

ASSET PURCHASE AGREEMENT

BY AND BETWEEN

**ACCESS.1 COMMUNICATIONS CORP.-NY
ACCESS.1 TEXAS LICENSE COMPANY LLC**

AND

**WALLER MEDIA, LLC
WALLER BROADCASTING, INC.**

November 15, 2004

ASSET PURCHASE AGREEMENT

This Asset Purchase Agreement (the "Agreement"), made as of this [] day of November, 2004, is by and between Waller Media, LLC ("Waller Media") and Waller Broadcasting, Inc. ("Waller Broadcasting") (collectively "Seller"), and Access.1 Communications Corp.-NY ("Access.1" or "Buyer") and Access.1 Texas License Company LLC ("Access.1-Texas" or "License Company") .

RECITALS:

WHEREAS, Waller Broadcasting is the licensee of KOOI(FM), Jacksonville, Texas; and Waller Media is the licensee of KYKX(FM), Longview, Texas; KOYE(FM), Frankston, Texas; KFRO(AM), Longview, Texas; and KKUS(FM), Tyler, Texas (collectively, the "Stations");

WHEREAS, Waller Broadcasting is the licensee of KEBE(AM), Jacksonville, Texas; and Waller Media is the licensee of KLJT(FM), Jacksonville, Texas ; KFRO(FM), Gilmer, Texas; and the programmer of KDVE(FM), Pittsburg, Texas and KXAL(FM), Tatum, Texas (collectively, the "Optioned Stations");

WHEREAS, Seller desires to sell, and Buyer desires to purchase, all of the assets of Seller with respect to the Stations (other than the FCC Licenses);

WHEREAS, Seller desires to assign, and License Company desires to assume, all of the FCC Licenses with respect to the Stations;

WHEREAS, Seller desires to grant to Buyer, and Buyer desires to obtain from Seller, a right of first refusal to purchase the Optioned Stations.

NOW, THEREFORE, in consideration of the above recitals and of the mutual agreements and covenants contained in this Agreement, the parties to this Agreement, intending to be bound legally, hereby agree as follows:

SECTION 1 - DEFINITIONS

1.1 Defined Terms Defined in this Section. The terms set forth on *Attachment A* hereto, as used in this Agreement, have the meanings set forth in *Attachment A*.

1.2 Rules of Construction. Whenever the context requires, 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." All references to "party" and "parties" shall be deemed references to parties to this Agreement unless the context shall otherwise require. Except as specifically otherwise provided in this Agreement, a reference to a Section, Schedule or Exhibit is a reference to a Section of this Agreement or a Schedule or Exhibit hereto, and the terms "hereof," "herein," and other like terms refer to this Agreement as a whole, including the Schedules and Exhibits to this Agreement. The term "or" is used in its inclusive sense ("and/or").

1.3 Sections. The division of this Agreement into Sections and the insertion of headings are for convenience of reference only and shall not affect the construction or interpretation of this Agreement.

1.4 Schedules. The schedules hereto are incorporated by reference into this Agreement for all purposes.

SECTION 2 - PURCHASE AND SALE OF ASSETS

2.1 Purchase and Sale. Subject to the terms and conditions set forth in this Agreement, Seller hereby agrees to transfer, convey, assign and deliver to Buyer (and to License Company with respect to the FCC Licenses only) on the Closing Date, and Buyer (and License Company with respect to the FCC Licenses only) agrees to acquire on the Closing Date, all of Seller's right, title and interest in the tangible and intangible assets used or useful in connection with the Stations' Business, together with any additions thereto between the date of this Agreement and the Closing Date, but excluding the Excluded Assets and any assets disposed of between the date of this Agreement and the Closing Date in accordance with the provisions of this Agreement (such assets being conveyed being collectively referred to herein as the "Assets"), free and clear of any Liens, except for Permitted Liens, including the following assets associated with the Stations' Business:

- (a) the Tangible Personal Property listed in *Schedule 2.1(a)*;
- (b) the Real Property;
- (c) the FCC Licenses and the other Licenses, to the extent assignable;
- (d) the Assumed Contracts, including, but not limited to, all trade and barter agreements in accordance with the provisions hereof;
- (e) the Intangibles;
- (f) all of Seller's proprietary information, technical information and data, maps, computer discs and tapes, FCC logs, plans, diagrams, blueprints and schematics relating to the Stations' Business;
- (g) all books and records of Seller relating to the Stations' Business, including executed copies of the Assumed Contracts and account books of original entry and all records required by the FCC to be kept by the Stations;
- (h) all deposits and prepaid expenses of Seller with respect to items that are prorated in Section 2.5 below (except as such relate to Excluded Assets, as hereinafter defined);
- (i) any accounts receivable of Buyer generated from Buyer's operation of the Stations after the Closing Date;
- (j) equipment warranties to the extent transferable by Seller.

2.2 Excluded Assets. The Assets shall not include the following (the “Excluded Assets”):

(a) cash, cash equivalents and cash items of any kind whatsoever, certificates of deposit, money market instruments, bank balances and rights in and to bank and investment accounts, Treasury bills and marketable securities and other securities of Seller;

(b) contracts of insurance and insurance plans and the assets thereof, promissory notes, bonds, letters of credit or other similar items and any cash surrender value in regard thereto;

(c) Tangible Personal Property disposed of or consumed in the ordinary course of the business of Seller, and in compliance with this Agreement, between the date of this Agreement and the Closing Date;

(d) Accounts Receivable and all other income, revenue, rebates, refunds and claims of Seller with respect to transactions and events occurring prior to the Closing Date, and all claims for refunds of monies paid to any Governmental Authority and all claims for copyright royalties for broadcasts prior to the Closing Date;

(e) Contracts that are not Assumed Contracts, and those contracts listed on *Schedule 2.2(e)* (the “Excluded Contracts”); and

(f) Seller’s corporate records and other books and records that pertain to internal corporate matters of Seller and Seller’s account books of original entry with respect to the Stations and all original accounts, checks, payment records, Tax records and other similar books, records and information of Seller relating to Seller’s operation of the Stations’ Business and any other Assets prior to Closing.

(g) Assets of the Seller that are used exclusively in the business of the Optioned Stations and/or radio stations owned or operated by Seller other than the Stations, including, without limitation, the Excluded Assets listed on *Schedule 2.2(g)*.

2.3 Escrow Agreement.

(a) Buyer has previously deposited Two Hundred Fifty Thousand Dollars (\$250,000) with Escrow Agent as a good faith deposit pursuant to the Escrow Agreement, a copy of which is attached hereto as Exhibit A. Upon the execution of this Agreement by all parties, Buyer, Seller and Escrow Agent will enter into the Amended Escrow Agreement in the form attached hereto as Exhibit B, and Buyer shall promptly but in no event later than two (2) Business Day thereafter deliver an additional One Million Fifty Thousand Dollars (\$1,050,000) to the Escrow Agent so that One Million Three Hundred Thousand Dollars (\$1,300,000) will be held by Escrow Agent to secure Buyer’s timely performance and fulfillment of its obligations under this Agreement in accordance with the terms of the Amended Escrow Agreement.

(b) At the Closing, Buyer and Seller shall cause the Escrow Agent to transfer One Million Dollars (\$1,000,000) from the Escrow Account to the Indemnification Escrow

Account in accordance with the terms of the Indemnification Escrow Agreement, the form of which is attached hereto as Exhibit C and which shall be executed by the parties at Closing, and the balance of the Escrow Account shall be paid to Seller at Closing.

(c) In the event of a termination of this Agreement, the Escrow Amount shall be paid in accordance with Section 9.2 hereof. Otherwise, the Escrow Amount shall be paid in accordance with the terms of the Amended Escrow Agreement (Exhibit B).

2.4 Purchase Price. In consideration for the sale of the Assets and the grant of the Right of First Refusal pursuant to the terms and subject to the conditions hereof, Buyer shall pay to Seller a total aggregate amount of Twenty-six Million Dollars (\$26,000,000), of which One Million Dollars (\$1,000,000) shall be held in escrow for a period of one (1) year following the Closing in accordance with the terms of the Indemnification Escrow Agreement, and the balance of Twenty-Five Million Dollars (\$25,000,000) shall be paid to Seller at Closing by wire transfer of immediately available funds (or such other method of funds transfer as may be agreed upon by Buyer and Seller) subject to adjustments as set forth in Section 2.5 below and in accordance with the wire transfer instructions delivered by Seller to Buyer no later than two (2) Business Days prior to Closing.

2.5 Prorations and Adjustments. The following prorations and adjustments shall be made as of the Closing Date:

(a) All revenues and all expenses arising from the Assets and the Stations' Business, including tower rental, business and license fees, utility charges, real and personal property taxes and assessments levied against the Assets, property and equipment rentals, applicable copyright or other fees, including program license payments, sales and service charges, Taxes (except for Taxes arising from the transfer of the Assets under this Agreement), employee compensation, including wages, salaries and commissions, trade and barter, music license fees and similar prepaid and deferred items, shall be prorated between Buyer and Seller in accordance with generally accepted accounting principles, consistently applied, and to effect the principle that Seller shall receive all revenues and shall be responsible for all expenses, costs and liabilities allocable to Seller's operations with respect to the Stations for the period ended immediately prior to the Closing Date, and Buyer shall receive all revenues and shall be responsible for all expenses, costs and obligations allocable to such operations for the period commencing on and following the Closing Date.

(b) With respect to the Transferred Employees, there shall be an adjustment and proration for earned vacation time and sick leave accrued by any Transferred Employee, so that Seller shall reimburse Buyer for any unpaid vacation time and sick leave accrued but not used prior to the Closing Date.

(c) There shall be no adjustment for, and Seller shall remain solely liable with respect to, any Excluded Contracts and any other obligation or liability not being assumed by Buyer in accordance with Section 2.6 for which Buyer is not receiving the corresponding benefit to the obligation or liability assumed.

(d) Any adjustments will, insofar as feasible, be determined and paid on the date hereof, with final settlement and payment by the appropriate party occurring no later than ninety (90) days after the Closing Date or such other date as the parties shall mutually agree. In the event of a dispute between Seller and Buyer regarding adjustments or prorations which cannot be resolved by Seller and Buyer's good faith negotiations, then Seller and Buyer shall together choose an independent certified public accounting firm (the "Independent Auditor") to resolve the dispute. The Independent Auditor's resolution of the dispute shall be final and binding. All fees and expenses of the Independent Auditor shall be borne equally by Buyer and Seller.

(e) Any rents or other payments made by Seller under Assumed Contracts for periods after the Closing Date.

(f) Notwithstanding anything herein to the contrary, there shall be no adjustment with respect to the value of goods and services owed to Seller or Seller's obligations to provide advertising time on the Stations under trade and barter agreements except to the extent that that value of advertising time owed by Seller under such agreements exceeds the value of goods or services owed to Seller by more than Ten Thousand Dollars (\$10,000).

2.6 Assumption of Liabilities and Obligations. As of the Closing Date, Buyer (and License Company with respect to the FCC Licenses only), shall assume and undertake to pay, discharge and perform any obligation or liability of Seller under the Assumed Contracts to the extent that the obligations and liabilities relate to the period after the Closing Date and to the extent that Buyer (and License Company with respect to the FCC Licenses only) receives the corresponding benefit to the obligation or liability assumed (the "Assumed Liabilities"). Neither Buyer nor License Company shall assume any of the following: (i) any obligations or liabilities under any Excluded Contract, (ii) any liability or obligation arising out of any litigation, proceeding or claim by any Person relating to the Stations' Business or any of the Assets in connection with any events or circumstances that occur or exist prior to the Closing Date and (iii) any credit agreements, note purchase agreements, indentures or other financing arrangements (other than any Assumed Contracts) of Seller (the "Retained Liabilities").

2.7 Accounts Payable. Seller shall pay when due all Accounts Payable, except to the extent such Accounts Payable are being contested by Seller in good faith. Buyer shall have no obligation to pay any of Seller's Accounts Payable to any creditor of Seller.

2.8 Allocation of Purchase Price. The allocation of the Purchase Price payable under Section 2.4 hereof among the Assets shall be as set forth on Schedule 2.8. The parties hereto agree (a) to use such allocations for accounting, financial reporting and Tax purposes; (b) that such allocations shall be in accordance with, and as provided by, Section 1060 of the Tax Code; and (c) that any Tax returns or other Tax information they may file or cause to be filed with any Governmental Authority or fiscal intermediary shall be prepared and filed consistently with such agreed upon allocation. In this regard, the parties agree that, to the extent required, they will each properly and timely file Form 8594 in accordance with Section 1060 of the Tax Code. Buyer shall not make any election or take any other action which would interfere with any right

that Seller would otherwise have to classify its gains from sale of the Assets as long term capital gains for federal income tax purposes.

2.9 Collection of Accounts Receivable.

(a) On the Closing Date, Seller shall assign its rights as of the Commencement Date to payment for the Accounts Receivable to Buyer for purposes of collection only. Buyer shall use reasonable efforts to collect the Accounts Receivable as Seller's agent for a period of one hundred twenty (120) days following the Commencement Date (the "Collection Period"); provided, however, that Buyer shall not be obligated to institute litigation, employ any collection agency, legal counsel or other third party, or take any other extraordinary means of collection; provided, further, that Buyer shall not compromise, settle or adjust any of the Accounts Receivable without receiving the written approval of Seller. Buyer will not be required to segregate the proceeds of the collection of the Accounts Receivable from other funds of or held by Buyer.

(b) Within ten (10) Business Days after the Commencement Date, Seller shall deliver to Buyer a complete and detailed statement of each Account Receivable. Neither Seller nor its agents shall make any solicitation in respect of such Accounts Receivable for collection purposes nor shall Seller or its agents institute litigation for the collection of any Accounts Receivable during the Collection Period, except with respect to Accounts Receivable returned to Seller for collection as set forth below.

(c) By the fifteenth (15th) day of each month during the Collection Period, commencing with the second month following the Commencement Date, Buyer shall pay to Seller all of the amounts collected by Buyer on the Accounts Receivable during the previous calendar month. All amounts received by Buyer from account debtors from whom any Account Receivable is owed ("Pre-Commencement Debtor") shall be applied first to the Accounts Receivable, unless the Pre-Commencement Debtor specifically disputes a receivable or instructs in writing that the payment be otherwise applied. Buyer will take no action to encourage a Pre-Commencement Debtor to dispute its obligation to pay any billing which relates to an Account Receivable or encourage a Pre-Commencement Debtor to specify that any payment from such Pre-Commencement Debtor is to be applied to billings of such Pre-Commencement Debtor other than in their chronological order. If during the Collection Period a Pre-Commencement Debtor disputes any account included among the Accounts Receivable, Buyer may return that account to Seller for collection. At the conclusion of the Collection Period, any remaining Accounts Receivable shall be reassigned to Seller (free of liens, security interests and claims) and thereafter Buyer shall have no further obligation with respect to the Accounts Receivable, and Seller may pursue such collection efforts as may be deemed appropriate by Seller.

SECTION 3 - REPRESENTATIONS AND WARRANTIES OF SELLER

To induce Buyer to purchase the Assets from Seller, and to induce License Company to accept the FCC Licenses from Seller, Seller represents and warrants to Buyer and License Company as follows:

3.1 Organization and Authority of Seller.

(a) Waller Media, LLC is a limited liability company, duly organized, validly existing and in good standing under the laws of the State of Texas and duly qualified to do business and is in good standing in each jurisdiction where such qualification is required. Waller Media, LLC has the requisite limited liability company power and authority to own and operate the Assets owned and operated by it, to carry on the Stations' Business as now being conducted by it and to execute, deliver and perform this Agreement and the documents contemplated hereby according to their respective terms.

(b) Waller Broadcasting, Inc. is a corporation, duly organized, validly existing and in good standing under the laws of the State of Texas and duly qualified to do business and is in good standing in each jurisdiction where such qualification is required. Waller Broadcasting, Inc. has the requisite corporate power and authority to own and operate the Assets owned and operated by it, to carry on the Stations' Business as now being conducted by it and to execute, deliver and perform this Agreement and the documents contemplated hereby according to their respective terms.

3.2 Authorization and Binding Obligation. Except as set forth on Schedule 3.2, the execution, delivery and performance of this Agreement and the documents contemplated hereby, and the consummation of the transactions contemplated hereby and thereby, by Seller have been duly and validly authorized by all necessary corporate or limited liability company action on the part of Seller. This Agreement has been duly executed and delivered by Seller and constitutes its legal, valid and binding obligation, enforceable against it in accordance with its terms except as the enforceability of this Agreement may be affected by bankruptcy, insolvency or similar laws affecting creditors' rights generally and by judicial discretion in the enforcement of equitable remedies.

3.3 Absence of Conflicting Agreements; Consents.

(a) The execution and delivery of this Agreement, and the performance of the transactions contemplated herein by Seller will not require any consent, approval, authorization or other action by, or filing with or notification to, any Person or Governmental Authority, except as follows: (i) filings required under the Communications Act, (ii) filings with respect to real estate, sales and other transfer Taxes and (iii) certain of the Assumed Contracts may be assigned only with the consent of another Person, as specified in *Schedule 3.3*.

(b) Subject to obtaining the Consents, the execution, delivery and performance by Seller, and the documents contemplated hereby (with or without the giving of notice, the lapse of time or both): (i) do not require the consent of any other Person; (ii) do not conflict with any provision of the organizational documents of Seller; (iii) do not conflict in any respect with, result in a breach of, or constitute a default under, any Applicable Law or any contract or agreement to which Seller is a party or by which it may be bound; and (iv) other than Permitted Liens, will not create any Lien upon any of the Assets.

3.4 Governmental Licenses.

(a) *Schedule 3.4(a)* identifies and includes a complete list of all Licenses held by Seller in connection with the conduct of the Stations' Business. Each License is in full force and effect and expires on August 1, 2005. Seller is the authorized legal holder of each License with respect to the Stations. The Licenses listed on *Schedule 3.4(a)* constitute all of the licenses and authorizations required under the Communications Act or the current rules, regulations and policies of the FCC for, or used in, the Stations' Business. Except as set forth on *Schedule 3.4(a)*, the conduct of the business and operations of the Stations is in accordance with the Licenses in all material respects.

(b) *Schedule 3.4(b)* sets forth a true and complete list of any and all pending applications filed with the FCC by Seller, true and complete copies of which have been delivered by Seller to Buyer.

(c) Except as set forth on *Schedule 3.4(c)*, and except for any FCC investigations, rulemakings or other proceedings affecting the broadcasting industry generally, as of the date of this Agreement, Seller has no Knowledge of any pending or threatened investigation by or before the FCC, or any order to show cause, notice of violation, notice of apparent liability, notice of forfeiture or complaint by, before or with the FCC with respect to the Seller, the Stations that would be reasonably expected to (i) impair or hinder the ability of Seller to perform its obligations under this Agreement or (ii) have a Material Adverse Effect, nor does Seller have Knowledge that any of the foregoing is threatened. To Seller's Best Knowledge, there are no facts, conditions or events relating to Seller or the Stations' Business that would disqualify Seller under the Communications Act or the existing rules, regulations and policies of the FCC as assignor of the FCC Licenses as provided in this Agreement or from consummating the transactions contemplated herein within the times contemplated herein.

(d) All returns, reports and statements that Seller is currently required to file with the FCC have been filed.

3.5 Tangible Personal Property. *Schedule 3.5* lists as of the date of this Agreement all material items of Tangible Personal Property included in the Assets owned by Seller. Except as described in *Schedule 3.5*, Seller owns and has good title to the Tangible Personal Property listed thereon and none of the Tangible Personal Property included in the Assets is subject to any Liens, except for Permitted Liens and any recorded liens or security interests that will be released or terminated at Closing. As of the date of this Agreement, all items of Tangible Personal Property owned by Seller necessary for the operations of the Stations as conducted at present are in good operating condition and adequate repair (given the age of such property and the use to which such property is put, and ordinary wear and tear excepted), except for any items which are obsolete or inoperable and which not required for operation of the Stations in the ordinary course of business. Except for the express representations set forth in this Section 3.5, Seller makes no representations or warranties, express or implied, regarding the condition, suitability, value, fitness for any particular purpose, or otherwise with respect to the Tangible Personal Property.

3.6 Assumed Contracts. *Schedule 3.6 sets forth* a complete list as of the date of this Agreement of all Assumed Contracts except (a) contracts with advertisers for production or the sale of advertising time on the Stations for cash that may be canceled by Seller on not more than ninety (90) days notice, (b) oral employment contracts terminable at will, (c) miscellaneous service contracts terminable on not more than thirty (30) days notice by Seller and (d) other Contracts entered into in the ordinary course of business, not involving liabilities exceeding Five Thousand Dollars (\$5,000.00) per contract, per year. Except as disclosed in *Schedule 3.6*, Seller has delivered or made available to Buyer true and complete copies of all written Assumed Contracts and, to Seller's Best Knowledge, accurate descriptions of all oral Assumed Contracts listed on *Schedule 3.6*. Seller is not in default under any Assumed Contract and, to Seller's Best Knowledge, no other party to any such Assumed Contract is in default thereunder.

3.7 Intangibles. *Schedule 3.7 is* a complete list as of the date of this Agreement of all Intangibles (exclusive of Licenses listed in *Schedule 3.4*) used by Seller in the Stations' Business. Seller has provided or made available to Buyer copies of all documents establishing or evidencing the Intangibles listed on *Schedule 3.7*. Other than with respect to matters generally affecting the radio broadcasting industry and not particular to Seller and, except as set forth on *Schedule 3.7*, Seller has no Knowledge of any allegation that Seller or the Stations are infringing upon any trademarks, trade names, service marks, service names, copyrights or similar intellectual property rights owned by any other Person.

3.8 Financial Statements. Seller has provided to Buyer true and complete copies of the audited financial statements of Seller with respect to its operations at the Stations as of December 31, 2002 and December 31, 2003, and the unaudited financial statements as of September 30, 2004 (collectively, the "Financial Statements"). Except as set forth on *Schedule 3.8*, the Financial Statements have been prepared in accordance with generally accepted accounting principles, consistently applied, and present fairly the financial condition of Seller with respect to the Stations and the Stations' Business as at their respective dates and the results of operations for the periods then ended.

3.9 Taxes and Tax Returns. Except as set forth on *Schedule 3.9*, all Tax Returns have been timely filed with the appropriate Governmental Authority in all jurisdictions in which such Tax Returns are required to be filed and all Taxes shown on such Tax Returns have been properly accrued or timely paid in full to the extent such Taxes have become due. There are no Liens on any of the Assets in connection with any failure (or alleged failure) to pay any Tax related to the Stations' Business.

3.10 Insurance. *Schedule 3.10 is* a true and complete list of all insurance policies of Seller with respect to the Assets and the Stations. All policies of insurance listed in *Schedule 3.10* are in full force and effect as of the date of this Agreement.

3.11 Personnel. Except for (a) oral employment contracts terminable at will or (b) those contracts described in *Schedule 3.11* attached hereto, as of the date of this Agreement Seller has no written or oral contract of employment with any employee of the Seller employed in connection with the Stations' Business (collectively, the "Employees"). Except as disclosed on *Schedule 3.11*, Seller is not a party to or subject to any collective bargaining agreements

with respect to the Stations and no labor union or other collective bargaining unit represents or, to Seller's Best Knowledge, claims to represent any of the Employees. Seller has made available to Buyer copies of all employee handbooks and written employee rules and regulations, if any.

3.12 Claims and Legal Actions. Except as disclosed on *Schedule 3.4(c)* and *Schedule 3.12*, and except for any FCC rulemaking proceedings generally affecting the radio broadcasting industry and not particular to Seller, there is no claim, legal action, counterclaim, suit, arbitration, or other legal, administrative or tax proceeding, nor any order, decree or judgment, in progress or pending, or to Seller's Best Knowledge threatened, against Seller, the Assets or the Stations' Business, which would be reasonably expected to have a Material Adverse Effect on (a) the ability of Seller to perform its obligations under this Agreement or (b) the Stations' Business.

3.13 Compliance with Laws. Seller is in compliance with the Licenses and all Applicable Law to the extent required for operation of the Stations..

3.14 Conduct of Business in Ordinary Course. Except as set forth on *Schedule 3.14*, from December 31, 2003, through the date of this Agreement, Seller's operations with respect to the Stations have been in the ordinary course and Seller has not (a) made any increase in compensation payable or to become payable to any of the Employees of Seller other than in the ordinary course of business or any material change in personnel policies, insurance benefits or other compensation arrangements affecting the Employees of Seller other than any severance payments set forth on *Schedule 3.14*, which payments shall be the sole obligation of Seller at Closing, (b) made any sale, assignment, lease or other transfer of any of Seller's properties other than obsolete assets no longer usable in the operation of the Stations or other assets sold or disposed of in the normal course of business with suitable replacements being obtained therefore, if replacement is necessary in the sole opinion of the Seller, (c) incurred loss of, or injury to, any of the Assets, which loss or injury is not covered by insurance, or waived any rights of substantial value, (d) mortgaged, pledged or subjected to any Lien any of its Assets, other than Permitted Liens, (e) made any change in any method of accounting or accounting practice, (f) incurred any liability except in the ordinary course of business or as expressly permitted elsewhere in this Agreement, (g) entered into any transaction other than in the ordinary course of business, (h) conducted the Stations' Business in any manner inconsistent in any material respect with its past practices, (i) given any promise, assurance or guaranty of the payment, discharge or fulfillment of any obligation of any other Person or (j) transferred to any Affiliate of Seller any right, property or interest which is necessary or useful in the operation of the Stations' Business.

3.15 Environmental Matters.

(a) Seller has supplied to Buyer a copy of the report for each environmental inspection or audit, if any, that Seller has caused to be conducted with respect to any of the Assets as listed on *Schedule 3.15*.

(b) (i) As of the date of this Agreement, except as disclosed on *Schedule 3.15* or as otherwise known as a result of an environmental study conducted in connection

with this transaction or as otherwise known to Buyer as a result of an environmental audit with respect to the Real Property, to Seller's Best Knowledge, no Hazardous Substances are located on or under the Real Property affecting any natural resources therein the remediation of which is required under any Applicable Environmental Law.

(ii) Except as set forth in Schedule 3.15 or as otherwise known as a result of an environmental study conducted in connection with this transaction, there are, to Seller's Best Knowledge, no underground storage tanks on the Real Property and any removal by Seller of any underground storage tanks which existed on the Real Property was pursuant to and in compliance with the Applicable Environmental Laws.

(iii) Except as set forth on Schedule 3.15, to Seller's Best Knowledge, the improvements owned or used by Seller on the Real Property do not contain any asbestos which, if undisturbed, constitutes a violation of, or noncompliance with, any Applicable Environmental Law except for any violation or noncompliance that would not be likely to have a Material Adverse Effect. To Seller's Best Knowledge, the equipment owned or used by Seller on the Real Property does not contain any polychlorinated biphenyls that would constitute a violation of or noncompliance with any Applicable Environmental Law, except for any violation or noncompliance that would not be likely to have a Material Adverse Effect.

(iv) Except as set forth on Schedule 3.15, there are no agreements, consent orders, decrees, judgments, license or permit conditions or other directives of Governmental Authorities directed to Seller that are based on or arise out of Applicable Environmental Laws and relate to the future use of the Assets or the Stations' Business or that require any change in the present condition of the Assets or the Stations' Business.

(v) Seller has given to pertinent Governmental Authorities all notices required pursuant to Applicable Environmental Laws in connection with the Stations' Business. Except as listed on Schedule 3.15, Seller has not received any written order or written notice, nor does Seller have any Knowledge, of any violation or noncompliance from, or been the subject of any regulatory audit or investigation (other than any periodic investigation or inspection of a routine nature) by, any Governmental Authority in connection with the Stations' Business.

(vi) To Seller's Best Knowledge, no consent or approval is needed from any Governmental Authority under any Applicable Environmental Laws for the transfer of the Assets from Seller to Buyer. To Seller's Best Knowledge, neither the execution of this Agreement nor the closing of the transactions contemplated hereby will violate any Applicable Environmental Laws.

3.16 Real Property. (a) Schedule 3.16 contains descriptions of all of Seller's Real Property.

(b) Seller is the owner of the fee parcels and improvements identified on Schedule 3.16 (the "Fee Parcels"). Except as disclosed in Schedule 3.16, and except for the Permitted Liens, the Fee Parcels are or at Closing will be free and clear of all Liens. Seller represents that

the Fee Parcels are not subject to any easements or other encumbrances which would unreasonably interfere with the use and operation of the Stations.

(c) Except as set forth on Schedule 3.16, any and all improvements made on the Fee Parcels conform in all material respects to all lease restrictions, restrictive covenants, building codes, and federal, state and local laws, regulations and ordinances, including without limitation all zoning laws, regulations and ordinances. To Seller's Best Knowledge, the improvements on the Fee Parcels are in good working condition and repair, except for any defects which do not interfere with operation of the Stations in the ordinary course of business. There are no pending, or to Seller's Best Knowledge, threatened or contemplated action to take by eminent domain or otherwise to condemn any part of the Fee Parcels. To Seller's Best Knowledge, there are no physical or mechanical defects or deficiencies in the condition of the improvements on the Fee Parcels, including but not limited to, the transmission facilities, roofs, exterior walls or structural components of the improvements thereon and the heating, air conditioning, plumbing, ventilating, elevator, utility, sprinkler and other mechanical and electrical systems, apparatus and appliances located in, or servicing, such improvements, except for any defects which do not interfere with the current operation of the Stations in the ordinary course of business. To Seller's Best Knowledge, all operating systems included in the Fee Parcels are in good working order, except for any defects which do not interfere with current operation of the Stations in the ordinary course of business. The improvements on the Fee Parcels do not encroach on any property not included in the Fee Parcels, and there is no encroachment on the Fee Parcels by improvements located on property not included in the Fee Parcels, except for any minor encroachments which do not interfere with the current operation of the Stations in the ordinary course of business. The improvements on the Fee Parcels are served by the utilities required for the present use and operation thereof. To Seller's Best Knowledge, any and all streets, utility lines and off-site improvements that provide access to the Fee Parcels, or are necessary for its present uses, have been completed or are serviceable and have been accepted or approved by such governmental, municipal, or other authorities having jurisdiction thereof.

3.17 Financial Advisors. Except for the fees payable to Star Media Group, the fees of which shall be a liability of and be paid by Seller, or as otherwise set forth on *Schedule 3.17*, neither Seller nor any other Person acting on its behalf has incurred any liability for any finders' or brokers' fees or commissions in connection with the transactions contemplated by this Agreement.

3.18 Transactions with Affiliates. Except as set forth in *Schedule 3.18*, Seller is not a party, directly or indirectly, to any Contract, whether for the purchase, lease or sale of property, for the rendition of services or otherwise, with any Affiliate of Seller, or any officer, director, employee, proprietor, partner or shareholder of Seller and no such Person has any interest in or right to any of the Assets. The terms and conditions of the transactions involving Seller and any Affiliate of Seller which are identified on *Schedule 3.18* are described briefly therein.

3.19 Assets. Except for the Excluded Assets, the Assets include all of the assets or property used by Seller in the operation of the Stations' Business as conducted as of the date of this Agreement by the Seller. Except for the express representations of Seller contained in this

Agreement, Seller makes not representations or warranties of any kind, express or implied, with regard to the Assets, and Buyer accepts the Assets.

3.20 Untrue Statements. No statement by Seller contained in this Agreement (including the Exhibits and Schedules hereto) and no written statement contained in any certificates required to be delivered pursuant to or in connection herewith contains or will contain any untrue statement of a material fact, or any statement that is incomplete in any material respect.

SECTION 4 - REPRESENTATIONS AND WARRANTIES OF BUYER

To induce Seller to sell the Assets to Buyer, Buyer and License Company, as the case may be, represent and warrant to Seller as follows:

4.1 Organization, Standing and Authority.

(a) Access.1 Communications Corp.-NY is a corporation duly organized, validly existing and in good standing under the laws of the State of New York and is qualified to do business in the State of Texas. Access.1 Communications Corp.-NY has the requisite corporate power and authority to (i) execute, deliver and perform this Agreement and the documents contemplated hereby according to their respective terms and (ii) subject to obtaining the FCC Consent, own the Assets.

(b) Access.1 Texas License Company LLC is a limited liability company duly organized, validly existing and in good standing under the laws of the State of Texas. Access.1 Texas License Company LLC has the requisite limited liability company power and authority to (i) execute, deliver and perform this Agreement and the documents contemplated hereby according to their respective terms and (ii) subject to obtaining the FCC Consent, hold the FCC Licenses.

4.2 Authorization and Binding Obligation. Except as set forth on Schedule 4.2, the execution, delivery and performance of this Agreement and the documents contemplated hereby, and the consummation of the transactions contemplated hereby and thereby, by Buyer and License Company have been duly and validly authorized by all necessary corporate or limited liability company action on the part of Buyer and License Company. This Agreement has been duly executed and delivered by Buyer and constitutes a legal, valid and binding obligation of Buyer and License Company, enforceable against Buyer and License Company in accordance with its terms except as the enforceability of this Agreement may be affected by bankruptcy, insolvency or similar laws affecting creditors' rights generally and by judicial discretion in the enforcement of equitable remedies.

4.3 Absence of Conflicting Agreements and Consents. Subject to the receipt of the FCC Consent, the execution, delivery and performance by Buyer and License Company of this Agreement and the documents contemplated hereby (with or without the giving of notice, the lapse of time or both): (a) do not require the consent of any other Person; (b) will not conflict with the organizational documents of Buyer or License Company; and (c) will not conflict in any respect with, result in a breach of, or constitute a default under, any Applicable Law or any contract or agreement to which Buyer or License Company is a party or by which Buyer or License Company may be bound.

4.4 Buyer Qualifications. Buyer and License Company are legally, financially and otherwise qualified to acquire and own the Assets and operate the Stations' Business under all applicable federal, state and local laws, rules and regulations, including the Communications Act and the rules, regulations and policies of the FCC. Buyer and License Company know of no reason why they will not be found qualified by the FCC to acquire the licenses of the Stations.

4.5 Litigation. Neither Buyer nor License Company are subject to any judgment, order or decree entered in any lawsuit or proceeding which would prevent them from performing their obligations hereunder or acquiring the Assets.

4.6 Financial Advisors. Neither Buyer nor any other Person acting on its behalf has incurred any liability for any finders' or brokers' fees or commissions in connection with the transactions contemplated by this Agreement.

SECTION 5 - PRE-CLOSING OBLIGATIONS.

5.1 Generally.

(a) During the period commencing on the date hereof and ending on the earlier of the Closing Date or the termination of this Agreement Seller shall operate and control the Stations in all material respects in the ordinary course of business (except where such conduct would conflict with the following covenants in this Section or with Seller's other obligations under this Agreement). Seller shall continue to operate and control the Stations in accordance with the terms of its respective FCC Licenses and in compliance with all Applicable Laws, including all FCC rules and regulations. Seller shall execute and file promptly all necessary applications for renewal of the FCC Licenses and timely file with the FCC all required reports and pay all required annual regulatory fees payable prior to Closing for the operation of the Stations. Seller will deliver to Buyer, within ten (10) Business Days after filing, copies of any reports, applications or responses to the FCC related to the Stations which are filed after the date hereof and prior to the Closing Date or earlier termination of this Agreement. Seller shall maintain and repair facilities and equipment related to Seller's operations with respect to the Stations, maintain its present inventory of supplies, parts and other materials and keep books of account, records and files, in each case in the ordinary course of business consistent with past practice to the extent commercially reasonable.

(b) Prior to the Closing Date, except as otherwise permitted by any provision of this Section 5, Seller shall not, without the prior written consent of Buyer, which shall not be unreasonably withheld:

(c) except in the ordinary course of business, (A) enter into, renew, renegotiate, modify or amend any time sales contracts or production contracts except for those that may be canceled on not more than ninety (90) days notice with respect to the Stations or (B) incur any receivables;

(i) apply to the FCC for any construction permit that would restrict the Stations' operations or make any change in the Stations' buildings, leasehold improvements or fixtures that is not in the ordinary course of business, except when such change is necessary to

maintain or continue the transmission of the Stations' signal at substantially the same power and strength and interference level as transmitted on the date hereof;

(ii) except for Contracts that Seller is willing to designate (and Buyer is willing to agree to designate) as Excluded Contracts or otherwise in the ordinary course of business, enter into, renew, amend or modify any contract, lease, license or other agreement unless any such document (A) requires the payment by or on behalf of the Stations of consideration consisting of no more than Twenty Thousand Dollars (\$20,000) in the aggregate annually, (B) will be subject to termination on ninety (90) days notice, or (C) will be fully performed and satisfied on or prior to the first anniversary of its execution;

(iii) except in the ordinary course of business, assign, lease or otherwise transfer or dispose of any of the Assets, except where no longer used in the Stations' Business or in connection with the acquisition of replacement property of equivalent kind and use; or

(iv) except as required by Applicable Law or existing contract, (A) hire any employee except in the ordinary course of business or to replace existing employees for compensation at a rate no greater than that paid to the replaced employee, (B) enter into, renew, amend or modify any contract of employment, collective bargaining agreement or other labor contract or (C) permit any increases in the compensation of any of the employees of any Stations; *provided, however*, that Seller may pay bonuses to any of its employees consistent with past practice and in the ordinary course or severance payments so long as such bonuses or severance payments do not create binding obligations upon Buyer after the Closing Date.

(v) Whenever, pursuant to subsections (b)(i) through (v) above, Seller shall request the consent of Buyer, the request shall be sent in writing via facsimile to Buyer in accordance with Section 11.3. Unless Buyer gives or denies its written consent by the end of the second (2nd) Business Day after the request for consent is transmitted to Buyer, Buyer's written consent will be presumed to have been given as of that deadline.

5.2 Control of the Stations. Prior to the Closing Date, Buyer shall not, directly or indirectly, control, supervise or direct or attempt to control, supervise or direct, the operations of the Stations; those operations, including complete control and supervision of all of the Stations' employees and policies, shall be the sole responsibility of Seller. Subject to the foregoing, Buyer and Seller shall fulfill their respective obligations under the Time Brokerage Agreement.

5.3 Encumbrances. Seller shall not create, assume or permit to exist any Liens upon any of the Assets except for Permitted Liens and Liens that will be discharged prior to or on the Closing Date.

5.4 Access to Information. Seller shall give Buyer and its employees and other authorized representatives, during normal business hours, with reasonable prior notice and in the presence of a representative of Seller, access to the Assets and to all other books, records and documents of Seller relating to the Stations for the purpose of audit and inspection, and will furnish or cause to be furnished to Buyer or its authorized representatives, upon reasonable

notice, all information with respect to the Stations' Business that Buyer may reasonably request. Buyer shall use its commercially reasonable efforts to assure that it and its agents shall conduct their audit and inspection in such a manner as shall minimize, to the extent reasonably possible, negative impact on the business of the Seller. Buyer shall have no contact with employees, vendors or customers of the Seller without the written consent of the Seller and, upon request, the participation of a representative of the Seller.

5.5 Insurance. Seller shall maintain the existing or comparable insurance policies on the Assets or other policies providing substantially similar coverages until the Closing Date.

5.6 Financial Information. Seller shall furnish Buyer, within ten (10) days after the end of each month ending between the date of this Agreement and the Closing Date, an unaudited statement of income and expenses and balance sheet for such month and such other financial information prepared by Seller, as Buyer may reasonably request.

5.7 Events Occurring After Execution of the Agreement. Seller shall promptly disclose in writing to Buyer, and Buyer shall promptly disclose in writing to Seller, any information contained in its respective representations and warranties contained in this Agreement or any of the Schedules hereto which, because of an event occurring after the date of this Agreement, is incomplete or is no longer correct as of all times after the date of this Agreement and until the Closing Date. The obligation to disclose under this Section 5.7 shall only apply to matters which come to the Knowledge of Seller or Buyer, respectively, or which materially and adversely affect the ability of the disclosing party to perform its obligations hereunder.

5.8 Notice of Certain Matters. Seller shall give prompt written notice to Buyer and Buyer shall give prompt written notice to Seller, of any Known failure of Seller or Buyer, as the case may be, to comply with or satisfy any covenant, condition or agreement to be complied with or satisfied by it hereunder.

5.9 Notice of Proceedings. Seller and Buyer shall promptly notify the other in writing upon becoming aware of any order or decree or any complaint praying for an order or decree restraining or enjoining the consummation of this Agreement or the transactions contemplated hereunder, or upon receiving any notice from any Governmental Authority of its intention to institute an investigation into, or institute a suit or proceeding to restrain or enjoin the consummation of this Agreement or the transactions contemplated hereby. Seller and Buyer will each use commercially reasonable efforts to contest, defend and resolve any such suit, proceeding or injunction brought against it so as to permit the prompt consummation of the transactions contemplated hereby. Seller shall notify Buyer promptly of any action filed or threatened against the Stations or relating to the Stations' Business or the Assets.

5.10 Environmental Assessment. Within thirty (30) days of the date of this Agreement, Buyer shall retain a qualified environmental consulting firm reasonably acceptable to Seller to perform a Phase I Environmental Assessment (the "Environmental Assessment") of all Fee Parcels and shall thereafter deliver to Seller a report prepared by such environmental consulting firm (the "Environmental Report"), such report to be delivered as soon as possible but in no

event later than sixty (60) following the date of this Agreement. The cost of the Assessment shall be paid by Seller and Buyer equally.

If the Environmental Assessment reveals the presence of any Hazardous Substance at a level which requires remediation, then Buyer shall have the option to (a) reduce the Purchase Price by the estimated amount necessary to remediate such conditions to the extent required by the Texas Commission on Environmental Quality and/or any other Governmental Authority with jurisdiction thereof, up to the aggregate sum of five hundred thousand dollars (\$500,000), and Buyer shall be obligated to perform all required remediation after Closing and shall indemnify and hold harmless Seller from any claims for such remediation; or (b) if the required remediation is estimated to cost more than \$500,000, AND if Seller is not willing to pay the cost in excess of \$500,000, then either party shall have the option to terminate this Agreement; provided, however that neither Buyer nor Seller be under any obligation to assume any such additional costs.

5.11 Real Estate Title Search. Within thirty (30) days of the date of this Agreement, Buyer shall, at Buyer's expense, order a title search of the Fee Parcels by a firm reasonably acceptable to Seller to search the title of the Fee Parcels. In the event that Buyer objects to any lien or other encumbrance on the grounds that it is likely to unreasonably interfere with Buyer's use of any Fee Parcel, Seller shall use commercially reasonable efforts to remove any such lien or encumbrance prior to Closing, provided that Seller shall not be obligated to file any lawsuit, or to incur any expenses in excess of the aggregate sum of \$25,000.00 to satisfy any objection to title, and provided further that Seller shall not be required to obtain releases of liens until the Closing Date.

SECTION 6 - SPECIAL COVENANTS AND AGREEMENTS

6.1 FCC Consent.

(a) The purchase and sale of the Assets as contemplated by this Agreement is subject to the prior consent and approval of the FCC.

(b) Within ten (10) Business Days after the date of this Agreement, Seller and License Company shall prepare and thereafter shall promptly file with the FCC the Assignment Application. The parties shall thereafter prosecute such Assignment Application with commercially reasonable diligence and otherwise use their commercially reasonable efforts to obtain the grant of the Assignment Application as expeditiously as practicable. Each party will promptly provide to the other party a copy of any pleading, order or other document served on them relating to such Assignment Application.

(c) Each party agrees to comply with any condition imposed on it by any FCC Consent, except that no party shall be required to comply with a condition if (i) the condition was imposed on it as the result of a circumstance the existence of which does not constitute a breach by that party of any of its representations, warranties or covenants hereunder or (ii) compliance with the condition would be likely to have a material adverse effect upon it. Buyer and Seller shall oppose any petitions to deny or other objections filed with respect to the application for any FCC Consent and any requests for reconsideration or review of any FCC Consent, provided, however, that all costs and expenses incurred by Buyer, License

Company or Seller to oppose any petitions to deny or other objections shall be paid by Buyer if such petition relates primarily to Buyer or License Company and shall be paid by Seller if such petition relates primarily to Seller.

(d) If the Closing shall not have occurred for any reason within the original effective period of any FCC Consent, and neither party shall have terminated this Agreement under Section 9 hereof, the parties shall jointly request an extension of the effective period of such FCC Consent. No extension of the effective period of any FCC Consent shall limit the exercise by either party of its right to terminate the Agreement under Section 9 hereof.

6.2 Confidentiality.

(a) No party will use or disclose to any other Person (except as may be necessary for the consummation of the transactions contemplated hereby, as required by Applicable Law or as required under the Time Brokerage Agreement, and then only with prior notice to the other party hereto) this Agreement or any information received from the other party hereto or their agents in the course of investigating, negotiating and performing the transactions contemplated by this Agreement; *provided, however*, that any party may disclose such information to such party's officers, directors, employees, lenders, advisors, attorneys and accountants who need to know such information in connection with the consummation of the transactions contemplated by this Agreement and who are informed by such party of the confidential nature of such information. Nothing shall be deemed to be confidential information that: (i) is already in such party's possession, provided that such information is not known by such party to be subject to another confidentiality agreement with or other obligation of secrecy to the other party hereto or another party, or (ii) becomes generally available to the public other than as a result of a disclosure by such party or such party's officers, directors, employees, lenders, advisors, attorneys or accountants, or (iii) becomes available to such party on a nonconfidential basis from a source other than another party hereto or its advisors, provided that such source is not known by such party to be bound by a confidentiality agreement with or other obligation of secrecy to the other party hereto or another party, or (iv) is developed independently by a party without resort to the confidential information of the another party. In the event this Agreement is terminated and the purchase and sale contemplated hereby abandoned, all parties will return to the other party all information, including all documents, work papers and other written confidential material, obtained by such party from the any other party in connection with the transactions contemplated by this Agreement. The covenant contained in this Section 6.2(a) shall survive for a period of five (5) years from the earlier of the Closing Date or the date in which this Agreement is terminated pursuant to Section 9.

(b) No party shall publish any press release or make any other public announcement concerning this Agreement or the transactions contemplated hereby without the prior written consent of the other party, which shall not be withheld unreasonably; *provided, however*, that nothing contained in this Agreement shall prevent any party, after notification to the other party, from making any filings with Governmental Authorities that, in its judgment, may be required or advisable in connection with the execution and delivery of this Agreement or the consummation of the transactions contemplated hereby.

(c) Seller agrees that, unless and until this Agreement is terminated pursuant to Section 9 hereof, it will not, directly or indirectly, solicit, initiate, encourage or participate in any negotiations or discussions regarding any sale, contingent sale or Time Brokerage Agreement of any or all of the Assets to any party other than Buyer and License Company.

6.3 Cooperation. Buyer, License Company and Seller shall reasonably cooperate fully with each other and their respective counsel and accountants in connection with any actions required to be taken as part of their respective obligations under this Agreement, and Buyer, License Company and Seller shall execute such other documents as may be reasonably necessary or desirable to obtain such Consents or to implement and consummate this Agreement, and otherwise use their commercially reasonable efforts to consummate the transactions contemplated hereby and to fulfill their obligations under this Agreement. Seller and Buyer shall each diligently take, and cooperate with the other in taking, all commercially reasonable efforts to obtain or cause to be obtained prior to the Closing Date all Consents without any change in the terms or conditions of any Assumed Contract or License that could reasonably be expected to be less advantageous to Buyer than those pertaining under the Assumed Contract or License as in effect on the date of this Agreement. Buyer agrees to use all commercially reasonable efforts to assist Seller in obtaining such Consents, and to take all commercially reasonable actions necessary or desirable to obtain such Consents, including executing such assumption instruments and other documents as may be required in connection with obtaining the Consents. At the request of Seller and at Seller's expense, Buyer shall cooperate with Seller to obtain, from the other parties to the Assumed Contracts, a release of Seller (and Dudley Waller) from liability for the Assumed Liabilities provided that such release will not require any adverse change to any term of any Contract. Seller will cooperate with Buyer in Buyer's efforts to obtain, at Buyer's expense, title policies relating to the Real Property, including executing any affidavits required or requested by the title company.

6.4 Access to Books and Records. Seller shall provide Buyer access and the right to copy for a period of three (3) years from the Closing Date any books and records relating to the Assets but not required to be delivered to Buyer pursuant to this Agreement. Buyer shall provide Seller access and the right to copy for a period of three (3) years after the Closing Date any books and records relating to the Assets that are delivered to Buyer at Closing.

6.5 Further Assurances. From and after the Closing, all parties shall from time to time, at the request of any other party and without further cost or expense to such requesting party, execute and deliver such other instruments of conveyance and transfer and take such other actions as such other party may reasonably request in order more effectively to carry out this Agreement and the other agreements specified in this Agreement and to vest in the Buyer good and marketable title to the Assets.

6.6 Employees. Each former Employee of the Seller who is offered employment by Buyer and accepts such employment as of the Closing Date shall hereinafter be referred to as a "Transferred Employee." Notwithstanding anything to the contrary contained herein, unless otherwise provided under the terms of a written employment or collective bargaining agreement, each Transferred Employee shall be employed by Buyer on an at will basis and nothing shall prohibit Buyer from terminating such employment at any time after the Closing

Date at Buyer's sole cost and expense. At or prior to the Closing Date, Seller will provide Buyer with a waiver of any non-competition provision for any Transferred Employee.

6.7 Risk of Loss The risk of loss or damage to the tangible Assets shall be upon Seller at all times prior to Closing. In the event of material loss or damage, Seller shall promptly notify Buyer thereof and use its best efforts to repair, replace or restore the lost or damaged property to its former condition as soon as possible. If the cost of repairing, replacing or restoring any lost or damaged property is Fifty Thousand Dollars (\$50,000.00) or less, and Seller has not repaired, replaced or restored such property prior to the Closing Date, Closing shall occur as scheduled and Seller shall pay to Buyer the amount necessary to complete restoration of the lost or damaged property to its former condition. If the cost to repair, replace, or restore the lost or damaged property exceeds Fifty Thousands Dollars (\$50,000.00), and Seller has not repaired, replaced or restored such property prior to the Closing Date, Buyer may, at its option:

(a) elect to consummate the Closing in which event Seller shall assign to Buyer all of Seller's rights under any applicable insurance policies with respect to such loss or damage and Seller shall pay to Buyer the amount of any deductible under such insurance policies.

(b) elect to postpone the Closing, with prior consent of the FCC if necessary, for such reasonable period of time (not to exceed sixty (60) days) as is necessary for Seller to repair, replace or restore the lost or damaged property to its former condition. If, after the expiration of that extension period the lost or damaged property has not been fully repaired, replaced or restored, Buyer may, at its option, (i) elect to close and receive an assignment of Seller's rights under any applicable insurance policies with respect to such loss or damage and payment of the deductible under any such policies, or (ii) terminate this Agreement.

If the parties are unable to agree upon the extent of any loss or damage, the cost to repair, replace or restore any lost or damaged property, the adequacy of any repair, replacement, or restoration of any lost or damaged property, or any other matter arising under this Section, the disagreement shall be referred to a qualified consulting communications engineer mutually acceptable to Seller and Buyer who is a member of the Association of Federal Communications Consulting Engineers, whose decision shall be final and binding, and whose fees and expenses shall be paid by Seller.

SECTION 7 - CONDITIONS TO OBLIGATIONS OF BUYER AND SELLER

7.1 Conditions to Obligations of Buyer. All obligations of Buyer and License Company at the Closing hereunder are subject at Buyer's and License Company's option to the fulfillment prior to or at the Closing Date of each of the following conditions:

(a) All representations and warranties of Seller contained in this Agreement shall be true and correct in all material respects at and as of the Closing Date as though made at and as of that time except (i) to the extent any such representation or warranty is expressly stated only as of a specified earlier date or dates, in which case such representation and warranty shall be true and accurate as of such earlier specified date or dates and (ii) for changes that are permitted or contemplated pursuant to this Agreement.

(b) Seller shall have performed and complied in all material respects with all covenants, agreements and conditions required by this Agreement to be performed or complied with by it prior to or on the Closing Date.

(c) The FCC Consent shall have been granted by Final Order.

(d) Seller shall be the holder of all Licenses for the Stations. There shall not have been any modification of any License that could be likely to have a Material Adverse Effect. Excluding any proceeding relating to the FCC Consent or disclosed on *Schedule 3.4(c)*, no proceeding shall be pending the effect of which could be to revoke, cancel, fail to renew, suspend or modify adversely any FCC License and that (i) is related specifically to the Seller or the operation of the Stations, and not to the broadcast industry generally or similarly-situated broadcast stations generally and not arising out of Buyer's qualifications, conduct or ownership of other stations in the market and (ii) if decided adversely could be likely to have a Material Adverse Effect

(e) Except for the Permitted Liens, the Real Property shall not be subject to any exceptions that materially interfere with use of the Real Property by Buyer for the Stations' Business.

(f) No injunction, restraining order or decree of any nature of any Governmental Authority of competent jurisdiction shall be in effect that restrains or prohibits Buyer or License Company from consummating the transactions contemplated by this Agreement.

(g) From the date of this Agreement, no event, development or condition has occurred which, in the aggregate has or could reasonably be expected to have, a Material Adverse Effect on the Seller or the Stations' Business, excluding events, developments or conditions affecting the economy or broadcasting industry in general and which are not specific or unique to Seller or the Stations' Business.

(h) An audit conducted by Henry & Peters, P.C. shall have revealed that the Stations generated no less than \$5,800,000 in gross revenue for fiscal year 2004 and at least \$1,800,000 net of trade in EBITDA for fiscal year 2004, including adjustments relating to the Waller Properties leases and employees who are Affiliates of Seller (which adjustments total \$35,000 per month). The cost of the audit shall be shared equally by Seller and Buyer,

(i) Seller shall have made all the deliveries to Buyer and License Company described in Section 8.2.

(j) Seller shall have notified the State of Texas of the sale of the Assets if required by Texas law.

7.2 Conditions to Obligations of Seller. All obligations of Seller at the Closing hereunder are subject at Seller's option to the fulfillment prior to or at the Closing Date of each of the following conditions:

(a) All representations and warranties of Buyer and License Company contained in this Agreement shall be true and correct in all material respects at and as of the Closing Date as though made at and as of that time except to the extent (i) any such representation or warranty is expressly stated only as of a specified earlier date or dates, in which case such representation and warranty shall be true and accurate as of such earlier specified date or dates, or (ii) changes are permitted or contemplated pursuant to this Agreement.

(b) Buyer and License Company shall have performed and complied in all material respects with all covenants, agreements and conditions required by this Agreement to be performed or complied with by each of them prior to or on the Closing Date.

(c) The FCC Consents shall have been granted by Final Order.

(d) No injunction, restraining order or decree of any nature of any Governmental Authority of competent jurisdiction shall be in effect that restrains or prohibits Seller from consummating the transactions contemplated by this Agreement.

(e) Buyer and License Company shall have made all the deliveries described in Section 8.3.

SECTION 8 - CLOSING AND CLOSING DELIVERIES

8.1 Closing. The Closing shall occur within five (5) Business Days following the satisfaction or waiver of the conditions precedent set forth in Section 7.1 and Section 7.2, but in no event later than March 15, 2005 (the "Closing Deadline"), and shall be held at the offices of Rubin, Winston, Diercks, Harris & Cooke, LLP, 1155 Connecticut Avenue, Washington, D.C., at 9:00 a.m. local time, or at such other time and place as Seller and Buyer may mutually agree. Notwithstanding the actual time the deliveries of the parties hereto are made on the Closing Date, the parties hereto agree that the Closing shall be effective and deemed for all purposes to have occurred as of 12:01 a.m., local time, on the Closing Date.

8.2 Deliveries by Seller. Prior to or on the Closing Date, Seller shall deliver to Buyer or License Company, as the case may be, the following in form and substance reasonably satisfactory to Buyer and its counsel:

(a) Duly executed assignments and other conveyancing documents that are sufficient to convey and vest good and marketable title in and to the Assets to Buyer, free and clear of all Liens, except for Permitted Liens. Such documents shall include, but shall not be limited to, the following:

(i) Assignment and Assumption agreement in the form attached hereto as *Exhibit D*;

(ii) Assignment and Acceptance agreement of the FCC Licenses in the form attached hereto as *Exhibit E*;

(iii) a Bill of Sale in the form attached hereto as *Exhibit F*.

- (iv) Deeds in the form attached hereto as *Exhibit G*.
 - (v) An Instrument granting Buyer the right of first refusal to acquire the Optioned Stations, in the form attached hereto as *Exhibit H*.
 - (vi) Leases executed by Waller Properties, Inc. in the form attached hereto as Exhibit I-1, I-2 and I-3.
- (b) A certificate, dated as of the Closing Date, executed by an officer of Seller, certifying to the fulfillment of the conditions set forth in Sections 7.1(a) and 7.1(b);
 - (c) A certificate, dated as of the Closing Date, executed by an officer of Seller, certifying that the resolutions, as attached to such certificate, were duly adopted by the board of directors and shareholders, or members and manager, of Seller, authorizing and approving the execution of this Agreement and the consummation of the transactions contemplated hereby and that such resolutions remain in full force and effect;
 - (d) The Opinions of Potter Minton, Counsel to Seller, and David Tillotson, Esquire, FCC Counsel to Seller, dated as of the Closing Date, each in the respective form set forth in Exhibit J hereto;
 - (e) Certificates of incumbency for the officers of Seller duly authorized to execute and deliver this Agreement and the agreements contemplated hereby;
 - (f) A copy of all instruments evidencing the Consents for all Assumed Contracts for which the consent of a third party is required for the valid assignment of such Contracts to Buyer;
 - (g) Any mortgage discharges or releases of liens that are necessary in order for the Assets to be free and clear of all Liens, other than the Permitted Liens;
 - (h) A certified copy of Seller's Certificate of Incorporation and Certificate of Organization issued by the Secretary of State of Texas, dated not more than ten (10) days before the Closing Date;
 - (i) Results of lien searches conducted by a commercial lien search firm on Seller dated not more than five (5) days before the Closing Date; and
 - (j) An executed Indemnification Escrow Agreement in the form attached hereto; together with executed instructions to the Escrow Agent to transfer the Escrow Amount to the Indemnification Escrow Account.
 - (k) A collateral assignment of lease, landlord waiver, and/or estoppel certificate, executed by the lessor under each lease of Real Property, in the form reasonably required by Buyer's lender (if required by Buyer's lender).

8.3 Deliveries by Buyer. Prior to or on the Closing Date, Buyer and License Company, as the case may be, shall deliver to Seller the following, in form and substance reasonably satisfactory to Seller and its counsel:

- (a) Cash in an amount equal to the Purchase Price less the Escrow Amount;
- (b) Executed instructions to the Escrow Agent to transfer the Escrow Amount to the Indemnification Escrow Account;
- (c) A certificate, dated as of the Closing Date, executed on behalf of Buyer by an officer of Buyer certifying to the fulfillment of the conditions set forth in Sections 7.2(a) and 7.2(b);
- (d) A certificate, dated as of the Closing Date, executed by an officer of Buyer, certifying that the resolutions, as attached to such certificate, were duly adopted by Board of Directors and Board of Managers of Buyer, authorizing and approving the execution of this Agreement and the consummation of the transactions contemplated hereby and that such resolutions remain in full force and effect;
- (e) Certificates of incumbency for the officers of Buyer duly authorized to execute and deliver this Agreement and the agreements contemplated hereby;
- (f) Appropriate assumption agreements pursuant to which Buyer shall assume and undertake to perform Seller's obligations arising after Closing under the Assumed Contracts, including the agreements in the form attached hereto as Exhibit D.
- (g) Appropriate acceptance agreement pursuant to which License Company shall accept and undertake to perform Seller's obligations arising after Closing under the FCC Licenses, including the agreement in the form attached hereto as Exhibit E.
- (h) An opinion of Buyer's legal counsel, Rubin, Winston, Diercks, Harris & Cooke, LLP, dated as of the Closing Date, substantially in the form attached hereto as Exhibit K; and
- (i) Executed leases in the form attached hereto as Exhibit I-1, I-2 and I-3.

SECTION 9 - TERMINATION

9.1 Termination of Agreement. This Agreement may be terminated only as follows:

- (a) at any time by mutual written consent of Seller, Buyer and License Company;
- (b) by Seller, if Seller is not in default or breach in any material respect of its obligations under this Agreement and Buyer (or License Company) is in material breach of its obligations hereunder, including its obligation to enter into the Closing in accordance with Section 8.1 hereof; *provided, however*, that Seller shall have given Buyer (or License

Company) notice of such breach and Buyer (or License Company) shall have failed to cure said breach prior to thirty (30) days after the date of receipt of such notice; or

(c) by Buyer, if neither Buyer nor License Company is in default or breach in any material respect of its respective obligations under this Agreement and Seller is in material breach of its obligations hereunder, including its obligation to enter into the Closing in accordance with Section 8.1 hereof; *provided, however*, that Buyer shall have given Seller notice of such breach and Seller shall have failed to cure said breach prior to thirty (30) days after the date of receipt of such notice;

(d) by either Buyer or Seller, if the terminating party is not in default or breach in any material respect of its obligations under this Agreement, if the Closing hereunder has not taken place on or before the Closing Deadline; *provided, however*, that if on the Closing Deadline, the Closing has not occurred solely because any required cure period for Closing under this Agreement has not lapsed, such date shall be extended until the lapse of such period.

9.2 Procedure and Effect of Termination.

(a) In the event of termination of this Agreement by either Buyer or Seller, prompt written notice thereof shall forthwith be given to the other party and this Agreement shall terminate and the transactions contemplated hereby shall be abandoned without further action by any of the parties hereto, but subject to and without limiting any of the rights of the parties specified herein in the event a party is in default or breach in any material respect of its obligations under this Agreement.

(b) (i) Buyer recognizes that if the transaction contemplated by this Agreement is not consummated as a result of Buyer's breach of this Agreement, Seller will be entitled to damages in an amount difficult and impractical to ascertain. Therefore, if this Agreement is terminated pursuant to Section 9.1(b), the Escrow Amount shall be paid to Seller as reasonable liquidated damages (not as a penalty) in full satisfaction of any claims Seller may have against Buyer in connection with such termination, and Seller shall have no right to pursue any legal or equitable remedy against Buyer in connection with such termination;

(ii) If this Agreement is terminated pursuant to Section 9.1(c), the Escrow Amount shall at Buyer's option, be returned to Buyer without limitation of any other remedies available to Buyer, *provided that* if Buyer seeks specific performance the Escrow Amount shall continue to be held in escrow pending resolution of Buyer's specific performance action;

(iii) If this Agreement is terminated pursuant to Section 9.1(a), the Escrow Amount shall be returned to Buyer and neither Buyer nor Seller shall have any recourse against the other, including any right to pursue any legal or equitable remedy for breach of contract or otherwise;

(iv) If this Agreement is terminated pursuant to Section 9.1(d), the Escrow Amount shall be returned to Buyer and neither Buyer nor Seller shall have any recourse against the other in

connection with such termination, including the right to pursue any legal or equitable remedy for breach of contract or otherwise; and

(v) Without limiting the generality of the foregoing, or any Applicable Law, neither Buyer, on the one hand, nor Seller, on the other hand, may rely on the failure of any condition precedent set forth in Section 7 to be satisfied as a ground for termination of this Agreement by such party if such failure was caused by such party's failure to act in good faith.

9.3 Attorneys' Fees. In the event of a lawsuit or other proceeding for any remedy available under this Agreement, each party shall be responsible for the payment of its own expenses related to such lawsuit or proceeding.

9.4 Remedies for Breach. The parties recognize that if, prior to Closing, Seller breaches this Agreement and refuses to perform under the provisions hereof, monetary damages alone would not be adequate to compensate Buyer for its injury. Buyer shall therefore be entitled to obtain specific performance of the terms of this Agreement. If any action for specific performance is brought by Buyer to enforce this Agreement, Seller shall waive the defense that there is adequate remedy at law. The parties agree that in the event Buyer breaches this Agreement and refuses to perform under the provisions hereof, Seller shall not be entitled to specific performance or any other equitable remedies and its damages shall in all cases limited to the Escrow Amount. Provided, the parties shall be entitled to injunctive relief in the event of a breach under Section 6.2.

SECTION 10 - SURVIVAL OF REPRESENTATIONS AND WARRANTIES; INDEMNIFICATION; CERTAIN REMEDIES

10.1 Survival. Except with regard to the representations and warranties made in Section 3.5 (title), the representations and warranties in Section 3.9 (taxes) and Section 3.15 (environmental), which shall survive until the expiration of the applicable statutes of limitations, the representations and warranties of Buyer, License Company and Seller contained herein shall survive the Closing for the lesser of a period of eighteen (18) months after the Closing Date or the applicable statute of limitations, and shall terminate on such date except to the extent that any claims for indemnification in respect of a breach of any such representation or warranty is made on or before such date, in which case such representation or warranty shall survive until the resolution of such claim. Buyer's and License Company's obligations to pay, perform or discharge the Assumed Liabilities shall survive until such Assumed Liabilities have been paid, performed or discharged in full. Seller's obligation to pay, perform or discharge the Retained Liabilities shall survive until such Retained Liabilities have been paid, performed or discharged in full. The covenants and agreements of Seller contained herein and to be performed to any extent after the Closing Date shall survive the Closing until fully discharged and performed. The covenants and agreements of Buyer contained herein to be performed in any respect after the Closing Date shall survive the Closing Date until fully discharged and performed.

10.2 Indemnification by Seller.

(a) After the Closing, Seller hereby agrees to indemnify, defend and hold Buyer, Buyer's officers, directors, members, managers, shareholders, attorneys and agents and License Company and License Company's officers, directors, members, managers, shareholders, attorney and agents (the "Buyer Indemnified Parties") harmless against and with respect to, and shall reimburse Buyer for:

(i) Any and all losses, liabilities or damages ("Damages") resulting from any breach of any representation or warranty made pursuant to this Agreement or any failure by Seller to perform any covenant or obligation of Seller set forth herein or in any certificate, document or instrument prepared by Seller and delivered to Buyer or License Company hereunder;

(ii) Any and all Damages resulting from or related to the Retained Liabilities; and

(iii) Any and all out-of-pocket costs and expenses, including reasonable legal fees and expenses, incident to any action, suit, proceeding, claim, demand, assessment or judgment incident to the foregoing or incurred in investigating or attempting to avoid the same or to oppose the imposition thereof, or in enforcing this indemnity.

(b) Seller's obligation to indemnify the Buyer Indemnified Parties pursuant to Section 10.2(a) shall be subject to all of the following limitations:

(i) No indemnification shall be required to be made by Seller as the Indemnifying Party under Section 10.2(a) until the aggregate amount of Damages of Buyer as Claimant exceeds Fifty Thousand Dollars (\$50,000.00), at which time the Claimant shall be entitled to indemnification for the first Fifty Thousand Dollars (\$50,000.00) and the amount of such Damages in excess of Fifty Thousand Dollars (\$50,000.00), but in no event exceeding in the aggregate the sum of Two Million Six Hundred Thousand Dollars (\$2,600,000). Notwithstanding the foregoing, this limitation shall not apply to breaches of covenants and to Retained Liabilities.

(ii) The Buyer Indemnified Parties shall be entitled to indemnification only for those Damages arising with respect to any claim as to which Buyer has given the Seller written notice setting forth the specific claim for indemnification within the appropriate time period set forth in Section 10.1 hereof for such claim.

(iii) Following the Closing, the sole and exclusive remedy for Buyer and License Company for any claim (whether such claim is framed in tort, contract or otherwise) arising out of a breach of any representation, warranty, covenant or other agreement herein or otherwise arising out of or in connection with the transactions contemplated by this Agreement or the operations of the Stations, other than for fraud, shall be a claim for indemnification pursuant to this Section 10.

(c) Notwithstanding anything contained herein to the contrary, Seller shall not be liable to the Buyer or License Company for Damages as a result of a loss of opportunities; provided that Buyer may claim actual damages.

10.3 Indemnification by Buyer.

(a) After the Closing, Buyer hereby agrees to indemnify, defend and hold Seller, Seller's officers, directors, members, managers, shareholders, attorneys and agents (the "Seller Indemnified Parties") harmless against and with respect to, and shall reimburse Seller for:

(i) Any and all Damages resulting from any breach of any representation or warranty made pursuant to this Agreement, or any failure by Buyer or License Company to perform any covenant or obligation of Buyer or License Company set forth herein or in any certificate, document or instrument delivered to Seller under this Agreement;

(ii) Any and all Damages resulting from or relating to the Assumed Liabilities; and

(iii) Any and all out-of-pocket costs and expenses, including reasonable legal fees and expenses, incident to any action, suit, proceeding, claim, demand, assessment or judgment incident to the foregoing or incurred in investigating or attempting to avoid the same or to oppose the imposition thereof, or in enforcing this indemnity.

(b) Buyer's obligation to indemnify the Seller Indemnified pursuant to Section 10.3(a) shall be subject to all of the following limitations:

(i) Except as provided in the immediately following sentence, no indemnification shall be required to be made by Buyer as the Indemnifying Party under Section 10.3(a) hereof until the aggregate amount of Damages of Seller as Claimant exceeds Fifty Thousand Dollars (\$50,000.00). Notwithstanding the foregoing to the contrary, such limit on Buyer's indemnification obligations hereunder shall not apply to claims by Seller with respect to any breach of covenants or Assumed Liabilities.

(ii) Seller Indemnified Parties shall be entitled to indemnification only for those Damages arising with respect to any claim as to which Seller has given Buyer written notice setting forth the specific claim for indemnification within the appropriate time period set forth in Section 10.1 hereof for such claim.

(iii) Following the Closing, the sole and exclusive remedy for Seller for any claim (whether such claim is framed in tort, contract or otherwise) arising out of a breach of any representation, warranty, covenant or other agreement herein or otherwise arising out of or in connection with the transactions contemplated by this Agreement or the operations of the Stations, other than for fraud, shall be a claim for indemnification pursuant to this Section 10.

10.4 Procedure for Indemnification. During the term of the Indemnification Escrow Agreement and to the extent that the funds in the Indemnification Escrow Account are

sufficient, all claims by Buyer shall be made in accordance with the provisions of such agreement. Otherwise, the procedure for indemnification shall be as follows:

(a) The party claiming indemnification (the “Claimant”) shall promptly give notice to the party from which indemnification is claimed (the “Indemnifying Party”) of any claim, specifying in reasonable detail the factual basis for the claim, the amount thereof, estimated in good faith, all with reasonable particularity and containing a reference to the provisions of this Agreement in respect of which such indemnification claim shall have occurred. If the claim relates to an action, suit or proceeding filed by another Person against Claimant, such notice shall be given by Claimant within ten (10) Business Days after written notice of such action, suit or proceeding was given to Claimant.

(b) With respect to claims solely between the parties, following receipt of notice from the Claimant of a claim, the Indemnifying Party shall have thirty (30) days to make such investigation of the claim as the Indemnifying Party deems necessary or desirable, and the Claimant agrees to make available to the Indemnifying Party and its authorized representatives the information relied upon by the Claimant to substantiate the claim. If the Claimant and the Indemnifying Party agree at or prior to the expiration of the thirty (30)-day period to the validity and amount of such claim, the Indemnifying Party shall immediately pay to the Claimant the full amount of the claim, subject to the terms hereof. If the Claimant and the Indemnifying Party do not agree within the thirty (30)-day period, the Claimant may seek appropriate remedy at law or equity, as applicable, subject to the limitations hereof.

(c) With respect to any claim by any other Person against the Claimant (a “Third Party Claim”), the Indemnifying Party shall have the right at its own expense, to participate in or assume control of the defense of such claim, and the Claimant shall cooperate fully with the Indemnifying Party, subject to reimbursement for reasonable actual out-of-pocket expenses incurred by the Claimant as the result of a request by the Indemnifying Party. If the Indemnifying Party elects to assume control of the defense of any Third Party Claim, the Claimant shall have the right to participate in (but not control) the defense of such claim at its own expense. If the Indemnifying Party does not elect to assume control or otherwise participate in the defense of any Third Party Claim, then the Claimant may defend through counsel of its own choosing and (so long as it gives the Indemnifying Party at least fifteen (15) days notice of the terms of the proposed settlement thereof and permits the Indemnifying Party to then undertake the defense thereof) settle such claim, action or suit and to recover from the Indemnifying Party the amount of such settlement or of any judgment and the costs and expenses of such defense. The Indemnifying Party shall not compromise or settle any Third Party Claim without the prior written consent of the Claimant, which consent will not be unreasonably withheld or delayed.

(d) If a claim, whether between the parties or by any other Person, requires immediate action, the parties will make every effort to reach a decision with respect thereto as expeditiously as possible.

(e) Notwithstanding anything contained herein to the contrary, the Indemnifying Party shall not be required to indemnify the Claimant until a “final determination” of a claim is made. A claim shall be deemed “finally determined” upon either

(i) the entry of a judgment by a court of final authority and the time for appeal having expired with no appeal having been taken, or (ii) the execution and delivery of a final and binding settlement agreement signed by both the Indemnifying Party and the Claimant pursuant to which they agree that the claim is finally resolved.

SECTION 11 - MISCELLANEOUS

11.1 Fees and Expenses. Except as otherwise provided in this Agreement, each party shall pay its own expenses incurred in connection with the authorization, preparation, execution and performance of this Agreement, including all fees and expenses of counsel, accountants, agents and representatives; *provided, however*, that all sales Taxes imposed by the State of Texas as a result of this transaction shall be paid by Seller, and all transfer Taxes, recordation taxes, document stamps in connection with the transactions contemplated by this Agreement, filing fees and other charges levied by any Governmental Authority in connection with the transactions contemplated by this Agreement shall be paid by Buyer and Seller equally.

11.2 Bulk Transfer Laws. Buyer hereby waives compliance with the provisions of any applicable bulk transfer laws, provided that Seller shall indemnify and hold harmless Buyer with respect to any claims or damages resulting therefrom.

11.3 Notices. All notices, demands and requests required or permitted to be given under the provisions of this Agreement shall be in writing and shall be sent (i) by overnight delivery by a nationally known delivery service such as FedEx, (ii) by facsimile (with receipt personally confirmed by telephone) and/or delivered by personal delivery or by overnight delivery, and shall be deemed to have been given on the date sent by facsimile with receipt confirmed, the date of personal delivery or the date set forth in the records of the delivery service or on the return receipt, and shall be addressed as follows:

(a) If to Seller:

Waller Broadcasting Group
402 South Ragsdale
Jacksonville, TX 75766
Attention: Mr. Dudley Waller
Facsimile: (903) 589-0677
Telephone: (903) 939-1065

With a copy to:
Potter Minton
Plaza Tower, Suite 500
110 N. College
Tyler, TX 75702
Attention: Jim Hedrick, Esquire
Facsimile: (903) 593-0846
Telephone: (903) 597-8311

and

David Tillotson, Esquire
4604 Charleston Terrace NW
Washington, DC 20007
Facsimile: (202) 625-6242
Telephone: (202) 625-6241

(b) If to the Buyer or License Company:

Access.1 Communications Corp.-NY
11 Penn Plaza, 16th Floor
New York, New York 10001
Attn: Sydney L. Small, Chairman
Telephone: (212) 714-1000
Facsimile: (212) 714-1563

With a copy to:

Rubin, Winston, Diercks, Harris & Cook, L.L.P.
1155 Connecticut Avenue, N.W.
Sixth Floor
Washington, D.C. 20036
Attn: Steven J. Stone, Esquire
Facsimile: (202) 429-0657
Telephone: (202) 861-0870

or to any other or additional persons and addresses as the parties may from time to time designate in a writing delivered in accordance with this Section 11.3.

11.4 *Benefit and Binding Effect.* No party hereto may assign this Agreement without the prior written consent of the other party hereto; *provided, however*, that (a) nothing in this Agreement is intended to limit Buyer's ability to sell or to transfer any or all of the Assets following the Closing; (b) prior to the Closing, upon notice to Seller, Buyer may assign or delegate to any Affiliate of Buyer the right to acquire part or all of the Assets and its obligation to assume any Assumed Liabilities in connection therewith, provided that Buyer will remain liable for the obligations of the Buyer hereunder notwithstanding any such assignment, and provided that such assignment will not delay FCC Consent or delay Closing; and (c) upon notice to Seller, Buyer may collaterally assign this Agreement to its lender. Buyer may also grant a security interest in this Agreement to its lenders if required to do so pursuant to its credit agreements. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and permitted assigns.

11.5 Further Assurances. Subject to the terms and conditions of this Agreement, from time to time prior to, at and after the Closing Date, each party hereto will use commercially reasonable efforts to take, or cause to be taken, all such actions and to do or cause to be done, all things necessary, proper or advisable under Applicable Law to consummate and make effective the purchase and sale contemplated by this Agreement and the consummation of the other transactions contemplated hereby, including executing and delivering such documents as the other party may reasonably request in connection with the consummation of this Agreement and the consummation of the other transactions contemplated hereby.

11.6 Governing Law. This Agreement shall be governed, construed and enforced in accordance with the laws of the State of Texas (without regard to the choice of laws provisions thereof).

11.7 Entire Agreement. This Agreement, the Schedules and Exhibits hereto, all documents, certificates and other documents to be delivered by the parties pursuant hereto collectively represent the entire understanding and agreement between Buyer and Seller with respect to the subject matter of this Agreement. This Agreement supersedes the letter of intent between the parties and all prior negotiations between the parties and cannot be amended, supplemented or changed except by an agreement in writing that is signed by the parties hereto.

11.8 Waiver of Compliance; Consents. Except as otherwise provided in this Agreement, any failure of any of the parties to comply with any obligation, representation, warranty, covenant, agreement or condition herein may be waived by the party entitled to the benefits thereof only by a written instrument signed by the party granting such waiver, but such waiver 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 in a manner consistent with the requirements for a waiver of compliance as set forth in this Section 11.8.

11.9 Counterparts. This Agreement may be signed in any number of counterparts, but all such counterparts shall constitute one and the same instrument.

11.10 Severability. If any provision of this Agreement or the application thereof to any Person or circumstance shall be invalid or unenforceable to any extent, the remainder of this Agreement and the application of such provision to other Persons or circumstances shall not be affected thereby and shall be enforced to the greatest extent permitted by Applicable Law so long as the economic or legal substance of the transactions contemplated hereby is not affected in any manner materially adverse to any party. Upon such determination that any term or other provision is invalid or unenforceable, the parties hereto shall negotiate in good faith to modify this Agreement so as to effect the original intent of the parties as closely as possible in an acceptable manner to the end that the transactions contemplated hereby are fulfilled to the greatest extent possible.

11.11 Third Party Beneficiaries. Nothing herein, express or implied, is intended or shall be construed to or shall confer upon or give to any Person, other than the

Parties hereto, any rights, remedies or other benefits under or by reason of this Agreement or any documents executed in connection with this Agreement.

11.12 *Schedules, Exhibits and Other Agreements.*

(a) The Schedules, Exhibits and other agreements specifically referred to in and delivered pursuant to, this Agreement are an integral part of it. For purposes of determining the truthfulness of the representations of Seller set for in Section 3 of this Agreement, any matter described or disclosed in the Financial Statements or on any Schedule to this Agreement shall be treated as if disclosed and described on all Schedules, but only to the extent that it is readily apparent from a reading of the disclosure or description that it is applicable.

(b) The following are the Exhibits and Schedules annexed hereto and incorporated by reference and deemed to be part hereof:

(i) Exhibits:

Exhibit A	--	Escrow Agreement
Exhibit B	--	Amended Escrow Agreement
Exhibit C	--	Indemnification Escrow Agreement
Exhibit D	--	Assignment and Assumption Agreement
Exhibit E	--	Assignment and Acceptance Agreement: FCC Licenses
Exhibit F	--	Bill of Sale
Exhibit G	--	Deeds
Exhibit H	--	Instrument Conveying Right of First Refusal
Exhibits I-1,I-2, I-3	--	Leases
Exhibit J	--	Form of Opinion Letters of Seller's Counsel and Seller's FCC Counsel
Exhibit K	--	Form of Opinion Letter of Buyer's and License Company's Counsel

(ii) Schedules:

Schedule 2.1(a)	--	Tangible Personal Property
Schedule 2.2(e)	--	Excluded Contracts
Schedule 2.2(g)	--	Excluded Assets
Schedule 2.8	--	Allocation of Purchase Price
Schedule 3.2	--	Seller's Authorization and Binding Obligation
Schedule 3.3	--	Consents
Schedule 3.4(a)	--	Governmental Licenses
Schedule 3.4(b)	--	Pending Applications
Schedule 3.4(c)	--	FCC Investigations
Schedule 3.5	--	Tangible Personal Property
Schedule 3.6	--	Assumed Contracts
Schedule 3.7	--	Intangibles
Schedule 3.8	--	Financial Statements
Schedule 3.9	--	Taxes
Schedule 3.10	--	Insurance
Schedule 3.11	--	Personnel
Schedule 3.12	--	Claims and Legal Actions
Schedule 3.14	--	Conduct of Business
Schedule 3.15	--	Environmental Matters
Schedule 3.16		Real Property
Schedule 3.17	--	Financial Advisors
Schedule 3.18	--	Transactions with Affiliates
Schedule 4.2	--	Buyer's Authorization and Binding Obligation

11.13 Enforcement of Remedies; Disputes. Except for (i) the right of Buyer to seek specific performance of this Agreement, and (ii) the right of Seller or Buyer to injunctive relief to enforce the provisions of Section 6.2 of this Agreement, which claims shall be pursued in the State or Federal Courts sitting in Tyler, Smith County, Texas, and (iii) the right of either party to enforce the provisions of or any determination made pursuant to this Section, the parties agree to resolve any disputes arising out of or in connection with this Agreement as provided in this Section 11.13.

(a) Appointment of Dispute Panel. If any dispute is not resolved in the time permitted by this Agreement or, if no time is specified, within five (5) days of the date either party gives the other notice that it intends to invoke the provisions of this section, each party will promptly name one arbitrator who shall be a person with one of the following qualifications (a) substantial experience in radio ownership or management, (b) an accountant with experience in radio broadcasting, or (c) a radio broadcasting consultant, and, within five (5) days of their appointment, the two arbitrators so selected shall select a third arbitrator with similar qualifications (the "Dispute Panel"). In the event one party names an arbitrator within the time period specified herein and the other party fails to do so, the Dispute Panel shall be comprised of the sole arbitrator who was timely named who shall have the full power and authority to resolve the dispute pursuant to the provisions of this Section 11.13.

(b) Decision Process. Each party may submit such materials as it may elect to the Dispute Panel provided that a copy of such material is delivered by hand or overnight courier to the other party. Neither party will contact any member of the Dispute Panel to discuss the dispute unless the other party is present in person or by conference telephone call or the other party consents. The Dispute Panel will request and review such information as its members deem necessary to resolve the dispute. The Dispute Panel and each party will treat all information received by it as confidential and will destroy such information when the dispute is resolved. The Dispute Panel will resolve the matters presented to it so as to give each party the benefit of its bargain by applying the provisions of this Agreement and, to the extent the Agreement is not dispositive, the customs and practices which, in the view of Dispute Panel, are common to transactions of this nature. The Dispute Panel will render its decision as soon as possible, but in any event, within thirty (30) days of the appointment of the third expert. The decision will be in writing and signed by each member of the dispute panel. The decision may include an award of damages as permitted by this agreement.

(c) Binding Effect. The decision of a majority of the members of the Dispute Panel will be binding and final with respect to both parties and may be enforced by seeking preliminary and permanent injunctive relief or entry of a judgment by a court of competent jurisdiction.

(d) Venue. The exclusive venue for the arbitration provided for in this Section 11.13 shall be Washington, D.C.

(e) **Costs.** Each party will bear the costs and fees of the expert appointed by it plus half of the costs and expenses of the third expert. If the Dispute Panel determines by majority decision that the position of a party lacks substantial merit or was taken primarily to delay or otherwise impair the business efforts of the other party, then that party will pay the costs and fees of all the members of the panel.

11.14 Waiver of Jury Trial. If, notwithstanding the provisions of Section 11.13, any law suit is filed to resolve an issue as to the interpretation or enforcement of this Agreement and is not dismissed on the basis of Section 11.13, each party irrevocably waives trial by jury and the right thereto in any and all litigation in any court with respect to, in connection with, or arising out of this Agreement.

IN WITNESS WHEREOF, the parties hereto, intending to be legally bound, have executed this Asset Purchase Agreement as of the date first above written.

SELLER:

BUYER:

WALLER BROADCASTING, INC.

ACCESS.1 COMMUNICATIONS CORP.NY

By: _____

By: _____

Name:

Name:

Title:

Title:

LICENSE COMPANY:

WALLER MEDIA, LLC

ACCESS.1 TEXAS LICENSE COMPANY LLC

By: _____

By: _____

Name:

Name:

Title:

Title:

ATTACHMENT A

Defined Terms

Accounts Payable means the financial obligations of Seller incurred in the ordinary course of business as of the Closing Date, excluding credit agreements or other financing.

Accounts Receivable means the rights of Seller to payment for the sale of advertising time and other goods and services by the Stations prior to the Closing Date.

Affiliate means, with respect to any Person, any other Person that, directly or indirectly through one or more intermediaries, Controls, is Controlled by or is under common Control with such Person.

Agreement has the meaning ascribed thereto in the preamble.

Applicable Environmental Laws means any and all laws, statutes, regulations and judicial interpretations thereof of the United States, of any state in which the Assets, or any portion thereof, or the Stations' Business are located, and of any other government or quasi-government authority having jurisdiction, that relate to the prevention, abatement and elimination of pollution and/or protection of the environment, including the federal Comprehensive Environmental Response, Compensation, and Liability Act, the Resource Conservation and Recovery Act, the Clean Water Act, the Clean Air Act, the Safe Drinking Water Act, the Toxic Substances Control Act and the Hazardous Materials Transportation Act, together with all state statutes serving any similar or related purposes, as in effect on or prior to the date of this Agreement.

Applicable Law means any applicable constitution, treaty, statute, rule, regulation, ordinance, order, directive, code, interpretation, judgment, decree, injunction, writ, determination, award, permit, license, authorization, directive, requirement, ruling or decision of, agreement with, or by a Governmental Authority.

Assets has the meaning ascribed thereto in Section 2.1.

Assignment Application means the application to be filed with the FCC in order to obtain the consent of the FCC to the assignment of the FCC Licenses from Seller to Access.1-Texas.

Assumed Contracts means (a) the Contracts listed on *Schedules 3.6* and *3.11*, including the Programming Contracts, all Contracts of the type described in Sections 3.6 and 3.11 that are not required to be listed thereon pursuant to the exceptions set forth in such Sections; (b) Contracts entered into with advertisers for the sale of advertising time for cash or production services in the ordinary course of business including all program barter and trade; (c) any Contracts entered into by Seller between the date of this Agreement and the Closing Date that Buyer agrees in writing to assume; and (d) other Contracts entered into by Seller between the date of this Agreement and the Closing Date in compliance with Section 5.1; *provided, however*, that Assumed Contracts shall in no event include Excluded Contracts.

Assumed Liabilities has the meaning ascribed thereto in Section 2.6.

Best Knowledge, Knowledge or Known to means that, after due inquiry, nothing has come to the attention of the Person to whom such knowledge is attributed that gives such Person actual knowledge of the existence or absence of any material information or fact bearing on the matter.

Business Day means any day excluding Saturdays, Sundays and any day that is a legal holiday under the laws of the United States or is a day on which the Escrow Agent or banking institutions located in New York City, New York are authorized or required by law or other governmental action to close.

Buyer has the meaning ascribed thereto in the preamble.

Buyer Indemnified Parties has the meaning ascribed thereto in Section 10.2.

Claimant has the meaning ascribed thereto in Section 10.4(a).

Closing means the consummation of the sale and acquisition of the Assets pursuant to this Agreement in accordance with the provisions of Section 8.

Closing Date means the date on which the Closing occurs and Seller receives the purchase price payable hereunder, as determined pursuant to Section 8.

Closing Deadline has the meaning ascribed thereto in Section 8.1.

Code means the Internal Revenue Code of 1986, as amended.

Commencement Date is defined in the Time Brokerage Agreement of even date herewith by and between Seller and Buyer.

Communications Act means the Communications Act of 1934, as amended.

Consents means the consents, permits or approvals of Government Authorities and other Person necessary to transfer the Assets to Buyer or otherwise to consummate the transactions contemplated by this Agreement.

Contracts means all contracts, leases, non-governmental licenses and other agreements (including leases for personal or real property and employment agreements), written or oral (including any amendments and other modifications thereto) of Seller or to which Seller is a party or that are binding upon Seller and that relate to or affect the Assets or of the Stations' Business, and (a) that are in effect on the date of this Agreement or (b) that are entered into by Seller between the date of this Agreement and the Closing Date, but excluding any Contracts that terminate between the date of this Agreement and the Closing Date.

Control means having the power to direct the affairs of a Person by reason of either (a) owning or controlling the right to vote a sufficient number of shares of voting stock or other voting interest of such Person or (b) having the right to direct the general management of the affairs of such Person by contract or otherwise.

EBITDA means earnings before interest, taxes, depreciation and amortization.

Employee Plan means any retirement, severance, medical, disability, life insurance or any other employee benefit plan as defined in Section 3(3) of ERISA to which Seller or any entity related to Seller (under the terms of Sections 414(b) or (c) of the Code) contributes or which Seller or any entity related to Seller (under the terms of Sections 414(b) or (c) of the Code) sponsors or maintains.

Employees has the meaning ascribed thereto in Section 3.11.

ERISA means the Employee Retirement Income Security Act of 1974, as amended.

Escrow Account means the account established by the Escrow Agent pursuant to the Escrow Agreement.

Escrow Agent means Wachovia Bank, National Association.

Escrow Amount means the sum of the Escrow Deposit and all interest or earnings accrued thereon.

Escrow Deposit has the meaning ascribed to it in Section 2.3(a), with such deposit being held by the Escrow Agent in accordance with the Escrow Agreement.

Excluded Assets has the meaning ascribed thereto in Section 2.2.

Excluded Contracts has the meaning ascribed thereto in Section 2.2(e).

FAA means the Federal Aviation Administration.

FCC means the Federal Communications Commission.

FCC Consent means action by the FCC granting its consent to the Assignment Application and the consummation of the transactions contemplated hereby.

FCC Licenses means the Licenses for the Stations issued by or pending before the FCC to Seller.

Final Order means an action by the FCC or other regulatory authority having jurisdiction (a) with respect to which action no timely request for stay, motion or petition for reconsideration or rehearing, application or request for review or notice of appeal or other judicial petition for review is pending and (b) as to which the time for filing any such request, motion, petition, application, appeal or notice and for the entry of orders staying, reconsidering or reviewing on the FCC's or such other regulatory authority's own motion has expired.

Financial Statements has the meaning ascribed thereto in Section 3.8.

Governmental Authority means any government, any governmental entity, department, commission, board, agency or instrumentality and any court, tribunal or judicial or arbitral body, whether federal, state or local.

Hazardous Substance means any substance now or hereafter designated pursuant to Section 307(a) and 311(b)(2)(A) of the federal Clean Water Act, 33 USCA §§ 1317(a), 1321(b)(2)(A), Section 112 of the federal Clean Air Act, 42 USCA § 3412, Section 3001 of the federal Resource Conservation and Recovery Act, 42 USCA § 6921, Section 7 of the federal Toxic Substances Control Act, 15 USCA § 2606, or Section 101(14) and Section 102 of the Comprehensive Environmental Response, Compensation, and Liability Act, 42 USCA §§ 9601(14), 9602, as amended by the Superfund Amendments and Reorganization Act of 1986.

Indemnification Escrow Account means the account established by the Indemnification Escrow Agent pursuant to the Escrow Agreement.

Indemnification Escrow Agreement means the Indemnification Escrow Agreement, of even date herewith, by and among Seller, Buyer and Escrow Agent, in the form attached hereto as *Exhibit C*.

Indemnifying Party has the meaning ascribed thereto in Section 10.4(a).

Independent Auditor has the meaning ascribed thereto in Section 2.5(d).

Intangibles means all copyrights, trademarks, trade names, service marks, service names, licenses, computer programs and computer license interests to the extent owned by and transferable by Seller, patents, permits, jingles, proprietary information, technical information and data and other similar intangible property rights and interests (and any goodwill associated with any of the foregoing) applied for, issued to or owned by Seller or under which Seller is licensed or franchised and that are used or useful in the Stations' Business, together with any additions thereto between the date of this Agreement and the Closing Date.

Licenses means all licenses, permits, construction permits and other authorizations issued by federal, state or local Governmental Authorities to Seller, currently in effect and used in connection with the Stations' Business, together with any additions thereto between the date of this Agreement and the Closing Date.

Lien means, with respect to any Asset, any mortgage, lien, covenant, easement, pledge, charge, security interest, restriction or encumbrance of any kind, whether statutory or otherwise.

Material Adverse Effect means a material adverse effect on the Assets or the Stations' Business, financial condition or results of operation or an effect that creates a limitation in the ability of Buyer to acquire valid and marketable title to the Assets free and clear of all Liens, other than Permitted Liens.

Optioned Stations has the meaning ascribed thereto in the recitals.

Permitted Liens means (a) liens for Taxes not yet due and payable; (b) landlord's liens and liens for property Taxes not delinquent; (c) inchoate materialmen's, mechanics', carriers', warehousemen's, landlords', workmen's, repairmen's, employees' or other like Liens arising in the ordinary course of business and for which payment is not overdue; (d) Liens incurred or deposits made in the ordinary course of business in connection with workers' compensation, unemployment insurance, social security and other like laws; (e) restrictions or rights granted to

Governmental Authorities under applicable law; (f) all matters of record disclosed on Schedule 3.5 as “continuing,” including leasehold interests in real property owned by others and operating leases for personal property and leased interests in property leased to others; and (g) the Assumed Liabilities.

Person means an individual, corporation, association, partnership, joint venture, trust, estate, limited liability company, limited liability partnership or other entity or organization.

Purchase Price has the meaning ascribed thereto in Section 2.4.

Real Property means (a) the Fee Parcels listed on Schedule 3.16 and all buildings and other improvements thereon, owned or held by Seller; and (b) the leasehold estates of Seller under the lease agreements listed on Schedule 3.16, together with any additions thereto between the date of this Agreement and the Closing Date.

Retained Liabilities has the meaning ascribed thereto in Section 2.6.

Right of First Refusal means the right granted to Buyer at Closing pursuant to the Instrument attached hereto as *Exhibit H*.

Seller has the meaning ascribed thereto in the preamble.

Seller Indemnified Parties has the meaning ascribed thereto in Section 10.3.

Stations has the meaning ascribed thereto in the recitals.

Stations’ Business means the businesses currently conducted by Seller with respect to the Stations, taken as a whole, including the Assets and operations thereof and the Assumed Liabilities to be sold or assumed pursuant to this Agreement.

Tangible Personal Property means the machinery, equipment, tools, vehicles, furniture, office equipment, plant, inventory, spare parts and other tangible personal property owned or held by Seller that is used in the conduct of the Stations’ Business as currently conducted, together with any replacements therefor made between the date of this Agreement and the Closing Date.

Tax means any federal, state, local or foreign income, gross receipts, windfall profits, severance, property, production, sales, use, license, excise, franchise, capital, transfer, employment, withholding or other tax or governmental assessment, together with any interest, additions or penalties with respect thereto and any interest in respect of such additions or penalties.

Tax Return means any tax return, declaration of estimated tax, tax report or other tax statement or any other similar filing required to be submitted by Seller relating to the Stations to any Governmental Authority with respect to any Tax.

Third Party Claim has the meaning ascribed thereto in Section 10.4(c).

Transferred Employee has the meaning ascribed thereto in Section 6.6.

Schedule 3.4 (a) Governmental Licenses

STATION ID CALLS		TYPE OF LICENSE	FREQ
70740	KOOI	FM STATION	106.5
		WLJ297	STL
			949.375
			949.625
		WME801	INTERCITY RELAY
			943.875
			944.125
		WLI939	STL (Being used by KOYE)
			950.875
			951.125
		KV9137	RPU
			161.670
			161.700
		KPN732	RPU
			450.750
			455.850
			450.350
		KPK324	RPU
			450.350
			450.750
			455.850
			450.350
			450.750
			455.850
			450.350
		KPI971	RPU
			450.020
		KPN749	RPU
			450.750

				455.850
				450.350
<hr/>				
68651	KKUS	FM LICENSE	104.1	
	WLI837	STL		946.875
				947.125
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70455	KFRO-A	AM LICENSE	1370	
	WHS524	STL		951.500
	KPG827	RPU		450.925
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54844	KYKX	FM LICENSE	105.7	
	WDD786	STL		946.0
	KPK809	RPU		161.670
				161.670
	KQB655	RPU		455.450
	KY7787	RPU		455.450
	WPLR983	RPU		450.050
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70387	KOYE	FM LICENSE	96.7	
		STL		944.875
				945.125

