

**ASSET PURCHASE AGREEMENT**  
**(FM Translator W275BJ, Pickens, South Carolina)**

This AGREEMENT (this "Agreement") is dated as of August 19, 2014, by and between **Tugart Properties, LLC**, a Georgia limited liability company ("Seller") and **Caron Broadcasting, Inc.**, an Ohio corporation ("Buyer").

**RECITALS:**

1. Seller is the owner of FM broadcast translator W275BJ, FCC Facility ID No. 138758, licensed to Pickens, South Carolina, (the "Translator") and Seller holds the licenses and authorizations issued by the FCC for the operation of the Translator, which is currently silent.

2. Buyer desires to acquire certain assets relating to the Translator, including a CP for the Translator to operate from Buyer's WGTK-FM transmitter site (the "CP"), and Seller is willing to convey such assets to Buyer.

3. The acquisition of the Translator is subject to prior approval of the FCC.

4. An affiliate of Seller, Georgia-Carolina Wireless, LLC ("Georgia-Carolina") and Buyer are concurrently entering into a purchase agreement for Buyer to acquire certain assets relating to WLTE(FM), Pendleton, SC (FCC ID No. 170949) (the "WLTE Transaction").

NOW THEREFORE, in consideration of the foregoing and the mutual covenants and agreements contained herein, Seller and Buyer hereby agree as follows:

**ARTICLE 1**

**TERMINOLOGY**

1.1 **Act.** The Communications Act of 1934, as amended.

1.2 **Assumed Obligations.** Such term shall have the meaning defined in Section 2.3.

1.3 **Business Day.** Any calendar day, excluding Saturdays and Sundays, on which federally chartered banks are regularly open for business.

1.4 **Buyer's Threshold Limitation.** As provided in Section 9.3(b), the threshold dollar amount for the aggregate of claims, liabilities, damages, losses, costs and expenses that must be incurred by Buyer before Seller shall be obligated to indemnify Buyer. The Buyer's Threshold Limitation shall be Two Thousand Five Hundred Dollars (\$2,500) in the aggregate; provided, however, that for any individual item or series of related items, the Buyer's Threshold Limitation shall be One Thousand Dollars (\$1,000).

1.5 **Closing.** The closing with respect to the transactions contemplated by this Agreement.

1.6 **Closing Date.** The date determined as the Closing Date as provided in Section 8.1.

1.7 **Documents.** This Agreement and all Exhibits and Schedules hereto, and each other agreement, certificate, or instrument delivered pursuant to or in connection with this Agreement, including amendments thereto that are expressly permitted under the terms of this Agreement.

1.8 **Earnest Money.** The amount of Nine Thousand Two Hundred Fifty Dollars (\$9,250.00).

1.9 **Escrow Agent.** Jorgenson Broadcast Brokerage, Inc.

1.10 **Escrow Agreement.** The Escrow Agreement in the form attached hereto as Schedule 1.10 which Buyer, Seller and Escrow Agent have entered into concurrently with the execution of this Agreement relating to the deposit, holding, investment and disbursement of the Earnest Money.

1.11 **Excluded Assets.** Such term shall have the meaning defined in Section 2.2.

1.12 **FCC.** Federal Communications Commission.

1.13 **FCC Licenses.** The licenses, permits and authorizations (and any renewals, extensions, amendments or modifications thereof) of the FCC for the construction and operation of the Translator as listed on Schedule 3.6, including without limitation, all pending Licenses, permits, and authorizations of the FCC to the extent they pertain to the construction and operation of the Translator.

1.14 **FCC Order.** An action, order or decision of the FCC, granting its consent to the assignment of the FCC Licenses to Buyer.

1.15 **Final Action.** An action of the FCC that has not been reversed, stayed, enjoined, set aside, annulled or suspended; with respect to which no timely petition for reconsideration or administrative or judicial appeal or sua sponte action of the FCC with comparable effect is pending and as to which the time for filing any such petition or appeal (administrative or judicial) or for the taking of any such sua sponte action of the FCC has expired.

1.16 **Indemnified Party.** Any party described in Section 9.3 or Section 9.4 against which any claim or liability may be asserted by a third party which would give rise to a claim for indemnification under the provisions of this Agreement by such party.

1.17 **Indemnifying Party.** The party to the Agreement (not the Indemnified Party) that, in the event of a claim or liability asserted by a third party against the Indemnified Party which would give rise to a claim for indemnification under the provisions of this Agreement, is

obligated to indemnify and hold harmless the Indemnified Party to the extent expressly provided in this Agreement.

1.18 **Knowledge.** Seller's or Buyer's respective actual knowledge, assuming a reasonable degree of investigation by such party.

1.19 **Lien.** Any mortgage, deed of trust, pledge, hypothecation, security interest, encumbrance, lien, lease or charge of any kind, whether voluntarily incurred or arising by operation of law or otherwise, affecting any Sale Assets or property, including any written or oral agreement to give or grant any of the foregoing, any conditional sale or other title retention agreement, and the filing of or agreement to give any financing statement with respect to any assets or property under the Uniform Commercial Code or comparable law of any jurisdiction.

1.20 **Material Adverse Condition.** A condition, event or circumstance which would materially restrict, limit, increase the cost or burden of or otherwise materially adversely affect or materially impair the right of Buyer to the ownership, use, control, enjoyment or operation of the Translator or the proceeds therefrom; provided, however, that any condition which requires that the Translator be operated in accordance with a condition similar to those contained in the present FCC licenses issued for operation of the Translator shall not be deemed a Material Adverse Condition.

1.21 **Permitted Lien.** For purposes hereof, "Permitted Lien" shall mean (i) recorded easements, restrictions, and other similar matters which will not materially adversely affect the use of the Real Property in the ordinary course of business; (ii) statutory liens for taxes not due and payable or, that are being contested in good faith by appropriate proceedings; (iii) mechanics, materialmen's, carriers', warehousemen's, landlords' or other similar liens in the ordinary course of business for sums not yet due or which are being contested in good faith by appropriate proceedings; (iv) liens or mortgages that will be released at Closing; (v) zoning ordinances and regulations, including statutes and ordinances relating to the liens of streets and to other municipal improvements, which will not materially adversely affect the use of the Real Property in the ordinary course of business, provided that any of the foregoing alone or in the aggregate do not materially impair the value or materially interfere with the use of any asset or property of the Seller material to the operation of its business as it has been and is now conducted; and/or (vi) a Lien securing only an Assumed Obligation.

1.22 **Person.** Any individual, corporation, limited liability company, partnership, joint venture, association, joint stock company, trust, unincorporated organization or government or any agency or political subdivisions thereof.

1.23 **Purchase Price.** The consideration to be paid by Buyer to Seller for purchase of the Sale Assets in an amount equal to One Hundred Eighty Five Thousand Dollars (\$185,000.00) payable pursuant to the terms of Section 2.5 and subject to adjustments pursuant to Section 2.7.

1.24 **Rules and Regulations.** The rules of the FCC as set forth in Volume 47 of the Code of Federal Regulations, as well as such other policies of the FCC, whether contained in the Code of Federal Regulations, or not, that apply to the Translator.

1.25 **Sale Assets.** All of the tangible and intangible assets to be transferred by Seller to Buyer as set forth in Section 2.1.

1.26 **Seller's Threshold Limitation.** As provided in Section 9.4(b), the threshold dollar amount for the aggregate of claims, liabilities, damages, losses, costs and expenses that must be incurred by Seller before Buyer shall be obligated to indemnify Seller. The Seller's Threshold Limitation shall be Two Thousand Five Hundred Dollars (\$2,500) in the aggregate; provided, however, that for any individual item or series of related items, the Seller's Threshold Limitation shall be One Thousand Dollars (\$1,000).

1.27 **Unwind Agreement.** An agreement under which Seller and Buyer agree pursuant to Section 8.1 of this Agreement, that if Closing takes place prior to Final Action and the FCC orders a rescission of the FCC Order, the parties will take any and all reasonable steps to restore each other to the *status quo ante*. The failure of Seller and Buyer to reach an accord on the form, substance, terms and conditions of the Unwind Agreement shall not be a failure of a condition to this Agreement nor a breach of either party and the Unwind Agreement shall only be effective upon Seller's and Buyer's agreement as to its form, substance, terms and conditions.

## **ARTICLE II**

### **PURCHASE AND SALE**

2.1 **Sale Assets.** On the Closing Date, Seller will sell, transfer, assign and convey to Buyer, and Buyer will purchase from Seller, free and clear of all Liens, except Permitted Liens and Excluded Assets, the Translator which includes the following:

(a) **Licenses and Permits.** The FCC Licenses and all other assignable or transferable governmental permits, licenses and authorizations (and any renewals, extensions, amendments or modifications thereof) now held by Seller or hereafter obtained by Seller between the date hereof and the Closing Date, to the extent such other permits, licenses and authorizations pertain to the Translator;

(b) **Records.** True and complete copies of all of the books, records, accounts, files, logs, ledgers, reports of engineers and other consultants or independent contractors, pertaining to the Translator (other than corporate records);

(c) **Intellectual Property.** Seller's Intellectual Property solely used in, or related to, the Translator or Sale Assets. For purposes of this Agreement, "Intellectual Property" shall mean all of the following relating to the construction or operation of the Translator or the Sale Assets: call signs, slogans, and other indications of origin, any concepts, plans, or ideas relating to potential facilities or improvements for the Translator, the goodwill associated with

any of the foregoing, and any claims or causes of action arising out of or relating to any infringement or misappropriation of any of the foregoing.

(d) **Miscellaneous Assets.** Any other tangible, intangible, real, personal or mixed asset, property or right of any kind or nature listed on Schedule 2.1(d).

2.2 **Excluded Assets.** Notwithstanding any provision of this Agreement to the contrary, Seller shall not transfer, convey or assign to Buyer, but shall retain all of its right, title and interest in and to, the following assets owned or held by it on the Closing Date (“Excluded Assets”):

(a) Any and all cash, cash equivalents, cash deposits to secure contract obligations, all inter-company receivables from any affiliate of Seller and all other accounts receivable, bank deposits and securities held by Seller in respect of the Translator at the Closing Date.

(b) Any and all claims of Seller with respect to transactions prior to the Closing including, without limitation, claims for tax refunds and refunds of fees paid to the FCC.

(c) All prepaid expenses (except to the extent Seller receives a credit therefor under Section 2.7, in which event the prepaid expense shall be included as part of the Sale Assets).

(d) All contracts of insurance and claims against insurers.

(e) All employee benefit plans and the assets thereof and all employment contracts.

(f) All contracts that are terminated in accordance with the terms and provisions of this Agreement or have expired prior to the Closing Date in the ordinary course of business; and all loans and loan agreements.

(g) All tangible personal property disposed of or consumed between the date hereof and the Closing Date in accordance with the terms and provisions of this Agreement and in the ordinary course of business.

(h) Seller's corporate records except to the extent such records pertain to the Translator, in which case Seller shall deliver materially accurate copies thereof to Buyer.

(i) All commitments, contracts and agreements not specifically assumed by Buyer pursuant to this Agreement.

(j) Seller's interests in any real property relating to the Translator.

2.3 **Assumption of Liabilities.**

(a) At the Closing, Buyer shall assume and agree to perform, without duplication of Seller's performance, the following liabilities and obligations of Seller (the "Assumed Obligations"):

(i) Current liabilities of Seller for which Buyer receives a credit pursuant to Section 2.7, but not in excess of the amount of such credit; and

(ii) All liabilities arising out of ownership and operation of the Sale Assets which accrue from and after the Closing Date; and

(iii) The obligations, if any, specifically listed in Schedule 2.3.

(b) Except for the Assumed Obligations, Buyer shall not assume or in any manner be liable for any debts, liens, charges, claims, encumbrances, duties, responsibilities, obligations or liabilities of Seller of any kind or nature, whether express or implied, known or unknown, contingent or absolute, including, without limitation, any liabilities to or in connection with Seller's employees whether arising in connection with the transaction contemplated hereunder or otherwise.

#### 2.4 **Earnest Money.**

(a) Within two (2) business days of the execution of this Agreement, Buyer shall deposit with Escrow Agent the Earnest Money who shall hold the same pursuant to the terms of the Escrow Agreement. The Escrow Agent shall hold the Earnest Money under the terms of the Escrow Agreement in trust for the benefit of the parties hereto. This Agreement is not effective as to any party until and unless such Earnest Money is deposited with Escrow Agent.

(b) If the Closing does not occur, the Earnest Money shall be delivered as provided for in Article X. If Closing does occur, the Earnest Money shall be applied to payment of the Purchase price at Closing as provided in Section 2.5.

#### 2.5 **Payments Of Purchase Price.**

(a) At the Closing, Buyer shall join with Seller in directing the Escrow Agent to deliver the Earnest Money by wire transfer to Seller, and Buyer shall deliver the Purchase Price, less any amount of the Earnest Money paid to Seller, to Seller by wire transfer of immediately available funds.

(b) At the Closing, Buyer shall pay to Seller, or Seller shall credit Buyer against the cash due under Section 2.5(a), any adjustments in accordance with Section 2.7.

2.6 **Allocation of the Purchase Price.** Buyer and Seller agree to an allocation of the Purchase Price as provided for in Schedule 2.6. Buyer and Seller shall use such allocation for all

reporting purposes in connection with federal, state and local income and, to the extent permitted under applicable law, franchise taxes. Buyer and Seller agree to report such allocation to the Internal Revenue Service in the form required by Treasury Regulation § 1.1060-1T.

**2.7 Adjustment of Purchase Price.**

(a) All operating income and operating expenses of the Translator shall be adjusted and allocated between Seller and Buyer, and an adjustment in the Purchase Price shall be made as provided in this Section, to the extent necessary to reflect the principle that all such income and expenses attributable to the operation of the Translator on or before the Closing Date shall be for the account of Seller, and all income and expenses attributable to the operation of the Translator after the Closing Date shall be for the account of Buyer. Any cost or obligation related to any Permitted Lien shall also be included as part of the adjustment and allocation between Buyer and Seller.

(b) To the extent not inconsistent with the express provisions of this Agreement, the allocations made pursuant to this Section 2.7 shall be made in accordance with generally accepted accounting principles.

(c) Adjustments pursuant to this Section shall be made at Closing to the extent practicable. Further prorations and adjustments shall be made by Buyer and Seller no later than (90) days following the Closing Date, or such later date as shall be mutually agreed to by Seller and Buyer. In the event Buyer and Seller cannot agree on the prorations and adjustments under this subsection, the parties will refer the disagreement to a firm of independent certified public accountants, mutually acceptable to Seller and Buyer, whose decision shall be final. The fees and expenses of such accountants shall be paid by the party who does not prevail on the disputed matters decided by the accountants.

**ARTICLE III**

**REPRESENTATIONS AND WARRANTIES OF SELLER**

Seller hereby represents and warrants to Buyer as follows:

3.1 **Organization and Good Standing.** Seller is a limited liability company, validly existing and in good standing under the laws of the State of Georgia and authorized to conduct business in the State of South Carolina. Seller has all requisite power to own, operate and lease its properties and carry on its business as it is now being conducted and as the same will be conducted until the Closing.

3.2 **Authorization and Binding Effect of Documents.** Seller's execution and delivery of, and the performance of its obligations under, this Agreement and each of the other Documents, and the consummation by Seller of the transactions contemplated hereby and thereby, have been duly authorized and approved by all necessary corporate action on the part of Seller, and no other corporate proceedings on the part of the Seller are necessary to authorize and

approve this Agreement. Seller has the power and authority to execute, deliver and perform its obligations under this Agreement and each of the other Documents and to consummate the transactions hereby and thereby contemplated. This Agreement and each of the other Documents have been, or at or prior to the Closing will be, duly executed by Seller. The Documents, when executed and delivered by the parties hereto, will constitute legal and valid obligations of Seller enforceable against it in accordance with their terms.

3.3 **Absence of Conflicts.** The execution and delivery of, and the performance of its obligations under, this Agreement and each of the other Documents by Seller, and the consummation of the transactions contemplated hereby and thereby:

(a) do not in any material respect (with or without the giving of notice or the passage of time or both) violate, or result in the creation of any Lien other than a Permitted Lien, on any of the Sale Assets under any provision of law, rule or regulation or any order, judgment, injunction, decree or ruling applicable to Seller;

(b) do not (with or without the giving of notice or the passage of time or both) conflict with or result in a breach or termination of, or constitute a default or give rise to a right of termination or acceleration under the articles of incorporation or bylaws of Seller or pursuant to any lease, agreement, commitment or other instrument which Seller is a party to, or bound by, or by which any of the Sale Assets may be bound, or result in the creation of any Lien, other than a Permitted Lien, upon any of the Sale Assets.

3.4 **Governmental Consents and Consents of Third Parties.** Except for such consents as are required by the FCC, and except as described in Schedule 3.6, the execution and delivery of, and the performance of Seller's obligations under, this Agreement and each of the other Documents by Seller, and the consummation by Seller of the transactions contemplated hereby and thereby, do not require the consent, waiver, approval, permit, license, clearance or authorization of, or any declaration of filing with, any court or public agency or governmental body or other authority, or the consent of any Person under any agreement, arrangement or commitment of a nature to which Seller is a party or by which it is bound or by which the Sale Assets are bound or to which they are subject to, the failure of which to obtain would constitute a Material Adverse Condition on the Sale Assets or the Translator.

3.5 **Sale Assets.** The Sale Assets include the Translator FCC Licenses and all of the assets described in Section 2.1 with the exception of the Excluded Assets described in Section 2.2.

3.6 **FCC Licenses.** Seller is the holder of the licenses, permits and authorizations listed on Schedule 3.6. Except as set forth on Schedule 3.6, (i) the FCC Licenses are valid, in good standing and in full force and effect, unimpaired by any act or omission of Seller, and constitute all of the licenses, permits and authorizations required by the Act, the Rules and Regulations or the FCC for, or used in, the construction of the Translator, and Seller has a copy of each FCC License in its possession; (ii) the licenses, permits and authorizations listed on Schedule 3.6 constitute all the current licenses, permits and authorizations issued by the FCC to

Seller or pending before the FCC for or in connection with the Translator; (iii) there is no condition imposed by the FCC as part of any FCC License which is neither set forth on the face thereof as issued by the FCC nor contained in the Rules and Regulations applicable generally to stations of the type, nature, class or location of the Translator; (iv) no application, action or proceeding is pending, or, to Seller's actual knowledge is threatened, which may result in the revocation, modification, non-renewal or suspension of any of the FCC Licenses, the denial of any pending applications, the issuance of any cease and desist order or the imposition of any fines, forfeitures or other administrative actions by the FCC with respect to the Translator, or its operation, other than proceedings affecting the radio broadcasting industry in general; (v) there is not before the FCC any material investigation, proceeding, notice of violation or order of forfeiture relating to the Translator; (vi) Seller has complied in all material respects with all requirements to file reports, applications and other documents with the FCC with respect to the Translator, and all such reports, applications and documents are complete and correct in all material respects; (vii) there are no matters (A) which could reasonably be expected to result in the suspension, revocation, cancellation, modification of or the refusal to renew any of the FCC Licenses or the imposition of any fines or forfeitures by the FCC, or (B) against Seller which could reasonably be expected to result in the FCC's refusal to grant approval of the assignment to Buyer of the FCC Licenses or the imposition of any Material Adverse Condition in connection with approval of such assignment; and (viii) there are not any unsatisfied or otherwise outstanding citations issued by the FCC with respect to the Translator.

3.7 **Litigation.** There are no actions, suits, claims, investigations or administrative, arbitration or other proceedings pending or threatened against Seller or any affiliate of Seller which would, individually or in the aggregate if adversely determined, be a Material Adverse Condition on the Sale Assets or the construction or operation of the Translator, or which would give any third party the right to enjoin the transactions contemplated by this Agreement. There is no basis for any such claim, investigation, action, suit or proceeding which would, individually or in the aggregate if adversely determined, be a Material Adverse Condition on the Sale Assets or construction or operation of the Translator. Other than as described in Section 3.6 and Schedule 3.6, there are no existing or pending orders, judgments or decrees of any court or governmental agency affecting Seller, the Translator, or any of the Sale Assets which would materially adversely affect the Translator's construction or operations or the Sale Assets. Notwithstanding the disclosure of any matter herein, Buyer shall not assume any liability for any such matter arising prior to the Closing Date.

3.8 **Compliance with Law.** The Translator complies in all material respects with the applicable rules and regulations of the FCC, and all other federal, state, local or other laws, statutes, ordinances, regulations, and any applicable order, writ, injunction or decree of any court, commission, board, agency or other instrumentality.

3.9 **Filing of Tax Returns.** Seller has filed all federal, state and local tax returns which are required to be filed, and has paid all taxes and all assessments to the extent that such taxes and assessments have become due, other than such returns, taxes and assessments, the failure to file or pay would not, individually or in the aggregate, constitute a Material Adverse Condition with respect to the Sale Assets.

3.10 **Absence of Insolvency.** No insolvency proceedings of any character including without limitation, bankruptcy, receivership, reorganization, composition or arrangement with creditors, voluntary or involuntary, affecting the Seller or any of the Sale Assets, are pending or threatened, and Seller has made no assignment for the benefit of creditors, nor taken any action with a view to, or which would constitute the basis for the institution of, any such insolvency proceedings.

3.11 **Broker's or Finder's Fees.** Except for as set forth on Schedule 3.11, no agent, broker, investment banker or other Person or firm acting on behalf of or under the authority of Seller or any affiliate of Seller is or will be entitled to any broker's or finder's fee or any other commission or similar fee, directly or indirectly, in connection with the transactions contemplated by this Agreement.

3.12 **Compliance with Patriot Act.** Seller is not nor will it become (i) a person whose property or interests in property are blocked pursuant to Section 1 of Executive Order 13224 of September 23, 2001 Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten to Commit, or Support Terrorism (66 Fed. Reg. 49079 (2001)) or (ii) a person or entity that knowingly engages in any dealings or transactions, or be otherwise knowingly associated, with any such person. Seller is not in violation of the Uniting And Strengthening America By Providing Appropriate Tools Required To Intercept And Obstruct Terrorism (USA Patriot Act) Act of 2001.

3.13 **Representations Complete.** None of the representations or warranties made by Seller, nor any express statement made in any document or certificate furnished by Seller pursuant to this Agreement contains or will contain at the Closing, any untrue statement of a material fact, or omits or will omit at the Closing, to state any material fact necessary in order to make the statements contained herein or therein, in the light of the circumstances under which they were made, not misleading.

#### **ARTICLE IV**

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

Buyer represents and warrants to Seller as follows:

4.1 **Organization and Good Standing.** Buyer is a corporation duly organized, validly existing and in good standing under the laws of the State of Ohio. Buyer has all requisite corporate power to own, operate and lease its properties and carry on its business as it is now being conducted and as the same will be conducted following the Closing.

4.2 **Authorization and Binding Effect of Documents.** Buyer's execution and delivery of, and the performance of its obligations under, this Agreement and each of the other Documents, and the consummation by Buyer of the transactions contemplated hereby and thereby, have been duly authorized and approved by all necessary corporate action on the part of

Buyer. Buyer has the power and authority to execute, deliver and perform its obligations under this Agreement and each of the other Documents and to consummate the transactions hereby and thereby contemplated. This Agreement and each of the other Documents have been, or at or prior to the Closing will be, duly executed by Buyer. The Documents, when executed and delivered by the parties hereto, will constitute the valid and legally binding agreement of Buyer, enforceable against Buyer in accordance with their terms.

4.3 **Absence of Conflicts.** Buyer's execution and delivery of, and the performance of its obligations under, this Agreement and each of the other Documents and the consummation by Buyer of the transaction contemplated hereby and thereby:

(a) do not in any material respect (with or without the giving of notice or the passage of time or both) violate or result in the creation of any claim, lien, charge or encumbrance on any of the assets or properties of Buyer under any provision of law, rule or regulation or any order, judgment, injunction, decree or ruling applicable to Buyer in any manner which would have a material adverse effect on the assets, business, operation or financial condition or results of operations of Buyer;

(b) do not (with or without the giving of notice or the passage of time or both) conflict with or result in a breach or termination of, or constitute a default or give rise to a right of termination or acceleration under, the articles of incorporation or bylaws of Buyer or any lease, agreement, commitment, or other instrument which Buyer is a party to, bound by, or by which any of its assets or properties may be bound, the results of which would be a Material Adverse Condition.

4.4 **Governmental Consents and Consents of Third Parties.** Except for the required consent of the FCC, Buyer's execution and delivery of, and the performance of its obligations under, this Agreement and each of the other Documents and the consummation by Buyer of the transaction contemplated hereby and thereby, do not require the consent, waiver, approval, permit, license, clearance or authorization of, or any declaration or filing with, any court or public agency or other authority, or the consent of any Person under any agreement, arrangement or commitment of any nature to which Buyer is a party or by which it is bound, the failure of which to obtain would have a material adverse effect on the assets, business, operation or financial condition or results of operations of Buyer.

4.5 **Qualification.** Buyer has no knowledge after due inquiry of any facts concerning Buyer or any other Person with an attributable interest in Buyer (as such term is defined under the Rules and Regulations) which, under present law (including the Act) and the Rules and Regulations, would (i) disqualify Buyer from being the holder of the FCC Licenses, the owner of the Sale Assets or the operator of the Translator upon consummation of the transactions contemplated by this Agreement, or (ii) raise a substantial and material question of fact (within the meaning of Section 309(e) of the Act) respecting Buyer's qualifications. Buyer is financially qualified to complete the transactions contemplated by this Agreement, and to perform all obligations under the Assumed Liabilities from and after the Closing Date.

4.6 **Broker's or Finder's Fees.** Except as provided in Schedule 3.11, no agent, broker, investment banker, or other Person or firm acting on behalf of or under the authority of Buyer or any affiliate of Buyer is or will be entitled to any broker's or finder's fee or any other commission or similar fee, directly or indirectly, from Seller in connection with transactions contemplated by this Agreement.

4.7 **Litigation.** There are no legal, administrative, arbitration or other proceedings or governmental investigations pending or, to the knowledge of Buyer, threatened against Buyer that would give any third party the right to enjoin the transactions contemplated by this Agreement.

4.8 **Compliance with Patriot Act.** Buyer is not nor will it become (i) a person whose property or interests in property are blocked pursuant to Section 1 of Executive Order 13224 of September 23, 2001 Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten to Commit, or Support Terrorism (66 Fed. Reg. 49079 (2001)) or (ii) a person or entity that knowingly engages in any dealings or transactions, or be otherwise knowingly associated, with any such person. Buyer is not in violation of the Uniting And Strengthening America By Providing Appropriate Tools Required To Intercept And Obstruct Terrorism (USA Patriot Act) Act of 2001.

4.9 **Representations Complete.** None of the representations or warranties made by Buyer, nor any express statement made in any document or certificate furnished by Buyer pursuant to this Agreement contains or will contain at the Closing, any untrue statement of a material fact, or omits or will omit at the Closing, to state any material fact necessary in order to make the statements contained herein or therein, in the light of the circumstances under which they were made, not misleading.

## **ARTICLE V**

### **TRANSACTIONS PRIOR TO THE CLOSING DATE**

5.1 **Conduct of the Translator's Business Prior to the Closing Date.** Seller covenants and agrees with Buyer that between the date hereof and the Closing Date, unless the Buyer otherwise agrees in writing (which agreement shall not be unreasonably withheld or delayed), Seller shall:

(a) With the exception of the FCC application to obtain the FCC Order or any amendments or filings related thereto, provide Buyer at least two (2) business days in advance of filing a draft of any application(s) or amendments(s) it proposes to file with the FCC, and obtain Buyer's approval prior to filing the application(s) or amendments(s), such approval not to be unreasonably withheld.

(b) Maintain and otherwise conduct the business of the Translator in all material respects in accordance with the terms or conditions of its FCC Licenses, the Rules and Regulations, the Act and all other rules and regulations, statutes, ordinances and orders of all

governmental authorities having jurisdiction over any aspect of the operation of the Translator, except where the failure to so operate would not constitute a Material Adverse Condition on the Sale Assets or the operation of the Translator or on the ability of Seller to consummate the transactions contemplated hereby;

(c) Not mortgage, pledge or subject any of the Sale Assets to any Lien other than a Permitted Lien;

(d) Not sell, lease or otherwise dispose of, nor agree to sell, lease or otherwise dispose of, any of the Sale Assets;

(e) Not introduce any material change with respect to the Translator, except such changes as in the sole discretion of Seller, exercised in good faith after consultation with Buyer, are required by the public interest;

(f) Notify Buyer of any complaints, investigations, hearing or any material litigation pending or threatened against the Translator or any material damage to or destruction of any assets included or to be included in the Sale Assets.

5.2 **Governmental Consents.** Seller and Buyer shall file with the FCC, within five (5) business days after the execution of this Agreement, such applications and other documents in the name of Seller or Buyer, as appropriate, as may be necessary or advisable to obtain the FCC Order. Seller and Buyer shall take all commercially reasonable steps necessary to prosecute such filings with diligence and shall diligently oppose any objections to, appeals from or petitions to reconsider such approval of the FCC, to the end that the FCC Order and a Final Action with respect thereto may be obtained as soon as practicable. Buyer shall not knowingly take, and Seller covenants that Seller shall not knowingly take, any action that such party knows or has reason to know would materially and adversely affect or materially delay issuance of the FCC Order or materially and adversely affect or materially delay its becoming a Final Action without a Material Adverse Condition, unless such action is requested or required by the FCC, its staff or the Rules and Regulations. Should Buyer or Seller become aware of any facts which could reasonably be expected to materially and adversely affect or materially delay issuance of the FCC Order without a Material Adverse Condition (including but not limited to, in the case of Buyer, any facts which would reasonably be expected to disqualify Buyer from controlling the Translator), such party shall promptly notify the other party thereof in writing and both parties shall cooperate to take all steps necessary or desirable to resolve the matter expeditiously and to obtain the FCC's approval of matters pending before it. Subject to the terms and conditions herein provided, Buyer and Seller shall promptly determine whether any filings are required to be made with, or consents, permits, authorizations or approvals are required to be obtained from, any other governmental agency or regulatory body of the federal, state and local jurisdictions in connection with the execution and delivery of this Agreement and the consummation of the transactions contemplated hereby, and take all reasonable actions necessary to obtain any required permits, authorizations or appraisals.

5.3 **Other Consents.** Seller shall use its reasonable best efforts to obtain the consent or waivers to the transactions contemplated by this Agreement, provided that Seller shall not be required to pay or grant any material consideration in order to obtain any such consent or waiver. Buyer shall cooperate with Seller in obtaining any such consent or waivers, including without limitation by providing such credit and other information as may be requested by the party from whom consent or waiver is sought.

5.4 **Tax Returns and Payments.** All taxes pertaining to ownership of the Sale Assets or the Translator prior to the Closing Date will be timely paid; provided that Seller shall not be required to pay any such tax so long as the validity thereof shall be contested in good faith by appropriate proceedings and Seller shall have set aside adequate reserves with respect to any such tax to the reasonable satisfaction of Buyer.

5.5 **Access Prior to the Closing Date.** Prior to the Closing, Buyer and its representatives may make such reasonable investigation of the Translator and the Sale Assets as it may desire; and Seller shall give to Buyer, its engineers, counsel, accountants and other representatives reasonable access during normal business hours throughout the period prior to the Closing to personnel and all of the assets, books, records and files of or solely pertaining to the Translator and the Sale Assets, provided that (i) Buyer shall give Seller reasonable advance notice of each date on which Buyer or any such other Person or entity desires such access, (ii) each Person (other than an officer of Buyer) shall, if requested by Seller, be accompanied by an officer or their representative of Buyer approved by Seller, which approval shall not be unreasonably withheld, (iii) the investigations at the offices of Seller shall be reasonable in number and frequency (and in no event shall Buyer conduct more than three (3) investigations or investigations exceeding more than a total three (3) business days); (iv) each Person involved in such inspection shall execute a non-disclosure agreement in form and substance acceptable to Seller; and, (v) all investigations shall be conducted in such a manner as not to physically damage any property or constitute a disruption of the operation of the Translator or Seller. Seller shall furnish to Buyer during such period all documents and copies of documents and information concerning the business and affairs of the Translator as Buyer may reasonably request. No investigation or information furnished pursuant to this Section 5.5 shall affect any representations or warranties made by the Seller herein. All investigations conducted pursuant to this Section 5.5 shall be at Buyer's sole expense.

5.6 **Confidentiality; Press Release.** All information, data and materials furnished or to be furnished to either party with respect to the other party in connection with this transaction or pursuant to this Agreement are confidential. Each party agrees that prior to Closing (a) it shall not disclose or otherwise make available, at any time, any such information, data or material to any Person who does not have a confidential relationship with such party; (b) it shall protect such information, data and material with a high degree of care to prevent the disclosure thereof; and (c) if, for any reason, this transaction is not consummated, all information, data or material concerning the other party obtained by such party, and all copies thereof, will be returned to the other party. After Closing, neither party will disclose or otherwise make available to any Person any of such information, data or material concerning the other party, except as may be necessary or appropriate in connection with the operation of the Translator by Buyer. Each party shall use

its reasonable efforts to prevent the violation of any of the foregoing confidentiality provisions by its respective representatives. Notwithstanding the foregoing, nothing contained herein shall prohibit Buyer or Seller from:

(a) using such information, data and materials in connection with any action or proceeding brought or any claim asserted by Buyer or Seller in respect of any breach by the other of any representation, warranty or covenant made in or pursuant to this Agreement; or

(b) supplying or filing such information, data or materials to or with the FCC or SEC or any other valid governmental or court authority, or making any such public disclosures as required by the rules, regulations or orders of any governmental body of competent jurisdiction, to the extent required by law or reasonably necessary to obtain any consent, waiver, amendment, modification, approval, authorization, permit or license which may be necessary to effectuate this Agreement, and to consummate the transaction contemplated herein.

In the event that either party determines in good faith that a press release or other public announcement is desirable under any circumstances, the parties shall consult with each other to determine the appropriate timing, form and content of such release or announcement.

5.7 **Reasonable Best Efforts.** Subject to the terms and conditions of this Agreement, each of the parties hereto will use its reasonable best efforts to take all action and to do all things necessary, proper or advisable to satisfy any condition to the parties' obligations hereunder in its power to satisfy and to consummate and make effective as soon as practicable the transactions contemplated by this Agreement.

5.8 **FCC Reports.** Seller shall continue to file, on a current basis until the Closing Date, all reports and documents required to be filed with the FCC with respect to the Translator. Seller shall provide Buyer with copies of all such filings within five business days of the filing with the FCC.

5.9 **Conveyance Free and Clear of Liens.** At or prior to the Closing, Seller shall obtain executed releases, in suitable form for filing and otherwise in form and substance reasonably satisfactory to Buyer, of any security interests granted in the Sale Assets and properties as security for payment of loans and other obligations or judgments and of any other Liens on the Sale Assets. At the closing, Seller shall transfer and convey to Buyer all of the Sale Assets free and clear of all Liens except Permitted Liens.

5.10 **Modification of FCC Licenses.** Seller will reasonably cooperate with Buyer, at Buyer's sole expense, in any FCC applications Buyer requests to modify the FCC Licenses for Buyer's future benefit and use, including the filing of FCC Form 349 applications with respect to the Translator. Buyer will assume and pay all costs associated with the preparation, filing and prosecution of such applications. In the event that the transactions contemplated herein do not close for any reason whatsoever, Buyer shall cooperate with Seller to restore Seller to the *status quo ante*, at Buyer's sole expense.

5.11 **No Inconsistent Activities.** Seller agrees that it shall not, nor shall it authorize or permit any officer, director, employee, investment banker, attorney, advisor or agent, to directly or indirectly, solicit, initiate or encourage the submission of, or participate in any discussions or negotiations regarding, or furnish to any person any information with respect to, or take any other action to facilitate any inquiries or the making of any proposal by any party to acquire the Translator or the Sale Assets.

## **ARTICLE VI**

### **CONDITIONS PRECEDENT TO THE OBLIGATIONS OF BUYER TO CLOSE**

Buyer's obligation to close the transaction contemplated by this Agreement is subject to the satisfaction, on or prior to the Closing Date, of each of the following conditions, unless waived by Buyer in writing:

#### **6.1 Accuracy of Representations and Warranties; Closing Certificate.**

(a) The representations and warranties of Seller contained in this Agreement or in any other Document shall be complete and correct in all material respects on the date hereof and at the Closing Date with the same effect as though made at such time except for changes that do not constitute a Material Adverse Condition on the Translator, or the Sale Assets taken as a whole.

(b) Seller shall have delivered to Buyer on the Closing Date a certificate that (i) the condition specified in Section 6.1(a) is satisfied as of the Closing Date, and (ii) except as set forth in such certificate (none of which exceptions shall constitute a Material Adverse Condition on Seller's ability to consummate the transaction contemplated hereby), the condition specified in Section 6.2 is satisfied as of the Closing Date.

6.2 **Performance of Agreements.** Seller shall have performed in all material respects all of its covenants, agreements and obligations required by this Agreement and each of the other Documents to be performed or complied with by it prior to or upon the Closing Date.

#### **6.3 FCC and Other Consents.**

(a) The FCC Order, including the FCC grant of the Construction Permit referenced in Section 5.1(a), shall have been issued by the FCC and shall have become a Final Action without any Material Adverse Condition., provided however, that if any modification to the FCC Licenses is requested to be filed by Buyer pursuant to Section 5.10 of this Agreement, a grant of the modification shall not be a condition precedent of the Buyer's obligation to close.

(b) Seller shall have satisfied all material conditions which the FCC Order or any order, ruling or decree of any judicial or administrative body relating thereto or in

connection therewith specifies and requires to be satisfied by Seller prior to transfer of the FCC Licenses to Buyer.

(c) All other material authorizations, consents, approvals and clearances of federal, state or local governmental agencies required to permit the consummation by Buyer of the transactions contemplated by this Agreement shall have been obtained; all material statutory and regulatory requirements for such consummation shall have been fulfilled; and no such authorizations, consents, approvals or clearances shall contain any conditions that individually or in the aggregate would constitute a Material Adverse Condition.

6.4 **Adverse Proceedings.** Neither Buyer nor any affiliate of Buyer shall be subject to any ruling, decree, order or injunction restraining, imposing material limitations on or prohibiting (i) the consummation of the transactions contemplated hereby or (ii) its participation in the operation, management, ownership or control of the Translator; and no litigation, proceeding or other action seeking to obtain any such ruling, decree, order or injunction shall be pending. No governmental authority having jurisdiction shall have notified any party to this Agreement that consummation of the transaction contemplated hereby would constitute a violation of the laws of the United States or of any state or political subdivision or that it intends to commence proceedings to restrain such consummation or to force divestiture, unless such governmental authority shall have withdrawn such notice. No governmental authority having jurisdiction shall have commenced any such proceeding.

6.5 **Other Consents.** Seller shall have obtained in writing and provided to Buyer on or before the Closing Date, without any condition materially adverse to Buyer or to the Translator, the material consents or waivers to the transactions contemplated by this Agreement required to convey the Sale Assets to Buyer; provided, that if the failure to obtain any such consent is due to Buyer's failure to provide credit, financial or other information satisfactory to the party from whom such consent or waiver is required, this condition shall be deemed waived.

6.6 **Delivery of Closing Documents.** Seller shall have delivered or caused to be delivered to Buyer on the Closing Date each of the Documents required to be delivered pursuant to Section 8.2.

6.7 **Closing of the WLTE Transaction.** Georgia-Carolina shall have performed all of its obligations and delivered or caused to be delivered to Buyer all items necessary for the closing of the WLTE Transaction, and all conditions for Buyer to close the WLTE Transaction shall have been satisfied.

**ARTICLE VII**

**CONDITIONS PRECEDENT OF THE  
OBLIGATION OF SELLER TO CLOSE**

The obligation of Seller to close the transaction contemplated by this Agreement is subject to the satisfaction, on or prior to the closing Date, of each of the following conditions, unless waived by Seller in writing:

**7.1 Accuracy of Representations and Warranties.**

(a) The representations and warranties of Buyer contained in this Agreement shall be complete and correct in all material respects on the date hereof and at the Closing Date with the same effect as though made at such time except for changes that are not materially adverse to Seller.

(b) Buyer shall have delivered to Seller on the Closing Date a certificate that (i) the condition specified in Section 7.1(a) is satisfied as of the Closing Date, and (ii) except as set forth in such certificate (none of which exceptions shall be a material adverse effect on Buyer's ability to consummate the transaction contemplated hereby), the conditions specified in Section 7.2 are satisfied as of the Closing Date.

**7.2 Performance of Agreements.** Buyer shall have performed in all material respects all of its covenants, agreements and obligations required by this Agreement and each of the other Documents to be performed or complied with by it prior to or upon the Closing Date.

**7.3 FCC and Other Consents.**

(a) The FCC Order, including the FCC grant of the Construction Permitreferenced in Section 5.1(a), shall have been issued by the FCC and shall have become effective under the rules of the FCC, without any condition materially adverse to Seller.

(b) Conditions which the FCC Order or any order, ruling or decree of any judicial or administrative body relating thereto or in connection therewith specifies and requires to be satisfied by Buyer prior to transfer of the FCC Licenses to Buyer shall have been satisfied by Buyer.

(c) All other authorizations, consents, approvals and clearances of all federal, state and local governmental agencies required to permit the consummation by Seller of the transactions contemplated by this Agreement shall have been obtained; all statutory and regulatory requirements for such consummation shall have been fulfilled; and no such authorizations, consents, approvals or clearances shall contain any conditions that individually or in the aggregate would have any material adverse effect on Seller.

7.4 **Adverse Proceedings.** Seller shall not be subject to any ruling, decree, order or injunction restraining, imposing material limitations on or prohibiting the consummation of the transactions contemplated hereby. No governmental authority having jurisdiction shall have notified any party to this Agreement that consummation of the transactions contemplated hereby would constitute a violation of the laws of the United States or of any state or political subdivision or that it intends to commence proceedings to restrain such consummation or to force divestiture, unless such governmental authority shall have withdrawn such notice. No governmental authority having jurisdiction shall have commenced any such proceeding.

7.5 **Delivery of Closing Documents and Purchase Price.** Buyer shall have delivered or caused to be delivered to Seller on the Closing Date each of the Documents required to be delivered pursuant to Section 8.3, and Seller shall have received payment of the Purchase Price with the form of payment set forth in Section 2.5.

7.6 **Closing of the WLTE Transaction.** Buyer shall have performed all of its obligations and delivered or caused to be delivered to Georgia-Carolina all items necessary for the closing of the WLTE Transaction, and all conditions for Georgia-Carolina to close the WLTE Transaction shall have been satisfied.

## **ARTICLE VIII**

### **CLOSING**

8.1 **Time and Place.** Unless otherwise agreed to in advance by the parties, Closing shall take place in person or via facsimile or electronic documentation transfer, and overnight delivery at the offices of Buyer's counsel in Camarillo, California, or at such other place as the parties mutually agree, at 10:00 A.M. Pacific Time on the date (the "Closing Date") that is the later of (i) the fifth Business Day after the Applicable Date, or (ii) the date as soon as practicable following satisfaction or waiver of the conditions precedent hereunder. The "Applicable Date" shall be , or (ii) the fifth (5<sup>th</sup>) Business Day after the FCC Order shall have been issued by the FCC and shall have become a Final Action without any Material Adverse Condition, or condition materially adverse to Seller, provided however, that if any modification to the FCC Licenses is requested to be filed by Buyer pursuant to Section 5.10 of this Agreement, a grant of the modification shall not be part of the computation of the Closing Date. Notwithstanding the foregoing, the parties will endeavor in good faith to effect the Closing simultaneously in different locations to avoid the travel and additional expense of requiring all parties to be located in the same place and in connection therewith the parties will deliver, in escrow, to opposing counsel and other appropriate parties, all agreements, instructions, documents, releases, certificates, wire transfer instructions, pay-off instructions, UCC-3's and other matters and things necessary to effect Closing in such manner. If the parties agree to close prior to the date the FCC Order shall have become a Final Action, they shall, provided that both parties agree on its terms, conditions, form and substance, enter into an Unwind Agreement prior to the Closing Date.

8.2 **Documents to be Delivered to Buyer by Seller.** At the Closing, Seller shall deliver or cause to be delivered to Buyer the following:

(a) Certified resolutions of Seller's Board of Directors approving the execution and delivery of this Agreement and each of the other Documents and authorizing the consummation of the transactions contemplated hereby and thereby.

(b) The certificate required by Section 6.1(b).

(c) Executed releases, in suitable form for filing and otherwise in form and substance reasonably satisfactory to Buyer, of any security interests granted in the Sale Assets as security for payment of loans and other obligations and of any other Liens (other than Permitted Liens).

(d) An instrument assigning to Buyer all right, title and interest of Seller in the FCC Licenses, and all other assignable or transferable governmental permits, licenses and authorizations (and any renewals, extensions, amendments or modifications thereof).

(e) True and correct copies of all records as described in Section 2.1(b) hereof.

(f) An instrument or instruments assigning to Buyer all right, title and interest of Seller in and to the assets described in Section 2.1(c) and Section 2.1(d) hereof, and any remaining Sale Assets not otherwise conveyed.

(g) Certificates of Good Standing and Certificates of Tax Compliance (or similar documents confirming Seller has no current tax liability) issued no more than thirty (30) days prior to Closing by (i) Seller's state of incorporation and (ii) the state where the Sale Assets are located.

(h) Such additional information and materials as Buyer shall have reasonably requested, including without limitation, evidence that all consents and approvals required as a condition to Buyer's obligation to close hereunder have been obtained.

**8.3 Documents to be Delivered to Seller by Buyer.** At the Closing, Buyer shall deliver or cause to be delivered to Seller the following:

(a) Certified resolutions of Buyer's Board of Directors approving the execution and delivery of this Agreement and each of the other Documents and authorizing the consummation of the transaction contemplated hereby and thereby.

(b) The Purchase Price as set forth in Section 2.5.

(c) The certificate required under Section 7.1(b).

(d) An instrument assuming all obligations under the FCC Licenses.

(e) Such additional information and materials as Seller shall have reasonably requested.

## **ARTICLE IX**

### **SURVIVAL OF REPRESENTATIONS AND WARRANTIES; INDEMNIFICATION**

9.1 **Survival of Representation and Warranties.** All representations, warranties, covenants and agreements contained in this Agreement or in any other Document shall survive the Closing for the Survival Period and the Closing shall not be deemed a waiver by either party of the representations, warranties, covenants or agreements of the other party contained herein or in any other Document. No claim may be brought under this Agreement or any other Document unless written notice describing in reasonable detail the nature and basis of such claim is given on or prior to the last day of the Survival Period. In the event such a notice is so given, the right to indemnification with respect thereto under this Article shall survive the Survival Period until such claim is finally resolved and any obligations with respect thereto are fully satisfied. For purposes of this agreement the "Survival Period" shall be twelve (12) months after the Closing Date except that any representation or warranty of Buyer or Seller as to (i) such party's qualification and authority to consummate the transactions contemplated hereby, (ii) title of the parties to the Sale Assets, (iii) any tax obligation of Seller, or (iv) the Translator and Sale Assets being free and clear of any liens (other than Permitted Liens) at Closing, the Survival Period shall be indefinite.

9.2 **Indemnification in General.** Buyer and Seller agree that the rights to indemnification and to be held harmless set forth in this Agreement shall, as between the parties hereto and their respective successors and assigns, be exclusive of all rights to indemnification and to be held harmless that such party (or its successors or assigns) would otherwise have by statute, common law or otherwise. Except with respect to claims based on actual fraud or intentional misrepresentation or as provided in Article X, each party's rights under this Article IX shall be the sole and exclusive remedies with respect to claims resulting from or relating to any misrepresentation, breach of warranty or failure to perform any covenant or agreement contained in this Agreement or otherwise relating to the transactions that are the subject of this Agreement. Without limiting the generality of the foregoing, in no event shall either party or any Person claiming through, by or on behalf of either party, be entitled to claim or seek rescission of the transactions consummated under this Agreement.

### 9.3 **Indemnification by Seller.**

(a) Subject to the provisions of Section 9.3(b) below and Section 10.2 below, Seller shall indemnify and hold harmless Buyer with respect to any and all demands, claims, actions, suits, proceedings, assessments, judgments, costs, losses, damages, liabilities and expenses (including reasonable attorneys' fees), relating to or arising out of:

(i) Any breach or non-performance by Seller of any of its representations, warranties, covenants or agreements set forth in this Agreement or any other Documents; or

(ii) The ownership or operation by Seller of the Translator and the Sale Assets on or prior to the Closing Date, other than the Assumed Obligations; or

(iii) All other liabilities and obligations of Seller other than the Assumed Obligations.

(iv) Noncompliance by Seller with the provisions of the Bulk Sales Act, if applicable, in connection with the transactions contemplated hereby.

(b) Except for any amounts owed by Seller to Buyer under Section 9.3(a)(iv), and Section 2.7, if Closing occurs, Seller shall not be obligated until the amount of such claims, liabilities, damages, losses, costs and expenses exceeds Buyer's Threshold Limitation, in which case Buyer shall then be entitled to indemnification of the entire amount.

#### 9.4 **Indemnification by Buyer.**

(a) Subject to the provisions of Section 9.4(b) below and Section 10.2 below, Buyer shall indemnify and hold harmless Seller with respect to any and all demands, claims, actions, suits, proceedings, assessments, judgments, costs, losses, damages, liabilities and expenses (including reasonable attorneys' fees) relating to or arising out of:

(i) Any breach or non-performance by Buyer of any of its representations, warranties, covenants or agreements set forth in this Agreement or any other Document; or

(ii) The ownership or operation of the Translator after the Closing Date;  
or

(iii) All other liabilities or obligations of Buyer pursuant to the terms of this Agreement, including, without limitation, the Assumed Obligations.

(b) Except for any amounts owed by Buyer to Seller under Section 2.7, if Closing occurs, Buyer shall not be obligated until the amount of such claims, liabilities, damages, losses, costs and expenses exceeds Seller's Threshold Limitation, in which case Seller shall then be entitled to indemnification of the entire amount.

9.5 **Indemnification Procedures.** In the event that an Indemnified Party may be entitled to indemnification hereunder with respect to any asserted claim of, or obligation or liability to, any third party, such party shall notify the Indemnifying Party thereof, describing the matters involved in reasonable detail, and the Indemnifying Party shall be entitled to assume the defense thereof upon written notice to the Indemnified Party with counsel reasonably satisfactory to the Indemnified Party; provided, that once the defense thereof is assumed by the Indemnifying Party, the Indemnifying Party shall keep the Indemnified Party advised of all developments in

the defense thereof and any related litigation, and the Indemnified Party shall be entitled at all times to participate in the defense thereof at its own expense. If the Indemnifying Party fails to notify the Indemnified Party of its election to defend, or contests its obligation to indemnify under this Article IX, the Indemnified Party may pay, compromise, or defend such a claim without prejudice to any right it may have hereunder.

## ARTICLE X

### TERMINATION; LIQUIDATED DAMAGES

10.1 **Termination.** If Closing shall not have previously occurred, this Agreement shall terminate upon the earliest of:

(a) the giving of written notice from Seller to Buyer, or from Buyer to Seller, if:

(i) Seller gives such termination notice and is not at such time in material default hereunder, or Buyer gives such termination notice and Buyer is not at such time in material default hereunder; and

(ii) Either:

(A) Any of the representations or warranties contained herein of Buyer (if such termination notice is given by Seller), or of Seller (if such termination notice is given by Buyer), are materially inaccurate and materially adverse to the party giving such termination notice unless the inaccuracy has been induced by or is the result of actions or omissions of the party giving such termination notice; or

(B) Any material obligation to be performed by Buyer (if such termination notice is given by Seller) or by Seller (if such termination notice is given by Buyer) is not timely performed in any material respect unless the lack of timely performance has been induced by or is the result of actions or omissions of the party giving such termination notice; or

(C) Any condition (other than those referred to in Section 10.1(a)(ii)(A) or Section 10.1(a)(ii)(B)) to the obligation to close the transaction contemplated herein of the party giving such termination notice has not been timely satisfied, and

(iii) any such inaccuracy, failure to perform or non-satisfaction of a material condition neither has been cured nor satisfied within twenty (20) days after written notice thereof from the party giving such termination notice nor waived in writing by the party giving such termination notice; provided however that such opportunity to cure shall not apply to the failure of a party to perform its obligations set forth in Article VIII herein.

(b) Written notice from Seller to Buyer, or from Buyer to Seller, at any time after twelve (12) months from the date this Agreement is executed; provided that termination

shall not occur upon the giving of such termination notice by Seller if Seller is at such time in material default hereunder or upon the giving of such termination notice by Buyer if Buyer is at such time in material default hereunder.

(c) Written notice from Seller to Buyer, or from Buyer to Seller, at any time following a determination by the FCC that the application for the FCC Order has been designated for hearing; provided that the party which is the subject of the hearing (or whose alleged actions or omissions resulted in the designation for hearing) may not elect to terminate under this Section 10.1(c).

## 10.2 Obligations Upon Termination.

(a) In the event this Agreement is terminated pursuant to Section 10.1(a)(ii)(A) or Section 10.1(a)(ii)(B), the aggregate liability of Buyer for breach hereunder shall be limited as provided in Section 10.2(c) below, and the aggregate liability for Seller for breach hereunder shall be limited as provided in Section 10.4 below. In the event this Agreement is terminated for any other reason, neither party shall have any liability hereunder.

(b) Upon termination of this Agreement, Buyer shall be entitled to the return of the Earnest Money from the Escrow Agent under the Escrow Agreement (i) if such termination is effected by Buyer's giving of valid written notice to Seller pursuant to Section 10.1(a), Section 10.1(b), Section 10.1(c), or Section 10.1(d) (unless Buyer is in material default hereunder), or (ii) if such termination is effected by Seller's giving of valid written notice to Buyer pursuant to Section 10.1(a)(ii)(C) (unless Buyer is in material default hereunder or the failure of Closing conditions is due to or arises out of the acts or omissions of Buyer), Section 10.1(b) (unless Buyer is in material default hereunder or Buyer's acts or omissions resulted in the failure of Closing to occur within the time period specified), or Section 10.1(c) (unless Buyer's alleged acts or omissions resulted in a designation of the assignment application for hearing). If Buyer is entitled to the return of the Earnest Money, Seller shall cooperate with Buyer in taking such action as is required under the Escrow Agreement in order to effect such return from the Escrow Agent.

(c) If this Agreement is terminated by Seller's giving of valid written notice to Buyer pursuant to Section 10.1(a)(ii)(A) or Section 10.1(a)(ii)(B), or pursuant to Section 10.1(a)(ii)(C) if Buyer's acts or omissions have caused the failure of any conditions to Closing, Buyer agrees that Seller shall be entitled to receive and retain upon such termination, as liquidated damages and not as a penalty, the Earnest Money ("Liquidated Damages Amount"). THE DELIVERY OF THE LIQUIDATED DAMAGES AMOUNT TO SELLER SHALL BE CONSIDERED LIQUIDATED DAMAGES AND NOT A PENALTY, AND SHALL BE THE RECIPIENT'S SOLE REMEDY AT LAW OR IN EQUITY FOR A BREACH HEREUNDER IF CLOSING DOES NOT OCCUR. BUYER AND SELLER EACH ACKNOWLEDGE AND AGREE THAT THIS LIQUIDATED DAMAGE AMOUNT IS REASONABLE IN LIGHT OF THE ANTICIPATED HARM WHICH WILL BE CAUSED BY A BREACH OF THIS AGREEMENT, THE DIFFICULTY OF PROOF OF LOSS, THE INCONVENIENCE AND NON-FEASIBILITY OF OTHERWISE OBTAINING AN ADEQUATE REMEDY, AND THE

VALUE OF THE TRANSACTION TO BE CONSUMMATED HEREUNDER. If Seller is entitled to the Liquidated Damages, Buyer shall cooperate with Seller in taking such action as is required under the Escrow Agreement in order to effect such payment.

10.3 **Termination Notice.** Each notice given by a party pursuant to Section 10.1 to terminate this Agreement shall specify the Section (and clause or clauses thereof) of Section 10.1 pursuant to which such notice is given.

10.4 **Specific Performance.** Seller acknowledges that the Station, including the CP, and the Sale Assets are of a special, unique, and extraordinary character, and that any breach of this Agreement by Seller could not be compensated for by damages. Accordingly, if Seller shall breach its obligations under this Agreement and such breach is not cured as provided for herein, Buyer shall be entitled to, as its exclusive remedy, the enforcement of this Agreement (subject to obtaining any required approval of the FCC) by decree of specific performance or injunctive relief requiring Seller to fulfill its obligations under this Agreement, unless Seller has modified any of the FCC Licenses without the written consent of Buyer, in which case Buyer shall be entitled to seek its damages from Seller. In any action by Buyer to equitably enforce the provisions of this Agreement, Seller shall waive the defense that there is an adequate remedy at law or equity and agrees that Buyer shall have the right to obtain specific performance of the terms of this Agreement without being required to prove actual damages, post bond or furnish other security.

## **ARTICLE XI**

### **CONTROL OF TRANSLATOR**

Between the date of this Agreement and the Closing Date, Buyer shall not control, manage or supervise the operation of the Translator or conduct of its business, all of which shall remain the sole responsibility and under the control of Seller, subject to Seller's compliance with this Agreement.

## **ARTICLE XII**

### **MISCELLANEOUS**

12.1 **Further Actions.** From time to time before, at and after the Closing, each party, at its expense and without further consideration, will execute and deliver such documents to the other party as the other party may reasonably request in order more effectively to consummate the transactions contemplated hereby.

12.2 **Payment of Expenses.**

(a) Any fees assessed by the FCC in connection with the filings contemplated by Section 5.2 or consummation of the transactions contemplated hereby shall be shared equally between Seller and Buyer.

(b) All state or local sales or use, stamp or transfer, grant and other similar taxes payable in connection with consummation of the transactions contemplated hereby shall be paid for by the party customarily paying for such expenses in Pickens, South Carolina.

(c) Except as otherwise expressly provided in this Agreement, each of the parties shall bear its own expenses, including the fees of any attorneys and accountants engaged by such party, in connection with this Agreement and the consummation of the transactions contemplated herein.

12.3 **Notices.** All notices, demands or other communications given hereunder shall be in writing and shall be deemed sufficiently given if sent for next business day delivery by a nationally-recognized overnight courier service addressed as follows:

(a) If to Seller, to:

Tugart Properties, LLC  
233 Big A Road  
Toccoa, Georgia 30577  
Attention: Douglas M. "Art" Sutton, Jr.

with copy to (which shall not constitute notice):

John F. Garziglia, Esq.  
Womble Carlyle Sandridge & Rice, LLP  
1200 19<sup>th</sup> Street, N.W. Suite 500  
Washington, DC 20036

(b) If to Buyer, to:

Caron Broadcasting, Inc.  
4880 Santa Rosa Road  
Camarillo, California 93012  
Attention: Christopher J. Henderson, Esq.  
Senior Vice President and Secretary  
Facsimile No.: (805) 384-4505

or such other address with respect to any party hereto as such party may from time to time notify (as provided above) to the other party hereto. Any such notice, demand or communication shall be deemed to have been given on the next business day.

12.4 **Entire Agreement.** This Agreement, the Schedules and Exhibits hereto, and the other Documents constitute the entire agreement and understanding between the parties hereto with respect to the subject matter hereof and supersede any prior negotiations, agreements, understandings or arrangements between the parties with respect to the subject matter hereof.

12.5 **Binding Effect; Benefits.** Except as otherwise provided herein, this Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective successors or assigns. Except to the extent specified herein, nothing in this Agreement, express or implied, shall confer on any Person other than the parties hereto and their respective successors or assigns any rights, remedies, obligations or liabilities under or by reason of this Agreement.

12.6 **Assignment.** This Agreement and any rights hereunder shall not be assignable by either party hereto without the prior written consent of the other party. Notwithstanding the foregoing, Buyer may in its sole and absolute discretion prior to the filing of the application to obtain the FCC Order, with notice to Seller, assign all of its right, title, interest and obligation under this Agreement to any entity controlled by, or under common control with Buyer, including any subsidiary of Salem Communications Corporation.

12.7 **Governing Law.** This Agreement shall in all respects be governed by and construed in accordance with the laws of the State of South Carolina, including all matters of construction, validity and performance. Any action brought to with respect to the transactions contemplated in this Agreement shall be brought in the state or federal courts having jurisdiction over disputes arising in Pickens, South Carolina.

12.8 **Bulk Sales.** Buyer hereby waives compliance by Seller with the provisions of the Bulk Sales Act and similar laws of any state or jurisdiction, if applicable. Seller shall, in accordance with Article IX, indemnify and hold Buyer harmless from and against any and all claims made against Buyer by reason of such non-compliance.

12.9 **Amendments and Waivers.** No term or provision of this Agreement may be amended, waived, discharged or terminated orally but only by an instrument in writing signed by the party against whom the enforcement of such amendment, waiver, discharge or termination is sought. Any waiver shall be effective only in accordance with its express terms and conditions.

12.10 **Severability.** If any provision of this Agreement, or the application thereof to any Person or entity or any circumstance, is invalid or unenforceable in the applicable jurisdiction, (i) a suitable and equitable provision shall be substituted therefor in order to carry out, so far as may be valid and enforceable, the extent and purpose of such invalid and unenforceable provision, and (ii) the remainder of this Agreement and the application of such provision to other Persons, entities or circumstances shall not be affected by such invalidity or unenforceability, nor shall such invalidity or unenforceability affect the validity or enforceability of such provision, or the application thereof, in any other jurisdiction.

12.11 **Headings.** Except as provided in Article I, the captions in this Agreement are for convenience of reference only and shall not define or limit any of the terms or provisions hereof.

12.12 **Counterparts.** This Agreement may be executed in any number of counterparts, and by either party on separate counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Fax signatures and scanned

signatures delivered electronically shall be deemed the same as original signatures. This Agreement is not binding until executed by both parties hereto.

12.13 **References.** All references in this Agreement to Articles and Sections are to Articles and Sections contained in this Agreement unless a different document is expressly specified.

12.14 **Schedules and Exhibits.** Unless otherwise specified herein, each Schedule and Exhibit referred to in this Agreement is attached hereto, and each such Schedule and Exhibit is hereby incorporated by reference and made a part hereof as if fully set forth herein.

12.15 **Attorneys' Fees.** If any action at law or equity is brought to enforce or interpret any provision of this Agreement, the prevailing party shall be entitled to recover reasonable attorneys' fees and expenses from the other party as may be determined by the court, which fees and expenses shall be in addition to any other relief which may be awarded.

[THE NEXT PAGE IS THE SIGNATURE PAGE]

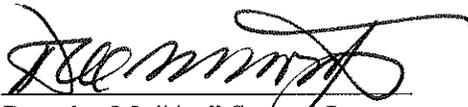
IN WITNESS WHEREOF, the parties have duly executed this Agreement as of the date first written.

**“SELLER”**

**“BUYER”**

**Tugart Properties, LLC**

**Caron Broadcasting, Inc.**

By:   
Douglas M. “Art” Sutton, Jr.  
President/CEO

By: \_\_\_\_\_  
Christopher J. Henderson  
Senior Vice President and Secretary

IN WITNESS WHEREOF, the parties have duly executed this Agreement as of the date first written.

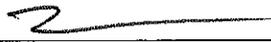
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President/CEO

By:  \_\_\_\_\_  
Christopher J. Henderson  
Senior Vice President and Secretary

**LIST OF SCHEDULES**

<b>Schedule 1.10</b>	Form of Escrow Agreement
<b>Schedule 2.1(d)</b>	Miscellaneous Assets
<b>Schedule 2.3</b>	Liabilities Assumed by Buyer
<b>Schedule 3.6</b>	List of FCC Licenses, Permits & Authorizations
<b>Schedule 3.11</b>	Brokers or finders' fees

SCHEDULES TO THE  
ASSET PURCHASE AGREEMENT  
AND JUSTIFICATION FOR EXCLUSION

The following schedules are omitted for the reasons stated, but will be provided to the FCC upon request:

Schedule 1.10 - This schedule is a copy of the Form of Escrow Agreement. The information in the schedule does not reflect on the legal or other qualifications of the parties and is not relevant to whether structure of the transaction complies with the FCC's rules.

Schedule 2.1(d) - This schedule lists the Miscellaneous Assets. The information in the schedule does not reflect on the legal or other qualifications of the parties and is not relevant to whether the structure of the transaction complies with the FCC's rules.

Schedule 2.3 - This schedule lists the Liabilities Assumed by the Buyer. The information in the schedule does not reflect on the legal or other qualifications of the parties and is not relevant to whether the structure of the transaction complies with the FCC's rules.

Schedule 3.6 - This schedule lists FCC licenses, Permits and Authorizations to be assigned. The list of FCC licenses is a matter of record at the Commission and is therefore not reproduced hereto.

Schedule 3.11 - This schedule lists the Brokers or Finders Fees. The information in the schedule does not reflect on the legal or other qualifications of the parties and is not relevant to whether the structure of the transaction complies with the FCC's rules.