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UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re:

PLUM TV, INC., *et al.*,

Debtors.

Bid Procedures Hearing: January 30, 2012
At: 2:00 p.m.
Objections Due By: January 23, 2012
At: 4:30 p.m.

Auction Date: March 1, 2012
At: 1:00 p.m.

Sale Hearing: March 7, 2012
At: 10:00 a.m.
Objections Due By: February 29, 2012
At: 4:30 p.m.

Chapter 11

Case No. 12-10017 (MG)
(Jointly Administered)

**NOTICE OF HEARINGS RELATING TO (1) DEBTORS' MOTION FOR ENTRY
OF AN ORDER, PURSUANT TO BANKRUPTCY CODE SECTIONS 105, 363
AND 365, AUTHORIZING AND APPROVING SALE OF SUBSTANTIALLY ALL
OF DEBTORS' ASSETS TO PMG MEDIA GROUP, SUBJECT TO HIGHER OR
BETTER OFFERS AS MAY BE TENDERED AT A PUBLIC AUCTION, AND
FREE AND CLEAR OF LIENS, CLAIMS AND ENCUMBRANCES, AND (2)
DEBTORS' MOTION FOR ENTRY OF ORDER ESTABLISHING SALE
PROCEDURES, INCLUDING APPROVAL OF BREAK-UP FEE, AND
CONTRACT CURE PROCEDURES**

PLEASE TAKE NOTICE, that, by amended motion dated January 3, 2012 (the "**Motion**"), Plum TV, Inc. and its affiliated debtors (collectively, the "**Debtors**"), seek the entry of orders in accordance with sections 105, 363 and 365 of title 11, United States Code (the "**Bankruptcy Code**"), and associated Federal Rules of Bankruptcy Procedure: (a) authorizing and approving the terms and conditions of an asset purchase agreement, dated January 3, 2012 (the "**APA**") by and among the Debtors and PMG Media Group, LLC ("**PMG**") for the purchase of substantially all of the Debtors' assets, including intellectual property and the assumption and assignment of certain unexpired leases of real property and certain executory contracts (collectively, the "**Purchased Assets**") for a purchase price of \$1 million, plus the assumption of approximately \$14 million of secured notes (the "**Purchase Price**"), subject to higher or better offers as may be tendered at a public auction sale (the "**Auction**"), free and clear of all liens, claims, encumbrances, security

interests and other restrictions on transfer (collectively, the "**Encumbrances**"), with such Encumbrances to attach to the proceeds of sale in the amount and priority as currently exist; (b) authorizing the consummation of the transactions contemplated under the APA; (c) approving certain notice and bidding procedures for the Auction (the "**Bidding Procedures**"); (d) approving a break-up fee and expense reimbursement (collectively, the "**Break Up Fee**") to PMG to be paid in the event PMG is not the successful purchaser of the Purchased Assets; (e) fixing the date for a hearing on the sale in the event that PMG is not the successful bidder at the Auction (the "**Sale Hearing**"); (f) approving the form, time and scope of notice of the Auction (the "**Noticing Provisions**"); and (g) granting related relief.

I. BIDDING PROCEDURES HEARING

PLEASE TAKE FURTHER NOTICE, that upon the Motion, the Debtors will move before the Honorable Martin Glenn United States Bankruptcy Judge, at the United States Bankruptcy Court for the Southern District of New York, Alexander Hamilton U.S. Custom House, Courtroom 501, New York, New York 10004-1408, on **January 30, 2012, at 2:00 p.m.** (the "**Procedures Hearing**"), or as soon thereafter as counsel can be heard, for the issuance and entry of an order (the "**Procedures Order**")¹: (i) approving the Bidding Procedures, the Break-Up Fee and the Noticing Provisions (collectively, the "**Auction Procedures**"); (ii) scheduling the Sale Hearing; and (iii) granting related relief.

PLEASE TAKE FURTHER NOTICE, that objections to the relief sought in the Motion for the Auction Procedures or other relief provided for in the Procedures Order (the "**Procedures Objections**"), shall be in writing, shall conform to the Bankruptcy Rules and Local Bankruptcy Rules, shall specify the name of the objecting party, the nature and amount of any claim or interest held or asserted against the Debtors' estates or property, and state with specificity the basis of the objection, and shall be filed with the Clerk of the Court through the ECF system to registered users, or by delivering a hard copy and a diskette containing that document in Word, Word Perfect or PDF

format to the Clerk of the Court, United States Bankruptcy Court, Alexander Hamilton U.S. Custom House, New York, New York 10004-1408, with a courtesy copy delivered to the Chambers of the Honorable Martin Glenn, and simultaneously served so as to be received no later than **January 23, 2012, at 4:30 p.m.** on that date by: (a) Silverman Acampora LLP, 100 Jericho Quadrangle, Suite 300, Jericho, New York 11754, Attention: Robert D. Nosek, proposed attorneys for the Debtors; (ii) counsel to PMG Media Group, LLC, Halperin, Battaglia & Raicht LLP, 555 Madison Avenue, 9th Floor, New York, New York 10022 (Attn: Donna Lieberman); (iii) counsel to certain of the Noteholders, Davis Wright Tremaine LLP, 1201 Third Avenue, Suite 2200, Seattle, Washington 98101 (Attn: Ragan Powers); counsel for any official creditors' committee appointed in the Debtors' case; and (iv) the United States Trustee, 33 Whitehall Street, 21st Floor, New York, New York 10004 (Attn: Nazar Khodorovsky).

PLEASE TAKE FURTHER NOTICE, that the Debtors are requesting that the Court approve the Auction Procedures in connection with the sale of the Purchased Assets and employed at the Auction, including, but not limited to, the following:

- a. Any initial competing overbid (the "Initial Bid") must provide for a purchase price with a value of at least \$100,000 more than the Purchase Price contained in the APA (the "Minimum Overbid");
- b. In the event that there is bidding after the Minimum Overbid, each successive bid shall be in \$50,000 increments, or such lesser amount as determined by the Debtors and their retained professionals at or prior to the Auction;
- c. All offers must be substantially similar in all material terms to those provided in the APA or upon such other terms and conditions satisfactory to the Debtors and the Bankruptcy Court, with the exception of the purchase price. Bidders may offer all cash offers; and
- d. In the event of the acceptance of an offer for the sale of the Purchased Assets to a third party, upon the closing of that sale, the Debtors will pay to PMG the Break-up Fee from the proceeds of that sale.

PLEASE TAKE FURTHER NOTICE, that any interested party may obtain additional

¹ A copy of the proposed Procedures Order and Bidding Procedures is annexed to the Motion as **Exhibit B**.

information regarding the terms and conditions of the sale of the Purchased Assets by contacting: Silverman Acampora LLP, 100 Jericho Quadrangle, Suite 300, Jericho, New York 11753, (516) 479-6300, Attention: Robert D. Nosek. Interested parties are encouraged to review the Motion which contains further, important information about the proposed Sale and the relief to be requested at the Hearing.

II. THE AUCTION

PLEASE TAKE FURTHER NOTICE, that the Auction is currently scheduled for **MARCH 1, 2012, at 1:00 p.m.** in Judge Glenn's Courtroom, United States Bankruptcy Court, Courtroom 501, Alexander Hamilton U.S. Custom House, New York, New York 10004-1408.

III. HEARING ON SALE OF THE PURCHASED ASSETS

PLEASE TAKE NOTICE, that based upon the Motion, the Debtors will move before the Honorable Martin Glenn United States Bankruptcy Judge, at the United States Bankruptcy Court, Courtroom 501, Alexander Hamilton U.S. Custom House, New York, New York 10004-1408, on **March 7, 2012, at 10:00 a.m.** (the "Sale Hearing"), or as soon thereafter as counsel can be heard, for the issuance and entry of an order (the "Sale Order")² (i) authorizing and approving the terms and conditions of the APA for the sale of the Purchased Assets to PMG, subject to any higher or better offers that may be tendered at the Auction, free and clear of all Encumbrances, with such Encumbrances to attach to the net proceeds of sale in the amount and priority as they currently exist, (ii) authorizing the consummation of the transactions contemplated by the APA; and (iii) granting such other and further relief as is just.

PLEASE TAKE FURTHER NOTICE, that objections to the relief sought in the Motion for approving the APA and the Sale (the "Sale Objections"), if any, shall be in writing, shall conform to the Bankruptcy Rules and Local Bankruptcy Rules, shall specify the name of the objecting party, the nature and amount of any claim or interest held or asserted against the Debtor's estate or property, and state with specificity the basis of the objection, and shall be filed with the Clerk of the Court

through the ECF system to registered users, or by delivering a hard copy and a diskette containing that document in Word, Word Perfect or PDF format to the Clerk of the Court, United States Bankruptcy Court, Alexander Hamilton U.S. Custom House, New York, New York 10004-1408, with a courtesy copy delivered to the Chambers of the Honorable Martin Glenn, and simultaneously served so as to be received no later than **February 29, 2012, at 4:30 p.m.** on that date by: (a) Silverman Acampora LLP, 100 Jericho Quadrangle, Suite 300, Jericho, New York 11754, Attention: Robert D. Nosek, proposed attorneys for the Debtors; (ii) counsel to PMG Media Group, LLC, Halperin, Battaglia & Raicht LLP, 555 Madison Avenue, 9th Floor, New York, New York 10022 (Attn: Donna Lieberman); (iii) counsel to certain of the Noteholders, Davis Wright Tremaine LLP, 1201 Third Avenue, Suite 2200, Seattle, Washington 98101 (Attn: Ragan Powers); counsel for any official creditors' committee appointed in the Debtors' case; and (iv) the United States Trustee, 33 Whitehall Street, 21st Floor, New York, New York 10004 (Attn: Nazar Khodorovsky).

PLEASE TAKE FURTHER NOTICE, that you need not appear at the Procedures Hearing or the Sale Hearing if you do not object to the relief requested in the Motion.

² A copy of the proposed Sale Order is annexed hereto as **Exhibit C**.

PLEASE TAKE FURTHER NOTICE, that the Debtors may extend the deadlines set forth herein, may adjourn the Procedures Hearing and/or the Sale Hearing, and/or may seek adjournment of the Procedures Hearing and/or the Sale Hearing by announcing the adjournment in open court at the Procedures Hearing or the Sale Hearing, or by filing a notice of adjournment on the docket of the Debtors' cases.

Dated: Jericho, New York
January 12, 2012

SILVERMANACAMPORA LLP
Proposed Attorneys for Plum TV, Inc., *et al.*

By: /s/ Adam L. Rosen
Adam L. Rosen
Edward M. Flint
Robert D. Nosek
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UNITED STATES BANKRUPTCY COURT
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Chapter 11

Case No. 12-10017 (MG)
(Jointly Administered)

**AMENDED MOTION FOR ENTRY OF (1) ORDER PURSUANT TO BANKRUPTCY
CODE §§105, 363 AND 365 AUTHORIZING AND APPROVING SALE OF
SUBSTANTIALLY ALL OF DEBTORS' ASSETS TO PMG MEDIA GROUP, LLC
SUBJECT TO HIGHER AND BETTER OFFERS, FREE AND CLEAR OF ALL
LIENS, CLAIMS AND ENCUMBRANCES, EXCEPT FOR PERMITTED
ENCUMBRANCES AND WAIVER OF STAY UNDER BANKRUPTCY RULES 6004
AND 6006, AND (2) ORDER ESTABLISHING SALE PROCEDURES, INCLUDING
APPROVAL OF BREAK-UP FEE, CONTRACT CURE PROCEDURES, AND
SHORTENING NOTICE; AND GRANTING RELATED RELIEF**

Plum TV, Inc., and its debtor subsidiaries and affiliates (collectively, the "Debtors"), as debtors and debtors in possession, by and through their proposed counsel, SilvermanAcampora LLP, hereby submit this motion (the "**Motion**") seeking the entry of orders in accordance with sections 105, 363 and 365 of title 11, United States Code (the "**Bankruptcy Code**"): (a) authorizing and approving the terms and conditions of a certain asset purchase agreement (the "**APA**") for a sale by and between the Debtors, as sellers, and PMG Media Group, LLC (the "**Offeror**"), as buyer, of substantially all of the Debtors' assets, as well as the assumption and assignment certain unexpired leases of non-residential real property and executory contracts (collectively, the "**Assets**"), for \$1,000,000, plus the assumption of approximately \$14 million of

¹ The Debtors include Plum TV, Inc., Plum POP LLC, Hamptons Television, LLC, Vineyard Television, LLC, Vail Television LLC, Aspen Television, LLC, Telluride Television, LLC, Sun Valley Television, LLC, NTV, LLC, and Miami Beach Television, LLC.

secured, convertible notes (the "**Noteholder Secured Debt**") and for other good and valuable consideration (the "**Sale**"), subject to higher and better offers as may be tendered at a public auction (the "**Auction**"), free and clear of all liens, claims, encumbrances, security interests and other restrictions on transfer (collectively, the "**Liens**"), except for the security interests associated with the Noteholder Secured Debt which the Offeror will assume as part of the proposed purchase, with such interests, if any, to attach to the net proceeds of the Sale in the amount and priority as they currently exist; (b) authorizing the consummation of the transactions contemplated in the APA, including the waiver of the stay under Federal Rule of Bankruptcy Procedure 6004 and 6006; (c) approving certain bidding procedures for the Auction; (d) fixing the date for a hearing on the Sale; (e) approving the form, time and scope of notice of the Auction, including the shortening of the noticing periods; and (f) granting related relief, and respectfully represent and set forth as follows:

CASE BACKGROUND AND JURISDICTION

1. On January 3, 2012 (the "**Filing Date**"), the Debtors filed voluntary petitions in this Court. The Debtors will be filing a motion seeking authorization for the joint administration of their related cases.

2. The Debtors are "cross-platform" media companies which operate broadcast television stations in eight targeted luxury markets: (i) Aspen, Vail, and Telluride Colorado; (ii) "The Hamptons" in Long Island, New York; (iii) Martha's Vineyard and Nantucket, Massachusetts; (iv) Miami Beach, Florida; and (v) Sun Valley, Idaho. The Debtors also publish print magazines, operate an interactive website, and broadcast through other electronic media outlets.

3. Additional information about the Debtors' business and the events leading up to the Petition Date can be found in the "Declaration of Thomas W. Scott Under Local Rule 1007-2 in Connection with Chapter 11 Filings and in Support of Certain 'First Day' Motions," dated January 3, 2012 (ECF Doc. No. 5).

4. The Debtors continue to operate their business and manage their property as

debtors in possession pursuant to Bankruptcy Code sections 1107(a) and 1108. To date, no official committee, trustee or examiner has been appointed in the Debtors' cases.

5. An informal committee comprised of certain holders of the Noteholder Secured Debt has been organized and is represented by the firm of Davis Wright Tremaine LLP.

6. The Offeror has agreed to lend up to \$1,000,000 to the Debtors through a debtor-in-possession loan (the "**DIP Loan**"), subject to approval of this Court under Bankruptcy Code section 364. Immediately after the Petition Date, the Debtors' intend to file a motion seeking authorization to borrow the DIP Loan, and to provide customary protection to the Offeror as a lender under Bankruptcy Code section 364.

7. This Court has jurisdiction to hear this motion under 28 U.S.C. §§157(a) and 1334, and the Order of Reference of the United States District Court for the Southern District of New York, dated July 10, 1984 (Ward, Acting C.J.). This is a core proceeding pursuant to 28 U.S.C. §157(b)(2)(A), (N) and (O). The statutory predicate for the relief sought herein is 11 U.S.C. §§105, 363(b) and (f), and 365(a), (b), and (f), and Federal Rules of Bankruptcy Procedure 2002, 6004, and 6006.

THE RELIEF SOUGHT

8. By this Motion, the Debtors seek an order authorizing and approving the Sale, including all of the Debtors' right, title and interest in and to substantially all of the Assets, including the assumption and assignment of certain unexpired leases of non-residential real property and contracts associated with the Debtors' business, to Offeror for the proposed purchase price of \$1,000,000 (the "**Cash Purchase Price**"), plus the assumption of the Noteholder Secured Debt (collectively with the Cash Purchase Price, the "**Purchase Price**"), all as more fully described in the APA, free and clear of Liens, exclusive of the Noteholder Secured Debt, with such Liens, if any, to attach solely to the proceeds of sale, if any, in the same priority and validity as they existed on the Filing Date, in accordance with the terms and conditions of the APA by and between the Debtors and the Offeror, subject to higher and better offers, and granting related relief. (A copy of the APA is annexed hereto as **Exhibit A**).

9. Furthermore, the Debtors seek an order to establish bid and auction procedures, including a break-up fee, as well as notice procedures relating to the Sale.

DEBTORS' BACKGROUND

10. Since 2010, the Debtors have financed their operations through the Noteholder Secured Debt which aggregates approximately \$14 million in principal amount.

11. The Noteholder Secured Debt is secured by a security interest granted by the Debtors in substantially all of the Assets, pursuant to a certain (i) Securities Purchase Agreement, dated August 10, 2010, as amended and restated, (ii) several Master Security Agreements, dated August 10, 2010, between Plum TV, Inc. and Harrison Bubrosky as administrative and collateral agent, and (iii) an Intellectual Property Security Agreement, dated February 26, 2010, between Plum TV, Inc. and Harrison Bubrosky as administrative and collateral agent. On or about December 16, 2011, Mr. Bubrosky resigned as administrative and collateral agent under the Notes.

12. The two members of the Debtors' Board of Directors, Thomas Scott and Jeffrey Stewart, are, directly or indirectly, holders of the Noteholder Secured Debt. Mr. Stewart also is the Secretary of Plum TV, Inc. and Mr. Scott is the Chairman of the Board. Thus, both Mr. Stewart and Mr. Scott have an inherent conflict of interest with respect to the Sale process.

13. In order to address that inherent conflict, and make sure that the Sale process is independent and fair, in December 2011, the Debtors hired Scott Williams of Scott Williams & Company LLC ("**Mr. Williams**") to supervise and ensure the independent integrity of the proposed Sale of the Debtors' Assets under Bankruptcy Code section 363. Mr. Williams will act independently of the holders of the Noteholder Secured Debt and any bidder for the Assets. Mr. Williams shall communicate directly with counsel to the Debtors, bidders for the Assets, and any Committee appointed in the Debtors' chapter 11 cases, and their respective consultants and professionals regarding the progress of the Debtors' cases and the progress of the Sale and will share financial and due diligence information with them, subject to appropriate confidentiality and privilege restrictions. Mr. Williams is not a holder of Noteholder Secured Debt, and he is

not related directly or indirectly to any holder Noteholder Secured Debt, creditor or their affiliate.

14. The Debtor's believe that the sale process with respect to the Assets can proceed independently and fairly if Mr. Williams oversees the process.

The Decline in the Debtors' Business

15. Over the past two years, the Debtors' business has sustained significant losses and has been subject to serious liquidity constraints. In light of these challenges, the Debtors have not been able to obtain institutional financing or further capital through private equity or further debt financing.

16. The Debtors approached the holders of the Noteholder Secured Debt and requested additional funding under a debtor-in-possession loan and such holders have declined to advance any further funds. In addition, the Debtors attempted to obtain loans from other sources and have been unable to do so. The Debtors believe that the holders of the Noteholder Secured Debt have agreed to permit the Debtors to use cash collateral and have consented to the adequate protection liens afforded under the proposed DIP Loan.

17. In response to these challenges, the Debtors have substantially reduced their expenses and attempted to restructure their finances. During that time period, the Debtors have also spent a significant amount of time and effort seeking to identify and solicit potential investors, lenders, strategic partners and purchasers for the Debtors' businesses or assets. The Debtors had discussions with several potential investors and buyers who are active in and interested in media companies and investments. Several of those parties entered into confidentiality agreements with the Debtors.

Proposed Sale to PMG Media Group, LLC

18. Prior to the Petition Date, the Debtors entered into the APA with Offeror which provides for the sale of substantially all of the Debtors' Assets under Bankruptcy Code section 363, subject to higher and better offers and free and clear of the Liens. The terms of the APA were extensively negotiated prior to the Petition Date.

19. The Purchase Price under the APA is \$1 million, plus the assumption of the

Debtors' obligations under the Noteholder Secured Debt.

20. The Debtors do not have the liquidity or the access to additional capital which would be necessary to continue to operate their business for an extended period of time. Therefore, the Debtors seek to immediately sell the Assets through a Court-approved auction sale. The Debtors have determined that borrowing the DIP Loan and entering into the APA are in the Debtors' best interests and the best interests of secured and unsecured creditors. By orders entered by the Court on January 10, 2012, the Debtor has been authorized, on an interim basis, to borrow up to \$250,000 under the DIP Loan and to use the cash collateral of the Secured Note Holders.

THE PROPOSED ASSET PURCHASE AGREEMENT

21. The Debtors and the Offeror have concluded the negotiation of the APA, substantially in the form annexed hereto as Exhibit A. The parties have reached agreement on the most salient terms, and are expected to execute the APA prior to the hearing on the Sale Procedures (defined below). A fully executed APA will be filed in advance of the Bid Deadline (defined below) and will be available for review by prospective bidders.

Assets to be Acquired

22. Under Bankruptcy Codes sections 105, 363(b), (f), and (m) and 365(b)(1) and (f) and Bankruptcy Rules 6004 and 6006, the Offeror will purchase the Assets, including:

- (a) Cash (exclusive of the Cash Purchase Price) and cash equivalents of the Sellers;
- (b) Inventory, supplies, work-in-progress, finished goods, material and stock in trade used in or held for sale;
- (c) tangible personal property owned, related to, or used or useful in or held for use in the conduct of, the Sellers' Business, including, but not limited to, the physical assets and equipment, machinery, tools, supplies, parts, vehicles, furniture, fixtures, computer software, leasehold improvements, office materials and supplies, and other tangible personal property;
- (d) Accounts receivable;

- (e) Rights and interests in certain contracts, leases and licenses, including certain barter agreements, identified in Schedule 1(ii)(v) to the APA, which schedule may be amended by the Buyer at any time prior to entry of the Approval Order (each, an "**Assumed Contract**", and collectively, the "**Assumed Contracts**"), to be assumed and assigned to Buyer in Buyer's sole and absolute discretion, including, without limitation, pre-paid expenses, credits, security deposits, escrows, deferred charges and the like relating to the Assumed Contracts;
- (f) Personal property used in or held for business, including, without limitation, furniture, fixtures, equipment, and computers;
- (g) Telephone and fax numbers, names under which the Sellers do business and/or are known in their markets, email addresses, websites, literature, photographic material, packaging materials, catalogs, customer lists², designs, formulas, performance and test result records, software, patterns, specifications, drawings and blueprints, domain names, and service marks, and tradestyles, stationery, forms, labels, shipping material, the sales and promotional literature, catalogs, brochures, art work, photographs, advertising material, customer lists and other sales related materials related to the Business;
- (h) All Intellectual Property and Intellectual property rights, including but not limited to the Intellectual Property identified in Schedule 1(ii)(viii) to the APA;
- (i) Books and records relating to the Assets and/or the conduct of the Sellers' Business, all files, operating data, books of account, general, financial and tax (other than income tax) records, invoices, shipping records, supplier lists, price lists, vendor lists, mailing lists, catalogs, sales promotion literature, advertising materials, brochures, standard forms of documents, manuals of operations or business procedures, research materials, contracts, instruments, filings, administrative and pricing manuals, correspondence, memoranda, plats, architectural plans, surveys, title insurance policies, drawings, plans and specifications, environmental reports, maintenance or service records, engineering reports, expired purchase orders, operating records, operating safety manuals, and other material and documents, books (including applicable portions of minute books), records and files (whether or not in the possession of any of the Sellers stored in hardcopy form or on magnetic, optical or other media) and any rights thereto owned, associated with or employed by any of the

² As part of the Debtors' business it offers emailed newsletters specific to the various locations in which the Debtors broadcast and operate, with the only information collected consisting of the name and e-mail address for the person that wants to join a specific e-mail list. The Debtor does have a privacy policy, and the Debtor is still reviewing this issue. To the extent a consumer privacy ombudsman is necessary, the Debtors will request that one be appointed, with that appointment to occur no later than ten (10) days prior to the Sale Hearing.

Sellers in the conduct of the Business or otherwise related to the Assets;

- (j) Unfilled orders placed with the Sellers and payments due to Sellers thereunder;
- (k) Inventory purchase orders and unpaid for finished goods or services;
- (l) Rights under warranties, representations and guarantees;
- (m) All Business-related claims and causes of action;
- (n) All video assets of the Sellers, including but not limited to the complete contents of the Sellers' video libraries and all videos produced by the Sellers or by vendors on behalf of the Sellers;
- (o) All rights and benefits accruing under licenses, permits, registrations, variances, interim permits, permit applications, certificates, approvals, authorizations, publications, declarations, notices, waivers and authorizations, of or with any Governmental Authority held, used or made by any of the Sellers, to the extent transferable under applicable law;
- (p) Goodwill, including rights under any confidentiality agreements executed by any third party for the benefit of any of the Sellers to the extent relating to the Sellers' Business; and
- (q) Any other assets that are not specifically identified by Buyer as Excluded Assets³, in Buyer's sole and absolute discretion.

Purchase Price

23. The Offeror shall acquire the Assets for a purchase price, as described in the APA, for \$1,000,000, plus the assumption of the Noteholder Secured Debt of approximately \$14,000,000. It is contemplated that the Offeror will loan the Debtors the DIP Loan which will fund the Debtors' operations until a closing on the Sale. The Cash Purchase Price will be adjusted at the Closing and will be equal to \$1,000,000, less any amounts borrowed by the Debtors under the DIP Loan that remains unpaid as of the closing of the Sale.

24. If the Offeror is the successful bidder at the Sale, then the Offeror intends to

³ "Excluded Assets" is defined under the APA as those assets not included in the Assets, including: (a) all rights of the Debtors under and pursuant to the APA and other documents executed in connection with that transaction; (b) the corporate minute books of the Debtors; (c) all rights, claims and causes of action of the Debtors under chapter 5 of the Bankruptcy Code; (d) all leases and other contracts of the Debtors that are not Assumed Contracts; and (e) the adjusted Cash Purchase Price. See APA, Article I(u).

enter into an agreement with the holders of the Noteholder Secured Debt which will provide for the assumption of the Noteholder Secured Debt in exchange of a 30% interest in the Offeror, or its designee or affiliate⁴.

25. The Debtors will use a portion of the proceeds of the adjusted Cash Purchase Price for curing monetary defaults, if any, under any and all of the Assumed Contracts.

Bid Protections and Break-Up Fee

26. The APA also provides for certain bidding procedures in addition to a termination fee. A copy of the proposed order reflecting the Sale Procedures is annexed to this Motion as **Exhibit B**. As part of this Motion, the Debtors ask the Court to approve the Sale Procedures, and make them applicable to all persons or entities that would like to submit a bid for the Assets at the Auction; which are summarized as follows (the "**Sale Procedures**"): ⁵

- (a) The Assets will be offered for sale in bulk, as provided for under the APA.
- (b) To be a qualified bidder (each, a "**Qualified Bidder**", and collectively, the "**Qualified Bidders**"), an individual or entity must submit to counsel for the Debtors and the Committee, if one is formed, no later than two (2) business days prior to the Auction (the "**Bid Deadline**"); a competing offer (the "**Competing Offer**") that (i) shall include a Purchase Price of at least \$100,000.00 more than the Purchase Price as provided for in the APA; (ii) shall include terms and conditions substantially similar to the terms and conditions of the APA; (iii) shall include a signed agreement agreeing to be bound by the terms and conditions of the APA and the Noteholder Surrender Agreement; (iv) shall not be contingent upon the receipt of financing necessary to its consummation, and shall have demonstrated evidence of the Competing Offer offeror's ability to conclude the transaction upon the terms and conditions of the APA, without delay; (v) shall not be conditioned upon the outcome of unperformed due diligence by the Competing Offer offeror; (vi) the Competing Offer offeror shall provide, at or before the Sale Hearing, a certified

⁴ The agreement between the Offeror and the holders of the Noteholder Secured Debt is subject to the negotiation and documentation of a definitive agreement.

⁵ Any potential purchaser will be required to execute a confidentiality agreement, and provide the Debtors with its financial qualifications and such other information as the Debtors may reasonably request no later than two (2) business days prior to the Bid Deadline.

check made payable to Silverman Acampora, LLP as Attorneys for the Sellers, in the sum of \$110,000.00 as a down payment (the "**Bid Deposit**"); and (vii) in the case of any subsequent competing offer ("**Subsequent Competing Offer**") received from any party, which may, include, without limitation, Offeror or the offeror of a Competing Offer (after a prior Competing Offer has been received) which satisfies the conditions set forth above, shall provide for an aggregate consideration at least \$50,000.00 in excess of that provided by the prior better offer and shall otherwise comply with all conditions of the APA.

- (c) Only Qualified Bidders will be permitted to bid for the Assets; upon execution of the APA, the Offeror will be deemed to have satisfied all requirements to be a Qualified Bidder;
- (d) The full amount of the Bid Deposit required herein will be payable by bank check or wire transfer of immediately available funds to be deposited with Debtors' counsel (SilvermanAcampora LLP), and will be nonrefundable in the event that the bid is approved by the Bankruptcy Court as the highest and best bid for the Assets. The Bid Deposit from the successful bidder will be applied as a credit against the purchase price paid by the successful bidder. At the conclusion of the Auction and upon approval by the Court of the winning bid, all Bid Deposits made by bidders other than the successful bidder will be returned promptly;
- (e) Bids at the Auction must be all cash, without financing or other contingencies. To the extent a Qualified Bidder intends to bid on executory contracts or unexpired leases, the Qualified Bidder will be required to provide evidence of its ability to provide adequate assurance of future performance, and the bid must be of a sufficient amount of cash proceeds so that the Debtors can cure any existing defaults under such contract and/or leases, if any;
- (f) The initial over bid shall be no less than \$100,000 more than the unadjusted Cash Purchase Price, plus assumption of the Noteholder Secured Debt (the "**Minimum Overbid**");
- (g) Following the Minimum Overbid, all subsequent bids must be in cash increments of not less than fifty thousand (\$50,000.00) dollars over the prior bid on bids;
- (h) The Assets will be sold to the Qualified Bidder submitting the highest or best bid, subject to the reasonable business judgment of the Debtors after consultation with Williams and committee of unsecured creditor, if any;
- (i) The successful bidder must be prepared to close the purchase

no later than April 1, 2012; and

- (j) If a successful Qualified Bidder fails to close the purchase in accordance with the terms herein, it will forfeit its Bid Deposit, and the Assets will be sold to the bidder submitting the next highest bid (as approved by the Court at the Sale Hearing).

27. Moreover, the APA provides that, in the event the Offeror is not the successful bidder at the Auction, the Offeror shall be entitled to a termination fee equal to three (3%) percent of the final Cash Purchase Price, plus reimbursement of the Offeror's reasonable expenses incurred in connection with its evaluation, consideration and negotiation of a possible transaction with the Debtors and in connection with the transactions contemplated in the APA (collectively, the "**Break-up Fee**").

28. The APA also provides that in lieu of a Bid Deposit from the Offeror it will be subject to a liquidated damages provision in the APA in the amount of the lesser of \$100,000 or the outstanding unpaid balance of the DIP Loan.

29. All parties-in-interest are urged to read the APA, including the Sale Procedures, in its entirety for a complete description of all of the terms and conditions of the Debtors' proposed sale of the Assets to the Offeror.

THE BID OF ANY BIDDER FAILING TO COMPLY WITH THE ABOVE REQUIREMENTS MAY NOT BE CONSIDERED.

Assumption and Assignment of Executory Contracts and Unexpired Leases

30. To facilitate and effectuate the sale of their Assets, the Debtors also seek authority to assume and assign certain unexpired real property leases and executory contracts comprised of the Assumed Contracts to the purchaser of the Assets. The Offeror has already identified which of the Assumed Contracts it desires to assume on Schedules to the APA. As such, the Debtors further seek authority to establish a process (the "**Assignment Procedures**") to: (i) determine the amount of any cure obligations, if any, necessary to be paid in accordance with Bankruptcy Code section 365 for those Assumed Contracts that will be assumed, and (ii)

establish objection procedures for the counterparties to the Assumed Contracts proposed to be assumed and assigned. The proposed Assignment Procedures are as follows:

(a) Notice of Assignment Procedures. Within five (5) days after entry of an order approving the Sale Procedures, the Debtors will file a proposed assignment schedule (the "**Proposed Assignment Schedule**") with the Court and serve such Proposed Assignment Schedule by overnight delivery on the non-debtor counterparties to those Assumed Contracts. The Proposed Assignment Schedule will include (i) the title of the Assumed Contract to be potentially be assumed; (ii) the name of the counterparty to the Assumed Contract; (iii) any applicable cure amounts; (iv) the deadline by which any such Lease or Assumed Contract counterparty must object; and (v) if known, the name of the proposed assignee.

(b) Objection to Assumption and/or Assignment of Assumed Contracts and/or Cure Procedures. Any objections to the assumption and/or assignment of any Assumed Contract identified on the Proposed Assignment Schedule, including to the cure amount set forth on such schedule, must be in writing, filed with the Court, and be actually received by counsel to the Debtors no later than fourteen (14) days after the Proposed Assignment Schedule is mailed to the affected party (the "**Assignment and Cure Objection Deadline**").

(c) Resolution of Objections. If no objections are received by the Assignment and Cure Objection Deadline, then the assumption and assignment are authorized and the cure amounts set forth in the Proposed Assignment Schedule shall be binding upon the non-debtor party to the Assumed Contract for all purposes and will constitute a final determination of total cure amounts required to be paid by the Debtors in connection with the assignment to the successful Bidder. In addition, each non-debtor party to such unexpired Assumed Contract shall be forever barred from objecting to the cure information set forth in the Proposed Assignment Schedule, including, without limitation, the right to assert any additional cure or other amounts with respect to the Assumed Contract arising or relating to any period prior to such assumption or assignment. If no objections to the assumption or assignment are received by the Assignment and Cure Objection Deadline, counsel for the Debtors may submit to the Court a certificate of no objection and a form of order (collectively, the "**Certificate of No Objection**") granting the requested assumption and/or assignment of the Assumed Contract, and serve such Certificate of No Objection on the counterparty to the Assumed Contract. The order approving such assumption and/or assignment may then be entered by the Court twenty-four (24) hours after the Certificate of No Objection is filed.

(d) If a timely objection is received and such objection cannot otherwise be resolved by the parties, the Court may hear such objection at the hearing to approve the Sale, if the Proposed Assignment Schedule is served at least twenty-four (24) days prior thereto, or any later date set by the Court. The pendency of a dispute relating to cure amounts will not prevent or delay the assumption and assignment of any Assumed Contracts. If an objection is filed only with respect to the cure amount listed on the Proposed Assignment Schedule, the Debtors may file a Certificate of No Objection as to assumption and assignment *only* and the dispute with respect to the cure amount will be resolved consensually, if possible, or, if the parties are unable to resolve their dispute, before the Court. The Debtors intend to cooperate with the counterparties to Assumed Contracts to attempt to reconcile any difference in a particular cure amount.

At this time, the Offeror seeks under the APA to take an assignment of approximately thirty-one (31) unexpired non-residential real property leases and executory contracts.

DEBTORS' MARKETING EFFORTS

31. Prior to the Filing Date, the Debtors were contacted by approximately twenty-three (23) separate parties inquiring about purchasing some or all of the assets of the Debtors (the "**Interested Parties**"). Of those parties, ten (10) executed non-disclosure agreements and received access to the Debtors' due diligence materials. The Offeror was one of those parties from the later group. The APA is a result of those efforts. The Debtors also received a letter of intent from another party from that later group for the same group of Assets as proposed to be sold under the APA, but the parties could not reach agreement on material terms.

32. The Debtors are maintaining a physical and virtual data room that can be accessed by interested parties that enter into a non-disclosure agreement with the Debtors. The Debtors also received a press release on or about the Filing Date that included information about the sale of the Assets which was picked up by a number of unrelated media outlets. That effort alone has already generated significant interest in the Sale, including the Debtor entering into two new non-disclosure agreements with interested parties. The Debtors also propose to place at least one advertisement for the Auction in a national newspaper published at least two weeks prior to the Auction.

33. The Debtors and their professionals have reviewed the available records and

information regarding the Assets, and the marketability of those assets. Based, in part, on those discussions, the Debtors in their business judgment have determined that a sale of the Assets under Bankruptcy Code section 363 free and clear of all liens, claims and encumbrances to the Offeror at a public sale, subject to higher or better offers, is in the best interests of the parties, the Debtors' estates and their respective creditors, and would provide the most effective and economic mechanism for maximizing the value of the Assets to be sold.

34. The proposed APA represents the culmination of negotiations between the Debtors and the Offeror. The Debtors have accepted the Offeror's offer, subject to that offer being made subject to higher or better offers, and subject to this Court's approval. The Debtors and the Offeror have engaged in good faith negotiations which have resulted in the tendering of the offer by the Offeror as reflected in the APA. The Debtors submit that the terms and conditions contained in the APA reflect the highest and best offer received to date for the Assets.

STATUTORY PREDICATE FOR RELIEF REQUESTED

Sales Outside the Ordinary Course of Business

35. Bankruptcy Code section 363(b) and Bankruptcy Rule 6004 govern the sale of assets outside of the ordinary course of a Debtor's business.

36. Bankruptcy Code section 363(b)(1) provides that "the [debtor in possession]⁶, after notice and hearing, may use, sell, or lease, other than in the ordinary course of business, property of the estate."⁷ The terms of such sale are generally within the sound discretion of the

⁶ In accordance with Bankruptcy Code §1107(a), a debtor in possession has substantially the same powers as provided a trustee under this section.

⁷ Section 363 of the Bankruptcy Code provides, in relevant part, as follows:

(b) (1) The trustee, after notice and a hearing, may use, sell, or lease, other than in the ordinary course of business, property of the estate.

(f) The trustee may sell property under subsection (b) or (c) of this section free and clear of any interest in such property of an entity other than the estate, only if

(1) applicable nonbankruptcy law permits sale of such property free and clear of such interest;

(2) such entity consents;

debtor in possession. See *In re Ionosphere Clubs, Inc.*, 100 B.R. 670 (Bankr. S.D.N.Y. 1989) (sale of Debtor's airline shuttle assets approved where representing the exercise of independent good faith and non-coerced business judgment by the Debtor, the Debtor articulated a compelling business reason for the sale and the price represented fair value). As recognized by the Second Circuit in *In re Lionel Corp.*, 722 F.2d 1063, (2d Cir. 1983), a court may approve a Bankruptcy Code §363 application after expressly determining from the evidence presented at the hearing, that a good business reason exists to grant such application.

Sale of the Assets by Public Sale

37. In accordance with Bankruptcy Rule 6004(f)(1), sales of property outside of the ordinary course of business may be by private sale or by public auction. The Debtors have determined that the sale of the Assets by public auction under the terms and conditions of the APA, subject to higher and better offers, will enable them to determine the highest or best offers for those assets, thus maximizing the value for the benefit of the Debtors' respective creditors and estates.

Bidding Procedures

38. The Debtors submit that the proposed Sale Procedures for the Auction are appropriate, reasonable, and necessary, and will enable them to realize the maximum value from the Assets for as many of the classes of creditors as possible. Therefore, it is in the best interests of the Debtors' estates and their creditors to proceed with a sale.

39. Good cause exists to approve the proposed Sale Procedures. Together these

(3) such interest is a lien and the price at which such property is to be sold is greater than the aggregate value of all liens on such property;

(5) such entity could be compelled, in a legal or equitable proceeding to accept a money satisfaction of such interest.

See 11 U.S.C. § 363 (b)(1) and (f).

Although Bankruptcy Code section 363 does not set forth a standard for determining when it is appropriate for a court to authorize the sale or disposition of a debtor's assets, the Second Circuit, in applying this section, has required that it be based upon the sound business judgment of the debtor in possession. See *Committee of Equity Security Holders v. Lionel Corp.* (*In re Lionel Corp.*, 722 F.2d 1063, 1071 (2d Cir. 1983); see also *In re Chateaugay Corp.*, 973 F.2d 141 (2d Cir. 1993); *In re Thomson McKinnon Securities, Inc.*, 120 B.R. 301 (Bankr. S.D.N.Y. 1990).

procedures are a composite of various procedures resulting from good faith negotiations between the Debtors and the Offeror with the goal of maximizing value through open access to the bidding process. Thus, the proposed Sale Procedures will promote competitive bidding, streamline the Auction, and ensure that bidders have the financial ability to purchase the Assets, all of which will enable the Debtors to realize the maximum value from the sale of the Assets.

Break-up Fee

40. In addition, the Break-up Fee is an incentive for the Offeror to proceed with the sale transaction thereby enabling the Debtors to realize maximum value from the Assets. Accordingly, the Court "should uphold the [Break-up] Fee which is not tainted by self-dealing and was the product of arm's-length negotiations." *In re Integrated Resources, Inc.*, 147 B.R. 650, 658 (S.D.N.Y. 1992), *appeal dismissed*, 3 F.3d 49 (2d Cir. 1993); *In re 995 Fifth Ave. Assoc., L.P.*, 96 B.R. 24, 28 (Bankr. S.D.N.Y. 1989). In the instant case, the Termination Fee is (a) the result of good faith negotiations between the Debtors and the Offeror; (b) reasonable in light of the time, cost and expense expended by Offeror; and (d) fair and reasonable in light of all of the circumstances of this case.

41. As discussed above, the Assets have been offered for sale to multiple parties by the Debtors themselves for the past several months. The Debtors propose that notice of their intent to sell the Assets be provided to the Service Parties (as defined below), which shall include, but not be limited to all parties previously expressing an interest in acquiring the Assets; and all other parties which the Debtors and Mr. Williams deem to provide notice to, is sufficient under these circumstances to establish the highest and best value of the Assets. The Debtors further propose that all competing offers be submitted to their bankruptcy counsel, SilvermanAcampora, LLP, which shall share those offers with the Debtors, Williams, counsel to the Offeror, and the Official Committee of Unsecured Creditors, if any, no less than forty-eight (48) hours prior to the Auction.

Sale of the Assets Free and Clear of Liens

42. Bankruptcy Code section 363 permits the sale of assets, free and clear of any interest in such property of an entity if: (a) applicable State law will permit the sale; (b) such entity consents; (c) the price at which the property is being sold exceeds the Liens; (d) the security interest in the assets is disputed; or (e) the entity with an interest in the asset being sold could be compelled in a legal or equitable proceeding to accept a money satisfaction of their interest in and to the property. See 11 U.S.C. §363(f).

43. A substantial amount of the Assets being sold to the Offeror under the APA are security for the Noteholder Secured Debt. Consent to the Sale by the holders of the Noteholder Secured Debt is a requirement under the APA. Additionally, other offers that are received during the Auction process may be of sufficient value to satisfy the liens collateralizing the Noteholder Secured Debt. Regardless, the Debtors believe that they will be able to satisfy the requirements of Bankruptcy Code section 363(f) prior to the Sale Hearing.

44. The Debtors have assessed the value of the Assets and have determined that the most beneficial liquidation of those assets is through the Auction under Bankruptcy Code section 363 and Bankruptcy Rule 6004. Thus far, the APA represents the highest and best offer received for the Assets by the Debtors that would be fair and equitable to all of the Debtors' creditors and which both the Debtors and the Offeror have agreed to, subject to approval by this Court. The Debtors further submit that the Purchase Price for the Assets represents fair value.

45. As set forth above, the Debtors respectfully submit that compelling business justification exists for the approval of the Motion. Accordingly, the Debtors respectfully request that the Court authorize and approve the Sale set forth in and contemplated by the APA, this Motion, and the Sale Procedures described herein.

46. Consequently, the Debtors submit that the foregoing standard pursuant to Bankruptcy Code section 363 has been satisfied in the instant matter, and respectfully requests the Court authorize and approve the sale of the Assets at this time. Accordingly, the Debtors

request that the Court authorize the sale of the Assets to the Offeror, or such other party that submits a higher or better offer at the Auction.

Assumption and Assignment of Executory Contracts

47. Section 365 of the Bankruptcy Code states, in relevant part, that ". . . the trustee, subject to the court's approval, may assume or reject any executory contract or unexpired lease of the debtor."⁸ See 11 U.S.C. § 365(a). The ability to assume or reject an executory contract allows a debtor-in-possession to examine its executory contracts and "decide which ones it would be beneficial to adhere to and which ones it would be beneficial to reject." See *Orion Pictures Corporation v. Showtime Networks, Inc. (In re Orion Pictures Corp.)*, 4 F.3d 1095, 1098 (2d Cir. 1993). This decision involves the debtor-in-possession's "business judgment," which, in essence, determines whether "assuming the contract would be a good business decision or a bad one." See *id.* at 1099.

48. Section 365 also provides in relevant part that:

"If there has been a default in an executory contract or unexpired lease of the debtor, the [debtor-in-possession] may not assume such contract or lease unless, at the time of assumption of such contract or lease, the [debtor in possession]

—
(A) cures, or provides adequate assurance that the [debtor in possession] will promptly cure, such default;

(B) compensates, or provides adequate assurance that the [debtor in possession] will promptly compensate, a party other than the debtor to such contract or lease, for any actual pecuniary loss to such party resulting from such default; and

(C) provides adequate assurance of future performance under such contract or lease."

See 11 U.S.C. § 365(b)(1).

49. The Debtors believe that the assumption and assignment of some or all of the Debtors' Assumed Contracts as part of the Sale is in the best interest of the Debtors, their

⁸ In accordance with Bankruptcy Code § 1107(a), a debtor-in-possession has the same powers as a trustee.

respective estates, and all of their respective creditors. Approval of the assumption and assignment of the Assumed Contracts will permit the Debtors to include those agreements in its sale to the Offeror because, upon information and belief, the Offeror's offer is predicated on the inclusion of those agreements in the Sale and are critical to the implementation and ongoing operation of the Assets in the marketplace.

50. Thus, the Debtors have concluded in their business judgment that the assumption and assignment of the Assumed Contracts yield the best result for the estates. Accordingly, the assumption of the Assumed Contracts by the Debtors and assignment to the Offeror under the APA clearly constitutes a rational and responsible return based on the circumstances.

51. Furthermore, pursuant to Bankruptcy Code section 365(f), and with Court approval, a debtor in possession may assign unexpired executory contracts to third parties if the requirements of Bankruptcy Code section 365(f)(2) are satisfied. Bankruptcy Code section 365(f)(2) provides that a trustee may assign an unexpired executory contract only if (i) the debtor in possession assumes the contract or lease in accordance with Bankruptcy Code sections 365(a) and (b), and (ii) adequate assurance of future performance by the assignee of the contract is provided. Concerning adequate assurance of future performance, the Debtors are providing the parties to any such Assumed Contracts with notice and an opportunity to object, as well as adequate assurance. Additionally, the Assignment Procedures will ensure that all parties against whom relief is sought will have ample notice of such relief and an opportunity to contest any asserted cure amount, as well as the adequacy of the adequate assurance provided.

52. The Debtors submit that the hereinabove referenced case law provides ample authority for the approval of the Sale and the Sale Procedures.

53. The terms of the APA were negotiated by and between the Debtors and the Offeror in good faith, and the Debtors accordingly request that the Bankruptcy Court determine

the Offeror to be acting in good faith and entitled to the protections of a good faith purchaser under Bankruptcy Code section 363(m) in the event it is subsequently determined to be the highest or best offer at the conclusion of the private sale process. Throughout the entire process of negotiating the APA, the Debtors and the Offeror have been represented, respectively, by separate counsel. Thus, the sale transaction proposed hereunder represents substantial value to the Debtors' estate as it provides favorable terms for the disposition of the Assets, at a price that represents fair and reasonable consideration particularly under the prevailing circumstances.

54. Based upon the foregoing, the Debtors submit that the sale of the Assets as outlined herein to the person or entity making the highest or best offer(s) therefor, is an exercise of sound business judgment, is in the best interests of the Debtors, their respective estates, and their respective creditors, and should be approved in all respects.

Waiver of 14-Day Stays Under Rules 6004(h) and 6006(d)

55. Bankruptcy Rule 6004(h) (formerly Rule 6004(g)), provides that, unless the court orders otherwise, all orders authorizing the sale of property pursuant to Bankruptcy Code section 363 are automatically stayed for 14 days after entry of the order. Fed. R. Bankr. P. 6004(h). The purpose of Bankruptcy Rule 6004(h) is to provide sufficient time for an objecting party to appeal before the order is implemented. See Advisory Committee Notes to Fed. R. Bankr. P. 6004(h). Similarly, Bankruptcy Rule 6006(d) stays all orders authorizing a debtor to assign an executory contract or unexpired lease pursuant to Bankruptcy Code section 365(f) for 14 days, unless the court orders otherwise. Fed. R. Bankr. P. 6006(d).

56. Given the circumstances of this case, including accruing liabilities to the Debtors' administrative creditors, as well as a recognized need for any acquirer of the Assets to continue the "Plum" brand in the marketplace, the Debtors believe that the proposed Sale must be closed as soon as possible but in no event later than April 1, 2012. Notwithstanding that outside closing date in the APA, the proposed transaction should be closed as soon as possible.

Consequently, in order to close the Sale in as expeditious time as possible, any order approving the Sale Motion should be effective immediately by providing that the 14-day stays under Bankruptcy Rules 6004(h) and 6006(d) are waived.

NOTICE PROCEDURES

57. Pursuant to Bankruptcy Rules 2002(a)(2), 6004(a) and (c) and 9006(c)(1), the Debtors are providing a copy of this Motion, with exhibits, and notice of the hearing on the proposed Sale Procedures, on seventeen (17) days notice by regular mail to (a) counsel to the Committee of Unsecured Creditors, if any, or, if none, the Debtor's twenty largest unsecured, non-insider creditors; (b) all parties having filed notices of appearance in the Debtor's cases as of the filing of this Application; (c) the Office of the United States Trustee; (d) counsel to the Offeror; (e) counsel to the unofficial committee of certain secured noteholders of the Debtors; and (f) the Interested Parties (collectively, the "Special Service Parties"), as well as all known creditors that were scheduled by the Debtors and all filed proofs of claim in the Debtors' cases as well as all governmental units required to be served by applicable statutes or rules, and substantially more than twenty four (24) days notice of the Auction and Sale Hearing.

58. Additionally, the Debtors will provide, on a rolling basis, notice to all parties that express an interest in acquiring some or all of the Assets in the future; and all other parties which the Debtors deem in its sole discretion to provide notice to.

59. The Debtors submit, with regard to the proposed Sale Procedures the notice to be given is reasonable under the circumstances of this case. The proposed Notice, if granted, will provide sufficient time for interested parties to weigh in on the requested Sale Procedures, including any official committee of unsecured creditors, if one is appointed. In particular the Debtors are seeking to limit the incurrence of administrative expenses and permit an expedient transition of the assets so that its participation in the marketplace is not interrupted.

60. The Debtors submit that notice, as described above, of the hearings on the Application to the Sale Procedures and the proposed Auction is authorized pursuant to

Bankruptcy Code sections 102, 105 and 363 and Bankruptcy Rules 2002, 6004, and 9006 and constitutes good and sufficient notice of the relief requested by this Motion.

61. The Debtors respectfully submit that service in accordance with the above is sufficient under the circumstances of these cases. The Debtors submit that the time afforded for such notice is reasonable and permissible pursuant to Bankruptcy Code sections 102, 105, 363(b), (f), and (m) and Bankruptcy Rules 2002, 6004, 9006, 9007 and 9008.

CONCLUSION

62. This Motion cites and discusses applicable legal authority and raises no novel issues of law. Thus, it is respectfully submitted that a separate memorandum of law is not necessary in this case under Local Rule 9013-1(b).

63. No previous application for the relief requested herein has been made to this or any other Court.

WHEREFORE, the Debtors respectfully request that this Court grant the Debtors' Motion and enter the proposed Sale Order, a form of which is annexed hereto as **Exhibit C**: (i) authorizing and approving the Debtors' proposed sale of the Assets to the Offeror for the Purchase Price, consistent with the terms of the APA, subject to higher or better offers as may be tendered at the Auction, free and clear of all Liens, with such Liens, if any, to attach to the net proceeds of sale in the amount and priority as they currently exist, (ii) authorizing the consummation of the transactions contemplated therein, and (iii) granting related relief; and enter the proposed order approving the Sale Procedures, a form of which is incorporated into **Exhibit B** annexed hereto: (1) approving certain bidding procedures for the Auction, (2) approving a Break-Up Fee to the Offeror, (3) fixing the date for a hearing on the Sale, (4) approving the form, time and scope of notice of the Auction, and (5) granting related relief, and for such other, further and different relief as this Court deems just and proper.

Dated: Jericho, New York
January 12, 2012

SILVERMANACAMPORA LLP
Proposed Attorneys for Plum TV, Inc., *et al.*

By: /s/ Adam L. Rosen

Adam L. Rosen

A Member of the Firm
100 Jericho Quadrangle - Suite 300
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EXHIBIT A

ASSET PURCHASE AND SALE AGREEMENT

THIS AGREEMENT ("Agreement"), entered into as of the ____ day of January 2012, by and between (i) Plum TV, Inc., Plum POP LLC, Hamptons Television, LLC, Vineyard Television, LLC, Vail Television LLC, Aspen Television, LLC, Telluride Television, LLC, Sun Valley Television, LLC, NTV, LLC, and Miami Beach Television, LLC, debtors and debtors-in-possession pursuant to 11 U.S.C. § 101 *et seq.* (collectively, the "Debtors" or "Sellers"), and having an address at 555 Washington Avenue, Miami Florida 33139, and (ii) PMG Media Group, LLC ("PMG"), a Delaware limited liability company having an address at 1 Finney Knoll Lane, Riverside, Connecticut 06878.

RECITALS

WHEREAS, the Sellers are affiliated media companies that operate broadcast television stations in the markets of (i) Aspen, Vail, and Telluride, Colorado, (ii) "The Hamptons" in New York, (iii) Martha's Vineyard and Nantucket, Massachusetts, (iv) Miami Beach, Florida, and (v) Sun Valley, Idaho. The Debtors also publish high-end print magazines, and operate an interactive website and broadcasting through other electronic media outlets;

WHEREAS, the Sellers intend to file voluntary petitions for relief under chapter 11 of Title 11, United States Code (the "Bankruptcy Code") in the United States Bankruptcy Court for the Southern District of New York (the "Court");

WHEREAS, immediately upon filing their chapter 11 petitions, the Sellers intend to file a motion for authority to sell ("Sale") all or substantially all of their assets to the Buyer (collectively, the "Purchased Assets"), or such other bidder that submits a higher and better offer;

WHEREAS, the Sale of the Purchased Assets will be free and clear of liens, claims and encumbrances, pursuant to § 363 of the Bankruptcy Code, subject to the approval of the Court;

WHEREAS, the Sellers desire to sell, assign, and convey to Buyer and Buyer desires to purchase and accept the Purchased Assets, subject to the terms and conditions set forth herein;

WHEREAS, the Sellers have made diligent efforts to identify and solicit potential investors and purchasers for the Purchased Assets prior to the date hereof and have identified Buyer as the party making the highest and best offer for the Purchased Assets to date;

WHEREAS, Sellers believe, upon consideration of the available alternatives, that in light of the Sellers' current liquidity and financial position, a Sale of the Purchased Assets pursuant to this Agreement is necessary to maximize value and is in the best interests of the Sellers, Sellers' creditors and Sellers' equity holders; and

WHEREAS, the Sellers have experienced significant reductions in both operating income and cash flow and need working capital to fund continued operations through the closing

of the Sale, whether to the Buyer or otherwise, and PMG is willing, upon Court approval, to make available to the Sellers the DIP Loan (as hereinafter defined) on the terms set forth therein.

NOW, THEREFORE, for valuable consideration and the mutual covenants and agreements herein contained, Sellers and Buyer agree as follows:

ARTICLE I
Definitions

- (a) “Approval Order” means a final and non-appealable order of the Court, in form and substance acceptable to the Buyer, approving the transactions and terms and conditions set forth and contemplated by this Agreement, and approving and authorizing the Debtors to consummate the transactions contemplated by this Agreement, including the transfer of the Assumed Contracts.
- (b) “Assumed Contracts” has the meaning ascribed to it in Article I (ii)(v).
- (c) “Assumed Liabilities” means the (i) Secured Noteholder Debt, (ii) all liabilities accruing after the Closing Date under the Assumed Contracts, and (iii) all liabilities arising from and after the Closing Date in respect of Licenses.
- (d) “Bankruptcy Case” means the Debtors’ chapter 11 cases which will be filed in the Court.
- (e) “Bankruptcy Code” has the meaning ascribed to it in the preamble.
- (f) “Bill of Sale” shall have the meaning ascribed to it in Section 6.2.
- (g) “Break-up Fee” has the meaning ascribed to it in Section 7.3.
- (h) “Business” means the Sellers’ current business and operation as described in the recitals.
- (i) “Business Day” means a day other than a Saturday, Sunday or other day on which commercial banking institutions in New York City are authorized or required by applicable Law to close.
- (j) “Buyer” shall mean PMG or an entity formed by PMG for the purposes of acquiring all of the Purchased Assets.
- (k) “Claim” shall have the meaning ascribed to it in section 101(5) of the Bankruptcy Code.
- (l) “Closing” shall have the meaning ascribed to it in Section 6.1.

- (m) "Closing Date" shall have the meaning ascribed to it in Section 6.1.
- (n) "Court" has the meaning ascribed to it in the Preamble.
- (o) "Debtors" has the meaning ascribed to it in the Preamble.
- (p) "DIP Loan" means loans, advances and other financial accommodations to be made by the Buyer to the Debtors pursuant to section 364 of the Bankruptcy Code evidenced by the DIP Loan Documents, subject to approval by the Court.
- (q) "DIP Loan Documents" mean that certain Secured Credit Line Note and Secured Credit Line Agreement entered into between the Debtors and PMG, subject to approval by the Court.
- (r) "DIP Obligations" shall have the meaning ascribed to it in the DIP Loan Documents.
- (s) "DIP Order" shall mean the interim and final orders of the Court approving the DIP Loan, which orders shall be in form and substance satisfactory to PMG.
- (t) "Encumbrances" means any lien, equity, mortgage, pledge, hypothecation, rights of others, claim, security interest, charge, encumbrance, title defect, title retention agreement, voting or other trust agreement, interest, license, option, call, charge, prior assignment, collateral security arrangement, conditional sales contract or similar restriction or limitation.
- (u) "Excluded Assets" means those assets not included in the Purchased Assets, including: (a) all rights of the Sellers under and pursuant to this Agreement and other documents executed in connection with this transaction; (b) the corporate minute books of the Sellers; (c) all rights, claims and causes of action of the Sellers under chapter 5 of the Bankruptcy Code; (d) all leases and other contracts of the Sellers that are not Assumed Contracts; and (e) the Cash Portion of the Purchase Price.
- (v) "FCC" means the Federal Communications Commission.
- (w) "Final Order" means an order of the Court as to which the time to file an appeal, a motion for rehearing or reconsideration, or a petition for writ has expired and no such appeal, motion, or petition is pending.
- (x) "Governmental Authority" means any federal, national, supranational, foreign, state, provincial, local, county, municipal or other government, any governmental, regulatory or administrative authority, agency, department, bureau, board, commission or official or any quasi-governmental or private body exercising any

regulatory, taxing, importing or other governmental or quasi-governmental authority, or any court, tribunal, judicial or arbitral body, or any self-regulatory organization.

- (y) “Intellectual Property” means all of the Sellers’ interests in (i) foreign and domestic trademarks, service marks, brand names, Internet domain names, logos, symbols, trade dress, assumed names, fictitious names, trade names and other indicia of origin, all applications and registrations for all of the foregoing, and all goodwill associated therewith and symbolized thereby, including without limitation all extensions, modifications and renewals of same (“Trademarks”); (ii) foreign and domestic patentable inventions, and all patents, registrations, and applications therefor, including without limitation divisions, continuations, continuations-in-part and renewal applications, and including without limitation renewals, extensions and reissues; (iii) confidential and proprietary information, trade secrets and know-how, including without limitation processes, schematics, databases, formulae, drawings, prototypes, models, designs and customer lists; (iv) foreign and domestic published and unpublished works of authorship, whether copyrightable or not (including, but not limited to, computer software), copyrights therein and thereto, and registrations and applications therefor, and all renewals, extensions, restorations and reversions thereof; (v) electronic data processing, information, recordkeeping, communications, telecommunications, networking, account management, inventory management and other such applications, software, and hardware, equipment and services (including, but not limited to, all applications and software installed on all hardware and equipment, and all databases, firmware, and related documentation), and Internet websites and related content; and (vi) all other intellectual property or proprietary rights and claims or causes of action arising out of or related to any infringement, misappropriation or other violation of any of the foregoing, including without limitation rights to recover for past, present and future violations thereof.
- (z) “Law” means any federal, national, supranational, foreign, state, provincial, local, county, municipal or similar law, statute, writ, common law, code, ordinance, regulation, ruling, interpretation or other requirement of any Governmental Authority.
- (aa) “Licenses” shall have the meaning ascribed to it in Section 1 (ii)(xv).
- (bb) “Material Adverse Effect” shall have the meaning ascribed to it in Section 3.4.
- (cc) “Newco Operating Agreement” means the agreement among the Noteholders and the other members of Buyer that governs the ownership structure and rights of the members in Newco, as set forth in the Letter of Intent dated January 1, 2012. Such Newco Operating Agreement shall be annexed to the Noteholder Surrender Agreement.

- (dd) "Noteholders" means the secured noteholders holding security interests in substantially all of the Sellers' assets, including the Purchased Assets, pursuant to the Noteholder Loan Agreements.
- (ee) "Noteholder Loan Agreements" means, collectively, that certain Securities Purchase Agreement dated December 16, 2011, Securities Purchase Agreement, dated February 26, 2010, as amended and restated, Master Security Agreement, dated February 26, 2010, Intellectual Property Security Agreement, dated February 26, 2010, Securities Purchase Agreement, dated August 10, 2010, as amended and restated, Master Security Agreement, dated August 10, 2010, Intellectual Property Security Agreement, dated October 29, 2010, Securities Purchase Agreement, dated October 29, 2010, as amended and restated, Master Security Agreement, dated October 29, 2010, Intellectual Property Security Agreement, dated August 10, 2010, and the Intellectual Property Security Agreement, dated February 26, 2010, each between Plum TV, Inc. and Harrison Bubrosky as administrative and collateral agent.
- (ff) "Noteholder Secured Debt" means all obligations of the Sellers to the Noteholders pursuant to the Noteholder Loan Agreements and which are secured by a first priority lien upon and security interest in all assets of the Sellers.
- (gg) "Noteholder Surrender Agreement" means an agreement, acceptable to PMG in form and substance, to be executed by and among each of the Noteholders and the Buyer, which shall be consummated and become effective as of the Closing Date and shall provide for, among other things, the cancellation of the Noteholder Secured Debt in exchange for the issuance of 30% of the membership interests in the Buyer,, to the Noteholders.
- (hh) "Purchase Price" shall have the meaning ascribed to it in Section 2.
- (ii) "Purchased Assets" means all of the Sellers' rights, title and interest, as of the Closing Date, in and to any and all assets, properties, rights and claims of any kind or nature, whether tangible or intangible, real, personal or mixed, wherever located and whether or not carried or reflected on the books and records of any of the Sellers, whether now existing or hereinafter acquired, which relate to the Sellers' Business or which are used or useful in or held for use in, or were acquired in connection with, the operation of the Business, excluding only the Excluded Assets, but including, without limitation, the following:
 - (i) Cash (exclusive of the Cash Portion of the Purchase Price) and cash equivalents of the Sellers;
 - (ii) Inventory, supplies, work-in-progress, finished goods, material and stock in trade used in or held for sale;

- (iii) tangible personal property owned, related to, or used or useful in or held for use in the conduct of, the Sellers' Business, including, but not limited to, the physical assets and equipment, machinery, tools, supplies, parts, vehicles, furniture, fixtures, computer software, leasehold improvements, office materials and supplies, and other tangible personal property;
- (iv) Accounts receivable;
- (v) Rights and interests in certain contracts, leases and licenses, including certain barter agreements, identified in Schedule 1(ii)(v) hereto, which schedule may be amended by the Buyer at any time prior to entry of the Approval Order (the "Assumed Contracts"), to be assumed and assigned to Buyer in Buyer's sole and absolute discretion, including, without limitation, pre-paid expenses, credits, security deposits, escrows, deferred charges and the like relating to the Assumed Contracts;
- (vi) Personal property used in or held for business, including, without limitation, furniture, fixtures, equipment, and computers;
- (vii) Telephone and fax numbers, names under which the Sellers do business and/or are known in their markets, email addresses, websites, literature, photographic material, packaging materials, catalogs, customer lists, designs, formulas, performance and test result records, software, patterns, specifications, drawings and blueprints, domain names, and service marks, and tradestyles, stationery, forms, labels, shipping material, the sales and promotional literature, catalogs, brochures, art work, photographs, advertising material, customer lists and other sales related materials related to the Business;
- (viii) All Intellectual Property and Intellectual property rights, including but not limited to the Intellectual Property identified in Schedule 1(ii)(viii) hereto;
- (ix) Books and records relating to the Purchased Assets and/or the conduct of the Sellers' Business, all files, operating data, books of account, general, financial and tax (other than income tax) records, invoices, shipping records, supplier lists, price lists, vendor lists, mailing lists, catalogs, sales promotion literature, advertising materials, brochures, standard forms of documents, manuals of operations or business procedures, research materials, contracts, instruments, filings, administrative and pricing manuals, correspondence, memoranda, plats, architectural plans, surveys, title insurance policies, drawings, plans and specifications, environmental reports, maintenance or service records, engineering reports, expired purchase orders, operating records, operating safety manuals, and other material and documents, books (including applicable portions of minute books), records and files (whether or not in the possession of any of the

Sellers stored in hardcopy form or on magnetic, optical or other media) and any rights thereto owned, associated with or employed by any of the Sellers in the conduct of the Business or otherwise related to the Purchased Assets;

- (x) Unfilled orders placed with the Sellers and payments due to Sellers thereunder;
- (xi) Inventory purchase orders and unpaid for finished goods or services;
- (xii) Rights under warranties, representations and guarantees;
- (xiii) All Business-related claims and causes of action;
- (xiv) All video assets of the Sellers, including but not limited to the complete contents of the Sellers' video libraries and all videos produced by the Sellers or by vendors on behalf of the Sellers;
- (xv) All rights and benefits accruing under licenses, permits, registrations, variances, interim permits, permit applications certificates, approvals, authorizations, publications, declarations, notices, waivers and authorizations, of or with any Governmental Authority held, used or made by any of the Sellers, to the extent transferable under applicable law (collectively, "Licenses");
- (xvi) Goodwill, including rights under any confidentiality agreements executed by any third party for the benefit of any of the Sellers to the extent relating to the Sellers' Business; and
- (xvii) Any other assets that are not specifically identified by Buyer as Excluded Assets, in Buyer's sole and absolute discretion.

ARTICLE 2

Purchase and Sale

2.1 Sale and Purchase. Upon the terms and conditions hereinafter set forth, and subject to the entry of the Approval Order, Sellers agree to sell, assign, convey and deliver to Buyer, free and clear of all Encumbrances of whatever kind or nature, all of the Sellers' right title and interest in and to all of the Purchased Assets and Buyer agrees to buy and accept the Purchased Assets from Sellers on the Closing Date.

2.2 Purchase Price. In consideration for the Purchased Assets, the purchase price (the "Purchase Price") to be paid by Buyer to Sellers for the Purchased Assets on the Closing Date shall be:

(a) One million dollars (\$1,000,000) (the "Cash Portion"), in the form of cash less the sum of all outstanding DIP Obligations (the "Credit Amount"); and

(b) assumption of the Noteholder Secured Debt pursuant to the terms of the Noteholder Surrender Agreement.

2.3 Taxes and Recording Fees. The Sellers shall be responsible for and agree to pay all federal, state, county and municipality taxes, imposed by reason of the sale, transfer, assignment, conveyance and delivery of the Purchased Assets and all deficiencies, interest or penalties asserted, incurred or assessed with respect thereto. The Buyer shall pay the fees and costs of recording or filing all applicable conveyance instruments.

2.4 No Assumption of Liabilities by Buyer. Buyer shall not assume any liabilities or obligations of Sellers and/or the Debtors whatsoever except for the Assumed Liabilities.

2.5 Cure Costs. Sellers shall be responsible for and agree to pay at Closing all cure costs associated with the Assumed Contracts through the Closing Date which are being assumed and assigned to Buyer under this Agreement. The Buyer will perform in accordance with the respective terms and conditions of the contracts, leases and other agreements that are assumed and assigned to Buyer in connection with the sale of the Purchased Assets and to pay amounts that accrue and become due under such contracts, leases and other agreements after the Closing Date.

ARTICLE II

SELLERS' REPRESENTATION AND WARRANTIES

3.1 Authority. Sellers have the authority to execute and deliver this Agreement, and each document to be delivered pursuant hereto, and to consummate the transaction contemplated hereby, subject to entry of the Approval Order. The Sellers are duly licensed or qualified to do business and are in good standing in each jurisdiction in which the properties owned or leased by them or the operation of their Business makes such licensing or qualification necessary, except to the extent that the failure to be so licensed, qualified or in good standing would not materially and adversely affect the ability of the Sellers to carry out their obligations under this Agreement and to consummate the transaction contemplated hereby.

3.2 Validity. This Agreement is, and each document to be delivered pursuant hereto, when so executed, will be, the valid and binding obligation of the Sellers, enforceable in accordance with its terms, subject to entry of the Approval Order.

3.3 Title to Assets; Sufficiency. The Sellers have possession, good title to the Purchased Assets, including but not limited to the Assumed Contracts identified on Schedule 1(ii)(v) and the Intellectual Property identified on Schedule 1(ii)(viii), and the right to transfer same. Upon the Closing and transfer to Buyer of the Purchased Assets, Buyer shall receive good and marketable title to all of the Purchased Assets free and clear of any and all Encumbrances,

pursuant to section 363 of the Bankruptcy Code and any other applicable sections of the Bankruptcy Code and as set forth in the Approval Order. The Purchased Assets are free from material defects (patent and latent), have been maintained in accordance with normal industry practices, are in good operating condition and repair (ordinary wear and tear excepted) and are suitable and sufficient for the conduct of the Business as presently conducted and as presently proposed to be conducted and constitute all assets used by the Sellers in the Business and are suitable and sufficient to permit the Buyer to conduct the Business following the Closing in substantially the same manner conducted by the Sellers as of the date hereof and as of the Closing.

3.4 Conduct of Business/No Material Adverse Changes. Sellers' Business has been and will continue to be through closing, operated in compliance with all applicable laws and agreements; Sellers have all equipment necessary to properly operate such business; all such equipment is in good working order and has been properly maintained; the premises in which such businesses have been operated have been properly maintained; and from the date of this Agreement through the Closing, there shall have been no material adverse change in the Sellers' assets, business operations or financial performance, nor any fact, occurrence, event or condition that could reasonably be expected to result in such a material adverse change ("Material Adverse Effect").

3.5 Litigation. Except as disclosed on Schedule 3.5 attached hereto, there is no action, suit, proceeding or investigation pending or, to Sellers' knowledge, currently threatened against Sellers that questions the validity of this Agreement or any ancillary agreement, or the right of Sellers to enter into such agreements, or to consummate the transactions contemplated hereby or thereby, or that, to Sellers' knowledge, could result, either individually or in the aggregate, in any Material Adverse Effect, nor are Sellers aware of any basis for the foregoing.

3.6 Intellectual Property.

a. Sellers have sufficient title and ownership of or licenses to all Intellectual Property and Licenses and all information, proprietary rights and processes necessary for their Business as now conducted and as proposed to be conducted, without any violation or infringement of the rights of others. Each Intellectual Property and License right is valid, subsisting and enforceable; all necessary registration, maintenance and renewal fees due and owing in connection with such Intellectual Property and License rights have been paid; the Sellers are in full compliance with FCC closed-captioning requirements and there are no FCC violations (with violations including without limitation fines, orders, reviews and inquiries) other than those identified on Schedule 3.6 hereof; and all necessary documents and certificates required to be filed in connection with the Intellectual Property and License rights have been filed with the applicable authorities in the U.S. or foreign jurisdictions. No governmental registration of any of the Intellectual Property or License rights has lapsed, expired or been cancelled, abandoned, opposed or the subject of a reexamination request. Sellers have not received any communications alleging that Sellers have violated any of the patents, trademarks, service marks, trade names, copyrights or trade secrets or other proprietary rights of any other

person or entity and Sellers are not aware of any basis for such an allegation or of any reason to believe that such an allegation may be forthcoming. Sellers have not used, modified, or distributed any materials incorporating any third party intellectual property or other proprietary rights (including, without limitation, any "freeware" or software obtained pursuant to any open source, community source, copyleft or similar license arrangement). Sellers' Business as currently conducted does not and will not result in any requirement that Sellers publish, disclose or otherwise make available any source code for their (or any of its respective licensors) respective proprietary software, libraries, firmware or other computer programs. The execution and delivery of this Agreement and the Closing of the sale contemplated hereunder will provide Buyer with unrestricted rights to use and exploit the copyrights, trademarks, patent rights and other Intellectual Property rights and Licenses to the extent permitted by law or regulation.

b. All Intellectual Property is subsisting and valid and enforceable, and is not subject to any outstanding order, judgment or decree restricting its use or adversely affecting any Sellers' rights thereto.

c. None of the Sellers are violating and has not violated any Intellectual Property rights. There are no Actions, reissues, reexaminations, public protests, interferences, arbitrations, mediations, oppositions, cancellations, Internet domain name dispute resolutions or other proceedings (collectively, "Suits") pending, decided, threatened or asserted concerning any claim or position that the Sellers or any of its indemnitees have violated any Intellectual Property rights.

d. To the best of the Sellers' knowledge after reasonable inquiry, there are no Suits pending, decided, threatened or asserted concerning the Intellectual Property, and no valid basis for any such Suits exists. There are no Suits pending, decided, threatened or asserted concerning the Licensed Intellectual Property or the right of the Sellers to use the licensed Intellectual Property, and Sellers are not aware of any valid basis for any such Suits or claims.

e. Sellers own or otherwise hold valid rights to use all Intellectual Property, and are fully assignable by Sellers, without payment, consent of any person or other condition or restriction. The Intellectual Property constitutes all Intellectual Property that is used in, or contemplated to be used in, the conduct of the Sellers' Business as currently conducted and as currently contemplated to be conducted in the future.

f. No person other than Sellers has any ownership interest in, or a right to receive a royalty or similar payment with respect to, any of the Intellectual Property. No person is entitled to a royalty or similar payment with respect to Intellectual Property not owned by the Sellers. Except as disclosed on Schedule 3.6(f) attached hereto, none of the Sellers have granted any options, licenses, assignments or agreements of any kind relating to (i) ownership of rights in Intellectual Property; or (ii) the marketing or distribution of Intellectual Property.

g. None of the Sellers have entered into any agreement to indemnify any other person against any charge of infringement of any third party Intellectual Property, except for customary infringement indemnities agreed to in the ordinary course of business and included as part of any contracts for the license or sale of products or services. None of the Sellers have

entered into any agreement granting any third party the right to bring infringement actions or otherwise to enforce rights with respect to the Intellectual Property or pursuant to which any Seller has agreed not to sue or otherwise enforce any legal rights with respect to Intellectual Property.

h. Each of the Sellers has timely made all filings and payments with the appropriate foreign and domestic agencies required to maintain in subsistence all registered Intellectual Property. All documentation necessary to confirm and effect each of the Seller's ownership of the Intellectual Property, if acquired from other persons, has been recorded in the United States Patent and Trademark Office, the United States Copyright Office and other official offices.

i. Each of the Sellers has taken all reasonable measures to protect the secrecy, confidentiality and value of all Intellectual Property that is a trade secret or is otherwise valuable or non-public proprietary information.

j. The IT Systems used in the operation of the Sellers' Business are adequate in all material respects for their intended use and for the operation of the Business as is currently operated and as are currently contemplated to be operated by the Sellers, and are in good working condition (normal wear and tear excepted).

k. All computer software that is owned by any of the Sellers: (i) performs substantially in accordance with the documentation or other written material used in connection with it; and (ii) does not contain any viruses or disabling devices known to the Sellers. The source code for all such computer software will compile into object code or otherwise be capable of performing the functions described in the documentation pertaining thereto and is sufficiently documented to enable a computer software developer of reasonable skill to understand, modify, repair, maintain, compile and otherwise utilize all aspects of such computer software without reference to other sources of information.

l. Software licenses for Microsoft Office, Final Cut Pro, CSS, Photoshop, have and will have at Closing, current licenses for all users.

3.7 Brokerage Commissions, Auctioneer. Sellers have not retained or permitted any agent, finder, auctioneer or broker to act on their behalf in connection with the Agreement or the transaction contemplated hereby nor has it agreed to pay any person any fee or commission in the nature of a finder's, broker's or originator's fee or commission.

3.8 FCC and other Laws. The Sellers are permitted to sell and transfer the Purchased Assets, including assumption and assignment of the Assumed Contracts, subject to FCC and other applicable Laws.

3.9 Liens. The Sellers are the legal and beneficial owner of the Purchased Assets, free and clear of all Encumbrances, except the liens and security interests granted to the Noteholders under the Noteholder Loan Agreements. The Purchased Assets are and at all times will be owned by Sellers and not subject to any Encumbrances except that created by the

Noteholder Loan Agreements and Sellers will defend the Purchased Assets against the claims and demands of all persons.

3.10 Taxes. Sellers have filed with each appropriate Governmental Authority all Tax returns, declarations, statements, reports, estimates, claims for refund and other forms or documentation required to be filed with any Governmental Authority, including any schedule or attachments thereto and any amendments thereof and including information returns (collectively, the "Returns") relating to the Purchased Assets or the Business required to be filed by them, and all such Returns are true, complete and correct in all material respects. Sellers have timely paid all taxes (whether or not shown on any Return) required to be paid by Sellers on or prior to the date hereof, or the non-payment of which could result in a lien on any Purchased Asset. There are no liens for taxes (other than Liens for current taxes not yet due and payable) upon any of the Purchased Assets.

3.11 Video Assets. The Sellers are the legal and beneficial owners of all of the long and short form videos in their video libraries, including but not limited to the video series known as Beyond the Boardroom and all of the other videos identified on the schedule of video assets affixed to Schedule 1(ii)(viii), and hold all copyrights, trademarks and other rights with respect to those video assets and the contents thereof, including without limitation artwork, images and music.

ARTICLE IV **BUYER'S REPRESENTATIONS**

4.1 PMG represents to Sellers as of the date hereof or as of the Closing Date, as applicable, that:

(a) It is a limited liability company duly organized, validly existing and in good standing under the laws of the State of Delaware.

(b) It or Buyer, as applicable, has all requisite limited liability company power and authority to enter into this Agreement, to purchase the Purchased Assets on the terms described in this Agreement, and to perform its other obligations under this Agreement. The consummation of the transactions contemplated by this Agreement will not violate nor be in conflict with any provision of Buyer's governing documents or any material agreement or instrument to which Buyer is a party or by which Buyer is bound, or any judgment, decree, order, statute, rule or regulations applicable to Buyer.

(c) The execution, delivery and performance of this Agreement and the transactions contemplated hereunder have been duly and validly authorized by all requisite limited liability company action on the part of PMG;

(d) This Agreement constitutes, and all documents and instruments required hereunder to be executed and delivered by PMG or Buyer at Closing will when duly executed and delivered for value will constitute valid, legal and binding obligations of PMG or the Buyer

as the case may be, enforceable against PMG or the Buyer as the case may be, in accordance with their respective terms.

(e) Brokers and Auctioneers. PMG has not retained or permitted any agent, finder, auctioneer or broker to act on its behalf in connection with the Agreement or the transactions contemplated hereby nor has it agreed to pay any person any fee or commission in the nature of a finder's, broker's or originator's fee or commission.

4.2 Representations and Warranties at Closing. The representations and warranties of Sellers and PMG contained in this Agreement shall be true and accurate on the Closing Date as though such representations and warranties were made at and as of that time.

4.3 Finances. The Buyer has, immediately available to it, or will have, prior to the Closing Date, the funds necessary to consummate this transaction. However, it is the intent and agreement of the parties that this Agreement is not contingent, or conditioned upon availability of funds to the Buyer.

ARTICLE V CONDITIONS PRECEDENT

5.1 Conditions to Each Party's Obligation to Close. The obligation of each party to close is subject to entry of the Approval Order and provided that no order or Law entered, enacted, promulgated, enforced or issued by any court or other Governmental Authority of competent jurisdiction or other legal restraint or prohibition affecting the Closing or seeking to prohibit the transactions contemplated under this Agreement (collectively, "Restraints") will be in effect; provided, however, that each of the parties will have used commercially reasonable efforts to prevent the entry of any such Restraints and to appeal as promptly as possible any such Restraints that may be entered.

5.2 Conditions to the Buyer's Obligations to Close.

The obligations of the Buyer to close are subject to satisfaction or waiver (by Buyer or PMG) on or prior to the Closing Date of the following conditions:

(a) Representations and Warranties. The representations and warranties of the Sellers set forth in this Agreement shall be true and correct in all respects as of the Closing Date as though made on and as of the Closing Date (except to the extent such representations and warranties speak as of an earlier date);

(b) Agreements and Covenants. Each of the agreements and covenants of the Sellers to be performed and complied with pursuant to this Agreement prior to the Closing shall have been duly performed and complied with;

(c) Due Diligence. PMG shall have completed its due diligence and acquisition audit regarding the Purchased Assets and the Sellers' representations and warranties

hereunder on or before the date that the Court enters an order scheduling a hearing to consider approval of this Agreement subject to higher and better offers and approves bid procedures for the Sale, and the results of such due diligence shall be satisfactory to PMG, in its sole discretion;

(d) Licenses and Approvals. PMG or the Buyer shall have received all necessary Licenses from the FCC and similar regulatory agencies in all countries in which any of the Sellers has held any such License within the past twelve (12) months, and all other governmental consents and approvals, necessary to transfer the Licenses to Buyer at the Closing and necessary to the operation of the Business in the ordinary course by the Buyer post-Closing, or at the sole discretion of PMG, the Buyer and the Sellers may enter into a local marketing agreement for no additional consideration, on terms generally customary for agreements of that type;

(e) Assumed Contracts. Sellers shall receive Court approval to assume and assign to Buyer at Closing all Assumed Contracts set forth on Schedule 1(ii)(v) attached hereto;

(f) Critical Vendor and Key Employee Agreements. Buyer shall reach agreement in form and substance acceptable to Buyer with: (i) all critical vendors identified by Buyer to provide materials and services following consummation of the transaction; (b) those employees of Sellers determined by Buyer to be key employees; and (iii) such other parties as Buyer may require agreements with in connection with the operation of the business, with all such parties referenced in (i), (ii) and (iii) identified by Buyer on Schedule 5.2(f) attached hereto;

(g) Noteholder Surrender Agreement. Each of the Noteholders shall have supported the Sellers' entry into this Agreement and PMG's (or the Buyer's) bid for the Purchased Assets in the form of this Agreement, none of the Noteholders shall object to entry of the Approval Order approving this Agreement or support any other bid for the Purchased Assets by any party other than PMG or the Buyer and each Noteholder shall have entered into a Noteholder Surrender Agreement that is in form and substance acceptable to PMG, on or before January 27, 2012; provided, however, that if PMG or the Buyer ceases to bid at any auction of the Sellers' assets and withdraws its offer as set forth herein, then the Noteholders shall be free to support any remaining bidder, or to credit bid their secured claims, as they may determine in their sole discretion;

(h) Newco Operating Agreement. Each of the Noteholders shall have executed the Newco Operating Agreement, which shall be in form and substance satisfactory to PMG;

(i) Trademark Registration. Buyer shall have received proof that (i) the Trademarks are duly and properly registered and (ii) all program rights and videos are documented and copyright protected;

(j) Barter Agreements/Media Schedules. Buyer shall have received media schedules corresponding to the barter arrangements listed on **Schedule 1(ii)(v)**, and those media schedules shall be in form and substance acceptable to Buyer.

(k) Deliveries. The Sellers shall have delivered and fully performed all of the items required by Section 6.2 and all other items required to be delivered by the Sellers pursuant to the terms and conditions of this Agreement;

(l) Material Adverse Effect. There shall not have occurred, after the date of this Agreement, a Material Adverse Effect in connection with the Sellers' Business or the Purchased Assets;

(m) Approval Order. The Court shall have entered the Approval Order, in form and substance acceptable to Buyer, on or before March 8, 2012 and the Approval Order shall be a Final Order; and

(n) Closing. The Closing shall have occurred on or before April 1, 2012.

5.3 Conditions to the Sellers' Obligation to Close. The obligation of the Sellers to close is subject to the satisfaction or waiver (by the Sellers) on or prior to the Closing Date of the following conditions:

(a) Representations and Warranties. The representations and warranties of PMG set forth in this Agreement shall be true and correct in all respects as of the Closing Date as though made on and as of the Closing Date (except to the extent such representations and warranties speak as of an earlier date);

(b) Agreements and Covenants. Each of the agreements and covenants of the Buyer or PMG to be performed and complied with pursuant to this Agreement by the Buyer prior to the Closing Date shall have been duly performed and complied with;

(c) DIP Loan Funded. PMG or its designee shall have funded the DIP Loan in accordance with the terms of the DIP Loan Documents subject to entry of the DIP Orders approving the DIP Loan;

(d) Name Change. On the Closing Date, each Seller shall, and shall cause its affiliates to, file amendments with the appropriate governmental authorities and the Court changing its corporate name, "doing business as" name, trade name, and any other similar corporate identifier (each, a "Corporate Name") to a Corporate Name that does not contain any of the Trademarks comprising the Intellectual Property.

(e) Entry of Approval Order. The Court shall have entered the Approval Order and the Approval Order shall have become a Final Order; and

(f) Closing Deliveries. The Buyer shall have delivered all of the items required by Section 6.3 and any other items required to be delivered by the Buyer pursuant to the terms and conditions of this Agreement.

ARTICLE VI **THE CLOSING**

6.1 Closing Date. The Closing of this sale shall occur no later than the fifth day after the issuance of the Approval Order, at a date and time which is mutually convenient to Buyer and Sellers (the "Closing Date") and will take place at the offices of Silverman Acampora LLP, 100 Jericho Quadrangle, Suite 300, Jericho, New York 11753, or will take place remotely through the exchange of documents and signatures in PDF format or by facsimile.

6.2 Deliveries by Sellers at Closing. On the Closing Date, Sellers shall deliver to Buyer the following:

(a) A Bill of Sale, substantially in the form attached hereto as Schedule 6.2, sufficient to convey, transfer and assign unto the Buyer all of the Sellers' right title and interest in and to the Purchased Assets, consistent with the provisions of this Agreement and free of all Encumbrances;

(b) A copy of the Approval Order which authorizes and approves the sale and the transfer of the Purchased Assets by Sellers to Buyer and the assumption and assignment of the Assumed Contracts on the Closing Date pursuant to Bankruptcy Code sections 363(b) and (f) free and clear of all liens claims and Encumbrances; and

(c) Such other certificates, agreements, instruments and documents, as reasonably requested by Buyer to consummate the transactions contemplated hereby.

6.3 Deliveries by Buyer at Closing. At Closing, Buyer shall deliver to Sellers an unendorsed, certified or cashier's check or Federal Wire Funds Transfer of immediate available funds payable to the direct order of Sellers in the amount of the Cash Portion of the Purchase Price less the Credit Amount.

ARTICLE VII **BANKRUPTCY COURT APPROVAL**

7.1 Sellers and PMG acknowledge that the sale of the Purchased Assets and all other provisions of this Agreement (including the assumption and assignment of the Assigned Contracts) are subject to Court approval pursuant to, among others, sections 363 and 365 of the Bankruptcy Code. Sellers and PMG further acknowledge that Sellers must take reasonable steps to demonstrate that they have sought to obtain the highest or best price for the Purchased Assets, including giving notice thereof to Sellers' creditors and other interested parties, providing information about the Purchased Assets to prospective bidders (subject to appropriate confidentiality agreements), entertaining higher or better qualified offers from such prospective

bidders, and, in the event that additional qualified prospective bidders desire to bid for the Purchased Assets, conducting an auction, all in accordance with the Bid Procedures Order, as and when the same is approved by the Court.

7.2 The obligations of Sellers, PMG and Buyer hereunder are contingent upon the entry of an Approval Order pursuant to Bankruptcy Code sections 363(b) and 363(f)(1) and 363(f)(3) which authorizes and approves the sale of the Purchased Assets, pursuant to the terms of this Agreement. PMG and Buyer, as applicable, will cooperate in good faith with the Sellers to secure the Approval Order, including, but not limited to, attending the hearing to consider the entry of the Approval Order (the "Sale Hearing") and, if necessary, testifying before the Court and providing documentary evidence as to Buyer's financial ability to perform the obligations of Buyer under this Agreement, and under the Assumed Contracts, and close the sale of the Purchased Assets. In the event that the Court does not enter the Approval Order by March 8, 2012 or approves a purchaser other than the Buyer, then except as provided for in Section 7.3 hereof, PMG and the Buyer shall have no surviving duties or obligations under this Agreement.

7.3 PMG acknowledges and understands that the Sellers will seek Court approval of the terms and conditions of this Agreement, and, consistent with Bankruptcy Code section 363, such approval will be sought by the Sellers subject to any higher or better offers that may be tendered to the Sellers at the Sale Hearing. In seeking higher or better offers, if this Agreement is transferred or signed or accepted by an entity or an individual other than Buyer (a "Higher Sale"), then PMG shall be entitled to receive from the proceeds of any such Higher Sale, a "Break-up Fee" of 3% of the amount of the winning bid plus reimbursement of PMG's actual and reasonable expenses in connection with this transaction, including, but not limited to, professional fees, payable upon the closing of the Higher Sale.

7.4 The terms and conditions of sale to govern the bidding at the Sale Hearing shall provide that in order to be considered by the Court and admissible on the date of the Sale Hearing, any competing offer ("Competing Offer") must satisfy the following terms and conditions: (i) a Competing Offer shall provide for a Purchase Price of at least \$100,000.00 more than the Purchase Price as provided for in this Agreement; (ii) the Competing Offer shall be substantially similar to the terms and conditions of this Agreement; (iii) a higher and better Competing Offeror must sign an agreement agreeing to be bound by the terms and conditions of this Agreement and the Noteholder Surrender Agreement; (iv) the Competing Offer shall not be contingent upon the receipt of financing necessary to its consummation, and the Competing Offeror shall have demonstrated evidence of its ability to conclude the transaction upon the terms and conditions of this Agreement, without delay; (v) the Competing Offer shall not be conditioned upon the outcome of unperformed due diligence by the Competing Offeror; (vi) the Competing Offeror shall provide, at or before the Sale Hearing, a certified check made payable to Silverman Acampora, LLP as Attorneys for the Sellers, in the sum of \$110,000.00 as a down payment; and (vii) in the case of any subsequent competing offer ("Subsequent Competing Offer") received from any party, which may, include, without limitation, PMG or the Buyer (after a prior competing bid has been received) which satisfies the conditions set forth above, such Competing Offer shall provide for an aggregate consideration at least \$50,000.00 in excess

of that provided by the prior better offer and shall otherwise comply with all conditions of the Agreement.

7.5 Cure of Defaults. Sellers shall promptly, on or prior to the Closing Date, cure any and all defaults and breaches and satisfy any liability or obligation arising from or relating to pre-Closing periods under the Assumed Contracts, so that such Assumed Contracts may be assigned by Sellers to Buyer in accordance with the provisions of section 365 of the Bankruptcy Code, the Approval Order, any other orders of the Court effectuating such assignments, and this Agreement.

7.6 Motions, Orders, etc. Sellers shall promptly provide PMG with the proposed final drafts of all documents, motions, orders, or pleadings that Sellers propose to file with the Court relating to the approval of this Agreement, the Purchased Assets, the assumption and assignment of the Assumed Contracts, or the consummation of the transactions contemplated hereby, or any provision therein or herein, and shall provide PMG and its counsel with a reasonable opportunity to review and comment on such documents, motions, orders, or pleadings.

ARTICLE VIII TERMINATION OF THIS AGREEMENT

8.1 Termination. This Agreement may be terminated, and the transactions contemplated herein may be abandoned:

(a) any time before the Closing, by mutual written agreement of (i) Sellers and (ii) PMG;

(b) any time before the Closing, by Sellers, on the one hand, or PMG, on the other hand, (i) in the event of a material breach hereof by any non-terminating party if such non-terminating party fails to cure such breach within five (5) Business Days following notification thereof by the terminating party, or (ii) upon notification to the non-terminating party by the terminating party that the satisfaction of any condition to the terminating party's obligations under this Agreement becomes impossible or impracticable with the use of commercially reasonable efforts if the failure of such condition to be satisfied is not caused by a breach hereof by the terminating party; or

(c) by PMG, upon five (5) Business Days' prior written notice to the Sellers' counsel, if (i) any Noteholder has not executed and delivered to PMG the Noteholder Surrender Agreement by January 27, 2012; (ii) the Approval Order shall not have been entered by or before March 8, 2012, or (iii) the Closing has not taken place by April 1, 2012 other than by reason of a material breach of this Agreement by PMG.

8.2 Effect of Termination.

If this Agreement is validly terminated pursuant to Section 8.1, except in the event of a material breach by either party, this Agreement will forthwith become null and void,

and there will be no liability or obligation on the part of any party (or any of their respective officers, directors, employees, partners, agents or other representatives or affiliates), except as provided in the next succeeding sentence and except that the provisions with respect to the Break-up Fee and reimbursement of expenses in Section 7.3 will continue to apply following any such termination.

8.3 Section intentionally deleted.

8.4 Liquidated Damages. If Buyer is the winning bidder for the purchase of Sellers' assets, and Buyer fails to close the purchase of the Purchased Assets within thirty (30) days after the Approval Order becomes a Final Order, provided that the Sellers have satisfied all of their obligations under this Agreement and the DIP Loan Documents and are not in breach hereof or under the DIP Loan Documents, the Buyer shall forfeit the aggregate sum equal to the lesser of (a) \$100,000.00 of the DIP Obligations, or (b) the outstanding unpaid balance of the DIP Obligations, as the only form of damages (liquidated or unliquidated) payable to Sellers hereunder.

ARTICLE IX

OTHER AGREEMENTS

9.1 Conduct of Business Prior to the Closing Date. Between the date hereof and the Closing, Sellers shall use their reasonable best efforts to maintain, or cause the maintenance of, the Purchased Assets, and operate and carry on the business only in the ordinary course consistent with past practice and taking into account Sellers' status as debtor and debtor in possession except as otherwise expressly provided in this Agreement. Between the date hereof and the Closing Date, consistent with the foregoing and to the extent required by the Bankruptcy Case, Sellers shall use their reasonable best efforts to continue (and to cause the continuation of) operations of the Business as a going concern, to maintain (and to cause the maintenance of) the business organization of the business intact and to preserve (and to cause the preservation of) the goodwill of all having business relations with the Sellers. In connection therewith, between the date hereof and the Closing Date, and except with the written prior consent of Buyer, the Sellers shall:

- (a) not enter into (or agree to enter into) any transactions out of the ordinary course of business;
- (b) not incur, create or assume any Encumbrance on any of the assets, properties, rights and claims of the Sellers;
- (c) not sell, lease, license, transfer or dispose of any assets, properties, rights and claims other than in the ordinary course of business;
- (d) not enter into, terminate, extend or modify any Assumed Contract;
- (e) not amend the certificate of incorporation, by-laws or other organizational documents of the Sellers;

- (f) other than pursuant to the DIP Loan, not assume or incur any indebtedness or assume, guarantee or endorse any material obligations of any other person;
- (g) not make any loans, advances or capital contributions to, or investments in, any other person (other than customary loans or advances to employees in amounts not material to the maker of such loan or advance);
- (h) maintain all Insurance Policies for Sellers and the Purchased Assets in full force and effect;
- (i) not enter into any “non-compete”, “non-solicit” or similar agreement that would restrict the Sellers’ Business;
- (j) agree or resolve to take or make any commitment to take any of the foregoing actions;
- (k) maintain and conduct the Sellers’ Business substantially in the condition as of the date hereof, and in the ordinary course consistent with past practice (including not breaching any Assumed Contracts), subject to any changes as may result solely from the commencement and continuation of the Bankruptcy Case;
- (l) use its commercially reasonable efforts to and take all necessary actions to preserve intact in all material respects the Purchased Assets;
- (m) maintain in full force and effect and free from infringement or other violation the Intellectual Property;
- (n) maintain in all material respects the goodwill and organization of the Sellers’ Business and its relationship with the employees, suppliers, customers, lenders, lessors and others having business dealings with it in connection with the Sellers’ Business;
- (o) use reasonable best efforts to obtain all necessary consents to the Assumed Contracts pursuant to this Agreement;
- (p) use commercially reasonable efforts to obtain authorization pursuant to the Sale Order as and when entered by the Court to execute, deliver and/or file Uniform Commercial Code, lien releases, discharges, financing change statements and such other documents, notices or instruments as Buyer may reasonably deem necessary to release all Encumbrances, against the Purchased Assets and
- (q) consult in good faith with PMG and its representatives, from time to time following PMG’s reasonable request, to report material operational developments and the general status of ongoing operations of the Sellers’ business, including any Material Adverse Change.

9.2 Third Party Consents. Sellers on the one hand, and PMG, on the other hand, will use their reasonable best efforts to cooperate with the other to secure, before the Closing Date, all consents to the Assumed Contracts or other provisions in this Agreement to the extent such consents are not provided for or satisfied by the Approval Order; provided, however, that neither PMG nor Sellers shall be required to waive any of the conditions to Closing set forth in Section 5.2.

ARTICLE X ADDITIONAL PROVISIONS

10.1 Further Assurances. After the Closing, each of the parties will execute, acknowledge and deliver to the other such further instruments, and take such other action as may be reasonably requested in order to more effectively assure said party all of the respective properties, rights, titles, interests, estates, and privileges intended to be assigned, delivered or inuring to the benefit of such party in consummation of the transactions contemplated hereby.

10.2 Apportioned Obligations. All real property taxes, personal property taxes and similar ad valorem obligations levied with respect to the Purchased Assets for a taxable period which includes (but does not end on) the Closing Date (collectively, the "Apportioned Obligations") shall be apportioned between Sellers and Buyer based on the number of days of such taxable period included in the pre-Closing tax period and the number of days of such taxable period included in the post-Closing tax period. Sellers shall be liable for the proportionate amount of such taxes that is attributable to the pre-Closing tax period, and Buyer shall be liable for the proportionate amount of such taxes that is attributable to the post-Closing tax period. Upon receipt of any bill for real or personal property taxes relating to the Purchased Assets, each of Sellers and Buyer shall present a statement to the other setting forth the amount of reimbursement to which each is entitled under this Section together with such supporting evidence as is reasonably necessary to calculate the proration amount. The proration amount shall be paid by the party owing it to the other within ten (10) Business Days after delivery of such statement. In the event that either Sellers or Buyer shall make any payment for which it is entitled to reimbursement under this Section, the other party shall make such reimbursement promptly but in no event later than ten (10) Business Days after the presentation of a statement setting forth the amount of reimbursement to which presenting party is entitled along with such supporting evidence as is reasonably necessary to calculate the amount of reimbursement. Buyer shall notify Sellers' designated representative of any audit or examination of the Apportioned Obligations. At the Closing, Buyer and Sellers shall also apportion, as of the Closing Date, all obligations under Assumed Contracts.

10.3 Incidental Expenses. Buyer shall bear and pay all filing, recording or registration fees of any assignment or conveyance delivered hereunder. Each party shall bear its own respective expenses incurred in connection with the Closing, including its own consultant's fees, attorneys' fees, accountants' fees and other similar costs and expenses.

10.4 Notices. All notices, consents, waivers and other communications under this Agreement must be in writing and shall be deemed to have been duly given: (a) on the same Business Day if sent by email followed by facsimile (with written confirmation of receipt), (b) when delivered by hand (with written confirmation of receipt), (c) when sent by facsimile (with written confirmation of receipt), (d) when received by the addressee, if sent by a delivery service (prepaid, receipt requested) or (e) when received by the addressee, if sent by registered or certified mail (postage prepaid, return receipt requested), in each case to the appropriate addresses, representative (if applicable) and facsimile numbers set forth below (or to such other addresses, representative and facsimile numbers as a party may designate by notice to the other Parties given in accordance with this Section 10.4).

If to Sellers, then to:

Plum TV, Inc.
890 Garrison Avenue
Smokestack Entrance- 2nd Floor
Bronx, NY 10474
Attn: Thomas Scott
Email: tscott@plumtv.com

With a copy to:

SilvermanAcampora LLP
100 Jericho Quadrangle, Suite 300
Jericho, NY 11753
Attention: Adam L. Rosen, Esq.
Edward M. Flint, Esq.
Facsimile: (516) 945-6370
(516) 945-6366
Email: ARosen@SilvermanAcampora.com
EFlint@SilvermanAcampora.com

If to PMG or Buyer, then to:

PMG Media, LLC
c/o Foresightlab
1 Finney Knoll Lane
Riverside, Connecticut 06878
Attention: Terry Mackin
Email: terry@foresightlab.com

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

Halperin Battaglia Raicht, LLP

555 Madison Avenue, 9th Floor
New York, NY 10022
Attention: Alan D. Halperin, Esq.
Debra J. Cohen, Esq.
Facsimile: (212) 765-0964
E-mail: ahalperin@halperinlaw.net
dcohen@halperinlaw.net

10.5 Entire Agreement. This Agreement together with the Approval Order embody the entire agreement between the parties and may be supplemented, altered, amended, modified or revoked by writing only signed by Sellers and PMG. The headings herein are for convenience only and shall not in any way affect the meaning of this Agreement.

10.6 Governing Law. This Agreement shall be governed by, construed and enforced in accordance with the laws of the United States and the State of New York. The parties hereto consent to the exclusive jurisdiction of the Court for all purposes relating to this Agreement.

10.7 Exhibits. All exhibits and schedules hereto which are referred to herein are hereby made a part hereof and incorporated herein by reference. In the event of any conflict or inconsistency between the terms and provisions of this Agreement and the terms and provisions of any exhibit or schedule hereto, the terms and conditions of this Agreement shall control. Although not attached hereto, the Approval Order is incorporated herein and made an integral part of this Agreement. Schedules may be modified and supplemented by agreement of the Buyer and the Sellers until five (5) days prior to the entry of the Approval Order; provided, however, that Schedules 1(ii)(v) and 5.2(f) may be modified by the Buyer, in its sole and absolute discretion, at any time prior to the entry of the Approval Order.

10.8 Waiver. Any of the terms, provisions, covenants, representations, warranties or conditions hereof may be waived, only by a written instrument executed by the party waiving compliance. The failure of any party at any time or times to require performance of any provision hereof shall in no manner affect such parties right at a later date to enforce the same. No waiver by any party or any condition, or of the breach of any term, provision, covenant, representation or warranty contained in this Agreement, whether by conduct or otherwise, in any one or more instances, shall be deemed to be construed as a further or continuing waiver of any such condition or breach or a waiver of any other condition or of the breach of any other term, provision, covenant, representation or warranty.

10.9 Binding Effect; Assignment. All the terms, provisions, covenants, representations, warranties and conditions of this Agreement shall be binding upon and inure to the benefit of and be enforceable by the parties hereto and their respective successors and assigns; but this Agreement and the rights and obligations hereunder shall not be assignable or delegable by either party without the express written consent of the non-assigning or non-delegating party; provided, however, that nothing contained herein shall bar PMG from assigning its rights hereunder to the Buyer.

10.10 Severability. If any term or other provision of this Agreement is invalid, illegal or incapable of being enforced by reason of any rule of law or public policy, all other conditions and provisions of this Agreement shall nevertheless remain in full force and effect so long as neither the economic nor legal substance of the transactions contemplated hereby is materially affected in any adverse manner to either Buyer or Sellers. Upon such determination that any term or other provision is invalid, illegal or incapable of being enforced, the parties hereto shall negotiate in good faith to modify this Agreement so as to effect the original intent of the parties as closely as possible in an acceptable manner to the end that the transaction contemplated hereby are fulfilled to the extent possible.

10.11 Time of the Essence. Time is of the essence in this Agreement.

10.12 No Third Party Beneficiaries. This Agreement is for the sole benefit of the parties hereto and their permitted assigns and nothing herein, express or implied, is intended to or shall confer upon any other Person any legal or equitable benefit, claim, cause of action, remedy or right of any kind.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly authorized officers as of the date first above written.

PLUM TV, INC.

By: _____
Thomas Scott, Authorized Signatory

**PLUM POP LLC,
BY PLUM, TV, INC., Its Sole Member**

By: _____
Thomas Scott, Authorized Signatory

HAMPTONS TELEVISION, LLC,

BY PLUM, TV, INC., Its Sole Member

By: _____
Thomas Scott, Authorized Signatory

**VINEYARD TELEVISION, LLC,
BY PLUM, TV, INC., Its Sole Member**

By: _____
Thomas Scott, Authorized Signatory

**VAIL TELEVISION LLC,
BY PLUM, TV, INC., Its Sole Member**

By: _____
Thomas Scott, Authorized Signatory

**ASPEN TELEVISION, LLC,
BY PLUM, TV, INC., Its Sole Member**

By: _____
Thomas Scott, Authorized Signatory

**TELLURIDE TELEVISION, LLC,
BY PLUM, TV, INC., Its Sole Member**

By: _____
Thomas Scott, Authorized Signatory
**SUN VALLEY TELEVISION, LLC,
BY PLUM, TV, INC., Its Sole Member**

By: _____
Thomas Scott, Authorized Signatory

NTV, LLC,
BY PLUM, TV, INC., Its Sole Member

By: _____
Thomas Scott, Authorized Signatory

MIAMI BEACH TELEVISION, LLC,
BY PLUM, TV, INC., Its Sole Member

By: _____
Thomas Scott, Authorized Signatory

PMG MEDIA GROUP, LLC

By: _____
Name: Terry Mackin
Title:

Bill of Sale