# **EXHIBIT 3**

# ASSET PURCHASE AGREEMENT AND LETTER AGREEMENT

Pursuant to the attached asset purchase agreement, HSE Media LLC ("HSE"), has entered into an agreement to acquire WAVB-TV, San Juan, WVOZ-TV, Ponce, and WVEO(TV), Aguadilla, Puerto Rico (the "Stations") from Pedro Roman Collazo, the sole stockholder of the licensees of the Stations.

Pursuant to a separate letter agreement (also attached), control of HSE is being transferred to Reyner Family Partners, LP from USA Networks, Inc. As part of this transfer, the name of HSE will be changed to Esperanza Television, LLC ("ETV"). Exhibits to the agreements have been redacted.

# ASSET PURCHASE AGREEMENT AMONG

# INTERNATIONAL BROADCASTING CORPORATION AND SOUTHWESTERN BROADCASTING CORPORATION

AND
HSN CAPITAL LLC
as Buyer

Dated as of December <u>/ 7</u>, 2000

#### ASSET PURCHASE AGREEMENT

THIS ASSET PURCHASE AGREEMENT (this "Agreement") is entered into as of December /3, 2000, among INTERNATIONAL BROADCASTING CORPORATION and SOUTHWESTERN BROADCASTING CORPORATION, both Puerto Rican corporations (collectively, "Seller"), and HSN CAPITAL LLC, a Delaware limited liability company ("Buyer").

WHEREAS, Seller is the licensee and owner of low power television broadcast stations WTCV-TV, Channel 18, San Juan, Puerto Rico; WVEO-TV, Channel 44, Aguadilla, Puerto Rico; and WVOZ-TV, Channel 48, Ponce, Puerto Rico (the "Stations").

WHEREAS, Seller desires to sell, assign and transfer the assets and business of the Stations as described below, and Buyer desires to acquire the assets and business of the Stations as described below, on the terms described in this Agreement.

NOW, THEREFORE, in consideration of the foregoing and of the mutual covenants and agreements hereinafter set forth, the parties hereto hereby agree as follows:

# ARTICLE 1. DEFINITIONS AND REFERENCES

Capitalized terms used in this Agreement mean as follows:

"Assignment of FCC Licenses" means that certain Assignment of FCC Licenses executed by Seller, substantially in the form attached hereto as <u>Exhibit B</u>.

"Bill of Sale" means that certain Bill of Sale and Assignment of Assets, dated as of the Closing Date and executed by Seller, substantially in the form attached hereto as Exhibit A.

"Buyer Documents" means, collectively, this Agreement, the Deposit Escrow Agreement, the Assumption Agreement and the Affiliation Agreement and the closing certificates and other deliveries contemplated by <u>Section 11.4</u>.

"Closing" shall have the meaning set forth in Section 11.2.1.

"Closing Date" shall have the meaning specified in Section 11.2.1.

"Code" means the Internal Revenue Code of 1986, as amended, and all Laws promulgated pursuant thereto or in connection therewith.

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

"Direct Claim" shall have the meaning set forth in Section 12.5.5.

"Direct Claim Notice" shall have the meaning set forth in Section 12.5.5.

"Encumbrances" means any mortgages, pledges, liens, security interests, defects in title, easements, encumbrances, encroachments and any other matters affecting the title, value, marketability or current use of the Assets.

"Exchange" shall have the meaning specified in Section 15.6(c).

"Excluded Assets" shall have the meaning specified in Section 2.2.

"Excluded Contracts" shall have the meaning specified in Section 3.14.

"Excluded Liabilities" shall have the meaning specified in Section 2.8.2.

"FCC" means the Federal Communications Commission.

"FCC Licenses" shall have the meaning specified in Section 2.1.1.

"FCC Order" means an unconditional order or orders (except for standard conditions imposed by the FCC on all assignments of licenses) of the FCC, or of the Chief, Mass Media Bureau of the FCC, acting under delegated authority, consenting to the assignment to Buyer of the FCC Licenses for the Station.

"FCC Rules" shall have the meaning specified in Section 3.21.

"Final Proration Amount" shall have the meaning specified in <u>Section</u> 2.6.2.

"Final Order" means an FCC Order as to which the time for filing a request for administrative or judicial review, or for instituting administrative review <u>sua sponte</u>, shall have expired without any such filing having been made or notice of such review having been issued; or, in the event of such filing or review <u>sua sponte</u>, as to which such filing or review shall have been disposed of favorably to the grant and the time for seeking further relief with respect thereto shall have expired without any request for such further relief having been filed.

"Governmental Authority" means any agency, board, bureau, court, commission, department, instrumentality or administration of the United States government, any state government or any local or other governmental body in a state, territory or possession of the United States or the District of Columbia.

"Indemnified Party" and "Indemnifying Party" shall have the respective meanings set forth in <u>Section 12.5.1</u>.

"Intellectual Property" shall have the meaning set forth in Section 2.1.4.

"Laws" means any federal, state or local law, statute, code, ordinance, regulation, order, writ, injunction, judgment or decree applicable to the specified Person and to the businesses and assets thereof.

"Liabilities" means, as to any Person, all debts, adverse claims, liabilities and obligations, direct, indirect, absolute or contingent of such Person, whether accrued, vested or otherwise, whether in contract, tort, strict liability or otherwise and whether or not actually reflected, or required by GAAP to be reflected, in such Person's balance sheets or other books and records.

"Person" or "person" means any individual, corporation, partnership, limited liability company, joint venture, trust, unincorporated organization, other form of business or legal entity or Governmental Authority.

"Proceeding" shall mean any action, arbitration, audit, hearing, investigation, litigation, or suit (whether civil, criminal, administrative, judicial or investigative, whether formal or informal, whether public or private) commenced, brought, conducted, or heard by or before, or otherwise involving, any Governmental Authority or arbitrator.

"Purchase Price" shall have the meaning set forth in Section 2.4.

"Real Property" shall have the meaning set forth in Section 2.1.2.

"Seller Documents" means, collectively, this Agreement, the Deposit Escrow Agreement, the Assignment of Contracts and Leases, the Bill of Sale, the Assignment of FCC Licenses, the Assumption Agreement and the closing certificates and other deliveries contemplated by Section 11.3.

"Seller Tax Returns" means all federal, state, local, foreign and other applicable Tax returns, declarations of estimated Tax reports required to be filed by Seller (without regard to extensions of time permitted by law or otherwise).

"Stations" means WTCV-TV, Channel 18, San Juan, Puerto Rico; WVEO-TV, Channel 44, Aguadilla, Puerto Rico; and WVOZ-TV, Channel 48, Ponce, Puerto Rico.

"Station Contracts" shall have the meaning set forth in Section 2.1.5.

"Taxes" means all federal, state and local taxes (including, without limitation, income, profit, franchise, sales, use, real property, personal property, ad valorem, excise, employment, social security and wage withholding taxes) and

installments of estimated taxes, assessments, deficiencies, levies, imports, duties, license fees, registration fees, withholdings, or other similar charges of every kind, character or description imposed by any Governmental Authorities.

"Transfer Taxes" shall have the meaning set forth in Section 15.3.

#### **ARTICLE 2.**

# SALE AND PURCHASE OF ASSETS; ESCROW DEPOSIT; PURCHASE PRICE; PRORATION AMOUNTS; ASSUMPTION OF LIABILITIES

#### 2.1. Asset Sale and Purchase of Assets.

Subject to the terms and conditions hereof and in reliance upon the representations, warranties and agreements contained herein, Seller shall sell, assign, transfer, convey and deliver to Buyer, and Buyer shall purchase, acquire, pay for and accept from Seller, all right, title and interest of Seller in, to and under all real, personal and mixed assets, rights, benefits and privileges, both tangible and intangible, wheresoever located, owned, leased, used or held for use by Seller in connection with the business or operations of the Stations as more fully described in Annex I hereto (collectively, the "Assets"). Seller warrants and represents that all tangible Assets are in good working order and operating condition and repair (ordinary wear and tear excepted) and are suitable and adequate for the purposes to which such Assets are currently used or contemplated as being used by Buyer and none of such Assets are in need of maintenance or repairs except for ordinary, routine maintenance and repairs that are not material in nature or cost.

The Assets shall include, without limitation, all right, title and interest of Seller in, to and under the following:

#### 2.1.1. FCC Licenses.

All licenses, permits and other authorizations issued by the FCC to Seller for the operation of the Stations (the "FCC Licenses"), including without limitation those listed in <u>Schedule 2.1.1</u>, together with any renewals, extensions or modifications thereof and additions thereto.

## 2.1.2. Intellectual Property.

All of the trade names, domain names, trade secrets, confidential information, technical and computer data, documentation and software, maintained, owned, or used by Seller in connection with the business and operations of the Stations (collectively, the "Intellectual Property"), including the right to use the "WTCV", "WVEO" and "WVOZ" call letters for the Stations.

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#### 2.1.3. Files and Records.

All engineering, business and other books, papers, logs, files, and other records pertaining to the Assets and operation of the Stations.

#### 2.1.4. Permits and Licenses.

All permits, approvals, orders, authorizations, consents, licenses, certificates, franchises, exemptions of, or filings or registrations with, any court or Governmental Authority (other than the FCC) in any jurisdiction, which have been issued or granted to or are owned, used or held for use by Seller in connection with the business and operations of the Stations and all pending applications therefor.

#### 2.1.5. Goodwill.

The business of the Stations as a "going concern," customer relationships and goodwill.

#### 2.2. Purchase Price.

For and in consideration of the conveyances and assignments described herein Buyer agrees to pay to Seller, and Seller agrees to accept from Buyer, an amount equal to Eighteen Million Dollars (\$18,000,000) (the "Purchase Price").

### 2.3. Payment of Purchase Price.

The Purchase Price shall be paid by Buyer to Seller at the Closing by wire transfer of immediately available funds to an account or accounts which will be identified by Seller not less than two (2) business days prior to the Closing Date. Buyer and Seller shall cause the Deposit to be returned to Buyer at the Closing in accordance with the written instructions of Buyer.

## 2.4 Affiliation Agreement.

Contemporaneously with the execution of this Agreement, the parties shall enter into an affiliation agreement, which shall be effective until the Closing. Such affiliation agreement shall contain substantially the same terms and conditions as Seller's current programming agreement(s).

# ARTICLE 3. REPRESENTATIONS AND WARRANTIES BY SELLER

Seller jointly and severally represents and warrants to Buyer as follows:

## 3.1. Organization; Authorization; Compliance with Laws

Seller is duly organized and in good standing under the laws of the Commonwealth of Puerto Rico, and has the corporate power and authority to own, lease and otherwise to hold and operate the Assets, to carry on the business of the Stations as now conducted, and to enter into and perform the terms of this Agreement. The execution, delivery and performance of this Agreement has been duly and validly authorized by all necessary corporate actions of Seller. Seller is in compliance in all material respects with all Laws applicable to Seller, to the Assets and to the Stations and has obtained and holds all material permits, licenses and approvals necessary in order to conduct the operations of the Stations and hold the Assets.

## 3.2. Consents and Approvals; No Conflicts.

3.2.1 The execution and delivery of this Agreement, and the performance of the transactions contemplated herein by Seller, will not require any consent, approval, authorization or other action by, or filing with or notification to, any Governmental Authority, except as follows: (a) consents to the assignment of the FCC Licenses to Buyer by the FCC, and (b) filings, if any, with respect to real estate transfer taxes.

3.2.2. Assuming all consents, approvals, authorizations and other actions described in <u>Section 3.2.1</u> have been obtained, the execution, delivery and performance of this Agreement and the other Seller Documents by Seller do not and will not (a) conflict with or violate any material Law applicable to Seller, the Assets or the Stations (b) conflict with or result in any breach of or constitute a default under any material contract or agreement to which Seller is a party or by which Seller is bound or (c) result in the creation of any Encumbrance upon the Assets.

There exist no Liabilities of the Stations relating to, or arising out of, the business or operations of the Stations, contingent or absolute, matured or unmatured, known or unknown that will not be terminated and no longer of any force or effect as of December 31, 2000, except (a) the Stations Contracts, (b) obligations of Seller under any Excluded Contracts listed on <u>Schedule 3.5.2</u>.

# 3.3. Absence of Certain Changes or Events.

Since September 30, 2000, Seller has conducted the business of the Stations in the ordinary course of business consistent with past practice, and Seller has not (a) incurred loss of, or injury to, any of the Assets (b) incurred, or become subject to, any Liability with respect to the Stations, except current Liabilities incurred in the ordinary course of business consistent with past practice; (c) mortgaged, pledged or subjected to any Encumbrance any of the Assets other than Encumbrances in connection with Liabilities arising under any credit or loan agreement between Seller and its lenders; (d) sold, exchanged, transferred or otherwise disposed of any Assets,

or canceled any debts or claims; or (e) entered into any transactions with respect to the Stations other than in the ordinary course of business consistent with past practice.

#### 3.4. Absence of Litigation.

There is no action, suit, investigation, claim, arbitration or litigation pending or, to the knowledge of Seller, threatened against Seller with respect to the Stations.

#### 3.5. FCC Matters.

Seller holds the FCC Licenses listed as held by Seller on Schedule 2.1.1. The FCC Licenses constitute all of the licenses, permits and authorizations from the FCC that are necessary or required for and/or used in the business and operations of the Stations. The FCC Licenses are valid and in full force and effect through the dates set forth on Schedule 2.1.1. The Stations has been operated by Seller in all material respects in accordance with the terms of the FCC Licenses and the Communications Act. No application, action or proceeding is pending for the renewal or modification of any of the FCC Licenses, and, except for actions or proceedings affecting low power television broadcast stations generally, no application, complaint, action or proceeding is pending or, to Seller's knowledge, threatened that may result in the (a) the revocation, modification, non-renewal or suspension of any of the FCC Licenses, (b) the issuance of a cease-and-desist order, (c) the imposition of any administrative or judicial sanction with respect to the Stations or (d) the denial of an application for renewal. Seller has no knowledge of any facts, conditions or events relating to Seller or the Stations that would reasonably be expected to cause the FCC to deny the assignment of the FCC Licenses as provided for in this Agreement. Seller has filed with the FCC all reports, forms and statements required by the FCC to be filed by Seller relating to the Stations, including, without limitation, applications for renewal of authority required by applicable Laws.

All material returns, reports and statements relating to the Stations required to be filed by Seller with the FCC or any other Governmental Authority have been filed and when filed were correct and complete in all material respects. All such reports, returns and statements shall continue to be filed on a current basis until the Closing Date, and will be correct and complete in all material respects when filed. All documents required by the FCC's rules to be placed in the Station's public files by Seller have been placed and are being held in such files. All logs and business records of every type and nature relating to the business and operations of the Stations have been maintained in all material respects in accordance with the rules and regulations of the FCC.

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#### 3.6. Taxes.

Seller has duly filed or will duly file all Seller Tax Returns required to be filed by Seller on or before the Closing Date with respect to all applicable Taxes for the Assets.

#### 3.7. Insurance.

Seller shall maintain insurance on all the Assets until the closing.

# ARTICLE 4. REPRESENTATIONS AND WARRANTIES BY BUYER

Buyer represents, warrants and covenants to Seller as follows:

# 4.1. Organization; Authorization; Compliance with Laws

Buyer is duly organized and in good standing under the laws of the State of Delaware, and has the corporate power and authority to enter into and perform the terms of this Agreement. The execution, delivery and performance of this Agreement has been duly and validly authorized by all necessary corporate actions of Buyer.

### 4.2. Consents and Approvals; No Conflicts.

- 4.2.1. The execution and delivery of this Agreement, and the performance of the transactions contemplated herein by Buyer, will not require any consent, approval, authorization or other action by, or filing with or notification to, any Person or Governmental Authority where the failure to make such filing or obtain such consent would reasonably be expected to have a material adverse effect on Buyer's ability to consummate the transactions contemplated by this Agreement, except as follows: (a) approvals of the assignment of the FCC Licenses to Buyer by the FCC, and (b) filings, if any, with respect to real estate transfer taxes.
- 4.2.2. Assuming all consents, approvals, authorizations and other actions described in Section 4.2.1 have been obtained and all filings and notifications described in Section 4.2.1 have been made, the execution, delivery and performance of this Agreement and the other Buyer Documents by Buyer do not and will not (a) conflict with or violate any Law applicable to Buyer, (b) conflict with or result in any breach of or constitute a default (or an event which with notice or lapse of time or both would become a default) of any contract or agreement to which Buyer is a party or by which Buyer is bound, or (c) conflict with or violate the organizational documents of Buyer.

# ARTICLE 5. FCC FILING

As promptly as practicable and no later than ten (10) business days following the execution of this Agreement, Seller and Buyer shall jointly file an application with the FCC requesting the consent of the FCC to the assignment of the FCC Licenses for the Stations to Buyer. Seller and Buyer will diligently take, or fully cooperate in the taking of, all necessary and proper steps, and provide any additional information reasonably requested in order to obtain promptly the requested consents and approvals of the application by the FCC; provided, however, that none of the parties hereto shall have any obligation to participate in any evidentiary hearing.

# ARTICLE 6. COVENANTS AND AGREEMENTS OF SELLER

Seller covenants and agrees with Buyer as follows:

## 6.1. Negative Covenants.

Pending and prior to the Closing Date, Seller will not, without the prior written consent of Buyer, do or agree to do any of the following with respect to the Stations or the Assets:

#### 6.1.1. Dispositions.

Sell, assign, lease, license or otherwise transfer or dispose of any of the Assets.

# 6.1.2. Network Affiliation Agreements and Local Marketing Arrangements.

Acquire or enter into any network affiliation agreements, local marketing arrangements, joint operating agreements, time brokerage agreements or other similar contracts or renew, extend, amend, alter, modify or otherwise change any of such existing contracts.

# 6.1.3. Additional Agreements.

Acquire or enter into any contracts or renew, extend, amend, alter, modify or otherwise change any existing contract which will bind the Stations beyond November 30, 2000.

#### 6.1.4. Actions Affecting FCC Licenses.

Take any action which may jeopardize the validity or enforceability of or rights under the FCC Licenses.

#### 6.2. Affirmative Covenants.

Pending and prior to the Closing Date, Seller will with respect to the Stations and the Assets:

#### 6.2.1. Preserve Existence.

Preserve their respective corporate existences and business organizations intact, maintain their existing franchises and licenses, use commercially reasonable efforts to preserve for Buyer the relationships of the Stations with suppliers, customers, employees and others with whom the Stations has business relationships, and keep all Assets substantially in their present condition, ordinary wear and tear excepted.

#### 6.2.2. Normal Operations.

Subject to the terms and conditions of this Agreement (including, without limitation, Section 6.1) (a) pay or otherwise satisfy all obligations of the Stations in the ordinary course of business consistent with past practice; (b) maintain the Assets in customary repair, maintenance and condition, except to the extent of normal wear and tear, and repair or replace, consistently with the ordinary course of business consistent with past practice, any Asset that may be damaged or destroyed.

#### 6.2.3. Maintain FCC Licenses.

Maintain the validity of the FCC Licenses, and comply in all material respects with all requirements of the FCC Licenses and the rules, policies and regulations of the FCC and all other applicable Laws.

#### 6.2.4. Taxes.

Pay or discharge all Taxes related to the Assets when due and payable in the ordinary course of business consistent with past practice.

#### 6.2.5. Corporate Action.

Take all corporate action (including, without limitation, all shareholder action) under the Laws of any state having jurisdiction over Seller necessary to effectuate the transactions contemplated by this Agreement and by the other Seller Documents.

#### 6.2.6. Access.

Give to Buyer and its representatives reasonable access during normal business hours and by mutual agreement to all of the employees, properties, books and records of Seller that relate to the Stations and furnish Buyer and its representatives with such information concerning the Stations and Assets as Buyer may reasonably require

#### 6.2.7. Insurance.

Maintain in full force and effect all of Seller's existing casualty, liability, and other insurance with respect to the Stations through the day following the Closing Date in amounts not less than those in effect on the date hereof.

#### 6.3. Confidentiality.

Seller shall, at all times prior to the Closing, maintain the confidentiality with respect to all documents and information furnished to Seller by or on behalf of Buyer as per the agreement signed by Buyer with Seller on October \_\_\_\_, 2000, a copy of which is attached hereto.

# ARTICLE 7. COVENANTS AND AGREEMENTS OF BUYER

Buyer covenants and agrees with Seller as follows:

# 7.1. Confidentiality.

Buyer shall, at all times prior to the Closing, maintain the confidentiality with respect to all documents and information furnished to Buyer by or on behalf of Seller as per the agreement signed by Buyer with Seller on October \_, 2000, a copy of which is attached hereto.

## 7.2. Corporate Action.

Prior to the Closing, Buyer shall take all limited liability company action (including, without limitation, all member action) under the Laws of any state having jurisdiction over Buyer necessary to effectuate the transactions contemplated by this Agreement and the other Buyer Documents.

# ARTICLE 8. MUTUAL COVENANTS AND UNDERSTANDINGS OF SELLER AND BUYER

#### 8.1. Possession and Control.

Between the date hereof and the Closing Date, Buyer shall not directly or indirectly control, the business and operations of the Stations, and such operation, including complete control and supervision of all programming, shall be the sole responsibility of the owners of the Stations except as contemplated by the Affiliation Agreement.

#### 8.2. Risk of Loss.

The risk of loss or damage by fire or other casualty or cause to the Assets until the Closing Date shall be upon Seller. In the event of any such loss or damage prior to the Closing Date, Seller shall restore, replace or repair the damaged Assets to their previous condition. In the event that as of the Closing Date, any such loss or damage shall not have been restored, replaced, or repaired, Seller shall have the right to (a) defer the Closing Date by written notice to Buyer, for a period of up to sixty (60) days; (b) proceed with the Closing and deduct the cost of restoration, replacement or repair of the Assets from the purchase price; or (c) terminate this Agreement by written notice to Seller, whereupon this Agreement shall be deemed null, void and of no further force and effect.

#### 8.3. Public Announcements.

Between the date hereof and the Closing Date, Seller and Buyer shall not issue any press release or otherwise make any public statements with respect to this Agreement or the transactions contemplated herein, unless such party shall have obtained the other's prior written consent.

#### 8.4. Consents.

Prior to the Closing, Seller and Buyer shall take all reasonable action required to obtain all consents, approvals and agreements of any third parties (the initial requests for which shall be provided by Seller) necessary to authorize, approve or permit the consummation of the transactions contemplated by this Agreement

# ARTICLE 9. CONDITIONS PRECEDENT TO BUYER'S OBLIGATION TO CLOSE

The obligations of Buyer to purchase the Assets and to proceed with the Closing are subject to the satisfaction (or waiver in writing by Buyer) at or prior to the Closing of each of the following conditions:

## 9.1. Representations and Covenants.

The representations and warranties of Seller made in this Agreement shall be true and correct in all material respects when made and on and as of the Closing Date. The agreements and covenants of the Company required to be performed on or before the Closing Date shall have been performed in all material respects.

## 9.2. Required Consents.

Seller shall have obtained prior to the Closing Date all consents, authorizations and approvals from third parties necessary for the valid assignment and transfer to Buyer of all real estate leases or subleases for the towers, transmitters, antennas or microwaves and the television broadcasting studio of the Stations.

## 9.3. Delivery of Documents.

Seller shall have delivered to Buyer all contracts, agreements, instruments and documents required to be delivered by Seller to Buyer pursuant to Section 11.3.

#### 9.4. FCC Matters.

- (a) The FCC Order shall have become a Final Order, and
- (b) all of the FCC Licenses shall be in full force and effect.

# 9.5. Legal Proceedings.

No injunction, restraining order or decree of any nature of any court or Governmental Authority of competent jurisdiction shall be in effect that restrains or prohibits the transactions contemplated by this Agreement; and no action or proceeding by or before any Governmental Authority (other than an action or proceeding instituted or threatened by Buyer) shall have been instituted or threatened (and not subsequently dismissed, settled or otherwise terminated) which, if determined adversely, would be reasonably likely to (a) restrain, prohibit or invalidate the transactions contemplated by

#### 10.3. FCC Order.

The FCC Order shall have been granted.

#### 10.4. Legal Proceedings.

No injunction, restraining order or decree of any nature of any court or Governmental Authority of competent jurisdiction shall be in effect that restrains or prohibits the transactions contemplated by this Agreement; and no action or proceeding by or before any Governmental Authority (other than an action or proceeding instituted or threatened by Seller) shall have been instituted or threatened (and not subsequently dismissed, settled or otherwise terminated) which would be reasonably likely to restrain, prohibit or invalidate the transactions contemplated by this Agreement or any other Seller Document or Buyer Document.

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# ARTICLE 11. CLOSING

#### 11.1. Closing.

- 11.1.1. Provided that the conditions set forth in <u>Article 9</u> and <u>Article 10</u> shall have been satisfied, the closing for all of the Assets hereunder (the "**Closing**") shall be held on the date specified by Buyer in writing that is not later than the tenth (10th) day after the date on which the FCC Order shall have become a Final Order; <u>provided</u>, <u>however</u>, that such written notice shall be provided to Seller at least five (5) business days prior to the Closing Date (the date on which the Closing shall occur pursuant to this Section 11.1.1 is referred to herein as the "**Closing Date**").
- 11.1.2. At the Closing, Seller shall sell, assign, transfer, convey and deliver to Buyer free and clear of any Encumbrances, and Buyer shall purchase, acquire, pay for and accept from Seller, all right, title and interest of Seller in, to and under the Assets.

# 11.2. Time and Place of Closing.

The Closing shall be held at 10:00 A.M. local time on the Closing Date at, or at such other time and place as the parties may agree in writing.

# 11.3. Delivery by Seller.

At the Closing, Seller shall deliver to Buyer the following:

#### 11.3.4. FCC Opinion.

An opinion in a form reasonably acceptable to Buyer of the communications counsel of Seller as to FCC matters.

#### 11.3.5. Good Standing.

A certificate of the Secretary of State of the Commonwealth of Puerto Rico certifying the good standing of Seller in the Commonwealth of Puerto Rico.

#### 11.4. Delivery by Buyer.

At the Closing, Buyer shall deliver to Seller the following:

### 11.4.1. Purchase Price Payment.

The Purchase Price in the amount and manner set forth in

## Section 2.5.

#### 11.4.2. Agreements and Instruments.

The following agreements, documents and instruments duly executed by Buyer:

- (a) the Assumption Agreement;
- (b) all other documents, instruments and certificates required to be delivered by Buyer pursuant to this Agreement or otherwise required, or reasonably requested by Seller in order to effectively make Buyer responsible for all Assumed Liabilities and to otherwise consummate the transaction contemplated herein and as otherwise contemplated by this Agreement.

#### 11.4.3. Certified Resolutions.

Copies of the resolutions of the directors of Buyer, certified as being correct and complete and then in full force and effect, authorizing the execution, delivery and performance of this Agreement and of the other Buyer Documents, and the consummation of the transactions contemplated hereby and thereby.

#### 11.4.4. Officers' Certificate.

- (a) A certificate of Buyer signed by an officer of Buyer certifying the matters set forth in Section 10.1; and
- (b) a certificate signed by the Secretary of Buyer as to the incumbency of the officers of Buyer executing this Agreement or any of the other Buyer Documents on behalf of Seller.

# ARTICLE 12. SURVIVAL; INDEMNIFICATION

#### 12.1. Survival of Representations.

Unless otherwise set forth herein, all representations and warranties, covenants and agreements of Seller and Buyer contained in or made pursuant to this Agreement or in any certificate furnished pursuant hereto shall survive the Closing Date and shall remain in full force and effect for one (1) year after the Closing.

#### 12.2. Indemnification

Seller and Buyer agree to indemnify, defend and hold harmless the other as well as their officers, directors, employees, agents and shareholders from and against and in any respect of any and all losses, asserted against or incurred by any either of them, directly or indirectly, by reason of or resulting from: (a) any misrepresentation or breach of the representations, warranties and certifications of contained in or made pursuant to this Agreement; or (d) any breach of any covenants contained in or made pursuant to this Agreement.

# ARTICLE 13. TERMINATION

#### 13.1. Termination

This Agreement may be terminated at any time prior to the Closing by:

- 13.1.1. the mutual consent of Seller and Buyer;
- 13.1.2. either Buyer or Seller, by written notice of termination delivered to the other, if (a) the Closing Date has not occurred within twelve (12) months after the date of this Agreement; provided, however, that the failure of the Closing to have occurred within twelve (12) months of the date of this Agreement shall not be attributable to the breach of this Agreement by the party seeking termination pursuant to this Section 13.1.2(a); and provided, further, that Buyer's right to terminate this Agreement pursuant to this Section 13.1.2(a) shall be subject to Seller's rights to extend the Closing Date pursuant to Section 8.2; or (b) the FCC designates the application contemplated by Article 5 for an evidentiary hearing;
- 13.1.3. either Buyer or Seller in the event that any court or Governmental Authority of competent jurisdiction shall issue a final, non-appealable injunction prohibiting the transactions contemplated by this Agreement; <u>provided</u>, <u>however</u>, that the issuance of such final, non-appealable injunction shall not be

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attributable to the breach of this Agreement by the party seeking termination pursuant to this <u>Section 13.1.3</u>; or

13.1.4. either Buyer or Seller in accordance with the terms and conditions of Article 14.

#### 13.2. Effect of Termination

In the event this Agreement is terminated Buyer shall receive the immediate return of the Deposit and this Agreement shall be deemed null, void and of no further force or effect.

# ARTICLE 14. REMEDIES

#### 14.1. Default

If either Seller or Buyer has breached its obligation to effect the transactions to be consummated on the Closing Date by the date required pursuant to Section 11, then the non-breaching party shall be entitled, by written notice to the breaching party, to terminate this Agreement; provided, however, the breaching party shall have a period of ten (10) business days after receipt of the non-breaching party's written termination notice to cure any such misrepresentation, breach or default, and if the breaching party cures such misrepresentation, breach or default within such ten (10) business day period, the non-breaching party shall have no right to terminate this Agreement based on such misrepresentation, breach or default.

## 14.2. Specific Performance.

Seller hereby acknowledges that the Assets are unique, and that the harm to Buyer resulting from Seller's failure to perform their obligations hereunder cannot be adequately compensated by damages. Accordingly, Seller agrees that Buyer shall have the right to have all obligations, undertakings, agreements, covenants and other provisions of this Agreement specifically performed by Seller. In any such specific performance action, Seller agrees to waive the defense that there is an adequate remedy at law for damages and agree that Buyer shall be entitled to obtain specific performance of Seller's obligations hereunder without having to post any bond or other security in any such proceeding.

# ARTICLE 15. GENERAL PROVISIONS

#### 15.1. Additional Actions, Documents and Information.

All parties hereto agree that they will, at any time, prior to, at or after the Closing Date, take or cause to be taken such further actions, and execute, deliver and file or cause to be executed, delivered and filed such further documents and instruments and obtain such consents, as may be reasonably requested by any other party in connection with the consummation of the transactions contemplated by this Agreement.

#### 15.2. Expenses and Taxes.

Each party hereto shall pay its own expenses incurred in connection with this Agreement and in the preparation for and consummation of the transactions provided for herein. Notwithstanding the foregoing, (a) Buyer and Seller shall each pay one-half (½) of all sales (including, without limitation, bulk sales), use, documentary, stamp, gross receipts, registration, transfer, conveyance, excise, recording, license and other similar Taxes and fees ("Transfer Taxes") applicable to, imposed upon or arising out of the transactions contemplated hereby whether now in effect or hereinafter adopted and regardless of which party such Transfer Tax is imposed upon, and (b) Seller and Buyer shall each pay one-half (½) of any FCC filing fees incurred in connection with the assignment of the FCC Licenses. Each party agrees to cooperate with such other party in the timely completion, execution and filing of any documentation required by any local or state governmental agency in connection with the Transfer Taxes.

#### 15.3. Notices.

All notices, demands, requests, or other communications which may be or are required to be given or made by any party to any other party pursuant to this Agreement shall be in writing and shall be hand delivered, mailed by first-class registered or certified mail, return receipt requested, postage prepaid, delivered by overnight air courier, or transmitted by telegram, telex, or facsimile transmission addressed as follows:

If to Buyer:

HSN Capital LLC 1 HSN Drive St. Petersburg, FL 33729 Attention: Jed B. Trosper Telecopy No.: (727) 872-7473 with a copy (which shall not constitute notice) to:

Hogan & Hartson L.L.P. 8300 Greensboro Drive Suite 1100 McLean, Virginia 22102

Attention: Richard T. Horan, Jr., Esq.

Telecopy No.: (703) 610-6200

If to Seller:

Peno Roman Collago 1554 Boes 5 1. Dan Juan, D. 12. 0090 7-613

Attention: Mrs. Nazario / of Peuro Roman College

with copies (which shall not constitute notice) to:

Attention:

Telecopy No.:

or such other address as the addressee may indicate by written notice to the other parties.

Each notice, demand, request, or communication which shall be given or made in the manner described above shall be deemed sufficiently given or made for all purposes at such time as it is delivered to the addressee (with the return receipt, the delivery receipt, the affidavit of messenger or (with respect to a telex) the answerback being deemed conclusive but not exclusive evidence of such delivery) or at such time as delivery is refused by the addressee upon presentation.

#### 15.4. Waiver.

No delay or failure on the part of any party hereto in exercising any right, power or privilege under this Agreement or under any other instrument or document given in connection with or pursuant to this Agreement shall impair any such right, power or privilege or be construed as a waiver of any default or any acquiescence therein. No single or partial exercise of any such right, power or privilege shall preclude

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the further exercise of such right, power or privilege, or the exercise of any other right, power or privilege. No waiver shall be valid against any party hereto unless made in writing and signed by the party against whom enforcement of such waiver is sought and then only to the extent expressly specified therein.

#### 15.5. Entire Agreement; Amendment.

This Agreement, including the documents attached hereto and the other instruments and documents referred to herein or delivered pursuant hereto contains the entire agreement among the parties with respect to the subject matter hereof and supersedes all prior oral or written agreements, commitments or understandings with respect to such matters. No amendment, modification or discharge of this Agreement shall be valid or binding unless set forth in writing and duly executed by the party or parties against whom enforcement of the amendment, modification or discharge is sought.

## 15.6. Severability.

If any part of any provision of this Agreement or any other contract, ragreement, document or writing given pursuant to or in connection with this Agreement shall be invalid or unenforceable under applicable law, such part shall be ineffective to the extent of such invalidity or unenforceability only, without in any way affecting the remaining parts of such provisions or the remaining provisions of said contract, agreement, document or writing.

## 15.7. Headings.

The headings of the sections and subsections contained in this Agreement are inserted for convenience only and do not form a part or affect the meaning, construction or scope thereof.

# 15.8. Governing Law; Jurisdiction.

This Agreement, the rights and obligations of the parties hereto, and any claims or disputes relating thereto, shall be governed by and construed under and in accordance with the laws of the Commonwealth of Puerto Rico, without giving effect to the conflicts of law principles thereof. The parties hereto hereby waive personal service of any process in connection with any such action, suit or proceeding and agree that the service thereof may be made by certified or registered mail addressed to or by personal delivery to the other party, at such other party's address set forth pursuant to Section 15.4 hereof. In the alternative, in its discretion, any of the parties hereto may effect service upon any other party in any other form or manner permitted by law.

#### 15.9. Signature in Counterparts.

This Agreement may be executed in separate counterparts, none of which need contain the signatures of all parties, each of which shall be deemed to be an original, and all of which taken together constitute one and the same instrument. It shall not be necessary in making proof of this Agreement to produce or account for more than the number of counterparts containing the respective signatures of, or on behalf of, all of the parties hereto.

IN WITNESS WHEREOF, each of the parties hereto has executed this Asset Purchase Agreement, or has caused this Asset Purchase Agreement to be duly executed and delivered in its name on its behalf, all as of the day and year first above written.

#### **SELLER**

INTERNATIONAL BROADCASTING CORP.

Name: PEURO Romain Collage
Title: Uses went

SOUTHWESTERN BROADCASTING CORP.

Name: People Domain College Title: Presiont

## **BUYER**

**HSN CAPITAL LLC** 

By: Name: Title:

#### **AMENDMENT**

#### TO ASSET PURCHASE AGREEMENT AMONG

#### HSN CAPITAL LLC; SOUTHWESTERN BROADCASTING CORPORATION AND INTERNATIONAL BROADCASTING CORPORATION

Whereas, HSN Capital LLC ("HSN"), Southwestern Broadcasting Corporation ("Southwestern") and International Broadcasting Corporation ("International") have already entered into an Asset Purchase Agreement (the "Initial Agreement", and as amended by this Amendment, the "Agreement"); and

Whereas, HSN, Southwestern, and International (the "Parties") jointly desire to amend the Initial Agreement as set forth herein;

NOW, THEREFORE, the Parties agree to the following amendments to the Initial Agreement:

- Section 3.2.1(a) of the Agreement shall be deleted in its entirety and replaced with A. the following:
  - "(a) consents to the assignment of the FCC licenses to Buyer by the FCC and a satellite waiver from the FCC that will enable Buyer to acquire the Stations"

The rest of Section 3.2.1 appearing before and after the above-mentioned language shall remain the same with no further changes or amendments.

- Section 4.2.1(a) of the Agreement shall be deleted in its entirety and replaced with В. the following:
  - "(a) approvals of the assignment of the FCC licenses to Buyer by the FCC and a satellite waiver from the FCC that will enable Buyer to acquire the Stations"

The rest of Section 4.2.1 appearing before and after the above-mentioned language shall remain the same with no further changes or amendments.

C. Article 5 of the Agreement shall be amended to add the following clause at the end of the first sentence of that Article:

> "and requesting a satellite waiver from the FCC that will enable Buyer to acquire the Stations."

The rest of Article 5 appearing before and after the above-mentioned language shall remain the same with no further changes or amendments.

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- D. The Parties acknowledge and agree that HSN has assigned all of it rights and obligations under the Initial Agreement to HSE Media LLC, a Delaware limited liability company ("HSE Media"). The term "Buyer" as used in the Agreement shall be amended to mean HSE Media instead of referring to HSN and HSE Media shall be the Buyer for all purposes of the Agreement. A duly authorized representative from HSE Media has signed this Amendment below to indicate HSE Media's complete acceptance of all other terms and conditions contained in the Agreement.
- E. Section 15.3 of the Agreement is hereby amended to change the notice address of Buyer to the following:

HSE Media LLC 1 HSN Drive St. Petersburg, FL 33729 Attention: President Fax: (727) 872-7473

A copy of such notice shall still be sent to Hogan & Hartson, LLP, 8300 Greensboro Drive, Suite 1100, McLean, Virginia, 22102, attention Richard T. Horan, Jr., Esq. (telecopy number (703) 610-6200).

F. The following shall be added as a new Section 15.10 of the Agreement:

"Section 15.10 Assignment.

Seller agrees that it shall not assign the Agreement, in whole or in part, whether by operation of law or otherwise, without the prior written consent of Buyer. Buyer may assign this Agreement, in whole or in part, whether by operation of law or otherwise, without the prior written consent of Seller, to any Person."

G. Promptly following execution of the Agreement, Buyer shall place ten percent (10%) of the Purchase Price to be held in escrow pursuant to terms and conditions mutually agreeable to all Parties. Notwithstanding Section 2.3 of the Agreement, at Closing, the escrowed amount shall be released to Seller and the remaining ninety percent (90%) of the Purchase Price shall be payable from Buyer to Seller at Closing as per the Agreement.

The Parties also agree that all other terms and conditions to the Agreement shall remain in full force and effect except as specifically amended hereby.

[Signature Pages on the Following Page]

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IN WITNESS WHEREOF, each of the undersigned has executed this Amendment, or has caused this Amendment to be duly executed and delivered in its name on its behalf, all as of the day and year below.

Signed this 12 day of January 2001.

IN.	TERN	ΔΤΙ	ONAL	RRO	ΔΠΩΔ	STING	CORP.
	LLIVE	~"			$\sim$	~ 1111 ~	OUIN.

By:
Name: PEDRO ROMAN=COLLAZO
Title: PRESIDETN

SOUTHWESTERN BROADCASTING CORP.

Name: PEORO ROMAN-COLLAZO
Title: PRESIDENT

HSN CAPITAL LLC

By: / July / Jul

**HSE MEDIA LLC** 

By: / LOLD - / LO.
Name: \_\_\_\_\_\_
Title:

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#### SECOND AMENDMENT

## TO ASSET PURCHASE AGREEMENT AMONG

# HSE MEDIA ILC; SOUTHWESTERN BROADCASTING CORPORATION AND INTERNATIONAL BROADCASTING CORPORATION

Whereas, HSN Capital LLC ("HSN"), Southwestern Broadcasting Corporation ("Southwestern") and International Broadcasting Corporation ("International") have already entered into an Asset Purchase Agreement (the "Initial Agreement") that was already amended by a First Amendment to the same (the linitial Agreement and the First Amendment shall be collectively referred to as the "Agreement"); and

Whereas, HSN, Southwestern, and International jointly agreed in the First Amendment that HSN be replaced by HSE Media LLC ("HSE") as the Buyer in the Agreement, and

Whereas, HSE, Southwestern, and International (collectively, the "Parties") jointly desire to further amend the Agreement with this Second Amendment;

NOW, THEREFORE, the Parties agree to the following Second Amendment to the Agreement:

A Three (3) additional sentences shall be added to Section G of the First Amendment that shall read as follows:

"The Parties mutually agree that in the event that the Closing is not finalized due to conditions out of their control (for example, if the FCC doesn't approve the transfer of the Licenses), the aforementioned ten percent (10%) of the Purchase Price held in escrow (the "Escrow Money") shall be returned to the Buyer. However, if the Closing is not finalized because the Buyer does not to complete the Closing due to conditions totally within Buyer's control (for example, if Buyer simply decides it doesn't want to purchase the Stations), then Seller shall be entitled to keep the Escrow Money as liquidated damages. By accepting the Escrow Money, Seller will waive all other possible claims against Buyer that Seller might have related to the Closing not being completed."

The Parties also agree that all other terms and conditions to the Initial Agreement and the First Amendment shall remain in full force and effect except as specifically amended hereby.

IN WITNESS WHEREOF, each of the undersigned has executed this Second Amendment, or has caused this Second Amendment to be duly executed and delivered in its name on its behalf, all as of the day and year below.

Signed this \_\_day of January 2001.

INTERNATIONAL BROADCASTING CORP.

Py:\_\_\_ Name: Title:

PERRO ROMAN LOT

SOUTHWESTERN BROADCASTING CORP.

By:\_\_\_ Name; Title:

PEDRO ROMAN SOLTAND

Ad B. Twon

HSE MEDIA LLC

Name: Name: Tille:

## USA NETWORKS, INC. 152 West 57<sup>th</sup> Street, 42<sup>nd</sup> Floor New York, New York 10019

May 7, 2001

Reyner Family Partners, LP 1031 East Mountain Drive Santa Barbara, California 93108 Attn: William S. Reyner, Jr.

Dear Bill:

Reference is made to the Term Sheet attached hereto which sets forth our understanding and agreement with respect to the acquisition, ownership and operation of certain television stations located in Puerto Rico, all as more fully described in the attached Term Sheet.

The Term Sheet contemplates that the agreements contained therein will be superseded by definitive agreements and instruments which will contain provisions incorporating and expanding upon the agreements set forth therein, together with other provisions customary in the case of transactions of this type, and such other provisions as are reasonable and appropriate in the context of the transactions contemplated hereby. Notwithstanding the foregoing, the parties acknowledge and agree that the attached Term Sheet and this letter agreement will constitute a binding agreement between them until such definitive agreements are executed and delivered. If such definitive agreements are not executed and delivered within ninety (90) days after the date hereof, then the Term Sheet and this letter agreement shall, as of such date, constitute such definitive agreements.

This letter agreement may be signed in any number of counterparts with the same force and effect as if all signatures appeared on one and the same instrument.

If the foregoing is acceptable to you, please execute the copy of this letter agreement in the space below, at which time this instrument will constitute a binding agreement between us.

Very truly yours,

USA NETWORKS, INC., on behalf of itself and its affiliator

Julius Genachowski Senior Vice President and General Counsel

HOME SHOPPING NETWORK EN ESPAÑOL LLC

By:\_\_\_\_\_\_\_ Name: Title:

ACCEPTED AND AGREED this \_\_\_\_ day of May, 2001.

REYNER FAMILY PARTNERS, LP

By: William S. Reyner, Jr. General Partner

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If the foregoing is acceptable to you, please execute the copy of this letter agreement in the space below, at which time this instrument will constitute a binding agreement between us.

Very truly yours,

USA NETWORKS, INC., on behalf of itself and its affiliates

HOME SHOPPING NETWORK EN ESPAÑOL LLC

Name: James Galdagher Title: Managing Director

ACCEPTED AND AGREED this \_\_\_\_ day of May, 2001.

REYNER FAMILY PARTNERS, LP

By:\_\_\_\_\_\_ William S. Reyner, Jr. General Partner

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If the foregoing is acceptable to you, please execute the copy of this letter agreement in the space below, at which time this instrument will constitute a binding agreement between us.

Very truly yours,

USA NETWORKS, LNC., on behalf of itself and its affiliates

HOME SHOPPING NETWORK EN ESPAÑOL LLC

By:\_\_\_\_\_ Name: Title:

REYNER FAMILY PARTNERS, LP

William S. Reyner, Jr.

General Partner

#### TERM SHEET FOR

#### ACQUISITION, OWNERSHIP AND OPERATION OF PUERTO RICO STATIONS

**Formation and Purpose:** 

Esperanza Television Holdings, Inc. ("Holdco") will be incorporated as a Delaware corporation for the purpose of holding interests in HSE Media LLC, a Delaware limited liability company and currently a wholly-owned subsidiary of USAi ("Newco").

Capital Contributions and Ownership:

Reyner Family Partners, LP, a limited partnership to be formed and controlled by William S. Reyner, Jr. ("Controlling Party") will contribute \$750,000 in exchange for seventy-five percent (75%) of the common stock of Holdco. USAi will contribute \$250,000 and one hundred percent (100%) of its membership interest in Newco in exchange for twenty-five percent (25%) of the common stock of Holdco (the "Minority Interest"). Holdco will own one hundred percent (100%) of the membership interests of Newco. If necessary for regulatory purposes or otherwise, Holdco will convert Newco into a Delaware corporation. At closing, the name of Newco shall be changed to "Esperanza Television LLC"

**Voting Rights:** 

Controlling Party's common stock in Holdco shall be voting, and USAi's common stock in Holdco shall be non-voting but shall be convertible into voting stock of Holdco at USAi's election.

**Acquisition of Puerto Rico Stations:** 

Newco will consummate the acquisition of the full power television stations located in the Commonwealth of Puerto Rico listed on <a href="Exhibit A">Exhibit A</a> (the "Puerto Rico Stations") for \$18 million. All of the assets of the Puerto Rico Stations, including the FCC licenses, shall be held by Newco.

**Affiliation Agreement:** 

At closing, Newco and Home Shopping Network En Español LLC ("HSE") will enter into an affiliation agreement with respect to the Puerto Rico Stations. The initial term of the agreement will be ten (10) years, renewable at HSE's option for six (6) additional five (5) year terms. At the closing, HSE shall make an initial affiliation payment to Newco in an amount necessary to fund Newco's working capital, organizational and closing costs. In addition, HSE shall make ongoing affiliation payments to Newco or Controlling Party, as applicable, in amounts necessary to reimburse Newco and Controlling Party for (a) all operating expenses, and (b) management fees. Newco shall permit HSE to make or cause to be made at HSE's expense inspections and audits of Newco's

books and records with respect to any reimbursement payments requested by Newco and Controlling Party hereunder, all on reasonable notice and at reasonable times. In consideration for the affiliation payments made to Newco or Controlling Party, HSE shall be entitled to use the entire digital spectrum allocated to the Puerto Rico Stations, subject to the terms of the affiliation agreement.

#### **Affiliation Bonus Payment:**

At the end of the initial ten (10) year term of the affiliation agreement, HSE will make a payment to Newco equal to \$17 million (the "Affiliation Bonus Payment"), *plus* interest accrued thereon as specified below, and *less* the sum of all Noncompliance Reductions (as defined below) assessed against Newco during such term; provided, however, that if the affiliation agreement is renewed or extended for an additional term or terms, then such payment shall become due and payable at the expiration of such term or terms.

A reduction shall be assessed against Newco for each month during the term of the affiliation agreement (as may have been renewed or extended from time to time) during which Newco fails to substantially comply with the terms of the affiliation agreement (each a "Noncompliance Reduction"). Each Noncompliance Reduction shall be an amount equal to the quotient derived by dividing \$17,000,000 by the total number of months elapsed during the term of the affiliation agreement (as such term may have been renewed or extended from time to time). The amount of the Noncompliance Reductions shall be determined at the end of the term of the affiliation agreement (as may have been renewed or extended from time to time). By way of example only, if the term of the affiliation agreement shall be 180 months and Newco shall fail to substantially comply with the terms of the affiliation agreement during 5 of the 180 months, then the aggregate amount of the Noncompliance Reductions would be \$472,222. The Noncompliance Reductions shall not be the exclusive remedy of HSE for breach of the affiliation agreement but will be cumulative along with all other rights and remedies, whether at law or in equity.

Interest on the Affiliation Bonus Payment shall accrue at a rate of five percent (5%) per annum compounded annually; provided that if any Noncompliance Reductions are assessed against Newco, such interest shall not accrue on the amount of any such Noncompliance Reduction with respect to the period from and after the date of the occurrence of the event of substantial noncompliance to which such Noncompliance Reduction relates.

In determining whether Newco has substantially complied with the affiliation agreement, nothing shall be construed to prevent or hinder Newco from rejecting or refusing such portions of the HSE program service which Newco reasonably believes to be unsatisfactory, unsuitable or contrary to the public interest, or from substituting a program which, in Newco's good faith opinion, is of greater local or national importance. Newco shall provide HSE with written notice of each such preemption, and the justification therefore, at least seventy-two (72) hours in advance of the scheduled telecast, or as soon thereafter as possible. Portions of the HSE program service may be considered unsatisfactory, unsuitable or contrary to the public interest if: (a) Newco reasonably believes that the telecast of the HSE program service would violate any applicable laws, rules, regulations or related published policies; (b) the HSE program service does not meet customary engineering standards; or (c) Newco reasonably believes that the HSE program service would not meet prevailing contemporary standards of good taste in its community of license. No portion of the HSE program service may be considered unsatisfactory, unsuitable or contrary to the public interest, or of lesser local or national importance, based on program performance or ratings or the availability of alternative programming which Newco believes to be more profitable or attractive than the scheduled HSE program service including, but not limited to, infomercials, paid religious programs or children's programs. If Newco fails to carry the HSE program service as provided for in the affiliation agreement as a result of breach of this section, Newco shall fully disclose in writing and pay to HSE any and all consideration received by Newco relating to Newco's carriage of the substituted programming in place of portions of the HSE program service.

**DTV Capital Improvements:** 

Prior to closing, Controlling Party and HSE shall agree upon a budget for capital expenditures necessary for the conversion of the Puerto Rico Stations to digital television ("DTV Budget").

**Other Capital Improvements:** 

Subject to USAi's prior written consent to "Material Transactions" described below, Controlling Party shall determine the necessary capital improvements to be made at the Puerto Rico Stations (other than capital improvements for digital television which shall be covered by the DTV Budget). The HSE affiliation agreement will provide that the costs of such capital improvements, together with all costs and expenses approved in the DTV Budget, shall be the responsibility of HSE, and HSE may

satisfy such responsibility by either financing Newco's acquisition of the applicable equipment and facilities, or by directly acquiring such equipment and facilities itself and making them available for use by Newco for a nominal charge. If any Puerto Rico Station is subsequently sold, any such equipment or facilities purchased by HSE shall be included in such sale and HSE shall receive from the net sale proceeds received by Newco an amount equal to HSE's original cost for such equipment and facilities, less depreciation.

**Management Fees:** 

For the first five (5) years after closing, Controlling Party or Controlling Party's designee (to be determined by Controlling Party prior to closing) shall be paid an annual management fee of \$36,000 to manage the Puerto Rico Stations. The annual management fees payable to Controlling Party thereafter are set forth on <a href="Exhibit B">Exhibit B</a>. All such management fees shall be payable monthly in arrears.

**Management Responsibilities:** 

In exchange for the management fees set forth above, Controlling Party (or Controlling Party's designee) agrees to perform the following services for Newco:

- (a) operate the Puerto Rico Stations in the ordinary course of business consistent with past practice; and
- (b) maintain the validity of the FCC licenses and the "must carry" elections related to the Puerto Rico Stations, and comply in all material respects with the requirements of such FCC licenses and the rules, policies and regulations of the FCC and all other applicable laws.

**Debt Financing:** 

USAi or an affiliate shall loan an aggregate amount of \$17 million (including the \$1.8 million Newco has deposited into escrow in connection with the acquisition of the Puerto Rico Stations) to Newco for purposes of acquiring the Puerto Rico Stations. The loan shall be evidenced by a note bearing interest at a rate equal to five percent (5%) per annum compounded annually. The outstanding principal amount of the loan and all accrued interest thereon shall be due and payable on the maturity date of the loan. The maturity date of the loan shall be ten (10) years after closing; provided that the maturity date shall automatically be extended to the end of the applicable renewal term of the HSE affiliation agreement each time that the term of the HSE affiliation agreement is renewed.

**Material Transactions:** 

Holdco shall not, and shall not permit Newco or any other subsidiaries to, enter into any of the following

transactions without the written consent of USAi:

- (i) any issuance of equity securities;
- (ii) incurrence of any debt other than in the ordinary course of business in an amount not to exceed \$1,500,000 in the aggregate;
- (iii) payment of any dividends or other distributions;
- (iv) sale, transfer or other disposition of any stock, assets, other than (A) sales, transfers and dispositions of assets in the ordinary course of business having a value of less than \$360,000 in the aggregate, or (B) assets retired and replaced with new assets:
- (v) any mergers or consolidations;
- (vi) any acquisitions of assets, or any investments over \$1,000,000 in the aggregate;
- (vii) any joint venture arrangements; and
- (viii) any amendment to the certificate of incorporation.

Controlling Party shall not sell, transfer or otherwise dispose of any common stock of Holdco without the prior written consent of USAi.

A "Change of Control" shall be deemed to have occurred at that point in time immediately prior to the actual occurrence of any of the following:

- (a) There is a change in control, directly or indirectly, (i) of at least fifty-one percent (51%) of the aggregate voting power over USAi (or any direct or indirect subsidiary of USAi that holds directly or indirectly the Minority Interest) or (ii) of the ability to elect a majority of the seats of the board of directors of USAi (or any direct or indirect subsidiary of USAi that holds directly or indirectly the Minority Interest). A percentage of the "voting power" of any person shall mean the voting power (through ownership of shares, beneficially or of record, by contract, proxy or otherwise) representing at least such percentage of the aggregate ordinary voting power represented by the issued and outstanding capital stock of such person;
- (b) USAi shall sell, transfer or otherwise dispose of any common stock of Holdco to a party other than a

**Transfer Restrictions:** 

**Change of Control:** 

direct or indirect wholly-owned subsidiary of USAi. A sale, transfer or other disposition by USAi of any common stock of Holdco to any direct or indirect wholly-owned subsidiary or subsidiaries of USAi shall not be deemed a Change of Control;

- Individuals who, as of May 7, 2001, constitute the board of directors of USAi (the "Incumbent Board") cease for any reason to constitute at least a majority of the board of directors of USAi; provided, however, that any individual becoming a director subsequent to May 7, 2001, whose election, or nomination for election by USAi's shareholders, was approved by a vote of at least a majority of the directors then comprising the Incumbent Board shall be considered as though such individual were a member of the Incumbent Board, but excluding, for this purpose, any such individual whose initial assumption of office occurs as a result of an actual or threatened election contest with respect to the election or removal of directors or other actual or threatened solicitation of proxies or consents by or on behalf of a person other than the board of directors of USAi: or
- (d) Approval by the stockholders of USAi of a complete liquidation or dissolution of USAi.

During the period commencing on the fifth (5<sup>th</sup>) anniversary of the closing date and ending one (1) year thereafter (the "Put Period") or immediately prior to a Change of Control and continuing for six (6) months thereafter, Controlling Party shall have the right to elect to put Controlling Party's common stock to USAi for an amount equal to the Put/Call Amount (as defined below). Closing of the put shall occur promptly after receipt of FCC approval, which shall be requested within thirty (30) days after receipt of the put election notice; provided, however in the event of a Change of Control, USAi shall have the right to delay any necessary filing with the FCC for up to six (6) months after receipt of the put election notice.

During the period commencing six (6) months after the expiration of the Put Period and ending five (5) years thereafter or in the event of the death or disability of William S. Reyner, Jr., USAi shall have the right to elect to call Controlling Party's common stock for the Put/Call Amount. Closing of the call shall occur promptly after receipt of FCC approval.

**Put Right:** 

**Call Right:** 

#### **Put/Call Amount:**

Except in the event of a Change of Control, the "Put/Call Amount" shall mean the fair market value of Controlling Party's common stock in Holdco at the time such amount is being determined as mutually agreed upon by Controlling Party and USAi.

If a Change of Control shall occur at any time after the date hereof, the following procedures shall apply to determine the Put/Call Amount: If USAi (or any successor thereof) and Controlling Party are not able to agree on the Put/Call Amount within 30 days, each party shall appoint an independent appraiser within 15 days and each appraiser shall independently determine the Put/Call Amount within 15 days of being appointed. The Put/Call Amount shall be the average of the two Put/Call Amounts determined by each appraiser; provided, that if there is more than a 10% difference between the determinations of the two appraisers, then the two appraisers shall appoint a third appraiser within 15 days and such appraiser shall independently determine the Put/Call Amount within 15 days of being appointed. If three appraisers shall be appointed and the determination of one appraiser is disparate from the middle determination by more than twice the amount by which the other is disparate from the middle determination, then the determination of such appraiser shall be excluded and the Put/Call Amount shall be the average of the Put/Call Amount determinations of the remaining two appraisers; otherwise the Put/Call Amount shall be the average of the Put/Call Amount determinations of the three appraisers. Each appraiser shall determine the Put/Call Amount based solely upon the present value of the aggregate future management fees payable to Controlling Party described above, calculated using a 7% discount rate. Each party shall bear the costs and expenses of the appraiser appointed by such party, and the costs and expenses of a third appraiser shall be split 50/50 between the parties.

During the term of the affiliation agreement between Newco and HSE, Controlling Party and Newco agree not to compete with HSE with respect to the provision of home shopping services in the Commonwealth of Puerto Rico.

The parties intend that the agreements set forth in this term sheet will be superseded by definitive agreements and instruments which will contain provisions incorporating and expanding upon the agreements set forth herein, together with other provisions customary in

#### **Noncompetition:**

#### **Definitive Agreements:**

the case of transactions of this type, and such other provisions as are reasonable and appropriate in the context of the transactions contemplated hereby.

Notwithstanding the foregoing, the parties acknowledge and agree that this term sheet will constitute a binding agreement between them until such definitive agreements are executed and delivered. If such definitive agreements are not executed and delivered within ninety (90) days after the date hereof, then this term sheet shall, as of such date, constitute such definitive agreements.