

**ASSET PURCHASE AGREEMENT**

**BY AND AMONG**

**BONNEVILLE INTERNATIONAL CORPORATION,  
BONNEVILLE HOLDING COMPANY,**

**AND**

**HUBBARD RADIO, LLC**

## TABLE OF CONTENTS

ARTICLE 1 ASSETS TO BE CONVEYED .....	2
1.1 TRANSFER OF ASSETS OF THE STATIONS .....	2
1.2 EXCLUDED ASSETS.....	4
1.3 ASSUMPTION OF ONLY CERTAIN LIABILITIES AND OBLIGATIONS.....	5
1.4 SHARED CONTRACTS.....	6
1.5 ALLOCATION.....	6
1.6 REAL ESTATE MATTERS.....	7
ARTICLE 2 PURCHASE PRICE .....	7
2.1 PURCHASE PRICE AND NET RECEIVABLES .....	7
ARTICLE 3 CLOSING .....	9
ARTICLE 4 REPRESENTATIONS AND WARRANTIES OF SELLERS.....	9
4.1 ORGANIZATION AND STANDING; CAPITALIZATION.....	9
4.2 AUTHORIZATION AND BINDING OBLIGATION .....	9
4.3 ABSENCE OF CONFLICTING AGREEMENTS; CONSENTS.....	10
4.4 LITIGATION.....	10
4.5 STATION LICENSES.....	10
4.6 REAL PROPERTY.....	11
4.7 CONTRACTS.....	12
4.8 COMPLIANCE WITH LAWS.....	12
4.9 GOVERNMENTAL CONSENTS.....	12
4.10 TAXES.....	12
4.11 REPORTS.....	13
4.12 ENVIRONMENTAL MATTERS IN RESPECT OF THE REAL PROPERTY.....	13
4.13 BROKER'S FEES .....	14
4.14 INSURANCE.....	14
4.15 PERSONAL PROPERTY .....	14
4.16 TITLE TO AND CONDITION OF ASSETS.....	14
4.17 FINANCIAL STATEMENTS .....	15
4.18 ABSENCE OF CERTAIN CHANGES .....	15
4.19 ABSENCE OF UNDISCLOSED LIABILITIES.....	15

4.20	EMPLOYMENT MATTERS.....	15
4.21	PERMITS AND RIGHTS .....	18
4.22	ACCOUNTS RECEIVABLE .....	18
4.23	ACCOUNTS PAYABLE.....	18
4.24	CLAIMS AGAINST THIRD PARTIES .....	19
4.25	INTELLECTUAL PROPERTY. ....	19
4.26	DISCLOSURE.....	20
4.1	ORGANIZATION AND STANDING; CAPITALIZATION.....	20
4.2	AUTHORIZATION AND BINDING OBLIGATION .....	20
4.3	ABSENCE OF CONFLICTING AGREEMENTS; CONSENTS.....	21
4.4	LITIGATION.....	21
4.5	STATION FCC LICENSES. ....	21
4.6	REPORTS .....	21
4.7	BROKER’S FEES .....	21
4.8	FCC LICENSE HOLDING COMPANY .....	22
ARTICLE 5 REPRESENTATIONS AND WARRANTIES OF BUYER.....		22
5.1	ORGANIZATIONAL AND STANDING.....	22
5.2	AUTHORIZATION AND BINDING OBLIGATION .....	22
5.3	ABSENCE OF CONFLICTING AGREEMENTS OR REQUIRED CONSENTS.....	22
5.4	ABSENCE OF LITIGATION .....	23
5.5	FCC QUALIFICATIONS.....	23
5.6	BROKER’S FEES .....	23
5.7	COMMITMENT LETTER.....	23
ARTICLE 6 GOVERNMENTAL CONSENTS.....		23
6.1	FCC APPLICATION.....	23
6.2	HSR ACT FILINGS. ....	24
ARTICLE 7 COVENANTS .....		25
7.1	CERTAIN COVENANTS.....	25
7.2	ACCESS .....	27
7.3	NO INCONSISTENT ACTION.....	27
7.4	EXCLUSIVITY .....	28
7.5	CONFIDENTIALITY.....	28

7.6	FURTHER ASSURANCES .....	28
7.7	TRANSITION EFFORTS .....	28
7.8	PRESS RELEASES .....	28
7.9	CONSENTS; BENEFIT OF AGREEMENTS .....	29
7.10	AUDITED FINANCIAL STATEMENTS. ....	29
7.11	SUBSEQUENT FINANCIAL STATEMENTS. ....	29
7.12	COOPERATION OF BIC WITH FINANCING .....	30
7.13	UPDATES TO SCHEDULES .....	30
ARTICLE 8 CONDITIONS PRECEDENT .....		31
8.1	TO BUYER’S OBLIGATIONS REGARDING CLOSING .....	31
8.2	TO SELLERS’ OBLIGATIONS .....	33
ARTICLE 9 DOCUMENTS TO BE DELIVERED AT THE CLOSING .....		34
9.1	DOCUMENTS TO BE DELIVERED BY SELLERS .....	34
9.2	DOCUMENTS TO BE DELIVERED BY BUYER.....	36
ARTICLE 10 INDEMNIFICATION.....		37
10.1	SELLERS’ INDEMNITIES.....	37
10.2	BUYER’S INDEMNITIES.....	38
10.3	PROCEDURE FOR INDEMNIFICATION .....	38
10.4	LIMITATIONS .....	39
10.5	CERTAIN LIMITATIONS .....	40
10.6	SURVIVAL .....	40
10.7	EXCLUSIVE REMEDIES FOLLOWING THE CLOSING .....	41
10.8	MITIGATION OF DAMAGES.....	41
ARTICLE 11 TERMINATION RIGHTS .....		41
11.1	TERMINATION.....	41
11.2	TERMINATION FEE.....	42
11.3	HSR TERMINATION FEE.....	44
11.4	OTHER EFFECTS OF TERMINATION.....	45
ARTICLE 12 TERMINATED EMPLOYEES AND EMPLOYEE PLANS .....		45
12.1	TERMINATION OF EMPLOYEES .....	45
12.2	OFFER OF EMPLOYMENT .....	45
12.3	NO ASSUMPTION OF COMPANY PLANS .....	46
12.4	COBRA OBLIGATIONS .....	46

ARTICLE 13 OTHER AGREEMENTS .....	46
13.1 NON-SOLICITATION; CONFIDENTIALITY.....	46
13.2 ACCESS TO BOOKS AND RECORDS AND RECORDS RETENTION.....	47
13.3 SERVICE TO AMERICA AGREEMENT .....	48
ARTICLE 14 OTHER PROVISIONS.....	48
14.1 TRANSFER TAXES AND EXPENSES.....	48
14.2 BENEFIT AND ASSIGNMENT.....	48
14.3 ADDITIONAL DOCUMENTS.....	48
14.4 SPECIFIED STATIONS .....	48
14.5 ENTIRE AGREEMENT; SCHEDULES; AMENDMENT; WAIVER .....	49
14.6 HEADINGS .....	49
14.7 COMPUTATION OF TIME.....	49
14.8 GOVERNING LAW.....	49
14.9 VENUE.....	49
14.10 ATTORNEYS' FEES .....	50
14.11 SEVERABILITY .....	50
14.12 NOTICES.....	50
14.13 NO RECOURSE.....	51
14.14 CASUALTY .....	51
14.15 COUNTERPARTS .....	52
14.16 FACSIMILE OR PDF SIGNATURES.....	52
ARTICLE 15 DEFINITIONS.....	52
15.1 DEFINED TERMS .....	52
15.2 MISCELLANEOUS TERMS.....	58

## SCHEDULES & EXHIBITS

Schedule 1.1(a)	FCC Licenses
Schedule 1.1(b)	Real Property
Schedule 1.1(c)	Personal Property
Schedule 1.1(d)	Assumed Contracts
Schedule 1.1(e)	Station Intellectual Property
Schedule 1.1(l)	Assigned Corporate Tangible Assets
Schedule 1.2(j)	Other Excluded Assets
Schedule 1.4(a)	Shared Contracts
Schedule 4.A.4.1	BIC Organization and Standing
Schedule 4.A.4.3	Certain BIC Consents
Schedule 4.A.4.4	Litigation
Schedule 4.A.4.5	Antenna Registrations
Schedule 4.A.4.6(b)	Real Estate Leases
Schedule 4.A.4.6(c)	Leased Real Property and Consents
Schedule 4.A.4.7	Defaults
Schedule 4.A.4.8	Compliance with Laws
Schedule 4.A.4.9	Governmental Consents
Schedule 4.A.4.12	Environmental Matters in Respect of the Real Property
Schedule 4.A.4.14	Insurance
Schedule 4.A.4.18	Absence of Certain Changes
Schedule 4.A.4.19	Absence of Undisclosed Liabilities
Schedule 4.A.4.20(a)	Employee Benefit Plans
Schedule 4.A.4.20(b)	Employment
Schedule 4.A.4.20(d)	Proceedings
Schedule 4.A.4.20(e)	Compensation
Schedule 4.A.4.20(f)	Collective Bargaining
Schedule 4.A.4.20(h)	Multi-Employer Plans
Schedule 4.A.4.20(m)	Post-termination Rights
Schedule 4.A.4.20(o)	Vesting and Additional Company Plans
Schedule 4.A.4.22	Accounts Receivable
Schedule 4.A.4.24	Claims Against Third Parties
Schedule 4.A.4.25(a)	Intellectual Property
Schedule 4.A.4.25(b)	Intellectual Property
Schedule 4.A.4.25(c)	Intellectual Property
Schedule 4.B.4.1	BHC Organization and Standing
Schedule 4.B.4.3	Certain BHC Consents
Schedule 8.1(f)	Material Consents and Material Replacement Contracts

Exhibit 9.1(c)(i)	Assignment of FCC Licenses
Exhibit 9.1(c)(ii)	Bill of Sale
Exhibit 9.1(c)(iii)	Assumption Agreement
Exhibit 9.1(c)(v)	Lease Assignment/Estoppel
Exhibit 9.1(g)	DMC Post Closing Guarantee
Exhibit 9.2(g)	HBI Post Closing Guarantee
Schedule 12.1	Terminated Employees
Schedule 14.4	Specified Stations

## ASSET PURCHASE AGREEMENT

This Asset Purchase Agreement ("**Agreement**") is made as of the 15th day of January, 2011, by and among BONNEVILLE INTERNATIONAL CORPORATION, a Utah corporation ("**BIC**") and BONNEVILLE HOLDING COMPANY, a Utah non-profit corporation ("**BHC**," and together with BIC, the "**Sellers**," and each a "**Seller**") and HUBBARD RADIO, LLC, a Delaware limited liability company ("**Buyer**"), which is an indirect subsidiary of Hubbard Broadcasting, Inc., a Minnesota corporation ("**HBI**"). Reference herein to a "**Party**" or the "**Parties**" shall refer, on the one hand, to Buyer, and on the other hand, to the Sellers. Unless otherwise defined herein, capitalized terms shall have the meanings ascribed to them in Article 15 of this Agreement.

### RECITALS

WHEREAS, BIC operates the following radio stations pursuant to a license between BHC and BIC (each a "**Station**," and collectively, the "**Stations**");

1. WDRV(FM), 97.1 MHz, Channel 246B, Chicago, IL (FIN 49552)
2. WILV(FM), 100.3 MHz, Channel 262B, Chicago, IL (FIN 10059)
3. WTMX(FM), 101.9 MHz, Channel 270B, Skokie, IL (FIN 6377)
4. WWDV(FM), 96.9 MHz, Channel 245B, Zion, IL (FIN 49547)
5. WKRQ(FM), 101.9 MHz, Channel 270B, Cincinnati, OH (FIN 11276)
6. WREW(FM), 94.9 MHz, Channel 235B, Fairfield, OH (73369)
7. WUBE-FM, 105.1 MHz, Channel 286B, Cincinnati, OH (FIN 10140)
8. WYGY(FM), 97.3 MHz, Channel 247A, Fort Thomas, KY (40915)
9. WARH(FM), 106.5 MHz, Channel 293C1, Granite City, IL (FIN 74577)
10. WIL-FM, 92.3 MHz, Channel 222C0, St. Louis, MO (FIN 72390)
11. WXOS(FM), 101.1 MHz, Channel 266C1, East St. Louis, IL (FIN 56512)
12. WBQH(AM), 1050 kHz, Silver Spring, MD (FIN 8673)
13. WFED(AM), 1500 kHz, Washington, DC (FIN 74120)
14. WTLF(FM), 103.9 MHz, Channel 280A, Braddock Heights, MD (FIN 47105)
15. WTOP-FM, 103.5 MHz, Channel 278B, Washington, DC (FIN 11845)
16. WWFD(AM), 820 kHz, Frederick, MD (FIN 47104)
17. WWT-FM, 107.7 MHz, Channel 299B, Manassas, VA (FIN 21636)
18. W282BA, 104.3 MHz, Channel 282D, Leesburg, VA (FIN 138906) (rebroadcasts WWT-FM); and



**WHEREAS**, BHC is the holder of the licenses and authorizations issued by the Federal Communications Commission (the “**FCC**”) for the operation of the Stations; and

**WHEREAS**, subject to the terms and conditions of this Agreement, (i) BIC desires to sell and Buyer desires to purchase certain assets and property used in the operation of the Stations other than the FCC licenses and associated call letters, and (ii) BHC desires to assign and Buyer desires to assume BHC’s FCC licenses and associated call letters for the Stations;

## **AGREEMENT**

**NOW, THEREFORE**, in consideration of the mutual covenants contained herein, Sellers and Buyer hereby agree as follows:

### **ARTICLE 1 ASSETS TO BE CONVEYED**

**1.1 Transfer of Assets of the Stations.** Subject to the terms and conditions set forth in this Agreement, Sellers shall sell, assign, transfer, convey and deliver to Buyer on the Closing Date, free and clear of all Liens other than Permitted Liens, all of the assets, property and rights of Sellers used exclusively in the operation of or related solely to the Stations and the assets of BIC set forth on Schedule 1.1(l), including but not limited to those items set forth in subsections (a) – (m) below (collectively, the “**Assets**”), but excluding the Excluded Assets:

(a) to the extent transferable, all licenses, permits and other authorizations issued to Sellers by the FCC or any other Governmental Authority relating solely to the Stations, including those licenses, permits and other authorizations listed on Schedule 1.1(a) attached hereto, together with renewals or modifications thereof between the date hereof and the Closing Date (collectively, the “**FCC Licenses**”);

(b) all right, title and interest held by Sellers (or BIC’s wholly owned subsidiary Bonneville Media Corporation (“**BMC**”)) in and to the owned real property listed and described on Schedule 1.1(b) (the “**Owned Real Property**”), leases and other leasehold interests, easements, and real property licenses and options related solely to the Stations and listed and described on Schedule 1.1(b) (collectively, the “**Leased Real Property**”) (the Leased Real Property, together with the Owned Real Property, is hereinafter referred to collectively as the “**Real Property**”), including BIC’s interest, if any, in (1) all buildings, structures, and improvements on any and all such Real Property, (2) all easements or other appurtenances for the benefit of such Real Property, and (3) such additional buildings, structures, improvements and interests in the Real Property made or acquired between the date of this Agreement and the Closing Date and used or held for use by BIC (or an Affiliate thereof) exclusively in the operation of the Stations;

(c) all studio equipment, office equipment, office furniture, fixtures, materials and supplies, fixed assets, production equipment, computers, computer servers, telephone systems, cell phones, personal data assistants, personal computers and similar devices, leasehold improvements, inventories, vehicles, and other tangible personal property used solely by the Stations’ studios, including, but not limited to towers, transmitters, antennas, receivers, spare parts and other tangible personal property owned by BIC, including the property listed on

Schedule 1.1(c), together with replacements thereof and additions thereto made between the date hereof and the Closing Date, but excluding any such property disposed or replaced in the ordinary course of business (collectively, the ***“Personal Property”***);

(d) all Contracts of BIC exclusive to the Stations, including those listed on Schedule 1.1(d) hereto (the ***“Assumed Contracts”***), which Schedule 1.1(d) lists all Contracts with an annual cost of at least \$50,000 or a term longer than one (1) year;

(e) all of Sellers’ right, title and interest in and to all trademarks, trade names, service marks, service names, franchises, copyrights, patents, patent applications, call letters, internet domain names, Facebook sites; Twitter accounts, vendor and supplier lists, advertiser lists, sales lists, sponsor lists, business plans and strategies, marketing materials and plans, trade secrets, know-how, jingles, computer programs and program rights, and all Intellectual Property and other intangible assets owned or held by Sellers, all in whatever form or medium, including all goodwill, if any, associated with the foregoing and/or the call letters for the Stations, used solely in the operation of, used solely by, or related solely to the Stations, including, without limitation, those items listed on Schedule 1.1(e) hereto, but excluding any Intellectual Property identified in Section 1.2 below including the name “Bonneville” or any derivation thereof (the ***“Station Intellectual Property”***);

(f) all accounts receivable of BIC as of the Closing Date of or directly attributable to the Stations with the following account numbers: accounts receivable trade (including credit balance) (121110), accounts receivable network (121130), accounts receivable uninvoiced sales (121160), accounts receivable in collection (121499), allowance for accounts receivable in collection (121926), accounts receivable tradeouts (net) (121170), accounts receivable miscellaneous (121190), accounts receivable employees (121510), expense advances (121520) and payroll advances (121540) (***“Accounts Receivable”***);

(g) all prepaid expenses, advances, security, claims, refunds, and deposits (including, but not limited to, deposits paid in connection with any Real Property Leases) which relate solely to the Stations, including prepaid programming expenses;

(h) a copy or original of each Station’s public inspection file, filings with the FCC relating to the Stations, all records required by the FCC to be kept by the Stations, all records relating to the Real Property and the Personal Property, and such technical information, engineering data, and, to the extent transferable, rights under manufacturers’ warranties as they exist at the Closing and directly related to the Assets being conveyed hereunder;

(i) originals or copies of all books and records related solely to the Stations, including without limitation proprietary information, financial data and information, technical information and data, operating manuals, data, studies, records, reports, ledgers, files, correspondence, computer files, plans, diagrams, blueprints and schematics for the Stations and including computer readable disk or tape copies of any items stored on computer files,

(j) telephone numbers, websites, domain names and e-mail addresses owned by BIC and used solely in the business of the Stations, excluding BIC corporate level telephone numbers, websites, domain names and e-mail addresses;

(k) all Permits of Sellers used to operate the Stations and conduct the business of the Stations, to the extent transferable;

(l) that portion of the tangible corporate assets set forth on Schedule 1.1(l) that are used by or pertain to the Stations; and

(m) all goodwill, if any, associated with the Assets and the business of the Stations.

At the Closing Sellers shall exercise commercially reasonable efforts to cause Sellers' employees or agents who are the account holders for social media accounts (including, without limitation for Facebook and Twitter) related solely to, or used solely in connection with, the Stations to convey title to such accounts to individuals designated by Buyer.

**1.2 Excluded Assets.** No other assets of Sellers shall be transferred to Buyer hereunder, including the following, which shall not be included in the Assets (collectively, the "*Excluded Assets*"):

(a) any insurance policies, and any cash surrender value in regard thereto, of either of the Sellers;

(b) any pension, profit-sharing or deferral (Section 401(k)) plans and trusts and assets thereof, or any other employee benefit plan or arrangement, and the assets thereof;

(c) original or duplicate copies of records of BIC not solely related to the Stations;

(d) any interest in and to any refunds of federal, state or local income Taxes of BIC for periods prior to the Closing;

(e) the "Bonneville" tradename of Sellers and any derivations thereof and related trade and service marks;

(f) the corporate records of each of the Sellers, including, but not limited to, transfer books;

(g) any and all assets relating to, or used by the Retained Stations (as defined below), including corporate assets used by more than one station unless specifically set forth on Schedule 1.1(l);

(h) programming that originates from stations retained by Sellers ("Retained Stations");

(i) the equity interests (and distributions with respect to such equity interests) of BIC in any Person, including without limitation, the equity interests (and distributions with respect to such equity interests) in BMI, iBiquity Digital Corporation, and Broadcaster Traffic Consortium; and

(j) any other assets identified on Schedule 1.2(j).

In the event of any disagreement or inconsistency between Section 1.1 above and this Section 1.2, this Section 1.2 shall control.

**1.3 Assumption of Only Certain Liabilities and Obligations.** On the Closing Date, Buyer shall assume and agree to pay or perform when due only the liabilities and obligations of Sellers specifically set forth below, and excluding in all cases any liability arising directly or indirectly, from (i) any breach or default under any Assumed Contract occurring on or prior to the Closing Date, (ii) any violation of Laws occurring on or prior to the Closing Date, (iii) any breach of warranty, tort or infringement occurring on or prior to the Closing Date, or (iv) any charge, complaint, action, suit, proceeding, hearing, investigation, claim or demand to the extent that it relates to the foregoing subsections (i), (ii) and (iii) or any liability not specifically assumed hereunder (after giving effect to such exclusions, the ***“Assumed Liabilities”***):

(a) those liabilities and obligations of BIC related to future performance to be discharged or performed after the Closing Date under the Assumed Contracts;

(b) those liabilities and obligations of BHC or BIC related to future performance to be discharged or performed after the Closing Date under the FCC Licenses;

(c) the accounts payable of BIC of or directly attributable to the Stations with the following account numbers: accounts payable system (213110), accounts payable unvouchered (213120), accounts payable miscellaneous (213210), accrued property tax (231220), accrued music license fee (231490), accrued professional fees (231710), accrued expenses other (231990) and other current liabilities (232690) (***“Accounts Payable”***), accrued vacation with respect to all Terminated Employees (as defined below), and all accrued and future rent and leasehold obligations of BIC with respect to the Leased Real Property, all as of the Closing Date; and

(d) those liabilities and obligations related to future performance to be discharged or performed after the Closing Date under arrangements pursuant to Section 1.4(c) relating to Shared Contracts that cannot be separated prior to Closing.

Except for the Assumed Liabilities, Buyer shall not and does not assume or agree to become liable for or successor to any liabilities of or relating to Sellers, their predecessors, successors or any of their Affiliates, or with respect to the Retained Stations (collectively, the ***“Excluded Liabilities”***). It is agreed and understood by BIC that Buyer is not assuming any of the contribution history of BIC for contributions made on, before, or after the Closing Date to any Multiemployer Plans of BIC and that Buyer is not assuming any withdrawal liability under any such Multiemployer Plans, and that the foregoing constitute Excluded Liabilities. All Excluded Liabilities shall be and remain the sole obligation of Sellers, as the case may be, and Buyer shall not be obligated in any respect therefor. Following the Closing, Sellers shall continue to pay and perform the Excluded Liabilities as they may become due.

BIC is a party to the following collective bargaining agreements, all of which are Assumed Contracts, with unions representing some employees of BIC:

1. Collective Bargaining Agreement between Bonneville International Corporation and Local Union No. 4 of the International Brotherhood of Electrical Workers dated June 1, 2010 (“*IBEW CBA*”);
2. Collective Bargaining Agreement between Bonneville International Corporation and American Federation of Television and Radio Artists dated March 31, 2010 (the “*AFTRA CBA*” together, with the IBEW CBA, the “*St. Louis CBAs*”);
3. Collective Bargaining Agreement between Bonneville International Corporation and American Federation of Television and Radio Artists dated October 31, 2008; and
4. National Agreement Regarding Benefits, Cross-Utilization and New Media between Bonneville International Corporation and American Federation of Television and Radio Artists dated March 27, 2009.

BIC shall assign each of the foregoing Collective Bargaining Agreements, and all rights, privileges and obligations under each, to Buyer as of the Closing Date, and Buyer shall accept each such assignment as assignee and agree to abide by the terms and conditions of each such agreement pursuant to its terms, subject only to such technical modifications which reflect Buyer’s inability to replicate certain benefits; provided, however, that notwithstanding each such assumption, BIC shall remain liable for any liabilities or obligations incurred or created prior to the Closing Date.

#### **1.4 *Shared Contracts.***

(a) The Parties acknowledge that the Contracts set forth on Schedule 1.4(a), or portions thereof, have historically been used in the operation of the Stations as well as in the operation of the Retained Stations after the Closing (collectively, the “*Shared Contracts*”).

(b) BIC and Buyer shall use commercially reasonable efforts to obtain new or separate contracts to be entered into to be effective at Closing for each of BIC and Buyer with respect to the Shared Contracts (each, a “*Replacement Contract*”).

(c) In the event that a Replacement Contract for a Shared Contract is not obtained by the Closing, BIC shall, if and to the extent Buyer shall request, use commercially reasonable efforts to work and cooperate with Buyer in effecting a lawful and commercially reasonable arrangement under which Buyer shall receive the proportionate rights and assume the proportionate obligations under the Shared Contract corresponding to the Stations’ interest in such Shared Contract, provided that Buyer shall be responsible for any direct expenses associated with any such efforts undertaken by BIC, which for purposes of clarity shall not include any employee, overhead or other indirect costs or expenses of BIC.

**1.5 *Allocation.*** After Closing, Sellers and Buyer shall retain the firm of Bond and Pecaro to allocate the Purchase Price among the Assets (excluding Accounts Receivable) for all purposes (including tax and financial accounting purposes), in accordance with the past practices of Sellers. Buyer and Sellers shall split the cost of such appraisal equally between Buyer, on the one hand, and Sellers, on the other. Each party agrees to compile and timely file Internal

Revenue Service Form 8594 (or any successor form) and to file all income Tax returns in accordance with such appraisal. Buyer and Sellers (i) shall execute and file all Tax returns and prepare all financial statements, returns and other instruments in a manner consistent with the allocation of the Purchase Price among the Assets made pursuant to this Section 1.5, and (ii) shall cooperate with each other in timely filing, consistent with such allocation, of Form 8594 with the IRS.

#### **1.6     *Real Estate Matters.***

(a)     Delivery of Real Property Due Diligence. Within twenty (20) days following the execution of this Agreement, BIC shall provide Buyer with copies of all documents in Seller's possession which relate to the Real Property ("***Real Property Due Diligence***"). The Real Property Due Diligence shall include, but not be limited to, the following documents in Seller's possession: existing title policies (and copies of all documents listed as encumbrances or Liens on Sellers' interest in such Real Property), leases, subleases and other occupancy agreements, concession agreements, surveys, zoning letters or reports, local, state, and federal environmental and/or soil audits, assessments, and reviews, reports related to the physical condition of the Real Property and any improvements located thereon, operating statements for each parcel of Owned Real Property.

(b)     Delivery of Title Reports. To the extent available on commercially reasonable terms and as soon as practical following the execution of this Agreement, BIC shall cause to be delivered to Buyer, at BIC's expense, current title commitments for the Owned Real Property. Buyer shall be allowed thirty (30) days after receipt of each of the respective commitments to examine the same and to make objections thereto, said objections to be made in writing or deemed to be waived. If any objections are so made, BIC may correct any valid title objections within twenty (20) days after receipt of Buyer's notice of objections. If BIC does not correct, or commit to correct, any title objection within the time period allowed, Buyer may elect to either waive such title objection or terminate this Agreement.

(c)     Review of Real Estate Due Diligence and Physical Inspection. Buyer shall have the right prior to Closing to complete its review of the Real Property Due Diligence and to complete a physical inspection and environmental assessment and investigation of any or all of the Real Property, and in accordance therewith, Buyer shall be allowed to enter upon the Real Property from time to time upon advance notice to Seller and, at Buyer's sole cost, expense and risk, to physically examine the Real Property and to conduct tests and examinations with respect thereto; provided that Buyer and its agents and representatives do not unreasonably interfere with BIC's business and operations. Buyer shall promptly restore the Real Property to substantially the same condition in which it existed immediately prior to any physical tests conducted by Buyer and hold Sellers harmless from any and all damage caused by Buyer and its agents and representatives.

### **ARTICLE 2 PURCHASE PRICE**

2.1     **Purchase Price and Net Receivables.** The purchase price for the Assets shall be Five Hundred Five Million and No/100 Dollars (\$505,000,000) (the "Purchase Price") payable in

cash at the Closing (allocated between BIC and BHC as instructed in writing by BIC and BHC to be provided at least five (5) business days before the Closing Date) by wire transfer of immediately available funds to one or more bank accounts pursuant to wire transfer instructions that Sellers shall deliver to Buyer. In addition to the Purchase Price, within ninety (90) days after Closing, or promptly within two (2) business days following determination of Net Receivables as provided below in this Section 2.1, if later. Buyer shall pay to BIC for the total Accounts Receivable balance on the Closing Date less the total Accounts Payable balance on the Closing Date (the “**Net Receivables**”), the dollar amount equal to the sum of (a) 50% of Net Receivables, up to \$27 million of Net Receivables, and (b) 100% of Net Receivables in excess of \$27 million. The total of the payments for Net Receivables under clauses (a) and (b) shall be referred to herein as the “**Net Receivables Payment**”. Payment of the Net Receivables Payment shall be guaranteed by HBI at Closing.

Within sixty (60) calendar days after the Closing, Buyer shall prepare and deliver to BIC a final statement (the “**Final Closing Date Statement**”) calculating the Net Receivables as of the Closing Date in accordance with the definition thereof. The Final Closing Date Statement shall be prepared in accordance with GAAP and BIC’s past practice. Buyer shall also prepare and deliver to BIC with the Final Closing Date Statement balance sheets and such other documents or information Buyer relied upon in preparing the Final Closing Date Statement and calculating Net Receivables. Buyer shall provide BIC with reasonable access to the books, records, documents, information, employees and independent advisors of Buyer as BIC may reasonably request for the purpose of BIC’s verification of the Final Closing Date Statement and Buyer’s calculation of Net Receivables.

BIC shall be permitted during the thirty (30) day period following delivery of the Final Closing Date Statement to examine the Final Closing Date Statement. As promptly as practicable, and in no event later than the last day of such thirty (30) day period, BIC shall inform Buyer in writing if BIC objects to the Final Closing Date Statement by delivering to Buyer a written statement setting forth a specific description of BIC’s objection to the Final Closing Date Statement (the “**Statement of Objections**”) and BIC’s calculation of any disputed amounts. If BIC shall fail to provide Buyer with a Statement of Objections within such thirty (30) day period, the Final Closing Date Statement and the Net Receivables set forth therein shall be deemed to have been accepted by BIC. If a Statement of Objections is delivered, Buyer and BIC shall attempt in good faith to resolve any dispute within thirty (30) days after the date of such notice of Objections. If BIC and Buyer are unable to resolve the dispute within such thirty (30) day period, PricewaterhouseCoopers LLP located in Denver, Colorado or such public accounting firm as the Parties may mutually agree in writing (the “**Independent Accountant**”) shall resolve any unresolved objections related to accounting matters. Buyer and BIC shall deliver to the Independent Accountant all financial information reasonably necessary to resolve such objection(s), including the Final Closing Date Statement, and each of Buyer’s and BIC’s calculation of the disputed amounts set forth in the Statement of Objections. The Parties shall instruct the Independent Accountant not to assign a value to any item included in the Statement of Objections submitted to the Independent Accountant greater than the greatest value for such item assigned by Buyer, on the one hand, or BIC, on the other hand, or less than the smallest value for such item assigned by Buyer, on the one hand, or BIC, on the other hand. The Independent Accountant’s resolution of the items in the Statement of Objections submitted to the Independent Accountant shall be conclusive and binding upon the Parties and shall not be subject

to further review. The fees and expenses of the Independent Accountant shall be allocated one-half to Buyer and one-half to BIC.

### **ARTICLE 3 CLOSING**

Subject to satisfaction or waiver of the conditions set forth in Sections 8.1 and 8.2 and subject to the provisions of Section 11.1, the closing (the “**Closing**”) of the sale and purchase of the Assets shall take place at a mutually agreeable location or by electronic exchange of signatures and payments on a date designated in a written notice from Buyer to Sellers delivered at least five (5) days in advance thereof; provided that such date shall be no later than the Upset Date (the “**Closing Date**”); provided, further, that, notwithstanding the satisfaction or waiver of the conditions set forth in Sections 8.1 and 8.2, Buyer shall not be obligated to effect the Closing prior to the fifth business day following the final day of the Marketing Period, unless Buyer shall request otherwise on five (5) business days prior written notice (but, subject in such case, to the satisfaction or waiver (subject to applicable Law) of the conditions set forth in Sections 8.1 and 8.2 (other than any such conditions which by their terms cannot be satisfied until the Closing Date, which shall be required to be so satisfied or waived (subject to applicable Law) on Buyer’s requested Closing Date).

### **ARTICLE 4 REPRESENTATIONS AND WARRANTIES OF SELLERS**

#### **A. Bonneville International Corporation**

BIC hereby represents and warrants to Buyer that, subject to the specific terms herein and to the disclosures in the schedules referenced in this Article 4 (the “**Schedule of Exceptions**”), the following representations and warranties are (a) true and correct as of the date of this Agreement and (b) will be true and correct as of the Closing Date:

**4.1 Organization and Standing; Capitalization.** BIC (a) is a corporation duly formed, validly existing and in good standing under the laws of the State of Utah, (b) is qualified to do business in all jurisdictions where failure to do so would have a material adverse effect on the business of the Stations, and (c) has all necessary corporate power and authority to own, operate and lease its own Assets and carry on the business of the Stations. Schedule 4.A.4.1 lists each state where BIC is currently qualified to do business. Deseret Management Corporation owns beneficially and of record all of the issued and outstanding stock and other equity interests of BIC.

**4.2 Authorization and Binding Obligation.** BIC has all necessary corporate power and authority to enter into and perform its obligations under this Agreement and the Related Documents and to consummate the transactions contemplated hereby and thereby. This Agreement and the Related Documents have been, and each of the other documents contemplated hereby at or prior to Closing will be, duly executed and delivered by BIC, and have been approved by all necessary corporate action. This Agreement constitutes (and each of the other Related Documents, when executed and delivered, will constitute) valid and binding



obligations enforceable against BIC in accordance with their terms, except as may be limited by applicable bankruptcy, insolvency or similar laws affecting creditors' rights generally or the availability of equitable remedies.

**4.3 *Absence of Conflicting Agreements; Consents.*** Except for the consents set forth on Schedule 4.A.4.3, the execution, delivery and performance of this Agreement and the Related Documents contemplated hereby by BIC does not and will not: (a) violate any provisions of the Organizational Documents of BIC; (b) violate any applicable Law or Order; (c) constitute a material default under, or accelerate or permit the acceleration of any performance required by the terms of any of the Assumed Contracts or Shared Contracts, assuming any necessary consents are obtained; and (d) create any claim, Lien or encumbrance upon any of the Assets other than Permitted Liens.

Except as listed on Schedule 4.A.4.3, no approval or consent of any Person is or was required to be obtained by BIC for the authorization of this Agreement or the Related Documents or the execution, delivery, performance and consummation by BIC of the transactions contemplated by this Agreement and the Related Documents.

**4.4 *Litigation.*** Except as disclosed on Schedule 4.A.4.4, there are no claims, litigation, arbitrations or other legal proceedings pending that have been served on BIC or, to the Knowledge of BIC, pending but not served on BIC or threatened against BIC with respect to the Assets or operation of the Stations.

**4.5 *Station Licenses.***

(a) Schedule 1.1(a) contains a true and complete list of the FCC Licenses used or held for use in connection with the operation of the Stations as currently operated. BHC is the authorized legal holder of the FCC Licenses listed on Schedule 1.1(a). Except as set forth in Schedule 1.1(a), the Stations and the facilities of the Stations are being and have been operated during BIC's operation of the Stations in compliance with the FCC Licenses, the Communications Act and all FCC rules and policies except where non-compliance will not have a material adverse effect on BIC's business and operations. The FCC Licenses are all of the FCC licenses, permits and authorizations required for the operation of the Stations as presently operated.

(b) Except as set forth in Schedule 1.1(a), and except for proceedings affecting the radio broadcasting industry generally, (i) to the Knowledge of BIC, there are no applications, petitions, complaints, investigations, notices of violations, notice of apparent liabilities, pending license terminations, forfeitures, proceedings or other actions pending or threatened from or before the FCC relating to the Stations or the FCC Licenses and (ii) BIC has not filed with the FCC any applications or petitions relating to the Stations or the FCC Licenses which are pending before the FCC.

(c) To BIC's Knowledge, the Assets owned by BIC are in compliance with all rules and regulations of the Federal Aviation Administration applicable to the Stations. Each antenna structure that is required to be registered with the FCC has been registered with the FCC. Schedule 4.A.4.5 contains a list of the antenna registration numbers for each tower owned or

leased by BIC (and included in the Assets) that requires registration under the rules and regulations of the FCC. All material reports and other filings required by the FCC with respect to the Stations have been properly and timely filed.

(d) To the Knowledge of BIC the operation of the Stations does not expose workers or others to levels of radio frequency radiation in excess of the “Radio Frequency Protection Guides” recommended in “American National Standard Safety Levels with Respect to Human Exposure to Radio Frequency Electromagnetic Fields 3 kHz to 300 GHz” (ANSI/IEEE C95.1 - 1992), issued by the American National Standards Institute, and renewal of the FCC Licenses would not constitute a “major action” within the meaning of Section 1.1301 *et seq.*, of the FCC’s rules.

#### **4.6 Real Property.**

(a) Real Property; Representations. BIC has not granted any options or rights to any party to purchase any ownership or other interest in any parcel of the Owned Real Property. BIC has not received notice of any suit for condemnation or other taking by any public authority. To BIC’s Knowledge, each parcel of the Owned Real Property and the use of same by BIC complies in all respects with any and all applicable zoning Laws of all applicable Governmental Authorities, or is a legal non-conforming use, and no additional approvals from any Governmental Authorities or third parties are required for Buyer to continue the use of any such Owned Real Property after Closing in the same manner as currently used by BIC. To BIC’s Knowledge, all special use permits, conditional use permits or variances required for or used in connection with BIC’s use of each parcel of the Owned Real Property have been obtained, are freely transferable to Buyer, and will permit Buyer to continue the use of the applicable parcel of the Owned Real Property after Closing in the same manner as currently used by BIC.

(b) List of Leases. To BIC’s Knowledge, the real property lease agreements, including tower leases and antenna leases, and licenses set forth on Schedule 4.A.4.6(b) are the only real property leases to which BIC is a party and that relate to the business of the Stations (the “*Real Estate Leases*”). BIC has furnished to Buyer true and complete copies of the Real Estate Leases, along with all modifications and amendments thereto, except as set forth on Schedule 4.A.4.6(b). Except as set forth on Schedule 4.A.4.6(b), there are no oral agreements between BIC and any landlord or lessor under any of the Real Estate Leases.

(c) Leased Real Property. With respect to the real property and improvements subject to the Real Estate Leases: (i) BIC is the owner and holder of the entire interest in the leasehold estate purported to be granted by the Real Estate Leases except as disclosed on Schedule 4.A.4.6(c); (ii) the Real Estate Leases are in full force and effect and constitute legal, valid and binding obligations of BIC and the respective landlords, enforceable in accordance with their respective terms; and (iii) to BIC’s Knowledge, there are no defaults currently existing, no notices of default have been given or received by BIC, and no events have occurred that with the lapse of time, notice, or otherwise would constitute a default under any of the Real Estate Leases. No consent of any landlord of the Real Estate Leases is required in connection with the transactions contemplated by this Agreement, except as set forth on Schedule 4.A.4.6(c).

(d) Except as set forth on Schedule 4.A.4.6(d), to BIC's Knowledge, all improvements (including buildings and other structures) on the Leased Real Property conform to applicable Laws and the Leased Real Property are zoned for Sellers' use of the Leased Real Property. To BIC's Knowledge, all improvements (including buildings and other structures) on the Leased Real Property are in good condition and repair, normal wear and tear excepted.

**4.7 Contracts.** The Assumed Contracts and the Shared Contracts constitute all of the material Contracts to which BIC is a party that relate to the business of the Stations. To BIC's Knowledge, each of the Assumed Contracts and the Shared Contracts is in full force and effect and is legally valid, binding and enforceable by BIC in accordance with its terms, except as limited by Laws affecting creditor's rights or equitable principles generally. Except as disclosed on Schedule 4.A.4.7, neither BIC nor, to the Knowledge of BIC, any other party thereto, is in any material respect in default under the Assumed Contracts or the Shared Contracts.

**4.8 Compliance with Laws.** Except as set forth in Schedule 4.A.4.8 and except as will not have material adverse effect on the business or operations of the Stations, BIC has complied in all respects with, and is not in violation of, any Laws or Orders. BIC has not received any notice asserting any noncompliance with any Law or Order relating to the Assets or in connection with the operation of the Stations. There is no pending or, to BIC's Knowledge, threatened investigation, audit, review or other examination of the Stations, and BIC is not subject to any Order, agreement, memorandum of understanding or other regulatory enforcement action or proceeding with or by the FCC or any other federal or state governmental agency having supervisory or regulatory authority with respect to the Stations or the Assets.

**4.9 Governmental Consents.** Except as set forth in Schedule 4.A.4.9 and except for the filing of the Notification and Report Form for Certain Mergers and Acquisitions with the FTC and Antitrust Division as required by the HSR Act by the Buyer and BIC and the early termination of or expiration of the statutory waiting period under the HSR Act, and except for the FCC Consents contemplated by Section 6.1 or filings relating to the transfer of the Real Property as described herein, the execution, delivery and performance by BIC of this Agreement and the other documents contemplated herein, and the consummation by BIC of the transactions contemplated hereby and thereby, do not and will not require the authorization, consent, approval, exemption, clearance or other action by or notice or declaration to, or filing with, any court, administrative or other Governmental Authority.

**4.10 Taxes.** All federal, state, local and other Tax returns, reports and declarations required to be filed by BIC have been filed or caused to be filed, and all Taxes (including, but not limited to, income, franchise, sales, use, unemployment, personal property, real property, withholding, social security and workers' compensation taxes and estimated income and franchise tax payments, penalties and fines) due (whether or not shown on such returns, reports or declarations), or pursuant to any assessment received in connection with such returns, reports or declarations have been paid. All such returns, reports and declarations are true, complete and correct in all material respects; no deficiency in payment of any Taxes related to the Assets for any period has been asserted by any taxing authority which remains unsettled as of the date hereof, no written inquiries have been received from any taxing authority with respect to possible claims for taxes or assessments on the Assets, and to BIC's Knowledge there is no basis for any additional claims or assessments for Taxes on the Assets.

**4.11 Reports.** All reports and statements that BIC is required to file with the FCC in respect of the Stations have been filed, and all reporting requirements of the FCC have been complied with, except where non-compliance will not have a material adverse effect on the Stations or their operations.

**4.12 Environmental Matters In respect of the Real Property.**

(a) Except as set forth on Schedule 4.A.4.12, BIC has not received any notice from any Governmental Authority with respect to any parcel of the Owned Real Property or, to the Knowledge of BIC, with respect to any Leased Real Property, that there has ever been a violation or alleged violation of any judgment, decree, Order, Law, license, rule or regulation pertaining to environmental matters, including those arising under the Resource Conservation and Recovery Act, the Comprehensive Environmental Response, Compensation and Liability Act of 1980 as amended, the Superfund Amendments and Reauthorization Act of 1986, the Federal Water Pollution Control Act, the Solid Waste Disposal Act, as amended, the Federal Clean Air Act, the Toxic Substances Control Act, or any federal, state or local statute, regulation, ordinance, order or decree relating to the environment (hereinafter collectively "*Environmental Laws*");

(b) BIC has not received written notice from any third party, including any federal, state or local Governmental Authority, nor is BIC aware, that any hazardous waste, as defined by 42 U.S.C. Section 6903(5), any hazardous substance, as defined by 42 U.S.C. Section 9601(33), or any toxic substance, oil or other petroleum-based material or hazardous material, asbestos containing material or other hazardous chemical or hazardous substance regulated by or classified as such under any Environmental Laws (collectively, "*Hazardous Substances*") is or has been used or stored at the Owned Real Property in material violation of Environmental Laws, and the only Hazardous Substances used or stored at the Owned Real Property are used in connection with the Station's transmission facilities, customary oils and fuel used in connection with the Stations' generator;

(c) Except as disclosed on Schedule 4.A.4.12, BIC has no Knowledge of the presence of PCBs or other Hazardous Substances on any Owned Real Property, whether or not in violation of Environmental Laws.

(d) No portion of any of the Owned Real Property has been used by BIC and, to the Knowledge of BIC, no portion of the Leased Real Property has been used by BIC or any other Person, for the handling, manufacturing, processing, storage or disposal of Hazardous Substances in material violation of applicable Environmental Laws related to the Owned Real Property;

(e) Except as set forth on Schedule 4.A.4.12, BIC has not and, to BIC's Knowledge, no other person has released (i.e., any past or present releasing, spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, disposing or dumping) or threatened to release Hazardous Substances on, upon, into or from any of the Owned Real Property, or to the Knowledge of BIC, any Leased Real Property, in material violation of applicable Environmental Laws;

(f) Except as set forth on Schedule 4.A.4.12, BIC, and to BIC's Knowledge all other persons who have used any portion of the Owned Real Property, have complied in all material respects with all Environmental Laws in respect thereof; and

(g) Except as set forth on Schedule 4.A.4.12 no portion of the Owned Real Property is subject to any Order from or agreement with any Governmental Authority or private part regarding any Environmental Laws.

**4.13 Broker's Fees.** Neither BIC, nor any Person acting on BIC's behalf, has agreed to pay a commission, finder's fee or similar payment in connection with this Agreement or any matter related hereto to any person or entity, and no person or entity is entitled to any such payment from either of BIC in connection with the transactions contemplated by this Agreement, other than a payment owed by BIC to Lazard Freres & Co. LLC and Star Media Group Ltd. pursuant to a separate agreement with each of them. BIC shall indemnify and hold harmless Buyer for any payment due to such party or any other broker claiming by, through or under BIC in connection with the transaction contemplated by this Agreement.

**4.14 Insurance.** BIC maintains insurance policies or other arrangements with respect to the Stations and the Assets consistent with its practices for other stations, including coverage of all buildings, towers, antennas, dishes, transmission lines, transmitters and other Assets used in the operation of the Station, and will maintain such policies or arrangements until the Closing. BIC has not received notice from any issuer of such policies of its intention to cancel, terminate or refuse to renew any policy issued by it with respect to the Station and the Assets. Set forth on Schedule 4.A.4.14 is a true and correct summary of the property insurance policies or arrangements with respect to the Stations and the Assets, setting forth for each such policy (i) the insurer, (ii) amount of coverage, (iii) premiums, (iv) type of insurance, (v) policy number, (vi) pending claims under such policy, and (vii) the expiration date of such policy.

**4.15 Personal Property.** BIC has good and marketable title to the Personal Property free and clear of Liens. All items of Personal Property are in good operating condition, ordinary wear and tear excepted and are suitable for the purpose for which such items are presently used.

**4.16 Title to and Condition of Assets.**

(a) BIC owns and possesses, and will own and possess as of the Closing Date, (i) valid and subsisting leasehold interests in all leasehold estates comprising the Leased Real Property or (ii) good and marketable title to all properties and assets. The Assets owned by the Company will be free and clear of all Liens other than Permitted Liens. All tangible Assets are in BIC's possession or under their control.

(b) All material equipment used in the day-to-day operations of the Stations that is included in the Assets is in good operating condition and repair, subject only to ordinary wear and tear and routine maintenance, and, to BIC's Knowledge, is in conformity with all Laws, relating thereto currently in effect. The Assets, together with the Shared Contracts, constitute all of the assets, property and rights necessary to conduct the business of the Stations in substantially the same manner as it is now conducted.

**4.17 Financial Statements.** BIC has provided Buyer with true and accurate copies of unaudited financial statements of BIC with respect to the Stations as of and for the years ended set forth below (including balance sheets as of the dates listed and statements of income, and cash flows for the fiscal years then ended) (collectively, the “*Financial Statements*”):

As of and for the years ended:

December 31, 2009

December 31, 2010

The Financial Statements present fairly, in all material respects, the Assets to be sold by BIC to Buyer and the liabilities to be assumed by Buyer from BIC pursuant to the transactions contemplated by this Agreement and the related revenues, expenses, results of operations, BCF (broadcast cash flows), EBITDA (earnings before interest, taxes, depreciation and amortization), and statements of cash flows. The Financial Statements are correct and complete in all material respects with respect to the Stations as of the date thereof and for the periods indicated, and are consistent with the books and records of BIC. The Audited Financial Statements, when delivered to Buyer pursuant to Section 7.10 of this Agreement, will be correct and complete in all material respects, will fairly present the financial condition, cash flows, and results of operations of BIC with respect to the Stations as of the dates thereof and for the periods indicated, and will be consistent with the books and records of BIC, and will be prepared in accordance with GAAP.

**4.18 Absence of Certain Changes.** At all times from January 1, 2011, BIC has actively and diligently conducted the business of the Stations in the Ordinary Course of Business of the Stations. Except as described in Schedule 4.A.4.18, since January 1, 2011, there has not been any material adverse change in the financial condition, results of operation, operations, or earnings of the business of the Stations.

**4.19 Absence of Undisclosed Liabilities.** Except as set forth on the Financial Statements as of December 31, 2010, continuing obligations of performance under terms of Assumed Contracts, or as set forth on Schedule 4.A.4.19, BIC is not obligated for, nor are the Assets subject to, any Liabilities or adverse claims or obligations of any kind that materially affect the Assets or the business of the Stations or that comprise part of the Assumed Liabilities, whether a direct or indirect Liability, indebtedness, guaranty, endorsement, or obligation, whether accrued, absolute, contingent, mature, unmature or otherwise and whether known or unknown, fixed or unfixed, choate or inchoate, liquidated or unliquidated, secured or unsecured, except those incurred in the Ordinary Course of Business of the Stations since December 31, 2010 and set forth on the Final Closing Date Statement. There are no facts known to BIC that might reasonably serve as a basis, in whole or in part, for any obligations or Liabilities not disclosed in the Financial Statements or in the Schedules hereto.

**4.20 Employment Matters.**

(a) Schedule 4.A.4.20(a) contains a correct and complete list identifying each “employee benefit plan,” as defined in Section 3(3) of ERISA, each employment, consulting, sales, severance or similar contract, plan, arrangement or policy and each other plan or arrangement (written or oral) providing for compensation, bonuses, profit-sharing, stock option or other stock related rights or other forms of incentive or deferred compensation, vacation

benefits, insurance (including any self-insured arrangements), health or medical benefits, employee assistance program, disability or sick leave benefits, workers' compensation, supplemental unemployment benefits, severance benefits and post-employment or retirement benefits (including compensation, pension, health, medical or life insurance benefits) that is maintained, administered or contributed to by BIC and that covers any employee of BIC, or with respect to which BIC has any Liability, but excluding Multiemployer Plans (as defined below) (collectively, the "*Company Plans.*"). For all Company Plans BIC has furnished to Buyer a true and complete copy (with amendments) or a complete and accurate description of the Plan.

(b) Except as set forth on Schedule 4.A.4.20(b), the employment by BIC of any Person (not subject to a written employment agreement or a Collective Bargaining Agreement) is at-will employment meaning that such Person may be terminated at any time, without penalty or Liability of any kind (other than accrued vacation pay, COBRA benefits and other statutory required benefits, if any) except as such termination may be restricted by the current Law of the jurisdiction in which such Person is employed.

(c) To BIC's Knowledge, all employment practices of and employment actions taken by BIC as of the Closing Date have been consistent with federal, state, county and local Laws, ordinances and regulations, including those dealing with (i) labor relations, equal employment, fair employment practices, entitlements and prohibited discrimination and (ii) wage and hour and leave requirements and regulations. To BIC's Knowledge, no such employment practices or employment actions of BIC has been in violation of any such Laws, ordinances, regulations or requirements.

(d) Except as set forth on Schedule 4.A.4.20(d), there are no active, pending or, to BIC's Knowledge, threatened administrative or judicial Proceedings under Title VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act, the Fair Labor Standards Act, the Occupational Safety and Health Act, the Family and Medical Leave Act, ERISA, the Americans with Disabilities Act, the Worker Adjustment and Retraining Notification Act, the National Labor Relations Act or any other foreign, federal, state, county or local Law (including common Law), ordinance or regulation relating to Terminated Employees of BIC, nor are there any internal company investigations concerning alleged violations of the same.

(e) Except as set forth on Schedule 4.A.4.20(e), BIC has paid in full or accrued to all of its Terminated Employees all wages, salaries, commissions, bonuses, fringe benefit payments and all other direct and indirect compensation of any kind for all services performed by them and each of them to the date hereof.

(f) Except as set forth on Schedule 4.A.4.20(f), there is not presently pending or existing and, to the Knowledge of BIC, there is not threatened (a) any labor dispute, strike, slowdown, picketing, or work stoppage, or (b) any effort to organize any Terminated Employees into a new or modified collective bargaining unit, or (c) to BIC's Knowledge, any employee grievance under any company policy, employment agreement, or collective bargaining agreement.

(g) There is no dispute, claim, or Proceeding pending with or, to BIC's Knowledge, threatened by the U.S. Citizenship and Immigration Services with respect to BIC.

(h) Except as set forth on Schedule 4.A.4.20(h), neither BIC nor any ERISA Affiliate nor any predecessor thereof contributes to, or has in the past contributed to, any multiemployer plan, as defined in Section 3(37) of ERISA (a “**Multiemployer Plan**”). “**ERISA Affiliate**” of any entity means any other entity that, together with such entity, would be treated as a single employer under Section 414 of the Code. With respect to any Multiemployer Plans of BIC or its ERISA Affiliates there are no delinquent contributions or other contributions that might be determined upon audit to be owing by BIC or its ERISA Affiliates with respect to services performed by employees prior to the Closing Date. Except as set forth on Schedule 4.20(h), for any Multiemployer Plans of BIC, there is no withdrawal liability owed by BIC on or before the Closing Date.

(i) To BIC’s Knowledge, each of the Company Plans has been established, operated and administered in compliance with its terms and applicable law, including but not limited to ERISA and the Code. To BIC’s Knowledge, no event has occurred and no condition exists that would subject any of the Assets being sold to any Tax, fine, Lien, penalty or other Liability (other than Liabilities incurred in the ordinary course of the plan’s operations that are reflected in the Financial Statements). Each Company Plan intended to be qualified under Section 401(a) of the Code has received a favorable determination letter from the Internal Revenue Service (the “**IRS**”) that it is so qualified or is permitted to rely on the opinion letter of a prototype plan or volume submitter sponsor, and nothing has occurred since the date of such letter that is reasonably likely to affect the qualified status of such Company Plan.

(j) Set forth on Schedule 12.1 is a true and complete list, setting forth each employee of BIC with respect to the Stations, and certain other employees of BIC, together with such employee’s location in which employed; current compensation rate; and service credited for purposes of vesting and eligibility to participate under any pension, retirement, profit-sharing, 401(k) plan, thrift-savings, deferred compensation, stock bonus, stock option, restricted stock, stock appreciation right, cash bonus, retention, severance pay, insurance, medical, welfare, vacation, sick leave, or other Company Plan.

(k) BIC is not aware of any of its Terminated Employees or independent contractors having been convicted of, pleaded guilty to, or entered a plea of *nolo contendere* to a felony or gross misdemeanor during the previous ten (10) years.

(l) To BIC’s Knowledge there are no current Terminated Employees who are not in lawful status pursuant to the immigration laws of the United States.

(m) Except as set forth on Schedule 4.A.4.20(m), BIC does not provide continuation of any benefit to Terminated Employees after termination of employment other than as required under Section 4980B of the Code, or similar provision of applicable state Law.

(n) To BIC’s Knowledge, no default, violation, error or omission has occurred on or prior to the Closing Date with respect to any of the Company Plans for which Buyer could be liable as a result of the consummation of the transactions contemplated by this Agreement. No Company Plan has terms requiring assumption by Buyer. No assets of any Seller are subject to any Lien under any provision of ERISA or the Code.



(o) Except as set forth in Schedule 4.A.4.20(o), neither the execution and delivery of this Agreement nor the consummation of the transactions contemplated hereby will (i) result in any material payment (including, without limitation, severance pay or unemployment compensation) becoming due to any director or employee of the Seller; (ii) result in the acceleration of vesting under any Company Plan; or (iii) materially increase any benefits otherwise payable under any Company Plan; and any such payment or increase in benefits is fully deductible under the Code, including but not limited to Sections 162, 280G and 404. Except as set forth in Schedule 4.A.4.20(o), neither Seller nor any ERISA Affiliate has announced any plan or commitment to create any additional Company Plan or to amend or modify any Company Plan.

(p) BIC is not entering into this transaction to evade or avoid liability under ERISA, including any liability BIC may have with respect to any defined benefit plan or to the Pension Benefit Guaranty Corporation.

(q) To BIC's Knowledge, and except as otherwise set forth in one or more Schedules for this Section, no event has occurred, and no condition exists, as of, or prior to the Closing Date, with respect to any Company Plan for which, or with respect to which Buyer could incur any liability, tax, penalty or assessment, regardless of whether any such event or condition is known or unknown, contingent or otherwise, including without limitation, as a result of any matter that could adversely affect the tax-qualified status of a Company Plan (or the tax-exempt status of a related trust), as a result of any act or omission of any fiduciary, actuary or administrator of any Company Plan, or as a result of any claim by a participant or beneficiary.

**4.21 *Permits and Rights.*** Together BIC and BHC possess all Permits that are necessary to permit BIC to engage in the business of the Stations as presently conducted in and at all locations and places where it is presently operating and conducting the business of the Stations, except where the absence of such a Permit would not have a material adverse effect on the business and operations of the Stations. The FCC licenses and Permits are listed on Schedule 1.1(a).

**4.22 *Accounts Receivable.*** All accounts receivable, represent sales actually made or amounts related to services actually performed in the Ordinary Course of Business of the Stations or valid claims as to which performance has been rendered. To BIC's Knowledge, all such amounts are collectable. Except to the extent reserved against, and as set forth on Schedule 4.A.4.22, to BIC's Knowledge, no counterclaims or offsetting claims with respect to the accounts receivable are pending or, to the Knowledge of BIC, threatened. The listing of accounts receivable provided by BIC dated December 31, 2010 is true and correct (including the aging thereon) as of such date and except for changes occurring since December 31, 2010 in the Ordinary Course of Business of the Stations, no change has occurred since that date, and the listing of accounts receivable on each of the Audited Financial Statements and the Subsequent Financial Statements will be true and correct (including the aging thereon).

**4.23 *Accounts Payable.*** The accounts payable of BIC reflected on the Financial Statements and to be reflected on each of the Audited Financial Statements and the Subsequent Financial Statements arose, or shall arise, from bona fide transactions in the Ordinary Course of Business of the Stations. All such accounts payable have been paid; are not yet due and payable

either under BIC's payment policies and procedures, the terms for payment, or applicable Law; or are being contested by BIC in good faith. Any debit balance in accounts payable are valid offsets to amounts due vendors. The listing of accounts payable provided by BIC dated December 31, 2010 is true and correct as of such date and except for changes occurring since December 31, 2010 in the Ordinary Course of Business of the Stations, no change has occurred since that date, and the listing of accounts payable on each of the Audited Financial Statements and the Subsequent Financial Statements will be true and correct.

**4.24 *Claims Against Third Parties.*** Schedule 4.A.4.24 sets forth a list and brief description of all of BIC's known breach of contract and tort claims against any Person, if any, related to the conduct of the business of the Stations.

**4.25 *Intellectual Property.***

(a) Except as set forth on Schedule 4.A.4.25(a), BIC is the owner or licensee of, with all right, title and interest in and to (free and clear of any Liens), or otherwise possesses, the right to use the Intellectual Property used in the business of the Stations.

(b) Schedule 4.A.4.25(b) sets forth a list of all of BIC's owned Intellectual Property used exclusively in the business of the Stations and any applications therefor, and specifies, where applicable, the jurisdictions in which each such item of Intellectual Property has been issued or registered or in which an application for such issuance or registration has been filed, including the respective registration or application numbers and the names of all registered owners, and any filing deadlines for responses, affidavits or renewals applicable to the Intellectual Property that occur within three (3) months of the Closing Date. Schedule 4.A.4.25(b) sets forth a list of all licenses, sublicenses and other agreements (other than shrink-wrap, click-wrap or commercially available software) to which any Seller is a Party that relate to the business of the Stations and pursuant to which any Seller or any other Person is authorized to use or license the use of any Intellectual Property of BIC or other Persons. Except as set forth in Schedule 4.A.4.25(b), the execution and delivery of this Agreement by BIC, and the consummation of the transactions contemplated by this Agreement, will not cause BIC to be in violation or default under any such license, sublicense or agreement, nor entitle any other Person to any such license, sublicense or agreement to terminate or modify such license, sublicense or agreement.

(c) Except as set forth on Schedule 4.A.4.25(c), no claims with respect to the Intellectual Property owned or used by BIC has been asserted or are, to BIC's Knowledge, threatened by any Person (i) to the effect that the business of the Stations of BIC infringes on any Intellectual Property of other Persons, (ii) against the use by BIC of any Intellectual Property used in the business of the Stations as currently conducted or under development for use in the business of the Stations or (iii) challenging the ownership by BIC, or the validity or effectiveness, of any of the Intellectual Property. To BIC's Knowledge, there is no unauthorized use, infringement or misappropriation of any of BIC's Intellectual Property by any Person, including, to BIC's Knowledge, any employee or former employee of BIC.

(d) BIC is in compliance with all applicable laws, rules, regulations, and BIC contractual obligations governing the collection, interception, storage, receipt, purchase, sale,

transfer and use (“*Collection and Use*”) of personal, consumer, or customer information, including name, address, telephone number, electronic mail address, social security number, bank account number or credit card numbers (collectively, “*Customer Information*”) except where non-compliance will not have a material adverse effect on the Stations. Collection and Use of such Customer Information is in accordance in all material respects with BIC’s privacy policies (or applicable terms of use) as published on its respective websites or any other privacy policies (or applicable terms of use) presented to consumers or customers (actual or potential) and to which BIC is bound or otherwise subject and any contractual obligations of BIC to its customers (actual or potential) regarding privacy. BIC takes commercially reasonable steps to protect the confidentiality, integrity and security of its software, databases, systems, networks and Internet sites and all information stored or contained therein or transmitted thereby from unauthorized or improper Collection and Use including appropriate backup, security, and disaster recovery technology, and to BIC’s Knowledge no Person has gained unauthorized access to any of BIC’s software, data, systems, or networks.

(e) To BIC’s Knowledge, the business of the Stations of BIC does not infringe, any Intellectual Property of other Persons. To BIC’s Knowledge, the execution or delivery of this Agreement or any other agreement or document contemplated by this Agreement, or the performance of BIC’s obligations hereunder or thereunder, will not violate any such applicable law, rule, or regulation or any of BIC’s privacy policies (or applicable terms of use) or any other contractual obligation of BIC governing the Collection and Use of Customer Information.

**4.26 Disclosure.** This Agreement and the Related Documents and the Exhibits and Schedules hereto and thereto (to the extent such Schedules and Exhibits have been provided by Sellers) will not at Closing and, to BIC’s Knowledge, do not, as of the date of this Agreement, contain any untrue statements of a material fact or omit to state a material fact necessary to make the statements herein or therein contained not misleading.

## **B. Bonneville Holding Company**

BHC hereby represents and warrants to Buyer that, subject to the specific terms herein and to the, Schedule of Exceptions, the following representations and warranties are true and correct as of the date of this Agreement and will be true and correct as of the Closing Date:

**4.1 Organization and Standing; Capitalization.** BHC (a) is a non-profit corporation without members duly formed, validly existing and in good standing under the laws of the State of Utah, (b) is qualified to do business in all jurisdictions where failure to do so would have a material adverse effect on the business of the Stations, and (c) has all necessary corporate power and authority to own, license and sell the FCC licenses to Buyer. Schedule 4.B.4.1 lists each state where BHC is currently qualified to do business.

**4.2 Authorization and Binding Obligation.** BHC has all necessary corporate power and authority to enter into and perform its obligations under this Agreement and the Related Documents to which it is a party and to consummate the transactions contemplated hereby and thereby. This Agreement and the Related Documents to which BHC is a party have been, and each of the other documents contemplated hereby at or prior to Closing will be, duly executed

and delivered by BHC, and have been approved by all necessary corporate action. This Agreement constitutes (and each of the other Related Documents to which BHC is a party, when executed and delivered, will constitute) valid and binding obligations enforceable against BHC in accordance with their terms, except as may be limited by applicable bankruptcy, insolvency or similar laws affecting creditors' rights generally or the availability of equitable remedies.

**4.3 *Absence of Conflicting Agreements; Consents.*** Except for the consents set forth on Schedule 4.B.4.3, the execution, delivery and performance of this Agreement and the Related Documents to which BHC is a party contemplated hereby by BHC does not and will not: (a) violate any provisions of the Organizational Documents of BHC; (b) violate any applicable Law or Order; (c) constitute a material default under, or accelerate or permit the acceleration of any performance required by the terms of any of the Assumed Contracts or Shared Contracts, assuming any necessary consents are obtained; and (d) create any Lien upon any of the Assets other than Permitted Liens.

BHC has obtained all the corporate approvals and consents required to be obtained by it for the authorization of this Agreement and the Related Documents or the execution, delivery, performance and consummation by it of the transactions contemplated by this Agreement and the Related Documents.

**4.4 *Litigation.*** There are no claims, litigation, arbitrations or other legal proceedings pending or, to the Knowledge of BHC, threatened against BHC with respect to the FCC Licenses.

**4.5 *Station FCC Licenses.***

(a) Schedule 1.1(a) contains a true and complete list of the FCC Licenses used or held for use in connection with the operation of the Stations as currently operated. BHC is the authorized legal holder of the FCC Licenses listed on Schedule 1.1(a). Except as set forth in Schedule 1.1(a), the FCC Licenses are in good standing and in full force and effect.

(b) Except as set forth in Schedule 1.1(a), and except for proceedings affecting the radio broadcasting industry generally, (i) to the Knowledge of BHC, there are no applications, petitions, complaints, investigations, notices of violations, notice of apparent liabilities, pending license terminations, forfeitures, proceedings or other actions pending or threatened from or before the FCC relating to the Stations or the FCC Licenses and (ii) BHC has not filed with the FCC any applications or petitions relating to the Stations or the FCC Licenses which are pending before the FCC.

**4.6 *Reports.*** All reports and statements that BHC is required to file with the FCC in respect of the Stations have been filed, and all reporting requirements of the FCC have been complied with, except where non-compliance will not have a material adverse effect on the Stations or their operations.

**4.7 *Broker's Fees.*** Neither BHC, nor any Person acting on BHC's behalf, has agreed to pay a commission, finder's fee or similar payment in connection with this Agreement or any matter related hereto to any person or entity, and no person or entity is entitled to any such

payment from either of BHC in connection with the transactions contemplated by this Agreement.

**4.8 *FCC License Holding Company.*** BHC owns the FCC Licenses and associated call letters. BHC does not (i) employ any employees, (ii) conduct any business other than licensing the FCC licenses and call letters to BIC, (iii) own or hold any substantial assets (including the ownership of stock or any other interest in any Person) other than FCC Licenses and call letters licensed to BIC, (iv) have any investments in any other Person, or (v) have or owe any Liabilities to any Person that would result in any claim, Lien, or any other encumbrance on the FCC Licenses or associated call letters. When transferred, the FCC Licenses and call letters will be transferred free and clear of all Liens.

## **ARTICLE 5**

### **REPRESENTATIONS AND WARRANTIES OF BUYER**

Buyer represents and warrants to Sellers that, subject to the specific terms herein, the following representations and warranties are true and correct as of the date of this Agreement and will be true and correct as of the Closing Date:

**5.1 *Organizational and Standing.*** Buyer (a) is a limited liability company duly formed, validly existing and in good standing under the laws of the State of Delaware, (b) is or at the time of Closing will be qualified to do business in all jurisdictions where failure to do so would have a material adverse effect on the business after Closing, and (c) has all necessary power and authority to own, operate and lease the Assets and carry on the business of the Stations. As of the Closing Date, Buyer will be qualified to do business in all jurisdictions where the failure to so qualify would have a material adverse effect on its business.

**5.2 *Authorization and Binding Obligation.*** Buyer has all necessary power and authority to enter into and perform its obligations under this Agreement and the Related Documents to which it is a party and to consummate the transactions contemplated hereby and thereby. This Agreement and the Related Documents have been, and each of the other documents contemplated hereby at or prior to Closing will be, duly executed and delivered by Buyer, and has been approved by all necessary limited liability company action. This Agreement constitutes (and each of the Related Documents, when executed and delivered, will constitute) valid and binding obligations enforceable against Buyer in accordance with their terms, except as may be limited by applicable bankruptcy, insolvency or similar laws affecting creditors' rights generally or the availability of equitable remedies.

**5.3 *Absence of Conflicting Agreements or Required Consents.*** Except for the filing of the Notification and Report Form for Certain Mergers and Acquisitions with the FTC and Antitrust Division as required by the HSR Act by the Buyer and the Sellers and the early termination or the expiration of the statutory waiting period under the HSR Act, and the FCC Consents, the execution, delivery and performance of this Agreement by Buyer does not and will not: (a) violate any provision of Buyer's Organizational Documents; (b) require the consent of any Governmental Authority; (c) violate any material law, judgment, order, injunction, decree, rule, regulation or ruling of any Governmental Authority; and (d) either alone or with the giving of notice or the passage of time or both, conflict with, constitute grounds for termination or

acceleration of, or result in a breach of the terms, conditions or provisions of, or constitute a default under, any Contract to which Buyer is now subject.

**5.4 Absence of Litigation.** There is no claim, litigation, arbitration or proceeding pending or, to the Knowledge of Buyer, threatened, before or by any court, Governmental Authority or arbitrator relating to Buyer that seeks to enjoin or prohibit, or that could hinder or impair, Buyer's performance of its obligations under this Agreement.

**5.5 FCC Qualifications.** Buyer is qualified under the Communications Act of 1934, as amended (the "**Communications Act**") and the rules and regulations of the FCC, including without limitation the multiple ownership rules, as in effect on the date hereof, to be an assignee of the FCC Licenses. Buyer is not aware of any fact that would, under present Law (including published policies of the FCC), disqualify Buyer from being the assignee of the Stations or that would delay FCC approval of the assignment of the FCC licenses.

**5.6 Broker's Fees.** Neither Buyer nor any person or entity acting on its behalf has agreed to pay a commission, finder's fee or similar payment in connection with this Agreement or any matter related hereto to any person or entity other than Methuselah Capital, Inc. and Morgan Stanley & Co., Inc., and no person or entity other than such entities is entitled to any such payment from Buyer in connection with the transactions contemplated by this Agreement. Buyer shall indemnify and hold harmless the Sellers for any payment due to any broker or agent based on any agreement made by Buyer.

**5.7 Commitment Letter.** Buyer has delivered to Sellers duly executed copies of the commitment letter of Morgan Stanley Service Funding, Inc. and Goldman Sachs Bank USA (the "**Finance Parties**"), dated as of the date of this Agreement, pursuant to which the Finance Parties have agreed, subject to the terms, conditions and exceptions set forth therein, until the expiration of the Commitment Letter on the date six months from the date of this Agreement in accordance with its terms, to provide debt financing to Buyer in connection with the consummation of the transactions contemplated by this Agreement (the "**Commitment Letter**") in the amounts set forth in the Commitment Letter. The Commitment Letter is in full force and effect as of the date hereof.

## **ARTICLE 6 GOVERNMENTAL CONSENTS**

### **6.1 FCC Application.**

(a) The assignments of the FCC Licenses as contemplated by this Agreement are subject to the prior consent and approval of the FCC. Prior to the Closing, Buyer shall not directly or indirectly control, supervise, direct, or attempt to control, supervise, or direct, the operation of the Stations, and such operation, including complete control and supervision of all of the Stations' programs, employees, and policies, shall be the sole responsibility of BIC as the operator of the Stations until the Closing.

(b) As soon as practical, and in any event within two (2) business days following the date of the execution of this Agreement, Buyer and Sellers shall prepare and jointly file the FCC Applications and the Parties shall use commercially reasonable efforts to cause the

FCC to accept the FCC Applications for filing as soon as practicable after such filing; provided that neither Sellers nor Buyer shall have any obligation to satisfy any complainant or the FCC by taking any steps which would have a material adverse effect upon BHC, BIC or Buyer or upon any Affiliate, but neither the expense nor inconvenience to a Party of defending against a complainant or an inquiry by the FCC shall be considered a material adverse effect on such Party. Buyer and Sellers shall thereafter prosecute the FCC Applications in good faith and with all reasonable diligence and otherwise use their commercially reasonable efforts to obtain the grant of the FCC Consents as expeditiously as practicable. Neither Party will take any action that it knows, or reasonably believes, would disqualify the FCC Applications.

(c) Each Party shall bear one-half of the cost of the FCC filing fees for the FCC Applications. Each Party shall bear its own costs and expenses (including the legal fees and disbursements of its counsel) in connection with the preparation of the portion of the FCC Applications to be prepared by it and in connection with the processing and defense of the application.

**6.2 HSR Act Filings.** Sellers and Buyer will each cause to be made an appropriate filing of all pre-merger notification and report forms pursuant to the HSR Act as soon as practical following the date hereof. Each such filing will request early termination of the waiting period imposed by the HSR Act. Sellers and Buyer will use their respective commercially reasonable efforts to respond as promptly as reasonably practicable to any inquiries received from the Federal Trade Commission (the “*FTC*”) or the Antitrust Division of the Department of Justice (the “*Antitrust Division*”) for additional information or documentation and to respond as promptly as reasonably practicable to all inquiries and requests received from any other Governmental Authority in connection with antitrust matters; *provided, however*, that nothing contained in this Agreement will be deemed to preclude either of Sellers or Buyer from negotiating reasonably and in good faith with any Governmental Authority regarding the scope and content of any such requested information or documentation, *provided that* such negotiations are conducted promptly and diligently. Each Party will keep the other Party promptly apprised of any communications with, and inquiries or requests for information from, any such Governmental Authority, including promptly providing to the other Party, to the extent permitted under applicable Law, copies of any such written communications, and will take reasonable steps to consult with the other Party in advance of any meeting or conference with any such Governmental Authority (and to the extent permitted by the applicable Governmental Authority, give the other Party the opportunity to attend and participate in any such meeting or conference). Notwithstanding anything to the contrary in this Section 6.2 or elsewhere in this Agreement, no Party is or will be required to agree to divest or license any material assets or agree to any material limitations or restrictions on the conduct of its business as a condition of resolving any such objections, and Buyer acknowledges that Sellers shall not be obligated to provide any financial information of a Person other than Deseret Management Corporation which or who may be deemed to be a direct or indirect owner or the “ultimate parent entity” of either of the Sellers in connection with this transaction. Each of the Buyer and BIC shall be responsible for fifty percent (50%) of the HSR filing fee.

## ARTICLE 7 COVENANTS

### 7.1 *Certain Covenants.*

(a) Affirmative Covenants of Sellers. Between the date of this Agreement and the Closing Date:

(i) Sellers shall promptly notify Buyer in writing if Sellers have Knowledge prior to the Closing of: (1) any representations or warranties contained in Articles 4 or 5 that are no longer true and correct in any material respect or of any fact or condition that would constitute a material breach of any such representation or warranty as of the Closing, (2) the occurrence of any event that would require any material changes or amendments to the schedules and exhibits attached to this Agreement, (3) the occurrence of any event that may make the satisfaction of the conditions in Article 8 impossible or unlikely, or (4) the occurrence of any other event that violates any material covenants, conditions or agreements to be complied with or satisfied by Sellers under this Agreement;

(ii) During the period from the date of this Agreement to and including the Due Diligence Delivery Date, Sellers shall supplement or amend the Schedule of Exceptions to reflect any fact, circumstance or event, whether existing, arising or occurring on, prior to, or after the date of this Agreement, that renders any part of the Schedule of Exceptions inaccurate or incomplete, or that is otherwise required to be disclosed in Schedule of Exceptions to make the representations and warranties of Sellers true and correct as of the date of this Agreement and the Closing Date, provided, that, as of the Due Diligence Delivery Date, the schedules contained in the Schedule of Exceptions relating to the representations and warranties set forth in Sections A.4.5(c), A.4.6(a), (b), and (d), A.4.10, A.4.20(c), (d), (i), and (n), A.4.25(e), and A.4.26 (the “*Absolute Representations and Warranties*”), shall be updated such that the Absolute Representations and Warranties shall be true and correct on the Closing Date as though made on the Closing Date without regard to any Knowledge qualifiers;

(iii) Sellers will comply in all material respects with all Laws applicable to each Seller’s use of the Assets and operate and maintain the Stations and all operations in material conformity with the FCC Licenses, the Communications Act, and the rules and regulations of the FCC;

(iv) Sellers will maintain the Assets in customary repair, maintenance and condition, except for wear and tear incurred in the Ordinary Course of Business, and BIC will continue to make capital expenditures in the Ordinary Course of Business as contemplated in the current capital expenditure plan of BIC;

(v) Sellers will maintain in full force and effect the FCC Licenses relating to the Stations and the Assets and, except as set forth elsewhere in this Agreement, take any action reasonably necessary before the FCC, including the preparation and prosecution of applications for renewal of the FCC Licenses, if necessary, to preserve such licenses in full force and effect without material adverse change; and



(vi) Sellers will maintain in full force and effect reasonable property damage and liability insurance on the Assets in at least the amount provided for by the policies currently maintained by Sellers.

(vii) Sellers shall conduct the business of the Stations in the Ordinary Course of Business of the Stations and shall maintain the composition of the account types set forth, with respect to Accounts Receivable, in Section 1.1(f), and, with respect to Accounts Payable, in Section 1.3;

(viii) Sellers shall preserve intact the business of the Stations and maintain the relations and goodwill, if any, with suppliers, customers, landlords, creditors, employees, agents and others having business relationships with the business of the Stations;

(ix) Sellers shall use commercially reasonable efforts to cause the conditions set forth in Article 8 to be satisfied promptly; and

(x) Sellers shall maintain all books and records relating to the business of the Stations.

(b) Negative Covenants. Between the date of this Agreement and the Closing Date, except as expressly permitted by this Agreement or with the prior written consent of Buyer:

(i) Sellers will not engage in any hiring, discharge or employee compensation practices that are outside the Ordinary Course of Business;

(ii) BIC will not terminate, modify or amend any Assumed Contract except (A)(1) in the Ordinary Course of Business (except BIC may, acting reasonably, modify the terms and conditions of the St. Louis CBAs subject to renewal on March 31, 2011) or (2) as reasonably necessary to transfer such Assumed Contract to Buyer, or (B) knowingly commit to any act or fail to take any action that would cause a breach of any Assumed Contract;

(iii) Neither Seller will voluntarily create any Lien on any of the Assets;

(iv) Neither Seller will sell, assign, lease or otherwise transfer or dispose of any of the Assets, except for the Assets consumed or disposed of in the Ordinary Course of Business;

(v) Neither Seller will modify or amend, or seek to modify or amend, any of the FCC Licenses without Buyer's prior written consent except as necessary for the Sellers to be in compliance with the Communications Act, provided that Buyer shall not unreasonably withhold, condition or delay its consent unless the modification is materially adverse to the interests of Buyer or the Stations and provided, further, Seller shall have the right to file and pursue any and all FCC License renewals that Seller deems necessary or advisable;

(vi) BIC shall not agree to or put into effect any increase in compensation for any Terminated Employees, or pursuant to existing contracts to which BIC is a

party, other than normal pay increases to non-salaried Terminated Employees granted in the Ordinary Course of Business of the Stations and as required pursuant to collective bargaining agreements or Assumed Contracts between BIC and Terminated Employees;

(vii) None of Sellers shall authorize or enter into an agreement to do any of the foregoing; and

(viii) BIC shall not make any material changes in its cash management policies, including any changes to its historical payment of accounts payable and collections of accounts receivable.

(c) Affirmative Covenants of Buyer. Buyer shall promptly notify Sellers in writing if Buyer has Knowledge prior to the Closing of: (i) any representations or warranties contained in Articles 4 or 5 that are no longer true and correct in any material respect, (ii) the occurrence of any event that would require any changes or amendments to the schedules or exhibits attached to this Agreement, (iii) the occurrence of any other event that may result in a violation of any covenants, conditions or agreements to be complied with or satisfied by Buyer under this Agreement; provided, however, that no such notice shall qualify or otherwise limit in any way Buyer's representations, warranties, covenants or agreements herein; or (iv) the occurrence of any event or discovery of information by Buyer that results in a determination by Buyer that the Buyer's Closing Condition set forth in Section 8.1(c) will not be satisfied.

Buyer shall use its commercially reasonable efforts to cause the financing contemplated by the Commitment Letter, subject to the terms and conditions set forth therein, to be available at Closing. Buyer shall also comply with the obligations of federal labor law to engage in good faith bargaining with the unions.

**7.2 Access.** Between the date that this Agreement and the transactions herein are publicly announced and the Closing Date and during regular business hours (so long as it would not unreasonably interfere with the operations of BIC), BIC will afford Buyer, its counsel, accountants, financial advisors, bankers or other financing parties, environmental consultants, appraisers and other advisers and representatives, upon reasonable advance notice, access to the Stations, the Stations' employees and the employees of BIC, and its subsidiaries or affiliates who provide services to or support the Stations and the Real Property, to review and inspect the Assets and the Stations, to inspect and copy all Assumed Contracts, Shared Contracts, environmental and engineering studies and reports, and other documents and contracts pertaining solely to the Assets or the Stations that are in BIC's possession, custody or control. In addition to the foregoing, Buyer and its consultants and agents, shall only contact employees of BIC after notice to BIC and pursuant to a schedule previously submitted to BIC and reasonably agreed to by BIC, and BIC shall have the right to attend any such employee meeting.

**7.3 No Inconsistent Action.** Between the date of this Agreement and the Closing or termination of this Agreement, each Party shall use its commercially reasonable efforts to cause the fulfillment at the earliest practicable date of all of the conditions to the obligations of such Party to consummate the sale and purchase of the Assets.

**7.4 Exclusivity.** None of Sellers, nor any of their respective owners, employees, officers or directors, or any agent or any representative thereof shall, during the period commencing on the date of this Agreement and ending with the earlier to occur of the Closing or the termination of this Agreement, directly or indirectly solicit or entertain offers from, negotiate with or in any manner encourage, discuss, accept or consider any proposal of any other Person relating to (x) the acquisition of the business of the Stations, Sellers' issued and outstanding equity or ownership interests, or the Assets, or any merger, consolidation or business combination involving any Person or that otherwise would prevent the consummation of the transactions contemplated hereby, or (y) the acquisition of the direct or indirect ownership interests of BHC or BIC. Sellers will immediately notify Buyer regarding any contact between Sellers, or their respective representatives and any other person regarding any such offers or proposals or any related inquiries.

**7.5 Confidentiality.** Each Party shall keep confidential all information obtained by it with respect to the other Parties in connection with this Agreement, except where such information is known through other lawful sources or where its disclosure is required in accordance with applicable Law, including requirements of the FCC pursuant to the FCC Applications and requirements of Governmental Authorities under the HSR Act and Antitrust Law. If the transactions contemplated hereby are not consummated for any reason, Buyer and Sellers shall return to each other, without retaining a copy thereof in any medium whatsoever, any schedules, documents or other written information, including all financial information, obtained from the other in connection with this Agreement and the transactions contemplated hereby.

**7.6 Further Assurances.** Sellers and Buyer shall cooperate and take such actions, and execute such other documents, at the Closing or thereafter, as may be reasonably requested by the other in order to carry out the provisions and purposes of this Agreement, including, for example, promptly advising each other of all communications relevant to the transactions contemplated by this Agreement received from the FCC or other Governmental Authority after the date of this Agreement and furnishing each other with copies of all such written communications.

**7.7 Transition Efforts.** Beginning at the Closing, unless the parties have entered into a Local Marketing Agreement, Sellers shall use their respective commercially reasonable efforts to accomplish a timely, smooth, uninterrupted and organized transfer of the Assets and such additional transition services, if any, pursuant to the terms and conditions of a transition services agreement mutually agreeable to BIC and Buyer. Sellers agree to turn over quiet possession of the Real Property to Buyer concurrently with the Closing.

**7.8 Press Releases.** The Sellers and Buyer agree that, from the date hereof through the Closing Date, or, in the event this Agreement is terminated, for a period of six (6) months following termination, no public release or announcement concerning the transactions contemplated hereby shall be issued by either Party without the prior consent of the other Party, which consent shall not be unreasonably withheld, except as such release or announcement may be required by any Law, in which case the Party required to make the release or announcement shall, allow the other Party reasonable time to comment on such release or announcement in advance of such issuance.

**7.9 Consents; Benefit of Agreements.** The Sellers shall use commercially reasonable efforts (but the Sellers shall not be required to make any payment except in connection with the FCC Consents and the HSR Act) to obtain all consents and approvals of Persons to the consummation of the transactions contemplated by this Agreement, all in a form acceptable to Buyer, acting reasonably. If, with respect to any Assumed Contract other than those Assumed Contracts that are between BIC and the Terminated Employees to be assigned to Buyer, a required consent to the assignment is not obtained, following the Closing BIC shall use commercially reasonable efforts to keep it in effect and give Buyer the benefit of it to the same extent as if it had been assigned, and Buyer shall perform the BIC's obligations under the agreement relating to the benefit obtained by Buyer. Nothing in this Agreement shall be construed as an attempt to assign any agreement or other instrument that is by its terms non-assignable without the consent of the other party.

**7.10 Audited Financial Statements.** BIC shall deliver to Buyer as soon as practicable, but in no event later than March 31, 2011 with respect to fiscal years 2009 and 2010, audited combined balance sheets and related statements of income and cash flows of the business of BIC relating to the Stations, including an unqualified audit report and balance sheets as of December 31, 2009 and December 31, 2010 and the statement of income, and free cash flows for the years then ended (collectively, the "*Audited Financial Statements*"), which Audited Financial Statements shall be delivered along with a written certification by the Senior Vice-President of Finance of BIC in his or her representative capacity that the Audited Financial Statements are correct and complete, fairly present the financial condition, cash flows, and results of operations of BIC with respect to the Stations as of the dates thereof and for the periods indicated, are consistent with the books and records of BIC, and have been prepared in accordance with GAAP.

**7.11 Subsequent Financial Statements.**

(a) **Monthly Financial Reports.** BIC shall prepare and deliver to Buyer monthly management reports and financial statements (which shall include an unaudited combined statement of income and a statement of operations and free cash flows for the month then ended) regarding the Stations for each month beginning with January of 2011 as soon as available and in any event not later than twenty (20) days after the end of each fiscal month (other than the last month of any fiscal quarter).

(b) **Quarterly Financial Reports.** BIC shall, as promptly as practicable after the date hereof, prepare and deliver to Buyer unaudited combined balance sheets and related statements of income and cash flows of the business of BIC for each of the first three fiscal quarters of 2010 and, as soon as available, and in any event within 45 days after the end of each fiscal quarter of 2011 that has ended more than 45 days prior to the Closing Date, for each such subsequent fiscal quarter (collectively, with the financial statements to be delivered pursuant to Section 7.11(a), the "*Subsequent Financial Statements*").

(c) The Subsequent Financial Statements (i) shall be prepared consistent with past practice and in substantial accordance with GAAP, and shall foot to net income, and (ii) shall be delivered along with a written certification by the Senior Vice-President of Finance of BIC in his or her representative capacity that such Subsequent Financial Statements are correct and

complete, fairly present the financial condition, cash flows, and results of operations of BIC with respect to the Stations as of the date thereof and for the periods indicated, are consistent with the books and records of BIC, and have been prepared in substantial accordance with GAAP.

**7.12 Cooperation of BIC with Financing.** After the public announcements and prior to the Closing, BIC shall (and shall cause its respective officers, managers, employees, auditors and agents to) cooperate with Buyer and make available to Buyer such information as Buyer may reasonably request in connection with obtaining the financing necessary for Buyer to consummate the transactions contemplated by the Commitment Letter, or any alternative financing entered into after the expiration of the Commitment Letter in accordance with its terms, but not to include the financials of any other person beside BIC and the Assets (the **“Bank Financing”**); provided that such cooperation does not unreasonably interfere with BIC’s business and operations. In connection with the Bank Financing, Buyer (or an Affiliate of Buyer) may seek to prepare an information memorandum (the **“Information Memorandum”**), which Information Memorandum may include the consolidated financial statements of BIC and other customary financial information (the **“Financial Information”**), including projected financial information. In addition, BIC shall make available BIC’s senior management team in connection with the raising of financing for Buyer, in each case, to the extent reasonably requested by Buyer, including (i) making the senior management team of BIC available to participate in diligence sessions, bank meetings, rating agency meetings and drafting sessions, and (ii) furnishing to Buyer and its financing sources such other financial and pertinent information regarding BIC and access to the data room (subject to agreement by such entities to be bound by customary non-disclosure agreements); provided that such availability do not unreasonably interfere with BIC’s business or operations. In addition, Sellers shall (and shall cause their respective officers, managers, employees, auditors and agents to) enter into such agreements, and to use commercially reasonable efforts to deliver such officer’s certificates and opinions, as are customary in such financings of such type and as are, in the good faith determination of the Persons executing such officer’s certificates or opinions, accurate. For purposes of this Agreement, in the event that Buyer enters into alternative debt financing arrangements, Finance Parties shall include any financial institution party committing to provide such alternative debt financing to Buyer.

**7.13 Updates to Schedules.**

(a) As soon as practical prior to the Closing Date, and in any event prior to February 28, 2011 (such date, the **“Due Diligence Delivery Date”**), Sellers shall update any and all of the Schedules of Exceptions in accordance with the provisions of Section 7.1(a)(ii) to reflect each and every change to each Schedule of Exceptions discovered after the date of this Agreement and prior to the Due Diligence Delivery Date (collectively, the **“Updated Schedules”**). At any time prior to March 31, 2011 (such date, as adjusted by the last sentence of this Section 7.13(a)), the **“Diligence Determination Date”**), Buyer shall have the right to notify Sellers, by means of a written notice to be delivered in accordance with Section 14.12 of this Agreement, of Buyer’s determination that changes reflected in the Updated Schedules are unacceptable to Buyer, as determined in good faith by Buyer. In the event that such a notice is delivered, Sellers and Buyer shall negotiate in good faith regarding an appropriate adjustment of the Purchase Price or other modification, if any, of this Agreement in light of all of the changes set forth in the Updated Schedules. If Sellers and Buyer are unable to agree on such modification or adjustment prior to

the Diligence Determination Date, Buyer may, in its sole discretion, (i) elect to deem the condition set forth in Section 8.1(c) satisfied notwithstanding the changes contained in the Updated Schedules or (ii) terminate this Agreement by written notice to Sellers, without liability of Buyer to Sellers. Notwithstanding anything to the contrary contained herein, in the event that the Updated Schedules are not delivered to Buyer on or prior to the Due Diligence Delivery Date, the Diligence Determination Date shall be extended one day for each day following the Due Diligence Delivery Date that the Updated Schedules have not been delivered to Buyer.

(b) Following the Diligence Determination Date, Sellers shall supplement the Schedule of Exceptions to reflect or disclose any occurrence or any event which occurs or arises after the Diligence Determination Date and prior to the Closing Date that would result in or cause the Schedule of Exceptions to be incorrect if the same were not supplemented. At any time with fifteen (15) days after the Schedule of Exceptions are supplemented, Buyer shall have the right to notify Sellers, by means of a written notice to be delivered in accordance with Section 14.12 of this Agreement, of Buyer's determination that such supplements, or the cumulative effect of all supplements, to the Schedule of Exceptions as of such date are unacceptable to Buyer, as determined in good faith by Buyer. In the event that such a notice is delivered, Sellers and Buyer shall negotiate in good faith regarding an appropriate adjustment of the Purchase Price or other modification, if any, of this Agreement in light of all of such supplements to the Schedule of Exceptions. If Sellers and Buyer are unable to agree on such modification or adjustment prior to the Closing, Buyer may, in its sole discretion, elect to terminate this Agreement by written notice to Sellers, without liability of Buyer to Sellers.

**7.14 WARN Act Notices.** BIC shall deliver any and all WARN Act Notices (as defined below) to the Terminated Employees within five (5) business days of written request by Buyer acting in good faith.

## ARTICLE 8 CONDITIONS PRECEDENT

**8.1 To Buyer's Obligations Regarding Closing.** The obligations of Buyer hereunder to complete the transactions contemplated by this Agreement are subject to the satisfaction or to the waiver by Buyer in its sole discretion (except for Sections 8.1(d) and (e) below, which may not be waived), at or prior to the Closing Date, of each of the following conditions (the "**Buyer's Closing Conditions**"):

(a) Representations, Warranties and Covenants.

(i) All representations and warranties made by the Sellers shall have been true and correct in all material respects on the date of this Agreement, and such representations and warranties (in light of the Updated Schedules and any supplemented Schedules) shall be true and correct on the Closing Date in all material respects (except any that are already qualified by materiality shall be true and correct in all respects (the "**Materiality Read -Out**")); provided, that notwithstanding the foregoing, the representations in Section A.4.26 shall remain subject to materiality qualifiers) with the same effect as though made on the Closing Date (except those made as of a specific date, which shall have been true and correct as of such

date). The representations and warranties made by the Sellers in the Absolute Representations and Warranties, to the extent qualified by Knowledge, shall be true and correct on the Closing Date in all material respects (subject to the Materiality Read-Out) with the same effect as if made on the Closing Date without regard to any Knowledge qualifiers.

(ii) All of the terms, covenants and conditions to be complied with or performed by each of the Sellers under this Agreement on or prior to the Closing Date shall have been complied with or performed by each of the Sellers in all material respects.

(b) No Injunction. No Order of any court or Governmental Authority shall be in effect which restrains or prohibits the transactions contemplated by this Agreement in accordance with its terms. No Proceeding by or before any Governmental Authority shall have been instituted or threatened (and not subsequently dismissed, settled or otherwise terminated) which would (a) restrain, prohibit or invalidate the transactions contemplated by this Agreement, or (b) impose material restrictions, limitations or conditions with respect to the Buyer's ownership of the Assets.

(c) Buyer's Review. Buyer, its attorneys, accountants and other representatives shall have conducted a business, legal and accounting review of the business, assets, books and records of Sellers, the Real Property, and the Stations and shall have found the results of such review to be satisfactory to Buyer, in its sole discretion in good faith (the "***Buyer's Due Diligence Condition***"); provided, however, that the Buyer's Due Diligence Condition shall be deemed satisfied on April 1, 2011, or such later date as determined by Section 7.13(b).

(d) FCC Consents. The FCC Consents relating to the Stations shall have been obtained without the imposition of any condition materially adverse to Buyer or the Stations except those that are customary in the assignment of FCC licenses generally (and, for the avoidance of doubt, the obtaining of the FCC Consents shall not require that such consents shall have become a Final Order).

(e) HSR. The waiting period under the HSR Act shall have expired or been terminated and any applicable antitrust approvals required by applicable Antitrust Law shall have been obtained without any Governmental Authority taking any action to prevent the consummation of the transactions contemplated by this Agreement.

(f) Material Consents. Buyer shall have received the consents set forth on Schedule 8.1(f) in form and substance reasonably satisfactory to Buyer (collectively "***Material Consents***") and Buyer shall have entered into the Replacement Contracts for those Shared Contracts set forth on Schedule 8.1(f) attached hereto.

(g) Deliveries. Sellers shall have made all deliveries required under Section 9.1.

(h) No Material Adverse Effect. Since January 1, 2011 there shall not have occurred a Material Adverse Effect nor shall there exist any facts or circumstances that could reasonably be expected to cause or result in a Material Adverse Effect.

(i) Financing. Buyer shall have received the contemplated debt financing necessary to consummate the transactions contemplated by this Agreement on the terms provided for in the Commitment Letter (the “*Financing Contingency*”).

(j) Audited Financial Statements. The Audited Financial Statements shall not show a material decline in revenues or net income, or a material increase in expenses from, the Financial Statements previously provided to Buyer.

(k) Release of Liens and Tax Clearance Certificates. Buyer shall have received evidence in form and substance satisfactory to it that (i) all Liens affecting the Assets have been terminated and released, and (ii) all Taxes that are past-due and payable to any state Tax authorities have been paid in full.

(l) Good Standing Certificates. Buyer shall have received a certificate dated within ten (10) days before the Closing Date from the appropriate office of the states or other jurisdictions of organization of each of DMC, BIC and BHC certifying that such entity is validly existing under the laws of such state or jurisdiction.

(m) Title Commitments and Surveys. Buyer shall have received the title commitments on BIC’s Owned Real Property to be delivered pursuant to Section 1.6 hereof.

(n) WARN Act. At least 60 days shall have expired from the date that BIC provides any and all employment termination notices to its Terminated Employees pursuant to and in accordance with the WARN Act (“*WARN Act Notices*”); provided, however, that this condition shall be deemed satisfied if Buyer agrees in writing to assume any liabilities and obligations of BIC for failure to timely give any and all WARN Act Notices to its Terminated Employees.

**8.2 To Sellers’ Obligations.** The obligations of each of the Sellers hereunder to complete the transactions contemplated by this Agreement are subject to the satisfaction or to the waiver by Sellers in their sole discretion, at or prior to the Closing Date, of each of the following conditions (“*Sellers’ Closing Conditions*”):

(a) Representations, Warranties and Covenants.

(i) All representations and warranties made by Buyer in this Agreement shall be true and correct in all material respects on and as of the Closing Date as if made on and as of that date, except those made as of a specific date, which shall have been true and correct on and as of such date.

(ii) All of the terms, covenants and conditions to be complied with or performed by Buyer under this Agreement on or prior to the Closing Date shall have been complied with or performed by Buyer in all material respects.

(b) No Injunction. No order of any court or administrative agency shall be in effect which restrains or prohibits the transactions contemplated by this Agreement in accordance with its terms. No Proceeding by or before any Governmental Authority shall have



been instituted or threatened (and not subsequently dismissed, settled or otherwise terminated) which would restrain, prohibit or invalidate the transactions contemplated by this Agreement.

(c) FCC Consents. The FCC Consents relating to the Station shall have been obtained without the imposition of any condition materially adverse to Sellers or its other stations and operations (and, for the avoidance of doubt, the obtaining of the FCC Consents shall not require that such consents shall have become a Final Order).

(d) HSR. The waiting period under the HSR Act shall have expired or been terminated and any applicable antitrust approvals required by applicable Antitrust Law shall have been obtained without any Governmental Authority taking any action to prevent the consummation of the transactions contemplated by this Agreement.

(e) Deliveries. Buyer shall have made all the deliveries required under Section 9.2 and shall have paid (or be prepared to pay at the time of Closing) the applicable Purchase Price as provided in Section 2.1.

(f) WARN Act. At least 60 days shall have expired from the date that BIC provides any and all WARN Act Notices to its Terminated Employees; provided, however, that this condition shall be deemed satisfied if Buyer agrees in writing to assume any liabilities and obligations of BIC for failure to timely give any and all WARN Act Notices to its Terminated Employees.

(g) Good Standing Certificates. Sellers shall have received a certificate dated within ten (10) days before the Closing Date from the appropriate office of the states or other jurisdictions of organization of each of Buyer and HBI certifying that such entity is validly existing under the laws of such state or jurisdiction.

## ARTICLE 9 DOCUMENTS TO BE DELIVERED AT THE CLOSING

**9.1 *Documents to be Delivered by Sellers.*** At the Closing, Sellers shall deliver to Buyer the following (all documents which by their terms are to be executed by Sellers, shall be duly executed by Sellers):

(a) Copies of resolutions of the board of directors of both Sellers and a copy of the resolutions of the sole shareholder of BIC authorizing the execution, delivery and performance of this Agreement and, to the extent applicable to each such Seller, the Related Documents and the consummation of the transactions contemplated hereby, and copies of each Seller's Organizational Documents, in each case certified on behalf of each Seller by a duly authorized officer of each such Seller, as being true, correct, in full force and effect and complete as of the Closing Date;

(b) A certificate for each Seller, dated as of the Closing Date, executed by an officer of each Seller, certifying on behalf of each Seller that the closing conditions specified in Section 8.1(a) and (b) have been satisfied;

(c) Duly executed instruments of conveyance and transfer effecting the sale, transfer, assignment and conveyance of the Assets to Buyer as contemplated herein and mutually agreed upon by Buyer and Sellers, including the following:

(i) assignment by BHC of the FCC Licenses, in the form attached hereto as Exhibit 9.1(c)(i);

(ii) a bill of sale from BIC for all Assets, in the form attached hereto as Exhibit 9.1(c)(ii) (the ***“Bill of Sale”***);

(iii) assignments of BIC’s rights and the assumption of BIC’s obligations under the Assumed Contracts in the form attached hereto as Exhibit 9.1(c)(iii) duly executed by BIC (the ***“Assumption Agreement”***);

(iv) a special warranty deed or local equivalent from BIC or Bonneville Media Corporation, as applicable, for each parcel of the Owned Real Property, each of which shall be in recordable form under the laws and requirements of the jurisdiction in which such parcel is located;

(v) to the extent not waived, the Real Estate Assignment and Assumption/Estoppel Agreements with respect to the Real Estate Leases each in substantially the form attached hereto as Exhibit 9.1(c)(v) (each, a ***“Lease Assignment/Estoppel”***), duly executed by BIC and each landlord;

(vi) letters to all tenants or occupants of each parcel of Owned Real Property (or to any subtenants of any Leased Real Property) indicating that ownership of such real property (or the tenant’s interest under any lease, as the case may be) has been transferred to Buyer, and providing an address at which future installments and any delinquent installments of rent should be paid; such letters shall each be in form mutually acceptable to BIC and Buyer;

(d) A sublease of corporate office space at the Triad Center or an Assignment and Assumption of the Lease at the Fort Union office complex in Salt Lake City, Utah;

(e) Licenses Agreements for Intellectual Property set forth on Schedule 9.1(e), in the form mutually agreed upon by Buyer and BIC (the ***“CMS and Other IP License Agreements”***);

(f) A Transition Services Agreement in the form mutually agreed upon by Buyer and BIC (the ***“Transition Services Agreement”***);

(g) A Guarantee executed by Deseret Management Corporation in the form attached hereto as Exhibit 9.1(g) (***“DMC Post Closing Guarantee”***);

(h) HBI Post Closing Guarantee, executed by DMC;

(i) A duly executed, customary owner’s affidavit with respect to the Owned Real Property in form and substance reasonably satisfactory to Buyer’s title company and BIC;

(j) A duly executed gap indemnity with customary terms and conditions with respect to Owned Real Property, provided that the term of the gap indemnity shall not extend beyond thirty (30) days; provided, further, that Buyer shall pay for such GAP coverage;

(k) A duly executed certification of non-foreign status described in Section 1445 of the Internal Revenue Code;

(l) A certificate signed by BIC or Bonneville Media Corporation, as applicable, stating that BIC or Bonneville Media Corporation, as applicable, knows of no wells on the Owned Real Property or if BIC or Bonneville Media Corporation, as applicable, knows of any wells, a Well Certificate in form reasonably acceptable to Buyer designating the location of any such well and the width, depth and other specifications relating thereto;

(m) Any state or local filing forms required in connection with the transfer of the Owned Real Property, to the extent BIC is required to execute any such forms;

(n) Duly executed UCC releases, lien terminations, mortgage terminations or other similar documents or instruments required to transfer the Assets free and clear of Liens, along with evidence in form and substance satisfactory to Buyer, acting reasonably, that all Liens affecting the Assets have been terminated and released;

(o) Copies of all consents set forth on Schedule 8.1(f) received relating to Assumed Contracts;

(p) Physical possession of the tangible Assets to Buyer, and keys and security access codes to all Leased Real Property. Sellers shall also make available to Buyer all books and records of Sellers relating to or reasonably required for the operation of the business of the Stations, including copies of all Assumed Contracts, Replacement Contracts, financial and accounting records, files and records relating to Terminated Employees, and all related correspondence;

(q) The Updated Schedules; and

(r) Such other documents, information, certificates and materials as may be reasonably required by Buyer.

**9.2 Documents to be Delivered by Buyer.** At the Closing, Buyer shall deliver to Sellers the following (all documents which by their terms are to be executed by Buyer, shall be duly executed by Buyer):

(a) Copies of resolutions of Buyer and HBI authorizing the execution, delivery and performance of this Agreement by Buyer and the guarantee of HBI and the consummation of the transactions contemplated hereby, and copies of Buyer's and HBI's Organizational Documents, in each case certified on behalf of Buyer and HBI by a duly authorized officer of Buyer and HBI, respectively, as being true, correct, in full force and effect and complete as of the Closing Date;

(b) A certificate for Buyer, dated as of the Closing Date, executed on behalf of Buyer by a duly authorized representative of Buyer, certifying that the closing conditions specified in Sections 8.2(a) and (b) have been satisfied;

(c) The Assumption Agreement;

(d) Each Lease Assignment;

(e) The Transition Services Agreement;

(f) A Guarantee executed by HBI in the form attached hereto as Exhibit 9.2(f) ("**HBI Post Closing Guarantee**");

(g) DMC Post Closing Guarantee executed by HBI;

(h) CMS and Other IP License Agreements;

(i) A certificate of good standing or existence of Buyer dated within ten (10) days of the Closing Date;

(j) The Purchase Price in immediately available wire transferred federal funds as provided in Section 2.1; and

(k) Such other documents, information, certificates and materials as may be required by this Agreement.

## ARTICLE 10 INDEMNIFICATION

**10.1 Sellers' Indemnities.** BIC and BHC, jointly and severally (the "***Seller Indemnifying Parties***") shall indemnify, defend, and hold harmless Buyer and its Affiliates (collectively, the "***Buyer Indemnified Parties***") from and against, and reimburse them for, all claims, damages, liabilities, losses, judgments, fines, penalties, costs and expenses, including interest, penalties, court costs and reasonable attorneys' fees and expenses (each, a "***Loss***" and together, "***Losses***"), resulting from, related to, or in connection with:

(a) Any breach or misrepresentation by Sellers of any of their respective representations or warranties in this Agreement or in any certificate, document or instrument delivered by Sellers to Buyer under this Agreement;

(b) Any breach, misrepresentation, or other violation by Sellers of any of their respective covenants or agreements in this Agreement or in any certificate, document or instrument delivered by Sellers to Buyer under this Agreement;

(c) Any third-party claims brought against Buyer or its Affiliates to the extent attributable to Sellers' operation of the Stations or other business prior to the Closing;

(d) Any Excluded Liabilities; or

(e) Without limiting the generality of the foregoing, except to the extent included in the Assumed Liabilities, the failure of Sellers to withhold, collect, pay or remit any sales or use Tax or payroll or employment Tax imposed by any federal, state or local Taxing authority in connection with the sale of any product or good or the payment of any wages or compensation or the employment of any Persons by Sellers on or before the Closing Date.

**10.2 Buyer's Indemnities.** Buyer shall indemnify, defend and hold harmless each of the Sellers and their Affiliates, and their respective shareholders, directors, officers, employees, and representatives (collectively, the "*Seller Indemnified Parties*") from and against, and reimburse them for, all Losses resulting from:

(a) Any breach, misrepresentation, or other violation by Buyer of any of its representations or warranties in this Agreement or in any certificate, document or instrument delivered by Buyer to Sellers under this Agreement;

(b) Any breach, misrepresentation, or other violation by Buyer of any of its covenants or agreements in this Agreement or in any certificate, document or instrument delivered by Buyer to Sellers under this Agreement;

(c) Any third-party claims brought against Sellers or their Affiliates to the extent attributable to Buyer's operation of the Stations or use of the Assets following the Closing; or

(d) Any Assumed Liability.

**10.3 Procedure for Indemnification.** The procedure for indemnification shall be as follows:

(a) The Party seeking indemnification under this Article 10 (the "*Claimant*") shall give notice to the Party from whom indemnification is sought (the "*Indemnitor*") of any claim or liability that might result in an indemnified Loss (an "*Indemnified Claim*"), reasonably specifying in detail (i) the factual basis for and circumstances surrounding the Indemnified Claim; and (ii) the amount of the potential Loss pursuant to the Indemnified Claim if then known. If the Indemnified Claim relates to a Proceeding filed by a third party against Claimant, notice shall be given by Claimant as soon as practical, but in all events within fifteen (15) business days after learns of the Proceeding or written notice of the Proceeding is given to Claimant. In all other circumstances, notice shall be given by Claimant as soon as practical, but in all events within twenty (20) days after Claimant becomes aware of the facts giving rise to the Loss. Should the Claimant fail to notify the Indemnitor in the time required above, the Indemnitor shall be relieved of its obligations pursuant to this Article 10 to the extent of the damage or harm to the Indemnitor resulting from such delay or failure to timely give notice of an Indemnified Claim or Loss.

(b) The Claimant shall make available to Indemnitor and/or its authorized representatives the information relied upon by the Claimant to substantiate the Indemnified Claim or Loss and shall make available any information or documentation in Claimant's possession, custody or control that is or may be helpful in defending or responding to the Indemnified Claim or Loss.

(c) The Indemnitor shall have thirty (30) days after receipt of the indemnification notice referred to in sub-section (a) to notify the Claimant in writing that it elects to conduct and control the defense of any such Indemnified Claim or; provided, however, such thirty (30) day period shall be reduced to such shorter period of time set forth in the applicable indemnification notice if the Indemnified Claim or Loss is based upon a third-party claim requiring a response in fewer than thirty (30) days.

(d) If the Indemnitor does not advise the Claimant of its intent to conduct and control the defense of the Indemnified Claim or Proceeding within the time period specified above, the Claimant shall have the right to defend, contest, settle, or compromise such Indemnified Claim or Proceeding. If the Indemnitor properly advises the Claimant that it will conduct and control the Indemnification Claim or Proceeding, the Indemnitor shall have the right to undertake, conduct, defend, and control, through counsel of its own choosing and at its sole expense, the conduct, defense, and settlement of the Indemnified Claim or Proceeding, and the Claimant shall cooperate with the Indemnitor in connection therewith; provided, however, that: (a) the Indemnitor shall not consent to the imposition of any injunction against the Claimant without the prior written consent of the Claimant, which consent shall not be unreasonably withheld; (b) the Indemnitor shall permit the Claimant to participate in such conduct or settlement through counsel chosen by the Claimant, but the fees and expenses of such counsel shall be borne by the Claimant; (c) upon a final determination of Proceeding, the Indemnitor shall promptly reimburse the Claimant for the full amount of any indemnified Loss or indemnified portion of any Loss resulting from the Indemnified Claim or Proceeding and all reasonable expenses related to such indemnified Loss incurred by the Claimant, except fees and expenses of counsel for the Claimant (i) incurred after the assumption of the conduct and control of such Indemnified Claim or Proceeding by the Indemnitor that are the responsibility of the Claimant and (ii) any Loss not indemnifiable by Indemnitor; and (d) no Indemnitor may, without the prior written consent of the Claimant, settle or compromise, or consent to the entry of any judgment in connection with, any Proceeding with respect to the claim described in the indemnification notice unless (i) such settlement or compromise involves only the payment of money; (ii) there is no finding or admission of liability, any violation of any Law or any violation of the rights of any Person by the Claimant; and (iii) the Indemnitor obtains an unconditional release of each Claimant from all Indemnified Claims or potential Loss arising out of the claim described in the indemnification notice and any Indemnified Claim or Proceeding related thereto.

**10.4 Limitations.** Except in the case of fraud or intentional misrepresentation, the Indemnitor shall only be required to indemnify the Claimant under this Article 10 for breaches of representations or warranties by the Indemnitor pursuant to Section 10.1(a) (with respect to Buyer Indemnified Parties) or Section 10.2(a) (with respect to the Seller Indemnified Parties) if the aggregate amount of all Losses relating to claims for breaches of representations or warranties of the Indemnitor pursuant to Section 10.1(a) (with respect to Buyer Indemnified Parties) or Section 10.2(a) (with respect to the Seller Indemnified Parties) exceeds Two Million Dollars (\$2,000,000), after which the Claimant shall be entitled to recover, and the Indemnitor shall be obligated for, all Losses in excess of Two Million Dollars (\$2,000,000); provided that the foregoing limitation shall not apply to Losses relating to a breach by Sellers of their representations or warranties in Section A.4.1 (Organization and Standing; Capitalization), Section A.4.2 (Authorization and Binding Obligation), Section A.4.5(a) (Station Licenses),

Section A.4.13 (Broker's Fees), Section A.4.16 (Title to Assets), Section B.4.1 (Organization and Standing; Capitalization), and Section B.4.2 (Authorization and Binding Obligation).

Except in the case of fraud or intentional misrepresentation, (i) the maximum aggregate liability of the Sellers pursuant to Section 10.1(a) for any claim or claims for Losses for breaches of representations or warranties shall not exceed Fifty Million Dollars (\$50,000,000) (the "Cap"), and (ii) the maximum aggregate liability of the Buyer pursuant to Section 10.2(a) for any claim or claims for Losses for breaches of representations or warranties shall not exceed the Cap; provided, however, that the Cap shall not apply to any claim or claims for Losses relating to a breach by Sellers of their representations or warranties in Section A.4.1 (Organization and Standing; Capitalization), Section A.4.2 (Authorization and Binding Obligation), Section A.4.5(a) (Station Licenses), Section A.4.13 (Broker's Fees), Section A.4.16 (Title to Assets), Section B.4.1 (Organization and Standing; Capitalization), and Section B.4.2 (Authorization and Binding Obligation).

**10.5 *Certain Limitations.*** In calculating the amount of Losses of a Claimant under this Article 10: (a) any claim for indemnification under this Agreement shall be reduced and offset dollar-for-dollar by any insurance payment with respect to the matter for which indemnification is sought, in each case as and when actually received by the Party claiming indemnification; (b) for purposes of indemnification for breaches of representations or warranties by a Party, (i) Materiality Qualifiers are to be used solely for the purpose of determining whether a breach of a representation or warranty has occurred, and (ii) once a breach has occurred, the Materiality Qualifiers shall be ignored and the amount of the applicable Losses shall be calculated without regard to any Materiality Qualifiers contained in any such breached representation or warranty; and (c) for purposes of this Article 10, a breach of a representation or warranty (as determined as of the Closing) shall be deemed to exist either if such representation or warranty is actually inaccurate or breached or, with respect to any of the Absolute Representations and Warranties, would have been inaccurate or breached if such representation or warranty had not contained any limitation or qualification as to "Knowledge" and the amount of Losses in respect of any breach of any of the Absolute Representations and Warranties, including any deemed breach pursuant to this clause, shall be determined without regard to any such limitation or qualification as to "Knowledge" set forth in such representation or warranty.

**10.6 *Survival.*** Each covenant and agreement contained in this Agreement or in any Related Document and required to be performed after Closing shall survive the Closing and be enforceable in accordance with its terms until the expiration of the applicable statute of limitations (including extensions thereof) for breach or enforcement of such covenant and agreement under applicable Law. All representations and warranties contained in this Agreement and each covenant or agreement contained in this Agreement that is required to be performed at or prior to Closing shall survive for a period of twelve (12) months after the earlier of the Closing Date (notwithstanding the foregoing, it is the agreement of the Parties that the rights conferred under Section 1.4 and Section 7.9 shall continue for the duration of the subject Contract giving rise to an arrangement pursuant to such Sections, exclusive of any renewal terms) or commencement of a License Management Agreement and thereafter such representations and warranties shall expire, except that (a) any representation or warranty with respect to which an indemnification notice has been delivered for a breach thereof prior to the expiration of such twelve (12) month period shall survive as to such claim until such claim is

resolved; (b) the representations and warranties set forth in Section A.4.1 (Organization and Standing; Capitalization), Section A.4.2 (Authorization and Binding Obligation), Section A.4.5(a) (Station Licenses), Section A.4.13 (Broker's Fees), Section A.4.16 (Title to Assets), Section B.4.1 (Organization and Standing; Capitalization), and Section B.4.2 (Authorization and Binding Obligation) shall survive for the applicable statute of limitations applicable to the matters subject to such respective representations and warranties, respectively, plus ten (10) business days.

**10.7 *Exclusive Remedies following the Closing.*** Buyer and Sellers acknowledge and agree that the foregoing indemnification provisions in this Article 10 shall, except in the case of (i) fraud or intentional misrepresentation, or (ii) the breach of any covenant or condition of this Agreement to be performed after Closing, be the exclusive remedy of Buyer, and Sellers with respect to Losses after the Closing relating to the transactions contemplated by this Agreement; provided, however, that notwithstanding the foregoing either Party may pursue injunctive relief following Closing to enforce covenants in the Agreement that survive the Closing and are supportable under applicable Law.

**10.8 *Mitigation of Damages.*** Each of Buyer and Sellers agrees to use reasonable efforts to mitigate any Losses which form the basis for any claim for indemnification, defense, hold harmless, payment or reimbursement hereunder other than with respect to claims for the indemnification of Assumed Liabilities or Excluded Liabilities. Notwithstanding anything contained in this Agreement to the contrary, no Party will be entitled to lost profits, punitive damages or other special or consequential damages regardless of the theory of recovery.

## **ARTICLE 11 TERMINATION RIGHTS**

### **11.1 *Termination.***

(a) This Agreement may be terminated by either Buyer or Sellers upon written notice to the other Party, if:

(i) the other Party is in material breach of this Agreement and such breach has been neither cured within the cure period allowed under subsection (h) below nor waived by the Party giving such termination notice, provided that the Party seeking to terminate is not in material breach of this Agreement;

(ii) a court of competent jurisdiction or Governmental Authority shall have issued an Order, decree or ruling or taken any other action permanently restraining, enjoining or otherwise prohibiting the transactions contemplated by this Agreement and such Order, decree, ruling or other action shall have become final and nonappealable; or

(iii) the Closing has not occurred by May 31, 2011 and the Buyer and Sellers shall not have entered into a Local Marketing Agreement or other written agreement on terms and conditions mutually acceptable to each of them, or in the event that a Local Marketing Agreement has been entered into, the Closing has not occurred by December 31, 2011 (the "*Upset Date*").



(b) This Agreement may be terminated by mutual written consent of Buyer and Sellers.

(c) Sellers may terminate this Agreement by written notice to Buyer in the event that the U.S. Department of Justice, the U.S. Federal Trade Commission, or any other Governmental Authority requires the disclosure of any financial information of a Person other than Deseret Management Corporation which or who may be deemed to be a direct or indirect owner or the “ultimate parent entity” of either of the Sellers in connection with this transaction; provided, however, that Sellers agree to use reasonable efforts to persuade any such Governmental Authority that any such required financial information should not be required prior to exercising this right of termination.

(d) Buyer may terminate this Agreement by written notice to Sellers in the event that any of the Sellers refuses to make any required filings with Governmental Authorities pursuant to the HSR Act or fails or refuses to provide financial information of a Person other than Deseret Management Corporation which or who may be deemed to be a direct or indirect owner or the “ultimate parent entity” of either of the Sellers in connection with this transaction in response to a request by the U.S. Department of Justice, the U.S. Federal Trade Commission, or any other Governmental Authority, and such failure or refusal prevents Buyer from obtaining HSR clearance or prevents the early termination of or expiration of the statutory waiting period under the HSR Act.

(e) Sellers may terminate this Agreement by written notice to Buyer in the event that Buyer fails to close on the transactions contemplated by this Agreement when all Buyer’s Closing Conditions have been satisfied in full (or would be satisfied with delivery at Closing) or waived by Buyer.

(f) Buyer may terminate this Agreement by written notice to Sellers in the event that Sellers fail to close on the transactions contemplated by this Agreement when all Sellers’ Closing Conditions have been satisfied in full (or would be satisfied with delivery at Closing) or waived by Sellers or either of the Sellers breach or violate the provisions of Section 7.4 hereof.

(g) Buyer may terminate this Agreement by written notice to Sellers in accordance with the terms of Section 7.13.

(h) If either Party believes the other to be in breach or default of this Agreement, the non-defaulting Party shall, prior to exercising its right to terminate under Section 11.1(a)(i), provide the defaulting Party with notice specifying in reasonable detail the nature of such breach or default. Except for a failure to pay the Purchase Price, the defaulting Party shall have ten (10) days from receipt of such notice to cure such default.

## **11.2 Termination Fee.**

(a) Payable to Sellers. In the event that Sellers terminate this Agreement pursuant to (1) Section 11.1(a)(i); (2) Section 11.1(a)(iii) because the Financing Contingency has not been satisfied (provided that all closing conditions of the Parties other than the Financing Contingency have been satisfied in full (or would be satisfied with delivery at Closing) or

waived) for reasons other than (A) the Finance Parties refusing to provide financing based upon the occurrence of a Material Adverse Effect, which Material Adverse Effect is not substantially caused by Buyer; (B) the Sellers' unreasonable refusal or failure to provide Financial Information of BIC or BHC which is requested in connection with the Bank Financing pursuant to Section 7.12 hereof, or (C) the expiration of the Commitment Letter on the date six months from the date of this Agreement in accordance with its terms; or (3) Section 11.1(e); and, in each of the foregoing clauses (1), (2) and (3), immediately prior to any such termination, none of the Sellers was in material breach of the terms and conditions of this Agreement, then Buyer shall pay Twenty Million Dollars (\$20,000,000) to Sellers (allocated in accordance with Schedule 2.1) (the "**Buyer's Termination Payment**").

(b) Payable to Buyers. In the event that Buyer terminates this Agreement pursuant to (1) Section 11.1(a)(i); or (2) Section 11.1(f); and, in each of the foregoing clauses (1) and (2), immediately prior to any such termination, Buyer was not in material breach of the terms and conditions of this Agreement, then BIC shall pay Twenty Million Dollars (\$20,000,000) to Buyer (the "**Sellers' Termination Payment**").

(c) The Buyer's Termination Payment and the Sellers' Termination Payment shall each be referred to as a Termination Fee.

(d) The Termination Fee shall be paid by wire transfer of same-day funds on the fifth (5<sup>th</sup>) business day following the date of termination of this Agreement. The Parties acknowledge and agree that in the event of a termination referenced in Section 11.2(a) or (b), that damages would be difficult or impossible to quantify with reasonable certainty, and accordingly the payment provided for in this Section 11.2 is a payment of liquidated damages (and not penalties) which is based on the Parties' estimate of the damages the other Party will suffer or incur as a result of the event giving rise to such payment and the resultant termination of this Agreement, and is the sole and exclusive remedy with respect to any termination referenced in Section 11.2(a) or (b) and is the other Party's sole and exclusive remedy (whether at law, in equity, in contract, in tort or otherwise) with respect to a termination referenced in Section 11.2(a) or (b) against the other and any of the other Party's subsidiaries or Affiliates or any Finance Parties (with respect to any claims of Sellers) for any and all damages suffered in connection with this Agreement (or the termination thereof), and upon payment of the Termination Fee none of the other Party, nor any of the other Party subsidiaries nor any of their respective former, current or future stockholders, directors, officers, Finance Parties (with respect to any claims of Sellers), Affiliates or agents (collectively, the "**Terminated Affiliates**") shall have any further liability or obligation relating to or arising out of this Agreement, or the transactions contemplated hereby and the only liability, in the aggregate, of the other Party in the event of a termination referenced in Section 11.2(a) or (b) shall be the Termination Fee, and in no event shall the other Party or any of their respective subsidiaries or Affiliates seek any other recovery, judgment or damages of any kind, including consequential, indirect or punitive damages, against the other Party or any Terminated Affiliate through the other Party or otherwise, whether by or through a claim by or on behalf of the other Party against any Terminated Affiliate, by the enforcement of any assessment or by any legal or equitable proceeding, by virtue of any statute, regulation or applicable Law, or otherwise, whether at law or equity, in contract, in tort or otherwise in the event of a termination referenced in Section 11.2(a) or (b) except for its rights to recover the Termination Fee under and to the extent

provided in this Section 11.2. Each Party irrevocably waives any right it may have to raise as a defense that any such liquidated damages are excessive or punitive.

**11.3 HSR Termination Fee.** In the event:

(a) Buyer terminates this Agreement pursuant to Section 11.1(d) (“**Buyer Termination (HSR)**”); or

(b) Sellers terminate this Agreement pursuant to Section 11.1(c) (“**Sellers Termination (HSR)**”);

then BIC shall pay to Buyer the dollar amount equal to the documented out of pocket legal, accounting, and financial advisory/investment banking fees, costs and expenses incurred by Buyer (provided, however, with respect to any financial advisory/investment banking fees, costs, and expenses, expressly excluding any contingent fees or fees determined as a percentage of another dollar amount) prior to the date of termination of this Agreement in connection with the review, analysis, consideration, negotiation, and preparation of this Agreement and the transactions contemplated by this Agreement up to a maximum amount of \$500,000 (the “**HSR Termination Fee**”). The HSR Termination Fee shall be paid to Buyer or its designee by BIC by wire transfer of same-day funds on the fifth (5<sup>th</sup>) business day following the date of termination of this Agreement. The Parties acknowledge and agree that in the event of a Buyer Termination (HSR) or Sellers Termination (HSR), Buyer’s damages would be difficult or impossible to quantify with reasonable certainty, and accordingly the payment provided for in this Section 11.3 is a payment of liquidated damages (and not penalties) which is based on the Parties’ estimate of the damages Buyer will suffer or incur as a result of the event giving rise to such payment and the resultant termination of this Agreement, and is Buyer’s sole and exclusive remedy with respect to a Buyer Termination (HSR) or Sellers Termination (HSR), and is Buyer’s sole and exclusive remedy (whether at law, in equity, in contract, in tort or otherwise) with respect to a Buyer Termination (HSR) or Sellers Termination (HSR) against Sellers, and any of their subsidiaries or Affiliates for any and all damages suffered in connection with this Agreement (or the termination thereof), and upon payment of the HSR Termination Fee none of Sellers, nor any of Sellers’ subsidiaries nor any of their respective former, current or future stockholders, directors, officers, Affiliates or agents (collectively, the “**Seller Affiliates**”) shall have any further liability or obligation relating to or arising out of this Agreement, or the transactions contemplated hereby and the only liability, in the aggregate, of Sellers in the event of a Buyer Termination (HSR) or Sellers Termination (HSR) shall be the HSR Termination Fee, and in no event shall Buyer or any of its respective subsidiaries or Affiliates seek any other recovery, judgment or damages of any kind, including consequential, indirect or punitive damages, against Sellers, or any Seller Affiliate through Sellers or otherwise, whether by or through a claim by or on behalf of Sellers against any Seller Affiliate, by the enforcement of any assessment or by any legal or equitable proceeding, by virtue of any statute, regulation or applicable Law, or otherwise, whether at law or equity, in contract, in tort or otherwise in the event of a Buyer Termination (HSR) or Sellers Termination (HSR), except for its rights to recover the HSR Termination Fee under and to the extent provided in this Section 11.3. Sellers irrevocably waive any right they may have to raise as a defense that any such liquidated damages are excessive or punitive.

**11.4 Other Effects of Termination.** The following sections shall survive the termination of this Agreement pursuant to this Article 11: 7.5 (Confidentiality), 7.8 (Press Releases), 11.2 (Termination Fee), 11.3 (HSR Termination Fee), 11.4 (Other Effects of Termination), and the provisions in Article 14 (Other Provisions) and Article 15 (Definitions) that by their terms would survive termination.

## **ARTICLE 12**

### **TERMINATED EMPLOYEES AND EMPLOYEE PLANS**

**12.1 Termination of Employees.** Schedule 12.1 attached hereto sets forth a list of all employees of BIC providing services solely to or located at the Stations and certain senior management employees of BIC identified by Buyer as of the date of this Agreement. Such Schedule shall be updated to reflect employees hired between the date of this Agreement and the Closing Date, as well as those employees terminated between the date of this Agreement and the Closing Date. BIC shall terminate on the Closing Date the employment of all of BIC's employees listed on Schedule 12.1 as of the Closing Date, other than employees on leave as of such date (unless, with respect to employees on leave, the Parties otherwise agree at Closing) (collectively, the "*Terminated Employees*"). In the case of those Terminated Employees with Assigned Employment Agreements, BIC's termination of the employment of said employees shall be deemed effective as of the date of Closing with Buyer's assumption of the Assigned Employment Agreements as set forth in Section 1.3(a) herein. BIC shall retain the employment of the employees listed on the Schedule 12.1 who are on leave as of the Closing Date until the end of such employee's leave or until such employment would otherwise terminate in accordance with BIC's leave policies. Buyer shall assume any reinstatement obligations with respect to such employees and shall offer such employees immediate employment at such time as they are able to return to work, provided that such employees are able to return to work and apply for reinstatement within six months of the Closing Date, or such later date as may be required by Law. Upon hire by Buyer, such employees shall also be "Terminated Employees" under this Agreement. BIC shall remain solely liable and responsible for all pre-closing obligations and liabilities with respect to the Terminated Employees, which liabilities and obligations shall be Excluded Liabilities, other than certain accrued vacation of Terminated Employees as set forth in Section 1.3(c) hereof, which accrued vacation obligations identified in Section 1.3(c) hereof shall be assumed by Buyer in accordance with Section 1.3(c) hereof. Buyer shall not be liable for any pre- and post-closing obligations and liabilities of all other employees and former employees, which liabilities and obligations shall be Excluded Liabilities.

**12.2 Offer of Employment.** On the Closing Date, Buyer hereby agrees to (a) assume the future liabilities and obligations under Assumed Contracts set forth on Schedule 1.1(d) under the heading "Employment Agreements" that are employment agreements for any Terminated Employees of BIC ("*Assigned Employment Agreements*") in accordance with and subject to Section 1.3(a) of the Agreement, and (b) offer employment at will to all Terminated Employees at least three weeks prior to Closing (except for those that are hired by BIC between such time and the Closing Date, such offer to be prior to Closing) contingent upon Closing and effective upon Closing, initially at rates of pay and seniority as in effect on the date of Closing, other than with respect to any Terminated Employees who enter into written employment agreements with

Buyer at or following Closing, whose employment will be subject to the terms and conditions of such separate employment agreements (the "Subject Employment Agreements"). BIC agrees to reasonably cooperate with Buyer with respect to Buyer's efforts to obtain the written acknowledgments or consents from Terminated Employees subject to Assigned Employment Agreements that such Terminated Employees shall cease to have the right to participate in Company Plans of BIC and Deseret Management Corporation, the parent company of BIC as of the Closing Date and shall thereafter have the right to participate in the employee benefit plans made available by Buyer; provided, however, that BIC shall have not be required to incur any out-of-pocket costs or expenses in cooperating with Buyer. Buyer shall credit the Terminated Employees it hires with all service recognized by BIC as service for purposes of eligibility to participate, vesting and for levels of benefits available, but not for purposes of benefit accrual under any retirement plan, nor shall Buyer be required to provide benefits that are duplicative of benefits received or to be received under the Company Plans or Multiemployer Plans. BIC and Buyer agree that, prior to the Closing Date, they will cooperate in the preparation of any and all communications with Terminated Employees with respect to the intent of Buyer to offer employment to all Terminated Employees on the Closing Date consistent with this Section 12.2. In the event that Buyer terminates the employment of any Terminated Employees other than the Terminated Employees who are parties to Subject Employment Agreements, Terminated Employees who are parties to Assumed Contracts that are assigned to Buyer, and Terminated Employees whose terms and conditions are subject to a collective bargaining agreement to which Buyer is a party, prior to the one (1) year anniversary of the Closing Date, Buyer agrees that it shall pay severance to such Terminated Employees whose employment has been terminated by Buyer prior to the one (1) year anniversary of the Closing Date in accordance with the following formula, unless the termination of the employment of such Terminated Employees is for cause (as determined in good faith by Buyer): two weeks of base salary for every year of employment with BIC and Buyer on a combined basis up to a maximum severance of twenty-six weeks of base salary; provided, however that as a condition to receiving such severance, the subject employee signs an agreement that releases Buyer and its Affiliates from all liability, obligations, actions, suits, claims, proceedings and demands arising out of or related to such employee's employment and the termination of employee's employment in such form as Buyer reasonably determines (and Buyer shall use good faith efforts to include BIC and its Affiliates in such releases); provided further that if the Terminated Employee is a union employee subject to a collective bargaining agreement binding upon Buyer, Buyer agrees to pay the Terminated Employee the severance required by the collective bargaining agreement.

**12.3 *No Assumption of Company Plans.*** Buyer shall not assume any of the Company Plans and BIC shall be responsible for all liabilities and obligations of the Company Plans.

**12.4 *COBRA Obligations.*** BIC will be solely responsible for any obligations for continuation coverage under Section 4980B of the Internal Revenue Code and part 6 of Subtitle B of Title I of ERISA with respect to all of the Terminated Employees and any other former employees of BIC.

## **ARTICLE 13 OTHER AGREEMENTS**

**13.1 *Non-Solicitation; Confidentiality.***

(a) In order to induce each other to enter into this Agreement and consummate the transactions contemplated by this Agreement, Buyer and Sellers (collectively, the “**Restricted Parties**”) shall not, and shall not permit their Affiliates to, without the prior written consent of the other Party, for their own account or jointly with another, directly or indirectly, for or on behalf of any Person, as principal, agent, stockholder, member, participant, partner, promoter, director, officer, manager, employee, consultant, sales representative or otherwise:

(i) for a period of eighteen (18) months from the Closing Date, hire any Person employed by the other Party or any of that Party’s Affiliates, or solicit, or assist in the solicitation of, for the purpose of offering employment to any Person employed by the other Party or its or their Affiliates (as an employee or independent contractor) during such eighteen (18) month period. In the event that an employee of the other Party responds to a general advertisement for employment in a newspaper or electronic media of general circulation or by other similar means, the Restricted Party shall not hire such Person during the eighteen (18) month period unless the other Party (not the Person) has terminated such Person’s employment or waives this restriction in writing; or

(ii) use, disclose or reveal to any Person, any Confidential Information (as defined below) of the business of the Stations. “**Confidential Information**” means all information of Sellers related to the business of the Stations that derives value, economic or otherwise, from not being generally known to the public, but excluding any information that comes into the public domain through no fault of Sellers or any information that is required to be disclosed by a court order or by any Law.

(iii) Notwithstanding anything in this Section 13.1(a) to the contrary, this Section 13.1(a) shall be of no further force and effect during the last six (6) months of such eighteen (18) month period with respect to employees of any Station or any Retained Station that is sold (however consummated) to a non-Affiliate third party.

**13.2 Access to Books and Records and Records Retention.** From and after the Closing Date, BIC and Buyer shall (i) each provide the other (at the requesting Party’s sole cost and expense for out-of-pocket expenses paid to other Persons) with such assistance as may reasonably be requested by any of them in connection with the preparation of any Tax Return, audit or other examination by any Taxing authority, or Proceeding related to Liability for Taxes; (ii) each retain for a period of ten (10) years and provide the other with any records or other information that may be relevant to such Tax Return, audit or examination, Proceeding, or determination; and (iii) each provide the other with any final determination of any such audit or examination, Proceeding, or determination that affects any amount required to be shown on any Tax Return of the other for any period. Without limiting the generality of the foregoing, Buyer and Sellers each shall retain, until the applicable statutes of limitations (including any extensions thereof) have expired, copies of all Tax Returns, supporting work schedules and other records or information that may be relevant to such returns for all Tax periods or portions thereof ending before or including the Closing Date and shall not destroy or otherwise dispose of any such records without first providing the other Party with a reasonable opportunity to review and copy the same.

**13.3 *Service to America Agreement.*** For the duration of the pending Agreement for Service to America, Buyer and BIC shall be the co-sponsor of the Service to America annual event with equal billing on all advertising; provided, however, that HBI shall be permitted to be the first sponsor identified. In all other respects Buyer and BIC shall be equally identified using the same font and with equal time. Notwithstanding the foregoing, Buyer shall pay 75% of the annual sponsorship fees and BIC shall pay 25% of the annual sponsorship fees for the remaining term of the existing agreement.

## **ARTICLE 14 OTHER PROVISIONS**

**14.1 *Transfer Taxes and Expenses.*** Except as provided otherwise in this Agreement, all Transfer Taxes imposed on this transaction shall be paid by Sellers. With respect to the Owned Real Property, Sellers shall pay the Transfer Taxes, state deed taxes and all costs of recording title clearance documents, and Buyer shall pay the recording fees for the deeds and other instruments of conveyance from Sellers to Buyer. Sellers and Buyer shall share equally the title insurer's closing fees and the filing fees associated with the FCC application. Except as otherwise provided in Article 11 and except as otherwise provided elsewhere in this Agreement, each Party shall be solely responsible for and shall pay all other costs and expenses (including attorney and accounting fees) incurred by it in connection with the negotiation, preparation and performance of and compliance with the terms of this Agreement.

**14.2 *Benefit and Assignment.*** This Agreement shall be binding upon and shall inure to the benefit of the Parties hereto and their respective successors and assigns. None of Buyer, BIC or BHC may assign its rights or delegate its obligations under this Agreement without the prior written consent of the other Parties, except that Buyer may assign the Agreement in whole or in part to one or more of its Affiliates, provided that it shall not be released thereby. Except as expressly provided in this Agreement, this Agreement is not intended to, nor shall it, create any rights in any person other than the Parties, the Buyer Indemnified Parties and the Seller Indemnified Parties and, with respect to (x) Section 11.2(d), (y) the penultimate and last sentences of Section 14.9, and (z) Section 14.13, which shall be for the express benefit of the Finance Parties. In particular, this Agreement is not intended to create third-party beneficiary rights in any employee or former employee of any Seller. Effective at or after the consummation of the Bank Financing (whether into escrow or in connection with the Closing), Buyer may assign any or all of its rights under this Agreement or any Related Documents to any Finance Parties (or any agent acting on behalf of any Finance Parties) as collateral security only.

**14.3 *Additional Documents.*** The Parties agree to execute, acknowledge and deliver, before, at or after the Closing Date, such further instruments and documents as may be reasonably required to implement, consummate and effectuate the terms of this Agreement.

**14.4 *Specified Stations.*** The Stations set forth on Schedule 14.4 ("Specified Stations") carry a radio broadcast of the "Music and the Spoken Word" program of the Mormon Tabernacle Choir each Sunday morning ("Music and the Spoken Word Program"). Buyer agrees that during the time period beginning on the Closing Date and ending on December 31, 2020 the Specified Stations will continue to broadcast the Music and the Spoken Word program each week on Sunday mornings, which program shall not be more than one (1) hour; provided, however that

Buyer has right to change the Stations on which the program is carried to other Stations in the same market.

**14.5 *Entire Agreement; Schedules; Amendment; Waiver.*** This Agreement and the exhibits and schedules hereto and thereto and the Related Documents embody the entire agreement and understanding of the Parties hereto and supersede any and all prior agreements, arrangements and understandings relating to the matters provided for herein. Any matter that is disclosed in a schedule hereto shall be deemed to have been included in other pertinent schedules, notwithstanding the omission of an appropriate cross-reference. No amendment, waiver of compliance with any provision or condition hereof or consent pursuant to this Agreement shall be effective unless evidenced by an instrument in writing signed by the Party against whom enforcement of any waiver, amendment or consent is sought. No failure or delay on the part of Buyer or Sellers in exercising any right or power under this Agreement shall operate as a waiver thereof, nor shall any single or partial exercise of any right or power, or any abandonment or discontinuance of steps to enforce such a right or power, preclude any other or further exercise thereof or the exercise of any other right or power.

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

**14.7 *Computation of Time.*** If after making computations of time provided for in this Agreement, a time for action or notice falls on Saturday, Sunday or a federal holiday, then such time shall be extended to the next business day.

**14.8 *Governing Law.*** The construction and performance of this Agreement shall be governed by the laws of the State of Delaware without regard to any choice or conflicts of law provision or rule (whether of the State of Delaware or any other jurisdiction).

**14.9 *Venue.*** Each of the Parties hereby irrevocably submits to the exclusive jurisdiction of the Court of Chancery of the State of Delaware or in the absence of jurisdiction, of any federal court sitting in Wilmington, Delaware with respect to any action or proceeding arising out of or relating to this Agreement; agrees that all claims with respect to any such action or proceeding may be heard and determined in such respective courts; and waives any objection, including, any objection to the laying of venue or based on the grounds of *forum non conveniens*, which it may now or hereafter have to the bringing of such action or proceeding in such respective jurisdictions. Each of the Parties irrevocably consents to the service of any and all process in any such action or proceeding brought in the Court of Chancery of the State of Delaware or in the absence of jurisdiction, of any federal court sitting in Wilmington, Delaware by the delivery of copies of such process to the Party at its address specified for notices to be given hereunder, or by certified mail directed to such address. ***EACH OF THE PARTIES HEREBY UNCONDITIONALLY WAIVES ANY RIGHT TO A JURY TRIAL WITH RESPECT TO AND IN ANY ACTION, PROCEEDING, CLAIM, COUNTERCLAIM, DEMAND, DISPUTE OR OTHER MATTER WHATSOEVER ARISING OUT OF THIS AGREEMENT. Each Party represents to the other Parties that this waiver is given voluntarily and with full knowledge and understanding of its legal effect after consultation with legal counsel. NOTWITHSTANDING THE FOREGOING, EACH OF THE PARTIES HERETO AGREES THAT IT WILL NOT BRING OR SUPPORT ANY ACTION, SUIT, CLAIM OR***



***PROCEEDING, CAUSE OF ACTION, CLAIM, CROSS-CLAIM OR THIRD-PARTY CLAIM OF ANY KIND OR DESCRIPTION, WHETHER IN LAW OR IN EQUITY, WHETHER IN CONTRACT OR IN TORT OR OTHERWISE, AGAINST THE FINANCE PARTIES IN ANY WAY RELATING TO THIS AGREEMENT OR ANY OF THE TRANSACTIONS CONTEMPLATED BY THIS AGREEMENT, INCLUDING BUT NOT LIMITED TO ANY DISPUTE ARISING OUT OF OR RELATING IN ANY WAY TO THE COMMITMENT LETTER OR THE PERFORMANCE THEREOF, IN ANY FORUM OTHER THAN THE SUPREME COURT OF THE STATE OF NEW YORK, COUNTY OF NEW YORK, OR, IF UNDER APPLICABLE LAW EXCLUSIVE JURISDICTION IS VESTED IN THE FEDERAL COURTS, THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF NEW YORK (AND APPELLATE COURTS THEREOF). EACH PARTY HERETO HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVES, TO THE FULLEST EXTENT SUCH PARTY MAY LEGALLY AND EFFECTIVELY DO SO, TRIAL BY JURY IN ANY SUIT, ACTION OR PROCEEDING ARISING HEREUNDER.***

**14.10 Attorneys' Fees.** In the event of any dispute between the Parties to this Agreement, Sellers or Buyer, as the case may be, shall reimburse the prevailing Party for its reasonable attorneys' fees and other costs incurred in enforcing its rights or exercising its remedies under this Agreement. Such right of reimbursement shall be in addition to any other right or remedy that the prevailing Party may have under this Agreement.

**14.11 Severability.** If any term or provision of this Agreement or the application thereof to any person or circumstance shall, to any extent, be held invalid or unenforceable, the remainder of this Agreement, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each such term and provision of this Agreement shall be valid and be enforced to the fullest extent permitted by law.

**14.12 Notices.** Any notice, demand or request required or permitted to be given under this Agreement shall be in writing and shall be addressed to the following addresses or to such other address as any Party may request:

If to either of Seller:                      Deseret Management Corporation  
55 North Third West, 8th Floor  
Salt Lake City, Utah 84180  
Attention: Mark Willes, President & CEO  
Telephone: 801-575-7565  
Telecopier: 801-575-7567

with a copy to:                                  Bonneville International Corporation  
55 North Third West, 8th Floor  
Salt Lake City, Utah 84180  
Attn: General Counsel  
Telephone: 801-575-7517  
Telecopier: 801-575-7509

with a copy to:	Bonneville Holding Company 50 E. North Temple, 14th Floor Salt Lake City, Utah 84150 Attention: Craig L. Christensen Telephone: 801-240-2502
with a copy to:	Boyd J. Black, Esq. Second Floor, West Wing 50 East North Temple Salt Lake City, Utah 84150 Telecopier: 801-240-6235
with a copy to:	Kirton & McConkie, PC 60 E. South Temple, Suite 1800 Salt Lake City, Utah 84111 Attention: Robert Hyde and R. Gary Winger Telephone: 801-328-3600 Telecopier: 801-321-4893
If to Buyer:	Hubbard Radio, LLC 3415 University Ave St. Paul MN 55114-2099 Attention: General Counsel Telephone: 651-642-4333 Telecopier: 651-642-4302
with a copy to:	Leonard, Street and Deinard Professional Association 150 South Fifth Street Suite 2300 Minneapolis, MN 55402 Attention: Mark S. Weitz, Esq. Telephone: 612-335-1517 Telecopier: 612-335-1657

Any such notice, demand or request shall be deemed to have been duly delivered and received (a) on the date of personal delivery, (b) on the date of transmission if sent by facsimile, (c) on the date of receipt if mailed by registered or certified mail, postage prepaid and return receipt requested, or (d) on the date of a signed receipt if sent by an overnight delivery service.

**14.13 No Recourse.** Except for the Guarantees by HBI and DMC, this Agreement may only be enforced against, and any claim or cause of action based upon, arising out of, or related to this Agreement or the transactions contemplated hereby may only be brought against, the entities that are expressly named as parties hereto and then only with respect to the specific obligations set forth herein with respect to such party.

**14.14 Casualty.** The risk of loss, damage or destruction to the Assets shall be on Sellers prior to Closing and on Buyer thereafter. If, prior to the Closing, any material portion of the

Assets shall be damaged or destroyed by fire or other casualty (collectively, “*Casualty*”), Sellers shall deliver to Buyer written notice (“*Casualty Loss Notice*”) of such Casualty together with BIC’s determination as to whether the damage constitutes a Material Damage. For the purposes of this Section 14.14 only, “*Material Damage*” shall mean damage to the Assets which is of such nature that the cost of restoring the same to their condition prior to the Casualty will, in BIC’s reasonable determination, exceed \$500,000, whether or not such damage is covered by insurance, or any damage which would reduce the value of the Assets by \$500,000 or more. If, prior to the Closing, the Assets sustain Material Damage by a Casualty, Buyer may, at Buyer’s option, terminate this Agreement by delivering written notice thereof to Sellers within fifteen (15) business days after Buyer’s receipt of the Casualty Loss Notice. If the Assets shall be damaged by a Casualty which is not a Material Damage, or if the Assets sustain Material Damage by a Casualty, but Buyer elects not to terminate the Agreement as a result thereof, then the parties shall proceed to the Closing and the Sellers shall (at the Closing) assign to Buyer all of Sellers’ rights in and to any insurance proceeds which may become available as a result of the Casualty at issue, and Sellers shall remain obligated to pay any deductible relating to the claim, but Sellers shall otherwise have no obligation to make any further payments hereunder. Notwithstanding any other provision in this Agreement to the contrary, including the indemnification provisions, if Buyer elects to close, Sellers shall have no obligation to Buyer.

**14.15 Counterparts.** This Agreement may be executed in one or more counterparts, each of which will be deemed an original and all of which together will constitute one and the same instrument.

**14.16 Facsimile or PDF Signatures.** The Parties agree that transmission to the other Party of this Agreement with its facsimile or electronic “pdf” signature shall bind the Party transmitting this Agreement thereby in the same manner as if such Party’s original signature had been delivered. Without limiting the foregoing, each Party who transmits this Agreement with its facsimile or “pdf” signature covenants to deliver the original thereof to the other Party as soon as possible thereafter.

## **ARTICLE 15 DEFINITIONS**

**15.1 Defined Terms.** Unless otherwise stated in this Agreement, the following terms when used herein shall have the meanings assigned to them below (such meanings to be equally applicable to both the singular and plural forms of the terms defined).

“*Absolute Representations and Warranties*” shall have the meaning set forth in Section 7.1(a)(ii).

“*Accounts Receivable*” shall have the meaning set forth in Section 1.1(f).

“*Affiliate*” shall mean, with respect to any specified Person, another Person indirectly controls, is controlled by, or is under common control Person.

“*Agreement*” shall mean this Asset Purchase Agreement.

***“Antitrust Law”*** means the Sherman Act, the Clayton Act, the HSR Act, the Federal Trade Commission Act, and all other federal, state and foreign statutes, rules, regulations, orders, decrees, administrative and judicial doctrines and other laws that are designed or intended to prohibit, restrict or regulate actions having the purpose or effect of monopolization or restraint of trade or lessening of competition.

***“Assets”*** shall have the meaning set forth in Section 1.1.

***“Assumed Contracts”*** shall have the meaning set forth in Section 1.1(d).

***“BHC”*** shall have the meaning set forth in the preamble to this Agreement.

***“BIC”*** shall have the meaning set forth in the preamble to this Agreement.

***“Buyer”*** shall have the meaning set forth in the preamble to this Agreement.

***“Casualty”*** shall have the meaning set forth in Section 14.14.

***“Casualty Loss Notice”*** shall have the meaning set forth in Section 14.14.

***“Claimant”*** shall have the meaning set forth in Section 10.3(a).

***“Closing”*** and ***“Closing Date”*** shall have the meaning set forth in Article 3.

***“Code”*** shall mean the Internal Revenue Code of 1986, as amended, and the regulations thereunder, or any subsequent legislative enactment thereof, as in effect from time to time.

***“Communications Act”*** shall have the meaning set forth in Section 5.5.

***“Contracts”*** shall mean all contracts, agreements, leases, non-governmental licenses, employment agreements, commitments, understandings, options, rights and interests, written or oral, including any amendments, extensions, supplements and other modifications thereto.

***“Due Diligence Delivery Date”*** shall have the meaning set forth in Section 7.13.

***“Due Diligence Determination Date”*** shall have the meaning set forth in Section 7.13.

***“Environmental Laws”*** shall have the meaning set forth in Section 4.12(a).

***“FCC”*** shall have the meaning set forth in the recitals to this Agreement.

***“FCC Applications”*** shall mean the application or applications that Sellers and Buyer must file with the FCC requesting its consent to the assignment of the FCC Licenses from BHC to Buyer.

***“FCC Consents”*** shall mean the action or actions by the FCC granting or approving the FCC Applications.

***“FCC Licenses”*** shall have the meaning set forth in Section 1.1(a).

***“Final Order”*** means a final, non-appealable Order of the FCC or its staff that is no longer subject to administrative or judicial action, review, rehearing or appeal.

***“Finance Parties”*** shall have the meaning set forth in Section 5.7.

***“Financial Statements”*** shall have the meaning set forth in Section 4.17.

***“Financing Contingency”*** means the Buyer’s condition precedent to closing set forth in Section 8.1(i).

***“GAAP”*** means prevailing generally accepted accounting principles of the United States of America, in effect from time to time, consistently applied.

***“Governmental Authority”*** means any: (a) nation, state, county, city, town, village, district, or other recognized jurisdiction of any nature; (b) federal, state, local, municipal, foreign, or other government; (c) governmental or quasi-governmental authority of any nature (including any governmental agency, branch, department, official, or entity and any court or other tribunal); (d) multi-national organization or body; or (e) body exercising, or entitled to exercise, any administrative, executive, judicial, legislative, police, regulatory, or taxing authority or power of any nature.

***“Hazardous Substances”*** shall have the meaning set forth in Section 4.12(b).

***“HSR Act”*** means the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended.

***“Indemnitor”*** shall have the meaning set forth in Section 10.3(a).

***“Indemnified Claim”*** shall have the meaning set forth in Section 10.3(a).

***“Intellectual Property”*** shall mean any or all of the following and all rights in, arising out of, or associated therewith (including all applications or rights to apply for any of the following, and all registrations, renewals, extensions, future equivalents, and restorations thereof, now or hereafter in force and effect): all United States, international, and foreign: (1) patents, utility models, and applications therefor, and all reissues, divisions, re-examinations, provisionals, continuations and continuations-in-part thereof, and equivalent or similar rights anywhere in the world in inventions, discoveries, and designs, including invention disclosures; (2) all trade secrets and other rights in know-how and confidential or proprietary information; (3) all mask works, copyrights, formats, programming materials and concepts, on air copy, on air talent concepts and jingles, and all other rights corresponding thereto (including moral rights), throughout the world; (4) all rights in World Wide Web addresses and domain names and applications and registrations therefor, and contract rights therein; (5) all trade names, call letters, logos, slogans, symbols, trademarks and service marks, trade dress and all goodwill, if any, associated therewith throughout the world; (6) rights of publicity and personality; and (7) any similar, corresponding, or equivalent rights to any of the foregoing in items (1) through (6) above, anywhere in the world.

***“Knowledge”*** shall mean, (i) at the time of execution of this Agreement and in the case of BIC, the actual knowledge of Kirby Brown and Scott Eastmond (ii) at the Closing Date and in the case of BIC, the actual knowledge of Bruce Reese, Drew Horowitz, Joel Oxley, the Corporate Vice President of Engineering, and each Manager for the four Station Groups, after due and reasonable inquiry, and in the case of BHC, the actual knowledge of Boyd Black after due and reasonable inquiry, and (iii) in the case of Buyer, the actual knowledge of the President, Chief Executive Officer or the Chief Financial Officer after due and reasonable inquiry.

***“Law”*** means any national, federal, state, local or other law, statute, rule, regulation, ordinance, code, policy, Order, decree, judgment, consent, settlement agreement or other governmental requirement enacted, promulgated, entered into, agreed to or imposed by any Governmental Authority.

***“Liabilities”*** means any liability or obligation of any kind, character or description, whether known or unknown, absolute or contingent, accrued or unaccrued, disputed or undisputed, liquidated or unliquidated, secured or unsecured, joint or several, due or to become due, vested or unvested, executory, determined, determinable or otherwise and whether or not the same is required to be accrued on the financial statements of any Person or is disclosed on any Schedule to this Agreement.

***“Leased Real Property”*** shall have the meaning set forth in Section 1.1(b).

***“Liens”*** shall mean mortgages, deeds of trust, liens, security interests, pledges, collateral assignments, condition sales agreements, leases (other than Assumed Contracts), encumbrances, claims or other defects of title, but shall not include liens for current taxes not yet due and payable.

***“Loss”*** or ***“Losses”*** shall have the meaning set forth in Section 10.1.

***“Marketing Period”*** shall mean the first period of thirty (30) consecutive days, commencing not less than thirty (30) days after the delivery of the Audited Financial Statements, throughout which (A) Buyer shall have the Financial Information that the Sellers are required to provide to Buyer pursuant to Section 7.12 and (B) prior to the completion of such thirty (30) day period, Deloitte & Touche LLP shall not have withdrawn its audit opinion with respect to any of the Audited Financial Statements; provided, that, if the managing underwriter or lead arranger, as applicable, for the Bank Financing advises Buyer that, in the managing underwriter’s or lead arranger’s, as applicable, view, the information contained in any update to such Financial Information would have an adverse effect on the marketing of the Bank Financing, then the Marketing Period shall automatically be extended for such period of time, not to exceed fifteen (15) calendar days, as the managing underwriter or lead arranger, as applicable, may determine to be necessary or appropriate; provided further, however, that the Marketing Period may not be extended more than once pursuant to the foregoing proviso.

***“Material Adverse Effect”*** shall mean any event, transaction, condition, change or effect that (individually or in the aggregate with all other such events, transactions, conditions, changes or effects) has had or would reasonably be expected to have a material adverse effect on the Assets or the business, assets, liabilities, financial condition, results of operation, operations,

prospects or earnings of the business of the Stations, taken as a whole; provided, however, that for purposes of determining whether any material adverse effect shall have occurred, there shall be excluded and disregarded any event, transaction, condition, change or effect resulting from or relating to (i) general business or economic conditions, or conditions generally affecting the industry in which the business of the Stations operates which do not disproportionately impact the business of the Stations, (ii) any change in accounting requirements or principles or in any applicable Laws, (iii) the compliance with the terms of, or the taking of any action expressly required by this Agreement, (iv) acts of terrorism or military action or the threat thereof, and (v) any existing event, occurrence or circumstance expressly described on a Schedule hereto, solely to the extent such event, occurrence or circumstance is described therein.

***“Material Damage”*** shall have the meaning set forth in Section 14.14.

***“Net Receivables”*** shall have the meaning set forth in Article 2.

***“Order”*** means any award, decision, injunction, judgment, order, ruling, subpoena, or verdict entered, issued, made, or rendered by any court, administrative agency, or other Governmental Authority or by any arbitrator.

***“Ordinary Course of Business”*** means an action taken by a Person will be deemed to have been taken in the “Ordinary Course of Business” only if such action is consistent with the past practices of such Person and is taken in the ordinary course of the normal day-to-day operations of such Person.

***“Organizational Documents”*** means the articles of incorporation, articles of organization, certificate of organization, or similar organizational documents, including any certificate of designation for any capital stock, as amended to date, and the bylaws, operating agreement, and other similar organizational documents, as amended to date, of an entity.

***“Owned Real Property”*** shall have the meaning set forth in Section 1.1(b).

***“Party”*** or ***“Parties”*** shall have the meaning set forth in the preamble.

***“Permit”*** means any permit, franchise, certificate, consent, clearance, waiver, notification, authorization, approval, registration or license granted by or obtained from any Governmental Authority in accordance with applicable Law.

***“Permitted Liens”*** shall mean:

(i) Purchase money security interest that may arise by operation of law for inventory and supplies purchased in the ordinary course of business and on account, provided the amounts owed on such accounts are not past due;

(ii) Encumbrances for taxes, assessments, levies, fees or governmental charges on the Personal Property and Owned Real Property if the same shall not at the time be delinquent or are contested by appropriate proceedings;

(iii) Encumbrances which arise by operation of law, such as materialmen and mechanics' liens and other similar liens arising in the ordinary course of business which secure payment of obligations not more than 30 days past due; and

(iv) Zoning, building codes, and other land use laws regulating the use or occupancy of Owned Real Property or the activities conducted thereon that are imposed by a Governmental Authority having jurisdiction over Owned Real Property and are not violated by the current use or occupancy of Owned Real Property or the operating of the business of BIC as currently conducted thereon, except to the extent such uses are grandfathered.

**"Person"** shall mean an individual, a partnership, a corporation, an association, a joint stock company, a trust, a joint venture, an unincorporated organization, or a governmental entity (or any department, agency, or political subdivision thereof).

**"Personal Property"** shall have the meaning set forth in Section 1.1(c).

**"Proceeding"** means any action, arbitration, audit, hearing, investigation, litigation, or suit (whether civil, criminal, administrative, investigative, or informal) commenced, brought, conducted, or heard by or before, or otherwise involving, any Governmental Authority or arbitrator.

**"Purchase Price"** shall have the meaning set forth in Article 2.

**"Real Estate Leases"** shall have the meaning set forth in Section 4.6(b).

**"Real Property"** shall have the meaning set forth in Section 1.1(b).

**"Real Property Due Diligence"** shall have the meaning set forth in Section 1.6(a).

**"Related Documents"** means the Bill of Sale, the Assumption Agreement, the Transition Services Agreement, the DMC Post-Closing Guaranty, the HBI Post Closing Guaranty, the Lease Assignment/Estoppel, the CMS and Other IP License Agreements, and any other written agreement executed on or after the date hereof by Sellers, the Buyer or any of their respective Affiliates, as applicable, in connection with the transactions provided for in this Agreement and the Closing hereunder.

**"Replacement Contract"** shall have the meaning set forth in Section 1.4(b).

**"Schedule of Exceptions"** shall have the meaning set forth in Article 4.A.

**"Sellers"** shall have the meaning set forth in the preamble to this Agreement.

**"Shared Contracts"** shall have the meaning set forth in Section 1.4(a).

**"Station"** and **"Stations"** shall have the meaning set forth in the recitals to this Agreement.



***“Tax”*** shall mean all federal, state, local and foreign taxes including, without limitation, income, gains, transfer, unemployment, withholding, payroll, social security, real property, personal property, excise, sales, use and franchise taxes, levies, assessments, imposts, duties, licenses and registration fees and charges of any nature whatsoever, including interest, penalties and additions with respect thereto and any interest in respect of such additions or penalties.

***“Tax Return”*** shall mean any return, filing, report, declaration, questionnaire or other document required to be filed for any period with any taxing authority (whether domestic or foreign) in connection with any Taxes (whether or not payment is required to be made with respect to such document).

***“Termination Fee”*** shall have the meaning set forth in Section 11.2(c).

***“Transfer Taxes”*** means all United States federal, state, local or foreign sales, use, transfer, real property transfer, mortgage recording, stamp duty, value-added or similar taxes, costs, or fees that may be imposed in connection with the transfer of the Assets, together with any interest, additions or penalties with respect thereto and any interest in respect of such additions or penalties, including without limitation sales tax payable in connection with the transaction contemplated by this Agreement under the laws of the states of Ohio and Missouri and the District of Columbia.

***“Upset Date”*** shall have the meaning set forth in Section 11.1(a)(iii).

***“WARN Act”*** means the Worker Adjustment and Retraining Notification Act, 29 U.S.C. §2101, et seq., and any similar state or local law.

**15.2 Miscellaneous Terms.** The term “or” is disjunctive; the term “and” is conjunctive. The term “shall” is mandatory; the term “may” is permissive. Masculine terms apply to females as well as males; feminine terms apply to males as well as females. The term “includes” or “including” is by way of example and not limitation.

[signature page follows]

IN WITNESS WHEREOF, the Parties hereto have caused this Asset Purchase Agreement to be duly executed as of the date first written above.

“Sellers”

**BONNEVILLE INTERNATIONAL  
CORPORATION**

By: Mark H Willes  
Name: Mark H. Willes  
Title: Chairman of the Board

**BONNEVILLE HOLDING COMPANY**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

“Buyer”

**HUBBARD RADIO, LLC**

By: \_\_\_\_\_  
Name: Virginia H. Morris  
Title: President

[Signature Page to Asset Purchase Agreement]

IN WITNESS WHEREOF, the Parties hereto have caused this Asset Purchase Agreement to be duly executed as of the date first written above.

"Sellers"

BONNEVILLE INTERNATIONAL  
CORPORATION

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

Name: Mark H. Willes

Title: Chairman of the Board

BONNEVILLE HOLDING COMPANY

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

Name: *Craig L. Christensen*

Title: *President*

"Buyer"

HUBBARD RADIO, LLC

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

Name: Virginia H. Morris

Title: President

[Signature Page to Asset Purchase Agreement]

IN WITNESS WHEREOF, the Parties hereto have caused this Asset Purchase Agreement to be duly executed as of the date first written above.

**"Sellers"**

**BONNEVILLE INTERNATIONAL  
CORPORATION**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_

**BONNEVILLE HOLDING COMPANY**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_

**"Buyer"**

**HUBBARD RADIO, LLC**

By: Virginia H. Morris  
Name: \_\_\_\_\_  
Its: PRESIDENT