

## **ASSET PURCHASE AGREEMENT**

**THIS ASSET PURCHASE AGREEMENT** (this "Agreement") is made and entered into as of April 30, 2020, by and between **BELLIZZI BROADCASTING NETWORK, INC.**, a Florida corporation (the "Seller"), and **BLEU 24 COMMUNICATIONS, LLC**, a Florida limited liability company (the "Buyer").

### **RECITALS**

**WHEREAS**, Seller owns Low Power TV Station WEYW-LP, Key West, Florida (FCC Facility ID No. 130765) (the "Station"), pursuant to certain authorizations issued by the Federal Communications Commission (the "FCC"); and

**WHEREAS**, Seller desires to sell and Buyer desires to purchase certain of the assets used and useful in the operation of the Station on the terms and subject to the conditions set forth herein; and

**WHEREAS**, in order to induce Buyer to enter into this Agreement, Seller is willing to make certain representations and warranties to, and covenants and agreements with, Buyer; and in order to induce Seller to enter into this Agreement, Buyer is willing to make certain representations and warranties to, and covenants and agreements with, Seller, all as reflected in this Agreement;

**NOW, THEREFORE**, in consideration of the foregoing premises and the mutual covenants and agreements hereinafter set forth, the parties hereto, intending to be legally bound, hereby agree as follows:

### **ARTICLE 1** **PURCHASE AND SALE OF ASSETS**

**1.1 Assignment and Acquisition of Assets.** On the terms and subject to the conditions hereof, on the Closing Date (as hereinafter defined), Seller shall sell, assign, transfer, convey and deliver to Buyer, and Buyer shall purchase and assume from Seller, all of the right, title and interest of Seller in and to the following assets, which are used in the operation of the Station (the "Station Assets"). The Station Assets include, without limitation, the following:

1.1.1 all licenses, permits and other authorizations which are held by or issued to Seller by the FCC with respect to the Station (the "FCC Licenses"), including those described on *Schedule 1.1.1* attached hereto, and including any renewals or modifications thereof between the date hereof and the Closing Date;

1.1.2 the Station's call letters and Seller's rights in and to the trademarks, goodwill attached to the Station and all trade names, service marks, franchises, copyrights, websites, domain names, programs and programming material and other

intangible property which are used exclusively in the operation of the Station, and which are listed on *Schedule 1.1.2* attached hereto (the "Intangible Property");

1.1.3 the Station equipment listed on *Schedule 1.1.3* attached hereto, except for any retirements or dispositions thereof made between the date hereof and Closing in the ordinary course of business (the "Tangible Personal Property");

1.1.4 all of the books, records and files within Seller's possession relating to the Station, including any technical information and engineering data which Seller possesses;

1.1.5 All claims of Seller against third parties relating to the Station Assets whether choate or inchoate, known or unknown, contingent or noncontingent.

Notwithstanding the foregoing, the transfer of the Station Assets pursuant to this Agreement shall not include the assumption of any Liability related to the Station Assets unless Buyer expressly assumes that Liability pursuant to an assignment and assumption of such at Closing.

**1.2** No Liens. The Assets shall be transferred to Buyer by Bill of Sale, free and clear of liens, claims and encumbrances ("Liens") except for the following (collectively, "Permitted Liens"): (i) any obligations of Seller in conjunction with the Assets assumed by Buyer arising or to be performed during the period after the Closing Date (collectively, the "Assumed Obligations"), (ii) liens for taxes and assessments not yet due and payable, and (iii) liens or encumbrances on the Assets that will be discharged on or before the Closing Date. Except for the Permitted Liens, Buyer does not assume and will not be deemed by execution and delivery of this Agreement or any agreement, instrument or document delivered pursuant to or in connection with this Agreement or otherwise by reason of the consummation of the transactions contemplated hereby, to have assumed any liabilities, obligations or commitments of Seller of any kind, whether or not disclosed to Buyer, and all such liabilities and obligations of Seller shall be the sole responsibility of Seller before and after the Closing Date.

**1.3** Excluded Items. Notwithstanding anything to the contrary contained herein, it is expressly understood and agreed that the transaction involving the assignment of the Assets shall not include the following: any contracts or obligations of Seller related to the Station and Seller's cash, cash equivalents, all contracts of insurance, insurance proceeds, refunds or claims, claims for tax refunds, the corporate seal, Seller's corporate records, ownership record books; such other books and records as pertain to the organization or existence 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 or relating to the Station Assets.

## **ARTICLE 2**

### **CONSIDERATION**

**2.1** Purchase Price. The aggregate amount to be paid to Seller for the Station

Assets (the "Purchase Price") shall be Fifty Thousand Dollars (\$50,000.00). The Purchase Price shall be paid as follows:

**2.1.1** Buyer has made an Escrow Deposit (the "Escrow Deposit") of Fifty Thousand Dollars (\$50,000.00) into the Trust Account of Hershoff, Lupino & Yagel (the "Escrow Agent"), pursuant to an Escrow Agreement by and among Buyer, Seller and Escrow Agent.

**2.1.2** At Closing, in accordance with the terms of this Agreement, the Purchase Price, as adjusted pursuant to Section 2.2 below, shall be paid to Seller by Buyer by (i) release to Seller, pursuant to joint instructions of Buyer and Seller to Escrow Agent, of the Escrow Deposit; and (ii) wire transfer of immediately available funds. Seller shall provide wire instructions in writing to Buyer at least two (2) business days prior to the Closing Date.

**2.2 Prorations and Adjustments.** The Purchase Price shall be subject to the following adjustments, which shall be reflected in a closing statement to be executed and delivered by Buyer and Seller at Closing:

(a) Prorations. Any prepaid items and other applicable items shall be prorated as of 11:59 p.m. local time on date prior to the Closing Date.

(b) FCC Annual Regulatory Fees. Buyer and Seller shall prorate the FCC annual regulatory fees based on the most recent publicly available information about the cost of such regulatory fees for the Stations.

**2.3 Allocation of Purchase Price.** After the Closing, the parties shall make consistent use of the allocation, fair market value and useful lives of the Station Assets for all Tax purposes and in all filings, declarations and reports with the IRS in respect thereof, including the reports required to be filed under Section 1060 of the Code. In any Proceeding related to the determination of any Tax, neither Buyer nor Seller or members shall contend or represent that such allocation is not a correct allocation.

## **ARTICLE 3** **CLOSING**

### **3.1 Closing.**

The purchase and sale provided for in this Agreement (the "Closing") will take place at the offices of Seller's counsel or by electronic signatures and document exchange upon the agreement of Buyer and Seller, on a date which is no later than five (5) business days after the date on which the FCC Consent becomes Final; provided, however, that Buyer may elect, in its sole discretion, to waive this requirement and specify an earlier closing date, which date may not occur prior to five (5) business days after the initial FCC approval of the FCC Application. "Final" means an order (i) which is effective, (ii) with respect to which no appeal, request for stay, request for reconsideration or other request for review is pending, (iii) with respect to which the time for appeal, requesting a stay, requesting reconsideration or requesting other review has expired, and (iv) which cannot be set aside on the FCC's own motion. The date the Closing

occurs shall be referred to herein as the "Closing Date." Subject to the provisions of Article 9, failure to consummate the purchase and sale provided for in this Agreement on the date and time and at the place determined pursuant to this Section 3.1 will not result in the termination of this Agreement and will not relieve any party of any obligation under this Agreement. In such a situation, the Closing will occur as soon as practicable, subject to Article 9.

#### **ARTICLE 4**

#### **GOVERNMENTAL CONSENTS**

**4.1 FCC Consent.** It is specifically understood and agreed by Buyer and Seller that the assignment of the FCC Licenses is expressly conditioned on and is subject to the prior consent and approval of the FCC, including the Media Bureau pursuant to delegated authority, without the imposition of any conditions materially adverse to Seller or Buyer with respect to the assignment of the FCC Licenses from Seller to Buyer (the "FCC Consent").

**4.2 FCC Application.** Buyer and Seller agree to file an application with the FCC for the FCC Consent (the "FCC Application") within five (5) business days of the date of execution of this Agreement and the placement of the Escrow Deposit in escrow. Buyer and Seller shall prosecute the FCC Application with all reasonable diligence and otherwise use their commercially reasonable efforts to (a) obtain the FCC Consent as expeditiously as practicable (but neither Buyer nor Seller shall have any obligation to satisfy complainants or the FCC by taking any steps which would have a material adverse effect upon Buyer or Seller) and (b) obtain any necessary extensions of the FCC Consent until the Closing Date. If the FCC Consent imposes any condition on Buyer or Seller, such party shall use its commercially reasonable efforts to comply with such condition; provided, however, that neither Buyer nor Seller shall be required hereunder to comply with any condition that would have a material adverse effect upon it. If reconsideration or judicial review is sought with respect to the FCC Consent, the party affected shall vigorously oppose such efforts for reconsideration or judicial review; provided, however, that nothing herein shall be construed to limit any party's right to terminate this Agreement pursuant to ARTICLE 15.

#### **ARTICLE 5**

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

Buyer hereby makes the following representations and warranties to Seller, each of which is true and correct on the date hereof and shall remain true and correct through Closing:

**5.1 Organization and Standing.** Buyer is a limited liability company and is duly organized, validly existing and in good standing under the laws of the State of Florida.

**5.2 Authorization and Binding Obligation.** Buyer has all necessary power and authority required to enter into and perform this Agreement and the transactions contemplated hereby, to hold the Station Assets and to carry on the business of the Station upon the consummation of the transactions contemplated by this Agreement. Buyer's execution, delivery and performance of this Agreement and the transactions contemplated hereby have been or will have been, at Closing, duly and validly authorized by all necessary action on its part.

Assuming the due authorization, execution and delivery of this Agreement by Seller, this Agreement constitutes the valid and binding obligation of Buyer, enforceable against it in accordance with its terms, except as limited by laws affecting creditors' rights.

**5.3 Qualification.** To the best of Buyer's knowledge, there are no facts which, under the Communications Act of 1934, as amended to date, or the existing rules and regulations of the FCC, would disqualify Buyer as assignee of the FCC Licenses.

**5.4 Absence of Conflicting Agreements or Required Consents.** Except as set forth in ARTICLE 4 with respect to governmental consents, the execution, delivery and performance of this Agreement by Buyer: (a) do not conflict with the provisions of the Articles of Incorporation (or other organization documents) of Buyer; (b) do not require the consent of any third party which has not already been obtained by Buyer or will be obtained prior to Closing by Buyer and provided to Seller at Closing; (c) do not violate any applicable law, judgment, order, injunction, decree, rule, regulation or ruling of any governmental authority to which Buyer is bound; and (d) do not, either alone or with the giving of notice or the passage of time, or both, conflict with, constitute grounds for termination of or result in a breach of the terms, conditions or provisions of, or constitute a default under, any agreement, instrument, license or permit to which Buyer is now subject.

**5.5 Litigation.** There is no claim, litigation, proceeding or investigation pending or, to the best of Buyer's knowledge, threatened against Buyer, that could have a material adverse effect on Buyer's ability to perform its obligations pursuant to this Agreement. Buyer is not in violation of any law, regulation, or ordinance or any other requirement of any governmental body or court which could have a material adverse effect on Buyer's ability to perform its obligations pursuant to this Agreement.

**5.6 Commissions or Finder's Fees.** Neither Buyer nor any person or entity acting on behalf of Buyer has agreed to pay a commission, finder's fee or similar payment in connection with this Agreement or any matter related hereto to any person or entity.

## **ARTICLE 6**

### **REPRESENTATIONS AND WARRANTIES OF SELLER**

Seller makes the following representations and warranties to Buyer, each of which is true and correct on the date hereof and shall remain true and correct through Closing:

**6.1 Organization and Standing.** Seller is a corporation duly organized, validly existing and in good standing under the laws of the State of Florida.

**6.2 Authorization and Binding Obligation.** Seller has all necessary power and authority required to enter into and perform this Agreement and the transactions contemplated hereby. Seller's execution, delivery and performance of this Agreement and the transactions contemplated hereby have been or will have been, at Closing, duly and validly authorized by all necessary action on its part. Assuming the due authorization, execution and delivery of this Agreement by Buyer, this Agreement constitutes the valid and binding obligation

of Seller, enforceable against it in accordance with its terms, except as limited by laws affecting creditors' rights.

**6.3 Absence of Conflicting Agreements or Required Consents.** Except as set forth in ARTICLE 4 with respect to governmental consents, the execution, delivery and performance of this Agreement by Seller: (a) do not conflict with the provisions of the operating agreement ( or other organization documents) of Seller; (b) do not require the consent of any third party which has not already been obtained or will be obtained prior to Closing by Seller and provided to Buyer at Closing; (c) do not violate any applicable law, judgment, order, injunction, decree, rule, regulation or ruling of any governmental authority to which Seller is bound; and (d) do not, either alone or with the giving of notice or the passage of time, or both, conflict with, constitute grounds for termination of or result in a breach of the terms, conditions or provisions of, or constitute a default under, any agreement, instrument, license or permit to which Seller is now subject.

**6.4 FCC Licenses.** Seller is the authorized legal holder of the FCC Licenses listed on Schedule 1.1.1. The FCC Licenses are in full force and effect and have not been revoked, suspended, canceled, rescinded or terminated and have not expired. To the best of Seller's knowledge, there is not pending any action by or before the FCC to revoke, suspend, cancel, rescind or materially adversely modify any of the FCC Licenses ( other than proceedings to amend FCC rules of general applicability), and, to the best of Seller's knowledge, there is not now issued or outstanding, by or before the FCC, any order to show cause, notice of violation, notice of apparent liability, or notice of forfeiture against Seller with respect to the Station. The Station is, and shall be on the Closing Date, operating in compliance in all material respects with its FCC Licenses, the Communications Act of 1934, as amended, and the rules, regulations and policies of the FCC.

**6.5 Intangible Property.** Schedule 1.1.2 contains a description of the Intangible Property included in the Assets. Seller has received no notice of any claim that its use of the Intangible Property infringes upon any third party rights. Seller (i) is the lawful owner of all of the Intangible Property it purports to own and (ii) has valid license rights (whether as a licensor or licensee) in the Intangible Property it purports to license, in all cases free and clear of any Liens except Permitted Liens.

**6.6 Tangible Property.** Schedule 1.1. 3 contains a list of material items of Tangible Personal Property included in the Station Assets. Seller has good and marketable title to the Tangible Personal Property free and clear of Liens other than Permitted Liens. Except as set forth on Schedule 1.1.3, all material items of Tangible Personal Property are in operating condition and repair, ordinary wear and tear excepted.

**6.7 Litigation.** There is no claim, litigation, proceeding or investigation pending or, to the best of Seller's knowledge, threatened against Seller, that could have a material adverse effect on Seller's ability to perform its obligations pursuant to this Agreement. Seller is not in violation of any law, regulation, or ordinance or any other requirement of any governmental body or court which could have a material adverse effect on Seller's ability to perform its obligations pursuant to this Agreement.

**6.8 Compliance With Laws.** To the best of Seller's knowledge, Seller has complied in all material respects with all laws, regulations, rules, writs, injunctions, ordinances, franchises, decrees or orders of any court or of any foreign, federal, state, municipal or other governmental authority which are applicable to the operation of the Station. There is no action, suit or proceeding pending or, to Seller's knowledge, threatened against Seller in respect of the Station that will subject Buyer to liability or which questions the legality or propriety of the transactions contemplated by this Agreement. To the best of Seller's knowledge, there are no governmental claims or investigations pending or threatened against Seller in respect of the Station and/or Station Assets (except those affecting the industry generally).

**6.9 Commissions or Finder's Fees.** Neither Seller nor any person or entity acting on behalf of Seller has agreed to pay a commission, brokerage fee or similar payment in connection with this Agreement or any matter related hereto to any person or entity.

**6.10 Undisclosed Liabilities.** To the best of Seller's knowledge, no liability or obligation of any nature, whether accrued, absolute, contingent or otherwise, relating to Seller or the Station exists which could, after the Closing, result in any form of transferee liability against Buyer or subject the Station Assets to any Liens or otherwise affect the full, free and unencumbered use of the Station Assets by Buyer.

## **ARTICLE 7** **COVENANTS OF BUYER**

**7.1 Closing.** Subject to ARTICLE 10, on the Closing Date, Buyer shall purchase the Station Assets from Seller as provided in ARTICLE 1.

**7.2 Notification.** Buyer shall provide Seller prompt written notice of: (a) any change in any of the information contained in the representations and warranties made in ARTICLE 5 of which it becomes aware; and (b) any litigation, arbitration or administrative proceeding pending or, to its knowledge, threatened against Buyer which challenges the transactions contemplated hereby.

**7.3 No Inconsistent Action.** Buyer shall not take any action which: (a) is materially inconsistent with or which breaches its obligations under this Agreement; or (b) would cause any representation or warranty of Buyer contained herein to be or become false or invalid.

## **ARTICLE 8** **COVENANTS OF SELLER**

**8.1 Closing.** Subject to ARTICLE 11, on the Closing Date, Seller shall sell to Buyer the Station Assets as provided in ARTICLE 1.

**8.2 Notification.** Seller shall provide Buyer prompt written notice of: (a) any change in any of the information contained in the representations and warranties made in ARTICLE 6 of which it becomes aware; and (b) any litigation, arbitration or administrative

proceeding pending or, to its knowledge, threatened against Seller which challenges the transactions contemplated hereby.

**8.3     No Inconsistent Action.** Seller shall not take any action which: (a) is materially inconsistent with or which breaches its obligations under this Agreement; or (b) would cause any representation or warranty of Seller contained herein to be or become false or invalid.

**8.4     Access to Station.** Upon the reasonable request of Buyer, Seller shall allow Buyer and its agents, counsel, accountants, employees and other representatives to have unrestricted access to all of the books, records, documents and accounts of Seller during normal business hours between the date of this Agreement and the Closing Date, in order for the Buyer to confirm the representations and warranties given by Seller in this Agreement.

## **ARTICLE 9**

### **JOINT COVENANTS**

Buyer and Seller each hereby covenant and agree that between the date hereof and the Closing Date it shall act in accordance with the following:

**9.1     Cooperation.** Subject to express limitations contained elsewhere herein, Buyer and Seller agree to cooperate fully with one another in taking any reasonable actions (including without limitation, reasonable actions to obtain the required consent of any governmental instrumentality or any third party) necessary or helpful to accomplish the transactions contemplated by this Agreement, including but not limited to the satisfaction of any condition to closing set forth herein; provided, however, that nothing herein shall be construed to limit either party's right to terminate this Agreement pursuant to ARTICLE 15.

**9.2     Control of FCC License.** Buyer shall not, directly or indirectly, control, supervise or direct the operations of the Seller or assume any control of the FCC License or the Station prior to the Closing. Such operations, including complete control and supervision of the FCC Licenses and the Station shall be the sole responsibility of Seller.

**9.3     Announcements.** No party shall, without the prior written consent of the other, issue any press release or make any other public announcement or public filing concerning the transactions contemplated by this Agreement, except to the extent that such party is so obligated by law.

## **ARTICLE 10**

### **CONDITIONS OF CLOSING BY BUYER**

The obligations of Buyer hereunder are, at its option, subject to satisfaction, at or prior to the Closing Date, of each of the following conditions:

#### **10.1    Representations, Warranties and Covenants.**



10.1.1 All representations and warranties of Seller made in this Agreement or in any Exhibit, Schedule or document delivered pursuant hereto, shall be true and complete in all material respects as of the date hereof and on and as of the Closing Date as if made on and as of that date, except for changes expressly permitted or contemplated by the terms of this Agreement.

10.1.2 All the terms, covenants and conditions to be complied with and performed by Seller on or prior to the Closing Date shall have been complied with or performed in all material respects.

10.1.3 Buyer shall have received a certificate, dated as of the Closing Date, executed by an officer of Seller, to the effect that: (a) the representations and warranties of Seller contained in this Agreement are true and complete in all material respects on and as of the Closing Date as if made on and as of that date; and (b) that Seller has complied with and performed in all material respects all terms, covenants and conditions to be complied with or performed by it on or prior to the Closing Date.

**10.2 Governmental Consents.** The FCC Consent shall have been obtained and the FCC Application shall have been granted by the FCC, including the Media Bureau pursuant to delegated authority, without the imposition of any conditions materially adverse to Buyer.

**10.3 Governmental Authorizations.** Seller shall be the holder of the FCC Licenses and there shall not have been any modification of the FCC Licenses which has a material adverse effect on the FCC Licenses. No proceeding shall be pending which seeks or the effect of which reasonably could be to revoke, cancel, suspend or adversely modify the FCC Licenses.

**10.4 Adverse Proceedings.** No suit, action, claim or governmental proceeding shall be pending against, and no other decree or judgment of any court, agency or other governmental authority shall have been rendered (and remain in effect) against, any party hereto which would render it unlawful, as of the Closing Date, to effect the transactions contemplated by this Agreement in accordance with its terms.

**10.5 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 by it pursuant to Section 13.1.

## **ARTICLE 11**

### **CONDITIONS OF CLOSING BY SELLER**

The obligations of Seller hereunder are, at its option, subject to satisfaction, at or prior to the Closing Date, of each of the following conditions:

#### **11.1 Representations, Warranties and Covenants.**

11.1.1 All representations and warranties of Buyer made in this Agreement or in any Exhibit, Schedule or document delivered pursuant hereto, shall be true and complete in all material respects as of the date hereof and on and as of the Closing Date as if made on and as of that date, except for changes expressly permitted or contemplated by the terms of this Agreement.

11.1.2 All the terms, covenants and conditions to be complied with and performed by Buyer on or prior to the Closing Date shall have been complied with or performed in all material respects.

11.1.3 Seller shall have received a certificate, dated as of the Closing Date, executed by a member of Buyer, to the effect that: (a) the representations and warranties of Buyer contained in this Agreement are true and complete in all material respects on and as of the Closing Date as if made on and as of that date; and (b) that Buyer has complied with and performed in all material respects all terms, covenants and conditions to be complied with or performed by it on or prior to the Closing Date.

**11.2 Adverse Proceedings.** No suit, action, claim or governmental proceeding shall be pending against, and no other decree or judgment of any court, agency or other governmental authority shall have been rendered (and remain in effect) against, any party hereto which would render it unlawful, as of the Closing Date, to effect the transactions contemplated by this Agreement in accordance with its terms.

**11.3 Closing Documents and Payment.** Buyer shall have delivered or caused to be delivered to Seller, on the Closing Date, each of the documents required to be delivered by it pursuant to Section 13.2, and Buyer shall have paid Seller the Purchase Price, as contemplated by ARTICLE 2.

## **ARTICLE 12**

### **FEES AND EXPENSES**

**12.1 Transfer Taxes and Expenses.** Except as otherwise expressly set forth in this Agreement, each party hereto shall be solely responsible for all costs and expenses incurred by it in connection with the negotiation, preparation and performance of and compliance with the terms of this Agreement. Buyer shall be solely responsible for payment of any FCC filing fee for the FCC Application. Seller shall pay in a timely manner all taxes resulting from or payable in connection with the sale of the Station Assets pursuant to this Agreement.

## **ARTICLE 13**

### **DOCUMENTS TO BE DELIVERED AT CLOSING**

**13.1 Seller's Documents.** At the Closing, Seller shall deliver or cause to be delivered to Buyer the following:

13.1.1 A certificate of the Seller, dated the Closing Date, in the form described in Section 10.1.3;

13.1.2 Such bills of sale, assignments (including third-party consents, if required) and other good and sufficient instruments of sale, conveyance, transfer and assignment, in form and substance reasonably satisfactory to Buyer and Buyer's counsel, as shall be effective to vest in Buyer all of Seller's right, title and interest in the Station Assets, free, clear and unencumbered, including: a bill of sale to convey the Tangible Personal Property; an assignment and assumption of the Intangible Property and an assignment and assumption of the FCC Licenses.

13.1.3 Joint instructions to the Escrow Agent to distribute the Escrow Deposit to Seller;

13.1.4 Such additional information, materials, agreements, documents and instruments as Buyer and its counsel may reasonably request in order to consummate the Closing.

**13.2 Buyer's Documents.** At the Closing, Buyer shall deliver or cause to be delivered to Seller the following:

13.2.1 A certificate of Buyer, dated the Closing Date, in the form described in Section 11.1.3.

13.2.2 The Purchase Price as described in Section 2.1.

13.2.3 Buyer's counterpart to the joint instructions to the Escrow Agent.

13.2.4 Buyer's signatures to bills of sale and assignment and assumption instruments as described in 13.1.2.

13.2.5 Such additional information, materials, agreement, documents and instruments as Seller and its counsel may reasonably request in order to consummate the Closing.

## **ARTICLE 14** **LIABILITIES**

The parties agree that all fees, fines, liabilities and obligations with respect to Station WEYW-LP and Bellizzi Broadcasting Network, Inc. incurred prior to Closing shall be the responsibility of Seller, excluding those fees, fines, liabilities and obligations incurred by Buyer in negotiating, preparing and filing an Assignment Application and any and all Amendments or filings relevant thereto, including the preparation of any and all Agreements between the parties, and the preparation of any and all Closing Documents and notifications to the FCC, which shall be the responsibility of Buyer under this Agreement.

**ARTICLE 15**  
**TERMINATION RIGHTS**

**15.1 Termination.** This Agreement may be terminated at any time prior to Closing as follows:

15.1.1 Upon the mutual written agreement of Buyer and Seller, this Agreement may be terminated on such terms and conditions as so agreed; or

15.1.2 By written notice by Buyer to Seller if Seller breaches in any material respect any of its representations or warranties or defaults in any material respect in the observance or in the due and timely performance of any of its covenants or agreements contained in this Agreement and such breach or default is not cured within fifteen (15) business days of the date of notice of breach or default served by Buyer; or

15.1.3 By written notice of Seller to Buyer if Buyer breaches in any material respect any of its representations or warranties or defaults in any material respect in the observance or in the due and timely performance of any of its covenants or agreements contained in this Agreement and such breach or default is not cured within fifteen (15) business days of the date of notice of breach or default served by Seller; or

15.1.4 By written notice of Seller to Buyer, or by written notice of Buyer to Seller, if the FCC by staff action or action by the full FCC dismisses or denies the FCC Application and such dismissal or denial becomes final or if the FCC by staff action or action by the full FCC designates for hearing the FCC Application and the party providing notice is not materially responsible for the denial, dismissal or designation of the Application; or

15.1.5 By written notice of Seller to Buyer, or by written notice of Buyer to Seller, if the FCC has not granted the Application within NINE (9) months of filing and the party providing notice is not materially responsible for the lack of FCC action on the Application; or

15.1.6 By written notice of Seller to Buyer, or by written notice of Buyer to Seller, if any court of competent jurisdiction shall have issued an order, decree or ruling or taken any other action restraining, enjoining or otherwise prohibiting the transactions contemplated by this Agreement; or

Notwithstanding the foregoing, no party hereto may effect a termination hereof if such party is in material default or breach of this Agreement. The Escrow Deposit and all accrued interest will be returned to Buyer in the event of termination of this Agreement, unless such termination occurs because Buyer has breached in any material respect any of its representations and warranties or defaulted in any material respect in the observance

or in the due and timely performance of any of its covenants and agreements and such breach or default is not cured under Section 15.1.3 hereof.

**15.2 Monetary Damages, Specific Performance and Other Remedies.** The parties recognize that if Seller refuses to perform under the provisions of this Agreement or Seller otherwise breaches such that the Closing has not occurred, monetary damages alone will not be adequate to compensate Buyer for its injury. Buyer (provided itself is not at such time in material breach hereof), at its election, shall be entitled to obtain specific performance of the terms of this Agreement in lieu of Buyer's right to recover damages or to pursue any other remedies available for breach. If any action is brought by Buyer to enforce this Agreement, Seller shall waive the defense that there is an adequate remedy at law. In the event Buyer fails or refuses to perform under the provisions of this Agreement or otherwise breaches this Agreement such that Closing does not occur, Seller's sole and exclusive remedy shall be the right to claim and keep the Escrow Deposit as liquidated damages. The parties acknowledge and agree that the liquidated damages provided in this Section bear a reasonable relationship to the anticipated harm that would be caused by such a breach and failure to close under the terms of this Agreement. The parties further acknowledge and agree that, in such case, the amount of actual loss caused by breach of this Agreement is incapable and difficult of precise estimation and that Seller would not have a convenient and adequate alternative to liquidated damages hereunder. Seller and Buyer hereby expressly acknowledge that this Section shall survive the termination of this Agreement.

## **ARTICLE 16**

### **MISCELLANEOUS PROVISIONS**

**16.1 Certain Interpretive Matters and Definitions.** Unless the context otherwise requires: (a) all references to Sections, Articles, Schedules or Exhibits are to Sections, Articles, Schedules or Exhibits of or to this Agreement; (b) each term defined in this Agreement has the meaning assigned to it; (c) "or" is disjunctive but not necessarily exclusive; (d) words in the singular include the plural and vice versa; and (e) all references to "\$" or dollar amounts will be to lawful currency of the United States of America.

**16.2 Further Assurances.** After the Closing, Seller shall from time to time, at the request of and without further cost or expense to Buyer, execute and deliver such other instruments of conveyance and transfer and take such other actions as may reasonably be requested in order more effectively to consummate the transactions contemplated hereby to vest in Buyer good and marketable title to the Assets being transferred hereunder, free, clear and unencumbered, and Buyer shall from time to time, at the request of and without further cost or expense to Seller, execute and deliver such other instruments and take such other actions as may reasonably be requested in order more effectively to relieve Seller of any obligations being assumed by Buyer hereunder.

**16.3 Assignability; No Third Party Rights.** This Agreement shall be binding upon and inure to the benefit of the parties hereto, their successors and permitted assigns. Notwithstanding the foregoing, no party may assign its rights or obligations under this Agreement without prior written consent of the other party, which such consent shall not be

unreasonably withheld, postponed, or delayed, except Buyer may, without such consent, assign its rights and obligations under this Agreement to an entity under common control with Buyer, i.e., an entity to which Buyer could assign or transfer an FCC radio station authorization using FCC Form 316; provided, however, such assignment, whether before or after the Closing, shall not release Buyer from its liabilities hereunder. The covenants, conditions and provisions hereof are and shall be for the exclusive benefit of the parties hereto and their permitted assigns, and nothing herein, express or implied, is intended or shall be construed to confer upon or to give any person or entity other than the parties hereto and their permitted assigns any right, remedy or claim, legal or equitable, under or by reason of this Agreement.

**16.4 Modification and Waiver; Remedies Cumulative.** No modification of any provision of this Agreement shall be effective unless in writing and signed by all parties. No failure or delay on the part of Seller or Buyer in exercising any right or power under this Agreement shall operate as a waiver of such right or power, nor shall any single or partial exercise of any such right or power or the exercise of any other right or power. Except as otherwise provided in this Agreement, the rights and remedies provided in this Agreement are cumulative and are not exclusive of any other rights or remedies which a party may otherwise have.

**16.5 Headings.** The headings set forth in this Agreement are for convenience only and will not control or affect the meaning or construction of the provisions of this Agreement.

**16.6 Governing Law.** This Agreement will be governed by and construed under the laws of the State of Florida without regard to conflicts-of-laws principles that would require the application of any other law. Venue for any legal or equitable action between the Buyer and Seller which relates to this Agreement shall be in Monroe County.

**16.7 Notices.** Any notice, demand or request required or permitted to be given under the provisions of this Agreement shall be in writing, and shall be deemed to have been duly delivered and received on the date of personal delivery, on the third day after deposit in the U.S. mail if mailed by registered or certified mail, postage prepaid and return receipt requested on the day after delivery to a nationally recognized overnight courier service if sent by an overnight delivery service for next morning delivery and shall be addressed to the following addresses, or to such other address as any party may request, in the case of Seller, by notifying Buyer, and in the case of Buyer, by notifying Seller:

To Seller:

Bellizzi Broadcasting Network, Inc.  
155 Severino Drive  
Islamorada, FL 33036  
Attn: James Bellizzi, President

With copies (which shall not constitute notice) to:

Hershoff, Lupino & Yagel, LLP  
88539 Overseas Highway  
Tavernier, FL 33070  
Attn: James S. Lupino, Esq.

To Buyer:

Bleu 24 Communications, LLC  
1100 Nightingale Avenue  
Miami Springs, FL 33166  
Attn: Victor Romero, Managing Member

With copies (which shall not constitute notice) to:

Shainis & Peltzman, Chartered  
1850 M Street NW  
Suite 240  
Washington, DC 20036  
Attn: Lee J. Peltzman, Esq.

**16.8 Counterparts.** This Agreement may be executed in one or more counterparts, each of which will be deemed an original and all of which together will constitute one and the same agreement. This Agreement may be executed and exchanged by electronic mail, with the same legal effect as if the signatures had appeared in original handwriting on the same physical document. No party hereto to any such agreement or instrument shall raise the use of electronic mail to deliver a signature or the fact that any signature or agreement or instrument was transmitted or communicated through the use of electronic mail as a defense to the formation of a contract and each such party forever waives any such defense.

**16.9 Severability.** The parties agree that if one or more provisions contained in this Agreement shall be deemed or held to be invalid, illegal or unenforceable in any respect under any applicable law, it is the intent of the parties that this Agreement shall be construed with the invalid, illegal or unenforceable provision reduced in scope to the extent deemed necessary to render the provision reasonable and enforceable and, if that proves impossible, the provision shall be deleted, and the validity, legality and enforceability of the remaining provisions contained herein shall not be affected or impaired thereby. Where any provision in this Agreement is found to be unenforceable, Buyer and Seller shall then make reasonable efforts to replace the invalid unenforceable provision with a valid and enforceable substitute provision, the effect of which to be as close as possible to the intended effect of the original invalid or unenforceable provision.

**16.10 Entire Agreement.** This Agreement embodies the entire agreement and understanding of the parties hereto and supersedes any and all prior agreements, arrangements and understandings relating to the matters provided for herein.

**16.11 Legal Fees.** In the event of a default by either party which results in a

lawsuit or other proceeding for any remedy available under this Agreement, the prevailing party shall be entitled to reimbursement from the other party of its reasonable legal fees and expenses.

**16.12 Neutral Construction.** This Agreement was negotiated fairly between the parties at arms' length and the terms hereof are the product of the parties' negotiations. This Agreement shall be deemed to have been jointly and equally drafted by the parties, and the provisions of this Agreement shall not be construed against a party on the grounds that such party drafted or was more responsible for drafting such provisions. Words in the singular mean and include the plural and vice versa. Words in the masculine gender include the feminine gender and vice versa. Words in the neutral gender include the masculine gender and the feminine gender and vice versa.

SIGNATURE PAGE TO FOLLOW

*(Remainder of page intentionally left blank)*



SIGNATURE PAGE TO ASSET PURCHASE AGREEMENT

**IN WITNESS WHEREOF**, the parties hereto have executed this Agreement as of the date and year first above written.

BUYER:

**BLEU 24 COMMUNICATIONS, LLC**

By: 

Name: Victor Romero

Title: Managing Member

SELLER:

**BELLIZZI BROADCASTING NETWORK, INC.**

By: 

Name: James Bellizzi

Title: President

**SCHEDULE 1.1.1**

**FCC Licenses**

Current FCC Licenses and Authorizations

Type of Authorization	Call Sign	FCC File Number	Grant Date	Expiration Date
Broadcast License	WEYW-LP	BLDTL-20131108AEZ	12/03/2013	2/01/2021