

ASSET PURCHASE AGREEMENT

**by and between
WINNER BROADCASTING, LLC,**

and

**DAVIS MEDIA, LLC
OR ITS ASSIGN**

for the Sale and Purchase of

Station WWBR-FM, West Point, Virginia

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ASSET PURCHASE AGREEMENT

THIS ASSET PURCHASE AGREEMENT ("Agreement") is made and entered into as of this 22nd day of February, 2005, by and between Winner Broadcasting, LLC, a limited liability company organized under the laws of the Commonwealth of Virginia ("Seller"), and Davis Media, LLC, a limited liability company organized under the laws of the State of Delaware, or its assign ("Buyer").

WITNESSETH:

WHEREAS, Seller holds certain licenses, permits and authorizations issued by the Federal Communications Commission (the "Commission") for the operation of Station WWBR-FM, West Point, Virginia (the "Station"); and

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

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

SECTION 1 ASSETS TO BE SOLD

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

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

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

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

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

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

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

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

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

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

1.2.3. All contracts and agreements used in the operation of the Station unless specifically assumed by Buyer.

1.2.4. Seller's minute books, charter documents, record books and such other books and records as pertain to the organization, existence or capitalization of Seller and

duplicate copies of such records as are necessary to enable Seller to file its tax returns and reports as well as any other records or materials relating to Seller generally and not involving specific aspects of the Station's operation;

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

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

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

1.2.8. The name "Winner Broadcasting" or any confusingly similar derivation there from.

1.2.9. The Accounts Receivable of the Station as of 11:59 PM, local time, on the day prior to the Closing Date.

1.2.10. Any contracts, leases or other agreements between Seller and the licensee of Station WSRV(FM), Deltaville, Virginia.

SECTION 2 PURCHASE PRICE

2.1. **Purchase Price.** In consideration of Seller's performance of this Agreement, the sale, assignment, transfer, conveyance, setting over, and delivery of the Assets as defined herein above to Buyer, the total purchase price (the "Purchase Price") to be paid by Buyer to Seller shall be the sum of ONE MILLION ONE HUNDRED TWENTY FIVE THOUSAND DOLLARS (\$1,125,000.00), or such lesser sum as calculated in accordance with Section 3.2 of this Agreement.

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

(a) Upon the execution and delivery of this Agreement, Buyer shall deposit FIFTY-FIVE THOUSAND DOLLARS (\$55,000.00) (the "Escrow Deposit"). The Escrow Deposit shall be held and disbursed by Envest Media, LLC, and Garvey Schubert Barer as Co-Escrow Agents, pursuant to the terms of an Escrow Agreement in the form attached hereto as Exhibit A, which Escrow Agreement shall be signed by Seller, Buyer, and co-Escrow Agents simultaneously with the execution of this Agreement. At Closing, Seller shall join with Buyer in causing the Escrow Agent to send the Escrow Deposit including all interest earned thereon to be sent to Buyer by wire transfer of immediately available funds to a bank designated by Buyer.

(b) At the Closing Date, Buyer will pay to Seller by wire transfer of immediately available funds to a bank designated by Seller the sum of ONE MILLION ONE HUNDRED TWENTY FIVE THOUSAND DOLLARS (\$1,125,000.00), as adjusted to reflect any Adjustments made at the Closing pursuant to Section 3.

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

SECTION 3 ADJUSTMENTS

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

3.2. **Adjustment Items.** The following items (the "Adjustment Items") shall be prorated as of the Adjustment Time, assuming a 365-day year or a 30-day or 31-day month, as appropriate, or adjustment as measured on an actual basis, if possible, and monies shall be paid at Closing in accordance with Sections 3.3 and 3.4 herein below.

3.2.1. Rentals or other charges, payable or paid in respect of leasehold interests or tenancies, or leased transmitter sites, studios, offices or other Real Property or equipment under any lease or tenancy of Real Property, and any and all equipment leases described in Schedule 1.1.2.

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

3.2.3. Transferable license, permit, and registration fees, and like items.

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

3.2.5. License agreements with ASCAP, BMI and SESAC.

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

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

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

3.2.9. Buyer shall have no obligation to employ any employees of Seller, except those to whom Buyer offers employment following the Closing and who accept such offer. As of 11:59 p.m. the day prior to the Closing, Seller shall terminate all of the employees of the Station.

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

SECTION 4 APPLICATION TO AND CONSENT BY COMMISSION

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

4.2. Application For Commission Consent.

(a) Seller and Buyer agree to proceed expeditiously and with due diligence and to use their best efforts and to cooperate with each other in seeking the Commission's approval of the Commission Authorizations from Seller to Buyer. Within five (5) business days after the date of this Agreement, each party shall prepare and file with the Commission its portion of an application to assign the Commission Authorizations (the "Assignment Application") and all information, data, exhibits, resolutions, statements, and other materials necessary and proper in connection with such Assignment Application. Each party further agrees expeditiously to prepare amendments to the Assignment Application whenever such amendments are required by the Commission or its rules.

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

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

4.3. Notice of Application. Seller shall, at its expense, give due notice of the filing of the Assignment Application by broadcasting on the Station, or by such other means as may be required by the rules and regulations of the Commission.

4.4. Delay in Approval of Application. Either party at its option may terminate this Agreement by ten (10 days' prior written notice to the other party, and without liability to the other party, at any time after nine (9) months after the date the Assignment Application has been accepted for filing by the Commission (the "Upset Date") if the Commission has not granted the Assignment Application within that time, provided that if a Final Order is required pursuant to Section 9.1 of this Agreement, Buyer shall have the right to extend the Closing Date if the Commission has granted the Assignment Application within nine (9) months from the date the Assignment Application has been accepted for filing. In the event of such termination, each party shall bear its own expenses, and the Escrow Agent shall return to Buyer the Escrow Deposit (including all interest earned thereon) without foreclosing any other remedies the Buyer may choose to pursue. In the event Buyer is unable to procure Commission approval of the Assignment Application due to events arising out of Seller's ownership of the Assets, Seller agrees to undertake to satisfy any problems or issues with the Commission or alternatively, Buyer may elect to terminate this Agreement and shall receive a refund of the Escrow Deposit (including all interest earned thereon) without foreclosing any other remedies the Buyer may choose to pursue.

SECTION 5 LIABILITIES

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

5.2. **Buyer's Assumed Obligations.** Buyer covenants and agrees to assume at Closing and discharge following the Closing all of the unperformed duties of the Seller accruing under the leases and other documents listed in Schedule 1.1.3 and the Agreements listed in Schedule 1.1.4 and under all advertising contracts for the sale of time for cash on the Station which are cancelable on thirty (30) days prior written notice and such other advertising agreements which Buyer agrees to assume, but only to the extent that such duties accrue after the Closing Date based on the operation of the Station by Buyer following the Closing Date. Buyer shall not be obligated to assume and discharge following the Closing any advertising contracts or other agreements for the sale of time on Station WSRV(FM), Deltaville, Virginia. Except as provided in the preceding sentence, Buyer is not agreeing to, and shall not, assume any other liability, obligation, undertaking, expense or agreement of Seller of any kind, absolute or contingent, known or unknown, and the execution and performance of this Agreement shall not render Buyer liable for any such liability, obligation, undertaking, expense or agreement. All of such liabilities and obligations shall be referred to herein as the "Retained Liabilities."

5.3. **Seller's Liability.** Seller shall remain liable for, and covenants to pay, satisfy, or discharge, all liabilities, payments, obligations, and duties under the Agreements and any leases

or other instruments transferred or assigned to Buyer hereunder, accruing prior to or by reason of events occurring prior to the Closing Date. At the Closing, Buyer may request reasonable assurances that Seller will appropriately pay, discharge, and satisfy such liabilities and obligations from the proceeds of this transaction, or thereafter as and when they become due.

SECTION 6 REPRESENTATIONS AND WARRANTIES OF THE SELLER

Seller represents and warrants as follows:

6.1. Organization and Standing.

6.1.1. Seller is now and on the Closing Date will be a limited liability company duly organized, validly existing and in good standing under the laws of the Commonwealth of Virginia. Seller has the full power to own the Assets and to carry on the business of the Station as it now is being conducted.

6.1.2. Seller has the full power and authority to enter into this Agreement and all of Seller's Closing Documents that require Seller's signature. The execution, delivery and performance of this Agreement (as of the date of execution of this Agreement and on the Closing Date) and the Seller's Closing Documents (on the Closing Date) are or will be authorized by all necessary action of the Seller. Seller represents and warrants that it has cancelled any and all agreements with On Top Communications, LLC relative to the assets and operation of the Station.

6.2. **Binding Effect of Agreement.** This Agreement constitutes a valid and binding obligation of Seller enforceable against Seller in accordance with the terms of this Agreement. Upon execution, the Seller's Closing Documents will constitute valid and binding obligations of Seller enforceable against Seller in accordance with their terms. The execution, delivery, and

performance of this Agreement or any of the Closing Documents does not violate any provision of the Seller's organizational documents, or contract provision or other commitment to which Seller or the Station is a party or under which it or its property is bound, or any judgment or order, and will not result in the creation or imposition of any lien, charge, security interest, or encumbrance of any nature whatsoever upon any of the Assets.

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

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

6.4.1. **Real Property.** Schedule 1.1.2 attached hereto accurately lists and describes all of the Real Property leased or otherwise held or used by the Station in connection with their operation. The Real Property listed in Schedule 1.1.2 comprises all real property interests necessary to conduct the business or operations of the Station as now conducted and in conformance with Commission rules and regulations. The Real Property, as well as the present uses thereof, conforms in all respects with all material restrictive covenants and with all applicable zoning, environmental, and building codes, laws, rules and regulations. All improvements on the Real Property are structurally sound, in good condition and repair, and available for immediate use in the conduct of the business and operations of the Station. No condemnation of any of the Real Property has occurred; there is no existing notice covering future condemnation; and the Seller has no reason to believe that any of the Real Property will be condemned. All transmitting facilities of the Station, including towers, antennas, guy lines, anchors and all other related buildings, structures and appurtenances are located entirely within the confines of the Real Property. All utilities required for the operation of the Station on the

Real Property and improvements thereon either enter the Real Property through adjoining public streets, or if they pass through adjoining private land, they do so in accordance with valid easements. The use of improvements on the Real Property and the conduct therein have not violated any law, statute, ordinance, rule or regulation of any government, governmental body, agency or authority (federal, state or local) in any respect. In connection with such use and conduct, there are no problems with respect to adequate water supply, sewage and waste disposal facilities or air, water or land pollution, nor are there any pending or threatened eminent domain proceedings or special assessments with respect to the Real Property.

6.4.2. **Intangible Property.** The Intangible Property includes all call signs, slogans, and logos used to promote or identify the Station. Seller has no knowledge of any infringement or unlawful or unauthorized use of those promotional rights, including without limitation the use of any call sign, slogan or logo by any broadcast Station or cable system within a radius of thirty (30) miles of the Williamsburg, Virginia area which may be confusingly similar to the call signs, slogans, and logos currently used by the Station.

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

6.5. Agreements.

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

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

6.6. Authorizations.

6.6.1. Seller is the authorized legal holder of all licenses, permits, and authorizations necessary to operate the business of the Station lawfully and as it is now being conducted, including, without limitation, all Commission Authorizations listed in Schedule 1.1.1, none of which is subject to any restrictions or conditions which would limit in any respect the full operation of the Station as now operated. All such Commission Authorizations are validly existing authorizations for the operation of the facilities described therein under the Communications Act of 1934, as amended. Seller is operating the Station in all material respects in accordance with the Commission Authorizations, the underlying construction permits and all rules, regulations and policies of the Commission. There is no action pending nor to Seller's

knowledge, threatened, before the Commission or other body to revoke, refuse to renew, suspend or modify any of the Commission Authorizations, or any action which may result in the denial of any pending applications, the issuance of any cease and desist orders, or the imposition of any administrative sanctions whatsoever with respect to the Station or its operation, except as required to transfer same to Buyer. Seller has not received any complaints, citations, reports or other notice regarding any violations by the Station of limits on any RF emissions, electrical interference or any other rules, regulations, and policies of the Commission.

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

6.7. Litigation and Insurance.

6.7.1. **Litigation; Compliance With Law.** The Station is in compliance in all material respects with all applicable federal, state and local laws, ordinances and regulations, including compliance with the Communications Act and all rules and regulations issued thereunder. Other than proceedings affecting the broadcasting industry in general, there is no complaint, claim, litigation, investigation, or judicial, administrative, or other proceeding of any nature, including, without limitation, a grievance, arbitration, or insolvency or bankruptcy proceeding, pending, or to Seller's knowledge, threatened, against the Station, Seller, or any of the Assets being sold or transferred to Buyer, including, without limitation, any proceeding which may (a) adversely affect the Assets or the Commission Authorizations to be assigned

hereunder, or the operation of the Station, or the ability of Buyer to own and operate the Station, or the use, ownership, or operation of any of the Assets by Buyer, (b) restrain or enjoin the Closing or the consummation of the transactions contemplated hereby, or (c) result in the revocation, modification or suspension of the Commission Authorizations, or the issuance or imposition of any administrative sanction that might adversely affect the Assets or the Commission Authorizations, or the operation of the Station or the ability of Buyer to own and operate the Station or the use, ownership, or operation of any of the Assets by Buyer. In addition, to Seller's knowledge, no such litigation, investigation, or proceeding has been threatened. Seller will give Buyer prompt notice of its discovery of any such basis or the institution or the threat of any such litigation, investigation, or proceeding. Seller is not in default in respect to any judgment, order, writ, injunction, decree, rule, or regulation of any applicable court or governmental body, which default could have a materially adverse effect on the Assets or the Station.

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

6.8. **Employees and Labor Relations.**

6.8.1. Seller: (a) is not a party to any collective bargaining agreement covering or relating to any of Station's employees and has not recognized, and to Seller's knowledge, is not required to recognize, and has received no demand for recognition by any contract with any

of the employees of the Station or to any other employment contract, labor agreement, or union agreement, written or oral; (b) other than as disclosed in the Schedules, has not promulgated any policy or entered into any agreement relating to the payment of pensions, profit sharing, or bonuses to any of its employees whose employment, if terminated or suspended, for which Buyer will be liable; and (c) to Seller's knowledge, has not committed any unfair labor practices.

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

6.9. Taxes and Other Matters.

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

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

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

6.9.4. **Environmental Matters.**

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

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

6.9.5. No Untrue Statements or Omission. No representation or warranty made by Seller in this Agreement or any Schedule, exhibit, statement, certificate, or other document heretofore or hereafter furnished by Seller, or on its behalf, to Buyer and pursuant to this Agreement or in connection with the transactions contemplated hereby contains or will contain any knowingly untrue statement or knowingly omits to state a material fact necessary to make the statements contained therein not misleading. All representations and warranties of Seller set forth in this Agreement shall be true, complete and accurate in all material respects as of the Closing Date as if made on that date.

SECTION 7
WARRANTIES, REPRESENTATIONS AND
COVENANTS OF BUYER

Buyer covenants, represents, and warrants as follows:

7.1. **Organization and Standing.** Buyer is a limited liability company duly organized validly existing and in good standing under the laws of the State of Delaware, and as of the closing date, will be duly qualified to do business and be in good standing in the Commonwealth of Virginia.

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

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

7.4. **Litigation.** Except for administrative rule making or other proceedings of general applicability to the broadcast industry, there is no litigation, proceeding, judgment, claim, action, investigation or complaint, before the Commission, other governmental body, or court, of any

nature pending or, to the best of Buyer's knowledge, threatened against or affecting Buyer which would adversely affect Buyer's authority or ability to carry out this agreement.

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

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

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

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

SECTION 8

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

8.1. **Affirmative Covenants of Seller.** From the date of this Agreement until the Closing Date, Seller shall have complete control and supervision of and sole responsibility for the Station and its operation, and during such period, Seller shall:

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

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

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

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

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

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

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

8.2.2. By any act or omission surrender, modify adversely, forfeit, or fail to renew under regular terms the Commission Authorizations or give the Commission grounds to institute any proceeding for the revocation, suspension or modification of any such Commission

Authorization, or fail to prosecute with due diligence any pending applications with respect to such Commission Authorizations.

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

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

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

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

8.4. **Ground Lease.** Within forty five (45) days of this Agreement, Seller shall be responsible for assuring that Colonial Broadcasting, LLC enters into an assignable agreement with the Davis Family Trust with respect to the ground lease for the Tower that extends the existing term for a period of at least twenty (20) years and specifies terms that are acceptable to

Buyer. In the event that the length of the extension is less than twenty (20) years or the other terms of the agreement are unacceptable to Buyer, Buyer shall have the right, in its sole discretion, to terminate their Agreement by giving notice to Seller and shall be entitled to the Escrow Deposit including all interest earned thereon. Seller represents and warrants that there is common voting control of Seller and Colonial Broadcasters, LLC.

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

8.6. **Buyer's Covenants.** From the date of this Agreement until the Closing Date, Buyer covenants that it will take no action, or fail to take any action, that would disqualify it from becoming the licensee of the Station or delay the grant of the Assignment Application by the Commission. Furthermore, Buyer shall give prompt notice to Seller of any occurrence that comes to Buyer's attention that may constitute a misrepresentation, breach of warranty or nonfulfillment of any covenant or condition on the part of Buyer or Seller contained in this Agreement.

SECTION 9 CONDITIONS FOR CLOSING

9.1. **Closing.** The closing of the transactions contemplated by this Agreement (the “Closing”) shall take place at a location and on a date set by the parties, provided that unless the

parties agree to an earlier date, such date shall be within ten (10) days after the grant by the Commission or its staff of the Assignment Application becomes a Final Order (the "Closing Date"). For purposes of this Agreement, a "Final Order" means an action by the Commission as to which (a) no request for stay by the Commission is pending, no such stay is in effect, and the deadline for filing a request for any such stay has passed; (b) no appeal, petition for rehearing or reconsideration, or application for review is pending before the Commission and the deadline for filing any such appeal, petition or application has passed; (c) the Commission has not initiated reconsideration or review on its own motion and the time in which such reconsideration or review is permitted has passed; and (d) no appeal to a court, or request for stay by a court, of the Commission's action is pending or in effect, and the deadline for filing any such appeal or request has passed.

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

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

9.2.2. Each of the Seller's representations and warranties contained in this Agreement or in any schedule, certificate, or document delivered pursuant to the provisions hereof, or in connection with the transactions contemplated hereby, shall be true and correct in

all material respects at and as of the Closing Date with the same force and effect as if each such representation or warranty was made at and as of such time.

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

9.2.4. Seller shall be the holder of the Commission Authorizations listed in Schedule 1.11.

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

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

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

9.3.2. Each of Buyer's representations and warranties contained in this Agreement or in any certificate or document delivered pursuant to the provisions hereof, or in

connection with the transactions contemplated hereby, shall be true in all material respects at and as of Closing Date, as though each such representation or warranty was made at and as of such time, except in respect of such changes as are contemplated or permitted by this Agreement.

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

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

9.4. **Failure of Conditions Precedent to Obligations of Buyer.** In case of the failure of any of the conditions precedent described in Section 9.2 hereof, and if Seller has failed to cure same by the earlier of thirty (30) days after notice from Buyer or the Upset Date, Buyer shall have the right to terminate this Agreement without liability. In addition, if the failure of such condition precedent constitutes a material default by Seller, Buyer shall have the right, at its option, to exercise any or all of its rights or remedies for default provided in Section 17 hereof. Buyer shall not be deemed to have waived any failure by Seller to fulfill any of the conditions precedent described in Section 9.1 if Buyer does not have actual knowledge of such failure at the time of Closing. Buyer's waiver of any of the conditions precedent described in Section 9.2 hereof shall not preclude Buyer from seeking redress from Seller for Seller's failure to have complied with such conditions precedent.

9.5. **Failure of Conditions Precedent to Obligations of Seller.** In case of the failure of any of the conditions precedent described in Section 9.3 hereof, and if Buyer, has failed to cure the same, by the earlier of thirty (30) days after notice from Seller or the Upset Date, Seller

shall have the right to terminate this Agreement without liability. In addition, if the failure of such condition precedent results from a material default by Buyer, Seller shall have the right, at its option, to exercise any or all of its rights or remedies for default provided in Section 17 hereof. Seller shall not be deemed to have waived any failure by Buyer to fulfill any of the conditions precedent described in Section 9.3 if Seller does not have actual knowledge of such failure at the time of Closing. Seller's waiver of any of the conditions described in Section 9.3 hereof shall not preclude Seller from seeking redress from Buyer for Buyer's failure to have complied with such conditions precedent.

SECTION 10 OBLIGATIONS AT CLOSING

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

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

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

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

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

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

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

10.1.7. Possession and/or ownership of and all right, title and/or interest in and to the Assets duly delivered to the offices of Buyer if not located at such address prior to the Closing Date.

10.1.8. Instructions executed on behalf of Seller directing the co-Escrow Agents to apply the Escrow Deposit (and all interest earned thereon) toward payment of the Purchase Price).

10.1.9. As assignment to Buyer of the ground lease between Colonial Broadcasting, LLC and the Davis Family Trust, as amended in accordance with paragraph 8.4 of this Agreement.

10.1.10. An extension of the Ground Lease for an additional term of at least twenty (20) years.

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

10.2.1. The Purchase Price as provided in Section 2.2.

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

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

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

10.2.5. Instructions executed on behalf of Buyer directing the co-Escrow Agents to apply the Escrow Deposit (and all interest earned thereon) toward payment of the Purchase Price.

SECTION 11 BROKERAGE

Seller and Buyer each represent and warrant to the other that it knows of no broker, finder, or intermediary who has been involved in the transactions provided for in this Agreement

or who might be entitled to a fee or commission upon the consummation of such transactions, other than Envest Media LLC, whose fees shall be paid by Seller. Buyer and Seller hereby agree to indemnify each other from and against any claim of any such obligation or liability by any person, and any expense incurred in defending against any such claim, including reasonable attorneys' fees, that shall have resulted from any conduct, activity, or action taken, or allegedly taken, by the indemnifying party.

SECTION 12 INDEMNIFICATION

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

- (a) any breach of any warranty, representation, or agreement of Seller contained under this Agreement or in any certificate or other instrument furnished to Buyer pursuant to this Agreement or in connection with any of the transactions contemplated hereby; or
- (b) the operation of the Station or the ownership of the Assets prior to Closing (including, but not limited to, any and all claims, liabilities, and obligations arising or required to be performed prior to the Closing Date under the Agreements, or any other lease, contract, or agreement); or

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

(d) any Retained Liabilities of Seller; or

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

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

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

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

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

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

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

12.3 Notice of Claim. Buyer and Seller agree to give prompt written notice to each other of any claim for indemnification under Sections 12.1 or 12.2 hereof ("Notice of Claim"), which amount is believed to be required to discharge the obligations of the indemnifying party resulting therefrom. Within ten (10) days after having been given the Notice of Claim, the indemnifying party may deliver to the other party (i) a written notice of objection to the payment of such claim ("Notice of Objection"), which Notice of Objection shall set forth the basis for such objection; or (ii) a written notice that the indemnifying party intends to defend against such claim in good faith ("Notice of Intention to Defend"). If such a Notice of Intention to Defend is delivered, the indemnifying party shall have the right to hold in abeyance its claim for indemnification if and so long as such defense is conducted by the indemnifying party at the latter's expense in a manner effective to protect the indemnified party against such claim. If no Notice of Objection or Notice of Intention to Defend is given within the prescribed ten (10) day period, the indemnifying party shall promptly pay to the indemnified party the amount set forth in the Notice of Claim. If the parties are unable to resolve any Notice of Claim and corresponding Notice of Objection, either party may take whatever action it deems reasonable, including without limitation, the filing of a claim, petition, or other pleading in a court of competent jurisdiction.

12.4 Sole Remedy. Except as provided to the contrary in this Agreement, the right to indemnification pursuant to Section 12 shall be the sole and exclusive remedy of each party in connection with any breach or other violation by the other party of its representations, warranties, or covenants contained in this Agreement.

SECTION 13 RISK OF LOSS

The risk of any loss or damage to the Assets by fire, theft, breakage, explosion, earthquake, accident, flood, rain, storm, riot, act-of-God, or public enemy, or any other casualty or cause, reasonable wear and tear excepted, prior to the Closing Date, is assumed and shall be borne by the Seller. If any such loss or damage occurs, Seller shall give prompt written notice of the loss or damage to Buyer and shall promptly take all steps to rebuild, replace, restore or repair any such damaged property at its own cost and expense. In the event that Seller does not fully replace or restore any such lost or damaged Asset or Assets by the time the Closing otherwise would be held, Buyer may, at its option, upon written notice to Seller, either (i) terminate this Agreement, or (ii) elect to close without restoration, in which event Seller will deliver all insurance proceeds paid or payable by reason of the loss or damage to Buyer. If Buyer terminates this Agreement under this Section, each party shall bear its own expenses, and the Escrow Agent shall deliver to Buyer the Escrow Deposit and all interest earned thereon. Buyer's option to terminate this Agreement under this Section 13 shall arise only if such damage to the Station is so substantial that it prevents the Station from operating in its normal and customary manner for a period of fifteen (15) consecutive days.

SECTION 14 FEES AND EXPENSES

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

SECTION 15 BULK SALES LAW

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

SECTION 16 DEFAULT AND TERMINATION

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

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

Notwithstanding the foregoing, neither party shall have any right to cure such party's wrongful failure to consummate this transaction, as provided herein, on the Closing Date.

16.3 Buyer recognizes that if the transaction contemplated by this Agreement is not consummated as a result of Buyer's default, Seller would be entitled to compensation, the extent of which is extremely difficult and impractical to ascertain. To avoid this problem, the parties agree that if this Agreement is not consummated due to the default of Buyer, Seller shall be entitled to receive as liquidated damages the Escrow Deposit and all interest earned thereon. Such liquidated damages shall be in lieu of any other remedies at law or in equity to which Seller might otherwise be entitled due to Buyer's wrongful failure to consummate the transaction contemplated by this Agreement. Buyer and Seller each acknowledge and agree that the liquidated damage amount is reasonable in light of the anticipated harm which would be caused by Buyer's breach of this Agreement, the difficulty of proof of loss, the inconvenience and non-feasibility of otherwise obtaining an adequate remedy, and the value of the transaction to be consummated hereunder.

16.4 Seller agrees that the Assets include unique property that cannot be readily obtained on the open market and that Buyer will be irreparably injured if this Agreement is not specifically enforced. Therefore, Buyer shall have the right specifically to enforce Seller's performance under this Agreement, and Seller agrees to waive the defense in any such suit that Buyer has an adequate remedy at law and to interpose no opposition, legal or otherwise, as to the propriety of specific performance as a remedy. In the event Buyer elects to terminate this Agreement as a result of Seller's default instead of seeking specific performance, Buyer shall be entitled to the return of the Escrow Deposit and to recover from Seller Buyer's actual damages

occasioned by Seller's default, including without limitation, attorneys fees and costs, bank commitment fees, due diligence costs and other expenses reasonably incurred by Buyer in attempting to consummate the transaction contemplated by this Agreement.

16.5 Notwithstanding any other provision of this Agreement, if, prior to Closing, any event occurs which prevents broadcast transmission by the Station with substantially full licensed power and antenna height (as described in the Commission Authorizations) and in the manner it has heretofore been operating for periods of time in excess of fifteen (15) hours, Seller shall give prompt written notice thereof to Buyer. If the Station's facilities are not restored so that operation is resumed with substantially full licensed power within fifteen (15) days of such event, or, in the case of more than one event in the aggregate number of hours preceding such restoration from all such events is more than fifteen (15) days, Buyer shall have the right, in its sole discretion, to terminate this Agreement by giving notice to the Seller.

SECTION 17 SURVIVAL OF WARRANTIES

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

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

SECTION 18 NOTICES

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

If to Seller:

Sherry L. Campana
Executrix for the Estate of James E. Campana
Winner Broadcasting, LLC
P. O. Box 9458
Richmond, Virginia 23229
Fax: (804) 672-9119

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

Joseph E. Dunne, III, Esquire
Law Offices of Joseph E. Dunne, III
P. O. Box 9203

Durango, CO 81303
Fax: (970) 385-7343

If to Buyer:

Thomas G. Davis
President
Davis Media, LLC
39 Tanglewood Road
Amherst, MA 01002
Fax: (413) 253-2357

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

Erwin G. Krasnow, Esq.
Garvey Schubert Barer
1000 Potomac Street, N.W., Fifth Floor
Washington, DC 20007
Fax: (202) 965-1729

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

SECTION 19 MISCELLANEOUS

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

19.2 **Entire Agreement.** This Agreement and any other agreements entered into pursuant to this Agreement set forth the entire agreement of the parties and are intended to

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

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

19.4 Additional Documents. The parties hereto agree to execute, acknowledge and deliver, at or after the Closing Date, such other and further instruments and documents as may be reasonably necessary to implement, consummate and effectuate the terms of this Agreement, the

effective vesting in Buyer of title to the Assets, and/or the successful processing by the Commission of the Assignment Application to be filed with it, as provided in Section 4 hereof.

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

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

19.7 **Governing Law.** The parties agree that this Agreement and the transaction herein contemplated shall be interpreted, construed, and enforced under and according to the laws of the Commonwealth of Virginia.

19.8 **Non Competition and Non-solicitation Covenant.** During the three (3) year period following the Closing Date, Seller and its principals agree not to: (a) induce or attempt to induce any person, business or entity that is an advertiser with or supplier of the Station or that otherwise is a contract party with Buyer to terminate any written or oral agreement or understanding with the Station or Buyer; (b) employ, elicit for employment, or attempt to entice away from Buyer's employ any of Buyer's employees or any individual who was an employee of

Buyer within six (6) months prior to such employment, solicitation or enticement; or (c) use or cause to be used on any radio stations located in the Williamsburg, Virginia market any of the intellectual property, programming and promotional rights conveyed to Buyer pursuant to this Agreement.

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

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

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

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

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

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

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


SELLER:

WINNER BROADCASTING, LLC

By: Sherry L. Campana
Sherry L. Campana
President and Executrix of the Estate of James E.
Campana

BUYER:

DAVIS MEDIA, LLC

By: 
Thomas G. Davis
President

Escrow Agreement

AGREEMENT, effective as of the 22nd day of February, 2005, by and among:

BUYER: Davis Media, LLC
Address 39 Tanglewood Road
Amherst, MA 01002

SELLER: Winner Broadcasting, LLC
Address P.O. Box 9458
Richmond, VA 23229

Co-Escrow Agents: EnVest Media, LLC
6802 Patterson Avenue, Richmond, Virginia 23226

Garvey Schubert Barer
1000 Potomac Street, NW, Fifth Floor, Washington, DC 20007

WHEREAS, Buyer and Seller have entered into an Agreement of Purchase and Sale with respect to Station WWBR-FM, West Point, Virginia, from Seller to Buyer, said Agreement dated the ____ day of February, 2005, being by reference incorporated herein and made a part of hereof (hereinafter the "Purchase Agreement") , and

WHEREAS, the parties wish to provide for an orderly disposition of the funds deposited into Escrow pursuant to said Purchase Agreement;

NOW, THEREFORE, in consideration of these premises, promises and mutual covenants contained herein, the parties do hereby agree as follows:

1. **DEPOSIT OF ESCROW FUNDS.** Upon the execution of this Escrow Agreement, Buyer is delivering or causing to be delivered to the Co-Escrow Agents, the sum of Fifty-five Thousand Dollars.

2. INVESTMENT OF ESCROW FUND. The Co-Escrow Agents shall, upon request of the Buyer, invest and reinvest the Escrow Funds in direct obligations of the United States Government, in federally insured savings accounts or in bank certificates of deposit, or otherwise as Buyer shall instruct; provided, however that the Co-Escrow Agents shall not be required to invest in or hold any instrument in bearer form. Neither of the Co-Escrow Agents shall be held responsible for the failure of any financial institution or entity into which the Escrow Funds are deposited or for the loss of all or any part of the Escrow Funds, after they have been deposited with such financial institution or entity or as otherwise deposited or invested in accordance with Buyer's instructions. The Co-Escrow Agents shall hold said Escrow Funds together with all interest accumulated thereon and proceeds therefrom and dispose of the same as hereinafter provided.

3. DISPOSITION OF ESCROW FUND. The Co-Escrow Agents shall distribute and dispose of the Escrow Funds as follows:

(a) In the event the purchase and sale closes in the manner contemplated in the Purchase Agreement, the Escrow Funds shall be paid over at closing in accord with said Purchase Agreement. In such event, the Escrow Funds together with all interest earned and accumulated thereon and proceeds therefrom shall be paid over to Buyer at closing.

(b) In the event the purchase and sale does not close as contemplated in the Purchase Agreement due to the material breach by or default of the Buyer under the terms of the Purchase Agreement, then the Escrow Funds shall be paid over to Seller together with all interest earned and accumulated thereon and the proceeds therefrom.

(c) In the event the purchase and sale does not close as contemplated in the Purchase Agreement due to the material breach by or default of the Seller under the terms of the Purchase Agreement, then the Escrow Funds shall be paid over to Buyer together with all interest earned and accumulated thereon and the proceeds there from.

(d) In all other events, if the Purchase Agreement is terminated or if the transactions or closing contemplated thereby are not consummated, the Escrow Funds shall be returned to the Buyer together with all interest earned and accumulated thereon and the proceeds there from.

(e) If any provision of this paragraph with respect to the disposition of the escrow fund is in conflict with any provision of the Purchase Agreement with respect to such disposition, then such provision in the Purchase Agreement shall control.

4. CONTROVERSIES WITH RESPECT TO ESCROW FUND. The Co-Escrow Agents shall discharge their duties to dispose of the Escrow Funds in accordance with the provisions of paragraph 3 above upon the joint written instructions of the Seller and Buyer or their duly designated representatives. If the Co-Escrow Agents shall not have received such joint written instructions or a controversy shall exist between Buyer and Seller as to the correct disposition of the Escrow Funds, the Co-Escrow Agents shall continue to hold the Escrow Funds and the income earned or accrued thereon until:

(a) The receipt by the Co-Escrow Agents of the joint written instructions of the Seller and

Buyer as to the disposition of the Escrow Funds; or

(b) The receipt by the Co-Escrow Agents of a final order entered by a court of competent jurisdiction determining the disposition of the Escrow Funds and the income earned or accrued thereon; or

(c) The Co-Escrow Agents shall have, at their option, filed an action or bill in interpleader, or similar action for such purpose, in a court of competent jurisdiction and paid the Escrow Funds and all income earned or accrued thereon into said court, in which event, the duties, responsibilities and liabilities of the Co-Escrow Agents with respect to the escrow fund, proceeds there from and this Agreement shall terminate.

5. CONCERNING THE CO-ESCROW AGENTS. The following shall control the fees, resignation, discharge, liabilities and indemnification of the Co-Escrow Agents:

(a) The Co-Escrow Agents shall charge no fees for its services hereunder, but shall be reimbursed for all reasonable expenses, disbursements and advancements incurred or made by the Co-Escrow Agents in performance of their duties hereunder; one-half (1/2) of any such expenses, disbursements and advances to be paid by Buyer and one-half (1/2) by the Seller, other than for expenses for investments authorized hereunder which shall be borne by Buyer.

(b) Either of the Co-Escrow Agents may resign and be discharged from its duties hereunder at any time by giving written notice of such resignation to the parties hereto, specifying the date when such resignation shall take effect. Upon such notice, a successor escrow agent or agents shall be appointed with the unanimous consent of the parties hereto, and the service of such successor escrow agent or agents shall be effective as of the date of resignation specified in such notice, which date shall not be less than thirty (30) days after giving such notice. If the parties hereto are unable to agree upon a successor agent within thirty (30) days after such notice, the Co-Escrow Agents shall be authorized to appoint their successor. The Co-Escrow Agents shall continue to serve until their successor accepts the escrow by written notice to the parties hereto and the Co-Escrow Agents deposit the escrow fund with such successor escrow agent.

(c) The Co-Escrow Agents undertake to perform such duties as are specifically set forth herein and may conclusively rely, and shall be protected in acting or refraining from acting, on any written notice, instrument or signature believed by it to be genuine and to have been signed or presented by the proper party or parties duly authorized to do so. The Co-Escrow Agents shall have no responsibility for the contents of any writing contemplated herein and may rely without any liability upon the contents thereof.

(d) The Co-Escrow Agents shall not be liable for any action taken or omitted by them in good faith and believed by them to be authorized hereby or within the rights and powers conferred upon them hereunder, nor for action taken or omitted by them in good faith or in accordance with advice of counsel (which counsel may be of each Escrow Agent's own choosing) and they shall not be liable for any mistake of fact or error of judgment or for any acts or omissions of any kind unless caused by their own misconduct or gross negligence.

(e) Each of the Buyer and Seller agrees to indemnify the Co-Escrow Agents and hold them harmless against any and all liabilities incurred by it hereunder. Buyer and Seller agree jointly to indemnify the Co-Escrow Agents and hold them harmless against any and all liabilities incurred by them hereunder, except in the case of liabilities incurred by the Co-Escrow Agents resulting from their own misconduct or gross negligence.

(f) The Co-Escrow Agents act hereunder as a depository only, and are not responsible or liable in any manner for the sufficiency, correctness, genuineness or validity of any cash or security deposited with it.

(g) Seller hereby acknowledges that Garvey Schubert Barer has served a legal counsel to Buyer and will continue to so serve at the pleasure of Buyer during the course of its duties as Co-Escrow Agent hereunder. Seller hereby agrees to waive any potential conflict between Garvey Schubert Barer's role as such legal counsel to Buyer and its duties as Co-Escrow Agent.

6. MISCELLANEOUS.

(a) This Escrow Agreement shall be construed by and governed in accordance with the laws of the Commonwealth of Virginia, applicable to agreements executed and wholly to be performed therein.

(b) This Escrow Agreement shall be binding upon and shall inure to the benefit of the parties, their successors and assigns.

(c) This Escrow Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original, but all of which together shall constitute but one and the same instrument.

(d) Paragraph headings contained in this Escrow Agreement have been inserted for reference purposes only, and shall not be construed as part of this Escrow Agreement.

(e) All notices, requests, demands and other communications hereunder shall be in writing, shall be given simultaneously to all parties hereunder and shall be deemed to have been duly given if delivered or mailed (certified mail, postage pre-paid, return receipt requested) as follows:

If to Seller: Winner Broadcasting, LLC
P.O. Box 9458
Richmond, Virginia 23229

If to Buyer: Davis Media, LLC
39 Tanglewood Road
Amherst, MA 01002

If to Co-Escrow Agents: EnVest Media, LLC
6802 Patterson Avenue
Richmond, Virginia 23226
Attention: Millard Younts

Garvey Schubert Barer
1000 Potomac Street, NW, Fifth Floor
Washington, DC 20007
Attention: Erwin G. Krasnow

or such other addresses as any party may have furnished to the other in writing.

7. TERMINATION. This Escrow Agreement shall automatically terminate upon the distribution of the escrow fund in accord with the terms hereof.

IN WITNESS WHEREOF, the parties have caused their hands, or those of their duly authorized officers, and seals to be affixed as of the date first above written.

SELLER:

WINNER BROADCASTING, LLC

Sherry L. Campara

By: President / Executive of the
Estate of James E. Campara

ATTEST:

[Signature]

BUYER:

DAVIS MEDIA, LLC

By: _____

ATTEST:

CO-ESCROW AGENT:
ENVEST MEDIA, LLC

By: [Signature]

Millard S. Younts
Managing-Member

ATTEST:

CO-ESCROW AGENT:
GARVEY SCHUBERT BARER

By: _____

Erwin G. Krasnow
Partner

ATTEST:

IN WITNESS WHEREOF, the parties have caused their hands, or those of their duly authorized officers, and seals to be affixed as of the date first above written.

SELLER:

WINNER BROADCASTING, LLC

By: _____

ATTEST:

BUYER:

DAVIS MEDIA, LLC

By:  _____
President

ATTEST:

**CO-ESCROW AGENT:
ENVEST MEDIA, LLC**

By: _____

ATTEST:

Millard S. Younts
Managing-Member

**CO-ESCROW AGENT:
GARVEY SCHUBERT BARER**

By:  _____

ATTEST:

Erwin G. Krasnow
Partner

Schedule 1.1.1

Commission Authorizations

Station License

<u>CLASS</u>	<u>CALL SIGN</u>	<u>FACILITY ID</u>	<u>STATION LOCATION</u>
FM	WWBR	73906	West Point, VA

Auxiliary Licenses

None