

**PURCHASE AND SALE AGREEMENT**

**BY AND BETWEEN**

**HIC BROADCAST, INC.**

***“SELLER”***

**and**

**NRJ TV DFW OPCO, LLC**

**and**

**NRJ TV DFW LICENSE CO., LLC**

***“BUYER”***

**Dated as of October 23, 2015**

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FCC Licenses Assignment	Exhibit G
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Lease Assignment	Exhibit I
Lease Estoppel Letter	Exhibit J
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Seller's Closing Certificate	Exhibit L
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## SCHEDULES

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## **PURCHASE AND SALE AGREEMENT**

**THIS PURCHASE AND SALE AGREEMENT** is made this 23<sup>rd</sup> day of October, 2015, by and between **HIC BROADCAST, INC.**, a California corporation ("***Seller***") and **NRJ TV DFW OPCO, LLC**, a Delaware limited liability company ("***DFW OpCo***") and **NRJ TV DFW LICENSE CO., LLC**, a Delaware limited liability company ("***DFW License Co.***" and, together with DFW OpCo, "***Buyer***").

### **R E C I T A L S:**

**A.** Seller is engaged in the business of television broadcasting and presently owns and operates commercial television broadcast station KFWD (DT), Fort Worth, Texas, Facility ID 29015 (the "***Station***") pursuant to authorizations issued by the Federal Communications Commission (the "***FCC***").

**B.** Seller is willing to sell to Buyer and Buyer is willing to purchase from Seller, substantially all of the assets, business, properties and rights of Seller related to the operation of the Station on the terms and subject to the conditions set forth herein.

**NOW, THEREFORE**, in consideration of the Recitals and of the mutual covenants, conditions and agreements set forth herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, it is hereby agreed as follows:

### **ARTICLE I DEFINITIONS**

**Section 1.1. Definitions.** Except as specified otherwise, when used in this Agreement, the following terms have the meanings specified:

**"Accounts Payable"** means all accounts payable of Seller related to the Station immediately prior to the Closing as determined in accordance with GAAP;

**"Accounts Receivable"** means all accounts receivable of Seller related to the Station immediately prior to the Closing as determined in accordance with GAAP (other than Accounts Receivable relating to Tradeout Agreements or film and program barter agreements);

**"Action"** means any claim, action, cause of action, demand, lawsuit, arbitration, inquiry, audit, notice to show cause, notice of apparent liability, notice of violation, order of forfeiture, proceeding, litigation, citation, summons, subpoena or investigation of any nature, civil, criminal, administrative, regulatory or otherwise, whether at law or in equity;

**"Agreement"** means this Purchase and Sale Agreement, together with the Schedules and the Exhibits attached hereto, as the same shall be amended from time to time in accordance with the terms hereof;

***“Assumed Contracts”*** means (a) the Contracts listed on Schedule 4.7, including the Station Affiliation Agreement, but only as amended by the MundoFox Amendment (b) Contracts not required pursuant to Section 4.7(a) to be listed on Schedule 4.7 and (c) Contracts entered into after the date hereof and prior to the Closing Date in accordance with this Agreement; provided, however, ***“Assumed Contracts”*** shall not include Contracts which are Excluded Assets.

***“Assumed Liabilities”*** means (a) the Liabilities of Seller, if any, listed on Schedule 1.1; (b) the monetary Liabilities and obligations of Seller under the Assumed Contracts and the Leases, in each case arising from and accruing with respect to the operation of the Station after the Closing Date; and (c) the monetary Liabilities, obligations and claims resulting from the operation of the Station prior to the Closing Date to the extent such Liabilities, obligations and claims are the subject of a Purchase Price adjustment in favor of Buyer pursuant to Section 2.4(f) and (d) those non-monetary obligations of Seller not relating to a breach or default by Seller under any such Assumed Contract or Lease of the type referred to in clause (b) above;

***“Assumption Agreement”*** means an instrument in the form of Exhibit “A” attached hereto by which the Assumed Liabilities shall be assumed by Buyer from Seller;

***“Benefit Arrangements”*** means a benefit program or practice providing for bonuses, incentive compensation, vacation pay, severance pay, insurance, restricted stock, stock options, employee discounts, company cars, tuition reimbursement or any other perquisite or benefit (including, without limitation, any fringe benefit under Section 132 of the Code) to employees, officers or independent contractors that is not a Plan;

***“Bill of Sale and Assignment”*** means an instrument in the form of Exhibit “B” attached hereto, by which Seller shall convey to Buyer title to the Customer Lists, the Equipment, the Intangible Property, the Miscellaneous Assets, and the Records;

***“Business Day”*** means any day that is not a Saturday, a Sunday or other day on which banks are required or authorized by Law to be closed (or actually closed) in the City of New York;

***“Buyer’s Closing Certificate”*** means the certificate of Buyer in the form of Exhibit “C” attached hereto;

***“Buyer’s Performance Certificate”*** means the certificate of Buyer in the form of Exhibit “D” attached hereto;

***“Cash”*** means all moneys of Seller relating to the Station, whether in the form of cash, cash equivalents, marketable securities, short term investments or deposits in bank or other financial institution accounts of any kind;

***“Channel Share”*** means an agreement between two or more FCC-authorized broadcast television licensees whereby one licensee agrees to share a portion of its FCC-authorized spectrum with the other licensee(s) resulting in all licensees party to such agreement broadcasting on a portion of one licensee’s FCC-authorized spectrum.

**“Closing”** means the conference to be held at 10:00 a.m., Atlanta, Georgia time on the Closing Date at the offices of Greenberg Traurig, LLP, 3333 Piedmont Road, Suite 2500, Atlanta, Georgia 30305, or at such other time and place as the parties may mutually agree to in writing, at which time the transactions contemplated by this Agreement shall be consummated;

**“Closing Date”** means the date that is the earlier of (A) five (5) Business Days after the FCC Consent has become a Final Order, unless Buyer has provided Seller with at least ten (10) days’ prior written notice or that Buyer has waived the Final Order requirement pursuant to Section 7.9 hereof in which event only one day prior written notice shall be required; or (B) December 31, 2015 (regardless of whether the FCC Consent has become a Final Order) if no petitions to deny the transfer of the FCC Licenses have been filed prior to receipt of the FCC Consent, provided that in the case of each of (A) and (B), all conditions set forth in Article VII and Article VIII have been satisfied or waived (other than those conditions required to be satisfied at Closing);

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

**“Communications Laws”** means the Communications Act of 1934, as amended, the Telecommunications Act of 1996 and the Children’s Television Act of 1990, together with the rules and regulations promulgated thereunder and the published policies of the FCC;

**“Contract Assignment”** means the Assignment and Assumption of Contracts, in the form of Exhibit “E” attached hereto, by which Seller shall assign the Assumed Contracts to Buyer and Buyer shall assume the Assumed Liabilities of such Seller under the Assumed Contracts;

**“Contracts”** means those agreements (other than those included in the Excluded Assets and other than the Leases) under which the business of the Station is conducted, whether written, oral or implied;

**“Copyrights”** means all copyrights and copyright applications related to the Station;

**“Customer Lists”** means all lists, documents, written information and computer tapes and programs and other computer readable media used by or in Seller’s possession concerning past, present and potential purchasers of advertising or services from the Station;

**“Earnest Money”** means the sum of Six Hundred Thousand Dollars (\$600,000), to be deposited by Buyer with the Escrow Agent concurrently with the execution hereof to be held by Escrow Agent in accordance with the terms and provisions of this Agreement and the Escrow Agreement;

**“Environmental Laws”** means the rules and regulations of the FCC, the Environmental Protection Agency and any other federal, state or local Government Authorities pertaining to human exposure to RF radiation and all Laws, including statutes, regulations, ordinances, codes, and rules, as amended, relating to the discharge of air

pollutants, water pollutants or process waste water or otherwise relating to the environment or Hazardous Materials or toxic substances or harmful physical agents, health and human safety, including, but not limited to, the Federal Solid Waste Disposal Act, the Federal Clean Air Act, the Federal Clean Water Act, the Federal Resource Conservation and Recovery Act of 1976, the Federal Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, the Occupational Safety and Health Act of 1979, as amended, regulations of the Environmental Protection Agency, regulations of the Nuclear Regulatory Agency, and regulations of any state department of natural resources or state environmental protection agency in effect on the date hereof;

**“Equipment”** means the machinery, equipment, furniture, fixtures, furnishings, toolings, parts, blank films and tapes and other items of tangible personal property owned or leased by Seller that are used or useable in the operation of the Station;

**“Escrow Agent”** means SunTrust Bank, Atlanta, Georgia;

**“Escrow Agreement”** means the Escrow Agreement in the form of Exhibit “F” attached hereto between Escrow Agent, Buyer and Seller to be entered into contemporaneously with the execution of this Agreement;

**“ERISA”** means the Employee Retirement Income Security Act of 1974, as amended;

**“Event of Loss”** means any loss, taking, condemnation, damage or destruction of or to any of the Purchased Assets or of the Station;

**“Excluded Assets”** means (a) the Accounts Receivable; (b) the Cash; (c) any and all claims of Seller with respect to transactions arising or occurring prior to the Closing Date including, without limitation, claims for Tax refunds relating to Pre-Closing Tax Periods and refunds of fees paid to the FCC, except to the extent such claims relate to Assumed Liabilities or the Purchased Assets; (d) all contracts of insurance entered into by Seller; (e) all rights and obligations under any agreements listed on Schedule 1.2<sup>1</sup>; (f) those other assets, if any, described on Schedule 1.2; (g) all assets related to the Station Employee Benefit Plans; (h) books and records relating to the organization of Seller; (i) intercompany Accounts Receivable and intercompany Accounts Payable of Seller; (j) all rights of Seller arising under this Agreement or the transactions contemplated hereby; (k) the Station Affiliation Agreement (provided, that the Station Affiliation Agreement shall only be included as an Excluded Asset if the MundoFox Amendment does not provide for the termination of the Station Affiliation Agreement on or before December 31, 2015); and (l) any Purchased Asset sold or otherwise disposed of prior to Closing as permitted hereunder;

**“FCC Auction”** means the FCC’s proposed auction of broadcast television spectrum to be conducted pursuant to the Middle Class Tax Relief and Job Creation Act of 2012, Pub. L. No. 112-96, §§6402 (codified at 47 U.S.C. §309(j)(8)(G)), 6403 (codified at 47 U.S.C. §1452, 126 Stat.156 (2012)) and the FCC’s rules, regulations, published policies, and procedures promulgated in FCC Docket No. 12-268, 12-269, 14-252 and 15-146;

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<sup>1</sup> NTD: To include Nielsen Agreement.

**“FCC Consent”** means action by the FCC granting its initial consent (including the FCC Staff acting pursuant to delegated authority) to the assignment of the FCC Licenses from Seller to Buyer;

**“FCC Licenses”** means all licenses, permits and authorizations issued or granted by the FCC to Seller in connection with the operation of the Station and associated auxiliary and other facilities authorized by the FCC as set forth on Schedule 4.15;

**“FCC Licenses Assignment”** means the instrument in the form of Exhibit “G” attached hereto between the Seller and Buyer, by which Seller assigns the FCC Licenses to Buyer;

**“Final Order”** means an FCC Consent (a) which has not been vacated, reversed, stayed, set aside, annulled or suspended, (b) with respect to which no action, request for stay, petition for rehearing or reconsideration, appeal or review by any Person, or by the FCC on its own motion, is pending, and (c) as to which the time for filing or initiation of any such request, petition, appeal or similar pleading or the time for reconsideration or review by the FCC has expired (or if any such appeal, request, petition or similar pleading has been filed, the FCC’s order has been upheld and no additional review or reconsideration has been sought and the time for seeking such review or reconsideration has expired);

**“Financial Statements”** means the unaudited financial statements of Seller described in Section 4.11(a);

**“Financing Lease”** means any Lease that is properly characterized as a capitalized lease obligation in accordance with GAAP;

**“GAAP”** means United States generally accepted accounting principles in effect on the Closing Date, as consistently applied by Seller;

**“Governmental Authority”** means any federal, state, local or foreign government or political subdivision thereof, or any agency or instrumentality of such government or political subdivision (including the FCC), or any self-regulated organization or other non-governmental regulatory authority or quasi-Governmental Authority (to the extent that the rules, regulations or orders of such organization or authority have the force of Law), or any arbitrator, court or tribunal of competent jurisdiction;

**“Governmental Order”** means any order, writ, judgment, injunction, decree, stipulation, determination or award entered by or with any Governmental Authority;

**“Hazardous Materials”** means any wastes, substances, or materials (whether solids, liquids or gases) that are deemed hazardous, toxic, pollutants, or contaminants, including without limitation, substances defined as “**hazardous wastes**,” “**hazardous substances**,” “**toxic substances**,” “**radioactive materials**,” or other similar designations in, or otherwise subject to regulation under, any Environmental Laws. “**Hazardous Materials**” includes but is not limited to polychlorinated biphenyls (PCB’s) asbestos, lead-based paints, infectious wastes, radioactive materials and wastes and petroleum and petroleum products (including, without limitation, crude oil or any fraction thereof);

***“Holdback Escrow Agreement”*** means the Holdback Escrow Agreement between Buyer, Seller and Escrow Agent in the form of Exhibit “H” attached hereto;

***“Holdback Escrow Amount”*** means Six Hundred Thousand Dollars (\$600,000), which shall be deducted from the Purchase Price at the Closing and held by the Escrow Agent pursuant to the terms of the Holdback Escrow Agreement;

***“Indebtedness For Borrowed Money”*** means long term indebtedness of Seller for borrowed money, including any Financing Leases and including the current portion of such long term indebtedness and any interest accrued thereon;

***“Intangible Property”*** means: (a) the Copyrights; (b) the Trademarks; (c) the Trade Secrets; (d) all of the rights of the Seller in and to the call letters of the Station; (e) all slogans, phrases or logos of the Station; (f) all domain names and websites associated with the Station; and (g) all goodwill associated therewith and with the Purchased Assets;

***“Interim Financial Statements”*** means the unaudited financial statements of Seller described in Section 4.11(b);

***“Knowledge of Seller”*** or ***“to the Seller’s Knowledge”*** means the actual knowledge of those Persons listed on Schedule 1.3, or knowledge which any of such Persons should have possessed upon reasonable due inquiry;

***“Law”*** means any United States (federal, state or local) or foreign law (including, without limitation, any Communications Laws), constitution, treaty, statute, ordinance, regulation, rule, code, order, judgment, injunction, writ or decree;

***“Lease Assignment”*** means the Assignment and Assumption of Leases in the form of Exhibit “T” attached hereto, by which Seller shall assign to Buyer the Leases;

***“Lease Estoppel Letter”*** means a letter from American Tower, L.P. to the Station in the form of Exhibit “J” attached hereto or in such other form as is reasonably acceptable to Buyer’s lenders;

***“Leases”*** means those leases, subleases or licenses of Real Property and Equipment related to the Station;

***“Liability”*** means, with respect to any Person, any liability or obligation of such Person of any kind, known or unknown, whether absolute or contingent, matured or unmatured, conditional or unconditional, accrued or unaccrued, liquidated or unliquidated, secured or unsecured, or due or to become due;

***“Lien”*** means any mortgage, deed of trust, pledge, hypothecation, security interest, encumbrance, claim, lien, lease (including any capitalized lease) or charge of any kind, whether voluntarily incurred or arising by operation of law or otherwise, affecting any of the Purchased Assets or the Station, including any agreement to give or grant any of the foregoing, any conditional sale or other title retention agreement and the filing of or agreement to give any financing statement with respect to any of the Purchased Assets or the

Station under the Uniform Commercial Code of the State of California or comparable Law of any jurisdiction;

**“Market”** means the Dallas-Fort Worth, Texas Nielson Designated Market Area;

**“Material Adverse Effect”** means any effect or change that would, individually or in the aggregate, have a material adverse effect on or result in (a) the financial condition, assets, or results of operations of the Station or the Seller, (b) any loss of or material adverse modification to the FCC Licenses or (c) the ability of Seller to perform its material obligations under this Agreement; provided, however, that any material adverse effect (whether short term or long term) attributable to (i) any event, state of facts or circumstances or development affecting television programming services generally or the television broadcast industry, generally (including legislative or regulatory matters) (as long as Seller or the Station is not disproportionately affected thereby), (ii) general business or economic conditions (as long as Seller or the Station is not disproportionately affected thereby), (iii) national or international political or social conditions, including the engagement by the United States in hostilities, whether or not pursuant to the declaration of a national emergency or war, or the occurrence of any military or terrorist attack on the United States, (iv) changes in any financial, banking or securities markets (including any disruption of such markets, any decline in the price of any security or any market index), (v) the announcement of this Agreement or the pendency of the transactions contemplated hereby, (vi) the taking of any action by Seller required by the terms hereof, (vii) changes in Law or GAAP or the interpretation thereof, or (viii) the ratings or performance of any networks with which a Station is affiliated, in each case, shall not constitute a Material Adverse Effect or be taken into account in determining whether a Material Adverse Effect has occurred, or (ix) the Downsizing;

**“Material Contract”** means any Contract required to be listed on Schedule 4.7;

**“Material Lease”** means any Lease of Real Property or any Lease under which the annual rental payments exceed \$10,000;

**“Miscellaneous Assets”** means all tangible and intangible assets used or useable in the operation of the Station and not otherwise specifically referred to in this Agreement, including any warranties related to any of the Purchased Assets, excepting therefrom only the Excluded Assets;

**“MundoFox Amendment”** means an amendment to the Station Affiliation Agreement, which amendment shall terminate the agreement on or before December 31, 2015 and provide for no other material changes.

**“MVPD”** means any multichannel video programming distributor;

**“Option Payment Amount”** means an amount to be mutually determined by Seller and WFAA-TV, Inc. and provided to Buyer by written notice in the form of Exhibit “K” at least three (3) Business Days prior to the Closing Date.

**“Permitted Liens”** means the following Liens: (a) Liens existing on the Closing Date to remain on the Purchased Assets after the Closing as listed on Schedule 1.4; (b) Liens for



Taxes, levies, assessments or other governmental charges or levies not yet due or that are being contested in good faith by appropriate proceedings; (c) statutory Liens of landlords, carriers, warehousemen, mechanics, materialmen and other Liens imposed by law created in the ordinary course of business of Seller consistent with past practices for amounts not yet due; (d) Liens (other than any Lien imposed by ERISA) incurred or deposits made in the ordinary course of business of Seller consistent with past practices in connection with worker's compensation, unemployment insurance or other types of social security; (e) the rights of any lessor under the applicable Lease or any Lien granted by any lessor; (f) any subleases; (g) any other Lien, other than a Lien securing a monetary obligation, that does not detract from, interfere with or impair the use of or value of any such property or asset as currently used; and (h) Liens created by or through Buyer or any of its affiliates;

***“Person”*** means any natural person, general or limited partnership, corporation, limited liability company or other entity;

***“Plan”*** means any plan, program or arrangement, whether or not written, that is or was (a) an ***“employee benefit plan”*** as such term is defined in Section 3(3) of ERISA and (i) which was or is established or maintained by Seller; (ii) to which Seller contributed or was obligated to contribute or to fund or provide benefits; or (iii) which provides or promises benefits to any person who performs or who has performed services for Seller and because of those services is or has been (A) a participant therein or (B) entitled to benefits thereunder; (b) an ***“employee pension benefit plan”*** as such term is defined in Section 3(2) of ERISA, including, without limitation, any such plan that satisfies, or is intended by Seller to satisfy, the requirements for tax qualification described in Section 401 of the Code; (c) a ***“multiemployer plan”*** as such term is defined in Section 3(37) of ERISA; or (d) an ***“employee welfare benefit plan”*** as such term is defined in Section 3(1) of ERISA;

***“Post-Closing Tax Period”*** means any Tax period (or portion thereof) beginning and ending after the Closing Date;

***“Pre-Closing Tax Period”*** means any Tax period (or portion thereof) ending on or prior to the Closing;

***“Program Rights”*** means all rights of Seller presently existing or obtained prior to the Closing, in accordance with this Agreement, to broadcast television programs or shows as part of the Station's programming and for which Seller is or will be obligated to compensate the vendor of such Program Rights, including all film and program barter agreements;

***“Purchase Price”*** means the sum of Nine Million Nine Hundred Thousand Dollars (\$9,900,000), adjusted pursuant to Section 2.4;

***“Purchased Assets”*** means all assets used or held for use in the operation of the Station, other than the Excluded Assets, including but not limited to (a) the Assumed Contracts; (b) the Customer Lists; (c) the Equipment; (d) the FCC Licenses; (e) the Intangible Property; (f) the Leases; (g) the Miscellaneous Assets; (h) the Records; and (i) all similar assets of the Station acquired by Seller between the date hereof and the Closing;

***“Real Property”*** means the real property leased, subleased or licensed by Seller more particularly described on Schedule 1.5;

***“Records”*** means files and records, including schematics, technical information and engineering data, programming information, correspondence, books of account, employment records, customer files, purchase and sales records and correspondence, advertising records, files and literature, and FCC logs, files and records and other written materials of Seller relating to the Station other than those that are Excluded Assets;

***“Retained Liabilities”*** means all the obligations and Liabilities of Seller whether now existing or previously or hereafter incurred other than the Assumed Liabilities, which Retained Liabilities shall include but not be limited to (a) the Accounts Payable; (b) all Taxes that result from or have accrued in connection with the operation of the Station in the Pre-Closing Tax Period; (c) monetary Liabilities and obligations arising under Assumed Contracts and Leases transferred to Buyer in accordance with this Agreement to the extent such Liabilities and obligations arise during or relate to or have accrued in connection with any period prior to the Closing except to the extent any such Liabilities have been taken into account in adjusting the Purchase Price in favor of Buyer pursuant to Section 2.4; (d) all monetary Liabilities and obligations accruing with respect to the operation of the Station prior to the Closing except to the extent any such Liabilities have been taken into account in adjusting the Purchase Price in favor of Buyer pursuant to Section 2.4; (e) non-monetary Liabilities and obligations arising under Assumed Contracts and Leases transferred to Buyer in accordance with this Agreement to the extent such Liabilities and obligations relate to a breach or default under any such Assumed Contract or Lease prior to the Closing; (f) all Liabilities related to the Station Employee Benefit Plans; and (g) all Liabilities and obligations of Seller under this Agreement and any other agreement entered into in connection herewith or with respect to any Excluded Asset;

***“Schedules”*** means those schedules referenced to in this Agreement which have been bound in that separate volume executed by or on behalf of the parties, and delivered concurrently with the execution of this Agreement, which schedules and volume are hereby incorporated herein and made a part hereof;

***“Seller’s Closing Certificate”*** means the certificate of Seller in the form of Exhibit “L” attached hereto;

***“Seller’s Performance Certificate”*** means the certificate of Seller in the form of Exhibit “M” attached hereto;

***“Shared Services Agreement”*** means that certain Service Agreement, dated August 1, 2012, by and between HIC Broadcast, Inc. and WFAA-TV, Inc.;

***“Station Affiliation Agreement”*** shall mean that certain Station Affiliation Agreement dated June 1, 2012 by and between Seller and MundoFox Broadcasting, LLC, as amended;

***“Station Employee”*** means an employee of the Station as of the Closing Date;

**“Station Employee Benefit Plans”** means any Plan or Benefit Arrangement in which any current, former or retired employee of Seller participates;

**“Submission Deadline”** means the deadline for the Station to submit an application to participate in the FCC Auction;

**“Tax” or “Taxes”** means all federal, state local or foreign income, excise, gross receipts, ad valorem, sales, use, employment, franchise, profits, gains, property transfer, use, payroll, intangible or other taxes, fees, stamp taxes, duties, charges, levies or assessments of any kind whatsoever (whether payable directly or by withholding) imposed by a Governmental Authority, together with any interest and any penalties, additions to tax or additional amounts imposed by any Tax authority with respect thereto;

**“Tax Returns”** means all returns and reports (including elections, declarations, disclosures, schedules, estimates and information returns) required to be supplied to a Tax authority relating to Taxes;

**“Trade Secrets”** means all proprietary information of Seller relating to the Station;

**“Trademarks”** means all of those names, trademarks, service marks, jingles, slogans, logos, trademark and service mark registrations and trademark and service mark applications owned, used, held for use, licensed by or leased by Seller relating to the Station;

**“Trademark Assignment”** means an instrument, in the form of Exhibit “N” attached hereto, by which Seller shall convey to Buyer the Trademarks;

**“Tradeout Agreement”** means any Contract, pursuant to which Seller has sold or traded commercial air time or commercial production services of the Station in consideration for any property or services in lieu of or in addition to Cash, excluding film and program barter agreements;

**“Transfer Taxes”** means all excise, sales, use, value added, registration stamp, recording, documentary, conveyancing, franchise, property, transfer, gains and similar Taxes, levies, charges and fees.

**Section 1.2. Construction.** Where the context so requires or permits, the use of the singular form includes the plural, and the use of the plural form includes the singular, and the use of any gender includes any and all genders. Except as specifically set forth herein, all Section and Article references are to Sections and Articles of this Agreement.

**Section 1.3. Other Defined Terms.** The following terms have the meanings defined for such terms in the Sections set forth below:

“Accountants”	Section 2.4(f)
“Adjustment Amount”	Section 2.4(e)
“Adjustment List”	Section 2.4(e)
“Buyer”	Preamble
“Buyer Indemnified Parties”	Section 9.1

“Buyer’s Information”	Section 11.9(b)
“Cap”	Section 9.4(a)
“Claims”	Section 9.1
“Deductible”	Section 9.4(a)
“Disputed Amount”	Section 2.4(f)
“DMA”	Section 4.18(a)
“Downsizing”	Section 6.3
“FCC”	Recitals
“FCC Application”	Section 3.1
“Fundamental Reps”	Section 9.4(a)
“Indemnified Party”	Section 9.3(a)
“Indemnifying Party”	Section 9.3(a)
“Sale”	Section 6.11
“Seller”	Preamble
“Seller Indemnified Parties”	Section 9.2
“Seller’s Information”	Section 11.9(a)
“Statement of Allocation”	Section 2.8
“Station”	Recitals
“Tax Benefit”	Section 9.8
“Tax Costs”	Section 9.8

## ARTICLE II PURCHASE AND SALE

**Section 2.1. Purchase and Sale.** At the Closing on the Closing Date, and upon all of the terms and subject to all of the conditions of this Agreement, Seller shall sell, assign, convey, transfer and deliver to Buyer, and Buyer shall purchase from Seller, the Purchased Assets, including all of Seller’s legal and equitable interests therein. Notwithstanding any provision of this Agreement to the contrary, Seller shall not transfer, convey or assign to Buyer, but shall retain, all of its right, title and interest in and to the Excluded Assets.

**Section 2.2. Payment on Closing.** At the Closing on the Closing Date:

(a) Buyer and Seller shall cause the Escrow Agent to pay to Buyer by wire transfer in immediately available funds the Earnest Money, plus any interest accrued thereon;

(b) Buyer shall deposit with the Escrow Agent the Holdback Escrow Amount to be held in accordance with the Holdback Escrow Agreement;

(c) Buyer shall pay to WFAA-TV, Inc., by wire transfer in immediately available funds an amount equal to the Option Payment Amount;

(d) Buyer shall pay to Seller, by wire transfer in immediately available funds an amount equal to the Purchase Price less the amounts paid pursuant to Sections 2.2(b) and 2.2(c); and

(e) Buyer shall assume the Assumed Liabilities pursuant to the Assumption Agreement.

**Section 2.3. Closing Date Deliveries.** At the Closing on the Closing Date:

(a) Seller shall deliver, or cause to be delivered to Buyer, properly executed and dated as of the Closing Date: (i) the Assumption Agreement; (ii) the Bill of Sale and Assignment; (iii) the Contract Assignment; (iv) the FCC Licenses Assignment; (v) the Holdback Escrow Agreement; (vi) the Lease Assignment; (vii) the Lease Estoppel Letter; (viii) the MundoFox Amendment (provided, that Seller will only be obligated to deliver, or cause to be delivered to Buyer, the MundoFox Amendment if the MundoFox Amendment is included as a Purchased Asset); (ix) Seller's Closing Certificate; (x) Seller's Performance Certificate; (xi) the Trademark Assignment; (xii) a certificate of existence or good standing from the Secretary of State of Seller's state of formation; and (xiii) such other documents as provided in Article VII hereof or as Buyer shall reasonably request.

(b) In addition to the payments or actions described in Section 2.2, Buyer shall deliver, or cause to be delivered to Seller, properly executed and dated as of the Closing Date: (i) the Assumption Agreement; (ii) the Bill of Sale and Assignment; (iii) Buyer's Closing Certificate; (iv) Buyer's Performance Certificate; (v) the Contract Assignment; (vi) the FCC Licenses Assignment; (vii) the Holdback Escrow Agreement; (viii) the Lease Assignment; (ix) the Lease Estoppel Letter; (x) the Trademark Assignment; (xi) a certificate of existence or good standing from the Secretary of State of Buyer's state of formation; and (xii) such other documents as provided in Article VIII hereof or as Seller shall reasonably request.

**Section 2.4. Adjustments to Purchase Price.**

(a) All prepaid revenue, prepaid expenses, accrued income and accrued expenses of the Station as of the end of the Closing Date shall, except as otherwise expressly provided herein, be adjusted and allocated between Seller and Buyer to reflect the principle that all revenue, income and expenses arising from the operation of the Station or relating to the Purchased Assets prior to the Closing Date shall be for the account of Seller and all revenue, income and expenses arising from the operation of the Station or relating to the Purchased Assets from and after the Closing Date shall be for the account of Buyer.

(b) Any and all rebates that, under any agreements in effect on the Closing Date, may be payable after such date to any advertiser or other user of the Station's facilities, based in part on business, advertising or services prior to the Closing Date, shall be borne by Seller and Buyer ratably in proportion to revenues received or volume of business done by each during the applicable period. Any and all agency commissions which are subject to adjustment after the Closing based on revenue, volume of business done or services rendered in part before the Closing Date and in part on or after the Closing Date shall be borne by Seller and Buyer ratably in proportion to the revenue, volume of business done or services rendered, as the case may be, by each during the applicable period.

(c) Buyer shall receive a credit against the Purchase Price to the extent any Liabilities of the Station as set forth on the books of the Station in accordance with GAAP

under Tradeout Agreements on the Closing Date exceed the value, as set forth on the books of the Station in accordance with GAAP, of any assets from Tradeout Agreements as of the date received; and Seller shall receive credit in the Adjustment List and against other credits of Buyer, to the extent any Liabilities of the Station as set forth on the books of the Station in accordance with GAAP under Tradeout Agreements on the Closing Date are less than the value, as set forth on the books of the Station in accordance with GAAP, of any assets from Tradeout Agreements as of the date received.

(d) To the extent not inconsistent with the express provisions of this Agreement, the allocations made pursuant to this Section 2.4 shall be made in accordance with GAAP.

(e) Net settlement of the adjustments contemplated under this Section 2.4 shall be made at the Closing, if feasible. For items not readily subject to ascertainment at the Closing, the following procedures shall apply. Buyer shall prepare and deliver to Seller within thirty (30) Business Days following the Closing Date, or such earlier or later date as shall be mutually agreed to by Seller and Buyer in writing, an itemized list (the “**Adjustment List**”) of all sums that are an increase or decrease to the Purchase Price, with a detailed explanation thereof. Such list shall show the net amount of the increase or decrease to the Purchase Price (the “**Adjustment Amount**”). If the Adjustment Amount is a decrease to the Purchase Price, Seller shall pay such amount to Buyer; if the Adjustment Amount is an increase to the Purchase Price, Buyer shall pay such amount to Seller. Except as provided otherwise in Section 2.4(f), payment of the Adjustment Amount shall be made not later than ten (10) Business Days following the delivery of the Adjustment List.

(f) Not later than twenty (20) Business Days following the delivery of the Adjustment List, Seller may furnish Buyer with written notification of any dispute concerning any items shown thereon or omitted therefrom together with a detailed explanation in support of Seller’s position in respect thereof. Buyer and Seller shall consult in good faith to resolve any such dispute for a period of ten (10) Business Days following the notification thereof. In the event of any such dispute, that portion of the Adjustment Amount that is not in dispute shall be paid as promptly as is reasonably practicable to the party entitled to receive the same. If such ten (10) Business Day consultation period expires and the dispute has not been resolved, the matter shall be referred to an independent public accounting firm mutually agreed upon by Seller and Buyer (the “**Accountants**”), which shall resolve the dispute and shall render its decision (together with a brief explanation of the basis therefore) to Buyer and Seller not later than twenty (20) Business Days following submission of the dispute to it; provided, however, if Buyer and Seller are unable to mutually agree upon an independent public accounting firm, then Buyer and Seller shall each choose an independent public accounting firm and those firms shall appoint a third independent public accounting firm to act as the Accountants. The disputed portion of the Adjustment Amount (the “**Disputed Amount**”) shall be paid by the party required to pay the same within five (5) Business Days after the delivery of a copy of such decision to Seller and Buyer. The fees and expenses of the Accountants shall be shared equally by Seller and Buyer.

(g) The Adjustment List (to the extent not disputed within the specified period by Seller), any mutually agreed written settlement of any such dispute concerning the Adjustment

List and any determination of the Disputed Amount by the Accountants shall be final, conclusive and binding on the parties hereto absent manifest error.

**Section 2.5. Non-Assumption of Liabilities.** Buyer does not and shall not assume or become obligated to pay any debt, obligation or Liability of any kind or nature of Seller or the Station, whether or not incurred or accrued in connection with the operation of the Station, except the Assumed Liabilities or such other Liabilities or charges as are specifically allocated to Buyer elsewhere in this Agreement.

**Section 2.6. Transfer Taxes.** All Transfer Taxes arising out of or in connection with the transactions effected pursuant to this Agreement shall be paid one-half (1/2) by Seller and one-half (1/2) by Buyer. Seller and Buyer shall cooperate in the preparation, execution and filing of all Transfer Tax Returns and shall cooperate to seek and to secure any available exemptions from such Transfer Taxes.

**Section 2.7. Risk of Loss.** Subject to Section 10.1 hereof, the risk of all Events of Loss prior to the Closing shall be upon Seller and the risk of all Events of Loss at or subsequent to the Closing shall be upon Buyer.

**Section 2.8. Allocation of Purchase Price.** The Purchase Price (and any Assumed Liabilities and all other capitalized costs as determined for U.S. federal income tax purposes) will be allocated among each item or class of the Purchased Assets in a manner consistent with Section 1060 of the Code and the Treasury Regulations promulgated thereunder based upon an appraisal to be paid one-half (1/2) by Buyer and one-half (1/2) by Seller to be conducted by BIA Kelsey under the residual method of allocating assets, which allocation shall be incorporated in a schedule to be provided by Buyer and executed by the parties within one hundred twenty (120) days after the Closing (the “*Statement of Allocation*”). Buyer and Seller shall report, act and file Tax Returns (including, but not limited to, Internal Revenue Service Form 8594) in all respects and for all purposes consistent with the final Statement of Allocation. Neither Buyer nor Seller shall take any position (whether in audits, Tax Returns or otherwise) that is inconsistent with such final Statement of Allocation unless required by applicable Law. If there is an adjustment to the Purchase Price (or any Assumed Liabilities or other capitalized costs) pursuant to this Agreement, the Buyer and Seller agree to adjust the Statement of Allocation.

**Section 2.9. Access of Seller.** After Closing, Seller and its authorized agents, officers and representatives, upon reasonable prior notice, shall have access to the appropriate records of Buyer to conduct such examination and investigation as Seller deems necessary to assure compliance with this Article II, and to permit Seller to comply with its Tax reporting compliance requirements, provided that such examination and investigation shall be during the Station’s normal business hours, shall not unreasonably interfere with the Station’s operations and activities and shall not constitute Seller’s exercising control over the Station under FCC rules, regulations or guidelines.

### ARTICLE III GOVERNMENTAL APPROVALS AND CONTROL OF STATION

**Section 3.1. FCC Consent.** It is specifically understood and agreed by Buyer and Seller that the Closing shall be in all respects subject to, and conditioned upon, the receipt of prior FCC Consent. Buyer and Seller shall prepare and file with the FCC as soon as practicable but in no event later than five (5) Business Days after the execution of this Agreement, all requisite applications and other necessary instruments and documents to request the FCC Consent (the “***FCC Application***”). Buyer and Seller will include in the FCC Application for the FCC Licenses an express statement that Buyer agrees to be bound by Seller’s actions in the FCC Auction with respect to FCC Licenses if (a) Seller has filed an application to participate in the Auction and (b) the assignment of the FCC Licenses from Buyer to Seller is not consummated prior to the Submission Deadline. After the FCC Application has been filed with the FCC, Buyer and Seller shall prosecute FCC Application with all reasonable diligence and take all steps reasonably necessary to obtain the requisite FCC Consent. Each party will keep the other informed of any material communication (including, without limitation, any meeting, conference or telephonic call), and will provide the other copies of all correspondence between it (or its advisors) and the FCC, and each party will permit the other party to review any material communication relating to the FCC Application to be given by it to the FCC. No party hereto shall take any action that such party knows or should know would adversely affect obtaining the FCC Consent, or adversely affect the FCC Consent becoming a Final Order, and each party shall notify the other party hereto in the event it becomes aware of any facts, actions, communications, or occurrences that might directly or indirectly affect the parties’ intent or ability to effect prompt receipt of the FCC Consent. Seller shall promptly enter into customary tolling arrangements if necessary and requested by the FCC to resolve any complaints with the FCC relating to any of the FCC Licenses. Buyer and Seller shall oppose any petitions to deny or other objections filed with respect to the FCC Application and any requests for reconsideration or judicial review of the FCC Consent; provided, however, that neither Buyer nor Seller shall have any obligation to participate in an evidentiary hearing on the FCC Application. If the Closing shall not have occurred for any reason within ninety days of the FCC Consent and neither party shall have terminated this Agreement under Article XI, Buyer and Seller shall jointly request an extension from the FCC of the ninety day period to consummate the transaction contemplated by the FCC Consent, provided that grant of such extension request by the FCC shall in no event limit the right of either party to exercise its rights under Article XI. Buyer and Seller shall each pay one-half (1/2) of all FCC filing or transfer fees relating to the transactions contemplated hereby irrespective of whether the transactions contemplated by this Agreement are consummated and irrespective of whether such fees are assessed before or after the Closing.

**Section 3.2. Control Prior to Closing.** Between the date hereof and the Closing Date, Buyer shall not directly or indirectly control, supervise or direct, or attempt to control, supervise or direct, the operation of the Station. Such operation, including complete control and supervision of all programs, employees and policies, shall be the sole responsibility of Seller. Neither title nor right to possession of the Purchased Assets shall pass to Buyer until the Closing, but Buyer shall, however, be entitled to reasonable inspection of the Station and the Purchased Assets (upon reasonable prior notice) during normal business hours with the



purpose that an uninterrupted and efficient transfer of the assets and business of the Station may be accomplished. After the Closing, Seller shall have no right to control the Station, and Seller shall have no reversionary rights in the Station.

**Section 3.3. Other Governmental Approvals.** Promptly following the execution of this Agreement, Buyer and Seller shall proceed to prepare and file with the appropriate Governmental Authorities any other requests for approvals or waivers, if any, that are required from other Governmental Authorities in connection with the Closing, and shall diligently and expeditiously prosecute, and shall cooperate fully with each other in the prosecution of, such requests for approvals or waivers and all proceedings necessary to secure such approvals and waivers. Buyer and Seller shall each pay one-half (1/2) of all fees required to be paid in connection with the approvals and waivers under this Section 3.3 which relate to the transactions contemplated hereby, irrespective of whether the transactions contemplated by this Agreement are consummated.

## **ARTICLE IV REPRESENTATIONS AND WARRANTIES OF SELLER**

Except as set forth in the Schedules, Seller represents and warrants to Buyer as follows:

**Section 4.1. Organization.** Seller is a corporation duly organized, validly existing and in good standing under the law of the State of California and is qualified to do business as a foreign corporation in the state of Texas and each other jurisdiction, if any, where the failure to be so qualified and in good standing would have and could reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect. Seller has the power and authority to own, lease, and operate the Purchased Assets and to conduct the business of the Station as it is now being conducted and to sell the Purchased Assets pursuant to this Agreement. Complete and correct copies of the certificate of incorporation and bylaws of Seller have been delivered to Buyer as in effect through the date hereof.

**Section 4.2. Authorization; Enforceability.** The execution, delivery and performance of this Agreement and all of the documents and instruments required hereby by Seller are within the corporate power of Seller and have been duly authorized by all necessary corporate action by Seller, including board of director and shareholder approvals. This Agreement is, and the other documents and instruments required hereby will be, when executed and delivered by Seller, the valid and binding obligations of Seller enforceable against Seller in accordance with their respective terms, subject only to bankruptcy, insolvency, reorganization, moratorium or similar Laws affecting the enforceability or rights of creditors generally and by general equitable principles, which may limit the right to obtain equitable remedies.

**Section 4.3. Absence of Conflicting Agreements.** Except as set forth on Schedule 4.3, neither the execution, delivery or performance of this Agreement in accordance with its terms by Seller nor the consummation of the sale and purchase of the Purchased Assets or any other transaction contemplated by this Agreement, does or will, after the giving of notice, or the lapse of time or both, or otherwise:

(a) conflict with, result in a breach of, or constitute a default under, (i) the certificate of incorporation or bylaws of Seller, or (ii) assuming receipt of the FCC Consent, any Law or Governmental Order applicable to Seller;

(b) result in the creation of any Lien upon any of the Purchased Assets, except for Permitted Liens;

(c) assuming that the required consents disclosed on Schedule 4.3 are obtained, conflict with, result in a termination, amendment or modification of, or cause any acceleration of any obligation of Seller under any material Assumed Contract or Material Lease;

(d) require the consent, waiver, approval, permit, license, clearance or authorization of, or any declaration or filing with, any Governmental Authority other than the FCC Consent.

**Section 4.4. Purchased Assets.** The Purchased Assets include substantially all of the assets, properties and rights of every type and description, real, personal and mixed, tangible and intangible, that are used or held for use in the conduct of the business of owning and operating the Station in the manner in which that business has been and is now conducted, with the exception of the Excluded Assets.

**Section 4.5. Title to Purchased Assets; Liens and Encumbrances.** Except as set forth on Schedule 4.5, Seller owns good and marketable title to or has valid license or leasehold interests in all of the Purchased Assets free and clear of any and all Liens except for Permitted Liens.

**Section 4.6. Equipment.**

(a) To the Knowledge of Seller, except as set forth on Schedule 4.6(a), each item of Equipment is in normal operating condition, ordinary wear and tear excepted, and to Seller's Knowledge, is free from material defects and is suitable for the uses to which the Equipment is being used by Seller and those items of Equipment constituting transmitting and studio equipment have been maintained in accordance with normal industry practice.

(b) The list of Equipment on Schedule 4.6(b) is a true and correct list of all items of tangible personal property having a book value in excess of \$1,000 used in the operation of the Station in the manner in which the Station is operated as of the date hereof other than tangible personal property which is an Excluded Asset.

**Section 4.7. The Contracts.**

(a) Schedule 4.7 lists each of the following Contracts to which Seller is a party related to the Station as of the date hereof (other than Contracts which are Excluded Assets):

(i) any Contract for the sale of broadcast time for advertising or other purposes for cash that was not made in the ordinary course of business consistent with past practices;

- (ii) any Contract relating to Program Rights;
- (iii) any Contract involving the purchase or sale of Real Property;
- (iv) any Contract involving construction, architecture, engineering or other agreements relating to uncompleted construction projects with respect to the Station, in each case that involve payments in excess of \$15,000;
- (v) any mortgage, pledge or security agreement, deed of trust or other instrument granting a Lien (other than Permitted Liens) upon any Purchased Asset other than those that will be paid off in full at Closing;
- (vi) any Contract involving a partnership, joint venture or similar agreement with another party;
- (vii) any Contract involving any labor agreement or collective bargaining agreement of Seller;
- (viii) any Contract that contains a covenant restricting the ability of Seller to compete in any business or with any Person or in any geographic area;
- (ix) any Contract with any affiliate Seller;
- (x) any Contract that is a local marketing agreement, joint sales agreement or similar agreement;
- (xi) any Contract with a Governmental Authority (other than ordinary course Contracts with Governmental Authorities as a customer) which imposes any material obligation or restriction on Seller or the Station;
- (xii) any Contract that is a retransmission consent agreement or copyright indemnification agreement with a MVPD;
- (xiii) any Contract relating to the non-broadcast use of any of the Station's digital bit stream; and
- (xiv) all other Contracts that (A) involve the payment or potential payment, pursuant to the terms of any such Contract, by or to Seller of more than \$15,000 annually and (B) cannot be terminated within thirty (30) days after giving notice of termination without resulting in any material cost or penalty to Seller.

**(b)** Seller has materially performed, or is in material compliance with, each material term, covenant and condition of each of the Assumed Contracts, and no default or any event which with the passing of time or giving of notice would constitute a default on the part of Seller, and to the Knowledge of Seller, any other party thereto exists under any of the Assumed Contracts;

(c) each of the Assumed Contracts is in full force and effect and constitutes the legal and binding obligation of, and is legally enforceable against Seller, and to the Knowledge of Seller, against each other party thereto in accordance with its terms;

(d) Except as set forth on Schedule 4.7, Seller has furnished to Buyer true and complete copies of all Assumed Contracts, including all amendments, modifications and supplements thereto.

**Section 4.8. Intangible Property.** Except as set forth on Schedule 4.8:

(a) there are no Actions instituted, pending or, to the Knowledge of Seller, threatened by any third party pertaining to or challenging Seller's right to use any of the Intangible Property;

(b) to the Knowledge of Seller, Seller is not infringing upon or otherwise acting adversely to any trademark, trade name, patent or copyright owned by a third party;

(c) there are no royalty agreements between Seller and any third party relating to any of the Intangible Property;

(d) the Intangible Property constitutes substantially all of the intangible and intellectual property interests and other intellectual property used or held for use in the operation of the Station (other than Copyrights and Trademarks with respect to Program Rights); and

(e) all owned and registered Copyrights, Trademarks and domain names used in connection with the operations of the Station are listed on Schedule 4.8, all of which are transferable to Buyer by the sole act of Seller.

**Section 4.9. Real Property.** Seller does not own any real property.

**Section 4.10. Leases.** Except as set forth on Schedule 4.10:

(a) the Leases described on Schedule 4.10 constitute all of the Material Leases between Seller and third parties relating to the operation of the Station or the Purchased Assets;

(b) Seller has performed each material term, covenant and condition of each of the Material Leases that is required to be performed by Seller at or before the date hereof, and no default or event which with the passing of time or giving of notice or both would constitute a default on the part of Seller and, to the Knowledge of Seller, on the part of any other party thereto, exists under any Material Lease;

(c) each of the Material Leases is in full force and effect, unimpaired by any acts or omissions of Seller, and constitutes the legal and binding obligation of, and is legally enforceable against Seller, and to the Knowledge of Seller, against each other party thereto in accordance with its terms;

(d) Seller has furnished true and complete copies of the written Material Leases to Buyer, including any and all amendments thereto;

(e) there are no leasing commissions or similar payments due, arising out of, resulting from or with respect to any Material Lease that are owed by Seller, and

(f) each of Seller's Financing Leases is listed as such on Schedule 4.10.

**Section 4.11. Financial Statements and Interim Financial Statements.**

(a) Attached as Schedule 4.11(a) are true and complete copies of the unaudited balance sheet of Seller as at December 31, 2014, and the related statements of income and changes in cash flow for the fiscal year then ended. The Financial Statements are in accordance with the books and records of the Seller, have been prepared in accordance with GAAP applied on a basis consistent with preceding years and present fairly in all material respects the financial condition of Seller as at the date indicated and the results of its operations and changes in cash flows for the period then ended.

(b) Attached as Schedule 4.11(b) are true and complete copies of the unaudited balance sheets of Seller as at September 30, 2015, and the related statements of income and changes in cash flow for the month then ended. The Interim Financial Statements are in accordance with the books and records of the Seller, have been prepared in accordance with GAAP applied on a basis consistent with the Financial Statements and present fairly in all material respects the financial condition of Seller as at the date indicated and the results of its operations and changes in financial position for the period then ended; subject, however, to year-end adjustments which, in the aggregate, will not be materially adverse and provided that the Interim Financial Statements do not contain footnotes and lack other presentation items.

(c) When delivered, the quarterly financial reports required to be delivered pursuant to Section 6.4 shall have been prepared in conformity with GAAP applied on a basis consistent with the Financial Statements and will present fairly in all material respects the financial condition of Seller as at the dates indicated and the results of its operations for the periods then ended; subject, however, to year-end adjustments which, in the aggregate, will not be materially adverse, and provided, that such financial reports will not contain footnotes.

(d) Except as set forth on Schedule 4.11(d), Seller has no Liability except Liabilities of a type or nature required to be disclosed on the Financial Statements or Interim Financial Statements under GAAP, except: (i) those Liabilities reflected in the Financial Statements and Interim Financial Statements; (ii) Liabilities incurred in the ordinary course of business since September 30, 2015; (iii) that are Retained Liabilities; (iv) Liabilities to be performed after the date hereof pursuant to the Assumed Contracts or Leases; and (v) Liabilities incurred in connection with the transactions provided for in this Agreement.

**Section 4.12. No Changes.** Except as set forth on Schedule 4.12 or as otherwise contemplated by this Agreement, since December 31, 2014, Seller has operated the Station in the ordinary course of business consistent with past practice and since December 31, 2014 there has been no:

(a) Contract or commitment by Seller over \$25,000 for any individual transaction or Contract with respect to the Station except in the ordinary course of business consistent with past practices conducted as of that date;

(b) Material Adverse Effect;

(c) material amendment or termination of any Material Contract or Material Lease to which Seller is a party, except in the ordinary course of business or any FCC License;

(d) increase in compensation paid, payable or to become payable by Seller to any of its employees at the Station or any material change in personnel policies or benefits, except in the ordinary course of business consistent with past practices;

(e) commitment to or Liability to any labor organization which represents, or proposes to represent, employees of the Station;

(f) material change in the programming policies of the Station or lowering of the advertising rates of the Station in a manner not consistent with past practices or not reflective of current market conditions;

(g) change in MVPD carriage or channel positions on which the Station is carried;

(h) change in the Station's method of accounting;

(i) sale, assignment, lease or other transfer or disposition of any of the Purchased Assets or properties of the Station except in the ordinary course of business or in connection with the acquisition of similar property or assets in the ordinary course of business;

(j) imposition of any Lien (other than a Permitted Lien) on any of Seller's assets;  
or

(k) agreement by Seller to do any of the foregoing.

**Section 4.13. No Litigation; Compliance with Laws.** Except as set forth on Schedule 4.13:

(a) except for FCC rulemaking proceedings generally affecting the television broadcasting industry, there is no Action before or by any Governmental Authority or any third party pending or, to the Knowledge of Seller, threatened in writing, to which the Seller is a party or otherwise relating to the Station or the Purchased Assets; and

(b) Seller owns and operates, and has owned and operated, the Station and the Purchased Assets, and carries on and conducts, and has carried on and conducted, the business and affairs of the Station in material compliance with all Laws and all Governmental Orders or processes.

**Section 4.14. Taxes.** Except as disclosed on Schedule 4.14:

(a) Seller has duly and timely filed all required federal, state and local income Tax Returns and all other material Tax Returns for all years and periods (and portions thereof) for which any such Tax Returns were due, and any and all amounts shown on such returns and reports to be due and payable have been paid in full except as may be contested in good faith. All of such Tax Returns are correct and complete in all material respects. Seller has withheld all material Taxes required to be withheld under applicable Law and regulations, and such withholdings have either been paid to the proper Governmental Authority or set aside in accounts for such purpose, or accrued, reserved against and entered upon the books of Seller, as the case may be; and

(b) there are, and after the date of this Agreement will be, no Tax deficiencies (including penalties and interest) of any kind assessed against or relating to Seller or the Purchased Assets with respect to any Pre-Closing Tax Period of a character or nature that would result in Liens or claims on any of the Purchased Assets or on Buyer's title or use of the Purchased Assets or that would result in any claim against Buyer or the Purchased Assets, other than the Transfer Taxes or Permitted Liens.

#### **Section 4.15. Governmental Authorizations.**

(a) Seller holds all of the FCC Licenses, which, collectively, are all of the licenses, permits and authorizations required to operate the Station as a television broadcast station in substantially the same manner as it is being operated as of the date hereof. Schedule 4.15 includes a true and complete list of all FCC Licenses and all pending applications for FCC licenses, permits and authorizations applied for in connection with the operation of the Station and associated auxiliary and other facilities. Seller has delivered to Buyer true and complete copies of the FCC Licenses (including amendments and modifications thereto).

(b) The FCC Licenses are in full force and effect and have been validly issued and Seller is the authorized legal holder thereof. Except for the FCC Licenses and as set forth on Schedule 4.15, no qualifications, registrations, filings, privileges, franchises, licenses, permits, approvals or authorizations are required for Seller to own and operate the Station in the manner operated on the date hereof.

(c) As of the date hereof, no Action is pending or, to the Knowledge of Seller, threatened before the FCC or any other Governmental Authority to revoke, refuse to renew or modify such FCC Licenses or other authorizations of the Station. Except as set forth on Schedule 4.15, Seller has no reason to believe that any of the FCC Licenses would not be renewed for a full term with no adverse conditions by the FCC or other granting authority in the ordinary course (except for the imposition of any conditions imposed by the FCC on television broadcast licensees generally).

**Section 4.16. Compliance with Communications Laws.** Except as set forth on Schedule 4.16, the Station, its physical facilities, electrical and mechanical systems and transmitting and studio equipment are being and have been operated in all material respects in accordance with the specifications of the applicable FCC Licenses, and the Seller and the Station are in compliance in all material respects with all Communications Laws. Seller has complied in all material respects with all requirements of the FCC and the Federal Aviation

Administration with respect to the construction and/or alteration of Seller's antenna structures, and "**no hazard**" determinations for each antenna structure have been obtained, where required. Except as set forth on Schedule 4.16, all material obligations, reports and other filings required by the FCC with respect to the Station, including without limitation items required to be placed in the Station's public inspection file have been duly and currently filed as of the date hereof, and are true and complete in all material respects and after the Closing Date, upon Buyer's request, Seller shall furnish to Buyer all information required by the FCC relating to the operation of the Station prior to the Closing Date. Except as set forth on Schedule 4.16, the Station has complied in all material respects with the Communications Laws concerning limits on the duration of advertising in children's programming, and Seller has fulfilled its obligations with respect to children's programming responsive to the educational and informational needs of children; and the recordkeeping obligations related thereto. Except as set forth on Schedule 4.16, to the Knowledge of Seller, there are no matters or circumstances relating to Seller or the Station that might reasonably be expected to result in the denial or delay of the FCC Consent. Except as set forth on Schedule 4.16, and except as may be required to consummate the transactions contemplated hereby, neither Seller nor the Station has entered into a tolling agreement or otherwise waived any statute of limitations during which the FCC may assess any fine or forfeiture or take any other action or agreed to any extension of time with respect to any FCC investigation or proceeding.

**Section 4.17. Insurance.** Schedule 4.17 is a correct list of all liability and casualty insurance and errors and omissions and other insurance policies, including workers' compensation policies, insuring the business, employees, properties and assets of the Station. All of such policies are in full force and effect. Seller is not in default with respect to any material provision contained in such insurance policies, nor has Seller failed to give any notice or present any material claim under any policies in a due and timely fashion.

**Section 4.18. MVPD Matters.**

(a) Schedule 4.18(a) contains a list of all retransmission consent or copyright indemnification agreements with MVPDs with more than 5,000 subscribers with respect to the Station as of the date of this Agreement. Since December 31, 2014, no such MVPD has provided written notice to Seller of any signal quality issue or failed to respond to a request for carriage or, to the Knowledge of Seller, sought any form of relief from carriage of the Station from the FCC. Since December 31, 2014, Seller has not received any written notice of any MVPD's intention to delete the Station from carriage or to change the channel position of the Station. The Station has timely made retransmission consent elections and entered into retransmission consent agreements or has made must-carry elections with respect to each MVPD in the Market.

(b) Schedule 4.18(b) contains a list as of the date hereof of the MVPDs that, to the Knowledge of Seller, carry the Stations outside the Station's Market.

**Section 4.19. Brokers.** Neither this Agreement nor the sale and purchase of the Purchased Assets or any other transaction contemplated by this Agreement was induced or procured through any Person acting on behalf of or representing Seller as broker, finder,



investment banker, financial advisor or in any similar capacity, other than the Persons listed on Schedule 4.19, whose fees and expenses shall be paid and satisfied by Seller at the Closing.

**Section 4.20. Intentionally Omitted.**

**Section 4.21. Intentionally Omitted.**

**Section 4.22. Environmental Compliance.** Except as otherwise disclosed on Schedule 4.22:

(a) Seller has complied and is in material compliance with all Environmental Laws.

(b) Seller is not a party to any Action and, to the Knowledge of Seller, nor is any Action threatened against it, that in either case (i) asserts or alleges that Seller violated any Environmental Laws, (ii) asserts or alleges that Seller is required to clean up, remove or take remedial or other response action due to the disposal, depositing, discharge, leaking or other release of any Hazardous Materials, or (iii) asserts or alleges that Seller is required to pay all or a portion of the cost of any past, present or future cleanup, removal or remedial or other response action that arises out of or is related to the disposal, depositing, discharge, leaking or other release of any Hazardous Materials by Seller;

(c) there are not now, nor to the Knowledge of Seller have there previously been, tanks or other facilities on, under, or at the Real Property which contained any Hazardous Materials which, if known to be present in soils or ground water, would require cleanup, removal or some other remedial action under Environmental Laws;

(d) there are no conditions existing currently at the Real Property that would subject Seller to damages, penalties, injunctive relief or cleanup costs under any Environmental Laws or that require or are likely to require cleanup, removal, remedial action or other response by Seller pursuant to Environmental Laws; and

(e) Seller is not subject, as a result of its interest in the Real Property, to any judgment, order or citation related to or arising out of any Environmental Laws and has not been named or listed as a potentially responsible party by any Governmental Authority in a matter related to or arising out of any Environmental Laws; and

(f) the operation of the Station does not exceed the permissible levels of exposure to RF radiation specified in the FCC's current rules, regulations and policies concerning RF radiation.

**Section 4.23. Subsidiaries; Equity Ownership.** There is no corporation, general partnership, limited partnership, limited liability company, joint venture, association, trust or other entity or organization which Seller controls or in which Seller owns equity interest or any other interests. There are no outstanding contractual obligations of Seller to acquire any outstanding shares of capital stock or other ownership interests of any corporation, partnership or other entity.

**Section 4.24. Representation as of the Closing Date.** Seller's representations and warranties set forth in this Agreement shall be true and correct on and as of the Closing Date, as though such representations and warranties were made on and as of such date, except for representations and warranties as of a specified date, which need only be true as of such date or as otherwise provided in this Agreement.

**Section 4.25. No Other Representations and Warranties** . THE REPRESENTATIONS AND WARRANTIES MADE BY THE SELLER IN THIS ARTICLE IV ARE THE EXCLUSIVE REPRESENTATIONS AND WARRANTIES MADE BY THE SELLER. THE SELLER HEREBY DISCLAIMS ANY OTHER EXPRESS OR IMPLIED REPRESENTATIONS OR WARRANTIES NOT EXPRESSLY INCLUDED IN THIS AGREEMENT WHETHER OR NOT MADE, COMMUNICATED OR FURNISHED (ORALLY OR IN WRITING) TO THE BUYER OR ITS REPRESENTATIVES, INCLUDING ANY WARRANTY REGARDING ANY FINANCIAL INFORMATION, FINANCIAL PROJECTIONS OR OTHER FORWARD-LOOKING STATEMENTS PROVIDED BY OR ON BEHALF OF THE SELLER, WARRANTY OF MERCHANTABILITY, WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE, OR ANY IMPLIED OR STATUTORY WARRANTY WHATSOEVER WITH RESPECT TO THE SELLER OR ANY OF ITS ASSETS OR PROPERTIES, INCLUDING THE STATION AND ANY REAL OR PERSONAL PROPERTY OR ANY FIXTURES.

## **ARTICLE V REPRESENTATIONS AND WARRANTIES OF BUYER**

Except as set forth in the Schedules, Buyer represents and warrants to Seller as follows:

**Section 5.1. Organization.** Each of DFW OpCo and DFW License Co. is a limited liability company duly formed, validly existing and in good standing under the laws of the State of Delaware and on the Closing Date shall be duly qualified to do business as a foreign limited liability company in Texas and each other jurisdiction, if any, where the failure to be so qualified and in good standing could be and could reasonably be expected to be, individually or in the aggregate, materially adverse to Buyer. Buyer has full limited liability company power to purchase the Purchased Assets pursuant to this Agreement.

**Section 5.2. Authorization; Enforceability.** The execution, delivery and performance of this Agreement and all of the documents and instruments required hereby Buyer are within the limited liability company power of Buyer and have been duly authorized by all necessary limited liability company action by Buyer. This Agreement is, and the other documents and instruments required hereby will be, when executed and delivered by Buyer the valid and binding obligations of Buyer enforceable against Buyer in accordance with their respective terms, subject only to bankruptcy, insolvency, reorganization, moratorium or similar laws affecting the enforceability or right of creditors generally and by general equitable principles which may limit the right to obtain equitable remedies.

**Section 5.3. Absence of Conflicting Laws and Agreements.** Except as set forth on Schedule 5.3, neither the execution, delivery or performance of this Agreement in

accordance with its terms by Buyer nor the consummation of the sale and purchase of the Purchased Assets or any other transaction contemplated by this Agreement, does or will, after the giving of notice, or the lapse of time, or otherwise;

(a) conflict with, result in a breach of, or constitute a default under, (i) the certificates of formation or limited liability company agreements of Buyer, or (ii) assuming receipt of the FCC Consent, any Law or Governmental Order applicable to Buyer;

(b) conflict with, result in a breach of, or constitute a default under, any material contract, agreement, commitment or plan to which Buyer is a party or by which Buyer or its assets is bound;

(c) require the consent, waiver, approval, permit, license, clearance or authorization of, or any declaration or filing with, any Governmental Authority other than the FCC Consent; or

(d) require the consent of any Person under any material agreement, arrangement or commitment of any nature to which Buyer is a party or by which it is bound.

**Section 5.4. Brokers.** Neither this Agreement nor the sale and purchase of the Purchased Assets or any other transaction contemplated by this Agreement was induced or procured through any Person acting on behalf of or representing Buyer as broker, finder, investment banker, financial advisor or in any similar capacity other than those Persons listed on Schedule 5.4, whose fees and expenses shall be the responsibility of Buyer.

**Section 5.5. FCC Qualification.** Except as set forth on Schedule 5.5 and except for proceedings of general applicability to the television industry, (a) Buyer is legally, technically, financially and otherwise qualified under the Communications Laws to perform its obligations hereunder, and to hold the FCC Licenses and own and operate the Station; and (b) to the Knowledge of Buyer, there are no facts that would, under existing Law and the existing rules, regulations, policies and procedures of the FCC, disqualify Buyer as an assignee of the FCC Licenses or as the owner and operator of the Station. Buyer knows of no fact or circumstance relating to either Buyer or its Affiliates that would reasonably be expected to result in the FCC's delay in granting the FCC Consent, or that would cause the FCC Consent not to be granted by the FCC in the ordinary course. No waiver of any FCC rule or policy or exemption is required for the grant of the FCC Consent.

**Section 5.6. Financing.** Buyer has either cash on hand or has secured financing required to perform its obligations on the Closing Date.

**Section 5.7. Representations and Warranties.** Buyer's representations and warranties set forth in this Agreement shall be true and correct on and as of the Closing Date, as though such representations and warranties were made on and as of such time, except for representations and warranties made as of a specified date, which need only be true as of such date or as otherwise provided in this Agreement.

## **ARTICLE VI CERTAIN MATTERS PENDING THE CLOSING**

From and after the date of this Agreement and until the Closing (unless otherwise provided herein):

**Section 6.1. Access.** Buyer and its authorized agents, officers and representatives shall have, upon prior notice, reasonable access to the Station and the Purchased Assets to conduct such examination and investigation of the Station, the business of Seller and the Purchased Assets as Buyer deems reasonably necessary. Such examinations shall be during the Station's normal business hours, shall not unreasonably interfere with the Station's normal operations and activities and shall not be in violation of Section 3.2 concerning "**control**".

**Section 6.2. Notice of Adverse Changes.** Pending the Closing, Seller shall give Buyer written notice as promptly as is reasonably practicable following the Seller's Knowledge of the occurrence of any of the following:

- (a) an Event of Loss involving more than \$10,000;
- (b) the commencement of any Action before the FCC or any other Governmental Authority which involves any of the FCC Licenses or which could reasonably be expected to have a Material Adverse Effect, other than proceedings or litigation of general applicability to the television broadcasting industry;
- (c) any material labor grievance, controversy, strike request for union representation, or dispute affecting the business or operations of the Station;
- (d) any violation by Seller or the Station, or written notice of any alleged violation, of any Law;
- (e) any written notice of breach, default, claimed default or termination (other than pursuant to its terms) of any Material Contract or Material Lease; or
- (f) any other material adverse developments with respect to the business or operations of the Station including the cessation of broadcasting by the Station at its authorized power for more than forty-eight (48) consecutive hours.

**Section 6.3. Operations Pending Closing.** Subject to the provisions of Section 3.2 regarding control of the Station, after the date hereof and prior to the Closing, Seller shall:

- (a) operate the Station in compliance in all material respects with the Communications Laws;
- (b) maintain the Equipment in normal working order, ordinary wear and tear and usage excepted;

(c) not sell, lease, mortgage, pledge or otherwise dispose of any of the Purchased Assets except for transactions in the ordinary and regular course of the operation of the Station;

(d) Intentionally Omitted;

(e) not enter into or become obligated under any agreement or commitment except for: (x) any individual Program Rights agreement with a term of one year or less or that involve payments or receipts of \$10,000 or less; *provided, however*, that in no event may Seller enter into any Program Rights agreements that, in the aggregate, involve payments or receipts of \$25,000 or more; and (y) any other agreement or commitment (other than advertising sales contracts for cash only) with a term of three months or less or that involve payments or receipts of \$10,000 or less; *provided, however*, that in no event may Seller enter into such other agreements or commitments that, in the aggregate, involve payments or receipts of \$25,000 or more; and (z) any exercise of a renewal option under a Lease that would otherwise terminate or expire, or where the deadline to exercise such renewal option would lapse, within one year of the anticipated date of Closing;

(f) keep Buyer apprised of material developments in negotiations for Program Rights agreements and promptly provide Buyer with copies of all Program Rights agreements entered into by Seller (subject to subsection (f)(x));

(g) maintain in full force and effect policies of liability and casualty insurance of substantially the same type, character and coverage as the policies currently carried with respect to the business, operations and assets of the Station;

(h) not enter into any Tradeout Agreements relating to the Station with a value in excess of \$5,000 individually and \$15,000 in the aggregate which create obligations or Liabilities of Seller extending to or beyond the Closing Date without the prior written consent of Buyer;

(i) utilize the Program Rights of the Station only in the ordinary course of business consistent with past practice and not sell or otherwise dispose of any such Program Rights;

(j) use commercially reasonable efforts to take all appropriate, reasonable action to protect the present service areas of the Station from increased electrical interference from other stations, existing or proposed;

(k) not adopt, or commit to adopt, any Plan Benefit Arrangement or other pension, profit sharing, deferred compensation or similar plan, program or trust on behalf of personnel of the Station, other than the Station Employee Benefit Plans or any other such plan, program or trust currently maintained by Seller or modify the existing Station Employee Benefit Plans;

(l) promptly notify Buyer of any attempt or actual collective bargaining organizing activity with respect to any employees of the Station; and not enter into any collective bargaining agreement applicable to any employees of the Station; and

(m) not take or agree to take any action inconsistent with consummation of the Closing as contemplated by this Agreement.

Notwithstanding anything to the contrary contained herein, nothing herein shall prohibit the Seller from materially downsizing the business and operation of the Station, including, but not limited to, reducing the number of employees (the “**Downsizing**”); provided, however, in no event shall Seller take any action that could adversely affect the FCC Licenses or materially adversely affect the other Purchased Assets.

**Section 6.4. Financial and FCC Reports.** Within thirty (30) days after the end of each calendar quarter ending after the date hereof, Seller will furnish Buyer with a copy of Seller’s quarterly financial reports for the Station prepared after the date of the Interim Financial Statements (including balance sheet and operating statement (for each such month and the fiscal year to the end of such month) and will furnish to Buyer within ten (10) days after filing a copy of all reports filed with the FCC with respect to the Station after the date hereof. In addition, Seller will furnish Buyer with copies of regular management reports, if any, concerning the operation of the Station within ten (10) days after such reports are prepared.

**Section 6.5. Consents.** Prior to the Closing Date, Seller and Buyer shall use commercially reasonable efforts to obtain any and all such third party consents or approvals necessary under all Material Contracts which are Assumed Contracts and Material Leases where such third party consent or approval is required pursuant to the terms of any such Material Contract or Material Lease in order for Seller to assign such Assumed Contract or Material Lease at the Closing; provided, however, that neither Seller nor Buyer shall be required to pay or incur any cost or expense to obtain any such third party consent or approval that it is not otherwise required to pay or incur in accordance with the terms of the applicable Contract or Lease. To the extent that transfer or assignment hereunder by Seller to Buyer of any Material Contract or Material Lease is not permitted or is not permitted without the consent or approval of another Person, this Agreement shall not be deemed to constitute an undertaking to assign the same if such consent or approval is not given or if such an undertaking otherwise would constitute a breach thereof or cause a loss of benefits thereunder. If any such third party consent or approval for the assignment or transfer of a Material Contract or Material Lease is not obtained before the Closing, Seller shall cooperate with Buyer in any reasonable arrangement designed to provide for Buyer after the Closing the benefits intended to be assigned to Buyer under the applicable Contract or Lease, including enforcement at the cost and for the account of Buyer of any and all rights of the Seller against the other party thereto arising out of the breach or cancellation thereof by such other party or otherwise; provided that Buyer shall (i) undertake to pay or satisfy the corresponding Liabilities for the enjoyment of such benefit to the extent that Buyer would have been responsible therefor hereunder if such consent, waiver or approval had been obtained and (ii) indemnify and hold harmless Seller for any costs, expenses or Liabilities (including legal fees and expenses) incurred by them in connection with the enforcement of such Material Contract or Material Lease.

**Section 6.6. Cooperation.** Buyer and Seller will cooperate in all respects in connection with: (a) securing any nongovernmental approvals, consents and waivers of third

parties listed in Schedule 4.3; and (b) giving notices to any Governmental Authority, or securing the permission, approval, determination, consent or waiver of any Governmental Authority, required by Law in connection with the transfer of the Purchased Assets from Seller to Buyer.

**Section 6.7. Tax Returns and Payments.**

(a) Seller shall be liable for payment of and shall prepare and properly file on a timely basis true, complete and accurate Tax Returns and other documentation for any and all Taxes incurred with respect to the Purchased Assets and the Station for any Pre-Closing Tax Period.

(b) Subject to Section 2.4, Buyer shall be liable for and payment of and shall prepare and properly file on a timely basis true, complete and accurate Tax Returns and other documentation for any and all Taxes incurred with respect of the Purchased Assets and the Station for any Post-Closing Tax Period.

**Section 6.8. Release of Liens.** At or prior to the Closing, Seller shall obtain the release of all Liens disclosed in the Schedules hereto and any other Liens on the Purchased Assets, other than Permitted Liens, and shall duly file releases or terminations of all such Liens in each governmental agency or office in which any such Lien or evidence thereof shall have been previously filed and Seller shall transfer and convey, or cause to be transferred and conveyed, to Buyer at Closing good and valid title to all of the Purchased Assets free and clear of all Liens, except for Permitted Liens.

**Section 6.9. Financing Leases.** At or prior to the Closing, Seller shall obtain the release of all obligations under any Financing Leases.

**Section 6.10. Public Announcement.** Seller shall publish and broadcast a public notice concerning the filing of the FCC Application in accordance with the requirements of Section 73.3580 of the FCC's rules, and Buyer shall cooperate with Seller with respect to preparation of such notice. As to any other announcements, no party hereto shall issue any press release or public announcement or otherwise divulge the existence of this Agreement or the transactions contemplated hereby without prior approval of the other parties hereto which shall not be unreasonably withheld except as and to the extent that such party shall be obligated by Law, rule or regulation, in which case the other party shall be so advised and the parties shall use their best efforts to cause a mutually agreeable release or announcement to be issued. The parties acknowledge that a copy of this Agreement will be submitted with the application(s) to obtain the FCC Consent, with appropriate redactions of confidential information as permitted by FCC rules.

**Section 6.11. Exclusivity.** Seller agrees and covenants that until Closing or this Agreement expires or is terminated, neither Seller nor any of its representatives, will discuss, negotiate or offer (or solicit offers) regarding a sale, transfer or other disposition of the Station or any merger, combination, restructuring, refinancing or similar transaction involving Seller (a "***Sale***") with another party or provide any information to any other party regarding the Station or Seller in that connection. Seller represents that Seller is not a party to, or bound by

any agreement with respect to a Sale. Seller will disclose to Buyer the existence or occurrence of any proposal or contract whether written or oral which it may receive during the term of this Agreement in respect of any proposed Sale or other competing transaction.

**Section 6.12. Right to Negotiate.** Notwithstanding any agreement to the contrary contained herein, including the provisions of Section 11.9 (Confidentiality), Buyer shall have the right between the date hereof and Closing to negotiate with program content providers and to negotiate with other television stations in the Market with respect to possible Channel Share arrangements.

**Section 6.13. Channel Share.** Seller agrees to enter into a Channel Share with a third party if such Channel Share is proposed to Seller by Buyer before December 18, 2015. Any such Channel Share entered into by Seller pursuant to this Section 6.13 shall be included as an Assumed Contract and shall be included as part of the Purchased Assets.

**Section 6.14. FCC Auction.** If requested by Buyer, Seller agrees to register the Station for the FCC Auction prior to the Submission Deadline.

**Section 6.15. Efforts.** Without limiting the specific obligations of any party hereto under any agreement or covenant hereunder, each party hereto shall use commercially reasonable efforts to take all action and do all things necessary in order to consummate the transactions contemplated by this Agreement, including, without limitation, satisfaction, but not waiver, of the closing conditions set forth in Article VII and Article VIII.

## **ARTICLE VII CONDITIONS PRECEDENT TO THE OBLIGATIONS OF BUYER**

Each and every obligation of Buyer to be performed on the Closing Date shall be subject to the satisfaction prior to or at the Closing of the following express conditions precedent:

**Section 7.1. Compliance with Agreement.** Seller shall have performed and complied in all material respects with all of its obligations under this Agreement which are to be performed or complied with by Seller prior to or at the Closing.

**Section 7.2. Proceedings and Instruments Satisfactory.** All proceedings, corporate or otherwise, to be taken by Seller in connection with the performance of this Agreement, and all documents incident thereto, shall be complete to the reasonable satisfaction of Buyer and Buyer's counsel and Seller shall have made available to Buyer for examination the originals or true and correct copies of all documents which Buyer may reasonably request in connection with the transactions contemplated by this Agreement.

**Section 7.3. Representations and Warranties.** The representations and warranties made by Seller in this Agreement which are qualified in any respect as to materiality shall be true and correct as of the Closing Date with the same force and effect as though such representations and warranties had been made on the Closing Date, except for changes permitted or contemplated by this Agreement (other than those representations and warranties which address matters only as of a particular date, which shall have been true and



correct only as of such particular date); all other representations and warranties made by Seller in this Agreement shall be true and correct in all material respects as of the Closing Date, except for changes permitted or contemplated by this Agreement (other than those representations and warranties which address matters as of a particular date, which shall have been true and correct in all material respects only as of such particular date).

**Section 7.4. Event of Loss.** Between the date of this Agreement and the Closing, neither the Station nor the Purchased Assets shall have sustained an Event of Loss which individually or in the aggregate would cost in excess of \$50,000 to repair and such repair shall not have been completed on or prior to the Closing Date to Buyer's reasonable satisfaction; provided, however, Seller may elect to extend the Closing Date for a reasonable period not to exceed sixty (60) days necessary to complete such repairs, and provided, further if Buyer waives this condition, the provisions of Section 10.1 shall be applicable.

**Section 7.5. Deliveries at Closing.** Seller shall have delivered or caused to be delivered to Buyer the documents set forth in Section 2.3(a), each properly executed and dated as of the Closing Date.

**Section 7.6. Possession; Instruments of Conveyance and Transfer.** Seller shall deliver to Buyer at the Closing such other documents as shall be reasonably necessary to vest in Buyer good and marketable title to or a valid leasehold interest to the Purchased Assets as contemplated by this Agreement.

**Section 7.7. Required Approvals and Consent.** There shall have been secured such permissions, approvals, determinations, consents and waivers as listed on Schedule 7.7 including the Lease Estoppel Letters.

**Section 7.8. Absence of Investigations and Proceedings.** (a) No Governmental Order issued by any Governmental Authority enjoining, restraining or otherwise prohibiting the transactions contemplated hereby shall be in effect and (b) no other proceedings shall be pending by any other Person to collect damages from Buyer on account thereof; provided, that if such proceeding relates to the Station Affiliation Agreement or the MundoFox Amendment, Buyer shall be deemed to waive the condition of this Section 7.8(c) unless Buyer agrees to pay Seller the sum of One Hundred Thousand Dollars (\$100,000).

**Section 7.9. Governmental Consents.** The FCC Consent (a) shall have been issued, (b) shall, at Closing, be in full force and effect, (c) shall contain no provision materially adverse to Buyer, and (d) shall be a Final Order; provided, however, that Buyer in its sole discretion and upon ten (10) days' prior written notice may waive the requirement that the FCC Consent has become a Final Order and; provided further that, if the FCC Consent has not become a Final Order prior to ten (10) Business Days from the date required by the FCC for the Station to file an initial application to participate in the FCC Auction and no petitions to deny the transfer of the FCC Licenses to Buyer prior to receipt of the FCC Consent, then Buyer shall be deemed to waive the requirement that the FCC Consent be a Final Order and shall only be required to give Seller one day prior written notice. All other material authorizations, consents and approvals of any and all Governmental Authorities necessary in

connection with the consummation of the transactions contemplated by this Agreement shall have been obtained and be in full force and effect.

**Section 7.10. FCC Licenses.** Seller shall be the holder of the FCC Licenses and there shall not have been any adverse modification of any of such FCC Licenses. The Station shall be operating in compliance, in all material respects, with all Communications Laws and no proceeding shall be pending or, to the Knowledge of Seller, threatened, the effect of which would be to revoke, cancel, fail to renew, suspend or modify adversely any of the FCC Licenses.

**Section 7.11. Absence of Liens.** On the Closing Date and simultaneously with the Closing, there shall not be any Liens on the Purchased Assets except for Permitted Liens.

**Section 7.12. Non-Foreign Affidavit.** Seller shall have furnished to Buyer an affidavit of Seller, in form reasonably satisfactory to Buyer, stating under penalty of perjury Seller's United States taxpayer identification number and that Seller is not a foreign person within the meaning of Section 1445(b)(2) of the Code.

**Section 7.13. Termination of Option.** Seller shall have delivered to Buyer evidence that the Second Amended and Restated Option Agreement, dated August 1, 2012 by and between Seller and Belo Corp., or its successors and assigns, has been terminated.

**Section 7.14. Shared Services Agreement**

(a) The Shared Services Agreement shall have been terminated; and

(b) Buyer shall have negotiated a new transition services agreement with WFAA-TV, Inc. (or its successor in interest) having a term of one year, cancellable by Buyer on ninety (90) days' notice, being non-assignable and providing for payments not in excess of \$33,333 per month.

If any of the conditions set forth in this Article VII have not been satisfied prior to or at Closing, Buyer may in its sole discretion nevertheless elect to proceed with the consummation of the transactions contemplated hereby.

**ARTICLE VIII  
CONDITIONS PRECEDENT TO THE OBLIGATIONS OF SELLER**

Each and every obligation of Seller to be performed on the Closing Date shall be subject to the satisfaction prior to or at the Closing of the following express conditions precedent:

**Section 8.1. Compliance with Agreement.** Buyer shall have performed and complied in all material respects with all of its obligations under this Agreement which are to be performed or complied with by it prior to or at the Closing.

**Section 8.2. Proceedings and Instruments Satisfactory.** All proceedings, corporate or otherwise, to be taken by Buyer in connection with the transactions contemplated

by this Agreement, and all documents incident thereto, shall be complete to the reasonable satisfaction of Seller and Seller's counsel, and Buyer shall have made available to Seller for examination the originals or true and correct copies of all documents which Seller may reasonably request in connection with the transactions contemplated by this Agreement.

**Section 8.3. Representations and Warranties.** The representations and warranties made by Buyer in this Agreement which are qualified in any respect as to materiality shall be true and correct as of the Closing Date with the same force and effect as though such representations and warranties had been made on the Closing Date, except for changes permitted or contemplated by this Agreement; all other representations and warranties made by Buyer in this Agreement shall be true and correct in all material respects as of the Closing Date, except for changes permitted by this Agreement.

**Section 8.4. Deliveries at Closing.** Buyer shall have delivered, or caused to be delivered, to Seller the documents set forth in Section 2.3(b), each properly executed and dated as of the Closing Date. Buyer shall also have made the payments described in Section 2.2.

**Section 8.5. Absence of Investigations and Proceedings.** (a) No Governmental Order by any Governmental Authority enjoining, restraining or otherwise prohibiting the transactions contemplated hereby shall be in effect and (b) no other proceedings shall be pending by any other Person with such object or to collect damages from Seller on account thereof; provided that any proceedings related to the Station Affiliation Agreement or the MundoFox Amendment shall not be taken into account for purposes of this Section 8.5.

**Section 8.6. Governmental Consents.** The FCC Consent shall have been issued, and shall, at Closing, be in full force and effect. All other material authorizations, consents or approvals of any and all Governmental Authorities necessary in connection with the consummation of the transactions contemplated by this Agreement shall have been obtained and be in full force and effect.

If any of the conditions set forth in this Article VIII have not been satisfied prior to or at Closing, Seller may nevertheless elect to proceed with the consummation of the transactions contemplated hereby.

## **ARTICLE IX INDEMNIFICATION**

**Section 9.1. Indemnification by Seller.** Seller shall indemnify, exculpate and hold harmless Buyer, Buyer's employees, officers, directors, managers and members (collectively, "***Buyer Indemnified Parties***") from and against, and agrees promptly to defend Buyer from and reimburse Buyer Indemnified Parties for, any and all losses, damages, costs, expenses, liabilities, and claims of any kind (including, without limitation, reasonable attorney fees and other legal costs and expenses) ("***Claims***") which Buyer Indemnified Parties may at any time suffer or incur, or become subject to, as a result of or in connection with:

(a) any breach or inaccuracy of any of the representations and warranties made by Seller in or pursuant to this Agreement, or in any instrument, certificate or affidavit delivered by Seller at the Closing in accordance with the provisions of any Section hereof;

(b) any failure by Seller to carry out, perform, satisfy and discharge any of its covenants, agreements, undertakings, liabilities or obligations under this Agreement or under any of the documents and materials delivered by Seller pursuant to this Agreement;

(c) the Retained Liabilities or the Excluded Assets;

(d) the operation or ownership of the Station or the Purchased Assets prior to the Closing (except for the Assumed Liabilities); or

(e) any Action or other proceeding brought by any Governmental Authority or Person arising out of any of the matters referred to in Sections 9.1(a)-(d).

**Section 9.2. Indemnification by Buyer.** Buyer shall indemnify, exculpate and hold harmless Seller, Seller's employees, officers, managers and members (collectively, "***Seller Indemnified Parties***") from and against, and agrees to promptly defend Seller Indemnified Parties from and reimburse Seller Indemnified Parties for, any and all Claims which Seller Indemnified Parties may at any time suffer or incur or become subject to, as a result of or in connection with:

(a) any breach or inaccuracy of any representations and warranties made by Buyer in or pursuant to this Agreement, or in any certificate or affidavit delivered by Buyer at the Closing in accordance with the provisions of any Section hereof;

(b) any failure by Buyer to carry out, perform, satisfy and discharge any of its covenants, agreements, undertakings, liabilities or obligations under this Agreement or under any of the documents and materials delivered by Buyer pursuant to this Agreement;

(c) the Assumed Liabilities;

(d) the operation and ownership of the Station and the Purchased Assets by Buyer from and after the Closing Date; or

(e) any Action or other proceeding brought by any Governmental Authority or Person arising out of any of the matters referred to in Sections 9.2(a)-(d).

**Section 9.3. Notification of Claims.**

(a) A party entitled to be indemnified pursuant to Section 9.1 or 9.2 (the "***Indemnified Party***") shall notify the party liable for such indemnification (the "***Indemnifying Party***") in writing of any Claim which the Indemnified Party has determined has given or could give rise to a right of indemnification under this Agreement. Subject to the Indemnifying Party's right to defend in good faith third party claims as hereinafter provided, the Indemnifying Party shall satisfy its obligations under this Article IX within thirty (30) days after the receipt of written notice thereof from the Indemnified Party.

(b) If the Indemnified Party shall notify the Indemnifying Party of any Claim pursuant to Section 9.3(a), and if such Claim relates to a Claim asserted by a third party against the Indemnified Party which the Indemnifying Party acknowledges is a Claim for which it must indemnify or hold harmless the Indemnified Party under Section 9.1 or 9.2, the Indemnifying Party shall have the right to employ counsel reasonably acceptable to the Indemnified Party to defend any such Claim asserted against the Indemnified Party. The Indemnified Party shall have the right to participate in the defense of any such Claim at its own expense. The Indemnifying Party shall notify the Indemnified Party in writing, as promptly as possible (but in any case before the due date for the answer or response to a claim) after the date of the notice of claim given by the Indemnified Party to the Indemnifying Party under Section 9.3(a) of its election to defend in good faith any such third party Claim. So long as the Indemnifying Party is defending in good faith any such Claim asserted by a third party against the Indemnified Party, the Indemnified Party shall not settle or compromise such Claim. The Indemnified Party shall make available to the Indemnifying Party or its agents all records and other materials in the Indemnified Party's possession reasonably required by it for its use in contesting any third party Claim. Whether or not the Indemnifying Party elects to defend any such Claim, the Indemnified Party shall have no obligation to do so. In the event: (i) the Indemnifying Party elects not to defend such claim or action; or (ii) the Indemnifying Party elects to defend such claim or action but fails to defend such claim or action in good faith, the Indemnified Party shall have the right to conduct the defense thereof and to settle or compromise such claim or action without the consent of the Indemnifying Party, except that with respect to the settlement or compromise of such a claim, demand or action, the Indemnified Party shall not settle or compromise any such claim or demand or action without the consent of the Indemnifying Party (such consent not to be unreasonably withheld), unless the Indemnifying Party is given a full and completed release of any and all Liability by all relevant parties relating thereto and has no obligation to pay any damages as a result thereof.

#### **Section 9.4. Limitation on Liability.**

(a) No Claims may be asserted by a party pursuant to Sections 9.1(a) or 9.2(a) of this Agreement until the aggregate amount of all such Claims of such party shall exceed Fifty Thousand Dollars (\$50,000) (the "**Deductible**"), at which time the party seeking indemnification shall be entitled to recover all amounts in excess of the Deductible, and the maximum aggregate Liability of the Buyer or Seller shall not exceed Six Hundred Thousand Dollars (\$600,000) (the "**Cap**"). The limitations set forth in this Section 9.4(a) shall not apply (i) in the case of Claims arising from or relating to any breach or inaccuracy in the following representations and warranties: Sections 4.1, 4.2, 4.5, 5.1 and 5.2 (the "**Fundamental Reps**") or (ii) in the case of fraud. Notwithstanding anything contained in the foregoing, the maximum aggregate Liability of the Seller, including with respect to any Claims made for any breach or inaccuracy of Fundamental Reps, shall under no circumstances exceed the Purchase Price except in the case of fraud.

(b) Anything to the contrary herein notwithstanding, a Claim under the indemnification provisions of this Agreement shall in no event include any punitive, speculative, treble, remote, special, incidental, indirect, consequential or similar damages whatsoever.

(c) Solely with respect to this Article IX, for purposes of determining whether there has been inaccuracy in or breach of any representation or warranty only, such determination shall be made without regard to any materiality or other similar qualification contained in or otherwise applicable to such representation or warranty.

(d) Except in the case of fraud, each Buyer Indemnified Party's sole and exclusive remedy to receive payments of any amounts to which any Buyer Indemnified Parties shall be entitled to indemnification pursuant to this Article IX hereof shall be limited to the Cap as set forth in this Section 9.4, and shall be recoverable first from the Holdback Escrow Amount, and upon distribution of the Holdback Escrow Amount (together with any amounts earned or derived therefrom), from Seller as set forth herein. Seller shall not be required to indemnify Buyer to the extent of any Claims that a court of competent jurisdiction shall have determined by final judgment to have resulted from the willful breach, bad faith or gross negligence of Buyer.

(e) Any Claim under this Agreement shall be determined without duplication of recovery by reason of the state of facts giving rise to such Claim constituting a breach of more than one representation, warranty, covenant or agreement.

(f) No Indemnified Party shall be entitled to recover any Claim to the extent that the loss comprising a Claim (or part thereof) with respect to such matter has been included in the calculation of the Purchase Price.

**Section 9.5. Survival of Representations, Warranties and Agreements.** No agreements in this Agreement shall survive the Closing, except that (a) the agreements contained in Article II shall survive the Closing, (b) the obligations to indemnify contained in Article IX hereof shall survive the Closing until performed, (c) the agreements in Articles X and XI shall survive the Closing until the applicable statute of limitations has expired, (d) subject to clauses (e), (f) and (g) below, the representations and warranties made in Articles IV and V of this Agreement or made pursuant hereto shall survive the Closing until the twelve (12) month anniversary of the Closing Date, (e) the Fundamental Reps shall survive the Closing indefinitely, and (f) the representations and warranties in Sections 4.14 and 4.22 shall survive the Closing for three (3) months following the expiration of the applicable statute of limitations.

**Section 9.6. Remedies.**

(a) Except as otherwise provided in Sections 2.4 and 11.2 of this Agreement, the indemnification provisions of this Article IX are the sole and exclusive post-Closing remedy of Buyer and Seller for a breach or nonperformance of any representations, warranties or covenants contained in this Agreement.

(b) Notwithstanding anything to the contrary in subsection (a) above, nothing herein shall prevent any of the parties to this Agreement from bringing an action against one or more of the parties to this Agreement: (i) alleging that one or more parties engaged in fraud or intentional misrepresentation in connection with the transaction; or (ii) to enforce any of the covenants of any of the other parties to this Agreement.

**Section 9.7. Effect of Insurance.** If an Indemnatee receives an indemnification payment from an Indemnifying Party pursuant to this Article IX with respect to a particular Claim and subsequently receives an insurance recovery (net any retroactive premium adjustment resulting from such Claim and any other related increase in the cost of insurance, and the cost of receiving or collecting such insurance recovery) or a recovery from any other third party, with respect to that same Claim, then the Indemnified Party shall promptly refund to that Indemnifying Party the appropriate amount of such indemnification payment such that the Indemnified Party does not retain, by means of such indemnification payment and such net insurance recovery, an amount exceeding the Indemnified Parties' actual loss. Upon making any payment to an Indemnified Party in respect of any Losses, the Indemnifying Party shall, to the extent of such payment, be subrogated to all rights of the Indemnified Party (and its Affiliates) against any third party in respect of the Losses to which such payment relates. Such Indemnified Party (and its Affiliates) and Indemnifying Party shall execute upon request all instruments reasonably necessary to evidence or further perfect such subrogation rights. Buyer and Seller shall use reasonable best efforts to mitigate any Losses, whether by asserting claims against a third party or by otherwise qualifying for a benefit that would reduce or eliminate an indemnified matter; *provided*, that no party shall be required to use such efforts if they would be demonstrably detrimental in any material respect to such party.

**Section 9.8. Adjustment for Tax Benefits and Tax Costs.** All indemnification payments made pursuant to this Article IX shall be made on an after-tax basis. Accordingly, in determining the amount of any indemnification payment for a Claim suffered or incurred by an Indemnified Party, the amount of such Claim shall be (i) increased to take into account any additional tax cost incurred by the Indemnified Party arising from the receipt of indemnification payments hereunder ("***Tax Costs***") and (ii) decreased to take into account any deduction, credit or other tax benefit actually realized by the Indemnified Party or its affiliates with respect to such Claim ("***Tax Benefits***"). In computing the amount of any such Tax Cost or Tax Benefit, the Indemnified Party shall be deemed to recognize all other items of income, gain, loss, deduction or credit before recognizing any item arising from the receipt of any indemnification payment hereunder or the incurrence or payment of any indemnified loss. To the extent permitted by law, all indemnity payments made pursuant to this Agreement shall be treated by the parties hereto as an adjustment to the Purchase Price.

**Section 9.9. Exclusivity of Indemnification.** After the Closing Date, except as provided for in Section 2.4, indemnification under this Article IX shall be the sole remedy of the parties for any breach of any provision of this Agreement. Notwithstanding the foregoing, nothing in this Agreement shall limit the rights or remedies of any party hereto under applicable Law for matters involving intentionally fraudulent conduct by a party hereto.

## **ARTICLE X FURTHER AGREEMENTS**

**Section 10.1. Event of Loss.** Upon the occurrence of an Event of Loss or Events of Loss in excess of Fifty Thousand Dollars (\$50,000) prior to the Closing, Seller shall take steps to repair, replace and restore the damaged, destroyed or lost property to its former condition. At Closing, if Buyer has waived the condition set forth in Section 7.4, Seller shall assign to Buyer all its rights under any insurance and all proceeds of insurance (excluding business

interruption proceeds for periods prior to the Closing Date) covering the property damage, destruction or loss not so repaired, replaced or restored prior to Closing.

**Section 10.2. Station Employees.** Buyer will have no obligation to hire any of the Station Employees.

**Section 10.3. Bulk Transfer.** Buyer and Seller hereby waive compliance with the Bulk Transfer provisions of the Uniform Commercial Code and all similar Laws. Except for the Assumed Liabilities, Seller shall promptly pay and discharge when and as due all liabilities and obligations arising out of or relating to Seller's ownership and operation of the Station prior to Closing and its sale of the Station to Buyer. Except for the Assumed Liabilities, Seller hereby agrees to indemnify, defend and hold Buyer harmless from and against any and all liabilities, losses, costs, damages or causes of action (including, without limitation, reasonable attorney fees and other legal costs and expenses) arising out of or relating to claims asserted against Buyer pursuant to the Bulk Transfer provisions of the Uniform Commercial Code of the state in which such Station is located or any similar Law.

## **ARTICLE XI TERMINATION; MISCELLANEOUS**

**Section 11.1. Termination.** This Agreement may be terminated and the transactions contemplated hereby may be abandoned at any time prior to the Closing Date, as follows:

- (a) by mutual written agreement of Seller and Buyer; or
- (b) by Buyer if any of the conditions set forth in Article VII of this Agreement shall not have been fulfilled by the Closing Date; or
- (c) by Seller if any of the conditions set forth in Article VIII of this Agreement shall not have been fulfilled by the Closing Date; or
- (d) by Buyer or Seller if the Closing shall not have occurred on or before the date that is twelve months from the date hereof (the "***Outside Date***"), for any reason other than delay or nonperformance or breach by the party seeking such termination; provided, that if Seller or Buyer is attempting to cure a breach pursuant to Section 11.1(e) or (f), the Outside Date shall be extended for the cure period set forth in Sections 11.1(e) and (f); or
- (e) by Buyer, if Buyer is not then in material breach of this Agreement and Seller is then in material breach of this Agreement, and such breach remains uncured within the later of sixty (60) days after receipt of written notice thereof from Buyer; provided, that if Seller is diligently pursuing such a cure, such sixty (60) day period may be extended for up to an additional sixty (60) days; or
- (f) by Seller, if Seller is not then in material breach of this Agreement and Buyer is then in material breach of this Agreement, and such breach remains uncured within sixty (60) days after receipt of written notice thereof from Seller; provided, that if Buyer is diligently pursuing such a cure, such sixty (60) day period may be extended for up to an additional sixty (60) days; or



(g) by Seller, if the FCC Application has not been accepted for filing by the FCC prior to the Submission Deadline.

**Section 11.2. Rights on Termination; Waiver.**

(a) If this Agreement is terminated pursuant to Section 11.1(a) or 11.1(b) (if Seller is not in material default as set forth in Section 11.2(b)) or 11.1(c) (if Buyer is not in material default as set forth in Section 11.2(c)) or 11.1(d), all further obligations of the parties under or pursuant to this Agreement shall immediately terminate without further liability of any party to the other and the Earnest Money together with all interest accrued thereon shall be returned promptly to Buyer; provided, however, if Seller objects to such claims the Escrow Agent shall hold and thereafter distribute the Earnest Money pursuant to the terms of the Escrow Agreement.

(b) If Seller is in material default in the performance of its obligations under this Agreement or has breached in any material respect its representations and warranties hereunder and Buyer is not in material default of its obligations under this Agreement and has not breached in any material respects its representations and warranties hereunder, then Buyer shall be entitled to pursue all legal damages against Seller for such default or breach and, if Buyer has terminated the Agreement pursuant to Section 11.1(e), in addition to such damages, Buyer shall be entitled to claim a return of the Earnest Money together with all accrued interest thereon pursuant to the terms of the Escrow Agreement; provided, however, if Seller objects to such claims the Escrow Agent shall hold and thereafter distribute the Earnest Money pursuant to the terms of the Escrow Agreement. Alternatively, Buyer may elect to pursue specific performance as provided in Section 11.2(e) hereof and, if such specific performance is denied, Buyer shall be entitled to pursue all legal damages against Seller and if Buyer terminates the Agreement pursuant to Section 11.1(e), in addition to such damages, Buyer shall be entitled to claim a return of the Earnest Money together with all accrued interest thereon pursuant to the terms of the Escrow Agreement; provided, however, if Seller objects to such claims the Escrow Agent shall hold and thereafter distribute the Earnest Money pursuant to the terms of the Escrow Agreement. For the avoidance of doubt, under no circumstances will Buyer be entitled to receive both a grant of specific performance as provided in Section 11.2(e) hereof and damages.

(c) If Buyer is in material default in the performance of its obligations under this Agreement, or Buyer has breached in any material respect its representations and warranties hereunder and Seller is not in material default of its obligations under this Agreement and has not breached in any material respect its representations and warranties hereunder, or if this Agreement is terminated pursuant to Section 11.1(f), then Seller shall be entitled to claim and be paid as its sole liquidated damages, pursuant to Section 11.3, the Earnest Money pursuant to the terms of the Escrow Agreement; provided, however, if Buyer objects to such claims, the Escrow Agent shall hold and thereafter distribute the Earnest Money pursuant to the terms of the Escrow Agreement.

(d) The rights and duties of the parties hereto vis-a-vis instructions and notices to the Escrow Agent shall be controlled by the Escrow Agreement.

(e) Buyer and Seller agree that irreparable damage would occur in the event of any breach or threatened breach by Seller of any of its covenants or obligations set forth in this Agreement. Accordingly, Buyer and Seller agree that Buyer shall be entitled to an injunction or injunctions to prevent or restrain breaches or threatened breaches of this Agreement by the Seller and to specifically enforce the terms and provisions of this Agreement. Seller hereby agrees not to raise any objections to the availability of, and hereby waives any defense to, the granting of an injunction, specific performance or other equitable relief to prevent or restrain terms and provisions of this Agreement. Buyer, if it is seeking an injunction or injunctions to prevent breaches or threatened breaches of this Agreement or to specifically enforce the terms and provisions of this Agreement, shall not be required to provide any bond or other security in connection with any such order or injunction.

**Section 11.3. Liquidated Damages.** Buyer and Seller agree that if the transactions contemplated herein fail to close for any reason set forth in Section 11.1(b), Seller's sole and exclusive remedy under Section 11.2(c) shall be the right to claim and be paid the Earnest Money together with all interest accrued thereon. The parties agree that the liquidated damages provided in this Section are intended to limit the claims that Seller may have against Buyer in the circumstances described herein. The parties acknowledge and agree that the liquidated damages provided in this Section bear a reasonable relationship to the anticipated harm which would be caused by Buyer's breach of the Agreement. The parties further acknowledge and agree that the amount of actual loss caused by Buyer's breach of this Agreement is incapable and difficult of precise estimation and that Seller would not have a convenient and adequate alternative to liquidated damages hereunder. The provisions of this Section 11.3 shall apply regardless of whether or not Seller has terminated this Agreement pursuant to Section 11.1 but shall in no way limit Buyer's right to specific performance of this Agreement pursuant to Section 11.2(e) or otherwise.

**Section 11.4. Further Assurances.** From time to time after the Closing Date, upon the reasonable request of Buyer, Seller shall execute and deliver or cause to be executed and delivered such further instruments of conveyance, assignment and transfer and take such further action as Buyer may reasonably request in order more effectively to sell, assign, convey, transfer, reduce to possession and record title to Buyer to any of the Purchased Assets. Seller agrees to cooperate with Buyer in all reasonable respects to assure to Buyer the continued title to and possession of the Purchased Assets in the condition and manner contemplated by this Agreement; provided, however, that Buyer shall not be required to spend additional sums of money.

**Section 11.5. Schedules.**

(a) Any disclosure with respect to a Section of this Agreement requires a specific reference in the Schedules to such Section of the Agreement to which any such disclosure applies, and no disclosure shall be deemed to apply with respect to any Section to which it does not expressly apply.

(b) Seller has disclosed the information contained in the Schedules solely for purposes of the Agreement, and no information contained therein shall be deemed to be an

admission by any party thereto to any third party of any matter whatsoever, including of any violation of Law or breach of any agreement.

**Section 11.6. Entire Agreement; Amendment; and Waivers.** This Agreement and the documents required to be delivered pursuant hereto constitute the entire agreement between the parties pertaining to the subject matter hereof, and supersede all prior and contemporaneous agreements, understandings, negotiations and discussions of the parties, whether oral or written, and there are no warranties, representations or other agreements between the parties in connection with the subject matter hereof, except as specifically set forth herein. This Agreement may not be amended except by an instrument making specific reference to this Agreement in writing signed on behalf of each of Buyer and Seller and, if such amendment is to Section 2.2(c) hereof, WFAA-TV, Inc. No waiver of this Agreement shall be binding unless executed in writing by the party to be bound thereby. No waiver of any of the provisions of this Agreement shall be deemed or shall constitute a waiver of any other provision of this Agreement, whether or not similar, unless otherwise expressly provided.

**Section 11.7. Expenses.** Except as otherwise specifically provided herein, whether or not the transactions contemplated by this Agreement are consummated, each of the parties shall pay the fees and expenses of its respective counsel, accountants and other experts incident to the negotiation, drafting and execution of this Agreement and consummation of the transactions contemplated hereby.

**Section 11.8. Benefit; Assignment.** This Agreement shall be binding upon and inure to the benefit of and shall be enforceable by Buyer and Seller and their respective proper successors and permitted assigns. This Agreement (and any rights, obligations or liabilities hereunder) may not be assigned or delegated in whole or in part by any party without the prior written consent of the other party; provided, however, that Buyer may, without such consent, assign in whole or in part its rights, obligations or liabilities under this Agreement to an Affiliate of Buyer, provided that (i) any such assignment does not delay or impede grant of the FCC Consent or Closing, (ii) any such assignee delivers to Seller a written assumption of this Agreement, (iii) Buyer shall remain liable for all of its obligations hereunder, and (iv) Buyer shall be solely responsible for any third party consents necessary in connection therewith (none of which are a condition to Closing; and provided, further, that Buyer may, without such consent, collaterally assign its rights hereunder to its lenders). Any such assignee of Buyer shall fully assume the obligations of Buyer hereunder and Buyer shall remain liable for its obligations hereunder. Any attempted assignment or transfer in violation of this Section shall be null and void. WFAA-TV, Inc. shall be a third party beneficiary of this Agreement for purposes of Section 2.2(c) hereof.

**Section 11.9. Confidentiality.**

(a) Buyer agrees that prior to Closing, Buyer and its respective agents and representatives shall not use for its or their own benefit (except when required by law, rule or regulation and except for use in connection with Buyer's financing of the transaction and Buyer's investigation of the Station and their assets in connection with this Agreement), and shall hold in strict confidence and not disclose, (i) any data or information relating to Seller,

its affiliates, or the Station obtained from Seller or any of its directors, officers, employees, agents or representatives in connection with this Agreement, or (ii) any data and information relating to the business, customers, financial statements, conditions or operations of the Station which is confidential in nature and not generally known to the public (clauses (i) and (ii) together, “**Seller’s Information**”). If the transactions contemplated in this Agreement are not consummated for any reason, Buyer shall return to Seller all data, information and any other written material obtained by Buyer from Seller in connection with this transaction and any copies, summaries or extracts thereof, and shall refrain from disclosing any of Seller’s Information to any third party or using any of Seller’s Information for its own benefit or that of any other person.

(b) Seller agrees that Seller and its agents and representatives shall not use for its or their own benefit (except when required by law, rule or regulation and except for use in connection with their investigations and review of Buyer in connection with this Agreement), and shall hold in strict confidence and not disclose, (i) any data or information, relating to Buyer or its affiliates obtained from Buyer, or from any of its directors, officers, employees, agents or representatives, in connection with this Agreement, or (ii) any data and information relating to the business, customers, financial statements, conditions or operations of the Buyer which is confidential in nature and not generally known to the public (clauses (i) and (ii) together “**Buyer’s Information**”). If the transactions contemplated in this Agreement are not consummated for any reason, Seller shall return to Buyer all data, information and any other written material obtained by Seller from Buyer in connection with this transaction and any copies, summaries or extracts, thereof and shall refrain from disclosing any of Buyer’s Information to any third party or using any of Buyer’s Information for its own benefit or that of any other person.

(c) Notwithstanding any other provision to the contrary herein, the provisions of this Section 11.9 shall survive the termination of this Agreement.

**Section 11.10. Notices.** All communications or notices required or permitted by this Agreement shall be in writing and shall be deemed to have been given (i) on the date of personal delivery to an officer of the other party, or (ii) if sent by telecopy or facsimile machine to the number shown below, on the date of such confirmed facsimile or telecopy transmission, or (iii) when properly deposited for delivery by commercial overnight delivery service, prepaid, or by deposit in the United States mail, certified or registered mail, postage prepaid, return receipt requested, on the date that is two days after the date set forth in the records of such delivery service or on the return receipt and addressed as follows, unless and until either of such parties notifies the other in accordance with this Section of a change of address or change of telecopy number:

If to Seller:	HIC Broadcast, Inc. 210 South DeLacey Avenue Pasadena, CA 91105 Attention: Roland Hernandez Email: rhernandez@hernandezmedia.net
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With a copy to: Akin Gump Strauss Hauer & Feld LLP  
One Bryant Park  
New York, NY 10036  
Attention: David D. D'Urso  
Email: ddurso@akingump.com

If to Buyer: Ted B. Bartley  
NRJ TV DFW OpCo, LLC  
722 S. Denton Tap Road  
Suite 130  
Coppell, TX 75019  
Email: ted@nrjventures.com

With a copy to: Greenberg Traurig, LLP  
Terminus 200  
3333 Piedmont Road, Suite 2500  
Atlanta, GA 30305  
Attention: James S. Altenbach, Esq.  
Telecopy No.: (678) 553-2445  
Email: altenbachj@gtlaw.com

**Section 11.11. Counterparts; Headings.** This Agreement may be executed in several counterparts, each of which shall be deemed an original, but such counterparts shall together constitute but one and the same Agreement. This Agreement may be executed and delivered in counterpart signature pages executed and delivered via facsimile transmission, and any such counterpart executed and delivered via facsimile transmission shall be deemed an original for all intents and purposes. The Table of Contents and Article and Section headings in this Agreement are inserted for convenience of reference only and shall not constitute a part hereof.

**Section 11.12. Income Tax Position.** Neither Buyer nor Seller shall take a position for income tax purposes which is inconsistent with this Agreement unless required by Law.

**Section 11.13. Severability.** If any provision, clause or part of this Agreement or the application thereof under certain circumstances is held invalid, or unenforceable, the remainder of this Agreement, or the application of such provision, clause or part under other circumstances, shall not be affected thereby.

**Section 11.14. No Reliance.** Except for (i) any assignees permitted by Section 11.8 of this Agreement and (ii) lenders (and their successors and assigns) providing financing for the consummation of the transactions contemplated by this Agreement:

(a) no third party is entitled to rely on any of the representations, warranties or agreements of Buyer or Seller contained in this Agreement; and

(b) Buyer and Seller assume no liability to any third party because of any reliance on the representations, warranties or agreements of Buyer and Seller contained in this Agreement.

**Section 11.15. No Recourse.** Notwithstanding any of the terms or provisions of this Agreement, Seller, on the one hand, and Buyer, on the other hand, agree that neither it nor any Person acting on its behalf may assert any claims or cause of action against any employee, officer or manager of the other party or member of such other party in connection with or arising out of this Agreement or the transactions contemplated hereby.

**Section 11.16. Judicial Interpretation.** Should any provision of this Agreement require judicial interpretation, the parties hereto agree that the court interpreting or construing the same shall not apply a presumption that the terms hereof shall be more strictly construed against one party by reason of the rule of construction that a document is to be construed more strictly against the party which itself or through its agent prepared the same, it being agreed that the agents of each party have participated in the preparation hereof.

**Section 11.17. Saturdays, Sundays and Legal Holidays.** If the time period by which any acts or payments required hereunder must be performed or paid expires on a Saturday, Sunday or legal holiday, then such time period shall be automatically extended to the close of business on the next regularly scheduled business day.

**Section 11.18. Consent to Jurisdiction.** EACH OF THE PARTIES HERETO AGREES THAT ANY LEGAL ACTION BETWEEN THE PARTIES RELATING TO THE ENTRY INTO OR PERFORMANCE OF THIS AGREEMENT OR ANY ANCILLARY AGREEMENT, OR THE INTERPRETATION OR ENFORCEMENT OF THE TERMS HEREOF OR THEREOF, SHALL EXCLUSIVELY BE BROUGHT IN A FEDERAL OR STATE COURT LOCATED IN THE SOUTHERN DISTRICT OF NEW YORK, AND EACH PARTY IRREVOCABLY CONSENTS TO PERSONAL JURISDICTION IN ANY SUCH FEDERAL OR STATE COURT, WAIVES ANY RIGHT TO OBJECT TO SUCH VENUE OR TO ASSERT THE DEFENSE OF FORUM NON-CONVENIENS, AND AGREES THAT SERVICE OF COMPLAINT OR OTHER PROCESS MAY BE MADE BY CERTIFIED OR REGISTERED MAIL ADDRESSED TO SUCH PARTY AT ITS ADDRESS SET FORTH IN, OR DETERMINED IN ACCORDANCE WITH, SECTION 11.10 HEREOF.

**Section 11.19. WAIVER OF JURY TRIAL.** EACH PARTY HERETO HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVES ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY.

**Section 11.20. Governing Law.** This Agreement shall be construed and interpreted according to the laws of the State of New York, without regard to the conflict of Law principles thereof.

**IN WITNESS WHEREOF**, the parties have executed this Agreement as of the day and year first above written.

**“BUYER”**

**NRJ TV DFW OPCO, LLC**

By: Ted B. Bartley

Name: Ted B. Bartley

Title: Chief Executive Officer

**NRJ TV DFW LICENSE CO., LLC**

By: Ted B. Bartley

Name: Ted B. Bartley

Title: Chief Executive Officer

**“SELLER”**

**HIC BROADCAST, INC.**

By: \_\_\_\_\_

Name: Roland Hernandez

Title: President

**IN WITNESS WHEREOF**, the parties have executed this Agreement as of the day and year first above written.

**"BUYER"**

**NRJ TV DFW OPCO, LLC**

By: \_\_\_\_\_

Name: Ted B. Bartley

Title: Chief Executive Officer

**NRJ TV DFW LICENSE CO., LLC**

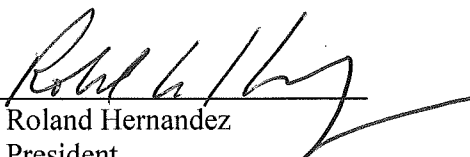
By: \_\_\_\_\_

Name: Ted B. Bartley

Title: Chief Executive Officer

**"SELLER"**

**HIC BROADCAST, INC.**

By:  \_\_\_\_\_

Name: Roland Hernandez

Title: President