

**ASSET PURCHASE AGREEMENT**

**AMONG**

**CONNOISSEUR MEDIA, LLC AND  
CONNOISSEUR MEDIA LICENSES, LLC,  
AS SELLERS**

**AND**

**PANDORA MEDIA, INC.,  
AS BUYER**

**DATED AS OF JUNE 5, 2013**

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## ASSET PURCHASE AGREEMENT

This Asset Purchase Agreement (the "Agreement") is dated as of this 5<sup>th</sup> day of June 2013, between CONNOISSEUR MEDIA, LLC ("CM"), CONNOISSEUR MEDIA LICENSES, LLC ("CML" and together with CMI, "Seller"), and PANDORA MEDIA, INC. ("Buyer").

### RECITALS:

**WHEREAS**, Seller owns and operates radio station KXMZ(FM), Box Elder, South Dakota (Facility ID Number 164109) (the "Station"), and holds the licenses and authorizations issued by the FCC for the operation of the Station;

**WHEREAS**, Buyer and Seller are executing a Local Marketing Agreement concurrently with the execution of this Agreement (the "LMA"), pursuant to which Buyer will purchase from and after the LMA Commencement Date (as defined in the LMA) substantially all of the broadcast time of the Station and deliver programming for the Station which is broadcast by Seller;

**WHEREAS**, Buyer desires to acquire substantially all the assets of the Station, and Seller is willing to convey such assets to Buyer; and

**WHEREAS**, the acquisition of the Station is subject to prior approval of the FCC.

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

### ARTICLE I: TERMINOLOGY

**1.1 Act.** The Communications Act of 1934, as amended.

**1.2 Adjustment Amount.** As provided in Section 2.5(c), the amount by which Buyer's account is to be credited or charged, as reflected on the Adjustment List.

**1.3 Adjustment List.** As provided in Section 2.5(c), an itemized list of all sums to be credited or charged against the account of Buyer, with a brief explanation in reasonable detail of the credits or charges.

**1.4 Assumed Obligations.** Such term shall have the meaning defined in Section 2.3.

**1.5 Business Day.** Any calendar day, excluding Saturdays and Sundays, on which federally chartered banks in the city of Rapid City, South Dakota are regularly open for business.

**1.6 Buyer's Threshold Limitation.** As provided in Section 9.3(b), the threshold dollar amount for the aggregate of claims, liabilities, damages, losses, costs and expenses that must

be incurred by Buyer before Seller shall be obligated to indemnify Buyer. The Buyer's Threshold Limitation shall be Ten Thousand Dollars (\$10,000).

**1.7 Closing.** The closing of the transfer of the Non-License Assets and License Assets, as the case may be as contemplated by this Agreement.

**1.8 Documents.** This Agreement and all Exhibits and Schedules hereto, and each other agreement, certificate, or instrument delivered pursuant to or in connection with this Agreement.

**1.9 Excluded Assets.** Such term shall have the meaning defined in Section 2.2.

**1.10 FCC.** Federal Communications Commission or any successor agency.

**1.11 FCC Licenses.** The licenses, permits and authorizations issued to Seller by the FCC for the operation of the Station and all pending applications related thereto including without limitation those licenses, permits, authorizations and applications listed on Schedule 3.7.

**1.12 FCC Order.** An order or decision of the FCC granting its consent to the assignment of the FCC Licenses to Buyer.

**1.13 Final Action.** An action of the FCC that has not been reversed, stayed, enjoined, set aside, annulled or suspended; with respect to which no timely petition for reconsideration or administrative or judicial appeal or *sua sponte* action of the FCC with comparable effect is pending and as to which the time for filing any such petition or appeal (administrative or judicial) or for the taking of any such *sua sponte* action of the FCC has expired.

**1.14 Indemnified Party.** Any party described in Section 9.3(a) or 9.4(a) against which any claim or liability may be asserted by a third party which would give rise to a claim for indemnification under the provisions of this Agreement by such party.

**1.15 Indemnifying Party.** The party to the Agreement (not the Indemnified Party) that, in the event of a claim or liability asserted by a third party against the Indemnified Party which would give rise to a claim for indemnification under the provisions of this Agreement, may at its own expense, and upon written notice to the Indemnified Party, compromise or defend such claim.

**1.16 Initial Payment.** The payment contemplated in Section 2.4(a)(i).

**1.17 Intangible Personal Property.** The intangible personal property described in Section 2.1 (f).

**1.18 License Assets.** The FCC Licenses, Real Property, Station Agreements and all records related to the foregoing, including the Station's public inspection file, and any Sale Assets not otherwise transferred to Buyer at the Non-License Closing.

**1.19 License Closing.** The closing of Seller's transfer of the License Assets to Buyer.

**1.20 License Transfer Date.** The date provided in Section 8.1.

**1.21 Lien.** Any mortgage, deed of trust, pledge, hypothecation, security interest, encumbrance, lien, lease or charge of any kind, whether voluntarily incurred or arising by operation of law or otherwise, affecting any assets or property, including any written or oral agreement to give or grant any of the foregoing, any conditional sale or other title retention agreement, and the filing of or agreement to give any financing statement with respect to any assets or property under the Uniform Commercial Code or comparable law of any jurisdiction.

**1.22 Material Adverse Condition.** A condition which would materially restrict, limit, increase the cost or burden of or otherwise adversely affect or materially impair the right of Buyer to the ownership, use, control, enjoyment or operation of the Station or the proceeds therefrom; provided, however, that any condition which requires that a Station be operated in accordance with a condition similar to those contained in the present FCC licenses issued for operation of that Station, shall not be deemed a Material Adverse Condition.

**1.23 Non-License Assets.** All Sale Assets other than the FCC Licenses, the Real Property and the Station Agreements and all records related to the foregoing.

**1.24 Non-License Closing.** The closing contemplated in Section 2.6.

**1.25. Non-License Transfer Date.** The date provided in Section 2.6.

**1.26 Permitted Lien.** Any statutory lien which secures a payment not yet due that arises, and is customarily discharged, in the ordinary course of Seller's business; any easement, right-of-way or similar imperfection in the Seller's title to its assets or properties that, individually and in the aggregate, are not material in character or amount and do not and are not reasonably expected to materially impair the value or materially interfere with the use of any asset or property of the Seller material to the operation of its business.

**1.27 Purchase Price.** The consideration to be paid by Buyer to Seller for purchase of the Sale Assets in an amount equal to Six Hundred Thousand Dollars (\$600,000.00).

**1.28. Real Property.** The Real Property described in Section 2.1(b).

**1.29 Rules and Regulations.** The rules of the FCC as set forth in Title 47 of the Code of Federal Regulations, as well as such other policies of the Commission, whether contained in the Code of Federal Regulations, or not, that apply to the Station.

**1.30 Sale Assets.** Such term shall have the meaning defined in Section 2.1.

**1.31 Station Agreements.** The leases, agreements, commitments, contracts (including contracts for the sale of broadcast time on the Station for cash or non-cash consideration) and other items described in Section 2.1(d) which relate to operation of the Station and which Buyer has agreed to assume.

**1.32 Seller's Threshold Limitation.** As provided in Section 9.4(b), the threshold dollar amount for the aggregate of claims, liabilities, damages, losses, costs and expenses that must be incurred by Seller before Buyer shall be obligated to indemnify Seller. The Seller's Threshold Limitation shall be Ten Thousand Dollars (\$10,000).

**1.33 Taxes.** All taxes, fees, levies, duties, tariffs, imposts, and governmental impositions or charges of any kind in the nature of (or similar to) taxes, payable to any federal, state, local or foreign taxing authority, including without limitation (i) income, franchise, profits, gross receipts, *ad valorem*, net worth, value added, sales, use, service, real or personal property, special assessments, capital stock, license, payroll, withholding, employment, social security, workers' compensation, unemployment compensation, utility, severance, production, excise, stamp, occupation, premiums, windfall profits, transfer and gains taxes and (ii) interest penalties, additional taxes and additions to tax imposed with respect thereto; and “

**1.34 Tax Returns.** All returns, reports, and information statements with respect to Taxes required to be filed with Internal Revenue Service or any other federal, foreign, state or provincial taxing authority, domestic or foreign, including, without limitation, consolidated, combined and unitary tax returns.

**1.35 Transfer Date.** The Non-License Transfer Date or the License Transfer Date, as applicable.

## **ARTICLE II: PURCHASE AND SALE**

**2.1 Sale Assets.** On the applicable Transfer Date, Seller will sell, transfer, assign, convey and deliver to Buyer, and Buyer will purchase from Seller, free and clear of all Liens except Permitted Liens, all of Seller's right, title and interest, legal and equitable, in and to the tangible and intangible assets (except Excluded Assets) set forth below (“Sale Assets”):

(a) **Tangible Personal Property.** All tangible personal property used or held for use in connection with the operation of the Station, including but not limited to towers, vehicles, equipment, parts, supplies, furniture, fixtures, inventory, computers and computer software and other tangible personal property now owned by Seller, including and set forth on Schedule 3.6, and any improvements, replacements and alterations thereto made between the date of this Agreement and the Non-License Transfer Date (“Tangible Personal Property”).

(b) **Real Property.** Seller's leasehold interest in all real property used in connection with the operation of the Station and all buildings, improvements and fixtures thereon and all rights of way, easements, privileges and appurtenances thereto, including, but not limited to those leasehold interests set forth on Schedule 3.16.

(c) **Licenses and Permits.** The FCC Licenses and all other assignable or transferable governmental permits, licenses, and authorizations (and any renewals, extensions, amendments or modifications thereof) now held by Seller or hereafter obtained by Seller between the date hereof and the License Transfer Date, to the extent such other permits, licenses and authorizations pertain to or are used in the operation of the Station, including, but not limited to those licenses set forth on Schedule 3.7.

(d) **Station Agreements.** All leases, contracts and other agreements which Seller is a party to or bound by and which are listed on Schedule 3.8, any renewals, extensions, amendments or modifications of those agreements which are made in the ordinary course of Seller's operation of the Station and in accordance with the terms and provisions of this Agreement; and any additional such agreements, contracts, leases, commitments or orders (and any renewals, extensions, amendments or modifications thereof) made or entered into between the date hereof and the applicable Transfer Date in accordance with the terms and provisions of this Agreement.

(e) **Records.** True and complete copies of all of the public inspection files, logs, reports of engineers and other consultants or independent contractors, pertaining to or used in the operation of the Station (other than corporate records).

(f) **Intangible Assets.** The patents, patent applications, trademarks, tradenames, service marks, and copyright registrations or copyright applications and any other intangible assets such as jingles, slogans and other promotional material used in connection with the operation of the Station, including but not limited to those set forth on Schedule 3.9.

**2.2 Excluded Assets.** Notwithstanding any provision of this Agreement to the contrary, Seller shall not transfer, convey or assign to Buyer, but shall retain all of its right, title and interest in and to, the following assets owned or held by it on the applicable Transfer Date ("Excluded Assets"):

(a) Any and all cash, cash equivalents, cash deposits to secure contract obligations, including the \$2,000 security deposit for the office lease (except to the extent Seller receives a credit therefor under Section 2.6 in which event the deposit shall be included as part of the Sale Assets), all inter-company receivables from any affiliate of Seller and all other accounts receivable, bank deposits and securities held by Seller in respect of the Station at the applicable Transfer Date.

(b) Any and all claims of Seller with respect to transactions prior to the Closing including, without limitation, claims for tax refunds and refunds of fees paid to the FCC.

(c) All prepaid expenses (except to the extent Seller receives a credit therefor under Section 2.6, in which event the prepaid expense shall be included as part of the Sale Assets).

- (d) All contracts of insurance and claims against insurers.
- (e) All employee benefit plans and the assets thereof and all employment contracts.
- (f) All contracts that are terminated in accordance with the terms and provisions of this Agreement or have expired prior to the applicable Transfer Date in the ordinary course of business; and all loans and loan agreements.
- (g) All tangible personal property disposed of or consumed between the date hereof and applicable Transfer Date in the ordinary course of business and in accordance with the terms and provisions of this Agreement.
- (h) Seller's corporate records except to the extent such records pertain to or are used in the operation of the Station, in which case Seller shall deliver accurate copies thereof to Buyer.
- (i) All commitments, contracts and agreements not specifically assumed by Buyer pursuant to Section 2.1(d) above.

### **2.3 Assumption of Liabilities.**

(a) On the applicable Transfer Date, Buyer shall assume and agree to perform, without duplication of Seller's performance, the following liabilities and obligations of Seller (the "Assumed Obligations"):

(i) Current liabilities of Seller for which Buyer receives a credit pursuant to Section 2.5, but not in excess of the amount of such credit.

(ii) Liabilities and obligations arising under the Station Agreements and any other contracts assumed by and transferred to Buyer in accordance with this Agreement, but only to the extent such liabilities and obligations relate to any period of time after the applicable Transfer Date.

(b) Except for the Assumed Obligations, Buyer shall not assume or in any manner be liable for any duties, responsibilities, obligations or liabilities of Seller of any kind or nature, whether express or implied, known or unknown, contingent or absolute, including, without limitation, any liabilities to or in connection with Seller's employees whether arising in connection with the transaction contemplated hereunder or otherwise.

### **2.4 Payment of Purchase Price.**

(a) The Purchase Price shall be paid by Buyer as follows:

(i) At the Non-License Closing, Buyer will pay Seller the sum of Four Hundred Thousand Dollars (\$400,000) ("Initial Payment") by wire transfer of immediately available funds.

(ii) At the License Closing, the Purchase Price, less the Initial Payment disbursed to Seller, shall be paid to Seller by wire transfer of immediately available funds.

(b) On the applicable Transfer Date, Buyer shall pay to Seller, or Seller shall pay to Buyer, the Adjustment Amount in accordance with Section 2.5.

## **2.5 Adjustment of Purchase Price.**

Except as otherwise provided in the LMA:

(a) All operating income and operating expenses of the Station shall be adjusted and allocated between Seller and Buyer, and an adjustment in the Purchase Price shall be made as provided in this Section, to the extent necessary to reflect the principle that all such income and expenses attributable to the operation of the Station on or before the License Closing Date shall be for the account of Seller, and all income and expenses attributable to the operation of the Station after the License Closing Date shall be for the account of Buyer.

(b) To the extent not inconsistent with the express provisions of this Agreement, the allocations made pursuant to this Section 2.5 shall be made in accordance with generally accepted accounting principles.

(c) For purposes of making the adjustments pursuant to this Section, Buyer shall prepare and deliver the Adjustment List to Seller within forty-five (45) days following the License Closing Date, or such earlier or later date as shall be mutually agreed to by Seller and Buyer. The Adjustment List shall set forth the Adjustment Amount. If the Adjustment Amount is a credit to the account of Buyer, Seller shall pay such amount to Buyer, and if the Adjustment Amount is a charge to the account of Buyer, Buyer shall pay such amount to Seller. In the event Seller disagrees with the Adjustment Amount determined by Buyer or with any other matter arising out of this subsection, and Buyer and Seller cannot within sixty (60) days resolve the disagreement themselves, the parties will refer the disagreement to an independent certified public accounting firm mutually agreeable to Buyer and Seller, whose decision shall be final and whose fees and expenses shall be allocated between and paid by Seller and Buyer, respectively, to the extent that such party does not prevail on the disputed matters decided by the accountants.

(d) Notwithstanding the foregoing, with respect to trade, barter or similar agreements for the sale of time for goods or services that are included in the Station Agreements (other than trade owed to Rapid Broadcasting Company under the tower lease), if at the License Closing (i) Seller has a negative barter balance in excess of \$30,000 (*i.e.*, the amount by which the value of air time to be provided after License Closing exceeds the fair market value of corresponding goods and services to be received after such date), then the balance in excess of such threshold shall be adjusted for at the License Closing as a proration in Buyer's favor, (ii)

Seller has a positive barter balance or a negative barter balance of \$30,000 or less, then there shall be no proration or adjustment for such balance, or (iii) if Seller has a positive barter balance in excess of \$30,000, then the balance in excess of such threshold shall be adjusted for at the License Closing as a proration in Seller's favor.

**2.6 Non-License Transfer/Entry into Local Marketing Agreement and Equipment Lease.** Contemporaneously with the execution of this Agreement (the "Non-License Transfer Date"), (i) there shall be a closing for the purchase and sale of all of the Non-License Assets to Buyer ("Non-License Closing"), (ii) Buyer and Seller shall enter into a Local Programming and Marketing Agreement ("LMA"), substantially in the form attached as Exhibit A hereto and (iii) Buyer and Seller shall enter into an Equipment Lease Agreement ("Equipment Lease"), substantially in the form attached as Exhibit B hereto. At the Non-License Closing, Buyer agrees to purchase from and Seller agrees to sell, convey, transfer, assign, and deliver, or cause to be sold, conveyed, transferred, assigned, and delivered, to Buyer at the Non-License Closing, free of all Liens other than Permitted Liens, all of Seller's right, title, and interest in, to, and under the Non-License Assets.

**2.7 Collection of Accounts Receivable.** For a period of one hundred twenty (120) days after Non-License Closing (the "Collection Period"), Buyer shall, without charge to Seller, use commercially reasonable efforts to collect any accounts receivable associated with Seller's operation of the Station prior to the LMA Commencement Date ("A/R"). All A/R shall be collected in the ordinary course of business and Buyer shall apply all amounts collected from the Station's account debtors to the oldest account first, unless the advertiser disputes in good faith in writing an older account and designates the payment to a newer account. Any amounts relating to the A/R that are paid directly to Seller shall be retained by Seller. Buyer shall not discount, adjust or otherwise compromise any A/R and Buyer shall refer any disputed A/R to Seller. Within ten calendar days after the end of each month, Buyer shall deliver to Seller a report showing A/R collections for the prior month and Buyer shall make a payment, without offset, to Seller equal to the amount of all such collections. At the end of the Collection Period, any remaining A/R shall be returned to Seller for collection.

### **ARTICLE III: REPRESENTATIONS AND WARRANTIES OF SELLER**

Seller hereby represents and warrants to Buyer as follows:

**3.1 Organization and Good Standing.** Each Seller is a limited liability company duly organized, validly existing and in good standing under the laws of the state of Delaware. Seller has all requisite power to own, operate and lease its properties and carry on its business as it is now being conducted and as the same will be conducted until the License Closing Date.

**3.2 Authorization and Binding Effect of Documents.** The execution and delivery of, and the performance of its obligations under, this Agreement and each of the other Documents by Seller, and the consummation by Seller of the transactions contemplated hereby and thereby, have been duly authorized and approved by all necessary action on the part of Seller and its members. Seller has the power and authority to execute, deliver and perform its obligations under

this Agreement and each of the other Documents and to consummate the transactions hereby and thereby contemplated. This Agreement and each of the other Documents have been, or at or prior to the Closing will be, duly executed by Seller. This Agreement constitutes (and each of the other Documents, when so executed and delivered, will constitute) legal and valid obligations of Seller enforceable against it in accordance with its terms, subject to applicable bankruptcy, insolvency, reorganization, moratorium and similar laws affecting the enforcement of creditors' rights or remedies generally, and subject, as to enforceability, to general principles of equity (regardless of whether enforcement is sought in a proceeding in equity or at law).

**3.3 Absence of Conflicts.** The execution and delivery of, and the performance of its obligations under, this Agreement and each of the other Documents by Seller, and the consummation by Seller of the transactions contemplated hereby and thereby:

(a) do not in any material respect (with or without the giving of notice or the passage of time or both) violate (or result in the creation of any Lien other than a Permitted Lien on any of the Sale Assets under) any provision of law, rule or regulation or any order, judgment, injunction, decree or ruling applicable to Seller;

(b) do not in any material respect (with or without the giving of notice or the passage of time or both) conflict with or result in a breach or termination of, or constitute a default or give rise to a right of termination or acceleration under the charter documents of Seller or pursuant to any lease, agreement, commitment or other instrument which Seller is a party to or bound by or by which any of the Sale Assets may be bound, or result in the creation of any Lien other than a Permitted Lien upon any of the Sale Assets.

**3.4 Governmental Consents and Consents of Third Parties.** Except (i) for the required consent of (x) the FCC and (y) the consent of General Electric Capital Corporation as administrative agent for the lenders, credit parties and letter of credit issuers under that certain Credit Agreement dated as of May 10, 2013 and that certain Second Lien Credit Agreement, dated as of May 10, 2013 (the "Credit Documents") and (ii) as set forth on Schedule 3.8, the execution and delivery of, and the performance of its obligations under, this Agreement and each of the other Documents by Seller, and the consummation by Seller of the transactions contemplated hereby and thereby, do not require the consent, waiver, approval, permit, license, clearance or authorization of, or any declaration of filing with, any court or public agency or other authority, or the consent of any person under any agreement, arrangement or commitment of a nature which Seller is a party to or bound by or by which the Sale Assets are bound by or subject to, the failure of which to obtain would have a material adverse effect on the Sale Assets or the operation of the Station.

**3.5 Sale Assets.** The Sale Assets include all of the assets, properties and rights of every type and description, real, personal and mixed, tangible and intangible, that are used to a material extent in the conduct of the business of operating the Station in the manner in which it is now being conducted, with the exception of the Excluded Assets. The Sale Assets include sufficient assets to operate a radio station in a manner consistent with ordinary industry practice.

**3.6 Tangible Personal Property.** Seller has good, marketable and valid title to all of the items of Tangible Personal Property free and clear of all Liens including the right to transfer same except (i) Liens under the Credit Documents which will be released at the applicable Closing and (ii) Permitted Liens. The Tangible Personal Property complies with applicable rules and regulations of the FCC and the terms of the FCC licenses. The items of Tangible Personal Property are in good operating condition and repair and Seller has no knowledge of any defect in the condition or operation of any item of the Tangible Personal Property which is reasonably likely to have a material adverse effect on the operation of the Station.

**3.7 FCC Licenses.** Seller is the holder of the FCC Licenses listed on Schedule 3.7, and the FCC Licenses (i) are valid, in good standing and in full force and effect and constitute all of the licenses, permits and authorizations required by the Act, the Rules and Regulations or the FCC for, or used in, the operation of the Station as now operated, and (ii) constitute all the licenses and authorizations issued by the FCC to Seller for or in connection with the current operation of the Station. Seller has no actual knowledge of any condition imposed by the FCC as part of any FCC License which is neither set forth on the face thereof as issued by the FCC nor contained in the Rules and Regulations applicable generally to stations of the type, nature, class or location of the Station. The Station is being operated in accordance with the terms and conditions of the FCC Licenses applicable to it and in accordance with the Rules and Regulations. No proceedings are pending or, to the knowledge of the Seller, are threatened which may result in the revocation, modification, non-renewal or suspension of any of the FCC Licenses, the denial of any pending applications, the issuance of any cease and desist order or the imposition of any fines, forfeitures or other administrative actions by the FCC with respect to the Station or its operation, other than proceedings affecting the radio broadcasting industry in general. Seller has complied in all material respects with all requirements to file reports, applications and other documents with the FCC (including the registration of Seller's towers) with respect to the Station, and all such reports, applications and documents are complete and correct in all material respects. Seller has no knowledge of any matters (i) which could reasonably be expected to result in the suspension or revocation of or the refusal to renew any of the FCC Licenses or the imposition of any fines or forfeitures by the FCC, or (ii) against Seller which could reasonably be expected to result in the FCC's refusal to grant approval of the assignment to Buyer of the FCC Licenses or the imposition of any Material Adverse Condition in connection with approval of such assignment. There are not any unsatisfied or otherwise outstanding citations issued by the FCC with respect to the Station or its operation. The "Public Inspection File" of the Station is complete and in substantial and material compliance with Section 73.3526 of the Rules and Regulations.

**3.8 Station Agreements.**

(a) Schedule 3.8 sets forth an accurate and complete list of all leases, agreements, contracts, arrangements or commitments in effect as of the date hereof, including all amendments, modifications and supplements thereto which the Station or its assets or properties are bound by (except employee benefit plans and employment contracts, advertising contracts and other contracts comprising Excluded Assets) and which Buyer has agreed to assume.

(b) Except as set forth in the Schedules, (i) all Station Agreements are legal, valid and enforceable in accordance with their terms, subject to applicable bankruptcy, insolvency, reorganization, moratorium and similar laws affecting creditors' rights generally, and subject, as to enforceability, to general principles of equity regardless of whether enforcement is sought in any proceeding at law or in equity; (ii) neither Seller nor, to the knowledge of Seller, any other party thereto, is in material breach of or in material default under any Station Agreements; (iii) to the knowledge of Seller, there has not occurred any event which, after the giving of notice or the lapse of time or both, would constitute a material default under, or result in the material breach of, any Station Agreements which are, individually or in the aggregate, material to the operation of the Station; and (iv) Seller holds the right to enforce and receive the benefits under all of the Station Agreements, free and clear of all Liens (other than Permitted Liens) but subject to the terms and provision of each such agreement.

(c) Schedule 3.8 indicates, for each Station Agreement listed thereon, whether consent or approval by any party thereto is required thereunder for consummation of the transactions contemplated hereby.

**3.9 Intangible Personal Property.** Other than as set forth on Schedule 3.9, there are no material patents, patent applications, trademarks, tradenames, service marks, copyright registrations, or copyright applications licensed or used by or registered in the name of Seller which apply to the Station. Seller owns all the right and interest in, and the right and authority to use in connection with the conduct of the business of the station as presently conducted, without infringing on the rights of any party, all of the Intangible Personal Property. There are no outstanding or, to the knowledge of Seller, threatened judicial or adversary proceedings with respect to the Intangible Personal Property.

**3.10 Litigation.** There are no claims, investigations or administrative, arbitration or other proceedings pending or, to the knowledge of Seller, threatened against Seller which would, individually or in the aggregate if adversely determined, have an adverse effect on the Sale Assets or the operation of the Station, or which would give any third party the right to enjoin the transactions contemplated by this Agreement. To the knowledge of Seller, there is no basis for any such claim, investigation, action, suit or proceeding which would, individually or in the aggregate if adversely determined, have an adverse effect on the Sale Assets or the operation of the Station. There are no existing or, to the knowledge of Seller, pending orders, judgments or decrees of any court or governmental agency affecting Seller, the Station or any of the Sale Assets.

**3.11 Labor Matters.** Buyer's consummation of the transactions contemplated by this Agreement in accordance with the terms hereof shall not, as a result of or in connection with the transactions contemplated hereby, impose upon Buyer the obligation to pay any severance or termination pay under any agreement, plan or arrangement binding upon Seller. Seller is not a party or subject to any collective bargaining agreements with respect to the Station. Seller, in the operation of the Station, has complied in all material respects with all applicable laws, rules and regulations relating to the employment of labor, including those related to wages, hours, collective bargaining, occupational safety, discrimination, and the payment of social security and other payroll-related taxes, and it has not received any notice alleging that it has failed to comply in any

material respect with any such laws, rules or regulations. No labor union or other collective bargaining representative represents or, to the knowledge of Seller, claims to represent any of the employees of the Station. To the knowledge of Seller, there is no effort being made to organize the employees or any group of employees of the Station for purposes of collective bargaining.

**3.12 Compliance with Law.** The operation of the Station complies in all material respects with the applicable rules and regulations of the FCC and all federal, state, local or other laws, statutes, ordinances, regulations, and any applicable order, writ, injunction or decree of any court, commission, board, agency or other instrumentality.

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

**3.14 Broker's or Finder's Fees.** Seller has not engaged any brokers in connection with the transactions contemplated by this Agreement. No other agent, broker, investment banker or other person or firm acting on behalf of or under the authority of Seller or any affiliate of Seller is or will be entitled to any broker's or finder's fee or any other commission or similar fee, directly or indirectly, in connection with the transactions contemplated by this Agreement.

**3.15 Insurance.** There is now in full force and effect with reputable insurance companies fire and extended coverage insurance with respect to all material tangible Sale Assets and public liability insurance, all in reasonable commercial amounts.

**3.16 Real Property.** Seller has good and insurable fee simple absolute or leasehold interests in the Real Property. Except for Permitted Liens, there are no encumbrances or restrictions to title to any portion of the Real Property. All of the Real Property used by Seller in the operation of the Station is leased and conforms in all material respects to all lease restrictions, restrictive covenants, building codes, and federal, state and local laws, regulations and ordinances. To Seller's knowledge, the Real Property is zoned for the purposes for which it is currently being used. Seller has no knowledge of any pending, threatened or contemplated action to take by eminent domain or otherwise to condemn any part of the Real Property. The transmitting towers, guy anchors, transmitter buildings and related improvements used by Seller in the operation of the Station are located entirely on the Real Property. The Real Property has full legal right to vehicular access to a public road. All facilities or structures included in or upon the Real Property are supplied with utilities and other services necessary for the operation of such facilities and structures.

**3.17 Environment.** To Seller's knowledge, Seller has complied and the Real Property is in compliance in all material respects with all environmental, health and safety laws relating to the Real Property and no action, suit, proceeding, hearing, investigation, charge, complaint, claim, demand or notice has been filed, or commenced or, to the best of Seller's knowledge, threatened,

against Seller or with respect to the Real Property alleging any failure so to comply. Without limiting the generality of the preceding sentence and to the best of Seller's knowledge, Seller has obtained and the Real Property is in material compliance with all of the terms and conditions of all permits, licenses and other authorizations which are required under, and have complied in all material respects with all other limitations, restrictions, conditions, standards, prohibitions, requirements, obligations, schedules and timetables which are contained in, all Environmental, Health and Safety Laws applicable to the Real Property and to the Sale Assets.

**3.18 Taxes.** Seller has filed, or caused to be filed, all federal, state and local Tax Returns required to be filed by Seller with respect to the Station and the Sale Assets. Seller has paid all Taxes due for periods covered by such returns. All Taxes pertaining to ownership of the Station and the Sale Assets prior to the applicable Transfer Date shall be the responsibility of Seller and all taxes pertaining to ownership of the Station and the Sale Assets after the applicable Transfer Date shall be the responsibility of Buyer. Notwithstanding the foregoing, each party shall be responsible for paying its respective income taxes.

#### **ARTICLE IV: REPRESENTATIONS AND WARRANTIES OF BUYER**

Buyer represents and warrants to Seller as follows:

**4.1 Organization and Good Standing.** Buyer is a corporation duly organized, validly existing and in good standing under the laws of the State of Delaware. Buyer has all requisite legal authority to own, operate and lease its properties and carry on its business as it is now being conducted and as the same will be conducted following the Closing.

**4.2 Authorization and Binding Effect of Documents.** Buyer's execution and delivery of, and the performance of its obligations under, this Agreement and each of the other Documents, and the consummation by Buyer of the transactions contemplated hereby and thereby, have been duly authorized and approved by all necessary actions on the part of Buyer. This Agreement and each of the other Documents to be executed by Buyer have been, or at or prior to the Closing will be, duly executed by Buyer. The Documents, when executed and delivered by the parties hereto, will constitute the valid and legally binding agreement of Buyer, enforceable against Buyer in accordance with their terms, except as may be limited by bankruptcy, insolvency, or other similar laws affecting the enforcement of creditors' rights generally, and except as may be limited by general principles of equity (regardless of whether such enforceability is sought in a proceeding in equity or at law).

**4.3 Absence of Conflicts.** Buyer's execution and delivery of, and the performance of its obligations under, this Agreement and each of the other Documents and the consummation by Buyer of the transaction contemplated hereby and thereby:

(a) Do not in any material respect (with or without the giving of notice or the passage of time or both) violate (or result in the creation of any claim, lien, charge or encumbrance on any of the assets or properties of Buyer under) any provision of law, rule or regulation or any order, judgment, injunction, decree or ruling applicable to Buyer in any manner which would have

a material adverse effect on the assets, business, operation or financial condition or results of operations of Buyer;

(b) Do not (with or without the giving of notice or the passage of time or both) conflict with or result in a breach or termination of, or constitute a default or give rise to a right of termination or acceleration under, the charter documents of Buyer or any lease, agreement, commitment or other instrument which Buyer is a party to or bound by or by which any of its assets or properties may be bound.

**4.4 Governmental Consents and Consents of Third Parties.** Except for the required consent of the FCC, Buyer's execution and delivery of, and the performance of its obligations under, this Agreement and each of the other Documents and the consummation by Buyer of the transaction contemplated hereby and thereby, do not require the consent, waiver, approval, permit, license, clearance or authorization of, or any declaration or filing with, any court or public agency or other authority, or the consent of any person under any agreement, arrangement or commitment of any nature which Buyer is a party to or bound by, the failure of which to obtain would have a material adverse effect on the assets, business, operation or financial condition or results of operations of Buyer.

**4.5 Absence of Litigation.** There are no actions pending against or, to Buyer's knowledge, threatened against Buyer before any governmental authority that in any manner challenges or seeks to prevent, enjoin, alter or delay materially the transactions contemplated by this Agreement.

**4.6 FCC Qualifications.** Buyer is legally, financially and otherwise qualified under the Act and the Rules and Regulations to acquire the FCC Licenses and own and operate the Station, except that with respect to the FCC rules governing alien ownership, Buyer is awaiting results from an alien ownership survey to ensure its compliance with those rules and will be in compliance with the FCC's alien ownership rules prior to Closing. Except as provided in the Section 4.6, there are no facts known to Buyer, after due inquiry, that would disqualify Buyer as the assignee of the FCC Licenses or as owner and operator of the Station, and no waiver or exemption, whether temporary or permanent, from any provision of the Act or the Rules and Regulations is necessary for the FCC Order to be obtained.

**4.7 Financing.** Buyer will have sufficient cash, available lines of credit or other sources of immediately available funds to enable it to make payment of the Purchase Price at each applicable Transfer, all related fees and expenses in connection with the transactions contemplated by this Agreement and any other amounts to be paid by it in accordance with the terms of this Agreement.

**4.8 Broker's or Finder's Fees.** Buyer has not engaged any brokers in connection with the transactions contemplated by this Agreement. No other agent, broker, investment banker or other person or firm acting on behalf of or under the authority of Buyer or any affiliate of Buyer is or will be entitled to any broker's or finder's fee or any other commission or similar fee, directly or indirectly, in connection with the transactions contemplated by this Agreement.

## **ARTICLE V: TRANSACTIONS PRIOR TO THE APPLICABLE TRANSFER DATE**

Subject to the provisions and effect of the LMA, Seller covenants and agrees that from the date hereof to and including the applicable Transfer Date:

### **5.1 Conduct of the Station's Business Prior to the applicable Transfer Date.**

Seller covenants and agrees with Buyer that between the date hereof and the applicable Transfer Date, unless the Buyer otherwise agrees in writing, Seller shall:

- (a) Use reasonable efforts to operate the Station in substantially the manner in which it is currently being operated;
- (b) Maintain all machinery and equipment included in the Sale Assets in a normal state of repair and efficiency and maintain the Real Property in good order, repair and condition;
- (c) Maintain insurance upon all of the tangible Sale Assets in such amounts and of such kind comparable to that in effect on the date hereof with respect to such Sale Assets and with respect to the operation of the Station, with insurers of substantially the same or better financial condition;
- (d) Operate the Station and otherwise conduct its business in accordance with the terms or conditions of its FCC Licenses, the Rules and Regulations, the Act and all other rules and regulations, statutes, ordinances and orders of all governmental authorities having jurisdiction over any aspect of the operation of the Station, except where the failure to so operate the Station would not have a material adverse effect on the Sale Assets or the operation of the station or on the ability of Seller to consummate the transactions contemplated hereby;
- (e) Comply in all material respects with all Station Agreements now or hereafter existing which are material, individually or in the aggregate, to the operation of the Station;
- (f) Promptly notify Buyer of any material default by, or claim of default against, any party under any Station Agreements which are material, individually or in the aggregate, to the operation of the Station, and any event or condition which, with notice or lapse of time or both, would constitute an event of default under such Station Agreements;
- (g) Not mortgage, pledge or subject to any Lien any of the Sale Assets;
- (h) Not sell, lease or otherwise dispose of, nor agree to sell, lease or otherwise dispose of, any of the Sale Assets without replacement thereof with an asset of substantially equivalent kind, condition, value and functionality;

(i) Not acquire or lease any goods or services or enter into, amend or terminate any license, lease of real or personal property or any other Station Agreement, other than in the ordinary course of business (but only if such contracts or commitments involve aggregate consideration under such contracts or commitments of less than \$40,000 and are for a term not exceeding one year);

(j) Notify Buyer of any litigation pending or threatened against the Station or Seller or any damage to or destruction of any assets included or to be included in the Sale Assets;

(k) Except for the Retention Payments (provided in the LMA), not increase the salary or employee benefits of the Station employees except in a manner that is consistent with past practices and in the ordinary course of business;

(l) Not enter into, extend or renew any contracts or other agreements (including trade and barter) that would impose obligations on Buyer or the Station to air advertising on the Station after Closing outside of the ordinary course of business or consistent with past practice; and

(m) except as may otherwise be agreed to by the parties, use commercially reasonable efforts to satisfy prior to the applicable Transfer Date any existing contracts or other agreements (including trade or barter) for the sale of advertising on the Station.

**5.2 Governmental Consents.** Seller and Buyer shall file with the FCC, within fifteen (15) business days after the execution of this Agreement, such applications and other documents in the name of Seller or Buyer, as appropriate, as may be necessary or advisable to obtain the FCC Order. Seller and Buyer shall take all commercially reasonable steps necessary to prosecute such filings with diligence and shall diligently oppose any objections to, appeals from or petitions to reconsider such approval of the FCC, to the end that the FCC Order and a Final Action with respect thereto may be obtained as soon as practicable; provided, however, that in the event the application for assignment of the FCC Licenses has been designated for hearing, either Buyer or Seller may elect to terminate this Agreement pursuant to Section 10.1(c). Buyer shall not knowingly take, and Seller covenants that Seller shall not knowingly take, any action that party knows or has reason to know would materially and adversely affect or materially delay issuance of the FCC Order without a Material Adverse Condition, unless such action is requested or required by the FCC, its staff or the Rules and Regulations. Should Buyer or Seller become aware of any facts which could reasonably be expected to materially and adversely affect or materially delay issuance of the FCC Order without a Material Adverse Condition, such party shall promptly notify the other party thereof in writing and both parties shall cooperate to take all steps necessary or desirable to resolve the matter expeditiously and to obtain the FCC's approval of matters pending before it.

**5.3 Other Consents.** Seller shall use its reasonable best efforts to obtain the consent or waivers to the transactions contemplated by this Agreement required under any assumed Station Agreements; provided that Seller shall not be required to pay or grant any material consideration in order to obtain any such consent or waiver.

#### **5.4 Confidentiality; Press Release.**

(a) All information, data and materials furnished or to be furnished to either party with respect to the other party in connection with this transaction or pursuant to this Agreement are confidential. Each party agrees that prior to the License Transfer Date (i) it shall not disclose or otherwise make available, at any time, any such information, data or material to any person who does not have a confidential relationship with such party; (ii) it shall protect such information, data and material with a high degree of care to prevent the disclosure thereof; and (iii) if, for any reason, this transaction is not consummated, all information, data or material concerning the other party obtained by such party, and all copies thereof, will be returned to the other party. After the License Transfer Date, neither party will disclose or otherwise make available to any person any of such information, data or material concerning the other party, except as may be necessary or appropriate in connection with the operation of the Station by Buyer. Each party shall use its reasonable efforts to prevent the violation of any of the foregoing confidentiality provisions by its respective representatives.

(b) Nothing in this Section shall prohibit Buyer or Seller from: (i) using such information, data and materials in connection with any action or proceeding brought or any claim asserted by Buyer or Seller in respect of any breach by the other of any representation, warranty or covenant made in or pursuant to this Agreement; (ii) supplying or filing such information, data or materials to or with the FCC or any other valid governmental or court authority to the extent reasonably necessary to obtain any consent, waiver, amendment, modification, approval, authorization, permit or license which may be necessary to effectuate this Agreement, and to consummate the transaction contemplated herein; (iii) in the case of Buyer, supplying such information, data or materials as may be reasonably requested by a prospective lender or investor or (iv) disclosing the terms of this Agreement if such disclosure is required by the U.S. securities laws.

(c) In the event that either party determines in good faith that a press release or other public announcement is desirable under any circumstances, the parties shall consult with each other to determine the appropriate timing, form and content of such release or announcement and thereafter may make such release or announcement.

**5.5 Reasonable Best Efforts.** Subject to the terms and conditions of this Agreement, each of the parties hereto will use its reasonable best efforts to take all action and to do all things necessary, proper or advisable to satisfy any condition to the parties' obligations hereunder in its power to satisfy and to consummate and make effective as soon as practicable the transactions contemplated by this Agreement.

**5.6 FCC Reports.** Seller shall continue to file, on a current basis until the License Transfer Date, all reports and documents required to be filed with the FCC with respect to the Station. Seller shall provide Buyer with copies of all such filings within five (5) business days of the filing with the FCC.

**5.7 Conveyance Free and Clear of Liens.** At or prior to the applicable Transfer Date, Seller shall obtain executed releases, in suitable form for filing and otherwise in form and substance reasonably satisfactory to Buyer, of any security interests granted in the Non-License Assets or License Assets, as applicable as security for payment of loans and other obligations or judgments and of any other Liens on the Sale Assets. At the applicable Transfer Date, Seller shall transfer and convey to Buyer all of the Sale Assets free and clear of all Liens except Permitted Liens.

**ARTICLE VI: CONDITIONS PRECEDENT TO THE  
OBLIGATIONS OF BUYER TO CLOSE**

Buyer's obligation to close the transaction contemplated by this Agreement is subject to the satisfaction, on or prior to the applicable Transfer Date, of each of the following conditions, unless waived by Buyer in writing:

**6.1 Accuracy of Representations and Warranties; Closing Certificate.**

(a) The representations and warranties of Seller contained in this Agreement or in any other Document shall be complete and correct in all material respects on the date hereof and (i) with respect to the Non-License Assets shall be complete and correct in all material respects on the Non-License Transfer Date and (ii) with respect to the License Assets shall be complete and correct in all material respects on the License Transfer Date, in each case with the same effect as though made at such time except for changes that are not materially adverse to the Station or the Sale Assets taken as a whole.

(b) Seller shall have delivered to Buyer on the applicable Transfer Date, a certificate that (i) the condition specified in Section 6.1(a) is satisfied as of the applicable Transfer Date, and (ii) except as set forth in such certificate (none of which exceptions shall be materially adverse to the Station, the Sale Assets or Seller's ability to consummate the transaction contemplated hereby), the condition specified in Section 6.2 is satisfied as of the applicable Transfer Date.

**6.2 Performance of Agreements.** Seller shall have performed in all material respects all of its covenants, agreements and obligations required by this Agreement and each of the other Documents to be performed or complied with (i) with respect to the Non-License Assets prior to or on the Non-License Transfer Date and (ii) with respect to the License Assets prior to or on the License Transfer Date.

**6.3 FCC and Other Consents.**

(a) With respect to the License Closing, the FCC Order shall have been issued by the FCC without any Material Adverse Condition affecting Buyer and if a petition to deny or informal object shall have been filed against the FCC Application, the FCC Order shall have become a Final Action without any Material Adverse Condition affecting Buyer.

(b) With respect to the License Closing, any conditions which the FCC Order or any order, ruling or decree of any judicial or administrative body relating thereto or in connection therewith specifies and requires to be satisfied prior to transfer of the FCC Licenses to Buyer shall have been satisfied by Seller.

(c) All other authorizations, consents, approvals and clearances of federal, state or local governmental agencies required to permit the consummation by Buyer of the transactions contemplated by this Agreement shall have been obtained; all statutory and regulatory requirements for such consummation shall have been fulfilled; and no such authorizations, consents, approvals or clearances shall contain any conditions that individually or in the aggregate would have a material adverse effect on the operations of the Station as of the applicable Transfer Date.

**6.4 Adverse Proceedings.** Neither Buyer nor any affiliate of Buyer shall be subject to any ruling, decree, order or injunction restraining, imposing material limitations on or prohibiting (i) the consummation of the transactions contemplated hereby or (ii) its participation in the operation, management, ownership or control of the Station; and no litigation, proceeding or other action seeking to obtain any such ruling, decree, order or injunction shall be pending or shall have been threatened in writing. No governmental authority having jurisdiction shall have notified any party to this Agreement that consummation of the transaction contemplated hereby would constitute a violation of the laws of the United States or of any state or political subdivision or that it intends to commence proceedings to restrain such consummation or to force divestiture, unless such governmental authority shall have withdrawn such notice. No governmental authority having jurisdiction shall have commenced any such proceeding.

**6.5 Other Consents.** Seller shall have obtained in writing and provided to Buyer on or before the applicable Transfer Date, without any condition materially adverse to Buyer or the Station, the consents or waivers to the transactions contemplated by this Agreement required under those Station Agreements which Buyer has elected to assume.

**6.6 Delivery of Transfer Documents.** Seller shall have delivered or caused to be delivered to Buyer on the applicable Transfer Date each of the Documents required to be delivered pursuant to Section 8.2.

**6.7 Damage to the Assets.** The Station shall not have on the applicable Transfer Date, or any time between the date of this Agreement and the License Transfer Date, suspended broadcasting at authorized power by reason of any cause or event. In such event, Buyer shall have the right to postpone the applicable Transfer Date until the Station is broadcasting at authorized power. Seller shall use all reasonable efforts to effect the resumption of such broadcasting. In any event, if the Station has suspended broadcasting and does not resume broadcasting at authorized power within 240 hours, Buyer at any time thereafter shall have the right, in its complete discretion, to terminate this Agreement upon written notice to Seller. For purposes of this Section 6.7, suspending broadcasting at authorized power shall mean failure to broadcast regularly with the presently authorized power in accordance with established past practice and schedules, except for ordinary maintenance and other temporary suspension.

**ARTICLE VII: CONDITIONS PRECEDENT TO THE  
OBLIGATION OF SELLER TO CLOSE**

The obligation of Seller to close the transaction contemplated by this Agreement is subject to the satisfaction, on or prior to the applicable Transfer Date, of each of the following conditions, unless waived by Seller in writing:

**7.1 Accuracy of Representations and Warranties.**

(a) The representations and warranties of Buyer contained in this Agreement shall be complete and correct in all material respects on the date hereof and (i) with respect to the Non-License Assets shall be complete and correct in all material respects on the Non-License Transfer Date and (ii) with respect to the License Assets shall be complete and correct in all material respects on the License Transfer Date, in each case with the same effect as though made at such time except for changes that are not materially adverse to Seller.

(b) Buyer shall have delivered to Seller on the applicable Transfer Date a certificate that (i) the condition specified in Section 7.1(a) is satisfied as of the applicable Transfer Date, and (ii) except as set forth in such certificate (none of which exceptions shall be materially adverse to Buyer's ability to consummate the transaction contemplated hereby), the conditions specified in Section 7.2 are satisfied as of the applicable Transfer Date.

**7.2 Performance of Agreements.** Buyer shall have performed in all material respects all of its covenants, agreements and obligations required by this Agreement and each of the other Documents to be performed or complied with by it prior to or upon the applicable Transfer Date.

**7.3 FCC and Other Consents.**

(a) With respect to the License Assets Closing, the FCC Order shall have been issued by the FCC and shall have become effective without any Material Adverse Condition affecting Seller.

(b) With respect to the License Assets Closing, any conditions which the FCC Order or any order, ruling or decree of any judicial or administrative body relating thereto or in connection therewith specifies and requires to be satisfied prior to transfer of the FCC Licenses to Buyer shall have been satisfied by Buyer.

(c) All other authorizations, consents, approvals and clearances of federal, state or local governmental agencies required to permit the consummation by Buyer of the transactions contemplated by this Agreement shall have been obtained; all statutory and regulatory requirements for such consummation shall have been fulfilled; and no such authorizations, consents, approvals or clearances shall contain any conditions that individually or in the aggregate would have a material adverse effect on the operations of the Station.

**7.4 Adverse Proceedings.** Seller shall not be subject to any ruling, decree, order or injunction restraining, imposing material limitations on or prohibiting the consummation of the transactions contemplated hereby. No governmental authority having jurisdiction shall have notified any party to this Agreement that consummation of the transactions contemplated hereby would constitute a violation of the laws of the United States or of any state or political subdivision or that it intends to commence proceedings to restrain such consummation or to force divestiture, unless such governmental authority shall have withdrawn such notice. No governmental authority having jurisdiction shall have commenced any such proceeding.

**7.5 Delivery of Closing Documents and Purchase Price.** Buyer shall have delivered or caused to be delivered to Seller on the applicable Transfer Date each of the documents required to be delivered pursuant to Section 8.3, and Seller shall have received payment of the applicable portion of the Purchase Price as set forth in Section 2.4(a).

## **ARTICLE VIII: CLOSING**

**8.1 Time and Place.** The closing of the transactions contemplated by this Agreement with respect to (i) the Non-License Assets at the offices of Buyer's Counsel in Washington, D.C., at a time selected by Buyer on June 5, 2013 (the "Non-License Transfer Date"), or at such other place and time as the parties shall agree and (ii) the License Assets at 10:00 A.M. Eastern Standard Time on the date that all conditions contained in Article VI and Article VII have been satisfied or waived (the "License Transfer Date"), or at such other place and time as the parties shall agree.

### **8.2 Documents to be Delivered to Buyer by Seller.**

(a) At the Non-License Closing, Seller shall deliver or cause to be delivered to Buyer the following, in form and substance reasonably satisfactory to Buyer:

- (1) Seller's counterpart signature to the LMA.
- (2) Seller's counterpart signature to the Equipment Lease.
- (3) Certified resolutions of Seller's sole member approving the execution and delivery of this Agreement and each of the other documents and authorizing the consummation of the transactions contemplated hereby and thereby.
- (4) The certificate required by Section 6.1(b).
- (5) A bill of sale and other instruments of transfer and conveyance transferring to Buyer the Tangible Personal Property and Intangible Personal Property, in form and substance reasonably acceptable to Buyer ("Bill of Sale").
- (6) Executed releases, in suitable form for filing and otherwise in form and substance reasonably satisfactory to Buyer, of any security interests granted in the Sale Assets

(other than the License Assets) as security for payment of loans and other obligations and of any other Liens (other than Permitted Liens).

(7) Such additional information and materials as Buyer shall have reasonably requested, including without limitation, evidence that all consents and approvals required as a condition to Buyer's obligation to close on the Non-License Assets hereunder have been obtained.

(b) At the License Closing, Seller shall deliver or cause to be delivered to Buyer the following, in form and substance reasonably satisfactory to Buyer:

(1) The certificate required by Section 6.1(b).

(2) Executed releases, in suitable form for filing and otherwise in form and substance reasonably satisfactory to Buyer, of any security interests granted in the Sale Assets (other than the Non-License Assets) as security for payment of loans and other obligations and of any other Liens (other than Permitted Liens).

(3) An instrument or instruments assigning to Buyer all right, title and interest of Seller in and to all Station Agreements being assumed by Buyer as of the Non-License Transfer Date, in form and substance reasonably acceptable to Buyer ("Assignment of Contracts").

(4) An instrument assigning to Buyer all right, title and interest of Seller in the FCC Licenses, all pending applications relating to the Station before the FCC, in form and substance reasonably acceptable to Buyer ("FCC Assignment").

(5) All required third party consents to the assignment of Station Agreements set forth on Schedule 3.8 being transferred as of the License Transfer Date.

(6) Such additional information and materials as Buyer shall have reasonably requested, including without limitation, evidence that all consents and approvals required as a condition to Buyer's obligation to close on the License Assets hereunder have been obtained.

### **8.3 Documents to be Delivered to Seller by Buyer.**

(a) At the Non-License Closing, Buyer shall deliver or cause to be delivered to Seller the following, in form and substance reasonably satisfactory to Seller:

(1) Buyer's counterpart signature to the LMA.

(2) Buyer's counterpart signature to the Equipment Lease

(3) Certified resolutions of Buyer's Secretary approving the execution and delivery of this Agreement and each of the other Documents and authorizing the consummation of the transaction contemplated hereby and thereby.

(4) The Initial Payment as set forth in Section 2.4.

(5) The certificate required under Section 7.1(b).

(6) A counterpart to the Bill of Sale.

(7) Such additional information and materials as Seller shall have reasonably requested.

(b) At the License Closing, Buyer shall deliver or cause to be delivered to Seller the following, in form and substance reasonably satisfactory to Seller:

(1) The Purchase Price less the Initial Payment as set forth in Section 2.4.

(2) The certificate required under Section 7.1(b).

(3) A counterpart to the Assignment of Contracts for all Station Agreements.

(4) A counterpart to the FCC Assignment;

(5) Such additional information and materials as Seller shall have reasonably requested.

#### **ARTICLE IX: SURVIVAL OF REPRESENTATIONS AND WARRANTIES; INDEMNIFICATION**

**9.1 Survival of Representation and Warranties.** All representations, warranties, covenants and agreements contained in this Agreement or in any other Document shall survive the Closing for one (1) year after the applicable Transfer Date (the "Survival Period") and such Closing shall not be deemed a waiver by either party of the representations, warranties, covenants or agreements of the other party contained herein or in any other Document. No claim may be brought under this Agreement or any other Document unless written notice describing in reasonable detail the nature and basis of such claim is given on or prior to the last day of the Survival Period. In the event such a notice is so given, the right to indemnification with respect thereto under this Article shall survive the Survival Period until such claim is finally resolved and any obligations with respect thereto are fully satisfied.

**9.2 Indemnification in General.** Buyer and Seller agree that the rights to indemnification and to be held harmless set forth in this Agreement shall, as between the parties hereto and their respective successors and assigns, be exclusive of all rights to indemnification and

to be held harmless that such party (or its successors or assigns) would otherwise have by statute, common law or otherwise.

### **9.3 Indemnification by Seller.**

(a) Subject to the provisions of the LMA (to the extent applicable) and Subsection (b) below, Seller shall indemnify and hold harmless Buyer and any officer, director, agent, employee, member and affiliate thereof with respect to any and all demands, claims, actions, suits, proceedings, assessments, judgments, costs, losses, damages, liabilities and expenses (including reasonable attorneys' fees) relating to or arising out of:

(i) Any breach or non-performance by Seller of any of its representations, warranties, covenants or agreements set forth in this Agreement or any other Documents; or

(ii) The ownership or operation by Seller of the Station or the Sale Assets on or prior to the applicable Transfer Date; or

(iii) All other liabilities and obligations of Seller other than the Assumed Obligations; or

(b) Notwithstanding anything contained herein to the contrary, if Closing occurs, Seller shall not be obligated to indemnify Buyer pursuant to Subsection (a), above (i) for any amounts in excess of the twenty percent (20%) of the Purchase Price in the aggregate, or (ii) until the aggregate amount of such claims, liabilities, damages, losses, costs and expenses exceeds Buyer's Threshold Limitation, in which case Buyer shall then be entitled to indemnification of the amount in excess of Buyer's Threshold Limitation, provided that any amounts owed by Seller to Buyer under Section 2.5 shall not be counted in determining whether Buyer's Threshold Limitation is satisfied, and Buyer shall have the right to recover any such payment without regard to such limitation.

### **9.4 Indemnification by Buyer.**

(a) Subject to the provisions of the LMA (to the extent applicable), Subsection (b) below and Section 10.2 below, Buyer shall indemnify and hold harmless Seller and any officer, director, agent, employee and affiliate thereof with respect to any and all demands, claims, actions, suits, proceedings, assessments, judgments, costs, losses, damages, liabilities and expenses (including reasonable attorneys' fees) relating to or arising out of:

(i) Any breach or non-performance by Buyer of any of its representations, warranties, covenants or agreements set forth in this Agreement or any other Document; or

(ii) The ownership or operation of the Station or the sale of the Station after the applicable Transfer Date.

(b) Notwithstanding anything contained herein to the contrary, if Closing occurs, Buyer shall not be obligated to indemnify Seller pursuant to Subsection (a) above (i) for any amounts in excess of the Purchase Price in the aggregate, or (ii) unless and until the aggregate amount of such claims, liabilities, damages, losses, costs and expenses exceeds Seller's Threshold Limitation, in which case Seller shall then be entitled to indemnification of the amount in excess of Seller's Threshold Limitation, provided that any payment owed by Buyer to Seller under Section 2.5 shall not be counted in determining whether Seller's Threshold Limitation is satisfied, and Seller shall have the right to recover any such payment without regard to any such limitation.

**9.5 Indemnification Procedures.** In the event that an Indemnified Party may be entitled to indemnification hereunder with respect to any asserted claim of, or obligation or liability to, any third party, such party shall notify the Indemnifying Party thereof, describing the matters involved in reasonable detail, and the Indemnifying Party shall be entitled to assume the defense thereof upon written notice to the Indemnified Party with counsel reasonably satisfactory to the Indemnified Party; provided, that once the defense thereof is assumed by the Indemnifying Party, the Indemnifying Party shall keep the Indemnified Party advised of all developments in the defense thereof and any related litigation, and the Indemnified Party shall be entitled at all times to participate in the defense thereof at its own expense. If the Indemnifying Party fails to notify the Indemnified Party of its election to defend or contest its obligation to indemnify under this Article IX, the Indemnified Party may pay, compromise, or defend such a claim without prejudice to any right it may have hereunder.

## **ARTICLE X: TERMINATION; LIQUIDATED DAMAGES**

**10.1 Termination.** If the Non-License Closing or License Closing, as applicable, shall not have previously occurred, this Agreement shall terminate upon the earliest of:

(a) the giving of written notice from Seller to Buyer, or from Buyer to Seller, if:

(i) Seller gives such termination notice and is not at such time in material default hereunder, or Buyer gives such termination notice and Buyer is not at such time in material default hereunder; and

(ii) Either:

(A) Any of the representations or warranties contained herein of Buyer (if such termination notice is given by Seller), or of Seller (if such termination notice is given by Buyer), are inaccurate in any material respect and materially adverse to the party giving such termination notice unless the inaccuracy has been induced by or is the result of actions or omissions of the party giving such termination notice, and such inaccuracy has not been corrected or remedied within twenty (20) days after written notice thereof from the party giving such termination notice nor waived in writing by the party giving such termination notice; or

(B) Any material obligation to be performed by Buyer (if such termination notice is given by Seller) or by Seller (if such termination notice is given by Buyer) is

not timely performed in any material respect unless the lack of timely performance has been induced by or is the result of actions or omissions of the party giving such termination notice, and such material obligation has not been satisfied within twenty (20) days after written notice thereof from the party giving such termination notice nor waived in writing by the party giving such termination notice; or

(C) Any condition (other than those referred to in foregoing Clauses (A) and (B)) to the obligation to close the transaction contemplated herein of the party giving such termination notice has not been timely satisfied; and any such inaccuracy, failure to perform or non-satisfaction of a condition neither has been cured nor satisfied within twenty (20) days after written notice thereof from the party giving such termination notice nor waived in writing by the party giving such termination notice.

(b) Written notice from Seller to Buyer, or from Buyer to Seller, at any time after one year from the date of execution of this Agreement, provided that termination shall not occur upon the giving of such termination notice by Seller if Seller is at such time in material default hereunder or upon the giving of such termination notice by Buyer if Buyer is at such time in material default hereunder.

(c) Written notice from Seller to Buyer, or from Buyer to Seller, at any time following a determination by the FCC that the application for consent to assignment of the FCC Licenses has been designated for hearing; provided that the party which is the subject of the hearing (or whose alleged actions or omissions resulted in the designation for hearing) may not elect to terminate under this subsection (c).

(d) The written election by Buyer under Article XI.

## **10.2 Obligations Upon Termination**

(a) In the event this Agreement is terminated pursuant to Section 10.1(a)(ii)(A) or (B), the aggregate liability of Buyer for breach hereunder shall be limited as provided in Subsection (c) below, and the aggregate liability for Seller for breach hereunder shall be limited as provided in Subsection (c) below. In the event this Agreement is terminated for any other reason, neither party shall have any liability hereunder.

(b) If this Agreement is terminated by Seller's giving of valid written notice to Buyer pursuant to Section 10.1(a)(ii)(A) or (B), Buyer agrees that: Seller shall be entitled to receive upon such termination, as liquidated damages and not as a penalty, the sum of TWO HUNDRED THOUSAND DOLLARS (THE "LIQUIDATED DAMAGES AMOUNT"). SELLER'S RECEIPT OF THE LIQUIDATED DAMAGES AMOUNT SHALL CONSTITUTE PAYMENT OF LIQUIDATED DAMAGES HEREUNDER AND NOT A PENALTY, AND SHALL BE SELLER'S SOLE REMEDY AT LAW OR IN EQUITY FOR BUYER'S BREACH HEREUNDER IF THE NON-LICENSE CLOSING OR LICENSE CLOSING DO NOT OCCUR. BUYER AND SELLER EACH ACKNOWLEDGE AND AGREE THAT THE LIQUIDATED DAMAGES AMOUNT IS REASONABLE IN LIGHT OF THE ANTICIPATED HARM WHICH

WILL BE CAUSED BY BUYER'S BREACH OF THIS AGREEMENT, THE DIFFICULTY OF PROOF OF LOSS, THE INCONVENIENCE AND NON-FEASIBILITY OF OTHERWISE OBTAINING AN ADEQUATE REMEDY, AND THE VALUE OF THE TRANSACTION TO BE CONSUMMATED HEREUNDER.

(c) If this Agreement is terminated by Buyer's giving of valid written notice to Seller pursuant to Section 10.1(a)(ii)(A) or (B), Seller agrees that Buyer shall be entitled at law or equity, to recover from Seller its actual damages not to exceed the Liquidated Damages Amount.

(d) In the event this Agreement is terminated for any reason (other than a breach of this Agreement by Buyer) after the Non-License Closing and before the License Closing, Seller has the option to purchase all of the Non-License Assets for an amount equal to the Initial Payment, which will be made by wire transfer of immediately available funds. In the event this Agreement terminates on account of Buyer breach after the Non-License Closing and before the License Closing, then in addition to receipt of the Liquidated Damages Amount, Seller also has the option to purchase all of the Non-License Assets for an amount equal to the Initial Payment, which will be made by wire transfer of immediately available funds.

**10.3 Termination Notice.** Each notice given by a party pursuant to Section 10.1 to terminate this Agreement shall specify the Subsection (and clause or clauses thereof) of Section 10.1 pursuant to which such notice is given.

## **ARTICLE XI: CASUALTY**

The risk of any loss, damage or destruction to the Sale Assets from fire or other cause shall be borne by Seller at all times prior to the applicable Transfer Date hereunder. Upon the occurrence of any casualty loss, damage or destruction material to the operation of the Station prior to the Closing, Seller shall promptly give Buyer written notice setting forth in detail the extent of such loss, damage or destruction and the cause thereof if known. Seller shall use its reasonable efforts to promptly commence and thereafter to diligently proceed to repair or replace any such lost, damaged or destroyed property. In the event that such repair or replacement is not fully completed prior to the applicable Transfer Date, Buyer may, in its sole discretion, elect: (i) to postpone the applicable Transfer Date until Seller's repairs have been fully completed; (ii) to consummate the transactions contemplated hereby on the applicable Transfer Date, in which event Seller shall assign to Buyer the portion of the insurance proceeds (less all reasonable costs and expenses, including without limitation attorney's fees, expenses and court costs incurred by Seller to collect such amounts), if any, not previously expended by Seller to repair or replace the damaged or destroyed property (such assignment of proceeds to take place regardless of whether the parties close on the scheduled or deferred Transfer Date) and Buyer shall accept the damaged Sale Assets in their damaged condition; or (iii) to terminate this Agreement.

## **ARTICLE XII: CONTROL OF STATION**

Between the date of this Agreement and the applicable Transfer Date (and subject to the LMA), Buyer shall not control, manage or supervise the operation of the Station or conduct of its business, all of which shall remain the sole responsibility and under the control of Seller.

### **ARTICLE XIII: MISCELLANEOUS**

**13.1 Further Actions.** From time to time before, at and after the applicable Transfer Date, each party, at its expense and without further consideration, will execute and deliver such documents to the other party, and take all such actions, as the other party may reasonably request in order more effectively to consummate the transactions contemplated hereby.

**13.2 Access After the applicable Transfer Date.** After the applicable Transfer Date and for a period of twelve (12) months, Buyer shall provide Seller, Seller's counsel, accountants and other representatives with reasonable access during normal business hours to the books, records and documents of the Station pertaining to transactions occurring prior to the applicable Transfer Date when requested by Seller, and Buyer shall retain such books and records for the normal document retention period of Buyer. At the request and expense of Seller, Buyer shall deliver copies of any such books and records to Seller.

#### **13.3 Payment of Expenses.**

(a) Any fees assessed by the FCC in connection with the filings contemplated by Section 5.2(a) or consummation of the transactions contemplated hereby shall be shared equally between Seller and Buyer.

(b) All state or local sales or use, stamp or transfer, grant and other similar taxes payable in connection with consummation of the transactions contemplated hereby shall be shared equally between Seller and Buyer.

(c) Except as otherwise expressly provided in this Agreement, each of the parties shall bear its own expenses, including the fees of any attorneys and accountants engaged by such party, in connection with this Agreement and the consummation of the transactions contemplated herein.

**13.4 Specific Performance.** Seller acknowledges that the Station is of a special, unique and extraordinary character, and that any breach of this Agreement by Seller could not be compensated for by damages. Accordingly, if Seller shall breach its obligations under this Agreement, Buyer shall be entitled, in lieu of any other remedies that it may have, to enforcement of this Agreement (subject to obtaining any required approval of the FCC) by decree of specific performance or injunctive relief requiring Seller to fulfill its obligations under this Agreement. In any action by Buyer to equitably enforce the provisions of this Agreement, Seller shall waive the defense that there is an adequate remedy at law or equity and agrees that Buyer shall have the right to obtain specific performance of the terms of this Agreement without being required to prove actual damages, post bond or furnish other security.

**13.5 Notices.** All notices, demands or other communications given hereunder shall be in writing and shall be sufficiently given if personally delivered or delivered by overnight courier or sent by registered or certified mail, first class, postage prepaid, addressed as follows:

(a) if to Seller, to:

Connoisseur Media of Connecticut, LLC  
Connoisseur Media Licenses, LLC  
136 Main Street, Suite 202  
Westport, Connecticut 06880  
Attention: Jeffrey Warshaw

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

Wilkinson Barker Knauer, LLP  
2300 N Street, N.W., Suite 700  
Washington, DC 20037  
Attention: David D. Oxenford

(b) if to Buyer, to:

Pandora Media, Inc.  
2101 Webster Street, Suite 1650  
Oakland, CA 94612  
Attention: General Counsel

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

Garvey Schubert Barer  
1000 Potomac Street, N.W., 5<sup>th</sup> Floor  
Washington, DC 20007  
Attention: Melodie A. Virtue

or such other address with respect to any party hereto as such party may from time to time notify (as provided above) to the other party hereto. Any such notice, demand or communication shall be deemed to have been given (i) if so mailed, as of the close of the third business day following the date mailed, and (ii) if sent as provided above, on the date received.

**13.6 Entire Agreement.** This Agreement, the Schedules and Exhibits hereto, and the other Documents constitute the entire agreement and understanding between the parties hereto with respect to the subject matter hereof and supersede any prior negotiations, agreements, understandings or arrangements between the parties with respect to the subject matter hereof.

**13.7 Binding Effect; Benefits.** Except as otherwise provided herein, this Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective successors

or assigns. Except to the extent specified herein, nothing in this Agreement, express or implied, shall confer on any person other than the parties hereto and their respective successors or assigns any rights, remedies, obligations or liabilities under or by reason of this Agreement.

**13.8 Assignment.** This Agreement and any rights hereunder shall not be assignable by either party hereto without the prior written consent of the other party; provided, however, that Buyer may assign this Agreement and its rights hereunder to an entity controlled by Buyer or controlled by those persons and/or entities controlling Buyer.

**13.9 Governing Law.** This Agreement shall in all respects be governed by and construed in accordance with the laws of the State of Delaware, including all matters of construction, validity and performance.

**13.10 Employees and Employee Benefits.** Buyer has no obligation hereunder to offer employment to any employee of Seller. Seller shall be responsible for all compensation (including accrued vacation and commissions), employee benefits and any severance obligations due to be paid for employees of the Station.

**13.11 Amendments and Waivers.** No term or provision of this Agreement may be amended, waived, discharged or terminated orally but only by an instrument in writing signed by the party against whom the enforcement of such amendment, waiver, discharge or termination is sought. Any waiver shall be effective only in accordance with its express terms and conditions.

**13.12 Severability.** Any provision of this Agreement which is unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such unenforceability without invalidating the remaining provisions hereof, and any such unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction. To the extent permitted by applicable law, the parties hereto hereby waive any provision of law now or hereafter in effect which renders any provision hereof unenforceable in any respect.

**13.13 Headings.** The captions in this Agreement are for convenience of reference only and shall not define or limit any of the terms or provisions hereof.

**13.14 Counterparts.** This Agreement may be executed in any number of counterparts, and by either party on separate counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

**13.15 Effect of LMA on Closing Conditions and Representations.** To the extent that any party hereto is unable to fulfill any conditions to Closing under this Agreement that could have been fulfilled solely but for (i) an action taken by another party pursuant to the LMA or in breach of the LMA, or (ii) a failure to take any action that another party was obligated to take, or, in the exercise of commercial reasonableness, should have taken, pursuant to the LMA, such condition to Closing shall be waived. Notwithstanding anything to the contrary contained in this Agreement, the parties hereby acknowledge and agree that any action or omission to act by a party pursuant to the LMA or in breach of the LMA that causes any of the representations or warranties of another

party to become untrue or that results in the breach of any agreement or covenant made by such other party herein will not be deemed to result in the inaccuracy of any such representation or warranty or the breach of any such agreement or covenant.

[SIGNATURE PAGE TO ASSET PURCHASE AGREEMENT]

IN WITNESS WHEREOF, the parties have duly executed this Agreement as of the date first written.

**CONNOISSEUR MEDIA, LLC**

By: Michael O. Driscoll  
Name: Michael O. Driscoll  
Title: Executive Vice President and CFO

**CONNOISSEUR MEDIA LICENSES, LLC**

By: Michael O. Driscoll  
Name: Michael O. Driscoll  
Title: Executive Vice President and CFO

**PANDORA MEDIA, INC.**

By: \_\_\_\_\_  
Name: Joseph Kennedy  
Title: CEO & President

[SIGNATURE PAGE TO ASSET PURCHASE AGREEMENT]

IN WITNESS WHEREOF, the parties have duly executed this Agreement as of the date first written.

**CONNOISSEUR MEDIA, LLC**

By: \_\_\_\_\_  
Name: Michael O. Driscoll  
Title: Executive Vice President and CFO

**CONNOISSEUR MEDIA LICENSES, LLC**

By: \_\_\_\_\_  
Name: Michael O. Driscoll  
Title: Executive Vice President and CFO

**PANDORA MEDIA, INC.**

By: \_\_\_\_\_  
Name: Joseph Kennedy  
Title: CEO & President