

ASSET PURCHASE AGREEMENT

by and among

**ECRP CHARLESTON LLC
TIN MAN TELECOMMUNICATIONS LLC**

and

APEX BROADCASTING, INC.

for the Sale and Purchase of

Station WAVF(FM), Hanahan, South Carolina

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ASSET PURCHASE AGREEMENT

THIS ASSET PURCHASE AGREEMENT ("Agreement") is made and entered into as of this 26th day of October, 2001, by and among ECRP Charleston LLC and Tin Man Telecommunications LLC, limited liability companies organized under the laws of the State of Delaware ("Seller"), and Apex Broadcasting, Inc., a corporation under the laws of the State of Mississippi ("Buyer").

WITNESSETH:

WHEREAS, ECRP Charleston LLC, whose parent company is Tin Man Telecommunications LLC, holds certain licenses, permits and authorizations issued by the Federal Communications Commission (the "Commission") for the operation of FM broadcast station WAVF, Hanahan, South Carolina (the "Station");

WHEREAS, Seller owns or leases and desires to sell and/or assign, and Buyer desires to purchase and/or assume certain of the assets, property and business used in the operation of the Station; and

WHEREAS, Seller and Buyer are parties to a Local Marketing Agreement ("LMA") of even date herewith;

NOW, THEREFORE, the parties, intending to be legally bound, agree as follows:

SECTION 1
ASSETS TO BE SOLD

1.1. On the Closing Date, Seller shall sell, assign, transfer, convey, set over, and deliver to Buyer, and Buyer shall purchase and/or accept assignment of the following (hereinafter collectively the "Assets"):

1.1.1. **Authorizations.** All licenses, permits and authorizations issued or granted by the Commission for the operation of, or used in connection with the operation of, the Station (hereinafter "Commission Authorizations"), including those listed in Schedule 1.1.1.

1.1.2. **Real Property.** All of Seller's rights in and to the land, buildings, improvements, and other real property used in connection with the operation of the Station (hereinafter collectively the "Real Property"), including, but not limited to, the Tower Space Lease with Clear Channel Communications and the studio office lease (hereinafter the "Leases") and the other real property documents and leases, contracts and agreements creating such interests listed and described in Schedule 1.1.2.

1.1.3. **Tangible Personal Property.** All of Seller's rights in and to the fixed and tangible personal property used in the operation of the Station, including, but not limited to, the physical assets and equipment, leasehold improvements, furniture, fixtures, receivers, programming, tapes, transmitters, switches and related equipment, and music libraries listed in Schedule 1.1.3, together with replacements thereof, additions and alterations thereto, and substitutions therefor, made between the date hereof and the Closing Date (hereinafter collectively the "Tangible Personal Property"). The parties

agree and understand that schedule 1.1.3 will be prepared within ten (10) days of the execution of this Agreement.

1.1.4. **Contracts.** All Seller's rights to and in the contracts and agreements, and leases to which Seller or the Station is a party listed in Schedule 1.1.4 (hereinafter collectively "Contracts"), together with all contracts, agreements and leases entered into or acquired by the Seller between the date hereof and the Closing Date, which Buyer elects to assume.

1.1.5. **Intangibles.** All right, title and interest of Seller in and to the call letters "WAVF," the right to all slogans and service marks presently used in conjunction with the Station, together with other intangible property of Seller used or useful in the operation of or otherwise pertaining to the Station as set forth on Schedule 1.1.5 attached hereto and made a part hereof (hereinafter collectively the "Intangibles").

1.1.6. **Business Records.** Financial records, engineering, advertising reports, programming studies, consulting reports, marketing data, ledger sheets, and business and personnel records relating primarily to the business or operation of the Station (hereinafter collectively "Business Records") or to assets or agreements purchased by Buyer.

1.1.7. **Accounts Receivable.** Subject to Section 11 of this Agreement, the Accounts Receivable of the Station as of 11:59 p.m., local time, on the day prior to the Closing Date;

1.2. **Excluded Assets.** The Assets shall not include the following assets along with all rights, title and interest therein which shall be referred to as the "Excluded Assets":

1.2.1. All cash, cash equivalents or similar type investments of Seller, such as certificates of deposit, Treasury bills and other marketable securities on hand and/or in banks;

1.2.2. All tangible and intangible personal property disposed of or consumed in the ordinary course of business between the date of this Agreement and the Closing Date, or as permitted under the terms hereof;

1.2.3. All agreements that have terminated or expired prior to the Closing Date in the ordinary course of business and as permitted hereunder;

1.2.4. Seller's minute books, charter documents, record books and such other books and records as pertain to the organization, existence or capitalization of Seller and duplicate copies of such records as are necessary to enable Seller to file its tax returns and reports as well as any other records or materials relating to Seller generally and not involving specific aspects of the Station's operation;

1.2.5. Contracts of insurance, including the cash surrender value thereof, and all insurance proceeds or claims made by Seller relating to property or equipment repaired, replaced or restored by Seller prior to the Closing Date;

1.2.6. Any and all other claims made by Seller with respect to transactions prior to the Closing Date and the proceeds thereof to the extent the Station has been made whole for any loss or damage they or their assets may have suffered or incurred as a result of the item, event or occurrence giving rise to such claim;

1.2.7. All pension, profit sharing or cash or deferred (Section 401(k)) plans and trusts and the assets thereof and any other employee benefit plan or arrangement and the assets thereof, if any, maintained by Seller; and

1.2.8. The names "ECRP Charleston LLC" and "Tin Man Telecommunications LLC."

SECTION 2 PURCHASE PRICE

2.1. **Purchase Price.** In consideration of Seller's performance of this Agreement, the sale, assignment, transfer, conveyance, setting over, and delivery of the Assets as defined herein above to Buyer, the total purchase price (the "Purchase Price") to be paid by Buyer to Seller shall be the sum of SIX MILLION DOLLARS (\$6,000,000.00), or such lesser sum as calculated in accordance with Section 3.2 of this Agreement.

2.2. **Payment of Purchase Price.** The Purchase Price shall be paid to Seller as follows:

(a) Upon the execution and delivery of this Agreement, Buyer shall deposit THREE HUNDRED THOUSAND DOLLARS (\$300,000.00) (the "Escrow Deposit"). The Escrow Deposit shall be held and disbursed by Putbrese Hunsaker and Trent, P.C., the Escrow Agent, pursuant to the terms of an Escrow Agreement in the form attached hereto as Exhibit A, which Escrow Agreement shall be signed by Seller, Buyer, and Escrow Agent simultaneously with the execution of this Agreement. At Closing, Buyer shall join with Seller in causing the Escrow Agent to send the Escrow Deposit to Seller by wire transfer of immediately available funds to a bank designated by Seller to be credited against the Purchase Price. All interest earned on the Escrow Deposit shall belong to Buyer.

(b) At the Closing Date, Buyer will pay to Seller in the form of a certified check or by wire transfer of immediately available funds to a bank designated by Buyer the sum of SIX MILLION DOLLARS (\$6,000,000.00), minus the Escrow Deposit and as adjusted to reflect any adjustments made at the Closing pursuant to Section 3.

2.3. **Allocation of Purchase Price.** The parties agree to allocate the Purchase Price prior to the Closing Date in accordance with the requirements of Section 1060 of the Internal Revenue Code of 1986. In the event that the parties are unable to reach such an agreement prior to the Closing Date, they will select a qualified, independent and nationally recognized appraiser of broadcast properties and that firm's decision shall be binding upon the parties and the fees and expenses shall be borne equally by Buyer and Seller. The parties also agree to use such Purchase Price allocation in completing and filing Internal Revenue Code Form 8594 for federal income tax purposes.

SECTION 3 ADJUSTMENTS

3.1. **Adjustment Time.** The "Adjustment Time" as used herein shall be 12:01 A.M. current local time on the Closing Date.

3.2. **Adjustment Items.** Subject to the provisions of the LMA, the following items (the "Adjustment Items") shall be prorated as of the Adjustment Time, assuming a 365-day year or a 30-day or 31-day month, as appropriate, and monies shall be paid at Closing in accordance with Sections 3.3 and 3.4 herein below.

3.2.1. Rentals or other charges, payable or paid in respect of leasehold interests or tenancies, or leased transmitter sites, studios, offices or other Real Property or equipment under any

lease or tenancy of Real Property described in Schedule 1.1.2, and any and all equipment leases described in Schedule 1.1.4.

3.2.2. Real and personal property taxes and assessments (including sewerage assessments and fees), levied or assessed against or otherwise paid or payable with respect to any of the Assets.

3.2.3. Transferable license, permit, and registration fees, and like items (including the Commission's annual regulatory fees).

3.2.4. Charges for utilities (including but not limited to electricity, fuel, water, basic monthly telephone charges, long distance telephone calls, and sanitation and garbage disposal) furnished to or in connection with the Station.

3.2.5. Unpaid obligations of Seller with respect to any lease, contract, or agreement which Buyer assumes, including, without limitation, prepaid premiums on any insurance policies that Seller has agreed to assign to Buyer and Buyer elects to assume. Security deposits, if any, shall be refunded by Buyer to Seller.

3.2.6. License agreements with ASCAP, BMI and SESAC.

3.2.7. Other similar items applicable to the Assets and/or attributable to the operations and/or the business of the Station, it being the intention of the parties that all operations and the business of the Station prior to the Adjustment Time shall be for the account of Seller, and all operations and business of the Station after the Adjustment Time shall be for the account of Buyer.

3.2.8. If the amount of any real or personal property tax to be prorated is not known on the Closing Date, such tax shall be apportioned on the basis of the most recent tax assessment.

3.2.9. Buyer shall have no obligation to employ any employees of Seller, except those to whom Buyer offers post-closing employment and who accept such offer. On execution of this Agreement, Seller shall deliver to Buyer a detailed list of all employees of the Station, their salaries, benefits and any other job-related matters for Buyer's review. As of 11:59 p.m. the day prior to the Closing, Seller shall terminate all of the employees of the Station.

3.3. **Adjustments After Closing Date.** If the amount of any items to be adjusted cannot be readily ascertained or agreed upon on the Closing Date, proration of such items shall be determined within thirty (30) days after the Closing Date and payment therefor shall be made to the party entitled thereto within thirty (30) days after notice of such determination thereof has been given to Buyer or Seller, as the case may be. In the event of any disputes between the parties as to adjustments, the amounts not in dispute shall nonetheless be paid at the time provided in this Section and such disputes shall be determined by an independent certified public accountant mutually acceptable to the parties. The accountant's resolution of the dispute shall be final and binding on the parties, and a judgment may be entered thereon in any court of competent jurisdiction. The fees and expenses of such accountant shall be paid initially from the amount in dispute prior to being delivered to prevailing party and if such amount in dispute does not satisfy the obligation to accountant, thereafter one-half by Seller and one-half by Buyer. The inability of Seller and Buyer to resolve any adjustment shall not entitle Buyer to

delay the return of the Accounts Receivable to Seller or any payment due Seller with respect to the Accounts Receivable pursuant to Section 11.

SECTION 4
APPLICATION TO AND CONSENT BY COMMISSION

4.1. **Commission Consent.** Consummation of the transactions contemplated herein and the performance of the obligations of Seller and Buyer under this Agreement are subject to the condition that the Commission or its staff shall have given its consent in writing, without any condition materially adverse to Buyer or Seller, to the assignment of the Commission Authorizations from Seller to Buyer.

4.2. **Application For Commission Consent.**

(a) Seller and Buyer have filed with the Commission an application seeking the Commission's approval of the assignment of the Commission Authorizations from ECRP Charleston LLC to Buyer (the "Assignment Application"). Within one (1) business day after the date of this Agreement, Seller shall prepare and file with the Commission a copy of this Agreement as an amendment to the Assignment Application. Each party further agrees expeditiously to prepare amendments to the Assignment Application whenever such amendments are required by the Commission or its rules.

(b) Except as otherwise provided herein, each party will be solely responsible for the expenses incurred by it in the preparation, filing and prosecution of its respective portion of the Assignment Application. All filing fees and grant fees imposed by the Commission shall be paid one-half (1/2) each by Seller and Buyer.

(c) Each party agrees to comply with any condition imposed on it by the Commission, except that no party shall be required to comply with a condition that would have a material adverse effect upon it unless the condition was imposed as the result of a circumstance which constitutes a breach by that party of any of its representations, warranties, or covenants in this Agreement. Buyer and Seller shall oppose any efforts by any third parties for reconsideration or judicial review of the grant by the Commission of the Assignment Application (but nothing in this Section shall limit any party's right to terminate this Agreement pursuant to Section 17 of this Agreement).

4.3. **Notice of Application.** Seller shall, at its expense, give the notice of the filing of the Assignment Application as required by the Commission's rules.

SECTION 5 LIABILITIES

5.1. **Liabilities.** The Assets shall be sold and conveyed to Buyer free and clear of all liabilities (absolute or contingent), obligations, liens (including tax, mechanics' and materialmen's liens), pledges, conditional sales agreements, charges, mortgages, security interests, encumbrances and restrictions of any type or amount (collectively, "Liens") created or suffered by Seller prior to the Closing Date, whether existing now or in the future.

5.2. **Buyer's Assumed Obligations.** Buyer covenants and agrees to assume at Closing and discharge following the Closing all of the unperformed duties of Seller accruing under the leases and other documents listed in Schedule 1.1.3 and the Contracts listed in Schedule 1.1.4 and under all advertising contracts for the sale of time for cash on the Stations which are cancelable on thirty (30) days prior written notice and such other advertising agreements which Buyer assumes, such as trade

liabilities and those items subject to prorations, but only to the extent that such duties accrue after the Closing Date based on the operation of the Station by Buyer following the Closing Date. Except as provided in the preceding sentence, Buyer is not agreeing to, and shall not, assume any other liability, obligation, undertaking, expense or agreement of Seller of any kind, absolute or contingent, known or unknown, and the execution and performance of this Agreement shall not render Buyer liable for any such liability, obligation, undertaking, expense or agreement (all of such liabilities and obligations shall be referred to herein as the "Retained Liabilities").

5.3. **Seller's Liability.** Other than as specified in Section 5.2 above, Seller shall remain liable for, and covenants to pay, satisfy, or discharge, all liabilities, payments, obligations, and duties under the Contracts and any leases or other instruments transferred or assigned to Buyer hereunder, accruing prior to or by reason of events occurring prior to the Closing Date.

SECTION 6 REPRESENTATIONS AND WARRANTIES OF THE SELLER

Seller represents and warrants as follows:

6.1. Organization and Standing.

6.1.1. ECRP Charleston LLC and Tin Man Telecommunications LLC are now and on the Closing Date will be limited liability companies duly organized, validly existing and in good standing under the laws of the State of Delaware. Seller has the full power to own the Assets and to carry on the business of the Station as it now is being conducted.

6.1.2. Seller has the full power and authority to enter into this Agreement and all of Seller's Closing Documents (as defined in Section 10.1) that require Seller's signature. The execution,

delivery and performance of this Agreement (as of the date of execution of this Agreement and on the Closing Date) and the Seller's Closing Documents (on the Closing Date) are or will be authorized by all necessary action of the Seller.

6.2. **Binding Effect of Agreement.** This Agreement constitutes a valid and binding obligation of Seller enforceable against Seller in accordance with the terms of this Agreement. Upon execution, Seller's Closing Documents will constitute valid and binding obligations of Seller enforceable against Seller in accordance with their terms. The execution, delivery, and performance of this Agreement or any of the Closing Documents does not violate any provision of Seller's organizational documents, or contract provision or other commitment to which Seller or the Station is a party or under which it or its property is bound, or any judgment or order, and will not result in the creation or imposition of any lien, charge, security interest, or encumbrance of any nature whatsoever upon any of the Assets.

6.3. **Business Records.** Seller has maintained the Business Records of the Station in the usual, regular and ordinary manner in accordance with good business practices.

6.4. **Real and Tangible Personal Property.**

6.4.1. **Real Property Leases.** Schedule 1.1.2 attached hereto accurately lists and describes all of the Real Property leased or otherwise held or used by the Station in connection with its operation. The Real Property listed in Schedule 1.1.2 comprises all real property interests necessary to conduct the business or operations of the Station as now conducted. Seller has, and at the Closing will have, valid and binding Leases to all the leasehold interests for the antenna and studio of the Station to

be transferred by it hereunder, binding and enforceable upon Seller and, to the best of Seller's knowledge, upon the landlord in the Leases ("Landlord"), in accordance with their terms. Said Leases are in full force and effect. To the best of Seller's knowledge, there exists no default on the part of the Seller under the Leases and no event has occurred which, with the giving of notice or the passage of time, or both, would constitute a default, and Seller has no right of offset or defense to its liability for the payment, when due, of rent or any other charges due thereunder. Seller is in actual physical possession of the property demised to Seller under the Leases and is paying rent and other charges due to the Landlord in accordance with the terms thereof. Seller enjoys peaceful and undisturbed possession of the property on which the tower and studios are located (the "Station Premises"). To the best knowledge of Seller, the Station Premises are not subject to any encumbrances, encroachments, building or use restrictions, exceptions, reservations or limitations which interfere with or impair the present and continued use thereof in the usual and normal conduct of the business at the Station. To the best of Seller's knowledge, no person other than Seller has any right of occupancy with respect to such space pursuant to any sublease or assignment thereof or otherwise for any part of premises set forth in the Leases. Seller has not received notice of a prior sale, transfer, assignment, hypothecation or pledge of the Leases or of the rents secured therein. Seller has no defense, set-off or counterclaim against the Landlord arising out of any other transaction between Seller and the Landlord or under the Leases. The real property improvements (including leasehold improvements), and other tangible Station Assets owned or used by Seller at the Station Premises are adequately insured and are structurally sound with no known material defects. To the best of Seller's knowledge, all towers, guy anchors and wires,

buildings, fences and other improvements are located entirely within the boundary lines of the property demised to the Seller under the Lease.

6.4.2. **Patents, Trademarks, Copyrights.** The Intangible Property includes all call signs, slogans, and logos used to promote or identify the Station. Seller has no knowledge of any infringement or unlawful or unauthorized use of those promotional rights, including without limitation the use of any call sign, slogan or logo by any broadcast station or cable system in the Charleston, South Carolina area which may be confusingly similar to the call signs, slogans, and logos currently used by the Station.

6.4.3. **Tangible Personal Property.** Schedule 1.1.3 shall accurately lists all the material Tangible Personal Property owned, leased, or otherwise held by the Station and/or Seller which is intended to be conveyed hereunder, except as disclosed in Schedule 1.1.3. Seller is the owner of and at Closing will have good, clear, marketable, and indefeasible title to all of the Tangible Personal Property listed in Schedule 1.1.3, free and clear of all liens, charges, encumbrances, restrictions, debts, demands, or claims of any kind or nature whatsoever.

6.4.4. **Condition of Property.** The Tangible Personal Property listed in Schedule 1.1.3 is in good maintenance, operating condition, and repair, (general wear and tear accepted), in accordance with generally accepted standards of practice in the broadcasting industry and, to Seller's knowledge, is free from defects in materials and workmanship in all material respects. Except for the Excluded Assets, Seller does not have any material assets used, held for use or required for the conduct of the business of the Station which are not set forth in the schedules hereto or otherwise described in

Section 1.1 hereof, and the Assets include all assets necessary for the conduct of the business of the Station as it is currently conducted by Seller.

6.5. Contracts.

6.5.1. Schedule 1.1.4 accurately lists all agreements and other contracts (or, when the same are oral, complete and correct descriptions thereof) with respect to the Station to be conveyed hereby (except for contracts for the sale of advertising time for cash).

6.5.2. The Contracts listed in Schedule 1.1.4 are in full force and effect and valid, binding, and enforceable in accordance with their terms, and, except and to the extent as therein stated, are assignable by Seller to Buyer on the same terms and conditions as Seller now enjoys, and, to the best of Seller's knowledge, Seller has performed in all material respects all the obligations imposed upon Seller under any such Contracts.

6.5.3. Schedule 1.1.2 accurately describes all of the leases for the rental of real property which Buyer has agreed to assume and obtain the assignment of, and to which Seller and/or the Station is a party or under which Seller and/or the Station is bound for the rental of real property (the "Leases"). All such Leases are in full force and effect and valid, binding, and enforceable in accordance with their terms, and Seller has duly performed all of its material obligations under such Leases. To Seller's knowledge there is no default by or claim of default against Seller or against any other party to such Leases, or any event or circumstance that with the passage of time or the giving of notice or both would result in a default by Seller or any other party, or any notice of termination existing with respect to any of such Leases.

6.6. **Authorizations.**

6.6.1. Seller is the authorized legal holder of all licenses, permits, and authorizations necessary to operate the business of the Station lawfully as it is now being conducted, including, without limitation, all Commission Authorizations listed in Schedule 1.1.1, none of which is subject to any restrictions or conditions which would limit in any respect the full operation of the Station as now operated. All such Commission Authorizations are validly existing authorizations for the operation of the facilities described therein under the Communications Act of 1934, as amended. Seller is operating the Station in all material respects in accordance with the Commission Authorizations, the underlying construction permits and all rules and published policies of the Commission. There is no action pending or to Seller's knowledge threatened before the Commission or other body to revoke, refuse to renew, suspend or modify any of the Commission Authorizations; and there is no action pending or to Seller's knowledge threatened before the Commission or other body which may result in the denial of any pending applications, the issuance of any cease and desist orders, or the imposition of any administrative sanctions whatsoever with respect to the Station or its operation.

6.6.2. All reports, applications and other documents required to be filed by Seller with the Commission or any other administrative body with respect to the Station or its operations have been filed and all such reports, applications and documents are true and correct in all material respects. Seller is aware of no matters that might result in the suspension or revocation of any Commission Authorizations pertaining to the Station.

6.7. **Litigation and Insurance.**

6.7.1. Litigation; Compliance With Law. The Station is in compliance in all material respects with all applicable federal, state and local laws, ordinances and regulations, including compliance with the Communications Act and all rules and regulations issued thereunder. Other than proceedings affecting the broadcasting industry in general, there is no complaint, claim, litigation, investigation, or judicial, administrative, or other proceeding of any nature, including, without limitation, a grievance, arbitration, or insolvency or bankruptcy proceeding, pending or, to Seller's knowledge, threatened, against the Station, Seller, or any of the Assets being sold or transferred to Buyer, including, without limitation, any proceeding which may (a) adversely affect the Assets or the Commission Authorizations to be assigned hereunder, or the operation of the Station, or the ability of Buyer to own and operate the Station, or the use, ownership, or operation of any of the Assets by Buyer, (b) restrain or enjoin the Closing or the consummation of the transactions contemplated hereby, or (c) result in the revocation, modification or suspension of the Commission Authorizations, or the issuance or imposition of any administrative sanction that might adversely affect the Assets or the Commission Authorizations, or the operation of the Station or the ability of Buyer to own and operate the Station or the use, ownership, or operation of any of the Assets by Buyer. In addition, to Seller's knowledge, no such litigation, investigation, or proceeding has been threatened. Seller will give Buyer prompt notice of its discovery of any such basis or the institution or the threat of any such litigation, investigation, or proceeding. Seller is not in default in respect to any judgment, order, writ, injunction, decree, rule, or regulation of any applicable court or governmental body, which default could have a materially adverse effect on the Assets or the Station.

6.7.2. **Insurance.** All of the Tangible Personal Property which shall be listed in Schedule 1.1.3 is insured under the policies listed and described in Schedule 1.1.3, including, without limitation, public liability and broadcaster's liability insurance for the Station, in full force and effect, paying all premiums when due.

6.8. **Employees and Labor Relations .**

6.8.1. Seller: (a) is not a party to any collective bargaining agreement covering or relating to any of Station's employees and has not recognized, and to Seller's knowledge, is not required to recognize, and has received no demand for recognition by any contract with any of the employees of the Station or to any other employment contract, labor agreement, or union agreement, written or oral; (b) other than as disclosed in the Schedules, has not promulgated any policy or entered into any agreement relating to the payment of pensions, profit sharing, or bonuses to any of its employees whose employment, if terminated or suspended, for which Buyer will be liable; and (c) to Seller's knowledge, has not committed any unfair labor practices.

6.8.2. Seller has complied in all material respects with all applicable laws, rules and regulations relating to the employment of labor, including those relating to rates, hours, equal employment opportunity, collective bargaining, and the withholding and payment of taxes and contributions and has withheld all amounts required by law or agreement to be withheld from the wages or salaries of the Station's employees and is not liable to the employees or any government body for arrears of wages or for any tax or penalty for failure to comply with the foregoing.

6.9. **Taxes and Other Matters .**

6.9.1. **Payment of Taxes.** To the best of Seller's knowledge, a returns and reports concerning franchise taxes, unemployment insurance, withholding and payroll taxes, sales taxes, personal property taxes, license taxes, social security taxes, and all other reports required to have been filed by the Seller relating to the Assets, the Station, and/or its operation pursuant to any law or regulation have been duly filed, and all taxes, interest, assessments, and penalties which are due to any taxing authority, federal, state, or local, with respect to any tax period ending on or prior to the making of this warranty have been duly paid.

6.9.2. **Insolvency Proceedings.** No insolvency proceedings of any kind, including without limitation bankruptcy, receivership, reorganization, composition or arrangement with creditors, voluntary or involuntary, affecting Seller or the Purchased Assets are pending or threatened. Seller has not made an assignment for the benefit of creditors or taken any action with a view to, or that would constitute a valid basis for, the institution of any such insolvency proceedings.

6.9.3. **Intangibles.** Except as provided in Schedule 6.4.2, Seller has full and exclusive right, title to or interest in and to all of the Intangibles, including, without limitation, the call letters "WAVF" and all copyrights, patents, program rights, trade names, trade marks, logos, service marks, proprietary information, and other similar rights or symbols associated therewith, together with all goodwill associated therewith and all intellectual properties, as described on Schedule 1.1.5, are to the best of Seller's knowledge, free from infringements, interferences, litigation and disputes of any kind or nature whatsoever.

6.9.4. **Environmental Matters .**

(a) To the best of Seller's knowledge, Seller has complied in all material respects with all laws, rules and regulations of all federal, state, and local governments (and all agencies thereof) concerning the environment, public health and safety ("Environmental Laws"), and employee health and safety, and no charge, complaint, action, suit, proceeding, hearing, investigation, claim, demand, or notice has been filed or commenced against Seller alleging any failure to comply with any such law, rule or regulation.

(b) To the best of Seller's knowledge, Seller has no liability (and Seller has not handled or disposed of any substance, arranged for the disposal of any substance, or owned or operated any property or facility in any manner that could form the basis for any present or future charge, complaint, action, suit, proceeding, hearing, investigation, claim or demand (under the common law or pursuant to any statute) against Seller giving rise to any liability) for damage to any site, location, or body of water (surface or subsurface) or for illness or personal injury. To the best of Seller's knowledge, no hazardous substances or material, including without limitation, any asbestos or asbestos-related products, oils or petroleum-derived compounds, CFCs, or PCBs, have been released, emitted or discharged or are located at, upon or under the Real Property in a condition, concentration or location which will require the conduct of remedial action pursuant to the requirements of any applicable Environmental Laws. To the best of Seller's knowledge, there have never been and there currently are no underground storage tanks located at the Real Property.

6.9.5. No Untrue Statements or Omission. No representation or warranty made by Seller in this Agreement or any Schedule, exhibit, statement, certificate, or other document

heretofore or hereafter furnished by Seller, or on its behalf, to Buyer and pursuant to this Agreement or in connection with the transaction contemplated hereby contains or will contain any knowingly untrue statement or knowingly omits to state a material fact necessary to make the statements contained therein not misleading. All representations and warranties of Seller set forth in this Agreement shall be true, complete and accurate in all material respects as of the Closing Date as if made on that date.

SECTION 7 WARRANTIES, REPRESENTATIONS AND COVENANTS OF BUYER

Buyer covenants, represents, and warrants as follows:

7.1. **Organization and Standing.** Buyer is a corporation duly organized, validly existing and in good standing under the laws of the State of Mississippi, and as of the Closing Date, will be duly qualified to do business and be in good standing in the State of South Carolina.

7.2. **Authorization and Binding Obligation.** Buyer has all necessary power and authority to enter into this Agreement and all of Buyer's Closing Documents (as defined in Section 10.2) that require Buyer's signature. The execution, delivery and performance of this Agreement (as of the date of execution of this Agreement and on the Closing Date) and the Buyer's Closing Documents (on the Closing Date) are or will be authorized by all necessary action of Buyer. This Agreement constitutes a valid and binding obligation of Buyer enforceable against Buyer in accordance with the terms of this Agreement. Upon execution, the Buyer's Closing Documents will constitute valid and binding obligations of Buyer enforceable against Buyer in accordance with their terms.

7.3. **No Contravention.** The execution, delivery and performance of this Agreement do not violate any provision of the Buyer's organizational documents, or any contract provision or other commitment to which Buyer or any of its officers or directors is bound, or any judgment or order.

7.4. **Litigation.** Except for administrative rule makings or other proceedings of general applicability to the broadcast industry, there is no litigation, proceeding, judgment, claim, action, investigation or complaint, before the Commission, other governmental body, or court, of any nature pending or, to the best of Buyer's knowledge, threatened against or affecting Buyer which would adversely affect Buyer's authority or ability to carry out this Agreement.

7.5. **Information Held in Confidence.** Except with respect to Buyer's prospective lenders, if any, from the date hereof until the Closing Date, Buyer and other representatives of Buyer will hold in strict confidence, and will not disclose to any third party, any data and information obtained in connection with the transactions contemplated by this Agreement with respect to the business of Seller, except insofar as any of such data and information may be required by law to be publicly disclosed or submitted to the Commission. If the transactions contemplated by this Agreement are not consummated, Buyer will return to Seller all such data and information, including, but not limited to, all documents, copies of documents and memoranda or other materials prepared by Buyer which incorporate data or information obtained from Seller and all other data and information made available to Buyer in connection with this transactions, contemplated by this Agreement, except that which may be required by law to be submitted to the Commission.

7.6. **Buyer's Qualifications.** There is no fact that would, under present law (including the Communications Act of 1934, as amended) and the present rules and published policies of the Commission, disqualify Buyer from being the assignee of the Station or that would delay Commission approval of the Assignment Application. Should Buyer become aware of any such fact, it will so inform Seller and will use its best efforts to remove any such disqualification. Buyer will not take any action that Buyer knows, or has reason to believe, would result in such disqualification.

7.7. **No Untrue Statements or Omission.** No representation or warranty made by Buyer in this Agreement or any Schedule, exhibit, statement, certificate, or other document heretofore or hereafter furnished to Seller and pursuant to this Agreement or in connection with the transactions contemplated hereby contains or will contain any knowingly untrue statement or knowingly omits to state a material fact necessary to make the statement contained therein not misleading.

7.8. **Reliance.** Neither Buyer nor any person acting as Buyer's representative or on Buyer's behalf has relied on any representation or statement of Seller or any other person except as expressly set forth in this Agreement. Buyer acknowledges that it has been given full opportunity to examine, to its satisfaction, the Contracts listed or described in Schedule 1.1.4.

7.9. **No Financing Contingency.** Buyer has adequate financial resources available to it to consummate the transactions contemplated by this Agreement.

SECTION 8
SELLER'S CONDUCT OF BUSINESS PRIOR
TO CLOSING, BUYER'S ACCESS TO INFORMATION AND BUYER'S COVENANTS

8.1.Affirmative Covenants of Seller. Subject to the provisions of the LMA, from the date of this Agreement until the Closing Date, Seller shall have complete control and supervision of and sole responsibility for the Stations and their operation, and during such period, Seller shall:

8.1.1. Operate the Station in good faith and in a manner consistent with the normal and prudent operation of commercial broadcast stations and in accordance with the rules and regulations of the Commission and the Commission Authorizations.

8.1.2. Keep and preserve the Business Records in accordance with good business practice.

8.1.3. Make reasonable efforts to endeavor to protect the service area of the Station, as currently authorized by the Commission, from interference from other stations, existing or proposed, of which Seller has actual knowledge, to the extent such interference is prohibited by the Commission's rules and regulations, and promptly give Buyer notice of any such proposed interference.

8.1.4. Deliver to Buyer within five (5) days after filing thereof with the Commission copies of any and all reports, applications, and/or responses relating to the Stations which are filed with the Commission on or prior to the Closing Date, including a copy of any Commission inquiries to which the filing is responsive (in the event of an oral Commission inquiry, Seller will furnish a written summary thereof).

8.1.5. Give prompt notice to Buyer of any occurrence that comes to Seller's attention that may constitute a misrepresentation, breach of warranty, or nonfulfillment of any covenant or condition on the part of Seller or Buyer contained in this Agreement.

8.2. **Negative Covenants of Seller.** Between the date hereof and the Closing Date, Seller shall not, with respect to the Assets, the Station, or the operation thereof, without the consent of Buyer, which consent shall not be unreasonably withheld:

8.2.1. Cancel, modify, alter, amend, encumber, or in any way discharge, terminate, or impair any agreements or leases pertaining to the Stations.

8.2.2. By any act or omission surrender, modify adversely, forfeit, or fail to renew under regular terms the Commission Authorizations or give the Commission grounds to institute any proceeding for the revocation, suspension or modification of any such Commission Authorization, or fail to prosecute with due diligence any pending applications with respect to such Commission Authorizations.

8.2.3. Other than in the usual and ordinary course of business, sell or dispose of any of the Assets; Seller shall replace all Assets thus disposed of in the usual and ordinary course of business with assets having an aggregate value at least equal to the aggregate value of the Assets sold or otherwise disposed of.

8.2.4. Create or suffer or permit the creation of any mortgage, conditional sales agreement, security interest, lien, hypothecation, pledge, encumbrance, restriction, liability, charge, claim or imperfection of title on any of the Assets or with respect thereto. This excludes any interest held or

created by Seller's lender. Any interest or lien created by Seller's lender which is attached to the station shall be removed at closing.

8.2.5. Take any action that would prevent Seller from consummating the transactions contemplated in this Agreement.

8.3. Access to Information.

8.3.1. **Access to the Assets.** Between the date hereof and the Closing Date, Seller will give to Buyer and its authorized representatives and agents, including engineers, accountants, lawyers, and other representatives, reasonable access during reasonable business hours to the Assets. Seller shall furnish to Buyer such information and materials concerning the Station's affairs as Buyer may reasonably request, so far as such access, information and materials pertain to the operation of the Station.

8.4. **Restrictions on Buyer.** Nothing contained in this Agreement shall give Buyer any right to control the programming or operations of the Station prior to the Closing Date and Seller shall have complete control of the programming and operation of the Station between the date hereof and the Closing Date and shall operate the Station in conformity with the requirements of law and this Agreement.

8.5. **Buyer's Covenants.** From the date of this Agreement until the Closing Date, Buyer covenants that it will not take any action, or fail to take any action, that would disqualify it from becoming the licensee of the Station or delay the grant of the Assignment Application by the Commission. Furthermore, Buyer shall give prompt notice to Seller of any occurrence that comes to

Buyer's attention that may constitute a misrepresentation, breach of warranty or nonfulfillment of any covenant or condition on the part of Buyer or Seller contained in this Agreement.

SECTION 9 CONDITIONS FOR CLOSING

9.1. **Closing.** The closing of the transactions contemplated by this Agreement (the "Closing") shall take place at a location and on a date set by the parties, **provided that such date shall be no later than December 12, 2001.**

9.2. **Conditions Precedent to Obligations of Buyer.** The performance of the obligations of Buyer under this Agreement is subject to the satisfaction of each of the following express conditions precedent (provided that Buyer may, at its election, waive any of such conditions on the Closing Date, notwithstanding that such condition is not fulfilled on the Closing Date):

9.2.1. Seller shall have delivered to Buyer the Seller's Closing Documents as described in Section 10.1 below.

9.2.2. Each of Seller's representations and warranties contained in this Agreement or in any schedule, certificate, or document delivered pursuant to the provisions hereof, or in connection with the transactions contemplated hereby, shall be true and correct in all material respects at and as of the Closing Date with the same force and effect as if each such representation or warranty was made at and as of such time.

9.2.3. Seller shall have performed and complied in all material respects with all covenants, agreements and obligations required by this Agreement to be performed or complied with by it prior to the Closing Date and shall be in full compliance therewith on the Closing Date.

9.2.4. Seller shall be the holder of the Commission Authorizations listed in Schedule 1.1.1.

9.2.5. All outstanding mortgages, liens, security agreements, and other charges and encumbrances on the Assets shall have been discharged and satisfied, or arrangements made to discharge same at Closing.

9.2.6. Seller shall have delivered to Buyer an inventory of the Tangible Personal Property to be conveyed, current as of the Closing Date. There shall be no material adverse changes between Schedule 1.1.3 and the inventory of Tangible Personal Property as of the Closing Date other than changes that have been agreed to and accepted by Buyer, in its reasonable discretion.

9.2.7. Seller shall have delivered to Buyer an assignment of the Leases listed in Schedule 1.1.2.

9.3. **Conditions Precedent to Obligations of Seller.** The performance of the obligations of the Seller under this Agreement is subject to the satisfaction of each of the following express conditions precedent (provided that Seller may, at its election, waive any of such conditions at Closing, notwithstanding that such condition is not fulfilled on the Closing Date):

9.3.1. Buyer shall have delivered to Seller the Buyer's Closing Documents (as described in Section 10.2 below).

9.3.2. Each of Buyer's representations and warranties contained in this Agreement or in any certificate or document delivered pursuant to the provisions hereof, or in connection with the transactions contemplated hereby, shall be true in all material respects at and as of Closing Date, as though each such representation or warranty was made at and as of such time, except in respect of such changes as are contemplated or permitted by this Agreement.

9.3.3. Buyer shall perform all of the obligations set forth in Section 2.2 of this Agreement with respect to the payment of the Purchase Price.

9.3.4. Buyer shall have agreed in form reasonably acceptable to Seller to assume all obligations under the Agreements assigned to Buyer arising on or after the Closing Date.

9.4. **Failure of Conditions Precedent to Obligations of Buyer.** In case of the failure of any of the conditions precedent described in Section 9.2 hereof, and if Seller has failed to cure same by ten (10) days after notice from Buyer, Buyer shall have the right to terminate this Agreement without liability. In addition, if the failure of such condition precedent constitutes a material default by Seller, Buyer shall have the right, at its option, to exercise any or all of its rights or remedies for default provided in Section 17 hereof. Buyer shall not be deemed to have waived any failure by Seller to fulfill any of the conditions precedent described in Section 9.2 if Buyer does not have actual knowledge of such failure at the time of Closing. Buyer's waiver of any of the conditions precedent described in Section 9.2 hereof shall not preclude Buyer from seeking redress from Seller for Seller's failure to have complied with such conditions precedent.

9.5. **Failure of Conditions Precedent to Obligations of Seller.** In case of the failure of any of the conditions precedent described in Section 9.3 hereof, and if Buyer has failed to cure the same by the earlier of ten (10) days after notice from Seller or the Upset Date, Seller shall have the right to terminate this Agreement without liability. In addition, if the failure of such condition precedent results from a material default by Buyer, Seller shall have the right, at its option, to exercise any or all of its rights or remedies for default provided in Section 17 hereof. Seller shall not be deemed to have waived any failure by Buyer to fulfill any of the conditions precedent described in Section 9.3 if Seller does not have actual knowledge of such failure at the time of Closing. Seller's waiver of any of the conditions described in Section 9.3 hereof shall not preclude Seller from seeking redress from Buyer for Buyer's failure to have complied with such conditions precedent.

SECTION 10 OBLIGATIONS AT CLOSING

10.1. Closing Documents to be Delivered by Seller. At the Closing, Seller shall deliver to Buyer the following ("Seller's Closing Documents"):

10.1.1. An executed bill of sale in form and substance reasonably satisfactory to Buyer transferring to Buyer all Tangible Personal Property to be transferred hereunder.

10.1.2. An executed assignment and assumption agreement in form and substance reasonably satisfactory to counsel for Buyer assigning to Buyer the Contracts to be assigned hereunder.

10.1.3. An executed assignment and transfer in form and substance reasonably satisfactory to counsel for Buyer assigning and transferring to Buyer all of the Commission Authorizations and the Intangibles.

10.1.4. A certified copy of the resolutions of Seller's President authorizing the execution, delivery, and performance of this Agreement by Seller and the consummation of the transactions provided for herein, together with an incumbency certificate.

10.1.5. A certificate executed by Seller's President stating that (a) all of the representations and warranties of Seller set forth in this Agreement are in all material respects true, correct, and accurate as of the Closing Date, and (b) all covenants set forth in this Agreement to be performed by Seller on or prior to the Closing Date have been performed in all material respects.

10.1.6. All Business Records not retained by Seller pursuant hereto.

10.1.7. Possession and/or ownership of and all right, title and/or interest in and to the Assets.

10.1.8. An assignment of the Accounts Receivable for collection only pursuant to Section 11 hereof.

10.1.9. Instructions executed on behalf of Seller directing the Escrow Agent to apply the Escrow Deposit toward payment of the Purchase Price.

10.2. **Closing Documents to be Delivered by Buyer.** At the Closing, Buyer shall deliver to Seller the following ("Buyer's Closing Documents"):

10.2.1. The Purchase Price as provided in Section 2.2.

10.2.2. A certificate executed by Buyer's chief executive officer stating that (a) all of the representations and warranties of Buyer set forth in this Agreement are in all material respects true,

correct, and accurate as of the Closing Date, and (b) all covenants set forth in this Agreement to be performed by Buyer on or prior to the Closing Date have been performed in all material respects.

10.2.3. An assignment and assumption agreement executed by Buyer, in form and substance reasonably satisfactory to Seller.

10.2.4. A certified copy of the resolutions of Buyer authorizing the execution, delivery and performance of this Agreement by Buyer and the consummation of the transactions provided for herein, executed by the officers and all directors and attested to by the Secretary of Buyer.

10.2.5. Instructions executed on behalf of Buyer directing the Escrow Agent to apply the Escrow Deposit toward payment of the Purchase Price.

SECTION 11 ACCOUNTS RECEIVABLE

Subject to the provisions of the LMA, Seller shall assign to Buyer at Closing all of the Accounts Receivable for purposes of collection only. Buyer shall use such efforts as are reasonable and in the ordinary course of business to collect the Accounts Receivable for a period of ninety (90) days following the Closing Date (the "Collection Period"). This obligation, however, shall not extend to the institution of litigation, employment of counsel, or any other extraordinary means of collection. So long as the Accounts Receivable are in Buyer's possession, unless authorized by Buyer neither Seller nor its agents shall make any solicitation of them for collection purposes nor institute litigation for the collection of any amounts due thereunder. All payments received by Buyer during the Collection Period from any person obligated with respect to any of the Accounts Receivable shall be applied first to Seller's account and only after full satisfaction thereof to Buyer's account; provided, however, that if during the

Collection Period any account debtor contests in writing the validity of its obligation with respect to any Account Receivable, then Buyer may return that Account Receivable to Seller after which Seller shall be solely responsible for the collection thereof. Except for the payment of all salesperson's, agency, and representative commissions due with respect to the Accounts Receivable, Buyer shall not incur or cause to be incurred any collateral or outside fees, costs or charges in connection with its efforts at collection of the Accounts Receivable without first having obtained the authorization in writing of Seller. Buyer shall remit all amounts collected on Seller's behalf no less often than the fifth (5th) day after the close of each month during which any amounts due to Seller are collected. Within five (5) business days following the expiration of the Collection Period, Buyer shall furnish Seller with a list of the Accounts Receivable collected during the Collection Period accompanied by a payment equal to the amount of such collections minus commissions. Any of the Accounts Receivable that are not collected during the Collection Period shall be reassigned to Seller after which Buyer shall have no further obligation to Seller with respect to the Accounts Receivable; provided, however, that all funds subsequently received by Buyer (without time limitation) that can be specifically identified, whether by accompanying invoice or otherwise, as a payment on any Account Receivable shall be promptly paid over or forwarded to Seller. Buyer shall not have the right to compromise, settle, or adjust the amounts of any of the Accounts Receivable without Seller's prior written consent, or to withhold any proceeds of the Accounts Receivable or to retain any uncollected Accounts Receivable after the expiration of the Collection Period for any reason whatsoever. Seller shall be responsible for the payment of all salesperson's, agency, and representative commissions due with respect to the Accounts Receivable and shall defend and hold Buyer harmless against any claims for such commissions.

SECTION 12 BROKERAGE

Seller and Buyer each represents and warrants to the other that it knows of no broker, finder, or intermediary who has been involved in the transactions provided for in this Agreement or who might be entitled to a fee or commission upon the consummation of such transactions, other than Kalil & Co., Inc. whose fees shall be paid by Seller. Buyer and Seller hereby agree to indemnify each other from and against any claim of any such obligation or liability by any person, and any expense incurred in defending against any such claim, including reasonable attorneys' fees, that shall have resulted from any conduct, activity, or action taken, or allegedly taken, by the indemnifying party.

SECTION 13 INDEMNIFICATIONS

13.1. **Breach of Seller's Agreements, Representations, and Warranties.** Seller shall reimburse Buyer for, and indemnify and hold harmless Buyer from and against, any loss, damage, liability, obligation, deficiency, claim, suit, cause of action, demand, judgment, or expense (including without limitation, payments, fines, penalties, interest, taxes, assessments, and reasonable attorneys' fees and accounting fees), contingent or otherwise, whether incurred or asserted prior to or after the Closing Date, arising out of or sustained by Buyer by reason of:

(a) any breach of any warranty, representation, or agreement of Seller contained under this Agreement or in any certificate or other instrument furnished to Buyer pursuant to this Agreement or in connection with any of the transactions contemplated hereby;

(b) the operation of the Station or the ownership of the Assets prior to Closing (including, but not limited to, any and all claims, liabilities, and obligations arising or required to be performed prior to the Closing Date under the Agreements, or any other lease, contract, or agreement);

(c) any transaction entered into by Seller or arising in connection with the Stations or the operation of the business thereof or any of the Assets prior to the Closing;

(d) any Retained Liabilities of Seller; or

(e) any and all actions, suits, or proceedings, incident to any of the foregoing.

13.2. **Breach of Buyer's Agreements, Representations and Warranties.** Buyer shall reimburse Seller for, and indemnify and hold harmless Seller from and against, any loss, damage, liability, obligation, deficiency, claim, suit, cause of action, demand, judgment, or expense (including without being limited to, payments, fines, penalties, interest, taxes, assessments, reasonable attorneys' fees and accounting fees of any kind or nature), contingent or otherwise, arising out of or sustained by Seller by reason of:

(a) any breach of any warranty, representation, or agreement of Buyer contained under this Agreement or any certificate or other instrument furnished by Buyer pursuant to this Agreement or in connection with any of the transactions contemplated hereby,

(b) the operation of the Station subsequent to Closing (including, but not limited to, any and all claims, liabilities and obligations arising or required to be performed subsequent to the Closing under the Agreements),

(c) any transaction entered into by Buyer or arising in connection with the Stations or the operation of the Station subsequent to the Closing,

(d) any and all liabilities or obligations of Seller specifically assumed by Buyer pursuant to this Agreement, or

(e) any and all actions, suits, or proceedings incident to any of the foregoing.

13.3. **Notice of Claim.** Buyer and Seller agree to give prompt written notice to each other of any claim for indemnification under Sections 13.1 or 13.2 hereof ("Notice of Claim"), which amount is believed to be required to discharge the obligations of the indemnifying party resulting therefrom (the "Claim"). Within ten (10) days after having been given the Notice of Claim, the indemnifying party may deliver to the other party (i) a written notice of objection to the payment of such Claim ("Notice of Objection"), which Notice of Objection shall set forth the basis for such objection; or (ii) a written notice that the indemnifying party intends to defend against such Claim in good faith ("Notice of Intention to Defend"). If such a Notice of Intention to Defend is delivered, the indemnifying party shall have the right to hold in abeyance its Claim for indemnification if and so long as such defense is conducted by the indemnifying party at the latter's expense in a manner effective to protect the indemnified party against such Claim. If no Notice of Objection or Notice of Intention to Defend is given within the prescribed ten (10) day period, the indemnifying party shall promptly pay to the indemnified party the Claim set forth in the Notice of Claim, subject to Section 13.5. If the parties are unable to resolve any Notice of Claim and corresponding Notice of Objection, either party may take whatever action it deems

reasonable, including without limitation, the filing of a claim, petition, or other pleading in a court of competent jurisdiction.

13.4. **Sole Remedy.** Except as provided to the contrary in this Agreement, the right to indemnification pursuant to Section 13 shall be the sole and exclusive remedy of each party in connection with any breach or other violation by the other party of its representations, warranties, or covenants contained in this Agreement.

13.5. **Limitation on Liability.** The indemnifying party shall have no liability for Claims under Section 13.1 or Section 13.2 as the case may be, until the aggregate amount of the Claims incurred exceeds Twenty Five Thousand Dollars (\$25,000) (the “Minimum Loss”). Liability is capped at _____ Dollars (\$_____.00). After the Minimum Loss is exceeded, the indemnitee shall be entitled to be paid the entire amount of its Claims, including the Minimum Loss.

SECTION 14 RISK OF LOSS

The risk of any loss or damage to the Assets by fire, theft, breakage, explosion, earthquake, accident, flood, rain, storm, riot, act-of-God, or public enemy, or any other casualty or cause, reasonable wear and tear excepted, prior to the Closing Date, is assumed and shall be borne by the Seller at all times before the Closing Date. If any such loss or damage occurs, Seller shall give prompt written notice of the loss or damage to Buyer and shall promptly take all steps to rebuild, replace, restore or repair any such damaged property at its own cost and expense. In the event that Seller does not fully replace or restore any such lost or damaged Asset or Assets by the time the Closing otherwise would be held, Buyer may, at its option, upon written notice to Seller, either (i) terminate this

Agreement, or (ii) elect to close without restoration, in which event Seller will deliver all insurance proceeds paid or payable by reason of the loss or damage to Buyer. If Buyer terminates this Agreement under this Section, each party shall bear its own expenses, and the Escrow Agent shall deliver to Buyer the Escrow Deposit and all interest earned thereon. Buyer's option to terminate this Agreement under this Section 14 shall arise only if such damage to the Station is so substantial that it prevents the Station from operating in its normal and customary manner for a period of five (5) consecutive days.

SECTION 15 FEES AND EXPENSES

Each party shall pay its own attorneys' fees and expenses which it initiates, creates, or incurs in connection with the negotiation, preparation and execution of this Agreement. All other expenses incurred in connection with this transaction shall be borne by the party incurring same.

SECTION 16 BULK SALES LAW

The parties do not believe that any bulk sales or fraudulent conveyance statute applies to the transactions contemplated by this Agreement. Buyer therefore waives compliance by Seller with the requirements of any such statutes, and Seller agrees to indemnify and hold Buyer harmless against any claim made against Buyer by any creditor of Seller as a result of a failure to comply with any such statute.

SECTION 17
DEFAULT AND TERMINATION

17.1. A party shall "default" under this Agreement if it makes any material misrepresentation to the other party in connection with this Agreement, or materially breaches or fails to perform any of its representations, warranties, or covenants contained in this Agreement. Non-material breaches or failures shall not be grounds for declaring a party to be in default, postponing the Closing, or terminating this Agreement.

17.2. If either party believes the other to be in default hereunder, the former party shall provide the other with written notice specifying in reasonable detail the nature of such default. If the default is not curable or has not been cured within ten (10) days after delivery of that notice (or such additional reasonable time as the circumstances may warrant provided the party in default undertakes diligent, good faith efforts to cure the default within such ten (10) day period and continues such efforts thereafter), then the party giving such notice may terminate this Agreement and/or exercise the remedies available to such party pursuant to this Agreement, subject to the right of the other party to contest such action through appropriate proceedings.

17.3. Buyer recognizes that if the transaction contemplated by this Agreement is not consummated as a result of Buyer's default, Seller would be entitled to compensation, the extent of which is extremely difficult and impractical to ascertain. To avoid this problem, the parties agree that if this Agreement is not consummated due to the default of Buyer, Seller shall be entitled to receive as liquidated damages the Escrow Deposit except for all interest earned thereon. All interest or other proceeds from the investment of the Escrow Deposit, less any compensation due the Escrow Agent,

shall be paid to Buyer. Buyer and Seller each acknowledge and agree that the liquidated damage amount is reasonable in light of the anticipated harm which would be caused by Buyer's 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.

17.4. Seller agrees that the Assets include unique property that cannot be readily obtained on the open market and that Buyer will be irreparably injured if this Agreement is not specifically enforced. Therefore, Buyer shall have the right specifically to enforce Seller's performance under this Agreement, and Seller agrees to waive the defense in any such suit that Buyer has an adequate remedy at law and to interpose no opposition, legal or otherwise, as to the propriety of specific performance as a remedy. In the event Buyer elects to terminate this Agreement as a result of Seller's default instead of seeking specific performance, Buyer shall be entitled to the return of the Escrow Deposit and to recover from Seller Buyer's actual damages occasioned by Seller's default, including without limitation, attorneys fees and costs, bank commitment fees, due diligence costs and other expenses reasonably incurred by Buyer in attempting to consummate the transaction contemplated by this Agreement.

SECTION 18 SURVIVAL OF WARRANTIES

18.1. All representations and warranties made by the parties in this Agreement shall be deemed made for the purpose of inducing the other to enter into this Agreement, and shall survive the Closing and remain operative and in full force and effect, for a period of one (1) year, except for such representations and warranties concerning tax and environmental matters which shall remain in effect for as long as the applicable statutes of limitations.

18.2. Neither the acceptance nor the delivery of property hereunder shall constitute a waiver of any covenant, representation, warranty, agreement, obligation, undertaking, or indemnification of Seller or Buyer contained in this Agreement, all of which shall, unless otherwise specifically provided, survive the Closing hereunder in accordance with the terms of this Agreement and shall be binding upon and inure to the benefit of all of the parties hereto, their heirs, legal representatives, successors and assigns.

SECTION 19 NOTICES

19.1. All notices, requests, demands, waivers, consents and other communications required or permitted hereunder shall be in writing and be deemed to have been duly given when delivered in person (against receipt) to the party to be notified at the address set out below or sent by registered or certified mail, or by express mail or courier, postage prepaid, return receipt requested, addressed to the party to be notified, as follows:

If to Seller:

Gary S. Rozynek
President
Tin Man Telecommunications LLC
c/o Maverick Media LLC
136 Main Street, Suite 202
Westport, CT 06880
Fax: (203) 227-4819

With a copy (which shall not constitute notice) to:

John C. Trent, Esq.
Putbreso Hunsaker & Trent, P.C.
100 Carpenter Drive
P.O. Box 217
Suite 100
Sterling, VA 20167-0217
Fax: (703)

If to Buyer:

G. Dean Pearce
President
Apex Broadcasting, Inc.
401 Coleman Blvd., Suite A
Mt. Pleasant, SC 29464
Fax: (843) 849-0553

With a copy (which shall not constitute notice) to:

Erwin G. Krasnow, Esq.
Verner, Liipfert, Bernhard, McPherson
and Hand, Chartered
901 15th Street, N.W., Suite 700
Washington, DC 20005
Fax: (202) 371-6279

Either party may change its address for notices by written notice to the other given pursuant to this Section. Any notice purportedly given by a means other than as provided in this Section shall be invalid and shall have no force or effect.

SECTION 20 MISCELLANEOUS

20.1. **Headings.** The headings of the Sections of this Agreement are for convenience of reference only, and do not form a part thereof, and do not in any way modify, interpret or construe the meaning of the Sections themselves or the intentions of the parties.

20.2. **Entire Agreement.** This Agreement and any other agreements entered into pursuant to this Agreement set forth the entire agreement of the parties and are intended to supersede all prior negotiations, understandings, and agreements and cannot be altered, amended, changed or modified in any respect or particular unless each such alteration, amendment, change or modification shall have been agreed to by each of the parties hereto and reduced to writing in its entirety and signed and delivered by each party. No provision, condition or covenant of this Agreement shall be waived by either party hereto except by a written instrument delivered to the other party and signed by the party consenting to and to be charged with such waiver.

20.3. **Binding Effect and Assignment.** This Agreement shall be binding upon and inure to the benefit of the parties hereto, and their respective successors and permitted assigns. Neither party hereto may assign this Agreement or its rights and obligations hereunder without the written consent of the other, except that Buyer may assign its rights and delegate its duties under this Agreement to an entity which is controlled by Buyer at any time prior to the Closing Date, provided that the Closing Date is not delayed or postponed as a result of such assignment. In the event of such an assignment by Buyer, the provisions of this Agreement shall inure to the benefit of and be binding upon Buyer's assigns. Nothing in this Agreement, express or implied, is intended to or shall confer on any person other than the parties hereto and their respective successors and assigns, any rights, remedies, obligations or liabilities under or by reason of this Agreement.

20.4. **Additional Documents.** The parties hereto agree to execute, acknowledge and deliver, at or after the Closing Date, such other and further instruments and documents as may be

reasonably necessary to implement, consummate and effectuate the terms of this Agreement, the effective vesting in Buyer of title to the Assets, and/or the successful processing by the Commission of the Assignment Application to be filed with it, as provided in Section 4 hereof.

20.5. **Counterparts.** This Agreement may be executed in one or more counterparts, all of which together shall comprise one and the same instrument.

20.6. **Legal Actions.** If either Seller or Buyer initiates any legal action or lawsuit against the other involving this Agreement, the prevailing party in such action or suit shall be entitled to receive reimbursement from the other party for all reasonable attorney's fees and other costs and expenses incurred by the prevailing party in respect of that litigation, including any appeal, and such reimbursement may be included in the judgment or final order issued in such proceeding. Any award of damages following judicial remedy or arbitration as a result of the breach of this Agreement or any of its provisions shall include an award of prejudgment interest from the date of the breach at the maximum rate of interest allowed by law.

20.7. **Governing Law.** The parties agree that this Agreement and the transaction herein contemplated shall be interpreted, construed, and enforced under and according to the laws of the State of South Carolina.

20.8. **Counsel.** Each party has been represented by its own counsel in connection with the negotiation and preparation of this Agreement and, consequently, each party hereby waives the application of any rule of law to the effect that any provision of this Agreement shall be interpreted or construed against the party whose counsel drafted that provision.

20.9. Section 1031 Exchange by Buyer. Buyer intends that the transfer of all or part of the Assets contemplated by this Agreement will be part of an exchange of assets that will qualify, pursuant to Section 1031 of the Internal Revenue Code, and regulations thereunder, as a deferred like-kind exchange by Buyer. In keeping with that intention, it is expressly acknowledged that Buyer, its assignee or transferee, may, at or prior to Closing, assign, subject to Section 20.3, its rights (in whole or in part) under this Agreement to a qualified intermediary as defined in Treasury regulation section 1.1031(k)-1(g)(4), or a similar entity or arrangement (“Qualified Intermediary”), subject to all of Buyer’s rights and obligations herein and shall promptly provide written notice of such assignment to Seller. Seller shall cooperate with the reasonable requests of Buyer’s Qualified Intermediary in arranging and effecting this exchange under Section 1031 of the Code. Without limiting the generality of the foregoing, if Buyer has given notice of its intention to effect an exchange using a Qualified Intermediary, Seller shall promptly provide Buyer with written acknowledgement of such notice, and the Qualified Intermediary shall pay the purchase price for any Assets identified by Buyer to be included in a like-kind exchange to Seller, and such payment shall satisfy the obligations of Buyer to make payment for those Assets.

Notwithstanding the foregoing, Buyer’s assignment to a Qualified Intermediary will not relieve Buyer of any of its duties or obligations herein. Except for the obligations of Seller set forth in this Section 20.9, Seller shall not have any liability or obligation to Buyer for the failure of the contemplated exchange to qualify as a like-kind exchange under Section 1031 of the Code unless such failure is the result of the material breach by Seller of its representations, warranties, covenants and obligations herein.

20.10. Time is of the Essence. Time shall be of the essence in this Agreement and the performance of each and every provision hereof.

20.11. **Severability.** If any term or provision of this Agreement or its application shall, to any extent, is declared to be invalid or unenforceable, the remaining terms and provisions shall not be affected and shall remain in full force and effect and to such extent are severable; provided, however, neither party shall have any obligation to consummate the transactions contemplated by this Agreement if it is adversely affected in any material respect.

20.12. **Publicity.** Seller and Buyer agree that all public announcements relating to this Agreement or the transactions contemplated hereby, including announcements to employees, will be made only as may be agreed upon by the parties, which consent shall not be unreasonably withheld.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be signed and executed by their proper officers thereunto duly authorized as of the day and year first above written.

SELLER:

TIN MAN TELECOMMUNICATIONS LLC

By: _____
Gary S. Rozynek
President

BUYER:

APEX BROADCASTING, INC.

By: _____
G. Dean Pearce
President