

## **ASSET PURCHASE AGREEMENT**

**THIS ASSET PURCHASE AGREEMENT** (this "Agreement") is made and entered into as of May 19, 2020, by and between **MAGNUM BROADCASTING, INC.**, a Pennsylvania corporation ("Seller") and **SCHLESINGER COMMUNICATIONS, INC.**, a Pennsylvania corporation ("Buyer").

### **Recitals**

**A.** Seller owns and operates the following radio stations: WBLF, Bellefonte, PA (Facility ID 17317); W292EZ, Altoona, PA (Facility ID 139745); WQKK, Renovo, PA (Facility ID 49266); and, WQKK-FM1, Renovo, PA (Facility ID 164675) (collectively, the "Stations") pursuant to authorizations issued by the Federal Communications Commission ("FCC"); and

**B.** Pursuant to the terms and conditions set forth in this Agreement, Seller desires to sell and Buyer desires to purchase from Seller certain of the assets used or held for use in the operation of the Stations.

### **Agreement**

**NOW, THEREFORE**, taking the foregoing into account, and in consideration of the mutual covenants and agreements set forth herein, the parties, intending to be legally bound, hereby agree as follows:

#### **ARTICLE 1: PURCHASE OF ASSETS**

1.1 Station Assets. On the terms and subject to the conditions hereof, at Closing (defined below), Seller shall sell, assign, transfer, convey, and deliver to Buyer, and Buyer shall purchase and acquire from Seller, all right, title, and interest of Seller in and to the following assets and properties of Seller that are used or held for use in the operation of the Stations (the "Station Assets"):

(a) all licenses, permits and other authorizations issued to Seller by the FCC with respect to the Stations (the "FCC Licenses"), including those described on Schedule 1.1(a), including any renewals or modifications thereof between the date hereof and Closing;

(b) all of Seller's equipment, transmitters, antennas, cables, fixtures, spare parts, and other tangible personal property located at the Stations' transmitter sites and listed on Schedule 1.1(b) (the "Tangible Personal Property");

(c) all of Seller's rights under the leases for the Stations' transmitter sites, copies of which are included in Schedule 1.1(c) (collectively, the "Transmitter Site Leases");

(d) Seller's rights in and to all the files, documents, records, and books of account (or copies thereof) relating to the operation of the Stations, including the Stations' online public inspection files, engineering data, and logs, but excluding records relating to Excluded Assets (defined below).

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(e) Seller's accounts receivable for advertising sold for broadcast on the Stations as of the Effective Time (defined in Section 1.5 below) (the "Accounts Receivable").

(f) Seller's licenses or grants of rights to use current trademarks, jingles, slogans, and other Stations' imagery, and all rights in and to the Stations' call letters and all other rights in and to the trademarks, trade names, service marks, copyrights, domain names, websites, web content, computer software, programs, and programming material, jingles, slogans, logos, and other intangible intellectual property identified in Schedule 1.1(f) (the "Intellectual Property")

(g) all agreements entered into in the ordinary course of business for the sale of advertising time on the Stations for cash that exist as of the date of this Agreement and remain in effect as of the Closing Date (the "Advertising Contracts").

The Station Assets shall be transferred to Buyer free and clear of liens, claims, and encumbrances ("Liens") except for Assumed Obligations (defined in Section 1.3), liens for taxes not yet due and payable and liens that will be released at or prior to Closing (collectively, "Permitted Liens").

1.2 Excluded Assets. Notwithstanding anything to the contrary contained herein, the Station Assets shall not include the following assets or any rights, title, and interest therein (the "Excluded Assets"):

(a) all cash and cash equivalents of Seller including, without limitation, certificates of deposit, commercial paper, treasury bills, marketable securities, money market accounts, and all such similar accounts or investments;

(b) all tangible personal property of Seller retired or disposed of between the date of this Agreement and Closing in accordance with Article 4;

(c) Seller's corporate and trade names, charter documents, and books and records relating to the organization, existence or ownership of Seller;

(d) all contracts for insurance;

(e) Seller's programming contracts and other agreements, contracts, or leases relating to the operation of the Stations that are not referenced in Section 1.1(c) and (g) above;

(f) all pension, profit-sharing plans and trusts and any other employee benefit plan or arrangement, if any, maintained by Seller;

(g) any non-transferable computer software and any other non-transferable computer licenses that are not material to the operation of the Stations;

(h) all deposits and prepaid expenses, except to the extent Seller receives a credit therefor under Section 1.6;

(i) all licenses, tangible personal property, trademarks, files, and contracts not included in Section 1.1; and

(j) all assets used or held for use in the operation of any other radio station owned or operated by Seller, except for any such items that are specifically set forth as included in the Station Assets on Schedule 1.1(b) hereto.

1.3 Assumption of Obligations. On the Closing Date (defined below), Buyer shall assume the obligations of Seller arising during, or attributable to, any period of time on or after the Closing Date under the FCC Licenses and the Transmitter Site Leases (the "Assumed Obligations"). Except for the Assumed Obligations, Buyer does not assume, and will not be deemed by the execution and delivery of this Agreement or the consummation of the transactions contemplated hereby to have assumed, any other liabilities or obligations of Seller (the "Retained Obligations").

1.4 Purchase Price. The purchase price for the Stations will be \$350,000.00 subject to adjustments referenced in Section 1.5 (the "Purchase Price"). The Purchase Price shall be paid as follows:

(a) Seller acknowledges that Buyer, on March 16, 2020, delivered a good faith deposit in the amount of Fifteen Thousand Dollars (\$15,000.00) (the "Deposit") to be credited toward the Purchase Price. If this Agreement is terminated by Seller pursuant to Section 10.1(c), then Seller shall be entitled to retain the Deposit as liquidated damages and the sole and exclusive remedy of Seller. Seller hereby waives all other legal and equitable remedies it may otherwise have as a result of any breach or default by Buyer under this Agreement. If this Agreement is terminated for any other reason, the Deposit shall be returned to Buyer within ten (10) business days of termination.

(b) At Closing, Buyer shall pay Seller the sum of Three Hundred Thirty-Five Thousand Dollars (\$335,000.00) by wire transfer of funds pursuant to written instructions of Seller to be delivered to Buyer at least three (3) business days prior to Closing.

1.5 Prorations and Adjustments. All prepaid and deferred income and expenses relating to the Station Assets and arising from the operation of the Stations shall be prorated between Buyer and Seller in accordance with generally accepted accounting principles ("GAAP") as of 11:59 p.m. on the day immediately preceding the Closing Date (the "Effective Time"). Such prorations shall include, without limitation, all property taxes (except transfer taxes as provided by Section 11.1), FCC regulatory fees, utility expenses, rent, and other amounts under the Transmitter Site Leases and similar prepaid and deferred items. Sales commissions related to the sale of advertisements broadcast on the Station prior to Closing shall be the responsibility of Seller, and sales commissions related to the sale of advertisements broadcast on the Station after Closing shall be the responsibility of Buyer, *provided, however*, that Buyer will pay any unpaid sales commissions on Accounts Receivable, if and when Accounts Receivable are collected. Prorations and adjustments shall be made at Closing to the extent practicable. As to those prorations and adjustments not capable of being ascertained at Closing, a final adjustment and proration shall be made by the parties in good faith within ninety

(90) calendar days after Closing and any payment due as a result thereof shall be paid to the entitled party within five (5) business days thereof.

Notwithstanding the foregoing, with respect to trade, barter, or similar agreements for the sale of time for goods or services, if at Closing (i) the Stations have a negative barter balance (*i.e.*, the amount by which the value of air time to be provided by the Station after such date exceeds the fair market value of corresponding goods and services to be received by the Station), then such balance shall be treated as prepaid time sales and adjusted for as a proration in Buyer's favor, or (ii) the Stations have a positive barter balance, then there shall be no proration or adjustment for such balance.

1.6 Allocation. Each of Buyer and Seller shall allocate the Purchase Price for tax purposes in accordance with the respective fair market values of the Station Assets being purchased and sold in accordance with the requirements of Section 1060 of the Internal Revenue Code of 1986, as amended (the "Code"). Each of Buyer and Seller shall file a tax return reflecting its allocation as and when required under the Code.

1.7 Closing. The Closing shall occur no later than ten (10) calendar days after the FCC has issued public notice of the action of the Audio Division, Media Bureau, granting the Assignment Application, *provided, however*, if a protest is filed against the Assignment Application, which is dismissed or denied by the FCC, Buyer shall have the right, at its option, to delay the Closing until the FCC action granting the Assignment Application has become a "Final Order" (meaning that date on which the FCC action will no longer be subject to reconsideration or review by the FCC or a court of competent jurisdiction). The date on which the Closing is to occur is referred to herein as the "Closing Date." For purposes of this Agreement, the term "Final" shall mean that action shall have been taken by the FCC or its staff, pursuant to delegated authority, which shall not have been reversed, stayed, enjoined, set aside, annulled or suspended; with respect to which no timely request for stay, petition for rehearing, appeal or certiorari or *sua sponte* action of the FCC with comparable effect shall be pending; and as to which the time for filing such request, petition, appeal, certiorari or for the FCC to set aside the action on its own motion (whether upon reconsideration or otherwise) has expired or otherwise terminated, or (ii) in the event of review, reconsideration or appeal, the time for further review, reconsideration, or appeal has expired or otherwise terminated.

1.8 FCC Consent. Within five (5) calendar days from the date of this Agreement, Buyer and Seller shall file an application with the FCC (the "FCC Application") requesting FCC consent to the assignment of the FCC Licenses to Buyer. FCC consent to the FCC Application without any material adverse conditions other than those of general applicability is referred to herein as the "FCC Consent". Buyer and Seller shall diligently prosecute the FCC Application and otherwise use their commercially reasonable efforts to obtain the FCC Consent as soon as possible. Buyer and Seller shall notify each other of all documents filed with or received from any governmental agency with respect to this Agreement or the transactions contemplated hereby. Buyer and Seller shall furnish each other with such information and assistance as the other may reasonably request in connection with their preparation and prosecution of any governmental filing hereunder.

## ARTICLE 2: SELLER REPRESENTATIONS AND WARRANTIES

Seller makes the following representations and warranties to Buyer:

2.1 Organization. Seller is a corporation duly organized, validly existing and in good standing under the laws of the Commonwealth of Pennsylvania. Seller has the requisite power and authority to execute, deliver and perform this Agreement and all of the other agreements and instruments to be made by Seller pursuant hereto (collectively, the "Seller Ancillary Agreements") and to consummate the transactions contemplated hereby.

2.2 Authorization. The execution, delivery and performance of this Agreement and the Seller Ancillary Agreements by Seller have been duly authorized and approved by all necessary action of Seller and do not require any further authorization or consent of Seller. This Agreement is, and each Seller Ancillary Agreement when made by Seller and the other parties thereto will be, a legal, valid, and binding agreement of Seller enforceable in accordance with its terms, except in each case as such enforceability may be limited by bankruptcy, moratorium, insolvency, reorganization or other similar laws affecting or limiting the enforcement of creditors' rights generally and except as such enforceability is subject to general principles of equity (regardless of whether such enforceability is considered in a proceeding in equity or at law).

2.3 No Conflicts. Except for the FCC Consent and consents to assign the Transmitter Site Leases set forth in Schedule 1.1(c), the execution, delivery, and performance by Seller of this Agreement and the Seller Ancillary Agreements and the consummation by Seller of the transactions contemplated hereby does not conflict with any organizational documents of Seller or any other contract or agreement to which Seller is a party or by which it is bound, or any law, judgment, order, or decree to which Seller is subject, or require the consent or approval of, or a filing by Seller with, any governmental or regulatory authority or any third party.

2.4 FCC Licenses. Except as set forth on Schedule 1.1(a):

Seller is the holder of the FCC Licenses described on Schedule 1.1(a), which are all of the licenses, permits, and authorizations required for the present operation of the Stations. The FCC Licenses are in full force and effect and have not been revoked, suspended, canceled, rescinded, or terminated and have not expired. There is not pending, or, to Seller's knowledge, threatened, any action by or before the FCC to revoke, suspend, cancel, rescind, or materially adversely modify any of the FCC Licenses (other than proceedings to amend FCC rules of general applicability). There is not issued or outstanding, by or before the FCC, any order to show cause, notice of violation, notice of apparent liability, or order of forfeiture against the Stations or against Seller with respect to the Stations that could result in any such action. The Stations are operating in compliance in all material respects with the FCC Licenses, the Communications Act of 1934, as amended (the "Communications Act"), and the rules, regulations, and policies of the FCC. All material reports and filings required to be filed with the FCC by Seller with respect to the Stations have been timely filed. All such reports and filings are accurate and complete in all material respects.

2.5 Taxes. Seller has, in respect of the Stations' business, filed all federal, state, county, and local income, property, sales, use, and other tax returns, and reports which are required to have been filed by it under applicable law, and at the time Closing, will have paid all taxes which have become due pursuant to such returns or pursuant to any assessments which have become payable.

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

2.7 Real Property. Schedule 1.1(c) includes a description of each parcel of real property that is subject to one of the Transmitter Site Leases. To Seller's knowledge, the parcels of real property that are subject to the Transmitter Site Leases are not subject to any suit for condemnation or other taking by any public authority.

2.8 Transmitter Site Leases. The copies of the Transmitter Site Leases at Schedule 1.1(c) are accurate and complete copies of such Leases, including all amendments and extensions. Each of the Transmitter Site Leases is in effect and is binding upon Seller and the other party thereto (subject to bankruptcy, insolvency, reorganization or other similar laws relating to or affecting the enforcement of creditors' rights generally). Seller has performed its obligations under each of the Transmitter Site Leases and is not in default thereunder, and to Seller's knowledge, no other party to any of the Transmitter Site Leases is in default thereunder.

2.9 Environmental. To the knowledge of Seller, no hazardous or toxic substance or waste regulated under any applicable environmental, health, or safety law has been generated, stored, transported, or released on, in, from or to the real property subject to the Transmitter Site Leases. Seller has complied in all material respects with all environmental, health, and safety laws applicable to the Stations.

2.10 Intellectual Property. Seller owns, possesses or has the right to use all Intellectual Property identified in Schedule 1.1(f) in the conduct of the Stations' business as presently conducted. No royalties or other amounts are payable by Seller to other persons by reason of the ownership or use of Intellectual Property. Seller has not received any notice that any of the Intellectual Property identified in Schedule 1.1(f) or the operation of the Stations conflicts with the intellectual property rights of others. To the knowledge of Seller, there is not any reasonable basis to believe that any such violation, infringement, or conflict may exist.

2.11 Advertising Contracts; Accounts Receivable. No later than ten business days following execution of the Agreement, Seller shall provide to Buyer a list of all Advertising Contracts as of the date of this Agreement, and shall provide a true, accurate, and detailed list of all Accounts Receivable as of the date of this Agreement, including client contact information, amount of each receivable, and the age of each receivable.

2.12 Insurance. Seller maintains insurance policies or other arrangements with respect to the Stations and the Station Assets, and will maintain such policies or arrangements until the Effective Time.

2.13 Compliance with Law. Except as set forth on Schedule 1.1(a), Seller has complied in all material respects with all laws, rules and regulations including, without limitation, all FCC and Federal Aviation Administration rules and regulations applicable to the operation of the Stations, and all decrees and orders of any court or governmental authority which are applicable to the operation of the Stations, and to Seller's knowledge, there are no governmental claims or investigations pending or threatened against Seller in respect of the Station except those affecting the industry generally.

2.14 Litigation. There is no action, suit, or proceeding pending or, to Seller's knowledge, threatened against Seller in respect of any of the Stations or the Station employees that will subject Buyer to liability or which will affect Seller's ability to perform its obligations under this Agreement. Seller is not operating under or subject to any order, writ, injunction or decree relating to any of the Stations or the Station Assets of any court or governmental authority which would have a material adverse effect on the condition of the Stations or any of the Station Assets, or any effect on the ability of Seller to enter into this Agreement or consummate the transactions contemplated hereby, other than those of general applicability.

2.15 No Undisclosed Liabilities. There are no liabilities or obligations of Seller with respect to the Stations, including Seller's employees, that will be binding upon Buyer after the Effective Time other than the Assumed Obligations and other than pursuant to the prorations under Section 1.5.

2.16 Station Assets. The Station Assets include all assets that are owned or leased by Seller and used or held for use in the operation of the Stations in all material respects as currently operated, except for the Excluded Assets.

2.17 No Broker. No broker, finder, or other person is entitled to a commission, brokerage fee or other similar payment in connection with this Agreement or the transactions contemplated hereby as a result of any agreement or action of Seller or any party acting on Seller's behalf.

### **ARTICLE 3: BUYER REPRESENTATIONS AND WARRANTIES**

Buyer hereby makes the following representations and warranties to Seller:

3.1 Organization. Buyer is a corporation duly organized, validly existing and in good standing under the laws of the Commonwealth of Pennsylvania. Buyer has the requisite power and authority to execute, deliver and perform this Agreement and all of the other agreements and instruments to be executed and delivered by Buyer pursuant hereto (collectively, the "Buyer Ancillary Agreements") and to consummate the transactions contemplated hereby.

3.2 Authorization. The execution, delivery, and performance of this Agreement and the Buyer Ancillary Agreements by Buyer have been duly authorized and approved by all necessary action of Buyer and do not require any further authorization or consent of Buyer. This

Agreement is, and each Buyer Ancillary Agreement when made by Buyer and the other parties thereto will be, a legal, valid, and binding agreement of Buyer enforceable in accordance with its terms, except in each case as such enforceability may be limited by bankruptcy, moratorium, insolvency, reorganization, or other similar laws affecting or limiting the enforcement of creditors' rights generally and except as such enforceability is subject to general principles of equity (regardless of whether such enforceability is considered in a proceeding in equity or at law).

3.3 No Conflicts. The execution, delivery, and performance by Buyer of this Agreement and the Buyer Ancillary Agreements and the consummation by Buyer of any of the transactions contemplated hereby does not conflict with any organizational documents of Buyer, any contract or agreement to which Buyer is a party or by which it is bound, or any law, judgment, order or decree to which Buyer is subject, or require the consent or approval of, or a filing by Buyer with, any governmental or regulatory authority or any third party.

3.4 Litigation. There is no action, suit, or proceeding pending or, to Buyer's knowledge, threatened against Buyer which questions the legality or propriety of the transactions contemplated by this Agreement or could affect the ability of Buyer to perform its obligations hereunder.

3.5 Qualification. Buyer is legally, financially, and otherwise qualified to be the licensee of, acquire, own and operate the Stations under the Communications Act and the rules, regulations and policies of the FCC. There are no facts that would, under existing law and the existing rules, regulations, policies and procedures of the FCC, disqualify Buyer as an assignee of the FCC Licenses or as the owner and operator of the Stations. No waiver of or exemption from any FCC rule or policy is necessary for the FCC Consent to be obtained. There are no matters known to Buyer which might reasonably be expected to result in the FCC's denial or delay of approval of the FCC Application.

3.6 No Broker. No broker, finder or other person is entitled to a commission, brokerage fee or other similar payment in connection with this Agreement or the transactions contemplated hereby as a result of any agreement or action of Buyer or any party acting on Buyer's behalf.

#### **ARTICLE 4: SELLER COVENANTS**

4.1 Seller's Covenants. Between the date hereof and Closing, except as permitted by this Agreement or with the prior written consent of Buyer, which shall not be unreasonably withheld, delayed or conditioned, Seller shall:

(a) operate the Stations in the ordinary course of business and in all material respects in accordance with FCC rules and regulations and with all other applicable laws, regulations, rules and orders;

(b) not materially adversely modify, and in all material respects maintain in full force and effect, the FCC Licenses;



(c) not sell, lease, or dispose of or agree to sell, lease or dispose of any of the Station Assets unless replaced with similar items of substantially equal or greater value and utility, or create, assume or permit to exist any Liens upon the Station Assets, except for Permitted Liens;

(d) maintain the Tangible Personal Property in the ordinary course of business;

(e) upon reasonable notice, give Buyer and its representatives reasonable access during normal business hours to the Station Assets, and furnish Buyer with information relating to the Station Assets that Buyer may reasonably request, provided that such access rights shall not be exercised in a manner that interferes with the operation of the Stations or other stations owned by Seller;

(f) not (i) enter into any employment, labor, or union agreement or plan (or amendments of any such existing agreements or plan) that will be binding upon Buyer after Closing or (ii) increase the compensation payable to any employee of the Stations, except for bonuses and other compensation payable by Seller in connection with the consummation of the transactions contemplated by this Agreement (if any);

(g) not amend or terminate the Transmitter Site Leases;

(h) not enter into any new contracts for the Stations that would be binding upon Buyer, or amend any existing contracts to make them binding upon Buyer, without the prior written consent of Buyer; and

(i) update the information provided in Schedule 2.11 and deliver the updated information to Buyer via e-mail five (5) business days before the Closing Date.

4.2 Notwithstanding the provisions of Section 4.1, Seller agrees that the requisite consent of Buyer shall be at Buyer's sole discretion with respect to Seller's creation of any Liens on the Station Assets other than Permitted Liens.

## **ARTICLE 5: JOINT COVENANTS**

Buyer and Seller hereby covenant and agree as follows:

5.1 Confidentiality. Subject to the requirements of applicable law, all non-public information regarding the parties and their business and properties that is disclosed in connection with the negotiation, preparation, or performance of this Agreement (including, without limitation, all financial information provided by Seller to Buyer) shall be confidential and shall not be disclosed to any other person or entity, except the parties' representatives and lenders and the FCC, if required, for the purpose of consummating the transaction contemplated by this Agreement.

5.2 Announcements. Prior to Closing, no party shall, without the prior written consent of the other, issue any press release or make any other public announcement concerning the transactions contemplated by this Agreement, except to the extent that such party is so

obligated by law, in which case such party shall give advance notice to the other, and except as necessary to enforce rights under or in connection with this Agreement. Notwithstanding the foregoing, the parties acknowledge that this Agreement and the terms hereof will be filed with the FCC Application and thereby become public. The parties also acknowledge that Seller will be required to provide local public notice of the FCC Applications in accordance with the applicable provisions of Section 73.3580 of the FCC's rules.

5.3 Control. Buyer shall not, directly or indirectly, control, supervise or direct the operation of the Stations prior to Closing. Consistent with the Communications Act and the FCC rules and regulations, control, supervision, and direction of the operation of the Stations prior to Closing shall remain the responsibility of Seller.

5.4 Risk of Loss.

(a) Seller shall bear the risk of any loss of or damage to any of the Station Assets at all times until the Effective Time, and Buyer shall bear the risk of any such loss or damage thereafter.

(b) If prior to the Effective Time any item of Tangible Personal Property is damaged or destroyed or otherwise not in the condition described in Section 2.6 in any material respect, then:

(i) Seller shall use commercially reasonable efforts to repair or replace such item in the ordinary course of business; and

(ii) if such repair or replacement is not completed prior to Closing, then the parties shall proceed to Closing (with Seller's representations and warranties deemed modified to take into account any such condition) and Seller shall promptly repair or replace such item in all material respects after Closing (and Buyer will provide Seller access and any other reasonable assistance requested by Seller with respect to such obligation), except that if such damage or destruction materially disrupts Station operations, then Buyer may postpone Closing until the date five (5) business days after operations are restored in all material respects, subject to Section 10.1.

(c) Station WQKK currently is operating at reduced power, and it is anticipated that restoration of Station WQKK to full power will occur expeditiously. Notwithstanding the foregoing, if prior to Closing either of the Stations is off the air or operating at a power level that results in a reduction in coverage (a "Broadcast Interruption"), then Seller shall use commercially reasonable efforts to return the Station to the air and restore prior coverage as promptly as possible in the ordinary course of business. Notwithstanding anything herein to the contrary, if prior to Closing there is a Broadcast Interruption in excess of 24 hours that results in a material reduction in coverage, then Buyer may postpone Closing until the date ten (10) business days after the Station returns to the air and prior coverage is restored in all material respects, subject to Section 10.1.

5.5 Consents. Seller, with Buyer's cooperation, shall use commercially reasonable efforts to obtain all necessary consents of lessors under the Transmitter Site Leases to the assignment of such Leases by Seller to Buyer (the "Required Consents"). In addition, Seller

shall use commercially reasonable efforts to obtain customary estoppel certificates from the lessors under the Transmitter Site Leases (the "Estoppel Certificates"). Receipt of Required Consents and Estoppel Certificates is a condition precedent to Buyer's obligation to close under this Agreement.

5.6 Employees. Seller agrees that Buyer shall have the right, but not the responsibility, to hire any employees of the Stations as of the Closing.

5.7 FCC Compliance. If after Closing the FCC Consent is reversed or otherwise set aside, and there is a Final order of the FCC (or court of competent jurisdiction) requiring the re-assignment of the FCC Licenses to Seller, then the purchase and sale of the Station Assets shall be rescinded. In such event, Buyer shall reconvey to Seller the Station Assets free and clear of Liens other than Permitted Liens, and Seller shall repay to Buyer the Purchase Price, including the Deposit, and assign the Transmitter Site Leases to Seller. Any such rescission shall be consummated on a mutually agreeable date within thirty days of such Final order (or, if earlier, within the time required by such order). In connection therewith, Buyer and Seller shall each execute such documents (including execution by Buyer of instruments of conveyance of the Station Assets to Seller and execution by Seller of instruments of assumption of the Transmitter Site Leases) and make such payments as are necessary to give effect to such rescission.

#### **ARTICLE 6: SELLER CLOSING CONDITIONS**

The obligation of Seller to consummate the Closing hereunder is subject to satisfaction, at or prior to Closing, of each of the following conditions (unless waived in writing by Seller):

##### **6.1 Representations and Covenants**

(a) The representations and warranties of Buyer made in this Agreement shall be true and correct in all material respects as of the Closing Date except for changes permitted or contemplated by the terms of this Agreement.

(b) The covenants and agreements to be complied with and performed by Buyer at or prior to Closing shall have been complied with or performed in all material respects.

(c) Seller shall have received a certificate dated as of the Closing Date from Buyer executed by an authorized officer of Buyer to the effect that the conditions set forth in Sections 7.1(a) and (b) have been satisfied.

6.2 Proceedings. Neither Seller nor Buyer shall be subject to any court or governmental order or injunction restraining or prohibiting the consummation of the transactions contemplated hereby.

6.3 FCC Authorization. The FCC Consent pursuant to the FCC's initial order shall have been obtained.

6.4 Deliveries. Buyer shall have complied with its obligations set forth in Section 8.2.

## **ARTICLE 7: BUYER CLOSING CONDITIONS**

The obligation of Buyer to consummate the Closing hereunder is subject to satisfaction, at or prior to Closing, of each of the following conditions (unless waived in writing by Buyer):

### **7.1 Representations and Covenants.**

(a) The representations and warranties of Seller made in this Agreement shall be true and correct in all material respects as of the Closing Date except for changes permitted or contemplated by the terms of this Agreement.

(b) The covenants and agreements to be complied with and performed by Seller at or prior to Closing shall have been complied with or performed in all material respects.

(c) Buyer shall have received a certificate dated as of the Closing Date from Seller executed by an authorized officer of Seller to the effect that the conditions set forth in Sections 8.1(a) and (b) have been satisfied.

7.2 Proceedings. Neither Seller nor Buyer shall be subject to any court or governmental order or injunction restraining or prohibiting the consummation of the transactions contemplated hereby

7.3 FCC Authorization. The FCC Consent shall have been obtained and shall have become Final (unless finality was waived by Buyer).

7.4 Deliveries. Seller shall have complied with its obligations set forth in Section 8.1.

7.5 Consents and Estoppel Certificates. All Required Consents and Estoppel Certificates shall have been obtained.

## **ARTICLE 8: CLOSING DELIVERIES**

8.1 Seller Documents. At Closing, Seller shall deliver or cause to be delivered to Buyer:

- (i) the certificate described in Section 7.1(c);
- (ii) an assignment of FCC authorizations assigning the FCC Licenses from Seller to Buyer;
- (iii) one (or more if necessary) assignment and assumption of the Transmitter Site Leases;
- (iv) a bill of sale conveying the other Station Assets from Seller to Buyer;
- (v) all further updates to Accounts Receivable information delivered to Buyer under Section 4.1(i) hereof.

(vi) any other instruments of conveyance, assignment, and transfer that may be reasonably necessary to convey, transfer and assign the Station Assets from Seller to Buyer, free and clear of Liens, except for Permitted Liens;

(vii) written Required Consents and Estoppel Certificates.

8.2 Buyer Documents. At Closing, Buyer shall deliver or cause to be delivered to Seller:

- (i) The balance of the Purchase Price pursuant to Section 1.4(b);
- (ii) the certificate described in Section 6.1(c);
- (iii) one (or more if necessary) assignment and assumption of the Transmitter Site Leases; and
- (iv) such other documents and instruments of assumption that may be necessary to assume the Assumed Obligations.

#### **ARTICLE 9: SURVIVAL; INDEMNIFICATION**

9.1 Survival. The representations and warranties in this Agreement shall survive Closing for a period of twelve (12) months from the Closing Date whereupon they shall expire and be of no further force or effect, except (i) those under Section 2.5 (Taxes), Section 2.9 (Environmental), and those under Section 2.6 (solely with respect to title and absence of Liens except Permitted Liens), all of which shall survive until the expiration of any applicable statute of limitations, and (ii) that if within such applicable period the indemnified party gives the indemnifying party written notice of a claim for breach thereof describing in reasonable detail the nature and basis of such claim, then such claim shall survive until the earlier of resolution of such claim or expiration of the applicable statute of limitations. The covenants and agreements in this Agreement shall survive Closing until performed.

#### **9.2 Indemnification**

(a) Subject to Section 10.2(b), from and after Closing, Seller shall defend, indemnify and hold harmless Buyer from and against any and all losses, costs, damages, liabilities and expenses, including reasonable attorneys' fees and expenses ("Damages") incurred by Buyer arising out of or resulting from:

- (i) any breach by Seller of its representations and warranties made under this Agreement; or
- (ii) any default by Seller of any covenant or agreement made under this Agreement; or
- (iii) the Retained Obligations; or
- (iv) the business or operation of the Stations before the Effective Time.

(b) Notwithstanding the foregoing or anything else herein to the contrary, after Closing, (i) Seller shall have no liability to Buyer under clause (i) of Section 10.2(a) until Buyer's aggregate Damages exceed an amount equal to \$10,000, after which such threshold amount shall be included in, and not excluded from, any calculation of Damages, and (ii) the maximum aggregate liability of Seller under clause (i) of Section 9.2(a) shall be an amount equal to the Purchase Price.

(c) From and after Closing, Buyer shall defend, indemnify and hold harmless Seller from and against any and all Damages incurred by Seller arising out of or resulting from:

(i) any breach by Buyer of its representations and warranties made under this Agreement; or

(ii) any default by Buyer of any covenant or agreement made under this Agreement; or

(iii) the Assumed Obligations; or

(iv) the business or operation of the Stations after the Effective Time.

### 9.3 Procedures.

(a) The indemnified party shall give prompt written notice to the indemnifying party of any demand, suit, claim, or assertion of liability by third parties that is subject to indemnification hereunder (a "Claim"), but a failure to give such notice or delaying such notice shall not affect the indemnified party's rights or the indemnifying party's obligations except to the extent the indemnifying party's ability to remedy, contest, defend or settle with respect to such Claim is thereby prejudiced and provided that such notice is given within the time period described in Section 10.1, if applicable.

(b) The indemnifying party shall have the right to undertake the defense or opposition to such Claim with counsel selected by it. In the event that the indemnifying party does not undertake such defense or opposition in a timely manner, the indemnified party may undertake the defense, opposition, compromise, or settlement of such Claim with counsel selected by it at the indemnifying party's cost (subject to the right of the indemnifying party to assume defense of or opposition to such Claim at any time prior to settlement, compromise or final determination thereof).

(c) Anything herein to the contrary notwithstanding:

(i) the indemnified party shall have the right, at its own cost and expense, to participate in the defense, opposition, compromise, or settlement of the Claim;

(ii) the indemnifying party shall not, without the indemnified party's written consent, settle or compromise any Claim or consent to entry of any judgment which does not include the giving by the claimant to the indemnified party of a release from all liability in respect of such Claim; and

(iii) in the event that the indemnifying party undertakes defense of or opposition to any Claim, the indemnified party, by counsel or other representative of its own choosing and at its sole cost and expense, shall have the right to consult with the indemnifying party and its counsel concerning such Claim and the indemnifying party and the indemnified party and their respective counsel shall cooperate in good faith with respect to such Claim.

(d) After Closing, all claims for breach of representations or warranties under this Agreement shall be subject to the limitations set forth in Section 10.2(b).

#### **ARTICLE 10: TERMINATION AND REMEDIES**

10.1 Termination. Subject to Section 11.3, this Agreement may be terminated prior to Closing as follows:

- (a) by mutual written consent of Buyer and Seller;
- (b) by written notice of Buyer to Seller if Seller breaches its representations or warranties or defaults in the performance of its covenants contained in this Agreement and such breach or default is material in the context of the transactions contemplated hereby and is not cured within the Cure Period (defined below);
- (c) by written notice of Seller to Buyer if Buyer breaches its representations or warranties or defaults in the performance of its covenants contained in this Agreement and such breach or default is material in the context of the transactions contemplated hereby and any non-monetary breach is not cured within the Cure Period; or
- (d) by written notice of Seller to Buyer or Buyer to Seller if Closing does not occur by the date nine (9) months after the date on which the FCC Application is filed with the FCC.

10.2 Cure Period. Each party shall give the other party prompt written notice upon learning of any breach or default by the other party under this Agreement. Each party shall be permitted to cure a non-monetary breach or default within the Cure Period specified herein. Monetary breaches or defaults shall not be permitted a Cure Period. The term "Cure Period" as used herein means a period commencing on the date Buyer or Seller receives from the other written notice of breach or default hereunder and continuing until the earlier of (i) twenty (20) calendar days thereafter, or (ii) the Closing Date determined under Section 1.7.

10.3 Survival. Except as provided by Section 11.5, the termination of this Agreement shall not relieve any party of any liability for breach or default under this Agreement prior to the date of termination. Notwithstanding anything contained herein to the contrary, Sections 1.6 (Deposit) (and Section 11.5 with respect to the Deposit), 5.1 (Confidentiality) and 11.1 (Expenses) shall survive any termination of this Agreement.

10.4 Specific Performance. Seller acknowledges and agrees that Buyer would be irreparably damaged if any of the provisions of this Agreement are not performed in accordance with their specific terms and that any breach of this Agreement by Seller could not be adequately compensated in all cases by monetary damages alone. Accordingly, in addition to any other

right or remedy to which Buyer may be entitled, at law or in equity, it shall be entitled to enforce any provision of this Agreement by a decree of specific performance and to temporary, preliminary and permanent injunctive relief to prevent breaches or threatened breaches of any of the provisions of this Agreement, without posting any bond or other undertaking.

10.5 Liquidated Damages. In the event this Agreement is terminated pursuant to Section 10.1(c), Seller shall be entitled to the Deposit as liquidated damages. Buyer and Seller agree that if the transaction is terminated pursuant to Section 10.1(c), Seller's sole and exclusive remedy under Section 10.1 shall be the right to retain the Deposit as liquidated damages ("Liquidated Damages"). The parties acknowledge and agree that the Liquidated Damages amount is not a penalty and is reasonable in light of substantial but indeterminate harm anticipated to be caused by Buyer's breach and failure to close under the terms of this Agreement. The parties further acknowledge and agree that the amount of actual loss caused by Buyer's breach of this Agreement is incapable of precise estimation and that Seller would not have a convenient and adequate alternative to liquidated damages hereunder.

#### **ARTICLE 11: MISCELLANEOUS**

11.1 Expenses. Each party shall be solely responsible for all costs and expenses incurred by it in connection with the negotiation, preparation, and performance of and compliance with the terms of this Agreement. The filing fee for the FCC Application shall be paid one-half by Buyer and one-half by Seller. All governmental taxes, fees and charges applicable to the transfer of the Station Assets under this Agreement shall be paid one-half by Buyer and one-half by Seller.

11.2 Further Assurances. After Closing, each party shall from time to time, at the request of and without further cost or expense to the other, execute, and deliver such other instruments of conveyance and assumption and take such other actions as may reasonably be requested in order to more effectively consummate the transactions contemplated hereby.

11.3 Assignment. Neither party may assign this Agreement without the prior written consent of the other party hereto, *provided, however*, that Buyer may assign its rights hereunder to an affiliate of Buyer upon written notice to, but without consent of, Seller, provided that any such assignment does not delay processing of the FCC Application, grant of the FCC Consent or Closing, and any such assignee delivers to Seller a written assumption of this Agreement. The terms of this Agreement shall bind and inure to the benefit of the parties' respective successors and any permitted assigns.

11.4 Notices. Any notice pursuant to this Agreement shall be in writing and shall be deemed delivered on the date of personal delivery or confirmed delivery by a nationally recognized overnight courier service, and shall be addressed as follows (or to such other address as any party may request by written notice):



if to Seller: Michael M. Stapleford, President  
Magnum Broadcasting, Inc.  
P.O. Box 436  
State College, PA 16804  
[mmstapleford@yahoo.com](mailto:mmstapleford@yahoo.com)

with a copy (which shall not constitute notice) to: Dan J. Alpert, Esq.  
The Law Office of Dan J. Alpert  
2120 21<sup>st</sup> Rd. N  
Arlington, VA 22201  
[dja@commlaw.tv](mailto:dja@commlaw.tv)

if to Buyer: Jeffry O. Schlesinger, President  
Schlesinger Communications, Inc.  
21 East Main Street  
Lock Haven, PA 17745  
[jeffschlesinger@wsqvradio.com](mailto:jeffschlesinger@wsqvradio.com)

with a copy (which shall not constitute notice) to: Shelley Sadowsky, Esq.  
Shelley Sadowsky, LLC  
5938 Dorchester Way  
Rockville, MD 20852  
[shelley@sadowskycommlaw.com](mailto:shelley@sadowskycommlaw.com)

11.5 Amendments. No amendment or waiver of compliance with any provision hereof or consent pursuant to this Agreement shall be effective unless evidenced by an instrument in writing signed by the party against whom enforcement of such amendment, waiver, or consent is sought.

11.6 Entire Agreement. This Agreement (including the Schedules hereto) constitutes the entire agreement and understanding among the parties hereto with respect to the subject matter hereof, and supersedes all prior agreements and understandings with respect to the subject matter hereof. No party makes any representation or warranty with respect to the transactions contemplated by this Agreement except as expressly set forth in this Agreement.

11.7 Severability. If any court or governmental authority holds any provision in this Agreement invalid, illegal or unenforceable under any applicable law, then, so long as no party is deprived of the benefits of this Agreement in any material respect, this Agreement shall be construed with the invalid, illegal, or unenforceable provision deleted and the validity, legality and enforceability of the remaining provisions contained herein shall not be affected or impaired thereby.

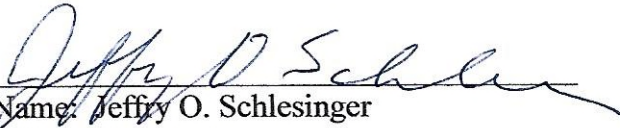
11.8 No Beneficiaries. Nothing in this Agreement expressed or implied is intended or shall be construed to give any rights to any person or entity other than the parties hereto and their successors and permitted assigns.

11.9 Governing Law. The construction and performance of this Agreement shall be governed by the laws of the Commonwealth of Pennsylvania without giving effect to the choice of law provisions thereof. The prevailing party in a lawsuit brought to enforce the performance or compliance of any provision of this Agreement may recover reasonable attorneys' fees and costs from the non-prevailing party.

11.10 Counterparts. This Agreement may be executed in separate counterparts, each of which will be deemed an original and all of which together will constitute one and the same agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first set forth above.

**BUYER:** **SCHLESINGER COMMUNICATIONS, INC.**

By:   
Name: Jeffrey O. Schlesinger  
Title: President

**SELLER:** **MAGNUM BROADCASTING, INC.**

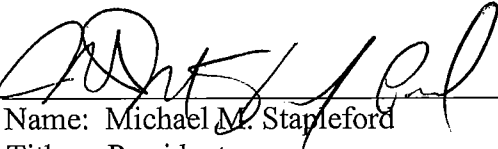
By: \_\_\_\_\_  
Name: Michael M. Stapleford  
Title: President

**IN WITNESS WHEREOF**, the parties have executed this Agreement as of the date first set forth above.

**BUYER:** **SCHLESINGER COMMUNICATIONS, INC.**

By: \_\_\_\_\_  
Name: Jeffry O. Schlesinger  
Title: President

**SELLER:** **MAGNUM BROADCASTING, INC.**

By:  \_\_\_\_\_  
Name: Michael M. Stapleford  
Title: President

## **SCHEDULES**

Schedule 1.1(a) -- FCC Licenses

Schedule 1.1(b) -- Tangible Personal Property

Schedule 1.1(c) -- Transmitter Site Leases

Schedule 1.1(f) -- Intellectual Property

**Schedule 1.1(a)**

**FCC Licenses**

Station WBLF, File No. BZ-20161122APA

Station WQKK, File No. BLH-20051118ADD

STA File No. BSTA-20200219AAW

CP File No. BPH-20190604ABD