall be due and payable on [\_\_\_\_\_] <sup>12</sup>, 2024, the final maturity thereof. Each principal payment on the Term Loan shall be applied to the Lenders holding the Term Loan pro rata based upon their Term Loan Percentages.

**Section 2.8** Prepayments.

(a) *Voluntary.* The Borrowers may prepay without premium or penalty and in whole or in part the Term Loan at any time upon 3 Business Days prior notice by the Borrowers' Agent to the Administrative Agent on the date of prepayment (or, in any case, such shorter time period then agreed to by the Administrative Agent), such prepayment to be made by the payment of the principal amount to be prepaid and, in the case of the Term Loan, accrued interest thereon to the date fixed for prepayment; *provided, however*, the Borrowers may not partially repay in a principal amount less than \$200,000.

(b) *Mandatory.*

(i) If any Borrower or any Subsidiary shall at any time or from time to time make or agree to make a Disposition or shall suffer an Event of Loss with respect to any Property which results in Net Cash Proceeds in excess of \$250,000 individually or on a cumulative basis in any Fiscal Year, then (x) the Borrowers shall promptly notify the Administrative Agent of such proposed Disposition or Event of Loss (including the amount of the estimated Net Cash Proceeds to be received by such Borrower or such Subsidiary in

---

<sup>12</sup> To be five years from the plan effective date.



respect thereof) and (y) promptly upon receipt by such Borrower or such Subsidiary of the Net Cash Proceeds of such Disposition or such Event of Loss, the Borrowers shall prepay the Obligations in an aggregate amount equal to 100% of the amount of all such Net Cash Proceeds in excess of \$250,000. The amount of each such prepayment shall be applied first to the outstanding Term Loan until paid in full. If the Administrative Agent or the Required Lenders so request, all proceeds of such Disposition or Event of Loss shall be deposited with the Administrative Agent as the Administrative Agent may direct. So long as no Default or Event of Default exists, the Administrative Agent is authorized to disburse amounts representing such proceeds to or at the Borrowers' direction for application to or reimbursement for the costs of replacing, rebuilding or restoring such Property.

(ii) If after the Closing Date any Borrower or any Subsidiary shall issue any new Ownership Interests (other than Excluded Equity Issuances) or incur or assume any Indebtedness other than that permitted by Section 6.11, the Borrower shall promptly notify the Administrative Agent of the estimated Net Cash Proceeds of such issuance, incurrence or assumption to be received by or for the account of such Borrower or such Subsidiary in respect thereof. Promptly upon receipt by such Borrower or such Subsidiary of Net Cash Proceeds of such issuance, incurrence or assumption, the Borrowers shall prepay the Obligations in the amount of such Net Cash Proceeds. The amount of each such prepayment shall be applied first to the outstanding Term Loan until paid in full. The Borrowers acknowledge that its performance hereunder shall not limit the rights and remedies of the Lenders for any breach of Section 6.11 or any other terms of this Agreement.

(iii) If at any time after [REDACTED], 2019 the sum of unrestricted cash and Cash Equivalents of the Loan Parties on a consolidated basis exceeds \$2,000,000 (such amount determined on a book balance basis) as of the last Business Day of any Fiscal Quarter, then the Borrowers shall, on or before the earlier of (A) the date on which a Compliance Certificate is to be delivered pursuant to Section 6.1(d) and (B) the date that is 45 days after the end of such Fiscal Quarter, make a prepayment on the Term Loan (each such payment, a "Liquidity Recapture Payment") in an amount equal to the amount by which such unrestricted cash or Cash Equivalents exceeded \$2,000,000 as of the last Business Day of such Fiscal Quarter.

(iv) If after the Closing Date, any Borrower shall receive a Specified Contribution, the Borrower shall promptly, upon receipt by such Borrower, of the Specified Contribution prepay the Obligations in the amount of such Specified Contribution; provided that if such Specified Contribution is made for the purpose of a Liquidity Cure, then only the portion of the Specified Contribution in excess of the amount necessary to accomplish the Liquidity Cure shall be subject to prepayment under this clause (iv).

(v) Prepayments of Loans under this Section 2.8(b) shall be applied to the Term Loan until payment in full thereof. Each prepayment of Loans under this Section 2.8(b) shall be made by the payment of the principal amount to be prepaid and accrued interest thereon to the date of prepayment.

(c) *Lender Notification; Payment Application.* The Administrative Agent will promptly advise each Lender of any notice of prepayment it receives from the Borrowers, and in the case of any partial prepayment, such prepayment shall be applied to the remaining amortization payments on the relevant Loans in the inverse order of maturity.

**Section 2.9 Place and Application of Payments.**

(a) *General Payments.* All payments of principal of and interest on the Loans and of all other Obligations payable by the Borrowers under this Agreement and the other Loan Documents, shall be made by the Borrowers to the Administrative Agent by no later than 12:00 noon (New York time) on the due date thereof at the office of the Administrative Agent in New York, New York (or such other location as the Administrative Agent may designate to the Borrowers in writing) for the benefit of the Lender or Lenders entitled thereto. Any payments received after such time shall be deemed to have been received by the Administrative Agent on the next Business Day. All such payments shall be made in Dollars, in immediately available funds at the place of payment, in each case without set-off or counterclaim. The Administrative Agent will promptly thereafter cause to be distributed like funds relating to the payment of principal or interest on Loans in which the Lenders have purchased Participating Interests ratably to the Lenders and like funds relating to the payment of any other amount payable to any Lender to such Lender, in each case to be applied in accordance with the terms of this Agreement.

(b) *Payments by Borrowers; Presumptions by Administrative Agent.* Unless the Administrative Agent shall have received notice from the Borrowers prior to the date on which any payment is due to the Administrative Agent for the account of the Lenders hereunder that the Borrowers will not make such payment, the Administrative Agent may assume that the Borrowers have made such payment on such date in accordance herewith and may, in reliance upon such assumption, distribute to the Lenders the amount due. In such event, if the Borrowers have not in fact made such payment, then each of the Lenders severally agrees to repay to the Administrative Agent forthwith on demand the amount so distributed to such Lender, with interest thereon, for each day from and including the date such amount is distributed to it to but excluding the date of payment to the Administrative Agent, at a rate per annum equal to: (i) from the date the distribution was made to the date 2 Business Days after payment by such Lender is due hereunder, at the greater of the Federal Funds Rate and a rate determined by the Administrative Agent in accordance with banking industry rules on interbank compensation and (ii) from the date 2 Business Days after the date such payment is due from such Lender to the date such payment is made by such Lender, the LIBO Rate then in effect for each such date.

(c) *Application of Collateral Proceeds Before Default.* Prior to the occurrence of an Event of Default, subject to Section 2.8(b), all payments and collections received in respect of the Obligations and all proceeds of Collateral shall (subject to the other terms of this Agreement) be applied by the Administrative Agent against the outstanding Obligations as follows:

(i) *first*, to any outstanding fees, charges, and expenses then due to the Administrative Agent and the Lenders;

(ii) *second*, to outstanding interest charges then due in respect of the Obligations;

(iii) *third*, to the outstanding principal balance then scheduled as due in respect of the Term Loan; and

(iv) *finally*, to be made available to the Borrowers or whoever else may be lawfully entitled thereto.

(d) *Application of Collateral Proceeds after Default.* Anything contained herein to the contrary notwithstanding, (x) pursuant to the exercise of remedies under Sections 7.2 and 7.3



or (y) after written instruction by the Required Lenders after the occurrence and during the continuation of an Event of Default, all payments and collections received in respect of the Obligations and all proceeds of the Collateral received, in each instance, by the Administrative Agent or any of the Lenders shall be remitted to the Administrative Agent and distributed as follows:

(i) *first*, to the payment of any outstanding costs and expenses incurred by the Administrative Agent, and any security trustee therefor, in monitoring, verifying, protecting, preserving or enforcing the Liens on the Collateral, in protecting, preserving or enforcing rights under the Loan Documents, which the Borrowers have agreed to pay the Administrative Agent under Section 10.12 (such funds to be retained by the Administrative Agent for its own account unless it has previously been reimbursed for such costs and expenses by the Lenders, in which event such amounts shall be remitted to the Lenders to reimburse them for payments theretofore made to the Administrative Agent);

(ii) *second*, to the payment of any outstanding interest and fees due under the Loan Documents to be allocated pro rata in accordance with the aggregate unpaid amounts owing to each holder thereof;

(iii) *third*, to the payment of principal on the Loans, the aggregate amount paid to, or held as collateral security for, the Lenders to be allocated pro rata in accordance with the aggregate unpaid amounts owing to each holder thereof;

(iv) *fifth*, to the payment of all other Secured Obligations to be allocated pro rata in accordance with the aggregate unpaid amounts owing to each holder thereof; and

(v) *sixth*, to the Borrowers or whoever else may be lawfully entitled thereto.

**Section 2.10** **[Reserved].**

**Section 2.11** **[Reserved].**

**Section 2.12** **Evidence of Indebtedness.**

(a) Each Lender shall maintain in accordance with its usual practice an account or accounts evidencing the Indebtedness of the Borrowers to such Lender resulting from the Loan made by such Lender from time to time, including the amounts of principal and interest payable and paid to such Lender from time to time hereunder.

(b) The Administrative Agent shall also maintain accounts in which it will record (i) the amount of the Loan made hereunder, the type thereof and the Interest Period with respect thereto, (ii) the amount of any principal or interest due and payable or to become due and payable from the Borrowers to each Lender hereunder and (iii) the amount of any sum received by the Administrative Agent hereunder from the Borrowers and each Lender's share thereof.

(c) The entries maintained in the accounts maintained pursuant to Sections 2.12(a) and (b) above shall be *prima facie* evidence of the existence and amounts of the Obligations therein recorded; *provided, however*, that the failure of the Administrative Agent or any Lender to maintain such accounts or any error therein shall not in any manner affect the obligation of the Borrowers to repay the Obligations in accordance with their terms.

(d) Any Lender may request that its Loans be evidenced by a promissory note or notes in the form of Exhibit A. In such event, the Borrowers shall prepare, execute and deliver to such Lender a Note payable to the order of such Lender in the amount of the Term Loan. Thereafter, the Loans evidenced by such Note or Notes and interest thereon shall at all times (including after any assignment pursuant to Section 10.9) be represented by one or more Notes payable to the order of the payee named therein or any assignee pursuant to Section 10.9, except to the extent that any such Lender or assignee subsequently returns any such Note for cancellation and requests that such Loans once again be evidenced as described in subsections (a) and (b) above.

**Section 2.13 Fees.** In consideration for the agreement of BSP Agency, LLC to act as Administrative Agent, the Borrowers shall pay to the Administrative Agent, for its own use and benefit, an annual administrative agency fee in the amount of \$[40,000]<sup>13</sup>, which shall be earned by and payable annually in advance to the Administrative Agent solely for its account on the Closing Date and on each anniversary thereafter of the Closing Date until termination of this Agreement and repayment of all amounts outstanding hereunder.

**Section 2.14 [Reserved].**

**Section 2.15 Appointment of Borrowers' Agent as Agent for Borrowers.** Each Borrower hereby irrevocably authorizes and appoints the Borrowers' Agent as its agent hereunder to take such actions as agent on its behalf and to exercise such powers under the Loan Documents as are delegated to the Borrowers by the terms thereof, together with all such powers as are reasonably incidental thereto. Each Borrower irrevocably agrees that the Administrative Agent and the Lenders may conclusively rely on the authority of the Borrowers' Agent in exercising the powers granted to the Borrowers by the terms of this Agreement, and the Administrative Agent and the Lenders shall be entitled to conclusively presume that any action by the Borrowers' Agent under the Loan Documents is taken on behalf of the Borrowers whether or not the Borrowers' Agent so indicates.

### **SECTION 3. CONDITIONS PRECEDENT.**

The obligation of each Lender to accept the Term Loan on the Closing Date shall be subject to satisfaction (or waiver) of the following conditions precedent:

**Section 3.1 [Reserved].**

**Section 3.2 Conditions Precedent.** As conditions precedent to the effectiveness of this Agreement:

(a) the Administrative Agent shall have received this Agreement duly executed by the Loan Parties and the Lenders;

(b) the Administrative Agent shall have received for each Lender requesting Notes, such Lender's duly executed Notes of the Borrowers, dated the date hereof and otherwise in compliance with the provisions of Section 2.12(d);

(c) the Administrative Agent shall have received: (i) the Security Agreement duly executed by the Loan Parties and the License Subsidiaries (and all other Subsidiaries, if any), together with (A) original stock certificates or other similar instruments representing all of the

---

<sup>13</sup> NTD: Amount acceptable to Debtors if captured in EBITDA and FCCR.

issued and outstanding Ownership Interests in each License Subsidiary (and each other Subsidiary, if any) as of the Closing Date, (B) stock powers or similar transfer powers executed in blank and undated for the Collateral consisting of the Ownership Interests in each License Subsidiary (and each other Subsidiary, if any), (C) UCC financing statements to be filed against the Loan Parties and the License Subsidiaries (and each other Subsidiary, if any), as debtors, in favor of the Administrative Agent, as secured party, (D) patent, trademark, and copyright collateral agreements, to the extent requested by the Administrative Agent, (E) deposit account control agreements, to the extent requested by the Administrative Agent and (F) Collateral Access Agreements, to the extent requested by the Administrative Agent; and (ii) a duly completed and executed Perfection Certificate;

(d) the Administrative Agent shall have received the Pledge Agreement duly executed by the Holdco Pledgors, together with (i) original stock certificates (or other similar instruments) representing all of the issued and outstanding Ownership Interests in each Borrower as of the Closing Date, (ii) undated stock powers (or similar transfer powers) related thereto and (iii) UCC financing statements to be filed against the Holdco Pledgors, as debtors, in favor of the Administrative Agent, as secured party;

(e) the Administrative Agent shall have received evidence of insurance required to be maintained under the Loan Documents, naming the Administrative Agent as additional insured and/or lenders loss payee, as applicable;

(f) the Administrative Agent shall have received copies of each Loan Party's, Holdco Pledgor's and License Subsidiary's Organization Documents, certified in each instance by its Secretary, Assistant Secretary, any of the Frischling Principals in their capacity as an officer of such Loan Party, Holdco Pledgor or such License Subsidiary, or other officer acceptable to the Administrative Agent and, with respect to Organization Documents filed with a Governmental Authority, by the applicable Governmental Authority;

(g) the Administrative Agent shall have received copies of resolutions of each Loan Party's, each Holdco Pledgor's and each License Subsidiary's Board of Directors (or similar governing body) authorizing the execution, delivery and performance of each of the Loan Documents to which it is a party and the consummation of the transactions contemplated thereby, together with specimen signatures of the persons authorized to execute such documents on such Loan Party's, Holdco Pledgor's or License Subsidiary's behalf, all certified in each instance by its Secretary, Assistant Secretary or other officer acceptable to the Administrative Agent;

(h) the Administrative Agent shall have received copies of the certificates of good standing, or nearest equivalent in the relevant jurisdiction, for each Loan Party, Holdco Pledgor and each License Subsidiary (dated no earlier than 30 days prior to the date hereof) from the office of the secretary of state or other appropriate governmental department or agency of the state of its formation, incorporation or organization, as applicable;

(i) the Administrative Agent shall have received a list of the Borrowers' Authorized Representatives;

(j) the Administrative Agent shall have received certification from the each Borrower's and Holdco Pledgors' Chief Financial Officer or other officer of the Borrowers' or Holdco Pledgors acceptable to the Administrative Agent of the Solvency of the Loan Parties, the Holdco Pledgors and their Subsidiaries on a consolidated basis and certifications from officers of the Loan Parties, the Holdco Pledgors and the License Subsidiaries acceptable to the Administrative

Agent of the Solvency of each such Person individually, in each instance after giving effect to this Agreement;

(k) [reserved];

(l) the Administrative Agent shall have received financing statement and, as appropriate, tax and judgment lien search results against the Loan Parties, the License Subsidiaries, the Holdco Pledgors and their Property evidencing the absence of Liens thereon, except for Permitted Liens;

(m) the Administrative Agent shall have received the favorable written opinions of counsel to the Loan Parties, in form and substance satisfactory to the Administrative Agent;

(n) each of the Lenders shall have received, sufficiently in advance of the Closing Date, all documentation and other information requested by any such Lender required by bank regulatory authorities under applicable "know your customer" and anti-money laundering rules and regulations, including the Patriot Act; and the Administrative Agent shall have received a fully executed IRS Form W-9 (or its equivalent) for each of the Loan Parties;

(o) the Administrative Agent shall have received (i) the Mortgage for the Radio Tower located in St. Charles County, Missouri leased by WPNT, as successor-in-interest to Florissant Broadcasting Co., Inc.; and (ii) a tract search acceptable in form and substance to the Administrative Agent with respect to such leased property;

(p) the Administrative Agent shall have received a certified copy of the final order (the "*Confirmation Order*"), which order shall be in form and substance reasonably satisfactory to the Lenders in all respects but satisfactory in all respects relating to the Loan Documents, entered by the Bankruptcy Court after due notice to all creditors and other parties-in-interest and as entered on the docket of the Clerk of the Bankruptcy Court confirming the Plan of Reorganization and authorizing the Loan Parties to enter into the Loan Documents;

(q) the Confirmation Order shall be in full force and effect, shall not have been modified, reversed, stayed or vacated, and shall be final, valid, subsisting and continuing;

(r) the Plan of Reorganization, any supplements or amendments thereto and the related conclusions of law and findings of fact shall be in form and substance reasonably satisfactory to the Lenders; *provided* that any such supplements, amendments or related document affecting the governance, management or capital structure of the Borrowers, Holdco Pledgors shall be in form and substance satisfactory to the Lenders in their discretion.

(s) the Plan of Reorganization shall be effective and all agreements and undertakings of the parties thereunder to be performed by such time shall have been satisfied and performed.

(t) the Loan Parties shall have emerged (or be simultaneously emerging) from the Chapter 11 Cases and shall have consummated (or shall be simultaneously consummating) the Plan of Reorganization in accordance with the terms thereof (including the payment of all invoiced fees, costs and expenses of their agents and advisors pursuant to Section [\_\_\_] thereof), and all conditions precedent to the effectiveness of the Plan of Reorganization shall have been (or are simultaneously being) fulfilled (or waived in accordance with the terms of the Plan of Reorganization);

(u) the Administrative Agent shall have received evidence, in form and substance satisfactory to the Lenders, that all consents, approvals or withholding of objections appropriate or necessary to consummate the Plan of Reorganization and the Loan Documents have been obtained;

(v) the Administrative Agent shall have received copies of all documents evidencing the release and termination of record of all Liens securing any debt owing under the Senior Secured Credit Agreement, including such UCC termination statements, mortgage releases, releases of assignments of leases and rents, releases of security interests in all the patents, trademarks, service marks, trade names, copyrights, trade secrets, know-how, other intellectual property rights and other instruments;

(w) the Transactions shall have been consummated or shall be consummated simultaneously on the Closing Date, in each case in all material respects in accordance with the terms hereof and the terms of the Loan Documents, without the waiver or amendment of any such terms not approved by the Lenders;

(x) immediately prior to the Closing Date, the Loan Parties shall hold unrestricted cash and Cash Equivalents in an aggregate amount of at least \$500,000;

(y) after giving effect to the Transactions and the other transactions contemplated hereby, no Loan Party shall have outstanding any Indebtedness or preferred stock other than (i) the Term Loan, (ii) the Indebtedness listed on Schedule 6.11 and otherwise permitted under this Agreement and disclosed (in summary form) to the Lenders; and

(z) the Lenders shall be reasonably satisfied that all requisite Governmental Authorities and third parties shall have approved or consented to the Transactions, and there shall be no governmental or judicial action, actual or threatened, that has or would have, singly or in the aggregate, a reasonable likelihood of restraining, preventing or imposing burdensome conditions on the Transactions or the other transactions contemplated hereby;

(aa) there shall not have occurred any event, development or circumstance since **[December 31, 2017]** (subject to certain exceptions acceptable to the Lenders), which has had, or could reasonably be expected to have, a Material Adverse Effect on or change in the financial condition, business, management, results of operation, prospects, assets or liabilities of the Borrowers, the Holdco Pledgors and the License Subsidiaries taken as a whole;

(bb) except as set forth in Schedule 3.2(bb) hereto, no motion, action, suit, investigation, litigation or proceeding or other legal or regulatory developments shall be pending or threatened against any Loan Party by any creditor or other party-in-interest in the Bankruptcy Court or any other court of competent jurisdiction or before any arbitrator or Governmental Authority that, in the reasonable opinion of the Lenders adversely affects or may reasonably be expected to adversely affect in any material respect (i) the Plan of Reorganization, (ii) the post-consummation business of the Loan Parties or (iii) the validity and enforceability of the Loan Documents against the Loan Parties;

(cc) the Administrative Agent shall have received all fees due under Section 2.13 and other amounts due and payable on or prior to the Closing Date, including, to the extent invoiced, reimbursement or payment of all out-of-pocket expenses (including the legal fees and expenses of Moore & Van Allen PLLC, counsel to the Administrative Agent, Quinn Emmanuel Urquhart & Sullivan, LLP, bankruptcy counsel to the Administrative Agent, Wiley Rein LLP, FCC counsel to

the Administrative Agent, and the fees and expenses of any local counsel, foreign counsel, appraisers, consultants and other advisors) required to be reimbursed or paid by Borrowers hereunder or under any other Loan Document;

(dd) evidence of payment or arrangements for payment by the Loan Parties of all applicable recording taxes, fees, charges, costs and expenses required for the recording of the Collateral Documents;

(ee) no order, judgment or decree of any Governmental Authority shall purport to restrain any Lender from making the Term Loan to be made by it;

(ff) no injunction or other restraining order shall have been issued, shall be pending or noticed with respect to any action, suit or proceeding seeking to enjoin or otherwise prevent the consummation of, or to recover any damages or obtain relief as a result of, the transactions contemplated by this Agreement or the issuance of the Term Loan hereunder; and

(gg) the Administrative Agent shall have received such other agreements, instruments, documents, certificates, and opinions as the Administrative Agent may reasonably request.

#### **SECTION 4. THE COLLATERAL AND GUARANTIES.**

**Section 4.1 Collateral.** The Secured Obligations shall be secured by (a) valid, perfected, and enforceable Liens of the Administrative Agent on all right, title, and interest of the Holdco Pledgors in all Ownership Interests held by such Person in any of the Borrowers, whether now owned or hereafter acquired, and all proceeds thereof; (b) subject to Section 6.25, valid, perfected, and enforceable Liens of the Administrative Agent on all right, title, and interest of each Loan Party in all Ownership Interests held by such Person in each of its Subsidiaries, whether now owned or hereafter formed or acquired, and all proceeds thereof; (c) valid, perfected, and enforceable Liens of the Administrative Agent on all right, title, and interest of each Loan Party in all personal property, fixtures, and real estate, whether now owned or hereafter acquired or arising, and all proceeds thereof, and (d) valid, perfected, and enforceable Liens of the Administrative Agent on all right, title, and interest of each License Subsidiary in all personal property, whether now owned or hereafter acquired or arising, and all proceeds thereof; *provided, however*, that: (i) the Collateral shall not include Excluded Property, and (ii) until an Event of Default has occurred and is continuing and thereafter until otherwise required by the Administrative Agent or the Required Lenders, Liens on vehicles or other goods which are subject to a certificate of title law need not be perfected provided that the total value of such property at any one time not so perfected shall not exceed \$100,000 in the aggregate.

**Section 4.2 Liens on Real Property.** In the event that any Loan Party owns or hereafter acquires any real property (other than Excluded Property), such Loan Party shall execute and deliver to the Administrative Agent (or a security trustee therefor) a mortgage or deed of trust acceptable in form and substance to the Administrative Agent for the purpose of granting to the Administrative Agent a Lien on such real property to secure the Secured Obligations, shall pay all Taxes, costs, and expenses incurred by the Administrative Agent in recording such mortgage or deed of trust, and shall supply to the Administrative Agent, at the Administrative Agent's request and at Borrowers' cost and expense a survey, a certification with regard to flood zone location (and, if necessary, evidence of flood insurance), environmental report, hazard insurance policy, appraisal report, and a mortgagee's policy of title insurance from a title insurer acceptable to the Administrative Agent insuring the validity of such mortgage or deed of trust and its status as a first Lien (subject to Permitted Liens) on the real property encumbered thereby and such other instrument, documents, certificates, and opinions reasonably required by the Administrative Agent in connection therewith.



**Section 4.3 Guaranties.** The payment and performance of the Secured Obligations shall at all times be jointly and severally guaranteed by each Guarantor pursuant to one or more Guaranty Agreements.

**Section 4.4 Further Assurances.** Each Loan Party agrees that it shall from time to time at the request of the Administrative Agent or the Required Lenders, execute and deliver such documents and do such acts and things as the Administrative Agent or the Required Lenders may reasonably request in order to provide for or perfect or protect such Liens on the Collateral as required by this Section 4. In the event any Loan Party forms or acquires any other Subsidiary after the Closing Date, except as otherwise provided in the definition of Guarantor, the Loan Parties shall promptly upon such formation or acquisition cause such newly formed or acquired Subsidiary to execute a Guaranty Agreement and such Collateral Documents as the Administrative Agent may then require to comply with this Section 4, and the Loan Parties shall also deliver to the Administrative Agent, or cause such Subsidiary to deliver to the Administrative Agent, at the Borrowers' cost and expense, such other instruments, documents, certificates, and opinions reasonably required by the Administrative Agent in connection therewith .

## **SECTION 5. REPRESENTATIONS AND WARRANTIES.**

Each Loan Party represents and warrants to each Lender and the Administrative Agent as follows:

**Section 5.1 Organization and Qualification.** Each of the Loan Parties, the Holdco Pledgors and the License Subsidiaries (a) is duly organized and validly existing under the laws of the jurisdiction of its organization, (b) is in good standing under the laws of the jurisdiction of its organization, (c) has the power and authority (including any necessary Regulatory Authorizations) to own its property and to transact the business in which it is engaged and proposes to engage and (d) is duly qualified and in good standing in each jurisdiction where the ownership, leasing or operation of property or the conduct of its business requires such qualification, except, in each case of clauses (a), (b) (other than with respect to the Borrowers where failure to maintain such good standing is not curable or results in the dissolution of any Borrower), (c) and (d), where the same could not be reasonably expected to have, either individually or in the aggregate, a Material Adverse Effect.

**Section 5.2 Authority and Enforceability.** Each Borrower has the power and authority to enter into this Agreement and the other Loan Documents executed by it, to make the borrowings herein provided for, to issue its Notes (if any), to grant to the Administrative Agent the Liens described in the Collateral Documents executed by such Borrower, and to perform all of its obligations hereunder and under the other Loan Documents executed by it. Each Guarantor has the power and authority to enter into the Loan Documents executed by it, to guarantee the Secured Obligations, to grant to the Administrative Agent the Liens described in the Collateral Documents executed by such Person, and to perform all of its obligations under the Loan Documents executed by it. The Loan Documents delivered by the Loan Parties and the Holdco Pledgors have been duly authorized by proper corporate and/or other organizational proceedings, executed, and delivered by such Persons and constitute valid and binding obligations of such Loan Parties enforceable against each of them in accordance with their terms, except as enforceability may be limited by Debtor Relief Laws and general principles of equity (regardless of whether the application of such principles is considered in a proceeding in equity or at law); and this Agreement and the other Loan Documents do not, nor does the performance or observance by any Loan Party of any of the matters and things herein or therein provided for, (a) contravene or violate any applicable Legal Requirement binding upon any Loan Party, Holdco Pledgor or License Subsidiary or any provision of the Organization Documents of any Loan Party, Holdco Pledgor or License Subsidiary, (b) violate or constitute a default under any covenant, indenture or agreement of or affecting the any Loan Party, Holdco Pledgor or License Subsidiary or any of its Property, in each case where such violation, contravention or default, individually or in the aggregate, could reasonably be expected to have a Material Adverse Effect or (c) result in the

creation or imposition of any Lien on any Property of any Loan Party, Holdco Pledgor or License Subsidiary other than the Liens granted in favor of the Administrative Agent pursuant to the Collateral Documents.

**Section 5.3 Financial Reports.** The (i) closing date balance sheet for the Borrowers and their Subsidiaries calculated based on the Borrowers' financial conditions as of **[December 31]**, 2018, but giving effect to this Agreement and the Plan of Reorganization; and (ii) annual financial statements and unaudited quarterly financial statements for the Borrowers and their Subsidiaries (including, in each instance, an income statement, a balance sheet, and a cash flow statement) for the 2016 and 2017 Fiscal Years, and unaudited combined financial statements of the Borrowers and their Subsidiaries for the eight months ending [\_\_\_\_], 2018, heretofore furnished to the Administrative Agent, fairly present in all material respects the financial condition of the Borrowers as at said dates and the results of their operations and cash flows for the periods then ended. As of any date after the Closing Date, the combined financial statements of the Borrowers and their Subsidiaries most recently furnished to the Administrative Agent pursuant to Section 6.1, fairly and adequately present in all material respects the combined financial condition of the Borrowers and their Subsidiaries as at said dates and the combined results of their operations and cash flows for the periods then ended in conformity with GAAP applied on a consistent basis. As of the date of the most recently delivered annual financial statements, neither any Borrower nor any Subsidiary has contingent liabilities or judgments, orders or injunctions against it that are material to it other than as indicated on such financial statements or, with respect to future periods, on the financial statements furnished pursuant to Section 6.1.

**Section 5.4 No Material Adverse Change.** Since December 31, 2017, there has been no change in the business condition (financial or otherwise), operations, performance, Properties or prospects of any Loan Party or any Subsidiary of any Loan Party except those occurring in the ordinary course of business, none of which individually or in the aggregate could reasonably be expected to have a Material Adverse Effect.

**Section 5.5 Litigation and Other Controversies.** There is no litigation, arbitration, labor controversy or governmental proceeding pending or, to the knowledge of any Loan Party, threatened against any Loan Party or any of its Subsidiaries, or any of their respective Property, that could reasonably be expected to have, either individually or in the aggregate, a Material Adverse Effect.

**Section 5.6 True and Complete Disclosure.** All information furnished by the Loan Parties, or on behalf of the Loan Parties by their agents, representatives, or advisors, in their capacity as such, or any Subsidiaries of the Loan Parties to the Administrative Agent or any Lender for purposes of or in connection with this Agreement, or any transaction contemplated herein, does not contain any untrue statements or material fact or omit a material fact necessary to make the material statements herein or therein not misleading in light of the circumstances under which such information was provided; *provided* that, with respect to projected financial information furnished by or on behalf of the Loan Parties or any of their Subsidiaries, the Loan Parties only represent and warrant that such information is prepared in good faith based upon assumptions and estimates believed to be reasonable at the time of preparation and at the time of delivery.

**Section 5.7 Margin Stock.** No part of the proceeds of any Loan or other extension of credit hereunder will be used to purchase or carry any Margin Stock or to extend credit to others for the purpose of purchasing or carrying any Margin Stock. Neither the making of any Loan or other extension of credit hereunder nor the use of the proceeds of Loans will violate or be inconsistent with the provisions of Regulations T, U or X of the Board of Governors of the Federal Reserve System and any successor to all or any portion of such regulations. Margin Stock constitutes less than 25% of the value of those assets of the Loan Parties and their Subsidiaries that are subject to any limitation on sale, pledge or other restriction hereunder.

**Section 5.8 Taxes.** Each Loan Party and each of its Subsidiaries has timely filed or caused to be timely filed all tax returns required to be filed by such Loan Party and/or any of its Subsidiaries, except where failure to so file could not be reasonably expected to have, either individually or in the aggregate, a Material Adverse Effect. Each Loan Party and each of its Subsidiaries has paid all Taxes payable by them other than Taxes which are not delinquent, except those that are being contested in good faith and by appropriate legal proceedings and as to which appropriate reserves have been provided for in accordance with GAAP and no Lien resulting therefrom attaches to any of its Property (other than any Permitted Liens).

**Section 5.9 ERISA.** Each Loan Party and each other member of its Controlled Group has fulfilled its obligations under the minimum funding standards of, and is in compliance with, Section 302 of ERISA and Section 412 of the Code with respect to each Plan, except for any failure to fulfill such obligations or so comply that would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect. The Loan Parties and their Subsidiaries have no contingent liabilities with respect to any post-retirement benefits under a Welfare Plan, other than liability for continuation coverage described in part 6 of subtitle B of Title I of ERISA, except as would not reasonably be expected to have a Material Adverse Effect.

**Section 5.10 Subsidiaries.** Schedule 5.10 (as supplemented from time to time pursuant to Section 6.18) identifies (a) each Subsidiary (including the License Subsidiary and Subsidiaries that are Loan Parties) and joint venture of any Loan Party and (b) the following information for each Subsidiary and joint venture of any Loan Party: (i) jurisdiction of its organization; and (ii) the percentage of issued and outstanding interests of each class of its Ownership Interests owned by any Loan Party and/or its Subsidiaries; and, if such percentage is not 100% (excluding directors' qualifying shares as required by law), a description of each class of its authorized Ownership Interests and the number of interests of each class issued and outstanding. All of the outstanding Ownership Interests of each Subsidiary and joint venture of any Loan Party are validly issued and outstanding and fully paid and nonassessable and all such Ownership Interests indicated on Schedule 5.10 (as supplemented from time to time pursuant to Section 6.18) as owned by a Loan Party or another Subsidiary are owned, beneficially and of record, by such Loan Party or Subsidiary free and clear of all Liens, other than the Liens granted in favor of the Administrative Agent pursuant to the Collateral Documents and Permitted Liens. There are no outstanding commitments or other obligations of any Subsidiary to issue, and no options, warrants or other rights of any Person to acquire, any shares of any class of Ownership Interests of any Subsidiary.

**Section 5.11 Compliance with Laws.** The Loan Parties and their Subsidiaries are in compliance with all applicable statutes, regulations and orders of, and all applicable restrictions imposed by, all Governmental Authorities in respect of the conduct of their businesses and the ownership of their Property (including the Communications Laws and any other published rule, regulation, policy and/or restriction imposed by the FCC, the FAA, any applicable PUC, or any applicable Tower Registration Authority), except such noncompliances as could not reasonably be expected to have, either individually or in the aggregate, a Material Adverse Effect.

**Section 5.12 Environmental Matters.** Except as could not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect, each Loan Party and each of its Subsidiaries: (i) is and has been in compliance with all applicable Environmental Laws; and (ii) has obtained all permits, licenses and approvals required by Environmental Laws, all such permits, licenses and approvals are in full force and effect and each Loan Party and each of its Subsidiaries is in compliance with the terms and conditions of all such permits, licenses and approvals. There are no pending or, to the best knowledge of the Loan Parties and their Subsidiaries, threatened Environmental Claims against any Loan Party or any of its Subsidiaries or any real property, including leaseholds, owned or operated by any Loan Party or any of its Subsidiaries. There are no facts, circumstances, conditions or occurrences that, to the best knowledge of the Loan Parties and their Subsidiaries, could reasonably be expected to (i) form the basis of an

Environmental Claim against any Loan Party or any of its Subsidiaries or any real property, including leaseholds, owned or operated by any Loan Party or any of its Subsidiaries, or (ii) cause any such real property to be subject to any restrictions on its ownership, occupancy, use or transferability under Environmental Laws. Hazardous Materials have not been Released on or from any real property, including leaseholds, owned or operated by any Loan Party or any of its Subsidiaries or at any off-site location for which any Loan Party or any of its Subsidiaries is liable, that individually or in the aggregate could reasonably be expected to have a Material Adverse Effect. The Loan Parties have made available to Administrative Agent accurate and complete copies of all material environmental reports, studies, assessments, investigations, audits, correspondence and other documents relating to environmental or occupational safety and health matters with respect to any real property, including leaseholds, owned or operated by the Loan Parties or any of their Subsidiaries that are in the Loan Parties' possession or control.

**Section 5.13 Investment Company.** No Loan Party nor any of its Subsidiaries is an "investment company" or a company "controlled" by an "investment company" within the meaning of the Investment Company Act of 1940.

**Section 5.14 Intellectual Property.** Each Loan Party and each of its Subsidiaries owns or has obtained licenses or other rights of whatever nature to all the patents, trademarks, service marks, trade names, copyrights, trade secrets, know-how or other intellectual property rights necessary for the present conduct of its businesses, in each case without any known conflict with the rights of others except for such conflicts and any failure to own or obtain such licenses and other rights, as the case may be, as could not reasonably be expected to result in a Material Adverse Effect.

**Section 5.15 Good Title.** The Borrowers and their Subsidiaries have good and marketable title, or valid leasehold interests, to their assets as reflected on the Borrowers' most recent combined balance sheet provided to the Administrative Agent (except for sales of assets in the ordinary course of business, and such defects in title or interests that could not reasonably be expected to have, either individually or in the aggregate, a Material Adverse Effect) and is not subject to any Liens, other than Permitted Liens.

**Section 5.16 Labor Relations.** No Loan Party nor any of its Subsidiaries is engaged in any unfair labor practice that could reasonably be expected to have a Material Adverse Effect. There is (a) no strike, labor dispute, slowdown, or stoppage pending against any Loan Party or any of its Subsidiaries or, to the best knowledge of the Loan Parties and their Subsidiaries, threatened against any Loan Party or any of its Subsidiaries and (b) to the best knowledge of the Loan Parties and their Subsidiaries, no union representation proceeding is pending with respect to the employees of any Loan Party or any of its Subsidiaries and no union organizing activities are taking place, except (with respect to any matter specified in clause (a) or (b) above, either individually or in the aggregate) such as could not reasonably be expected to have a Material Adverse Effect.

**Section 5.17 Governmental Authority and Licensing.** The Loan Parties and their Subsidiaries have made and received all FCC Licenses, Tower Registrations and other licenses, permits, and approvals of each Governmental Authority (including the FCC, the FAA, any PUC, or any Tower Registration Authority) necessary to conduct their businesses, in each case where the failure to obtain or maintain the same could reasonably be expected to have a Material Adverse Effect. No investigation or proceeding that, if adversely determined, could reasonably be expected to result in revocation, termination or denial of any FCC License, Tower Registration or other license, permit or approval is pending or, to the knowledge of the Loan Parties, threatened, except where such revocation, termination or denial could not reasonably be expected to have, either individually or in the aggregate, a Material Adverse Effect.

**Section 5.18 Approvals.** No authorization, consent, license or exemption from, or filing or registration with, any Governmental Authority (including the FCC, the FAA, any PUC, or any Tower

Registration Authority), nor any approval or consent of any other Person, is or will be necessary to the valid execution, delivery or performance by any Loan Party of any Loan Document, except for (a) such approvals, authorizations, consents, licenses or exemptions from, or filings or registrations which have been obtained prior to the date of this Agreement and remain in full force and effect, (b) filings which are necessary to release Liens granted pursuant to the document related to the Indebtedness to be refinanced on the Closing Date, and (c) filings, authorizations, consents, licenses, exemptions or registrations which are necessary to perfect the security interests created under the Collateral Documents.

**Section 5.19 Affiliate Transactions.** No Loan Party nor any of its Subsidiaries is a party to any contracts or agreements with any of its Affiliates (other than with Wholly-owned Subsidiaries) on terms and conditions which are less favorable to such Loan Party or such Subsidiary than would be usual and customary in similar contracts or agreements between Persons not affiliated with each other.

**Section 5.20 Solvency.** The Loan Parties and their Subsidiaries are, on a consolidated basis, Solvent.

**Section 5.21 No Broker Fees.** No broker's or finder's fee or commission will be payable with respect hereto or any of the transactions contemplated thereby; and the Loan Parties hereby agree to indemnify the Administrative Agent and the Lenders against, and agree that they will hold the Administrative Agent and the Lenders harmless from, any claim, demand, or liability for any such broker's or finder's fees alleged to have been incurred in connection herewith or therewith and any expenses (including reasonable attorneys' fees) arising in connection with any such claim, demand, or liability.

**Section 5.22 No Default.** No Default or Event of Default has occurred and is continuing.

**Section 5.23 OFAC.** Each Loan Party is in compliance with the requirements of all OFAC Sanctions Programs applicable to it. Each Subsidiary of each Loan Party is in compliance with the requirements of all OFAC Sanctions Programs applicable to such Subsidiary. Each Loan Party has provided to the Administrative Agent and the Lenders all information regarding such Loan Party and its Affiliates and Subsidiaries necessary for the Administrative Agent and the Lenders to comply with all applicable OFAC Sanctions Programs. To the best of each Loan Party's knowledge, neither any Loan Party nor any of its Affiliates or Subsidiaries is, as of the date hereof, named on the current OFAC SDN List. No part of the proceeds of the Loans will be used, directly or indirectly, for any payments to any governmental official or employee, political party, official of a political party, candidate for political office, or anyone else acting in an official capacity, in order to obtain, retain or direct business or obtain any improper advantage, in violation of the United States Foreign Corrupt Practices Act of 1977.

**Section 5.24 [Reserved].**

**Section 5.25 Other Agreements and Documents.** All Material Agreements existing on the Closing Date are listed on Schedule 5.25, and as of the Closing Date, except as set forth on such Schedule, all such Material Agreements are in full force and effect and no defaults currently exist under such agreements which individually or in the aggregate could reasonably be expected to have a Material Adverse Effect. There does not exist any violation of any Organization Documents which could reasonably be expected to have a Material Adverse Effect.

**Section 5.26 Regulatory Authorizations.** Each Loan Party has, and has caused each of its Subsidiaries to, obtain all Regulatory Authorizations of any Governmental Authority having jurisdiction over such Loan Party or Subsidiary that are necessary for the operation of the such Loan Party's or such Subsidiary's business as presently conducted and as proposed to be conducted. All FCC Licenses and Tower Registrations of the Loan Parties and their Subsidiaries are in full force and effect, are duly issued



in the name of, or validly assigned to, such Loan Party or Subsidiary, as applicable, and such Loan Party or Subsidiary, as applicable, has the power and authority to operate thereunder.

## **SECTION 6. COVENANTS.**

Each Loan Party covenants and agrees that, so long as any Credit is available to or in use by the Borrowers hereunder and until the Facility Termination Date:

**Section 6.1 Information Covenants.** The Loan Parties will furnish to the Administrative Agent, with sufficient copies for each Lender:

(a) *Monthly Reports.* Within 30 days after the end of each fiscal month of the Borrowers, commencing with the fiscal month of the Borrowers ending [\_\_\_\_], the Borrowers' combined, combining and consolidating balance sheet as at the end of such fiscal month and the related combined, combining and consolidating statements of income and retained earnings and of cash flows for such fiscal month and for the elapsed portion of the fiscal year-to-date period then ended, each in reasonable detail, prepared by the Borrowers in accordance with GAAP, setting forth comparative figures for the corresponding fiscal month in the prior Fiscal Year (starting [\_\_\_\_]) and comparable budgeted figures for such fiscal month, all of which shall be certified by a Designated Officer or other officer of the Borrowers acceptable to the Administrative Agent that they fairly present in all material respects in accordance with GAAP the financial condition of the Borrowers and their Subsidiaries as of the dates indicated and the results of their operations and changes in their cash flows for the periods indicated, subject to normal year-end audit adjustments and the absence of footnotes.

(b) *Quarterly Reports.* Within 45 days after the end of each Fiscal Quarter, commencing with the Fiscal Quarter ending [\_\_\_\_], the Borrowers' combined, combining and consolidating balance sheet as at the end of such Fiscal Quarter and the related combined, combining and consolidating statements of income and retained earnings and of cash flows for such Fiscal Quarter and for the elapsed portion of the fiscal year-to-date period then ended, each in reasonable detail, prepared by the Borrowers in accordance with GAAP, setting forth comparative figures for the corresponding Fiscal Quarter in the prior Fiscal Year and comparable budgeted figures for such Fiscal Quarter, all of which shall be certified by a Designated Officer or other officer of the Borrowers acceptable to the Administrative Agent that they fairly present in all material respects in accordance with GAAP the financial condition of the Borrowers and their Subsidiaries as of the dates indicated and the results of their operations and changes in their cash flows for the periods indicated, subject to normal year-end audit adjustments and the absence of footnotes.

(c) *Annual Statements.* Within 120 days after the close of each Fiscal Year, a copy of the Borrowers' combined, combining and consolidating balance sheet as of the last day of the Fiscal Year then ended and the Borrowers' combined, combining and consolidating statements of income, retained earnings, and cash flows for the Fiscal Year then ended, and accompanying notes thereto, each in reasonable detail showing in comparative form the figures for the previous Fiscal Year, accompanied by an unqualified opinion of a firm of independent public accountants of recognized national standing, selected by the Borrowers and acceptable to the Administrative Agent, to the effect that the combined financial statements have been prepared in accordance with GAAP and present fairly in accordance with GAAP the combined financial condition of the Borrowers and their Subsidiaries as of the close of such Fiscal Year and the results of their operations and cash flows for the Fiscal Year then ended and that an examination of such accounts in connection with such financial statements has been made in accordance with generally accepted auditing standards;



*provided* that (i) with respect to the Borrowers' Fiscal Year ending December 31, 2018, the Borrowers shall deliver the financial statements and other information set forth above within 180 days after the close of such Fiscal Year and (ii) with respect to the Borrowers' Fiscal Year ending December 31, 2019, the Borrowers shall deliver the financial statements and other information set forth above within 150 days after the close of such Fiscal Year.

(d) *Officer's Certificates.* Within 45 days after the end of each Fiscal Quarter and at the time of the delivery of the financial statements provided for in Section 6.1(c), commencing with the Fiscal Quarter ending [\_\_\_\_], (i) a Compliance Certificate (A) stating no Default or Event of Default has occurred during the period covered by such statements of, if a Default or Event of Default exists, a detailed description of the Default or Event of Default and all actions the Borrowers are taking with respect to such Default or Event of Default, (B) confirming that the representations and warranties stated in Section 5 remain true and correct (or, in the case of any representation or warranty not qualified as to materiality, true and correct in all material respects) as of said time, except to the extent such representations and warranties relate to an earlier date (and in such case, confirming they are true and correct (or, in the case of any representation or warranty not qualified as to materiality, true and correct in all material respects) as of such earlier date), and (C) showing the Borrowers' compliance with the covenants set forth in Section 6.20.

(e) *Budgets.* As soon as available, but in any event at least 10 Business Days prior to the first day of each Fiscal Year, a budget in form satisfactory to the Administrative Agent (including a breakdown of the projected results of each line of business of the Borrowers and their Subsidiaries, and budgeted, combined, combining and consolidating statements of income, and sources and uses of cash and balance sheets for the Borrowers and their Subsidiaries) of the Borrowers and their Subsidiaries in reasonable detail satisfactory to the Administrative Agent for each fiscal month and the four Fiscal Quarters of the immediately succeeding Fiscal Year and, with appropriate discussion, the principal assumptions upon which such budget is based.

(f) *Additional Monthly Reports.* Together with the financial information delivered pursuant to Section 6.1(a) above:

(i) a consolidated cash flow forecast for the Borrowers and each of their Subsidiaries for the then-following 13-week period (each, a "Cash Flow Forecast"), prepared in good faith by the Borrowers upon assumptions believed by the Borrowers to be reasonable under the circumstances, together with a reconciliation of actual cash flows of the Borrowers and each of their Subsidiaries against the immediately preceding Cash Flow Forecast and showing any deviations on a cumulative basis and providing a written explanation of the variances, prepared by the Borrowers and in the form, and with such detail (including any material assumptions), as reasonably acceptable to the Administrative Agent and the Lenders;

(ii) a detailed report of any add-backs utilized by the Borrowers in their calculation of EBITDA for the fiscal month, in form and substance reasonably acceptable to the Administrative Agent and the Lenders;

(iii) a detailed report of any revenues of the Borrowers for the fiscal month, in form and substance reasonably acceptable to the Administrative Agent and the Lenders; and

(iv) a detailed report of any expenses of the Borrowers for the fiscal month, in form and substance reasonably acceptable to the Administrative Agent and the Lenders.

(g) *Notice of Default or Litigation, Labor Materials and Contracts.* Promptly, and in any event within five Business Days after any Designated Officer of any Loan Party obtains knowledge thereof, notice of (i) the occurrence of any event which constitutes a Default or an Event of Default or any other event which could reasonably be expected to have a Material Adverse Effect, which notice shall specify the nature thereof, the period of existence thereof and what action the Loan Parties propose to take with respect thereto, (ii) the commencement of, or written threat of, or any significant development in, any litigation, labor controversy, arbitration or governmental proceeding pending against any Loan Party or any of its Subsidiaries which, if adversely determined, could reasonably be expected to have a Material Adverse Effect, (iii) any labor dispute to which any Loan Party or any of its Subsidiaries may become a party and which may have a Material Adverse Effect, (iv) any strikes, walkouts, or lockouts relating to any of the Loan Parties' or any of their Subsidiaries' plants or other facilities, (v) the entering into of any labor contract relating to any Loan Party's or its Subsidiaries' plants or other facilities, and (vi) any Material Agreements entered into after the Closing Date to the extent reasonably requested by the Administrative Agent.

(h) *Management Letters.* Promptly after any Loan Party's receipt thereof, a copy of each report or any "management letter" submitted to any Loan Party or any of its Subsidiaries by its certified public accountants and the management's responses thereto.

(i) *Other Reports and Filings.* Promptly, and in any event within five Business Days of such furnishing or delivery, copies of all financial information, proxy materials and other material information, certificates, reports, statements and completed forms, if any, which any Borrower or any of its Subsidiaries (x) has furnished to the shareholders of such Borrower, or (y) has delivered to holders of, or to any agent or trustee with respect to, Indebtedness of any Borrower or any of its Subsidiaries in their capacity as such a holder, agent or trustee to the extent that the aggregate principal amount of such Indebtedness exceeds (or upon the utilization of any unused commitments may exceed) \$500,000.

(j) *Environmental Matters.* Promptly upon, and in any event within five Business Days after any Designated Officer of any Loan Party obtains knowledge thereof, notice of one or more of the following environmental matters which individually, or in the aggregate, could reasonably be expected to have a Material Adverse Effect: (i) any violation of Environmental Law by, or notice of an Environmental Claim against, any Loan Party or any of its Subsidiaries or any real property owned or operated by any Loan Party or any of its Subsidiaries; (ii) any Release or threatened Release of Hazardous Materials that occurs on or arises from any real property owned or operated by any Loan Party or any of its Subsidiaries or for which any Loan Party or any Subsidiary of any Loan Party is liable, in each case that (x) is not in compliance with applicable Environmental Laws or (y) could reasonably be expected to form the basis of an Environmental Claim against any Loan Party or any of its Subsidiaries or any such real property; (iii) any condition or occurrence on any real property owned or operated by any Loan Party or any of its Subsidiaries that could reasonably be expected to cause such real property to be subject to any restrictions on the ownership, occupancy, use or transferability by any Loan Party or any of its Subsidiaries of such real property under any Environmental Law; and (iv) any investigative, removal or remedial actions to be taken in response to the actual or alleged presence of any Hazardous Material on any real property owned or operated by any Loan Party or any of its Subsidiaries, or by any Loan Party or any of its Subsidiaries at any off-site location, to the extent required by any Environmental Law or Governmental Authority. All such notices shall describe in reasonable detail the nature of the claim, investigation, condition, occurrence or removal or remedial action and such Loan Party's or such Subsidiary's response thereto. In addition, the Loan Parties agree to provide the Lenders with copies of all material written communications by the Loan Parties or any of their Subsidiaries with

any Person or Governmental Authority relating to any of the matters set forth in clauses (i)-(iv) above, and such detailed reports relating to any of the matters set forth in clauses (i)-(iv) above as may reasonably be requested by the Administrative Agent or the Required Lenders.

(k) *Periodic Reports.* (i) Within 30 days after the end of each fiscal month of the Borrowers, the Borrowers shall provide to the Administrative Agent and the Lenders Concurrently with the monthly financial reports required by Section 6.1(a), the Borrowers shall provide to the Administrative Agent and the Lenders the most recent market revenue report then existing and provided by Miller Kaplan Arase LLP, the most recent rating trends then existing and issued by the Nielson Company, and such other reports, materials, data, and other information with respect to the Borrowers, or any of them individually, the radio industry, the radio markets in which the Borrowers operate, the media markets generally, other media in the markets in which the Borrowers operate, and other reports, materials, data and other information reasonably requested on a monthly basis, another periodic basis, or otherwise by the Administrative Agent, in each instance in form and substance acceptable to the Administrative Agent.

(ii) The Borrowers will, at least quarterly and upon request by the Administrative Agent, make themselves available to the Administrative Agent and the Lenders to discuss the quarterly financial reports and Compliance Certificates delivered by the Borrowers, and to answer questions of the Administrative Agent and/or the Lenders related thereto.

(l) *Governmental Notices.* Promptly, and in any event within five Business Days after delivery or receipt thereof, copies of (i) all material reports and written information to and from the FCC, the FAA, any PUC, or any Tower Registration Authority with jurisdiction over the property or business of any of the Loan Parties and the License Subsidiaries, (ii) notice of any non-compliance with any FCC License or Tower Registration or, to the extent such non-compliance could reasonably be expected to have a Material Adverse Effect, any other Regulatory Authorization, or (iii) receipt of any written notice from any Governmental Authority in relation to the continuation, validity, renewal, or conditions attaching to any FCC License or Tower Registration or, to the extent such non-compliance could reasonably be expected to have a Material Adverse Effect, any other Regulatory Authorization.

(m) *Other Information.* From time to time, such other information or documents (financial or otherwise) as the Administrative Agent or any Lender may reasonably request.

**Section 6.2** **Inspections; Field Examinations.** The Loan Party will, and will cause each of its Subsidiaries to, permit (a) officers, representatives and agents of the Administrative Agent to visit and inspect any Property of such Loan Party or such Subsidiary, and to examine the financial records and corporate books of such Loan Party or such Subsidiary, and (b) officers, representatives and agents of the Administrative Agent or any Lender to discuss the affairs, finances, and accounts of such Loan Party or such Subsidiary with its and their officers and independent accountants, all at such reasonable times as the Administrative Agent or any Lender may request; *provided* that, so long as no Default or Event of Default exists, prior written notice of any such visit, inspection, or examination shall be provided to the Borrowers and such visit, inspection, or examination shall be performed at reasonable times to be agreed to by the Borrowers, which agreement will not be unreasonably withheld. The Borrowers shall pay to the Administrative Agent for its own use and benefit reasonable charges for examinations of the Collateral performed by the Administrative Agent or its agents or representatives in such amounts as the Administrative Agent may from time to time request (the Administrative Agent acknowledging and agreeing that such charges shall be computed in the same manner as it at the time customarily uses for the assessment of charges for similar collateral examinations); *provided, however*, that in the absence of any

Default and Event of Default, the Borrowers shall not be required to pay the Administrative Agent for more than one such examination per calendar year.

**Section 6.3 Maintenance of Property and Insurance; Environmental Matters.**

(a) Each Loan Party will, and will cause each of its Subsidiaries to, (i) keep its Property (including the Radio Towers), in good repair, working order and condition, normal wear and tear, casualty, and condemnation excepted, and shall from time to time make all necessary and proper repairs, renewals, replacements, extensions, additions, betterments and improvements thereto so that at all times such Property, is reasonably preserved and maintained, (ii) keep and maintain its Property (including the Radio Towers) in compliance with all material applicable standards, rules or regulations imposed by any Governmental Authority (including the FCC, the FAA, any PUC and any Tower Registration Authority), and (ii) maintain in full force and effect with financially sound and reputable insurance companies insurance which provides substantially the same (or greater) coverage and against at least such risks as is in accordance with industry practice, and shall furnish to the Administrative Agent upon request full information as to the insurance so carried. In any event, each Loan Party shall, and shall cause each of its Subsidiaries to, maintain insurance on the Collateral to the extent required by the Collateral Documents.

(b) Without limiting the generality of Section 6.3(a), each Loan Party and its Subsidiaries shall: (i) materially comply with, and maintain all real property owned or operated by any Loan Party or any of its Subsidiaries in material compliance with, applicable Environmental Laws; (ii) obtain and maintain in full force and effect all permits, licenses and approvals required for its operations and the occupancy of its properties by Environmental Laws; (iii) cure as soon as reasonably practicable any violation of applicable Environmental Laws which individually or in the aggregate may reasonably be expected to have a Material Adverse Effect; (iv) not, and shall not permit any other Person to, own or operate on any of its properties any underground storage tank, landfill, dump or hazardous waste treatment, storage or disposal facility as defined pursuant to Environmental Laws; and (v) shall not use, generate, treat, store, Release or dispose of Hazardous Materials at or on any real property owned or operated by any Loan Party or any of its Subsidiaries except in the ordinary course of its business and in compliance with all Environmental Laws. Each Loan Party and its Subsidiaries shall conduct any investigation, study, sampling and testing, abatement, cleanup, removal, remediation or other response or preventative action necessary to remove, remediate, prevent, cleanup or abate any Release or threatened Release of Hazardous Materials or any migration or continuation thereof required by Environmental Laws.

**Section 6.4 Compliance with Laws.** Each Loan Party shall, and shall cause each of its Subsidiaries to, comply in all respects with the requirements of all laws, rules, regulations, ordinances and orders of any Governmental Authority (including the FCC, the FAA, any PUC and any Tower Registration Authority) applicable to such Loan Party or any of its Subsidiaries' Property or business operations, where any such non-compliance, individually or in the aggregate, could reasonably be expected to have a Material Adverse Effect or result in a Lien upon any of its Property (other than Permitted Liens).

**Section 6.5 ERISA.** Each Loan Party shall, and shall cause each of its Subsidiaries to, promptly pay and discharge all obligations and liabilities arising under ERISA of a character which if unpaid or unperformed could reasonably be expected to have a Material Adverse Effect or result in a Lien upon any of its Property. Each Loan Party shall, and shall cause each of its Subsidiaries to, promptly notify the Administrative Agent and each Lender of: (a) the occurrence of any reportable event (as defined in ERISA) with respect to a Plan, (b) receipt of any notice from the PBGC of its intention to seek termination of any Plan or appointment of a trustee therefor, (c) its intention to terminate or withdraw from any Plan, and (d) the occurrence of any event with respect to any Plan which would result in the incurrence by any

Loan Party or any of its Subsidiaries of any material liability, fine or penalty, or any material increase in the contingent liability of any Loan Party or any of its Subsidiaries with respect to any post-retirement Welfare Plan benefit.

**Section 6.6 Payment of Taxes.** Each Loan Party shall, and shall cause each of its Subsidiaries to, pay and discharge, all Taxes imposed upon it or any of its Property, before becoming delinquent and before any penalties accrue thereon, unless and to the extent that the same are being contested in good faith and by appropriate proceedings and as to which appropriate reserves have been provided for in accordance with GAAP.

**Section 6.7 Preservation of Existence.** Each Loan Party shall, and shall cause each of its Subsidiaries to, do or cause to be done, all things necessary to preserve and keep in full force and effect its existence and, except where the failure to do so would not reasonably be expected to have a Material Adverse Effect, its franchises, authority to do business, licenses, patents, trademarks, copyrights that are necessary for the Loan Parties and their Subsidiaries to conduct their respective businesses as presently conducted, except for such patents, trademarks, copyrights, and other proprietary rights which, in the Loan Parties' reasonable good faith determination, are no longer used, useful, or valuable to their respective businesses; *provided, however*, that nothing in this Section 6.7 shall prevent, to the extent permitted by Section 6.13, sales of assets by the Loan Parties or any of their Subsidiaries, the dissolution or liquidation of any Subsidiary of any Loan Party, or the merger or consolidation between or among the Subsidiaries of any Loan Party.

**Section 6.8 Transactions with Affiliates.**

(a) No Loan Party shall, nor shall it permit any of its Subsidiaries to, enter into any contract, agreement or business arrangement with any of its Affiliates (other than Wholly-owned Subsidiaries that are Loan Parties) on terms and conditions which are less favorable to such Loan Party or such Subsidiary than would be usual and customary in similar contracts, agreements or business arrangements between Persons not affiliated with each other.

(b) No Loan Party shall, nor shall it permit any of the License Subsidiaries to, pay or transfer during any Fiscal Year of the Borrowers to the Frischling Principals, whether in the form of salary, bonuses, equity compensation, or any other form of compensation an amount in excess of (i) \$325,000 with respect to each Frischling Principal on an individual basis or (ii) \$1,000,000 in the aggregate with respect to the Frischling Principals collectively.

**Section 6.9 Restrictions or Changes and Amendments.** No Loan Party shall, nor shall it permit any of its Subsidiaries to, (a) change its fiscal year or fiscal quarters from its present basis, (b) amend or change, or allow to be amended or changed, its Organization Documents, or (b) amend or change, or allow to be amended, changed or terminated, or default under any Material Agreement in a manner that could reasonably be expected to have a Material Adverse Effect.

**Section 6.10 Change in the Nature of Business.** No Loan Party shall, nor shall it permit any of its Subsidiaries to, engage in any business or activity if as a result the general nature of the business of such Loan Party or any of its Subsidiaries would be changed in any material respect from the general nature of the business engaged in by it as of the Closing Date.

**Section 6.11 Indebtedness.** No Loan Party shall, nor shall it permit any of its Subsidiaries to, contract, create, incur, assume or suffer to exist any Indebtedness, except:



- (a) the Secured Obligations of the Loan Parties and their Subsidiaries owing to the Administrative Agent and the Lenders (and their Affiliates);
- (b) the Indebtedness described on Schedule 6.11;
- (c) intercompany Indebtedness among the Loan Parties to the extent permitted by Section 6.14;
- (d) purchase money Indebtedness and Capitalized Lease Obligations of the Loan Parties and their Subsidiaries (other than the License Subsidiaries) in an amount not to exceed \$200,000 in the aggregate at any one time outstanding;
- (e) Indebtedness arising in connection with endorsements for deposit in the ordinary course of business, and in connection with netting services, overdraft protections and other like services, in each case incurred in the ordinary course of business;
- (f) endorsement of items for deposit or collection of commercial paper received in the ordinary course of business; and
- (g) unsecured Indebtedness of the Loan Parties and their Subsidiaries (other than the License Subsidiaries) not otherwise permitted by this Section in an amount not to exceed \$500,000 in the aggregate at any one time outstanding.

**Section 6.12 Liens.** No Loan Party shall, nor shall it permit any of its Subsidiaries to, create, incur or suffer to exist any Lien on any of its Property; *provided* that the foregoing shall not prevent the following (the Liens described below, the “*Permitted Liens*”):

- (a) inchoate Liens for the payment of Taxes which are not yet delinquent or the payment of which is not required by Section 6.6;
- (b) Liens arising by statute in connection with worker’s compensation, unemployment insurance, old age benefits, social security obligations, Taxes, assessments, statutory obligations or other similar charges (other than Liens arising under ERISA), good faith cash deposits in connection with bids, tenders, contracts or leases to which any Loan Party or any Subsidiary of any Loan Party is a party or other cash deposits required to be made in the ordinary course of business, provided in each case that the obligation is not for borrowed money and that the obligation secured is not overdue or, if overdue, is being contested in good faith by appropriate proceedings which prevent enforcement of the matter under contest and for which adequate reserves have been established in accordance with GAAP;
- (c) mechanics’, workmen’s, material men’s, landlords’, carriers’ or other similar Liens arising in the ordinary course of business with respect to obligations which are not overdue or which are being contested in good faith by appropriate proceedings which prevent enforcement of the matter under contest and for which adequate reserves have been established in accordance with GAAP;
- (d) Liens created by or pursuant to this Agreement and the Collateral Documents;
- (e) Liens on Property of any Loan Party or any Subsidiary of any Loan Party (other than the License Subsidiaries) created solely for the purpose of securing indebtedness permitted by



Section 6.11(d), representing or incurred to finance the purchase price of Property; *provided that*, no such Lien shall extend to or cover other Property of such Loan Party or such Subsidiary other than the respective Property so acquired, and the principal amount of indebtedness secured by any such Lien shall at no time exceed the purchase price of such Property, as reduced by repayments of principal thereon;

(f) easements, permits, rights-of-way, encroachments, restrictions, zoning or building codes or ordinances, other land use laws regulating the use or occupancy of real property or the activities conducted thereon which are imposed by any Governmental Authority and other similar encumbrances against real property incurred in the ordinary course of business which, in the aggregate, are not substantial in amount and which do not materially detract from the value of the Property subject thereto or materially interfere with the ordinary conduct of the business of any Loan Party or any Subsidiary of any Loan Party;

(g) Liens arising from the filing of precautionary UCC financing statements relating solely to personal property leased pursuant to operating leases entered into in the ordinary course of business of the Loan Parties and their Subsidiaries (other than the License Subsidiaries);

(h) any interest or title of a licensor, licensee, sublicensor, lessor or sublessor with respect to any assets under any license or lease agreement entered into in the ordinary course of business which do not (i) interfere in any material respect with the business of the Borrower or its Subsidiaries or materially detract from the value of the relevant assets of the Borrower or its Subsidiaries or (ii) secure any Indebtedness;

(i) Liens securing judgments for the payment of money not constituting an Event of Default under Section 7.1 or securing appeal or other surety bonds relating to such judgments;

(j) Liens securing obligations (other than Indebtedness) in an aggregate amount not to exceed \$200,000; *provided that*, no such Lien shall attach to the Radio Tower (or the leased land therefor) located in St. Charles County, Missouri; and

(k) Rights of setoff or bankers' Liens in favor of banks or other depository institutions arising in the ordinary course of business.

**Section 6.13 Consolidation, Merger, and Sale of Assets.** No Loan Party shall, nor shall it permit any of its Subsidiaries to, wind up, liquidate or dissolve its affairs or merge or consolidate, or convey, sell, lease, or otherwise dispose of all or any part of its Property, including any disposition as part of any sale-leaseback transactions except that this Section shall not prevent:

(a) the sale and lease of inventory in the ordinary course of business;

(b) the sale, transfer or other disposition of any tangible personal property that, in the reasonable judgment of the Loan Parties or their Subsidiaries, has become obsolete, or worn out, or is no longer used or useful in the business of the Loan Parties and their Subsidiaries;

(c) the sale, transfer, lease, or other disposition of Property of any Loan Party to another Loan Party;

(d) the merger (or dissolution) of any Loan Party with and into a Borrower or any other Loan Party; *provided that*, in the case of any merger (or dissolution) involving any Borrower, such

Borrower is the legal entity surviving the merger (or dissolution); *provided further* that, no Borrower shall be permitted to merge (or dissolve) with and into another Borrower;

(e) the disposition or sale of Cash Equivalents on consideration for cash;

(f) the sale, transfer, lease, or other disposition of Property of any Loan Party or any Subsidiary of any Loan Party (other than the License Subsidiaries) (including any disposition of Property as part of a sale and leaseback transaction) aggregating for the Loan Parties and their Subsidiaries not more than \$200,000 during any Fiscal Year; and

(g) the licensing of intellectual property in the ordinary course of business and upon reasonable terms.

Without limiting the foregoing, no Loan Party shall permit any License Subsidiary to convey, sell, lease, or otherwise dispose of any Excluded License.

**Section 6.14 Advances, Investments, and Loans.** No Loan Party shall, nor shall it permit' any of its Subsidiaries to, directly or indirectly, make an Investment, except that this Section shall not prevent:

(a) receivables created in the ordinary course of business and payable or dischargeable in accordance with customary trade terms;

(b) Investments in Cash Equivalents;

(c) Investments (including debt obligations) received in connection with the bankruptcy or reorganization of suppliers and customers and in settlement of delinquent obligations of, and other disputes with, customers and suppliers arising in the ordinary course of business;

(d) the Loan Parties' existing Investments in their respective Subsidiaries on the Closing Date, and Investments made from time to time in other Subsidiaries to the extent permitted by Section 6.18;

(e) intercompany advances made from time to time among the Loan Parties in the ordinary course of business;

(f) [reserved]; and

(g) Other Investments in addition to those otherwise permitted by this Section in an amount not to exceed \$200,000 in the aggregate at any one time outstanding.

**Section 6.15 Restricted Payments.** No Loan Party shall, nor shall it permit any of its Subsidiaries to, directly or indirectly, declare or make any Restricted Payments; *provided, however*, that the foregoing shall not operate to prevent:

(a) the making of dividends or distributions by any Wholly-owned Subsidiary of a Borrower to its parent corporation;

(b) **[the payment of Permitted Cash Distributions to the Permitted Holders so long as (a) no Default or Event of Default exists or will arise after giving effect to such**

payment, and (b) the aggregate amount of such Permitted Cash Distributions paid in any Fiscal Year shall not exceed \$[300,000]]<sup>14</sup>;

(c) the payment of any taxes (including any interest, penalties and additions thereto and any costs, fees and expenses related to the contest thereof) that are not included in the determination of Tax Distributions and that are directly attributable to the consummation of the Plan of Reorganization, and for so long as any Borrower shall have elected to be treated as a pass-through entity for income tax purposes, the making of Tax Distributions, which in no event will permit the making of distribution under this clause (c) in an amount greater than that necessary to make the aforementioned tax payments; and

(d) any equity repurchase rights as set forth in the Borrowers' Organizational Documents; **provided, that prior to making any payment in connection with such equity repurchase rights, the Borrowers shall have provided to the Administrative Agent and each Lender a Compliance Certificate signed by a Designated Officer of the applicable Borrower demonstrating that after giving effect to such payment the Borrowers shall be in pro forma compliance with the financial covenants set forth in Section 6.20.**<sup>15</sup>

**Section 6.16 Limitation on Restrictions.** No Loan Party shall, nor shall it permit any of its Subsidiaries to, directly or indirectly, create or otherwise cause or suffer to exist or become effective any restriction on the ability of any such Loan Party or Subsidiary to (a) pay dividends or make any other distributions on any Ownership Interests owned by a Loan Party or any Subsidiary, (b) pay or repay any Indebtedness owed to any Loan Party or any Subsidiary, (c) make loans or advances to any Loan Party or any Subsidiary, (d) transfer any of its Property to any Loan Party or any Subsidiary, (e) encumber or pledge any of its assets to or for the benefit of the Administrative Agent, or (f) guaranty the Secured Obligations; *provided that*, the foregoing shall not prevent restrictions contained in any Loan Document.

**Section 6.17 Limitation on Issuances of New Ownership Interests by Subsidiaries.** No Loan Party will permit any of its Subsidiaries to issue any new Ownership Interests (including by way of sales of treasury stock); *provided that*, notwithstanding the foregoing, (a) Subsidiaries shall be permitted to issue new Ownership Interests in connection with their creation, so long as such creation is in compliance with Section 6.18, and (b) the Loan Parties and their Subsidiaries (other than the License Subsidiaries) shall be permitted to issue new Ownership Interests in connection with the exercise of stock options and the issuance of Ownership Interests to Permitted Holders in accordance with the Organization Documents of the Borrowers.

**Section 6.18 Limitation on the Creation of Subsidiaries.** Notwithstanding anything to the contrary contained in this Agreement, no Loan Party will, nor will it permit any of its Subsidiaries to, establish, create or acquire after the Closing Date any Subsidiary; *provided that* the Loan Parties shall be permitted to establish or create Wholly-owned Subsidiaries so long as at least 30 days prior written notice thereof is given to the Administrative Agent, and the Loan Parties timely comply with the requirements of Section 4 (at which time Schedule 5.10 shall be deemed to include a reference to such Subsidiary). No Loan Party shall, nor shall it permit any of its Subsidiaries to, form or acquire any Foreign Subsidiary.

**Section 6.19 Operating Accounts.** Each of the operating accounts of the Loan Parties shall be at all times maintained with a depository bank reasonably acceptable to the Administrative Agent and subject to a deposit account control agreement in favor of the Administrative Agent, except for Excluded

---

<sup>14</sup> NTD: Provision remains subject to review by the Administrative Agent and Lender.

<sup>15</sup> NTD: Inclusion of proviso remains subject to Debtors' review.

Deposit Accounts consisting of payroll and petty cash accounts to serve Loan Party locations that cannot be reasonably served by such depository bank.

**Section 6.20 Financial Covenants.**

(a) *Net Leverage Ratio.* The Borrowers shall not, as of the last day of the Fiscal Quarter ending specified below, permit the Net Leverage Ratio to be greater than:<sup>16</sup>

FOR THE FISCAL QUARTER ENDING	NET LEVERAGE RATIO SHALL NOT BE GREATER THAN:
[March 31, 2019]	[TBD]
[June 30, 2019]	[TBD]
[September 30, 2019]	[TBD]
[December 31, 2019]	[TBD]
[March 31, 2020]	[TBD]
[June 30, 2020]	[TBD]
[September 30, 2020]	[TBD]
[December 31, 2020]	[TBD]
[March 31, 2021]	[TBD]
[June 30, 2021]	[TBD]
[September 30, 2021]	[TBD]
[December 31, 2021]	[TBD]
[March 31, 2022]	[TBD]
[June 30, 2022]	[TBD]
[September 30, 2022]	[TBD]
[December 31, 2022 and at all times thereafter]	[TBD]

(b) [Reserved]:

(c) *Fixed Charge Coverage Ratio.* As of the last day of each Fiscal Quarter, the Borrowers shall maintain a Fixed Charge Coverage Ratio of not less than 1.00:1.00.

(d) *Operating Leases.* The Borrowers shall not, nor shall they permit any of their Subsidiaries to, enter into any operating leases pursuant to which the rent and other amounts payable thereunder exceed (x) \$1,000,000 per lease in any Fiscal Year or (y) \$2,000,000 in the aggregate for all such leases in any Fiscal Year.

---

<sup>16</sup> NTD: Applicable periods will depend upon when the Closing Date occurs.

(e) *Right to Cure Financial Covenant Defaults.* Notwithstanding anything in this Agreement to the contrary, in the event of any Event of Default (or Borrowers' good faith belief that such Event of Default may have occurred) under any financial covenant set forth in Sections 6.20(a) or (b) of the Credit Agreement (a "Financial Covenant Default") or Section [ ] of the Organization Document for each Borrower (a "Liquidity Trigger") as of the end of any four (4) Fiscal Quarter period or other measurement period, as applicable (a "Relevant Period"), the Borrowers shall have the right to cure such Financial Covenant Default or Liquidity Trigger (the "Specified Contribution Cure Right") by, at the written request of Borrowers' Agent, causing a Specified Contribution to be included in the calculation of EBITDA (as set forth below) solely for the purposes of determining compliance with such financial covenants and by increasing the amount of Cash and Cash Equivalents held by the Borrowers for the purposes of the Liquidity Trigger; provided, that:

(i) The Borrowers shall deliver to the Administrative Agent written notice of their intent to exercise their Specified Contribution Cure Right with respect to any Financial Covenant Default or Liquidity Trigger within 30 days of the end of the Relevant Period;

(ii) Net Cash Proceeds of the Specified Contribution may be treated as EBITDA for such Relevant Period in an amount equal to the greater of (x) the Minimum Specified Contribution Amount and (y) the minimum amount necessary to cure any Financial Covenant Default that would otherwise occur hereunder, and not for any other purpose;

(iii) Net Cash Proceeds treated as EBITDA for such Relevant Period shall be treated as EBITDA for any future four (4) fiscal quarter period or other measurement period, as applicable, that includes the last fiscal quarter of such Relevant Period;

(iv) the Borrowers shall have the right to exercise the Specified Contribution Cure Right not more than (x) one (1) time in the aggregate during any four consecutive Fiscal Quarter periods and (y) three (3) times in the aggregate through the maturity date set forth in Section 2.7; and

(v) Net Cash Proceeds from Specified Contributions will be applied to the Obligations as provided as in Section 2.8(b)(iv).

Until the end of the Specified Contribution Period neither Administrative Agent nor the Lenders shall impose default rate interest, accelerate the Obligations or exercise any enforcement remedy against any Borrower solely as a result of the existence of the applicable Financial Covenant Defaults; provided, however, that until timely receipt of the applicable Specified Contribution, an Event of Default may be deemed to exist for all other purposes under this Agreement. Upon timely receipt by Borrowers' Agent in cash of the applicable Specified Contribution (in an amount not less than the greater of (x) \$[X00,000]<sup>17</sup> (the "Minimum Specified Contribution Amount") and (y) the minimum amount necessary to cure the Financial Covenant Defaults that would otherwise occur hereunder) and payment of the mandatory prepayment required by Section 2.8(b)(iv), the applicable Financial Covenant Defaults shall be deemed waived. For the avoidance of doubt, this Section 6.20(c) shall in no way restrict Administrative Agent or the Lenders from imposing default rate interest, accelerating the Obligations or exercising any enforcement remedy against any

---

<sup>17</sup> NTD: Amount remains open to negotiations; Debtors have requested a cure amount of \$200,000.

Borrower (I) following the end of a Specified Contribution Period during which the applicable Specified Contribution Cure Right was not exercised or notification from Borrower that the applicable Specified Contribution will not be made or (II) as a result of any Event of Default other than a Financial Covenant Default.

**Section 6.21 Compliance with OFAC Sanctions Programs.**

(a) Each Loan Party shall at all times comply with the requirements of all OFAC Sanctions Programs applicable to such Loan Party and shall cause each of its Subsidiaries to comply with the requirements of all OFAC Sanctions Programs applicable to such Subsidiary.

(b) Each Loan Party shall provide the Administrative Agent and the Lenders any information regarding such Loan Party, its Affiliates, and its Subsidiaries necessary for the Administrative Agent and the Lenders to comply with all applicable OFAC Sanctions Programs; subject however, in the case of Affiliates, to such Loan Party's ability to provide information applicable to them.

(c) If any Loan Party obtains actual knowledge or receives any written notice that such Loan Party, any Affiliate, or any Subsidiary is named on the then current OFAC SDN List (such occurrence, an "*OFAC Event*"), such Loan Party shall promptly (i) give written notice to the Administrative Agent and the Lenders of such OFAC Event, and (ii) comply with all applicable laws with respect to such OFAC Event (regardless of whether the party included on the OFAC SDN List is located within the jurisdiction of the United States of America), including the OFAC Sanctions Programs, and each Loan Party hereby authorizes and consents to the Administrative Agent and the Lenders taking any and all steps the Administrative Agent or the Lenders deem necessary, in their sole but reasonable discretion, to avoid violation of all applicable laws with respect to any such OFAC Event, including the requirements of the OFAC Sanctions Programs (including the freezing and/or blocking of assets and reporting such action to OFAC).

**Section 6.22 [Reserved].**

**Section 6.23 Subordinated Debt.** No Loan Party shall, nor shall it permit any of its Subsidiaries to, make any voluntary prepayment of Subordinated Debt or effect any voluntary redemption thereof, or, to the extent prohibited by the terms of any other instrument or agreement subordinating Subordinated Debt to the Secured Obligations, as applicable, (a) amend or modify any of the terms or conditions relating to Subordinated Debt, or (b) make any payment on account of Subordinated Debt. Notwithstanding the foregoing, the Loan Parties may agree to a decrease in the interest rate applicable thereto or to a deferral of repayment of any of the principal of or interest on the Subordinated Debt beyond the current due dates therefor.

**Section 6.24 License Subsidiary.**

(a) *Conduct of Business.* No Loan Party shall permit either License Subsidiary to (i) own any Property other than the Excluded Licenses and any and all general intangibles associated with the Excluded Licenses, including the economic value and private rights associated with such Excluded Licenses, and, without limiting Section 6.13, including the right to receive any and all monies, proceeds, and other consideration for any such Excluded Licenses from any sale, assignment, transfer, conveyance, or other disposition of any such Excluded Licenses and any goodwill and other general intangibles associated therewith, (ii) incur any Indebtedness or, except to the extent granted pursuant hereto and the other Loan Documents, grant any Lien on any of its Property, or (iii) engage in any other activity, other than (x) maintenance of its company existence,



(y) participating in tax, accounting and other administrative activities, and (z) activities incidental to the ownership described in clause (i) of this Section and the activities described in clauses (iii)(x) and (iii)(y) of this Section.

(b) *Further Assurances.* On any date that any Excluded Licenses cease to be Excluded Property, each Borrower shall cause the License Subsidiaries, within 30 days after such date (or such later date as the Administrative Agent shall agree in its sole discretion), to comply with the requirements of Section 4.4 with respect to such Excluded Licenses.

**Section 6.25 Post-Closing Matters.** The Loan Parties shall execute and deliver the documents and complete the tasks expressed on Schedule 6.25 in each instance within the time limits specified on such Schedule.

**Section 6.26 Capital Expenditures for Kansas City Headquarters.** The Loan Parties shall not, nor shall they permit any of their Subsidiaries to, make expenditures in connection with the buildout of the Borrowers' new office in Kansas City in an amount greater than \$X00,000<sup>18</sup> in the aggregate.

## **SECTION 7. EVENTS OF DEFAULT AND REMEDIES.**

**Section 7.1 Events of Default.** Any one or more of the following shall constitute an "*Event of Default*" hereunder:

(a) default in the payment when due (whether at the stated maturity thereof or at any other time provided for in this Agreement) of all or any part of the principal of or interest on any Loan or any other Obligation payable hereunder or under any other Loan Document;

(b) default in the observance or performance of any covenant set forth in Sections 6.1, 6.8, 6.9, 6.10, 6.11, 6.12, 6.13, 6.14, 6.15, 6.16, 6.17, 6.18, 6.19, 6.20, 6.21, 6.23, 6.24 or 6.25 or of any provision in any Loan Document dealing with the use, disposition or remittance of the proceeds of Collateral or requiring the maintenance of insurance thereon;

(c) default in the observance or performance of any other provision hereof or of any other Loan Document which is not remedied within 30 days after the earlier of (i) the date on which such default shall first become known to any Designated Officer of any Loan Party or (ii) written notice of such default is given to the Borrowers by the Administrative Agent;

(d) any representation or warranty made herein or in any other Loan Document or in any certificate delivered to the Administrative Agent or the Lenders pursuant hereto or thereto or in connection with any transaction contemplated hereby or thereby proves untrue in any material respect as of the date of the issuance or making or deemed making thereof;

(e) (i) any event occurs or condition exists (other than those described in subsections (a) through (d) above) which is specified as an event of default under any of the other Loan Documents, or (ii) any of the Loan Documents shall for any reason not be or shall cease to be in full force and effect or is declared to be null and void, or (iii) any of the Collateral Documents shall for any reason fail to create a valid and perfected first priority Lien in favor of the Administrative Agent in any Collateral purported to be covered thereby except as expressly permitted by the terms thereof or the terms of this Agreement, or (iv) any Loan Party shall assert that any such Lien is not

---

<sup>18</sup> Amount remains open to negotiations; Debtors have requested an amount equal to \$400,000.

a valid and perfected Lien on any such Collateral, or (v) any Loan Party or Holdco Pledgor takes any action for the purpose of terminating, repudiating or rescinding any Loan Document executed by it or any of its obligations thereunder, or (vi) any Loan Party or any Subsidiary of a Loan Party makes any payment on account of any Subordinated Debt which is prohibited under the terms of any instrument subordinating such Subordinated Debt to any Secured Obligations, or any subordination provision in any document or instrument (including, without limitation, any intercreditor or subordination agreement) relating to any Subordinated Debt shall cease to be in full force and effect, or any Person (including the holder of any Subordinated Debt) shall contest in any manner the validity, binding nature or enforceability of any such provision;

(f) default shall occur under any Indebtedness of any Loan Party aggregating in excess of \$200,000 or under any indenture, agreement or other instrument under which the same may be issued, and such default shall continue for a period of time sufficient to permit the acceleration of the maturity of any such Indebtedness (whether or not such maturity is in fact accelerated), or any such Indebtedness shall not be paid when due (whether by demand, lapse of time, acceleration or otherwise) after giving effect to applicable grace or cure periods, if any;

(g) (i) any final judgment or judgments, writ or writs or warrant or warrants of attachment, or any similar process or processes, shall be entered or filed against any Loan Party, Holdco Pledgor or either License Subsidiary, or against any of its Property, in an aggregate amount in excess of \$100,000 (except to the extent fully and unconditionally covered by insurance pursuant to which the insurer has accepted liability therefor in writing and except to the extent fully and unconditionally covered by an appeal bond, for which such Loan Party or such License Subsidiary has established in accordance with GAAP a cash or Cash Equivalent reserve in the amount of such judgment, writ or warrant), and which remains undischarged, unvacated, unbonded or unstayed for a period of 30 days, or any action shall be legally taken by a judgment creditor to attach or levy upon any Property of any Loan Party to enforce any such judgment, or (ii) any Loan Party or either License Subsidiary shall fail within 30 days to discharge one or more non-monetary judgments or orders which, individually or in the aggregate, could reasonably be expected to have a Material Adverse Effect, which judgments or orders, in any such case, are not stayed on appeal or otherwise being appropriately contested in good faith by proper proceedings diligently pursued;

(h) (i) any Loan Party, or any member of its Controlled Group, shall fail to pay when due an amount or amounts aggregating in excess of \$500,000 which it shall have become liable to pay to the PBGC or to a Plan under Title IV of ERISA; or (ii) notice of intent to terminate a Plan or Plans under Section 4041(c) of ERISA having aggregate Unfunded Vested Liabilities in excess of \$1,000,000 (collectively, a "*Material Plan*") shall be filed under Title IV of ERISA by any Loan Party, or any other member of its Controlled Group, any plan administrator or any combination of the foregoing; or (iii) the PBGC shall institute proceedings under Section 4042 of ERISA to terminate or to cause a trustee to be appointed to administer any Material Plan or a proceeding shall be instituted by a fiduciary of any Material Plan against any Loan Party, or any member of its Controlled Group, to enforce Section 515 or 4219(c)(5) of ERISA and such proceeding shall not have been dismissed within 30 days thereafter; or (iv) a condition shall exist by reason of which the PBGC would be entitled to obtain a decree adjudicating that any Material Plan must be terminated; or (v) any Loan Party, or any member of its Controlled Group, shall incur liability with respect to the withdrawal or partial withdrawal from any Plan or Multiemployer Plan; or (vi) any Loan Party, or any member of its Controlled Group, shall receive any notice, or any Multiemployer Plan shall receive from any Loan Party, or any member of its Controlled Group, any notice, concerning the imposition of withdrawal liability or a determination that a Multiemployer Plan is in endangered or critical status, within in the meaning of Section 305 of ERISA.

(i) any Change of Control or Change in Management shall occur;

(j) any Loan Party or either License Subsidiary shall (i) have entered involuntarily against it an order for relief under the Bankruptcy Code, as amended, (ii) not pay, or admit in writing its inability to pay, its debts generally as they become due, (iii) make an assignment for the benefit of creditors, (iv) apply for, seek, consent to or acquiesce in, the appointment of a receiver, custodian, trustee, examiner, liquidator or similar official for it or any substantial part of its Property, (v) institute any proceeding seeking to have entered against it an order for relief under the Bankruptcy Code to adjudicate it insolvent, or seeking dissolution, winding up, liquidation, reorganization, arrangement, adjustment or composition of it or its debts under any Debtor Relief Law or fail to file an answer or other pleading denying the material allegations of any such proceeding filed against it, (vi) take any action in furtherance of any matter described in parts (i) through (v) above, or (vii) fail to contest in good faith any appointment or proceeding described in Section 7.1(k);

(k) a custodian, receiver, trustee, examiner, liquidator or similar official shall be appointed for any Loan Party or either License Subsidiary, or any substantial part of any of its Property, or a proceeding described in Section 7.1(j)(v) shall be instituted against any Loan Party or either License Subsidiary, and such appointment continues undischarged or such proceeding continues undismissed or unstayed for a period of 60 days;

(l) any FCC License or Tower Registration of any of the Loan Parties or either License Subsidiary shall expire, terminate, be revoked by an action of any Governmental Authority with competent jurisdiction that is final and nonappealable, or be otherwise lost; or

(m) any Chapter 11 Case is reopened or the Plan of Reorganization or Confirmation Order is vacated, modified or amended in any material respect (or any Loan Party commences a proceeding or takes action to effect that same).

**Section 7.2 Non-Bankruptcy Defaults.** When any Event of Default exists other than those described in subsection (j) or (k) of Section 7.1, the Administrative Agent shall, by written notice to the Borrowers, if so directed by the Required Lenders, declare the principal of and the accrued interest on all outstanding Loans to be forthwith due and payable and thereupon all outstanding Loans, including both principal and interest thereon, shall be and become immediately due and payable together with all other amounts payable under the Loan Documents without further demand, presentment, protest or notice of any kind. The Administrative Agent, after giving notice to the Borrowers pursuant to Section 7.1(c) or this Section 7.2, shall also promptly send a copy of such notice to the other Lenders, but the failure to do so shall not impair or annul the effect of such notice.

**Section 7.3 Bankruptcy Defaults.** When any Event of Default described in subsections (j) or (k) of Section 7.1 exists, then all outstanding Obligations shall immediately and automatically become due and payable together with all other amounts payable under the Loan Documents without presentment, demand, protest or notice of any kind (each of which is hereby waived by the Borrowers).

**Section 7.4 [Reserved].**

**Section 7.5 Notice of Default.** The Administrative Agent shall give notice to the Borrowers under Section 7.1(c) promptly upon being requested to do so by any Lender and shall thereupon notify all the Lenders thereof.

## **SECTION 8. CHANGE IN CIRCUMSTANCES AND CONTINGENCIES.**

**Section 8.1** **[Reserved].**

**Section 8.2** **Illegality.** Notwithstanding any other provisions of this Agreement or any other Loan Document, if at any time any Change in Law makes it unlawful for any Lender to continue to maintain any Loans or to perform its obligations as contemplated hereby, such Lender shall promptly give notice thereof to the Borrowers and the Administrative Agent and such Lender's obligations to maintain Loans under this Agreement shall be suspended until it is no longer unlawful for such Lender to maintain Loans. The Borrowers shall prepay on demand the outstanding principal amount of any such affected Loans, together with all interest accrued thereon and all other amounts then due and payable to such Lender under this Agreement.

**Section 8.3** **Inadequacy of LIBO Rate.** If the LIBO Rate is not available or no longer reflects the accepted market rate for comparable loans, the Administrative Agent shall, in consultation with the Borrower and the Required Lenders, select a replacement index rate (and the appropriate application thereof, including any mathematical or other adjustments to such index or the benchmark incorporated therein necessary to address yield-or risk-based differences between the LIBO Rate and the replacement index so as to maintain a substantially similar all-in interest rate) that is comparable to LIBO Rate (to the extent practicable) and generally accepted as a reported market rate for comparable loans.

**Section 8.4** **Increased Costs.**

(a) Increased Costs Generally. If any Change in Law shall:

(i) impose, modify or deem applicable any reserve, special deposit, compulsory loan, insurance charge or similar requirement against assets of, deposits with or for the account of, or credit extended or participated in by, any Lender;

(ii) subject any Recipient to any Taxes (other than (A) Indemnified Taxes, (B) Taxes described in clauses (b) through (d) of the definition of Excluded Taxes and (C) Connection Income Taxes) on its loans, loan principal, letters of credit, commitments, or other obligations, or its deposits, reserves, other liabilities or capital attributable thereto; or

(iii) impose on any Lender or the London interbank market any other condition, cost or expense (other than Taxes) affecting this Agreement or Loans made by such Lender or participation therein;

and the result of any of the foregoing shall be to increase the cost to such Lender or such other Recipient of maintaining any Loan, or to reduce the amount of any sum received or receivable by such Lender or other Recipient hereunder (whether of principal, interest or any other amount) then, upon request of such Lender or other Recipient, the Borrowers will pay to such Lender or other Recipient, as the case may be, such additional amount or amounts as will compensate such Lender or other Recipient, as the case may be, for such additional costs incurred or reduction suffered.

(b) *Capital Requirements.* If any Lender determines that any Change in Law affecting such Lender or any lending office of such Lender or such Lender's holding company, if any, regarding capital or liquidity requirements, has or would have the effect of reducing the rate of return on such Lender's capital or on the capital of such Lender's holding company, if any, as a consequence of this Agreement, the Commitments of such Lender or the Loans made by such Lender, to a level below that which such Lender or such Lender's holding company could have achieved but for such Change in Law (taking into consideration such Lender's policies and the policies of such Lender's holding company with respect to capital adequacy), then from time to

time the Borrowers will pay to such Lender such additional amount or amounts as will compensate such Lender or such Lender's holding company for any such reduction suffered

(c) *Certificates for Reimbursement.* A certificate of a Lender setting forth the amount or amounts necessary to compensate such Lender or its holding company, as the case may be, as specified in Section 8.4(a) or (b) above and delivered to the Borrowers, shall be conclusive absent manifest error. The Borrowers shall pay such Lender the amount shown as due on any such certificate within 10 Business Days after receipt thereof.

(d) *Delay in Requests.* Failure or delay on the part of any Lender to demand compensation pursuant to this Section shall not constitute a waiver of such Lender's right to demand such compensation; *provided* that the Borrowers shall not be required to compensate a Lender pursuant to this Section 8.4 for any increased costs incurred or reductions suffered more than nine months prior to the date that such Lender notifies the Borrowers of the Change in Law giving rise to such increased costs or reductions, and of such Lender's intention to claim compensation therefor (except that, if the Change in Law giving rise to such increased costs or reductions is retroactive, then the nine-month period referred to above shall be extended to include the period of retroactive effect thereof).

## **SECTION 9. THE ADMINISTRATIVE AGENT.**

**Section 9.1 Appointment and Authorization of Administrative Agent.** Each Lender hereby appoints BSP Agency, LLC, a Delaware limited liability company, to act on its behalf as the Administrative Agent under the Loan Documents and authorizes the Administrative Agent to take such action as Administrative Agent on its behalf and to exercise such powers under the Loan Documents as are delegated to the Administrative Agent by the terms thereof, together with such actions and powers as are reasonably incidental thereto. The provisions of this Section 9 are solely for the benefit of the Administrative Agent and the Lenders, and none of the Borrowers nor any other Loan Party shall have rights as a third-party beneficiary of any of such provisions. It is understood and agreed that the use of the term "agent" in this Agreement or in any other Loan Document (or any other similar term) with reference to the Administrative Agent is not intended to connote any fiduciary or other implied (or express) obligations arising under agency doctrine of any applicable law. Instead such term is used as a matter of market custom, and is intended to create or reflect only an administrative relationship between contracting parties.

**Section 9.2 Administrative Agent and Its Affiliates.** The Administrative Agent shall have the same rights and powers in its capacity as a Lender as any other Lender and may exercise or refrain from exercising such rights and powers as though it were not the Administrative Agent, and the Administrative Agent and its Affiliates may accept deposits from, lend money to, own securities of, act as the financial advisor or in any other advisory capacity for, and generally engage in any kind of banking, trust, financial advisory, or other business with any Loan Party or any Affiliate of any Loan Party as if it were not the Administrative Agent under the Loan Documents and without any duty to account therefor to the Lenders. The terms "*Lender*" and "*Lenders*", unless otherwise expressly indicated or unless the context otherwise clearly requires, includes the Administrative Agent in its individual capacity as a Lender.

### **Section 9.3 Exculpatory Provisions.**

(a) The Administrative Agent shall not have any duties or obligations except those expressly set forth herein and in the other Loan Documents, and its duties hereunder shall be administrative in nature. Without limiting the generality of the foregoing, the Administrative Agent and its Related Parties:



(i) shall not be subject to any fiduciary or other implied duties, regardless of whether a Default or Event of Default has occurred and is continuing;

(ii) shall not have any duty to take any discretionary action or exercise any discretionary powers, except discretionary rights and powers expressly contemplated hereby or by the other Loan Documents that the Administrative Agent is required to exercise as directed in writing by the Required Lenders (or such other number or percentage of the Lenders as shall be expressly provided for herein or in the other Loan Documents); *provided* that the Administrative Agent shall not be required to take any action that, in its opinion or the opinion of its counsel, may expose the Administrative Agent to liability or that is contrary to any Loan Document or any Legal Requirement and the Administrative Agent shall in all cases be fully justified in failing or refusing to act hereunder or under any other Loan Document unless it first receives any further assurances of its indemnification from the Lenders that it may require, including prepayment of any related expenses and any other protection it requires against any and all costs, expense, and liability which may be incurred by it by reason of taking or continuing to take any such action; and

(iii) shall not, except as expressly set forth herein and in the other Loan Documents, have any duty to disclose, and shall not be liable for the failure to disclose, any information relating to any Loan Party or any of its Affiliates that is communicated to or obtained by the Person serving as the Administrative Agent or any of its Affiliates in any capacity.

(b) Any instructions of the Required Lenders (or such other number or percentage of the Lenders as shall be necessary, or as the Administrative Agent shall believe in good faith shall be necessary, under the circumstances as provided in Section 10.10) shall be binding upon all the Lenders. Neither the Administrative Agent nor any of its Related Parties shall be liable for any action taken or not taken by the Administrative Agent (i) with the consent or at the request of the Required Lenders (or such other number or percentage of the Lenders as shall be necessary, or as the Administrative Agent shall believe in good faith shall be necessary, under the circumstances as provided in Section 10.10), or (ii) in the absence of its own gross negligence or willful misconduct as determined by a court of competent jurisdiction by final and nonappealable judgment. In all cases in which the Loan Documents do not require the Administrative Agent to take specific action, the Administrative Agent shall be fully justified in using its discretion in failing to take or in taking any action thereunder. The Administrative Agent shall be entitled to assume that no Default or Event of Default exists, and shall be deemed not to have knowledge of any Default or Event of Default, unless and until notice describing such Default is given to the Administrative Agent in writing by the Borrowers or a Lender. If the Administrative Agent receives from any Loan Party a written notice of an Event of Default pursuant to Section 6.1, the Administrative Agent shall promptly give each of the Lenders written notice thereof.

(c) Neither the Administrative Agent nor any of its Related Parties shall be responsible for or have any duty to ascertain or inquire into (i) any statement, warranty or representation made in or in connection with this Agreement or any other Loan Document, (ii) the contents of any certificate, report or other document delivered under this Agreement or any other Loan Documents or in connection herewith or therewith, (iii) the performance or observance of any of the covenants, agreements or other terms or conditions set forth herein or therein or the occurrence of any Default or Event of Default, (iv) the validity, enforceability, effectiveness, genuineness, value, worth, or collectability of this Agreement, any other Loan Document or any other agreement, instrument, document or writing furnished in connection with any Loan Document or any Collateral, or the creation, perfection, or priority of any Lien purported to be created by this Agreement or any



Collateral Documents, or (v) the value or sufficiency of any Collateral, or (vi) the satisfaction of any condition set forth in Section 3 or elsewhere herein, other than to confirm receipt of items expressly required to be delivered to the Administrative Agent; and the Administrative Agent makes no representation of any kind or character with respect to any such matter mentioned in this sentence.

**Section 9.4 Reliance by Administrative Agent.** The Administrative Agent shall be entitled to rely upon, and shall not incur any liability for relying upon, any notice, request, certificate, consent, statement, instrument, document or other writing (including any electronic message, Internet or intranet website posting or other distribution) believed by it to be genuine and to have been signed, sent or otherwise authenticated by the proper Person. The Administrative Agent also may rely upon any statement made to it orally or by telephone and believed by it to have been made by the proper Person, and shall not incur any liability for relying thereon. The Administrative Agent may consult with legal counsel (who may be counsel for the Borrowers), independent accountants and other experts selected by it, and shall not be liable for any action taken or not taken by it in accordance with the advice of any such counsel, accountants or experts. The Administrative Agent may treat the payee of any Note or any Loan as the holder thereof until written notice of transfer shall have been filed with the Administrative Agent signed by such payee in form satisfactory to the Administrative Agent.

**Section 9.5 Delegation of Duties.** The Administrative Agent may perform any and all of its duties and exercise its rights and powers hereunder or under any other Loan Document by or through any one or more sub-agents appointed by the Administrative Agent. The Administrative Agent and any such sub-agent may perform any and all of its duties and exercise its rights and powers by or through their respective Related Parties. The exculpatory provisions of this Section 9 shall apply to any such sub-agent and to the Related Parties of the Administrative Agent and any such sub-agent. The Administrative Agent shall not be responsible for the negligence or misconduct of any sub-agents except to the extent that a court of competent jurisdiction determines in a final and nonappealable judgment that the Administrative Agent acted with gross negligence or willful misconduct in the selection of such sub-agents.

**Section 9.6 Non-Reliance on Administrative Agent and Other Lenders.** Each Lender acknowledges that it has, independently and without reliance upon the Administrative Agent or any other Lender or any of their Related Parties and based on such documents and information as it has deemed appropriate, made its own credit analysis and decision to enter into this Agreement. Each Lender also acknowledges that it will, independently and without reliance upon the Administrative Agent or any other Lender or any of their Related Parties and based on such documents and information as it shall from time to time deem appropriate, continue to make its own decisions in taking or not taking action under or based upon this Agreement, any other Loan Document or any related agreement or any document furnished hereunder or thereunder.

**Section 9.7 Resignation of Administrative Agent and Successor Administrative Agent.**

(a) The Administrative Agent may at any time give notice of its resignation to the Lenders and the Borrowers. Upon receipt of any such notice of resignation, the Required Lenders shall have the right, in consultation with the Borrowers, to appoint a successor and, so long as no Event of Default shall have occurred and be continuing, such appointment shall be with the Borrowers' consent (which shall not be unreasonably withheld). If no such successor shall have been so appointed by the Required Lenders and shall have accepted such appointment within 30 days after the retiring Administrative Agent gives notice of its resignation (or such earlier day as shall be agreed by the Required Lenders) (the "*Resignation Effective Date*"), then the retiring Administrative Agent may (but shall not be obligated to), on behalf of the Lenders, appoint a successor Administrative Agent meeting the qualifications set forth above. Whether or not a

successor has been appointed, such resignation shall become effective in accordance with such notice on the Resignation Effective Date.

(b) [Reserved].

(c) With effect from the Resignation Effective Date (1) the retiring or removed Administrative Agent shall be discharged from its duties and obligations hereunder and under the other Loan Documents (except that in the case of any collateral security held by the Administrative Agent on behalf of the Lenders under any of the Loan Documents, the retiring or removed Administrative Agent shall continue to hold such collateral security until such time as a successor Administrative Agent is appointed) and (2) except for any indemnity payments owed to the retiring or removed Administrative Agent, all payments, communications and determinations provided to be made by, to or through the Administrative Agent shall instead be made by or to each Lender directly, until such time, if any, as the Required Lenders appoint a successor Administrative Agent as provided for above. Upon the acceptance of a successor's appointment as Administrative Agent hereunder, such successor shall succeed to and become vested with all of the rights, powers, privileges and duties of the retiring or removed Administrative Agent (other than any rights to indemnity payments owed to the retiring or removed Administrative Agent), and the retiring or removed Administrative Agent shall be discharged from all of its duties and obligations hereunder or under the other Loan Documents. The fees payable by the Borrowers to a successor Administrative Agent shall be the same as those payable to its predecessor unless otherwise agreed among the Borrowers and such successor. After the retiring or removed Administrative Agent's resignation or removal hereunder and under the other Loan Documents, the provisions of this Section 9 and Section 10.12 shall continue in effect for the benefit of such retiring or removed Administrative Agent, its sub-agents and their respective Related Parties in respect of any actions taken or omitted to be taken by any of them while the retiring or removed Administrative Agent was acting as Administrative Agent.

**Section 9.8** [Reserved].

**Section 9.9** [Reserved].

**Section 9.10** [Reserved].

**Section 9.11** **Authorization to Enter into, and Enforcement of, the Collateral Documents and Guaranty.** The Lenders irrevocably authorize the Administrative Agent to execute and deliver the Collateral Documents and each Guaranty Agreement on their behalf and on behalf of each of their Affiliates and to take such action and exercise such powers under the Collateral Documents or any Guaranty Agreement as the Administrative Agent considers appropriate, provided the Administrative Agent shall not amend the Collateral Documents or any Guaranty Agreement unless such amendment is agreed to in writing by the Required Lenders. Each Lender acknowledges and agrees that it will be bound by the terms and conditions of the Collateral Documents and each Guaranty Agreement upon the execution and delivery thereof by the Administrative Agent. Except as otherwise specifically provided for herein, no Lender (or its Affiliates) other than the Administrative Agent shall have the right to institute any suit, action or proceeding in equity or at law for the foreclosure or other realization upon any Collateral or any or for the execution of any trust or power in respect of the Collateral or any Guaranty Agreement or for the appointment of a receiver or for the enforcement of any other remedy under the Collateral Documents or any Guaranty Agreement; it being understood and intended that no one or more of the Lenders (or their Affiliates) shall have any right in any manner whatsoever to affect, disturb or prejudice the Lien of the Administrative Agent (or any security trustee therefor) under the Collateral Documents by its or their action or to enforce any right thereunder, and that all proceedings at law or in equity shall be instituted, had, and

maintained by the Administrative Agent (or its security trustee) in the manner provided for in the relevant Collateral Documents for the benefit of the Lenders and their Affiliates.

**Section 9.12 Administrative Agent May File Proofs of Claim.** In case of the pendency of any proceeding under any Debtor Relief Law, the Administrative Agent (irrespective of whether the principal of any Loan shall then be due and payable as herein expressed or by declaration or otherwise and irrespective of whether the Administrative Agent shall have made any demand on the Borrowers) shall be entitled and empowered (but not obligated), by intervention in such proceeding or otherwise:

(a) to file and prove a claim for the whole amount of the principal and interest owing and unpaid in respect of the Loans and all other Obligations that are owing and unpaid and to file such other documents as may be necessary or advisable in order to have the claims of the Lenders and the Administrative Agent (including any claim for the reasonable compensation, expenses, disbursements and advances of the Lenders and the Administrative Agent and their respective agents and counsel and all other amounts due the Lenders and the Administrative Agent under Sections 2.13 and 10.12(a)) allowed in such judicial proceeding; and

(b) to collect and receive any monies or other property payable or deliverable on any such claims and to distribute the same;

and any custodian, receiver, assignee, trustee, liquidator, sequestrator or other similar official in any such judicial proceeding is hereby authorized by each Lender to make such payments to the Administrative Agent and, in the event that the Administrative Agent shall consent to the making of such payments directly to the Lenders, to pay to the Administrative Agent any amount due for the reasonable compensation, expenses, disbursements and advances of the Administrative Agent and its agents and counsel, and any other amounts due the Administrative Agent under Sections 2.13 and 10.12(a). Nothing contained herein shall be deemed to authorize the Administrative Agent to authorize or consent to or accept or adopt on behalf of any Lender any plan of reorganization, arrangement, adjustment or composition affecting the Obligations or the rights of any Lender or to authorize the Administrative Agent to vote in respect of the claim of any Lender in any such proceeding.

**Section 9.13 Collateral and Guaranty Matters.**

(a) The Lenders irrevocably authorize the Administrative Agent, at its option and in its discretion,

(i) to release any Lien on any property granted to or held by the Administrative Agent under any Loan Document (A) upon the Facility Termination Date, (B) that is sold or otherwise disposed of or to be sold or otherwise disposed of as part of or in connection with any sale or disposition permitted under the Loan Documents, or (C) subject to Section 10.10, if approved, authorized or ratified in writing by the Required Lenders;

(ii) to subordinate any Lien on any Property granted to or held by the Administrative Agent under any Loan Document to the holder of any Lien on such property that is permitted by Section 6.12(e);

(iii) to release any Guarantor from its obligations under its Guaranty Agreement if such Person ceases to be a Loan Party as a result of a transaction permitted under the Loan Documents; and

(iv) to reduce or limit the amount of the Indebtedness secured by any particular item of Collateral to an amount not less than the estimated value thereof to the extent necessary to reduce mortgage registry, filing and similar tax.

Upon request by the Administrative Agent at any time, the Required Lenders will confirm in writing the Administrative Agent's authority to release or subordinate its interest in particular types or items of Property, or to release any Guarantor from its obligations under its Guaranty Agreement pursuant to this Section 9.13.

(b) The Administrative Agent shall not be responsible for or have a duty to ascertain or inquire into any representation or warranty regarding the existence, value or collectability of the Collateral, the existence, priority or perfection of the Administrative Agent's Lien thereon, or any certificate prepared by any Loan Party in connection therewith, nor shall the Administrative Agent be responsible or liable to the Lenders for any failure to monitor or maintain any portion of the Collateral.

## **SECTION 10. MISCELLANEOUS.**

### **Section 10.1 Taxes.**

(a) For purposes of this Section 10.1, the term "applicable law" includes FATCA.

(b) *Payments Free of Taxes.* Any and all payments by or on account of any obligation of any Loan Party under any Loan Document shall be made without deduction or withholding for any Taxes, except as required by applicable law. If any applicable law (as determined in the good faith discretion of an applicable Withholding Agent) requires the deduction or withholding of any Tax from any such payment by a Withholding Agent, then the applicable Withholding Agent shall be entitled to make such deduction or withholding and shall timely pay the full amount deducted or withheld to the relevant Governmental Authority in accordance with applicable law and, if such Tax is an Indemnified Tax, then the sum payable by the applicable Loan Party shall be increased as necessary so that after such deduction or withholding has been made (including such deductions and withholdings applicable to additional sums payable under this Section 10.1) the applicable Recipient receives an amount equal to the sum it would have received had no such deduction or withholding been made.

(c) *Payment of Other Taxes by the Loan Parties.* Each Loan Party shall timely pay to the relevant Governmental Authority in accordance with applicable law, or at the option of the Administrative Agent timely reimburse it for the payment of, any Other Taxes.

(d) *Indemnification by the Loan Parties.* The Loan Parties shall jointly and severally indemnify each Recipient, within 10 days after demand therefor, for the full amount of any Indemnified Taxes (including Indemnified Taxes imposed or asserted on or attributable to amounts payable under this Section 10.1) payable or paid by such Recipient or required to be withheld or deducted from a payment to such Recipient and any reasonable expenses arising therefrom or with respect thereto, whether or not such Indemnified Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. A certificate as to the amount of such payment or liability delivered to the Borrowers by a Lender (with a copy to the Administrative Agent), or by the Administrative Agent on its own behalf or on behalf of a Lender, shall be conclusive absent manifest error.

(e) *Indemnification by the Lenders.* Each Lender shall severally indemnify the Administrative Agent, within 10 days after demand therefor, for (i) any Indemnified Taxes attributable to such Lender (but only to the extent that the Loan Parties have not already indemnified the Administrative Agent for such Indemnified Taxes and without limiting the obligation of the Loan Parties to do so), (ii) any Taxes attributable to such Lender's failure to comply with the provisions of Section 10.9(d) relating to the maintenance of a Participant Register and (iii) any Excluded Taxes attributable to such Lender, in each case, that are payable or paid by the Administrative Agent in connection with any Loan Document, and any reasonable expenses arising therefrom or with respect thereto, whether or not such Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. A certificate as to the amount of such payment or liability delivered to any Lender by the Administrative Agent shall be conclusive absent manifest error. Each Lender hereby authorizes the Administrative Agent to set off and apply any and all amounts at any time owing to such Lender under any Loan Document or otherwise payable by the Administrative Agent to the Lender from any other source against any amount due to the Administrative Agent under this Section 10.1(e).

(f) *Evidence of Payments.* As soon as practicable after any payment of Taxes by any Loan Party to a Governmental Authority pursuant to this Section 10.1, such Loan Party shall deliver to the Administrative Agent the original or a certified copy of a receipt issued by such Governmental Authority evidencing such payment, a copy of the return reporting such payment or other evidence of such payment reasonably satisfactory to the Administrative Agent.

(g) *Status of Lenders.*

(i) Any Lender that is entitled to an exemption from or reduction of withholding Tax with respect to payments made under any Loan Document shall deliver to the Borrowers and the Administrative Agent, at the time or times reasonably requested by the Borrowers or the Administrative Agent, such properly completed and executed documentation reasonably requested by the Borrowers or the Administrative Agent as will permit such payments to be made without withholding or at a reduced rate of withholding. In addition, any Lender, if reasonably requested by the Borrowers or the Administrative Agent, shall deliver such other documentation prescribed by applicable law or reasonably requested by the Borrowers or the Administrative Agent as will enable the Borrowers or the Administrative Agent to determine whether or not such Lender is subject to backup withholding or information reporting requirements. Notwithstanding anything to the contrary in the preceding two sentences, the completion, execution and submission of such documentation (other than such documentation set forth in Section 10.1(g)(ii)(A), (ii)(B) and (ii)(D) below) shall not be required if in the Lender's reasonable judgment such completion, execution or submission would subject such Lender to any material unreimbursed cost or expense or would materially prejudice the legal or commercial position of such Lender.

(ii) Without limiting the generality of the foregoing,

(A) any Lender that is a U.S. Person shall deliver to the Borrowers and the Administrative Agent on or prior to the date on which such Lender becomes a Lender under this Agreement (and from time to time thereafter upon the reasonable request of the Borrowers or the Administrative Agent), executed originals of IRS Form W-9 certifying that such Lender is exempt from U.S. federal backup withholding tax;



(B) any Foreign Lender shall, to the extent it is legally entitled to do so, deliver to the Borrowers and the Administrative Agent (in such number of copies as shall be requested by the recipient) on or prior to the date on which such Foreign Lender becomes a Lender under this Agreement (and from time to time thereafter upon the reasonable request of the Borrowers or the Administrative Agent), whichever of the following is applicable:

(i) in the case of a Foreign Lender claiming the benefits of an income tax treaty to which the United States is a party (x) with respect to payments of interest under any Loan Document, executed originals of IRS Form W-8BEN establishing an exemption from, or reduction of, U.S. federal withholding Tax pursuant to the “interest” article of such tax treaty and (y) with respect to any other applicable payments under any Loan Document, IRS Form W-8BEN establishing an exemption from, or reduction of, U.S. federal withholding Tax pursuant to the “business profits” or “other income” article of such tax treaty;

(ii) executed originals of IRS Form W-8ECI;

(iii) in the case of a Foreign Lender claiming the benefits of the exemption for portfolio interest under Section 881(c) of the Code, (x) a certificate in form reasonably acceptable to the Administrative Agent representing that such Foreign Lender is not a “bank” within the meaning of Section 881(c)(3)(A) of the Code, a “10 percent shareholder” of the Borrowers within the meaning of Section 881(c)(3)(B) of the Code, or a “controlled foreign corporation” described in Section 881(c)(3)(C) of the Code (a “*U.S. Tax Compliance Certificate*”) and (y) executed originals of IRS Form W-8BEN; or

(iv) to the extent a Foreign Lender is not the beneficial owner, executed originals of IRS Form W-8IMY, accompanied by IRS Form W-8ECI, IRS Form W-8BEN, a U.S. Tax Compliance Certificate in form reasonably acceptable to the Administrative Agent, IRS Form W-9, and/or other certification documents from each beneficial owner, as applicable; *provided* that if the Foreign Lender is a partnership and one or more direct or indirect partners of such Foreign Lender are claiming the portfolio interest exemption, such Foreign Lender may provide a U.S. Tax Compliance Certificate in form reasonably acceptable to the Administrative Agent on behalf of each such direct and indirect partner;

(C) any Foreign Lender shall, to the extent it is legally entitled to do so, deliver to the Borrowers and the Administrative Agent (in such number of copies as shall be requested by the recipient) on or prior to the date on which such Foreign Lender becomes a Lender under this Agreement (and from time to time thereafter upon the reasonable request of the Borrowers or the Administrative Agent), executed originals of any other form prescribed by applicable law as a basis for claiming exemption from or a reduction in U.S. federal withholding Tax, duly completed, together with such supplementary documentation as may be prescribed by applicable law to permit the Borrowers or the Administrative Agent to determine the withholding or deduction required to be made; and



(D) if a payment made to a Lender under any Loan Document would be subject to U.S. federal withholding Tax imposed by FATCA if such Lender were to fail to comply with the applicable reporting requirements of FATCA (including those contained in Section 1471(b) or 1472(b) of the Code, as applicable), such Lender shall deliver to the Borrowers and the Administrative Agent at the time or times prescribed by law and at such time or times reasonably requested by the Borrowers or the Administrative Agent such documentation prescribed by applicable law (including as prescribed by Section 1471(b)(3)(C)(i) of the Code) and such additional documentation reasonably requested by the Borrowers or the Administrative Agent as may be necessary for the Borrowers and the Administrative Agent to comply with their obligations under FATCA and to determine that such Lender has complied with such Lender's obligations under FATCA or to determine the amount to deduct and withhold from such payment. Solely for purposes of this clause (D), "FATCA" shall include any amendments made to FATCA after the date of this Agreement.

Each Lender agrees that if any form or certification it previously delivered expires or becomes obsolete or inaccurate in any respect, it shall update such form or certification or promptly notify the Borrowers and the Administrative Agent in writing of its legal inability to do so.

(h) *Treatment of Certain Refunds.* If any party determines, in its sole discretion exercised in good faith, that it has received a refund of any Taxes as to which it has been indemnified pursuant to this Section 10.1 (including by the payment of additional amounts pursuant to this Section 10.1), it shall pay to the indemnifying party an amount equal to such refund (but only to the extent of indemnity payments made under this Section 10.1 with respect to the Taxes giving rise to such refund), net of all out of pocket expenses (including Taxes) of such indemnified party and without interest (other than any interest paid by the relevant Governmental Authority with respect to such refund). Such indemnifying party, upon the request of such indemnified party, shall repay to such indemnified party the amount paid over pursuant to this Section 10.1(h) (plus any penalties, interest or other charges imposed by the relevant Governmental Authority) in the event that such indemnified party is required to repay such refund to such Governmental Authority. Notwithstanding anything to the contrary in this Section 10.1(h), in no event will the indemnified party be required to pay any amount to an indemnifying party pursuant to this Section 10.1(h) the payment of which would place the indemnified party in a less favorable net after-Tax position than the indemnified party would have been in if the Tax subject to indemnification had not been deducted, withheld, or otherwise imposed and the indemnification payments or additional amounts giving rise to such refund had never been paid. This Section 10.1(h) shall not be construed to require any indemnified party to make available its Tax returns (or any other information relating to its Taxes that it deems confidential) to the indemnifying party or any other Person.

(i) *Survival.* Each party's obligations under this Section 10.1 shall survive the resignation or replacement of the Administrative Agent or any assignment of rights by, or the replacement of, a Lender, the termination of the Commitments and the repayment, satisfaction or discharge of all obligations under any Loan Document.

## **Section 10.2 Mitigation Obligations; Replacement of Lenders.**

(a) *Designation of a Different Lending Office.* If any Lender requests compensation under Section 8.4, or requires the Borrowers to pay any Indemnified Taxes or additional amounts to any Lender or any Governmental Authority for the account of any Lender pursuant to Section 10.1, then such Lender shall (at the request of the Borrowers) use reasonable efforts to designate a

different lending office for funding or booking its Loans hereunder or to assign its rights and obligations hereunder to another of its offices, branches or affiliates, if, in the judgment of such Lender, such designation or assignment (i) would eliminate or reduce amounts payable pursuant to Section 8.4 or Section 10.1, as the case may be, in the future, and (ii) would not subject such Lender to any unreimbursed cost or expense and would not otherwise be disadvantageous to such Lender. The Borrowers hereby agree to pay all reasonable costs and expenses incurred by any Lender in connection with any such designation or assignment.

(b) *Replacement of Lenders.* If any Lender requests compensation under Section 8.4, or if the Borrowers are required to pay any Indemnified Taxes or additional amounts to any Lender or any Governmental Authority for the account of any Lender pursuant to Section 10.1 and, in each case, such Lender has declined or is unable to designate a different lending office in accordance with Section 10.2(a), or if any Lender is a Non-Consenting Lender, then the Borrowers may, at their sole expense and effort, upon notice to such Lender and the Administrative Agent, require such Lender to assign and delegate, without recourse (in accordance with and subject to the restrictions contained in, and consents required by, Section 10.9(b)), all of its interests, rights (other than its existing rights to payments pursuant to Section 8.4 or Section 10.1) and obligations under this Agreement and the related Loan Documents to an Eligible Assignee that shall assume such obligations (which assignee may be another Lender, if a Lender accepts such assignment); *provided* that:

(i) the Borrowers shall have paid to the Administrative Agent the assignment fee (if any) specified in Section 10.9(b)(iv);

(ii) such Lender shall have received payment of an amount equal to the outstanding principal of its Loans, accrued interest thereon, accrued fees and all other amounts payable to it hereunder and under the other Loan Documents from the assignee (to the extent of such outstanding principal and accrued interest and fees) or the Borrowers (in the case of all other amounts);

(iii) in the case of any such assignment resulting from a claim for compensation under Section 8.4 or payments required to be made pursuant to Section 10.1 such assignment will result in a reduction in such compensation or payments thereafter;

(iv) such assignment does not conflict with applicable law; and

(v) in the case of any assignment resulting from a Lender becoming a Non-Consenting Lender, the applicable Eligible Assignee shall have consented to the applicable amendment, waiver or consent.

**Section 10.3 No Waiver, Cumulative Remedies.** No delay or failure on the part of the Administrative Agent or any Lender or on the part of the holder or holders of any of the Obligations in the exercise of any power or right under any Loan Document shall operate as a waiver thereof or as an acquiescence in any default, nor shall any single or partial exercise of any power or right preclude any other or further exercise thereof or the exercise of any other power or right. The rights and remedies hereunder of the Administrative Agent, the Lenders and of the holder or holders of any of the Obligations are cumulative to, and not exclusive of, any rights or remedies which any of them would otherwise have.

**Section 10.4 Non-Business Days.** If the payment of any obligation or the performance of any covenant, duty or obligation hereunder becomes due and payable on a day which is not a Business Day, the due date of such payment or performance shall be extended to the next succeeding Business Day on which

date such payment or performance shall be due and payable. In the case of any payment of principal falling due on a day which is not a Business Day, interest on such principal amount shall continue to accrue during such extension at the rate per annum then in effect, which accrued amount shall be due and payable on the next scheduled date for the payment of interest.

**Section 10.5 Survival of Representations.** All representations and warranties made herein or in any other Loan Document or in certificates given pursuant hereto or thereto shall survive the execution and delivery of this Agreement and the other Loan Documents, and shall continue in full force and effect with respect to the date as of which they were made as long as any Lender has any Commitment hereunder or any Obligations (other than contingent obligations not due and owing) remain unpaid hereunder.

**Section 10.6 Survival of Indemnities.** All indemnities and other provisions relative to reimbursement to the Lenders of amounts sufficient to protect the yield of the Lenders with respect to the Loans, including, but not limited to, Sections 8.4, 10.4 and 10.13, shall survive the termination of this Agreement and the other Loan Documents and the payment of the Obligations (other than contingent obligations not due and owing).

**Section 10.7 Sharing of Payments by Lenders.** If any Lender shall, by exercising any right of setoff or counterclaim or otherwise, obtain payment in respect of any principal of or interest on any of its Loans or other Obligations hereunder resulting in such Lender receiving payment of a proportion of the aggregate amount of its Loans and accrued interest thereon or other such Obligations greater than its *pro rata* share thereof as provided herein, then the Lender receiving such greater proportion shall (a) notify the Administrative Agent of such fact, and (b) purchase (for cash at face value) participations in the Loans and such other obligations of the other Lenders, or make such other adjustments as shall be equitable, so that the benefit of all such payments shall be shared by the Lenders ratably in accordance with the aggregate amount of principal of and accrued interest on their respective Loans and other amounts owing them; *provided that*:

(i) if any such participations are purchased and all or any portion of the payment giving rise thereto is recovered, such participations shall be rescinded and the purchase price restored to the extent of such recovery, without interest; and

(ii) the provisions of this clause (ii) shall not be construed to apply to (x) any payment made by the Borrowers pursuant to and in accordance with the express terms of this Agreement, or (y) any payment obtained by a Lender as consideration for the assignment of or sale of a participation in any of its Loans to any assignee or participant, other than to any Loan Party (as to which the provisions of this clause (ii) shall apply).

Each Loan Party consents to the foregoing and agrees, to the extent it may effectively do so under applicable law, that any Lender acquiring a participation pursuant to the foregoing arrangements may exercise against each Loan Party rights of setoff and counterclaim with respect to such participation as fully as if such Lender were a direct creditor of each Loan Party in the amount of such participation.

**Section 10.8 Notices; Effectiveness; Electronic Communication.** (a) *Notices Generally.* Except in the case of notices and other communications expressly permitted to be given by telephone (and except as provided in Section 10.8(b) below), all notices and other communications provided for herein shall be in writing and shall be delivered by hand or overnight courier service, mailed by certified or registered mail or sent by electronic mail as follows:

(i) if to any Loan Party:

MGTF Radio Company, LLC  
650 Smithfield Street, Suite 2200  
Pittsburgh, Pennsylvania 15222  
Attention: Michael, Gregg and Todd Frischling  
Telephone: (412) 316-3342  
Email: [mfrisch@steelcitymedia.com](mailto:mfrisch@steelcitymedia.com) and  
[gfrisch@steelcitymedia.com](mailto:gfrisch@steelcitymedia.com)

With a copy to:

Carmody MacDonald  
120 S. Central Avenue  
Suite 1800  
St. Louis, MO 63105  
Attention: Robert E. Eggmann  
Telephone: (314) 854-8638  
Email: [ree@carmodymacdonald.com](mailto:ree@carmodymacdonald.com)

(ii) if to the Administrative Agent or a Lender:

BSP Agency, LLC  
9 West 57th Street  
Suite 4920  
New York, New York 10019  
Attention: Franklin Leong  
Telephone: (212) 588-6728  
Email: [fleong@benefitstreetpartners.com](mailto:fleong@benefitstreetpartners.com)

With a copy to:

Moore & Van Allen PLLC  
100 North Tryon Street  
Suite 4700  
Charlotte, NC 28202  
Attn: Alan Pope  
Telephone: (704) 331-1014  
Email: [alanpope@mvalaw.com](mailto:alanpope@mvalaw.com)

Notices sent by hand or overnight courier service, or mailed by certified or registered mail, shall be deemed to have been given when received; notices sent by facsimile shall be deemed to have been given when sent (except that, if not given during normal business hours for the recipient, shall be deemed to have been given at the opening of business on the next business day for the recipient). Notices delivered through electronic communications, to the extent provided in Section 10.8(b) below, shall be effective as provided in said Section 10.8(b).

(b) *Electronic Communications.* Notices and other communications to the Lenders hereunder may be delivered or furnished by electronic communication (including e-mail and Internet or intranet websites) pursuant to procedures approved by the Administrative Agent. The Administrative Agent or the Borrowers may, in their discretion, agree to accept notices and other communications to it hereunder by electronic communications pursuant to procedures approved by

it, *provided* that approval of such procedures may be limited to particular notices or communications.

Unless the Administrative Agent otherwise prescribes, (i) notices and other communications sent to an e-mail address shall be deemed received upon the sender's receipt of an acknowledgement from the intended recipient (such as by the "return receipt requested" function, as available, return e-mail or other written acknowledgement), and (ii) notices or communications posted to an Internet or intranet website shall be deemed received upon the deemed receipt by the intended recipient, at its e-mail address as described in the foregoing clause (i), of notification that such notice or communication is available and identifying the website address therefore, *provided* that, for both clauses (i) and (ii) above, if such notice, email or other communication is not sent during the normal business hours of the recipient, such notice, email or communication shall be deemed to have been sent at the opening of business on the next business day for the recipient.

(c) *Change of Address, Etc.* Any party hereto may change its address or facsimile number for notices and other communications hereunder by written notice to the other parties hereto. In addition, each Lender agrees to notify the Administrative Agent from time to time to ensure that the Administrative Agent has on record (i) an effective address, contact name, telephone number, facsimile number and electronic mail address to which notices and other communications may be sent and (ii) accurate wire instructions for such Lender.

(d) *Platform.*

(i) Each Loan Party agrees that the Administrative Agent may, but is not obligated to, make the Communications (as defined below) available to the the Lenders by posting the Communications on Debt Domain, Intralinks, Syndtrak or a substantially similar electronic transmission system (the "*Platform*").

(ii) The Platform is provided "as is" and "as available." The Administrative Agent and its Related Parties do not warrant the adequacy of the Platform and expressly disclaim liability for errors or omissions in the Communications. No warranty of any kind, express, implied or statutory, including any warranty of merchantability, fitness for a particular purpose, non-infringement of third-party rights or freedom from viruses or other code defects, is made by the Administrative Agent or any of its Related Parties in connection with the Communications or the Platform. In no event shall the Administrative Agent or any of its Related Parties have any liability to the Loan Parties or any of their Subsidiaries, any Lender or any other Person or entity for damages of any kind, including direct or indirect, special, incidental or consequential damages, losses or expenses (whether in tort, contract or otherwise) arising out of any Loan Party's or the Administrative Agent's transmission of Communications through the Platform. "*Communications*" means, collectively, any notice, demand, communication, information, document or other material that any Loan Party provides to the Administrative Agent pursuant to any Loan Document or the transactions contemplated therein which is distributed to the Administrative Agent or Lenders by means of electronic communications pursuant to this Section 10.8, including through the Platform.

#### **Section 10.9 Successors and Assigns; Assignments and Participations.**

(a) *Successors and Assigns Generally.* The provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns permitted hereby, except that the Borrowers may not assign or otherwise transfer any of its

rights or obligations under any Loan Document without the prior written consent of the Administrative Agent and each Lender, and no Lender may assign or otherwise transfer any of its rights or obligations hereunder except (i) to an Eligible Assignee in accordance with the provisions of Section 10.9(b) below, (ii) by way of participation in accordance with the provisions of Section 10.9(d) below or (iii) by way of pledge or assignment of a security interest subject to the restrictions of Section 10.9(f) below (and any other attempted assignment or transfer by any party hereto shall be null and void). Nothing in this Agreement, expressed or implied, shall be construed to confer upon any Person (other than the parties hereto, their respective successors and assigns permitted hereby, Participants to the extent provided in Section 10.9(d) below and, to the extent expressly contemplated hereby, the Related Parties of each of the Administrative Agent and the Lenders) any legal or equitable right, remedy or claim under or by reason of this Agreement.

(b) *Assignments by Lenders.* Any Lender may at any time assign to one or more Eligible Assignees all or a portion of its rights and obligations under this Agreement (including all or a portion of its Commitment(s) and the Loans at the time owing to it); *provided* that (in each instance with respect to any Credit) any such assignment shall be subject to the following conditions:

(i) *Minimum Amounts.*

(A) In the case of an assignment of the entire remaining amount of the assigning Lender's Commitment(s) and/or the Loans at the time owing to it (in each instance with respect to any Credit) or contemporaneous assignments to related Approved Funds that equal at least the amount specified in Section 10.9(b)(i)(B) below in the aggregate or in the case of an assignment to a Lender, an Affiliate of a Lender or an Approved Fund, no minimum amount need be assigned; and

(B) In any case of an assignment not described in Section 10.9(b)(i)(A) above, the aggregate amount of the Commitment(s) (which for this purpose includes Loans outstanding thereunder) or, if the applicable Commitment is not then in effect, the principal outstanding balance of the Loans of the assigning Lender subject to each such assignment (determined as of the date the Assignment and Assumption with respect to such assignment is delivered to the Administrative Agent or, if "Trade Date" is specified in the Assignment and Assumption, as of the Trade Date) shall not be less than \$1,000,000, in the case of any assignment in respect of the Term Credit, unless the Administrative Agent otherwise consents (such consent not to be unreasonably withheld or delayed).

(ii) *Proportionate Amounts.* Each partial assignment shall be made as an assignment of a proportionate part of all the assigning Lender's rights and obligations under this Agreement with respect to the Loan or the Commitment assigned, except that this clause (ii) shall not prohibit any Lender from assigning all or a portion of its rights and obligations among separate Credits on a non-pro rata basis.

(iii) *Required Consents.* No consent shall be required for any assignment except to the extent required by Section 10.9(b)(i)(B) above; *provided, however*, at all times prior to the first (1st) anniversary of the Closing Date, the consent of the Borrowers (such consent not to be unreasonably withheld or delayed) shall be required unless (x) a Default or Event of Default has occurred and is continuing at the time of such assignment, or (y) such assignment is to a Lender, an Affiliate of a Lender or an Approved Fund,



provided that the Borrowers shall be deemed to have consented to any such assignment unless it shall object thereto by written notice to the Administrative Agent within five (5) Business Days after having received notice thereof;

(iv) *Assignment and Assumption.* The parties to each assignment shall execute and deliver to the Administrative Agent an Assignment and Assumption, together with a processing and recordation fee of \$3,500; *provided* that the Administrative Agent may, in its sole discretion, elect to waive such processing and recordation fee in the case of any assignment. The Eligible Assignee, if it shall not be a Lender, an Affiliate of a Lender, or an Approved Fund with respect to a Lender, shall deliver to the Administrative Agent an Administrative Questionnaire.

(v) *No Assignment to Certain Persons.* No Lender shall assign any of its rights or obligations hereunder to (A) the Borrowers or any Borrower's Affiliates or Subsidiaries, or (B) any Person who, upon becoming a Lender hereunder, would constitute any of the foregoing Persons described in this clause (v).

(vi) *No Assignment to Natural Persons.* No such assignment shall be made to a natural person.

Subject to acceptance and recording thereof by the Administrative Agent pursuant to Section 10.9(c), from and after the effective date specified in each Assignment and Assumption, the Eligible Assignee thereunder shall be a party to this Agreement and, to the extent of the interest assigned by such Assignment and Assumption, have the rights and obligations of a Lender under this Agreement, and the assigning Lender thereunder shall, to the extent of the interest assigned by such Assignment and Assumption, be released from its obligations under this Agreement (and, in the case of an Assignment and Assumption covering all of the assigning Lender's rights and obligations under this Agreement, such Lender shall cease to be a party hereto) but shall continue to be entitled to the benefits of Sections 8.4 and 10.12 with respect to facts and circumstances occurring prior to the effective date of such assignment. Any assignment or transfer by a Lender of rights or obligations under this Agreement that does not comply with this paragraph shall be treated for purposes of this Agreement as a sale by such Lender of a participation in such rights and obligations in accordance with Section 10.9(d) below.

(c) *Register.* The Administrative Agent, acting solely for this purpose as an agent of the Borrowers (such agency being solely for tax purposes), shall maintain a copy of each Assignment and Assumption delivered to it and a register for the recordation of the names and addresses of the Lenders, and the Commitment(s) of, and principal amounts (and stated interest) of the Loans owing to, each Lender pursuant to the terms hereof from time to time (the "*Register*"). The entries in the Register shall be conclusive absent manifest error, and the Borrowers, the Administrative Agent and the Lenders shall treat each Person whose name is recorded in the Register pursuant to the terms hereof as a Lender hereunder for all purposes of this Agreement. The Register shall be available for inspection by the Borrowers and any Lender, at any reasonable time and from time to time upon reasonable prior notice.

(d) *Participations.* Any Lender may at any time, without the consent of, or notice to, the Borrowers or the Administrative Agent, sell participations to any Person (other than a natural person or the Borrowers or any Borrower's Affiliates or Subsidiaries) (each, a "*Participant*") in all or a portion of such Lender's rights and/or obligations under this Agreement (including all or a portion of its Commitment(s) and/or the Loans owing to it); *provided* that (i) such Lender's obligations under this Agreement shall remain unchanged, (ii) such Lender shall remain solely responsible to the other parties hereto for the performance of such obligations and (iii) the

Borrowers, the Administrative Agent and the Lenders shall continue to deal solely and directly with such Lender in connection with such Lender's rights and obligations under this Agreement. For the avoidance of doubt, each Lender shall be responsible for the indemnity under Section 10.12(c) with respect to any payments made by such Lender to its Participant(s).

Any agreement or instrument pursuant to which a Lender sells such a participation shall provide that such Lender shall retain the sole right to enforce this Agreement and to approve any amendment, modification or waiver of any provision of this Agreement; *provided* that such agreement or instrument may provide that such Lender will not, without the consent of the Participant, agree to any amendment, modification or waiver described in Section 10.10(i) and (ii) that affects such Participant. The Borrowers agree that each Participant shall be entitled to the benefits of Sections 8.4 and 10.1 to the same extent as if it were a Lender and had acquired its interest by assignment pursuant to Section 10.9(b) above; *provided* that such Participant (A) agrees to be subject to the provisions of Section 10.2 as if it were an assignee under Section 10.2(b) above; and (B) shall not be entitled to receive any greater payment under Section 8.4 or Section 10.1, with respect to any participation, than its participating Lender would have been entitled to receive, except to the extent such entitlement to receive a greater payment results from a Change in Law that occurs after the Participant acquired the applicable participation. Each Lender that sells a participation agrees, at the Borrowers' request and expense, to use reasonable efforts to cooperate with the Borrowers to effectuate the provisions of Section 10.2(b) with respect to any Participant. To the extent permitted by law, each Participant also shall be entitled to the benefits of Section 10.13 as though it were a Lender; *provided* that such Participant agrees to be subject to Section 10.7 as though it were a Lender. Each Lender that sells a participation shall, acting solely for this purpose as an agent of the Borrowers, maintain a register on which it enters the name and address of each Participant and the principal amounts (and stated interest) of each Participant's interest in the Loans or other obligations under the Loan Documents (the "*Participant Register*"); *provided* that no Lender shall have any obligation to disclose all or any portion of the Participant Register (including the identity of any Participant or any information relating to a Participant's interest in any Commitments, Loans, or its other Obligations under any Loan Document) to any Person except to the extent that such disclosure is necessary to establish that such Commitment, Loan, or other Obligation is in registered form under Section 5f.103-1(c) of the United States Treasury Regulations. The entries in the Participant Register shall be conclusive absent manifest error, and such Lender shall treat each Person whose name is recorded in the Participant Register as the owner of such participation for all purposes of this Agreement notwithstanding any notice to the contrary. For the avoidance of doubt, the Administrative Agent (in its capacity as Administrative Agent) shall have no responsibility for maintaining a Participant Register.

(e) *Certain Pledges.* Any Lender may at any time pledge or assign a security interest in all or any portion of its rights under this Agreement to secure obligations of such Lender, including any pledge or assignment to secure obligations to a Federal Reserve Bank; *provided* that no such pledge or assignment shall release such Lender from any of its obligations hereunder or substitute any such pledgee or assignee for such Lender as a party hereto.

(f) *Electronic Execution of Assignments.* The words "execution," "signed," "signature," and words of like import in any Assignment and Assumption shall be deemed to include electronic signatures or the keeping of records in electronic form, each of which shall be of the same legal effect, validity or enforceability as a manually executed signature or the use of a paper-based recordkeeping system, as the case may be, to the extent and as provided for in any applicable law, including the Federal Electronic Signatures in Global and National Commerce Act, the New York State Electronic Signatures and Records Act, or any other similar state laws based on the Uniform Electronic Transactions Act.

**Section 10.10 Amendments.** Any provision of this Agreement or the other Loan Documents may be amended or waived if, but only if, such amendment or waiver is in writing and is signed by (a) the Borrowers, (b) the Required Lenders (or the Administrative Agent with the consent of the Required Lenders), and (c) if the rights or duties of the Administrative Agent are affected thereby, the Administrative Agent; *provided* that:

(i) no amendment or waiver pursuant to this Section 10.10 shall (A) increase or extend any Commitment of any Lender without the consent of such Lender, (B) reduce or waive the amount of or postpone the date for any scheduled payment (but not including any mandatory prepayment) of any principal of or interest on any Loan (except in connection with the waiver of acceptability of any post-default increase in interest rates (which waiver shall be effective with the consent of the Required Lenders)) or of any fee payable hereunder without the consent of the Lender to which such payment is owing or (C) change the application of payments set forth in Section 2.9 without the consent of any Lender adversely affected thereby;

(ii) no amendment or waiver pursuant to this Section 10.10 shall, unless signed by each Lender, increase the aggregate Commitments of the Lenders, change the definition of Required Lenders, change the provisions of this Section 10.10, release any material Guarantor or all or substantially all of the Collateral (except as otherwise provided for in the Loan Documents), affect the number of Lenders required to take any action hereunder or under any other Loan Document, or change or waive any provision of any Loan Document that provides for the *pro rata* nature of disbursements or payments to Lenders; and

(iii) no amendment to Section 11 shall be made without the consent of the Guarantor(s) affected thereby.

Notwithstanding anything to the contrary herein, (i) any provision of this Agreement may be amended by an agreement in writing entered into by the Borrowers, the Required Lenders and the Administrative Agent if (A) by the terms of such agreement the Commitment of each Lender not consenting to the amendment provided for therein shall terminate upon the effectiveness of such amendment and (B) at the time such amendment becomes effective, each Lender not consenting thereto receives payment (including pursuant to an assignment to a replacement Lender in accordance with the terms herein) in full of the principal of and interest accrued on each Loan made by it and all other Obligations owing to it or accrued for its account under this Agreement, (ii) the Collateral Documents and related documents executed by the Loan Parties in connection with this Agreement may be in a form reasonably determined by the Administrative Agent and may be amended, modified, supplemented and waived with the consent of the Administrative Agent and the Borrowers without the need to obtain the consent of any other Person if such amendment, modification, supplement or waiver is delivered in order (A) to comply with local Legal Requirements (including any foreign law or regulatory requirement) or advice of local counsel, (B) to cure ambiguities, inconsistency, omissions, mistakes or defects, or (C) to cause such Collateral Document or other document to be consistent with this Agreement and the other Credit Documents and (iii) if following the Closing Date, the Administrative Agent and the Borrowers shall have jointly identified an ambiguity, inconsistency, obvious error, or mistake or any error, mistake or omission of a technical or immaterial nature, in each case, in any provision of the Loan Documents (other than the Collateral Documents), then the Administrative Agent and the Borrowers shall be permitted to amend such provision and such amendment shall become effective without any further action or consent of any other party to any Loan Documents if the same is not objected to in writing by the Required Lenders within 5 Business Days following receipt of notice thereof.

**Section 10.11 Headings.** Section headings used in this Agreement are for reference only and shall not affect the construction of this Agreement.

**Section 10.12 Expenses; Indemnity; Damage Waiver.**

(a) *Costs and Expenses.* The Borrowers shall pay (i) all reasonable out-of-pocket expenses incurred by the Administrative Agent and its Affiliates (including the reasonable fees, charges and disbursements of counsel for the Administrative Agent), in connection with the syndication of the Credits, the preparation, negotiation, execution, delivery and administration of this Agreement and the other Loan Documents, or any amendments, modifications or waivers of the provisions hereof or thereof (whether or not the transactions contemplated hereby or thereby shall be consummated), and (ii) all out-of-pocket expenses incurred by the Administrative Agent or any Lender (including the fees, charges and disbursements of any counsel for the Administrative Agent or any Lender), in connection with any Default or Event of Default hereunder or with the enforcement or protection of its rights (including all such expenses incurred in connection with any proceeding under the Bankruptcy Code involving any Loan Party or any of its Subsidiaries as a debtor thereunder) (A) in connection with this Agreement and the other Loan Documents, including its rights under this Section, or (B) in connection with the Loans made hereunder, including all such out-of-pocket expenses incurred during any workout, restructuring or negotiations in respect of such Loans.

(b) *Indemnification by the Borrower.* The Borrowers shall indemnify the Administrative Agent (and any sub-agent thereof) each Lender, and each Related Party of any of the foregoing Persons (each such Person being called an “Indemnatee”) against, and hold each Indemnatee harmless from, any and all Damages (including the fees, charges and disbursements of any counsel for any Indemnatee), incurred by any Indemnatee or asserted against any Indemnatee by any Person (including any Borrower or any Guarantor) other than such Indemnatee and its Related Parties arising out of, in connection with, or as a result of (i) the execution or delivery of this Agreement, any other Loan Document or any agreement or instrument contemplated hereby or thereby, the performance by the parties hereto of their respective obligations hereunder or thereunder or the consummation of the transactions contemplated hereby or thereby, (ii) any Loan or the use or proposed use of the proceeds therefrom, (iii) any actual or alleged violation of Environmental Laws, the presence, Release or threatened Release of Hazardous Materials on or from any property owned or operated by any Borrower or any of its Subsidiaries or at any off-site location for which any Borrower or any of its Subsidiaries may be liable, or any Environmental Claim related in any way to any Borrower or any of its Subsidiaries, or (iv) any actual or prospective claim, litigation, investigation or proceeding relating to any of the foregoing, whether based on contract, tort or any other theory, whether brought by a third party or by any Borrower or any Guarantor, and regardless of whether any Indemnatee is a party thereto, *provided* that such indemnity shall not, as to any Indemnatee, be available to the extent that such losses, claims, damages, liabilities or related expenses (x) are determined by a court of competent jurisdiction by final and nonappealable judgment to have resulted from the gross negligence or willful misconduct of such Indemnatee, or (y) result from a claim brought by any Borrower or any Guarantor against an Indemnatee for breach in bad faith of such Indemnatee’s obligations hereunder or under any other Loan Document, if such Borrower or such Guarantor has obtained a final and nonappealable judgment in its favor on such claim as determined by a court of competent jurisdiction. This Section 10.12(b) shall not apply with respect to Taxes other than any Taxes that represent losses or damages arising from any claim not related to any such Taxes.

(c) *Reimbursement by Lenders.* To the extent that the Borrowers for any reason fail to indefeasibly pay any amount required under Sections 10.12(a) or (b) to be paid by it to the

Administrative Agent (or any sub-agent thereof) or any Related Party of the Administrative Agent (or any sub-agent thereof), each Lender severally agrees to pay to the Administrative Agent (or any such sub-agent) or such Related Party, as the case may be, such Lender's Percentage (determined as of the time that the applicable unreimbursed expense or indemnity payment is sought) of such unpaid amount (including any such unpaid amount in respect of a claim asserted by such Lender); *provided*, that the unreimbursed expense or indemnified loss, claim, damage, liability or related expense, as the case may be, was incurred by or asserted against the Administrative Agent (or any such sub-agent) or against any Related Party of any of the foregoing acting for the Administrative Agent (or any such sub-agent) in connection with such capacity. The obligations of the Lenders under this Section 10.12(c) are several and not joint. The Administrative Agent shall be entitled to offset amounts received for the account of a Lender under this Agreement against unpaid amounts due from such Lender to the Administrative Agent hereunder (whether as fundings of participations, indemnities or otherwise), but shall not be entitled to offset against amounts owed to the Administrative Agent by any Lender arising outside of this Agreement and the other Loan Documents.

(d) *Waiver of Consequential Damages, Etc.* To the fullest extent permitted by applicable law, the Borrowers shall not assert, and hereby waive, any claim against any Indemnitee, on any theory of liability, for special, indirect, consequential or punitive damages (as opposed to direct or actual damages) arising out of, in connection with, or as a result of, this Agreement, any other Loan Document or any agreement or instrument contemplated hereby, the transactions contemplated hereby or thereby, any Loan, or the use of the proceeds thereof. No Indemnitee shall be liable for any damages arising from the use by unintended recipients of any information or other materials distributed by it through communications, electronic or other information transmission systems in connection with this Agreement or the other Loan Documents or the transactions contemplated hereby or thereby.

(e) *Payments.* All amounts due under this Section shall be payable after demand therefor.

(f) *Survival.* The obligations of the Borrowers under this Section shall survive the termination of this Agreement and the payment of Obligations hereunder.

**Section 10.13 Set-off.** If an Event of Default shall have occurred and be continuing, each Lender and each of its Affiliates is hereby authorized at any time and from time to time, to the fullest extent permitted by applicable law, to set off and apply any and all deposits (general or special, time or demand, provisional or final, in whatever currency) at any time held, and other obligations (in whatever currency) at any time owing, by such Lender or any such Affiliate, to or for the credit or the account of any Loan Party against any and all of the obligations of such Loan Party now or hereafter existing under this Agreement or any other Loan Document to such Lender or its Affiliates, irrespective of whether or not such Lender or Affiliate shall have made any demand under this Agreement or any other Loan Document and although such obligations of such Loan Party may be contingent or unmatured or are owed to a branch, office or Affiliate of such Lender different from the branch, office or Affiliate holding such deposit or obligated on such Indebtedness. The rights of each Lender and its Affiliates under this Section 10.13 are in addition to other rights and remedies (including other rights of setoff) that such Lender or its Affiliates may have. Each Lender agrees to notify the Borrowers and the Administrative Agent promptly after any such setoff and application; *provided* that the failure to give such notice shall not affect the validity of such setoff and application.

**Section 10.14 Governing Law; Jurisdiction; Etc.**



(a) *Governing Law.* THIS AGREEMENT AND THE OTHER LOAN DOCUMENTS AND ANY CLAIMS, CONTROVERSY, DISPUTE, OR CAUSE OF ACTION (WHETHER IN CONTRACT OR TORT OR OTHERWISE) BASED ON, ARISING OUT OF, OR RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT (EXCEPT, AS TO ANY OTHER LOAN DOCUMENT, AS EXPRESSLY SET FORTH THEREIN) AND THE TRANSACTIONS CONTEMPLATED HEREBY AND THEREBY SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAW OF THE STATE OF NEW YORK, WITHOUT REGARD TO CONFLICTS OF LAW PROVISIONS (OTHER THAN SECTIONS 5-1401 AND 5-1402 OF THE NEW YORK GENERAL OBLIGATIONS LAW).

(b) *Jurisdiction.* Each Loan Party irrevocably and unconditionally agrees that it will not commence any action, litigation or proceeding of any kind or description, whether in law or equity, whether in contract or in tort or otherwise, against the Administrative Agent, any Lender, or any Related Party of the foregoing in any way relating to this Agreement or any other Loan Document or the transactions relating hereto or thereto, in each case in any forum other than the courts of the State of New York sitting in New York County, and of the United States District Court of the Southern District of New York, and any appellate court from any thereof, and each of the parties hereto irrevocably and unconditionally submits to the non-exclusive jurisdiction of such courts and agrees that all claims in respect of any such action, litigation or proceeding may be heard and determined in such New York State court or, to the fullest extent permitted by applicable law, in such federal court. Each of the parties hereto agrees that a final judgment in any such action, litigation or proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by applicable Legal Requirements. Nothing in this Agreement or in any other Loan Document shall affect any right that the Administrative Agent or any Lender may otherwise have to bring any action or proceeding relating to this Agreement or any other Loan Document against any Loan Party or its properties in the courts of any jurisdiction.

(c) *Waiver of Venue.* Each Loan Party irrevocably and unconditionally waives, to the fullest extent permitted by applicable Legal Requirements, any objection that it may now or hereafter have to the laying of venue of any action or proceeding arising out of or relating to this Agreement or any other Loan Document in any court referred to in Section 10.14(b) above. Each of the parties hereto hereby irrevocably waives, to the fullest extent permitted by applicable Legal Requirements, the defense of an inconvenient forum to the maintenance of such action or proceeding in any such court.

(d) *Service of Process.* Each party hereto irrevocably consents to service of process in any action or proceeding arising out of or relating to any Loan Document, the manner provided for notices (other than telecopy or email) in Section 10.8. Nothing in this Agreement or any other Loan Document will affect the right of any party hereto to serve process in any other manner permitted by applicable Legal Requirements.

**Section 10.15 Severability of Provisions.** Any provision of any Loan Document which is unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such unenforceability without invalidating the remaining provisions hereof or affecting the validity or enforceability of such provision in any other jurisdiction. All rights, remedies and powers provided in this Agreement and the other Loan Documents may be exercised only to the extent that the exercise thereof does not violate any applicable mandatory provisions of law, and all the provisions of this Agreement and other Loan Documents are intended to be subject to all applicable mandatory provisions of law which may be controlling and to be limited to the extent necessary so that they will not render this Agreement or the other Loan Documents invalid or unenforceable.



**Section 10.16 Excess Interest.** Notwithstanding any provision to the contrary contained herein or in any other Loan Document, no such provision shall require the payment or permit the collection of any amount of interest in excess of the maximum amount of interest permitted by applicable law to be charged for the use or detention, or the forbearance in the collection, of all or any portion of the Loans or other obligations outstanding under this Agreement or any other Loan Document ("*Excess Interest*"). If any Excess Interest is provided for, or is adjudicated to be provided for, herein or in any other Loan Document, then in such event (a) the provisions of this Section shall govern and control, (b) no Loan Party nor any endorser shall be obligated to pay any Excess Interest, (c) any Excess Interest that the Administrative Agent or any Lender may have received hereunder shall, at the option of the Administrative Agent, be (i) applied as a credit against the then outstanding principal amount of Obligations hereunder and accrued and unpaid interest thereon (not to exceed the maximum amount permitted by applicable law), (ii) refunded to the Borrowers, or (iii) any combination of the foregoing, (d) the interest rate payable hereunder or under any other Loan Document shall be automatically subject to reduction to the maximum lawful contract rate allowed under applicable usury laws (the "*Maximum Rate*"), and this Agreement and the other Loan Documents shall be deemed to have been, and shall be, reformed and modified to reflect such reduction in the relevant interest rate, and (e) No Loan Party nor any endorser shall have any action against the Administrative Agent or any Lender for any Damages whatsoever arising out of the payment or collection of any Excess Interest. Notwithstanding the foregoing, if for any period of time interest on any of Borrowers' Obligations is calculated at the Maximum Rate rather than the applicable rate under this Agreement, and thereafter such applicable rate becomes less than the Maximum Rate, the rate of interest payable on the Borrowers' Obligations shall remain at the Maximum Rate until the Lenders have received the amount of interest which such Lenders would have received during such period on the Borrowers' Obligations had the rate of interest not been limited to the Maximum Rate during such period.

**Section 10.17 Construction.** The parties acknowledge and agree that the Loan Documents shall not be construed more favorably in favor of any party hereto based upon which party drafted the same, it being acknowledged that all parties hereto contributed substantially to the negotiation of the Loan Documents. The provisions of this Agreement relating to Subsidiaries and to Guarantors, respectively, shall apply only during such times as the Borrowers have one or more Subsidiaries and as there are one or more Guarantors, respectively. Nothing contained herein shall be deemed or construed to permit any act or omission which is prohibited by the terms of any Collateral Document, the covenants and agreements contained herein being in addition to and not in substitution for the covenants and agreements contained in the Collateral Documents.

**Section 10.18 Lender's Obligations Several.** The obligations of the Lenders hereunder are several and not joint. Nothing contained in this Agreement and no action taken by the Lenders pursuant hereto shall be deemed to constitute for the Lenders a partnership, association, joint venture or other entity.

**Section 10.19 USA Patriot Act.** Each Lender hereby notifies the Borrowers that pursuant to the requirements of the Patriot Act it is required to obtain, verify and record information that identifies the Borrowers, which information includes the name and address of each Borrower and other information that will allow such Lender to identify the Borrowers in accordance with the Patriot Act.

**Section 10.20 Waiver of Jury Trial.** EACH OF THE LOAN PARTIES, THE ADMINISTRATIVE AGENT, AND THE LENDERS HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY (WHETHER BASED ON CONTRACT, TORT OR ANY OTHER THEORY). EACH PARTY HERETO (A) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PERSON HAS REPRESENTED,

EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PERSON WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER AND (B) ACKNOWLEDGES THAT IT AND THE OTHER PARTIES HERETO HAVE BEEN INDUCED TO ENTER INTO THIS AGREEMENT AND THE OTHER LOAN DOCUMENTS BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION.

**Section 10.21 Treatment of Certain Information; Confidentiality.** Each of the Administrative Agent and the Lenders agrees to maintain the confidentiality of the Information (as defined below), except that Information may be disclosed (a) to its Affiliates and to its Related Parties (it being understood that the Persons to whom such disclosure is made will be informed of the confidential nature of such Information and instructed to keep such Information confidential), (b) to the extent required or requested by any regulatory authority purporting to have jurisdiction over such Person or its Related Parties (including any self-regulatory authority, such as the National Association of Insurance Commissioners), (c) to the extent required by applicable laws or regulations or by any subpoena or similar legal process, (d) to any other party hereto, (e) in connection with the exercise of any remedies hereunder or under any other Loan Document or any action or proceeding relating to this Agreement or any other Loan Document or the enforcement of rights hereunder or thereunder, (f) subject to an agreement containing provisions substantially the same as those of this Section 10.21, to any assignee of or Participant in, or any prospective assignee of or Participant in, any of its rights and obligations under this Agreement, (g) on a confidential basis to (i) any rating agency in connection with rating the Loan Parties or the Credits or (ii) the CUSIP Service Bureau or any similar agency in connection with the issuance and monitoring of CUSIP numbers with respect to the Credits, (h) with the consent of the Borrowers, or (i) to the extent such Information (A) becomes publicly available other than as a result of a breach of this Section 10.21 or (B) becomes available to the Administrative Agent, any Lender, or any of their respective Affiliates on a nonconfidential basis from a source other than the Borrowers.

For purposes of this Section, “*Information*” means all information received from any Loan Party relating to the Loan Parties or any of their respective businesses, other than any such information that is available to the Administrative Agent or any Lender on a nonconfidential basis prior to disclosure by any Loan Party or any of its Subsidiaries, *provided* that, in the case of information received from any Loan Party or any of its Subsidiaries after the date hereof, such information is clearly identified at the time of delivery as confidential. Any Person required to maintain the confidentiality of Information as provided in this Section 10.21 shall be considered to have complied with its obligation to do so if such Person has exercised the same degree of care to maintain the confidentiality of such Information as such Person would accord to its own confidential information.

**Section 10.22 Counterparts; Integration; Effectiveness.** This Agreement may be executed in counterparts (and by different parties hereto in different counterparts), each of which shall constitute an original, but all of which when taken together shall constitute a single contract. This Agreement and the other Loan Documents, and any separate letter agreements with respect to fees payable to the Administrative Agent, constitute the entire contract among the parties relating to the subject matter hereof and supersede any and all previous agreements and understandings, oral or written, relating to the subject matter hereof. Except as provided in Section 3.2, this Agreement shall become effective when it shall have been executed by the Administrative Agent and when the Administrative Agent shall have received counterparts hereof that, when taken together, bear the signatures of each of the other parties hereto. Delivery of an executed counterpart of a signature page of this Agreement by facsimile or in electronic (*e.g.* “pdf” or “tif”) format shall be effective as delivery of a manually executed counterpart of this Agreement.

**Section 10.23 Joint and Several Obligations.** Each Borrower hereby unconditionally and irrevocably agrees it is joint and severally liable to the Administrative Agent and the Lenders for the Secured Obligations arising under this Agreement and the Loan Documents, including those amounts due

under Sections 8.4 and 10.12. In furtherance thereof, each Borrower agrees that wherever in this Agreement it is provided that a Borrower is liable for a payment, such obligation is the joint and several obligation of each Borrower. Each Borrower acknowledges and agrees that its joint and several liability under this Agreement and the Loan Documents is absolute and unconditional and shall not in any manner be affected or impaired by any acts or omissions whatsoever by the Administrative Agent or the Lenders. Each Borrower's liability for the Secured Obligations arising under this Agreement and the Loan Documents shall not in any manner be impaired or affected by who receives or uses the proceeds of the Loans or other extensions of credit or for what purpose the proceeds are used, and each Borrower waives notice of loans made to other Borrowers. Each Borrower hereby agrees not to exercise or enforce any right of exoneration, contribution, reimbursement, recourse or subrogation available to such Borrower against any party liable for payment under this Agreement and the Loan Documents unless and until the Facility Termination Date. Each Borrower's joint and several liability hereunder with respect to the Secured Obligations shall, to the fullest extent permitted by applicable law, be the unconditional liability of such Borrower irrespective of (i) the validity, enforceability, avoidance or subordination of any of the Secured Obligations or of any other document evidencing all or any part of the Secured Obligations, (ii) the absence of any attempt to collect any of the Secured Obligations from any other Loan Party or any Collateral or other security therefor, or the absence of any other action to enforce the same, (iii) the amendment, modification, waiver, consent, extension, forbearance or granting of any indulgence by Administrative Agent or any Lender with respect to any provision of any instrument executed by any other Loan Party evidencing or securing the payment of any of the Secured Obligations, or any other agreement now or hereafter executed by any other Loan Party and delivered to Administrative Agent or any Lender, (iv) the failure by Administrative Agent to take any steps to perfect or maintain the perfected status of its security interest in or Lien upon, or to preserve its rights to, any of the Collateral or other security for the payment or performance of any of the Secured Obligations or Administrative Agent's release of any Collateral or of its Liens upon any Collateral, (v) the release or compromise, in whole or in part, of the liability of any other Loan Party for the payment of any of the Secured Obligations, (vi) any increase in the amount of the Secured Obligations beyond any limits imposed herein or in the amount of any interest, fees or other charges payable in connection therewith, in each case, if consented to by any other Borrower, or any decrease in the same, or (vii) any other circumstance that might constitute a legal or equitable discharge or defense of any Loan Party. After the occurrence and during the continuance of any Event of Default, Administrative Agent may proceed directly and at once, without notice to any Borrower, against any or all of Loan Parties to collect and recover all or any part of the Secured Obligations, without first proceeding against any other Loan Party or against any Collateral or other security for the payment or performance of any of the Secured Obligations, and each Borrower waives any provision that might otherwise require Administrative Agent under applicable law to pursue or exhaust its remedies against any Collateral or other Loan Party before pursuing such Borrower or its Property. Each Borrower consents and agrees that Administrative Agent shall be under no obligation to marshal any assets in favor of any Loan Party or against or in payment of any or all of the Secured Obligations.

## **SECTION 11. THE GUARANTEES.**

**Section 11.1 The Guarantees.** To induce the Lenders to provide the credits described herein and in consideration of benefits expected to accrue to the Borrowers by reason of the Commitments and the Loans and for other good and valuable consideration, receipt of which is hereby acknowledged, each Subsidiary party hereto (including any Subsidiary executing an Additional Guarantor Supplement substantially in the form attached hereto as Exhibit D or such other form reasonably acceptable to the Administrative Agent) and the Borrowers (as to the Secured Obligations of another Loan Party) hereby unconditionally and irrevocably guarantees jointly and severally to the Administrative Agent and the Lenders the due and punctual payment of all present and future Secured Obligations, including, but not limited to, the due and punctual payment of principal of and interest on the Loans and the due and punctual payment of all other Obligations now or hereafter owed by the Borrowers under the Loan Documents, in

each case as and when the same shall become due and payable, whether at stated maturity, by acceleration, or otherwise, according to the terms hereof and thereof (including all interest, costs, fees, and charges after the entry of an order for relief against any Borrower or such other obligor in a case under the Bankruptcy Code or any similar proceeding, whether or not such interest, costs, fees and charges would be an allowed claim against any Borrower or any such obligor in any such proceeding). In case of failure by any Borrower or other obligor punctually to pay any Secured Obligations guaranteed hereby, each Guarantor hereby unconditionally, jointly and severally agrees to make such payment or to cause such payment to be made punctually as and when the same shall become due and payable, whether at stated maturity, by acceleration, or otherwise, and as if such payment were made by such Borrower or such obligor.

**Section 11.2 Guarantee Unconditional.** The obligations of each Guarantor under this Section 11 shall be unconditional and absolute and, without limiting the generality of the foregoing, shall not be released, discharged, or otherwise affected by:

- (a) any extension, renewal, settlement, compromise, waiver, or release in respect of any obligation of any Loan Party or other obligor or of any other guarantor under this Agreement or any other Loan Document or by operation of law or otherwise;
- (b) any modification or amendment of or supplement to this Agreement or any other Loan Document;
- (c) any change in the corporate existence, structure, or ownership of, or any proceeding under any Debtor Relief Law affecting, any Borrower or other obligor, any other guarantor, or any of their respective assets, or any resulting release or discharge of any obligation of any Loan Party or other obligor or of any other guarantor contained in any Loan Document;
- (d) the existence of any claim, set-off, or other rights which any Loan Party or other obligor or any other guarantor may have at any time against the Administrative Agent, any Lender, or any other Person, whether or not arising in connection herewith;
- (e) any failure to assert, or any assertion of, any claim or demand or any exercise of, or failure to exercise, any rights or remedies against any Loan Party or other obligor, any other guarantor, or any other Person or Property;
- (f) any application of any sums by rights of set-off, counterclaim, or similar rights to any obligation of any Loan Party or other obligor, regardless of what obligations of any Loan Party or other obligor remain unpaid, including the Secured Obligations;
- (g) any invalidity or unenforceability relating to or against any Loan Party or other obligor or any other guarantor for any reason of this Agreement or of any other Loan Document or any provision of applicable law or regulation purporting to prohibit the payment by any Loan Party or other obligor or any other guarantor of the principal of or interest on any Loan or any other amount payable under the Loan Documents; or
- (h) any other act or omission to act or delay of any kind by the Administrative Agent, any Lender, or any other Person or any other circumstance whatsoever that might, but for the provisions of this clause (h), constitute a legal or equitable discharge of the obligations of any Guarantor under this Section 11.

**Section 11.3 Discharge Only upon Facility Termination Date; Reinstatement in Certain Circumstances.** Each Guarantor's obligations under this Section 11 shall remain in full force and effect

until the Facility Termination Date. If at any time any payment of the principal of or interest on any Loan or any other amount payable by any Loan Party or other obligor or any Guarantor under the Loan Documents is rescinded or must be otherwise restored or returned upon the insolvency, bankruptcy, or reorganization of such Loan Party or other obligor or of any guarantor, or otherwise, each Guarantor's obligations under this Section 11 with respect to such payment shall be reinstated at such time as though such payment had become due but had not been made at such time.

**Section 11.4 Subrogation.** Each Guarantor agrees it will not exercise any rights which it may acquire by way of subrogation by any payment made hereunder, or otherwise, until all the Secured Obligations (other than any contingent or indemnification obligations not then due) shall have been paid in full or collateralized in a manner reasonably acceptable to the Lender or Affiliate of a Lender to whom such obligations are owed subsequent to the termination of all the Commitments. If any amount shall be paid to a Guarantor on account of such subrogation rights at any time prior to the Facility Termination date, such amount shall be held in trust for the benefit of the Administrative Agent and the Lenders (and their Affiliates) and shall forthwith be paid to the Administrative Agent for the benefit of the Lenders (and their Affiliates) or be credited and applied upon the Secured Obligations, whether matured or unmatured, in accordance with the terms of this Agreement.

**Section 11.5 Subordination.** Each Guarantor hereby subordinates the payment of all indebtedness, obligations, and liabilities of any Borrower or any other Loan Party owing to such Guarantor, whether now existing or hereafter arising, to the indefeasible payment in full in cash of all Secured Obligations (other than any contingent obligations not due and owing). During the existence of any Event of Default, subject to Section 11.4 above, any such indebtedness, obligation, or liability of any Borrower or any other Loan Party owing to such Guarantor shall be enforced and performance received by such Guarantor as trustee for the benefit of the holders of the Secured Obligations and the proceeds thereof shall be paid over to the Administrative Agent for application to the Secured Obligations (whether or not then due), but without reducing or affecting in any manner the liability of such Guarantor under this Section 11.

**Section 11.6 Waivers.** Each Guarantor irrevocably waives acceptance hereof, presentment, demand, protest, and any notice not provided for herein, as well as any requirement that at any time any action be taken by the Administrative Agent, any Lender, or any other Person against any Borrower or any other Loan Party or other obligor, another guarantor, or any other Person.

**Section 11.7 Limit on Recovery.** Notwithstanding any other provision hereof, the right of recovery against each Guarantor under this Section 11 shall not exceed \$1.00 less than the lowest amount which would render such Guarantor's obligations under this Section 11 void or voidable under applicable law, including fraudulent conveyance law.

**Section 11.8 Stay of Acceleration.** If acceleration of the time for payment of any amount payable by any Borrower or other Loan Party or other obligor under this Agreement or any other Loan Document is stayed upon the insolvency, bankruptcy or reorganization of such Borrower or such other Loan Party or obligor, all such amounts otherwise subject to acceleration under the terms of this Agreement or the other Loan Documents shall nonetheless be payable by the Guarantors hereunder forthwith on demand by the Administrative Agent made at the request or otherwise with the consent of the Required Lenders.

**Section 11.9 Benefit to Guarantors.** The Loan Parties are engaged in related businesses and integrated to such an extent that the financial strength and flexibility of the Borrowers and the other Loan Parties has a direct impact on the success of each Guarantor. Each Guarantor will derive substantial direct and indirect benefit from the extensions of credit hereunder, and each Guarantor acknowledges that this guarantee is necessary or convenient to the conduct, promotion and attainment of its business.

**Section 11.10 [Reserved].**

**Section 11.11 Guarantor Covenants.** Each Guarantor shall take such action as the Borrowers are required by this Agreement to cause such Guarantor to take, and shall refrain from taking such action as the Borrowers are required by this Agreement to prohibit such Guarantor from taking.

[SIGNATURE PAGES TO FOLLOW]



This Agreement is entered into between us for the uses and purposes hereinabove set forth as of the date first above written.

***“BORROWERS”***

**WPNT, LLC**

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

**MGTF RADIO COMPANY, LLC**

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

***“ADMINISTRATIVE AGENT”***

**BSP AGENCY, LLC,  
as Administrative Agent**

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

***“LENDERS”***

**BUSINESS DEVELOPMENT CORPORATION OF  
AMERICA, as a Lender**

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

## CONTRIBUTION AGREEMENT

This Contribution Agreement (“**Agreement**”) is dated as of [\_\_\_\_\_, 2019] (the “**Effective Date**”), by and among MGTF HOLDCO, LLC, a Delaware limited liability company (“**Company**”); MICHAEL J. FRISCHLING, GREGG J. FRISCHLING, and TODD FRISCHLING (collectively the “**Member Group**”). The members within the Member Group shall individually be referred to as a “**Member**” from time to time.

- A. The Member Group owns all of the issued and outstanding units of MGTF Radio Company, LLC, a Missouri limited liability company (“**MGTF**”).
- B. The Company was formed on [\_\_\_\_\_, 2019].
- C. Subject to the terms and conditions set forth herein, and simultaneously with the formation of the Company, each Member in the Member Group wishes to contribute all of his, her or its respective units in MGTF to the Company as an initial capital contribution in return for the issuance of units in Company.
- D. The contribution pursuant to this Agreement is intended to be a part of an “F” reorganization of MGTF for US federal income tax purposes.

**NOW, THEREFORE**, in consideration of the mutual promises and agreements herein contained, the delivery, receipt, adequacy and sufficiency of which is hereby acknowledged, the parties hereto hereby agree as follows:

### ARTICLE 1

#### CONTRIBUTION OF UNITS OF MGTF RADIO COMPANY, LLC.; ISSUANCE OF UNITS BY COMPANY; CAPITAL CONTRIBUTION

- 1.1 Contribution of Units in MGTF.** As of the Effective Date and in exchange for units of the Company, the Member Group hereby contributes, grants, assigns, transfer, and delivers unto Company, and Company hereby accepts from the Member Group, all of the Member Group’s right, title and interest in and to all of the units of MGTF owned by the Member Group, which constitutes 100% of the issued and outstanding units of MGTF.
- 1.2 Capital Contribution.** Effective as of the date hereof, Company shall reflect the contribution of the units of MGTF by the Member Group to Company as the capital contribution made in exchange for units of the Company on its books and records.
- 1.3 Deliveries to Effectuate the Transaction.**
  - (a) On or before the Effective Date, each Member of the Member Group shall have executed and delivered or caused to be delivered unit powers for their respective units in MGTF, executed in blank.
  - (b) The parties hereto hereby agree to, from time to time, upon reasonable request, execute and deliver such other instruments of conveyance and transfer and take such other actions as may be reasonably necessary to more effectively consummate the transactions contemplated hereby.
- 1.4 Closing.** The transactions contemplated hereby shall be closed and effective as of the Effective Date.

## **ARTICLE 2**

### **REPRESENTATIONS AND WARRANTIES OF THE MEMBER GROUP**

Each Member in the Member Group hereby makes the following representations and warranties to Company, which are true, accurate and complete at the date hereof:

**2.1 Ownership.** Each Member in the Member Group is the lawful record owner of his, her or its respective units of MGTF, has good title to such units free and clear of any and all liens, encumbrances, security agreements, equities, options, claims or charges. Except as established by the Trustee in Bankruptcy, there are no existing options, calls or commitments of any character whatsoever, or agreements to grant the same, relating to such units.

**2.3 Authority; Litigation.** Each of the Members in the Member Group has the power and authority to execute and deliver this Agreement and to consummate the transactions contemplated hereby.

**2.4 No Violations.** The consummation of the transactions contemplated by this Agreement will not result in or constitute a default or event that, with notice, lapse of time or both, or the occurrence or non-occurrence of any other event would be a default, breach or violation of any contract, agreement, commitment, indenture, mortgage, deed of trust, or other agreement, instrument or arrangement to which any Member in the Member Group is a party.

## **ARTICLE 3**

### **REPRESENTATIONS AND WARRANTIES OF COMPANY**

Company hereby makes the following representations and warranties to the Member Group, which are true, accurate and complete at the date hereof:

**3.1 Organization.** Company is a limited liability company duly organized, validly existing, and in good standing under the laws of the State of Delaware.

**3.2 Authority; Litigation.** Company has the power and authority to execute and deliver this Agreement and to consummate the transactions contemplated hereby. The execution and delivery by Company of this Agreement and all other documents necessary to consummate the transactions contemplated hereby, have been duly authorized; no other proceedings on the part of any other person or entity whether pursuant to the Articles of Organization or Operating Agreement of Company or by law or otherwise, are necessary to authorize Company to enter into this Agreement and all other documents necessary to consummate the transactions contemplated hereby. There are no actions, suits or proceedings pending or, to Company's current actual knowledge, threatened before or by any court, arbitrator or governmental body against or involving Company or its affiliates or affecting this Agreement or the transactions contemplated hereby which, individually or in the aggregate, if adversely determined, might have a materially adverse effect on the validity of this Agreement.

**3.3 No Violations.** The consummation of the transactions contemplated by this Agreement will not result in or constitute a default or event that, with notice, lapse of time or both, or the occurrence or non-occurrence of any other event would be a default, breach or violation of any contract, agreement, commitment, indenture,

mortgage, deed of trust, or other agreement, instrument or arrangement to which Company or its affiliates is a party.

#### **ARTICLE 4**

##### **MISCELLANEOUS**

**4.1 Notice.** Any notices given under this Agreement shall be deemed to be effectively given when delivered personally, or one day after sent, postage prepaid, by a nationally recognized air courier that guarantees overnight delivery, or three days after placed in the United States mail, postage prepaid, certified or registered mail, to the address of such party as maintained in the corporate records of Company.

**4.2 Waiver of Compliance; Consents.** Any failure of a party to comply with any obligation, covenant, agreement, or condition herein may be waived by the party entitled to the benefit thereof; provided, however, such waiver or failure to insist upon strict compliance with such obligation, covenant, agreement or condition shall not operate as a waiver of, or estoppel with respect to, any subsequent or other failure. Whenever this Agreement requires or permits consent by or on behalf of any party hereto, such consent shall be given in writing (unless otherwise provided in this Agreement).

**4.3 Counsel Fees and Expenses.** If any party breaches this Agreement, then the non-breaching party(ies) shall be entitled to receive from the breaching party the reasonable costs and expenses of enforcing this Agreement (including reasonable attorneys' fees and costs).

**4.4 Entire Agreement; Severability.** This Agreement supersedes all prior negotiations between the parties hereto and contains the entire understanding between them. It may be modified only by a writing duly executed by each of the parties hereto or their successors or assigns. If any provision of this Agreement shall be determined to be contrary to law and unenforceable by any court of law, the remaining provisions shall be severable and enforceable in accordance with their terms.

**4.5 Assignment.** This Agreement shall not be assignable by any party. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and to their respective successors and permitted assigns.

**4.6 Counterparts.** This Agreement may be executed by the parties on any number of separate counterparts, and all such counterparts so executed constitute one agreement binding on all the parties notwithstanding that all the parties are not signatories to the same counterpart.

**4.7 Execution of Counterparts.** For purposes of this Agreement, a document (or signature page thereto) signed and transmitted by facsimile machine or electronic mail or with an electronic signature is to be treated as an original document. The signature of any party thereon, for purposes hereof, is to be considered as an original signature, and the document transmitted is to be considered to have the same binding effect as an original signature on an original document. At the request of any party, any facsimile or electronic mail version of this document is to be re-executed in original form by the parties who executed the facsimile or electronic mail document. No party may raise the use of a facsimile machine or electronic mail or the fact that any signature was transmitted through the use of a facsimile machine or electronic mail or with an electronic signature as a defense to the enforcement of this Agreement or any amendment or other document executed in compliance with this Section 4.7.

**4.8 Governing Law.** This Agreement and all rights and obligations of the parties shall be governed, construed and interpreted under and pursuant to the laws of the State of Delaware without regard to its conflicts or choice of laws provisions.

*[signature page follows]*

**SIGNATURE PAGE TO**  
**CONTRIBUTION AGREEMENT**

IN WITNESS WHEREOF, the foregoing agreement has been executed and delivered as of the date first set forth above.

**“COMPANY”**

**“MEMBER GROUP”**

MGTF HOLDCO, LLC

By\_\_\_\_\_

Print Name:\_\_\_\_\_

Title:\_\_\_\_\_

\_\_\_\_\_  
MICHAEL J. FRISCHLING

\_\_\_\_\_  
GREGG J. FRISCHLING

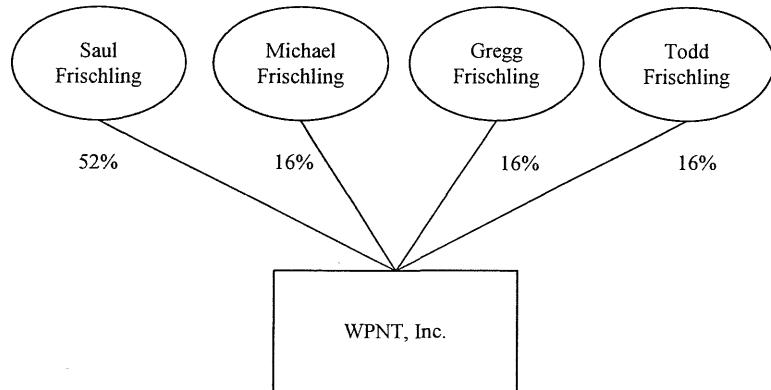
\_\_\_\_\_  
TODD FRISCHLING

*[remainder of page intentionally left blank]*

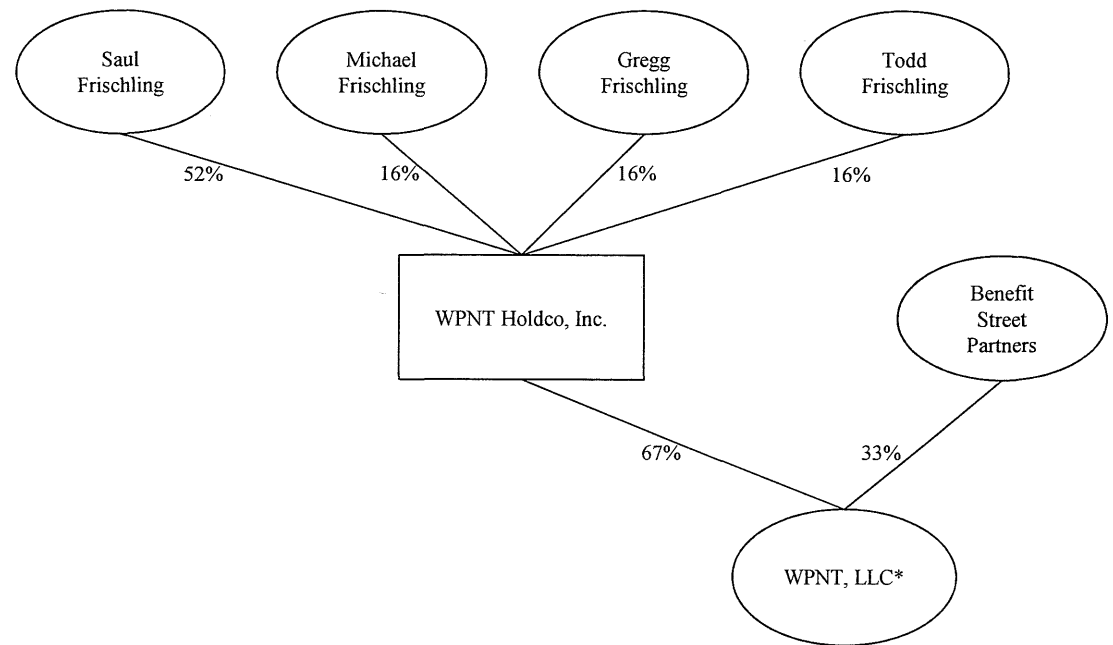


## WPNT, Inc. – Ownership Chart

### Current



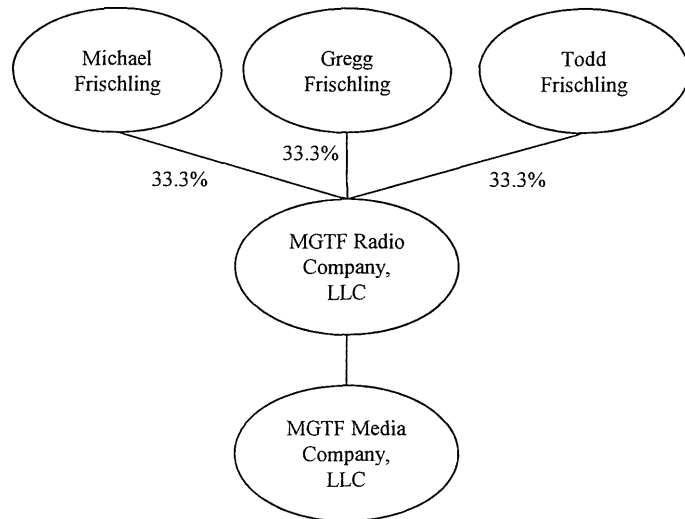
### Post Reorganization



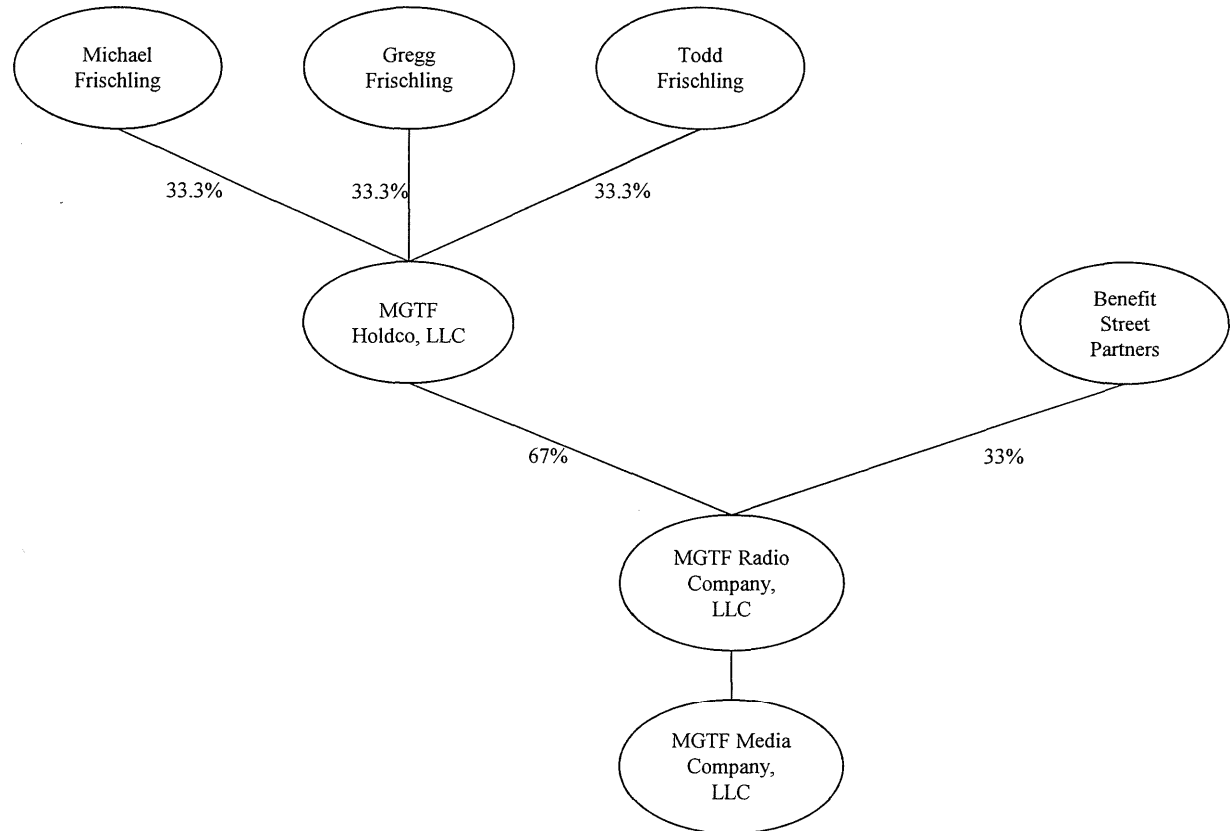
\* Formerly WPNT, Inc. (converted into a Delaware LLC)

### MGTF Radio Company, LLC – Ownership Chart

#### Current



#### Post Reorganization



**WPNT, LLC – Proposed Board of Directors**

<b>Name</b>	<b>Organization Represented</b>
Michael Frischling	WPNT Holdco, Inc.
Gregg Frischling	WPNT Holdco, Inc.
Todd Frischling	WPNT Holdco, Inc.
Saul Frischling	WPNT Holdco, Inc.
BSP Representative	Benefit Street Partners
BSP Representative	Benefit Street Partners
BSP Representative	Benefit Street Partners

**MGTF Radio Company, LLC– Proposed Board of Directors**

<b>Name</b>	<b>Organization Represented</b>
Michael Frischling	MGTF Holdco, LLC
Gregg Frischling	MGTF Holdco, LLC
Todd Frischling	MGTF Holdco, LLC
BSP Representative	Benefit Street Partners
BSP Representative*	Benefit Street Partners

\* Option of either a Director or Board Observer.

<b>Frischling Family Salaries</b>
-----------------------------------

Name	Annual Salary
Michael Frischling	\$228,000.00 (or such other amount as determined by the Board)
Gregg Frischling	\$228,000.00 (or such other amount as determined by the Board)
Todd Frischling	\$216,000.00 (or such other amount as determined by the Board)
Saul Frischling	\$180,000.00 (or such other amount as determined by the Board)