

## **ASSET PURCHASE AGREEMENT**

This ASSET PURCHASE AGREEMENT ("Agreement") dated January 16, 2017 ("Effective Date"), is by and between WUVA, INCORPORATED A/K/A WUVA, INC., a Virginia not-for-profit membership corporation ("Seller") and SAGA COMMUNICATIONS OF CHARLOTTESVILLE, LLC, a Delaware limited liability company ("Buyer").

### **Recitals**

Seller is the licensee and operator of commercial FM radio station WUVA (Facility ID No. 74161), licensed to Charlottesville, Virginia ("Station").

Subject to the consent of the Federal Communications Commission ("FCC") and other terms and conditions set forth herein, Seller desires to sell and Buyer desires to acquire the Station, and all or substantially all of the assets, leases, contracts, agreements, and licenses used or useful in the operation of the Station, with certain exceptions as provided below, and Seller desires to transfer such assets to Buyer.

In order to better serve the public interest, Seller and Buyer have entered into a Time Brokerage Agreement ("TBA") a copy of which is attached as Exhibit A.

### **Agreement**

The parties, intending to be legally bound, agree as follows:

1. **Sale and Transfer of Assets.** Subject to the terms and conditions of this Agreement, on the Closing Date (as defined in Section 10.1) Seller will sell, assign, transfer and deliver to Buyer substantially all of the assets and rights of every kind and nature, real, personal, and mixed, tangible and intangible, now or hereafter owned by Seller, or in which Seller now or hereafter has an interest, that are used or useful in connection with the operation of the Station, including assets and rights acquired by Seller or arising between the date hereof and the Closing Date, including, without limitation, the following (collectively, the "Assets");

1.1 **Licenses.** As listed on **Schedule 1.1**, all licenses, permits and authorizations issued by any governmental or regulatory agency (including antenna structure registration numbers) which are transferable or assignable, and are used or useful in, or in connection with, the operation of the Station (the "FCC Licenses");

1.2 **Tangible Assets.** All tangible assets of Seller used or useful in, or in connection with, the operation of the Station that Buyer desires to acquire, and are listed on **Schedule 1.2** (the "Tangible Assets");

1.3 **Real Property.** All of Seller's right, title and interest in the leased or licensed real estate described on **Schedule 1.3**, including, to the extent owned by Seller, all fixtures and improvements thereon (the "Real Property");

**1.4 Assigned Contracts.** The following leases, contracts, and agreements (collectively, the “Assigned Contracts”):

- (a) Those leases, contracts and agreements listed on **Schedule 1.4**;
- (b) All oral or written contracts or agreements to broadcast advertising for cash or trade, to the extent such contracts or agreements pertain to the Station as specified on Schedule 1.4; and
- (c) All other contracts, business agreements, leases and arrangements relating to the operation of the Station, which Buyer desires to assume that (i) are not specifically disclosed in this Agreement or in the Schedules, but which are entered into by Seller in the ordinary course between the date hereof and the Closing Date and which involve consideration payable or receivable not in excess of One Thousand Dollars (\$1,000) individually and Five Thousand Dollars (\$5,000) in the aggregate, or (ii) are entered into by Seller with Buyer’s consent.

**1.5 Intellectual Property.** All of Seller’s right, title and interest in Intellectual Property (as defined in Section 4.7(a)), including, those set forth on **Schedule 1.5** and except for the intellectual property used in connection with the operation of WUVANEWS.COM and WUVAONLINE.COM; and

**1.6 Business Records.** All business records of the Station relating to its operation (including, without limitation, tapes, computer disks, USB drives, accounting records, journals and ledgers, customer lists, access to cloud storage, and the Station’s log books), but not including tax records (the “Business Records”);

**1.7 Excluded Assets.** The Assets shall not, however, include the use of the call letters for the Station (the “Call Letters”), any of Seller’s cash, cash equivalents or similar type investments, bank accounts, deposits, accounts receivable arising in connection with the operation of the Station prior to the Closing Date, books and records pertaining to company organization, contracts of insurance (including the cash surrender value thereof, and all insurance proceeds or claims made by Seller relating to property or equipment repaired, replaced or restored by Seller prior to the Closing Date except for any rights or proceeds that may be assigned to Buyer), employee pension and other benefit plans or collective bargaining agreements (if any), duplicate copies of such records as are necessary to enable Seller to file its tax returns and reports, as well as any other records or materials relating to Seller generally and not involving the Station specifically, or any of the other assets described on **Schedule 1.7**, all of which shall remain the property of Seller (collectively, the “Excluded Assets”). Within 30 days following the filing of the Assignment Application (defined below), Buyer and Seller will cooperate to file a request with the FCC to change the Call Letters to a call sign satisfactory to Buyer contingent on the Closing, and Buyer will pay any related FCC fees. Notwithstanding the foregoing, Seller shall retain the originals of all files and associated materials relating to the allocation of FM frequency 92.7 MHz to Charlottesville, VA by FCC rule making, including Seller's application for license and files associated with the FCC comparative hearing following which WUVA, Inc. was awarded the license for the FM frequency 92.7 MHz in Charlottesville,

Virginia as well as Seller's original correspondence and business files relating to its operation of WUVA(FM) prior to WUVA's commencement of operations as 92.7 Nash Icon and all of Seller's original correspondence and business files relating to the Federal Communications Commission ("Seller's Original Records"). Upon request by Buyer, Seller will furnish Buyer with copies of Seller's Original Records.

## **2. Purchase Price and Payment.**

**2.1 Escrow Deposit; Post-Closing Escrow.** No later than January 17, 2017, Buyer shall deposit in escrow the amount of One Hundred Sixty Five Thousand and 00/100 Dollars (\$165,000.00) (the "Deposit") as further provided and governed by the Escrow Agreement among Buyer, Seller, Smithwick & Belendiuk, P.C. and Pamela C. Cooper, Esq. (collectively, the "Escrow Agent") attached as Exhibit B (the "Escrow Agreement"), to be applied toward the Purchase Price at Closing or otherwise disbursed under the terms of this Agreement.

**2.2 Payment at Closing; Allocation of Purchase Price.** Subject to adjustment as described in Section 2.3 below, Buyer agrees to pay to Seller at the Closing, as consideration for the Assets, a total amount (including the Deposit) equal to One Million Six Hundred Fifty Thousand and 00/100 Dollars (\$1,650,000.00) (such adjusted amount, the "Purchase Price"). The Purchase Price shall be paid by either (i) wire transfer of immediately available funds to an account designated by the Seller, or (ii) by cashier's check, as designated by Seller five (5) business days prior to Closing. Allocation of the Purchase Price among the Station's Assets shall be as determined by mutual agreement of the Buyer and Seller. If the Buyer and Seller are unable to agree upon the allocation among the Assets, such allocation shall be determined by an appraisal conducted by a mutually agreed upon appraiser experienced in the appraisal of broadcast stations. Buyer shall be solely responsible for the cost of such appraisal. As contemplated under Section 1060 of the Internal Revenue Code (the "Code"), Buyer and Seller shall submit Form 8594 to the Internal Revenue Service following the Closing, which Form 8594 shall each reflect the allocation reasonably determined by Buyer.

## **2.3 Purchase Price Adjustment/Prorations; Dispute Resolution.**

(a) Current vacation and other fringe benefit accruals for any employees of the Station hired by Buyer, and real estate taxes (if any), personal property taxes, rents, utility charges (including electricity, gas, water, sewer and telephone), refuse collection, and other service contracts (as applicable) assumed by Buyer shall be prorated ratably as of the Closing Date. Three (3) business days prior to the Closing, Seller shall deliver to Buyer a written good faith estimate of all adjustments and prorations to be made under this Agreement (the "Seller's Initial Statement"). Subject to the consent of Buyer, the net amount of the Seller's Initial Statement shall be treated as an adjustment to the Purchase Price pursuant to Section 2.2, above.

(b) Within ninety (90) days following the Closing, Buyer may deliver to Seller a written statement describing any objections to the calculations on the Seller's Initial

Statement (the “Buyer’s Objections”). The parties agree to negotiate in good faith to resolve any disputed amounts, but in the event the parties are unable to resolve such disputes and the amount in dispute exceeds Five Thousand Dollars (\$5,000.00), the amounts shall be determined by an independent certified public accountant, mutually acceptable to the parties (the “Independent Accountant”). The dispute shall be submitted to the Independent Accountant no later than thirty (30) days after the delivery of the Buyer’s Objections. The determination by the Independent Accountant shall be final, and the fees and expenses of the Independent Accountant shall be paid fifty percent (50%) by Seller and fifty percent (50%) by Buyer. If the amount in dispute is less than Five Thousand Dollars (\$5,000.00) it shall be divided equally between Buyer and Seller.

(c) If the parties agree, or if the Independent Accountant determines, that any prorations or adjustments differ from the Seller’s Initial Statement, then the difference between such prorations and/or adjustments and the Seller’s Initial Statement shall be paid by Seller or Buyer, as the case may be, within thirty (30) days of the final determination of the last such disputed amount.

3. **No Assumption of Liabilities.** Buyer shall not assume and shall not be obligated to pay any of the liabilities or obligations of Seller (“Excluded Liabilities”), including, without limitation, any taxes owed by Seller, except for those liabilities and obligations arising or accruing on or after the Closing Date with respect to the Assets. Upon assumption by Buyer of the Assigned Contracts, Buyer shall be entitled to all of Seller’s rights and benefits thereunder and shall relieve Seller of Seller’s obligations to perform the same. If Buyer pays any of the Excluded Liabilities, then Seller shall reimburse the amount of such payment to Buyer by wire transfer of immediately available funds within two (2) business days after receipt by Seller of a demand for reimbursement, together with corresponding documentation of such payment.

4. **Seller’s Representations and Warranties.** The following representations and warranties shall survive from the Closing Date for the periods specified in Section 4.20. For purposes of this Section 4, all references to the “knowledge of Seller,” to “Seller’s knowledge” or words of similar import shall mean the actual knowledge of Seller’s officers and board of directors after due inquiry. Seller represents and warrants to Buyer as of the date hereof and as of the Closing Date, with respect to the Station, as follows:

4.1 **Formation, Standing and Power.** Seller is a not-for-profit membership corporation, duly formed, validly existing and in good standing under the laws of the Commonwealth of Virginia, is qualified to do business in the Commonwealth of Virginia, and has all necessary power and authority to own, use and transfer its properties and the Assets and to transact its business as now being conducted. Except as set forth in the foregoing sentence, there are no other jurisdictions in which the character or use of the Assets or the nature of Seller’s business makes necessary the licensing or qualification of Seller to do business.

4.2 **Authority for Transaction.** Seller’s execution and delivery of this Agreement, its compliance with its provisions and the consummation of all of the transactions contemplated hereby have been duly and validly authorized by all necessary action on the part of Seller, and this Agreement is valid and binding upon Seller in accordance with its terms.

**4.3 FCC Licenses.** Seller is, and on the Closing Date will be, the holder of the FCC Licenses, all of which are in full force and effect. The FCC Licenses constitute all material licenses, permits and governmental authorizations and approvals necessary for the operation of the Station. No proceeding (judicial, administrative or otherwise) has been commenced or, to Seller's knowledge, threatened, against the Station, or in respect of any FCC License, which could lead to a revocation, suspension or limitation of the rights under any FCC License. Seller is in compliance with all of its obligations under each of the FCC Licenses, including its obligations under the Communications Act of 1934, as amended (the "Communications Act") and the rules and regulations of the FCC promulgated thereunder (herein "Communications Laws").

**4.4 Condition of Assets.** On the Closing Date, each item comprising the Assets shall be in good operating condition and repair, reasonable wear and tear excepted. Between the signing of this Agreement and the Closing Date, Seller shall use commercially reasonable efforts to maintain the Assets in good operating condition as to enable Buyer, upon Closing, to operate the Station at the same level as currently being operated by Seller.

**4.5 Equipment; Existing Site; Good Title; Studio and Offices.**

(a) Station's transmission equipment ("Equipment") is located on a tower with FCC Antenna Structure Registration Number 1026409 (the "Existing Site"), which is occupied pursuant to an expired lease (the "Expired Lease"), being held over with the landlord of Existing Site on a month-to-month basis. Seller will, upon execution of this Agreement, use reasonable good faith efforts to maintain continued Station operations at the Existing Site until Closing.

(b) Additionally, Seller will, upon execution of this Agreement, execute and deliver to Buyer, in the form of Exhibit C attached, Seller's consent to Buyer's filing a contingent application ("Modification Application") [pursuant to Title 47 CFR §73.3517] with the FCC to relocate the Equipment to a site specified by Buyer (the "New Site"), to be filed by Buyer in its sole discretion.

(c) At Closing, the Assets conveyed shall be free and clear of all security interests, mortgages, pledges, liens (including mechanics and materialmen liens), conditional sales agreements, leases, encumbrances, easements, charges or claims of third parties of any nature whatsoever, except the Permitted Liens as listed on **Schedule 4.5(a)**. "Permitted Liens" shall be defined as liens for taxes not yet due and payable, and such other liens, easements, rights of way, building and use restrictions, exceptions, reservations and limitations that do not in any material respect detract from the value of the property subject thereto or impair the use thereof in the ordinary course of the business of the Station and are otherwise reasonably acceptable to Buyer. All encumbrances to title other than the Permitted Encumbrances shall be removed at or prior to the closing unless specifically designated as continuing after the Closing on Schedule 4.5(a).

(d) The Equipment and studio equipment is operating in accordance with and within the parameters established by the FCC and the FCC Licenses. The description of

the tower at the Existing Site is identical to the facilities described in the licenses issued by the FCC (the “FCC Licenses”).

(e) Seller will use reasonable good faith efforts to maintain the continued operation of the Station’s existing main studio and offices (“Premises”) for a period not to exceed one hundred twenty (120) days following the Closing, but in no event later than July 1, 2017. The parties acknowledge that maintaining such use is not assured. During this period, Buyer will arrange to relocate the Station’s main studio and office to its own facilities. Buyer shall have no obligation to improve the Premises beyond their condition on the Closing Date, but, upon vacating the Premises, shall leave the Premises “broom clean.”

**4.6 Contracts, Leases, Agreements, Etc.** Seller has delivered to Buyer complete and correct copies of all of the Assigned Contracts shown on Schedule 1.4 (including any amendments and modifications thereto) to the extent those Assigned Contracts are in writing, and to the extent any such Contracts are not in writing, Seller has provided to Buyer a description of the material terms of those contracts. The Assigned Contracts to be transferred or assigned to Buyer are now and will, on the Closing Date, be valid, binding and in full force and effect. Except for the Assigned Contracts, Seller is not a party to any contract, agreement or arrangement, whether written or oral, or whether express or implied, that is material to the operation of the Station. Seller and, to Seller’s knowledge, each other party to the Assigned Contracts have complied in all material respects with all required provisions thereunder. To Seller’s knowledge, no event has occurred which, but for the passage of time or the giving of notice, or both, would or might constitute a default under, or termination of, any Assigned Contract. To Seller’s knowledge, each Assigned Contract may be transferred by Seller in accordance with its terms and without the consent of any other party, or if such consent is required, it has been obtained or will be obtained by Seller prior to the Closing Date.

#### **4.7 Intellectual Property.**

(a) “Intellectual Property” means all of the following used or held for use in connection with the Station (except as it may relate solely to the Call Letters and those items listed on **Schedule 4.7(a)**) in any jurisdiction throughout the world: (i) all trademarks, service marks, jingles, trade dress, logos, slogans, trade names, Internet domain names, e-mail addresses, social media accounts, social networking and multimedia accounts and the contents and information contained therein, and rights in telephone numbers and facsimile numbers, together with all translations, adaptations, derivations, and combinations thereof and including all goodwill associated therewith, and all applications, registrations, and renewals in connection therewith, (ii) all copyrightable works, all copyrights, and all applications, registrations, and renewals in connection therewith, (iii) all trade secrets and confidential business information (including ideas, research and development, know-how, customer lists, formulas, compositions, manufacturing and production processes and techniques, technical data, designs, drawings, specifications, customer and supplier lists, pricing and cost information, and business and marketing plans and proposals), (iv) all computer software (including source code, executable code, data, databases, and related documentation), (v) all other proprietary rights, (vi) all copies and tangible embodiments of any of the foregoing (in whatever form or medium), (vii) all goodwill associated with any of the foregoing, (viii) all licenses and sublicenses granted and

obtained with respect to any of the foregoing and all rights thereunder, (ix) all remedies against infringement of any of the foregoing, and (x) all rights to protection of interests in any of the foregoing.

(b) Seller owns or possesses or has the right to use pursuant to a valid and enforceable, written license, sublicense, agreement, or permission all Intellectual Property necessary for the operation of the Station as presently conducted and as presently proposed to be conducted including, without limitation, all Intellectual Property used in any service, product, technology or process (i) currently being used, published or marketed by Seller or (ii) currently under development for possible future publication, marketing or other use by Seller. Each item of Intellectual Property owned or used by Seller in connection with the Station immediately prior to the Closing will be owned or available for use by Buyer on identical terms and conditions immediately subsequent to the Closing. Seller has taken all necessary action to maintain and protect each item of Intellectual Property that it owns or uses in connection with the Station.

(c) Seller has not interfered with, infringed upon, misappropriated, or otherwise come into conflict with any Intellectual Property rights of third parties, and there has been no charge, complaint, claim, demand, or notice alleging any such interference, infringement, misappropriation, or violation (including any claim that Seller must license or refrain from using any Intellectual Property rights of any third party). To Seller's knowledge, no third party has interfered with, infringed upon, misappropriated, or otherwise come into conflict with any Intellectual Property rights of Seller used in connection with the Station.

(d) There has been no patent or registration issued to Seller with respect to any Intellectual Property used in connection with the Station, and with the exception of an application to the Trademark Office for the mark "WUVA," Seller has made no application for any patent or registration with respect to any Intellectual Property used in connection with the Station that is currently pending. Seller has not granted to any third party any license, sublicense, agreement or permission with respect to any Intellectual Property used in connection with the Station.

**4.8 Employees and Agreements Relating to Employment.** (a) The names of all employees of the Station, position, classification, current base rate of compensation, all bonuses received for the 12-month period preceding the Closing Date, and (b) all fringe benefit plans are as set forth on **Schedule 4.8**. To the extent in existence, Buyer has received a true and correct copy of all benefit plans listed on Schedule 4.8. Except as set forth on Schedule 4.8, there is (i) no written employment contract with any employee of the Station, (ii) no obligation, contingent or otherwise, under any employment arrangement, (iii) no collective bargaining agreement, and (iv) no employee pension, retirement, profit sharing, bonus or similar plan. No union has been certified or has sought recognition as a bargaining agent for any employee of the Station. The parties agree that Buyer shall have the right, but not the obligation, to extend offers of employment after the Closing to each employee of the Station.

**4.9 Legal Proceedings, Insolvency, Etc.** No litigation or proceeding (judicial, administrative or otherwise) is pending or, to the knowledge of Seller, threatened, against Seller or any of its affiliates relating to the Station or any Asset. Seller does not know of, or have

reasonable grounds to anticipate, any possible basis for any such action. No insolvency proceedings of any character including without limitation, bankruptcy, receivership, reorganization, composition or arrangement with creditors, voluntary or involuntary, affecting Seller are pending or, to the knowledge of Seller, threatened, and Seller has made no assignment for the benefit of creditors, nor taken any action with a view to, or which would constitute the basis for, the institution of any such insolvency proceedings.

**4.10 Compliance with Licenses, Laws, Regulations and Orders.** At the Closing, Seller will be in compliance with all material terms and conditions of all FCC Licenses, laws, regulations and orders applicable to its business and operations (including the Assets), including, without limitation, the Communications Act and all regulations issued by the FCC. Seller is not charged with violating or, to the knowledge of Seller, threatened with a charge of violating, or under investigation with respect to a possible violation of, any provision of any License, or of any federal, state or local law, administrative ruling, or regulation relating to any aspect of its business. All of Seller's Assets are operated in compliance with all material terms and conditions of the FCC Licenses, and all laws, ordinances, codes, regulations (including applicable engineering standards required to be met under applicable FCC rules) and other requirements of any governmental authority having jurisdiction over the Assets.

**4.11 No Conflict.** The execution and delivery of this Agreement by Seller, compliance by Seller with all of its provisions hereof, and the consummation of the transactions contemplated hereby, will not:

(a) conflict with, or result in a breach of, any provision of Seller's Articles of Incorporation or By-Laws which are the most recent such instruments in effect as of the date of this Agreement;

(b) result in a default, or give rise to any right of termination, cancellation or acceleration, under any term, condition or provision of any contract, encumbrance or other instrument or obligation to which Seller is a party or by which Seller or any of the Assets may be bound; or

(c) violate any order, writ, injunction, decree, statute, rule or regulation applicable to Seller, or any of the Assets.

Except for the approval of the FCC, and such consents as are necessary for assignment of the Assigned Contracts as specified on Schedule 1.4, no consent, waiver or approval by, notice to, or filing with any person or entity is required in connection with the execution and delivery of this Agreement by Seller, compliance by Seller with any of its provisions, or the consummation of the transactions contemplated hereby.

**4.12 Operation of Station.** The Station, at Closing, will be operating in substantial compliance with all laws, regulations and orders, including without limitation, compliance with the Communications Laws, and the terms and conditions of the FCC Licenses. Seller knows of no breach, or facts which might amount to a breach, of any such law, regulation or order.



4.13 **Insurance.** All insurance policies owned by Seller, or of which Seller is a named beneficiary, are set forth on **Schedule 4.13**. All of these policies are now, and through the Closing Date will be, fully in effect in accordance with their terms, with no default in the payment of premiums and no ground for cancellation or avoidance of any portion thereof, or for any reduction of the coverage provided thereby.

4.14 **Liabilities.** As of the Closing Date, all of Seller's liabilities, except for those liabilities arising on or after the Closing Date relating to the Assigned Contracts, shall have been fully paid and discharged, and no creditors of Seller shall have any claim on the Assets for the payment of such liabilities.

4.15 **No Misleading Statements.** The representations and warranties of Seller herein, or in any Schedule, do not contain any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements contained herein or therein not misleading.

4.16 **Broker.** Seller has not incurred nor become liable for any broker's commission or finder's fee relating to the transactions contemplated under this Agreement. Seller agrees to indemnify and hold Buyer harmless from any claims for brokerage fees, finder's fees or commissions asserted by any person acting on Seller's behalf in connection with this transaction.

#### 4.17 **Environmental Matters.**

(a) Seller owns no real estate. For purposes of this Section 4.17, the Existing Site and Premises are collectively referred to herein as the "Property." Seller does not own, control or maintain the Property currently used as the tower site for the Station. Seller does not own, control or maintain any of the buildings or other improvements with the exception of the antenna, transmitting equipment and coaxial cables used in connection with the Station located at or on the Property. To Seller's knowledge, Seller has conducted its respective business, operations and activities upon such Property in compliance with all Environmental Requirements (as defined below), and to Seller's knowledge, no charge, complaint, action, suit, proceeding, hearing, investigation, claim, demand, or notice has been filed or commenced against Seller in connection with Seller's ownership or operation of the Station alleging any failure to comply with any Environmental Requirement.

(b) To Seller's knowledge, the Property is free of reportable amounts of Hazardous Materials, and to Seller's knowledge, no Hazardous Material is currently located in, on, under or about any of the Property, whether originating from an on-site or off-site location or activity, in a manner which violates any Environmental Requirement or which requires clean up or corrective action of any kind.

(c) "Environmental Requirements" means all applicable statutes, regulations, rules, ordinances, codes, licenses, permits, orders, approvals, plans, authorizations, policies and similar items of all governmental agencies, departments, commissions, boards, bureaus or instrumentalities of the United States, or of any state or political subdivision thereof,

and all applicable judicial, administrative and regulatory decrees, judgments and orders relating to the protection of human health or the environment, including, without limitation, the Clean Air Act; the Comprehensive Environmental Response, Compensation and Liability Act (“CERCLA”), the Emergency Planning and Community Right to Know Act (“EPCRA”); the Federal Water Pollution Control Act; the National Historic Preservation Act; the Occupational Safety and Health Act (“OSHA”); the Oil Pollution Act; the Pollution Prevention Act; the Resource Conservation and Recovery Act (“RCRA”); the Safe Drinking Water Act and the Toxic Substance Control Act (“TSCA”), each as amended from time to time.

(d) “Hazardous Materials” means any flammable explosives, radioactive materials, hazardous waste, toxic substances or related materials, including, without limitation, asbestos, polychlorinated biphenyls, ureas formaldehyde, radon, and any substance included in any of the following: (a) any “hazardous waste” as that term is defined by RCRA; (b) any “hazardous substance” as that term is defined by CERCLA; (c) any “toxic substance” as that term is defined by TSCA; (d) any oil or other petroleum product; and (e) any other substance, pollutant, contaminant, chemical or industrial toxic or hazardous substance or waste, including, without limitation, all hazardous materials defined and regulated by any other Environmental Requirement.

#### **4.18 Financial Statements.**

(a) Seller has delivered to Buyer the financial statements and information relating to the Station described in the Schedule of Financial Statements attached as **Schedule 4.18** (these statements, together with the monthly statements to be furnished pursuant to Section 6.2(q), collectively the “Financial Statements”). The Financial Statements have been (or in the case of those to be provided after the date hereof, will be) prepared by Seller in accordance with generally accepted accounting principles, consistently applied, and fairly present the financial condition and results of operations of the Station for the periods covered thereby (subject, in the case of interim Financial Statements, to normal year-end adjustments and the absence of footnotes).

(b) Except as set forth in Schedule 4.18, and for conditions affecting the radio broadcasting industry generally, since December 1, 2016 and through the Closing Date, there has been no change in the condition (financial or otherwise), results of operations, business or assets of the Station which, individually or in the aggregate, is, or would be likely in the future to be, materially adverse to the Station’ condition, results of operations, business or assets taken as a whole.

**4.19 Tax Matters.** Except as set forth in **Schedule 4.19**, all federal, state, county and local tax returns, reports and declarations of estimated tax or estimated tax deposit forms required to be filed by Seller in connection with its operations, personal property or payroll have been duly and timely filed (after taking into account any approved extensions). Except as set forth in Schedule 4.19, Seller has paid all taxes which have become due under such returns or pursuant to any assessment received by it, and has paid all installments of estimated taxes due. All taxes, levies and other assessments which Seller is required by law to withhold or

to collect have been duly withheld or collected, and have been paid over to the proper governmental authorities.

**4.20 Survival of Representations and Warranties.** All of Seller's representations and warranties contained in this Agreement shall survive the Closing Date until the first anniversary of the Closing Date; provided, however, (i) representations which are the basis for claims asserted under this Agreement prior to the expiration of such applicable time periods shall also survive until the final resolution of those claims; (ii) the representations and warranties made in Sections 4.17 and 4.19 shall survive for a period of six (6) months following the expiration of the applicable statute of limitations; and (iii) the representations and warranties made in Sections 4.1, 4.2, 4.3, 4.5, 4.10, and 4.16 shall survive without contractual limitation. The right to indemnification, payment of damages and other remedies based on representations, warranties, covenants and obligations in this Agreement shall not be affected by any investigation conducted or any knowledge acquired (or capable of being acquired) at any time, whether before or after the execution and delivery of this Agreement or the Closing Date, with respect to the accuracy or inaccuracy of or compliance with any such representation, warranty, covenant or obligation.

**5. Buyer's Representations and Warranties.** The following representations and warranties shall survive from the Closing Date for the periods specified in Section 5.6. The Buyer represents and warrants to Seller, as of the date hereof and as of the Closing Date, as follows:

**5.1 Formation, Standing and Power.** Buyer is a limited liability company, duly formed, validly existing and in good standing under the laws of the State of Delaware, and as of the Closing Date shall be qualified to do business in the Commonwealth of Virginia. Buyer has all necessary power and authority to execute and deliver this Agreement, to comply with its provisions and to consummate the transactions contemplated hereby.

**5.2 Authority for Transaction.** Buyer's execution and delivery of this Agreement, its compliance with its provisions and the consummation of all of the transactions contemplated hereby have been duly and validly authorized by all necessary action on the part of Buyer, and this Agreement is valid and binding upon Buyer in accordance with its terms.

**5.3 No Conflict.** The execution and delivery of this Agreement by Buyer, compliance by Buyer with all of its provisions, and the consummation of the transactions contemplated hereby will not:

(a) conflict with or result in a breach of any provision of Buyer's Certificate of Formation or limited liability company operating agreement;

(b) result in a default, or give rise to any right of termination, cancellation or acceleration, under any term, condition or provision of any contract, encumbrance or other instrument or obligation to which Buyer is a party, or by which it or any of its properties or assets may be bound; or

(c) violate any order, writ, injunction, decree, statute, rule or regulation applicable to Buyer or any of its properties or assets.

Except for the approval of the FCC, certain filings required to be made with the FCC after the Closing Date, and any filings required to be made with the Securities and Exchange Commission, no consent, waiver or approval by, notice to, or filing with any person or entity is required in connection with the execution and delivery of this Agreement by Buyer, compliance by Buyer with any of the provisions hereof or the consummation of the transactions contemplated hereby.

5.4 **Broker.** Buyer has not incurred nor become liable for any broker's commission or finder's fee relating to the transactions contemplated by this Agreement. Buyer agrees to indemnify and hold Seller harmless from any claims for brokerage fees, finder's fees or commissions asserted by any person, acting on Buyer's behalf in connection with this transaction.

5.5 **No Misleading Statements.** The representations and warranties of Buyer herein do not contain any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements contained herein or therein not misleading.

5.6 **Survival of Representations and Warranties.** The representations and warranties of Buyer made in Sections 5.1, 5.2, 5.3 and 5.4 shall survive indefinitely.

5.7 **No Insolvency.** No insolvency proceedings of any character including without limitation, bankruptcy, receivership, reorganization, composition or arrangement with creditors, voluntary or involuntary, affecting Buyer are pending or, to the knowledge of Buyer, threatened, and Buyer has made no assignment for the benefit of creditors, nor taken any action with a view to, or which would constitute the basis for, the institution of any such insolvency proceedings.

## 6. **Seller's Covenants.**

6.1 **Access and Information.** Seller shall give Buyer and its representatives full but reasonable access during normal business hours throughout the period prior to Closing to the operations, properties, books, contracts, agreements, leases, commitments and records of the Station; provided, however, that Buyer shall give Seller reasonable advance notice of exercising this right. Seller shall furnish to Buyer all information concerning the Station's affairs as Buyer may reasonably request.

6.2 **Conduct of Station' Business.** Except for the rights and obligations of the parties pursuant to the TBA, prior to Closing, Seller shall not, without the written consent of Buyer, enter into any transaction other than those in the ordinary course of the business of the Station, and shall operate the Station in the normal and usual manner. Without limiting the foregoing, Seller shall:

(a) not enter into any employment contract relating to the Station or increase the compensation paid to any employee of the Station;

(b) not hire, fire, release or transfer any employee of the Station;

(c) maintain in force the insurance in effect on the date hereof;

(d) not make any material change in the price or terms of advertising;

(e) not make any sale, lease, transfer or other disposition of any of the Assets, except where no longer used or useful in the operation of the Station or where replaced by an asset of substantially similar value and usefulness;

(f) not modify, amend, alter or terminate any of the Assigned Contracts, or waive any default or breach thereunder, or modify, amend, alter or terminate any other right relating to or included in the Assets;

(g) maintain its books and records in accordance with prior practice; maintain the Assets in adequate condition, ordinary wear and tear excepted; maintain supplies of inventory and spare parts relating to the Station at levels consistent with past practices;

(h) promptly notify Buyer upon Seller's becoming aware of the resignation or contemplated resignation of any supervisory employee of the Station;

(i) operate the Station in accordance with the FCC Licenses and comply with all Communications Laws;

(j) not subject any of the Assets to any new lien, claim, charge, or encumbrance (other than minor liens, claims, charges or encumbrances which will not impair the value of the assets or materially interfere with their occupation, use and enjoyment by Buyer in the normal course of its business, and which shall be discharged as of the Closing Date) or increase any existing lien, claim, charge or encumbrance;

(k) not do, or omit to do, any act which will cause a default under, or breach or termination of, any Assigned Contract;

(l) take all actions reasonably necessary to obtain any required consents of third parties as set forth on Schedule 6.2(l) to the transactions contemplated herein;

(m) not enter into any contract or agreement, except for those contracts set forth on Schedule 1.3, and for contracts which are entered into in the ordinary course of business which involve consideration having a value not in excess of One Thousand and 00/100 (\$1,000.00) individually and Five Thousand and 00/100 (\$5,000.00) in the aggregate and which may be terminated on not more than ninety (90) days' notice without premium or penalty;

(n) provide to Buyer, concurrently with filing thereof, copies of all reports to and other filings with the FCC relating to the Station; and provide to Buyer, promptly

upon receipt thereof by Seller, copies of (i) any notices from the FCC or any other governmental authority regarding the revocation, suspension, or limitation of the rights under, or of any proceeding for the revocation, suspension, or limitation of the rights under (or that such authority may in the future, as the result of failure to comply with laws or regulations or for any other reason, revoke, suspend or limit the rights under) any FCC License, or any other license or permit held by Seller respecting the Station, and (ii) all protests, complaints, challenges or other documents filed with the FCC by third parties concerning the Station, together with, promptly upon the filing or making thereof, copies of Seller's responses to such filings. Seller shall notify Buyer in writing immediately upon learning of the institution or written threat of action against the Seller involving the Station or Assets before the FCC or any other governmental agency;

(o) not permit any of the FCC Licenses to expire or to be surrendered or voluntarily modified, or take any action (or fail to take any action) which could cause the FCC or any other governmental authority to institute proceedings for the suspension, revocation or limitation of rights under any FCC License; or fail to prosecute with due diligence any pending applications to any governmental authority with respect to the Station or any of the FCC Licenses, except for proceedings affecting the radio broadcasting industry generally;

(p) pay or cause to be paid or provided for when due (except to the extent contested in good faith and for which proper reserves have been established) all income, property, use, franchise, excise, social security, withholding, worker's compensation and unemployment insurance taxes and all other taxes of or relating to Seller, the Assets and the employees required to be paid to city, county, state, Federal and other governmental units up to the Closing Date; and

(q) provide to Buyer, within thirty (30) days following the end of each month, a statement of income (including a comparison to budget) for the Station for that month and for the year-to-date period then ended.

**6.3 Risk of Loss.** Seller shall bear all risk of loss or damage to any of the Assets occurring prior to the Closing. In the event any loss or damage occurs, the proceeds of any insurance policy covering such loss shall be used by Seller to repair, replace or restore any such loss prior to the Closing (or with Buyer's written consent the insurance proceeds may be assigned to Buyer in lieu of Seller undertaking such repair, replacement or restoration); provided, however, that, if the proceeds of such insurance are not sufficient to repair, replace or restore the loss, and Seller does not provide additional funds for such purpose upon request by Buyer, Buyer, if not then in default, may terminate this Agreement. In the event such loss or damage prevents the broadcast transmission of the Station in the normal and usual manner, Seller shall give prompt written notice thereof to Buyer. If Seller cannot restore the facilities so that transmission can be resumed in the normal and usual manner by the Transmission Restoration Deadline (defined below), Buyer, if not then in default, shall have the right after such two-day period to terminate this Agreement by giving written notice to Seller. In the event of any such termination under this Section 6.3, neither party shall have any further right or liability hereunder, except as provided in Section 10. The "Transmission Restoration Deadline" is five (5) days, unless within such 5 days Seller has taken remedial steps to restore broadcast transmission, in which case the deadline is extended to fifteen (15) days.

6.4 **COBRA.** Seller shall be responsible for satisfying any and all obligations under the continuation coverage provisions of the Consolidated Omnibus Budget Reconciliation Act of 1985, as amended (“COBRA”), to provide continuation coverage to or with respect to all employees and their beneficiaries to whom COBRA is applicable as a result of any “qualifying event” as defined in Section 4980B of the Code and Section 603 of the Employee Retirement Income Security Act occurring on or before the Closing Date.

6.5 **Public Announcements.** Except as mutually agreed upon in writing by Buyer and Seller, or as otherwise may be required by applicable law, Buyer or Seller will not, and will not permit any agent or affiliate to issue, any press releases or otherwise make, or permit any agent or affiliate to make, any public statements with respect to this Agreement or the transactions contemplated hereby.

## 7. **Indemnification.**

7.1 **Indemnification by Buyer.** From and after the Closing Date, Buyer shall indemnify and hold harmless Seller and its affiliates, each of their respective shareholders, directors, officers, employees and agents, and each of the heirs, executors, successors and assigns of any of the foregoing (collectively, the “Seller Indemnified Parties”) from and against any and all Losses incurred by or asserted against any of the Seller Indemnified Parties in connection with or arising from (a) any breach by Buyer of its covenants and agreements contained herein; or (b) any breach by Buyer of its representations and warranties contained herein. As used in this Agreement, “Losses” means any loss, cost, Liability, damage, penalty, fine, judgment, claim or expense (including reasonable attorneys’ fees), and “Liability” means any liability or obligation of whatever kind or nature (whether known or unknown, whether asserted or unasserted, whether absolute or contingent, whether accrued or unaccrued, whether liquidated or unliquidated, and whether due or to become due), including any liability for taxes.

7.2 **Indemnification by Seller.** From and after the Closing Date, Seller shall indemnify and hold harmless Buyer and its affiliates, each of their respective members, shareholders, directors, officers, employees and agents, and each of the heirs, executors, successors and assigns of any of the foregoing (collectively, the “Buyer Indemnified Parties”) from and against any and all Losses incurred by or asserted against any of the Buyer Indemnified Parties in connection with or arising from (a) any breach by Seller of its covenants and agreements contained herein; (b) any breach by Seller of its representations and warranties contained herein; or (c) the Excluded Liabilities.

7.3 **Third-Party Claims.** Promptly after receipt by a Seller Indemnified Party or a Buyer Indemnified Party (an “Indemnified Party”) of notice of any matter or the commencement of any action, suit, arbitration, inquiry, hearing, proceeding or investigation by or before any court of competent jurisdiction, governmental or other regulatory or administrative agency or commission or arbitral panel (“Action”) by a third party in respect of which the Indemnified Party will seek indemnification hereunder (a “Third-Party Claim”), the Indemnified Party shall notify each individual or entity that is obligated to provide such indemnification (an

“Indemnifying Party”) thereof in writing but any failure to so notify the Indemnifying Party shall not relieve it from any liability that it may have to the Indemnified Party other than to the extent the Indemnifying Party is actually prejudiced by such failure. The Indemnifying Party shall be entitled to participate in the defense of such Third-Party Claim and, provided that within fifteen (15) days after receipt of such written notice the Indemnifying Party confirms in writing its responsibility therefore and demonstrates to the reasonable satisfaction of the Indemnified Party its financial capability to undertake the defense and provide indemnification with respect to such Third-Party Claim, to assume control of such defense with counsel reasonably satisfactory to such Indemnified Party; provided, however, that:

(a) the Indemnified Party shall be entitled to participate in the defense of such Third-Party Claim and to employ counsel at its own expense to assist in the handling of such matter or claim;

(b) the Indemnifying Party shall obtain the prior written approval of the Indemnified Party before entering into any settlement of such Third-Party Claim or ceasing to defend against such matter or claim (with such approval not to be unreasonably withheld);

(c) no Indemnifying Party shall consent to the entry of any judgment or enter into any settlement that does not include as an unconditional term thereof the giving by each claimant or plaintiff to each Indemnified Party of a full and complete release from all liability in respect of such Third-Party Claim; and

(d) the Indemnifying Party shall not be entitled to control (but shall be entitled to participate at its own expense in the defense of), and the Indemnified Party shall be entitled to have sole control over, the defense or settlement of any Third-Party Claim to the extent the matter or claim seeks an order, injunction, non-monetary or other equitable relief against the Indemnified Party that, if successful, could materially interfere with the business, operations, assets, condition (financial or otherwise) or prospects of the Indemnified Party.

(e) After written notice by the Indemnifying Party to the Indemnified Party of its election to assume control of the defense of any such Third-Party Claim and proof of its financial responsibility as provided in this Section 7.3, the Indemnifying Party shall not be liable to such Indemnified Party hereunder for any legal expenses subsequently incurred by such Indemnified Party in connection with the defense thereof other than reasonable costs of investigation and of liaison counsel for the Indemnified Party; provided, however, that the Indemnifying Party shall be liable for such legal expenses if the Indemnified Party determines in good faith that the incurrence of the same is appropriate in light of defenses not available to the Indemnifying Party, conflicts of interest or other similar circumstances. If the Indemnifying Party does not assume control of the defense of such Third-Party Claim as provided in this Section 7, the Indemnified Party shall have the right to defend such Third-Party Claim in such manner as it may deem appropriate at the cost and expense of the Indemnifying Party, and the Indemnifying Party will promptly reimburse the Indemnified Party therefore in accordance with this Section 7. The reimbursement of fees, costs and expenses required by this Section 7 shall be made by periodic payments during the course of the investigations or defense, as and when bills are received or expenses incurred.



#### **7.4 Limitations on Indemnification.**

(a) Seller will not be liable to the Buyer Indemnified Parties under this Section 7 unless and until the total amount of Seller's indemnification obligation under this Section 7 for such breaches exceeds Ten Thousand and 00/100 Dollars (\$10,000.00) ("Threshold Amount"); provided that, once such indemnification obligations exceeds the Threshold Amount, Seller will indemnify the Buyer Indemnified Parties for the Threshold Amount as well as any amounts exceeding the Threshold Amount. The aggregate liability of Seller under this Agreement with respect to claims, for indemnification or otherwise, made by the Buyer Indemnified Parties will not exceed the Purchase Price (the "Cap"); provided that such limitation and the Threshold Amount will not apply to matters arising under Sections 4.1 (Formation; Standing and Power), 4.2 (Authority for Transaction), 4.3 (FCC Licenses), 4.5 (Equipment; Existing Site; Good Title; Studio and Offices ), Section 4.11 (No Conflict) and Section 4.16 (Broker). Buyer will not be liable to the Seller Indemnified Parties under this Section 7 unless and until the total amount of Buyer's indemnification obligation under this Section 7 for such breaches exceeds the Threshold Amount. Buyer's aggregate liability under this Agreement with respect to claims, for indemnification or otherwise, made by the Seller Indemnified Parties will not exceed the Cap; provided that such limitation and the Threshold Amount will not apply to matters arising under Sections 5.1 (Formation; Standing and Power), 5.2 (Authority for Transaction), 5.3 (No Conflict) and 5.4 (Broker).

(b) Notwithstanding anything contained in Section 7.4(a) to the contrary, the limitations and thresholds set forth in Section 7.4(a) will not apply if the party seeking the protection of such limitations or thresholds had knowledge of the breach of representation or warranty for which indemnification is sought prior to the date on which such representation or warranty was made.

### **8. FCC Approval.**

#### **8.1 Application for FCC Approval.**

(a) Filing and Prosecution of Application. Buyer and Seller shall, within five (5) business days from the date of this Agreement, join in an application (the "Assignment Application") to be filed with the FCC requesting its written consent to the assignment of the FCC Licenses of the Station from Seller to Buyer ("FCC Consent"). Buyer and Seller shall proceed with due diligence and promptly take all steps necessary to the expeditious prosecution of the Assignment Application to a favorable conclusion, using their best efforts throughout. If reconsideration or judicial review is sought with respect to the FCC Consent, the party affected shall vigorously oppose such efforts for reconsideration or judicial review; provided, however, that nothing herein shall be construed to limit either party's right to terminate this Agreement under Section 10.2 hereunder.

8.2 **Expenses.** Each party shall bear its own expenses in connection with the preparation of the applicable sections of the Assignment Application and in connection with the prosecution of same. Buyer will pay any filing fee or grant fee imposed by the FCC.

8.3 **Designation for Hearing.** If, for any reason, with respect to any Assignment Application, the FCC advises that designation for hearing will be required, either Buyer or Seller, if not then in default, shall have the right, by written notice within thirty (30) days of such notification, to terminate this Agreement, in which event neither party shall have any rights or liabilities hereunder except as provided in Section 10.

8.4 **Time of FCC Consent.** If approval of the assignment of the FCC Licenses has not been granted within eighteen (18) months from the date of filing of the Assignment Application with the FCC, either party, if not then in default, may terminate this Agreement by giving written notice to the other party. Upon such termination, neither party shall have any further right or liability hereunder, except as provided in Section 10

8.5 **Control of Station.** This Agreement shall not be consummated until the FCC has given its written consent to the assignment of the FCC Licenses of the Station to the Buyer. Except as permitted under the terms of the TBA, until the Closing, Buyer shall not, directly or indirectly, control, supervise, direct or attempt to control, supervise or direct the operation of the Station, but such operation shall be the sole responsibility of Seller.

## 9. **Conditions to Parties' Obligations.**

9.1 **Conditions to Buyer's Obligations.** The obligations of Buyer to complete the transactions provided for herein shall be subject, at its election, to satisfaction on or before the Closing Date of each of the following conditions:

(a) Representations and Warranties: All representations and warranties of Seller contained in this Agreement shall be true and correct in all respects as of the Closing Date (except as otherwise provided in this Agreement), and Buyer shall have received a certificate to that effect, dated as of the Closing Date and signed by an officer of Seller;

(b) Pre-Closing Obligations: Seller shall have performed all obligations required to be performed by it hereunder, the performance of which has not been waived by Buyer, and Buyer shall have received a certificate to that effect, dated as of the Closing Date and signed by an officer of Seller;

(c) Due Authorization: Seller's execution and delivery of this Agreement, its compliance with its provisions and the consummation of all of the transactions contemplated hereby shall have been duly and validly authorized by all necessary action on the part of Seller, and Buyer shall have received a copy of all actions taken effecting the same;

(d) Seller's Consents, etc.: All necessary notices, filings, consents, waivers and approvals set forth on Schedule 9.1(d) shall have been given, made or obtained, as the case may be, by Seller, and Buyer shall have received a true copy of each or shall have waived receipt thereof;

(e) No Bar: There shall not be in effect any judgment, decree or order of, or position taken by, any court or administrative body of competent jurisdiction, nor shall there have been any action, suit, proceeding or known investigation instituted or threatened, nor

shall any law or regulation have been enacted or any action taken thereunder, which would, in Buyer's reasonable judgment, restrain, prohibit, make illegal, or subject Buyer to material damage as a result of the consummation of the transactions contemplated hereby;

(f) FCC Licenses: The FCC Licenses shall (i) have been renewed at their most recent renewal for full terms under the Communications Laws and shall have been assigned and transferred to Buyer, (ii) be valid and existing authorizations in every respect for the purpose of operating the Station, (iii) have been issued by the FCC under the Communications Act of 1934, as amended, for the full terms thereof, and (iv) contain no adverse modifications of their terms as of the date thereof. Except for proceedings that affect the radio broadcasting industry generally, no proceeding for the revocation, suspension or modification of the FCC Licenses shall be in effect, and neither Seller nor Buyer shall have received any notice that any governmental authority may institute any such proceedings.

(g) Further Closing Documents: Seller shall have delivered to Buyer the following documents and instruments in form reasonably satisfactory to counsel to Buyer:

(1) Certificate of the Clerk of the Virginia State Corporation Commission attesting to the good standing of the Seller dated as of a date fifteen (15) business day or less from the Closing Date;

(2) Bill of Sale transferring to Buyer title to the Tangible Assets free and clear of all liens and encumbrances;

(3) Assignment and Assumption Agreement assigning to Buyer the Licenses, Assigned Contracts, Intellectual Property and Business Records;

(4) Certified copies of Seller's resolutions approving the transactions contemplated by this Agreement, and a certificate of incumbency demonstrating Seller's authority to enter into this Agreement and the transactions contemplated therein;

(h) Taxes and Related Matters: Except as otherwise expressly provided herein, with regard to the Assets, all taxes, assessments, utilities, insurance and water charges shall have been prorated between Buyer and Seller as of the Closing Date; and

(i) Possession: Seller shall have delivered to Buyer actual possession of the Assets.

**9.2 Conditions to Seller's Obligations.** The obligations of Seller to complete the transactions provided for herein shall be subject, at its election, to satisfaction on or before the Closing Date of each of the following conditions:

(a) Representations and Warranties: All representations and warranties of Buyer contained in this Agreement shall be true and correct in all respects as of the Closing Date (except as otherwise provided in this Agreement), and Seller shall have received a certificate to that effect, dated as of the Closing Date and signed by an officer of Buyer;

(b) Pre-Closing Obligations: Buyer shall have performed all obligations required to be performed by it hereunder, the performance of which has not been waived by Seller, and Seller shall have received a certificate to that effect, dated as of the Closing Date and signed by an officer of Buyer;

c) Due Authorization: Buyer's execution and delivery of this Agreement, its compliance with its provisions and the consummation of all of the transactions contemplated hereby shall have been duly and validly authorized by all necessary action on the part of Buyer, and Seller shall have received a copy of all required consents effecting the same;

(d) No Bar: There shall not be in effect any judgment, decree or order of, or position taken by, any court or administrative body of competent jurisdiction, nor shall there have been any action, suit, proceeding or known investigation instituted or threatened, nor shall any law or regulation have been enacted or any action taken thereunder, which would, in Seller's reasonable judgment, restrain or prohibit, make illegal, or subject Seller to material damage as a result of, the consummation of the transactions contemplated hereby;

(e) Further Closing Documents: Buyer shall have delivered to Seller the following documents and instruments:

(1) Certificate of the Delaware Secretary of State attesting to the good standing of Buyer in such jurisdiction dated as of a date fifteen (15) business day or less from the Closing Date;

(2) Assignment and Assumption Agreement by which Buyer assumes the Licenses, Assigned Contracts, Intellectual Property and Business Records;

(3) Certified copies of Buyer's resolutions approving the transactions completed by this Agreement, and a certificate of incumbency demonstrating Buyer's authority to enter into this Agreement and the transactions contemplated therein;

(f) Real Estate Matters: Except as otherwise expressly provided herein, with regard to the Assets, if applicable, all taxes, assessments, utilities, insurance and water charges shall have been prorated between Buyer and Seller to the Closing Date.

**9.3 Mutual Conditions.** The obligations of Buyer and Seller to consummate this Agreement and the transactions contemplated hereby are subject to satisfaction at the time of the Closing of the condition that the FCC shall have issued the FCC Consent, that any condition to the effectiveness of the FCC Consent which is specified therein shall have been met and, the same shall have become a Final Action. As used in this Agreement, "Final Action" shall mean an order of the FCC with respect to which no appeal, no petition for re-hearing, reconsideration, or stay, and no other administrative or judicial action contesting such consent or approval, is pending and as to which the time for filing any such appeal, petition or other action has expired or, if filed, has been denied, dismissed, or withdrawn and the time for instituting any further legal proceeding has expired.

10. **Closing.** Subject to the terms and conditions herein stated, the parties agree as follows:

10.1 **Closing Date.** The closing of the transactions provided for in this Agreement (the “Closing”) shall be held not later than ten (10) days following the date upon which the order of the FCC approving the assignment of the FCC Licenses for the Station from Seller to Buyer has become a Final Action, unless Buyer and Seller have waived the Final Action condition (the “Closing Date”). Such Closing shall take place at such place and time as mutually agreed in writing by the parties, including by the electronic exchange of executed documents. The Closing will be deemed to be effective as of 12:01 a.m. on the Closing Date.

10.2 **Failure to Close; Termination.** This Agreement may be terminated at any time prior to the Closing Date, as follows:

(a) by the mutual consent of Seller and Buyer evidenced by a signed termination agreement;

(b) by Buyer, upon written notice to Seller, if (i) on the Closing Date, without any breach by Buyer of its obligations hereunder, Seller has not complied with one or more of the conditions set forth in Section 9.1 (and such compliance is not waived by Buyer) or (ii) if Seller shall have breached any of its representations, warranties or obligations hereunder (which breach shall not have been cured in all material respect or waived by Buyer prior to the earlier of the Closing Date or within thirty (30) days after Buyer has given notice to Seller of such breach); or

(c) by Seller, upon written notice to Buyer, if (i) on the Closing Date, without any breach by Seller of its obligations hereunder, Buyer has not complied with one or more of the conditions set forth in Section 9.2 (and such compliance is not waived by Seller) or (ii) if Buyer shall have breached any of its representations, warranties or obligations hereunder (which breach shall not have been cured in all material respects or waived by Seller prior to the earlier of the Closing Date or within thirty (30) days after Seller has given notice to Buyer of such breach);

(d) as provided by Sections 6.3, 8.3 or 8.4 of this Agreement; or

(e) upon an uncured breach of the TBA by Seller or Buyer.

In the event that this Agreement is terminated, it shall thereupon become void and of no effect; provided, however, that nothing in this Section 10.2 shall be deemed to release any party from liability for any breach by such party of the terms and provisions of this Agreement or impair the right of the Buyer to compel specific performance of Seller of its obligations under this Agreement. If the Agreement is terminated under Section 10.2(c), the Deposit and any earnings thereon shall be delivered by the Escrow Agent to Seller as liquidated damages, which shall be the sole remedy of Seller for such breach. In any other case, if the Closing does not occur and the Agreement is terminated, the Deposit shall be delivered by the Escrow Agent to Buyer. All payments by the Escrow Agent shall be made in accordance with the procedures and provisions set forth in the Escrow Agreement and this Agreement.

11. **Remedies.** Notwithstanding anything to the contrary herein contained, it is agreed that the rights and privileges granted to Buyer in this Agreement are special and unique and that Buyer shall be entitled to seek, in a court of competent jurisdiction, injunctive and other equitable relief, including without limitation specific performance, and if such relief is granted, Buyer shall be entitled to recover from Seller all costs and expenses, other than attorneys' fees and costs, incurred in securing such injunctive or other equitable relief. Nothing in the foregoing shall limit Buyer's right to seek monetary damages in addition to injunctive or equitable relief, and the parties agree that Buyer's rights and remedies hereunder shall be cumulative. Seller's sole and exclusive remedy for breach by Buyer shall be to retain the Deposit as liquidated damages.

12. **Further Covenants.**

12.1 **Taxes.** All taxes originating from this transaction shall be paid by the party responsible by law to pay such tax.

12.2 **Expenses of the Parties.** Except as otherwise expressly provided in this Agreement, all expenses involved in the preparation, negotiation, authorization and consummation of this Agreement and the transactions contemplated hereby, including all fees and expenses of agents, representatives, counsel and accountants, shall be borne solely by the party who shall have incurred the same, and no other party shall have any responsibility with respect thereto.

12.3 **No Broker.** No Broker is involved in this transaction and therefore no fees are due to any broker or finder.

12.4 **Further Assurances.** Each party shall cooperate with the other, take such further action, and execute and deliver such further documents, as may be reasonably requested by any other party in order to carry out the terms and purposes of this Agreement. Without limiting the generality of the foregoing, from and after the Closing Date:

(a) each party shall file all tax returns consistent with the allocation of the Purchase Price as described in Section 2.2, and no party shall take any position on audit or in litigation which is inconsistent with such allocation if such position would result in the payment of any additional tax by, or the disallowance of any deduction or credit to, any other party; and

(b) upon request, each party shall take such action and deliver to the requesting party such further instruments of assignment, conveyance or transfer and other documents of further assurance as in the opinion of counsel to the requesting party may be reasonably desirable to assure, complete and evidence the full and effective transfer, conveyance and assignment of the Assets and possession thereof to Buyer, its successors and assigns, and the performance of this Agreement by Seller and Buyer in all respects.

12.5 **Accounts Receivable.** Unless otherwise provided for in the TBA, for a period of one hundred twenty (120) days after the Closing Date, Buyer will collect in the normal course of business for the account of Seller, the accounts receivable of the Station

outstanding as of the Closing Date. Seller will furnish Buyer with a complete list of such accounts receivable at, or as soon as reasonably possible after, the Closing. Buyer will not, without the prior written consent of Seller, compromise or settle for less than full value any of Seller's accounts receivable. Any monies received by Buyer from any person who was indebted to Seller as of the Closing Date shall be applied first against said indebtedness, except when and to the extent the account debtor otherwise specifies in writing; provided, however, that Buyer shall not attempt to influence an account debtor's normal payment practices with respect to such receivables. The obligation of Buyer hereunder will be to collect such accounts receivable in the ordinary and normal course of business and does not extend to the institution of litigation, employment of counsel or a collection agency, or any other extraordinary means of collection. Buyer will remit to Seller monthly all monies collected on the accounts receivable. Thereafter, Buyer will have no further responsibilities with respect to any uncollected accounts receivable except to remit promptly to Seller any amounts subsequently received by Buyer on account of Seller's receivables, and Seller will be free to collect all of Seller's receivables in any manner it deems appropriate. During the 120-day period and thereafter, Seller shall remain solely responsible for any commissions payable to salespersons for the sales that generated the accounts receivable outstanding as of the Closing Date.

12.6 **Notice of Consummation.** Within one business day following receipt by Seller of the Purchaser Price, Seller shall have electronically filed with the FCC notice of consummation of the FCC Consent bearing the FCC Registration Number of Buyer (i.e., 0011713633) and provided a copy of the filed notice to Buyer.

### 13. **General Provisions.**

13.1 **Survival of Representations, Warranties and Covenants.** The several representations, warranties and covenants of the parties herein contained, and the provisions hereof which by their terms are to be performed after the Closing Date, shall survive the Closing Date for the periods set forth herein, and shall be effective regardless of any investigation which may have been or may be made at the time by or on behalf of the party to whom such representations, warranties, covenants and agreements are made.

13.2 **Amendment and Waiver.** This Agreement may be amended only by a writing executed by each of the parties hereto. No waiver of compliance with any provision or condition hereof, and no consent provided for herein, shall be effective unless evidenced by an instrument in writing, duly executed by the party sought to be charged therewith. No failure or delay on the part of any party to exercise any of its rights hereunder shall operate as a waiver thereof, nor shall any single or partial exercise by any party of any right preclude any other or future exercise thereof or the exercise of any other right.

13.3 **Assignment.** No party shall assign or attempt to assign any of its rights or obligations under this Agreement without the prior written consent of the other party. No assignment by either party shall relieve such party of any liability hereunder.

13.4 **Notices.** All notices, consents, waivers and other communications required or permitted under this Agreement shall be sufficiently given for all purposes hereunder

if in writing and (a) hand delivered, (b) sent by a nationally recognized overnight courier service, or (c) sent by electronic mail, in each case to the address and to the attention of the party (by name or title) set forth below (or to such other address and to the attention of such other person as a party may designate by written notice to the other parties):

If to Seller:

WUVA, Incorporated  
211 Emmet Street South, Suite 200  
Charlottesville, VA 22903  
Attention: Mr. David Mitchell  
Phone: 434-817-6880  
E-mail: david@nashicon927fm.com

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

Pamela C. Cooper, Esq.  
The Law Offices of Pamela C. Cooper, PLLC  
904 Holly Blossom Court  
Great Falls, VA 22066  
Phone: (703) 450-0321  
E-mail: cooperlaw@verizon.net

And

Richard D. Marks, Esq.  
General Counsel  
WUVA, Inc.  
6004 Balsam Drive  
McLean, VA 22101-2503  
Phone: (703) 536-5525  
E-mail: richardmarks@earthlink.net

If to Buyer:

Saga Communications of Charlottesville, LLC  
c/o Saga Communications, Inc.  
73 Kercheval Avenue, Suite 201  
Grosse Pointe Farms, Michigan 48236  
Attention: Mr. Samuel D. Bush  
Phone: (313) 886-7070  
E-mail: [sbush@sagacom.com](mailto:sbush@sagacom.com)

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



Smithwick & Belendiuk, P.C.  
5028 Wisconsin Avenue, NW  
Suite 301  
Washington, D.C. 20016  
Attn: Gary S. Smithwick, Esq.  
Phone: (202) 363-4560  
E-mail: [gsmithwick@fccworld.com](mailto:gsmithwick@fccworld.com)

and

Bodman PLC  
201 W. Big Beaver Road, Suite 500  
Troy, Michigan 48084  
Attn: David C. Stone, Esq.  
Facsimile: (248) 743-6022  
Phone: (248) 743-6045  
E-mail: [dstone@bodmanlaw.com](mailto:dstone@bodmanlaw.com)

The date of giving of any such notice, consent, waiver or other communication shall be (i) the date of delivery if hand delivered, (ii) the day after delivery to the overnight courier service if sent thereby, and (iv) the date of electronic mail on production of a transmission report or delivery confirmation that indicates that the electronic mail was sent in its entirety to the electronic mail address of the recipient. Any party may change its address for the purpose hereof by giving notice in accordance with the provisions of this Section 13.4.

**13.5 Binding Effect.** Subject to the provisions of Section 13.3, this Agreement shall be binding upon and shall inure to the benefit of the parties and their respective successors and assigns except as may be limited by bankruptcy, insolvency 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). This Agreement creates no rights of any nature in any person not a party hereto.

**13.6 Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Virginia and any legal action with respect hereto shall be brought in the state or federal court in the Commonwealth of Virginia having jurisdiction over such action.

**13.7 Effect of Agreement.** This Agreement, along with the related agreements contemplated hereby, sets forth the entire understanding of the parties, and supersedes any and all prior agreements, arrangements and understandings, written or oral, relating to the subject matter hereof.

**13.8 Headings; Counterparts.** The Article and Section headings of this Agreement are for convenience of reference only and do not form a part hereof and do not in any way modify, interpret or construe the intention of the parties. This Agreement and any related

agreements may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Signatures of the parties by facsimile or electronic mail shall be deemed to be their original signatures for all purposes.

**[Signature Page Follows]**

IN WITNESS WHEREOF, the parties have duly executed this Agreement on the date first written above.

**SELLER:**

**WUVA, INCORPORATED,  
A VIRGINIA NOT-FOR-PROFIT MEMBERSHIP CORPORATION**

By: Kailey Leinz  
Name: Kailey Leinz  
Title: President

**BUYER:**

**SAGA COMMUNICATIONS OF CHARLOTTESVILLE, LLC,  
A DELAWARE LIMITED LIABILITY COMPANY**

By: \_\_\_\_\_  
Name: Samuel D. Bush  
Title: Treasurer

IN WITNESS WHEREOF, the parties have duly executed this Agreement on the date first written above.

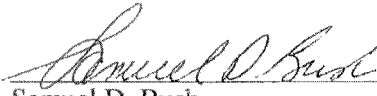
**SELLER:**

**WUVA, INCORPORATED,  
A VIRGINIA NOT-FOR-PROFIT MEMBERSHIP CORPORATION**

By: \_\_\_\_\_  
Name: Kailey Leinz  
Title: President

**BUYER:**

**SAGA COMMUNICATIONS OF CHARLOTTESVILLE, LLC,  
A DELAWARE LIMITED LIABILITY COMPANY**

By:   
Name: Samuel D. Bush  
Title: Treasurer

### **List of Schedules**

Schedule 1.1	FCC Licenses
Schedule 1.2	Tangible Assets
Schedule 1.3	Real Property
Schedule 1.4	Assigned Contracts
Schedule 1.5	Intellectual Property
Schedule 1.7	Excluded Assets
Schedule 4.5(c)	Permitted Liens
Schedule 4.7(a)	Excluded Intellectual Property
Schedule 4.8	Employees
Schedule 4.13	Insurance
Schedule 4.18	Financial Statements
Schedule 4.19	Tax Matters
Schedule 6.2(l)	Consents
Schedule 9.1(d)	Required Consents

### **List of Exhibits**

Exhibit A	Time Brokerage Agreement
Exhibit B	Escrow Agreement
Exhibit C	Permission to File Contingent Application