

ASSET PURCHASE AGREEMENT

This ASSET PURCHASE AGREEMENT (this “Agreement”) is dated July 14, 2009, by and between WNYC RADIO, a New York non-profit corporation (“Buyer”), and THE NEW YORK TIMES RADIO, LLC, a Delaware limited liability company (“Seller”). Buyer and Seller are often referred to herein as the “Parties” and each as a “Party.”

RECITALS:

A. Seller owns and operates certain assets used in connection with the business and operations of radio station WQXR-FM, 96.3 MHz, New York, New York (FCC Facility ID #29022) (the “Station”).

B. Concurrent with the execution of this Agreement, Seller, Univision Radio New York, Inc., a Delaware corporation (“URI”), and WADO-AM License Corp., a Delaware corporation and subsidiary of URI (“WLC” and collectively with URI, “Univision”), together with Buyer pursuant to the terms of the Addendum thereto, have entered into that certain Asset Exchange Agreement, dated as of the date hereof (the “Exchange Agreement”), pursuant to which, among other things, Univision has agreed to transfer and convey to Buyer as Seller’s designee the FCC licenses for radio station WCAA(FM), 105.9 MHz, Newark, New Jersey (FCC Facility ID #46978) (“105.9 FM”) and certain other assets that are to be used in connection with the transmitter site operations of the Station.

C. Seller desires to sell and convey, and Buyer wishes to purchase and acquire, on the terms and conditions hereinafter set forth, (i) certain of Seller’s assets used in the operation of the Station, and (ii) certain rights of Seller to acquire the UR Assets pursuant to the Exchange Agreement.

AGREEMENTS:

NOW, THEREFORE, in consideration of the mutual covenants and promises contained herein and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the Parties agree as follows:

SECTION 1: DEFINITIONS

1.1 Terms Defined in this Section. The following terms, as used in this Agreement, have the meanings set forth in this Section:

“Action” means, for any Person, any action, counterclaim, suit, litigation, arbitration or other legal, administrative or Tax proceeding by or against such Person, excluding any litigation affecting the radio broadcasting industry generally in which such Person is not a named party, and any FCC rule-making proceedings.

“Addendum” means the Addendum to the Exchange Agreement executed on the date hereof by Buyer.

“Affiliate” of a Person means any other Person which, directly or indirectly, controls, is controlled by or is under common control with, such Person. The term “control” (including, with correlative meaning, the terms “controlled by” and “under common control with”), as used with respect to any Person, means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such Person, whether through the ownership of voting securities, by contract or otherwise.

“Assets” means the QXR Assets and the UR Assets.

“Assignment Application” means the application prepared jointly by Buyer and WLC, and filed with the FCC by WLC, in the manner contemplated by Section 5.3 of the Exchange Agreement and Section 6.3 of this Agreement, to request the FCC Consent to the assignment by WLC to Buyer of the FCC Licenses for 105.9 FM.

“Assumed Contracts” means, as of Closing, (i) all Contracts set forth on Schedule 3.5, excluding any that shall have terminated in accordance with their terms prior to Closing, and (ii) any other miscellaneous Contracts entered into by Seller that Buyer agrees to assume on the Closing Date.

“Business” means the business and operations of Seller relating to the Station.

“Business Day” means any day of the year, other than a Saturday or Sunday, on which banks are not required or authorized to be closed in the State of New York.

“Call Sign” means the call sign “WQXR-FM” used by Seller in the operation of the Station.

“Call Sign Change Applications” means the applications prepared jointly by WLC and Seller together with Buyer, and filed with the FCC, in the manner provided in Section 5.3(c) of the Exchange Agreement and Section 6.3 of this Agreement, to request that Call Sign “WQXR-FM” be assigned to 105.9 FM and that call sign “WCAA(FM)” be assigned to the Station (*i.e.*, 96.3 FM) on the Closing Date.

“Code” means the Internal Revenue Code of 1986, as amended.

“Closing” means the consummation of the assignment, transfer, conveyance and delivery to Buyer by Seller of the QXR Assets and of Seller’s rights to acquire the UR Assets from Univision upon the concurrent consummation of the Exchange Agreement, and the payment to Seller of the Purchase Price by Buyer, as contemplated hereunder, with the Closing being deemed effective as of 11:59 p.m. Eastern time on the Closing Date.

“Closing Date” means the date of Closing.

“Closing Place” means, if either Party shall deem an in-person Closing to be necessary, at the offices of Seller in New York City, or at such other location agreed upon by the Parties.

“Communications Laws” means the Communications Act of 1934, as amended, together with the rules and published policies of the FCC promulgated thereunder.

“Consents” means the consents, permits or approvals of Governmental Authorities and other third parties required by Seller to transfer the QXR Assets to Buyer or otherwise for Seller to consummate the transactions contemplated hereby.

“Contracts” means certain contracts, commitments, understandings and agreements relating to the Station to which Seller is a party.

“Enforceability Exceptions” means the exceptions or limitations to the enforceability of contracts under bankruptcy, insolvency, reorganization, moratorium or similar laws affecting creditors’ rights generally, and by the application of general principles of equity.

“Excluded Assets” means all assets, properties, rights and interests, both tangible and intangible, of Seller other than (i) the QXR Assets and (ii) all rights of Seller to acquire the UR Assets pursuant to the terms of the Exchange Agreement. Without limiting the foregoing, the Excluded Assets include any Contracts for the sale of advertising time, any compensation plans, employee benefit plans or employee obligations, any AFTRA, IBEW or other union agreements, any insurance policies and all other Contracts not included in the Assumed Contracts.

“FCC” means the Federal Communications Commission.

“FCC Consent” means the action by the FCC granting its written consent without any material adverse conditions to the assignment by WLC of its FCC Licenses for 105.9 FM to Buyer as Seller’s assignee, as contemplated by this Agreement and the Exchange Agreement.

“FCC Licenses” means the licenses, permits and other authorizations issued by the FCC to WLC for the operation of 105.9 FM pursuant to Part 73 of the FCC’s rules, including those described on Schedule 3.7 to the Exchange Agreement.

“Final Order” means an FCC Consent that has not been reversed, stayed, enjoined, set aside, annulled, or suspended, and with respect to which no request is pending for administrative or judicial review, reconsideration, appeal, or stay, and the time for filing any such request and the time for the FCC to set aside the action on its own motion have expired.

“GAAP” means generally accepted (in the United States) accounting principles as currently in effect.

“Governmental Authority” means any court or any federal, state, county, local or foreign governmental, legislative or regulatory body, agency, department, authority, instrumentality or other subdivision thereof, including the FCC.

“Intellectual Property” means the Call Sign, and any trademarks, service marks, service names, trade names, non-governmental licenses and permits, and other intellectual property rights that are set forth on Schedule 3.6.

“Judgment” means any judgment, writ, order, injunction, determination, award or decree of or by any court, judge, justice or magistrate, including any bankruptcy court or judge, and any order of or by a Governmental Authority.

“knowledge” or “to the knowledge” of a Party (or similar phrases) means actual knowledge of a fact, or constructive knowledge if a reasonably prudent person in a like position would have known the fact after reasonable inquiry and investigation.

“Legal Requirement” means any statute, ordinance, code, law (including common law), rule, regulation, permit or permit condition, Judgment, or other requirement, standard or procedure enacted, adopted or applied by any Governmental Authority.

“Liabilities” means claims, obligations, commitments or liabilities of a Person of any nature, absolute, accrued, contingent or otherwise, known or unknown, whether matured or unmatured.

“Lien” means any lien, pledge, charge, security interest, mortgage, deed of trust, easement, right-of-way or other encumbrance.

“Permitted Liens” means liens for current taxes, assessments and governmental charges not yet due and payable (or being contested in good faith).

“Person” means any person or entity, whether an individual, trustee, corporation, general partnership, limited partnership, limited liability company, trust, unincorporated organization, business association, firm, joint venture or Governmental Authority.

“Programming Materials” means Seller’s classical music library, programs and programming materials that are in its possession and control, and used in the operation of the Station, whether digitally recorded or on CD, tape or other medium.

“QXR Assets” means the Assumed Contracts and Intellectual Property to be assigned, transferred and conveyed by Seller to Buyer pursuant to the terms hereof.

“Taxes” means any taxes, charges, fees, levies or other assessments, including income, excise, use, transfer, payroll, occupancy, property, sales, franchise, unemployment and withholding taxes, penalties and interest imposed by the United States or any state, county or local government or subdivision or agency thereof.

“UR Assets” means the FCC Licenses and the other UR Assets of Univision to be transferred to Buyer as Seller’s assignee upon the consummation of the transactions contemplated by this Agreement and the Exchange Agreement.

“UR Assets Assignment Agreement” means the Assignment and Assumption of Certain Rights and Obligations under the Exchange Agreement, in substantially the form attached hereto as Exhibit A to the Exchange Agreement, providing for the assignment of certain rights by Seller to Buyer, and the assumption of certain obligations by Buyer, that are set forth in the Exchange Agreement with respect to the UR Assets.

1.2 Terms Defined Elsewhere in this Agreement. In addition to (i) the defined terms in the preamble, recitals and Section 1.1 hereof, or (ii) certain defined terms used solely within a single section hereof, the following is a list of terms used in this Agreement and a reference to the section hereof in which such term is defined:

<u>Term</u>	<u>Section</u>
Adjustments	2.3(b)
Assumed Liabilities	2.5
Claimant	10.4
Claim Notice	10.4
Closing Cash Payment	2.2
Indemnity Period	10.1
Indemnitor	10.4
Losses	10.2
Material Consent	6.1
Non-Assumed Liabilities	2.5
Purchase Price	2.2

1.3 Clarifications. Words used in this Agreement, regardless of the gender and number specifically used, shall be deemed and construed to include any other gender and any other number as the context requires. As used in this Agreement, the word “including” is not limiting (and shall be deemed to be followed by the words “without limitation”), and the word “or” is both conjunctive and disjunctive as the context may require. Except as specifically otherwise provided in this Agreement in a particular instance, a reference to a section, schedule or exhibit is a reference to a section of this Agreement or a schedule or exhibit hereto, and the terms “hereof,” “herein,” and other like terms refer to this Agreement as a whole, including the schedules to this Agreement, and not solely to any particular part of this Agreement. The descriptive headings in this Agreement are inserted for convenience of reference only and are not intended to be part of or to affect the meaning or interpretation of this Agreement.

SECTION 2: PURCHASE AND ASSIGNMENT OF ASSETS

2.1 Agreement to Sell and Buy. Subject to the terms and upon satisfaction of the conditions contained in this Agreement, at the Closing, (i) Seller shall assign, transfer and convey to Buyer all of Seller’s right, title and interest in and to the QXR Assets, and Buyer shall purchase, acquire and accept from Seller all of its right, title and interest in

and to the QXR Assets, and (ii) Seller shall assign, transfer and convey to Buyer, and Buyer shall purchase, acquire and accept from Seller all of its rights to acquire the UR Assets, and Buyer shall assume certain of Seller's obligations and liabilities with respect to the acquisition of the UR Assets, pursuant to the terms of the Exchange Agreement. The Assets shall be transferred to Buyer free and clear of all Liens other than Permitted Liens.

2.2 Purchase Price. The aggregate purchase price for the Assets shall be Eleven Million Five Hundred Thousand Dollars (\$11,500,000), as adjusted pursuant to Section 2.3 (the "Purchase Price"). The preliminary determination of the Purchase Price payable by Buyer on the Closing Date (the "Closing Cash Payment") shall be paid by Buyer at the Closing (after all other Closing conditions set forth in this Agreement are met or waived) by wire transfer of immediately available funds in U.S. dollars, to Seller or another designee of Seller as designated by Seller and to an account thereof designated in writing by Seller prior to the Closing Date.

2.3 QXR Assets Adjustments and Prorations.

(a) All expenses arising from the ownership or operation of the QXR Assets, including license and service fees and other amounts payable pursuant to the terms of any Assumed Contract, and similar prepaid and deferred items with respect to the QXR Assets, shall be prorated between Seller and Buyer in accordance with GAAP and the general principle that Seller shall be responsible for all costs, expenses and Liabilities allocable to the ownership and operation of the QXR Assets for the period prior to and on the Closing Date, and Buyer shall be responsible for all costs, expenses and Liabilities allocable to the ownership and operation of the QXR Assets after the Closing Date. Seller shall retain and be solely responsible for all Non-Assumed Liabilities.

(b) Seller shall prepare and submit to Buyer, not later than two (2) Business Days prior to the Closing Date, a written good faith estimate of the adjustments and prorations set forth in subsection (a) above (the "Adjustments") in accordance with this Section 2.3. Prior to Closing, Buyer and Seller shall in good faith attempt to resolve any disputes between them with respect to the determination of the Closing Cash Payment; if as of Closing any items shall be in dispute between them, such items will be disregarded in determining the Closing Cash Payment, with such disputed items to be settled between them following Closing pursuant to subsection (c) below.

(c) Within sixty (60) days following Closing, Buyer shall prepare and deliver to Seller a schedule showing any changes to the Adjustments that Buyer believes to be appropriate. Each Party having documentation regarding the basis for or amount and payment status of any Adjustment shall, upon request of the other Party, promptly provide the other Party with a copy of such documentation. A final settlement of all agreed-to Adjustments, with payment being made by the owing Party by wire transfer of immediately available funds in U.S. dollars, to an account designated by the Party entitled to receive such payment, shall occur no later than ninety (90) days after the Closing Date. In the event that the Parties cannot agree on the amount of the final

Adjustments within ninety (90) days after the Closing Date, the determination with respect to any disputed Adjustments shall be referred to Buyer's and Seller's chief financial officers who, within ten (10) Business Days thereafter, shall meet in person, with, at such meeting, each such officer acting in good faith to reach a resolution of such disputes.

2.4 [UR Assets Adjustments and Prorations](#). To the extent that any adjustments and prorations relating to the transfer of the UR Assets and the ownership and operation thereof are appropriately made between Univision and Seller pursuant to the terms of Section 2.3 of the Exchange Agreement, Seller and Buyer hereby agree to a corresponding converse adjustment to the Closing Cash Payment in the net amount of such adjustments and prorations in accordance with the general principle that Buyer shall receive the benefit of all revenues, and be responsible for all costs, expenses and Liabilities allocable to the ownership and operation of the UR Assets after the Closing Date as a result of the assignment and transfer by Univision of such UR Assets to Buyer pursuant to the terms hereof. Upon request by Buyer, Seller shall promptly provide Buyer with a copy of any documentation regarding the basis for or amount and payment status of any adjustment or proration regarding the UR Assets under the Exchange Agreement. Pursuant to the terms of the UR Assets Assignment Agreement Buyer shall resolve directly with Univision any post-Closing changes to the adjustments and prorations with respect to the UR Assets pursuant to the provisions set forth in Section 2.3(c) and (d) of the Exchange Agreement.

2.5 [Liabilities of Seller Assumed by Buyer](#). With respect to the QXR Assets, at the Closing, Buyer shall assume and agree to pay, discharge and perform (a) all Liabilities attributable to the period after the Closing Date with respect to (i) the Assumed Contracts, (ii) Buyer's ownership or operation after the Closing Date of the QXR Assets transferred thereto by Seller, and (b) any Liabilities included in the Adjustments for which Buyer shall have received the benefit of an adjustment or proration as of Closing (collectively, the "Assumed Liabilities"). All Liabilities not expressly assumed by Buyer, as described in the preceding sentence, shall comprise "Non-Assumed Liabilities" and shall remain and be the Liabilities solely of Seller, including (i) any Liabilities under any Contract not included in the Assumed Contracts, (ii) any Liabilities arising as a result of any default by Seller prior to or on the Closing Date under any Assumed Contract, (iii) any claims or Actions relating to the ownership or operation prior to the Closing of the QXR Assets, (iv) any Liabilities arising with respect to any of the Excluded Assets, (v) any other Liabilities arising with respect to the ownership and control prior to or on the Closing Date of the Station and the QXR Assets (other than any Liabilities included in the Adjustments for which Buyer shall have received the benefit of an adjustment or proration), and (vi) any Contract to which a labor organization is a party. Pursuant to the terms of the UR Assets Assignment Agreement, at the Closing, Buyer shall assume and agree to pay, discharge and perform certain of Univision's obligations and liabilities with respect to the UR Assets that are set forth in Section 2.4 of the Exchange Agreement.

SECTION 3: [REPRESENTATIONS AND WARRANTIES OF SELLER](#)

Seller hereby represents and warrants to Buyer as follows:

3.1 [Standing and Authority](#). Seller is a limited liability company validly existing, in good standing under the laws of Delaware, and qualified to transact business in New York. Seller has all requisite limited liability company power and authority (i) to execute, deliver and perform this Agreement and to consummate the transactions contemplated hereby, and (ii) to own, lease and operate the Station and QXR Assets and to carry on the Business as now being conducted.

3.2 [Authorization and Binding Obligations](#). The execution, delivery and performance of this Agreement and all of the documents and instruments required hereby by Seller have been duly and validly authorized by all necessary limited liability company action, as the case may be. This Agreement has been duly executed and delivered by Seller and constitutes a valid and binding agreement of Seller enforceable against it in accordance with its terms, except as its enforceability may be limited by Enforceability Exceptions.

3.3 [No Contravention; Consents](#). Subject to obtaining the Consents set forth in [Schedule 3.3](#) hereto, the execution, delivery and performance of this Agreement, the consummation of the transactions contemplated hereby and the compliance with the provisions hereof by Seller will not (i) violate any provisions of the organizational documents of Seller, (ii) result in the breach of, constitute a default under, constitute grounds for termination of, give rise to any right of cancellation or acceleration under, or result in the creation of any Lien upon any of the QXR Assets under the provisions of, any material Contract, (iii) violate any Legal Requirements applicable to Seller, or (iv) require the consent of any Person, or violate, or be in conflict with, or constitute a default under any contract or agreement to which Seller is a party, such that Seller cannot perform its obligations hereunder. Except for the Consents set forth in [Schedule 3.3](#) hereto, no material consent, approval, or authorization of any Governmental Authority or other Person is required by Seller in connection with the execution, delivery and performance by Seller of its obligations under this Agreement.

3.4 [Title to QXR Assets](#). Seller has good and marketable title to, or otherwise has the valid right to use, all QXR Assets, free and clear of all Liens other than Permitted Liens.

3.5 [Contracts](#). Seller has delivered to Buyer true and complete copies of the Contracts listed in [Schedule 3.5](#), which comprise all of the Assumed Contracts existing on the date hereof. Each Contract set forth on [Schedule 3.5](#) is in full force and effect and is valid, binding upon Seller and, to Seller's knowledge, the other parties thereto, and enforceable in accordance with its terms, except as such enforceability may be affected by the Enforceability Exceptions. Except as set forth on [Schedule 3.3](#), no Contract set forth on [Schedule 3.5](#) requires the consent of any other contracting party to the transactions contemplated by this Agreement. No material breach or default by Seller or,

to Seller's knowledge, any other party thereto, has occurred and is continuing under any Assumed Contract.

3.6 [Intellectual Property](#). Seller has delivered to Buyer true and complete copies of all documents establishing or evidencing all Intellectual Property listed in [Schedule 3.6](#). Except as disclosed in [Schedule 3.6](#), such Intellectual Property is valid and in full force and effect and in good standing and, to Seller's knowledge, is uncontested. To Seller's knowledge, it is not infringing upon or otherwise acting adversely to any trademarks, trade names, service marks, service names, software licenses or other similar intellectual property rights owned by any other Person to the extent such infringement or adverse action would adversely affect in any material respect such Intellectual Property.

3.7 [Taxes](#). Seller has filed, or caused to be filed, with the appropriate Governmental Authority, all required Tax returns, and Seller has paid, caused to be paid or accrued all Taxes shown to be due and payable or claimed to be due and payable thereon, except where the failure to file such returns or pay or accrue such Taxes would not result in a Lien on the QXR Assets or in the imposition of transferee liability on Buyer for the payment of such Taxes. Seller has no Liability material in amount for any Taxes due and owing, and, to Seller's knowledge, there are no proceedings pending pursuant to which Seller is or could be made liable for any Taxes the liability for which could extend to Buyer as transferee of the QXR Assets following the Closing.

3.8 [Claims and Litigation](#). There are no Actions pending or, to Seller's knowledge, threatened by or against Seller or the QXR Assets that, individually or in the aggregate, could reasonably be expected (i) to have a material adverse effect upon the ability of Seller to consummate the transactions contemplated by this Agreement in accordance with its terms or (ii) to subject Buyer to any liability (other than such liability that may arise from its own actions or omissions). Seller is not operating under or subject to any Judgment relating to the Station or the QXR Assets which would have a material adverse effect on the condition of the Station or any of the QXR Assets.

3.9 [Compliance with Laws](#). Seller is in compliance in all material respects with all applicable Legal Requirements relating to Seller, the Station or the QXR Assets.

3.10 [Conduct of Business in Ordinary Course](#). Between January 1, 2009, and the date hereof, Seller has conducted the Business and operations of the Station in the ordinary and usual course consistent with past practice in all material respects, and has not (i) made any sale, assignment, license, lease or other transfer of any of, or otherwise abandoned or failed to maintain, any material assets, other than Excluded Assets, those assets to be transferred pursuant to the Exchange Agreement, obsolete or worn-out assets no longer necessary for the operation of the Station, or other assets sold or disposed of in the normal course of business, or (ii) suffered any material damage or destruction (whether or not covered by insurance) to any of its material assets which assets have not been repaired or replaced.

3.11 [Insurance](#). Seller, with respect to the Business and the QXR Assets has such amounts and types of insurance coverage as are reasonable and customary for a

similarly situated broadcast radio station. Seller is not in default in any material respect under any of its insurance policies, nor has Seller failed to give any notice or present any claim under any policies in a due and timely fashion.

3.12 [Employees](#). Seller is in compliance in all material respects with all labor and employment laws, rules and regulations applicable to the Station or the Business, including those which relate to prices, wages, hours, discrimination in employment and collective bargaining. To Seller's knowledge, there is no unfair labor practice charge or complaint against Seller in respect of the Business pending or threatened before the National Labor Relations Board, any state labor relations board or any court or tribunal, and to Seller's knowledge, there is no strike, dispute, request for representation, slowdown or stoppage pending or threatened in respect of the Business.

3.13 [Brokers](#). Seller has not engaged any agent, broker or other Person acting pursuant to the express or implied authority of Seller which is or may be entitled to a commission or broker or finder's fee in connection with the transactions contemplated by this Agreement or otherwise with respect to the sale of the QXR Assets.

3.14 [Absence of Other Express or Implied Representations](#). Except for the representations and warranties contained in this Agreement (or in the certificates delivered pursuant to this Agreement), neither Seller nor any other Person makes any express or implied representation or warranty on behalf of Seller. For the avoidance of doubt, Seller makes no express or implied representations and warranties with respect to the UR Assets. Univision has made representations and warranties with respect to the UR Assets, which are set forth in the Exchange Agreement, and certain rights to indemnity with respect thereto shall be assigned by Seller to Buyer at Closing pursuant to the terms of the UR Assets Assignment Agreement.

SECTION 4: [REPRESENTATIONS AND WARRANTIES OF BUYER](#)

Buyer hereby represents and warrants to Seller as follows:

4.1 [Standing and Authority](#). Buyer is a non-profit corporation validly existing and in good standing under the laws of New York. Buyer has all requisite corporate power and authority to execute, deliver and perform this Agreement and the Addendum and to consummate the transactions contemplated hereby and thereby.

4.2 [Authorization and Binding Obligations](#). The execution, delivery and performance of this Agreement and the Addendum by Buyer have been duly and validly authorized by all necessary corporate action. This Agreement and the Addendum have each been duly executed and delivered by Buyer and each constitutes a valid and binding agreement of Buyer, enforceable against Buyer in accordance with its terms, except as its enforceability may be limited by Enforceability Exceptions.

4.3 [No Contravention; Consents](#). Subject to obtaining the FCC Consent, the other Consents set forth in [Schedule 3.3](#) and written notice to Buyer's lender (which shall be given by Buyer prior to Closing), the execution, delivery and performance of this Agreement and the Addendum, the consummation of the transactions contemplated

hereby and thereby, and the compliance with the provisions hereof and thereof by Buyer will not (i) violate any provisions of the organizational documents of Buyer, (ii) violate any Legal Requirements applicable to Buyer, or (iii) require the consent of any Person, or violate, or be in conflict with, or constitute a default under any contract or agreement to which Buyer is a party, such that Buyer cannot perform its obligations hereunder. Except for the Consents set forth in [Schedule 3.3](#), the FCC Consent and written notice to Buyer's lender, no material consent, approval, license or authorization of any Governmental Authority or other Person is required by Buyer in connection with the execution, delivery and performance by Buyer of its obligations under this Agreement or the Addendum.

4.4 [Claims and Litigation](#). There are no Actions pending, or to Buyer's knowledge, threatened by or against Buyer that, individually or in the aggregate, could reasonably be expected to have a material adverse effect upon the ability of Buyer to consummate the transactions contemplated by this Agreement and the Addendum in accordance with their terms.

4.5 [Compliance with Law](#). There are no violations by Buyer of any applicable Legal Requirements relating to any business of Buyer that could reasonably be expected to have a material adverse effect upon the ability of Buyer to consummate the transactions contemplated by this Agreement and the Addendum.

4.6 [Qualifications](#). Buyer knows of no facts that would, under applicable Legal Requirements, disqualify Buyer with respect to the assignment of the FCC Licenses. Buyer has not engaged in any course of conduct that would impair the ability of Buyer to be the holder of the FCC Licenses.

4.7 [Availability of Funds](#). Buyer has available the necessary funds to enable it to pay the Purchase Price and to consummate the transactions contemplated hereby.

4.8 [Brokers](#). Buyer has not engaged any agent, broker or other Person acting pursuant to the express or implied authority of Buyer which is or may be entitled to a commission or broker or finder's fee in connection with the transactions contemplated by this Agreement and the Addendum, or otherwise with respect to the sale of the Assets or the Business.

4.9 [Absence of Other Express or Implied Representations](#). Except for the representations and warranties contained in this Agreement (or in the certificates delivered pursuant to this Agreement), neither Buyer nor any other Person makes any express or implied representation or warranty on behalf of Buyer.

SECTION 5: [PRE-CLOSING COVENANTS OF THE PARTIES](#)

5.1 [Covenants of Seller](#). Seller covenants and agrees from and after the execution and delivery of this Agreement to and including the Closing Date as follows:

(a) [Reasonable Best Efforts](#). Seller shall use its reasonable best efforts to cause the transactions contemplated by this Agreement to be consummated in accordance with the terms hereof, and, without limiting the generality of the foregoing,

use its reasonable best efforts to obtain all Consents set forth on Schedule 3.3. Seller shall make all filings with and give all notices to third parties that may be reasonably necessary of Seller in order to consummate the transactions contemplated hereby. Except as expressly provided by this Agreement, neither Seller nor Buyer shall be required to make any payments to Persons or parties to the Contracts in order to obtain their Consents, except that Seller shall pay any administrative or application fees customarily payable to such Persons or parties in connection with requests for their Consent, or costs or fees (including reimbursement of legal fees) expressly required by the terms of any such Contract.

(b) No Control. Notwithstanding any provision of this Agreement to the contrary, pending the Closing, Seller shall maintain actual (*de facto*) and legal (*de jure*) control over the Station. Specifically, Seller shall retain responsibility for the operation of the Business and the Station pending the Closing, including responsibility for the following matters: access to and use of the facilities of and equipment owned by Seller; control of the daily operation of the Station; creation and implementation of policy decisions; employment and supervision of employees; payment of financing obligations and expenses incurred in the operation of the Station prior to the Closing; receipt and distribution of moneys and profits derived from the operation of the Station; and execution and approval of all contracts and applications prepared and filed before the FCC or any other Governmental Authority.

(c) Access. Seller shall give to Buyer and its agents reasonable access during normal business hours to the QXR Assets and to Seller's personnel, premises, properties, and books and records relating to the QXR Assets that are in Seller's possession or control, and shall furnish Buyer with all such information concerning the QXR Assets as Buyer reasonably may request.

(d) Ordinary Course. Except as contemplated by the terms hereof and the Exchange Agreement, and except as Seller shall reasonably deem to be necessary or appropriate due to the restrictions upon the operation of the Station after the Closing Date applicable to Buyer as a non-profit corporation, Seller shall (i) conduct the Business in the ordinary course of business consistent with its past practices, (ii) not engage in any transaction outside of the ordinary course of business consistent with past practices, and (iii) maintain commercially reasonable insurance on the QXR Assets and the Station. Seller shall use commercially reasonable efforts to preserve the goodwill of employees, suppliers, customers, Governmental Authorities and others dealing with Seller.

(e) Compliance with Laws. Seller shall use its reasonable best efforts to comply in all material respects with the Communications Laws and other Legal Requirements applicable to Seller or the Station or the QXR Assets.

(f) Contracts and Liens. Seller shall use its reasonable best efforts to (i) not cause or permit the termination (except upon the expiration of the term thereof in accordance with its terms), modification, extension or amendment of any Assumed Contract, and (ii) not create, assume, consent to or suffer to exist any Lien on any of its QXR Assets (other than Permitted Liens). Unless Buyer shall have given its prior written

consent, Seller shall not enter into any new Contract or incur any obligation (including obligations arising from the amendment of any existing Contract) that will be binding on Buyer after the Closing.

(g) [No Solicitation](#). Seller shall not (i) sell, transfer, lease, assign, convey or otherwise dispose of any QXR Assets, (ii) knowingly solicit, encourage, entertain, negotiate or enter into any such transaction or agreement of the nature described in clause (i) above, (iii) dissolve, liquidate, merge or consolidate with any other entity, or (iv) provide any non-public information about the Station or the QXR Assets to any Person except for Station information provided to Univision pursuant to the Exchange Agreement.

5.2 [Covenants of Buyer](#). Buyer covenants and agrees that from and after the execution and delivery of this Agreement to and including the Closing Date as follows:

(a) [Commercially Reasonable Efforts](#). Buyer shall use its commercially reasonable efforts to cause the transactions contemplated by this Agreement to be consummated in accordance with the terms hereof, and, without limiting the generality of the foregoing, provide Seller with reasonable assistance in obtaining all necessary Consents and other authorizations required in connection with this Agreement and the transactions contemplated hereby, including the FCC Consent, and any required consent of any other Governmental Authorities with lawful jurisdiction. Buyer shall make all filings with and give all notices to third parties that may be necessary or reasonably required in order for Buyer to consummate the transactions contemplated hereby.

(b) [No Control](#). Notwithstanding any provision of this Agreement to the contrary, pending the Closing, Buyer shall do nothing to interfere with Seller's actual (*de facto*) and legal (*de jure*) control over the Station. Specifically, Buyer acknowledges and agrees that the responsibility for the operation of the Business and the Station shall, pending the Closing, reside with Seller, including responsibility for the following matters: access to and use of the facilities of and equipment owned by Seller; control of the daily operation of the Station; creation and implementation of policy decisions; employment and supervision of employees; payment of financing obligations and expenses incurred in the operation of the Station prior to the Closing; receipt and distribution of moneys and profits derived from the operation of the Station; and execution and approval of all contracts and applications prepared and filed before the FCC or any other Governmental Authority.

SECTION 6: [JOINT COVENANTS](#)

6.1 [The Exchange Agreement](#).

(a) [Execution of the Exchange Agreement and the Addendum](#). Seller confirms, and Buyer acknowledges, that (i) Seller is executing the Exchange Agreement with Univision concurrently herewith, pursuant to which Seller shall, immediately prior to Closing, assign to Buyer the right to acquire and receive the UR Assets as transferee

pursuant to the terms of the Exchange Agreement, and (ii) a true and complete copy of the Exchange Agreement (including the Disclosure Schedules thereto) has been provided to Buyer. Buyer is executing the Addendum concurrently herewith, pursuant to which Buyer is granted certain rights and agrees to certain obligations under the terms of the Exchange Agreement. The concurrent closing of the Exchange Agreement is a condition to the Closing hereof. Under the terms of the Exchange Agreement, Seller shall be the transferee of the UR Assets thereunder during the period prior to Closing; upon the Closing hereof, Seller and Buyer shall execute the UR Assets Assignment Agreement pursuant to which Buyer shall be the transferee of the UR Assets for purposes of the closing of the Exchange Agreement. All consents that are required to be obtained by Univision with respect to the transfer of the UR Assets shall contemplate their assignment and transfer to Buyer upon Closing. Seller confirms that the FCC Consent and the consent to assign the 105.9 FM transmitter site lease to Buyer comprise “Material Consents,” the receipt of which is a condition precedent to Buyer’s obligation to close as the transferee of the UR Assets pursuant to the terms of Sections 6.3 and 6.4 of the Exchange Agreement.

(b) [Performance of the Exchange Agreement](#). Seller shall perform and comply in all material respects with all of the covenants and agreements to be performed by it under the Exchange Agreement and will use its reasonable best efforts to not permit any representation or warranty made by it under the Exchange Agreement to become untrue in any material respect.

6.2 [Consents](#). No Party shall have any obligation to agree to any material adverse change in any Contract to obtain any Consent.

6.3 [Joint Filings](#). Buyer and Seller shall each comply with its obligations with respect to the Assignment Application and the Call Sign Change Applications under the terms of Section 5.3 of the Exchange Agreement.

6.4 [Notice of Breach](#). Buyer and Seller shall each comply with its obligations under the terms of Section 5.4 of the Exchange Agreement.

6.5 [Confidentiality](#). Buyer and Seller shall each comply with its confidentiality obligations under the terms of Section 5.5 of the Exchange Agreement.

6.6 [Further Assurances](#). After Closing the Parties will take all appropriate and commercially reasonable actions and execute all documents, instruments or conveyances of any kind that may be reasonably necessary or advisable to put Buyer in possession and operating control of the QXR Assets as contemplated by the terms hereof, or to otherwise carry out any of the provisions hereof.

6.7 [Pre-Final Order Consummation](#). If the transactions contemplated by this Agreement and the Exchange Agreement are consummated prior to the receipt of a Final Order with respect to the FCC Consent for the assignment by WLC of its FCC Licenses for 105.9 FM to Buyer and prior to the receipt of a Final Order with respect to the FCC consent for the assignment to WLC by Seller of its FCC licenses for 96.3 FM pursuant to

the terms of the Exchange Agreement, and if after Closing either of such FCC consents is reversed or otherwise set aside pursuant to a final order of the FCC or the final, unappealable order of a court of competent jurisdiction, then the Parties shall comply with the terms of Section 5.11 of the Exchange Agreement.

6.8 [Non-Receipt of Consents prior to Closing](#). To the extent that any Assumed Contract may not be assigned without the Consent of any third party, and such Consent is not obtained prior to Closing, this Agreement and any assignment executed pursuant to this Agreement shall not constitute an assignment of such Assumed Contract; *provided, however*, with respect to each such Assumed Contract, Seller and Buyer shall cooperate to the extent feasible in effecting a lawful and commercially reasonable arrangement under which Buyer shall receive the benefits under the Assumed Contract from and after Closing, and to the extent of the benefits received, Buyer shall pay and perform Seller's obligations arising under the Assumed Contract from and after Closing in accordance with its terms.

6.9 [Employees](#).

(a) Seller has provided Buyer with a list showing employee positions and compensation information for current employees who are available to Buyer for hire. Buyer may (but is not obligated to) offer post-Closing employment to any of such employees. With respect to each such employee who accepts Buyer's offer of employment, Seller shall be responsible for all compensation and benefits arising prior to Closing (in accordance with Seller's employment terms and any applicable Contracts and Legal Requirements) and Buyer shall be responsible for all compensation and benefits arising after Closing (in accordance with Buyer's employment terms). Buyer does not assume any of Seller's employee obligations (including any severance obligations), all of which are Non-Assumed Liabilities and not Assumed Liabilities. Seller shall be solely responsible for paying any severance pay, any unused vacation pay and any other compensation of any kind or nature, or benefits payable to all Persons employed by Seller with respect to their periods of employment by Seller in accordance with Seller's employment terms and any applicable Contracts and Legal Requirements.

(b) Seller acknowledges that the Assumed Contracts do not include any Contract between Seller and any labor organization. Seller shall comply with all Legal Requirements and contractual obligations with respect to all Contracts that Seller has with any labor organization, including promptly notifying all such labor organizations that Seller is immediately prior to the Closing terminating the employment of all Station employees covered by the respective collective bargaining agreements.

(c) Seller shall communicate to its employees that all Station employees remaining in Seller's employment immediately prior to Closing on the Closing Date will be terminated immediately prior to Closing on such date, and that they shall have no expectation of employment with Buyer.

(d) Seller shall be solely responsible for giving any and all notices to the extent required under, and otherwise comply with, to the extent applicable, the

Worker Adjustment and Retraining and Notification Act, 29 U.S.C. §§ 2101 *et seq.* (“WARN”), as well as the New York State Worker Adjustment and Retraining Notification Act, NY Lab. Law §§ 860 *et seq.* (“NY WARN”), regardless of when it is deemed that any Person has suffered a loss of employment. For purposes of this paragraph, this transaction shall not be deemed a sale of part or all of a business within the meaning of both WARN and NY WARN.

(e) Buyer and Seller shall in good faith try to reach agreement upon appropriate guidelines and procedures in compliance with applicable Legal Requirements pursuant to which Buyer may interview Seller’s employees prior to Closing. Subject to the Parties’ agreement to such guidelines and procedures, prior to Closing Seller shall permit Buyer to interview such available employees in accordance with any such guidelines and procedures and applicable Legal Requirements.

(f) Seller shall immediately prior to Closing on the Closing Date have terminated the employment of all of its employees remaining in Seller’s employment at such time, and have paid or made arrangements to pay any severance pay, any unused vacation pay and any other compensation or benefits to which such employees are entitled as required by their terms of employment and any applicable Contracts and Legal Requirements.

(g) The terms of this Agreement are solely for the benefit of (and may be enforced only by) the parties hereto and their respective successors and permitted assigns. Without limiting the foregoing, nothing in this Agreement gives any rights to any employee, and no employee may enforce any provision of this Agreement against any of the parties hereto.

6.10 Programming Materials. Prior to and during the three-month period following Closing, Seller shall make the Programming Materials reasonably available to Buyer and its agents during normal business hours (at such time or times as reasonably approved by Seller). Seller disclaims, and Buyer agrees to such disclaimer, any express or implied representations or warranties regarding its possession of any intellectual property rights, clearances or permissions, or the absence of any restrictions or limitations, with respect to the use of the Programming Materials. Buyer agrees that it shall be solely responsible for complying with all applicable Legal Requirements and obtaining any intellectual property rights and any clearances or permissions from other Persons required for its use of any of the Programming Materials following Closing.

6.11 Specific Performance. Buyer and Seller agree that the right to and remedy of specific performance with respect to this Agreement will be available to the Parties and Univision pursuant to the terms of Section 5.14 of the Exchange Agreement.

SECTION 7: CONDITIONS PRECEDENT TO OBLIGATION OF SELLER TO CLOSE

The obligations of Seller to sell the Assets and to otherwise consummate the transactions contemplated by this Agreement are subject to the satisfaction or waiver, on or prior to the Closing Date, of each of the following conditions:

7.1 Representations, Warranties and Covenants. All representations and warranties of Buyer contained in this Agreement shall be true and correct in all material respects (if not qualified by materiality), and true and correct (if so qualified), at and as of the Closing Date as if such representations and warranties were made at and as of the Closing Date, except for (i) any representation or warranty that is expressly stated only as of a specified earlier date, in which case such representation or warranty shall be true and correct in all material respects (if not qualified by materiality), and true and correct (if so qualified), as of such earlier date, and (ii) changes in any representation or warranty that are contemplated by this Agreement; and Buyer shall have performed in all material respects all agreements and covenants required hereby to be performed by Buyer prior to or on the Closing Date, except to the extent such noncompliance results from any act or omission of Seller or its agents.

7.2 Closing Deliveries. Seller shall have received from Buyer the documents and other items to be delivered by Buyer pursuant to Section 9.3 of this Agreement.

7.3 FCC Consent. The FCC Consent shall have been issued, and no action shall have been taken by the FCC or other Governmental Authority that is pending as of the Closing Date with respect to the FCC Consent that makes illegal, restrains or prohibits the consummation of the transactions contemplated hereby.

7.4 Concurrent Closing of the Exchange Agreement. Seller, Univision and Buyer as the Transferee of the UR Assets shall be consummating the transactions contemplated by the Exchange Agreement concurrently with the consummation of the transactions contemplated hereby.

7.5 No Injunction. No material Legal Requirement shall have been promulgated, enacted, entered or enforced, and no Action in any court proceeding shall have been taken, by any Governmental Authority that has the effect of making illegal or of restraining or prohibiting the consummation of the transactions contemplated hereby.

SECTION 8: CONDITIONS PRECEDENT TO OBLIGATION OF BUYER TO CLOSE

The obligations of Buyer to purchase the Assets and to otherwise consummate the transactions contemplated by this Agreement are subject to the satisfaction or waiver, on or prior to the Closing Date, of each of the following conditions:

8.1 Representations, Warranties and Covenants. All representations and warranties of Seller contained in this Agreement shall be true and correct in all material respects (if not qualified by materiality), and true and correct (if so qualified), at and as of

the Closing Date as if such representations and warranties were made at and as of the Closing Date, except for (i) any representation or warranty that is expressly stated only as of a specified earlier date, in which case such representation or warranty shall be true and correct in all material respects (if not qualified by materiality), and true and correct (if so qualified), as of such earlier date, and (ii) changes in any representation or warranty that are contemplated by this Agreement; and Seller shall have performed in all material respects all agreements and covenants required hereby to be performed by Seller prior to or on the Closing Date, except to the extent such noncompliance results from any act or omission of Buyer or its agents.

8.2 [Closing Deliveries](#). Buyer shall have received from Seller the documents and other items to be delivered by Seller pursuant to Section 9.2 of this Agreement.

8.3 [FCC Consent](#). The FCC Consent shall have been issued, and no action shall have been taken by the FCC or other Governmental Authority that is pending as of the Closing Date with respect to the FCC Consent that makes illegal, restrains or prohibits the consummation of the transactions contemplated hereby.

8.4 [Concurrent Closing of the Exchange Agreement](#). Seller, Univision and Buyer as the Transferee of the UR Assets shall be consummating the transactions contemplated by the Exchange Agreement concurrently with the consummation of the transactions contemplated hereby.

8.5 [No Injunction](#). No material Legal Requirement shall have been promulgated, enacted, entered or enforced, and no Action in any court proceeding shall have been taken, by any Governmental Authority that has the effect of making illegal or of restraining or prohibiting the consummation of the transactions contemplated hereby.

SECTION 9: [THE CLOSING](#)

9.1 [The Closing](#).

(a) Buyer and Seller shall schedule the Closing to occur on that certain date determined by Buyer, Seller and Univision pursuant to the terms of Section 7.1(a) of the Exchange Agreement. In all cases, the Closing Date shall be subject to the satisfaction or waiver of all of the conditions to Closing set forth in Sections 7 and 8 of this Agreement.

(b) On the Closing Date and at the Closing Place, Seller shall make such deliveries as are set forth in Section 9.2, and Buyer shall make such deliveries as are set forth in Section 9.3. All transactions at the Closing are deemed to have taken place simultaneously and no transaction shall be deemed to have been completed, nor shall any document be deemed to have been delivered, until all transactions shall have been completed and all documents delivered, except that upon execution by Buyer and Seller, the UR Assets Assignment Agreement shall be delivered to Univision for its execution for purposes of the Parties' and Univision's consummation of the Exchange Agreement.

9.2 [Deliveries by Seller to Buyer](#). At Closing, Seller shall deliver to Buyer:

- (a) The UR Assets Assignment Agreement, duly executed by Seller;
- (b) One or more bills of sale, assignments and other appropriate instruments of conveyance transferring to Buyer all of the QXR Assets;
- (c) A copy of each instrument evidencing each Consent that shall have been obtained prior to Closing;
- (d) A copy of the resolutions of Seller approving the transactions contemplated by this Agreement, certified by Seller's secretary;
- (e) A good standing certificate of Seller from the State of Delaware and a certificate from the State of New York evidencing Seller's qualification to transact business in the State of New York, each dated within ten Business Days prior to the Closing Date;
- (f) A certificate signed by an officer of Seller attesting to Seller's fulfillment of the conditions set forth in Sections 8.1;
- (g) Customary releases with respect to any Liens on the QXR Assets that are not Permitted Liens; and
- (h) Such other documents reasonably requested by Buyer to give effect to the transactions contemplated by this Agreement and to convey, transfer and assign the QXR Assets to Buyer, free and clear of Liens other than Permitted Liens.

9.3 [Deliveries by Buyer to Seller](#). At Closing, Buyer shall deliver to Seller:

- (a) The UR Assets Assignment Agreement, duly executed by Buyer;
- (b) The Closing Cash Payment;
- (c) One or more appropriate assumption agreements whereby Buyer assumes and agrees to perform the Assumed Liabilities;
- (d) A copy of the resolutions of Buyer approving the transactions contemplated by this Agreement, certified by Buyer's secretary;
- (e) A good standing certificate of Buyer from the State of New York, dated within ten Business Days prior to the Closing Date;
- (f) A certificate signed by an officer of Buyer attesting to Buyer's fulfillment of the conditions set forth in Section 7.1; and
- (g) Such other documents reasonably requested by Seller to give effect to the transactions contemplated by this Agreement.

SECTION 10: INDEMNIFICATION

10.1 Survival. The representations and warranties of the Parties contained in this Agreement (or in any document delivered in connection herewith) shall be deemed to have been made on the date of this Agreement and on the Closing Date, and shall be deemed to be material and to have been relied upon by the Parties notwithstanding any investigation made by the Parties. Such representations and warranties, and any claims with respect to a Party's performance of any covenants of such Party to be performed prior to or at Closing, shall survive the Closing and shall remain operative and in full force and effect until the first anniversary of the Closing Date; *provided, however*, that the representations and warranties set forth in Sections 3.1, 3.2, 3.4, 3.7, 4.1 and 4.2 shall survive until the expiration of the applicable statute of limitations. The covenants in this Agreement to be performed after the Closing shall survive the Closing until fully performed. (The applicable period of survival of representations and warranties subsequent to Closing is referred to as the "Indemnity Period.")

10.2 Seller's Indemnity. During the Indemnity Period (or thereafter, solely with respect to any claim for indemnification for which a Claim Notice has been given prior to the expiration of the applicable Indemnity Period), Seller shall indemnify and hold harmless Buyer, its Affiliates and its representatives from and against any and all demands, losses, Liabilities, Actions, assessments, actual damages (but excluding incidental or consequential damages), fines, Taxes, penalties, reasonable costs and expenses (including reasonable expenses of investigation, and reasonable fees and disbursements of counsel, accountants and other experts) (collectively, "Losses") incurred or suffered by Buyer, its Affiliates or its representatives, arising out of, resulting from or relating to:

- (a) Any breach of any of the representations or warranties made by Seller in this Agreement, and any failure by Seller to perform any of its covenants contained in this Agreement to be performed prior to or at Closing;
- (b) Any failure by Seller to perform any of its covenants contained in this Agreement to be performed after the Closing; or
- (c) The Non-Assumed Liabilities.

10.3 Buyer's Indemnity. During the Indemnity Period (or thereafter, solely with respect to any claim for indemnification for which a Claim Notice has been given prior to the expiration of the Indemnity Period), Buyer shall indemnify and hold harmless Seller, its Affiliates and its representatives from and against any and all Losses incurred or suffered by Seller, its Affiliates or its representatives, arising out of, resulting from or relating to:

- (a) Any breach of any of the representations or warranties made by Buyer in this Agreement, and any failure by Buyer to perform any of its covenants contained in this Agreement to be performed prior to or at Closing;

(b) Any failure by Buyer to perform any of its covenants contained in this Agreement to be performed after the Closing; or

(c) The Assumed Liabilities.

10.4 Procedures. In the event that any Party hereto shall sustain or incur any Losses in respect of which indemnification may be sought by such Party pursuant to this Section 10, the Party seeking such indemnification (the “Claimant”) shall assert a claim for indemnification by giving prompt written notice thereof (a “Claim Notice”) which shall describe in reasonable detail the facts and circumstances upon which the asserted claim for indemnification is based, along with a copy of the claim or complaint, if applicable, to the Party providing indemnification (the “Indemnitor”). For purposes of this paragraph, any Claim Notice that is sent within fifteen (15) days of the date upon which the Claimant actually learned of such Loss shall be deemed to have been “prompt notice”; *provided* that failure of the Claimant to give the Indemnitor prompt notice as provided herein shall not relieve the Indemnitor of any of its obligations hereunder except to the extent that the Indemnitor is materially prejudiced by such failure.

(a) Upon the receipt of such Claim Notice regarding a claim or complaint by a third party against Claimant for which it seeks indemnification, the Indemnitor shall have the right to undertake (at its own expense), by counsel or representatives of its own choosing, the good faith defense, compromise or settlement to be undertaken on behalf of the Claimant and shall keep the Claimant reasonably informed with respect thereto, *provided* that the Indemnitor unconditionally agrees in writing that it shall provide indemnity to the Claimant for all Losses relating to the claim disclosed in the Claim Notice and provides evidence reasonably satisfactory to the Claimant of its ability to provide such indemnity. Indemnity for such Losses shall not be deemed an admission of liability on the part of the Indemnitor as against any such Person. If the Indemnitor elects to undertake such defense by its own counsel or representatives, the Indemnitor shall give written notice to the Claimant within thirty (30) days of its receipt of the Claim Notice. Notwithstanding the foregoing, the Indemnitor may not assume or control the defense if the named parties to the action giving rise to the Claim Notice (including any impleaded parties) include both the Indemnitor and the Claimant and representation of both Parties by the same counsel would be inappropriate (based on a written opinion of outside counsel) due to actual or potential differing interests between them, in which case the Claimant shall have the right to defend the action and to employ counsel reasonably approved by the Indemnitor, and, to the extent the matter is determined to be subject to indemnification hereunder, the Indemnitor shall reimburse the Claimant for all reasonable costs associated with such defense.

(b) The Claimant shall cooperate with the Indemnitor in such defense and provide the Indemnitor with all information and assistance reasonably necessary to permit the Indemnitor to settle and/or defend any such claim. Except as otherwise provided in the last sentence of Section 10.4(a), the Claimant may retain counsel (at the Claimant’s expense) to monitor or participate in the defense of such claim, but the Indemnitor shall be entitled to control the defense unless the Claimant unconditionally agrees in writing to relieve the Indemnitor from liability with respect to the particular

matter. The Indemnitor shall have the right in good faith to settle or compromise any such claim; *provided* that at least ten (10) Business Days prior written notice of such settlement or compromise is given to the Claimant. Notwithstanding the foregoing, in connection with any such settlement or compromise negotiated by the Indemnitor, no Claimant shall be required by an Indemnitor to (i) enter into any settlement that does not include as an unconditional term thereof the delivery by the claimant or plaintiff to the Claimant of a release from all liability in respect of such claim or litigation, or (ii) enter into any settlement that attributes by its terms any non-indemnified liability to the Claimant.

(c) If an Indemnitor fails, within thirty (30) days after the date of the Claim Notice, to give notice to the Claimant of such Indemnitor's election to assume the defense thereof, the Indemnitor shall be bound by any determination made in such action or any compromise or settlement thereof effected by the Claimant and shall reimburse the Claimant for all Losses (including reasonable attorney's fees) incurred by the Claimant; *provided, however*, that the Claimant shall keep the Indemnitor advised on a timely basis of significant developments with respect to such defense and permit the Indemnitor to participate, at its own election and expense, at any time, in the defense thereof.

10.5 [Qualifications and Limitations](#). Notwithstanding any provision contained in this Agreement to the contrary, the Indemnitor's obligations to indemnify the Claimant pursuant to Section 10.2 or 10.3 shall be subject to the following qualifications and limitations:

(a) No indemnification shall be required to be made by either Buyer or Seller as Indemnitor to the other Party as Claimant under Section 10.2(a) or 10.3(a), or Section 8.2(a) of the Exchange Agreement, until the aggregate amount of Losses (on a cumulative basis) of such other Party as Claimant exceeds Twenty Five Thousand Dollars (\$25,000), and then, only with respect to the amount of such Losses in excess of Twenty-Five Thousand and No/100 Dollars (\$25,000).

(b) In no event shall Claimant under Section 10.2(a) or 10.3(a) have any right to indemnity exceeding, in the aggregate, the amount of One Million Dollars (\$1,000,000).

(c) All of a Claimant's Losses sought to be recovered under Section 10.2 or 10.3 hereof shall be net of any insurance proceeds actually received by the Claimant with respect to the events giving rise to such Losses. Each Party shall prosecute, or cause its appropriate Affiliate to prosecute, diligently and in good faith any claim for losses or damages with any applicable insurer. If a Claimant or any of its Affiliates actually recovers from insurers or other third parties any payments in respect of a matter for which such Claimant has been indemnified pursuant to Section 10.2 or Section 10.3, such Claimant shall promptly pay over to the Indemnitor the amount so recovered (net of any expenses incurred by it in procuring such recovery), but not in excess of the amount previously paid by the Indemnitor to or on behalf of the Claimant in respect of such matter.

(d) Following the Closing, the sole and exclusive remedy for either Party for any claim arising out of a breach of any representation, warranty, covenant or other agreement herein shall be a claim for indemnification pursuant to this Section 10 (other than with respect to fraud or intentional misrepresentation, and other than a Party's right to seek specific performance or other equitable remedies).

10.6 Guaranty by Seller's Parent. In order to induce Buyer to enter into this Agreement, and in recognition of the benefits received by Seller upon the consummation hereof, by its execution herebelow, The New York Times Company hereby guarantees Seller's performance of all of its obligations and the discharge of all of its Liabilities pursuant to the terms of this Section 10.

10.7 Treatment of Indemnity Benefits. All payments made by either Party as Indemnitor pursuant to this Section 10 shall be treated for tax purposes as adjustments to the amount of the Purchase Price.

SECTION 11: TERMINATION

11.1 Termination by Mutual Consent. This Agreement may be terminated prior to Closing by the mutual written consent of the Parties.

11.2 Termination by Seller. This Agreement may be terminated by Seller prior to Closing and the purchase and sale of the Assets abandoned, upon written notice to Buyer, upon the occurrence of any of the following:

(a) Conditions. If on the date that would otherwise be the Closing Date, any of the conditions precedent to the obligations of Seller set forth in Section 7 has not been satisfied, or waived in writing by Seller, subject to Section 11.6 below.

(b) Breach. If Buyer is in breach of its representations and warranties set forth in Section 4 in any material respect or Buyer breaches in any material respect its covenants set forth herein and, after written notice thereof is given to Buyer, Buyer is unwilling to cure such breach or does not undertake with diligence to effect such cure on a timely basis prior to Closing, or such breach is incapable of being cured prior to Closing, subject in either case to Section 11.5 below.

(c) Judgments. If there shall be in effect on the date that would otherwise be the Closing Date any Judgment that would prevent or make unlawful the Closing, subject to Section 11.6 below.

(d) Failure to Obtain FCC Consents. If (i) the FCC denies grant of an FCC Consent in a Final Order, or (ii) an FCC Consent shall not have been received from the FCC prior to July 1, 2010.

11.3 Termination by Buyer. This Agreement may be terminated by Buyer prior to Closing and the purchase and sale of the Assets abandoned, upon written notice to Seller, upon the occurrence of any of the following:

(a) [Conditions](#). If on the date that would otherwise be the Closing Date, any of the conditions precedent to the obligations of Buyer set forth in Section 8 has not been satisfied, or waived in writing by Buyer, subject to Section 11.6 below.

(b) [Breach](#). If Seller is in breach in any material respect of its representations and warranties set forth in Section 3 of this Agreement, or if Seller breaches in any material respect its covenants set forth herein, and, after written notice thereof is given to Seller, Seller is unwilling to cure such breach or does not undertake with diligence to effect such cure on a timely basis prior to Closing, or such breach is incapable of being cured prior to Closing, subject in either case to Section 11.5 below.

(c) [Judgments](#). If there shall be in effect on the date that would otherwise be the Closing Date any Judgment that would prevent or make unlawful the Closing, subject to Section 11.6 below.

(d) [Failure to Obtain FCC Consent](#). If (i) the FCC denies grant of an FCC Consent in a Final Order or (ii) the FCC Consent shall not have been received from the FCC prior to July 1, 2010.

11.4 [Termination of the Exchange Agreement](#). This Agreement shall automatically terminate if the Exchange Agreement shall be terminated in accordance with its terms.

11.5 [Uncured Material Breach or Default](#). Each Party shall give the other Party prompt written notice upon learning of any material breach or default by the other Party under this Agreement. The term “[Cure Period](#)” as used herein means a period commencing on the date Buyer or Seller receives from the other written notice of such breach or default hereunder and continuing until the earlier of (i) thirty (30) calendar days thereafter, or (ii) the Closing Date determined under Section 9.1; *provided, however*, that if the breach or default is non-monetary and cannot reasonably be cured within such period but can be cured before the Closing Date determined under Section 9.1, and if diligent efforts to cure promptly commence, then the Cure Period shall continue as long as such diligent efforts to cure continue, but not beyond the Closing Date determined under Section 9.1.

11.6 [Postponement of Closing](#). If upon the initially scheduled Closing Date the closing of the Exchange Agreement shall not occur but shall be rescheduled pursuant to the terms of Section 9.5 of the Exchange Agreement, then the Closing hereunder shall be postponed to occur concurrently with the Exchange Agreement on such rescheduled closing date as shall be determined pursuant to Section 9.5 of the Exchange Agreement.

11.7 [Effect of Termination; Liquidated Damages](#). Upon termination: (i) if neither Party hereto is in material breach of any provision of this Agreement, the Parties hereto shall not have any further liability to each other; and (ii) if either Seller or Buyer shall be in material breach of any provision of this Agreement, then the Parties shall have the right to receive, or the obligation to pay, liquidated damages pursuant to the terms of Section 9.7 of the Exchange Agreement. Upon the termination of this Agreement the

right to receive liquidated damages pursuant to the terms of Section 9.7 of the Exchange Agreement shall be the sole remedy of the non-breaching Party(ies) under this Agreement and the Exchange Agreement.

11.8 Attorneys' Fees. In the event of an alleged breach by either Party of its obligation to pay liquidated damages that results in a lawsuit or other proceeding to collect such damages, the prevailing Party shall be entitled to reimbursement from the non-prevailing Party of its reasonable legal fees and expenses (whether incurred in arbitration, at trial, or on appeal).

11.9 Surviving Obligations. The rights and obligations of the Parties described in Sections 6.5 and 12, and this Section 11 shall survive any termination.

SECTION 12: MISCELLANEOUS

12.1 Notices. All notices, demands, and requests required or permitted to be given under the provisions of this Agreement shall be (i) in writing, may be delivered by personal delivery, sent by commercial delivery service or certified mail, return receipt requested, or sent by email (with, if available under email options, a "delivery receipt" and a "read receipt" being requested), (ii) deemed to have been given on the date of actual receipt, which may be presumptively evidenced by the date set forth in the records of any commercial delivery service or on the return receipt, or on the date of the sender's receipt of a "read receipt" from recipient or sender's confirmation by phone of recipient's receipt, and (iii) addressed to the recipient at the address specified below, or with respect to any party, to any other address that such party may from time to time designate in a writing delivered in accordance with this Section 12.1:

If to Buyer:

WNYC Radio
Attn: Laura Walker, President & Chief Executive Officer
160 Varick Street
New York, New York 10013
Phone: 646-829-4444
Email: lwalker@wnyc.org

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

Ivan Zimmerman, General Counsel
WNYC Radio
160 Varick Street
New York, New York 10013
Phone: 646-829-4368
Email: izimmerman@wnyc.org

and:

Richard Bodorff, Esq.
Wiley Rein LLP
1776 K Street, NW
Washington, D.C. 20006
Phone: 202-719-3145
Email: rbodorff@wileyrein.com

If to Seller:

The New York Times Radio, LLC
Attn: James C. Lessersohn, Sr. V.P., Corp. Development
The New York Times Company
620 Eighth Avenue, 16th Floor
New York, New York 10018
Phone: 212-556-1393
Email: lesserj@nytimes.com

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

Alison C.M. Zoellner, V.P. & Assistant General Counsel
The New York Times Company
620 Eighth Avenue, 18th Floor
New York, New York 10018
Phone: 212-556-4097
Email: zoellnac@nytimes.com

and:

John H. Pomeroy, Esq.
Dow Lohnes PLLC
1200 New Hampshire Avenue, NW
Washington, D.C. 20036
Phone: 202-776-2539
Email: jpomeroy@dowlohn.com

Any notice given by email shall also be given by one other method authorized by this Section 12.1.

12.2 Expenses. Upon (and subject to the occurrence of) the Closing, each Party shall pay all federal, state and local sales or transfer taxes and recording fees and costs arising from the transaction contemplated hereby that such Party is required to pay in accordance with applicable Legal Requirements. Except as otherwise provided in this Agreement, Seller and Buyer shall each be liable for its own fees and expenses incurred in connection with the negotiation, preparation, execution or performance of this Agreement and the consummation of the transactions contemplated herein.

12.3 Choice of Law; Jurisdiction. This Agreement shall be construed, interpreted and the rights of the Parties determined in accordance with the laws of the State of New York, without giving effect to the principles of conflicts of law of such state. The Parties hereto hereby irrevocably submit to the non-exclusive jurisdiction of the U.S. District Court for the Southern District of New York, or any state court located in New York, New York, over any dispute arising out of or relating to this Agreement or any of the transactions contemplated hereby and each Party hereby irrevocably agrees that all claims in respect of such dispute or any suit, action or proceeding related thereto may be heard and determined in such courts. The Parties hereby irrevocably waive, to the fullest extent permitted by applicable law, any objection which they may now or hereafter have to the laying of venue of any such dispute brought in such court or any defense of inconvenient forum for the maintenance of such dispute. Each of the Parties hereto agrees that a judgment in any such dispute may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law. Each of the Parties

hereto hereby consents to process being served by any Party to this Agreement in any suit, action or proceeding by delivery of a copy thereof in accordance with the provisions of Section 12.1.

12.4 [Waiver of Trial by Jury](#). EACH OF THE PARTIES HERETO WAIVES ANY RIGHT IT MAY HAVE TO TRIAL BY JURY IN RESPECT OF ANY LITIGATION BASED ON, ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS AGREEMENT OR ANY COURSE OF CONDUCT, COURSE OF DEALING, VERBAL OR WRITTEN STATEMENT OR ACTION OF ANY PARTY HERETO.

12.5 [Assignment](#). Seller may not assign this Agreement or any of the rights or obligations hereunder. Buyer may not assign this Agreement or any of the rights or obligations hereunder without the prior written consent of Seller. Subject to the foregoing, this Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective successors and assigns, and no other person shall have any right, benefit or obligation hereunder (other than the Parties' Affiliates and representatives under and in accordance with Section 10).

12.6 [Entire Agreement](#). This Agreement, the Exchange Agreement and all schedules and exhibits hereto and thereto, and all documents and certificates to be delivered by the Parties pursuant hereto or thereto, collectively represent the entire understanding and agreement between the Parties hereto with respect to the subject matter of this Agreement and the Exchange Agreement. All schedules and exhibits attached to this Agreement or the Exchange Agreement shall be deemed part of this Agreement or the Exchange Agreement, as the case may be, and are incorporated herein or therein, where applicable, as if fully set forth herein. This Agreement and the Exchange Agreement supersede all prior negotiations, letters of intent or other writings between the Parties and their respective representatives with respect to the subject matter hereof.

12.7 [Amendment; Waivers of Compliance; Consents](#). This Agreement may be amended at any time but only by an instrument in writing signed by the Parties hereto. Except as otherwise provided in this Agreement, any failure of any of the Parties to comply with any obligation, representation, warranty, covenant, agreement, or condition herein may be waived by the Party entitled to the benefits thereof only by a written instrument signed by the Party granting such waiver, but such waiver or failure to insist upon strict compliance with such obligation, representation, warranty, covenant, agreement, or condition shall not operate as a waiver of, or estoppel with respect to, any subsequent or other failure. Whenever this Agreement requires or permits consent by or on behalf of any Party hereto, such consent shall be given in writing in a manner consistent with the requirements for a waiver of compliance as set forth in this Section.

12.8 [Severability](#). In the event that any one or more of the provisions contained in this Agreement or in any other instrument referred to herein, shall, for any reason, be held to be invalid, illegal or unenforceable in any respect by any Governmental Authority, then, so long as no Party is deprived of the benefits of this Agreement or such other instrument in any material respect, such invalidity, illegality or unenforceability shall not affect any other provision of this Agreement or any other such instrument and

this Agreement shall be construed in a manner that, as nearly as possible, reflects the original intent of the Parties.

12.9 [Mutual Contribution](#). The Parties to this Agreement and their counsel have mutually contributed to its drafting and to the drafting of all other agreements referenced herein. Consequently, no provision of this Agreement (or any such agreement referenced herein) shall be construed against any Party on the ground that such Party drafted the provision or caused it to be drafted or the provision contains a covenant of such Party.

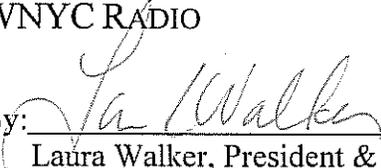
12.10 [Counterparts](#). This Agreement may be executed in any number of counterparts, each of which, when so executed and delivered, shall be an original, and all of which counterparts together shall constitute one and the same fully executed instrument. For all intents and purposes delivery of counterpart signature pages may be effected via email of scanned, or facsimile transmission of, executed signature pages.

[END OF PAGE. SIGNATURES FOLLOW.]

IN WITNESS WHEREOF, this Agreement has been executed by the Parties hereto as of the date first above written.

BUYER:

WNYC RADIO

By: 

Laura Walker, President & Chief
Executive Officer

SELLER:

THE NEW YORK TIMES RADIO, LLC

By: _____
Diane Brayton, Assistant Secretary

Solely with respect to its agreement to the
terms of Section 10.6 hereof:

THE NEW YORK TIMES COMPANY

By: _____
James C. Lessersohn, Sr. V.P., Corp.
Development

IN WITNESS WHEREOF, this Agreement has been executed by the Parties hereto as of the date first above written.

BUYER:

WNYC RADIO

By: _____
Laura Walker, President & Chief
Executive Officer

SELLER:

THE NEW YORK TIMES RADIO, LLC

By: Diane Brayton
Diane Brayton, Assistant Secretary

Solely with respect to its agreement to the terms of Section 10.6 hereof:

THE NEW YORK TIMES COMPANY

By: James C Lessersohn
James C. Lessersohn, Sr. V.P., Corp.
Development

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