

**ASSET PURCHASE AGREEMENT**

**by and between**

**INYO BROADCAST HOLDINGS, LLC**

**and**

**SCRIPPS MEDIA, INC.**

**and**

**SCRIPPS FARADAY, INC.**

**Dated as of September 23, 2020**

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## **ASSET PURCHASE AGREEMENT**

This ASSET PURCHASE AGREEMENT, dated as of September 23, 2020 (this “Agreement”), by and between INYO Broadcast Holdings, LLC, a Nevada limited liability company (“Buyer”), on the one hand, and Scripps Media, Inc., a Delaware corporation (“SMI”), and Scripps Faraday Inc., a Delaware corporation and wholly-owned subsidiary of SMI (“Merger Sub”, and together with SMI, “Seller”), on the other hand.

### **W I T N E S S E T H:**

**WHEREAS**, SMI, Merger Sub, and The E.W. Scripps Company, an Ohio corporation and parent of SMI and Merger Sub (“Parent”), ION Media Networks, Inc., a Delaware corporation (“ION”), and BD ION Equityholder Rep LLC, a Delaware limited liability company (“Equityholder Representative”), are parties to an Agreement and Plan of Merger, dated September \_\_, 2020 (the “Merger Agreement”) pursuant to which Merger Sub will be merged into ION, and ION will become a wholly-owned subsidiary of SMI (the “Merger”);

**WHEREAS**, ION owns and operates broadcast television stations throughout the United States under the ION Media Brand (the “ION Network Stations”);

**WHEREAS**, upon consummation of the Merger, Seller will sell or cause to be sold, and Buyer will buy, certain assets of, and Seller will transfer or cause to be transferred, and Buyer will assume, certain liabilities of, the broadcast television stations listed on Appendix I hereto (the “Stations”) that are owned and operated currently by subsidiaries of ION that will become upon consummation of the Merger subsidiaries of Seller (individually, a “Subsidiary” and collectively, the “Subsidiaries”); and

**WHEREAS**, simultaneously with the closing of the transactions contemplated by this Agreement, the parties hereto will execute and deliver to each other the Option Agreements (as defined herein) and the Affiliation Agreements (as defined herein);

**NOW, THEREFORE**, in consideration of the foregoing and the representations, warranties, covenants and agreements contained herein, the parties hereto agree as set forth herein:

### **ARTICLE I DEFINITIONS**

Section 1.1 Definitions. As used herein, the following terms have the following

“Affiliate” means, with respect to any Person, any other Person that directly or indirectly controls or is controlled by, or is under common control with, such Person. The term “control” (including its correlative meanings “controlled” and “under common control with”) shall mean possession, directly or indirectly, of power to direct or cause the direction of management or policies of a Person (whether through ownership of such Person’s securities or partnership or other ownership interests, or by Contract or otherwise).

“Ancillary Agreements” means any certificate, agreement, document or other instrument to be executed and delivered in connection with the transactions contemplated by this Agreement, including the Seller Ancillary Agreements and the Buyer Ancillary Agreements.

“Assumed Capital Lease Obligations” means obligations of ION or the Subsidiaries arising under leases required to be accounted for as capital leases under GAAP, in each case solely to the extent such obligations are included in the Assumed Liabilities and the Contracts governing such obligations are included in the Station Assets; provided that in no event shall the foregoing apply with respect to any real property lease or operating lease.

“Business Day” means any day that is not a Saturday, a Sunday or other day on which commercial banks in the City of New York are authorized or required by Law to be closed.

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

“Commitment Letters” has the meaning set forth in Section 5.7(a).

“Communications Act” means the Communications Act of 1934, as amended.

“Competition Laws” means the Sherman Antitrust Act of 1890, as amended, the Clayton Antitrust Act of 1914, as amended, the HSR Act, as amended, the Federal Trade Commission Act of 1914, as amended, the Robinson-Patman Act of 1936, as amended, and all other Laws that are designed or intended to prohibit, restrict or regulate actions having the purpose or effect of monopolization, lessening of competition or restraint of trade.

“Contract” means any agreement, contract, instrument, note, bond, mortgage, indenture, deed of trust, lease, license or other binding instrument or obligation, whether written or unwritten.

“Cutoff Time” means 11:59 P.M. (eastern time) on the date immediately prior to the Closing Date.

“Debt Commitment Letters” has the meaning set forth in Section 5.7(a).

“Debt Financing” has the meaning set forth in Section 5.7(a).

“Disclosure Schedules” shall mean Seller’s disclosure schedules attached hereto or delivered to Buyer concurrently with the execution and delivery of this Agreement.

“DOJ” means the U.S. Department of Justice.

“Environmental Claim” means any claim (legal, equitable or administrative) or legal proceeding by any Person alleging liability or potential liability (including such liability for cleanup costs, governmental response costs, natural resources damages, property damages, personal injuries or administrative, civil or criminal penalties) arising out of, based on or resulting from (a) the presence, Release or threat of Release of any Hazardous Materials at any location, whether or not leased or operated by ION or any Subsidiary, or (b) circumstances forming the basis of any violation or alleged violation of any Environmental Law or term or condition of any Permit held by ION or any Subsidiary pursuant to applicable Environmental Laws.

“Environmental Laws” means all applicable Laws relating to (a) pollution or protection of human health or the environment, including laws relating to Releases or threatened Releases of Hazardous Materials, (b) the presence, manufacture, generation, production, processing, distribution, use, treatment, containment, storage, recycling, Release, disposal, transport, handling or remediation of

Hazardous Materials or (c) record keeping, notification, disclosure or reporting requirements respecting Hazardous Materials.

“Expenses” means any and all expenses incurred in connection with investigating, defending or asserting any claim, action, suit or proceeding incident to any matter indemnified against hereunder (including court filing fees, court costs, arbitration fees or costs, witness fees, and reasonable fees and disbursements of legal counsel, investigators, expert witnesses, consultants, accountants and other professionals).

“FCC” means the U.S. Federal Communications Commission.

“FCC Applications” means those applications and requests for waivers required to be filed with the FCC to obtain the approvals of the FCC pursuant to the Communications Act and FCC Rules necessary to consummate the transactions contemplated by this Agreement.

“FCC Consent” means the grant by the FCC (or its staff acting pursuant to delegated authority) of the FCC Applications, regardless of whether the action of the FCC in issuing such grant remains subject to reconsideration or other further review by the FCC or a court.

“FCC Rules” means the rules, regulations, orders and promulgated and published policy statements of the FCC.

“Financing” has the meaning set forth in Section 5.7(a).

“Financing Amount” has the meaning set forth in Section 5.7(a).

“Financing Information” has the meaning set forth in Section 5.7(c)

“Financing Sources” means the Lenders and Investors.

“FTC” means the U.S. Federal Trade Commission.

“GAAP” means the generally accepted accounting principles in the United States.

“Governmental Authority” means any nation or government, any federal, state or other political subdivision thereof, any entity, authority or body exercising executive, legislative, judicial, regulatory or administrative functions of or pertaining to government, any court, tribunal or arbitrator and any self-regulatory organization (including stock exchanges).

“Governmental Authorizations” means any licenses, franchises, approvals, clearances, permits, certificates, waivers, consents, exemptions, variances, expirations and terminations of any waiting period requirements (including pursuant to Competition Laws), and notices, filings, registrations, qualifications, declarations and designations with, and other similar authorizations and approvals issued by or obtained from a Governmental Authority.

“Hazardous Materials” means all substances defined as hazardous substances, oils, pollutants or contaminants in the National Oil and Hazardous Substances Pollution Contingency Plan, 40 C.F.R. § 300.5, any other substance, material, chemical, waste, product, derivative, compound, mixture, solid, liquid, mineral or gas, in each case, whether naturally occurring or manmade, that is defined or regulated

as hazardous, acutely hazardous, toxic, a pollutant, a contaminant or words of similar import or regulatory effect under any Environmental Laws, and any petroleum or petroleum-derived products, radon, radioactive materials or wastes, asbestos in any form, lead or lead-containing materials, urea formaldehyde foam insulation, and polychlorinated biphenyls.

“HSN and QVC Agreements” has the meaning set forth in Section 5.9.

“HSR Act” means the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended, and the rules and regulations promulgated thereunder.

“Intellectual Property” means any and all intellectual property rights throughout the world, whether registered or not, including all (a) patents (including all reissues, divisionals, provisionals, continuations and continuations-in-part, re-examinations, renewals and extensions thereof) (collectively, “Patents”); (b) copyrights and rights in copyrightable subject matter in published and unpublished works of authorship (collectively, “Copyrights”); (c) trade names, trademarks and service marks, logos, corporate names, domain names and other Internet addresses or identifiers, trade dress and similar rights, and all goodwill associated therewith (collectively, “Marks”); (d) registrations and applications for each of the foregoing; (e) rights, title and interests in all trade secrets and trade secret rights arising under any Law, in each case to the extent any of the foregoing derives economic value (actual or potential) from not being generally known to other Persons who can obtain economic value from its disclosure or use (collectively, “Trade Secrets”); and (f) moral rights, publicity rights and any other intellectual property rights or other rights similar, corresponding or equivalent to any of the foregoing of any kind or nature.

“Investors” means the Persons that have committed to provide or arrange or otherwise entered into agreements in connection with the Investors Financing or any alternative financing, including any other parties to any commitment letters, engagement letters, joinder agreements or similar agreements entered into in connection with the Investors Financing or any alternative financing, together with their respective Affiliates, and their and their respective Affiliates' officers, directors, employees, attorneys, partners (general or limited), controlling parties, advisors, members, managers, agents and representatives of each of the foregoing, and their respective successors and assigns.

“Investors Commitment Letters” has the meaning set forth in Section 5.7(a).

“Investors Financing” has the meaning set forth in Section 5.7(a).

“IRS” means the Internal Revenue Service.

“Knowledge” means (a) with respect to Seller, the actual knowledge, after reasonable inquiry, and in reliance on the representations, warranties and other covenants of ION contained in the Merger Agreement, of each individual listed in Section 1.1(a) of the Disclosure Schedules and (b) with respect to Buyer, the actual knowledge, after reasonable inquiry, of each individual listed in Section 1.1(b) of the Disclosure Schedules.

“Laws” means any United States, federal, state or local or any foreign law (in each case, statutory, common or otherwise), ordinance, code, rule, statute, regulation or other similar requirement or Order enacted, issued, adopted, promulgated, entered into or applied by a Governmental Authority.



“Leased Real Property” means real property owned by any third Person that is leased, subleased or otherwise occupied by ION or any Subsidiary, primarily for use in operation of a Station, as of the date of this Agreement.

“Lenders” means the Persons that have committed to provide or arrange or otherwise entered into agreements in connection with the Debt Financing or any alternative financing, including any other parties to any debt commitment letters, engagement letters, joinder agreements, indentures, credit agreements or similar agreements entered into in connection with the Debt Financing or any alternative financing, together with their respective Affiliates, and their and their respective Affiliates' officers, directors, employees, attorneys, partners (general or limited), controlling parties, advisors, members, managers, agents and representatives of each of the foregoing, and their respective successors and assigns.

“Lien” means, with respect to any property or asset, any mortgage, lien, pledge, charge, security interest, lease, encumbrance or other adverse claim of any kind in respect of such property or asset.

“Loss” means any and all losses, costs, obligations, liabilities, settlement payments, awards, judgments, fines, penalties, damages, expenses, deficiencies or other charges.

“Market” means the “Designated Market Area,” as determined by The Nielsen Company, of a television broadcast station.

“Master Lease Agreement” has the meaning set forth in Section 2.7(a).

“MVPDs” has the meaning set forth in Section 3.6(g)

“NASDAQ” means the NASDAQ Global Select Market.

“Network” means the Ion Television network service owned by ION.

“Order” means any order, writ, injunction, decree, consent decree, judgment, award, injunction, settlement or stipulation issued, promulgated, made, rendered or entered into by or with any Governmental Authority (in each case, whether temporary, preliminary or permanent).

“Other Stations” means any television broadcast station owned and/or operated by Seller or the Subsidiaries (other than the Stations).

“Owned Real Property” means all real property primarily related to the Station Assets owned in fee by ION or one of its Subsidiaries as of the date of this Agreement.

“Permits” has the meaning set forth in Section 3.6(a).

“Permitted Liens” means (a) Liens for Taxes, assessments, governmental levies, fees or charges not yet due and payable or which are being contested in good faith and by appropriate proceedings, (b) mechanics', carriers', workers', repairers' and similar statutory Liens arising or incurred in the ordinary course of business with respect to amounts not yet due and payable or which are being contested in good faith and by appropriate proceedings and for which adequate reserves (as determined in accordance with GAAP) have been established on the Balance Sheet and that would not be individually or in the aggregate materially adverse, (c) zoning, entitlement, building codes and other land use regulations,

ordinances or legal requirements imposed by any Governmental Authority having jurisdiction over the Leased Real Property that are not violated in any material respect by any existing improvement, provided such matters do not, individually or collectively, interfere with the use of Leased Real Property as currently used in the operation of the Stations or materially and adversely impact the commercial value of Leased Real Property, (d) all rights relating to the construction and maintenance in connection with any public utility of wires, poles, pipes, conduits and appurtenances thereto, on, under or above Leased Real Property, (e) any state of facts which an accurate survey or physical inspection of Leased Real Property would disclose and which, individually or in the aggregate, do not materially impair the value or continued use of such real property for the purposes for which it is used in the operation of the Stations, (f) restrictive covenants, easements, rights of way, encroachments, restrictions and any title exception disclosed by any title insurance commitment or title insurance policy for any such Leased Real Property issued by a title company and delivered or otherwise made available to Buyer, prior to the date hereof which, individually or in the aggregate, do not materially impair the value or continued use of such real property for the purposes for which it is used in the operation of the Stations, (g) statutory Liens in favor of lessors arising in connection with any Leased Real Property, (h) other defects, irregularities or imperfections of title, encroachments, easements, servitudes, permits, rights of way, flowage rights, restrictions, leases, licenses, covenants, sidetrack agreements and oil, gas, mineral and mining reservations, rights, licenses and leases, which, in each case, do not materially impair the continued use of Leased Real Property for the purposes for which it is used in the operation of the Stations, (i) grants of non-exclusive licenses or other non-exclusive rights with respect to Intellectual Property that do not secure indebtedness, and (j) Liens that, individually or in the aggregate, do not, and would not reasonably be expected to, materially detract from the value of any of the property, rights or assets of Seller and its Subsidiaries or materially interfere with the use thereof as currently used in the operation of the Stations.

“Person” means an individual, group (within the meaning of Section 13(d)(3) of the Exchange Act), corporation, partnership, limited liability company, association, trust or other entity or organization, including a Governmental Authority.

“Proceeding” means any suit, action, claim, proceeding, arbitration, mediation, audit or hearing (in each case, whether civil, criminal or administrative) commenced, brought, conducted or heard by or before, or otherwise involving, any Governmental Authority.

“Pro Forma Financial Statements” has the meaning set forth in Section 3.10.

“Prorated Taxes” means all personal property, real property, intangible property and other ad valorem Taxes imposed on or with respect to the operation of the Stations and/or the Station Assets for any Straddle Period.

“Real Property Lease” means any Contract under which ION or any Subsidiary as of the date of this Agreement is a lessee of, or occupies, any Leased Real Property.

“Release” means any release, spill, emission, discharge, leaking, pumping, injection, deposit, disposal, dispersal, leaching or migration into the indoor or outdoor environment (including ambient air, surface water, groundwater and surface or subsurface strata).

“Representations and Warranties Policy” means that policy obtained by Seller pursuant to the Merger Agreement.

“Retained Names and Marks” means all (a) Marks containing or incorporating the term “ION”, (b) other Marks owned by Seller, Parent or any of their respective Subsidiaries (other than Marks included in the Purchased Intellectual Property), (c) variations or acronyms of any of the foregoing, and (d) Marks confusingly similar to or dilutive of any of the foregoing.

“Station Licenses” means the FCC licenses, permits and other authorizations, together with any renewals, extensions or modifications thereof, issued or otherwise granted to or held by Seller or the Subsidiaries with respect to the Stations.

“Straddle Period” means any taxable period beginning prior to the Closing Date and ending on or after the Closing Date.

“Subsidiary” has the meaning ascribed in the premises of this Agreement.

“Subsidiaries” has the meaning ascribed in the premises of this Agreement.

“Tax” means (i) any federal, state, local or foreign taxes, levies or other similar assessments (including income, receipts, ad valorem, value added, excise, real or personal property, sales, occupation, service, stamp, transfer, registration, natural resources, severance, premium, windfall or excess profits, environmental, use, licensing, withholding, employment, social security, unemployment, disability, payroll, share, capital, surplus, alternative, minimum, add-on minimum, estimated, franchise or any other taxes, levies or other similar assessments), whether computed on a separate, consolidated, unitary or combined basis or in any other manner, and includes any interest, fines, penalties, assessments, deficiencies or additions thereto, (ii) any and all liability for amounts described in clause (i) of any member of an affiliated, consolidated, combined or unitary group of which ION or Seller (or any predecessor of any of the foregoing) is or was a member on or prior to the Closing Date, including pursuant to Treasury Regulations Section 1.1502-6 or any analogous or similar state, local or foreign Law or regulation, and (iii) any and all liability for amounts described in clause (i) or (ii) imposed on ION or Seller as a transferee or successor, by contract or pursuant to any Law, rule or regulation, which Taxes relate to an event or transaction occurring before the Closing.

“Tax Return” means all federal, state, local, foreign or other returns, declarations, statements, reports, claims for refund, schedules, information returns or other documents (including, in each case, any amendment thereto and any related supporting schedules, statements or information) with respect to any Tax filed or required to be filed with the United States Internal Revenue Service or any other Governmental Authority or agency or in connection with the determination, assessment or collection of any Tax of any party or the administration of any Laws, regulations or administrative requirements relating to any Tax.

“Third Party” means any Person other than Buyer, Seller, or any of their respective Affiliates.

“Transfer Taxes” means all transfer, documentary, excise, sales, value added, goods and services, use, stamp, registration and other similar Taxes, and all conveyance fees, recording charges and other similar fees and charges, incurred in connection with the consummation of the transactions contemplated by this Agreement.

“Treasury Regulation” means regulations promulgated under the Code.

Section 1.2 Table of Definitions. Each of the following terms is defined on the page hereof set forth opposite such term:

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Section 1.3 Other Definitional and Interpretative Provisions.

(a) Rules of Construction. The words “hereof,” “herein” and “hereunder” and words of like import used in this Agreement shall refer to this Agreement as a whole and not to any particular provision of this Agreement. The descriptive headings used herein are inserted for convenience of reference only and are not intended to be part of or to affect the meaning or interpretation of this Agreement. References to Articles, Sections, Exhibits and Schedules are to Articles, Sections, Exhibits and Schedules of this Agreement unless otherwise specified. All Exhibits and Schedules annexed hereto or referred to herein are hereby incorporated in, and made a part of, this Agreement, as if set forth in full herein. Any capitalized terms used in any Exhibit or Schedule but not otherwise defined therein, shall have the meaning as defined in this Agreement. Any singular term in this Agreement shall be deemed to include the plural, and any plural term the singular. The definitions contained in this Agreement are applicable to the masculine as well as to the feminine and neuter genders of such term. Whenever the words “include,” “includes” or “including” are used in this Agreement, they shall be deemed to be followed by the words “without limitation,” whether or not they are in fact followed by those words or words of like import. “Writing,” “written” and comparable terms refer to printing, typing and other means of reproducing words (including electronic media) in a visible form. References to any statute shall be deemed to refer to such statute and to any rules or regulations promulgated thereunder. References to any Contract are to that Contract as amended, modified or supplemented (including by waiver or consent) from time to time in accordance with the terms hereof and thereof. References to any Person include the successors and permitted assigns of that Person. References herein to “\$” or dollars will refer to United States dollars, unless otherwise specified. References from or through any date mean, unless otherwise specified, from and including such date or through and including such date, respectively. References to any period of days will be deemed to be to the relevant number of calendar days, unless otherwise specified. The word “or” shall not be exclusive. The word “extent” in the phrase “to the extent” shall mean the degree to which a subject or other thing extends, and such phrase shall not mean simply “if”. When calculating the period of time before which, within which or following which any act is to be done or step taken pursuant to this Agreement, the date that is the reference date in calculating such period shall be excluded. If the last day of such period is not a Business Day, the period in question shall end on the next succeeding Business Day. In the event an ambiguity or question of intent or interpretation arises, this Agreement will be construed as if drafted jointly by the parties, and

no presumption or burden of proof will arise favoring or disfavoring any party by virtue of the authorship of any of the provisions of this Agreement.

## **ARTICLE II PURCHASE AND SALE OF STATION ASSETS**

Section 2.1 Purchase and Sale of Station Assets. Upon the terms and subject to the conditions of this Agreement, at the Closing, Seller shall, and shall cause its Subsidiaries to, sell, transfer, assign, convey and deliver to Buyer, and Buyer shall purchase from Seller, pursuant to this Agreement, free and clear of all Liens (except for Permitted Liens), all of the rights, title and interest of Seller or the Subsidiaries in and to the assets and properties (excepting only the Excluded Assets) of every kind and description, real, personal or mixed, tangible or intangible, then owned or held by Seller or the Subsidiaries and used or held for use primarily in the operation of the Stations (except as otherwise expressly set forth below) (herein collectively referred to as the “Station Assets”), including, all right, title and interest of Seller or the Subsidiaries as of the Closing to the following:

- (a) (x) The Station Licenses and (y) all other assignable Governmental Authorizations primarily related to the Stations, and including any applications therefor and renewals or modifications thereof between the date hereof and Closing;
- (b) All machinery, equipment (including cameras, computers and office equipment), auxiliary and translator facilities, transmitters, broadcast equipment, antennae, supplies, inventory (including all films, programs, records, tapes, recordings, compact discs, cassettes, spare parts and equipment), vehicles, furniture and other tangible personal property owned by Seller or the Subsidiaries and located at the Stations (“Tangible Personal Property”), except for any retirements or dispositions thereof made between the date hereof and the Closing;
- (c) All Intellectual Property (other than Registered Intellectual Property) owned by Seller or the Subsidiaries and used or held for use primarily in the operation of the Stations (the “Purchased Intellectual Property”), including call signs for the Stations and domain names used or held for use primarily in the operation of the Stations, but, for the avoidance of doubt, excluding any Intellectual Property used primarily in connection with any of the Other Stations or the Network;
- (d) Subject to Section 5.6 and Section 6.5, all Contracts of Seller or the Subsidiaries to the extent such Contracts pertain primarily to the operation of the Stations, including all Real Property Leases in Section 2.1(d) of the Disclosure Schedules and any other Contracts entered into by Seller or the Subsidiaries primarily for the operation of the Stations which is entered into after the date hereof;
- (e) All management and other systems (including computers and peripheral equipment), databases, computer software, disks and similar assets owned by Seller or the Subsidiaries that are used or held at the Stations, and all licenses of Seller or the Subsidiaries, to the extent primarily relating thereto;
- (f) any claim, right or interest in and to any refunds of Taxes, in each case, relating to (i) the Stations, the Station Assets or the Assumed Liabilities for, or applicable to, taxable periods (or portions thereof) beginning on or after the Closing Date;
- (g) All books and records of Seller or the Subsidiaries that relate primarily to the Stations, including all files, logs, programming information, technical information and engineering data, and Tax Returns and related documents and supporting work papers and any other records and returns

relating to Taxes imposed on or with respect to the Station Assets, but excluding records relating to Excluded Assets or the Other Stations;

(h) All prepaid expenses (except for prepaid insurance or to the extent related to the Excluded Assets) and security deposits (solely to the extent transferable in accordance with their respective terms) arising from payments made by Seller or the Subsidiaries, as applicable, in the ordinary course of the operation of the Stations prior to the Cutoff Time for goods or services used or held for use primarily in the operation of the Stations, where such goods or services have not been received prior to the Closing, as allocated in accordance with Section 2.6(a);

(i) Websites, social media accounts and mobile apps used primarily in the operation of the Stations; and

(j) All Registered Intellectual Property.

Section 2.2 Excluded Assets. Notwithstanding the foregoing, the Station Assets shall not include the following (herein referred to as the “Excluded Assets”):

(a) any cash or cash equivalents (excluding any security deposits included as Station Assets), other than petty cash held at the Stations;

(b) any bank and other depository accounts;

(c) any accounts receivable outstanding at the Cutoff Time generated by the Stations prior to the Closing;

(d) any Tangible Personal Property used in the operation of the Stations that is sold, transferred, retired or otherwise disposed of between the date of this Agreement and the Closing;

(e) any Contract that, by its terms, terminates or expires (and is not renewed or extended) prior to the Closing;

(f) any claim, right or interest in and to any refunds of Taxes, in each case, relating to (i) the Stations, the Station Assets or the Assumed Liabilities for, or applicable to, taxable periods (or portions thereof) ending on or prior to the Closing Date, (ii) any Excluded Liability or (iii) any other Excluded Asset;

(g) any right, claim or cause of action, whether mature, contingent or otherwise, against Third Parties relating to the assets, properties or operations of the Stations prior to the Closing Date, but excluding any such right, claim or cause of action to the extent relating to the Assumed Liabilities and included in the Station Assets;

(h) any insurance bond, insurance Contract or insurance policy or prepaid insurance;

(i) any minute books, stock transfer books, records relating to formation or incorporation, Tax Returns and related documents and supporting work papers and any other records and returns relating to Taxes other than Taxes imposed on or with respect to the Station Assets, and any books and records not primarily relating to the Stations;

(j) the items designated in Section 2.2(j) of the Disclosure Schedules as “Excluded Assets”;

- (k) the Retained Names and Marks;
- (l) any Intellectual Property (other than the Purchased Intellectual Property);
- (m) any real and personal, tangible and intangible assets that are used or held for use in any respect in the operation of the Other Stations or the Network (including, without limitation, any such assets that are used both in the operation of the Stations and in the operation of the Other Stations or the Network other than such assets used primarily in the operation of the Stations);
- (n) any records and documents relating to Excluded Assets or to liabilities other than Assumed Liabilities;
- (o) any benefit or compensation agreements, plans or arrangements sponsored or maintained in connection with the operations of the Stations (including, without limitation, all employee benefit plans) and any assets of any such agreements, plans or arrangements;
- (p) any rights of or payment due to Seller or the Subsidiaries under or pursuant to this Agreement or the other agreements with Buyer or any of its Affiliates contemplated hereby;
- (q) towers and other antenna support structures;
- (r) the Owned Real Property;
- (s) any Real Property Lease that is not able to be assigned to Buyer by Seller (subject to Section 6.5); and
- (t) any other assets that are not primarily used or held for use in the operation of the Stations.

### Section 2.3 Assumption of Liabilities.

(a) Upon the terms and subject to the conditions of this Agreement, as of the Closing, Buyer shall assume and shall thereafter be obligated for, and shall agree to pay, perform and discharge in accordance with their terms, only the following obligations and liabilities of Seller or the Subsidiaries, whether direct or indirect, known or unknown (except to the extent such obligations and liabilities constitute Excluded Liabilities):

- (i) all liabilities and obligations arising with, or relating to, the operation of the Stations, including the owning or holding of the Station Assets, on and after the Closing Date;
- (ii) any Taxes imposed on or with respect to the Stations and relating to any taxable periods (or portions thereof) thereof beginning on or after the Closing Date (but excluding Prorated Taxes allocable to Buyer as provided in Section 6.1); and
- (iii) subject to Section 5.6, all liabilities and obligations under the Contracts included as Station Assets, in each case only to the extent that such liabilities or obligations accrue on or after the Closing Date.

All of the foregoing to be assumed by Buyer hereunder are referred to herein as the “Assumed Liabilities.”

(b) Buyer shall not assume or be obligated for any of, and Seller and its Subsidiaries shall solely retain, pay, perform, discharge and be obligated with respect to, all liabilities or obligations of any and every kind whatsoever, direct or indirect, known or unknown, not expressly assumed by Buyer under Section 2.3(a) (herein referred to as “Excluded Liabilities”) and, without limiting the generality of the foregoing and notwithstanding anything to the contrary in Section 2.3(a), none of the following shall be “Assumed Liabilities” for purposes of this Agreement:

(i) any of the liabilities or obligations under the benefit or compensation agreements, plans or arrangements sponsored or maintained in connection with the operation of the Stations or that otherwise relate to employees (including, without limitation, all employee benefit plans);

(ii) any liabilities or obligations of Seller or the Subsidiaries, under this Agreement or the Seller Ancillary Agreements;

(iii) any liabilities or obligations, including forfeiture expenses, arising from any complaints with the FCC regarding the Stations in respect of events that occurred prior to the Closing Date;

(iv) any liabilities or obligations with respect to, or relating to the HSN and QVC Agreements, including in respect of the termination thereof;

(v) any Taxes imposed on or with respect to the Stations and relating to any taxable period or portion thereof prior to the Closing Date (but excluding Prorated Taxes allocable to Buyer as provided in Section 6.1); and

(vi) all liabilities and obligations arising with, or relating to, the operation of the Stations, including the owning or holding of the Station Assets, prior to the Closing Date.

**Section 2.4 Closing Date.** Subject to the provisions of this Agreement, the purchase and sale of the Station Assets provided for in Section 2.1 (the “Closing”) shall take place at 10:00 a.m., Eastern Time, and will be conducted electronically via email, facsimile transfer or other similar means on the date that is two (2) Business Days following the satisfaction or, to the extent legally permissible, waiver of the conditions set forth in ARTICLE VII (other than those conditions that by their nature are to be satisfied (or validly waived) at the Closing, but subject to such satisfaction or waiver), or such other time as may be determined by mutual agreement of Seller and Buyer. The date on which the Closing occurs in accordance with this Section 2.4 shall be referred to herein as the “Closing Date”.

**Section 2.5 Purchase Price.** The purchase price for the Station Assets (the “Purchase Price”) shall be equal to \$30 million, subject to adjustment as provided in this Agreement. Buyer shall pay, or cause to be paid, the Purchase Price at the Closing by wire transfer in immediately available funds to the account or account(s) designated by Seller.

**Section 2.6 Proration and Adjustments.**

(a) The Purchase Price shall be (i) decreased by the aggregate amount of all Assumed Capital Lease Obligations as of the Cutoff Time, if any, and (ii) increased or decreased, as applicable, by the net amount due to Buyer or Seller, as applicable, pursuant to the prorations to be made pursuant to Section 2.6(b). The prorations and adjustments to be made pursuant to this Section 2.6 are referred to herein as the “Closing Date Adjustments.”



(b) All income and expenses arising from the operation of the Stations, including, without limitation, Assumed Liabilities and prepaid expenses, annual regulatory fees payable to the FCC, power and utilities charges, and rents and similar prepaid and deferred items (but, for the avoidance of doubt, not including Prorated Taxes, which shall be governed by Section 6.1) shall be prorated between Seller and Buyer in accordance with GAAP to reflect the principle that Seller (on behalf of itself) shall be entitled to all income and be responsible for all expenses arising from the operation of the Stations through the Cutoff Time and Buyer shall be entitled to all income and be responsible for all expenses arising from the operation of the Stations after the Cutoff Time.

(c) At least three (3) Business Days prior to the Closing Date, Seller shall estimate all Closing Date Adjustments pursuant to this Section 2.6 and shall deliver a statement of its estimate to Buyer (which statement shall set forth in reasonable detail the basis for those estimates). At the Closing, the net amount due to Buyer or Seller, as applicable, as a result of the estimated Closing Date Adjustments shall be applied as an adjustment to the Purchase Price. Within ninety (90) days after the Closing, Buyer shall deliver to Seller a statement of any adjustments to Seller's estimate of the Closing Date Adjustments, and no later than the close of business on the thirtieth (30<sup>th</sup>) day after the delivery of such statement (the "Payment Date"), Buyer shall pay to Seller, or Seller shall pay to Buyer, as the case may be, any amount due as a result of the adjustment (or, if there is any good faith dispute, the undisputed amount). Except with respect to items that Seller notifies Buyer that it objects to prior to the close of business on the date that is at least one (1) Business Day prior to the Payment Date, the adjustments set forth in Buyer's statement shall be final and binding on the parties effective at the close of business on the Payment Date. If Seller disputes Buyer's determinations or Buyer disputes Seller's determinations, the parties shall consult with regard to the matter and an appropriate adjustment and payment shall be made as agreed upon in writing by the parties within thirty (30) days after the Payment Date. If such thirty (30) day period expires, and the dispute has not been resolved, then the parties shall select a mutually acceptable, nationally recognized independent accounting firm that does not then have a relationship with Seller or Buyer (the "Independent Accountant"), to resolve the disagreement and make a determination with respect thereto as promptly as practicable. The determination by the Independent Accountant on the matter shall be binding. If an Independent Accountant is engaged pursuant to this Section 2.6, the fees and expenses of the Independent Accountant shall be borne by Seller and Buyer in inverse proportion as such parties may prevail on the resolution of the disagreement, which proportionate allocation also will be determined by the Independent Accountant and be included in the Independent Accountant's written report, and an appropriate adjustment and payment shall be made within three (3) Business Days of the resolution by the Independent Accountant, and the parties shall use reasonable best efforts to cause such resolution to be rendered within thirty (30) days after such submission.

#### Section 2.7 Closing Date Deliveries.

(a) At the Closing, Seller shall deliver to Buyer (i) duly executed counterparts of a bill of sale and an assignment and assumption agreement, substantially in the forms of Exhibit A and Exhibit B (the "Bill of Sale" and the "Assignment and Assumption Agreement"), providing for the conveyance of all of the Station Assets (other than the Station Licenses) and the assumption of all of the Assumed Liabilities; (ii) an assignment of the Station Licenses from Seller, substantially in the form of Exhibit C (the "Assignment of Station Licenses"), assigning to Buyer the Station Licenses and all other assignable Governmental Authorizations issued by the FCC primarily related to the Stations; (iii) an assignment of the Real Property Leases from Seller, substantially in the form of Exhibit D (the "Assignment of Real Property Leases"); (iv) an option agreement, substantially in the form of Exhibit E (the "Option Agreement") with respect to each Station; (v) an affiliation agreement, substantially in the

form of Exhibit F (the “Affiliation Agreement”) with respect to each Station; (vi) master lease agreements to be mutually agreed upon by the parties (the “Master Lease Agreements”); (vii) a warranty agreement for the transmitters to be mutually agreed upon by the parties consistent with the terms outlined in Exhibit H (the “Transmitter Warranty”); (viii) all of the documents and instruments required to be delivered by Seller pursuant to ARTICLE VI; (ix) specific assignment and assumption agreements duly executed by Seller relating to any agreements included as Station Assets that Buyer or Seller have determined to be reasonably necessary to assign such agreements to Buyer and for Buyer to assume the Assumed Liabilities thereunder; (x) duly executed certificates of non-foreign status substantially in the form provided in Treasury Regulations Section 1.1445-2(b)(2)(iv) executed by Seller and each other selling entity; and (xi) such other documents and instruments as are reasonably necessary to consummate the transactions contemplated hereby.

(b) At the Closing, Buyer shall deliver to Seller (i) the Purchase Price in accordance with Section 2.5; (ii) duly executed counterparts to the Bill of Sale, the Assignment and Assumption Agreement, the Master Lease Agreements and the Transmitter Warranty; (iii) all of the documents and instruments required to be delivered by Buyer pursuant to ARTICLE VI; (iv) specific assignment and assumption agreements duly executed by Buyer relating to any agreements included as Station Assets that Buyer or Seller have determined to be reasonably necessary to assign such agreements to Buyer or for Buyer to assume the Assumed Liabilities thereunder; (v) the Affiliation Agreements; (vi) the Option Agreements; and (vii) such other documents and instruments as are reasonably necessary to consummate the transactions contemplated hereby.

#### Section 2.8 Further Assurances.

(a) From time to time following the Closing, Seller shall execute and deliver, or cause to be executed and delivered, to Buyer such other instruments of conveyance and transfer as Buyer may reasonably request or as may otherwise be necessary to effectively convey and transfer to, and vest in, Buyer, and put Buyer in possession of, all or any portion of the Station Assets.

(b) To the extent that any Contract included as a Station Asset cannot be assigned without consent and such consent is not obtained prior to the Closing, (i) this Agreement shall not constitute an agreement to assign the same if an attempted assignment would constitute a breach thereof, (ii) Seller shall use reasonable best efforts to provide to Buyer the benefits of any such Contract net of any reasonable costs, expenses or Taxes incurred by Seller related thereto, (iii) to the extent that Buyer actually receives the benefits of any such Contract, Buyer shall perform or discharge on behalf of Seller all obligations and liabilities under such Contract that would constitute Assumed Liabilities if such Contract were effectively assigned to Buyer and (iv) Seller and Buyer shall, and shall cause their respective Affiliates to, use commercially reasonable efforts to obtain such consent (provided that Seller, Buyer and their respective Affiliates shall not have any obligation to offer or pay any consideration in order to obtain any such consent, nor shall Buyer have any obligation to amend, modify or otherwise alter the terms of any such Contract). In addition to Buyer’s obligations pursuant to the foregoing sentence, as to any Contract included as a Station Asset that is not effectively assigned to Buyer as of the Closing Date but is thereafter effectively assigned to Buyer, Buyer shall, from and after the effective date of such assignment, assume, and shall thereafter pay, perform and discharge as and when due, all Assumed Liabilities of Seller or the Subsidiaries arising under such Contract in accordance with the terms of this Agreement.

(c) From time to time following the Closing, Buyer shall execute and deliver, or cause to be executed and delivered, to Seller such other undertakings and assumptions as Seller may

reasonably request or as may be otherwise necessary to effectively evidence Buyer's assumption of and obligation to pay, perform and discharge the Assumed Liabilities.

(d) If, following the Closing, Buyer or Seller becomes aware that Seller or any of its Affiliates owns or holds any asset or right that constitutes a Station Asset but which has not been transferred to Buyer in connection with the consummation of the transactions hereunder, such party shall promptly inform the other party of that fact. Thereafter, at the request of Buyer, Seller shall execute, or cause the relevant Affiliate of Seller to execute, such documents as may be reasonably necessary to cause the transfer of any such asset or right to Buyer or any other entities designated by Buyer for no additional consideration, and Buyer shall do all such things reasonably necessary to facilitate such transfer.

(e) Buyer shall, and shall cause its applicable Affiliates to, promptly pay or deliver (without right of set off) to Seller or any of its Affiliates any monies or checks to the extent they are in respect of an Excluded Asset or Excluded Liability hereunder that have been sent to Buyer or any of its Affiliates after the Closing by customers, suppliers or other contracting parties of Seller or any of its Affiliates. If, following the Closing, Buyer or Seller becomes aware that Buyer or any of its Affiliates owns or holds any asset or right that is not a Station Asset and that was owned by Seller or any of its Affiliates immediately prior to the Closing, such party shall promptly inform the other party of that fact. Thereafter, at the request of Seller, Buyer shall execute, or cause the relevant Affiliate of Buyer to execute, such documents as may be reasonably necessary to cause the transfer of any such asset or right to Seller or such other Person designated by Seller for no consideration, and Seller shall do all such things reasonably necessary to facilitate such transfer.

**Section 2.9 Allocation of Purchase Price.** Buyer and Seller agree that the fair market value of the Station Assets will be appraised by PricewaterhouseCoopers or another accounting or appraisal firm mutually agreed upon by the parties (the "Appraisal"). Such Appraisal shall contain sufficient detail to enable the Purchase Price (and any other applicable amounts treated as consideration for U.S. federal income Tax purposes) to be allocated to each applicable Seller or Subsidiary and each of the Station Assets. All costs and expenses of the accounting or appraisal firm in preparing the Appraisal shall be borne equally by Buyer and Seller. Buyer shall deliver to Seller a copy of the full Appraisal and an allocation statement with its proposed allocations to each Seller or Subsidiary of the applicable portions of the Purchase Price (and any other applicable amounts treated as consideration for U.S. federal income Tax purposes) in accordance with the Appraisal and Section 1060 of the Code and the Treasury Regulations promulgated thereunder (and any similar provisions of state, local, or foreign Law, as appropriate) on or before ninety (90) days following the Closing Date. From and after the date hereof, Seller shall cooperate with Buyer, as and to the extent reasonably requested by Buyer, in connection with matters relating to the Appraisal and such allocations. If Seller does not notify Buyer prior to the close of business on the date that is thirty (30) days after the date of receipt by Seller of the full Appraisal and such allocation statement that it disputes any of Buyer's allocations, the allocations set forth in Buyer's allocation statement shall be final and binding on the parties and the parties shall complete and timely file any necessary Tax forms, and their respective income Tax Returns, in accordance with such allocations. If Seller notifies Buyer within such thirty (30) day period that it disputes any of Buyer's allocations, the parties shall negotiate in good faith to finalize such disputed allocation(s) no later than thirty (30) days after the date of receipt by Buyer of such notice from Seller. If Buyer and Seller are unable to agree on such allocation(s) within such thirty (30) day period, then the parties shall hire and consult with the Independent Accountant to resolve the disagreement and make a determination with respect thereto as promptly as practicable. The Independent Accountant shall not assign a value to any item greater than the greatest value for such item claimed by Seller or Buyer or less

than the smallest value for such item claimed by Seller or Buyer and shall be limited to the selection of either Seller's or Buyer's position on a disputed item (or a position in between the positions of Seller or Buyer) based solely on presentations and supporting material provided by the parties and not pursuant to any independent review. The determination by the Independent Accountant on the matter shall be binding. If an Independent Accountant is engaged pursuant to this Section 2.9, the fees and expenses of the Independent Accountant shall be borne by Seller and Buyer in inverse proportion as such parties may prevail on the resolution of the disagreement which proportionate allocation also will be determined by the Independent Accountant and be included in the Independent Accountant's written report, and an appropriate adjustment and payment shall be made within three (3) Business Days of the resolution by the Independent Accountant, and the parties shall use reasonable best efforts to cause such resolution to be rendered within thirty (30) days after such submission (the final allocation after resolution of all disputes, if any, is referred to herein as, the "Final Allocation"). The parties shall file all applicable Tax Returns consistent with such Final Allocation and not take any position contrary thereto in such Tax Returns or otherwise. The parties shall use commercially reasonable efforts to update the Final Allocation in accordance with the allocation methodology utilized in this Section 2.9 following any adjustment to the Purchase Price pursuant to this Agreement, and the parties shall report consistently with such Final Allocation, as adjusted, on all Tax Returns (or timely amend already filed Tax Returns to reflect such adjusted Final Allocation) and not take any position contrary thereto in such Tax Returns or otherwise, unless otherwise required pursuant to a "determination" within the meaning of Section 1313(a) of the Code (or any similar provision of applicable state, local or foreign Law).

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

Seller represents and warrants to Buyer that:

Section 3.1 Corporate Existence and Power. Each of SMI and Merger Sub is a corporation duly incorporated, validly existing and in good standing under the Laws of the State of Delaware.

Section 3.2 Corporate Authorization. Each of SMI and Merger Sub has all requisite corporate power and authority to execute and deliver this Agreement and all of the other agreements and instruments to be executed and delivered by it pursuant hereto (collectively, the "Seller Ancillary Agreements"), to perform its obligations hereunder and thereunder and to consummate the transactions contemplated hereby. The execution and delivery of this Agreement and the Seller Ancillary Agreements by each of SMI and Merger Sub, the performance of its obligations hereunder and thereunder and the consummation of the transactions contemplated hereby have been duly authorized by all necessary corporate action on the part of it and no other corporate proceeding on the part of it is necessary to authorize the execution and delivery of this Agreement and the Seller Ancillary Agreements, the performance by it of its obligations hereunder and thereunder and the consummation of the transactions contemplated hereby. This Agreement and each Seller Ancillary Agreement, assuming due authorization, execution and delivery by Buyer, constitutes or will constitute a valid and binding obligation of each of SMI and Merger Sub, enforceable against it in accordance with its terms, except as such enforceability may be limited by applicable bankruptcy, insolvency, reorganization, fraudulent conveyance, moratorium, receivership or other similar Laws relating to or affecting creditors' rights generally and by general principles of equity (regardless of whether enforceability is considered in a proceeding in equity or at Law) (collectively, the "Enforceability Exceptions").

Section 3.3 Governmental Authorization. The execution and delivery of this Agreement and each of the Seller Ancillary Agreements by each of SMI and Merger Sub and the performance of its obligations hereunder and thereunder require no action by or in respect of, or filing with, any

Governmental Authority, other than (a) compliance with any applicable requirements of the HSR Act, (b) the filing of the FCC Applications and obtaining the FCC Consent, together with any reports or informational filings required in connection therewith under the Communications Act and the FCC Rules, (c) compliance with any applicable requirements of the Securities Act, the Exchange Act and any other applicable state or federal securities Laws, (d) compliance with any applicable requirements of the NASDAQ, and (e) any actions or filings the absence of which would not reasonably be expected to prevent or materially delay the consummation of the transactions contemplated by this Agreement or Seller's ability to perform its obligations under this Agreement.

Section 3.4 Non-Contravention. The execution and delivery of this Agreement and the Seller Ancillary Agreements by each of SMI and Merger Sub and the performance of its obligations hereunder and thereunder do not and will not, assuming the authorizations, consents and approvals referred to in clauses (a) and (b) of Section 3.3 are obtained, (a) conflict with or breach any provision of its certificate of incorporation or bylaws, (b) conflict with or breach any provision of any Law or Order, (c) subject to obtaining consents from the parties to the Contracts included in the Station Assets that are required by the terms thereof or this Agreement for the consummation of the transactions contemplated by this Agreement, conflict with or breach, constitute a default or an event that, with or without notice or lapse of time or both, would constitute a default under, or cause or permit the termination, cancellation, acceleration or other change of any right or obligation or the loss of any benefit under, any provision of any Contract or any material indenture, note, mortgage, lease or guaranty to which it or any of the Subsidiaries is party or which is binding upon Seller or any of the Subsidiaries, any of the Station Assets or any license, franchise, permit, certificate, approval or other similar authorization affecting the Stations or (d) result in the creation or imposition of any Lien, other than any Permitted Lien, on any of the Station Assets, except, in the case of each of clauses (b), (c) and (d), as would not reasonably be expected to prevent or materially delay the consummation of the transactions contemplated by this Agreement or any Seller Ancillary Agreement or Seller's ability to perform its obligations under this Agreement or any Seller Ancillary Agreement.

Section 3.5 Brokers. No broker, finder or investment banker is entitled to any brokerage, finder's or other fee or commission in connection with the transactions contemplated by this Agreement based upon arrangements made by or on behalf of Seller or any Affiliate of Seller.

Section 3.6 Permits; Compliance.

(a) As of the time of the Closing, each Subsidiary will be in possession of all material franchises, grants, authorizations, licenses, permits, easements, variances, exemptions, consents, certificates, approvals and orders necessary to own, lease and operate its properties and assets and to carry on its business as now being conducted (collectively, the "Permits") and such Permits will be valid and in full force and effect.

(b) ION or one of the Subsidiaries is the holder of each Station License, which collectively constitute all of the FCC Licenses material to the operation of the Stations. The Station Licenses are in full force and effect in accordance with their terms, have not been revoked, suspended, canceled, rescinded, terminated or expired, and are not subject to any condition except for those conditions appearing on the face of the Station Licenses, conditions generally applicable to television broadcast station licenses or conditions that would not reasonably be expected to have a material adverse effect on the Stations.

(c) Except as set forth on Section 3.6(c) of the Disclosure Schedules or as has not had and would not reasonably be expected to have, individually or in the aggregate, a material adverse effect



on the Stations, the Subsidiaries (i) operate, and throughout the current renewal term of each relevant Station License have operated, each Station in compliance with the Communications Act and the FCC Rules and the applicable Station Licenses, (ii) have timely filed all material registrations and reports required to have been filed with the FCC relating to the Station Licenses (which registrations and reports were accurate in all material respects as of the time such registrations and reports were filed), (iii) have paid or caused to be paid all FCC regulatory fees due in respect of each Station License, (iv) have completed or caused to be completed the construction of all facilities or changes contemplated by any of the Station Licenses or construction permits issued to modify the Station Licenses to the extent required to be completed as of the date hereof and (v) have sought reimbursement from the TV Broadcaster Relocation Fund only for expenses actually incurred and eligible for reimbursement under the FCC Rules.

(d) Except as has not had and would not reasonably be expected to have, individually or in the aggregate, a material adverse effect on the Stations, (i) there are no material applications, petitions, proceedings, or other material actions, complaints or investigations, pending or, to Seller's Knowledge, threatened before the FCC relating to the Stations, other than proceedings affecting broadcast stations generally, and (ii) neither the Subsidiaries, nor the Stations, have entered into a tolling agreement or otherwise waived any statute of limitations relating to the Stations during which the FCC may assess any fine or forfeiture or take any other action, or agreed to any extension of time with respect to any FCC investigation or proceeding as to which the statute of limitations time period so waived or tolled or the time period so extended remains open as of the date of this Agreement.

(e) Except as set forth on Section 3.6(e) of the Disclosure Schedules, and except as would not reasonably be expected to have, individually or in the aggregate, a material adverse effect on the Stations, there is not (i) pending or, to Seller's Knowledge, threatened, any action by or before the FCC to revoke, suspend, cancel, rescind or materially adversely modify any Station License (other than proceedings of general applicability to amend the FCC Rules) or (ii) issued or outstanding, by or before the FCC, any (A) order to show cause, (B) notice of violation, (C) notice of apparent liability or (D) order of forfeiture, in each case, against any of the Stations or any of the Subsidiaries with respect to the Stations that would reasonably be expected to result in any action described in the foregoing clause (i) with respect to the Station Licenses.

(f) Except as set forth on Section 3.6(f) of the Disclosure Schedules, none of the Stations is a party or subject to any outstanding local marketing agreement, time brokerage agreement, joint sales agreement, shared services agreement or other similar agreement.

(g) Section 3.6(g) of the Disclosure Schedules sets forth a list of the multi-channel video programming distributors, including cable systems, telephone companies and direct broadcast satellite systems (together, "MVPDs") that, to Seller's Knowledge, carry any Station and have more than 10,000 subscribers with respect to each such Station outside such Station's Market. Except as set forth in Section 3.6(g) of the Disclosure Schedules, ION or a Subsidiary will make a timely election for mandatory carriage / must-carry, pursuant to the FCC Rules, for the 2021-2023 must-carry/retransmission consent election cycle for each Station with respect to each MVPD with more than 10,000 subscribers in such Station's Market. To Seller's Knowledge, no market modification proceeding is pending at the FCC with respect to any Station. Since January 1, 2019, except as set forth on Section 3.6(g) of the Disclosure Schedules, to Seller's Knowledge, (1) no headend with more than 10,000 subscribers covered by an MVPD (that does not carry an alternative source for the applicable ION television service) in any Market of any Station has provided written notice to any Subsidiary of any material signal quality issue or has failed to respond to a request for carriage or has sought any form of relief from carriage of a Station from the FCC and (2) no Subsidiary has received any written notice (x)

from any MVPD with more than 10,000 subscribers in the Market of a Station of such MVPD's intention to delete such Station from carriage or to change such Station's channel position or (y) of a petition seeking FCC modification of any Station's Market.

Section 3.7 Sufficiency of Assets. Except for the Excluded Assets, the Station Assets constitute all the assets and properties whether tangible or intangible, whether personal, real or mixed, wherever located, that are used or held for use by the Seller or ION primarily in the operation of the Stations and are sufficient to conduct the operations of the Stations in the manner in all material respects which the operations of the Stations are is conducted on the date hereof.

Section 3.8 Representations and Warranty Policy. Parent has entered into the Representations and Warranties Policy.

Section 3.9 Leased Real Property.

(a) Section 2.1(d) of the Disclosure Schedules sets forth a true and complete in all material respects a list of all Real Property Leases. To Seller's Knowledge, Seller has made available to Buyer true, correct and complete in all material respects copies of all Real Property Leases (including all material amendments thereto).

(b) Except as set forth on Section 3.9(b) of the Disclosure Schedules, and except as would not reasonably be expected to have, either individually or in the aggregate, a material adverse effect on the Station Assets and the Assumed Liabilities, taken together, to the Knowledge of the Seller, ION or one of its Subsidiaries possesses valid and binding leasehold interests in the Leased Real Property pursuant to the Real Property Leases required to be listed in Section 2.1(d) of the Disclosure Schedules, free and clear of any and all Liens except Permitted Liens, and ION or the applicable Subsidiary enjoys peaceful and undisturbed possession of the Leased Real Property. Except as would not reasonably be expected to have, either individually or in the aggregate, a material adverse effect on the Station Assets and the Assumed Liabilities, taken together, as of the time of the Closing, each Real Property Lease will be full force and effect and enforceable against ION or the applicable Subsidiary, and, to the Knowledge of the Seller, each other party thereto in accordance with its terms, except as such enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium or similar laws affecting creditors' rights generally and by general equitable principles. There is not under any Real Property Lease any threatened (in writing) or existing breach or default by ION or any Subsidiary or, to the Knowledge of the Seller, any other party thereto, or, to the Knowledge of the Seller, any condition, event or act which, with notice or lapse of time or both, would constitute such a breach or default, except, in each case, as would not reasonably be expected to have, either individually or in the aggregate, a material adverse effect on the Station Assets and the Assumed Liabilities, taken together. Except as would not reasonably be expected to have, either individually or in the aggregate, a material adverse effect on the Station Assets and the Assumed Liabilities, taken together, to the Knowledge of the Seller, (i) neither ION nor any Subsidiary has provided or received any written notice of any intention to terminate any Real Property Lease, (ii) none of the Real Property Leases is the subject of any pending or, threatened Litigation, and (iii) neither ION nor any of the Subsidiaries has assigned, pledged, mortgaged, hypothecated, or otherwise transferred any Real Property Lease or any interest therein nor has ION or any of the Subsidiaries subleased, licensed, or otherwise granted any Person (other than another Subsidiary) a right to use or occupy the Leased Real Property or any portion thereof.

(c) To the Knowledge of the Seller, ION and the Subsidiaries are, and have been, in compliance with all Laws applicable to their respective use and occupancy of the Leased Real Property, except where the failure to be in such compliance would not reasonably be expected to have, either

individually or in the aggregate, a material adverse effect on the Station Assets and the Assumed Liabilities, taken together.

Section 3.10 Pro Forma Financial Statements. Seller has previously made available to Buyer certain pro forma financial statements with respect to the Station Assets (the “Pro Forma Financial Statements”). The Pro Forma Financial Statements are true, accurate and complete in all material respects and have been prepared based on the books and records of the ION and the Subsidiaries.

Section 3.11 Taxes.

(a) (i) All income and other material Tax Returns required to be filed with respect to the Station Assets have been duly and timely (taking into account any valid extensions of time to file) filed or caused to be filed by ION and the Subsidiaries with the appropriate Governmental Entity and all such Tax Returns were true, correct and complete and prepared in accordance with applicable Laws, and (ii) all material Taxes due to any Governmental Entity with respect to the Station Assets have been paid by ION and the Subsidiaries (or accrued in accordance with GAAP in the case of Taxes that are not yet due and payable), whether or not shown on any Tax Return, except for those being contested in good faith and for which adequate reserves have been made in accordance with GAAP.

(b) There are no Liens on any Purchased Asset that arose in connection with the failure to pay any material amount of Tax other than Permitted Liens.

(c) Neither Seller nor any other selling entity is a foreign person as defined in Treasury Regulation Section 1.1445-2(b)(2)(i).

Section 3.12 Absence of Litigation.

(a) Except as set forth on Section 3.12 of the Disclosure Schedules, there is no claim, action, suit, proceeding, arbitration or investigation of any kind, at law or in equity (including actions or proceedings seeking injunctive relief), by or before any Governmental Entity (“Litigation”) pending or, to the Knowledge of the Seller, threatened in writing against ION or any Subsidiary, which in any such case, (i) if adversely determined or concluded, would reasonably be expected to have, either individually or in the aggregate, a material adverse effect on the Station Assets and the Assumed Liabilities, taken together, or (ii) as of the date hereof, challenges or seeks to prevent, enjoin or otherwise delay the transactions contemplated by this Agreement or would reasonably be expected to affect the Seller’s ability to perform its obligations under this Agreement or otherwise impede, prevent or materially delay the consummation of the transactions contemplated by this Agreement. Subject to any applicable deductible, except as would not reasonably be expected to have, individually or in the aggregate, a material adverse effect on the Station Assets and the Assumed Liabilities, taken together, all pending Litigation against ION or any Subsidiary is subject to insurance coverage under the insurance policies of ION and the Subsidiaries.

(b) Neither ION nor any Subsidiary is a party or subject to or in default under any material judgment, order or decree of any Governmental Entity.

Section 3.13 Environmental Matters.

(a) To the Knowledge of the Seller, ION and each Subsidiary are, and have been, in compliance with all applicable Environmental Laws, except where the failure to comply would not reasonably be expected to have, either individually or in the aggregate, a material adverse effect on the



Station Assets and the Assumed Liabilities, taken together. Except as would not reasonably be expected to have, either individually or in the aggregate, a material adverse effect on the Station Assets and the Assumed Liabilities, taken together, all Permits and other governmental authorizations currently held by ION or any Subsidiary pursuant to applicable Environmental Laws are in full force and effect, and, to the Knowledge of the Seller, no appeal or any other proceeding is pending to revoke any such Permit or governmental authorization.

(b) There is no Environmental Claim pending or, to the Knowledge of the Seller, threatened against ION or any Subsidiary, or, to the Knowledge of the Seller, against any Person whose liability for any Environmental Claim has been retained or assumed by the ION or any Subsidiary, either by agreement or by operation of law, except in each case where the adverse result or conclusion of such Environmental Claim would not reasonably be expected to have, either individually or in the aggregate, a material adverse effect on the Station Assets and the Assumed Liabilities, taken together.

(c) No condition exists at the Stations or, to the Knowledge of the Seller, on any Leased Real Property that would reasonably be expected to result in ION or any Subsidiary incurring any liability under Environmental Laws other than any liability that would not reasonably be expected to have, either individually or in the aggregate, a material adverse effect on the Station Assets and the Assumed Liabilities, taken together.

(d) Except as would not reasonably be expected to have, either individually or in the aggregate, a material adverse effect on the Station Assets and the Assumed Liabilities, taken together, to the Knowledge of the Seller, there has been no Release of Hazardous Materials at, from, to, on or under any Leased Real Property in contravention of Environmental Law.

(e) Except as set forth on Section 3.13(e) of the Disclosure Schedules, to the Knowledge of the Seller, there are no underground storage tanks at the Leased Real Property.

(f) The Seller has made available for inspection to Buyer true and complete copies and results of any material reports, studies, analyses, tests or monitoring (if any) in the possession or control of ION or any Subsidiary pertaining to Hazardous Materials in, on, beneath or adjacent to any Leased Real Property (or any real property formerly owned, leased or operated by ION or any Subsidiary) or pertaining to compliance with or liability under applicable Environmental Laws.

Section 3.14 Tangible Personal Property. Except as would not reasonably be expected to have, either individually or in the aggregate, a material adverse effect on the Station Assets and the Assumed Liabilities, taken together, Seller or one of its Subsidiaries will have as of the Closing, good and valid title to, or a valid and enforceable right to use, all tangible personal property reflected on the Pro Forma Financial Statements and all tangible personal property to be acquired by the Buyer (except such personal property as has been disposed of in the ordinary course of business since the date of the Agreement and prior to the Closing), in each case, free and clear of any and all Liens except Permitted Liens. Except as set forth on Section 3.14 of the Disclosure Schedules or as would not reasonably be expected to have, either individually or in the aggregate, a material adverse effect on the Station Assets and the Assumed Liabilities, taken together, (a) the buildings, plants, structures, furniture, fixtures, machinery, equipment, vehicles and other items of tangible personal property of ION and the Subsidiaries are structurally sound, are in good operating condition and repair, and are adequate for the uses to which they are being put, and (b) none of such buildings, plants, structures, furniture, fixtures, machinery, equipment, vehicles and other items of tangible personal property is in need of maintenance or repairs except for ordinary, routine maintenance and repairs.

Section 3.15 Insurance. Except as would not, either individually or in the aggregate, reasonably be expected to have a material adverse effect on the Station Assets and the Assumed Liabilities, taken together and to the Knowledge of the Seller: (a) all insurance policies of ION and the Subsidiaries are in full force and effect and provide insurance in such amounts and against such risks as ION reasonably has determined to be prudent, taking into account the industries in which ION and the Subsidiaries operate, and as is sufficient to comply with applicable Law; (b) neither ION nor any Subsidiary is in material breach or default, and neither ION nor any Subsidiary has taken any action or failed to take any action which, with notice or the lapse of time, would constitute such a breach or default, or permit termination or modification of, any of such insurance policies; (c) no insurer of any such policy has been declared insolvent or placed in receivership, conservatorship or liquidation; and (d) no notice of cancellation or termination, other than pursuant to the expiration of a term in accordance with the terms thereof, has been received by ION or any Subsidiary with respect to any such policy.

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

Buyer represents and warrants to Seller as follows:

Section 4.1 Existence and Power. Buyer is duly organized, validly existing and in good standing under the Laws of the state of its organization. Buyer has all requisite organizational power and authority to carry on its business as now conducted by it except where any failure to have such power or authority would not reasonably be expected to prevent or materially delay the consummation of the transactions contemplated by this Agreement or Buyer's ability to perform its obligations under this Agreement.

Section 4.2 Authorization. Buyer has all requisite organizational power and authority to execute and deliver this Agreement and all of the other agreements and instruments to be executed and delivered by Buyer pursuant hereto (collectively, the "Buyer Ancillary Agreements"), to perform its obligations hereunder and thereunder and to consummate the transactions contemplated hereby and thereunder. The execution and delivery of this Agreement and the Buyer Ancillary Agreements by Buyer, the performance of its obligations hereunder and thereunder and the consummation of the transactions contemplated hereby have been duly authorized by all necessary organizational action on the part of Buyer, and no other organizational proceeding on the part of Buyer is necessary to authorize the execution and delivery of this Agreement or any Buyer Ancillary Agreement, the performance by Buyer of its obligations hereunder or thereunder or the consummation by Buyer of the transactions contemplated hereby. This Agreement and each Buyer Ancillary Agreement, assuming due authorization, execution and delivery by Seller, constitutes or will constitute a valid and binding obligation of Buyer, enforceable against Buyer in accordance with its terms, subject to the Enforceability Exceptions.

Section 4.3 Governmental Authorization. The execution and delivery by Buyer of this Agreement and each of the Seller Ancillary Agreements to which it is a party and the performance of its obligations hereunder and thereunder require no action by or in respect of, or filing with, any Governmental Authority, other than (a) compliance with any applicable requirements of the HSR Act, (b) the filing of the FCC Applications and obtaining the FCC Consent, together with any reports or informational filings required in connection therewith under the Communications Act and the FCC Rules, and (c) any actions or filings the absence of which would not reasonably be expected to prevent or materially delay the consummation of the transactions contemplated by this Agreement or Buyer's ability to perform its obligations under this Agreement.

Section 4.4 Non-Contravention. The execution and delivery of this Agreement by Buyer, and the performance of its obligations hereunder do not and will not, assuming the authorizations, consents and approvals referred to in clauses (a) and (b) of Section 4.3 are obtained, (a) conflict with or breach any provision of the organizational documents of Buyer, (b) conflict with or breach any provision of any Law or Order, (c) constitute a default under, conflict with or breach, or cause or permit the termination, cancellation, acceleration or other change of any right or obligation or the loss of any benefit under any provision of any Contract to which Buyer is party or which is binding upon Buyer, any of its properties or assets or any license, franchise, permit, certificate, approval or other similar authorization affecting Buyer or (d) result in the creation or imposition of any Lien, other than any Permitted Lien, on any property or asset of Buyer, except, in the case of each of clauses (b), (c) and (d), as would not reasonably be expected to prevent or materially delay the consummation of the transactions contemplated by this Agreement or Buyer's ability to perform its obligations under this Agreement.

Section 4.5 Litigation. Except as has not had and would not reasonably be expected to prevent or materially delay the consummation of the transactions contemplated by this Agreement or Buyer's ability to perform its obligations under this Agreement, there is no (a) Proceeding or investigation pending (or, to the Knowledge of Buyer, threatened) with respect to Buyer before any Governmental Authority or (b) Order against Buyer or any of its respective properties.

Section 4.6 Solvency. Buyer is not entering into this Agreement with the intent to hinder, delay or defraud either present or future creditors of Seller. Assuming (a) that the conditions to the obligation of Buyer to consummate this Agreement set forth in Section 7.1 and Section 7.2 have been satisfied or waived, (b) the accuracy of the representations and warranties of Seller set forth in ARTICLE III, (c) the performance by Seller of the covenants and agreements contained in this Agreement and (d) the performance by ION of the covenants and agreements contained in the Affiliation Agreement, Buyer will be Solvent as of immediately after the consummation of the transactions contemplated by this Agreement. For the purposes of this Agreement, the term "Solvent", when used with respect to any Person, means that, as of any date of determination, (i) the amount of the "fair saleable value" of the assets of such Person will, as of such date, exceed the sum of (A) the value of all "liabilities of such Person, including contingent and other liabilities," as of such date, as such quoted terms are generally determined in accordance with applicable Laws governing determinations of the insolvency of debtors, and (B) the amount that will be required to pay the probable liabilities of such Person, as of such date, on its existing debts (including contingent and other liabilities) as such debts become absolute and mature, (ii) such Person will not have, as of such date, an unreasonably small amount of capital for the operation of the businesses in which it is engaged or proposed to be engaged following such date, and (iii) such Person will be able to pay its liabilities, as of such date, including contingent and other liabilities, as they mature. For purposes of this definition, "not have an unreasonably small amount of capital for the operation of the businesses in which it is engaged or proposed to be engaged" and "able to pay its liabilities, as of such date, including contingent and other liabilities, as they mature" mean that such Person will be able to generate enough cash from operations, asset dispositions or refinancing, or a combination thereof, to meet its obligations as they become due.

Section 4.7 Qualifications as FCC Licensee. (a) Buyer is legally, financially and otherwise qualified to be the licensee of, and to acquire, own, operate and control, the Stations under the Communications Act, including the provisions relating to media ownership and attribution, foreign ownership and control, and character qualifications, (b) to Buyer's Knowledge, there are no facts or circumstances regarding Buyer's qualifications that would, under the Communications Act or any other applicable Laws, (i) disqualify Buyer as the assignee of the Station Licenses or as the owner and operator of the Stations, (ii) materially delay the FCC's processing of the FCC Applications, or (iii)

cause the FCC to impose a material condition or conditions on its granting of the FCC Consent and (c) other than, if applicable, with respect to “satellite” stations under 47 C.F.R. § 73.3555 and Note 5 thereto, no waiver of or exemption from, whether temporary or permanent, any provision of the Communications Act, or any divestiture or other disposition by Buyer or any of its Affiliates of any asset or property, is necessary for the FCC Consent to be obtained under the Communications Act.

Section 4.8 Brokers. No broker, finder or investment banker is entitled to any brokerage, finder’s or other fee or commission in connection with the transactions contemplated by this Agreement based upon arrangements made by or on behalf of Buyer or any Affiliate of Buyer.

Section 4.9 ION Merger. Buyer has received and reviewed a copy of the Merger Agreement and the disclosure schedules thereto.

## **ARTICLE V ACTIONS PRIOR TO THE CLOSING DATE**

### **Section 5.1 Operation of the Stations.**

(a) Seller shall use its reasonable best efforts to cause ION to comply with Sections 6.1 and 6.2 of Article VI of the Merger Agreement and shall provide notice as soon as commercially practicable to Buyer of any request by ION for a waiver in connection therewith or any breach thereof.

(b) Prior to the Closing Date, Seller shall use its commercially reasonable efforts to cause ION and its Affiliates to (i) operate the Stations only in the usual and ordinary course and (ii) exercise must-carry rights for the 2021-2023 must-carry/retransmission consent election cycle.

### **Section 5.2 Efforts.**

(a) As promptly as practicable after the date hereof, but in any event no later than ten (10) Business Days hereafter, Buyer and its respective Affiliates, as applicable, shall file, and the Seller shall use reasonable best efforts to cause ION and its Affiliates to file, with the FCC the necessary FCC Applications requesting its consent to the Assignment of the Station Licenses as contemplated by this Agreement. Seller and Buyer and their respective Affiliates, as applicable, shall, and Seller shall use reasonable best efforts to cause ION and its Affiliates to, cooperate in the preparation of such applications and diligently take, or cooperate in the taking of, all necessary, desirable and proper steps, to provide any additional information required by the FCC and shall use reasonable best efforts to obtain promptly the FCC Consent; provided, however, that the parties hereto acknowledge and agree that the Seller and ION may take actions reasonably calculated to obtain the necessary approvals for the Merger and to consummate the Merger, including amending the FCC Applications (which may affect the timing of FCC action with respect to the FCC Applications), and such actions shall not be deemed a violation of this obligation. Seller, on the one hand, and Buyer, on the other hand, shall each bear one-half of the cost of FCC filing fees relating to the FCC Applications. Each of Buyer and Seller shall oppose any petitions to deny or other objections filed with respect to the FCC Applications to the extent such petition or objection relates to it. Neither Seller nor Buyer shall, and each shall cause its Affiliates not to, take any intentional action that would, or intentionally fail to take such action the failure of which to take would, reasonably be expected to have the effect of preventing or materially delaying the receipt of the FCC Consent; provided, however, that the parties hereto acknowledge and agree that the Seller and ION may take actions reasonably calculated to obtain the necessary approvals for the Merger and to consummate the Merger, including amending the FCC Applications (which may affect the timing of FCC action with respect to the FCC Applications), and such actions shall not be deemed a violation of

this obligation. The parties agree that they will cooperate to amend the FCC Applications as may be necessary or required to obtain the timely grant of the FCC Consent, including amending this Agreement, any Ancillary Agreement, or Appendix I hereto (to add to or subtract from the Stations listed thereon). As may reasonably be necessary to facilitate the grant of the FCC Consent, in the event that in order to obtain the FCC Consent in an expeditious manner, it is necessary for Buyer or any of its Affiliates to enter into a customary assignment, assumption, tolling, or other similar arrangement with the FCC to resolve any complaints with the FCC relating to the Stations, Buyer shall enter, or cause its Affiliates, as applicable, to enter, into such a customary assignment, assumption, tolling or other arrangement with the FCC. If, at any point prior to the Closing Date, an application for the renewal of any Station License ("Renewal Application") must be filed pursuant to the Communications Act, Seller shall use commercially reasonable efforts to cause ION and its Affiliates to timely file and prosecute with the FCC such Renewal Application. To avoid disruption or delay in the processing of the FCC Applications, Buyer agrees, as part of the FCC Applications, to request that the FCC apply its policy permitting the transfer of control or assignment of FCC Licenses in transactions involving multiple stations to proceed, notwithstanding the pendency of one or more application for the renewal of any Station License (each a "Renewal Application"). Buyer agrees to make such representations and undertakings as are necessary or appropriate to invoke such policy, including undertakings to assume, as between the parties and the FCC, the position of the applicant before the FCC with respect to any pending Renewal Application and to assume the corresponding regulatory risks relating to any such Renewal Application. If the Closing Date shall not have occurred for any reason within the original effective period of the FCC Consent, and neither party hereto shall have terminated this Agreement pursuant to ARTICLE IX, Seller and Buyer shall jointly request extensions of the effective period of the FCC Consent until the Closing Date occurs or this Agreement is otherwise terminated; provided, however, no such extension of the FCC Consent shall limit the right of either party hereto to exercise such party's rights under ARTICLE X.

(b) As promptly as practicable after the date hereof, but in any event no later than ten (10) Business Days thereafter, to the extent required by applicable Laws, Seller and Buyer shall file and shall cause their respective Affiliates to file (if necessary), with the FTC and the Antitrust Division of the DOJ any notifications and other information required to be filed with such commission or department under the HSR Act, or any rules and regulations promulgated thereunder, with respect to the transactions contemplated by this Agreement, and shall request early termination of the waiting period thereunder. Each of Seller and Buyer shall file and shall cause its Affiliates to file, as promptly as practicable, such additional information as may be reasonably requested to be filed by such commission or department. Seller and Buyer shall each bear one-half of the cost of any filing fees payable under the HSR Act in connection with the notifications and information described in this Section 5.2(b).

(c) Subject to the terms and conditions herein, Seller and Buyer shall use reasonable best efforts to take, or cause to be taken, all actions and do, or cause to be done, all things necessary, proper or advisable under applicable Law to consummate and make effective the transactions contemplated hereby and to cause the conditions set forth in ARTICLE VII to be satisfied as promptly as reasonably practicable after the date hereof, including by using reasonable best efforts to (i) as applicable to Buyer or Seller, obtain and maintain all necessary, proper or advisable consents, approvals, waivers and authorizations of, actions or nonactions by, and making of all required filings, in consultation with each other, of all documentation to effect all necessary, proper or advisable filings, notices, petitions, statements, registrations, submissions of information, applications and other documents with any Governmental Authority or any other Third Party required by such party in connection with the transactions contemplated by this Agreement and (ii) cooperate with each other in (A) determining which filings are necessary, proper or advisable to be made prior to the Closing with,



and which consents, approvals, permits, notices or authorizations are required to be obtained prior to the Closing from, Governmental Authorities or Third Parties in connection with the execution and delivery of this Agreement and related agreements, and consummation of the transactions contemplated hereby and (B) timely making all necessary filings and timely seeking all consents, approvals, permits, notices or authorizations.

(d) Seller and Buyer shall, and shall cause their respective Affiliates to, use their respective reasonable best efforts to obtain all consents and amendments from the parties to the Contracts included in the Station Assets that are required by the terms thereof or this Agreement for the consummation of the transactions contemplated by this Agreement; provided, however, that neither Seller, Buyer, ION, nor any of their respective Affiliates shall have any obligation to offer or pay any consideration in order to obtain any such consents or amendments, including, with respect to Seller or any of its Affiliates, any obligation to amend, modify or otherwise alter the terms of any Contract with any such party that is not included in the Station Assets or, insofar as any Multi-Station Contract relates to Other Stations, the terms thereof relating to Other Stations; and provided, further, that the parties acknowledge and agree that none of such Third Party consents is a condition to the Closing.

Section 5.3 Public Announcements. So long as this Agreement is in effect, Buyer and its Affiliates shall not and Seller and its Affiliates shall not, issue or cause the publication of any press release or other public statement relating to this Agreement or any of the transactions contemplated hereby without the prior written consent of the other party, unless such party determines, after consultation with outside counsel, that it is required by applicable Law to issue or cause the publication of any press release or other public announcement with respect to this Agreement, in which event such party shall provide, on a basis reasonable under the circumstances, an opportunity to the other party to review and comment on such press release or other announcement in advance, and shall give reasonable consideration to all reasonable comments suggested thereto.

Section 5.4 Notification of Certain Matters. Each of Seller and Buyer shall promptly notify and provide copies to the other of (a) any material written notice from any Person alleging that the approval or consent of such Person is or may be required in connection with the transactions contemplated by this Agreement, (b) any written notice or other communication from any Governmental Authority in connection with the transactions contemplated by this Agreement, (c) any Proceeding or investigation, commenced or, to such party's Knowledge, threatened against, Seller or Buyer or any of their respective Affiliates, as the case may be, that would be reasonably likely to (i) prevent or materially delay the consummation of the transactions contemplated hereby or (ii) result in the failure of any condition to the Closing set forth in ARTICLE VII to be satisfied, or (d) the occurrence of any event which would or would be reasonably likely to (i) prevent or materially delay the consummation of the transactions contemplated hereby or (ii) result in the failure of any condition to the Closing set forth in ARTICLE VII to be satisfied; provided, that the delivery of any notice pursuant to this Section 5.4 shall not affect or be deemed to modify any representation, warranty, covenant, right, remedy, or condition to any obligation of any party hereunder.

#### Section 5.5 Access to the Stations.

(a) From and after the date of this Agreement until the earlier to occur of the Closing Date and the termination of this Agreement in accordance with ARTICLE IX, upon reasonable advance notice and subject to applicable Law, Seller shall use reasonable best efforts to cause ION to afford to Buyer, its Affiliates and its officers, agents, control persons, employees, consultants, professional advisers (including attorneys, accountants and financial advisers) ("Representatives") reasonable access during normal business hours, to all of the properties, books, Contracts, commitments, records, officers

and employees concerning the Stations and the Station Assets, including the right to inspect such properties and make copies of such records; provided that Buyer acknowledges that ION may restrict the foregoing access and the disclosure of information to the extent that, in its good faith judgment, (i) any Law applicable to ION requires it to restrict or prohibit access to any such properties or information, (ii) the information is subject to confidentiality obligations to a Third Party, (iii) disclosure of any such information or document could result in the loss of attorney-client privilege or (iv) such access would unreasonably disrupt ION's operations. Seller shall use reasonable best efforts to cause ION to make appropriate substitute disclosure arrangements under circumstances in which the restrictions of the preceding sentence apply.

**Section 5.6 Multi-Station Contracts.** The rights and obligations under any Contract which is included in the Station Assets and to which any Other Station is party, or has rights or obligations thereunder (any such Contract, a "Multi-Station Contract") that are assigned to and assumed by Buyer (and included in the Station Assets and Assumed Liabilities, as the case may be) shall include only those rights and obligations under such Multi-Station Contracts that are applicable to the Stations. The rights of each Other Station with respect to such Contract and the obligations of each Other Station to such Contract shall not be assigned to and assumed by Buyer (and shall be Excluded Assets and Excluded Liabilities, as applicable). For purposes of determining the scope of the rights and obligations of the Multi-Station Contracts, the rights and obligations under each Multi-Station Contract shall be equitably allocated among (1) the Stations, on the one hand, and (2) the Other Stations, on the other hand, in accordance with the following equitable allocation principles:

- (a) any allocation set forth in the Multi-Station Contract shall control;
- (b) if there is no allocation in the Multi-Station Contract as described in clause (a) hereof, then any reasonable allocation previously made by ION in the ordinary course of business shall control; or
- (c) if there is no reasonable allocation as described in clause (b) hereof, then reasonable accommodation (to be determined by mutual good faith agreement of Seller and Buyer) shall control.

Subject to any applicable third-party consents, such allocation and assignment with respect to any Multi-Station Contract shall be effectuated, as mutually agreed by Seller and Buyer, by termination of such Multi-Station Contract in its entirety with respect to the Stations and the execution of new Contracts with respect to the Stations or by an assignment to and assumption by Buyer of the rights and obligations related to the Stations under such Multi-Station Contract. The parties shall use reasonable best efforts to obtain any such new Contracts or assignments to, and assumptions by, Buyer in accordance with this Section 5.6; provided, that, completion of documentation of any such allocation under this Section 5.6 is not a condition to the Closing.

## Section 5.7 Financing.

(a) Buyer shall use its commercially reasonable efforts to take or cause to be taken all actions and to do or cause to be done all things necessary, proper or advisable to (i) obtain on or before December 1, 2020, fully executed commitment letters from (a) one or more Lenders and the related fee letters referred to therein, which may be redacted for provisions related to fees and other economic terms so long as no redaction covers terms that would adversely affect the conditionality, availability or termination of the Debt Financing (as hereinafter defined) (such commitment letters and fee letters, as amended, modified, supplemented, extended, or replaced from time to time in compliance with this Agreement, the “Debt Commitment Letters”), pursuant to which the Lenders will have committed, subject only to the terms and conditions set forth therein, to provide debt financing to Buyer for the purpose of consummating the transactions contemplated by this Agreement in the aggregate amounts set forth therein (the “Debt Financing”) and/or (b) one or more Investors and such commitment letters, the “Investors Commitment Letters,” and together with the Debt Commitment Letters, the “Commitment Letters”) pursuant to which the Investors will have committed to invest in Buyer through the purchase of limited liability company units from Buyer, subject only to the terms and conditions set forth therein, for the purpose of consummating the transactions contemplated by this Agreement in the aggregate amount set forth therein (the “Investors Financing,” and together with the Debt Financing, the “Financing,” such Financing to consist of an aggregate amount of \$29.5 million (the “Financing Amount”)) and arrange and obtain the Debt Financing and the Investors Financing on terms and conditions described in the Commitment Letters (or on terms no less favorable in any material respect to Buyer); (ii) negotiate, finalize and enter into definitive agreements with respect thereto on terms and conditions no less favorable in any material respect to Buyer than are contained in the Commitment Letters; (iii) satisfy on a timely basis all conditions in such definitive agreements that are within its control applicable to it; (iv) consummate the Debt Financing and the Investors Financing no later than the time of the Closing; and (v) in the event all conditions to the Debt Financing and the Investors Financing have been satisfied or waived, enforce its rights under the Debt Commitment Letters and the Investors Commitment Letters to the extent available in the event of a breach by the applicable Financing Source.

(b) Buyer shall not agree to any amendment or modification to, or grant any waiver of, any condition or other provision under the Commitment Letters without the prior written consent of Seller if such amendment, modification or waiver would reduce or would reasonably be expected to reduce the aggregate amount of the applicable Financing (including by changing the amount of fees to be paid for the Debt Financing) below the amount necessary to consummate the transactions contemplated by this Agreement when taken together with other cash on hand of Buyer or other sources of cash to become available to Buyer on the Closing Date, impose new or additional conditions or otherwise expand, amend or modify any of the conditions under the Commitment Letters that would be reasonably likely to (i) prevent, delay or impair the ability of Buyer to consummate the transactions contemplated by this Agreement or (ii) adversely impact the ability of Buyer to enforce its rights against the other parties to the Commitment Letters. Buyer shall not release or consent to the termination of the obligations of the Lenders under the Debt Commitment Letters. In the event that any portion of the Debt Financing (x) becomes unavailable or (y) would reasonably be expected to become unavailable in the manner or from the sources contemplated in the Debt Commitment Letters, (i) Buyer shall promptly notify Seller and (ii) in the case of subclause (x), Buyer shall use its commercially reasonable efforts to arrange and obtain, and to negotiate and enter into finance commitments and definitive agreements with respect to, an alternative financing from alternative financial institutions in an amount sufficient to consummate the transactions contemplated by this Agreement when taken together with other cash on hand of Buyer or other sources of cash to become available to Buyer on the Closing Date (including, if applicable, any alternative financing) upon terms and conditions no less favorable in all material



respects, taken as a whole, to Buyer than those in the Debt Commitment Letters as in effect on the date they are obtained by Buyer in accordance with this Agreement, as promptly as practicable following the occurrence of such event (and, in any event, no later than the Closing Date). Buyer shall (x) furnish to Seller complete, correct and executed copies of the definitive documents with respect to the Debt Financing promptly upon their execution, (y) give Seller prompt notice of any breach or default by any party to any of the Commitment Letters with respect to the Debt Financing or any termination thereof or any material dispute or disagreement between or among any parties to the Commitment Letters with respect to the obligation to fund the Financing or the amount of the Financing to be funded at Closing and (z) otherwise keep Seller reasonably informed on a reasonably current basis in reasonable detail of the status of Buyer's efforts to arrange the Financing (or any replacement thereof) and all material developments concerning the status thereof.

(c) Prior to the Closing, Seller shall use its commercially reasonable efforts to provide, and shall use commercially reasonable efforts to cause ION to provide, such cooperation as is reasonably requested by Buyer in connection with the arrangement of the Financing and such pertinent and customary information regarding the Stations as may be reasonably requested by Buyer to the extent such information is required in connection with the Commitment Letters to consummate the Financing. Seller shall use its commercially reasonable efforts to provide and deliver to Buyer prior to October 31, 2020, quality of earnings information and other financial information and give customary representations and warranties in respect thereof, in a form acceptable to the Lenders in connection with the arrangement of the Debt Financing (the "Financing Information"). Seller and Buyer shall use commercially reasonable efforts to work together on the preparation of such Financing Information.

(d) All non-public or other confidential information provided by Buyer pursuant to this Section 5.7 will be kept confidential by Buyer, except that Buyer will be permitted to disclose such information to any prospective financing sources so long as such information shall be kept confidential by them in accordance with customary confidentiality protections.

Section 5.8 Master Lease Agreement. Prior to Closing, with respect to (a) the Owned Real Property used or held for use primarily in the operation of the Stations and (b) the towers and other antenna support structures owned by the Subsidiaries and used or held for use primarily in the operation of the Stations, Buyer and Seller shall reasonably cooperate to enter into the Master Lease Agreements, which shall, among other things, reflect the terms outlined in Exhibit G.

Section 5.9 HSN and QVC Agreements. With respect to those certain programming/affiliation agreements with HSN and QVC (the "HSN and QVC Agreements"), Seller will cause termination notices with respect to the Stations to be given on or before the Closing.

## **ARTICLE VI ADDITIONAL AGREEMENTS**

### **Section 6.1 Taxes.**

(a) Seller shall prepare and timely file or shall cause to be prepared and timely filed each Tax Return for Prorated Taxes that is due on or before the Closing Date. Buyer shall pay to Seller promptly upon demand at or after the Closing the amount of any Taxes paid by Seller to the extent constituting an Assumed Liability. Buyer shall prepare and timely file or shall cause to be prepared and timely filed each Tax Return for Prorated Taxes that is due after the Closing Date. Seller shall pay to Buyer promptly upon demand the amount of any Taxes shown as due thereon to the extent constituting

an Excluded Liability. Each such Tax Return for Prorated Taxes shall be prepared on a basis consistent with past practices with respect to each such Tax Return.

(b) In the case of any Prorated Taxes for any Straddle Period, the portion of such Prorated Taxes that are allocable to the portion of such Straddle Period ending immediately prior to the Closing Date and that constitute an Excluded Liability shall be deemed to equal the amount of such Taxes for the entire Straddle Period multiplied by a fraction the numerator of which is the number of calendar days in the portion of the Straddle Period ending on the day before the Closing Date and the denominator of which is the number of calendar days in the entire Straddle Period, and the remaining portion of such Prorated Taxes shall be allocable to the portion of such Straddle Period beginning on the Closing Date and shall constitute an Assumed Liability.

(c) Seller and Buyer shall (i) provide assistance to each other as reasonably requested in preparing and filing Tax Returns with respect to the Stations; (ii) make available to each other as reasonably requested all information, records, and documents relating to Taxes concerning operation of the Stations; (iii) retain any books and records that could reasonably be expected to be necessary or useful in connection with any preparation by any other party of any Tax Return, or for any audit relating to Taxes with respect to the operation of the Stations; and (iv) cooperate fully, as and to the extent reasonably requested by the other party, in connection with any audit with respect to Taxes relating to the operation of the Stations.

(d) Any Transfer Taxes shall be borne equally by Buyer and Seller. Seller, with Buyer's cooperation, shall be responsible for the preparation, execution and filing of all Tax Returns, questionnaires, applications or other documents regarding any Transfer Taxes.

#### Section 6.2 Intentionally Omitted.

Section 6.3 Use of Names. Seller is not conveying ownership rights or granting Buyer a license to use any of the Retained Names and Marks and, after the Closing, Buyer shall not and shall not permit any of its Affiliates to use in any manner the Retained Names and Marks or any word that is similar in sound or appearance to such names or marks. In the event Buyer violates any of its obligations under this Section 6.3, Seller may proceed against Buyer in law or in equity for such damages or other relief as a court may deem appropriate. Buyer acknowledges that a violation of this Section 6.3 would cause Seller irreparable harm, which may not be adequately compensated for by money damages. Buyer therefore agrees that in the event of any actual or threatened violation of this Section 6.3, Seller shall be entitled, in addition to other remedies that it may have, to a temporary restraining order and to preliminary and final injunctive relief against Buyer or any such Affiliate of Buyer to prevent any violations of this Section 6.3, without the necessity of posting a bond.

#### Section 6.4 Access to Records after the Closing.

(a) For a period of six (6) years after the Closing Date, Seller and its Representatives shall have reasonable access to all of the books and records of the Stations transferred to Buyer hereunder to the extent that such access may reasonably be required by Seller in connection with matters relating to or affected by the operations of the Stations prior to the Closing Date. Such access shall be afforded by Buyer upon receipt of reasonable advance notice and during normal business hours. Seller shall be solely responsible for any costs or expenses incurred by it pursuant to this Section 6.4(a). If Buyer shall desire to dispose of any of such books and records prior to the expiration of such six (6) year period, it shall, prior to such disposition, give Seller a reasonable opportunity, at Seller's expense, to segregate and remove such books and records as Seller may select.

(b) For a period of six (6) years after the Closing Date, Buyer and its Representatives shall have reasonable access to all of the books and records relating to the operation of the Stations which Seller may retain after the Closing Date. Such access shall be afforded by Seller upon receipt of reasonable advance notice and during normal business hours. Buyer shall be solely responsible for any costs and expenses incurred by it pursuant to this Section 6.4(b). If Seller shall desire to dispose of any of such books and records prior to the expiration of such six (6) year period, it shall, prior to such disposition, give Buyer a reasonable opportunity, at Buyer's expense, to segregate and remove such books and records as Buyer may select.

#### Section 6.5 Real Property Leases.

(a) Seller shall use commercially reasonable efforts to assign, as of the Closing, each of the Real Property Leases from the Seller and its Subsidiaries, as applicable, to Buyer, substantially in the form of Exhibit D attached hereto.

(b) To the extent that any Real Property Lease cannot be assigned without consent and such consent is not obtained as of the Closing, (i) this Agreement shall not constitute an agreement to assign the same if an attempted assignment would constitute a breach thereof and (ii) Seller shall use reasonable best efforts to provide to Buyer the benefits of any such Real Property Lease net of any reasonable costs, expenses or Taxes incurred by Seller related thereto. In addition to Seller's obligations pursuant to the foregoing sentence, as to any Real Property Lease included as a Station Asset that is not effectively assigned to Buyer as of the Closing Date but is thereafter effectively assigned to Buyer, Buyer shall, from and after the effective date of such assignment, assume, and shall thereafter pay, perform and discharge as and when due, all Assumed Liabilities of Seller or the Subsidiaries, as applicable, arising under such Real Property Lease in accordance with the terms of this Agreement.

### **ARTICLE VII**

#### **CONDITIONS PRECEDENT TO OBLIGATIONS OF SELLER AND BUYER**

Section 7.1 Conditions to Obligations of Each Party. The obligations of Seller and Buyer to consummate the sale and purchase of the Station Assets contemplated hereby are subject to the satisfaction, at or prior to the Closing, of the following conditions (which may be waived, in whole or in part, to the extent permitted by applicable Law, by the mutual consent of Seller and Buyer):

(a) Regulatory Approval. (i) Any waiting period (and any extension thereof) under the HSR Act relating to the transactions contemplated by this Agreement shall have expired or been terminated, if necessary and (ii) the FCC Consent shall have been granted by the FCC and shall be in effect as issued by the FCC or extended by the FCC.

(b) Statutes and Injunctions. No Law or Order (whether temporary, preliminary or permanent) shall have been promulgated, entered, enforced, enacted or issued or be applicable to this Agreement by any Governmental Authority that prohibits or makes illegal the consummation of the Closing.

(c) Certain Agreements. Buyer and Seller shall have executed and delivered to each other (i) the Option Agreements and (ii) the Affiliation Agreements.

(d) ION Merger. The Merger shall have been consummated.

Section 7.2 Conditions to Obligations of Buyer. The obligations of Buyer to consummate the purchase of the Station Assets contemplated hereby shall be subject to the satisfaction, at or prior to the Closing, of the following conditions (which may be waived, in whole or in part, to the extent permitted by applicable Law, by Buyer):

(a) Representation and Warranties. The representations and warranties of Seller contained in this Agreement shall be true and correct on the Closing Date as though made on the Closing Date (except to the extent that they expressly speak as of a specific date or time other than the Closing Date, in which case they need only have been true and correct as of such specified date or time), except where the failure of such representations and warranties to be true and correct (without giving effect to any qualifiers or exceptions relating to “materiality” or “material adverse effect” set forth in such representations and warranties), has not had and would not reasonably be expected to have a material adverse effect on Seller’s ability to consummate the transactions contemplated by this Agreement.

(b) Performance of Obligations of Seller. Seller shall have performed in all material respects its covenants and obligations under this Agreement required to be performed by it at or prior to the Closing.

(c) Deliveries. Seller shall have delivered (or stand ready to deliver) to Buyer (i) a certificate, dated as of the Closing Date, signed by an executive officer of Seller and certifying as to the satisfaction of the conditions specified in Section 7.2(a) and Section 7.2(b) and (ii) the deliveries contemplated by Section 2.7.

(d) Financing. Buyer shall have obtained the Financing Amount pursuant to the Financing and/or any alternative financing.

Section 7.3 Conditions to Obligations of Seller. The obligations of Seller to consummate the sale of the Station Assets contemplated hereby shall be subject to the satisfaction, at or prior to the Closing, of the following conditions (which may be waived, in whole or in part, to the extent permitted by applicable Law, by Seller):

(a) Representations and Warranties. The representations and warranties of Buyer contained in this Agreement shall be true and correct on the Closing Date as though made on the Closing Date (except to the extent that they expressly speak as of a specific date or time other than the Closing Date, in which case they need only have been true and correct as of such specified date or time), except where the failure of such representations and warranties to be true and correct (without giving effect to any qualifiers or exceptions relating to “materiality” set forth in such representations and warranties), individually or in the aggregate, has not had and would not reasonably be expected to have a material adverse effect on the ability of Buyer to consummate the transactions contemplated by this Agreement.

(b) Performance of Obligations of Buyer. Buyer shall have performed in all material respects its covenants and obligations under this Agreement required to be performed by it at or prior to the Closing Date.

(c) Deliveries. Buyer shall have delivered (or stand ready to deliver) to Seller (i) certificate, dated as of the Closing Date, signed by an executive officer of Buyer and certifying as to the satisfaction of the conditions specified in Section 7.3(a) and Section 7.3(b), and (ii) the deliveries contemplated by Section 2.7.

## **ARTICLE VIII INDEMNIFICATION**

Section 8.1 Indemnification by Seller. From and after the Closing and subject to Section 10.1, Seller shall indemnify and hold harmless Buyer from and against any and all Losses and Expenses imposed upon, or incurred or suffered by, Buyer as a result of or arising out of:

- (a) any breach by Seller of, or any other failure of Seller to perform, any of its covenants, agreements or obligations pursuant to this Agreement;
- (b) any of the Excluded Liabilities; or
- (c) any inaccuracy in any of the representations and warranties set forth in Article IV of the Merger Agreement read without giving effect to any materiality qualifiers set forth therein insofar as they pertain to the Station Assets.

Section 8.2 Indemnification by Buyer. From and after the Closing and subject to Section 10.1, Buyer shall indemnify and hold harmless Seller from and against any and all Losses and Expenses imposed upon, or incurred or suffered by, Seller as a result of or arising out of:

- (a) any breach by Buyer of, or any other failure of Buyer to perform, any of its covenants, agreements or obligations in this Agreement; or
- (b) any of the Assumed Liabilities and, except for claims in respect of which Seller is obligated to indemnify Buyer pursuant to Section 8.1, Buyer's (or any successor's or assignee's) operation of the Stations and/or the ownership and/or use of the Station Assets after the Closing Date.

### Section 8.3 Notice of Claims; Determination of Amount.

(a) Any party seeking indemnification hereunder (the "Indemnified Party") shall give promptly to the party or parties, as applicable, obligated to provide indemnification to such Indemnified Party (the "Indemnitor") a written notice (a "Claim Notice") describing in reasonable detail the facts giving rise to the claim for indemnification hereunder and shall include in such Claim Notice (if then known) the amount or the method of computation of the amount of such claim, and a reference to the provision of this Agreement upon which such claim is based. Subject to Section 10.1, the failure of any Indemnified Party to give the Claim Notice promptly as required by this Section 8.3 shall not affect such Indemnified Party's rights under this ARTICLE VIII except to the extent such failure is actually and materially prejudicial to the rights and obligations of the Indemnitor.

(b) In calculating any Loss or Expense there shall be deducted (i) any insurance recovery actually received in respect thereof, (ii) any recovery in respect thereof that is obtained from any other third Person (and no right of subrogation shall accrue hereunder to any such insurer or other third Person) and (iii) any Tax benefit realized by the Indemnified Party arising from any such Loss or Expense.

(c) After the giving of any Claim Notice pursuant hereto, the amount of indemnification to which an Indemnified Party shall be entitled under this ARTICLE VIII shall be determined: (i) by the written agreement between the Indemnified Party and the Indemnitor; (ii) by a final Order of any court of competent jurisdiction; or (iii) by any other means to which the Indemnified Party and the Indemnitor shall agree. The judgment or decree of a court shall be deemed final when the time for appeal, if any, shall have expired and no appeal shall have been taken or when all appeals taken



shall have been finally determined. The Indemnified Party shall have the burden of proof in establishing the amount of Losses and Expenses suffered by it.

#### Section 8.4 Third Person Claims.

(a) Notwithstanding anything to the contrary contained in Section 8.3, in order for a party to be entitled to any indemnification provided for under this Agreement in respect of, arising out of or involving a claim or demand made by any third Person against the Indemnified Party, such Indemnified Party must notify the Indemnitor in writing, and in reasonable detail, of the third Person claim promptly, but in any event within ten (10) days, after receipt by such Indemnified Party of written notice of the third Person claim, which notification must include a copy of the written notice of the third Person claim that was received by the Indemnified Party (the "Third Person Claim Notice"). Thereafter, the Indemnified Party shall deliver to the Indemnitor, promptly, but in any event within five (5) Business Days, after the Indemnified Party's receipt thereof, copies of all notices and documents (including court papers) received by the Indemnified Party relating to the third Person claim. Notwithstanding the foregoing, should a party be physically served with a complaint with regard to a third Person claim, the Indemnified Party must notify the Indemnitor with a copy of the complaint promptly, but in any event within five (5) Business Days, after receipt thereof and shall deliver to the Indemnitor promptly, but in any event within seven (7) Business Days, after the receipt of such complaint copies of notices and documents (including court papers) received by the Indemnified Party relating to the third Person claim. Subject to Section 10.1, the failure of any Indemnified Party to promptly provide a Third Person Claim Notice as required by this Section 8.4 shall not affect such Indemnified Party's rights under this ARTICLE VIII except to the extent such failure is actually and materially prejudicial to the rights and obligations of the Indemnitor.

(b) In the event of the initiation of any legal proceeding against the Indemnified Party by a third Person, the Indemnitor shall have the sole and absolute right after the receipt of a Third Person Claim Notice, at its option and at its own expense, to be represented by counsel of its choice and to control, defend against, negotiate, settle or otherwise deal with any proceeding, claim, or demand which relates to any loss, liability or damage indemnified against hereunder; provided, however, that the Indemnified Party may participate in any such proceeding with counsel of its choice and at its expense. The parties hereto agree to cooperate fully with each other in connection with the defense, negotiation or settlement of any such proceeding, claim or demand. Prior to the time the Indemnified Party is notified by the Indemnitor as to whether the Indemnitor will assume the defense of such proceeding, claim or demand, the Indemnified Party shall take all actions reasonably necessary to timely preserve the collective rights of the parties with respect to such proceeding, claim or demand, including responding timely to legal process. To the extent the Indemnitor elects not to defend such proceeding, claim or demand (or fails to confirm its election) within fifteen (15) days after the giving by the Indemnified Party to the Indemnitor of a Third Person Claim Notice, the Indemnified Party may retain counsel, reasonably acceptable to the Indemnitor, at the expense of the Indemnitor, and control the defense of, or otherwise deal with, such proceeding, claim or demand. Regardless of which party assumes the defense of such proceeding, claim or demand, the parties agree to cooperate with one another in connection therewith. Such cooperation shall include providing records and information that are relevant to such proceeding, claim or demand, and making each parties' employees and officers available on a mutually convenient basis to provide additional information and explanation of any material provided hereunder and to act as a witness or respond to legal process. Whether or not the Indemnitor assumes the defense of such proceeding, claim or demand, the Indemnified Party shall not admit any liability with respect to, or settle, compromise or discharge, such proceeding, claim or demand without the Indemnitor's prior written consent (which consent shall not be unreasonably withheld, conditioned or delayed). The

Indemnitor shall not consent to a settlement of, or the entry of any judgment arising from, any such proceeding, claim or demand without the Indemnified Party's prior written consent (which consent shall not be unreasonably withheld, conditioned or delayed) unless such settlement or judgment (i) relates solely to monetary damages for which the Indemnitor shall be responsible and (ii) includes as an unconditional term thereof the release of the Indemnified Party from all liability with respect to such proceeding, claim or demand, in which event no such consent shall be required. After any final judgment or award shall have been rendered by a court, arbitration board or administrative agency of competent jurisdiction and the time in which to appeal therefrom has expired, or a settlement shall have been consummated, or the Indemnified Party and the Indemnitor shall arrive at a mutually binding agreement with respect to each separate matter alleged to be indemnified by the Indemnitor hereunder, the Indemnified Party shall forward to the Indemnitor notice of any sums due and owing by it with respect to such matter and the Indemnitor shall pay all of the sums so owing to the Indemnified Party by wire transfer, certified or bank cashier's check within fifteen (15) days after the date of such notice.

(c) The party that has assumed the control or defense of any such proceeding, claim or demand made by a third Person against the other party shall (i) provide the other party with the right to participate in any meetings or negotiations with any Governmental Authority or other third Person and reasonable advance notice of any such meetings or negotiations, (ii) provide the other party with the right to review in advance and provide comments on any draft or final documents proposed to be submitted to any Governmental Authority or other third Person, and (iii) keep the other party reasonably informed with respect to such proceeding, demand or claim, including providing copies of all documents provided to, or received from, any Governmental Authority or any other third Person in connection with such proceeding, demand or claim. Buyer and Seller covenant and agree to maintain the confidence of all such drafts and comments provided by the other.

#### Section 8.5 Limitations; Subrogation; Exclusive Remedies.

(a) In any case where the Indemnified Party recovers from third Persons any amount in respect of a matter with respect to which the Indemnitor has indemnified it pursuant to this Article VIII, the Indemnified Party shall promptly pay over to the Indemnitor the amount so recovered (after deducting therefrom the full amount of the Expenses incurred by it in procuring such recovery), but not in excess of any amount previously so paid by the Indemnitor to or on behalf of the Indemnified Party in respect of such matter.

(b) In the case where the Indemnitor makes any payment to the Indemnified Party in respect of any Loss, the Indemnitor shall, to the extent of such payment, be subrogated to all rights of the Indemnified Party against any third Person in respect of the Loss to which such payment relates. The Indemnified Party and the Indemnitor shall execute upon request all instruments reasonably necessary to evidence or further perfect such subrogation rights.

(c) Except for remedies that cannot be waived as a matter of law, claims arising from common law fraud with respect to the representations and warranties set forth herein, and injunctive and provisional relief, if the Closing occurs, this Article VIII shall be the exclusive remedy for breaches of this Agreement (including any covenant, obligation, representation or warranty contained in this Agreement or in any certificate delivered pursuant to this Agreement) or otherwise relating to the subject matter of this Agreement, including any claims arising under any Environmental Laws.

Section 8.6 No Special Damages; Mitigation. Notwithstanding anything to the contrary contained in this Agreement, none of the parties hereto shall have any liability under any provision of this Article VIII (i) for any punitive or exemplary damages, except to the extent such damages are

actually awarded to a third Person and (ii) any multiple, consequential, special or indirect damages, including loss of future profits, revenue or income, damages based on any multiple of revenue or income, diminution in value or loss of business reputation or opportunity or statutory damages relating to the breach or alleged breach, except to the extent such damages were reasonably foreseeable or to the extent such damages are actually awarded to a third Person. Each of the parties agrees to take all commercially reasonable steps to mitigate their respective Losses and Expenses upon and after becoming aware of any event or condition which could reasonably be expected to give rise to any Losses and Expenses that are indemnifiable hereunder, including using its reasonable best efforts to obtain insurance proceeds in respect thereof.

Section 8.7 Tax Treatment of Indemnification Payments. All indemnification payments made under this Agreement shall be treated for Tax purposes only as an adjustment to the Purchase Price to the maximum extent permitted by applicable Law.

## **ARTICLE IX TERMINATION**

### **Section 9.1 Termination.**

(a) This Agreement may be terminated at any time prior to the Closing:

(i) by the mutual written consent of Seller and Buyer;

(ii) by Seller, if a breach or failure to perform any of the covenants or agreements of Buyer contained in this Agreement shall have occurred, or there shall be any inaccuracy of any of the representations or warranties of Buyer contained in this Agreement, and such breach, failure to perform or inaccuracy either individually or in the aggregate would, if occurring or continuing on the Closing Date, give rise to the failure of a condition set forth in Section 7.3 to be satisfied, and such breach, failure to perform or inaccuracy if curable, is not cured by, on or before the earlier of (i) the Termination Date or (ii) thirty (30) days following Buyer's receipt of written notice from Seller of such breach, failure to perform or inaccuracy, or which by its nature or timing cannot be cured prior to the Termination Date; provided, however, that Seller shall not have the right to terminate this Agreement pursuant to this Section 9.1(a)(ii) if Seller is then in breach of any of its covenants or agreements contained in this Agreement or any of the representations or warranties of Seller contained in this Agreement shall be inaccurate, and, in any such case would give rise to the failure of a condition set forth in Section 7.2 to be satisfied;

(iii) by Buyer, if a breach or failure to perform any of the covenants or agreements of Seller contained in this Agreement shall have occurred, or there shall be any inaccuracy of any of the representations or warranties of Seller contained in this Agreement, and such breach, failure to perform or inaccuracy either individually or in the aggregate would, if occurring or continuing on the Closing Date, give rise to the failure of a condition set forth in Section 7.2 to be satisfied, and such breach, failure to perform or inaccuracy if curable, is not cured by, on or before the earlier of (i) the Termination Date or (ii) thirty (30) days following Seller's receipt of written notice from Buyer of such breach, failure to perform or inaccuracy, or which by its nature or timing cannot be cured prior to the Termination Date; provided, however, that Buyer shall not have the right to terminate this Agreement pursuant to this Section 9.1(a)(iii) if Buyer is then in breach of any of its covenants or agreements contained in this Agreement or any of the representations or warranties of Buyer contained in this Agreement shall be inaccurate, and, in any such case would give rise to the failure of a condition set forth in Section 7.3 to be satisfied;



(iv) by Seller or Buyer, if any U.S. federal or state court of competent jurisdiction shall have issued a final and nonappealable Order permanently enjoining or otherwise prohibiting the consummation of the sale of the Station Assets contemplated hereby;

(v) by Seller or Buyer, at any time after twelve (12) months after the date of this Agreement (such date or such later date, if any, as is provided in the proviso to this Section 9.1(a)(v), the “Termination Date”) if the Closing shall not have been consummated for any reason other than the failure of the party seeking to terminate this Agreement to comply with any covenant or agreement of such party set forth herein; provided, however, that in the event the Outside Date, as defined in the Merger Agreement, is extended pursuant to Section 8.1(c) of Article VIII of the Merger Agreement until a date no later than the 18-month anniversary of the date of this Agreement, the Termination Date shall be deemed extended and the same date as the Outside Date under the Merger Agreement; or

(vi) by Seller if Buyer does not deliver to Seller the Commitment Letters by the later of: December 1, 2020 or the date which is 30 days after the date Seller has delivered the Financing Information to Buyer.

(b) This Agreement shall terminate on the date, if any, that the Merger Agreement is terminated. If the Merger Agreement is terminated, Seller shall (i) give Buyer notice of such termination within five (5) Business Days thereof and (ii) reimburse Buyer for its documented, reasonable out-of-pocket legal, accounting and financing commitment fees, costs and expenses incurred in connection with the negotiation and execution of this Agreement or the potential consummation of the transactions contemplated hereby, in an aggregate amount not to exceed \$1.5 million, within ten (10) Business Days of receipt by Seller of all such documentation.

(c) The party desiring to terminate this Agreement pursuant to Section 9.1(a) (other than pursuant to Section 9.1(a)(i)) shall give written notice of such termination to the other party or parties, as applicable.

(d) Subject to subsection (d) below, in the event that this Agreement shall be terminated pursuant to Section 9.1(a), all further obligations of the parties under this Agreement (other than Section 5.3, this ARTICLE IX and ARTICLE X, and, for the avoidance of doubt, the Confidentiality Agreement, which, in each case, shall remain in full force and effect notwithstanding such termination) shall be terminated without further liability of any party; provided that nothing herein shall relieve any party from liability for any breach of this Agreement.

(e) Withdrawal of Certain Filings. In the event of termination under the provisions of this ARTICLE IX, 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 Governmental Authority or other Person to which made.

## **ARTICLE X MISCELLANEOUS**

### **Section 10.1 Survival.**

(a) None of the representations or warranties of the parties contained in this Agreement, any Ancillary Agreement or in any schedule, exhibit, instrument or other document delivered pursuant to this Agreement or any Ancillary Agreement, pertaining to or in respect of any period prior to the Closing shall survive the Closing or the earlier termination of this Agreement, regardless of any applicable statute of limitations; provided, however, that claims for common law fraud with respect to the representations and warranties set forth herein shall not be subject to such limitation or any other limitation contained in this Agreement or any Ancillary Agreement. Notwithstanding anything to the contrary in the foregoing and for the avoidance of doubt, Buyer's rights pursuant to Section 8.1(c) shall survive the Closing.

(b) None of the covenants, agreements or obligations of the parties contained in this Agreement shall survive the consummation of the Closing, except to the extent such covenants, agreements and obligations contemplate performance after the Closing, in which case each such covenant, agreement and obligation shall survive until performed. This Section 10.1 shall not limit any covenant or agreement contained herein or in any Ancillary Agreement that by its terms is to be performed in whole or in part after the Closing.

Section 10.2 Amendment and Modification. Subject to applicable Law, this Agreement may be amended, modified or supplemented in any and all respects by written agreement of Seller and Buyer at any time whether prior to or after the Closing with respect to any of the terms contained herein.

Section 10.3 Extension; Waiver. At any time prior to the Closing, subject to applicable Law, Buyer on the one hand, or Seller on the other hand, may (a) extend the time for the performance of any of the obligations or other acts of the other party, (b) waive any inaccuracies in the representations and warranties contained in this Agreement or in any document delivered pursuant to this Agreement of the other party or (c) waive compliance by the other party with any of the agreements or conditions contained in this Agreement. Any agreement on the part of a party to any such extension or waiver shall be valid only if set forth in an instrument in writing signed on behalf of such party. The failure of any party to assert any of its rights under this Agreement or otherwise shall not constitute a waiver of such rights, nor shall any single or partial exercise by any party of any of its rights under this Agreement preclude any other or further exercise of such rights or any other rights under this Agreement.

Section 10.4 Expenses. Except as otherwise provided herein, all costs and expenses incurred in connection with this Agreement shall be paid by the party incurring such cost or expense.

Section 10.5 Tax Matters. Neither Buyer nor any of its Affiliates shall (or shall cause or permit any other Person to) (i) amend, re-file, or otherwise modify any Tax Return relating in whole or in part to the Station Assets or the Assumed Liabilities with respect to any taxable period ending on or before the Closing Date (or portion thereof); (ii) make any Tax election that has retroactive effect to any taxable period ending on or before the Closing Date (or portion thereof) that relates to Taxes or Tax Returns relating in whole or in part to the Station Assets or the Assumed Liabilities; (iii) file any ruling or similar request with any Governmental Authority that relates to Taxes or Tax Returns relating in whole or in part to the Station Assets or the Assumed Liabilities for any taxable period ending on or before the Closing Date (or portion thereof); or (iv) enter into any voluntary disclosure with any Governmental Authority regarding any Tax or Tax Returns relating in whole or in part to the Station

Assets or the Assumed Liabilities for any taxable period ending on or before the Closing Date (or portion thereof), in each case, without the prior written consent of Seller, which consent shall not be unreasonably withheld, delayed, or conditioned.

Section 10.6 Notices. All notices and other communications hereunder shall be in writing and shall be deemed given if delivered personally, by facsimile (with confirmation of transmission), by email (with confirmation of receipt) or sent by a nationally recognized overnight courier service, such as Federal Express, to the parties at the following addresses (or at such other address for a party as shall be specified by like notice made pursuant to this Section 10.6:

If to Seller, to:

The E.W. Scripps Company  
312 Walnut Street, 28<sup>th</sup> Floor  
Cincinnati, Ohio 45202  
Attention: William Appleton, Executive Vice President and General Counsel, and Robin A. Davis, Vice President of Strategy and Corporate Development  
Email: appleton@scripps.com and robin.davis@scripps.com

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

Brooks, Pierce, McLendon, Humphrey & Leonard, LLP  
1700 Wells Fargo Capitol Center  
150 Fayetteville Street  
Raleigh, North Carolina 27601  
Attention: David Kushner  
Email: dkushner@brookspierce.com

and

Brooks, Pierce, McLendon, Humphrey & Leonard, LLP  
1700 Wells Fargo Capitol Center  
150 Fayetteville Street  
Raleigh, North Carolina 27601  
Attention: Coe W. Ramsey  
Email: cramsey@brookspierce.com

If to Buyer:

INYO BROADCAST HOLDINGS, LLC  
8905 W. Post Road, Suite 200  
Las Vegas, Nevada 89148  
Attention: John Chachas  
Email: JChachas@methuselahadvisors.com

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

Covington & Burling LLP  
850 10<sup>th</sup> Street NW

Washington, DC 20001  
Attention: Matthew DelNero; Mace Rosenstein  
Email: MDelnero@cov.com; MRosenstein@cov.com

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

Simpson Thacher & Bartlett LLP  
425 Lexington Avenue  
New York, NY 10017  
Attention: Gary I. Horowitz; Patrick J. Naughton  
E-mails: ghorowitz@stblaw.com; pnaughton@stblaw.com

Section 10.7 Counterparts. This Agreement may be executed in one or more counterparts, all of which shall be considered one and the same agreement, it being understood that each party hereto need not sign the same counterpart. This Agreement shall become effective when each party hereto shall have received a counterpart hereof signed by all of the other parties hereto. Signatures delivered electronically or by facsimile shall be deemed to be original signatures.

Section 10.8 Entire Agreement; No Third-Party Beneficiaries. This Agreement (including the Exhibits hereto and the documents and the instruments referred to herein), the Disclosure Schedules, the Confidentiality Agreement, the Seller Ancillary Agreements, the Buyer Ancillary Agreements, the Option Agreements and the Affiliation Agreements (a) constitute the entire agreement and supersede all prior agreements and understandings, both written and oral, between Seller and Buyer with respect to the subject matter hereof and thereof; provided, however, that for the avoidance of doubt, nothing herein or therein shall be deemed to supersede, limit or otherwise modify any of the obligations, agreements, covenants, representations or warranties contained in the Merger Agreement; and (b) are not intended to and do not confer any rights, benefits, remedies, obligations or liabilities upon any Person other than the parties, their respective successors and permitted assigns.

Section 10.9 Severability. If any term or other provision of this Agreement is held by a court of competent jurisdiction or other authority to be invalid, void, unenforceable or against its regulatory policy, the remainder of the terms and provisions of this Agreement shall remain in full force and effect and shall in no way be affected, impaired or invalidated, so long as the economic and legal substance of the transactions contemplated hereby, taken as a whole, is not affected in a manner materially adverse to any party hereto. Upon such a determination, the parties to this Agreement shall negotiate in good faith to modify this Agreement so as to effect the original intent of the parties as closely as possible in an acceptable manner in order that the transactions contemplated hereby be consummated as originally contemplated to the fullest extent possible.

Section 10.10 Assignment. Neither this Agreement nor any of the rights, interests or obligations hereunder shall be assigned by either of the parties hereto, in whole or in part (whether by operation of Law or otherwise), without the prior written consent of the other party, and any such assignment without such consent shall be null and void. This Agreement shall be binding upon, inure to the benefit of and be enforceable by the parties and their respective successors and permitted assigns.

Section 10.11 Governing Law. This Agreement shall be governed by, and construed in accordance with, the Laws of the State of New York, without giving effect to conflict of laws principles that would result in the application of the Law of any other state.

Section 10.12 WAIVER OF JURY TRIAL. EACH OF THE PARTIES TO THIS AGREEMENT HEREBY KNOWINGLY, INTENTIONALLY AND VOLUNTARILY IRREVOCABLY WAIVES ANY AND ALL RIGHTS TO TRIAL BY JURY IN ANY LEGAL PROCEEDING ARISING OUT OF OR RELATED TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY.

Section 10.13 Confidential Nature of Information. Each party agrees that it will treat in confidence all documents, materials and other information which it shall have obtained regarding the other party or parties during the course of the negotiations leading to the consummation of the transactions contemplated hereby (whether obtained before or after the date of this Agreement), the investigation provided for herein and the preparation of this Agreement and other related documents, and, in the event the transactions contemplated hereby shall not be consummated, each party will return to the other party or parties all copies of nonpublic documents and materials which have been furnished in connection therewith. Without limiting the right of either party to pursue all other legal and equitable rights available to it for violation of this Section 10.13 by the other party, it is agreed that other remedies cannot fully compensate the aggrieved party for such a violation of this Section 10.13 and that the aggrieved party shall be entitled to injunctive relief to prevent a violation or continuing violation hereof.

Section 10.14 Disclaimer of Warranties. Seller does not make any representations or warranties with respect to any projections, forecasts or forward-looking information provided to Buyer. There is no assurance that any projected or forecasted results will be achieved. EXCEPT AS TO THOSE MATTERS EXPRESSLY COVERED BY THE REPRESENTATIONS AND WARRANTIES IN THIS AGREEMENT, THE SELLER ANCILLARY AGREEMENTS AND THE CERTIFICATES DELIVERED BY SELLER PURSUANT TO Section 7.2, SELLER IS SELLING THE STATIONS AND THE STATION ASSETS ON AN "AS IS, WHERE IS" BASIS AND SELLER DISCLAIMS ALL OTHER WARRANTIES, REPRESENTATIONS AND GUARANTIES WHETHER EXPRESS OR IMPLIED. SELLER MAKES NO REPRESENTATION OR WARRANTY AS TO MERCHANTABILITY, SUITABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE AND NO IMPLIED WARRANTIES WHATSOEVER. Buyer acknowledges that neither Seller nor any of its representatives nor any other Person has made any representation or warranty, express or implied, as to the accuracy or completeness of any memoranda, charts, summaries or schedules heretofore made available by Buyer or its representatives or Affiliates or any other information which is not included in this Agreement or the Schedules hereto, and neither Seller nor any of its representatives nor any other Person will have or be subject to any liability to Buyer, any Affiliate of Buyer or any other Person resulting from the distribution of any such information to, or use of any such information by, Buyer, any Affiliate of Buyer or any of their agents, consultants, accountants, counsel or other representatives. In making its determination to proceed with the transactions contemplated by this Agreement, Buyer and its Affiliates have relied solely on (a) the results of their own independent investigation and (b) the representations and warranties of Seller expressly and specifically set forth in this Agreement and the Seller Ancillary Agreements. Buyer and its Affiliates expressly and specifically disclaim that they are relying upon or have relied upon any representation or warranty of any kind or nature, whether express or implied, not included in this Agreement or any Seller Ancillary Agreement that may have been made by any Person, and acknowledge and agree that Seller expressly and specifically disclaims any such other representations and warranties.


Section 10.15 Non-Recourse Against Financing Sources; Waiver of Certain Claims. Notwithstanding anything to the contrary contained in this Agreement, the parties hereby agree that, subject to the rights of the Buyer under the Commitment Letters and any definitive agreements entered into in connection with the Financing or any alternative financing, (a) no Financing Source shall have

any liability to the Seller or any of its Affiliates or any other Person relating to or arising out of this Agreement, any of the Ancillary Agreements or the Financing or any alternative financing, or any transactions contemplated by, or document related to, the foregoing (including any willful breach thereof, or the failure of the transactions contemplated hereby to be consummated), whether at law or equity, in contract or in tort or otherwise, and (b) none of the Seller or any of its Affiliates shall have any rights or claims whatsoever against any of the Financing Sources under this Agreement, any of the Ancillary Agreements or in connection with the Financing or any alternative financing, or otherwise in respect of any of the other transactions contemplated by any of the foregoing, whether at law or equity, in contract or in tort, or otherwise. The Seller, on behalf of itself and its Affiliates, hereby agrees that none of the Financing Sources shall have any liability or obligations to the Seller or any of its Affiliates relating to this Agreement, any of the Ancillary Agreements or any of the transactions contemplated hereby or thereby (including with respect to the Financing or any alternative financing). The Seller, on behalf of itself and its Affiliates, hereby waives any and all claims and causes of action (whether at law, in equity, in contract, in tort or otherwise) against the Financing Sources that may be based upon, arise out of or relate to this Agreement, any of the Ancillary Agreements, any financing commitment or the transactions contemplated hereby or thereby (including the Financing or any alternative financing). This Section 10.15 shall, with respect to the matters referenced herein, supersede any provision of this Agreement to the contrary and is intended to benefit and may be enforced by the Financing Sources and shall be binding on all successors and assigns of the Seller.


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

SELLER

SCRIPPS MEDIA, INC.

By:   
Name: William Appleton  
Title: Executive Vice President and General Counsel

SCRIPPS FARADAY, INC.

By:   
Name: William Appleton  
Title: Executive Vice President and General Counsel

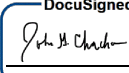


BUYER

INYO BROADCAST HOLDINGS, LLC

DocuSigned by:

By:



Name: John G. Chachas

Title: Authorized Signatory