

ASSET PURCHASE AGREEMENT

THIS ASSET PURCHASE AGREEMENT (the "Agreement") is entered into as of this 16th day of July, 2014 (the "Effective Date") by and between **TRIPLE J COMMUNITY BROADCASTING LLC**, a Pennsylvania limited liability company ("Seller") and **OTA BROADCASTING (PIT), LLC**, a Delaware limited liability company ("Buyer") (each a "Party" and, collectively, the "Parties").

RECITALS

WHEREAS, Seller is the licensee and operator of Class A television broadcast station W24BB, East Stroudsburg, PA (FCC Facility Id. 68137) (the "Station") pursuant to certain authorizations issued by the Federal Communications Commission (the "FCC");

WHEREAS, Seller owns or leases all other assets used in connection with the operation of the Station; and

WHEREAS, on the terms and conditions described herein, Seller desires to sell and Buyer desires to purchase substantially all of the assets owned or leased by Seller and used in connection with the operation of the Station;

NOW, THEREFORE, taking the foregoing into account, and in consideration of the mutual covenants and agreements set forth herein, the sufficiency of which is hereby acknowledged, the Parties, intending to be legally bound, hereby agree to the following terms and conditions:

ARTICLE 1: SALE AND PURCHASE

1.1 **Station Assets**. Subject to the terms and conditions herein contained, Seller shall grant, convey, sell, assign, transfer and deliver to Buyer on the Closing Date (as defined below) all assets, properties, interest and rights of Seller currently used or held for use in connection with the operation of the Station (collectively, the "Station Assets"), but excluding the Excluded Assets (as defined below). The Station Assets shall include, without limitation, the following:

(a) **Licenses and Authorizations**. All licenses, authorizations, permits, granted construction permits, and all pending applications for FCC licenses, permits, and authorizations applied for or issued with respect to the Station by the FCC (the "FCC Authorizations"), by the Federal Aviation Administration ("FAA"), and by any other federal, state or local governmental authorities in connection with the conduct of the business and operation of the Station, including without limitation those listed on Schedule 1.1(a) attached hereto;

(b) **Tangible Personal Property**. The machinery and equipment, transmitters, wave guide, antennas, vehicles, furniture, fixtures, computers, software, inventory, cables, spare parts and other tangible personal property (including associated manufacturers and vendor warranties) used or held for use in connection with the conduct of the business and operation of the

Station, including, but not limited to all tangible property listed and described on Schedule 1.1(b) attached hereto, and any additions and improvements thereto between the Effective Date and the Closing Date (collectively, the "Tangible Personal Property")

(c) **Transmitter Building.** The building currently used to house the Station's transmitter (the "Building") located on the transmitter site currently used in the Station's operation located at Effort Mountain in Monroe County, Pennsylvania (the "Transmitter Site");

(d) **Contracts.** All (i) contracts, agreements and leases listed on Schedule 1.1(d), and (ii) other reasonable and customary Station contracts, agreements and leases approved in writing by Buyer which are entered into between the Effective Date and the Closing Date (collectively, the "Assumed Contracts");

(e) **Intangible Property.** All the Seller's rights in Station's call letters and in any trademarks, trade names, service marks, patents, patent applications, internet domain names and associated websites, copyrights, programs and programming material (including program rights), jingles, slogans, logos, and other intangible property owned or leased by Seller used or held for use in the operation of the Station, including without limitation those listed on Schedule 1.1(e), and all goodwill associated with the foregoing (collectively, the "Intangible Property");

(f) **Files and Records.** The Station's public inspection file, filings with the FCC relating to the Station, and such other technical information, engineering data, books and records that relate to the Station and the Station Assets being conveyed hereunder; all sales and promotional literature, manuals and data, sales and purchase correspondence, advertiser lists, lists of present and former suppliers, and lists of present and former customers that relate to the Station and the Station Assets;

(g) **Claims.** Any and all claims and rights against third parties if and to the extent that they relate to Station Assets, including, without limitation, all rights under manufacturers' and vendors' warranties; and

(h) **Prepaid Items.** All deposits, reserves and prepaid expenses relating to the Station Assets and prepaid taxes relating to the Station Assets, pro-rated as of Closing.

1.2 **Excluded Assets.** The following shall be excluded from the Station Assets and retained by Seller (collectively, the "Excluded Assets");

(a) **Cash.** All cash, cash equivalents or similar investments such as certificates of deposit, treasury bills and other marketable securities on hand and/or in banks and deposits of Seller;

(b) **Accounts Receivable.** All accounts receivable of Seller arising from the operation of the Station prior to the Closing which are outstanding and uncollected as of the Closing (the "Accounts Receivable");

(c) **Insurance.** Any insurance policies, intercompany accounts, promissory notes, amounts due from employees, bonds, letters of credit, or other similar items, any cash surrender value in regard thereto of Seller, and any proceeds from insurance claims made by Seller relating to property or equipment included in the Station Assets that has been repaired, replaced or restored by Seller prior to the Closing Date;

(d) **Benefit Plans.** Any pension, profit-sharing or cash or deferred (Section 401(k)) plans and trusts and assets thereof, or any other employee benefit plan or arrangement, and the assets thereof;

(e) **Tax Refunds.** Any interest in and to any refunds of federal, state or local franchise, income or other taxes of Seller for taxes incurred and actually paid by Seller prior to the Closing;

(f) **Personal Property.** Any tangible and intangible personal property of Seller listed on Schedule 1.2(f);

(g) **Books and Records.** Except as provided in Section 1.1(f), all the financial records, account books and general ledgers, and all corporate records (including organizational documents) of Seller, including tax returns and transfer books;

(h) **Employees.** The employees of the Station or of Seller;

(i) **Contracts.** Any contracts or agreements not listed on Schedule 1.1(d) or otherwise agreed to be assumed under Section 1.1(d)(ii);

(j) **Offices.** Subject to the transition service rights granted to Buyer pursuant to Section 8.8, the offices currently used in the Station's operations (the "Office") and all equipment located therein (the "Office Equipment"):

(k) **Transmitter Site.** The Transmitter Site, together with the transmission tower located on the Transmitter Site ("Tower") and all buildings (other than the Building), equipment and fixtures thereon that are not listed in Schedule 1.1(b); and

(l) **Programming.** The Station's current programming (which is rebroadcast from Seller's station WYLN-LP, Hazleton, PA) and all rights therein and thereto, provided, however, that for a period of six (6) months following the Closing, Seller will make such programming available without charge for Buyer to broadcast over the Station, but only to the extent that Seller has the right to authorize the rebroadcast of such programming over the Station. With respect to programming obtained from outside sources which Seller does not own, it is understood that Buyer may need to make appropriate arrangements with the owners thereof. Should Buyer wish to continue to broadcast the Seller's programming or any part thereof beyond six (6) months after the Closing, then Buyer and Seller may negotiate a suitable agreement therefor.

1.3 **Liabilities.** At Closing, the Station Assets shall be transferred by Seller to Buyer free and clear of all debts, security interests, mortgages, trusts, claims, pledges, conditional sales agreements, equipment leases, and other liens, liabilities and encumbrances of every kind and nature ("Liens"), other than for taxes not yet due and payable, Liens that will be discharged prior to Closing and Buyer's obligations to perform on and after the Closing Date the obligations arising under the Assumed Contracts and other Station Assets ("Permitted Liens"). Buyer shall assume and undertake to pay, discharge and perform all obligations and liabilities relating to the Assumed Contracts and other Station Assets arising or occurring on or after the Closing. Buyer shall not assume (i) any obligations or liabilities under the Assumed Contracts or other Station Assets relating to the period prior to the Closing; (ii) any obligations or liabilities of Seller which are unrelated to the Station Assets being sold hereunder, (iii) any obligations or liabilities relating to employees of Seller (including any pension obligations or pension withdrawal liabilities), (iv) any obligations or liabilities relating to the Excluded Assets, (v) any federal, state or local franchise, income or other taxes of Seller, or (vi) any other obligations or liabilities of Seller.

1.4 **Purchase Price.**

(a) **Purchase Price.** The purchase price to be paid for the Station Assets will be Two Million Seven Hundred Fifty Thousand Dollars (\$2,750,000) (the "Purchase Price"), subject to the adjustments described below. Buyer shall pay the Purchase Price less the Escrow Amount to Seller by wire transfer of immediately available funds, at Closing.

(b) **Escrow Deposit.** Simultaneously with the execution and delivery of this Agreement, Buyer's parent, OTA Broadcasting, LLC ("OTA Parent") will deposit One Hundred Thirty-Seven Thousand Five Hundred Dollars (\$137,500) (the "Escrow Amount") of the Purchase Price into escrow. The Escrow Amount shall be held and disbursed by JP Morgan Chase Bank, National Association as the escrow agent (the "Escrow Agent") pursuant to the terms of an escrow agreement in the form attached hereto as Exhibit A (the "Escrow Agreement"). Any fees charged by the Escrow Agent shall be shared equally by Seller and OTA Parent. At the Closing, the Parties shall cause the Escrow Amount to be paid to Seller and all interest on the Escrow Amount to be paid to OTA Parent.

1.5 **Prorations.** The parties agree to prorate all expenses arising out of the operation of the Station which are incurred, accrued, or payable, as of 11:59 p.m. local time of the day preceding the Closing. The items to be prorated shall include, but not be limited to, power and utilities charges, FCC regulatory fees (based on the most recent publicly available information about the cost of such regulatory fees for the Station), real and personal property taxes upon the basis of the most recent tax bills and information available, security deposits, and similar prepaid and deferred items. The prorations shall, insofar as feasible, be determined and paid on the Closing Date, with final settlement and payment to be made within forty-five (45) days after the Closing Date.

1.6 **Allocation of Purchase Price.** Within sixty (60) days of the date hereof, Buyer and Seller shall negotiate in good faith an allocation of the Purchase Price to the assets acquired hereunder in a manner which complies with Section 1060 of the Internal Revenue Code of 1986, as

amended to the date hereof (the “Code”). Such allocation shall be used by Buyer and Seller in their respective filings with all taxing authorities.

ARTICLE 2: FCC CONSENT; CLOSING

2.1 **FCC Consent; Assignment Application.** Buyer and Seller shall prepare, execute, file, and vigorously prosecute an application to the FCC (the “Assignment Application”) requesting the FCC’s consent (the “FCC Consent”) to the assignment from Seller to Buyer of all FCC Authorizations pertaining to the Station. The Assignment Application shall be filed not later than ten (10) business days after the date of the execution of this Agreement. Buyer and Seller shall take all reasonable steps to cooperate with each other and with the FCC in order to secure such FCC Consent without delay and to promptly consummate the transaction contemplated in this Agreement. Buyer shall pay the FCC filing fees due in connection with the Assignment Application one-half of which fees shall be credited against the Purchase Price at the Closing. Each party shall be responsible for all of its other costs with respect to the preparation, filing and prosecution of the Assignment Application. Buyer and Seller shall promptly notify each other of, and provide copies of, all documents filed with or received from the FCC or any other governmental agency with respect to this Agreement, the Assignment Application or the transaction contemplated hereby. If Buyer or Seller becomes aware of any fact which would prevent or delay the FCC Consent or the Final Order (as defined in Section 2.2), it shall promptly notify the other Party.

2.2 **Closing Date; Closing Place.** The closing (the “Closing”) of the transaction contemplated in this Agreement shall occur on a date (the “Closing Date”) that is no more than ten (10) business days following the date (i) on which the FCC Consent shall have become a Final Order (as defined below) unless such requirement shall have been waived by Buyer in its sole discretion, and (ii) the other conditions to the Closing set forth in Articles 7 and 8 hereof shall have either been waived or satisfied; and Seller and Buyer agree to cooperate to the extent necessary to obtain the FCC’s extension of the effectiveness of the FCC Consent as may be required. For purposes of this Agreement, the term “Final Order” means action by the FCC consenting to the Assignment Application, and such consent shall not have been reversed, stayed, enjoined, set aside, annulled, or suspended, and with respect to which action no timely request for stay, petition for rehearing, petition for reconsideration, application for review, or notice of appeal is pending, and as to which the times for filing any such request, petition, application, notice, or appeal, or for reconsideration or review by the FCC on its own motion, shall have expired. The Closing shall be held at the offices of Buyer’s counsel or by exchange of documents via email, or as Seller and Buyer may agree.

2.3 **Assignment of Assumed Contracts at Closing.** In the event any Assumed Contract may not be assigned without the consent of any third party, and such consent has not been obtained as of the Closing, then such Assumed Contract will not be deemed assigned to Buyer until such third party consent is obtained. If consent is subsequently obtained or deemed obtained (by virtue of the passage of time) after Closing, such Assumed Contract shall be deemed assigned by Seller and assumed by Buyer pursuant to this Agreement as of the date of such consent without further action or writing by the Parties. Prior to obtaining any required consent, to the extent permitted by law, Seller agrees to equitably assign its rights in the Assumed Contract to Buyer

until such consent is obtained. In doing so, Buyer shall receive all benefits of such Assumed Contract and be obligated to pay any monies owned thereunder, and perform and comply with the terms of such Assumed Contract on Seller's behalf.

ARTICLE 3: REPRESENTATIONS AND WARRANTIES OF SELLER

Seller makes the following representations and warranties to Buyer:

3.1 **Organization and Authorization.** Seller is a limited liability company duly organized, validly existing, and in good standing under the laws of the Commonwealth of Pennsylvania. Seller has the legal power and authority to execute and deliver this Agreement and to consummate the transaction contemplated hereby. The execution and delivery of this Agreement and the consummation of the transaction contemplated hereby on Seller's part, have been duly and validly authorized by Seller and its owners, and no other actions on the part of Seller (or its owners) are necessary to authorize the execution and delivery of, or the performance of Seller's obligations under, this Agreement, or to consummate the transaction contemplated hereby. This Agreement has been duly and validly executed and delivered by Seller. This Agreement constitutes the legal, valid, and binding obligation of Seller enforceable in accordance with its terms, except as may be limited by bankruptcy, insolvency, or other laws affecting generally the enforcement of creditors' rights or the application of principles of equity. The person signing this Agreement on behalf of Seller is duly authorized to sign this Agreement on behalf of Seller.

3.2 **No Defaults.** The execution, delivery, and performance of this Agreement by Seller will not (i) constitute a violation of, or conflict with, Seller's organizational documents, (ii) 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 note, bond, mortgage, indenture, agreement, lease, or other instrument or obligation relating to the business of the Station and to which Seller or any of the Station Assets may be subject, (iii) violate any statute, regulation, order, injunction, or decree of any federal, state, or local governmental authority or agency which is applicable to Seller or any of the Station Assets, (iv) result in the creation or imposition of any Lien of any nature whatsoever upon any of the Station Assets or (v) require a notice to or the consent or approval of any governmental authority, lending institution, or other third party other than the FCC Consent and except as otherwise noted in Schedule 3.10 hereto.

3.3 **Tangible Personal Property.** Schedule 1.1(b) hereto contains a list of the material Tangible Personal Property owned by Seller that will be conveyed to Buyer. Seller owns and has, and will have on the Closing Date, good and marketable title to the Tangible Personal Property. Each material item of Tangible Personal Property (i) is in good condition and repair, ordinary wear and tear excepted, (ii) has been maintained in a manner substantially consistent with generally accepted standards of good engineering practice, and (iii) is operating in full compliance, in all material respects, with the FCC Authorizations and rules and regulations of the FCC and the FAA. The Building is being sold as is-where is with no warranties as to fitness or condition. Seller has full legal title to the Tower located on the Transmitter Site and the power to lease space on the Tower to Buyer on the terms provided in Section 8.9 herein without the prior consent of the owner of the Ground Lease or any other person or entity.

3.4 **Real Property.** Seller holds or will obtain prior to Closing full legal power and authority to enter into the Site Sublease and to enable Buyer to occupy the Office. The Transmitter Site and Office are the only real estate used in connection with the operation of the Station in the manner in which it is being operated. To the knowledge of Seller, there is no pending condemnation or similar proceeding affecting the Transmitter Site or Office. Seller's present use of the Office and Transmitter Site is in compliance with terms of all applicable zoning codes or other laws. All permanent certificates of occupancy and other consents and approvals required to be obtained by Seller for use of the Office and Transmitter Site from any governmental authority, association or board with jurisdiction over such premises has been issued and is in full force and effect.

3.5 **FCC Authorizations and Other Licenses.** Schedule 1.1(a) hereto contains a true and complete list of the FCC Authorizations and all other licenses, permits, construction permits, or other authorizations from governmental or regulatory authorities that are required for the lawful conduct of the business and operations of the Station in the manner and to the full extent that the Station is presently operated. Schedule 1.1(a) includes a true and complete list of all FCC authorizations, licenses, granted construction permits, and all pending applications for FCC licenses, permits, and authorizations applied for in connection with the operation of the Station. Except as listed on Schedule 1.1(a), the FCC Authorizations and other licenses are in full force and effect, unimpaired by any act or omission of Seller. Seller lawfully holds each of the FCC Authorizations and the other licenses, permits, and authorizations listed on Schedule 1.1(a), none of which is subject to any restrictions or conditions that would limit in any material respect the operations of the Station, other than (i) as may be set forth on the faces of such FCC Authorizations and other licenses, or (ii) as may be applicable to substantial segments of the Class A television broadcasting industry. Seller is operating the Station in all material respects in compliance with the FCC Authorizations, the Communications Act of 1934, as amended, and all regulations and published policies of the FCC (the "Communications Laws"). The Station is not causing objectionable interference to any other station. There is not now pending, or threatened, any action by or before the FCC to revoke, cancel, rescind, modify, or refuse to renew any of such FCC Authorizations. Seller has not received any notice of, and has no knowledge of, any pending, issued, or outstanding order by or before the FCC, or of any investigation, order to show cause, notice of violation, notice of apparent liability, notice of forfeiture, or material complaint against either the Station or Seller. There are no pending proceedings before the FCC regarding the Class A status of the Station, and there has been no notice of inquiry or order to show cause issued by the FCC regarding the Class A status of the Station. All material reports and filings required to be filed with the FCC by Seller with respect to the operation of the Station have been timely filed, and all such reports and filings are accurate and complete in all material respects. Seller maintains a public inspection file for the Station and such file complies with the Communications Laws in all material respects. The operations of the Station do not exceed permissible levels of exposure to non-ionizing electromagnetic radiofrequency ("RF") radiation specified in the FCC's rules and regulations concerning RF radiation. Except as set forth on Schedule 3.5, the Station has not been silent or operated on less than the required minimum schedule for a period of time of more than thirty (30) days during the current license term.

3.6 **Title Documents.** The instruments to be executed by Seller and delivered to Buyer at the Closing, conveying the Station Assets to Buyer, will transfer good and marketable title to the Station Assets, free and clear of all Liens other than Permitted Liens.

3.7 **Employees.** Seller is not a party or subject to any labor union or 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. Seller acknowledges and agrees that Buyer shall have no obligation to offer employment to any employee of Seller or the Station or any post-closing liability with respect to any such employee or for any such employee's benefits of any kind or nature, except to the extent that Buyer shall offer employment to any such employee and then only from and after the time at which such offer shall have been extended, and accepted by such employee, and subject to the terms and conditions thereof.

3.8 **Brokers.** There is no broker or finder or other person who would have any valid claim for a commission or a brokerage fee in connection with this Agreement or the transaction contemplated hereby as a result of any agreement, understanding, or action on the part of Seller.

3.9 **Litigation; Compliance with Law.** Seller is not subject to any order, writ, injunction, judgment, arbitration, decision, or decree having a binding effect and affecting the business of the Station or the Station Assets or which restrains or enjoins, or purports to restrain or enjoin, or could reasonably be expected to restrain or enjoin, the transaction contemplated hereby, and to Seller's knowledge no such proceeding is pending. There is no material litigation or administrative investigation or proceeding pending by or against, or, to Seller's knowledge, threatened against, Seller which relates to the Station or which could materially and adversely affect any of the Station Assets. Seller, with respect to the Station, has complied in all material respects with all applicable laws, regulations, orders, or decrees. The present uses by Seller of the Station Assets do not violate any such laws, regulations, orders, or decrees in any material respect, and Seller has no knowledge of any basis for any claim for compensation or damage or other relief from any violation of the foregoing.

3.10 **Approvals and Consents.** Except as described in Schedule 3.10 hereto, the execution, delivery and performance by Seller of this Agreement and the consummation of the transaction contemplated hereby will not require any consent, permit, license or approval of any person, entity or government or regulatory authority other than the FCC Consent. Any consents required for the assignment of Seller's rights and obligations under the Assumed Contracts are set forth on Schedule 3.10. In the event the Ground Lease requires Seller to obtain landlord consent before entering into the Site Sublease, then such consent shall be added as a required consent on Schedule 3.10.

3.11 **Insurance.** All of the material Station Assets that are insurable are insured against loss, injury, or damage at book value. In the event of any loss or damage to the Station Assets prior to Closing, any shortfall between insurance proceeds and replacement value will not excuse Seller's obligation to replace or repair Station Assets to the extent required to meet its delivery obligations to Buyer.

3.12 **Environmental Matters.** (i) Seller has not, in connection with its business or assets, generated, used, transported, treated, stored, released or disposed of, or to its knowledge, has suffered or knowingly permitted anyone else to generate, use transport, treat, store, release or dispose of any Hazardous Substance (as defined below) in violation of any applicable environmental law; (ii) there has not been any generation, use, transportation, treatment, storage, release or disposal of any Hazardous Substance in connection with the conduct of Seller's business which has created or might reasonably be expected to create any material liability under any applicable environmental law or which would require reporting to or notification of any governmental entity; (iii) to the knowledge of Seller no asbestos or polychlorinated biphenyl or underground storage tank is contained in or located at any facility used in connection with its business; and (iv) any Hazardous Substance handled or dealt with in any way in connection with Seller's business has been and is being handled or dealt with in all material respects in compliance with all applicable environmental laws. To Seller's knowledge, Seller and the Station are in compliance in all material respects with all environmental, health and safety laws applicable to leased real property included in the Station Assets. There is no action, suit or proceeding pending or, to Seller's knowledge, threatened against Seller or the Station that asserts that Seller or the Station has violated any environmental, health or safety laws applicable to such real property. Seller has provided Buyer with copies of any Phase I environmental assessments of leased real property included in the Station Assets. "Hazardous Substance" means substances that are defined or listed in, or otherwise classified pursuant to, any applicable laws as "hazardous substances," "hazardous materials," "hazardous wastes" or "toxic substances," or any other formulation of any applicable environmental law intended to define, list or classify substances by reason of deleterious properties such as ignitibility, corrosivity, reactivity, radioactivity, carcinogenicity, reproductive toxicity and petroleum and drilling fluids, produced waters and other wastes associated with the exploration, development, or production of crude oil, natural gas or geothermal energy.

3.13 **Taxes.** Seller has duly, timely, and in the required manner filed all federal, state, and local income, franchise, sales, use, property, excise, payroll, and other tax returns and forms required to be filed, and has paid in full or discharged all taxes, assessments, excises, interest, penalties, deficiencies, and losses required to be paid, that could impose liability upon Buyer. Seller has no knowledge of any event that has occurred which could impose upon Buyer any liability for any taxes, penalties, or interest due or to become due from Seller from any taxing authority, other than such taxes as arise from Buyer's operation of the Station and ownership of the Station Assets.

3.14 **Performance of Assumed Contracts.** Schedule 1.1(d) includes all contracts, agreements and leases that relate primarily to the operation of the Station or the ownership of the Station Assets (other than contracts for the sale of advertising time), including, without limitation,

all programming and film contracts, syndication contracts, national sales representation contracts, employment contracts, retransmission contracts, distribution contracts and network affiliation contracts, real property leases, income-producing leases and agreements. Seller has fully and timely performed all of its obligations pursuant to each of the Assumed Contracts and is not in material default or breach of any such agreements. Seller has not received notice from any party to any Assumed Contract that such party contends that it is in default or breach under any Assumed Contract. Each of the Assumed Contracts is in full force and effect; and, to the knowledge of Seller, there has not been, and is not, any default or breach under any Assumed Contract by the other party to any Assumed Contract. Except as set forth in Schedule 1.1(d) attached hereto, there have been no modifications, extensions, or amendments of any of the Assumed Contracts, whether oral or written, except as may be contemplated by this Agreement. Seller has not been notified by any other party to any Assumed Contract that such party has a present intent to terminate or not to renew any Assumed Contract. None of the Assumed Contracts included in the Station Assets has as the other party an entity controlled by Seller or any of Seller's owners.

3.15 **Sufficiency of Assets.** The Station Assets are sufficient for the conduct of the business and the operation of the Station as presently operated by Seller.

3.16 **Intellectual Property.** Seller owns or possesses, has valid licenses for or is an authorized user of all Computer Software (defined below), Intangible Property and Information Technology (defined below) necessary to carry on the Station's business as it is currently being operated by Seller. Seller has not received any notice of infringement of or conflict, or has any knowledge of any basis for any such claim, with asserted rights of others with respect to any intellectual property. As used herein, "Computer Software" means all computer software and databases (including source code, object code and all related documentation) and "Information Technology" means rights for use of the computers, Computer Software, firmware, middleware, servers, workstations, routers, hubs, switches, intra-office data communications lines, and all other information technology equipment and elements, and associated documentation, in each case, which are necessary for the operation of the Station, if any.

3.17 **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 Station 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.

3.18 **Accuracy of Representations and Statements.** No representation or warranty made by Seller in this Agreement, and no statement made in any certificate, document, exhibit, or schedule furnished or to be furnished by Seller in connection with the transactions herein contemplated, contains or will contain any untrue statement of a material fact or omits or will omit to state any material fact necessary to make such representation or warranty or any such statement not misleading to Buyer in the circumstance under which such representation, warranty, or statement was made.

ARTICLE 4: REPRESENTATIONS AND WARRANTIES OF BUYER

Buyer makes the following representations and warranties to Seller:

4.1 **Organization and Standing.** Buyer is a limited liability company duly organized, validly existing, and in good standing under the laws of the State of Delaware, and is qualified to do business in the Commonwealth of Pennsylvania.

4.2 **Authorization.** Buyer has the power and authority to execute and deliver this Agreement, and to consummate the transaction contemplated hereby. The execution and delivery of this Agreement and the consummation of the transaction contemplated hereby have been duly and validly authorized by Buyer, and no other proceedings on the part of Buyer are necessary to authorize the execution and delivery of, or the performance of Buyer's obligations under this Agreement, or to consummate the transaction contemplated hereby. This Agreement has been duly and validly executed and delivered by Buyer. This Agreement constitutes the legal, valid, and binding agreement of Buyer enforceable in accordance with its terms, except as may be limited by bankruptcy, insolvency, or other laws affecting generally the enforcement of creditors' rights or the application of principles of equity.

4.3 **No Defaults.** The execution, delivery, and performance of this Agreement by Buyer will not (i) conflict with or result in any breach of any provision of the certificate of formation, limited liability company agreement or other similar organizational documents of Buyer, or (ii) 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 note, bond, mortgage, indenture, agreement, lease, or other instrument or obligation relating to Buyer or its business, except for such defaults (or rights of termination, cancellation, or acceleration) or conflicts as to which requisite waivers or consents have been obtained and delivered to Seller, (iii) violate any statute, regulation, order, injunction, or decree of any federal, state, or local governmental authority or agency which is applicable to Buyer, or (iv) require the consent or approval of any governmental authority, lending institution, or other third party other than the FCC Consent.

4.4 **Buyer's Qualification.** Apart from the requirement to obtain the FCC Consent, Buyer is legally, financially, and technically qualified to acquire, and to become the FCC licensee of, the Station and to timely perform its obligations under this Agreement.

4.5 **Litigation.** Buyer is not subject to any order, writ, injunction, judgment, arbitration, decision, or decree having a binding effect and affecting the business of Buyer or which restrains or enjoins, or purports to restrain or enjoin, or could reasonably be expected to restrain or enjoin, the transaction contemplated hereby, and no such proceeding is pending. There is no material litigation pending by or against, or, to the knowledge of Buyer, threatened against Buyer, that would prevent or materially impede the consummation by Buyer of the transaction contemplated by this Agreement.

4.6 **Brokers.** Except for Media Venture Partners, LLC, there is no broker or finder or other person who would have any valid claim for a commission or a brokerage fee in connection

with this Agreement or the transaction contemplated hereby as a result of any agreement, understanding, or action on the part of Buyer. Buyer will pay the brokerage commission owed to Media Venture Partners, LLC.

4.7 **Accuracy of Representations and Statements.** No representation or warranty made by Buyer in this Agreement, and no statement made in any certificate, document, exhibit, or schedule furnished or to be furnished by Buyer in connection with the transactions herein contemplated, contains or will contain any untrue statement of a material fact or omits or will omit to state any material fact necessary to make such representation or warranty or any such statement not misleading to Seller in the circumstance under which such representation, warranty, or statement was made.

ARTICLE 5: COVENANTS OF SELLER

The following terms of this Article 5 shall apply from the Effective Date until the completion of the Closing (except as otherwise specified).

5.1 **Station Documents.** The records, files and other documents kept in connection with the Station shall be maintained by Seller in the usual and ordinary manner consistent with standard broadcast industry practice. Seller shall maintain the FCC Authorizations in accordance with their terms and in compliance in all material respects with all applicable laws, rules and regulations and all applicable FCC regulations and published policies. Seller shall maintain the FCC Authorizations in full force and effect and shall take all actions necessary to so maintain them, including but not limited to the timely filing and prosecution of any necessary modification or renewal applications of the FCC Authorizations or other submissions to the FCC.

5.2 **Maintenance of Station Assets.** Seller shall maintain the Station Assets in good working order consistent with standards of good engineering practice and will replace any of such property that is used or useful in the operation of the Station which shall be worn out, lost, stolen, or destroyed with like property of substantially equivalent kind and value.

5.3 **FCC Compliance.** Seller shall continue to operate and maintain the Station in accordance with the terms of the FCC Authorizations and in compliance with all applicable laws and FCC regulations and published policies. Seller will deliver to Buyer, promptly after filing, copies of any material reports, applications, or responses to the FCC, or any material communications from the FCC, or if from any other party directed to the FCC, promptly after receipt by Seller, related to the Station that are filed or received by Seller between the date of this Agreement and the Closing Date. Seller will not file any application with the FCC requesting authority to modify the Station's facilities without Buyer's prior written consent and Seller shall take all actions necessary to keep the FCC Authorizations, including all material permits and applications pending before the FCC, valid and in full force and effect. Seller shall promptly take all necessary or desirable action to obtain a grant of any required renewal application for the Station, including, but not limited to, negotiating and entering into a tolling agreement with the FCC if necessary.

5.4 **Operation of Station in Ordinary Course.** Except as otherwise provided in this Agreement or disclosed in writing to and approved in writing by Buyer, Seller shall operate the Station solely in the ordinary course of business and in accordance with past practice, and shall pay and perform all of its obligations with respect to the Station (including those required under the Assumed Contracts) in the ordinary course as such obligations become due. Seller shall not amend the Ground Lease or Assumed Contract without Buyer's written approval.

5.5 **Insurance.** Seller shall maintain in full force and effect through the Closing Date its existing property damage, liability, and other insurance with respect to the Station Assets.

5.6 **Disposition of Assets.** Prior to the Closing Date, Seller shall not, without the prior written consent of Buyer, sell, lease, or transfer, or agree to sell, lease, or transfer, any of the Station Assets without replacement thereof with an asset of equivalent kind, condition, and value that satisfies industry standards for such assets, nor create any new Lien on the Station Assets other than Permitted Liens and Liens arising pursuant to, and in accordance with the terms of, this Agreement.

5.7 **Compliance with Law.** Seller shall comply in all material respects with all federal, state, and local laws, rules and regulations in connection with the operation of the Station.

5.8 **Access to Facilities, Files and Records.** At the request of Buyer, Seller shall from time to time give or cause to be given to Buyer full access during normal business hours to the Station Assets, and all accounts, books, insurance policies, licenses, agreements, contracts and equipment with respect to the Station; provided, however, that all such access shall require the express consent of Seller and shall be scheduled in a manner reasonably acceptable to Seller.

5.9 **Representations and Warranties and Covenants.** Seller shall give detailed written notice to Buyer promptly upon learning of the occurrence of any event that would cause or constitute a breach, or that would have caused a breach had such event occurred or been known to Seller prior to the Effective Date, of any of the representations, warranties or covenants contained in this Agreement. Seller shall use commercially reasonable efforts to cure any such event. Updates provided in order to comply with the covenant in this Section 5.9 will not have any impact on Buyer's Conditions to Closing or serve to limit Buyer's right to indemnification hereunder.

5.10 **Consummation of Agreement.** Seller shall use all 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 in accordance with its terms.

5.11 **Employees.** Buyer shall have no obligation to offer employment to any employee of Seller or the Station. Buyer shall have no liability with respect to any such employee or for any such employee's benefits of any kind or nature, except to the extent that Buyer shall offer employment to any such employee and then only from and after the time at which such offer shall have been extended, and accepted by such employee, and subject to the terms and conditions thereof.

ARTICLE 6: COVENANTS OF BUYER

Buyer covenants and agrees that from the Effective Date until the completion of the Closing:

6.1 **Representations and Warranties and Covenants.** Buyer shall give detailed written notice to Seller promptly upon learning of the occurrence of any event that would cause or constitute a breach or would have caused a breach had such event occurred or been known to Buyer prior to the Effective Date, of any of the representations, warranties or covenants of Buyer contained in this Agreement. Buyer shall use commercially reasonable efforts to cure any such event. Updates provided in order to comply with the covenant in this Section 6.1 will not have any impact on Seller's Conditions to Closing or serve to limit Seller's right to indemnification hereunder.

6.2 **Consummation of Agreement.** Buyer shall use all 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.

ARTICLE 7: CONDITIONS TO THE OBLIGATIONS OF SELLER

The obligations of Seller under this Agreement are subject to the fulfillment of the following conditions prior to or on the Closing Date.

7.1 **Representations, Warranties and Covenants.**

(a) Each of the representations and warranties of Buyer contained in this Agreement was true and correct as of the date when made and is deemed to be made again on and as of the Closing Date and is then true and correct.

(b) Buyer shall have performed and complied 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.

7.2 **Proceedings.** Neither Seller nor Buyer is subject to any restraining order or injunction (or similar action) and no action is pending which would restrain or prohibit the consummation of the transaction contemplated hereby.

7.3 **FCC Authorizations.** The FCC Consent has been issued by the FCC with no conditions materially adverse to Seller.

7.4 **Deliveries.** Buyer has complied with each and every one of its obligations set forth in Section 9.2.

ARTICLE 8: CONDITIONS TO THE OBLIGATIONS OF BUYER

The obligations of Buyer under this Agreement are subject to the fulfillment of the following conditions prior to or on the Closing Date.

8.1 Representations, Warranties and Covenants.

(a) Each of the representations and warranties of Seller contained in this Agreement was true and correct as of the date when made and is deemed to be made again on and as of the Closing Date and is then true and correct.

(b) Seller shall have performed and complied 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.

8.2 Proceedings. Neither Seller nor Buyer is subject to any restraining order or injunction (or similar action) and no action is pending which would restrain or prohibit the consummation of the transaction contemplated hereby.

8.3 FCC Authorizations. The FCC Consent has been issued by the FCC and shall have become a Final Order.

8.4 Absence of Any Material Adverse Change. There shall have been no material adverse change in the Station Assets, or in the business, operations or condition of the Station.

8.5 Due Diligence Issues. Any environmental or engineering issues identified in Buyer's due diligence investigation of the Station and reported to Seller in writing prior to execution of this Agreement shall have been remedied to Buyer's satisfaction, in its sole discretion.

8.6 Deliveries. Seller has complied with each and every one of the obligations set forth in Section 9.1.

8.7 Required Consents. Contracts noted with an asterisk (*) on Schedule 3.10, shall be deemed "Required Consents." Seller shall have obtained and delivered to Buyer all of the Required Consents, if any, described in Schedule 3.10

8.8 Transition and Services Agreement. At Closing, Buyer and Seller will enter into a transition and services agreement ("Transition Services Agreement") having the essential terms set forth in Schedule 8.8 pursuant to which Seller will (i) lease a portion of Seller's current Office to Buyer for use as the "main studio" for the Station post-Closing and (ii) provide certain other services, as described in Paragraph 1.2(j). The terms of the Transition Services Agreement will be mutually agreed to by the Parties prior to Closing.

8.9 Site Sublease. At the Closing, Buyer and Seller shall execute a sublease agreement pursuant to which Seller will permit Buyer to use the Station's existing Transmitter Site and the Tower for a period of five (5) years from the Closing Date (the "Site Sublease"). Buyer

acknowledges that the Seller leases the Transmitter Site from the Department of Conservation and Natural Resources of the Commonwealth of Pennsylvania pursuant to that certain Lease Agreement FM-5927 (the "Ground Lease"). The Site Sublease shall require a monthly rental of Five Hundred Dollars (\$500) and shall require the Buyer to pay its own utilities. Seller agrees to perform routine maintenance on the Transmitter Site at no charge to Buyer during the first six (6) months of the Site Sublease. Buyer will be responsible to perform routine maintenance at the Transmitter Site for each month of the Site Sublease term thereafter. Notwithstanding the foregoing, any new tenant who leases space at the Transmitter Site or on the Tower such shall be obligated to (i) ensure its operations do not cause objectionable interference to the Station's broadcast operations and (ii) share the maintenance and any other operational expenses paid by Buyer for its use of the Transmitter Site.

8.10 **Liens.** No Liens shall exist or have been filed or recorded against the Station Assets in the public records of the Secretary of State of Seller's state of formation or in any other jurisdiction in which the Station Assets are located that is not fully discharged on the Closing Date. Duly executed UCC releases, mortgage terminations or other similar documents or instruments required to transfer the Station Assets free and clear of Liens (other than Permitted Liens) shall have been delivered by Seller.

ARTICLE 9: ITEMS TO BE DELIVERED AT CLOSING

9.1 **Deliveries by Seller.** At Closing, Seller shall deliver to Buyer, duly executed by Seller or such other signatory as may be required by the nature of the document:

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

(b) a bill of sale sufficient to sell, convey, transfer and assign the Tangible Personal Property, the Building and all other assets included in the Station Assets (other than the FCC Authorizations and Assumed Contracts) to Buyer free and clear of any Liens, in a form reasonably acceptable to Buyer and Seller (the "Bill of Sale");

(c) an assignment and assumption agreement sufficient to sell, convey, transfer and assign the Assumed Contracts to Buyer free and clear of any Liens, in a form reasonably acceptable to Buyer and Seller (the "Assignment and Assumption Agreement");

(d) an assignment and assumption agreement sufficient to assign the FCC Authorizations (including the Station's call letters) to Buyer, in a form reasonably acceptable to Buyer and Seller (the "FCC Authorizations Assignment and Assumption Agreement");

(e) assignment and assumption instruments sufficient to assign the Intangible Property from Seller to Buyer (including any trademarks registered with the United States Patent and Trademark Office and domain name transfers assigning the Station's domain names (if any) included in the Intangible Property) (collectively the "Intangible Property Assignment Documents");

- (f) the Transition Services Agreement;
- (g) the Required Consents described in Schedule 3.10;
- (h) the Site Sublease;
- (i) executed releases, in suitable form for filing and otherwise in form and substance reasonably satisfactory to Buyer, of any security interests granted in the Station Assets as security for payment of loans and other obligations and of any other Liens (other than Permitted Liens);
- (j) certified copies of appropriate resolutions, duly adopted, which shall be in full force and effect at the time of the Closing, authorizing the execution, delivery and performance by Seller of this Agreement, and the consummation of the transaction contemplated hereby; and
- (k) any other documents and instruments of conveyance, assignment and transfer that may be reasonably requested by Buyer to convey, transfer and assign the Station Assets to Buyer, free and clear of Liens, except for Permitted Liens.

9.2 **Deliveries by Buyer.** At the Closing, Buyer shall deliver to Seller, duly executed by Buyer or such other signatory as may be required by the nature of the document:

- (a) a certificate for Buyer, dated as of the Closing Date, executed by an officer or other authorized representative of Buyer, certifying on behalf of Buyer that the closing conditions specified in Sections 7.1(a) and (b) have been satisfied;
- (b) the payment of the Purchase Price in accordance with Section 1.4;
- (c) the Site Sublease;
- (d) the Assignment and Assumption Agreement;
- (e) the FCC Authorizations Assignment and Assumption Agreement;
- (f) the Intangible Property Assignment Documents;
- (g) the Transition Services Agreement;
- (h) certified copies of resolutions, duly adopted, which shall be in full force and effect at the time of the Closing, authorizing the execution, delivery and performance by Buyer of this Agreement, and the consummation of the transaction contemplated hereby; and
- (i) any other documents and instruments of assumption that may be reasonably necessary to effectuate the Closing on the terms provided in this Agreement.

ARTICLE 10: SURVIVAL AND INDEMNITY

The rights and obligations of Buyer and Seller under this Agreement shall be subject to the following terms and conditions:

10.1 **Survival of Representations and Warranties.** The representations and warranties of Buyer and Seller contained in this Agreement shall survive the Closing for eighteen (18) months from the Closing Date whereupon they shall expire and be of no further force or effect, except (i) those under Section 3.12, (Environmental) and Section 3.13 (Taxes), and those under Sections 3.1 and 3.6 solely with respect to title, all of which shall survive until the expiration of any applicable statute of limitations, and (ii) that if within such applicable period the Indemnified Party gives the Indemnifying Party written notice of a claim for breach thereof describing in reasonable detail the nature and basis of such claim, then such claim shall survive until the earlier of resolution of such claim or expiration of the applicable statute of limitations. The covenants and agreements in this Agreement shall survive Closing until performed.

10.2 **General Agreement to Indemnify.**

(a) Seller on the one hand, and Buyer on the other hand, shall indemnify, defend and hold harmless each other and any employee, representative, agent, director, officer, affiliate or permitted assign of each other (each, an "Indemnified Party") from and against any and all claims, actions, suits, proceedings, liabilities, obligations, losses and damages, amounts paid in settlement, interest, costs and expenses (including reasonable attorneys' fees, court costs and other out-of-pocket expenses incurred in investigating, preparing or defending the foregoing) (collectively, "Losses") asserted against, incurred or suffered by any Indemnified Party as a result of, arising out of or relating to: (i) the failure of any representation or warranty of the Indemnifying Party (defined below) made in the Agreement to have been true and correct when made or as of the Closing Date as though such representation or warranty were made at and as of the Closing Date; or (ii) the breach by the Indemnifying Party of any covenant or agreement of such party contained in this Agreement or any collateral agreement to the extent not waived by the other Party hereto. The term "Losses" is expressly limited to such Indemnified Party's actual out-of-pocket costs and expenses and does not and shall not include consequential or punitive damages unless paid in satisfaction of a Third Party Claim (defined below). Purchase Price Adjustments made pursuant to Section 1.5 of this Agreement shall not be included in any calculation of any Indemnified Party's total "Losses" for purposes of meeting the Loss threshold provided in Section 10.4

(b) Seller further agrees to indemnify and hold harmless Buyer and any other Indemnified Party of Buyer from and against any Losses asserted against, incurred or suffered by Buyer or any other Indemnified Party of Buyer arising out of, resulting from, or relating to the operation of the Station and/or the ownership of the Station Assets prior to the Closing.

(c) Buyer further agrees to indemnify and hold harmless Seller and any other Indemnified Party of Seller from and against any Losses asserted against, incurred or suffered by Seller or any other Indemnified Party of Seller arising out of, resulting from, or relating to the operation of the Station and/or the Station Assets from and after the Closing.

10.3 General Procedures for Indemnification.

(a) The Indemnified Party seeking indemnification under this Agreement shall promptly notify in writing the party or parties against whom indemnification is sought (the "Indemnifying Party") of the assertion and basis of any claim, or the commencement and basis of any action, suit or proceeding by any third party in respect of which indemnity may be sought hereunder (a "Third Party Claim") and will give the Indemnifying Party such information with respect thereto as the Indemnifying Party may reasonably request, but failure to give such notice shall not relieve the Indemnifying Party of any liability hereunder (unless the Indemnifying Party has suffered material prejudice by such failure). The Indemnifying Party shall have the right, but not the obligation, exercisable by written notice to the Indemnified Party within thirty (30) days of receipt of notice from the Indemnified Party of the commencement of a Third Party Claim, to assume the defense and control the settlement of such Third Party Claim that involves (and continues to involve) solely money damages; provided, however, that prior to assuming any claim defense, the Indemnifying Party must show the other Party that they have the financial ability to pay out any potential monetary claim before they are allowed to assume its defense. Failure by the Indemnifying Party to so notify the Indemnified Party shall be deemed a waiver by the Indemnifying Party of its right to assume the defense of such claim.

(b) Whether or not the Indemnifying Party chooses to defend or prosecute any Third Party Claim, the parties hereto shall cooperate in the defense or prosecution thereof and shall furnish such records, information and testimony, and attend such conferences, discovery proceedings, hearings, trials and appeals, as may be reasonably requested in connection therewith.

(c) The Indemnifying Party or the Indemnified Party, as the case may be, shall have the right to participate in (but not control), at its own expense, the defense of any Third Party Claim that the other is defending, as provided in this Agreement, provided that the Indemnifying Party shall pay the cost of defense of both parties by separate counsel if a conflict of interest precludes common representation.

(d) The Indemnifying Party, if it has assumed the defense of any Third Party Claim as provided in this Agreement, shall not consent to, or enter into, any compromise or settlement of, or consent to the entry of any judgment arising from, any such Third Party Claim (which compromise, settlement, or judgment: (i) commits the Indemnified Party to take, or to forbear to take, any action; or (ii) does not provide for a complete release by such Third Party of the Indemnified Party) without the Indemnified Party's prior written consent. If the conditions set forth herein are met but the Indemnified Party refused to settle any Third Party Claim, the Indemnifying Party may tender the settlement amount and be relieved of further liability.

(e) The Indemnifying Party shall not be entitled to require that any action be brought against any other person before action is brought against it hereunder by the Indemnified Party, but shall be subrogated to any right of action to the extent that it has paid or successfully defended against any Third Party Claim.

10.4 Limitations. Neither Party shall be required to indemnify the other Party under this Article 10 unless (i) written notice of a claim under this Article 10 was received by a Party

within eighteen (18) months following the Closing, and (ii) the aggregate claim for Losses exceeds \$15,000, after which the claimant shall be entitled to recover only such portion of the Losses that exceed such amount. In calculating the amount of Losses to Buyer or Seller under Section 10.2 above, such Losses shall be reduced by any recovery from any third party (including insurance proceeds) as a result of the facts or circumstances giving rise to the Losses. The limitations set forth in this Section 10.4 shall not apply to Third Party Claims against a Party entitled to indemnification under Sections 10.2(b) or (c). The right to indemnification or any other remedy based on representations, warranties, covenants and agreements in this Agreement shall not be affected by any investigation conducted at any time, or any knowledge acquired (or capable of being acquired) at any time, whether before or after the execution and delivery of this Agreement, with respect to the accuracy or inaccuracy of or compliance with, any such representation, warranty, covenant or agreement, waiver of any condition based on the accuracy of any representation or warranty, or on the performance of or compliance with any such covenant or agreements, will not affect the right to indemnification or any other remedy based on such representations, warranties, covenants and agreements.

10.5 **Exclusive Remedy**. The right to indemnification, defense, hold harmless, payment or reimbursement provided in this Article 10 will be the exclusive remedy of any Party with respect to Losses after the Closing with respect to the transaction contemplated by this Agreement.

ARTICLE 11: TERMINATION

11.1 **Termination**. This Agreement may be terminated at any time prior to Closing:

- (a) by the mutual written consent of Seller and Buyer;
- (b) by written notice of Seller to Buyer if Buyer: (i) does not satisfy the conditions or perform the obligations to be satisfied or performed by Buyer on or before the Closing Date in any material respect; (ii) breaches in any material respect any of Buyer's representations or warranties; or (iii) defaults in any material respect in the performance of any of Buyer's covenants or agreements under this Agreement; and in any of which events such breach or default is not cured within the Cure Period (as defined below), if applicable;
- (c) by written notice of Buyer to Seller if Seller: (i) does not satisfy the conditions or perform the obligations to be satisfied or performed by Seller on or before the Closing Date in any material respect; (ii) breaches in any material respect any of Seller's representations or warranties; or (iii) defaults in any material respect in the performance of any of Seller's covenants or agreements under this Agreement; and in any of which events such breach or default is not cured within the Cure Period (as defined below), if applicable;
- (d) by Buyer as provided in Section 12.6 (Risk of Loss);
- (e) by written notice of Seller to Buyer, or Buyer to Seller: (i) if the Closing has not been consummated within eighteen (18) months of the Effective Date of this Agreement; (ii) if, for any reason, the FCC denies or dismisses the Assignment Application and the time for reconsideration or court review under the Communications Act with respect to such denial or

dismissal has expired and there is not then pending with respect thereto a timely filed petition for reconsideration or request for review; or (iii) if, for any reason, the Assignment Application is designated for an evidentiary hearing, provided, however, that the right to terminate this Agreement under this clause (e) shall not be available to any Party whose breach of this Agreement has been the cause of, or resulted in, the failure of the Closing to occur on or before such date;

11.2 **Cure Period.** The term “Cure Period” as used herein means a period commencing with the date that Buyer or Seller receives from the other Party written notice of breach or default hereunder and continuing until thirty (30) days thereafter; provided, however, that if the breach or default cannot reasonably be cured within such period but can be cured before the Closing Date, and if diligent efforts to cure promptly commence, then the Cure Period shall continue as long as such diligent efforts to cure continue, but not beyond the Closing Date; and provided, further, that no cure period shall apply to the Buyer’s failure to timely comply with the provisions of paragraph 9.2(b). Except as set forth below, the termination of this Agreement shall not relieve any Party of any liability for breach or default under this Agreement prior to the date of termination.

11.3 **Liability; Right to Terminate.** A termination of this Agreement shall not relieve any Party hereto of any liability for which it otherwise would be subject. Notwithstanding anything in this Agreement to the contrary, no Party that is in material breach of this Agreement shall be entitled to terminate this Agreement except with the written consent of the other Party.

11.4 **Payment of Escrow Amount.**

(a) **Buyer’s Default.** Upon a termination of this Agreement by Seller pursuant to Section 11.1(b) above due to a breach by Buyer of any of its material obligations under this Agreement, Seller’s sole remedy shall be delivery of the Escrow Amount, including all interest earned thereon, from the Escrow Agent, as liquidated damages. Seller and Buyer each acknowledge that these liquidated damages are reasonable in light of the anticipated harm that would be caused by Buyer’s breach of any of its material obligations under this Agreement and the difficulty of ascertaining damages and proof of loss and that these damages are not a penalty.

(b) **Seller’s Default.** Upon a termination of this Agreement by Buyer pursuant to Section 11.1(c) due to a breach by Seller of any of its material obligations under this Agreement, Buyer may terminate this Agreement and shall be entitled, in addition to the return of the Escrow Amount (and all accrued interest thereon) from the Escrow Agent, to receive upon such termination, as liquidated damages and not as penalty, the sum of One Hundred Thirty-Seven Thousand Five Hundred Dollars (\$137,500) (the “Liquidated Damages Amount”). Instead of terminating this Agreement, upon a default by Seller, Buyer may seek specific performance as provided in Section 11(d) below.

(c) **Other Termination.** Upon a termination of this Agreement for any reason other than as a result of a breach by either Party of its material obligations under this Agreement, Buyer shall be entitled to the return of the Escrow Amount from the Escrow Agent including all interest earned thereon, and thereafter neither Party shall have any further obligation to the other under this Agreement.

(d) **Specific Performance.** Seller acknowledges that the Station is a unique asset not readily obtainable on the open market and that, in the event that Seller fails to perform its obligation to consummate the transaction contemplated hereby, money damages alone will not be adequate to compensate Buyer for its injury. Therefore, Seller agrees and acknowledges that in the event of Seller's failure to perform its obligation to consummate the transaction contemplated hereby, Buyer shall be entitled to specific performance of the terms of this Agreement and of Seller's obligation to consummate the transaction contemplated hereby. If any action is brought by Buyer to enforce this Agreement, Seller shall waive the defense that there is an adequate remedy at law, and the prevailing party in litigation shall be entitled to receive from the non-prevailing party all court costs, attorney's fees and other out-of-pocket expenses incurred by the prevailing party in enforcing or defending its rights under this provision.

ARTICLE 12: MISCELLANEOUS

12.1 **Governing Law.** The construction and interpretation of this Agreement shall at all times and in all respects be governed by the laws of the Commonwealth of Pennsylvania (exclusive of those relating to conflicts of laws). Any action at law, suit in equity or judicial proceeding arising directly, indirectly, or otherwise in connection with, out of, related to or from this Agreement, or any provision hereof, shall be litigated only in the courts of the Commonwealth of Pennsylvania in Allegheny County or federal courts in the Western District of Pennsylvania. The Parties hereby consent to the personal and subject matter jurisdiction of such courts and waive any right to transfer or change the venue of any litigation between them.

12.2 **Expenses; Taxes.** Except as provided in Section 2.1 and in this Section 12.2, each Party hereto shall bear all of its expenses incurred in connection with the transaction contemplated by this Agreement, including without limitation, accounting, engineering and legal fees incurred in connection herewith. Any state or local sales, use, stamp or transfer taxes and other similar taxes payable in connection with consummation of the transactions contemplated herein shall be paid by Buyer.

12.3 **Entire Agreement; Amendment; No Waiver.** This Agreement, including the schedules and exhibits hereto, contain the entire agreement and understanding by and between the Parties, and no other representations, promises, agreements, or understanding, written or oral, not contained herein shall be of any force or effect, the terms of which are superseded and replaced by this Agreement. This Agreement may only be amended in a writing signed by the Parties. No oral agreement shall have any effect. No failure or delay in exercising any right hereunder shall be deemed or construed to be a waiver of such right, either prospectively or in the particular instance. This Agreement has been prepared by all of the Parties hereto, and no inference of ambiguity against the drafter of a document therefore applies against any Party hereto.

12.4 **Confidentiality.** Except for information about the Station and the Station Assets acquired by Buyer at Closing and except where such information is known through other lawful sources or where its disclosure is required in accordance with applicable law, including requirements of the FCC pursuant to the Assignment Application, Buyer and Seller shall keep confidential all information obtained by it with respect to the other Party in connection with this Agreement. If the transaction contemplated hereby is not consummated for any reason, Buyer and

Seller shall return to each other or destroy, without retaining a copy thereof in any medium whatsoever, any schedules, documents or other written information, including all financial information, obtained from the other in connection with this Agreement and the transaction contemplated hereby.

12.5 **Public Announcements.**

(a) Prior to the Closing Date, no Party shall, without the approval of the other Party hereto, make any press release or other public announcement concerning the transaction contemplated by this Agreement, except to the extent that such Party shall be so obligated by law, in which case such Party shall give advance notice to the other Party and the Parties shall use their best efforts to cause a mutually agreeable release or announcement to be issued.

(b) Notwithstanding the foregoing, the Parties acknowledge that the rules and regulations of the FCC require that local public notice of the transaction contemplated by this Agreement be made after the Assignment Application has been filed with the FCC and that a copy of this Agreement be included as a material part of the Assignment Application, which will be made available for public inspection at the Station and in the FCC's records. The form and substance of the required public notice, to the extent not dictated by the rules and regulations of the FCC, shall be mutually agreed upon by Seller and Buyer.

12.6 **Risk of Loss.** The risk of loss to any of the Station Assets on or prior to the Closing Date shall be upon Seller. Seller shall use all commercially reasonable efforts to repair or replace any damaged or lost Station Asset; provided, however, that in the event that the Station or any Station Asset incurs damages which is expected to exceed Twenty-Five Thousand Dollars (\$25,000) to repair or if any Station Asset having a fair market value of Twenty-Five Thousand Dollars (\$25,000), or more, is lost as of the date otherwise scheduled for the Closing, then Buyer may, at its option, upon prior written notice to Seller, either (i) postpone the Closing for a period of up to sixty (60) days while Seller shall repair or replace such Station Asset, (ii) elect to close the transaction contemplated herein with the Station or Station Asset in its damaged or lost condition, in which case Seller shall assign to Buyer all proceeds of insurance on the Station or on such damaged or lost Station Asset, and Buyer shall have the responsibility to repair the Station and/or replace the Station Asset, or (iii) if such damage or loss exceeds One Hundred Thousand Dollars (\$100,000), may terminate this Agreement without penalty upon written notice to Seller. Should the Station not operate with at least 80% of its full, FCC-licensed facilities for a period of sixty (60) consecutive days, without appropriate notice or application to the FCC, and for reasons other than *force majeure*, Buyer may elect to terminate this Agreement without penalty upon giving written notice thereof to Seller.

12.7 **Successors and Assigns.** Except as otherwise expressly provided herein, this Agreement shall be binding upon and inure to the benefit of the Parties hereto, and their respective representatives, heirs, successors and assigns. Seller may not assign this Agreement or any part hereof without the prior written consent of Buyer, which shall not be withheld unreasonably, and any attempted assignment without such consent shall be void. Buyer may not assign this Agreement or any part hereof without the prior written consent of Seller, which shall not be withheld unreasonably. In the event of any assignment of this Agreement, the assignee shall enter

into a written agreement accepting joint and several liability for all obligations under this Agreement.

12.8 **Notices.** All notices, requests, demands and other communications required or permitted under this Agreement shall be in writing (which shall include notice by facsimile transmission) and shall be deemed to have been duly made and received when personally served, or when delivered by Federal Express or a similar overnight courier service, expenses prepaid, or, if sent by facsimile communications equipment, delivered by such equipment with a confirmation answerback, addressed as set forth below:

If to **Seller**, then to:

Triple J Community Broadcasting LLC
1059 E. 10th Street
Hazleton, PA 18202
Attn: Joseph Gans, Manager

and to (which shall not constitute notice):

Peter Gutmann, Esq.
Womble Carlyle Sandridge & Rice, LLP
1200 19th Street, NW, Fifth Floor
Washington, DC 20036
Facsimile: (202) 261-0032

If to **Buyer**, then to:

OTA Broadcasting (PIT), LLC
3201 Jermantown Road
Suite # 380
Fairfax, Virginia 22030
Attention: Bill Tolpegin
Facsimile: (800) 827-5078

and to (which shall not constitute notice):

Paige Fronabarger
Wilkinson Barker Knauer, LLP
2300 N Street, NW, Suite 700
Washington, DC 20037
Fax: (202) 783-5851

Any Party may change the address to which communications are to be sent by giving notice of such change of address in conformity with the provisions of this Section 12.8 providing for the giving of notice.

12.9 **Further Assurances.** From time to time prior to, on and after the Closing Date, each Party hereto will execute all such instruments and take all such actions as any other party shall reasonably request, without payment of further consideration, in connection with carrying out and effectuating the intent and purpose hereof and all transactions contemplated by this Agreement, including without limitation the execution and delivery of any and all confirmatory and other instruments in addition to those to be delivered on the Closing Date, and any and all actions which may reasonably be necessary to complete the transaction contemplated hereby. The Parties shall cooperate fully with each other and with their respective counsel and accountants in connection with any steps required to be taken as part of their respective obligations under this Agreement.

12.10 **Partial Invalidity.** Wherever possible, each provision hereof shall be interpreted in such manner as to be effective and valid under applicable law, but in case any provision contained herein, or its application to any particular circumstance shall, for any reason, be held to be invalid or unenforceable by the FCC or a court of competent jurisdiction, such provision or such application shall be ineffective to the extent of such invalidity or unenforceability in such jurisdiction, without invalidating the remainder of such provision or any other provisions hereof, or its application in any other circumstance, unless such a construction would be unreasonable, and without invalidating such provision or its application in any other jurisdiction.

12.11 **Facsimile; Counterparts.** This Agreement may be executed in separate counterparts, each of which shall be deemed to be an original and all of which together constitute one and the same agreement. Facsimile and .pdf signatures to this Agreement shall be acceptable and binding.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

SIGNATURE PAGE TO ASSET PURCHASE AGREEMENT

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

SELLER:

TRIPLE J COMMUNITY BROADCASTING LLC

By: 
Name: Joseph Gans
Title: Manager

BUYER:

OTA BROADCASTING (PIT), LLC

By: _____
Name: Bill Tolpegin
Title: President and Chief Executive Officer

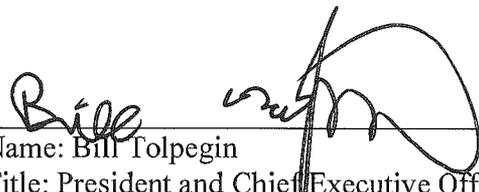
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SELLER: **TRIPLE J COMMUNITY BROADCASTING LLC**

By: _____
Name: Joseph Gans
Title: Manager

BUYER: **OTA BROADCASTING (PIT), LLC**

By:  _____
Name: Bill Tolpegin
Title: President and Chief Executive Officer

EXHIBITS

Exhibit A Escrow Agreement

SCHEDULES

- 1.1(a) FCC & Other Governmental Authorizations
- 1.1(b) Tangible Personal Property
- 1.1(d) Assumed Contracts
- 1.1(e) Intangible Property
- 1.2(f) Additional Excluded Assets
- 3.5 Non-Compliance/Silent Operations
- 3.10 Required Consents
- 8.8 Transition Service Agreement Terms

Schedule 1.1(a)
FCC & Other Governmental Authorizations

FCC Authorizations

FCC Class A Television Broadcast Station License for W24BB, East Stroudsburg, PA (File No. BLTTA-20010712ABM, converting the facilities of BLTTL-19911219JM to Class A status)

FCC Renewal Authorization for W24BB, East Stroudsburg, PA (File No. BRTTA-20070328AAX; expiring August 1, 2015)

Other Governmental Authorizations

None

Schedule 8.8

Terms for Transition Services Agreement

At Closing, Seller and Buyer will enter into a Transition Services Agreement which will have the following essential terms:

- For a period of not less than six (6) months from the Closing Date, at no charge to Buyer, Seller will lease a portion of Seller's current Office to Buyer for use as the Station's "main studio." The space provided shall be sufficient for use by the Station's manager along with another shared additional employee. Seller shall also permit Buyer to utilize the Office Equipment to the extent reasonably necessary to comply with Buyer's obligations as an FCC licensee. Buyer shall only use the Office space to operate the Station's studio in the ordinary course. Buyer shall hold Seller harmless for any damage caused to the Office or the Office Equipment by Buyer's employees or those under its or their control. Should Buyer wish to occupy the Office beyond six (6) months after the Closing, then Buyer and Seller shall negotiate in good faith a lease upon commercially reasonable terms.