

**ASSET PURCHASE AGREEMENT**

**BY AND AMONG**

**DIVERSIFIED COMMUNICATIONS AND  
GRAND STRAND COMMUNICATIONS**

**AS SELLERS**

**AND**

**BARRINGTON BROADCASTING SOUTH CAROLINA CORPORATION  
AS BUYER**

**IN RESPECT OF WPDE-TV AND WWMB-TV, FLORENCE, SOUTH CAROLINA**

**AND**

**CERTAIN RELATED ASSETS**

**DATED AS OF JULY 19, 2005**

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## ASSET PURCHASE AGREEMENT

THIS ASSET PURCHASE AGREEMENT (this “**Agreement**”) is made as of July 19, 2005 (the “**Effective Date**”), by and between Diversified Communications, a Maine corporation (“**Diversified**”), Grand Strand Communications, a Maine corporation (“**Grand Strand**,” and together with Diversified, the “**Sellers**” and each, a “**Seller**”), and Barrington Broadcasting South Carolina Corporation, a Delaware corporation (“**Buyer**”).

### WITNESSETH:

**WHEREAS**, Sellers own and operate, and Grand Strand is the licensee of, television station WPDE-TV, Florence, South Carolina (the “**Owned Station**”) and Sellers own certain other assets that relate to the Owned Station; and

**WHEREAS**, Sellers (i) provide over-the-air programming and other services for television station WWMB-TV, Florence, South Carolina (the “**Brokered Station**,” and together with the Owned Station, the “**Stations**” and each, a “**Station**”) pursuant to the Time Brokerage Agreement, and (ii) hold certain assets relating to the Brokered Station in connection with services provided under the Time Brokerage Agreement;

**WHEREAS**, simultaneously with the execution of this Agreement, Diversified and Atlantic are entering into the Atlantic Purchase Agreement pursuant to which Diversified will purchase from Atlantic the Atlantic Assets, including the acquisition by Grand Strand, as assignee of certain rights and interests of Diversified in the Atlantic Assets under the Atlantic Purchase Agreement, of the rights and interests of Atlantic in and to the Time Brokerage Agreement;

**WHEREAS**, this Agreement contemplates that the transactions under this Agreement will be conditioned upon, and close simultaneously with, the consummation of the transactions under the Atlantic Purchase Agreement and the acquisition by Diversified of the Atlantic Assets;

**WHEREAS**, simultaneous with the closing under the Atlantic Purchase Agreement, at the Closing under this Agreement: (i) an assignee of Buyer constituting a Qualified Assignee will acquire the Atlantic Assets, including the Brokered Station Licenses and the rights held by Atlantic in and to the Time Brokerage Agreement; and (ii) Buyer will acquire the Purchased Assets other than the Atlantic Assets (including the Owned Station Licenses and the rights of Sellers in and to the Time Brokerage Agreement);

**WHEREAS**, this Agreement contemplates the filing with the FCC of two applications to obtain the necessary FCC consents with respect to the simultaneous transactions described above under the Atlantic Purchase Agreement and this Agreement, which applications will be as follows:

(i) an application with respect to the contemplated sale, assignment and conveyance of the Atlantic Assets from Atlantic to Sellers and, upon and simultaneous with the consummation of such transaction, the sale, assignment and conveyance by Sellers of such Atlantic Assets to a Qualified Assignee, and the consent of the FCC with

respect to an assignment of the Brokered Station Licenses and the Time Brokerage Agreement from Atlantic to such Qualified Assignee, which assignment, upon and subject to FCC consent, shall be effected by an intermediate assignment to Grand Strand, as a pass-through holder of the Brokered Station Licenses, and the immediate and simultaneous assignment by Grand Strand of such Brokered Station Licenses and the Time Brokerage Agreement to the Qualified Assignee, as the ultimate holder of such Brokered Station Licenses and successor to Atlantic as a party to the Time Brokerage Agreement (the “**Brokered Station Assignment Application**”); and

(ii) an application to be filed with the FCC with respect to the contemplated sale, assignment and conveyance of the Purchased Assets (exclusive of the Atlantic Assets) from Sellers to Buyer, and the consent of the FCC with respect to the assignment of the Owned Station Licenses and the rights and interests of Diversified in and to the Time Brokerage Agreement from Sellers to Buyer, as the ultimate holder of such Owned Station Licenses and successor to Diversified as a party to the Time Brokerage Agreement (the “**Owned Station Assignment Application**”);

**WHEREAS**, Buyer and a Qualified Assignee have entered into a letter agreement reflecting their allocation of the Purchase Price among the Purchased Assets and other matters relating to the Closing;

**WHEREAS**, subject to the FCC Consent and effective simultaneously with the Closing and Atlantic Closing, Buyer and such Qualified Assignee have entered into an amendment to the Time Brokerage Agreement to reflect the contemplated assignment of such Time Brokerage Agreement to each such party and certain matters relating thereto, and an option agreement pursuant to which Buyer will have the right to acquire the Atlantic Assets from such Qualified Assignee subsequent to the Closing upon a change in the FCC ownership rules or other circumstances set forth therein;

**WHEREAS**, Buyer and such Qualified Assignee will enter into an assignment and assumption agreement with respect to certain rights and obligations of Buyer hereunder to acquire the Atlantic Assets, pursuant to the terms and subject to the conditions hereof, including Section 9.5; and

**WHEREAS**, as contemplated above, and pursuant to the terms and subject to the conditions of this Agreement, Sellers desire to sell to Buyer and the Qualified Assignee, and Buyer desires, together with such Qualified Assignee, to purchase from Sellers, substantially all of the assets used and held for use in connection with the operation of the Stations, in each case, pursuant to the terms and subject to the conditions of this Agreement;

**NOW, THEREFORE**, in consideration of the mutual benefits to be derived from this Agreement and of the representations, warranties, conditions, agreements and promises contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto, intending to be legally bound, hereby agree as follows:

## ARTICLE I—DEFINITIONS; INTERPRETATION

**Section 1.1. Definitions; Interpretation.** Capitalized terms used herein have the respective meanings ascribed thereto in Part I of *Exhibit 1.1* and elsewhere in this Agreement. This Agreement shall be interpreted in accordance with the rules of construction set forth in Part II of *Exhibit 1.1*.

## ARTICLE II—PURCHASE AND SALE

**Section 2.1. Purchase and Sale of Assets; Purchase Price.** Pursuant to the terms and subject to the conditions of this Agreement, at the Closing, Sellers shall sell, convey, transfer and assign to Buyer, free and clear of all Liens (other than Permitted Liens), and Buyer shall purchase from Sellers, the Purchased Assets. In consideration of the sale of the Purchased Assets and Sellers' other covenants and obligations hereunder, at the Closing Buyer shall, pursuant to the terms and subject to the conditions hereof, (a) pay Sellers an amount in cash equal to Twenty Four Million One Hundred Thousand Dollars (\$24,100,000), which amount shall be subject to adjustment as provided in Sections 2.2, 2.8, 2.9 and 2.10 below (as so adjusted, the "**Purchase Price**") and allocated among the Sellers as set forth on Exhibit 2.1 attached hereto and (b) assume the Assumed Liabilities.

**Section 2.2. Escrow Deposit.** Contemporaneously with the execution and delivery of this Agreement, Buyer shall deliver to the Escrow Agent an amount equal to Seven Hundred Fifty Thousand Dollars (\$750,000) (the "**Escrow Deposit**"). The Escrow Deposit shall be held in escrow by the Escrow Agent in an interest-bearing account subject to the terms of the Escrow Agreement, which shall be executed and delivered by the parties contemporaneously with the execution and delivery of this Agreement. In the event of a termination of this Agreement, the Escrow Deposit shall be distributed as provided in Section 7.2(b). In the event of a Closing, subject to Section 7.2(b), (i) the Escrow Deposit shall continue to be held by the Escrow Agent (the "**Indemnification Escrow Deposit**") and disbursed in accordance with the Escrow Agreement and Article VIII hereof and (ii) the Escrow Deposit shall be applied as a credit against the Purchase Price and any interest earned on the Escrow Deposit shall be paid to the Buyer.

**Section 2.3. Purchased Assets; Excluded Assets.** (a) The term "**Purchased Assets**" means, except for the Excluded Assets, all of each Seller's right, title and interest in and to all of the following properties and assets (tangible or intangible) used or held for use in connection with the Business:

- (i) all of the land, buildings, structures, improvements, fixtures and other real property and the easements, rights of way, appurtenances thereon or thereto and other similar rights and interests in real property owned by Sellers and used or held for use in connection with the Business (which property is described on *Schedule 2.3(a)(i)(A)*, the "**Owned Real Property**") and all of Sellers' leasehold or license interest in all of the real property leased or licensed by Sellers that is occupied, used or held for use in connection with the Business and all improvements thereon (which property is described on *Schedule 2.3(a)(i)(B)*, the "**Leased Real Property**");

(ii) all tangible assets and properties, including machinery and equipment, spare parts and supplies, vehicles, plant, inventory, accessories, tooling, tools, furniture, computers, telecommunications equipment, the Transmission Equipment, Transmission Structures, Central IT Resources, office equipment and supplies, furnishings and fixtures, physically located on the Real Property or owned by Sellers and used or held for use in connection with the Business (collectively, with the property described on *Schedule 3.3(a)*, the “**Tangible Personal Property**”);

(iii) all program and programming materials and elements of whatever form or nature owned by Sellers and used in connection with the Business, whether recorded on tape or any other media or intended for live performance, and whether completed or in production, and all related common law and statutory Copyrights owned by or licensed to Sellers to the extent used in connection with the Business, together with all other Intellectual Property owned, to the extent used or held for use by Sellers in connection with the Business, including the registrations and applications listed on *Schedule 3.9(b)* (collectively, the “**Transferred Intellectual Property**”);

(iv) all information and data, FCC logs and other compliance records, sales and business records, books of account, files, invoices, inventory records, accounting records, correspondence, technical information and engineering data, maintenance, operating and production records, advertising studies, lists of advertisers and other advertising materials, marketing and demographic data, local public files, publications, customer lists, cost and pricing information, business plans, quality control records and manuals, blueprints, litigation and regulatory files, personnel and human resource records, customer credit records and all other books, documents and records of Sellers to the extent used or held for use in connection with the Business or to the extent relating to the Purchased Assets, wherever located;

(v) subject to Sections 2.4(b)(ix) and 2.6, all of each Seller’s rights in and to the Existing Contracts (including the Time Brokerage Agreement and any Trade Agreements) and the Contracts entered into between the Effective Date and the Closing Date in accordance with Section 5.2 and the other terms and conditions of this Agreement (collectively, the “**Assumed Contracts**”), including all rights to receive goods and services purchased pursuant to such Assumed Contracts, and to assert claims and take other actions in respect of breaches or other violations thereof;

(vi) subject to Section 2.6, (A) all of Seller’s rights in all Permits, (B) all rights and interests of Sellers in the FCC Licenses and (C) all applications for any of the foregoing, together with any renewals, extensions, or modifications thereof and additions thereto;

(vii) all of Sellers’ prepayments, deposits, claims for refunds and prepaid expenses (each as adjusted for pursuant to Section 2.10), to the extent relating to the Business, the Purchased Assets or the Assumed Liabilities;

(viii) all of Sellers’ claims, counterclaims, credits, causes of action, rights of recovery, and rights of indemnification or setoff against third parties and other claims

arising out of or relating to the Purchased Assets or the Assumed Liabilities and all other intangible property rights of Sellers to the extent relating to the operation of the Stations or the Purchased Assets;

(ix) all goodwill of Sellers in or relating to the Stations or the Business, as well as all of Sellers' interest in and right to use the names "WPDE," and "WPDE-TV," and "WPDE-DT" and any derivative of the foregoing;

(x) warranties covering Tangible Personal Property to the extent transferable by Sellers;

(xi) all amounts payable to Sellers, if any, from the United States Copyright Office or such arbitral panels as may be appointed by the United States Copyright Office which have not been paid to Sellers as of the Closing, to the extent relating to the Business;

(xii) the Atlantic Assets;

(xiii) all of Sellers' rights under all insurance policies of Sellers to the extent that such rights cover any Assumed Liabilities; and

(xiv) except for those certain assets described in Sections 2.3(b)(iv), (vi), (vii), (xi) and (xii), all other assets reflected on the Balance Sheet, with such additions and subtractions thereto as are necessary to reflect acquisitions and dispositions, as appropriate, (A) made in the ordinary course of business from the Financial Statements Date through the Effective Date and (B) from the Effective Date through the Closing Date in accordance with Section 5.2 and the other terms of this Agreement.

Notwithstanding anything herein to the contrary, in the event that the existence or condition of any asset (including an asset which, but for this sentence, would be deemed to be a Purchased Asset) constitutes or arises out of a breach or inaccuracy of any representation or warranty or the non-fulfillment or breach of any covenant, agreement or obligation of Sellers hereunder, then Buyer shall have the right to elect at any time to deem such asset to be an Excluded Asset for purposes hereof.

(b) Buyer shall not acquire from Sellers pursuant to this Agreement any of the Excluded Assets. "**Excluded Assets**" means:

(i) each Sellers' corporate charter, minute books, stock records and corporate seal;

(ii) any of the rights of Sellers under this Agreement and the other agreements, certificates and documents delivered in connection herewith;

(iii) Tangible Personal Property disposed of or consumed in the ordinary course of Business and in accordance with Section 5.2 and the other terms of this Agreement, between the Effective Date and the Closing Date;

(iv) all claims for refunds of monies paid to any Governmental Authority prior to the Closing Date and all claims for Copyright royalties for broadcasts prior to the Closing Date;

(v) any Contract that is not an Assumed Contract;

(vi) all rights of Sellers under all insurance policies of Sellers, except to the extent that any such rights cover any Assumed Liability;

(vii) refunds or credits or any claims for refunds or credits with respect to Taxes paid or to be paid to Sellers pursuant to Section 5.7 hereof;

(viii) all assets of Sellers that are not used or held for use in connection with the Business;

(ix) all assets of all employee benefit plans maintained by Sellers;

(x) all rights to the names "Diversified Communications" and "Grand Strand Communications";

(xi) all of the cash and cash equivalents, bank accounts, investment and other securities of Sellers and the Stations on hand and in accounts;

(xii) subject to Section 5.18, the Accounts Receivable;

(xiii) without limitation of Section 2.3(a)(iv), all assets and property of Sellers which are neither located at the Stations or on the Real Property nor held for use or used primarily in connection with the Business;

(xiv) all assets of Sellers designated as "Excluded Assets" on *Schedule 2.3(b)(xiv)*; and

(xv) all properties and assets of Sellers and their Affiliates (including computer hardware, software, systems and programs) related to Sellers' corporate headquarter functions, including Sellers' information and technology, payroll, finance, tax, accounting, legal, benefits, sales, advertising, engineering and human resources and public relations departments at or performed from one or more offices of Sellers other than the Stations or Sellers' offices located on the Real Property.

***Section 2.4. Assumed Liabilities; Buyer Not Successor to Sellers; Excluded Liabilities.*** (a) Pursuant to the terms and subject to the conditions of this Agreement, at the Closing, Sellers shall sell, convey, transfer and assign to Buyer, and Buyer shall assume from Sellers, only the Assumed Liabilities. "Assumed Liabilities" means the following (and only the following), and only to the extent not excluded pursuant to Section 2.4(b):

(i) liabilities, obligations and commitments under the Assumed Contracts, the Atlantic Contracts, the Permits and FCC Licenses accruing with respect to the period commencing from and after the Closing Date or, if consent to assignment

thereof is required and such consent is not obtained on or prior to the Closing Date, the Transfer Date (excluding, however, any liability or obligation arising from or relating to the breach or non-performance thereof on or prior to the Closing Date or, if consent to assignment thereof is required and such consent is not obtained on or prior to the Closing Date, the Transfer Date);

(ii) all Taxes allocated to Buyer pursuant to the terms and subject to the conditions of Section 5.7;

(iii) all trade accounts payable of the Business for the purchase of goods and services (the “**Accounts Payable**”) due or accrued as of the date of the Closing AP Statement, but only to the extent set forth on the Closing AP Statement and in any event subject to Sections 2.9 and 5.18; and

(iv) all liabilities and obligations with respect to Subject Employees for which Buyer is responsible under Section 5.11.

Notwithstanding anything herein to the contrary, in no event shall Buyer be deemed to have assumed any liability or obligation (including a liability or obligation which, but for this sentence, would be deemed to be an Assumed Liability) where the existence or nature of such liability or obligation constitutes or arises out of a breach or inaccuracy of any representation or warranty or the non-fulfillment or breach of any covenant, agreement or obligation of Sellers hereunder.

(b) Buyer shall not be the successor to Sellers, and Buyer expressly does not assume and shall not become liable to pay, perform or discharge, any obligation or liability whatsoever of Sellers or relating to the Business or any of the Purchased Assets other than the Assumed Liabilities. All obligations, liabilities and commitments of Sellers relating to the Business or the Purchased Assets other than the Assumed Liabilities are referred to herein as the “**Excluded Liabilities**.” Sellers shall pay, perform and discharge when due, all of the Excluded Liabilities. Without limitation of the foregoing, the term “**Excluded Liabilities**” includes the following liabilities, whether accrued or fixed, absolute or contingent, known or unknown, determined or determinable, and, unless otherwise expressly provided herein, whenever arising:

(i) all liabilities and obligations relating to or arising out of the Excluded Assets;

(ii) all Taxes allocated to Sellers pursuant to the terms and subject to the conditions of Section 5.7;

(iii) any claims, demands, liabilities or obligations of any nature whatsoever (including claims, demands, liabilities or obligations in respect of environmental matters, occupational safety, workers’ or workmen’s compensation, grievance proceedings or actual or threatened litigation, suits, claims, demands or governmental proceedings) which arose or were incurred before the Closing Date, or which arise from or are based on events occurring or conditions existing before the Closing Date;

(iv) any liabilities or obligations of Sellers with respect to the Employees, including the Accrued Compensation (except as otherwise provided in Section 2.4(a)(iv) with respect to Subject Employees), the Severance Payments, the COBRA Obligations and any liability or obligation arising under any Plan or other compensation arrangement of Sellers;

(v) any liability or obligation to present or former shareholders of Sellers;

(vi) all liabilities and obligations of Sellers under this Agreement, the other agreements, certificates and documents delivered in connection herewith or otherwise in connection with the transactions contemplated hereby and thereby;

(vii) any obligations, liabilities or commitments under (A) the Assumed Contracts to the extent such obligations, liabilities and commitments relate to the period prior to the Closing Date or, if consent to assignment thereof is required and such consent is not obtained on or prior to the Closing Date, the Transfer Date, and (B) any Contract other than the Assumed Contracts;

(viii) [*Intentionally Omitted*]

(ix) any obligation of Sellers under any agreement limiting Sellers' ability to compete in the Business, to the greatest extent possible under such agreement;

(x) subject to Section 5.18, any Accounts Payable to the extent not set forth on the Closing AP Statement;

(xi) except as otherwise provided in Section 2.4(a)(iii), any liability or obligation to third parties and claims from third parties to the extent based on circumstances existing prior to the Closing Date or the conduct of the Business to the extent such conduct occurred before the Closing Date;

(xii) except as otherwise provided in Section 2.4(a)(iii), all other obligations and liabilities arising from the operation of the Business or the ownership of the Purchased Assets prior to the Closing Date; and

(xiii) any liabilities of Sellers not related to the Business or the Purchased Assets.

**Section 2.5. Closing.** Pursuant to the terms and subject to the conditions of this Agreement, the consummation of the transactions contemplated by this Agreement (the "**Closing**") shall take place at the offices of Covington & Burling, 1201 Pennsylvania Avenue, N.W., Washington, D.C., at 10:00 a.m. local time within five (5) Business Days after the date on which all conditions set forth in Article VI shall have been satisfied or waived, or such other time and place as Buyer and Sellers may agree to in writing (such date of the Closing hereinafter referred to as the "**Closing Date**").



***Section 2.6. Procedures for Certain Purchased Assets Not Freely Transferable.***

(a) If any property or right (other than the Permits) included in the Purchased Assets is not assignable or transferable to Buyer either by virtue of the provisions thereof or under applicable Law without the consent of one or more third Persons (each, a “**Non-Assignable Right**”), Sellers shall use commercially reasonable efforts (which shall not require the payment of any money by Sellers), at Sellers’ sole cost and expense, to obtain such consents after the execution of this Agreement until such consent is obtained. If any such consent in respect of a Non-Assignable Right cannot be obtained prior to the Closing Date and the Closing shall occur, (i) this Agreement and the related instruments of transfer shall not constitute an assignment or transfer thereof, but (A) Sellers shall use commercially reasonable efforts (which shall not require the payment of any money by Sellers) to obtain such consent as soon as possible after the Closing Date and (B) Buyer shall cooperate, to the extent commercially reasonable, with Sellers in Sellers’ efforts to obtain such consents; and (ii) at Buyer’s election, (A) the Non-Assignable Right shall be an Excluded Asset and Buyer shall have no obligation pursuant to Sections 2.3(a) or 2.4(a) or otherwise with respect to any such Non-Assignable Right or any liability with respect thereto or (B) Sellers shall use commercially reasonable efforts (which shall not require the payment of any money by Sellers) to obtain for Buyer substantially all of the practical benefit and burden of such property or rights, including by (1) entering into appropriate and reasonable alternative arrangements on terms mutually agreeable to Buyer and Sellers and (2) subject to the consent and control of Buyer, enforcement, at the cost and for the account of Buyer, of any and all rights of Sellers against the other party thereto arising out of the breach or cancellation thereof by such other party or otherwise.

(b) If any of the Permits included in the Purchased Assets are not so assignable or transferable without obtaining a replacement license or permit, this Agreement and the related instruments of transfer shall not constitute an assignment or transfer thereof, and Sellers shall, to the extent commercially reasonable, cooperate with Buyer in its efforts to obtain replacement licenses or permits issued in Buyer’s name. If any replacement license or permit cannot be obtained prior to the Closing Date and the Closing occurs, Sellers agree to allow Buyer to operate under Sellers’ Permits if permitted by applicable Laws or applicable Governmental Authorities for a period of up to ninety (90) days after the Closing (or such longer period as may be reasonably necessary for Buyer, using its commercially reasonable efforts, to obtain the replacement licenses or permits).

***Section 2.7. Purchase Price Allocation.***

(a) As promptly as practicable, but in any event, within forty-five (45) calendar days of the date hereof, Buyer shall cause to be prepared and deliver to Sellers a schedule (the “**Allocation Schedule**”) of its proposed allocation for tax purposes of the Purchase Price among the Purchased Assets. The Allocation Schedule shall be prepared in accordance with Code Section 1060 and the regulations of the U.S. Department of the Treasury promulgated thereunder. The Allocation Schedule shall be conclusive and binding on Sellers and Buyer, unless Sellers provide Buyer with a notice of objection (the “**Objection Notice**”) within thirty (30) calendar days after Sellers’ receipt of the Allocation Schedule, which notice shall state the allocation proposed by Sellers (the “**Sellers’ Allocation Schedule**”). The Sellers’ Allocation Schedule shall be conclusive and binding on Sellers and Buyer unless Buyer provides Sellers

with notice of objection within fifteen (15) calendar days after receipt of the Sellers' Allocation Schedule. In the event that the parties are unable to agree on an allocation after good faith negotiations, then the parties agree to be bound by an appraisal of such assets by an independent nationally recognized firm of valuation experts mutually acceptable to Sellers and Buyer. The cost of such appraisal shall be borne equally by Sellers, on the one hand, and Buyer, on the other. Such appraisal shall be conclusive and binding for the purposes of this Section on Sellers and Buyer.

(b) Buyer and Sellers (i) shall execute and file all tax returns and prepare all financial statements, returns and other instruments in a manner consistent with the Allocation Schedule, the Sellers' Allocation Schedule or the other allocations as the case may be, all as determined pursuant to Section 2.7(a), (ii) shall not take any position before any Governmental Authority or in any judicial proceeding that is inconsistent with such allocation and (iii) shall cooperate with each other in a timely filing, consistent with such allocation, of their respective Forms 8594 with the United States Internal Revenue Service. In the event that any Governmental Authority disputes the allocation prepared in accordance herewith, Sellers or Buyer, as the case may be, shall promptly notify the other party of such dispute and provide a reasonable description of the nature of such dispute.

***Section 2.8. Closing AP Credit.*** Sellers shall prepare and deliver to Buyer not less than three (3) Business Days prior to the Closing, a statement setting forth the outstanding Accounts Payable to the extent reasonably ascertainable as of the date of delivery of such statement (the "**Closing AP Statement**"). The aggregate of the amounts set forth on the Closing AP Statement (the "**Closing AP Credit**") shall be applied as a credit against the Purchase Price at Closing. Buyer shall thereafter be responsible for timely paying the Accounts Payable as and to the extent set forth on the Closing AP Statement.

***Section 2.9. Estimate of Accruals; Accrual Adjustment Amount.***

(a) Not less than three (3) Business Days prior to the Closing, Sellers shall provide to Buyer a statement setting forth its estimate of all Accruals (the "**Accrual Adjustment Amount**"). The Accrual Adjustment Amount shall be applied against the Purchase Price due at Closing and, upon the Closing, Sellers shall be deemed to have paid an amount equal to the Accrual Adjustment Amount for purposes of determining any payments pursuant to Section 2.10. Buyer shall timely pay on behalf of Sellers the obligations set forth in the statement provided by Sellers pursuant to this Section 2.9(a) to the extent covered by the Accrual Adjustment Amount.

(b) As used in this Agreement, "**Accruals**" means, collectively, all Accrued Compensation, ad valorem, real estate and other property Taxes (which shall be prorated in accordance with GAAP), business and license and other Permit fees, lease payments, rents, utility expenses, water and sewer use charges, bonuses, commissions (including commissions payable to any national sales representatives of Sellers) and expenses of the Business to the extent Sellers have received a benefit thereof. For purposes of this Agreement, all Accruals will be calculated in accordance with GAAP.

### ***Section 2.10. Prorations and Adjustments.***

(a) All income, costs and expenses arising from the operation of the Stations for periods covering both before and after the Closing shall be prorated as of 12:01 a.m. local Station time, on the Closing Date. Such prorations shall include all Accruals and all other income and expenses (including prepaid expenses) attributable to the operation of the Stations. The prorations shall not include (i) Taxes payable by reason of the transfer of the Purchased Assets, which shall be paid in accordance with Section 5.7 and (ii) Taxes based on income of Sellers or Buyer.

(b) Notwithstanding anything else in this Section 2.10 to the contrary, any prorations and adjustments pursuant to Section 2.10(a) shall be subject to the following:

(i) Sellers shall be responsible for any cash payments due on or before the Closing Date under any Contracts for motion pictures and other programming, and Buyer shall be responsible for any such payments after the Closing Date;

(ii) There shall be no adjustment for, and Sellers shall remain solely liable with respect to, any Contracts that are not Assumed Contracts and any other obligation or liability not being assumed by Buyer in accordance with Section 2.4;

(iii) With respect to agreements in effect as of the Closing Date under which Sellers have agreed to provide commercial advertising time on the Stations after the Closing Date in exchange for property or services in lieu of, or in addition to, cash ("**Trade Agreements**"), the parties shall make an adjustment to reflect the difference between (A) the value, as of the Closing Date, of all advertising time required to be broadcast by the Stations after the Closing Date pursuant to the terms and subject to the conditions of the Trade Agreements, and (B) the value of all property or services to be received by the Stations after the Closing Date pursuant to the terms and subject to the conditions of the Trade Agreements. To the extent that the amount described in the foregoing clause (A) exceeds the amount described in the foregoing clause (B) by an amount that is greater than Twenty Thousand Dollars (\$20,000), the Purchase Price shall be adjusted downward by the amount in excess of Twenty Thousand Dollars (\$20,000); in the event that the amount described in clause (A) exceeds the amount described in the clause (B) by an amount that is equal to or less than Twenty Thousand Dollars (\$20,000), such amounts are equal or the amount described in clause (A) is less than clause (B), there shall be no adjustment under this paragraph in respect of Trade Agreements. From and after the Closing Date, Buyer shall be entitled to all goods and services to be provided to the Stations after the Closing Date under the Trade Agreements. Substantially all of the Trade Agreements as of the date hereof are listed on *Schedule 2.10(b)(iii)* hereto.

(c) Within sixty (60) calendar days after the Closing, Buyer shall cause to be prepared and delivered to Sellers a schedule of proposed prorations, which schedules shall (i) take account of the payment by Sellers at the Closing of the Accrual Adjustment Amount and (ii) set forth in reasonable detail the basis for those determinations (such schedule, the "**Final Prorations Schedule**"). The Final Prorations Schedule shall be conclusive and binding on the

parties hereto, and Sellers shall pay to Buyer, or Buyer shall pay to Sellers, as the case may be, any amount due as a result of such adjustment, unless Sellers provide Buyer with written notice of an objection (the “**Notice of Disagreement**”) within thirty (30) calendar days after Buyer’s receipt of the Final Prorations Schedule, which Notice of Disagreement shall state the prorations of expenses proposed by Sellers (the “**Sellers’ Proration Amount**”). Buyer shall have fifteen (15) calendar days from receipt of a Notice of Disagreement to accept or reject Sellers’ Proration Amount. Subject to Section 2.10(d) below, final payment pursuant to this Section 2.10 shall be due within five (5) Business Days after the last to occur of (y) Sellers’ failure to reject the Final Prorations Schedule during the time period provided hereon or (z) Buyer’s failure to reject the Sellers’ Prorations Amount during the time period provided therefor herein.

(d) In the event of any disputes between the parties as to the prorations and adjustments that extends beyond the periods set forth in Section 2.10(c), the amounts not in dispute shall nonetheless be promptly paid and such disputes shall be determined by an independent certified public accountant of national recognition that does not then have a relationship with either Sellers or Buyer, or any of their respective Affiliates, mutually acceptable to Sellers and Buyer, with the fees and expenses of such accountant being shared equally by Sellers, on the one hand, and Buyer, on the other.

(e) Any payment required by Sellers to Buyer or Buyer to Sellers, as the case may be, under this Section 2.10 shall be paid by wire transfer of immediately available funds to an account designated by such party. Notwithstanding the provisions of this Section 2.10, if the amount of any Taxes to be prorated pursuant to this Section 2.10 is not known by the time of determination of prorations hereunder, then the amount will be estimated as of such date, and once the amount of such Taxes is known, Sellers shall pay to Buyer, or Buyer shall pay to Sellers, as the case may be, the net amount due as a result of the actual apportionment of such Taxes.

(f) Notwithstanding anything to the contrary in this Section 2.10, any prorations and adjustments pursuant to this Section 2.10 shall not include an adjustment for any Excluded Liability, which Excluded Liabilities shall remain the sole responsibility of Seller.

### **ARTICLE III—REPRESENTATIONS AND WARRANTIES OF SELLERS**

In order to induce Buyer to enter into this Agreement and to purchase the Purchased Assets and assume the Assumed Liabilities, Sellers hereby represent and warrant to Buyer as follows, with each such representation and warranty subject only to such exceptions, if any, as are set forth in the particular disclosure Schedule numbered and captioned to correspond to, and referenced in, such representation or warranty:

**Section 3.1. Organization, Standing and Power.** Diversified is a corporation duly organized, validly existing and in good standing under the laws of the State of Maine and has all requisite corporate power and authority to own, lease and operate its properties and to carry on its business as now being conducted. Grand Strand is a corporation duly organized, validly existing and in good standing under the laws of the State of Maine and has all requisite corporate power and authority to own, lease and operate its properties and to carry on its

business as now being conducted. Each of Diversified and Grand Strand is duly qualified to do business and is in good standing in each jurisdiction in which such qualification is necessary because of the property owned, leased or operated by it or because of the nature of its business as now being conducted, except where any failure, individually or in the aggregate, to be so qualified or in good standing could not reasonably be expected to have a Material Adverse Effect. Neither Seller has ever conducted the Business under or otherwise used, for any purpose or in any jurisdiction, any fictitious name, assumed name, trade name or other name, other than the names "Diversified Communications," "Grand Strand Communications," "Florence Television, Inc.," "WPDE," "WPDE-TV," "WPDE-TV NewsChannel 15," "WWMB," "WWMB-TV" and "WWMB-TV 21."

**Section 3.2. Authority; Binding Agreements.** The execution and delivery of this Agreement and the other agreements, certificates and documents delivered in connection herewith and the consummation of the transactions contemplated hereby and thereby have been duly and validly authorized by all necessary corporate action on the part of each Seller. Each Seller has all requisite corporate power and authority to enter into this Agreement and the other agreements, certificates and documents delivered in connection herewith and to consummate the transactions contemplated hereby and thereby, and this Agreement and the other agreements, certificates and documents delivered in connection herewith have been, or upon execution and delivery thereof will be, duly executed and delivered by such Seller. This Agreement and the other agreements, certificates and documents delivered in connection herewith are, or upon execution and delivery thereof will be, the valid and binding obligations of Sellers, enforceable against Sellers in accordance with their respective terms.

**Section 3.3. Tangible Personal Property.**

(a) *Schedule 3.3(a)* lists all items of Tangible Personal Property included in the Purchased Assets. All items of Tangible Personal Property are in good operating condition and adequate repair (ordinary wear and tear excepted). *Schedule 3.3(b)* lists by Station all items of Tangible Personal Property used or useful in connection with, and when in good operating order material to, the Business, which items have been transferred or disposed of without replacement thereof with functionally equivalent or superior Tangible Personal Property during the one (1) -year period prior to the Effective Date.

(b) Sellers own and have good title to the Tangible Personal Property listed thereon and none of the Tangible Personal Property included in the Purchased Assets is subject to any Liens, except for Permitted Liens. Sellers have, and on the Closing Date, Buyer will enjoy, peaceful and undisturbed possession under all leases of Tangible Personal Property.

**Section 3.4. Conflicts; Consents.** The execution and delivery of this Agreement and the other agreements, certificates and documents contemplated hereby, the consummation of the transactions contemplated hereby or thereby and compliance by Sellers with any of the provisions hereof or thereof do not and will not:

(a) conflict with or result in a breach of the certificate of incorporation, by-laws or other constitutive or organizational documents of either Seller;

(b) conflict with, result in a default or give rise to any right of termination, cancellation, modification or acceleration under any of the provisions of any note, bond, lease, mortgage, indenture, license, franchise, permit, agreement or other instrument or obligation (other than the FCC Licenses) to which Sellers are a party, or by which the Stations or any of the Purchased Assets may be bound or affected except for (i) required consents in respect of certain Assumed Contracts and Atlantic Contracts as set forth on *Schedule 3.4(b)(i)*; and (ii) required consents of, approvals by, notifications to or filings with, as applicable, any Governmental Authority in respect of certain Permits as set forth on *Schedule 3.4(b)(ii)*;

(c) subject to receipt of the FCC Consent, violate any Law applicable to Sellers, the Stations or any of the Purchased Assets;

(d) result in the creation or imposition of any Lien (other than Permitted Liens) upon any of the Purchased Assets; and

(e) except for requirements listed in *Schedule 3.4(b)(ii)* in respect of certain of the Permits and except for the FCC Consent, require the consent or approval by, or any notification of or filing with, any Governmental Authority.

***Section 3.5. Financial Information; No Undisclosed Liabilities.*** *Schedule 3.5* contains the audit report of Sellers' independent accountants for the consolidated financial statements of Diversified for the fiscal year ended December 31, 2004 and the following financial statements (the "**Financial Statements**") in respect of the Stations: (a) the unaudited balance sheet as of the end of the fiscal year ended December 31, 2004, and the related unaudited statement of income for the fiscal year then ended, and (b) the unaudited balance sheet as of June 30, 2005 (such balance sheet, the "**Balance Sheet**" and such date, the "**Financial Statements Date**") and the related unaudited statement of income for the four (4)-month period then ended. Subject to the absence of footnotes, year-end audit adjustment and except as set forth in *Schedule 3.5*, the Financial Statements have been prepared in accordance with GAAP consistently applied, and present fairly in all material respects the financial condition of the Business at the respective dates thereof and the results of operations of the Business for the periods then ended, and are true and complete in all material respects. There are no material liabilities or obligations of Sellers related to the Stations, the Business or the Purchased Assets of any kind whatsoever, whether accrued, contingent, absolute, determined, determinable or otherwise, of a nature required by GAAP to be reflected in financial statements other than liabilities disclosed or provided for in the Financial Statements, and, to Sellers' Knowledge, there is no circumstance currently existing that could reasonably be expected to result in any such liability or obligation.

***Section 3.6. Absence of Changes.*** Except as set forth in *Schedule 3.6*, since the Financial Statements Date, Sellers have operated the Owned Station, and provided programming for the Brokered Station and performed their obligations and exercised their rights under the Time Brokerage Agreement, in each case in the ordinary course of business consistent with past practice, and in the case of the Time Brokerage Agreement, pursuant to the terms and subject to the conditions of the Time Brokerage Agreement, and there has not been in connection with or related to either Station:

(a) any Material Adverse Effect;

**(b)** any obligation or liability (whether absolute, accrued, contingent or otherwise, and whether due or to become due) incurred by Sellers, other than current obligations and liabilities incurred in the ordinary course of business and consistent with past practice;

**(c)** any payment, discharge or satisfaction of any claim or obligation of Sellers, except in the ordinary course of business and consistent with past practice;

**(d)** any sale, assignment or other disposition of any tangible asset of Sellers (except for obsolete equipment disposed of in the ordinary course of business consistent with past practice) or any sale, assignment, license, transfer or other disposition of any Intellectual Property or any other intangible assets;

**(e)** except in the ordinary course of business and consistent with past practice, any amendment, modification or termination of any Material Contract;

**(f)** any creation of any material claim or Lien (other than Permitted Liens) on any property of Sellers;

**(g)** any adverse change in cable carriage or channel position on which either Station is carried (on any cable system with more than 1,000 subscribers);

**(h)** any notice from any of the Stations' sponsors as to any of such sponsor's intention not to conduct business with either Station, the result of which loss or potential loss of business, individually or in the aggregate, has had, or could reasonably be expected to have, a Material Adverse Effect;

**(i)** any period of four (4) or more consecutive days during which either Station was off the air for any reason or a period of fifteen (15) or more days during which either Station operated at substantially reduced power;

**(j)** any cancellation of any material debts or claims or any amendment, termination or waiver of any rights of material value to Sellers or material to the Business;

**(k)** any capital expenditure or commitment or addition to property, plant or equipment of Seller, individually or in the aggregate, in excess of Twenty Thousand Dollars (\$20,000);

**(l)** except in the ordinary course of business and consistent with past practice, any increase in the compensation of any Employee, officer, shareholder, director, consultant or agent of Sellers, including any increase pursuant to any severance, bonus, pension, profit-sharing or other benefit or compensation plan, policy or arrangement or commitment;

**(m)** any material damage, destruction or loss (whether or not covered by insurance) affecting any asset or property;

**(n)** any cancellation, delinquency or loss of any material Permit;

(o) any institution of, settlement of or agreement to settle any litigation, arbitration, action or proceeding;

(p) any change in the accounting methods or accounting practices followed by Sellers or any change in depreciation or amortization policies or rates; or

(q) any agreement or commitment, whether in writing or otherwise, to take any of the actions specified in the foregoing items (a) through (p).

### ***Section 3.7. Good Title; Sufficiency of Assets.***

(a) Except for the Atlantic Assets and except as set forth in *Schedule 3.7(a)*, Sellers have good and transferable title to, or valid contract rights to, as applicable, all of the Purchased Assets, free and clear of all Liens (other than Permitted Liens). With respect to the Atlantic Assets, upon the Atlantic Closing and as of the Closing, Sellers shall have good and transferable title to, or valid contract rights to, as applicable, all of the Atlantic Assets, free and clear of all Liens (other than Permitted Liens). At the Closing, Buyer will acquire from Sellers, good and transferable title to, or valid contract rights to, as applicable, all of the Purchased Assets, free and clear of all Liens (other than Permitted Liens).

(b) The Purchased Assets, together with the Excluded Assets, constitute all of the properties, interests, assets and rights of Sellers related to the Stations and the Business and constitute all those necessary to continue to operate the Business in substantially the same manner as it is being operated as of the date hereof.

### ***Section 3.8. Real Property.***

(a) *Schedule 2.3(a)(i)(A)* sets forth a true and complete description by Station of all Owned Real Property and *Schedule 2.3(a)(i)(B)* sets forth a true and complete description by Station of all Leased Real Property. The Real Property comprises all real property interests used by Sellers to conduct the Business as now conducted. The Purchased Assets include all real property interests used or held for use in connection with the Business.

(b) Sellers are sole owners or holders of and have good and transferable fee simple title to, all Owned Real Property and has a good, valid and existing leasehold estate in each Leased Real Property, in each case free and clear of all Liens affecting title to or the use and occupancy of such Owned Real Property or Leased Real Property, as applicable, except for Permitted Liens.

(c) *Schedule 3.8(c)* sets forth a true and complete list of (i) all title insurance policies and deeds in the possession of the Sellers evidencing ownership of all Owned Real Property and (ii) all surveys in the possession or under the control of Sellers related to the Owned Real Property, true and complete copies of which, in each case, have been provided or made available to Buyer.

(d) Sellers have provided or made available to Buyer true and complete copies of each of the leases, subleases, licenses and other Contracts with respect to all Leased Real Property and Sellers are the sole owners and holders of all of the leasehold interests and estates



purported to be granted by such leases or subleases or the interests granted by such licenses or other Contracts. Sellers have not granted any oral or written right to any Person other than Sellers to lease, sublease, license or otherwise use or occupy any of the Leased Real Property through the end of the applicable periods of such lease, sublease, license or other Contract. Sellers have not received or sent any notice of default under any lease, sublease, license or other Contract with respect to the Leased Real Property that remains outstanding or uncured as of the Effective Date. Sellers have no knowledge of any event which now constitutes, or which upon the giving of notice or the passage of time, or both, would give rise to, any default in the performance by Sellers or any tenant, subtenant or licensee of Sellers of any obligation under any lease with respect to the Leased Real Property.

(e) The Real Property and all appurtenances and improvements thereto or thereon, as used, constructed or maintained by Sellers at any time, conform to applicable Laws (including all building, zoning, subdivision, fire, health and Environmental Laws) in all material respects. Sellers have not received any written notices of violation of any Laws that have been issued by any Governmental Authority with respect to any Real Property that remain uncured. Each Real Property (including the improvements thereon) (i) is in good operating condition and repair (ordinary wear and tear excepted) and (ii) is available for immediate use in the conduct of the Business.

(f) All (x) Towers, buildings (including transmitter buildings) and other structures and improvements used or useful in connection with the operation of the Stations (collectively, “**Transmission Structures**”) (y) Transmission Equipment and (z) other Tangible Personal Property, are included in the Purchased Assets and are located entirely on the Real Property. *Schedule 3.8(f)(i)* identifies the specific parcel of Real Property on which (i) the Towers and Transmission Equipment for each Station are located and (ii) the main studio, and any other studios, of the Stations are located and designates which of such studios, if more than one, is the main studio for each Station. Seller has, and upon the Closing Buyer shall acquire from Seller, full legal and practical access to Real Property, and each parcel of Real Property is accessible without charge by a public right of way or is otherwise reasonably accessible for purposes of conducting the use of each such property, as currently conducted, including reasonable access between and among each transmitter building, the Tower corresponding thereto and, if applicable, each guy anchor supporting each such Tower. All ingress and egress to, from, between and among the transmitter building, the Tower corresponding thereto and, if applicable, each guy anchor supporting each such Tower are located entirely on the Real Property; *provided* that to the extent that any transmitter building, Tower, or, if applicable, guy anchor supporting any Tower is located on an easement comprising the Real Property, such easement (and the corresponding transmitter building, Tower, or guy anchor thereon) is identified and described on *Schedule 3.8(f)(ii)*. Except for the matters set forth on *Schedule 3.8(f)(iii)*, none of the Transmission Structures or the use thereof violates any restrictive covenants or encroaches on any property owned by any other Person, and all such Transmission Structures are constructed in conformity with all “set-back” lines, easements and other restrictions or rights of record. No condemnation or eminent domain proceeding is pending or, to Seller’s Knowledge, threatened which could reasonably be expected to preclude or impair in any way the use of any Real Property. There are no structural or other defects in the Transmission Structures and all such Transmission Structures have been maintained in accordance with generally accepted standards in the broadcast industry.

(g) No condemnation or eminent domain proceeding is pending or, to Sellers' Knowledge, threatened which could reasonably be expected to preclude or impair in any way the use of any Real Property.

(h) To Sellers' Knowledge, no part of any Real Property is subject to any building or use restrictions that could reasonably be expected to restrict or prevent the present use and operation of such Real Property. No Governmental Authority has issued or, to Sellers' Knowledge, threatened to issue, any notice or order that could reasonably be expected to affect adversely the use or operation of any Real Property, or require any repairs, alterations, additions or improvements thereto, or the payment or dedication of any money, fee, exaction or property. There is no actual, or to Sellers' Knowledge, pending, imposition of any assessments for public improvements with respect to any Real Property and, to Sellers' Knowledge, no such improvements have been constructed or planned that would be paid for by means of assessments upon any Real Property.

(i) No part of any Real Property is located within a flood plain, watershed, or flood hazard area or flood hazard zone, or earthquake zone.

(j) Each part of the Real Property is located on public roads and streets, and all utility systems required in connection with the use, occupancy and operation of each parcel of Real Property are sufficient for their present purposes and are fully operations and in working order.

(k) Neither Seller is a "foreign person" as defined in Section 1445 of the Code.

### ***Section 3.9. Intellectual Property.***

(a) Sellers own all right, title and interest in and to, or have valid license rights to, all of the Transferred Intellectual Property.

(b) The Transferred Intellectual Property includes all Intellectual Property necessary for the conduct of the Business as it is presently conducted. *Schedule 3.9(b)* sets forth a true and complete list of all registrations and applications for registration with any Governmental Authority relating to the Transferred Intellectual Property owned by Sellers. Sellers have provided or made available to Buyer true and complete copies of all such registrations and applications, and has taken all reasonable action necessary to prosecute all of Sellers' existing applications and to maintain all such registrations in full force and effect, and has not taken or failed to take any action which could reasonably be expected to have the effect of waiving any rights to the Intellectual Property.

(c) *Schedule 3.9(c)* lists all license agreements in respect of any of the Transferred Intellectual Property either licensed by Sellers as licensor to third parties or licensed by third parties to Sellers as licensee.

(d) To Sellers' Knowledge, none of the Transferred Intellectual Property infringes any rights owned or held by any other Person, and there is no claim pending or threatened contesting Seller's right exclusively to use any of the Transferred Intellectual

Property. To Sellers' Knowledge, no Person is infringing, misappropriating or otherwise conflicting with the rights of Sellers in any Transferred Intellectual Property. There are no claims pending or, to Sellers' Knowledge, threatened by any Person in respect of the ownership, validity, enforceability or use of any of the Transferred Intellectual Property.

(e) Sellers have taken all commercially reasonable measures to protect and preserve the security, confidentiality, value and ownership of the Know-How and other confidential information included in the Purchased Assets. To Sellers' Knowledge, none of the Know-How is part of the public domain or knowledge, nor, to Sellers' Knowledge, has the Know-How been used by, disclosed or divulged to, or appropriated by or for the benefit of any Person other than Sellers or otherwise to the detriment of the Business.

### ***Section 3.10. Contracts.***

(a) Other than Excluded Group Contracts, *Schedule 3.10* sets forth a true and complete list of all Contracts related to the Business to which Sellers are a party or by which they are bound, or to which any of the Purchased Assets are subject, except for (i) orders for the purchase of supplies, and (ii) routine maintenance Contracts, in each case entered into in the ordinary course of business, having an unexpired term of less than three (3) months and involving aggregate remaining payments of less than Five Thousand Dollars (\$5,000) ((i) and (ii), the "**Ordinary Course Contracts**"). All of the Ordinary Course Contracts, in the aggregate, do not involve payment of more than Twenty-Five Thousand Dollars (\$25,000). All Contracts identified or otherwise referenced on *Schedule 3.10* are collectively referred to herein as the "**Material Contracts**" and the Material Contracts, together with the Ordinary Course Contracts, are collectively referred to herein as the "**Existing Contracts**."

(b) Sellers have made available to Buyer true and complete copies of all written Material Contracts and set forth on *Schedule 3.10* are true and complete descriptions of the material terms and conditions of all oral Material Contracts. All of the Existing Contracts are, and on the Closing Date all Assumed Contracts will be, in full force and effect, constituting valid and binding obligations of the parties thereto and enforceable in accordance with their respective terms. There exists no default, or any event which upon notice or the passage of time, or both, could reasonably be expected to give rise to any default in the performance by Sellers or, to Sellers' Knowledge, by any other party under any Material Contract. Sellers have not received any notice that any party to any of the Material Contracts intends to cancel or terminate any Material Contract.

(c) The Atlantic Purchase Agreement is in full force and effect, constituting valid and binding obligations of the parties thereto and enforceable in accordance with its terms. There exists no default, or any event which upon notice or the passage of time, or both, could reasonably be expected to give rise to any default in the performance thereunder by Sellers or, to Sellers' Knowledge, by Atlantic.

***Section 3.11. Compliance with Law; Permits.*** The Business is, and as of the Closing Date will have been, conducted in all material respects in compliance with all applicable Laws. *Schedule 3.11* sets forth a true and complete list of all of the Permits, including any registrations of Transmission Structures (true and complete copies of which have been or will be

made available to Buyer (to the extent such Permits are in possession of either Seller or can be obtained by Sellers)). Other than the FCC Licenses, the Permits set forth on *Schedule 3.11* constitute all permits, approvals, franchises, concessions, licenses or other governmental authorizations that are required by applicable Law or Governmental Authorities for the lawful ownership and operation of the Business and the Purchased Assets. Sellers are in compliance in all material respects with the terms of all of the Permits, the Permits are in full force and effect, and, to Sellers' Knowledge, no violations are or have been recorded in respect of any thereof. No proceeding is pending or, to Sellers' Knowledge, threatened, to cancel, suspend, revoke or limit any of the Permits.

***Section 3.12. Regulatory Matters.***

(a) Sellers are, and at all times from and after the date of this Agreement to and including the Closing Date will be, legally, financially and otherwise qualified under the Communications Act to perform their obligations hereunder and (y) to be the licensee(s) of and to own and operate the Owned Station, and (z) to perform their obligations and exercise their rights, as applicable, under the terms of the Time Brokerage Agreement. To Sellers' Knowledge, no fact or circumstance exists relating to the FCC qualifications of Sellers that (i) could reasonably be expected to prevent or delay the FCC from granting the Assignment Applications or (ii) would otherwise disqualify Sellers as (y) the licensee, owner, operator or transferor of the Owned Station or (z) the programming provider of the Brokered Station.

(b) *Schedule 3.12(b)(i)* accurately and completely lists all FCC Licenses, all material pending applications filed with the FCC by Sellers and to Sellers' Knowledge by Atlantic with respect to the Stations. True and complete copies of the FCC Licenses and material pending applications filed with the FCC by Sellers and, to Sellers' Knowledge, by Atlantic with respect to the Stations are attached to *Schedule 3.12(b)(i)*. Each Station has been assigned a channel by the FCC for the provision of digital television service as set forth on *Schedule 3.12(b)(ii)*.

(c) No application, action or proceeding is pending for the renewal of any FCC License as to which any petition to deny or objection has been filed and, to Sellers' Knowledge, there is neither now or on the Closing Date before the FCC any investigation, proceeding, notice of violation, or order of forfeiture relating to either Station that, if adversely determined, could reasonably be expected to have a Material Adverse Effect, except as set forth on *Schedule 3.12(c)*. There is not now pending and, to Sellers' Knowledge, there is not threatened, any action by or before the FCC to revoke, suspend, cancel, rescind or modify any of the FCC Licenses that, if adversely determined, could reasonably be expected to have a Material Adverse Effect (other than proceedings to amend the Communications Act or proceedings before the FCC of general applicability to the broadcast television industry).

(d) The Owned Station is owned and operated by Sellers in material compliance with (i) the terms of the Owned Station Licenses and (ii) the Communications Act, including the Main Studio Rules. To Seller's Knowledge, the Brokered Station is owned and operated by Atlantic in material compliance with (i) the terms of the Brokered Station Licenses and (ii) the Communications Act, including the Main Studio Rules. Seller and, to Seller's Knowledge, Atlantic, have filed or made all applications, reports, and other disclosures required

by the FCC to be made in respect of the Stations and have or will have timely paid all FCC regulatory fees in respect thereof, except where the failure to do so could not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect. Except with respect to those certain licenses, permits or applications set forth on *Schedule 3.12(d)* (the “**Pending Auxiliary Applications**”), no licenses, authorizations, permits or other rights other than the Permits and the FCC Licenses are required to own and operate the Stations in substantially the same manner as they are being operated as of the date hereof and as of the Closing Date. To Sellers’ Knowledge, the FCC Licenses are as of the date hereof, and on the Closing Date will be, in full force and effect; and are not, and on the Closing Date will not be, subject to any condition except conditions applicable to broadcast television licenses generally, or as otherwise disclosed on the face of the FCC Licenses. Sellers have no reason to believe that the FCC will not renew any FCC Licenses, or any licenses with respect to the Brokered Station in the ordinary course. To Sellers’ Knowledge, the Time Brokerage Agreement and the Option Agreement, by their terms, and as performed by Seller and any other party thereto, comply with the Communications Act.

(e) *Schedule 3.12(e)* identifies the Tower on which the main analog antenna of each Station is mounted and the Tower on which Sellers or, to Sellers’ Knowledge, Atlantic, as applicable, have mounted the main digital antenna of such Station. The Transmission Structures are registered to the extent required by Law and all such Transmission Structures have been constructed, and are operated and maintained, in compliance in all material respects with the FCC Licenses and all applicable Laws, including the Communications Act and those promulgated by the FAA (and including, to the extent applicable, all such Laws concerning the marking, painting, lighting, height and registration of the Transmission Structures).

(f) A true and complete copy of each of the Option Agreement and the Time Brokerage Agreement, together with all schedules and exhibits thereto and all documents and instruments relating to the assignment of such agreements to Diversified, are attached to *Schedule 3.12(f)* hereto. The Time Brokerage Agreement qualifies as “grandfathered” under the FCC’s multiple ownership rules pursuant to the FCC’s policies (14 FCC Rcd 12903 (1999), clarified, 16 FCC Rcd 1067 (2001) and subject to such further review as may be ordered as a result of MB Docket No. 04-256) and to Sellers’ Knowledge, such “grandfathered” status continues unimpaired subject to the outcome of MB Docket No. 04-256.

(g) Each Station is operating at the effective radiated power authorized under the applicable FCC Licenses.

(h) To Sellers’ Knowledge, the Stations do not cause or receive any material interference that is in violation of the Communications Act or any other applicable Laws.

(i) All material returns, reports and statements that Sellers are currently required to file with the FCC or FAA have been filed.

### ***Section 3.13. Cable and Satellite Matters.***

(a) *Schedule 3.13(a)* sets forth a true and complete list of:

(i) all MVPDs that carry each Station's signal, and the cable channel on which such Station's signal is carried;

(ii) (A) all MVPDs in the Market to which Sellers or Atlantic has provided a must-carry notice or retransmission consent notice in accordance with the provisions of the Communications Act for the three (3) -year period ending December 31, 2005, for cable systems, and the four (4) -year period ending December 31, 2005, for Direct Broadcast Satellite ("DBS") systems, including a detailed description of the disposition and current status of each such must-carry or retransmission consent notice, and (B) to Sellers' Knowledge, a list of all MVPDs in the Market to which Sellers have not provided any such must-carry or retransmission consent notice;

(iii) (A) all retransmission consent or Copyright indemnification Contracts entered into with any MVPD in the Market with respect to each Station for the three (3) -year period ending December 31, 2005 for cable systems and the four (4) -year period ending December 31, 2005 for DBS systems, and (B) the expiration date for each such Contract;

(iv) all retransmission consent or Copyright indemnification Contracts entered into with any MVPD other than an MVPD in the Market with respect to each Station as of the Effective Date and the expiration date for each such Contract; and

(v) all modifications to the geographic area in which each Station is eligible for must-carry or retransmission consent rights under FCC rules that are pending with or have been approved by the FCC, including any appeals of such modifications to the FCC or a reviewing court.

(b) Except as set forth on *Schedule 3.13(b)*, no MVPD has advised Sellers of any signal quality or Copyright indemnity or other obstacle to carriage of either Station's signal, and no MVPD has declined or threatened to decline such carriage or failed to respond to a request for carriage or sought, to Sellers' Knowledge, any form of relief from carriage from the FCC.

(c) Sellers have made available to Buyer true and complete copies of all material notices, Contracts, correspondence and other items described in Sections 3.13(a)(i)-(v).

(d) The Stations' signals are carried on all of the MVPDs serving the Market pursuant to either (i) a retransmission consent agreement or other similar Contract that is set forth on *Schedule 3.13(a)* or (ii) the valid election and grant of must-carry election status pursuant to §76.64(f)(3) of the Communications Act, evidence of which has been made available to Buyer.

#### ***Section 3.14. [Intentionally Omitted]***

***Section 3.15. Litigation.*** Except as set forth in *Schedule 3.15*, there are no claims, actions, suits, proceedings or investigations pending or, to Sellers' Knowledge, threatened before any court, arbitrator or Governmental Authority which affect the Business or

the Purchased Assets or which could reasonably be expected to restrain, enjoin or otherwise prevent the consummation of the transactions contemplated by this Agreement or the other agreements, certificates and documents delivered in connection herewith. Sellers have made available to Buyer true and complete copies of all court papers and other documents with respect to the matters referred to in *Schedule 3.15*. Except as set forth in *Schedule 3.15*, there is no outstanding writ, judgment, stipulation, injunction, decree, determination, award or other order of any Governmental Authority against Sellers relating to the Business or that adversely affects the condition (financial or otherwise), operations or prospects of the Business.

***Section 3.16. Labor Matters.*** Except as disclosed in *Schedule 3.16*, with respect to the Business (a) there is no labor strike, dispute, slowdown, stoppage or lockout pending, affecting, or, to Sellers' Knowledge, threatened against Sellers, and during the last three (3) years, there has not been any such action and, to Sellers' Knowledge, there are no existing or prior facts, circumstances or conditions that could reasonably be expected to lead to such an action; (b) there are no union claims to represent the Employees nor have there been any claims to represent Employees or former employees of Sellers within the last three (3) years; (c) there is no written or oral Contract with any labor organization, nor work rules or practices agreed to with any labor organization or employee association, applicable to the Employees, nor is either Seller a party to or bound by any collective bargaining or similar Contract; (d) there is, and within the last three (3) years has been, no representation of the Employees or former employees of either Seller by any labor organization and, to Sellers' Knowledge, there are no union organizing activities among the Employees; (e) Sellers have not engaged in any unfair labor practices as defined in the National Labor Relations Act or other applicable Laws, and Sellers are, and have for the past three (3) years been, in compliance in all material respects with all applicable Laws in respect of employment and employment practices, terms and conditions of employment, wages, hours of work and occupational safety and health; (f) there is no unfair labor practice charge or complaint against either Seller pending or, to Sellers' Knowledge, threatened before the National Labor Relations Board or any other Governmental Authority; (g) there is no grievance pending or, to Sellers' Knowledge, threatened against either Seller arising out of any collective bargaining agreement or other grievance procedure; (h) there are no charges with respect to or relating to either Seller pending or, to Sellers' Knowledge, threatened before the Equal Employment Opportunity Commission or any other Governmental Authority responsible for the prevention of unlawful employment practices; (i) Sellers have not received notice of the intent of any Governmental Authority responsible for the enforcement of labor or employment Laws to conduct an investigation with respect to or relating to either Seller in respect of the Business and no such investigation is in progress; and (j) no complaints, lawsuits or other proceedings are pending or, to Sellers' Knowledge, threatened in any forum by or on behalf of any Employee or former employee of either Seller, any applicant for employment or classes of the foregoing alleging breach of any express or implied Contract for employment, any Law governing employment or the termination thereof or other discriminatory, wrongful or tortious conduct in connection with any employment relationship.

***Section 3.17. Employees and Employee Benefits.***

(a) *Schedule 3.17(a)* contains a true and complete list of (i) each Employee, including details of title, date of hire, salary or wage rate, commissions for past fiscal year, accrued leave and severance or stay bonus obligations and (ii) all written and oral Contracts

(including employment and consulting agreements) between Sellers on one hand, and any Employee or consultant of Sellers with respect to the Business on the other. No Employee is a party to, or is otherwise bound by, any Contract, including any confidentiality, noncompetition, proprietary rights agreement or similar Contract, between such Employee and Sellers that would affect the performance of his duties as an employee of Buyer if employed by Buyer pursuant to the terms and subject to the conditions of Section 5.11.

(b) *Schedule 3.17(b)* sets forth a list of all written personnel policies, rules or procedures applicable to Employees, and Sellers have delivered, or otherwise made available, to Buyer true and complete copies of all such personnel policies, rules or procedures. There are no oral severance policies or arrangements applicable to any Employee.

(c) *Schedule 3.17(c)* contains a true and complete list of each Plan. Sellers have delivered or otherwise made available to Buyer true and complete copies of (i) each Plan for which a Plan document exists, (ii) the summary plan description for each Plan and (iii) the latest annual report, if any, which has been filed with the IRS for each Plan. Each Plan intended to be tax qualified under Sections 401(a) and 501(a) of the Code has been determined by the IRS to be tax qualified under Sections 401(a) and 501(a) of the Code and, since such determination, no amendment to or failure to amend any such Plan adversely affects its tax qualified status and, to Sellers' Knowledge, no other event has occurred that would adversely impact such qualification. There has been no non-exempt prohibited transaction within the meaning of Section 4975 of the Code and Section 406 of Title I of ERISA with respect to any Plan that could reasonably be expected to give rise to a material liability to Sellers.

(d) No Plan is subject to the provisions of Section 412 of the Code or Part 3 of Subtitle B of Title I of ERISA. No Plan is subject to Title IV of ERISA. During the past five (5) years, neither Sellers nor any Person then Controlling, Controlled by, or under common Control with Sellers contributed to or was obliged to contribute to an employee pension plan that was subject to Title IV of ERISA.

(e) There are no actions, claims, lawsuits or arbitrations (other than routine claims for benefits) pending, or, to Sellers' Knowledge, threatened, with respect to any Plan or the assets of any Plan, and, to Sellers' Knowledge, no facts exist which could reasonably be expected to give rise to any such actions, claims, lawsuits or arbitrations (other than routine claims for benefits). Sellers have satisfied all funding, compliance and reporting requirements for all Plans, except for those that could not reasonably be expected to give rise to a material liability. With respect to each Plan, Sellers have paid all contributions (including employee salary reduction contributions) and all insurance premiums that have become due and any such expense accrued but not yet due has been properly reflected in the Financial Statements.

(f) No Plan provides or is required to provide, now or in the future, health, medical, dental, accident, death or survivor benefits to or in respect of any Person beyond termination of employment, except to the extent required under any state insurance Law or under Part 6 of Subtitle B of Title I of ERISA and under Section 4980(B) of the Code.

(g) The consummation of the transactions contemplated by this Agreement, the Escrow Agreement, the Assignment and Assumption Agreement, the Bill of Sale, the



Assignment and Acceptance Agreement and the Atlantic Purchase Agreement do not (i) entitle any Employee to severance pay, pension payments, or termination benefits for which Buyer or any of its Affiliates may become liable, (ii) accelerate the time of payment or vesting, or increase the amount of compensation due to any such Employee or former employee of Sellers for which Buyer or any of its Affiliates may become liable or (iii) subject to Section 5.11, obligate Buyer or any of its Affiliates to pay or otherwise be liable for any compensation, vacation days, pension contribution or other benefits to any Employee, former employee, consultant or agent of Sellers with respect to the Business for periods before the Closing Date or for personnel whom Buyer does not actually employ. *Schedule 3.17(g)* sets forth a true and complete list of all severance payments, pension payments, termination payments or any other payments that are due and owing to Employees as of the Closing Date or, thereafter, in connection with the consummation of the transactions contemplated hereby (including termination of employment), whether pursuant to Contract, including employment or labor Contracts, or otherwise (collectively, "**Severance Payments**"). Except as disclosed in *Schedule 3.17(g)* and subject to Section 5.11, all Severance Payments have been or will have been made by Sellers in full on or as of the Closing Date.

**Section 3.18. Environmental Matters.** Except as disclosed in *Schedule 3.18*, (a) the Business has been operated in compliance with Environmental Laws in all material respects, including those laws relating to the generation, storage, treatment, recycling, removal, cleanup, transport or disposal of Hazardous Substances; (b) no inspection or investigation by any Governmental Authority at or about the Real Property has resulted in a written citation, complaint, notice of violation, or letter to either Seller demanding cleanup of any Hazardous Substances pursuant to any Environmental Law that has not been remedied; (c) there has been no release, spill, disposal, or leak of any Hazardous Substances at the Real Property reportable under any Environmental Law during any period in which the Real Property was owned by Sellers nor, to Sellers' Knowledge, has there been any such release, spill, disposal, or leak at any other time; and (d) during any period in which the Real Property was owned by Sellers nor, to Sellers' Knowledge, at any other time, there are or have been, as applicable, no Hazardous Substances present at the surface or subsurface levels of the Real Property which are in excess of any concentration levels or standards prescribed or permitted by any Environmental Law nor does any condition or state of affairs exist on or about such property that would now or in the future require remedial investigation, corrective action or closure under the provisions of any Environmental Law or that could reasonably be expected to constitute a violation of any Environmental Law.

**Section 3.19. Insurance.** *Schedule 3.19* contains a true and complete list of all policies of casualty, liability, theft, fidelity, life and other forms of insurance related to the Business held by Sellers (specifying for each such insurance policy the insurer, the policy number or cover note number with respect to binders, the policy period, the policy limits, and each pending claim thereunder of more than Five Thousand Dollars (\$5,000), and setting forth the aggregate amounts paid out under each such policy during the last three (3) years through the Effective Date). Each such policy is valid and binding, and is or has been in effect during the entire policy period stated therefor. All such insurance policies are in the name of either Diversified or Grand Strand, all premiums with respect to such policies are currently, and as of the Closing Date will be, paid Sellers are in compliance in all material respects with the terms of such policies. Sellers have not received notice of cancellation or termination of any such policy,

nor has it been denied or had revoked or rescinded any policy of insurance, nor borrowed against any such policies. Except as disclosed in *Schedule 3.19*, there is no claim relating to the Purchased Assets or the Business pending under any such policies.

***Section 3.20. Related Party Transactions.*** No current or former partner, director, officer, employee, member or shareholder of Sellers or any associate or Affiliate thereof, or any relative with a relationship of not more remote than first cousin of any of the foregoing, is presently, or during the twelve (12) -month period ending on the Effective Date has been, (a) except for employment agreements and other employment related transactions entered into with Employees in the ordinary course of business and consistent with past practice, a party to any transaction related to the Business with Sellers, including any Contract providing for the furnishing of services by, or rental of real or personal property from, or otherwise requiring payments to, any such partner, director, officer, employee, member, shareholder, associate or Affiliate, or (b) to Sellers' Knowledge, the direct or indirect owner of an interest in any Person which is a present or potential competitor, supplier or customer of the Business, nor does any such Person receive income from any source other than Sellers which relates to the business or should properly accrue to the Business.

***Section 3.21. Taxes.*** Except as set forth on *Schedule 3.21*, (a) Sellers have timely filed or caused to be filed all Tax Returns that are required to have been filed by them with respect to the Purchased Assets or the Business, (b) all such Tax Returns are true and complete in all material respects and (c) Sellers will have paid all Taxes relating to the Purchased Assets or the Business due as of the Closing Date, whether or not shown on any Tax Return. Except for Permitted Liens, none of the Purchased Assets are subject to any Lien arising in connection with the failure or alleged failure to pay any Tax. The charges, accruals and reserves for Taxes of Sellers relating to the Purchased Assets or the Business for any pre-Closing Tax period (including any Tax period for which no Tax Return has yet been filed) reflected on the books of Sellers (excluding any provision for deferred Taxes) as disclosed to Buyer, are adequate to cover such Taxes. None of the Purchased Assets are "tax-exempt use property" within the meaning of Section 168(h) of the Code. There are no outstanding waivers or agreements extending the application of any statute of limitations regarding the assessment or collection of any material Tax and there are no material disputes concerning Taxes, claimed or raised, by any Governmental Authority in writing, in each case with respect to the Purchased Assets or the Business. Sellers have made available to Buyer true and complete copies of all Tax Returns filed by or on behalf of Sellers, other than Tax Returns filed with respect to any income taxes of either Seller, with respect to the Purchased Assets or the Business for each of the past three (3) taxable years. Sellers have, in all material respects, withheld and paid all Taxes required to have been withheld and paid in connection with amounts paid or owing to any Employee or independent contractor in respect of the Business.

***Section 3.22. Brokers.*** No agent, broker, firm or other Person acting on behalf, or under the authority, of Sellers is or will be entitled to any broker's or finder's fee or any other commission or similar fee directly or indirectly from Buyer or its Affiliates in connection with any of the transactions contemplated hereby.

## ARTICLE IV—REPRESENTATIONS AND WARRANTIES OF BUYER

In order to induce Sellers to enter into this Agreement, Buyer hereby represents and warrants to each Seller as follows, with each such representation and warranty subject only to such exceptions, if any, as are set forth in the particular disclosure Schedule numbered and captioned to correspond to, and referenced in, such representation or warranty:

***Section 4.1. Organization, Standing and Power.*** Buyer is a corporation duly formed, validly existing and in good standing under the laws of the State of Delaware and has all requisite corporate power and authority to own, lease and operate its properties and to carry on its business as now being conducted.

***Section 4.2. Authority; Binding Agreements.*** The execution and delivery of this Agreement and the other agreements, certificates and documents delivered in connection herewith and the consummation of the transactions contemplated hereby and thereby have been duly and validly authorized by all necessary corporate action on the part of Buyer. Buyer has all requisite corporate power and authority to enter into this Agreement and the other agreements, certificates and documents delivered in connection herewith and to consummate the transactions contemplated hereby and thereby, and this Agreement and the other agreements, certificates and documents delivered in connection herewith have been, or upon execution and delivery thereof will be, duly executed and delivered by Buyer. This Agreement and the other agreements, certificates and documents delivered in connection herewith are, or upon execution and delivery thereof will be, the valid and binding obligations of Buyer, enforceable against Buyer in accordance with their respective terms.

***Section 4.3. Conflicts; Consents.*** The execution and delivery of this Agreement and the other agreements and documents to which Buyer is a party as contemplated by this Agreement, the consummation of the transactions contemplated hereby and thereby and compliance by Buyer with the provisions hereof and thereof do not and will not (a) conflict with or result in a breach of the certificate of incorporation or other constitutive or organizational documents of Buyer, (b) subject to receipt of the FCC Consent, violate any Law applicable to Buyer or Buyer's properties or assets, or (c) require the consent or approval by, or any notification of or filing with, any Governmental Authority other than the FCC.

***Section 4.4. FCC Qualifications.*** Subject to obtaining the FCC Consent, Buyer is, and as of the Closing will be, legally, financially and otherwise qualified under the Communications Act to perform its obligations hereunder and (y) to be the licensee of, and own and operate, the Owned Station and (z) to perform the obligations and exercise the rights to be assumed by and assigned to Buyer under the Time Brokerage Agreement. To Buyer's Knowledge, no fact or circumstance exists relating to the FCC qualifications of Buyer that (a) could reasonably be expected to prevent or delay the FCC from granting the Assignment Applications without the imposition of any conditions materially adverse to Buyer or Sellers (b) would otherwise disqualify Buyer as the licensee, owner or operator of the Owned Station or as the programming provider for the Brokered Station, subject to the terms and conditions of the Time Brokerage Agreement. To Buyer's Knowledge no waiver of any FCC rule or policy is required for the grant of the FCC Consent.

**Section 4.5. Brokers.** No agent, broker, investment banker, firm or other Person acting on behalf, or under the authority, of Buyer is or will be entitled to any broker's or finder's fee or any other commission or similar fee directly or indirectly from Sellers or their Affiliates in connection with any of the transactions contemplated hereby.

## ARTICLE V—ADDITIONAL AGREEMENTS

### **Section 5.1. FCC Matters.**

(a) **FCC Consent.** The consummation of the transactions contemplated hereby is subject to the prior consent and approval of the FCC. Within ten (10) Business Days after the date hereof, Sellers and Buyer shall prepare and thereafter shall promptly file with the FCC the Assignment Applications. In addition, each party hereto covenants and agrees to (i) prepare, file and prosecute any alternative application, petition, motion, request or other filing (including any motion for leave to withdraw or dismiss any Assignment Application filed by the parties with the FCC in connection with the transactions contemplated hereby) (the “**Additional Applications**”); (ii) file any amendment or modification to the FCC Applications; (iii) otherwise take any other action with respect to the FCC as may be reasonably necessary in connection with the transactions contemplated hereby; and (iv) cooperate in good faith with the other party hereto with respect to the foregoing, all as may be reasonably determined by Buyer or Seller to be necessary, appropriate or advisable in order to consummate the transactions contemplated by this Agreement.

(b) **Prosecution of FCC Applications.** Upon filing, the parties shall prosecute the FCC Applications with commercially reasonable diligence and otherwise use commercially reasonable efforts to obtain the grant of the FCC Applications as expeditiously as practicable. Each party shall promptly provide to the other party a copy of any pleading, order or other document served on them or a copy of any formal inquiry or request by the FCC or the substance of any informal FCC inquiry relating to any such FCC Application.

(c) **Certain Actions and Omissions.** Sellers and Buyer shall not take any action, or omit to take any action, or enter into any Contract which would, or could reasonably be expected to, prevent or interfere with the successful prosecution of any FCC Application or the consummation of the transactions contemplated by this Agreement, or which is or would be inconsistent with any FCC Application or the consummation of the transactions contemplated by this Agreement.

(d) **Certain FCC Conditions.** Each party agrees to comply with any condition imposed on it by any FCC Consent, except that no party shall be required to comply with a condition if (i) the condition was imposed on it as the result of a circumstance the existence of which does not constitute a breach by that party of any of its representations, warranties, covenants, obligations or agreements hereunder or (ii) compliance with the condition could reasonably be expected to have, in the case of Sellers, a Material Adverse Effect, or in the case of Buyer, a material adverse effect upon Buyer or its Affiliates. Buyer and Sellers shall oppose any petitions to deny or other objections filed with respect to any FCC Applications and any requests for reconsideration or review of any FCC Consent.

(e) ***Certain Extensions.*** If the Closing shall not have occurred for any reason within the original effective period of any FCC Consent, and neither party shall have terminated this Agreement pursuant to its right under Section 7.1, the parties shall jointly request an extension or extensions of the effective period of such FCC Consent. No extension of the effective period of any FCC Consent shall limit the exercise by either party of its right to terminate the Agreement under Section 7.1.

***Section 5.2. Conduct of Business.***

(a) ***Certain Affirmative Covenants.*** From the Effective Date until the Closing Date, except as otherwise consented to by Buyer in writing, Sellers shall use commercially reasonable efforts to:

(i) operate and control the Owned Station in all material respects in the ordinary course of business and in a manner consistent with past practices (except where such conduct would conflict with the following covenants or with Sellers' other obligations under this Agreement) and otherwise in compliance in all material respects with all applicable Laws, including the Communications Act, the FCC Licenses and all applicable Permits;

(ii) perform its obligations and exercise its rights under and in connection with the Brokered Station and the Time Brokerage Agreement in compliance with the terms and conditions thereof and applicable Laws, including the Communications Act;

(iii) maintain and repair facilities and equipment related to Sellers' operations with respect to the Stations, maintain its inventory of supplies, parts and other materials and keep books of account, records and files, in each case in the ordinary course of Business consistent with past practices;

(iv) keep in full force and effect insurance in respect of the Business and the Purchased Assets comparable in amount and scope of coverage to that now maintained;

(v) perform in all material respects all obligations under the Assumed Contracts and any other documents relating to or affecting the Purchased Assets or the Business;

(vi) comply in all material respects with all applicable Laws;

(vii) preserve intact all goodwill of or relating to the Stations and the Business;

(viii) take all actions reasonably necessary or appropriate to protect the Stations from objectionable interference from other stations, including, in the case of the Owned Station, the filing of any and all necessary pleadings with the FCC to prevent or remedy such interference; and

(ix) remain qualified under the Communications Act to perform its obligations hereunder, to be the licensee of, and to own and operate the Owned Station and to perform its obligations and exercise its rights under the Time Brokerage Agreement.

(b) ***Certain Negative Covenants.*** Sellers shall not (to the extent the following restrictions are permitted by the FCC, the Communications Act and all other applicable Laws), except as otherwise consented to by Buyer in writing:

(i) other than in the ordinary course of business, assign, sell, lease (as lessor), transfer or dispose of, or agree to assign, sell, lease (as lessor), transfer or dispose of, any material Purchased Assets without replacement thereof with functionally equivalent or superior assets;

(ii) apply to the FCC for any FCC license, construction permit, authorization or any modification thereto that would materially restrict either Station's present operations or make any material adverse change in the buildings, leasehold improvements or fixtures owned by Sellers, including any Transmission Structure;

(iii) enter into any arrangement or Contract with any Affiliate or shareholder of Seller, or any of any such shareholders' parents, spouse, descendants (whether natural, step or adopted) or other family member in respect of the Business or the Purchased Assets;

(iv) enter into any material amendment or modification to, or grant any material waiver under, any lease, sublease, license, or other Contract with respect to the Real Property.

(v) incur, or suffer or permit to exist, any Lien (other than a Permitted Lien) on any Purchased Asset(s) that is not terminated and released on or prior to Closing;

(vi) enter into, renew, amend or modify (x) any Contract relating primarily to the Stations or the Business or (y) any other Contract relating to the Stations or the Business to the extent such Contract is or is contemplated to be an Assumed Contract, except in the case of each of (x) and (y), (A) to the extent that such Contract is an Ordinary Course Contract and, together with all other Ordinary Course Contracts (whether under this provision or under Section 3.10) does not involve, in the aggregate, payment of more than \$25,000 or (B) Contracts under which Sellers agree to provide commercial advertising time on the Stations and are entered into in the ordinary course of business and consistent with past practice; provided, that Sellers shall deliver copies of any Contracts, renewals, amendments or modifications entered into pursuant to this clause (vi) promptly following execution thereof;

(vii) amend or modify the Time Brokerage Agreement or the Atlantic Purchase Agreement;

(viii) enter into any local marketing agreement, joint sales agreement, shared services agreement or other similar Contract in respect of the programming or operations of the Owned Station;

(ix) except as required by applicable Laws or Existing Contract, (A) hire any employee except in the ordinary course of Business and consistent with past practices of Seller, or (B) enter into, renew, amend or modify any collective bargaining agreement, in each case in respect of the Business or the Purchased Assets;

(x) enter into any new Plan or amend any existing Plan with respect to the Stations or the Business or grant any increases in employee compensation or benefits except for increases in compensation in the ordinary course of business and consistent with past practice; provided that Diversified may enter into any new Plan or amend any existing Plan to the extent any such new Plan or amendment is applicable to all employees of Diversified;

(xi) take, or fail to take, any other action which could reasonably be expected to result in a breach or inaccuracy in any of the representations or warranties of Sellers contained in this Agreement;

(xii) except in accordance with, and subject to, the provisions of Sections 5.23, terminate the Atlantic Purchase Agreement;

(xiii) agree or commit, whether in writing or otherwise, to take any of the actions specified in the foregoing clauses;

(xiv) take, or fail to take, any action which would result in (A) a breach of any material representation, warranty, covenant or obligation of Diversified under the Atlantic Purchase Agreement or (B) failure of Diversified to satisfy any condition set forth in Paragraph 8 of the Atlantic Purchase Agreement; or

(xv) commit or suffer any of the acts described in clauses (a) through (q) of Section 3.6.

(c) **FCC Licenses; Permits.** During the period commencing on the Effective Date and ending on the earlier of the Closing Date or the termination of this Agreement, Sellers shall (i) maintain in effect the FCC Licenses and all Permits that are required to carry on the Business, (ii) promptly execute any necessary applications for renewal of FCC Licenses necessary for the operation of the Owned Station as presently conducted, assist in the preparation of any necessary applications for renewal of the FCC licenses with respect to the Brokered Station, and will use reasonable efforts to cooperate with Buyer in any other respect as Buyer may reasonably request in order to enhance, protect, preserve or maintain the Purchased Assets or the Business; (iii) timely file with the FCC all required reports and pay any required annual regulatory fees for the operation of the Owned Station and take all actions reasonably necessary to assist Atlantic to timely file with the FCC all required reports and pay any required annual regulatory fees for the operation of the Brokered Station; (iv) deliver to Buyer, within ten (10) Business Days after filing, copies of any reports, applications or responses to the FCC related to the Stations which are filed during such period; and (v) diligently prosecute the Pending

Auxiliary Applications. Upon request of Buyer, Sellers shall consent, pursuant to 47 C.F.R. Section 73.3517, to the filing by, and in the name of Buyer (or any permitted assignee of Buyer) of an application requesting the authorization of the FCC to modify any FCC License or authorization of or relating to the Owned Station, *provided that* the effectiveness of any such authorization be contingent upon Closing. All filing costs related to such filings shall be borne by Buyer.

***Section 5.3. Obligation to Consummate Transaction; Atlantic Closing.*** Each of the parties hereto agrees to use all commercially reasonable efforts to take, or cause to be taken, all action, and to do, or cause to be done, all things necessary, proper or advisable to the extent permissible under applicable Laws, to consummate and make effective the transactions contemplated by this Agreement as expeditiously as practicable and to ensure that the conditions set forth in Article VI are satisfied, insofar as such matters are within the control of either of them, including, in the case of Sellers, using all commercially reasonable efforts to cause the consummation of the Atlantic Closing, including the enforcement of Sellers' rights under the Option Agreement and the Atlantic Purchase Agreement.

***Section 5.4. Exclusivity.*** From the Effective Date until the earliest of (a) the Closing Date and (b) the termination of this Agreement (other than as a result of the failure of Sellers to comply with or perform their covenants and obligations under this Agreement), Sellers shall not, and shall not permit any of their Affiliates or any partners, directors, officers or agents of the foregoing to, directly or indirectly engage in any negotiations, or discussions in respect of, solicit offers for, enter into any agreement for or provide any non-public information in furtherance of, any actual or proposed sale, exchange or other transfer of any or all of the Purchased Assets or the Business. Sellers covenant and agree that they will promptly notify Buyer in the event of and in respect of any inquiry or offer that Sellers shall receive with respect to any such transaction involving any or all of the Purchased Assets or the Business, and affirm that such inquiries resulted in neither discussions nor negotiations with respect to the Purchased Assets or the Business.

***Section 5.5. Access and Information; Additional Disclosure.***

***(a) Access and Information.*** From the Effective Date until the earlier of the Closing Date and the termination of this Agreement, Sellers shall permit Buyer and its representatives to make such reasonable investigation of the Business and the Purchased Assets as Buyer deems necessary or desirable in connection with the transactions contemplated hereby. Such investigation shall include access at reasonable times, upon reasonable notice and at the offices of Sellers or the Stations, to the officers, employees (provided that until the date of the Preliminary FCC Consent neither Buyer nor any of its representatives may discuss the employment of any employees by Buyer), agents and representatives (including legal counsel and independent accountants) of Sellers and the operations, properties, books and records of the Business, the corporate ledger and accounts payable system to the extent related to the Business, provision of any documents contemplated by this Agreement, including copies of payroll Taxes filed under applicable state Law with respect to Employees, that were not otherwise provided prior to the Effective Date. During such period, Sellers shall furnish Buyer and its representatives with such financial, operating and other data and information, and copies of documents with respect to the Business or any of the transactions contemplated hereby, as Buyer



shall from time to time reasonably request. Such access and investigation shall be made at reasonable places and times and upon reasonable prior notice to Sellers and conducted in a manner which will not unduly interfere with the operation of the Stations. Such access and information shall not in any way diminish or otherwise affect any of the representations or warranties hereunder or Buyer's rights to indemnification in respect of any breach thereof. Without limiting the foregoing, during such period, Sellers shall (i) provide to Buyer upon request the following information with respect to the Business: (A) pacing reports, (B) sales reports, (C) financial statements and detail related thereto, (D) program listings and (E) other similar information reflecting the material aspects of the Business and the operations of the Business and shall be reasonably available to Buyer from time to time to discuss such information and the Business; and (ii) make available to Buyer the items set forth in Section 2.3(a)(iv).

(b) **Additional Disclosures.** From the Effective Date until the earlier of the Closing Date and the termination of this Agreement, Sellers shall give prompt written notice to Buyer of (i) the occurrence, or failure to occur, of any event which could reasonably be expected to cause any representation or warranty made by Sellers in this Agreement or any Exhibit or Schedule hereto that is qualified by materiality or subject to the thresholds to be untrue or inaccurate in any respect as of the Closing Date or any such representation or warranty that is not so qualified by materiality to be untrue or inaccurate in any material respect as of the Closing Date, and (ii) any failure to comply with or satisfy in any material respect any covenant, condition or agreement required to be complied with or satisfied by it under this Agreement or any Exhibit or Schedule hereto; *provided, however*, that such disclosure shall not be deemed to cure any breach of representation, warranty, covenant or agreement or to satisfy any condition for purposes of determining whether the conditions set forth in Article VI have been satisfied.

#### ***Section 5.6. Confidentiality; Non-Competition; Non-Solicitation.***

(a) **Seller Confidentiality Agreement.** Sellers shall and shall cause their Affiliates and their respective counsel, accountants, financial advisors, lenders and other agents and representatives to: (i) protect the Buyer Confidential Information with at least the same degree of care, but no less than reasonable care, with which it protects its own most sensitive confidential information and not to disclose or reveal any Buyer Confidential Information to any Person other than to its or its Affiliates' respective officers, directors, employees, attorneys, accountants, other agents and representatives, including engineers, financial advisors, current and prospective lenders who need to know the Buyer Confidential Information in connection with any investigation of Sellers or the negotiation, preparation or performance of this Agreement or any document to be delivered hereunder or for the purpose of evaluating Sellers or the transactions contemplated hereby, except to the extent that disclosure of Buyer Confidential Information has been consented to in writing by Buyer; and (ii) not use the Buyer Confidential Information for any purpose other than (A) in connection with the evaluation or consummation of the transactions contemplated by this Agreement; (B) to the extent necessary in connection with any filing requirements under the laws of the United States or to obtain any Consents; or (C) to enforce Sellers' rights and remedies under this Agreement. The obligations of Sellers under this Section 5.6(a) shall survive the Closing or the termination of the Agreement for a period of three (3) years after such Closing or termination, as applicable.

(b) **Buyer Confidentiality Agreement.** Buyer shall and shall cause its Affiliates and its and their respective counsel, accountants, financial advisors, lenders and other agents and representatives to: (i) protect the Seller Confidential Information with at least the same degree of care, but no less than reasonable care, with which it protects its own most sensitive confidential information and not to disclose or reveal any Seller Confidential Information to any Person other than to its or its Affiliates' respective officers, directors, employees, attorneys, accountants, other agents and representatives, including engineers, financial advisors, current and prospective lenders who need to know the Seller Confidential Information in connection with the performance of this Agreement or any document to be delivered hereunder or for the purpose of evaluating the transactions contemplated hereby, except to the extent that disclosure of such Seller Confidential Information has been consented to in writing by Seller; and (ii) not use the Seller Confidential Information for any purpose other than (A) in connection with the evaluation or consummation of the transactions contemplated by this Agreement; (B) to the extent necessary in connection with any filing requirements under the laws of the United States or to obtain any Consents; or (C) to enforce Buyer's rights and remedies under this Agreement. The obligations of Buyer under this Section 5.6(b) shall survive the Closing or the termination of the Agreement for a period of three (3) years after such Closing or termination, as applicable.

(c) **Non-Competition; Non-Solicitation.** Sellers hereby acknowledge and recognize their possession of confidential or proprietary information and the highly competitive nature of the Business and accordingly agrees that, in consideration of Buyer's entering into this Agreement and the other transactions contemplated hereby and the premises contained herein, including the payment of the Purchase Price and the assumption of the Assumed Liabilities as provided hereunder, neither Sellers nor any of their Affiliates (now existing or hereafter incorporated, formed or otherwise organized) shall, for a period commencing on the Closing Date and concluding on the three (3) year anniversary thereof, directly or indirectly, for any reason whatsoever, either individually or as shareholder, partner, agent or principal of another business firm:

(i) engage in the Market in any business involving, directly or indirectly, a business substantially similar to the Business, including the ownership or operation of, or the provision of any programming or advertising sales services to, any television station (a "**Competitive Business**");

(ii) assist any other Person in engaging in any Competitive Business;

(iii) induce employees of Buyer or any of its Affiliates or any Employees or former employees of Sellers involved in the Business, if any, to terminate their employment with Buyer or such Affiliate; or

(iv) hire any employees of Buyer or any of its Affiliates or any Employees or former employees of Sellers providing services primarily to the Business, if any, to work with Sellers or any of their Affiliates.

(d) **Interpretation.** Sellers acknowledge and agree that the provisions of this Section 5.6 are necessary and reasonable to protect Buyer in the conduct of its business and are a

material inducement to Buyer's execution and delivery of this Agreement. In the event that the restrictions against engaging in competition or solicitation contained in this Section 5.6 shall be determined in accordance with Section 9.1 to be unenforceable by reason of their extending for too great a period of time or over too great a geographical area or by reason of their being too extensive in any other respect, this Section 5.6 shall be interpreted to extend only over the maximum period of time for which it may be enforceable and over the maximum geographical areas as to which it may be enforceable and to the maximum extent in all other respects as to which it may be enforceable all as determined in accordance with Section 9.1.

(e) **Equitable Relief.** The parties acknowledge and agree that a breach of this Section 5.6 will cause irreparable damage and great loss to the other parties or their Affiliates, the exact amount of which will be difficult to ascertain and that the remedies at law for any such breach will be inadequate. Accordingly, the parties hereto acknowledge and agree that in the event of such a breach by either Seller, on the one hand, or Buyer, on the other hand, then Buyer or Sellers, respectively, shall be entitled to equitable relief, including injunctive relief, without posting bond or other security and without a showing of the inadequacy of monetary damages as a remedy.

#### ***Section 5.7. Certain Tax Matters.***

(a) **Transfer Taxes.** All recordation, transfer, documentary, excise, sales, value added, use, stamp, conveyance or other similar Taxes and fees imposed or levied by reason of, in connection with or attributable to consummation of the transactions contemplated by this Agreement (collectively, "**Transfer Taxes**") shall be borne by Diversified; *provided, however*, that Buyer and Sellers shall reasonably cooperate with one another to lawfully minimize such Taxes.

#### ***(b) Allocation of Taxes.***

(i) Sellers shall pay (x) all Taxes relating to the Purchased Assets or the operations of the Business for all periods or portions thereof ending on or before the calendar day immediately preceding the Closing Date and (y) any income taxes of Sellers attributable to income or gain realized by Sellers pursuant to the transactions contemplated by this Agreement. For these purposes, in the case of any Taxes that are imposed on a periodic basis and that are payable for a period that begins before the Closing Date and ends after the Closing Date (the "**Straddle Period**"), the portion of such Taxes that shall be deemed to be payable for the portion of the period ending on the calendar day immediately preceding the Closing Date shall (A) in the case of any Taxes other than Taxes based upon or related to income or receipts, be deemed to be the amount of such Taxes for the entire period (or, in the case of such Taxes determined on an arrears basis, the amount of such Taxes for the immediately preceding period), whether actually paid before, during, or after such period, multiplied by a fraction the numerator of which is the number of calendar days in the period ending on (and including) the calendar day immediately preceding the Closing Date and the denominator of which is the number of calendar days in the entire period, and (B) in the case of any Taxes based upon or related to income or receipts, be deemed equal to the amount which would be payable if the taxable year ended on the calendar day immediately preceding the Closing Date. Any

credits or Tax refunds with respect to a Straddle Period shall be prorated, based upon the method employed in the preceding sentence. Sellers shall pay all Taxes relating to the Excluded Assets for all periods or portions thereof ending on or after the Closing Date.

(ii) Buyer shall pay all Taxes relating to the Purchased Assets or the operations of the Business (other than the Excluded Assets) for all periods or portions thereof beginning on or after the Closing Date. For these purposes, in the case of any Taxes that are imposed on a periodic basis and that are payable for a Straddle Period, the portion of such Taxes that shall be deemed to be payable for the portion of the period beginning on the Closing Date and ending on the last day of such Straddle Period shall (A) in the case of any Taxes other than Taxes based upon or related to income or receipts, be deemed to be the amount of such Taxes for the entire period (or, in the case of such Taxes determined on an arrears basis, the amount of such Taxes for the immediately preceding period), whether actually paid before, during, or after such period, multiplied by a fraction the numerator of which is the number of calendar days in the period beginning on (and including) the Closing Date and ending on the last day of the Straddle Period, and the denominator of which is the number of calendar days in the entire period, and (B) in the case of any Taxes based upon or related to income or receipts, be deemed equal to the amount which would be payable if the taxable year began on the Closing Date and ended on the last day of the Straddle Period. Any credits or Tax refunds with respect to a Straddle Period shall be prorated, based upon the method employed in the preceding sentence.

(c) ***Filing Responsibility.***

(i) Sellers shall prepare and file, or cause to be prepared and filed, the following Tax Returns with respect to the Business: (A) all income Tax Returns for any taxable period ending on or before the Closing Date; and (B) all other Tax Returns required to be filed (taking into account extensions) prior to the Closing Date.

(ii) Buyer shall prepare and file all other Tax Returns with respect to the Business.

(iii) With respect to any Tax Return for any Straddle Period, Buyer shall provide drafts of each such Tax Return reasonably in advance of the due date (including any extension) and shall permit Sellers and its advisors to review and comment on each such Tax Return prior to filing and shall make such revisions to such Tax Returns as are reasonably requested by Sellers.

**(d) Refunds.**

**(i)** Sellers shall be entitled to any refunds or credits of Taxes attributable to or arising from taxable periods or portions thereof for which Sellers are liable pursuant to Section 5.7(b)(i) hereof or any Transfer Taxes for which Sellers were liable pursuant to Section 5.7(a) hereof.

**(ii)** Buyer shall be entitled to any refunds or credits of Taxes attributable to or arising from taxable periods or portions thereof for which Buyer is liable pursuant to Section 5.7(b)(ii) hereof.

**(iii)** Sellers and Buyer shall use commercially reasonable efforts to obtain any applicable Tax refund or reduction with respect to any Taxes. Buyer shall promptly forward to Sellers or reimburse Sellers for any refunds or credits due Sellers (pursuant to the terms of this Article V) after receipt thereof, and Sellers shall promptly forward to Buyer (pursuant to the terms of this Article V) or reimburse Buyer for any refunds or credits due Buyer after receipt thereof.

**(e) Cooperation and Exchange of Information.** Each of Sellers and Buyer shall (i) provide the other with such assistance as may reasonably be requested by the other party in connection with the preparation of any Tax Return, audit or other examination by any taxing authority or judicial or administrative proceeding relating to liability for Taxes in connection with the Business or the Purchased Assets, (ii) retain and provide the other with any records or other information that may be relevant to such Tax Return, audit or examination, proceeding or determination, and (iii) provide the other with any final determination of any such audit or examination, proceeding or determination that affects any amount required to be shown on any Tax Return of the other for any period.

**(f) Survival of Covenants.** The covenants contained in this Section 5.7 shall survive until thirty (30) days after the expiration of the applicable statute of limitations (including extensions thereof).

**Section 5.8. Public Announcements.** Prior to and at the Closing, neither Buyer nor Sellers shall issue any press release or otherwise make any public statement with respect to the transactions contemplated hereby without the prior written consent of the other party hereto. Following the Closing, (a) Buyer shall have the right to issue any press release or otherwise make any public statement with respect to the transactions contemplated hereby upon the prior written consent of Diversified and (b) Diversified shall have the right to issue a press release or otherwise make a public statement with respect to the transactions contemplated hereby upon the prior written consent of Buyer. Notwithstanding anything to the contrary herein, any party may issue any press release or make any public statement with respect to the transactions contemplated hereby without the approval of the other party as may be required by applicable Law or court process, *provided that* notice is promptly delivered to the other party in order to provide an opportunity to seek a protective order or other similar order with respect to such information and the issuing party thereafter discloses only the minimum information required to be disclosed in order to comply with the request, whether or not a protective order or other similar order is obtained by the other party.

**Section 5.9. Checks; Remittances and Refunds.** After the Closing, if Sellers or their Affiliates receive any payment, refund or other amount which is attributable to, or results from a Purchased Asset or is otherwise properly due and owing to Buyer in accordance with the terms of this Agreement, Sellers shall promptly remit, or cause to be remitted, such amount to Buyer. Sellers shall promptly endorse and deliver to Buyer any notes, checks, negotiable instrument, letters of credit or other documents received on account of, or attributable to the Purchased Assets which are properly due and owing to Buyer in accordance with the terms of this Agreement, and Buyer shall have the right and authority to endorse the name of Sellers or any of their Affiliates on any such instrument or document. After the Closing, if Buyer or its Affiliates receive any refund or other amount which is attributable to or results from an Excluded Asset or is otherwise properly due and owing to Sellers in accordance with the terms of this Agreement, Buyer shall promptly remit, or cause to be remitted, such amount to Diversified.

**Section 5.10. Cooperation in Litigation.** From and after the Closing Date, Buyer and Sellers shall fully cooperate with each other in the defense or prosecution of any litigation or examination, audit, or other proceeding instituted prior to the Closing or which may be instituted hereafter against or by such parties relating to or arising out of the conduct of the Business prior to or after the Closing (other than litigation between Buyer and Sellers or their respective Affiliates arising out of the transactions contemplated hereby or by the other agreements, certificates and documents delivered in connection herewith). The party requesting such cooperation shall pay the reasonable out-of-pocket costs and expenses incurred in providing such cooperation (including legal fees and disbursements) as well as any applicable Taxes in connection therewith by the party providing such cooperation and by its officers, directors, employees and agents, but shall not be responsible for reimbursing such party or its officers, directors and employees for their time spent in such cooperation, *provided that* the amount of such time is reasonable and consistent with such person's other obligations.

**Section 5.11. Employment of Certain Employees of Business.** Between the period commencing on the date that the FCC releases a public notice that the Assignment Applications have been approved (the "**Preliminary FCC Consent**") and concluding on the Closing Date, Sellers shall promptly, and in any event within five (5) Business Days of Buyer's request, (a) provide Buyer with current compensation information regarding the Employees and (b) afford Buyer the opportunity to consult with Sellers and any and all Employees of the Business regarding the potential retention of certain Employees by Buyer upon the Closing. Buyer shall have the right, but not the obligation, in its sole discretion, to offer employment commencing on or after the Closing Date to any or all of such Employees, in each case on such terms as Buyer shall determine in its sole discretion. At least ten (10) days prior to the Closing Date, Buyer shall provide to Sellers a list of Employees (the "**Scheduled Employees**") with respect to which Buyer intends to offer employment commencing on the Closing Date. At the request of Buyer, Diversified shall provide reasonable access to review the human resource files with respect to any Scheduled Employee. To the extent one or more Scheduled Employee accepts Buyer's offer of employment (a "**Subject Employee**"), Buyer, as between Buyer and Sellers, shall (i) to the extent included in the Accrual Adjustment Amount, assume all obligations and liabilities of the Sellers to the Subject Employees for vacation, personal and sick days accrued but not taken as of the Closing Date, (ii) give credit to such Subject Employees under all applicable employee benefit plans and programs of the Buyer for all of such Subject Employee's years of service with the Sellers, as applicable, for all purposes for which service is a factor

under such employee benefit plans of the Buyer and to the extent permissible under applicable law and (iii) provide the Subject Employees with health coverage on and after the Closing Date that is comparable to that offered by Buyer to similarly situated employees of Buyer or its Affiliates at other television stations owned by Buyer or such Affiliates. Buyer shall have no obligation to create, maintain, or contribute to any Plan in respect of any such Subject Employee. To the extent that Buyer does not, in its sole discretion, offer employment to one or more Employees or a Scheduled Employee does not accept Buyer's offer of employment, as between Buyer and Sellers, Sellers shall be solely responsible for any and all severance and other benefits, including any Accrued Compensation, to which such Scheduled Employees are entitled as a result of such non-employment. Sellers shall take all and any action reasonably necessary to facilitate the rollover of any Subject Employee's 401(k) account from the Sellers' 401(k) plan to Buyer's 401(k) plan. Sellers shall reasonably cooperate with Buyer with respect to the transitioning of Sellers' payroll system to Buyer's payroll system during the thirty (30) -day period following the Closing Date. Buyer agrees that it will offer employment on the Closing Date to not less than 30 Employees on terms and conditions that are comparable to those offered by Buyer to similarly situated employees of Buyer or its Affiliates at other television stations owned by Buyer or such Affiliates.

***Section 5.12. Environmental Inspection.*** On the date hereof, Buyer shall reimburse Sellers for all expenses and costs (up to a maximum reimbursement of Seven Thousand Dollars (\$7,000)) incurred by Sellers in connection with the Phase 1 environmental audit of the Real Property conducted by an environmental consultant engaged by Sellers.

***Section 5.13. No Premature Assumption of Control.*** Nothing contained in this Agreement shall give Buyer any right to, directly or indirectly, control, supervise or direct, or attempt to control, supervise or direct, the programming, operations, or any other matter relating to the Stations prior to the Closing Date, and Sellers shall have complete control and supervision of the programming, operations, policies and all other matters relating to the Owned Station up to the time of the Closing.

***Section 5.14. WARN Act.*** Buyer and Seller agree to cooperate in good faith to determine whether any notification may be required under the WARN Act, as a result of the transactions contemplated under the Agreement and, if such notices are required, to provide such notice in a manner that is reasonably satisfactory to each of the parties hereto.

***Section 5.15. Expenses.***

(a) All filing fees and other charges levied by any Governmental Authority in connection with the transactions contemplated by this Agreement, including those fees relating to the FCC Applications, shall be paid one-half by Buyer and one-half by Diversified.

(b) Except as expressly set forth herein, each party hereto shall bear its own costs and expenses incurred in connection with the transactions contemplated hereby.

***Section 5.16. Risk of Loss.***

(a) The risk of loss to any of the Purchased Assets on or prior to the Closing Date shall be upon Sellers. Sellers shall use all commercially reasonable efforts to repair or

replace any Purchased Assets that are lost or damaged prior to Closing; provided, however, that in the event that Purchased Assets with a book value of greater than \$200,000 are damaged or lost as of the date otherwise scheduled for Closing, Buyer may, at its sole election, either (i) postpone Closing for a period of up to sixty (60) calendar days while Sellers repair or replace such Purchased Assets, or (ii) elect to close with the Purchased Assets in their then-current condition, in which case Sellers shall assign all claims and proceeds from insurance on such lost or damaged Purchased Assets to Buyer and pay to Buyer (or, to the extent not known as of the Closing, indemnify Buyer from the first dollar and without regard for any limitations on indemnifications or amounts contained elsewhere in this Agreement) the reasonable cost of repair and replacement of such damaged or lost Purchased Assets to the extent not covered by insurance, provided, further, however, that Sellers shall have no obligation to repair or replace lost or damaged Purchased Assets, or make a payment to, or indemnify Buyer therefor to the extent the amount not covered by insurance exceeds \$500,000.

(b) Should either Station (i) not operate for a period in excess of forty-two (42) consecutive hours or (ii) not operate at more than eighty-five percent (85%) of their maximum authorized power for a period of ten (10) consecutive days (either (i) or (ii) a “**Transmission Default**”), and it is reasonably expected that the Transmission Default could not be remedied within a reasonable period of time, Buyer may, by written notice to Sellers within five (5) days of the occurrence of the Transmission Default, either elect to terminate this Agreement pursuant to a Notice of Termination to Sellers as provided in Section 7.1(e) or postpone the Closing for a period of up to sixty (60) days while Sellers attempts to cure the Transmission Default condition, and if such cure occurs within such sixty (60) day period, then the parties shall consummate the transaction at the earliest practicable date thereafter, subject to the satisfaction or waiver of the conditions contained in Article VI.

(c) In no event shall this Section 5.16 be deemed or otherwise constructed to limit Sections 6.1 or 7.1 hereof.

**Section 5.17. Capital Expenditures.** On or prior to the Closing, Diversified shall deliver to Buyer a certificate of a duly authorized officer of Diversified setting forth the aggregate amount of all capital expenditures (determined in accordance with GAAP) made by Sellers with respect to the Owned Station during the period commencing on the Effective Date through the Closing Date (the “**Capital Expenditure Amount**”), such certificate to be accompanied by documentation reasonably satisfactory to Buyer evidencing such capital expenditures. In the event that the Capital Expenditure Amount is less than the smaller of (a) the product of (i) Twenty-Five Thousand Dollars (\$25,000), *multiplied* by (ii) the number of full months (calculated as thirty-day periods without respect to calendar months) between the Effective Date and the Closing Date and (b) Two Hundred Twenty-Five Thousand Dollars (\$225,000), the amount of such difference (the “**Capital Expenditure Credit**”) shall be applied as a credit against the Purchase Price due and payable at Closing.

**Section 5.18. Accounts Receivable and Accounts Payable.**

(a) On or as soon as practicable after the Closing Date, Sellers shall (i) prepare invoices for all Accounts Receivable accrued but unbilled as of the Closing Date, including all unbilled time sales as of the Closing Date, and deliver such invoices to the



applicable Accounts Receivable debtor, and (ii) prepare and deliver to Buyer a statement setting forth the (A) outstanding Accounts Receivable as of the Closing Date and (B) the outstanding Accounts Payable as of the Closing Date, if any, that were not (and to the extent not) set forth on the Closing AP Statement (such Accounts Payable, the “**Unadjusted Accounts Payable**”), in each case including the dates on which payments thereunder are due. Effective upon the Closing, Sellers hereby assign to Buyer all of the Accounts Receivable outstanding as of the Closing Date as provided herein. Pursuant to the terms and subject to the conditions of this Section 5.18, following the Closing, Buyer shall collect the Accounts Receivable substantially in the same manner and with the same diligence that Buyer uses to collect its own Accounts Receivable for a period of one hundred twenty (120) days following the Closing Date (the “**Collection Period**”). During the Collection Period, Sellers shall not undertake, directly or indirectly, the collection of the Accounts Receivable other than pursuant to Buyer’s obligations on Sellers’ behalf under the terms and conditions of this Section 5.18. Effective upon the Closing, during the Collection Period, Sellers hereby constitute and appoint Buyer, its successors and assigns, the true and lawful attorney of Sellers with full power of substitution, in the name of Buyer, or the name of Sellers, on behalf of and for the benefit of Sellers, to collect the Accounts Receivable, to endorse, without recourse, checks, notes and other instruments in the name of Sellers and to do all such further acts and things in relation thereto as is reasonably necessary to collect the Accounts Receivable contemplated by this Section 5.18. Sellers agree that the foregoing powers are coupled with an interest.

(b) All amounts received by Buyer during the Collection Period from an account debtor of Accounts Receivable shall be applied first to the Accounts Receivable of such account debtor in the order of their origination, unless the account debtor designates a specific invoice for payment or disputes such Accounts Receivable in writing, in which case the payment of such account debtor shall be applied to the Accounts Receivable as designed by the account debtor. The payment by Buyer of monies collected in respect of Accounts Receivable hereunder shall in all events be net of commissions due to employees, national sales representatives and advertising agency sales representatives (except to the extent already paid), and Buyer shall promptly pay such commissions to the appropriate party solely to the extent offset by the amount of Accounts Receivable actually collected.

(c) During the Collection Period, Buyer will use the net Accounts Receivable collected to pay, on behalf of Sellers and in a timely manner (to the extent that the net amount of such Accounts Receivable so collected permits timely payment), the Unadjusted Accounts Payable. Except for such actions as it would customarily take in the ordinary course, Buyer will not be obligated to take any other actions, including the institution of litigation, the employment of any collection agency, legal counsel, or other third party, or other means of collections or pay any expenses to third parties to collect the Accounts Receivable. Within fifteen (15) days after the end of each month during the Collection Period, Buyer will deliver to Sellers a written report with respect to (i) the collections made with respect to the Accounts Receivable, (ii) the calculation of net Accounts Receivable, and (iii) payments remitted with respect to the Unadjusted Accounts Payable, if any, together with a copy of the invoices therefor. Such report shall be accompanied by a payment to Sellers of the amount by which the net Accounts Receivable collected during such month exceeded the amount of the Unadjusted Accounts Payable due during such month.

(d) If during the Collection Period a dispute arises with regard to an account included among the Accounts Receivable, Buyer shall promptly advise Sellers thereof and may (or, if requested by Sellers, shall) return that account to Sellers. At the end of the Collection Period, all uncollected Accounts Receivable shall be returned by Buyer to Sellers. Any amounts received by Buyer in respect of any Accounts Receivable following the Collection Period shall be promptly remitted to Sellers. Except as otherwise set forth in this Section 5.18, Buyer shall have no liability or obligation in respect of the Unadjusted Accounts Payable.

**Section 5.19. Conversion of Central IT Resources.** Prior to the Closing, Sellers shall cooperate, within commercially reasonable timeframes, with reasonable requests for information by Buyer and its consultants and representatives in connection with the transition and the conversion of accounting, payroll, benefits, human resources and fixed assets records and the Central IT Resources relating thereto to reasonably facilitate the conversion and transfer of the records and data contained therein from the Central IT Resource systems of Sellers to those of Buyer as of Closing.

**Section 5.20. Title Insurance; Surveys.**

(a) With respect to the Real Property, the Sellers shall cooperate with Buyer to enable Buyer to obtain at its own expense and acting with diligence and commercially reasonable efforts within sixty (60) days of the date of this Agreement: (i) preliminary reports on title covering a date subsequent to the date hereof, issued by the Title Company, which preliminary reports shall contain a commitment (the “**Title Commitment**”) of the Title Company to issue one or more (as appropriate) owner’s or lessee’s title insurance policies on ALTA Owners or Lessees Policy (and corresponding mortgagee’s) (each, a “**Title Policy**”) insuring the fee simple or leasehold interest of Buyer in such parcels of Real Property; and (ii) copies of all documents, filings and information disclosed in the Title Commitment. The Title Commitment shall not be subject to any Liens other than Permitted Liens. All standard exceptions which can be deleted by the use of owner’s or seller’s affidavits are to be deleted from the Title Commitment and Title Policies, and the Sellers shall cooperate with Buyer in executing and delivering such instruments to the Title Company. To the extent that the title insurance companies selected by Buyer require delivery of certain title clearance documents, including consents, approvals, estoppels and/or memorandums of leases in order to insure Buyer’s leasehold interest with respect to the Leased Real Property, Sellers shall use reasonable efforts to obtain such items; however, Sellers shall not be obligated to make any payments, incur any fees or costs (other than their own attorneys’ fees) or satisfy any pre-condition to obtain such items.

(b) Buyer may, at its own expense, within sixty (60) days of the date of this Agreement obtain an as-built survey of the Real Property (the “**Survey**”) which shall: (i) be prepared by a registered land surveyor; (ii) be certified to Sellers, Title Company and Buyer; and (iii) show with respect to such Real Property: (A) the legal description of such parcel of Real Property (which shall be the same as the Title Policy pertaining thereto); (B) all buildings, structures and improvements thereon and all plottable easements, or rights of way; (C) no material encroachments upon such parcel or adjoining parcels by buildings, structures or improvements (unless valid easements or leases have been obtained with respect thereto); and (D) access to such parcel from a public street or valid easements or rights of way.

**Section 5.21. Further Assurances.** Sellers shall, at any time and from time to time after the Closing Date, upon the request of Buyer, do, execute, acknowledge, deliver and file, or cause to be done, executed, acknowledged, delivered or filed, all such further acts, deeds, transfers, conveyances, assignments or assurances as may be reasonably required for the better transferring, conveying, assigning and assuring to Buyer, or for the aiding and assisting in the reducing to possession by Buyer of, any of the Purchased Assets, or for otherwise carrying out the purposes of this Agreement and the other agreements, certificates and documents delivered in connection herewith and the consummation of the transactions contemplated hereby and thereby.

**Section 5.22. Buyer Parent Guarantee.**

(a) Buyer Parent hereby irrevocably, absolutely and unconditionally guarantees the full and punctual payment of any amount or amounts due and payable by, and the performance of any and all obligations by, Buyer to Sellers under this Agreement. Upon any failure by Buyer to pay punctually any such amount or perform timely any such obligation, Buyer Parent shall forthwith on demand of Sellers pay the amount not so paid or perform the obligation not to performed; provided, however, that any and all defenses or counterclaims available to Buyer shall also be available to Buyer Parent. The guarantee provided by Buyer Parent hereunder shall be deemed a continuing guarantee and shall remain in full force and effect until the obligations of Buyer are fully paid and discharged or otherwise fully performed by Buyer, pursuant to the terms and subject to the conditions of this Agreement. Upon making any payment hereunder with respect to Buyer, Buyer Parent shall be subrogated to the rights of the payee against Buyer with respect to such payment. Buyer Parent waives acceptance hereof, presentment, demand, protest and any notice not expressly provided for herein.

(b) Buyer Parent represents and warrants to Sellers (i) that it is a limited liability company duly organized, validly existing and in good standing under the laws of the State of Delaware, (ii) that it has the requisite company power to execute and deliver this Agreement and to comply with the terms, conditions and provisions hereof, (iii) that the execution, delivery and performance of this Agreement by Buyer Parent have been duly authorized and approved by all necessary company action of Buyer Parent, (iv) that this Agreement is a legal, valid and binding obligation of Buyer Parent, enforceable against it in accordance with its terms except as the enforceability of this Agreement may be affected by bankruptcy, insolvency or similar laws affecting creditors' rights generally and by judicial discretion in the enforcement of equitable remedies, (v) the execution, delivery and performance by Buyer Parent of this Agreement and the documents contemplated hereby (with or without the giving of notice, the lapse of time or both): (A) do not require the consent of any other Person; (B) will not conflict with any applicable organizational and governing documents of Buyer Parent; and (C) will not conflict in any material respect with, result in a material breach of or constitute a material default under any applicable Law or any material contract or agreement to which Buyer Parent or any subsidiary of Buyer Parent is a party or by which Buyer Parent may be bound.

**Section 5.23. Termination of Atlantic Purchase Agreement.**

(a) From the Effective Date until the Closing Date, Diversified shall not terminate the Atlantic Purchase Agreement for any reason except in accordance with this Section

5.23. In the event Diversified believes it is entitled to terminate the Atlantic Purchase Agreement (or that the Atlantic Purchase Agreement will terminate) pursuant to, or as a result of the circumstances described in, Paragraph 15(a)(iii)(1) thereof (an “**Atlantic Termination Right**”), Diversified shall notify Buyer in writing of such Atlantic Termination Right (the “**Atlantic Termination Notice**”), which Atlantic Termination Notice shall (i) set forth the facts or conditions giving rise to such Atlantic Termination Right, (ii) whether Diversified desires to exercise the Atlantic Termination Right described therein and (iii) whether such facts or conditions giving rise to such Atlantic Termination Right would constitute a breach of this Agreement. In the event that such Atlantic Termination Notice states Diversified’s desire to terminate the Atlantic Purchase Agreement in connection with such Atlantic Termination Right pursuant to Paragraph 15(a)(iii)(1) thereof and subject to this Section 5.23, subject to the provision of reasonable information with respect to the facts or conditions giving rise to such Atlantic Termination Notice, within fifteen (15) Business Days of receipt of the Atlantic Termination Notice, Buyer shall notify Diversified that either (y) Buyer intends to proceed with the transactions contemplated hereby and Buyer does not consent to termination of the Atlantic Purchase Agreement as proposed in the Atlantic Termination Notice (a “**Notice to Proceed**”) or (z) consents to Diversified’s termination of the Atlantic Purchase Agreement as contemplated and described by such Atlantic Termination Notice and subject to the terms and conditions of this Agreement (a “**Consent to Terminate**”). If Buyer delivers neither a Notice to Proceed nor a Consent to Terminate within such fifteen Business Day period, Buyer shall be deemed to have delivered a Consent to Terminate and Diversified shall be entitled to terminate the Atlantic Purchase Agreement under Paragraph 15(a)(iii)(1) thereof and to terminate this Agreement under Section 7.1(d)(ii) hereof.

(b) In the event Buyer delivers a Notice to Proceed, (i) Diversified shall not terminate the Atlantic Purchase Agreement with respect to the facts or conditions giving rise to the Atlantic Termination Right (and not with respect to any future Atlantic Termination Right that may arise) and (ii) Buyer shall be deemed to have waived all rights and remedies against Sellers (whether under any laws, at common law or otherwise), including any claim hereunder (including any claim for indemnification under Article VIII hereof), with respect to (A) any breach of any representation or warranty made by either Seller hereunder and (B) compliance with any covenant, condition or agreement of either Seller hereunder, in each case solely to the extent relating to, resulting from or arising out of the facts or conditions giving rise to the Atlantic Termination Right as set forth in such Atlantic Termination Notice.

(c) In the event Buyer delivers a Consent to Terminate, Diversified shall be entitled to terminate the Atlantic Purchase Agreement under Paragraph 15(a)(iii)(1) thereof and to terminate this Agreement under Section 7.1(d)(ii) hereof.

**Section 5.24. Subsequent Purchase Agreement with Atlantic.** From the Effective Date until the Closing Date, in the event the Atlantic Purchase Agreement is terminated (or terminates) for any reason (except for a termination of the Atlantic Purchase Agreement pursuant to Section 5.23 hereof), Diversified shall (including through subsequent exercises of Diversified’s option with respect to the acquisition of the Atlantic Assets) enter into a subsequent agreement with Atlantic for the purchase of the Atlantic Assets by Diversified on terms and conditions substantially similar to those contained in the Atlantic Purchase Agreement (a “**Subsequent Agreement**”), or otherwise satisfactory to Sellers and Buyer, within thirty (30)

days of such termination. Sellers shall promptly notify Buyer in writing upon entry into such Subsequent Agreement, and shall provide Buyer with a copy of such Subsequent Agreement.

## ARTICLE VI—CONDITIONS PRECEDENT

**Section 6.1. Conditions to Obligations of Buyer.** The obligations of Buyer to consummate the transactions contemplated by this Agreement are subject to the satisfaction or waiver by Buyer of the following conditions:

(a) **Representations and Warranties.** The representations and warranties of Sellers contained herein that are qualified by materiality or subject to thresholds shall be true and correct in all respects and the representations and warranties of Sellers contained herein that are not so qualified shall be true and correct in all material respects as of the Effective Date and as of the Closing Date as if made on and as of the Closing Date.

(b) **Covenants; Material Adverse Effect.** Sellers shall have performed and complied in all material respects with all covenants and agreements required to be performed or complied with on or prior to the Closing Date. As of the Closing Date, there shall have been no Material Adverse Effect.

(c) **Officer's Certificate.** Buyer shall have received a certificate, dated as of the Closing Date, duly executed by an authorized officer of each Seller certifying that:

(i) the conditions set forth in Sections 6.1(a) and (b) have been fulfilled;

(ii) all documents to be executed by Sellers and delivered at the Closing have been executed by a duly authorized officer of each Seller; and

(iii) (A) each Seller's articles of incorporation and bylaws, attached to the certificate, are true and complete, (B) such organizational documents have been in full force and effect in the form attached since the date of the adoption of the resolutions referred to in clause (C) below and no amendment to such organizational documents has occurred since the date of the last amendment annexed thereto, if any, and (C) the resolutions adopted by the board of directors of each Seller (or a committee thereof duly authorized) and, if applicable, the shareholders of each Seller, in each case authorizing the execution, delivery and performance of this Agreement, attached to the certificate, were duly adopted at a duly convened meeting thereof, at which a quorum was present and acting throughout or by unanimous written consent, remain in full force and effect, and have not been amended, rescinded or modified, except to the extent attached thereto.

(d) **No Injunction.** No Law shall have been enacted, entered, promulgated or enforced by any Governmental Authority that prohibits the consummation of all or any part of the transactions contemplated by this Agreement and the other agreements, certificates and documents delivered in connection herewith, and no action or proceeding shall be pending or threatened by any Governmental Authority or other Person seeking any such order or decree or

seeking to recover any damages or obtain other relief as a result of the consummation of such transactions.

(e) **Material Consents.** Buyer shall have received duly executed and delivered copies of all Material Consents.

(f) **Certain Closing Documents.** Sellers shall have delivered or caused to be delivered to Buyer and/or the Qualified Assignee, as applicable:

(i) a duly executed Bill of Sale, substantially in the form of *Exhibit 6.1(f)(i)*;

(ii) a duly executed Assignment and Assumption Agreement, substantially in the form of *Exhibit 6.1(f)(ii)*;

(iii) a duly executed Assignment and Acceptance Agreement in respect of the FCC Licenses (or the Owned Station Licenses, as applicable), substantially in the form of *Exhibit 6.1(f)(iii)*;

(iv) warranty deeds of conveyance in recordable form for each of the parcels of Owned Real Property, conveying the Owned Real Property to Buyer in a form satisfactory to Buyer and Sellers;

(v) an assignment and assumption for each of the leases, subleases, licenses or other Contracts in respect of the Leased Real Property;

(vi) [*Intentionally Omitted*]

(vii) a receipt, in a form satisfactory to Buyer, acknowledging receipt of the Purchase Price in satisfaction in full of Buyer's obligations pursuant to Sections 2.1 and 6.2(d)(i);

(viii) a certificate of from each Seller, in compliance with Section 1.1445-2(b)(2) of the regulations under the Code, listing each Seller's name, address and U.S. employer identification number and stating that such Seller is not a foreign person;

(ix) an opinion (or opinions) of Sellers' counsel and Sellers' communications counsel, as applicable, dated as of the Closing Date, substantially in the form(s) of *Exhibit 6.1(f)(ix)*; and

(x) all such other instruments as shall be reasonably requested by Buyer to vest in Buyer good and transferable title to all of the Purchased Assets, free and clear of all Liens (other than Permitted Liens).

(g) **Release of Liens.** Buyer shall have received evidence, acceptable to Buyer in its sole discretion, that all Liens identified on Schedule 3.7(a) have been properly terminated or released on or before the Closing, including either (i) a completed UCC-3 Termination Statement, in a proper form for filing, in respect of each such Lien or (ii) a payoff

letter from the secured party thereunder, in form and substance acceptable to Buyer, certifying that upon receipt by or on behalf of Sellers of the amount specified in such payoff letter, such Lien shall be released with no further action and that such secured party will, promptly upon receipt of the specified amount, deliver to Buyer a duly executed UCC-3 Termination Statement, in a proper form for filing, in respect of such Lien.

(h) ***Certificate of Good Standing.*** Buyer shall have received a certificate of good standing in respect of (i) Diversified, certified by the Secretary of State or other appropriate official of the State of Maine, and (ii) Grand Strand, certified by the Secretary of State or other appropriate official of the State of Maine, each dated as of a date not more than ten (10) days prior to the Closing Date.

(i) ***[Intentionally omitted]***

(j) ***FCC Consent.*** The FCC Consents shall have each been granted by Final Order and shall be effective.

(k) ***Atlantic Closing.*** The Atlantic Closing shall be consummated simultaneously with the Closing.

(l) ***Severance Payments.*** Sellers shall have delivered to Buyer instruments executed by each Employee that is entitled to any Severance Payment for the benefit of Buyer acknowledging that any Severance Payment due or payable to such Employee has been paid in full, such instrument to be in a form reasonably satisfactory to Buyer.

(m) ***Other Documents.*** Buyer shall have received such other documents, certificates or instruments as it may reasonably request, and all actions and proceedings hereunder and all documents and other papers required to be delivered by Sellers hereunder or in connection with the consummation of the transactions contemplated hereby, and all other related matters, shall be reasonably acceptable to Buyer as to their form and substance.

***Section 6.2. Conditions to Obligations of Sellers.*** The obligations of Sellers to consummate the transactions contemplated by this Agreement are subject to the satisfaction of the following conditions, unless waived by Sellers:

(a) ***Representations and Warranties.*** The representations and warranties of Buyer contained herein that are qualified by materiality or subject to thresholds shall be true and correct in all respects and the representations and warranties of Buyer that are not so qualified contained herein shall be true and correct in all material respects as of the Effective Date and as of the Closing Date as if made on and as of the Closing Date.

(b) ***Covenants.*** Buyer shall have performed and complied in all material respects with all covenants and agreements required to be performed or complied with on or prior to the Closing Date.

(c) ***Officer's Certificate.*** Sellers shall have received a certificate, dated as of the Closing Date, duly executed by an authorized officer of Buyer, certifying that:

(i) the conditions set forth in Sections 6.2(a) and (b) have been fulfilled;

(ii) all documents to be executed by Buyer and delivered at the Closing have been executed by a duly authorized officer of Buyer; and

(iii) (A) Buyer's certificate of incorporation and bylaws, attached to the certificate, are true and complete, (B) such organizational documents have been in full force and effect in the form attached since the date of the adoption of the resolutions referred to in clause (C) below and no amendment to such organizational documents has occurred since the date of the last amendment annexed thereto, if any, and (C) the resolutions adopted by the board of directors of Buyer (or a committee thereof duly authorized) authorizing the execution, delivery and performance of this Agreement, attached to the certificate, were duly adopted at a duly convened meeting thereof, at which a quorum was present and acting throughout or by unanimous written consent, remain in full force and effect, and have not been amended, rescinded or modified, except to the extent attached thereto.

(d) **Atlantic Closing.** The Atlantic Closing shall be consummated simultaneously with the Closing.

(e) **Certain Closing Deliveries.** Buyer shall have delivered or caused to be delivered to Sellers:

(i) payment of the Closing Amount by wire transfer of immediately available funds directly to the accounts of Sellers set forth on *Schedule 6.2(e)(i)* (or such other method of funds transfer as may be agreed upon in writing by Buyer and Sellers);

(ii) a duly executed Assignment and Assumption Agreement, substantially in the form of *Exhibit 6.1(f)(ii)*;

(iii) a duly executed Assignment and Acceptance Agreement in respect of the FCC Licenses, substantially in the form of *Exhibit 6.1(f)(iii)*;

(iv) an assignment and assumption for each of the leases, subleases, licenses or other Contracts in respect of the Leased Real Property.

(f) **FCC Consent.** The FCC Consents shall have each been granted by Final Order and shall be effective.

(g) **Certificate of Good Standing.** Sellers shall have received a certificate of good standing in respect of Buyer certified by the Secretary of State or other appropriate official of the State of Delaware, dated as of a date not more than ten (10) days prior to the Closing Date.

(h) **Other Documents.** Sellers shall have received such other documents, certificates or instruments as it may reasonably request, and all actions and proceedings hereunder and all documents and other papers required to be delivered by Buyer hereunder or in



connection with the consummation of the transactions contemplated hereby, and all other related matters, shall be reasonably acceptable to Sellers as to their form and substance.

(i) **Assignee Documents.** Sellers shall have received from any assignee of Buyer's right to purchase the Atlantic Assets pursuant to Section 9.5 hereof, the documents and instruments pursuant to Section 6.2(e)(i)-(iii) hereof, as applicable, as modified to reflect the sale and transfer of the Atlantic Assets from Sellers to such assignee.

**Section 6.3. Frustration of Closing Conditions.** With respect to the conditions to its obligations to consummate the transactions contemplated by this Agreement as provided hereunder and its rights to terminate this Agreement as provided in Section 7.1, neither party may rely on the failure of any condition set forth in this Article VI to be satisfied if such failure was caused by such party's failure to act in good faith or to use its commercially reasonable efforts to cause the Closing to occur to the extent required by Section 5.3.

## ARTICLE VII—TERMINATION

**Section 7.1. Termination.** This Agreement shall terminate on the earlier to occur of any of the following events:

(a) the mutual written agreement of Buyer and Sellers;

(b) by Notice of Termination of Buyer or Sellers, if:

(i) the Closing shall not have occurred prior to the nine (9) month anniversary of the Effective Date (the "**Upset Date**") (other than due to a breach of any representation or warranty hereunder of the party seeking to terminate this Agreement or as a result of the failure on the part of such party to comply with or perform its covenants, agreements and obligations under this Agreement); provided that in the event that the FCC Consents have not been granted by Final Order on or prior to the Upset Date and all other conditions to Closing set forth in Sections 6.1 and 6.2 (other than Sections 6.1(k) and 6.2(d)) have been or are reasonably expected to be satisfied, Buyer may, by written notice delivered to Sellers on the Upset Date, extend the occurrence of the Upset Date to the first anniversary of the Effective Date; provided, further, that as a condition to the effectiveness of any such extension, the representations and warranties made herein by Buyer must be true and correct in all material respects on the date on which the Upset Date would occur but for such extension; and provided, further, that the right of Sellers under this Section 7.1(b)(i) shall be subject to the terms and conditions of Section 7.2(b)(iv); or

(ii) the FCC has denied any of the Assignment Applications by Final Order;

(c) by Notice of Termination of Buyer to Sellers, if:

(i) Sellers shall have materially breached any of their representations, warranties, covenants, agreements or obligations hereunder; *provided*,

*however*, that Buyer's right under this Section 7.1(c)(i) may not be exercised after the Closing, or

(ii) the Atlantic Purchase Agreement is terminated (or terminates) for any reason and Diversified and Atlantic have not entered into a Subsequent Agreement within thirty (30) days after such termination; or

(iii) by Notice of Termination of Buyer to Sellers prior to the Closing pursuant to the terms and subject to the conditions of Section 5.16(b);

(d) by Notice of Termination of Sellers to Buyer, if:

(i) Buyer shall have materially breached any of its representations, warranties, covenants, agreements or obligations hereunder; *provided, however*, that Sellers' right under this Section 7.1(d)(i) may not be exercised after the Closing; or

(ii) subject to the terms and conditions of Section 5.23 hereof, the Atlantic Purchase Agreement is terminated by Diversified (or terminates) pursuant to, or as a result of the circumstances described in, Paragraph 15(a)(iii)(1) of the Atlantic Purchase Agreement.

#### ***Section 7.2. Procedure and Effect of Termination.***

(a) ***Notice of Termination.*** Any termination by either party shall be communicated by a written notice to the other party (the "**Notice of Termination**"). The Notice of Termination shall indicate the termination provision in this Agreement claimed to provide a basis for termination of this Agreement. Termination of this Agreement pursuant to the terms and subject to the conditions of Section 7.1 shall be effective upon and as of the date of delivery of a Notice of Termination.

#### **(b) *Certain Effects of Termination.***

(i) Upon the termination of this Agreement, (A) all rights and obligations of the parties under this Agreement shall terminate, except their respective obligations under Sections 5.4, 5.6(a), 5.6(b), 5.15, 5.22 and Article IX, this Section 7.2(b) and Section 7.2(c), which shall survive the termination of this Agreement except as specifically provided in such sections and (B) neither of the parties hereto nor any of their respective partners, directors, officers, shareholders, employers, agents or Affiliates (each, a "**Related Party**") shall have any liability or further obligation to the other party or any of their respective Related Parties pursuant to this Agreement with respect to which termination has occurred, except in respect of the rights and obligations identified in clause (i) above, which shall survive as provided in this Section 7.2(b).

(ii) Notwithstanding the foregoing, in the event of the termination of this Agreement (A) by Sellers pursuant to Section 7.1(d)(i) hereof, the Escrow Deposit (and any and all interest earned thereon) shall be distributed to Diversified (which shall be the exclusive remedy of the Sellers in the event of the termination of this Agreement by Sellers pursuant to Section 7.1(d)(i) hereof, and accordingly, to the maximum extent

permitted by law, the Sellers hereby waive all other rights and remedies with respect thereto, whether under any laws, at common law or otherwise) and (B) other than by Sellers pursuant to Section 7.1(d)(i) hereof, the Escrow Deposit (and any and all interest earned thereon) shall be returned to Buyer. Sellers and Buyer shall promptly provide to the Escrow Agent joint written instructions with respect to distribution of the Escrow Deposit in accordance with this Section 7.2(b).

(iii) In the event of termination of this Agreement pursuant to either Section 7.1(c)(ii) or Section 7.1(d)(ii), Sellers shall promptly pay to Buyer an amount equal to Two Hundred Thousand Dollars (\$200,000) as liquidated damages, which shall be the exclusive remedy of Buyer in the event of the termination of this Agreement pursuant to Section 7.1(c)(ii) or Section 7.1(d)(ii) hereof, and accordingly, to the maximum extent permitted by law, Buyer hereby waives all other rights and remedies with respect thereto, whether under any laws, at common law or otherwise.

(iv) In the event that (x) the Upset Date is extended to the first anniversary of the Effective Date in accordance with Section 7.1(b)(i), (y) Sellers terminate this Agreement pursuant to Section 7.1(b)(i) on or after the Upset Date as so extended, and (z) the condition set forth in Section 6.2(f) has not been satisfied as of the date of such termination by Sellers, Sellers shall promptly pay to Buyer an amount equal to Two Hundred Thousand Dollars (\$200,000) as liquidated damages, which shall be the exclusive remedy of Buyer in the event of such termination of this Agreement, and accordingly, to the maximum extent permitted by law, Buyer hereby waives all other rights and remedies with respect thereto, whether under any laws, at common law or otherwise.

(v) This Section 7.2(b) shall survive termination of this Agreement.

(c) ***Withdrawal of Certain Filings.*** All filings, applications and other submissions relating to the transactions contemplated by this Agreement as to which termination has occurred shall, to the extent practicable, be withdrawn from the agency or other Person to which made. This paragraph (c) shall survive termination of this Agreement.

## ARTICLE VIII—INDEMNIFICATION

***Section 8.1. Indemnification by Sellers.*** Subject to Sections 8.5 and 8.6 below, from and after the Closing Sellers shall indemnify and hold harmless Buyer and its Affiliates, and the directors, officers, employees and other agents and representatives of Buyer and its Affiliates from and against any and all liabilities, judgments, claims, settlements, losses, damages, fees, Liens, Taxes, penalties, obligations and expenses (including reasonable attorney's fees and expenses and costs and expenses of investigation) (collectively, "**Losses**") incurred or suffered, directly or indirectly, by any such Person arising from, by reason of or in connection with:

(a) any breach or inaccuracy of any representation or warranty of Sellers contained in this Agreement, the Escrow Agreement, the Assignment and Assumption

Agreement and the Assignment and Acceptance Agreement or any other certificate, instrument or other document delivered by Seller hereunder or in connection with the consummation of the transactions contemplated hereby or thereby;

(b) the non-fulfillment or breach of any covenant, obligation or agreement made by Sellers in this Agreement;

(c) any Excluded Liability;

(d) the failure of Sellers to comply with any Laws relating to bulk sales applicable to the transactions contemplated by this Agreement; and

(e) the enforcement of the restrictive covenants described in Item B.1 of Exhibit 11 attached hereto with regard to the matters set forth on Schedule 3.8(f)(iii) (except to the extent such enforcement results from Buyer having taken any action with the intention of causing, or that would be reasonably likely to cause, such enforcement).

**Section 8.2. Indemnification by Buyer.** Subject to Sections 8.5 and 8.6 below, from and after the Closing Buyer shall indemnify and hold harmless Sellers and their Affiliates, and the directors, officers, employees and other agents and representatives of Sellers and their Affiliates from and against any and all Losses incurred or suffered, directly or indirectly, by any such Person arising from, by reason of or in connection with:

(a) any breach or inaccuracy of any representation or warranty of Buyer contained in this Agreement, the Escrow Agreement, the Assignment and Assumption Agreement and the Assignment and Acceptance Agreement or any other certificate, instrument or other document delivered by Seller hereunder or in connection with the consummation of the transactions contemplated hereby or thereby;

(b) the non-fulfillment or breach by Buyer of any covenant, obligation or agreement made by it in this Agreement;

(c) any of the Assumed Liabilities; and

(d) any and all obligations and liabilities arising from the operation of the Stations, the conduct of the Business or the ownership of the Purchased Assets from and after the Closing Date, including any losses or damages incurred by Sellers as a result of Buyer operating under Sellers' Permits pursuant to Section 2.6(b).

**Section 8.3. Calculation of Losses.** Any indemnity payment hereunder shall be treated as an adjustment to the Purchase Price to the extent permitted by applicable Law. Where the receipt of any such payment is treated for Tax purposes in a manner other than as an adjustment to the Purchase Price, the amount of the payment shall be adjusted to take account of any net Tax cost actually incurred, or benefit actually enjoyed, by the Indemnified Party in respect thereof.

#### ***Section 8.4. Certain Procedures for Indemnification.***

(a) In the event that any Person entitled to indemnification under this Agreement (an “**Indemnified Party**”) asserts a claim for indemnification, or receives notice of the assertion of any claim or of the commencement of any action or proceeding by any Person not a party to this Agreement against such Indemnified Party, for which a party to this Agreement is required to provide indemnification under this Article VIII (an “**Indemnifying Party**”), the Indemnified Party shall promptly notify the Indemnifying Party in writing of the claim or the commencement of that action ( a “**Claim Notice**”); *provided, however*, that the failure to so notify the Indemnifying Party shall not relieve it from any liability which it may have to the Indemnified Party, except to the extent that the Indemnifying Party is materially prejudiced in its ability to defend such action.

(b) If within thirty (30) days after receiving a Claim Notice from an Indemnified Party, the Indemnifying Party gives written notice to the Indemnified Party stating that it disputes and intends to defend such claim, action or proceeding, the Indemnifying Party shall be entitled (y) to direct the defense of any claim at its sole cost and expense, but such defense shall be conducted by legal counsel reasonably satisfactory to the Indemnified Party, and (z) to settle and compromise any such claim or action for money damages alone; *provided, however*, that if the Indemnified Party has elected to be represented by separate counsel pursuant to the proviso below, or if such settlement or compromise does not include an unconditional release of the Indemnified Party for any liability arising out of such claim or action, such settlement or compromise shall be effected only with the written consent of the Indemnified Party. After notice from the Indemnifying Party to the Indemnified Party of its election to assume the defense of such claim or action, the Indemnifying Party shall not be liable to the Indemnified Party under this Section 8.4 for any legal or other expenses subsequently incurred by the Indemnified Party in connection with the defense thereof other than reasonable costs of investigation or of assistance as contemplated by this Section 8.4; *provided, however*, that the Indemnified Party shall have the right to employ, at its sole cost and expense, counsel to represent it; *provided, further*, that if the named parties to the action or proceeding include both the Indemnifying Party and the Indemnified Party and representation of both parties by the same counsel would, or would reasonably be expected to, constitute a conflict of interest, the fees and reasonable expenses of separate counsel for the Indemnified Party shall be paid by the Indemnifying Party; *provided, further*, that in no event shall the Indemnifying Party be responsible for the fees of more than one counsel to the Indemnified Party. The Indemnified Party and the Indemnifying Party shall each render to each other such assistance as may reasonably be requested in order to ensure the proper and adequate defense of any such claim or proceeding.

***Section 8.5. Survival; Expiration.*** Notwithstanding any investigation made by or on behalf of Sellers or Buyer prior to, on or after the Closing Date, the representations and warranties contained in this Agreement (including the Schedules hereto) and in any document, instrument or certificate executed and delivered in connection herewith shall survive the consummation of the transactions contemplated hereby and thereby and shall terminate on the first (1st) anniversary of the Closing Date, except that claims for breaches of the representations and warranties of Sellers contained in Sections 3.2 and 3.21 and of Buyer contained in Section 4.2 shall survive until the expiration of the applicable statutes of limitations (as applicable, the

“**Expiration Date**”); provided that if on or prior to the Expiration Date, the Indemnifying Party has received written notice from the Indemnified Party of such claim, the Indemnified Party may continue to pursue its right of indemnification or reimbursement hereunder beyond the Expiration Date and provided, further, that, with respect to the availability of equitable remedies, the covenants of the parties hereto shall survive until fully performed and discharged unless otherwise expressly provided herein.

***Section 8.6. Limitations on Indemnification Obligations.***

(a) No indemnification shall be payable by an Indemnifying Party with respect to any indemnifiable Losses (other than Losses arising as a result by a breach by either Seller of the representations and warranties contained in Section 3.18, which Losses shall not be counted towards the Indemnity Deductible) incurred by an Indemnified Party unless the cumulative amount of all such Losses exceeds Fifty Thousand Dollars (\$50,000) (the “**Indemnity Deductible**”) in the aggregate, and then only for the amount by which such Losses exceed the Indemnity Deductible.

(b) An Indemnifying Party shall not be obligated to indemnify any Indemnified Party for any amount of indemnifiable Losses under Section 8.1(a) or Section 8.2(a), as applicable, net of the Indemnity Deductible, in excess of Eight Hundred Thousand Dollars (\$800,000) and with respect to claims for indemnification made against Sellers, the Indemnification Escrow Deposit shall be the sole and exclusive source and remedy of the Indemnified Party for any and all indemnifiable Losses; provided, that the foregoing limitations shall not apply to Losses arising as a result of a breach by (i) either Seller of the representations and warranties contained in Sections 3.2, 3.18(a), 3.18(b), 3.18(c) and 3.21 or (ii) Buyer of the representations and warranties contained in Section 4.2 or its obligation to pay the Closing Amount to Sellers at the Closing pursuant to the terms and subject to the conditions of this Agreement. To the extent that Buyer shall make a claim for indemnification pursuant to Section 8.1(c) and the facts or circumstances giving rise to such claim constitute a breach of the representation and warranty contained in clause (d) of Section 3.18, such claim for indemnification by Buyer shall be deemed to be a claim for a breach of Section 3.18(d) and shall be subject to the limitations contained herein with respect claims for indemnification pursuant to Section 8.1(a) hereof.

(c) No indemnification shall be payable by an Indemnifying Party with respect to any claim asserted by an Indemnified Party after the applicable Expiration Date

(d) No Indemnifying Party shall have any liability under any provision of this Agreement for any consequential, exemplary or punitive damages or any multiple of damages or diminution in value.

(e) Any liability for indemnification under this Section 8.6 shall be determined without duplication of recovery by reason of the state of facts giving rise to such liability constituting a breach of more than one representation, warranty, covenant or agreement.

(f) Each Indemnified Party shall take all commercially reasonable steps to mitigate Losses for which indemnification may be claimed by them pursuant to this Agreement

upon and after becoming aware of any event that could reasonably be expected to give rise to any such Losses.

(g) From and after the Closing, the rights of the parties to indemnification relating to this Agreement and the transactions contemplated hereby shall be strictly limited to those contained in this Article 8, and such indemnification rights shall be the exclusive remedies of the parties subsequent to the Closing Date with respect to any matter in any way relating to this Agreement or arising in connection herewith; provided, that nothing contained in this Agreement shall (i) relieve or limit the liability of any party hereto with respect to any liability arising out of, or resulting from, the fraud of such party in connection with the transactions contemplated hereby or (ii) limit the availability of specific performance or other equitable remedies, subject to applicable Law. Except as set forth in the preceding sentence, to the maximum extent permitted by law, the parties hereby waive all other rights and remedies with respect to any matter in any way relating to this Agreement or arising in connection herewith, whether under any laws (including any right or remedy under the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901 et seq., the Comprehensive Environmental Response Compensation and Liability Act, 42 U.S.C. Section 9602 et seq., or any other Environmental Law), at common law or otherwise. Except as provided in this Article 8 (including without limitation the first sentence of this Section 8.6(g)), no claim, action or remedy shall be brought or maintained by any party against any other party, and no recourse shall be brought or granted against any of them, by virtue of or based upon any alleged misstatement or omission respecting an inaccuracy in or breach of any of the representations, warranties or covenants of any of the parties hereto set forth or contained in this Agreement.

## ARTICLE IX—MISCELLANEOUS

### *Section 9.1. Governing Law; Dispute Resolution.*

(a) **Governing Law.** Construction and interpretation of this Agreement shall be governed by the Laws of the State of Delaware, excluding any conflicts or choice of law rule or principle that might otherwise refer construction or interpretation of this Agreement to the substantive Law of another jurisdiction.

(b) **Dispute Resolution.** Except to the extent otherwise provided in Section 5.6(e) and 9.1(c), any dispute, controversy or claim arising out of or in connection with this Agreement or the other agreements, certificates and documents delivered in connection herewith or otherwise in connection with the transactions contemplated hereby and thereby, and the rights and obligations of the parties hereunder and thereunder, including any question regarding their existence, validity or termination, shall be referred to and finally resolved by arbitration in accordance with the Commercial Arbitration Rules (the “**Arbitration Rules**”) of the American Arbitration Association as then in force (“**AAA**”), which Arbitration Rules are deemed to be incorporated by reference into this clause. The parties shall appoint one arbitrator by mutual agreement. If the parties cannot agree on the appointment of an arbitrator within ten (10) days after a party’s receipt of a demand for arbitration, the arbitrator shall be appointed by the AAA in accordance with the Arbitration Rules, in which case the potential arbitrators identified on the list provided by the AAA to the parties in accordance with such Arbitration Rules shall be, to the

extent available, attorneys experienced with commercial transactions in the broadcast television industry. The arbitrator shall have the exclusive right to determine the arbitrability of any disputes, controversies or claims. In the event of any conflict between the Arbitration Rules and any provisions of this Agreement, this Agreement shall govern. The place of arbitration shall be Washington, D.C. Judgment on the award entered in any arbitration shall be final and may be entered in any court having jurisdiction thereof. The prevailing party in the arbitration shall be entitled to recover its reasonable attorneys' fees and costs, in addition to any other relief it may be awarded, and the arbitrator may (but shall not be required to) direct the parties to deposit funds against the payment of such costs. The parties agree that notifications of any proceedings, reports, communications, or any other document shall be sent as set forth in Section 9.2.

(c) Notwithstanding any provision of Section 9.1(b) to the contrary, either party may, without waiving any remedy under this Agreement, seek from any court having jurisdiction (i) the remedy or relief of specific performance or (ii) any interim or provisional relief, including equitable relief, that is necessary to protect the rights or property of such party or preserve the subject matter of the dispute, controversy or claim under Section 9.1(b), pending its final resolution and, as applicable, enforcement, pursuant to the terms and subject to the conditions of Section 9.1(b).

**Section 9.2. Notices.** All notices, requests, demands and other communications which are required or may be given pursuant to the terms of this Agreement (including Notices of Termination) shall be in written or electronic form, and shall be deemed delivered (a) on the date of delivery when (i) delivered by hand or (ii) sent by reputable overnight courier maintaining records of receipt and (b) on the date of transmission when sent by facsimile or other electronic transmission during normal business hours with confirmation of transmission by the transmitting equipment; *provided, however*, that any such communication delivered by facsimile or other electronic transmission shall only be effective if such communication is also delivered by hand or deposited with a reputable overnight courier maintaining records of receipt within two (2) Business Days after its delivery by facsimile or other electronic transmission. All such communications shall be addressed to the parties at the address set forth in *Exhibit 9.2*, or at such other address as a party may designate upon ten (10) days' prior written notice to the other party.

**Section 9.3. Benefits of Agreement.** All of the terms and provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and permitted assigns. Except for the provisions of Article VIII, this Agreement is for the sole benefit of the parties hereto and not for the benefit of any third party, including, for the avoidance of doubt, any Employee. With respect to the representations, warranties, covenants and obligations of Sellers under this Agreement, it is acknowledged, understood and intended that each is, and shall be, made and undertaken by each Seller, and shall be enforceable by Buyer against each Seller, jointly and severally.

**Section 9.4. Amendments and Waivers.** No modification, amendment or waiver of any provision of, or consent or approval required by, this Agreement, nor any consent to or approval of any departure herefrom, shall be effective unless it is in writing and signed by the party against whom enforcement of any such modification, amendment, waiver, consent or approval is sought. Such modification, amendment, waiver, consent or approval shall be effective only in the specific instance and for the purpose for which given. Neither the failure of



either party to enforce, nor the delay of either party in enforcing, any condition or part of this Agreement at any time shall be construed as a waiver of that condition or part or forfeit any rights to future enforcement thereof. No action taken pursuant to this Agreement, including any investigation by or on behalf of either party hereto, shall be deemed to constitute a waiver by the party taking action of compliance by the other party with any representation, warranty, covenant or agreement contained herein.

**Section 9.5. Assignment.** This Agreement and the rights and obligations hereunder shall not be assignable or transferable by either party hereto (including in connection with a merger, consolidation, sale of substantially all of the assets of such party or otherwise by operation of law) without the prior written consent of the other party hereto; *provided, however*, that without the consent of Sellers (i) Buyer may assign all of its rights and delegate all of its obligations under this Agreement to any Affiliates or (ii) prior to the filing of the FCC Applications contemplated by Section 5.1, Buyer may assign its rights to purchase the Atlantic Assets (and delegate the duty to assume the Assumed Liabilities corresponding thereto) at the Closing to any third party that is eligible to be the assignee of the Brokered Station Licenses under the Communications Act (a "Qualified Assignee"); *provided* that with respect to any assignment pursuant to the foregoing clauses (i) or (ii), (A) each of the representations and warranties contained in Article IV of this Agreement with respect to the Buyer are true and correct in all respects with respect to such assignee (as applicable to such assignee's organizational form and ownership of the Owned Station or the Brokered Station, as the case may be), (B) no such assignment shall release Buyer from any of its obligations under this Agreement, (C) such assignment must occur within five Business Days from the Effective Date and (D) such assignment shall provide that the Qualified Assignee shall comply with the provisions of Section 5.1 hereof in so far as such provisions pertain to such Qualified Assignee. Any attempted assignment in violation of this Section 9.5 shall be null and void.

**Section 9.6. Enforceability; Severability.** Without limitation to Section 5.6(e): (a) if any covenant or provision hereof is determined to be void or unenforceable in whole or in part, it shall not be deemed to affect or impair the validity of any other covenant or provision, each of which is hereby declared to be separate and distinct, (b) if any provision of this Agreement is so broad as to be unenforceable, such provision shall be interpreted to be only so broad as is enforceable, and (c) if any provision of this Agreement is declared invalid or unenforceable for any reason other than overbreadth, the offending provision will be modified so as to maintain the essential benefits of the bargain among the parties hereto to the maximum extent possible, consistent with Law and public policy.

**Section 9.7. Entire Agreement.** This Agreement, together with the Schedules and Exhibits expressly contemplated hereby and attached hereto and the other agreements, certificates and documents delivered in connection herewith or otherwise in connection with the transactions contemplated hereby and thereby, contains the entire agreement among the parties with respect to the transactions contemplated by this Agreement and supersede all prior agreements or understandings among the parties with respect to the subject matter hereof, including that certain letter agreement, dated March 18, 2005, between Seller and Barrington Broadcasting LLC.

***Section 9.8. Counterparts.*** This Agreement may be executed in any number of counterparts, and each such counterpart hereof shall be deemed to be an original instrument, but all such counterparts together shall constitute but one agreement. Delivery of an executed counterpart of a signature page of this Agreement by facsimile or other electronic transmission shall be effective as delivery of a manually executed original counterpart of this Agreement.

*[Remainder of page intentionally left blank]*

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first above written.

**SELLERS:**

**DIVERSIFIED COMMUNICATIONS**

By: David H. Lowell  
Name: David H. Lowell  
Title: President + Chief Executive Officer

**GRAND STRAND COMMUNICATIONS**

By: David H. Lowell  
Name: David H. Lowell  
Title: Vice president

**BUYER:**

**BARRINGTON BROADCASTING SOUTH CAROLINA CORPORATION**

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

**SOLELY FOR PURPOSES OF SECTION 5.22 OF THE AGREEMENT:**

**BARRINGTON BROADCASTING, LLC**

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

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first above written.

**SELLERS:**

**DIVERSIFIED COMMUNICATIONS**

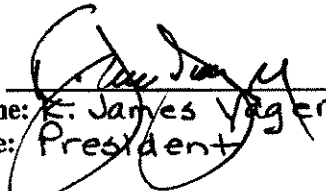
By: \_\_\_\_\_  
Name:  
Title:

**GRAND STRAND COMMUNICATIONS**

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

**BUYER:**

**BARRINGTON BROADCASTING SOUTH CAROLINA CORPORATION**

By:   
Name: E. James Vager  
Title: President

**SOLELY FOR PURPOSES OF SECTION 5.22 OF THE AGREEMENT:**

**BARRINGTON BROADCASTING, LLC**

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

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first above written.

**SELLERS:**

**DIVERSIFIED COMMUNICATIONS**

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

**GRAND STRAND COMMUNICATIONS**

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

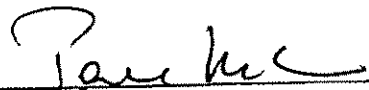
**BUYER:**

**BARRINGTON BROADCASTING SOUTH CAROLINA CORPORATION**

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

**SOLELY FOR PURPOSES OF SECTION 5.22 OF THE AGREEMENT:**

**BARRINGTON BROADCASTING, LLC**

By:   
Name: Paul M. McVicar  
Title: Senior Vice President

## **Schedules to Asset Purchase Agreement**

Schedule 2.3(a)(i)(A)	Owned Real Property
Schedule 2.3(a)(i)(B)	Leased Real Property
Schedule 2.3(b)(xiv)	Excluded Assets
Schedule 2.10(b)(iii)	Trade Agreements
Schedule 3.3(a)	Tangible Personal Property
Schedule 3.3(b)	Personal Property Previously Transferred or Disposed Of
Schedule 3.4(b)(i)	Third-Party Consents (Contracts)
Schedule 3.4(b)(ii)	Third-Party Consents (Permits)
Schedule 3.5	Financial Statements
Schedule 3.6	Changes
Schedule 3.7(a)	Certain Liens
Schedule 3.8(c)	Certain Documents in respect of the Owned Real Property
Schedule 3.8(f)	Certain Parcels of Real Property
Schedule 3.9(b)	Intellectual Property Registrations
Schedule 3.9(c)	Intellectual Property Licenses
Schedule 3.10	Material Contracts
Schedule 3.11	Permits
Schedule 3.12(b)(i)	FCC Licenses
Schedule 3.12(b)(ii)	Digital Television Channels
Schedule 3.12(c)	FCC License Renewals
Schedule 3.12(d)	Pending Auxiliary Applications
Schedule 3.12(e)	Towers
Schedule 3.12(f)	Brokerage Agreement and Option Agreement
Schedule 3.13(a)	Cable and Satellite Matters
Schedule 3.13(b)	Signal Quality and Copyright Indemnities
Schedule 3.15	Litigation
Schedule 3.16	Labor Matters
Schedule 3.17(a)	Employees
Schedule 3.17(b)	Personnel Policies
Schedule 3.17(c)	Employee Benefit Plans
Schedule 3.17(g)	Severance Payments
Schedule 3.18	Environmental Matters
Schedule 3.19	Insurance
Schedule 3.21	Taxes
Schedule 6.2(e)(i)	Sellers' Wire Transfer Instructions

## **Exhibits to Asset Purchase Agreement**

Exhibit 1.1	Certain Defined Terms; Certain Interpretations
Exhibit 2.1	Purchase Price Allocation Among Sellers
Exhibit 2.2	Form of Escrow Agreement
Exhibit 6.1(f)(i)	Form of Bill of Sale
Exhibit 6.1(f)(ii)	Form of Assignment and Assumption Agreement
Exhibit 6.1(f)(iii)	Form of Assignment and Acceptance Agreement
Exhibit 6.1(f)(ix)	Form of Opinion
Exhibit 9.2	Notices

Exhibit 10  
Exhibit 11

Form of Atlantic Purchase Agreement  
Permitted Liens

## EXHIBIT 1.1—CERTAIN DEFINED TERMS; CERTAIN INTERPRETATIONS

*I. Certain Defined Terms.* The capitalized terms contained and used in this Agreement which are defined below shall have the respective meanings ascribed to them as follows:

“**AAA**” has the meaning set forth in Section 9.1(b).

“**Accounts Payable**” has the meaning set forth in Section 2.4(a)(iii).

“**Accounts Receivable**” means all of Seller’s accounts and notes receivable, deferred charges, chattel paper and other rights to receive payments, in each case, arising from the operation of the Business, including the rights of Seller as of the Closing Date to payment for the sale of advertising time and other goods and services by the Stations prior to the Closing Date.

“**Accrual Adjustment Amount**” has the meaning set forth in Section 2.9.

“**Accruals**” has the meaning set forth in Section 2.9.

“**Accrued Compensation**” means any and all salary, accrued vacation and sick leave, and commissions and reimbursements for expenses due and owing to each Employee as of the Closing Date.

“**Additional Applications**” has the meaning set forth in Section 5.1(a).

“**Affiliate**” means, with respect to any Person, any other Person which, directly or indirectly, Controls, is Controlled by, or is under common Control with, the specified Person.

“**Agreement**” has the meaning set forth in the preamble hereof.

“**Allocation Schedule**” has the meaning set forth in Section 2.7.

“**Arbitration Rules**” has the meaning set forth in Section 9.1(b).

“**Assignment Applications**” means, individually and collectively, the Atlantic Assignment Applications, the Brokered Station Assignment Application, and the Owned Station Assignment Applications

“**Assumed Contracts**” has the meaning set forth in Section 2.3(a)(v).

“**Assumed Liabilities**” has the meaning set forth in Section 2.4(a).

“**Atlantic**” means Atlantic Media Group, Inc. and any successors or assigns thereof (exclusive of Buyer or any assignee of Buyer).

“**Atlantic Assets**” means, collectively, those certain assets, rights and interests to be acquired by Diversified as set forth in the Atlantic Purchase Agreement, including the Atlantic Contracts.



**“Atlantic Closing”** means the sale, transfer, conveyance and assignment of the Atlantic Assets to Sellers upon the consummation of the transactions contemplated by the Atlantic Purchase Agreement.

**“Atlantic Contracts”** means, collectively, (i) the contracts listed on Exhibit E to the Atlantic Purchase Agreement, and (ii) Atlantic’s rights and interest in the Time Brokerage Agreement.

**“Atlantic Purchase Agreement”** means the purchase agreement entered into by and between Diversified and Atlantic in the form attached hereto as *Exhibit 10*.

**“Atlantic Termination Notice”** has the meaning set forth in Section 5.23.

**“Atlantic Termination Right”** has the meaning set forth in Section 5.23.

**“Balance Sheet”** has the meaning set forth in Section 3.5.

**“Brokered Station”** has the meaning set forth in the recitals hereto.

**“Brokered Station Assignment Application”** has the meaning set forth in the recitals hereto.

**“Brokered Station Licenses”** means the FCC license for the Brokered Station and any other licenses, permits or other authorizations issued by or pending before the FCC to Atlantic or, in respect of, Brokered Station.

**“Business”** means the business of the Seller with respect to the Owned Station and the Brokered Station, taken as a whole, including the Purchased Assets, and the operations thereof, and the Assumed Liabilities.

**“Business Day”** means any day excluding Saturdays, Sundays and any day that is a legal holiday under the laws of the United States or that is a day on which banking institutions located in (i) New York, New York, (ii) Chicago, Illinois, or (iii) Florence, South Carolina are authorized or required by law or action of a Governmental Authority to close.

**“Buyer”** has the meaning set forth in the preamble hereof.

**“Buyer Confidential Information”** means (i) all financial, technical, commercial, proprietary or other information disclosed by Buyer or an Affiliate or representative of Buyer to Seller, its Affiliates or any of their officers, directors, employees, representatives or agents (each, a **“Seller Recipient”**) in connection with the transactions contemplated by this Agreement, (ii) each of the terms, conditions and other provisions contained in this Agreement and the agreements or documents to be delivered pursuant to this Agreement, (iii) all financial, technical, commercial, proprietary or other information of Buyer or its Affiliates disclosed by Buyer to any Governmental Authority in connection with any filings or review in connection with the transactions contemplated hereunder and (iv) from and after the Closing, all financial, technical, commercial, proprietary or other information of Seller or its Affiliates relating to the Stations, the

Business or the Purchased Assets, including all Intellectual Property of Seller or its Affiliates relating thereto. Notwithstanding the preceding sentence, the definition of Buyer Confidential Information does not include any information that (A) is in the public domain at the time of disclosure to a Seller Recipient or becomes part of the public domain after such disclosure through no fault of a Seller Recipient, (B) except with respect to information set forth in subclause (iv) above, which, upon the Closing shall constitute Buyer Confidential Information, is already in the possession of a Seller Recipient at the time of disclosure to such Seller Recipient that has not been provided by Buyer or its Affiliates, (C) is disclosed to a party by any Person other than a party to this Agreement; *provided, that* the party to whom such disclosure has been made does not have actual knowledge that such Person is prohibited from disclosing such information (either by reason of Contract or legal or fiduciary obligation), (D) is developed independently by any party without the use of any Buyer Confidential Information, or (E) is required to be disclosed under Law or court order (*provided that* prompt notice of such disclosure will be given as far in advance as possible to Buyer and Buyer shall be given reasonable opportunity to determine whether disclosure is required and to assess the extent of Buyer Confidential Information required to be disclosed).

**“Buyer Parent”** means Barrington Broadcasting, LLC, a Delaware limited liability company.

**“Buyer’s Knowledge”** (and similar phrases) means the actual knowledge of any officer or director of Buyer, after reasonable inquiry.

**“Capital Expenditure Amount”** has the meaning set forth in Section 5.17.

**“Capital Expenditure Credit”** has the meaning set forth in Section 5.17.

**“Central IT Resources”** means all computer servers, database servers, mainframe computers or other computers used principally to process data for multiple users owned or leased by Sellers or hosted for Sellers primarily in connection with the Business, and all internal data networks, all leased or owned data telecommunications lines or virtual private networks of Sellers, and all software operated on any of the foregoing primarily in connection with the Business (but not including single-user resources such as personal computers limited to one principal user at a time).

**“Claim Notice”** has the meaning set forth in Section 8.4(a).

**“Closing”** has the meaning set forth in Section 2.5.

**“Closing Amount”** means an amount equal to the Purchase Price *less* (B) an amount equal to the sum of (i) the Accrual Adjustment Amount, (ii) the Capital Expenditure Credit, if any, (iii) the amount set forth on the Closing AP Statement, (iv) the Indemnification Escrow Deposit and (v) any other amounts, to the extent applicable pursuant to the terms and subject to the conditions of this Agreement.

**“Closing AP Credit”** has the meaning set forth in Section 2.8.

**“Closing AP Statement”** has the meaning set forth in Section 2.8.

**“Closing Date”** has the meaning set forth in Section 2.5.

**“COBRA Obligations”** means all obligations of Seller under Section 601 *et seq.* of ERISA.

**“Code”** means the Internal Revenue Code of 1986, as amended.

**“Collection Period”** has the meaning set forth in Section 5.18.

**“Communications Act”** means collectively, the Communications Act of 1934, as amended, and the rules, regulations and policies of the FCC promulgated thereunder.

**“Competitive Business”** has the meaning set forth in Section 5.6(c)(i).

**“Consent”** means, with respect to a Contract or a Permit, any consent or approval of any Person other than any party to this Agreement which, in accordance with the terms of such Contract or Permit, is required to be obtained for the assignment thereof to Buyer.

**“Consent to Terminate”** has the meaning set forth in Section 5.23.

**“Contracts”** means contracts, commitments, arrangements, agreements, leases, licenses and purchase orders for the sale or purchase of goods or services.

**“Control”** including its various tenses and derivatives (such as **“Controlled”** and **“Controlling”**) means (i) when used with respect to any Person, the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such entity, whether through the ownership of voting securities, by Contract or otherwise and (ii) when used with respect to any security, the possession, directly or indirectly, of the power to vote, or to direct the voting of, such security or the power to dispose of, or to direct the disposition of, such security.

**“Copyrights”** means all copyrights, copyright applications and copyright registrations and foreign counterparts thereof, including all rights to computer software programs (including object and source code, program documentation, disks, tapes, manuals, guides and other materials with respect thereto), works of authorship and rights to databases of any kind under the Laws of any jurisdiction and all rights or forms of protection of a similar nature or having equivalent or similar effect to any of those which subsist in the world.

**“Cure Notice Deadline”** has the meaning set forth in Section 5.12(c).

**“DBS”** has the meaning set forth in Section 3.13(a)(ii).

**“Dollars”** or **“\$”** means United States dollars.

**“Effective Date”** has the meaning set forth in the preamble hereof.

**“Employee”** means an individual employed by either Seller providing services primarily to the Business as of the Effective Date and identified as such on *Schedule 3.17(a)* and any individual(s) hired by either Seller to provide services primarily to the Business between the Effective Date and the Closing Date in accordance with Section 5.2 and the other terms of this Agreement.

**“Environmental Law”** means any applicable Law relating to (i) pollution or protection of the environment, including natural resources, disposal of pollutants, toxic, hazardous, or other waste, and discharge and treatment of stormwater or sanitary and industrial wastewater; (ii) worker health and safety, including exposure of employees or other persons to toxic or hazardous substances; (iii) protection of the public health or welfare from the effects of by-products, wastes, emissions, discharges or releases of any chemical or other substances from industrial or commercial activities; or (iv) regulation of the manufacture, use, importation, exportation, formulation, labeling, distribution, transportation, handling, storage, treatment, recycling, removal and disposal of toxic or hazardous substances, specifically including petroleum and petroleum derived products.

**“ERISA”** means the Employee Retirement Income Security Act of 1974, as amended.

**“Escrow Agent”** means United Bank, N.A., a Virginia Bank.

**“Escrow Agreement”** means that certain Escrow Agreement, in substantially the form attached as *Exhibit 2.2* hereto, by and among Seller, Buyer and the Escrow Agent.

**“Escrow Deposit”** has the meaning set forth in Section 2.2.

**“Excluded Assets”** has the meaning set forth in Section 2.3(b).

**“Excluded Group Contracts”** means all Contracts for the provisions of accounting, legal, human resources, sales, marketing, advertising, traffic, engineering and other services provided with respect to the Business but conducted by Sellers on a corporate-wide basis or otherwise provided under the same Contract to another station or business of Sellers.

**“Excluded Liabilities”** has the meaning set forth in Section 2.4(b).

**“Existing Contracts”** has the meaning set forth in Section 3.10(a).

**“Expiration Date”** has the meaning set forth in Section 8.5.

**“FAA”** means the United States Federal Aviation Administration.

**“FCC”** means the United States Federal Communications Commission.

**“FCC Applications”** means the Assignment Applications, together with any Additional Applications.

**“FCC Consent”** means action by the FCC granting its consent to the FCC Applications and the consummation of the transactions contemplated thereby.

**“FCC Licenses”** means, collectively, the Owned Station Licenses and the Brokered Station Licenses.

**“Final Order”** means an action by the FCC or other Governmental Authority having jurisdiction (a) with respect to which action no timely request for stay, motion or petition for reconsideration or rehearing, application or request for review or notice of appeal or other judicial petition for review is pending and (b) as to which the time for filing any such request, motion, petition, application, appeal or notice and for the entry of orders staying, reconsidering or reviewing on the FCC’s or such other Governmental Authority’s own motion has expired.

**“Final Prorations Schedule”** has the meaning set forth in Section 2.10.

**“Financial Statements”** has the meaning set forth in Section 3.5.

**“Financial Statements Date”** has the meaning set forth in Section 3.5.

**“GAAP”** means generally accepted accounting principles, consistently applied, as applied in the United States of America.

**“Governmental Authority”** means any federal, state, local or foreign government, legislature, governmental or administrative agency or commission, any self-regulatory association or authority, any court or other tribunal of competent jurisdiction, or any other governmental authority or instrumentality anywhere in the world.

**“Hazardous Substances”** means any and all pollutants, contaminants, hazardous substances, hazardous wastes, toxic pollutants, toxic substances, caustics, radioactive substances or materials, hazardous materials, chemicals, industrial wastes or terms of similar import that are identified, listed, or regulated under any Environmental Law, including those with respect to crude oil, petroleum and its derivatives, products and by-products, natural or synthetic gas, any other hydrocarbons, heavy metals, asbestos, asbestos-containing materials, lead, lead-based paint, urea formaldehyde, pesticides, nuclear fuel and polychlorinated biphenyls.

**“Indemnification Escrow Deposit”** has the meaning set forth in Section 2.2.

**“Indemnified Party”** has the meaning set forth in Section 8.4(a).

**“Indemnifying Party”** has the meaning set forth in Section 8.4(a).

**“Indemnity Deductible”** has the meaning set forth in Section 8.6(a).

**“Intellectual Property”** means Patents, Trademarks, Copyrights, and Know-How, and all copies and tangible embodiments thereof (in whatever form or media).

**“Know-How”** means all inventions (whether patentable or unpatentable and whether or not reduced to practice), compositions, manufacturing and production techniques, technical data, designs, drawings, specifications, molds, dies, casts, product configurations, discoveries, trade secrets, improvements, formulae, practices, processes, methods, technology, know-how, and confidential or proprietary information, whether or not patentable, including any of the foregoing

in the process of development and all rights or forms of protection of a similar nature or having equivalent or similar effect to any of those which subsist in the world.

**“Law”** means any federal, state, local or foreign constitution, treaty, law, statute, ordinance, rule, regulation, interpretation, directive, policy, order, writ, decree, injunction, judgment, stay or restraining order, provisions and conditions of permits, licenses, registrations and other operating authorizations, any ruling or decision of, agreement with or by, or any other requirement of, any Governmental Authority.

**“Leased Real Property”** has the meaning set forth in Section 2.3(a)(i).

**“Lien”** means any lien (statutory or otherwise), claim, charge, option, security interest, pledge, mortgage, restriction, financing statement or similar encumbrance of any kind or nature whatsoever (including any conditional sale or other title retention agreement and any lease having substantially the same effect as any of the foregoing and any assignment or deposit arrangement in the nature of a security device).

**“Losses”** has the meaning set forth in Section 8.1.

**“Main Studio Rules”** means the provisions of 47 C.F.R. § 73.1125, together with any other provisions or rules of, or promulgated under, the Communications Act with respect to the establishment, location, materials to be maintained at, or otherwise relating to the main studio of a broadcast television station.

**“Market”** means The Nielsen Designated Market Area encompassing Florence, South Carolina.

**“Material Adverse Effect”** means (i) any effect that is materially adverse to the business, assets, operations, condition (financial or otherwise), or results of operations of the Stations and the Business, including the Purchased Assets, taken as a whole, but excluding any such effect resulting from or arising in connection with (A) changes or conditions generally affecting the broadcast television industry (except in the case of this clause (A) if the impact on the Business is materially disproportionate to the impact on broadcast television) or (B) changes in United States general economic, regulatory or political conditions, (ii) any effect with respect to the Business, including the Stations and the Purchased Assets, that materially impacts, materially delays or prevents the consummation of the transactions contemplated hereby, including the grant of the FCC Consent, (iii) an effect (other than an effect caused by an act or omission of Buyer) that creates a material limitation on the ability of the Buyer to conduct the business of either Station as conducted immediately prior to the Closing or (iv) an effect (other than an effect caused by an act or omission of Buyer) that creates a material limitation in the ability of Buyer to acquire valid and transferable title to the Purchased Assets free and clear of all Liens (other than Permitted Liens).

**“Material Consent”** means any Consent designated with an asterisk on Schedule 3.4(b)(i).

**“Material Contracts”** has the meaning set forth in Section 3.10(a).

**“MVPDs”** means multichannel video programming distributors, including cable systems, satellite master antenna television, open video systems, multipoint distribution service, multichannel multipoint distribution service and DBS systems.

**“Non-Assignable Right”** has the meaning set forth in Section 2.6(a).

**“Notice of Disagreement”** has the meaning set forth in Section 2.10.

**“Notice of Termination”** has the meaning set forth in Section 7.2(a).

**“Notice to Proceed”** has the meaning set forth in Section 5.23.

**“Objection Notice”** has the meaning set forth in Section 2.7.

**“Option Agreement”** means that certain Option Agreement, dated April 28, 1994, between Atlantic and Seller, as assignee of Vision Communications, Inc.

**“Ordinary Course Contracts”** has the meaning set forth in Section 3.10(a).

**“Owned Real Property”** has the meaning set forth in Section 2.3(a)(i).

**“Owned Station”** has the meaning set forth in the recitals.

**“Owned Station Assignment Application”** has the meaning set forth in the recitals hereto.

**“Owned Station Licenses”** means the FCC license for the Owned Station and any other licenses, permits or other authorizations issued by or pending before the FCC to Sellers or, in respect of the Owned Station.

**“Patents”** means patents, patent disclosures, design patents, design rights and registered designs, utility models and similar related rights under the Laws of any jurisdiction and all registrations, applications and foreign counterparts thereof, and any foreign equivalents, additions, divisions, continuations, continuations in-part, substitutions, reissues, extensions and renewals of any of the foregoing and all rights or forms of protection of a similar nature or having equivalent or similar effect to any of those which subsist in the world.

**“Pending Auxiliary Applications”** has the meaning set forth in Section 3.12(d).

**“Permits”** means all licenses, permits, construction permits, approvals, concessions, franchises, certificates, consents, qualifications, registrations, privileges and other authorizations and other rights, other than the FCC Licenses, from any Governmental Authority to Seller currently in effect and used primarily in connection with the Business, including in connection with the use of any Real Property or Tangible Personal Property, together with any additions thereto between the Effective Date and the Closing Date.

**“Permitted Liens”** means (a) Liens for Taxes or assessments which are not yet due or which are being contested in good faith by appropriate proceedings, (b) statutory mechanics’

materialmen's, contractors', warehousemen's', repairmen's' and other similar statutory Liens arising in the ordinary course of business and which are not delinquent and (c) with respect to the Real Property, those Liens specified on Exhibit 11.

**"Person"** means a human being, labor organization, partnership, firm, enterprise, association, joint venture, corporation, limited liability company, cooperative, legal representative, foundation, society, political party, estate, trust, trustee, trustee in bankruptcy, receiver or any other organization or entity whatsoever, including any Governmental Authority.

**"Plan"** means any pension, retirement, savings, deferred compensation, and profit-sharing plan and each stock option, stock appreciation, stock purchase, performance share, bonus or other incentive plan, severance plan, health, group insurance or other welfare plan, or other plan, agreement or policy applicable to Seller's Employees and any "employee benefit plan" within the meaning of Section 3(3) of ERISA related to the Business, under which Seller has any current or future obligation or liability or under which any Employee or former employee (or any dependent, beneficiary or alternate payee of any Employee or former employee) of Seller in respect of the Business has or may have any current or future right to benefits on account of employment with Seller.

**"Preliminary FCC Consent"** has the meaning set forth in Section 5.11.

**"Purchased Assets"** has the meaning set forth in Section 2.3(a).

**"Purchase Price"** has the meaning set forth in Section 2.2.

**"Qualified Assignee"** has the meaning set forth in Section 9.5.

**"Real Property"** means, collectively, the Owned Real Property and the Leased Real Property.

**"Related Party"** has the meaning set forth in Section 7.2(b).

**"Scheduled Employees"** has the meaning set forth in Section 5.11.

**"Sellers"** has the meaning set forth in the preamble hereof.

**"Sellers' Confidential Information"** means (i) all financial, technical, commercial, proprietary or other information of Seller or an Affiliate of Seller disclosed by Seller or an Affiliate or representative of Seller to Buyer, its Affiliates or any of their officers, directors, employees, representatives or agents (each, a **"Buyer Recipient"**) in connection with the transactions contemplated by this Agreement that does not relate in any manner to the Stations, the Purchased Assets or the Business, (ii) each of the terms, conditions and other provisions contained in this Agreement and the agreements or documents to be delivered pursuant to this Agreement, (iii) all financial, technical, commercial, proprietary or other information of Seller or an Affiliate of Seller disclosed by Seller or an Affiliate of Seller to any Governmental Authority in connection with any filings or review in connection with the transactions contemplated hereunder not relating in any manner to the Stations, the Purchased Assets or the Business and (iv) until such time as the Closing occurs, all financial, technical, commercial, proprietary or



other information of Seller or its Affiliates relating to the Stations, the Business or the Purchased Assets, including all Intellectual Property of Seller or its Affiliates relating thereto. Notwithstanding the preceding sentence, the definition of Seller Confidential Information does not include any information that (A) is in the public domain at the time of disclosure to a Buyer Recipient or becomes part of the public domain after such disclosure through no fault of such Buyer Recipient, (B) is already in the possession of a Buyer Recipient at the time of disclosure to such Buyer Recipient that has not been provided by Seller or its Affiliates, (C) is disclosed to a party by any Person other than a party to this Agreement; *provided that* the party to whom such disclosure has been made does not have actual knowledge that such Person is prohibited from disclosing such information (either by reason of Contract or legal or fiduciary obligation), (D) is developed independently by any party without the use of any Seller Confidential Information or (E) is required to be disclosed under Law or court order (*provided that* prompt notice of such disclosure will be given as far in advance as possible to Seller and Seller shall be given reasonable opportunity to determine whether disclosure is required and to assess the extent of Seller Confidential Information required to be disclosed).

**“Seller’s Allocation Schedule”** has the meaning set forth in Section 2.7.

**“Sellers’ Knowledge”** (and similar phrases) means the actual knowledge, after reasonable inquiry, of David H. Lowell, Paul G. Clancy, Carolyn A. Barrett and William Huggins.

**“Sellers’ Proration Amount”** has the meaning set forth in Section 2.10.

**“Severance Payments”** has the meaning set forth in Section 3.17(g).

**“Stations”** has the meaning set forth in the recitals hereof.

**“Straddle Period”** has the meaning set forth in Section 5.7(b).

**“Subject Employee”** has the meaning set forth in Section 5.11.

**“Subsequent Agreement”** has the meaning set forth in Section 5.24.

**“Survey”** has the meaning set forth in Section 5.20.

**“Tangible Personal Property”** has the meaning set forth in Section 2.3(a)(ii).

**“Tax”** means any federal, state, local, or foreign income, gross receipts, license, payroll, employment, excise, severance, stamp, occupation, premium, windfall profits, environmental (including taxes under Section 59A of the Code), customs duties, capital stock, franchise, profits, withholding, social security (or similar), unemployment, disability, real property, personal property, sales, use, transfer, registration, value added, alternative or add-on minimum, estimated, or other tax of any kind whatsoever, including any interest, penalty, or addition thereto, whether disputed or not.

**“Tax Return”** means any return, declaration, report, claim for refund, information return or statement relating to Taxes, including any schedule or attachment thereto, filed or maintained,

or required to be filed or maintained, in connection with the calculation, determination, assessment or collection of any Tax and shall include any amended returns required as a result of examination adjustments made by the Internal Revenue Service or other Tax authority.

**“Time Brokerage Agreement”** means that certain Time Brokerage Agreement, dated April 28, 1994, between Diversified, as successor to Vision Communications, Inc., and Atlantic, as amended by that certain Amendment to and Extension of Time Brokerage Agreement, dated as of December 9, 2003, between Diversified and Atlantic and that certain Second Amendment to Time Brokerage Agreement, between Diversified and Atlantic.

**“Title Commitment”** has the meaning set forth in Section 5.20.

**“Title Company”** shall mean First American Title Insurance Company or such other title insurance company acceptable to Buyer in its sole discretion, reasonably exercised.

**“Title Policy”** has the meaning set forth in Section 5.20.

**“Towers”** means all antenna support structures, including any guy anchors and guy wires, used or useful in connection with the operation of the Stations.

**“Trade Agreements”** has the meaning set forth in Section 2.10.

**“Trademarks”** means trademarks, trade names, trade dress, service marks and service names, logos, slogans, brand names and domain names and all registrations, applications for registration, renewals and foreign counterparts thereof, together with the goodwill of the business associated therewith and symbolized thereby, and all rights or forms of protection of a similar nature or having equivalent or similar effect to any of those which subsist in the world.

**“Transfer Date”** means with respect to an Assumed Contract requiring the consent of any Person for assignment thereof to Buyer, the date after the Closing Date on which such consent is obtained and such Assumed Contract is duly assigned to Buyer.

**“Transferred Intellectual Property”** has the meaning set forth in Section 2.3(a)(iii).

**“Transfer Taxes”** has the meaning set forth in Section 5.7(a).

**“Transmission Default”** has the meaning set forth in Section 5.16(b).

**“Transmission Equipment”** means all digital, analog or other transmission equipment used in connection with the Stations, including the antenna, transmitter and all associated transmission equipment, lines and facilities.

**“Transmission Structures”** has the meaning set forth in Section 3.8(f).

**“Unadjusted Accounts Payable”** has the meaning set forth in Section 5.18(a).

**“Upset Date”** has the meaning set forth in Section 7.1(b)(i).

“WARN Act” means the Worker Adjustment and Retraining Notification Act.

## ***II. Descriptive Headings; Certain Interpretations.***

(a) Descriptive headings are for convenience only and shall not control or affect the meaning or construction of any provision of this Agreement.

(b) Except as otherwise expressly provided in this Agreement or as the context otherwise requires, the following rules of interpretation apply to this Agreement: (i) the singular includes the plural and the plural includes the singular; (ii) “or” and “any” are not exclusive and the words “include” and “including,” and variations thereof, shall not be deemed to be terms of limitation, but rather shall be deemed to be followed by the words “without limitation”; (iii) a reference to any Contract includes permitted supplements and amendments; (iv) a reference to a Law includes any amendment or modification to such Law; (v) a reference to a Person includes its successors, heirs and permitted assigns; (vi) a reference to one gender shall include any other gender; and (vii) a reference in this Agreement to an Article, Section, Exhibit or Schedule is to the referenced Article, Section, Exhibit or Schedule of this Agreement.

(c) The parties hereto agree that they have been represented by counsel during the negotiation, drafting, preparation and execution of this Agreement and, therefore, waive the application of any Law or rule of construction providing that ambiguities in an agreement or other document will be construed against the party drafting such agreement or document.

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