

## ASSET PURCHASE AGREEMENT

THIS ASSET PURCHASE AGREEMENT (this "Agreement") is dated as of January 12, 2011, and is by and between **CLASSICAL PUBLIC RADIO NETWORK LLC**, a Colorado limited liability company (the "Buyer"); and **HOWELL MOUNTAIN BROADCASTING COMPANY**, a California nonprofit religious corporation (the "Seller") (Seller and Buyer are sometimes referred to herein as a "party," or, collectively, as the "parties").

Seller is the licensee of, and owns, broadcast radio station KNDL(FM), Facility ID No. 27946, Channel 210B, 89.9 MHz, licensed to Angwin, California (the "Station"), pursuant to licenses, permits and other authorizations ("FCC Authorizations") issued by the Federal Communications Commission (the "FCC"). Seller is also the licensee of, and owns, FM translator stations K209AI, Facility ID No. 27947, Eureka, California; and K223AJ, Facility ID No. 27945, Ukiah-Lakeport, California (the "Translator Stations" and collectively with the Station, the "Stations").

Seller desires to sell and Buyer desires to purchase the assets of Seller owned, used and/or useful in the operation of the Stations, except for Excluded Assets (defined below).

NOW, THEREFORE, based upon the representations and warranties made by each party to the other in this Agreement, the parties have agreed to consummate the sale of the Assets (as defined in Section 1.01 below) on the terms contained herein.

### ARTICLE I SALE OF ASSETS AND TERMS OF PAYMENT

**Section 1.01. Transfer of Assets.** Upon the terms and subject to the conditions of this Agreement, on the Closing Date (defined in Section 2.01 hereof) Seller will sell, convey or cause to be conveyed, and deliver to Buyer, and Buyer will purchase and accept from Seller, all of the listed assets and properties of Seller, tangible or intangible, used or held for use by Seller in connection with the business and operation of the Station (all such assets being referred to herein as the "Assets"), but excluding the Excluded Assets described in Section 1.02 below. Other than Excluded Assets, the Assets include, without limitation, the following:

(a) Seller's tangible real and personal property, transmitters, antennas, fixtures, assets and related transmission and other equipment used in connection with or relating to the Stations (the "Tangible Property"), including without limitation those items listed in Schedule 1(a), annexed hereto and made a part hereof;

(b) all licenses for the transmitters sites for the Station and for K223AJ, allowing for the use by Buyer of the transmitter sites of the Station and of K223AJ (the "Site Licenses"), and such other contracts, agreements, leases or assignments relating to the Stations and which Buyer expressly agrees in writing to assume, whether oral or written, express or implied, and whether or not entered into in the ordinary course of business (collectively, the "Station Agreements"), as so identified in Schedule 1(b); but excluding all insurance contracts and employee agreements;

(c) all of Seller's right, title and interest in and to all licenses and other governmental



authorizations relating to or used by the Stations, including, but not limited to, FCC Authorizations, and all applications therefor, together with any renewals, extensions or modifications thereof, as listed in Schedule 1(c) (collectively, the "Permits"); and

(d) all of Seller's technical information and data, blueprints and schematics, filings with the FCC and any other governmental authority relating to the Station and used exclusively in connection with the operation of the Stations, including all technical files and other technical records (including the Station's logs) of Seller relating to the operation of the Stations (other than duplicate copies of such files and records which are maintained by Seller), as listed in Schedule 1.

**Section 1.02. Excluded Assets.** Notwithstanding any other provision herein, the following assets relating to the Station shall be retained by Seller and shall not be sold, assigned or transferred to Buyer (the "Excluded Assets"):

- (a) any assets of Seller that are not dedicated to the Stations;
- (b) all cash, cash equivalents, accounts receivable, donors' donations intended for Seller or similar type investments of Seller;
- (c) the KNDL call letters and any intellectual property associated with the Station's current radio operation;
- (d) any and all contracts of insurance or insurance proceeds and insurance claims made by Seller relating to property or equipment repaired, replaced or restored by Seller prior to the Closing Date;
- (e) Seller's and the Station's collections of recordings, tapes, photos or similar images, or any other of Seller's and the Station's broadcast media or memorabilia, whether in recorded, digitized or other physical form;
- (f) any information relating to the identify of Seller's donors;
- (g) the permit for unbuilt K253AX, Facility ID No. 138912, Shasta, California;
- (h) the office equipment listed in Schedule 2; and
- (i) all assets not specifically designated or listed in Schedules 1(a)-(c).

**Section 1.03. Liabilities.** The Assets shall be sold and conveyed to Buyer free and clear of all liabilities, obligations, pledges, liens, licenses, rights of possession, restrictions, claims, security interests, encumbrances, charges, title retention, conditional sale or other security arrangements of any nature whatsoever (collectively, "Liens"), other than Assumed Obligations (defined below). Buyer shall, at Closing, assume and agree to pay, discharge and perform all liabilities and obligations arising under all Tangible Property, Station Agreements and Permits assigned and transferred to Buyer in accordance with this Agreement to the extent such liabilities and obligations arise during and relate to any period on or after the Closing Date, and such other liabilities of Seller to the extent, and only to the extent, that the amount thereof is included as a credit to Buyer pursuant to Section 1.06 (collectively, the "Assumed Obligations"). Except for Assumed Obligations, Buyer does not assume and will not be liable for any liability,

obligation, claim, lien, security interest or encumbrance of Seller accruing on or before the Closing Date, whether or not disclosed to Buyer. Buyer is not and shall not be deemed a successor to or of Seller.

**Section 1.04. Purchase Price.** Buyer will pay to Seller on the Closing Date for the Assets the sum of TWO MILLION SEVEN HUNDRED AND TWENTY-FIVE THOUSAND DOLLARS (\$2,725,000.00) (the "Purchase Price"), subject to adjustment as provided in Section 1.06 below. The Purchase Price, as adjusted pursuant to Section 1.06, shall be paid to Seller in immediately available funds by wire transfer to an account designated in writing by Seller at least three business days prior to the Closing Date.

**Section 1.05. Escrow Deposit.** Concurrently with the execution of this Agreement, Buyer has deposited with Kalil and Co., Inc. (the "Escrow Agent") the sum of ONE HUNDRED AND THIRTY-SIX THOUSAND TWO HUNDRED AND FIFTY DOLLARS (\$136,250.00) (the "Escrow Deposit"). The Escrow Agent shall deposit the Escrow Deposit in a separate interest-bearing account on behalf of Buyer and shall administer the Escrow Deposit pursuant to that certain Escrow Agreement of even date herewith, attached hereto as Exhibit A. The Escrow Deposit shall also serve as the deposit for that certain Operating Agreement of even date between the parties, referred to and defined in Section 8.03(b) below. At Closing, each of the parties shall instruct the Escrow Agent in accordance with the terms of the Escrow Agreement to disburse the Escrow Deposit and accrued interest to Seller as part of the Purchase Price.

**Section 1.06. Adjustments.**

(a) All operating income and operating expenses of the Stations 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 prior to the Closing Date shall be for the account of Seller, and all such income and expenses attributable to the operation of the Station on and after the Closing Date shall be for the account of Buyer. The net amount by which the Purchase Price is to be increased or decreased in accordance with this Section is referred to herein as the "Adjustment Amount."

(b) Without limiting the generality of the foregoing:

(i) Seller shall receive a credit for the unapplied portion, as of Closing, of any security deposits made by Seller under the Station Agreements assumed by Buyer at Closing.

(ii) Without limiting the foregoing in this Section 1.06, the following items shall be prorated as of the Closing Date:

(A) Transferable license, permit and registration fees, personal property taxes, and like items;

(B) Charges for utilities (including but not limited to electricity, fuel, water, basic monthly telephone charges, long distance telephone calls, and sanitation and garbage disposal) furnished to or in connection with the Station;

(C) Music licensing fees owed to ASCAP, BMI and SESAC and assumed by Buyer; and any prepaid agreements assumed by Buyer; and

(D) Rentals or other charges, payable or paid in respect of leasehold interests or tenancies or rental equipment.

(iii) An adjustment shall be made in favor of Seller or Buyer, as the case may be, for the amount, if any, of prepaid or deferred expenses and income that inures to the benefit of such party.

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

(d) The proration and adjustments provided for in this Section 1.06, to the extent practicable, shall be made on the Closing Date. As to those prorations and adjustments not capable of being ascertained on the Closing Date, a final adjustment and proration shall be made within 90 days after the Closing Date.

(e) In the event of any disputes between the parties as to the Adjustment Amount, such disputes shall be determined by an independent certified public accountant familiar with the radio broadcast industry and mutually agreeable to the parties, whose determination shall be final, and the fees and expenses of such accounting firm shall be borne equally by Seller and Buyer.

## ARTICLE II THE CLOSING

**Section 2.01. Time and Place of Closing.** The closing of the sale and purchase of the Assets (the "Closing") shall be held at a mutually agreeable location on the later of (i) a date within 10 business days after satisfaction or waiver of the conditions precedent to Closing under Sections 7.03 and 8.03 of this Agreement, or (ii) on such other date as shall be mutually agreed upon by the parties in writing (the "Closing Date"). Notwithstanding the foregoing, in no event shall the Closing occur later than 12 months after the date first written hereinabove, unless extended by the parties' mutual consent.

**Section 2.02. Deliveries by Seller.** At the Closing, Seller will deliver to Buyer the following, each of which shall be in form and substance satisfactory to Buyer in its reasonable judgment:

(a) bills of sale, deeds, assignments and other instruments of transfer and conveyance, including required lease agreements, transferring and assigning the Assets to Buyer free and clear of any Liens, except for Assumed Obligations;

(b) the Required Consents (defined below) and those other consents from third parties to assignment of Station Agreements obtained by Seller and as may be required pursuant to such agreements;

(C) Music licensing fees owed to ASCAP, BMI and SESAC and assumed by Buyer; and any prepaid agreements assumed by Buyer; and

(D) Rentals or other charges, payable or paid in respect of leasehold interests or tenancies or rental equipment.

(iii) An adjustment shall be made in favor of Seller or Buyer, as the case may be, for the amount, if any, of prepaid or deferred expenses and income that inures to the benefit of such party.

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

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(e) In the event of any disputes between the parties as to the Adjustment Amount, such disputes shall be determined by an independent certified public accountant familiar with the radio broadcast industry and mutually agreeable to the parties, whose determination shall be final, and the fees and expenses of such accounting firm shall be borne equally by Seller and Buyer.

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**Section 2.02. Deliveries by Seller.** At the Closing, Seller will deliver to Buyer the following, each of which shall be in form and substance satisfactory to Buyer in its reasonable judgment:

(a) bills of sale, deeds, assignments and other instruments of transfer and conveyance, including required lease agreements, transferring and assigning the Assets to Buyer free and clear of any Liens, except for Assumed Obligations;

(b) the Required Consents (defined below) and those other consents from third parties to assignment of Station Agreements obtained by Seller and as may be required pursuant to such agreements;

- (c) certified resolutions of the board of directors of Seller, authorizing the execution and consummation of this Agreement and the transactions contemplated hereby;
- (d) certificates of an officer of Seller certifying the fulfillment of the conditions set forth in Sections 8.01(a) and 8.01(b) below;
- (e) the Lien Search Reports (defined below); and
- (f) assignments in form and substance satisfactory to Buyer assigning to Buyer all of Seller's interest in, rights, privileges, and obligations under the Site Licenses and all of Seller's interest in, rights, privileges and obligations with regard to station K209AI.

**Section 2.03. Deliveries by Buyer.** At the Closing, Buyer will deliver to Seller the following, each of which shall be in form and substance satisfactory to Seller in its reasonable judgment:

- (a) funds equal to the Purchase Price, including the Escrow Deposit, as adjusted and in such manner as described in Article I above;
- (b) an assumption agreement pursuant to which Buyer shall assume the Station Agreements; and
- (c) a certificate of an officer of Buyer certifying the fulfillment of the conditions set forth in Sections 7.01(a) and 7.01(b) below.

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

Seller represents and warrants to Buyer as follows:

**Section 3.01. Organization; Qualification.** Seller is a nonprofit religious corporation duly organized, validly existing and in good standing under the laws of the State of California. Seller has the full power and authority to own and operate the Assets and carry on the operations of the Station as such operations are now being conducted.

**Section 3.02. Authority Relative to This Agreement.** Seller has the full power, authority and legal right to execute and deliver this Agreement and the agreements to be executed and delivered pursuant hereto and to consummate the transactions and perform its obligations as contemplated hereby. The execution and delivery of this Agreement and the consummation of the transactions contemplated hereby have been duly and validly authorized by all necessary action, and this Agreement and the other documents executed and delivered by Seller to Buyer in connection with this Agreement have been, or when executed and delivered will be, duly and validly executed and delivered by Seller and constitute, or when executed and delivered will constitute, the legal, valid and binding obligation of Seller enforceable against Seller in accordance with their respective terms, except as enforcement may be limited by applicable bankruptcy, insolvency or similar law affecting the rights of creditors generally. The authority exercised by each of Seller's officers and directors with respect to this Agreement and the transactions contemplated hereby are within the ordinary course of their powers as officers

and directors and will be consistent with such powers prior to and as of the Closing Date.

**Section 3.03. No Defaults.** The execution, delivery and performance of this Agreement by Seller will not (a) conflict with any provision of its Articles of Incorporation or Bylaws; (b) subject to obtaining any consents required for assignment of the Station Agreements to Buyer, result in a default (or give rise to any right of termination, cancellation or acceleration) under or conflict with any of the terms, conditions or provisions of any Station Agreement, note, bond, mortgage or other instrument or obligation relating to the Station and to which any of the Assets may be subject; (c) violate any law, statute, rule, regulation, order, injunction or decree of any federal, state or local governmental authority or agency applicable to Seller or to any of the Assets; or (d) result in the creation or imposition of any Lien of any nature whatsoever on any of the Assets.

**Section 3.04. Licenses and Authorizations.**

(a) As of the date of this Agreement, Seller is the holder of the FCC Authorizations listed in Schedule 1(c). Such FCC Authorizations constitute all of the licenses and authorizations required under the Communications Act of 1934, as amended (the "Communications Act"), and the current rules and policies of the FCC for and/or used in connection with the operation of the Station as now operated. The FCC Authorizations were validly issued, are in full force and effect and are unimpaired by any act or omission of Seller. There is not now pending or, to the knowledge of Seller threatened, any petition, informal objection or other action by or before the FCC to revoke, cancel, rescind, modify or refuse to renew any of such FCC Authorizations other than proceedings of a rulemaking or legislative nature affecting the radio industry generally, and there is not now pending or to the knowledge of Seller threatened, issued or outstanding by or before the FCC any investigation, Order to Show Cause, Notice of Violation, Notice of Apparent Liability or Notice of Forfeiture or complaint with respect to the Station. In the event of any such action, or the filing or issuance of any such action, order, notice or complaint, or of Seller's learning of the threat thereof, Seller shall notify Buyer within three business days of the same in writing and shall take all reasonable measures, at Seller's expense, to contest in good faith or seek removal or rescission of such action, order, notice or complaint. Seller has no reason to believe that the FCC Authorizations will not be renewed in the ordinary course.

(b) In addition to the FCC Authorizations listed on Schedule 1(c) (subject to revision on the Closing Date as may be required by changes in facts, circumstances or FCC policies arising through no fault of either party), Schedule 1(c) lists all other Permits held as of the date hereof that are required for the conduct of the Station's operations. Except as disclosed on Schedule 1(c), all such Permits are in full force and effect with no material violations of any of them having occurred.

(c) To Seller's knowledge, the operation of the Stations do not cause or result in exposure of workers or the general public to levels of radiofrequency 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 Station Authorizations would not constitute a "major action" within the meaning of Section 1.1301, et seq., of the FCC's rules.

**Section 3.05. Condition and Adequacy of the Assets.** To Seller's knowledge, as of the date hereof, none of the assets comprising the Tangible Property has any material defect or damage, and all such assets are adequate and suitable in accordance with general industry practices for the purposes for which they are currently used and intended to be used. However, Seller makes no warranty as to the condition of such assets, and they will be delivered to Buyer at the Closing "as is" as of the Closing date (i.e. Seller has no obligation to cause any such assets to become adequate and suitable in accordance with general industry practices for the purposes for which they are currently used and intended to be used notwithstanding any other provision in this Agreement).

**Section 3.06. Taxes.** With respect to the Station, (a) Seller has filed or caused to be filed all federal, state and local tax returns required to be filed, and (b) Seller has paid or made provisions for the payment of (i) all taxes due for the periods covered by such returns and (ii) all deficiencies assessed as a result of any examination of such returns. To Seller's knowledge, no events have occurred with respect to the Station that could impose on Buyer any liability (as transferee or otherwise) for any taxes, penalties or interest due or to become due with respect to the Station or any of the Assets.

**Section 3.07. Good Title.** Seller has good and marketable title to the Assets, free and clear of Liens. The instruments to be executed by Seller and delivered to Buyer at the Closing, conveying the Assets to Buyer, will transfer good and marketable title to the Assets free and clear of Liens.

**Section 3.08. Changes.** During the three-month period prior to the date of this Agreement, Seller has not (a) mortgaged, pledged or subjected to a Lien any of the Assets, or (b) sold or transferred any material asset used or useful in the operation of the Station. During the three-month period prior to the date of this Agreement, there has not been: (i) any damage, destruction or loss, whether covered by insurance or not, materially and adversely affecting the Assets or the Station; (ii) any sale or other disposition of any assets, other than sales or other dispositions made in the ordinary course of business and sales or other dispositions which individually or in the aggregate are not material to the operations of the Station; or (iii) any agreement by Seller to take any action described in this Section.

**Section 3.09. Brokers.** Aside from Kalil & Co., Inc., the payment of whose commission is Seller's sole responsibility, there is no broker or finder or other person engaged by or on behalf of Seller who would have any valid claim against Buyer for a commission or brokerage in connection with this Agreement or the transactions contemplated hereby.

**Section 3.10. Real Property.** To Seller's knowledge, the present use by the Stations of the Stations' transmitter sites and towers complies with applicable zoning ordinances and other governmental regulations. Seller is in compliance with all licenses or other agreements respecting the transmitter sites or towers and has not received or given written notice of any default thereunder. To Seller's knowledge, all improvements, including without limitation the Stations' towers and transmitters, are wholly within the lot limits of the Stations' transmitter sites and do not encroach on any adjoining premises.

**Section 3.11. Insurance.** Seller currently maintains and shall maintain in effect until Closing sufficient insurance coverage with respect to the Assets and the operations of the

Stations. To Seller's knowledge, no state of facts exists and no event has occurred which could form the basis for any claim against or relating to the Stations or the Assets which might materially increase the insurance premiums payable under or result in cancellation or nonrenewal of the insurance policies currently maintained by Seller. All such policies are in full force and effect.

**Section 3.12. Litigation and Compliance with Law.** (a) Seller has not, with respect to the Stations, been operating under or subject to, or in default with respect to, any order, writ, injunction, judgment or decree of any court or federal, state or local governmental authority or agency; (b) neither Seller nor any of its subsidiaries, officers or agents has received any written inquiry from any such authority concerning compliance with applicable law of any of the operations of the Station during the 12-month period prior to the date of this Agreement; and (c) there is no litigation or arbitration pending by or against, nor to Seller's knowledge threatened against, Seller or the Station relating to or affecting any of the Assets.; (d) to Seller's knowledge, Seller has complied with all state and local laws, regulations, orders or decrees applicable to the Station or the Assets, and (e) the present uses by Seller of the Assets comply with such laws, regulations, orders or decrees and Seller has no knowledge of any basis for any claim for compensation or damages or other relief resulting from any violation of any of the foregoing.

**Section 3.13. Station Agreements.** Schedule 1(c) contains a true and complete list as of the date of this Agreement of each Station Agreement, and includes the following:

- (a) the Site Licenses and any other leases or agreements relating to the Stations' towers and transmitter sites and transmission equipment; and
- (b) any other Station contracts which Buyer has agreed to assume.

Each of the Station Agreements is valid, binding and enforceable by Seller in accordance with its respective terms. There is no existing default, event of default or other event under any Station Agreement, as may be required therein, listed on Schedule 1(c) by Seller or, to Seller's knowledge, by any third party, which, with or without notice or lapse of time or both, would constitute a material default or an event of material default under any such Station Agreement. Seller has provided Buyer with complete copies of the Station Agreements listed on Schedule 1(c). Seller is not aware of any intention by any party to any Station Agreement listed on Schedule 1(c) (i) to terminate such Station Agreement or amend the terms thereof, (ii) to refuse to renew such Station Agreement upon expiration thereof or (iii) to renew such Station Agreement upon expiration thereof on terms and conditions which are more materially more onerous to the Station than those contained in such existing Station Agreement. Subject to the receipt of consents to the assignment of any Station Agreements listed in Schedule 1(c), as may be required therein (the "Required Consents"): (x) Seller has full legal power and authority to assign all rights under and transfer to Buyer the Station Agreements to be assumed by Buyer in accordance with this Agreement; and (y) such assignment and transfer will not affect the validity, enforceability or continuation thereof.

**Section 3.14. Employees.** Seller is not a party to any union representation or collective bargaining agreement covering or relating to any of its employees, nor has Seller recognized or received a demand for recognition of any collective bargaining representative within the preceding 12 months. Neither Seller nor the Station has received any notice that has not been



cured alleging a failure to comply in any material respect with any laws or regulations related to the employment of labor. No material controversies are pending or, to the knowledge of Seller, threatened against Seller that involve any employee of the Station. The parties expressly agree that Buyer shall not assume any employment contract or consulting agreement upon Closing or at any other time.

**Section 3.15. Environmental.** To the knowledge of Seller, its officers, directors and agents, with respect to the Stations' transmitter sites and the Stations' towers: (i) no release by Seller or any other party of hazardous materials, as defined under existing environmental laws, has occurred, is presently occurring or is anticipated to occur in violation of any environmental law; (ii) Seller's use of the Assets does not violate any environmental law, occupational safety and health or other applicable law; (iii) Seller has not unlawfully disposed of any hazardous materials in a manner which has caused, or could cause, Buyer to incur a liability under any environmental law, and Seller warrants that the technical equipment included in the Assets does not contain any polychlorinated biphenyls ("PCBs") which are required by law to be removed or that, if any equipment does contain such PCBs, such equipment is stored and maintained in compliance with applicable law; (iv) Seller has materially complied with all existing environmental laws applicable to the Stations and their operations, including but not limited to the FCC's guidelines regarding radiofrequency radiation. If Seller learns between the date of this Agreement and the Closing Date that Seller is in breach of this Section 3.16, Seller shall notify Buyer within three days, begin remediation promptly and use reasonable efforts to complete such remediation before the Closing Date.

**Section 3.16. Bankruptcy.** No insolvency proceedings of any character, including without limitation, bankruptcy, receivership, reorganization, composition or arrangement with creditors, voluntary or involuntary, affecting Seller, the Stations or any of the Assets, are pending or, to the best of Seller's knowledge, threatened, and Seller has not made any assignment for the benefit of creditors or taken any action which would constitute the basis for the institution of such insolvency proceedings.

**Section 3.17. Full Disclosure.** To Seller's knowledge, all of the information provided by Seller and its representatives herein or in the schedules and exhibits to this Agreement is true, correct and complete in all material respects, and no representation, warranty or statement made by Seller in this Agreement, or any schedule, attachment or exhibit hereto, contains any untrue statement of a material fact or omits or will omit to state any material fact necessary to make such representation, warranty or statement not misleading.

#### ARTICLE IV REPRESENTATIONS AND WARRANTIES OF BUYER

Buyer represents and warrants to Seller as follows:

**Section 4.01. Organization.** Buyer is a §501(c)(3) limited liability company duly organized, validly existing and in good standing under the laws of the State of Colorado and, as of the Closing Date, will be qualified to do business in the State of California.

**Section 4.02. Authority Relative to This Agreement.** Buyer has the full power,

authority and legal right to execute and deliver this Agreement and the agreements to be executed and delivered pursuant hereto and to consummate the transactions and perform its obligations as contemplated hereby. The execution and delivery of this Agreement and the consummation of the transaction contemplated hereby have been duly and validly authorized by all necessary action of the Buyer's officers and managers, and this Agreement and the other documents executed and delivered by Buyer to Seller in connection with this Agreement have been, or when executed and delivered will be, duly and validly executed and delivered by Buyer and constitute, or when executed and delivered will constitute, the legal, valid and binding obligation of Buyer enforceable against Buyer in accordance with their respective terms, except as enforcement may be limited by applicable bankruptcy, insolvency or similar law affecting the rights of creditors generally.

**Section 4.03. No Contravention.** The execution, delivery, and performance of this Agreement and any of the documents to be delivered by Buyer at Closing do not violate any provision of Buyer's organizational documents or any contract provision or other commitment to which Buyer is a party or under which the Buyer is bound, or any statute, regulation, rule, judgment, decree, stipulation, order, injunction, charge or other restriction of any government, governmental agency, or court to which Buyer is subject; will not result in the creation or imposition of any lien, charge, security interest, or encumbrance of any nature whatsoever upon any of the Assets; or will not accelerate any obligation of Buyer. Other than the application for FCC consent described in Section 5.06, Buyer need not give any notice to, make any filing with, or obtain any authorization, consent or approval of any government or governmental agency to consummate the transaction contemplated by this Agreement.

**Section 4.04. No Defaults.** The execution, delivery and performance of this Agreement by Buyer will not (a) conflict with or result in any breach of any provision of its organizational documents or any agreement or instrument to or by which Buyer or its properties are bound, or (b) violate any law, statute, rule, regulation, order, injunction or decree of any federal, state or local governmental authority or agency applicable to Buyer.

**Section 4.05. Brokers.** There is no broker or finder or other person engaged by or on behalf of Buyer who would have any valid claim against Seller for a commission or brokerage in connection with this Agreement or the transactions contemplated hereby.

**Section 4.06. Consents.** Except for any necessary approvals under the Communications Act, the execution, delivery and performance by Buyer of this Agreement will not require the authorization, consent, approval or other action by, notice or declaration to, or filing with, any court or administrative or other governmental body, or the consent, waiver or approval of any other person or entity.

**Section 4.07. Litigation.** There are no legal, administrative, arbitration or other proceedings or governmental investigations pending or, to the knowledge of Buyer, threatened against Buyer that would give any third party the right to enjoin or delay the transactions contemplated by this Agreement.

**Section 4.08. Buyer's Qualification.** Buyer is, and at all times between the date of this Agreement and up until and including Closing will be, legally, financially and otherwise qualified under the Communications Act and all rules and policies of the FCC and, to Buyer's

knowledge, of any other governmental agency, to hold the FCC Authorizations and acquire and operate the Station.

**Section 4.09. Availability of Funds.** Buyer has the financial capability to pay the Purchase Price and will have available on the Closing Date sufficient funds to enable it to consummate the transactions contemplated by this Agreement.

**Section 4.10. Full Disclosure.** All of the information provided by Buyer and its representatives herein or in the schedules and exhibits to this Agreement is true, correct and complete in all material respects, and no representation, warranty or statement made by Buyer in this Agreement, the schedules or exhibits contains any untrue statement of a material fact or omits or will omit to state any material fact necessary to make such representation, warranty or statement not misleading.

## **ARTICLE V COVENANTS OF SELLER PENDING CLOSING DATE**

Seller covenants and agrees with Buyer that from the date of this Agreement through the Closing Date, or the termination of this Agreement if earlier, unless Buyer otherwise consents in writing:

### **Section 5.01. Station Operations.**

(a) Seller shall maintain the assets of the Stations in substantially the same manner as heretofore, shall preserve intact the organization of the Stations, and shall keep the Station's books, accounts, records and files in the usual and ordinary manner in which they have formerly been maintained.

(b) If Seller continues to operate the Stations, Seller shall operate the Stations in all material respects in accordance with the terms of the FCC Authorizations and in compliance with all applicable laws and FCC Rules. Seller shall deliver to Buyer, promptly after filing, copies of any material reports, applications or communications with the FCC related to the Station and filed between the date of this Agreement and the Closing Date. Seller shall timely file and prosecute any necessary applications for renewal of the FCC Authorizations and all other applications required to conform the Station's operations with the terms of the FCC Authorizations. Seller makes no covenant to continue to operate any of the Stations.

(c) Seller shall remain current and in good standing with respect to any required payments on and for the Site Licenses and other site agreement.

(d) Seller shall maintain in full force and effect the policies of insurance referred to in Section 3.12.

(e) Seller shall not transfer, sell, lease or otherwise dispose of any of the Assets, except for dispositions in the ordinary course of business consistent with past practices.

*MB*  
*BB*

(f) Seller shall not enter into new Station Agreements or amend or terminate any Station Agreement listed on Schedule 1(c) other than in the ordinary course of business and except for agreements terminable upon 30 days' notice or less without penalty (except that Seller may terminate any Station Agreement not assumed by Buyer, those being assumed denoted with an asterisk), absent Buyer's prior written consent.

(g) Seller shall not take any action or fail to take any action that could result in the expiration, revocation, suspension or adverse modification of any of the Permits (including FCC Authorizations), or fail to prosecute with due diligence any applications to or other matters involving the FCC or any other governmental authority material to the operations of the Station or the Assets.

(h) Seller shall not: (i) waive any claims or rights with respect to the Station or the Assets, except in the ordinary course of business consistent with past practices; (ii) make any financial commitment exceeding \$5,000 (for capital expenditures or otherwise) relating to the Station or the Assets that Buyer has an obligation to assume, without the written consent of Buyer, such consent not to be unreasonably withheld; (iii) assume or incur any Lien; or (iv) except in the ordinary course of business consistent with past practices, enter into any agreement that is material to the operations of the Station or the Assets.

(i) Seller shall not alter the Station's licensed facilities (except for routine maintenance).

(j) Seller shall not enter into any new underwriting or trade agreements that must be performed exclusively by the Station which are not terminable at or prior to the Closing and shall fulfill all existing Station underwriting or trade agreements by or before the Closing Date.

(k) Seller shall terminate all existing programming agreements for the Station by or before the Closing Date.

**Section 5.02. Seller To Retain Control.** Prior to the Closing, Seller shall remain solely responsible for the control, policies and day-to-day operations of the Stations and the FCC Authorizations, including without limitation the Station's personnel, programming and finances.

**Section 5.03. Access to Facilities, Files and Records.** At the request of Buyer, Seller shall from time to time give or cause to be given to the officers, employees, counsel and designated representatives of Buyer (a) reasonable access during normal business hours to facilities, property, Station Agreements and related records, licenses, engineering records and public files, equipment, machinery, fixtures and inventories related to the Stations, and (b) all such other information solely concerning the Station as Buyer may reasonably request, except that Seller shall have no duty to provide information regarding the Excluded Assets.

**Section 5.04. Representations and Warranties.** Seller shall give detailed written notice to Buyer promptly upon the occurrence of any event or upon becoming aware of any information that would cause or constitute a material breach of any representation or warranty by

Seller in this Agreement, or that would have caused a material breach of any such representation or warranty had such event occurred, or had such event or information been known to Seller, prior to the date hereof.

**Section 5.05. Corporate Action.** Subject to the provisions of this Agreement, Seller shall take all necessary corporate and other action required of it to carry out the transactions contemplated by this Agreement.

**Section 5.06. Application for FCC Consent.** As promptly as practicable after the date hereof and in no event later than 10 days after the date hereof, Seller shall cooperate with Buyer in filing an application with the FCC requesting its written consent to the assignment of the FCC Authorizations to Buyer. Seller shall diligently take, or cooperate in the taking of, all commercially reasonable steps that are necessary, proper or desirable to expedite the preparation of such application and its prosecution to a favorable conclusion, including opposing any petition to deny (a "Protest") filed against the Assignment Application. Seller shall promptly provide Buyer with a copy of any pleading, order or other document served on it related to such FCC application, and shall timely furnish all information requested by the FCC. If FCC reconsideration or review, or if judicial review, shall be sought with respect to the FCC Consent, by a third party or upon the FCC's own motion, Seller shall cooperate with Buyer in opposing such requests for FCC reconsideration or review, or for judicial review. To the extent that any Protest or informal objection against the Assignment Application or any reconsideration, review or judicial review of the FCC Consent is interposed or prosecuted because of any claim or assertion solely or substantially about or attributable to Buyer, or Buyer's qualifications, Seller shall not be obligated to take any material step to oppose such efforts by third parties or to defend Buyer.

**Section 5.07. Consents.** Seller shall use its commercially reasonable efforts to obtain or cause to be obtained, prior to the Closing Date, consents to the assignment to or assumption by Buyer of all Station Agreements which Buyer agrees to assume, including without limitation the Site Licenses, which require the consent of any third party by reason of the transactions provided for in this Agreement.

**Section 5.08. Confidential Information.** If for any reason the transactions contemplated in this Agreement are not consummated, Seller shall not disclose to third parties any information designated as confidential and received from Buyer or its agents in the course of investigating, negotiating and completing the transactions contemplated by this Agreement. Nothing shall be deemed to be confidential information that (a) is known to Seller at the time of its disclosure to Seller, (b) becomes publicly known or available other than through disclosure by Seller, (c) is rightfully received by Seller from a third party or (d) is independently developed by Seller.

**Section 5.09. FCC Compliance.** Seller shall take no action, or fail to take any action, which would disqualify Seller as the licensee of the Station or delay or prevent the grant of the application to assign the Station license to Buyer. Seller shall give prompt notice to Buyer of any occurrence coming to Seller's attention which may constitute a misrepresentation, breach of warranty or nonfulfillment of any covenant or condition on the part of Seller contained in this Agreement. Seller shall deliver to Buyer within three days after filing with the FCC copies of any and all reports, applications, and/or responses relating to the Station, made by Seller on or

prior to the Closing Date, including a copy of any FCC inquiries to which such filing is responsive (in the event of an oral FCC inquiry, Seller shall furnish a written summary thereof).

**Section 5.10. Consummation of Agreement.** Subject to the provisions of Section 10.02 of this Agreement, Seller shall use its commercially reasonable efforts to fulfill and perform all conditions and obligations on its part to be fulfilled and performed under this Agreement to cause the transaction contemplated by this Agreement to be fully carried out.

**Section 5.11. Notice of Proceedings.** Seller shall promptly notify Buyer in writing upon becoming aware of any order or decree or any complaint praying for an order or decree restraining or enjoining the consummation of this Agreement or the transaction contemplated hereunder, including without limitation orders or decrees issued in bankruptcy proceedings, or upon receiving any notice from any governmental department, court, agency or commission of its intention to institute an investigation into, or institute any action or proceeding to restrain or enjoin, the consummation of this Agreement or such transaction, or to nullify or render ineffective this Agreement or such transactions if consummated.

**Section 5.12. Lien Searches.** At Closing, Seller shall deliver to Buyer all UCC, judgment and state and federal tax lien search reports (showing searches in the name of Seller and the call letters of the Station) necessary to confirm that no Liens are filed or recorded against the Assets in the public records of any applicable jurisdiction or that arrangements have been made to discharge same effective as of or prior to the Closing (the "Lien Search Reports").

## ARTICLE VI COVENANTS OF BUYER PENDING CLOSING DATE

Buyer covenants and agrees that from the date hereof, to and including the Closing Date:

**Section 6.01. Representations and Warranties.** Buyer shall give detailed written notice to Seller promptly upon the occurrence of or becoming aware of the impending or threatened occurrence of any event which would cause or constitute a breach, or would have caused a breach had such event occurred or been known to Buyer prior to the date hereof, of any of the representations and warranties of Buyer contained in this Agreement.

**Section 6.02. Corporate Action.** Subject to the provisions of this Agreement, Buyer shall take all necessary corporate and other action required of it to carry out the transactions contemplated by this Agreement.

**Section 6.03. Application for FCC Consent.** As promptly as practicable after the date hereof, and in no event later than 10 days after the execution of this Agreement, Buyer shall cooperate with Seller in filing an application with the FCC requesting its written consent to the assignment of the FCC Authorizations for the Stations from Seller to Buyer. Buyer shall diligently take, or cooperate in the taking of, all steps that are necessary, proper or desirable to expedite the preparation of such application and its prosecution to a favorable conclusion including opposing any Protest filed against the Assignment Application. Buyer shall promptly provide Seller with a copy of any pleading, order or other document served on it related to such FCC application, and shall furnish all information requested by the FCC. If FCC reconsideration

or review, or if judicial review, shall be sought with respect to the FCC Consent, by a third party or upon the FCC's own motion, Buyer shall cooperate with Seller in opposing such requests for FCC reconsideration or review, or for judicial review. To the extent that any Protest or informal objection against the Assignment Application or any reconsideration, review or judicial review of the FCC Consent is interposed or prosecuted because of any claim or assertion solely or substantially about or attributable to Seller, or Seller's qualifications, Buyer shall not be obligated to take any material step to oppose such efforts by third parties or to defend Seller.

**Section 6.04. Confidential Information.** All information designated as confidential and delivered or made available to Buyer or Buyer's representatives by Seller or its representatives before or after the date of this Agreement in connection with the transaction contemplated by this Agreement shall be kept confidential by Buyer, provided that if Closing occurs, the foregoing confidentiality restriction shall not apply to information regarding the Station. Nothing shall be deemed to be confidential information which (a) becomes publicly known or available other than through disclosure by Buyer, (b) is rightfully received by Buyer from a third party or (c) is independently developed by Buyer.

**Section 6.05. Consummation of Agreement.** Subject to the provisions of Section 10.02 of this Agreement, Buyer shall use its commercially reasonable efforts to fulfill and perform all conditions and obligations on its part to be fulfilled and performed under this Agreement and to cause the transaction contemplated by this Agreement to be fully carried out.

**Section 6.06. Notice of Proceedings.** Buyer will promptly notify Seller in writing upon becoming aware of any order or decree or any complaint praying for an order or decree restraining or enjoining the consummation of this Agreement or the transaction contemplated hereunder, or upon receiving any notice from any governmental department, court, agency or commission of its intention to institute an investigation into, or institute any action or proceeding to restrain or enjoin the consummation of this Agreement or such transaction, or to nullify or render ineffective this Agreement or such transaction if consummated.

**Section 6.07. FCC Compliance.** Buyer shall take no action, or fail to take any action that would disqualify it from becoming the licensee of the Station or delay or prevent the grant of the application for assignment of the Station license from Seller. Buyer shall give prompt notice to Seller of any occurrence that comes to Buyer's attention that may constitute a misrepresentation, breach of warranty or non-fulfillment of any covenant or condition on the part of Buyer contained in this Agreement. Buyer shall deliver to Seller within three days after filing thereof with the FCC copies of any and all reports, applications, and/or responses relating to the Station which are made by Buyer on or prior to the Closing Date, including a copy of any FCC inquiries to which the filing is responsive (in the event of an oral FCC inquiry, Buyer shall furnish a written summary thereof).

## ARTICLE VII CONDITIONS TO OBLIGATIONS OF SELLER

The obligations of Seller under this Agreement are, at its option, subject to the fulfillment of the following conditions prior to or at the Closing Date:

**Section 7.01. Representations, Warranties and Covenants.**

(a) Each of the representations and warranties of Buyer contained in this Agreement and in any certificate, schedule or other document delivered by Buyer pursuant to this Agreement or in connection with the transactions contemplated hereby shall be true and accurate in all material respects as of the date when made, and on and as of the Closing Date (except for representations and warranties that speak as of a specific date or time, which need only be true and complete as of such date or time) as though made on and as of the Closing Date, except for changes permitted under this Agreement and except where the failure to be true and accurate (determined without regard to any knowledge qualification) does not have a material adverse effect on Seller.

(b) Buyer shall have performed and complied in all material respects with each and every covenant and agreement required by this Agreement to be performed or complied with by it prior to or on the Closing Date.

(c) Buyer shall have delivered to Seller a certificate of an officer of Buyer, dated the Closing Date, certifying to the fulfillment of the conditions set forth in Sections 7.01(a) and 7.01(b) above.

**Section 7.02. Proceedings.**

(a) No action or proceeding shall have been instituted before any court or governmental body to restrain or prohibit, or to obtain substantial damages in respect of, the consummation of this Agreement which, in the reasonable opinion of Seller, may be expected to result in a preliminary or permanent injunction against such consummation or an award of such substantial damages.

(b) Neither of the parties to this Agreement shall have received written notice from any governmental body of (i) its intent to institute any action or proceeding to restrain or enjoin or nullify this Agreement or the transactions contemplated hereby, or to commence any investigation (other than a routine letter of inquiry, including a routine civil investigative demand) into the consummation of this Agreement, or (ii) the actual commencement of such an investigation.

**Section 7.03. FCC Consent.** The FCC shall have issued its written consent to assignment of all the FCC Authorizations (the "FCC Consent") without any conditions materially adverse to Seller, and such FCC Consent shall not have been reversed, stayed, enjoined, set aside, annulled or suspended, no requests have been filed for administrative or judicial review, reconsideration, appeal or stay, and the time for the FCC to set aside the action on its own motion shall have expired, or, in the event of review, reconsideration or appeal, the time for further review, reconsideration or appeal shall have expired (a "Final Order").

**Section 7.04. Deliveries.** Buyer shall have made or stand willing to make all the deliveries required under Section 2.03.

**ARTICLE VIII**  
**CONDITIONS TO THE OBLIGATIONS OF BUYER**

The obligations of Buyer under this Agreement are, at its option, subject to the fulfillment of the following conditions prior to or at the Closing Date:

**Section 8.01. Representations, Warranties and Covenants.**

(a) Each of the representations and warranties of Seller contained in this Agreement and in any deed, certificate, schedule or other document delivered by Seller pursuant to this Agreement or in connection with the transactions contemplated hereby shall be true and accurate in all material respects as of the date when made, and on and as of the Closing Date (except for representations and warranties that speak as of a specific date or time, which need only be true and complete as of such date or time) as though made on and as of the Closing Date, except for changes permitted under this Agreement and except where the failure to be true and accurate (determined without regard to any knowledge qualification) does not have a material adverse effect. The foregoing notwithstanding and without limitation, on the Closing Date there shall be no discrepancy between any of the FCC Authorizations and the Station's actual operational parameters, including without limitation the Station's tower site location, antenna height and operating power. Seller shall have filed, at Seller's sole expense, and by the Closing Date the FCC shall have granted, all necessary applications to ensure the conformance of all of the Station's operating parameters to its licensed parameters.

(b) Seller shall have performed and complied in all material respects with each and every covenant and agreement required by this Agreement to be performed or complied with by it prior to or at the Closing Date.

(c) Seller shall have delivered to Buyer the certificates described in Sections 2.02(c) and (d), dated the Closing Date, certifying to the fulfillment of the conditions set forth in Sections 8.01(a) and 8.01(b) above.

**Section 8.02. Proceedings.**

(a) No action or proceeding shall have been instituted before any court or governmental body to restrain or prohibit, or to obtain substantial damages in respect of, the consummation of this Agreement which, in the reasonable opinion of Buyer, may be expected to result in a preliminary or permanent injunction against such consummation or an award of such substantial damages.

(b) Neither of the parties to this Agreement shall have received written notice from any governmental body of (i) its intent to institute any action or proceeding to restrain or enjoin or nullify this Agreement or the transactions contemplated hereby, or to commence any investigation (other than a routine letter of inquiry, including a routine civil investigative demand) into the consummation of this Agreement, or (ii) the actual commencement of such an investigation that will have a material adverse effect.

**Section 8.03. FCC Consent.** (a) The FCC shall have issued the FCC Consent, without any conditions materially adverse to Buyer, and such FCC Consent shall have become a Final Order; provided, however, that, at Buyer's discretion, Buyer may elect to consummate the transaction contemplated herein prior to the time when the FCC Consent shall have become a Final Order.

(b) Concurrently with this Agreement, Buyer and Seller shall execute a Public Service Operating Agreement (the "Operating Agreement") whereby Buyer may, in the event such agreement is implemented, in accordance with FCC law, regulation and policy, provide programming and other permitted services for the Station until the Closing of the transaction contemplated hereby. This Agreement shall control to the extent of any inconsistency between the Operating Agreement and this Agreement.

**Section 8.04. Station Employees.** Seller shall have terminated all employees employed in the operation of the Station effective as of the Closing Date and shall be and remain solely responsible for compensating all Station employees for any and all accrued vacation time, commissions and all applicable expenses, Licensee Benefit Plans, taxes and insurance.

**Section 8.05. Deliveries.** Seller shall have made or stand willing to make all the deliveries required under Section 2.02.

**Section 8.06. Required Consents.** All Required Consents shall have been obtained to the satisfaction of Buyer in Buyer's sole discretion, including, without limitation, the Site Lease.

## ARTICLE IX INDEMNIFICATION

**Section 9.01. Survival.** All representations and warranties of the parties contained in or made pursuant to this Agreement shall survive the Closing for 12 months after the Closing Date, except those under: (a) this Article IX that relate to a Loss and Expense (defined below) for which written notice is given by the indemnified party to the indemnifying party prior to the expiration, which shall survive until resolved, and; (b) Section 3.04 (Licenses and Authorizations), Section 3.06 (Taxes), Section 3.07 (Good Title), and Section 3.15 (Environmental), each of which shall survive until the expiration of any applicable statute of limitations. The covenants and agreements contained in or made pursuant to this Agreement shall survive the Closing until performed. Except as specifically set forth herein to the contrary, none of the representations, warranties, covenants or agreements contained in this Agreement shall be affected by any investigation conducted by any party hereto and any information which any party may receive.

**Section 9.02. Indemnification of Buyer.** From and after Closing, Seller agrees that it shall indemnify, defend and hold Buyer harmless from and against any and all damages, claims, losses, expenses, costs, obligations and liabilities, including, without limitation, liabilities for reasonable attorneys' fees and disbursements ("Loss and Expense"), suffered directly or indirectly by Buyer by reason of, or arising out of:

- (a) any breach of representation or warranty made by Seller pursuant to this

Agreement;

(b) any failure by Seller to perform or fulfill any of its covenants or agreements set forth in this Agreement;

(c) any failure by Seller to pay or perform any of its liabilities or obligations, other than Assumed Obligations, arising out of or related to the business of the Station;

(d) any litigation, proceeding or claim by any third party, including employment and discrimination claims, relating to the business or operation of the Station for which the basis for such claim occurred prior to the Closing Date; or

(e) any and all obligations of Seller other than Assumed Obligations.

**Section 9.03. Indemnification of Seller.** From and after Closing, Buyer agrees that it shall indemnify, defend and hold Seller harmless from and against any and all Loss and Expense suffered directly or indirectly by Seller by reason of, or arising out of:

(a) any breach of representation or warranty made by Buyer pursuant to this Agreement;

(b) any failure by Buyer to perform or fulfill any of its covenants or agreements set forth in this Agreement;

(c) the Assumed Obligations; or

(d) any litigation, proceeding or claim by any third party, including employment and discrimination claims, relating to the business or operation of the Station for which the underlying basis for such claim occurred on or after the Closing Date.

**Section 9.04. Notice of Claims.** If Seller or Buyer believes that it has suffered or incurred any Loss and Expense, it shall notify the other party promptly in writing and within the applicable time period specified in Section 9.01, describing such Loss and Expense, the amount thereof, if known, and the method of computation of such Loss and Expense, all with reasonable particularity and containing a reference to the provisions of this Agreement in respect of which such Loss and Expense has occurred.

**Section 9.05. Defense of Third-Party Claims.** If any action at law or suit in equity is instituted by a third party (a "Claim") with respect to which a party intends to claim a Loss and Expense under this Article IX, such party shall promptly notify the indemnifying party of such action or suit. The indemnifying party shall have the right to conduct and control any Claim through counsel of its own choosing and to settle any Claim (provided that it gives the indemnified party an opportunity to review all proposed settlement terms), but the indemnified party may, at its election, participate in the defense of any such Claim at its sole cost and expense. If the indemnifying party does not notify the indemnified party within 10 days after receipt of the notification specified in this Section 9.05 that it is defending any such Claim, then the indemnified party may defend such Claim and settle such Claim, through counsel of its own

choosing, and recover from the indemnifying party the amount of such settlement or of any judgment and the costs and expenses of such defense, including, but not limited to, reasonable attorneys' fees and disbursements.

Failure or delay by an indemnified party to give a reasonably prompt notice of any claim (if given prior to expiration of any applicable survival period) shall not release, waive or otherwise affect an indemnifying party's obligations with respect to the claim, except to the extent that actual loss or prejudice occurs as a result of such failure or delay.

**Section 9.06. Limits On Indemnification.** Notwithstanding anything herein to the contrary, under no circumstances may any claim for indemnification hereunder be asserted by Buyer or Seller unless the aggregate amount thereof shall exceed Five Thousand Dollars (\$5,000.00).

## ARTICLE X MISCELLANEOUS PROVISIONS

**Section 10.01. Risk of Loss.** The risk of any of the FCC Authorizations shall be borne by Seller at all times prior to the Closing Date hereunder. Seller shall take all commercially reasonable measures to protect and conserve the Tangible Property. Otherwise, Seller is not obligated to repair, replace or restore any damaged or lost material Asset. Upon the occurrence of any loss or damage to any of the Assets prior to the Closing Date, Seller shall, within 48 hours, notify Buyer in writing, stating with particularity the extent of the loss or damage incurred, the cause thereof if known and the extent to which restoration, replacement and repair of the Assets lost or destroyed will be reimbursed under any insurance policy with respect thereto. To the extent the loss is covered by insurance, Seller shall either restore the Tangible Property to its pre-loss condition prior to Closing, or assign to Buyer all rights under any insurance claim covering the loss and pay over to Buyer any proceeds received by Seller under any such insurance policy with respect thereto.

**Section 10.02. Termination.** This Agreement may be terminated at any time prior to the Closing Date:

- (a) by mutual consent of the parties hereto; or
- (b) by written notice of Buyer to Seller:
  - (i) if Seller does not perform the obligations to be performed by it under this Agreement on the Closing Date; or
  - (ii) if Seller otherwise breaches in any material respect any of its representations or warranties or defaults in any material respect in the performance of any of its covenants or agreements contained in this Agreement and such breach or default is not cured within 20 days after receipt of written notice of such breach or default by Buyer; or
  - (iii) in the event that, per Section 10.01(a), a loss has occurred and such

loss has had a material adverse effect on the Station or the Assets as determined by Buyer; or

- (c) by written notice of Seller to Buyer:
  - (i) if Buyer does not perform the obligations to be performed by it under this Agreement on the Closing Date; or
  - (ii) if Buyer otherwise breaches in any material respect any of its representations or warranties or defaults in any material respect in the performance of any of its covenants or agreements contained in this Agreement and such breach or default is not cured within 20 days after receipt of written notice of such breach or default by Seller; or
- (d) by written notice of one party to the other if:
  - (i) closing does not occur within 12 months after the date of this Agreement, unless extended by mutual consent of the parties; or
  - (ii) the FCC staff has dismissed or denied the assignment of the FCC Authorizations to Buyer as contemplated by this Agreement, and such dismissal or denial has become a Final Order.

Termination of this Agreement shall not relieve a party of any liability for any breach or default under this Agreement prior to the date of termination. Notwithstanding anything herein to the contrary, Sections 1.05 (Escrow Deposit), 5.08 and 6.04 (Confidential Information), 10.03 (Liabilities Upon Termination), 10.05 (Expenses) and 10.13 (Public Announcements) shall survive any termination of this Agreement.

**Section 10.03. Liabilities Upon Termination.** (a) In the event this Agreement is terminated pursuant to Section 10.02, except as set forth in (b), below, no party hereto shall have any liability to the other party for costs, expenses, damages, loss of anticipated profits or otherwise, unless the termination occurs because of a material misrepresentation or breach of warranty by a party hereto or the failure of performance of, or noncompliance with, any material covenant or agreement contained in this Agreement. If Buyer terminates this Agreement by reason of Seller's material misrepresentation or breach of warranty or Seller's failure of performance of, or Seller's noncompliance with, any material covenant or agreement contained in this Agreement, Buyer shall have the rights and remedies available to it under law or equity.

(b) In the event that, per Section 10.02(c)(i) or (ii), above, Seller terminates this Agreement and if Seller is not in material default under Section 10.02(b)(i) or (ii), then the Escrow Deposit together with all interest accrued thereon shall be disbursed to Seller as liquidated damages and, notwithstanding (a), above, shall constitute the sole and exclusive remedy of Seller and, in such event, neither party shall have any remaining obligation to the other party with respect to the transactions contemplated hereby. The parties agree that determining the actual damages under such circumstances would be impracticable or extremely difficult. The parties further agree that the amount of liquidated damages established by this provision is a reasonable estimate, under the circumstances existing on the date of execution of



this Agreement, of what Seller's damages would be in the event of a default by Buyer. The foregoing notwithstanding, in the event of such termination by Seller, the parties expressly agree that Seller shall have no claim against Buyer for any amount over and above the Escrow Deposit and accrued interest. If this Agreement is terminated for any other reason, the Escrow Deposit and all interest accrued thereon shall be disbursed to Buyer.

**Section 10.04. Specific Performance.** In the event of a breach or a threatened breach by Seller of any representation, warranty, covenant or agreement under this Agreement, at Buyer's election and in addition to any other remedy available to it, Buyer shall be entitled to an injunction restraining any such breach or threatened breach and enforcing this Agreement by a decree of specific performance requiring Seller to fulfill its obligations hereunder, without the necessity of showing economic loss or other actual damage and without any bond or other security being required. The parties acknowledge that the Assets and the Station are unique and recognize and affirm that in the event of Seller's breach or default under this Agreement, money damages would be inadequate and Buyer would have no adequate remedy at law, so that Buyer shall have the right, in addition to any other rights and remedies existing in its favor, to enforce its rights and Seller's obligations hereunder by an action for specific performance, injunctive or other equitable relief.

**Section 10.05. Expenses.** Except as otherwise provided herein, all costs and expenses incurred in connection with this Agreement and the transaction contemplated hereby shall be paid by the party incurring such costs and expenses. Any sales or use taxes, transfer taxes or other taxes in connection with the transactions contemplated by this Agreement shall be paid by the party primarily liable under applicable law to pay such taxes.

**Section 10.06. Employees and Employee Benefits.** Buyer shall not be responsible for payment of any compensation or benefits due or payable to current or former employees of the Station. Seller shall retain all liabilities and obligations with respect to current or former employees of the Station. Seller shall retain all Station employee benefit plans and pension plans, and Buyer will not assume any obligations under such plans. Seller shall be fully and solely responsible for any costs, expenses, obligations and liabilities, vested or non-vested, arising out of the pension or retirement obligations attributable to the Station's current or former employees.

**Section 10.07. Further Assurances and Consents.**

(a) From time to time after the Closing Date, without further consideration, Seller shall, at its expense, (i) execute and deliver, or cause to be executed and delivered, such documents to Buyer as Buyer may reasonably request in order to effectively vest in Buyer good title to the Assets, and (ii) use reasonable efforts to obtain any third-party consents to the assignment to Buyer of the Station Agreements which require the consent of any third party by reason of the transactions provided for in this Agreement and which were not obtained by Seller on or before the Closing Date.

(b) From time to time after the Closing Date, Seller and Buyer shall provide each other with access, with reasonable prior notice and during normal business hours, to the financial records of the Station concerning the period prior to the Closing Date for use in connection with tax and/or legal proceedings related to Seller's operation of the Station prior to the Closing Date.

The parties agree to maintain all tax records related to the Station for all tax years that remain open as of the Closing Date unless and until (i) Seller notifies Buyer that any such tax year(s) has (have) been closed or (ii) Buyer has given Seller prior notice of its intent to destroy such records and Seller has not reasonably and promptly requested that such records not be destroyed.

**Section 10.08. Allocation of Purchase Price.** By the Closing Date, Seller and Buyer shall determine an allocation of the Purchase Price among the Assets. Seller and Buyer agree that any such allocations shall be consistent with the requirements of the Internal Revenue Code, and the regulations thereunder. Neither Seller nor Buyer will take a position on any income, transfer or gains tax return before any governmental agency charged with the collection of any such tax or in any judicial proceeding that is in any manner inconsistent with the terms of any such allocation without the written consent of the other.

**Section 10.09. Waiver of Compliance.** Except as otherwise provided in this Agreement, any failure of either of the parties to comply with any obligation, representation, warranty, covenant, agreement or condition may be waived by the other party only by a written instrument signed by the party granting the waiver. Any such waiver or failure to insist upon strict compliance with a term of this Agreement shall not operate as a waiver of, or estoppel with respect to, any subsequent or other failure to comply. No waiver of any provision of this Agreement shall be deemed, or shall constitute, a waiver of any other provision, whether or not similar, nor shall any waiver be deemed a continuing waiver.

**Section 10.10. Notices.** All notices and other communications hereunder shall be in writing and shall be deemed given when delivered by hand or by facsimile transmission, confirmed delivery by a nationally recognized overnight courier service, or on the third day after prepaid mailing by registered or certified mail (return receipt requested) to the parties at the following addresses (or at such other address for a party as shall be specified by like notice):

If to Seller, to:                   Howell Mountain Broadcasting Company  
95 La Jota Drive  
Angwin, CA 94508  
Attention: Tim Mitchell  
Facsimile No.: (707) 965-4161

with copies (which shall not constitute notice) to:                   Donald E. Martin  
Donald E. Martin, P.C.  
P.O. Box 8433  
Falls Church, VA 22041  
Facsimile No.: (703) 642-2357

Handwritten signature and initials in blue ink, including a stylized signature and the letters 'BB'.

and Donald J. Logan  
Murphy, Logan & Bardwell  
P.O. Box 5540  
Napa, CA 94581-0540  
Facsimile No. (707) 257-6479

If to Buyer, to: Brenda Barnes  
Managing Director  
Classical Public Radio Network LLC  
1149 S. Hill – Suite H-100  
Los Angeles, CA NY 90015  
Facsimile No.: (213) 225-7461

with copies (which shall not constitute notice to): Stephen A. Yamaguchi  
University Counsel  
The University of Southern California  
Administration 352  
Los Angeles, CA 90089-5013  
Facsimile No.: (213) 740-3249

and Lawrence Bernstein  
Law Offices of Lawrence Bernstein  
3510 Springland LN, NW  
Washington, D.C. 20008  
Facsimile No.: (202) 296-1800

**Section 10.11. Assignment.** Neither party may assign its interest in this Agreement without the prior written consent of the other party.

**Section 10.12. Governing Law and Choice of Venue.** This Agreement shall be governed by, construed and enforced in accordance with the laws of the State of California. Any litigation arising from this Agreement shall be initiated in the state or federal courts having jurisdiction over Angwin, California. The parties hereby agree to submit to the jurisdiction of such courts. Actions brought to enforce any judgment of such courts shall not be so limited.

**Section 10.13. Public Announcements.** No public announcement or press release concerning the transactions provided for herein shall be made by any party (including any of their respective agents or employees) without the prior written approval of the other party, except for the local notice by Seller in accordance with the requirements of Section 73.3580 of the FCC's Rules and except for information which Seller may communicate to its donors.

**Section 10.14. No Third-party Rights.** Nothing in this Agreement shall be deemed to

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create any right on the part of any person or entity not a party to this Agreement.

**Section 10.15. Waiver of Jury Trial.** Seller and Buyer specifically waive any right to trial by jury in any court with respect to any contractual, tortious or statutory claim, counterclaim or cross claim against the other arising out of or connected in any way to this Agreement, since the parties hereto, each of whom is represented by counsel, believe that the complex aspects of their dealing with one another render a jury determination neither desirable nor appropriate.

**Section 10.16. No Solicitation.** Until the earlier of the Closing Date or termination of this Agreement, neither Seller nor any of its directors, officers, agents, affiliates or (with the consent of the foregoing) employees (collectively, "Representatives") shall, directly or indirectly, (a) solicit or initiate any proposals or offers relating to any acquisition of the Station, or any of the Assets, or any equity of the entity owning the Station (each an "Acquisition Proposal"), nor (b) enter into any acquisition agreement that would contravene or be inconsistent with this Agreement.

**Section 10.17. Interpretation.** (a) Whenever the context may require, any pronoun used in this Agreement shall include the corresponding masculine, feminine or neuter forms, and the singular form of nouns, pronouns and verbs shall include the plural and *vice versa*.

(b) The title of each Article and the headings or titles preceding the text of the Sections are inserted solely for convenience of reference and shall not constitute a part of this Agreement, nor shall they affect the meaning, construction or effect of this Agreement.

(c) All schedules and exhibits identified in this Agreement are incorporated herein by reference and made a part of this Agreement.

(d) The parties have participated jointly in the negotiation and drafting of this Agreement. In the event that an ambiguity or question of intent or interpretation arises, this Agreement shall be construed as if drafted jointly by the parties and no presumption or burden of proof shall arise favoring or disfavoring a party by virtue of the authorship of any of the provisions of this Agreement.

**Section 10.18. Entire Agreement; Amendments; Schedules.** This Agreement, including the Exhibits and Schedules hereto and the documents delivered hereunder, embodies the entire agreement and understanding of the parties in respect of the subject matter hereof and supersedes all prior agreements and understandings between the parties. This Agreement may not be amended except in a writing signed by both parties.

**Section 10.19. Limitation of Liability.** To the maximum extent permitted by law, in no event will either party be responsible for any incidental damages, consequential damages, exemplary damages of any kind, lost goodwill, lost profits, lost business and/or any indirect economic damages whatsoever regardless of whether such damages arise from claims based upon contract, negligence, tort (including strict liability or other legal theory), a breach of any warranty or term of this agreement, and regardless of whether a party was advised or had reason to know of the possibility of incurring such damages in advance.

**Section 10.20. Rights on Reversion.** In the event that the transaction contemplated

hereby is consummated before the FCC Consent shall have become a Final Order and the FCC or a court of competent jurisdiction subsequently sets aside, reviews, reconsiders or grants appeal of the FCC Consent and such FCC or court action has become final and beyond possibility of review, reconsideration or appeal (an "Unwind Event"), the parties shall fully cooperate so as to restore to each other, to the extent practicable, their respective rights, titles and interests enjoyed by each of them immediately prior to Closing with respect to all assets transferred, monies paid, documents executed, rights assigned and obligations assumed. The parties shall hold a closing as promptly as possible following the Unwind Event, but in no circumstance later than the date ordered by the FCC or court, at which time: (a) Buyer shall deliver to Seller instruments of transfer comparable to those delivered to Buyer at the Closing, and such information as Seller shall reasonably request comparable to the exhibits and schedules to this Agreement and such other information as Seller has delivered to Buyer pursuant to this Agreement; and (b) Seller shall deliver to Buyer documents comparable to those delivered to Seller at the Closing, and shall pay to Buyer all amounts paid by Buyer in consummation of this Agreement.

**Section 10.21. Counterparts.** This Agreement may be executed in identical counterparts, and each document hereof shall be deemed to be an original instrument, but all counterparts hereof taken together shall constitute a single document.

**Section 10.21. Time of Essence.** Time is of the essence in this Agreement.

*[Signature Page Follows]*

Handwritten signature or initials, possibly reading "The BB".

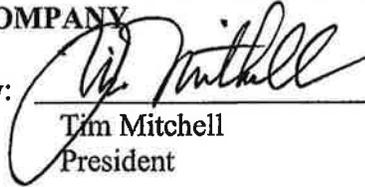
**SIGNATURE PAGE TO ASSET PURCHASE AGREEMENT**

The parties have caused this Agreement to be signed by their respective duly authorized officers as of the date first above written.

SELLER:

**HOWELL MOUNTAIN BROADCASTING  
COMPANY**

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

  
Tim Mitchell  
President

BUYER:

**CLASSICAL PUBLIC RADIO NETWORK  
LLC**

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

  
Brenda Barnes  
Managing Director

APPENDIX

Schedule 1(a)	Tangible Property
Schedule 1(b)	Station Agreements
Schedule 1(c)	Permits
Exhibit A	Escrow Agreement
Schedule 2	Excluded Assets

*M.B.B.*