

ASSET PURCHASE AGREEMENT

THIS ASSET PURCHASE AGREEMENT (this “Agreement”), is made as of April 25, 2003, by and among NextMedia Operating, Inc., a Delaware corporation (“Operating”), NM Licensing LLC, a Delaware limited liability company (“Licensing” and, collectively with Operating, “Sellers”) and Newsweb Corporation, an Illinois corporation (“Buyer”).

WITNESSETH:

WHEREAS, Sellers own certain assets that are used in connection with the business and operations of radio station WAIT-AM (FCC Facility ID #53504) in Crystal Lake, Illinois (the “Station”); and

WHEREAS, Sellers desire to sell the Station to Buyer, and Buyer desires to purchase substantially all of the assets of Sellers used in connection with the business and operations of the Station, in accordance with the terms and conditions set forth in this Agreement;

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

ARTICLE 1

PURCHASE AND SALE OF THE ACQUIRED ASSETS

1.1 Transfer of Acquired Assets. On the terms and subject to the conditions contained in this Agreement, on the Closing Date (as such term is defined in Section 4.1), Sellers shall assign, transfer, convey and deliver to Buyer and Buyer shall acquire and assume from Sellers, all of the right, title and interest of Sellers in and to all of the following assets, properties, interests and rights of Sellers (collectively, the “Acquired Assets”) free and clear of all Liens (as defined in Section 6.1.10) other than the Permitted Liens (as defined in Section 6.1.10):

1.1.1 Licenses and Permits. All of Sellers’ rights in and to the licenses, permits and other authorizations issued to Sellers by any Governmental Entity (as defined in Section 6.1.2), including those issued by the Federal Communications Commission (the “FCC”) (hereinafter referred to as the “Station License”), used exclusively in connection with the operation of the Station, along with renewals or modifications of such Station License between the date hereof and the Closing Date, which are specifically listed on Schedule 1.1.1 hereto;

1.1.2 Tangible Personal Property. All equipment, office furniture and fixtures, office materials and supplies, inventory, spare parts and all other tangible personal property of every kind and description, and Sellers’ rights therein, owned, leased or held by Sellers and used exclusively in connection with the business or operations of

the Station, including, but not limited to, those items described or listed in Schedule 1.1.2 hereto, together with any replacements thereof or improvements or additions thereto made between the date hereof and the Closing Date, and less any retirements or dispositions thereof made between the date hereof and the Closing Date in the ordinary course of Sellers' business consistent with past practices;

1.1.3 Contract Rights. All of Sellers' rights in and under those contracts, agreements, leases and contractual rights relating to the business or operations of the Station as of the Closing Date that are listed in Schedule 1.1.3 attached hereto ("Contracts"), subject to Section 8.1.1 hereto;

1.1.4 Intellectual Property. All of Sellers' rights in and to the call letters, foreign and domestic letters patent, patents, patent licenses, trademarks, trade names, service marks, franchises, copyrights, Internet domain names, including registrations and applications for registration of any of them, URL addresses, computer software programs and licenses, know-how licenses, all programming material of whatever form or nature, jingles, slogans, the Station's logos and all other logos or licenses to use same, all trade secrets, technical knowledge, know-how, confidential proprietary information and all other intangible property rights of Sellers, that are used or useful exclusively in connection with the business or operations of the Station and are listed on Schedule 1.1.4 hereto (collectively, the "Intellectual Property"), together with any associated goodwill and any additions thereto between the date hereof and the Closing Date;

1.1.5 Books and Records. All of Sellers' rights in and to all of the files, documents, records, and books of account relating to the business or operations of the Station or to the Acquired Assets, including, without limitation, the Station's public files, programming information and studies, technical information and engineering data, news and advertising studies or consulting reports, marketing and demographic data, sales correspondence, lists of advertisers, promotional materials, credit and sales reports and filings with the FCC, originals of all written Contracts to be assigned hereunder, logs, software programs and books and records relating to financial, accounting, operational and technical matters;

1.1.6 Manufacturers' and Vendors' Warranties. All of Sellers' rights under manufacturers' and vendors' warranties (to the extent transferable) relating to items included in the Acquired Assets and all similar rights against third parties relating to items included in the Acquired Assets;

1.1.7 Owned Real Estate. The real property owned by Sellers and the structures, fixtures and improvements located thereon, all of which are used primarily in connection with the business or operations of the Station and are more fully described in Schedule 1.1.7 hereto (collectively, "Real Estate");

1.1.8 Causes of Action. All of Sellers' rights in and to all causes of action relating to the business or operations of the Station, including, without limitation, any causes of action for any past infringement on any of the Intellectual Property; and

1.1.9 [Miscellaneous Assets](#). Such other assets, properties, interests and rights owned by Sellers that are used exclusively in connection with the business or operations of the Station that are located as of the Closing Date on the Real Estate, except for any Excluded Assets (as such term is defined in [Section 1.2](#)).

1.2 [Excluded Assets](#). Notwithstanding anything to the contrary contained herein, it is expressly understood and agreed that the Acquired Assets shall not include any of the following assets or any right, title or interest therein (the “[Excluded Assets](#)”):

1.2.1 [Cash](#). All cash, checks, drafts, marketable securities and cash equivalents of Sellers on hand and/or in banks;

1.2.2 [Notes Receivable and Accounts Receivable](#). All notes receivable and accounts receivable of Sellers;

1.2.3 [Ordinary Course of Business Dispositions](#). All tangible and intangible personal property of Sellers disposed of or consumed in the ordinary course of business of Sellers consistent with past practices between the date hereof and the Closing Date, as permitted hereunder;

1.2.4 [Corporate Documents](#). Sellers’ corporate seals, minute books, charter documents, corporate stock record books and such other books and records as pertain to the organization, existence or capitalization of Sellers and duplicate copies of such financial records as are necessary to enable Sellers to file their Tax Returns (as defined in [Section 6.1.12\(f\)](#)) and reports;

1.2.5 [Certain Contracts of Insurance and Insurance Proceeds](#). Contracts of insurance, and all insurance proceeds arising out of or related to the Acquired Assets to the extent that such proceeds: (a) relate to expenditures that were made by Sellers prior to the Closing Date or (b) relate to expenditures that Sellers remain obligated to make after the Closing Date;

1.2.6 [Employee Benefit Plans](#). Any employee benefit plans within the meaning of Section 3(3) of the Employee Retirement Income Security Act of 1974, as amended, and bonus, pension, profit sharing, defined benefit, deferred compensation, incentive compensation, stock ownership, stock purchase, stock option, phantom stock, retirement, vacation, severance, disability, death benefit, hospitalization, salary continuation, educational assistance, club memberships, company car, insurance or other plans, arrangements or understandings providing benefits to any present or former employee or contractor of the Station maintained by Sellers or as to which Sellers (with respect to such individuals) have any liability or obligation, and the assets related thereto;

1.2.7 [Pre-Closing Tax Refunds](#). All Tax (as defined in [Section 6.1.12\(f\)](#)) refunds relating to all periods prior to the Closing Date;

1.2.8 [Certain Structures](#). The structures, fixtures and improvements owned by Sellers that are located on the Real Estate and are more fully described on [Schedule 1.2.8](#) hereto;

1.2.9 [Barter Arrangements](#). All of Sellers' rights in and to the barter, trade or similar arrangements for the sale of advertising for other than cash and all other trade agreements relating to the business or operations of the Station that are outstanding as of the date hereof, other than those contractual arrangements listed on [Schedule 1.1.3](#);

1.2.10 [Shared Assets](#). Those assets that currently are used in connection with the business or operations of the Station but also will be used following Closing in connection with the radio broadcasting business of Sellers, all of which are set forth on [Schedule 1.2.10](#) attached hereto (collectively, the "[Shared Assets](#)"); and

1.2.11 [Other Excluded Assets](#). Those assets that currently are used exclusively in the business or operations of the Station and are listed on [Schedule 1.2.11](#) attached hereto.

ARTICLE 2

ASSUMPTION OF OBLIGATIONS

2.1 [Assumption of Obligations](#). On the Closing Date (as defined in [Section 4.1](#)), Buyer shall assume the obligations of Sellers arising or to be performed after the Closing Date and all other liabilities that arise from the ownership or operation of the Acquired Assets after the Closing Date. All of the foregoing liabilities and obligations shall be referred to herein collectively as the "[Assumed Liabilities](#)."

2.2 [Sellers' Retained Liabilities](#). Notwithstanding anything contained in this Agreement to the contrary, Buyer does not assume or agree to pay, satisfy, discharge or perform, and will not be deemed by virtue of the execution and delivery of this Agreement or any document delivered at the execution of this Agreement, or as a result of the consummation of the transactions contemplated by this Agreement, to have assumed, or to have agreed to pay, satisfy, discharge or perform, any liability or obligation of Sellers other than the Assumed Liabilities.

ARTICLE 3

CONSIDERATION

3.1 [Delivery of Consideration](#). (a) In exchange for the Acquired Assets, Buyer shall deliver to Sellers the sum of Eight Million Two Hundred Fifty Thousand Dollars (\$8,250,000) at the Closing (as defined in [Section 4.1](#)) (the "[Purchase Price](#)") by wire transfer of immediately available funds to an account or accounts designated by Sellers.

(b) Within three (3) business days of the date hereof, Buyer shall deposit Four Hundred Twelve Thousand Five Hundred Dollars (\$412,500) (the "[Deposit](#)") in escrow with Wilmington Trust Company, or another commercial bank mutually agreeable to Buyer and Sellers (the "[Escrow Agent](#)") pursuant to an escrow agreement substantially in the form of [Exhibit A](#) hereto (the "[Escrow Agreement](#)"). For the purposes of this Agreement, "[business day](#)" shall mean any day other than a Saturday,

a Sunday or a day on which banking institutions in Chicago, Illinois are not required to be open.

3.2 Allocation of Consideration.

3.2.1 Within ten (10) days from the date hereof, Buyer shall hire an appraiser, subject to Sellers' approval, which shall not be unreasonably withheld, to appraise, at Buyer's sole cost and expense, the Real Estate. Both Buyer and Sellers shall be provided with a draft of the appraiser's appraisal of the Real Estate and may discuss such draft with the appraiser before it is finalized. When the appraisal of the Real Estate has been finalized by the appraiser (which must occur at least five (5) days prior to the Closing Date), such appraisal will be binding on both Buyer and Sellers solely for purposes of determining any income or transfer Taxes that may be due and payable by the parties hereto.

3.2.2 Within thirty (30) days after the Closing Date, Sellers and Buyer shall negotiate in good faith an allocation of the Purchase Price (less the appraised value of the Real Estate) among the Acquired Assets (other than the Real Estate) (the "Allocation"). If the Allocation is not agreed upon within thirty (30) days after the Closing Date, Buyer will order an appraisal (the "BIA Appraisal") of the Acquired Assets from Broadcast Investments Analysts ("BIA"), and BIA will determine the Allocation. The BIA Appraisal, if required, shall be provided to Sellers within forty-five (45) days after it is ordered. The Allocation shall comply with Section 1060 of the Internal Revenue Code of 1986, as amended (the "Code"), and Treasury Regulations promulgated thereunder. Subject to the requirements of applicable Tax law, all Tax Returns and reports including, without limitation, Form 8594, filed by Buyer and Sellers shall be prepared consistently with the Allocation and neither Buyer nor Sellers shall take any position contrary thereto. The cost of the BIA Appraisal, if required, shall be borne equally between Buyer and Sellers.

3.3 Allocations and Prorations.

3.3.1 The business and operations of the Station and the income and expenses attributable thereto through 12:01 a.m. on the Closing Date (the "Effective Time") shall be for the account of Sellers and thereafter shall be for the account of Buyer. Expenses for goods and services received both before and after the Effective Time, utilities charges, ad valorem, real estate, property and other Taxes (other than income Taxes, which shall be Sellers' sole responsibility for all taxable periods ending prior to and including the Effective Time, and those Taxes arising from the sale and transfer of the Acquired Assets, which, in the case of transfer and other similar Taxes, shall be paid as set forth in Section 15.2), income and expenses under the Contracts, prepaid expenses, music and other license fees (including any retroactive adjustments thereof), and rents and similar prepaid and deferred items shall be prorated between Sellers and Buyer in accordance with the foregoing.

3.3.2 Allocation and proration of the items set forth in Section 3.3.1 shall be made by Sellers and an estimate thereof shall be given to Buyer on the Closing

Date. Buyer shall give written notice of any objection to such statement within twenty (20) business days after receipt of such statement, detailing the reason for such objection and stating the amount of Buyer's proposed final allocation and proration. If a timely objection is made and the parties cannot reach agreement within thirty (30) days after receipt of the objection as to the amount of the final allocation and proration, the matter shall be referred to the Chicago office of Ernst & Young (the "Independent Auditor") to resolve the matter, whose decision will be final and binding on the parties, and whose fees and expenses shall be borne by Buyer and Sellers in accordance with the following: each party shall pay an amount equal to the sum of all fees and expenses of the Independent Auditor on a proportional basis taking into account the amount of the net allocation and proration proposed by each of Buyer and Sellers and the amount of the final allocation and proration determined by the Independent Auditor (for example, if Buyer proposes an allocation of \$10, Sellers propose an allocation of \$100, and the Independent Auditor proposes an allocation of \$30, Buyer would pay 20/90ths of the Independent Auditor's fees and Sellers would pay 70/90ths of those fees based on the \$90 in dispute between the parties). Buyer and Sellers acknowledge and agree that if either party is obligated to pay the other party any amount as a result of the allocations and prorations to be made under Section 3.3.1, the paying party shall remit any amount due to the other party within five (5) business days after the amount has been agreed upon by the parties or has been determined by the Independent Auditor.

ARTICLE 4

CLOSING

4.1 Closing. The consummation of the transactions contemplated herein (the "Closing") shall occur: (a) within ten (10) business days after the FCC Consent (as defined in Section 5.1 hereto) to the assignment of the Station License has been issued or (b) such other date to which the parties hereto shall agree in writing after each of the terms and conditions set forth in Articles 11 and 12 has been fulfilled or waived in writing by the party entitled to waive such term or condition (the "Closing Date"). The Closing shall be held in the offices of Katten Muchin Zavis Rosenman, 525 West Monroe Street, Suite 1600, Chicago, Illinois 60661, or at such other place as the parties hereto may agree.

ARTICLE 5

GOVERNMENTAL CONSENTS

5.1 FCC Consent. It is specifically understood and agreed by Buyer and Sellers that the Closing, the assignment of the Station License and the transfer of the Acquired Assets are expressly conditioned on, and are subject to, the prior consent and approval of the FCC ("FCC Consent").

5.2 FCC Application. Within one (1) business day following the execution of this Agreement, or such earlier time as shall be agreed to by all of the parties hereto, Sellers shall cause their counsel to file, on behalf of each of Sellers and Buyer, an

application with the FCC for the FCC Consent (each, an “FCC Application”). Sellers and Buyer acknowledge, however, that each party shall be responsible for its own costs and expenses related to the preparation and filing of its FCC Application.

ARTICLE 6

REPRESENTATIONS AND WARRANTIES OF SELLERS

6.1 Representations and Warranties of Sellers. Sellers hereby make the following representations and warranties to Buyer, each of which is true and correct as of the date hereof, and shall be true and correct as of the Closing Date, and shall be unaffected by any investigation heretofore or hereafter made by Buyer.

6.1.1 Organization, Good Standing, Etc.

(a) Operating is a corporation validly existing and in good standing under the laws of the State of Delaware, has all requisite power and authority to own, lease and operate its properties and to carry on the operation of the Station as now conducted and is qualified to do business in each jurisdiction in which its operation of the Station makes such qualification necessary.

(b) Licensing is a limited liability company validly existing and in good standing under the laws of the State of Delaware, has all requisite power and authority to own, lease and operate its properties and to carry on the operation of the Station as now conducted and is qualified to do business in each jurisdiction in which its ownership of any assets relating to the operation of the Station makes such qualification necessary.

(c) Sellers have all requisite power and authority to enter into this Agreement and to consummate the transactions contemplated hereby. The execution and delivery of this Agreement by Sellers and the consummation of the transactions contemplated hereby have been duly and validly authorized by all necessary action on the part of Sellers. This Agreement has been duly executed and delivered by Sellers and, assuming the due execution and delivery of this Agreement by Buyer, constitutes the legal, valid and binding obligation of Sellers, enforceable against Sellers in accordance with its terms, except as may be limited by bankruptcy, insolvency, reorganization, moratorium or other similar laws affecting the enforcement of creditors’ rights in general and subject to general principles of equity (regardless of whether such enforceability is considered in a proceeding in equity or at law).

6.1.2 Absence of Conflicting Agreements or Required Consents.

Assuming the consents identified by this Section 6.1.2 and Schedule 6.1.2 are obtained, neither the execution and delivery of this Agreement nor the consummation of the transactions contemplated hereby by Sellers shall: (i) violate, conflict with or result in any breach of any provision of the articles of incorporation or bylaws of Operating or the articles of organization or operating agreement of Licensing, (ii) violate, conflict with or result in a violation or breach of, or constitute a default (with or without due notice or

lapse of time or both) under, or permit the termination of, or result in the acceleration of, or entitle any party to accelerate (whether as a result of the sale of the Acquired Assets or otherwise) any obligation, or result in the loss of any benefit, or give rise to the creation of any Lien upon any of the properties or assets of Sellers or any of their subsidiaries under any of the terms, conditions or provisions of any loan or credit agreement, note, bond, mortgage, indenture or deed of trust, or any license, lease, agreement or other instrument or obligation to which any of them are a party or by which they or any of their properties or assets may be bound or affected, or (iii) violate any order, writ, judgment, injunction, decree, statute, rule or regulation of any court, administrative agency or commission or other governmental authority or instrumentality (a "Governmental Entity") applicable to Sellers or to any of their respective properties or assets, except for those violations that individually or in the aggregate could not reasonably be expected to have a material adverse effect on Buyer's ability to consummate the transactions contemplated by this Agreement. No consent, approval, order or authorization of, or registration, declaration or filing with, any Governmental Entity is required by or with respect to Sellers in connection with the execution and delivery of this Agreement by Sellers or the consummation by Sellers of the transactions contemplated hereby, except for the FCC Consent.

6.1.3 Statement of Direct Revenues and Expenses. Sellers have previously provided Buyer with copies of the Station's internally prepared statement of direct revenues and expenses (the "Statement of Direct Revenues and Expenses") for both the year ended December 31, 2002 and the month ended January 31, 2003. The Statement of Direct Revenues and Expenses presents the cash revenues derived from advertisements and other activities of the Station and the cash expenses directly related to the generation of the cash revenues. The Statement of Direct Revenues and Expenses excludes an allocation of indirect expenses of the Station including, without limitation, general and administrative, programming and technical expenses (which would include, among other things, expenses related to real estate taxes, electricity, administrative staff, management and engineering and programming oversight.) The Statement of Direct Revenues and Expenses presents, in all material respects, the results of operations of the Station for the periods described therein on the basis described above.

6.1.4 Compliance with Applicable Laws, FCC Matters.

(a) Except as permitted or contemplated hereby, the business and the operations of the Station have been, and now are being, conducted in compliance in all material respects with the Station License, each law, ordinance, regulation, judgment, decree, injunction, rule or order of the FCC or any other Governmental Entity binding on Sellers, the Station or their respective properties or assets. No investigation or review by any Governmental Entity with respect to Sellers or the Station is pending or, to Sellers' knowledge, threatened. For purposes of this Agreement, "Sellers' knowledge" shall be deemed to mean (A) the actual knowledge of Sellers' executive officers and (B) after due inquiry, and due examination of any documents, correspondence or other items in the records of Sellers relating to the subject matter for which knowledge is charged, the knowledge of Kira Lafond and Mark Stennett.

(b) Schedule 1.1.1 lists (A) all licenses, permits or other authorizations issued to Sellers by the FCC relating to the Station and held by Sellers as of the date of this Agreement and (B) all licenses, permits or authorizations issued to Sellers by any other Governmental Entities that are material to the business or operations of the Station and held by Sellers as of the date of this Agreement. Such licenses, permits and authorizations, and all applications for modification, extension or renewal thereof or for new licenses, permits, permissions or authorizations that would be material to the business or operations of the Station are collectively referred to herein as the Station License (as further defined in Section 1.1.1), each of which is in full force and effect. Except for proceedings affecting the radio broadcast industry generally, there are no proceedings pending or, to Sellers' knowledge, investigations, inquiries or proceedings threatened with respect to Sellers' ownership or operation of the Station. With the exception of such temporary reduced power operations as are necessary for routine maintenance, the Station operates in conformity with the Station License and within the operating power tolerances specified in 47 C.F.R. § 73.1560(a)(1). To Sellers' knowledge, no other broadcast station or radio communications facility is causing interference to the Station's transmissions beyond that allowed by FCC rules and regulations. Sellers have all necessary authority to use the call sign WAIT-AM.

6.1.5 Litigation. Except as set forth on Schedule 6.1.5 attached hereto, there are no actions, suits, inquiries, judicial or administrative proceedings, arbitrations or investigations pending or, to the knowledge of Sellers, threatened that relate to the business or operations of the Station or the Acquired Assets. There are no material judgments, decrees, injunctions, or orders of any Governmental Entity or arbitrator outstanding against Sellers relating to the transactions contemplated by this Agreement. There is no action, suit, inquiry, judicial or administrative proceeding pending or, to the knowledge of Sellers, threatened against Sellers by a third party relating to the transactions contemplated by this Agreement.

6.1.6 Insurance. Schedule 6.1.6 sets forth a list of all fire, liability and other forms of insurance and all fidelity bonds held by or applicable to the Station and sets forth with respect to each such policy the policy name, policy number, carrier, term and type of coverage, each of which is in full force and effect on the date hereof. Each such policy is valid and enforceable in accordance with its terms and is in an amount that is consistent with Sellers' past practice. No event has occurred, including, without limitation, the failure by Sellers to give any notice or information, or the delivery of any inaccurate or erroneous notice or information, that limits or impairs the rights of Sellers under any such insurance policies. Sellers shall keep comparable policies of insurance in effect for acts, omissions and events occurring on or prior to the Closing Date.

6.1.7 Real Estate. Sellers have, and upon Closing, Buyer will have good, valid and marketable title to the Real Estate, free and clear of any Liens other than the Permitted Liens. As of the Closing Date, Sellers own, or have a valid right to use, adequate routes of vehicular and pedestrian ingress and egress to, from and over all of the Real Estate necessary to operate the Station. Schedule 1.1.7 lists the street address and/or legal descriptions of the Real Estate. All real estate Taxes, assessments and use charges

pertaining to the Real Estate that have become due have been paid in full. There are no eminent domain or condemnation proceedings pending, or, to Sellers' knowledge, threatened against the Real Estate, except with respect to the easement interest of Sellers in Parcel 2 described on Schedule 1.1.7, which possibility has been raised once in a telephone conversation with counsel for McHenry County College (however, no other discussions or notices of such possibility have been raised with Sellers). To Sellers' knowledge, no off-site facilities are necessary to ensure compliance by the Real Estate with any statutes, ordinances, codes and regulations, including without limitation, parking requirements. Each parcel of Real Estate is taxed as a separate tax parcel. Sellers have not received notice of any contemplated or pending change in the zoning classification or permitted use of any of the Real Estate or special assessments with respect to any such Real Estate.

6.1.8 Personal Property. Schedule 1.1.2 contains a list of all material tangible personal property and assets owned or held by Sellers and used exclusively in the conduct of the business and operations of the Station. Except as disclosed in Schedule 1.1.2, Sellers own and will have on the Closing Date, and upon Closing Buyer will own and will have, good and marketable title to all such property. The tangible personal property and the fixtures owned or used by Sellers and necessary for the business or operations of the Station, are, in all material respects, in good operating condition (subject to normal wear and tear) and are sufficient to permit the conduct of the business and operations of the Station in compliance with FCC rules and regulations. Sellers own all of the tangible personal property and fixtures necessary to conduct the business and operations of the Station as presently conducted.

6.1.9 Sufficiency of Assets. The Acquired Assets, to be transferred hereunder, along with the Shared Assets and certain of the Excluded Assets described in Section 1.2, which will not be transferred hereunder, constitute all of the assets, rights and properties that are required for the business and operations of the Station as they are now conducted.

6.1.10 Liens and Encumbrances. All of the Acquired Assets will be conveyed to Buyer free and clear of all liens, pledges, claims, security interests, restrictions, mortgages, tenancies and other possessory interests, conditional sale or other title retention agreements, assessments, easements, rights of way, covenants, restrictions, rights of first refusal, defects in title, encroachments and other burdens, options or encumbrances of any kind (collectively, "Liens"), other than the Permitted Liens. For purposes of this Agreement, "Permitted Liens" shall mean (a) the Liens listed on Schedule 6.1.10, (b) liens for taxes and other governmental charges and assessments that are not yet due and payable, but for which Sellers shall continue to be liable and shall make payments as the same shall become due and payable, (c) liens of landlords and liens of carriers, warehousemen, mechanics and materialmen and other like liens arising in the ordinary course of business for sums not yet due and payable, but for which Sellers shall continue to be liable and shall make payments as the same shall become due and payable, and (d) other liens or imperfections on property (including any easements of record on any of the Real Estate) that, individually or in aggregate, are not material in amount or do not materially detract from the value of, or materially impair the existing use of, the

property affected by such lien or imperfection). The parties acknowledge and agree that, notwithstanding clause (b) above, any real property Taxes that may become due and payable following the Closing Date shall be the responsibility of Buyer in accordance with the proration agreement contained in Section 3.3.1 of this Agreement.

6.1.11 Environmental Matters. Except as disclosed in the Phase I Environmental Site Assessment prepared by Practical Environmental Solutions LLC, dated August 18, 2000:

(a) to Sellers' knowledge, the Station and any and all Real Estate is, and with respect to any predecessor or prior owner, operator or lessee (each a "Predecessor") has been, in compliance, in all material respects, with all Environmental Laws (as defined in Section 6.1.11(f));

(b) no judicial or administrative proceedings are pending or, to the knowledge of Sellers, threatened against Sellers relating to any of the Real Estate, alleging the violation of, or seeking to impose liability on Sellers pursuant to, any Environmental Law. Sellers have not received any written notice, claim or other written communication from any Governmental Entity or other person alleging the violation of, or liability under, any Environmental Laws;

(c) to Sellers' knowledge, there are no facts, circumstances or conditions associated with the Real Estate or the business or operations thereon that could reasonably be expected to give rise to a material environmental claim against the Station or the owners or operators thereof or result in the Station or the owners or operators thereof incurring material Environmental Costs and Liabilities (as defined in Section 6.1.11(f));

(d) all substances, materials or waste that are regulated by federal, state or local government under the Environmental Laws as hazardous, toxic or pollutants or contaminants as well as any petroleum or petroleum derived product (collectively, "Hazardous Substances"), used or generated by Sellers or to Sellers' knowledge, by any Predecessor in connection with the ownership of Real Estate, have been stored, used, treated, and disposed of by such persons or on their behalf in such manner as not to result in any material Environmental Costs or Liabilities;

(e) to Sellers' knowledge, there are not now, nor have there been in the past, on, in or under the Real Estate, any of the following: underground storage tanks, above-ground storage tanks, dikes or impoundments containing Hazardous Substances, asbestos containing materials, polychlorinated biphenyls or related compounds (other than those labeled and maintained in accordance with applicable Environmental Laws), which, individually or in the aggregate, could reasonably be expected to result in the Station or the owners or operators thereof incurring liabilities under Environmental Laws; and

(f) for purposes of this Agreement, the following terms shall have the following meanings: "Environmental Laws" shall mean all applicable federal,

state and local laws, statutes, codes, rules, regulations, common law or other legal requirements relating to the environment, natural resources, and public or employee health and safety and “Environmental Costs and Liabilities” shall mean any losses, including environmental remediation costs, liabilities, obligations, damages, fines, penalties or judgments, arising from or under any Environmental Law or order of or agreement with any Governmental Entity or other person.

6.1.12 Taxes.

(a) All Tax Returns (as defined in Section 6.1.12(f)) that have been required to be filed on or before the execution of this Agreement by Sellers have been duly filed on a timely basis under the statutes, rules or regulations of each applicable jurisdiction and Sellers will file or will cause to be duly filed, all Tax Returns required to be filed by Sellers as of the Closing Date with respect to any taxable period prior to or that includes the Closing Date. All such Tax Returns are (or will be) complete and accurate in all material respects. All Taxes, whether or not reflected on the Tax Returns, that are due with respect to Sellers and any Affiliates of Sellers have been timely paid by Sellers, and/or any such Affiliates.

(b) Except for assessments for general real estate Taxes not yet due and payable, no claim for assessment or collection of Taxes has been asserted against Sellers or any Affiliates of Sellers. Neither Sellers nor their Affiliates are a party to any pending audit, action, proceeding or investigation by any Governmental Entity for the assessment or collection of Taxes nor do Sellers or any of their Affiliates have knowledge of any threatened audit, action, proceeding or investigation.

(c) Neither Sellers nor their Affiliates have waived or extended any statutes of limitation for the assessment or collection of Taxes. No claim has ever been made by a Governmental Entity in a jurisdiction where Sellers or any of their Affiliates do not currently file Tax Returns that they are or may be subject to taxation by that jurisdiction nor are Sellers or any of their Affiliates aware that any such assertion of jurisdiction is pending or threatened. No Liens have been imposed upon, or asserted against, any of the Acquired Assets as a result of, or in connection with, any failure, or alleged failure, to pay any Tax.

(d) Sellers have withheld and has paid all Taxes required to be withheld in connection with any amounts paid or owing to any employee, creditor, independent contractor or other third party.

(e) Neither of Sellers is a foreign person within the meaning of Section 1445 of the Code.

(f) For purposes of this Agreement, the terms “Tax” and “Taxes” shall mean all federal, state, local, or foreign income, payroll, Medicare, withholding, unemployment insurance, social security, sales, use, service, service use, leasing, leasing use, excise, franchise, gross receipts, value added, alternative or add-on minimum, estimated, occupation, real and personal property, stamp, duty, transfer,

workers' compensation, severance, windfall profits, environmental (including Taxes under Section 59A of the Code), or other tax, charge, fee, levy or assessment of the same or of a similar nature, including any interest, penalty, or addition thereto whether disputed or not. The term "Tax Return" means any return, declaration, report, claim for refund, or information return or statement relating to Taxes or any amendment thereto, and including any schedule or attachment thereto.

6.1.13 Personnel. Sellers have previously provided to Buyer: (a) a complete and correct list as of the date of this Agreement of the names and positions of all employees and other broadcast personnel who perform substantially all of their services for the Station (whether employees or independent contractors), which list is attached hereto as Schedule 6.1.13, and (b) any employment agreements that exist with respect to the persons named on such list. Sellers have no reason to believe that any employee listed on Schedule 6.1.13 (with the exception of John Barham, Libby Collins and Lisa Labuda) will terminate his or her employment with the Station or will not continue to perform substantially all of his or her services for the Station as a result of the consummation of the transactions contemplated by this Agreement or otherwise.

6.1.14 Certain Agreements. Except as noted on Schedule 1.1.3, each Contract (as identified on Schedule 1.1.3) is a valid and binding obligation of one or both of Sellers and is in full force and effect and, to the knowledge of Sellers, each other party to such Contract has performed in all material respects the obligations required to be performed by it and is not (with or without lapse of time or the giving of notice, or both) in material breach or default thereunder. Schedule 1.1.3 identifies, as to each Contract, whether the consent of the other party thereto is required in order for such Contract to continue in full force and effect upon the consummation of the transactions contemplated hereby.

6.1.15 Labor. Sellers have not agreed to recognize any union or other collective bargaining unit, nor has any union or other collective bargaining unit been certified as representing any of Sellers' employees assigned to the business or operation of the Station or otherwise located on the Real Estate. There is no labor strike, slowdown, work stoppage or lockout actually pending or, to the knowledge of Sellers, threatened against or affecting the Station or involving Sellers' employees located on the Real Estate. To Sellers' knowledge, no union organizational effort or representation petition is currently pending with respect to the employees of Sellers assigned to the business or operation of the Station or located on the Real Estate.

6.1.16 Intellectual Property. Sellers have, and upon the Closing Buyer will have, good and marketable title to the Intellectual Property. Sellers have not received any notice of any claimed conflict, violation or infringement of such Intellectual Property rights, and to Sellers' knowledge, none of such Intellectual Property rights are being infringed by any third party. To Sellers' knowledge, the operation of Sellers' business does not infringe on the intellectual property rights of any other person.

6.1.17 Absence of Certain Changes or Events. Except as contemplated or expressly permitted by this Agreement, since January 31, 2003, there has

not been any material damage, destruction or loss of any kind with respect to the Station not covered by valid and collectible insurance, nor, to Sellers' knowledge, has there been any event or circumstance that has had, or reasonably could be expected to have, a material adverse effect on the assets, business or operations of the Station.

6.1.18 [Commission or Finder's Fees](#). Except with respect to any fees payable by Sellers to Broadcasting Asset Management Corporation, neither Sellers nor any entity acting on behalf of Sellers have agreed to pay a commission, finder's fee or similar payment to any person or entity in connection with this Agreement or any matter related hereto. Sellers acknowledge and agree that they shall indemnify and hold harmless Buyer from and against any claims or liabilities that may be brought against Buyer with respect to the payment of any fees described above.

6.1.19 [Sellers' Financial Condition](#). No insolvency proceedings of any character, including, without limitation, bankruptcy, receivership, reorganization, composition or arrangement with creditors, voluntary or involuntary, affecting Sellers or any of their respective assets or properties are pending, or to Sellers' knowledge, threatened, and Sellers have made no assignment for the benefit of creditors, nor taken any action with a view to, or that would constitute a basis for, the institution of any such insolvency proceedings.

6.1.20 [Books and Records](#). The books, records and accounts of Sellers maintained with respect to the Station and the Acquired Assets accurately and fairly reflect, in reasonable detail and in all material respects, the transactions and the assets and liabilities of Sellers.

6.1.21 [No Third Party Options](#). There are no existing agreements with options or rights of, or commitments to any person other than to Buyer to acquire any of the Acquired Assets or any interest therein.

ARTICLE 7

REPRESENTATIONS AND WARRANTIES OF BUYER

7.1 [Representations and Warranties of Buyer](#). Buyer hereby makes the following representations and warranties to Sellers, each of which is true and correct as of the date hereof, and shall be true and correct as of the Closing Date, and shall be unaffected by any investigation heretofore or hereafter made by Sellers:

7.1.1 [Organization](#). Buyer is a corporation validly existing and in good standing under the laws of the State of Illinois and has all requisite power and authority to own, lease and operate its properties and to carry on its business as now being conducted.

7.1.2 [Authorization and Binding Obligation](#). Buyer has all requisite power and authority to enter into this Agreement and to consummate the transactions contemplated hereby. Buyer's execution and delivery of this Agreement and the consummation of the transactions contemplated hereby have been duly and validly

authorized by all necessary action on the part of Buyer. This Agreement has been duly executed and delivered by Buyer and, assuming the due execution and delivery of this Agreement by Sellers, constitutes the legal, valid and binding obligation of Buyer, enforceable against it in accordance with its terms, except as may be limited by bankruptcy, insolvency, reorganization, moratorium or other similar laws affecting the enforcement of creditors' rights in general and subject to general principles of equity (regardless of whether such enforceability is considered in a proceeding in equity or at law).

7.1.3 Qualification. There is no fact, allegation, condition, or circumstance that could reasonably be expected to prevent the prompt grant of the FCC Consent. There is no fact that would, under the Communications Act of 1934, as amended (the "Communications Act"), or the rules, regulations and policies of the FCC, disqualify Buyer from becoming the licensee of the Station. There are no proceedings, complaints, notices of forfeiture, claims, or investigations pending or, to the knowledge of Buyer, threatened against any, or in respect of any, of the broadcast stations licensed to Buyer or its Affiliates that would materially impair the qualifications of Buyer to become a licensee of the Station or delay the FCC's processing of the FCC Application.

7.1.4 Absence of Conflicting Agreements or Required Consents. The execution and delivery of this Agreement, and the consummation of the transactions contemplated hereby by Buyer shall: (a) not violate, conflict with or result in any breach of any provision of the articles of incorporation or bylaws of Buyer; (b) violate, conflict with or result in a violation or breach of, or constitute a default (with or without due notice or lapse of time or both) under, or permit the termination of, or result in the acceleration of, or entitle any party to accelerate (whether as a result of the sale of the Acquired Assets or otherwise) any obligation, or result in the loss of any benefit, or give rise to the creation of any Lien upon any of the properties or assets of Buyer or any its subsidiaries under any of the terms, conditions or provisions of any loan or credit agreement, note, bond, mortgage, indenture or deed of trust, or any license, lease, agreement or other instrument or obligation to which any of them are a party or by which they or any of their properties or assets may be bound or affected, or (c) violate any order, writ, judgment, injunction, decree, statute, rule or regulation of any Governmental Entity applicable to Buyer or any of its respective properties or assets, except for those violations that individually or in the aggregate could not reasonably be expected to have a material adverse effect on Buyer's ability to consummate the transactions contemplated by this Agreement. No consent, approval, order or authorization of, or registration, declaration or filing with, any Governmental Entity is required by or with respect to Buyer in connection with the execution and delivery of this Agreement by Buyer or the consummation by Buyer of the transactions contemplated hereby, except for the FCC Consent.

7.1.5 Litigation. There are no actions, suits, inquiries, judicial or administrative proceedings, or arbitrations pending or, to the knowledge of Buyer, threatened against Buyer or any of its respective properties or assets. There are no material judgments, decrees, injunctions, or orders of any Governmental Entity or arbitrator outstanding against Buyer relating to the transactions contemplated by this

Agreement. There is no action, suit, inquiry, judicial or administrative proceeding pending or, to the knowledge of Buyer, threatened against Buyer by a third party relating to the transactions contemplated by this Agreement.

7.1.6 Commission or Finder's Fees. Neither Buyer, nor any entity acting on behalf of Buyer, has agreed to pay a commission, finder's fee or similar payment to any person or entity in connection with this Agreement or any matter related hereto. Buyer acknowledges and agrees that it shall indemnify and hold harmless Sellers from and against any claims or liabilities that may be brought against Sellers with respect to the payment of any fees described above.

ARTICLE 8

COVENANTS OF SELLERS

8.1 Sellers Covenants. Sellers covenant and agree with Buyer that, pending the Closing and except as otherwise agreed to in writing by Buyer:

8.1.1 Conduct Prior to the Closing Date. Sellers, from and after the date hereof through the Closing Date, shall, with respect to the operations of the Station:

(a) use their commercially reasonable efforts to: maintain the present business organization, keep available the services of the Station's present employees and independent contractors, preserve the Station's relationships with its customers and others having business relationships with the Station and refrain from materially and adversely changing any of the Station's business policies;

(b) maintain its books and records in the usual and ordinary manner, except as otherwise provided herein;

(c) notify Buyer if the regular broadcast transmission of the Station from their main transmitting facilities at full authorized effective radiated power is interrupted for a period of more than ten (10) consecutive minutes or for an aggregate of one (1) or more hours in any continuous three-day period;

(d) operate in the usual and ordinary course of business in accordance with past practices and conduct their business in all respects in material compliance with the terms of the Station License and all applicable laws, rules, and regulations, including, without limitation, the applicable rules and regulations of the FCC;

(e) use and repair the Real Estate and use, repair, and, if necessary, replace the Station's studio and transmission assets, in a reasonable manner consistent with historical practice and maintain their assets in substantially their current condition, ordinary wear and tear excepted;

(f) maintain insurance in conformity with Section 6.1.6;

(g) not incur any debts, obligations or liabilities (absolute, accrued, contingent, or otherwise) that include obligations (monetary or otherwise) to be performed by Buyer after the Closing;

(h) not sell or transfer any of the Acquired Assets without replacing such Acquired Assets with an asset of substantially the same value and utility;

(i) provide notice to Buyer if Sellers mortgage, pledge or subject any of the Acquired Assets to any Lien, it being understood that any such mortgage, pledge or lien shall be satisfied and released prior to Closing;

(j) other than in the ordinary course of business, not cancel or compromise any debt or claim, or waive or release any right, of material value that will be assumed by or assigned to Buyer at Closing;

(k) not disclose to any person (other than Buyer and its representatives) any confidential or proprietary information, except as may otherwise be required by law;

(l) use their commercially reasonable efforts to maintain the present format of the Station and with programming consistent with past practices;

(m) other than in the ordinary course of business, not increase the number of regularly scheduled commercial units run during the day-parts on the Station (other than changes in the number of commercial units run during any day-part as a result of operating difficulties that require commercial units to be broadcast at times other than as scheduled); and

(n) agree to do any of the foregoing.

8.1.2 [Access](#). Sellers shall, or shall cause the Station, to: (a) give Buyer and Buyer's counsel, accountants, engineers and other representatives, including environmental consultants, reasonable access during normal business hours to all of Sellers' employees, agents and independent contractors who have knowledge of the business and operations of the Station and the Acquired Assets, in order that Buyer may have full opportunity to make, at Buyer's sole cost and expense, such review, examination and investigation, including, but not limited to, environmental assessments, as it desires of the affairs of the Station and (b) furnish Buyer with information and copies of all documents and agreements, including, but not limited to financial and operating data and other information concerning the financial condition, results of operations and business of the Station that Buyer may reasonably request. The rights of Buyer under this [Section 8.1.2](#) shall not be exercised in such a manner as to interfere unreasonably with the business or operations of the Station and, with respect to any inspections made by Buyer, Buyer hereby acknowledges and agrees that it shall indemnify and hold Sellers harmless with respect to any material damage done to Sellers' property in the course of such inspections.

8.1.3 [Satisfaction of Conditions; Closing.](#) Sellers shall use their commercially reasonable efforts to conduct the business of the Station in such a manner that on the Closing Date the representations and warranties of Sellers contained in this Agreement shall be true in all material respects as though such representations and warranties were made on and as of such date. Furthermore, Sellers shall cooperate with Buyer and use their commercially reasonable efforts to satisfy promptly all conditions required hereby to be satisfied by Sellers in order to consummate the transactions contemplated hereby.

8.1.4 [Sale of Acquired Assets; Negotiations.](#) From the date of this Agreement until the Closing Date, Sellers shall not, and Sellers shall direct their respective Affiliates, directors, officers, employees, agents, representatives, legal counsel, and financial advisors not to: (a) solicit, initiate or encourage the submission of proposals or offers from any person or entity with respect to the acquisition contemplated by this Agreement or any similar transaction wherein such person or entity would acquire all or any portion of the Acquired Assets, or (b) participate in any negotiations regarding, or, except as required by legal process (including pursuant to discovery or agreements existing on the date hereof), furnish to any person or entity (other than Buyer) to do or seek any of the foregoing. Sellers shall notify Buyer within twenty-four (24) hours if it receives any written inquiry, proposal or offer described in this [Section 8.1.4](#) or any verbal inquiry, proposal or offer described in this [Section 8.1.4](#) that is competitive with the terms of the transactions contemplated by this Agreement and Sellers shall inform such inquiring person or entity of the existence of this Agreement and make such inquiring person or entity aware of Sellers' obligations under this [Section 8.1.4](#). The notification under this [Section 8.1.4](#) shall include the identity of the person or entity making such inquiry, offer, or other proposal, the terms thereof, and any other information with respect thereto as Buyer may reasonably request. Sellers shall not provide any confidential information concerning the business or operations of the Station or the Acquired Assets to any third party other than in the ordinary course of business and consistent with prior practice or as otherwise may be required by law. Sellers have ceased and caused to be terminated any existing activities, discussions or negotiations with any person or entity conducted heretofore with respect to any of the foregoing.

8.1.5 [No Inconsistent Action.](#) Sellers shall not take any action that is inconsistent with their obligations under this Agreement.

8.1.6 [Notification.](#) Sellers shall promptly notify Buyer in writing of: (a) the failure of Sellers or, to Sellers' knowledge, any employee or agent of Sellers to comply with or satisfy in any material respect any covenant, condition or agreement to be complied with hereunder; (b) the occurrence of any event that would entitle Buyer to terminate this Agreement pursuant to [Section 17.1](#) hereof; or (c) any overt threat of resignation or actual resignation or termination of any employee of the Station prior to the Closing Date.

8.1.7 [FCC Reports.](#) Sellers shall file on a current basis until the Closing Date all reports and documents required to be filed with the FCC with respect to

the Station License. Copies of each such report and document filed between the date hereof and the Closing Date shall be furnished to Buyer promptly after its filing.

8.1.8 [Updating of Information](#). Between the date of this Agreement and the Closing Date, Sellers will deliver to Buyer: (i) on a monthly basis, within fifteen (15) days after the end of each month, an updated Statement of Direct Revenues and Expenses and (ii) on a weekly basis, on the Monday after the end of each week, weekly pacing reports in a form consistent with forms prepared by Sellers in accordance with their past practice.

8.1.9 [Response to Certain Actions](#). Sellers agree to cooperate and to use their commercially reasonable efforts to contest and to resist any action, including administrative or judicial action, and to make reasonable attempts to have vacated, lifted, reversed or overturned any decree, judgment, injunction or other order, whether temporary, preliminary or permanent, that is in effect and that restricts, prevents or prohibits the consummation of the transactions contemplated by this Agreement.

8.1.10 [Financial Statements](#). At all times after the date hereof, Sellers shall, and shall cause all of their representatives (including their independent public accountants) to, cooperate in all reasonable respects with the efforts of Buyer and Buyer's independent auditors to prepare such audited and interim unaudited financial statements of the Station as Buyer may reasonably determine are necessary in connection with any filing required to be made by it or any of its Affiliates under the Securities Exchange Act of 1934, as amended (the "[Exchange Act](#)"), or the Securities Act of 1933, as amended (the "[Securities Act](#)"). Sellers shall execute and deliver to Buyer's independent accountants such customary management representation letters as they may require as a condition to their ability to sign an unqualified report upon the audited financial statements of the Station for the periods for which such financial statements are required under the Exchange Act or the Securities Act. Sellers shall use their commercially reasonable efforts to cause their independent public accountants to make available to Buyer and its representatives all of their work papers related to the financial statements or Tax Returns of Seller (to the extent they relate to the Station) and to provide Buyer's independent public accountants with full access to those personnel who previously have been involved in the preparation of Sellers' financial statements or Tax Returns, subject to any limitations imposed by Sellers' independent accountants. Any reasonable out-of-pocket costs incurred by Sellers in connection with Sellers' obligations under this [Section 8.1.10](#) shall be reimbursed by Buyer within a reasonable time after Buyer's receipt of reasonably detailed information regarding such costs.

8.1.11 [Updates to Schedules](#). Notwithstanding anything to the contrary contained herein, each of Sellers and Buyer acknowledges and agrees that from and after the execution of this Agreement until the Closing Date that Sellers shall, upon the reasonable request of Buyer, amend Sellers' disclosure schedules attached hereto to reflect any material matters uncovered by Buyer in the course of its due diligence review of the business and operations of the Station.

8.1.12 Non-Solicitation. Sellers acknowledge that BellSouth Wireless Data, L.P. currently leases space on the AM tower located on the Real Estate, which will be owned by Buyer following the Closing. Sellers further acknowledge and agree that from and after the Closing Date, Sellers will not, for the purpose of leasing or otherwise acquiring space on Sellers' FM tower facility, directly or indirectly, contact, approach, inquire regarding or otherwise solicit BellSouth Wireless Data, L.P.

ARTICLE 9

COVENANTS OF BUYER

9.1 Buyer Covenants. Buyer covenants and agrees that, pending the Closing and except as otherwise agreed to in writing by Sellers:

9.1.1 Notification. Buyer shall promptly notify Sellers in writing of: (a) any litigation, arbitration or administrative proceeding pending or, to its knowledge, threatened against Buyer that challenges the transactions contemplated hereby, (b) the failure of Buyer, or, to Buyer's knowledge, any employee or agent of Buyer to comply with or satisfy in any material respect any covenant, condition or agreement to be complied with or satisfied by it hereunder or (c) the occurrence of any event that would entitle Sellers to terminate this Agreement pursuant to Section 17.1.

9.1.2 No Inconsistent Action. Buyer shall not take any action that is inconsistent with its obligations under this Agreement.

9.1.3 Post-Closing Access. Buyer, for a period of three (3) years following the Closing Date, shall make available during normal business hours for audit and inspection by Sellers and their representatives, for any reasonable purpose and upon reasonable notice, all records, files, documents and correspondence transferred to it hereunder relating to the pre-Closing period. During such period, Buyer shall at no time dispose of or destroy any such records, files, documents or correspondence without giving thirty (30) days prior notice to Sellers to permit Sellers, at their expense, to examine, duplicate or take possession of and title to such records, files, documents or correspondence. All information, records, files, documents or correspondence made available or disclosed under this Section 9.1.3 shall be kept confidential.

9.1.4 Satisfaction of Conditions; Closing. Buyer shall use its commercially reasonable efforts to conduct its business in such a manner that on the Closing Date the representations and warranties of Buyer contained in this Agreement shall be true in all material respects as though such representations and warranties were made on and as of such date. Furthermore, Buyer shall cooperate with Sellers and shall use its commercially reasonable efforts to satisfy promptly all conditions required hereby to be satisfied by Buyer in order to consummate the transactions contemplated hereby.

9.1.5 Non-solicitation.

(a) Buyer acknowledges and agrees that the persons or entities listed on Schedule 9.1.5 currently are leasing space on the FM tower owned by Sellers

and located on the Real Estate. Buyer further acknowledges and agrees that from and after the Closing Date Buyer will not, for the purpose of leasing or otherwise acquiring space on Buyer's AM tower facility, directly or indirectly, contact, approach, inquire regarding or otherwise solicit any of the persons or entities set forth on Schedule 9.1.5.

(b) Until the third anniversary following the Closing Date, Buyer will not, directly or indirectly, solicit, or offer employment to, any full-time employee (rather than an independent contractor) of Sellers who is identified on Schedule 6.1.13 and to whom an offer of employment was not made at Closing in connection with Section 10.6 of this Agreement. Buyer specifically acknowledges and agrees that it will not, directly or indirectly, solicit, or offer employment to, John Barham, Libby Collins or Lisa Labuda for a period of three (3) years following the Closing Date.

9.1.6 Response to Certain Actions. Buyer agrees to cooperate and to use its commercially reasonable efforts to contest and to resist any action, including any administrative or judicial action, and to make reasonable attempts to have vacated, lifted, reversed or overturned any decree, judgment, injunction or other order, whether temporary, preliminary or permanent, that is in effect and that restricts, prevents or prohibits the consummation of the transactions contemplated by this Agreement.

ARTICLE 10

JOINT COVENANTS

Buyer and Sellers covenant and agree that, pending the Closing and except as otherwise agreed to in writing, they shall act in accordance with the following:

10.1 FCC Application. Buyer and Sellers shall prosecute the FCC Application with all reasonable diligence and shall use their commercially reasonable efforts to obtain the FCC Consent as expeditiously as practicable, but neither Buyer nor Sellers shall have any obligation to satisfy complainants or the FCC by taking any steps that would have a material adverse effect upon Buyer or Sellers. Notwithstanding anything to the contrary contained herein, either party may terminate this Agreement upon notice to the other, if, for any reason, the FCC Application is designated for hearing by the FCC; provided, however, that notice of termination must be given within twenty (20) days after release of the hearing designation order and the party giving such notice is not in default and has complied with its obligations under this Agreement. Upon termination pursuant to this Section 10.1, the parties shall be released and discharged from any further obligation hereunder without being subject to a claim by either party for damages.

10.2 Confidentiality. Each of Buyer and Sellers shall keep confidential all information obtained by such party with respect to the other party hereto in connection with this Agreement and the negotiations preceding this Agreement, including, without limitation, the results of, and information relating to, any environmental studies, title examinations, and land surveys of the Real Estate, and will use such information solely in connection with the transactions contemplated by this Agreement, and if the transactions contemplated hereby are not consummated for any reason, each shall return to the other

party hereto, without retaining a copy thereof, any schedules, documents or other written information obtained from such other party in connection with this Agreement and the transactions contemplated hereby, except to the extent required or useful in connection with any claim made with respect to the transactions contemplated by this Agreement or the negotiation thereof that will be returned following settlement of the claim. Notwithstanding the foregoing, no party shall be required to keep confidential or to return any information that: (a) is known or available through other lawful sources not bound by a confidentiality agreement with the disclosing party, or (b) is or becomes publicly known through no fault of the receiving party or its agents, or (c) is required to be disclosed pursuant to an order or request of a judicial or government authority (provided the non-disclosing party is given reasonable prior notice such that it may seek, at its expense, confidential treatment of the information to be disclosed), or (d) is developed by the receiving party independently of the disclosure by the disclosing party or (e) is required to be disclosed under applicable law or rule, as reasonably determined by counsel for the receiving party.

10.3 Cooperation. Buyer and Sellers shall cooperate fully with one another in taking any actions, including actions to obtain the required consent of any governmental instrumentality or any third party necessary to accomplish the transactions contemplated by this Agreement; provided, however, that no party shall be required to take any action that would have a material adverse effect upon such party. Sellers specifically agree to cooperate with any reasonable request of Buyer regarding any environmental, title or survey matter, including the making available of such personnel of Sellers as Buyer may reasonably request, so long as such activities do not unreasonably interfere with the conduct of Sellers' business and so long as Sellers are not obligated to incur any out of pocket expenses.

10.4 Bulk Sales Laws. Buyer hereby waives compliance by Sellers with the provisions of the "bulk sales" or similar laws of any state. Sellers agree to indemnify Buyer and hold Buyer harmless from any and all losses, costs, damages and expenses (including, but not limited to, reasonable attorney's fees) sustained by Buyer as a result of any failure of Sellers to comply with any "bulk sales" or similar laws.

10.5 Public Announcements. Neither Buyer nor Sellers shall issue any press release or make any disclosure with respect to the transactions contemplated by this Agreement without the prior written approval of the other party; provided, however, that notwithstanding the foregoing, either party may make any such disclosure, without obtaining the prior consent of the other party, as may be required by applicable law or by obligations pursuant to any listing agreement with any securities exchange or the Nasdaq National Market or any regulations of any securities exchange or the Nasdaq National Market; provided further, that in the event that either party hereto makes any such disclosure without obtaining the prior written approval of the other party, the disclosing party shall provide notice of such disclosure to the other party prior to making such disclosure.

10.6 [Employee Matters; Non-Solicitation.](#)

(a) At Closing, Buyer may offer employment to any of Sellers' employees listed on [Schedule 6.1.13](#) (except John Barham, Libby Collins and Lisa Labuda). The terms and conditions of employment with respect to each such prospective employee shall be determined by Buyer in its sole and absolute discretion. Sellers shall be solely responsible for any sums, liabilities or obligations that may be owing to any employee as a result of such employee's employment with Sellers prior to the date that such employee becomes employed with Buyer, or with respect to the termination of such employee prior to the employment of such employee with Buyer.

(b) Until the third anniversary following the Closing Date, Sellers will not, directly or indirectly, solicit, or offer employment to, any employee of Sellers engaged in the business or operations of the Station as of the Closing Date to whom Buyer, in connection with the consummation of the transactions contemplated hereby, makes an offer of employment on terms and conditions substantially similar to, and with substantially similar benefits as, each such employee's employment with Sellers, unless that employee rejects the offer of employment made by Buyer or is subsequently terminated by Buyer.

ARTICLE 11

CONDITIONS OF CLOSING BY BUYER

The obligations of Buyer hereunder, including, without limitation, Buyer's obligations to close the transactions contemplated herein, are, at its option, subject to satisfaction, at or prior to the Closing Date, of all of the following conditions, any of which may be waived by Buyer:

11.1 [Representations and Warranties.](#) All of the representations and warranties of Sellers made in this Agreement or in any Exhibit, Schedule or document delivered pursuant hereto, shall be true and correct in all material respects as of the date hereof and on and as of the Closing Date as if made on and as of that date, except for those given as of a specified date that must only be true and correct as of such specified date.

11.2 [Compliance with Agreement.](#) All of the terms, covenants and conditions to be complied with and performed by Sellers on or prior to the Closing Date shall have been complied with or performed in all material respects.

11.3 [Closing Certificates.](#) Buyer shall have received a certificate, dated as of the Closing Date, from Sellers, executed by an authorized representative of Sellers certifying, in such detail as Buyer may reasonably request, that the conditions set forth in [Sections 11.1](#) and [11.2](#) hereto have been fulfilled.

11.4 [FCC Consent.](#) The FCC Consent shall have been issued by the FCC without any conditions that would otherwise permit Buyer to terminate this Agreement pursuant to [Section 17.1\(e\)](#) below and such FCC Consent shall have become a Final Order. For purposes of this Agreement, "[Final Order](#)" shall mean action by the FCC

consenting to the assignments contemplated by this Agreement which is not reversed, stayed, enjoined, set aside, annulled or suspended, and with respect to which action no timely request for stay, petition for rehearing, or reconsideration, application for review or appeal is pending, and as to which the time for filing any such request, petition or appeal or reconsideration by the FCC on its own motion has expired.

11.5 [No Adverse Proceedings](#). No injunction, order, decree or judgment of any court, agency or other Governmental Entity shall have been rendered against Sellers or Buyer that would render it unlawful, as of the Closing Date, to effect the transactions contemplated by this Agreement in accordance with its terms.

11.6 [Closing Documents](#). Sellers shall have delivered or caused to be delivered to Buyer, on the Closing Date, the documents identified in [Section 13.1](#).

11.7 [Release of Encumbrances](#). Buyer shall have received evidence satisfactory to Buyer's counsel regarding the release of any and all Liens (other than the Permitted Liens) with respect to the Acquired Assets.

ARTICLE 12

CONDITIONS OF CLOSING BY SELLERS

The obligations of Sellers hereunder including, without limitation, Sellers' obligations to close the transactions contemplated herein are, at their option, subject to the satisfaction, at or prior to the Closing Date, of all of the following conditions, any of which may be waived by Sellers:

12.1 [Representations and Warranties](#). All of the representations and warranties of Buyer made in this Agreement or in any Exhibit, Schedule or document delivered pursuant hereto, shall be true and correct in all material respects as of the date hereof and on and as of the Closing Date as if made on and as of that date, except for those given as of a specified date which must only be true and correct as of such specified date.

12.2 [Compliance with Agreement](#). All of the terms, covenants, and conditions to be complied with and performed by Buyer on or prior to the Closing Date shall have been complied with or performed in all material respects.

12.3 [Closing Certificates](#). Sellers shall have received a certificate, dated as of the Closing Date, from Buyer, executed by an authorized representative of Buyer certifying, in such detail as Sellers may reasonably request, that the conditions set forth in [Sections 12.1](#) and [12.2](#) hereto have been fulfilled.

12.4 [FCC Consent](#). The FCC Consent shall have been issued by the FCC and such FCC Consent shall have become a Final Order (as defined in [Section 11.4](#)).

12.5 [No Adverse Proceedings](#). No injunction, decree or judgment of any court, agency or other Governmental Entity shall have been rendered against Buyer or Sellers

that would render it unlawful, as of the Closing Date, to effect the transactions contemplated by this Agreement in accordance with its terms.

12.6 [Closing Documents](#). Buyer shall have delivered, or caused to be delivered to Sellers on the Closing Date, the documents identified in [Section 13.2](#).

ARTICLE 13

DOCUMENTS TO BE DELIVERED AT CLOSING

13.1 [Documents to be Delivered by Sellers](#). At the Closing, Sellers will deliver to Buyer the following, at the expense of Sellers and in proper form for recording when appropriate:

13.1.1 [Transfer Documents](#). Such bills of sale, assignments, general warranty deeds and other good and sufficient instruments of transfer as Buyer may reasonably request in order to convey and transfer to Buyer title to the Acquired Assets.

13.1.2 [Resolutions](#). Resolutions of Sellers approving the execution and delivery of this Agreement and each of the other documents delivered by Sellers pursuant hereto and authorizing the consummation of the transactions contemplated hereby and thereby.

13.1.3 [Officer's Certificate](#). A certificate, dated as of the Closing Date, executed on behalf of the Sellers in the form described in [Section 11.3](#).

13.1.4 [Good Standing Certificates](#). Governmental certificates showing that Sellers are validly existing and in good standing in the state of their incorporation, certified as of a date not more than thirty (30) days before the Closing Date.

13.1.5 [Evidence of Release of Encumbrances](#). Evidence satisfactory to Buyer's counsel regarding the release of any and all Liens (other than Permitted Liens) with respect to the Acquired Assets.

13.1.6 [Escrow Instruction Letter](#). Sellers shall have executed for delivery to the Escrow Agent immediately following Closing an instruction letter, substantially in the form attached to the Escrow Agreement as [Exhibit A](#), directing the Escrow Agent to release the Deposit (plus any accrued or paid interest or dividend on the Deposit) to Buyer in accordance with the terms of the Escrow Agreement.

13.1.7 [Lease Agreement](#). Buyer and Operating shall have entered into a Lease Agreement, dated as of the Closing Date, substantially in the form of [Exhibit B](#) hereto (the "[Lease](#)").

13.1.8 [Sublease Agreement](#). Buyer and Operating shall have entered into a Sublease Agreement, dated as of the Closing Date, substantially in the form of [Exhibit C](#) hereto (the "[Sublease](#)").

13.1.9 [Allocation Statement](#). The allocation and proration statement described in [Section 3.3.2](#).

13.1.10 [Title Policy](#). Sellers shall deliver or shall cause to be delivered at Sellers' expense a standard ALTA owner's policy of title insurance to Buyer in the amount of the value of the Real Estate being purchased by Buyer hereunder, subject to all standard exceptions and Permitted Liens.

13.1.11 [Ancillary Real Estate Documents](#). If requested by the title company providing Buyer's title insurance, a Seller's affidavit and gap indemnity and such other documents reasonably requested by the title company (provided the execution and delivery of such documents is at no additional cost to Sellers), including without limitation, a certificate regarding the land survey, and an affidavit of non-foreign status that complies with Section 1445 of the Code, in form and substance standard for real estate purchases.

13.2 [Documents to be Delivered by Buyer](#). At the Closing, Buyer will deliver to Sellers, at the expense of Buyer and in proper form for recording when appropriate:

13.2.1 [Purchase Price](#). A wire transfer of cash in immediately available funds of the amount of the Purchase Price and evidence of such delivery.

13.2.2 [Assumption Agreement\(s\)](#). One or more assumption agreement(s) relating to Buyer's assumption of the Assumed Liabilities in form and substance mutually agreeable to the parties hereto.

13.2.3 [Resolutions](#). Resolutions of Buyer approving the execution and delivery of this Agreement and each of the other documents delivered by Buyer pursuant hereto and authorizing the consummation of the transactions contemplated hereby and thereby.

13.2.4 [Officer's Certificate](#). A certificate, dated the Closing Date, executed on behalf of the Buyer in the form described in [Section 12.3](#).

13.2.5 [Good Standing Certificates](#). Governmental certificates showing that Buyer is validly existing and in good standing in the state of its incorporation certified as of a date not more than thirty (30) days before the Closing Date.

13.2.6 [Lease Agreement](#). Buyer and Operating shall have entered into the Lease.

13.2.7 [Sublease Agreement](#). Buyer and Operating shall have entered into the Sublease.

ARTICLE 14

SURVIVAL AND INDEMNIFICATION

14.1 Survival of Representations, Warranties and Covenants.

(a) Except as to (i) the representations and warranties contained in Sections 6.1.7 (as to title to assets only), 6.1.8 (as to title to assets only), and 6.1.16 (as to title to assets only), which shall survive the closing and remain in effect indefinitely and, (ii) the representations and warranties contained in Section 6.1.12, which shall survive the Closing until the expiration of the last day on which any Tax may be validly assessed by the Internal Revenue Service or any other Governmental Entity against the Acquired Assets, the representations and warranties of Sellers and of Buyer contained in this Agreement or in any Transfer Document shall survive the Closing until the expiration of one (1) year from the Closing Date. Any claim for indemnification with respect to any of such matters that is not asserted by notice given as herein provided relating thereto within such specified period of survival may not be pursued and is hereby irrevocably waived after such time. Any claim for Indemnifiable Losses (as defined in Section 14.2) asserted within such period of survival as herein provided will be timely made for purposes hereof. A claim for any Indemnifiable Loss by any party based on a breach of a representation or warranty of the other party shall not be affected by any investigation performed by the party seeking recovery of the Indemnifiable Loss.

(b) Unless a specified period is set forth in this Agreement (in which event such specified period will control), the covenants in this Agreement will survive the Closing and remain in effect indefinitely.

14.2 Limitations on Liability.

(a) For purposes of this Agreement, (i) “Indemnity Payment” means any amount of Indemnifiable Losses required to be paid pursuant to this Agreement, (ii) “Indemnatee” means any person or entity entitled to indemnification under this Agreement, (iii) “Indemnifying Party” means any person or entity required to provide indemnification under this Agreement, (iv) “Indemnifiable Losses” means any and all damages, losses, liabilities, obligations, costs and expenses, and any and all claims, demands or suits (by any person or entity, including without limitation any Governmental Entity), including without limitation the costs and expenses of any and all actions, suits, proceedings, demands, assessments, judgments, settlements and compromises relating thereto and including reasonable attorneys’ fees and expenses in connection therewith, and (v) “Third Party Claim” means any claim, action or proceeding made or brought by any person or entity who or which is not a party to this Agreement or an Affiliate of a party to this Agreement.

(b) Notwithstanding any other provision hereof or of any applicable law, no Indemnatee will be entitled to make a claim against an Indemnifying Party under Section 14.3(a)(i) or 14.3(b)(i) for any breach of a representation or warranty unless and until the aggregate amount of claims asserted for Indemnifiable Losses

exceeds Fifty Thousand Dollars (\$50,000) in which event the Indemnatee will be entitled to make a claim against the Indemnifying Party to the extent of the Indemnifiable Losses. Notwithstanding the foregoing, the aggregate amount of claims that may be asserted for Indemnifiable Losses with respect to breaches of representations and warranties under Sections 14.3(a)(i) or 14.3(b)(i) shall in no event exceed One Million Six Hundred Fifty Thousand Dollars (\$1,650,000).

14.3 Indemnification

(a) Subject to Sections 14.1 and 14.2, Sellers agree to indemnify, defend and hold harmless Buyer and its Affiliates and their respective directors, officers, partners, employees, agents and representatives from and against any and all Indemnifiable Losses to the extent relating to, resulting from or arising out of:

(i) any breach of any representation or warranty of Sellers under the terms of this Agreement and any certificate or other document delivered pursuant hereto;

(ii) any breach or nonfulfillment of any agreement or covenant of Sellers under the terms of this Agreement;

(iii) any liabilities retained by Sellers;

(iv) any failure to comply with any “bulk sales” laws applicable to the transactions contemplated hereby; and

(v) the conduct of the business and operations of the Station or any portion thereof or the use or ownership of any of the Acquired Assets before the Closing Date.

(b) Subject to Sections 14.1 and 14.2, Buyer agrees to indemnify, defend and hold harmless Sellers and their Affiliates and their respective directors, officers, partners, employees, agents or representatives from and against any and all Indemnifiable Losses to the extent relating to, resulting from or arising out of:

(i) any breach of representation or warranty of Buyer under the terms of this Agreement and any certificate or other document delivered pursuant hereto;

(ii) any breach or nonfulfillment of any agreement or covenant of Buyer under the terms of this Agreement;

(iii) any Assumed Liabilities; and

(iv) the conduct of the business and operations of the Station or any portion thereof or use or ownership of any of the Acquired Assets on or after the Closing Date.

14.4 Defense of Claims.

(a) If any Indemnatee receives notice of assertion or commencement of any Third Party Claim against such Indemnatee with respect to which an Indemnifying Party is obligated to provide indemnification under this Agreement, the Indemnatee will give such Indemnifying Party reasonably prompt written notice thereof, but in any event not later than thirty (30) calendar days after receipt of such notice of such Third Party Claim. Such notice will describe the Third Party Claim in reasonable detail, will include copies of all material written evidence thereof and will indicate the estimated amount, if reasonably practicable, of the Indemnifiable Loss that has been or may be sustained by the Indemnatee. The Indemnifying Party will have the right to participate in, or, by giving written notice to the Indemnatee, to assume, the defense of any Third Party Claim at such Indemnifying Party's own expense and by such Indemnifying Party's own counsel (reasonably satisfactory to the Indemnatee), and the Indemnatee will cooperate in good faith in such defense.

(b) If, within ten (10) calendar days after giving notice of a Third Party Claim to an Indemnifying Party pursuant to Section 14.4(a), an Indemnatee receives written notice from the Indemnifying Party that the Indemnifying Party has elected to assume the defense of such Third Party Claim as provided in the last sentence of Section 14.4(a), the Indemnifying Party will not be liable for any legal expenses subsequently incurred by the Indemnatee in connection with the defense thereof; provided, however, that if the Indemnifying Party fails to take reasonable steps necessary to defend diligently such Third Party Claim within ten (10) calendar days after receiving written notice from the Indemnatee that the Indemnatee believes the Indemnifying Party has failed to take such steps, or if the Indemnifying Party has not undertaken fully to indemnify the Indemnatee in respect of all Indemnifiable Losses relating to the matter, the Indemnatee may assume its own defense, and the Indemnifying Party will be liable for all reasonable costs or expenses paid or incurred in connection therewith. Without the prior written consent of the Indemnatee, the Indemnifying Party will not enter into any settlement of any Third Party Claim that would lead to liability or create any financial or other obligation on the part of the Indemnatee for which the Indemnatee is not entitled to indemnification hereunder. If a firm offer is made to settle a Third Party Claim without leading to liability or the creation of a financial or other obligation on the part of the Indemnatee for which the Indemnatee is not entitled to indemnification hereunder and the Indemnifying Party desires to accept and agree to such offer, the Indemnifying Party will give written notice to the Indemnatee to that effect. If the Indemnatee fails to consent to such firm offer within ten (10) calendar days after its receipt of such notice, the Indemnatee may continue to contest or defend such Third Party Claim and, in such event, the maximum liability of the Indemnifying Party as to such Third Party Claim will not exceed the amount of such settlement offer, plus costs and expenses paid or incurred by the Indemnatee through the end of such ten (10) calendar day period.

(c) A failure to give timely notice or to include any specified information in any notice as provided in Sections 14.4(a) or 14.4(b) will not affect the rights or obligations of any party hereunder except and only to the extent that, as a result of such failure, any party that was entitled to receive such notice was deprived of its right

to recover any payment under its applicable insurance coverage or was otherwise damaged as a result of such failure.

(d) The Indemnifying Party will have a period of thirty (30) calendar days within which to respond in writing to any claim by an Indemnitee on account of an Indemnifiable Loss that does not result from a Third Party Claim. If the Indemnifying Party does not so respond within such thirty (30) calendar day period, the Indemnifying Party will be deemed to have rejected such claim, in which event the Indemnitee will be free to pursue such remedies as may be available to the Indemnitee on the terms and subject to the provisions of this Article 14.

(e) If the amount of any Indemnifiable Loss, at any time subsequent to the making of an Indemnity Payment, is reduced by recovery, settlement or otherwise under or pursuant to any insurance coverage, or pursuant to any claim, recovery, settlement or payment by or against any other entity, the amount of such reduction, less any costs, expenses, premiums or taxes incurred in connection therewith (together with interest thereon from the date of payment thereof at the annualized rate of interest equal to the “prime” or “reference” rate of interest as publicly announced by The Wall Street Journal and in effect from time to time during the relevant period, calculated on the basis of the actual number of days elapsed over 365) will promptly be repaid by the Indemnitee to the Indemnifying Party. Upon making any Indemnity Payment the Indemnifying Party will, to the extent of such Indemnity Payment, be subrogated to all rights of the Indemnitee against any third party that is not an Affiliate of the Indemnitee in respect of the Indemnifiable Loss to which the Indemnity Payment related; provided, however, that (i) the Indemnifying Party shall then be in compliance with its obligations under this Agreement in respect of such Indemnifiable Loss and (ii) until the Indemnitee recovers fully payment of its Indemnifiable Loss, any and all claims of the Indemnifying Party against any such third party on account of said Indemnity Payment will be subrogated and subordinated in right of payment to the Indemnitee’s rights against such third party. Without limiting the generality or effect of any other provision hereof, each such Indemnitee and Indemnifying Party will duly execute upon request all instruments reasonably necessary to evidence and perfect the above-described subrogation and subordination rights.

ARTICLE 15

TRANSFER TAXES; FEES AND EXPENSES

15.1 Expenses. Except as set forth herein, each party hereto shall be solely responsible for all costs and expense incurred by it in connection with the negotiation, preparation and performance of and compliance with the terms of this Agreement.

15.2 Transfer Taxes and Similar Charges. All costs of transferring the Acquired Assets in accordance with this Agreement, including transfer and documentary taxes and fees, and any excise, sales or use taxes, shall be borne by Sellers. Buyer and Sellers agree to cooperate with each other and to file all necessary documentation

(including, but not limited to, all Tax Returns) with respect to all such amounts in a timely manner.

15.3 [Governmental Filing or Grant Fees](#). Except as may be provided herein, any filing or grant fees imposed by any governmental authority, the consent of or filing with which is required for the consummation of the transactions contemplated hereby, including the FCC, shall be borne equally by Buyer and Sellers.

ARTICLE 16

SPECIFIC PERFORMANCE

16.1 [Specific Performance](#). In addition to any other remedies that Buyer may have at law or in equity, Sellers hereby acknowledge that the Acquired Assets are unique, and that the harm to Buyer resulting from a breach by Sellers of their obligations to sell the Acquired Assets to Buyer cannot be adequately compensated by damages. Accordingly, Sellers agree that Buyer shall have the right to have this Agreement specifically performed by Sellers and hereby agree not to assert any objections to the imposition of the equitable remedy of specific performance by any court of competent jurisdiction.

ARTICLE 17

TERMINATION

17.1 [Termination Rights](#). This Agreement may be terminated at any time prior to Closing as follows:

- (a) by the mutual consent of Buyer and Sellers;
- (b) by written notice of (i) Buyer to Sellers if Sellers breach in any material respect any of their representations or warranties or defaults in any material respect in the observance or in the due and timely performance of any of their covenants or agreements herein contained and such breach or default shall not be cured within thirty (30) days of the date of notice of breach or default served by Buyer or (ii) Sellers to the Buyer if Buyer breaches in any material respect any of its representations or warranties or defaults in any material respect in the observance or in the due and timely performance of any of its covenants or agreements herein contained and such breach or default shall not be cured within thirty (30) days of the notice of breach or default served by Sellers; but such notice and cure period shall not apply in the case of Buyer's or Sellers' failure to consummate the transactions in accordance with the terms and times specified in [Section 4.1](#) of this Agreement;
- (c) by Buyer or Sellers by written notice to the other, if a court of competent jurisdiction or other Governmental Entity shall have issued an order, decree or ruling or taken any other action (which order, decree or ruling the parties hereto shall use their best efforts to lift), in each case permanently restraining, permanently enjoining

or otherwise prohibiting the transactions contemplated by this Agreement, and such order, decree, ruling or other action shall have become final and nonappealable;

(d) by the party whose qualifications are not at issue, if, for any reason, the FCC denies or dismisses the FCC Application and the time for reconsideration or court review under the Communications Act with respect to such denial or dismissal has expired and there is not pending with respect thereto a timely filed petition for reconsideration or request for review;

(e) by written notice of Buyer to Sellers if the FCC Consent contains a condition materially adverse to Buyer or that materially adversely affects the Acquired Assets;

(f) by written notice of Buyer to Sellers, in accordance with Section 10.1 or Section 18.1 of this Agreement; or

(g) by either party, in the event that the Closing does not occur at or before 5:00 p.m. central standard time on or before the date that is one (1) year from the date of this Agreement.

Notwithstanding the foregoing, no party hereto may effect a termination hereof if such party is in material default or breach of this Agreement.

17.2 Procedures and Effect of Termination. In order to effect the termination of this Agreement pursuant to, and in accordance with, the terms and conditions of any provision of Section 17.1, written notice of such termination shall be given to the other parties to this Agreement and this Agreement, assuming the relevant provisions of Section 17.1 have been satisfied, shall terminate and the transactions contemplated hereby shall be abandoned, without further action by either of the parties hereto. If this Agreement is terminated as provided herein:

(a) Buyer shall be entitled to retain the Deposit; provided, however, that Sellers shall be entitled to retain the Deposit if Sellers have terminated this Agreement pursuant to Section 17.1(b)(ii);

(b) upon request therefore, each party shall redeliver all documents, work papers and other materials of the other party hereto, and all copies of any such materials, relating to the transactions contemplated hereby, whether obtained before or after the execution hereof, to the party furnishing the same; and

(c) neither party hereto shall have any liability or further obligation to the other party to this Agreement resulting from such termination except: (i) that the provisions of Section 10.2 (Confidentiality), Section 15.1 (Expenses), and this Section 17.2 shall remain in full force and effect and the parties shall have the obligations stated therein, and (ii) no party waives any claim or right for damages against a breaching party to the extent that such termination results from the breach by a party hereto of any of its representations, warranties, covenants or agreements set forth herein.

ARTICLE 18

RISK OF LOSS

18.1 Risk of Loss.

(a) The risk of loss or damage to the Acquired Assets shall be upon Sellers at all times prior to the Closing Date. In the event of such loss or damage, Sellers shall promptly notify Buyer thereof and if the lost or damaged Acquired Assets are capable of being replaced or repaired for an aggregate amount less than \$250,000, then Sellers shall, at their sole cost and expense, replace or repair such Acquired Assets prior to the Closing Date or deliver to Buyer at the Closing an amount in cash equal to the cost of replacement or repair of such Acquired Assets, as mutually agreed in good faith by Buyer and Sellers. Notwithstanding the foregoing, if the amount required to replace or repair such Acquired Assets exceeds \$250,000, Sellers may elect to, but are not obligated to, replace or repair such Acquired Assets, provided, however, that in the event Sellers elect not to replace or repair such Acquired Assets, Buyer, at its option, may elect to terminate this Agreement without either party being subject to a claim by the other for damages in connection with this Section 18.1(a), or waive any default or breach with respect to the loss or damage and receive a \$250,000 reduction in the Purchase Price at Closing.

(b) Sellers shall notify Buyer if at anytime prior to the Closing Date the regular broadcast transmission of the Station in the normal and usual manner is interrupted for a period of three (3) or more consecutive days or for five (5) or more days in any thirty (30) day period (each, a "Specified Event"). If Buyer receives notice of a Specified Event (a "Specified Event Notice"), Buyer may, in its sole discretion, terminate this Agreement by written notice given to Sellers not more than ten (10) days after its receipt of such Specified Event Notice (without either party being subject to a claim by the other party for damages in connection with this Section 18.1(b)).

(c) If the parties are unable to agree upon the extent of any loss or damage, the cost to repair, replace or restore any lost or damaged property, the adequacy of any repair, replacement, or restoration of any lost or damaged property, or any other matter arising under this Section 18.1, the disagreement shall be referred to a qualified consulting communications engineer mutually acceptable to Sellers and Buyer who is a member of the Association of Federal Communications Consulting Engineers, whose decision shall be final, binding upon and non-appealable by the parties, and whose fees and expenses shall be paid one-half by Sellers and one-half by Buyer.

ARTICLE 19

MISCELLANEOUS PROVISIONS

19.1 Certain Interpretive Matters and Definitions. Unless the context otherwise requires, (a) all references to Sections, Articles or Schedules are to Sections, Articles or Schedules of or to this Agreement, (b) each term defined in this Agreement has the

meaning assigned to it, (c) each accounting term not otherwise defined in this Agreement has the meaning assigned to it in accordance with generally accepted accounting principles as in effect on the date hereof, (d) “or” is disjunctive but not necessarily exclusive, (e) words in the singular include the plural and vice versa, and (f) the term “Affiliate” has the meaning given it in Rule 12b-2 of Regulation 12B promulgated under the Securities Exchange Act of 1934, as amended. All references to “\$” or dollar amounts will be to lawful currency of the United States of America.

19.2 Further Assurances. At and after the Closing, Sellers shall from time to time, at the request of, and without further cost or expense to, Buyer, execute and deliver such other instruments of assignment, conveyance and transfer and take such other actions as may reasonably be requested in order to more effectively consummate the transactions contemplated hereby, and Buyer shall from time to time, at the request of, and without further cost or expense to, Sellers, execute and deliver such other instruments and take such other actions as may reasonably be requested in order to more effectively assume the Assumed Liabilities.

19.3 Assignment. Neither this Agreement nor any of the rights, interests or obligations hereunder shall be assigned by any of the parties hereto, whether by operation of law or otherwise; provided, however, that without releasing Buyer from any of its obligations or liabilities hereunder, nothing in this Agreement shall limit Buyer’s ability to assign the right to acquire the Acquired Assets to any Affiliate or subsidiary of Buyer without the consent of Sellers.

19.4 Amendments. No amendment, waiver of compliance with any provision or condition 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 any waiver, amendment, change, extension or discharge is sought.

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

19.6 Governing Law. The construction and performance of this Agreement shall be governed by the laws of the State of Delaware without giving effect to the choice of law provisions thereof.

19.7 Notices. Any notice, demand or request required or permitted to be given under the provisions of this Agreement shall be in writing and shall be deemed to have been duly delivered and received when electronically confirmed if sent by telecopy; on the date of personal delivery; on the third (3rd) day after deposit in the U.S. mail if mailed by registered or certified mail, postage prepaid and return receipt requested; on the day after delivery to a nationally recognized overnight courier service if sent by an overnight delivery service for next morning delivery and shall be addressed to the following addresses (or at such other address that party shall specify to the other party in accordance herewith):

- (a) In the case of Sellers, to:

NextMedia Operating, Inc.
6312 S. Fiddler's Green Circle
Suite 360E
Englewood, Colorado 80111
Attention: Sean Stover
Telecopy: (303) 694-4940

With a copy to:

Weil, Gotshal & Manges LLP
100 Crescent Court
Suite 1300
Dallas, Texas 75201
Attention: Glenn D. West
John E. Quattrocchi
Telecopy: (214) 746-7777

- (b) In the case of Buyer:

Newsweb Corporation
1645 West Fullerton Avenue
Chicago, Illinois 60614
Attention: Charles F. Gross
Telecopy: (773) 975-1301

With a copy to:

Katten Muchin Zavis Rosenman
525 West Monroe Street
Suite 1600
Chicago, Illinois 60661
Attention: Howard S. Lanznar
Telecopy: (312) 902-1061

19.8 [Schedules](#). The schedules and exhibits attached to this Agreement and the other documents delivered pursuant hereto are hereby made a part of this Agreement as if set forth in full herein.

19.9 [Entire Agreement](#). This Agreement contains the entire agreement among the parties hereto with respect to its subject matter and supersedes all negotiations, prior discussions, agreements, letters of intent, and understandings, written or oral, relating to the subject matter of this Agreement.

19.10 [Severability](#). If any provision of this Agreement is held to be unenforceable, invalid, or void to any extent for any reason, that provision shall remain in

force and effect to the maximum extent allowable, and the enforceability and validity of the remaining provisions of this Agreement shall not be affected thereby.

19.11 [Counterparts](#). This Agreement may be executed in two or more counterparts, each of which will be deemed an original, but all of which together shall constitute but one and the same instrument.

19.12 [No Third-Party Rights](#). Nothing in this Agreement, express or implied, shall be construed to confer upon any person, other than the parties hereto, their successors and permitted assigns, any legal or equitable rights, remedies, claims, obligations or liabilities under or by reason of this Agreement.

[THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK.]

IN WITNESS WHEREOF, each of the parties has caused this Agreement to be duly executed and delivered as of the date first above written.

SELLERS :

NEXTMEDIA OPERATING, INC.

By: _____

Name: _____

Title: _____

NM LICENSING LLC

By: NEXTMEDIA OPERATING, INC.,
its sole member

By: _____

Name: _____

Title: _____

BUYER:

NEWSWEB CORPORATION

By: _____

Name: _____

Title: _____

ASSET PURCHASE AGREEMENT

by and among

NEXTMEDIA OPERATING, INC.,

NM LICENSING LLC,

and

NEWSWEB CORPORATION

**dated as of
April 25, 2003**

TABLE OF CONTENTS

	<u>Page</u>
ARTICLE 1 PURCHASE AND SALE OF THE ACQUIRED ASSETS	1
1.1 Transfer of Acquired Assets	1
1.1.1 Licenses and Permits	1
1.1.2 Tangible Personal Property	1
1.1.3 Contract Rights	2
1.1.4 Intellectual Property	2
1.1.5 Books and Records	2
1.1.6 Manufacturers' and Vendors' Warranties	2
1.1.7 Owned Real Estate	2
1.1.8 Causes of Action	2
1.1.9 Miscellaneous Assets	3
1.2 Excluded Assets	3
1.2.1 Cash	3
1.2.2 Notes Receivable and Accounts Receivable	3
1.2.3 Ordinary Course of Business Dispositions	3
1.2.4 Corporate Documents	3
1.2.5 Certain Contracts of Insurance and Insurance Proceeds	3
1.2.6 Employee Benefit Plans	3
1.2.7 Pre-Closing Tax Refunds	3
1.2.8 Certain Structures	3
1.2.9 Barter Arrangements	4
1.2.10 Shared Assets	4
1.2.11 Other Excluded Assets	4
ARTICLE 2 ASSUMPTION OF OBLIGATIONS	4
2.1 Assumption of Obligations	4
2.2 Sellers' Retained Liabilities	4
ARTICLE 3 CONSIDERATION	4
3.1 Delivery of Consideration	4
3.2 Allocation of Consideration	5
3.3 Allocations and Prorations	5

ARTICLE 4	CLOSING.....	6
4.1	Closing.....	6
ARTICLE 5	GOVERNMENTAL CONSENTS	6
5.1	FCC Consent.....	6
5.2	FCC Application.....	6
ARTICLE 6	REPRESENTATIONS AND WARRANTIES OF SELLERS	7
6.1	Representations and Warranties of Sellers	7
6.1.1	Organization, Good Standing, Etc.....	7
6.1.2	Absence of Conflicting Agreements or Required Consents.....	7
6.1.3	Statement of Direct Revenues and Expenses	8
6.1.4	Compliance with Applicable Laws, FCC Matters	8
6.1.5	Litigation.....	9
6.1.6	Insurance	9
6.1.7	Real Estate	9
6.1.8	Personal Property	10
6.1.9	Sufficiency of Assets.....	10
6.1.10	Liens and Encumbrances.....	10
6.1.11	Environmental Matters	11
6.1.12	Taxes	12
6.1.13	Personnel.....	13
6.1.14	Certain Agreements	13
6.1.15	Labor	13
6.1.16	Intellectual Property.....	13
6.1.17	Absence of Certain Changes or Events.....	13
6.1.18	Commission or Finder's Fees.....	14
6.1.19	Sellers' Financial Condition.....	14
6.1.20	Books and Records	14
6.1.21	No Third Party Options	14
ARTICLE 7	REPRESENTATIONS AND WARRANTIES OF BUYER.....	14
7.1	Representations and Warranties of Buyer	14
7.1.1	Organization.....	14
7.1.2	Authorization and Binding Obligation.....	14

7.1.3	Qualification.....	15
7.1.4	Absence of Conflicting Agreements or Required Consents.....	15
7.1.5	Litigation.....	15
7.1.6	Commission or Finder’s Fees.....	16
ARTICLE 8	COVENANTS OF SELLERS	16
8.1	Sellers Covenants.....	16
8.1.1	Conduct Prior to the Closing Date	16
8.1.2	Access.....	17
8.1.3	Satisfaction of Conditions; Closing.....	18
8.1.4	Sale of Acquired Assets; Negotiations.....	18
8.1.5	No Inconsistent Action.....	18
8.1.6	Notification.....	18
8.1.7	FCC Reports	18
8.1.8	Updating of Information.....	19
8.1.9	Response to Certain Actions	19
8.1.10	Financial Statements	19
8.1.11	Updates to Schedules	19
8.1.12	Non-Solicitation.....	20
ARTICLE 9	COVENANTS OF BUYER	20
9.1	Buyer Covenants.....	20
9.1.1	Notification.....	20
9.1.2	No Inconsistent Action.....	20
9.1.3	Post-Closing Access	20
9.1.4	Satisfaction of Conditions; Closing.....	20
9.1.5	Non-solicitation.....	20
9.1.6	Response to Certain Actions	21
ARTICLE 10	JOINT COVENANTS	21
10.1	FCC Application.....	21
10.2	Confidentiality	21
10.3	Cooperation.....	22
10.4	Bulk Sales Laws	22
10.5	Public Announcements	22

10.6	Employee Matters; Non-Solicitation.....	23
ARTICLE 11	CONDITIONS OF CLOSING BY BUYER	23
11.1	Representations and Warranties	23
11.2	Compliance with Agreement	23
11.3	Closing Certificates	23
11.4	FCC Consent.....	23
11.5	No Adverse Proceedings.....	24
11.6	Closing Documents.....	24
11.7	Release of Encumbrances	24
ARTICLE 12	CONDITIONS OF CLOSING BY SELLERS	24
12.1	Representations and Warranties	24
12.2	Compliance with Agreement	24
12.3	Closing Certificates	24
12.4	FCC Consent.....	24
12.5	No Adverse Proceedings.....	24
12.6	Closing Documents.....	25
ARTICLE 13	DOCUMENTS TO BE DELIVERED AT CLOSING.....	25
13.1	Documents to be Delivered by Sellers.....	25
13.1.1	Transfer Documents	25
13.1.2	Resolutions	25
13.1.3	Officer's Certificate.....	25
13.1.4	Good Standing Certificates	25
13.1.5	Evidence of Release of Encumbrances	25
13.1.6	Escrow Instruction Letter.....	25
13.1.7	Lease Agreement	25
13.1.8	Sublease Agreement	25
13.1.9	Allocation Statement	26
13.1.10	Title Policy.	26
13.1.11	Ancillary Real Estate Documents	26
13.2	Documents to be Delivered by Buyer.....	26
13.2.1	Purchase Price	26
13.2.2	Assumption Agreement(s).....	26

13.2.3	Resolutions	26
13.2.4	Officer's Certificate.....	26
13.2.5	Good Standing Certificates	26
13.2.6	Lease Agreement	26
13.2.7	Sublease Agreement	26
ARTICLE 14	SURVIVAL AND INDEMNIFICATION	27
14.1	Survival of Representations, Warranties and Covenants.....	27
14.2	Limitations on Liability	27
14.3	Indemnification.....	28
14.4	Defense of Claims.....	29
ARTICLE 15	TRANSFER TAXES; FEES AND EXPENSES	30
15.1	Expenses	30
15.2	Transfer Taxes and Similar Charges.....	30
15.3	Governmental Filing or Grant Fees	31
ARTICLE 16	SPECIFIC PERFORMANCE.....	31
16.1	Specific Performance	31
ARTICLE 17	TERMINATION.....	31
17.1	Termination Rights	31
17.2	Procedures and Effect of Termination.....	32
ARTICLE 18	RISK OF LOSS	33
18.1	Risk of Loss	33
ARTICLE 19	MISCELLANEOUS PROVISIONS	33
19.1	Certain Interpretive Matters and Definitions	33
19.2	Further Assurances	34
19.3	Assignment	34
19.4	Amendments	34
19.5	Headings	34
19.6	Governing Law	34
19.7	Notices	34
19.8	Schedules	35
19.9	Entire Agreement	35
19.10	Severability.....	35

19.11	Counterparts.....	36
19.12	No Third-Party Rights	36

Schedules

Schedule 1.1.1	Station License
Schedule 1.1.2	Tangible Personal Property
Schedule 1.1.3	Contracts
Schedule 1.1.4	Intellectual Property
Schedule 1.1.7	Owned Real Estate
Schedule 1.2.8	Certain Structures
Schedule 1.2.10	Shared Assets
Schedule 1.2.11	Other Excluded Assets
Schedule 6.1.2	Required Consents
Schedule 6.1.5	Litigation
Schedule 6.1.6	Insurance
Schedule 6.1.10	Liens and Encumbrances
Schedule 6.1.13	Employee List
Schedule 9.1.5	Prohibited Solicitation Targets

Exhibits

Exhibit A	Escrow Agreement
Exhibit B	Lease
Exhibit C	Sublease

Defined Terms

<u>Defined Terms</u>	<u>Section</u>
Affiliate	19.1
Agreement	Preamble
Allocation	3.2.2
Acquired Assets	1.1
Assumed Liabilities	2.1
BIA	3.2.2
BIA Appraisal	3.2.2
bulk sales	10.4
business day	3.1(b)
Buyer	Preamble
Closing	4.1
Closing Date	4.1
Code	3.2.2
Communications Act	7.1.3
Contracts	1.1.3
Deposit	3.1(b)
Effective Time	3.3.1
Environmental Costs and Liabilities	6.1.11(f)
Environmental Laws	6.1.11(f)
Escrow Agent	3.1(b)
Escrow Agreement	3.1(b)
Exchange Act	8.1.10
Excluded Assets	1.2
FCC	1.1.1
FCC Application	5.2
FCC Consent	5.1
Final Order	11.4
Governmental Entity	6.1.2
Hazardous Substances	6.1.11(d)
Indemnifiable Losses	14.2(a)
Indemnifying Party	14.2(a)
Indemnatee	14.2(a)
Indemnity Payment	14.2(a)
Independent Auditor	3.3.2
Intellectual Property	1.1.4
Lease	13.1.7
Licensing	Preamble
Liens	6.1.10
Operating	Preamble
Permitted Liens	6.1.10

Predecessor	6.1.11(a)
Purchase Price	3.1(a)
Real Estate	1.1.7
Securities Act	8.1.10
Sellers	Preamble
Sellers' knowledge	6.1.4(a)
Shared Assets	1.2.10
Specified Event	18.1(b)
Specified Event Notice	18.1(b)
Statement of Direct Revenues and Expenses	6.1.3
Station	Recitals
Station License	1.1.1
Sublease	13.1.8
Tax	6.1.12(f)
Tax Return	6.1.12(f)
Taxes	6.1.12(f)
Third Party Claim	14.2(a)

EXHIBIT A

ESCROW AGREEMENT

EXHIBIT B

LEASE

EXHIBIT C

SUBLEASE