

## ASSET PURCHASE AGREEMENT

THIS ASSET PURCHASE AGREEMENT (the "**Agreement**") is made as of September 3, 2004 by and between Border Media Partners, LLC, a Delaware limited liability company ("**Buyer**"), on the one hand, and Pecan Radio Partners, Ltd., a Texas limited partnership ("**Pecan**"); Elgin FM Limited Partnership, a Texas limited partnership ("**Elgin**"); Nogales Broadcasting, L.C., a Texas limited liability company ("**Nogales**"); and Dynamic Radio Broadcasting Corp., a Texas corporation ("**Dynamic**") ("**Sellers**", and each of Pecan, Elgin, Nogales and Dynamic, individually, a "**Seller**"), on the other hand.

### WITNESSETH

WHEREAS, Pecan, Elgin, Nogales and Dynamic are the respective licensees of, and own certain assets used or held for use in connection with, the operation of radio broadcast stations KFON(AM), Austin, Texas; KKLB(FM), Elgin, Texas; KTXZ(AM), West Lake Hills, Texas; and KELG(AM), Manor Texas (each a "**Station**" and collectively, the "**Stations**"), pursuant to certain licenses, permits, authorizations and approvals issued by the Federal Communications Commission (the "**FCC**");

WHEREAS, subject to the terms and conditions set forth herein, (i) Sellers desire to assign to Buyer and Buyer desires to acquire from Sellers, the FCC Authorizations (as hereinafter defined) and (ii) Sellers desire to convey to Buyer, and Buyer desires to acquire from Sellers, the businesses of the Stations and their related tangible and intangible assets and properties used, useful or held for use in connection with the operation of the Stations; and

WHEREAS, the FCC Authorizations may not be assigned to Buyer without the prior written consent of the FCC;

NOW, THEREFORE, taking the foregoing into account, and in consideration of the mutual covenants and agreements set forth herein, the parties, intending to be legally bound, hereby agree as follows:

### ARTICLE I

#### SALE AND PURCHASE

Section 1.1      Station Assets. Subject to and in reliance upon the representations, warranties and agreements herein set forth, and subject to the terms and conditions herein contained, Sellers shall grant, convey, sell, assign, transfer and deliver to Buyer on the Closing Date (as hereinafter defined), all of Sellers' rights, title and interest in and to the following assets, properties and rights used, useful or held for use in connection with the business or operation of the Stations together with any additions and improvements between the date of this Agreement and the Closing Date (collectively, the "**Station Assets**");

(a) Licenses and Authorizations. All of the licenses, permits and other authorizations issued by the FCC for or in connection with the operation of the Stations (the "**FCC Authorizations**"), including without limitation those listed or described in **Schedule 1.1(a)** attached hereto, and all applications therefor, together with any renewals, extensions or modifications thereof and additions thereto.

(b) Tangible Personal Property. To the extent not included in the Real Property owned by Sellers hereinafter defined, all tangible personal property of every kind and description used, useful or held for use in the business or operations of the Stations, whether or not such items of tangible personal property are listed or described in **Schedule 1.1(b)**, including without limitation the following: studio, audio processing, tuning and other equipment; electrical devices; antennas; cables; vehicles; furniture; fixtures; improvements; office materials and supplies; office equipment; hardware; tools; spare parts; towers; transmitter facilities; transmitter building and furniture and equipment associated therewith; main and backup transmitters and generators; and STLs (collectively, the "**Tangible Personal Property**").

(c) Real Property. All interests of Sellers as of the date of this Agreement in and to all land, leaseholds, licenses, rights-of-way, easements and other interests of every kind and description in and to all of the real property and buildings, towers, transmitters, antennae, fixtures and improvements thereon, owned by Sellers and used, useful or held for use in connection with the business or operation of the Stations, including without limitation those listed and described on **Schedule 1.1(c)** attached hereto (collectively, the "**Real Property**"), but excluding for all purposes any and all real property owned by Pecan (the "**Pecan Property**"). The parties' rights and interests with respect to the Pecan Property shall be governed in accordance with the lease agreement attached hereto as part of **Schedule 1.1(c)**, which shall be executed by the parties contemporaneously with this Agreement.

(d) Files and Records. Such files and records as are more particularly described and itemized in **Schedule 1.1(d)**, incorporated herein by reference.

(e) Intangible Assets. All rights in and to the intangible assets owned by Sellers and used, useful or held for use in connection with the business or operation of the Stations, including without limitation those listed in **Schedule 1.1(e)** attached hereto, and all other patents, service marks, copyrights, franchises, software, licenses (other than FCC Authorizations), trademarks, trade names, station names, call signs or letters, jingles, slogans, logotypes and other intellectual property owned, used, useful or held for use in connection with the business or operations of the Stations (including any and all common law rights, applications, registrations, extensions and renewals relating thereto) and all goodwill associated therewith (collectively, the "**Intangible Assets**").

(f) Prepaid Expenses. Subject to the provisions of Section 1.7.1, all deposits, reserves and prepaid expenses relating to the Stations and prepaid taxes relating to the Stations or the Station Assets.

(g) Station Agreements. The leases, contracts and agreements listed in **Schedule 1.1(g)** (the "**Assumed Contracts**").

(h) Third-Party Claims. To the extent of any assets purchased, and except (a) for claims relating to taxes, (b) as otherwise provided in **Schedule 1.1(h)**, or (c) for reimbursement of payments already made by Sellers, all rights and claims of Sellers against third parties relating to the Station Assets.

(i) Other Assets. All other assets of Sellers used, useful or held for use in connection with the business or operation of the Stations, other than the Excluded Assets (as hereinafter defined).

Section 1.2 Excluded Assets. The following assets are expressly excluded from the Station Assets to be purchased and sold (collectively, the "**Excluded Assets**"):

- (a) Cash on hand as of the Closing Date;
  - (b) Deposit accounts as of the Closing Date;
  - (c) Accounts receivable of Sellers accruing prior to the Closing Date (the "**Sellers' Accounts Receivable**");
  - (d) Contracts, agreements and leases other than those specified in Section 1.1(g).
  - (e) Sellers' corporate and partnership books and records related to internal matters and financial relationships with Sellers' lenders;
  - (f) Any pension or other employee benefit plans of Sellers;
  - (g) Claims of Sellers that accrue under this Agreement;
  - (h) Any asset of Sellers, real or personal, tangible or intangible, owned or leased, not used, useful or held for use in connection with the operation of the Stations;
  - (i) Pecan's rights, title and interest in and to the Pecan Property;
- and
- (j) Any other assets specifically excluded from the Station Assets under this Agreement.

Section 1.3 Liabilities.

(a) The Station Assets shall be sold and conveyed to Buyer by instruments of conveyance in form reasonably satisfactory to Buyer and free and clear of all mortgages, liens, deeds of trust, security interests, pledges, restrictions, prior

assignments, charges, claims, and encumbrances of any kind or type whatsoever (collectively, "Liens") except for: (i) Liens for real estate taxes not yet due and payable for which Buyer receives a Consideration adjustment under Section 1.7; and (ii) the post-Closing obligations of Sellers which Buyer will assume under the Assumed Contracts ((i) and (ii) collectively, the "**Permitted Encumbrances**").

(b) Unless specifically assumed by Buyer as of an earlier date pursuant to the Local Programming and Marketing Agreement between Buyer and Seller attached hereto as **Schedule 1.3(b)** (the "LMA"), Buyer will assume and agree to pay for, discharge and perform only insofar as they relate to the time period on and after the Closing Date, and arise out of events occurring on or after the Closing Date, all the obligations and liabilities of Seller under the Assumed Contracts. Otherwise, Buyer shall not assume or be liable for, and does not undertake to attempt to, assume or discharge: (i) any liability or obligation of Sellers arising out of or relating to any contract, lease agreement, or instrument; (ii) any liability or obligation of Sellers arising out of or relating to any employee benefit plan or otherwise relating to employment (all employment obligations shall be brought current by Sellers as of the Closing Date, including the payment of all accrued benefits and severance pay and all bonuses, whether or not such benefits or bonuses are due as of the Closing Date); (iii) any liability or obligation of Sellers arising out of or relating to any litigation, proceeding or claim (whether or not such litigation, proceeding or claim is pending, threatened or asserted before, on or after the Closing Date); (iv) any other liabilities, obligations, debts or commitments of Sellers whatsoever, whether accrued now or hereafter, whether fixed or contingent, whether known or unknown; or (v) any claims asserted against the Stations or any of the Station Assets relating to any event (whether act or omission) occurring prior to the Closing Date including, without limitation, the payment of all taxes.

(c) Buyer shall in no event assume any liability or obligation arising (i) from the assignment to Buyer of any contract, lease or agreement in violation of its terms or (ii) from any other breach or default by any Seller upon or prior to Closing under any contract, lease or agreement.

(d) Sellers retain and shall hereafter pay, satisfy, discharge, perform and fulfill all obligations and liabilities not expressly assumed by Buyer hereunder as they become due, without any charge or cost to Buyer, and Sellers agrees to indemnify and hold Buyer and its successors and assigns harmless from and against any and all such liabilities in accordance with the terms of Article IX.

#### Section 1.4      Consideration.

(a) Amount. The consideration to be paid in exchange for (i) the Station Assets; and (ii) the noncompetition and non-solicitation provisions set forth in Section 4.12 hereof (the "**Noncompetition Clause**"), will be an amount equal to the sum of **NINETEEN MILLION DOLLARS (\$19,000,000.00)**, subject to any adjustments hereinafter described (the "**Consideration**"). Nothing in the foregoing sentence shall

preclude the parties from extending the period of time covered by the Noncompetition Clause in exchange for additional consideration should the parties agree to do so in writing.

(b) **Method of Payment.** Upon Closing, the Consideration shall be paid by Buyer in immediately available funds. Sellers shall provide Buyer wire transfer instructions not less than three (3) business days prior to the Closing Date.

(c) **Allocation of Consideration.** Buyer and Sellers will allocate the Consideration in accordance with the respective fair market value of the Station Assets, the Noncompetition Clause, and the goodwill being purchased and sold, in accordance with the requirements of Section 1060 of the Internal Revenue Code of 1986, as amended (the "**Code**"). The allocation shall be determined by mutual agreement of the parties on or before the Closing Date. Buyer and Seller each further agrees to file its federal income tax returns and its other tax returns reflecting such allocation.

Section 1.5      Escrow Deposit. Buyer will fund an escrow deposit (the "**Deposit**") in the amount of One Million Three Hundred Thirty Thousand Dollars (\$1,330,000.00) with International Bank of Commerce (the "**Escrow Agent**") in accordance with the terms of an Escrow Agreement between the parties to be executed on the date hereof and attached as **Schedule 1.5** and to be funded by Buyer as set forth in the Escrow Agreement. The Deposit shall be paid to returned to Buyer, together with any accrued interest, on the Closing Date. If Closing does not take place due to the material breach of Seller, and Buyer is not then in material breach, the Deposit and interest shall be paid to Buyer; if Closing does not take place due to the material breach of Buyer, and Seller is not then in material breach, Seller shall be entitled to liquidated damages of One Million Three Hundred Thirty Thousand Dollars (\$1,330,000.00) in accordance with Section 10.4. The rights and obligations of the parties under this Agreement shall not inure until Buyer has funded the Deposit, at which time this Agreement shall be deemed to be effective; the date on which such funding occurs shall be referred to herein as the "**Effective Date**".

Section 1.6      Closing. The consummation of the sale and purchase of the Station Assets provided for in this Agreement (the "**Closing**") shall take place at San Antonio, Texas: (i) at a date, time and location designated by Buyer that is no later than five (5) days after FCC Consent (as defined in Section 10.9) becomes Final (as defined in Section 10.9); (ii) if the satisfaction or waiver of the last of the closing conditions required to be satisfied or waived pursuant to Articles VI and VII has not occurred as of five (5) days after the FCC Consent becomes Final and the Agreement has not been terminated, then at a date, time and location designated by Buyer that is within five (5) days of the last such satisfaction or waiver; or (iii) at such other place, time or date as the parties may mutually agree upon in writing. The date on which the Closing is to occur is referred to herein as the "**Closing Date**."

Section 1.7      Adjustments.

1.7.1 All pre-paid expenses and deposits, and all expenses for which liability has accrued but whose payment is not yet due as of the Closing Date, including but not limited to (i) such expenses in connection with the Assumed Contracts, advertising agreements, and service agreements, (ii) rents and deposits, (iii) utility deposits and charges, including electricity, water and sewer charges, (iv) business and license fees, including any retroactive adjustments thereof, (v) property and equipment rentals, (vi) applicable copyright or other fees, (vii) sales and service charges, (viii) real and personal property taxes in connection with the Assets, (ix) operating expenses, and (x) similar prepaid and deferred items, and all revenues arising from the operation of the Stations shall be pro-rated and adjusted between Buyer and Sellers in accordance with the principle that except as otherwise provided in this Agreement or the LMA, Sellers shall receive all revenues, and shall be responsible for all expenses, costs, and liabilities allocable to the conduct of the business or operations of the Stations up to 11:59 p.m. on the day before the Closing Date. Buyer shall receive a credit for any unearned portions of advance payments made to Seller pursuant to Section 5 of the LMA. All prorations shall be made in accordance with generally accepted accounting principles. Notwithstanding the foregoing, there shall be no adjustment for, and Sellers shall remain solely liable with respect to, any contract, obligation or liability (including without limitation the obligation to perform under prepaid advertising contracts or trade and barter agreements), other than the Assumed Contracts.

1.7.2 At the conclusion of ninety (90) days from and after the Closing Date, a final adjustment of the items to be pro-rated between Buyer and Sellers pursuant to Section 1.7.1 shall be made. In the event of any disputes between the parties as to such prorations, the amounts not in dispute shall nonetheless be paid at the time provided herein and such disputes shall be determined by an independent certified public accountant mutually acceptable to the parties, and the fees and expenses of such accountant shall be paid one-half by Sellers and one-half by Buyer.

## ARTICLE II

### REPRESENTATIONS AND WARRANTIES OF SELLERS

Each Seller represents and warrants (and, where appropriate, Sellers collectively represent and warrant) to Buyer as follows (as of the Closing Date, such representations and warranties shall be made in accordance with Section 7.1 of this Agreement):

Section 2.1 Status. Each Seller is a corporation, limited liability company or limited partnership, as the case may be, duly organized, validly existing and in good standing under the laws of the jurisdiction of its organization (as first set forth above). Sellers are duly qualified to do business and are in good standing in such states in which the failure to so qualify would have a material adverse effect on the business of the Stations. Sellers have the requisite power to carry on the business of the Stations as it is now being conducted and to own and operate the Stations, and Sellers have the requisite power to enter into and complete the transactions contemplated by this Agreement (the "**Subject Transactions**").

Section 2.2      Authority. All actions necessary to be taken by or on the part of Sellers in connection with the Subject Transactions have been duly and validly taken, and this Agreement has been duly and validly authorized, executed, and delivered by Sellers and constitutes the legal, valid and binding obligation of Sellers, enforceable against Sellers in accordance with its terms. Concurrently with the execution of this Agreement, each Seller shall provide Buyer with a certified copy of the consents and/or resolutions of such Seller's shareholders, directors and officers, or general and limited partners, as the case may be, authorizing such Seller to execute and perform its obligations under this Agreement.

Section 2.3      No Conflict. The execution, delivery and performance of this Agreement and the consummation of the Subject Transactions will not: (a) conflict with or violate the organizational documents of any Seller; (b) except with respect to obligations Sellers will satisfy on or before Closing Date that are listed in **Schedule 2.3**, conflict with or violate or result in any breach of or any default under, result in any termination or modification of, or cause any acceleration of any obligation under, any contract to which any Seller is a party or by which any Seller is bound, or by which the Stations or any of the Station Assets may be affected, or result in the creation of any Lien upon any of the Station Assets; or (c) violate any judgment, decree, order, statute, law, rule or regulation applicable to any Seller, the Stations or any of the Station Assets.

Section 2.4      No Breach. Except as disclosed in **Schedule 2.4**, no Seller is in violation or breach of any of the terms, conditions or provisions of any contract, or any court order, judgment, arbitration award, or decree relating to or affecting the Stations or the Station Assets to which any Seller is a party or by which it is bound.

Section 2.5      Liabilities. Within Sellers' Knowledge, no Seller has any liabilities or obligations relating to the Stations or the Station Assets of any kind or nature, whether known or unknown, due or not yet due, liquidated or unliquidated, fixed, contingent or otherwise, except as set forth on **Schedule 2.5**.

Section 2.6      Taxes. Sellers have timely filed all applicable federal, state, local and foreign tax returns required to be filed, in accordance with provisions of law pertaining thereto, and has paid all taxes, interest, penalties and assessments (including, without limitation, income, withholding, excise, unemployment, Social Security, occupation, transfer, franchise, property, sales and use taxes, import duties or charges, and all penalties and interest in respect thereof) required to have been paid with respect to the Stations or the Station Assets. Sellers have not been advised that any of their returns, federal, state, local or foreign, have been or are being audited.

Section 2.7      Licenses. Sellers are, and as of the Closing Date will be, the holder of the FCC Authorizations as listed and described on **Schedule 1.1(a)**. Complete copies of the FCC Authorizations have been delivered to Buyer. Such FCC Authorizations constitute all of the licenses, authorizations and approvals required under the Communications Act of 1934, as amended (the "**Communications Act**"), and the rules, regulations and published decisions and published policies of the FCC (collectively with the Communications Act, the "**FCC Rules**") for the operation of the Stations.

Other than the FCC Consent, no additional order or grant is required from the FCC in order to consummate the assignment of the FCC Authorizations to Buyer. The FCC Authorizations are validly issued and in full force and effect. The FCC Authorizations have not been revoked, suspended, canceled, rescinded or terminated and have not expired and no Seller has reason to believe that the FCC Authorizations will not be renewed in the ordinary course. The expiration dates for the FCC Authorizations are listed on **Schedule 1.1(a)**. There is not now pending or, within Sellers' Knowledge, threatened any action by or before the FCC to revoke, suspend, cancel, rescind or modify materially any of the FCC Authorizations (other than proceedings of general applicability to the radio broadcast industry). There is not now issued, outstanding, pending or, within Sellers' Knowledge, threatened, by or before the FCC, any order to show cause, notice of violation, notice of apparent liability, or notice of forfeiture or complaint against any Seller with respect to any of the Stations. Sellers shall notify Buyer in writing of any such action, order, notice or complaint and Sellers will take all reasonable measures to contest in good faith or seek removal or rescission of any such action, order, notice or complaint; provided that any such order to show cause, notice of violation, notice of apparent liability, or notice of forfeiture or complaint against any Seller with respect to any of the Stations shall not cause Sellers to be in breach of this Agreement so long as they do not have a materially adverse effect on Buyer or any of the Stations. Each of the Stations is operating at its licensed power level and antenna height and each Seller and each of the Stations is in compliance with the FCC Authorizations and the FCC Rules, except as noted in **Schedule 1.1(a)**.

Section 2.8            Additional FCC Matters.

Except as noted in **Schedule 1.1(a)**:

(a) All material reports and filings required to be filed with the FCC by each Seller with respect to each of the Stations have been timely filed, or, if not timely filed, will be cured by full and adequate filing, same to be completed during a permissive curation period, the duration of which shall be determined by mutual agreement of the parties. All such reports and filings are or will be materially accurate and complete. Seller maintains public files and a main studio for each of the Stations in compliance with FCC Rules. Each Seller is operating only those facilities for which an appropriate FCC Authorization has been obtained and is in effect, and each Seller is meeting the conditions of each such FCC Authorization.

(b) Except for the filing matters set forth in Section 2.8(a) above, each Seller is in compliance with all requirements of the FCC Rules, the Federal Aviation Administration, and any other applicable federal, state or local ordinances.

(c) The operations of the Stations do not cause or result in exposure of workers or the general public to levels of radio frequency radiation in excess of the "Radio Frequency Protection Guides" recommended in "American National Standard Safety Levels with Respect to Human Exposure to Radio Frequency Electromagnetic Fields 300 kHz to 100 GHz" (ANSI/IEEE C95.1-1992), issued by the American National Standards Institute, and renewal of the FCC Authorizations would not

constitute a "major action" within the meaning of Section 1.1301, et seq., of the FCC Rules.

(d) Each Seller is qualified to assign the FCC Authorizations that it holds. No Seller knows of any party that has expressed any intention to oppose FCC approval of the assignment of the FCC Authorizations and no Seller knows of any reason why the FCC Consent might be delayed or denied.

Section 2.9      Station Assets. **Schedule 1.1(b)** contains a description of all items of Tangible Personal Property having an original cost in excess of \$1,000. Sellers will as of the Closing Date have good, valid and marketable title to all of the Station Assets, free and clear of all Liens (other than Permitted Encumbrances). Each item of Tangible Personal Property including, without limitation, all equipment and electrical devices, is in normal operating condition and repair, normal wear and tear excepted, is free from material defect and damage, is functioning in the manner and for the purposes for which it was intended, has been maintained in accordance with industry standards and FCC Rules, and does not require any repairs other than normal routine maintenance. Other than as disclosed in **Schedule 2.4**, there is no pending or threatened action, event, transaction or proceeding that could interfere with the quiet enjoyment or operation of the Station Assets by any Seller prior to the Closing Date or by Buyer on or after the Closing Date. The Station Assets and the Pecan Property include all the personal property and assets necessary to conduct the operation of the Stations as now conducted.

Section 2.10      Real Property. Except as disclosed in **Schedule 2.10**: (i) the Real Property (whether owned or leased) comprises all interests in real property necessary to conduct the business or operations of the Stations as now conducted (except for the Pecan Property); and (ii) Buyer will have on and after the Closing Date reasonable access to the transmitter sites for the Stations and a continuous means of ingress and egress thereto from public roads, subject to the terms of the relevant Leases (as hereinafter defined). All towers and equipment pertaining thereto, including without limitation guy wires and ground radials, are located on the Real Property.

(a) A list and copy of each of the leases for all Real Property that Seller uses in connection with the business or operation of the Stations is attached hereto as **Schedule 2.10(a)** (the "**Leases**"). The copies of the Leases are complete and correct in all material respects. Sellers hold, subject to the limitations set forth in **Schedule 2.10(a)**, and as of the Closing Date Sellers will hold, a valid and freely assignable leasehold interest for each of the Leases, in each case free and clear of any Liens except Permitted Encumbrances. Each of the Leases is in full force and effect on the terms set forth therein and has not been modified, amended or altered, in writing or otherwise except as disclosed in **Schedule 2.10(a)**. No Seller is in material default under or, unless disclosed in **Schedule 2.10(a)**, in arrears in the payment of any sum or in the performance of any obligation required of it under any of the Leases, and no circumstance presently exists which, with notice or the passage of time, or both, would give rise to a default by any Seller except as such as will not materially detract from the

marketability or value of the Real Property and does not impair the operations of the lessee thereof in any material respect.

(b) Within Sellers' Knowledge, Sellers' improvements upon and the use of the Real Property conform in all material respects to all restrictions, restrictive covenants, building codes, fire regulations, building restrictions, and federal, state and local laws, regulations and ordinances. The Real Property is zoned for the various purposes for which it is currently being used by each Seller and there are no outstanding variances or special use permits affecting the Real Property or the current uses thereof. Sellers' improvements on the Real Property are in good working condition and repair, normal wear and tear excepted. There is no pending or, to within any Seller's Knowledge, threatened or contemplated action to take by eminent domain or otherwise to condemn the Real Property. No Seller has received notice of any pending or threatened special assessment or reassessment of all or any portion of any of the Real Property. No Seller has received notice from any insurance company of any material defects or inadequacies in the Real Property or any part thereof, which would materially, adversely affect the insurability of the same or of any termination or threatened termination of any policy of insurance. No Seller has received and no Seller is aware of any complaint against the Stations relating to the Real Property, including without limitation the towers, transmitters, antennas, transmitter buildings, or the signals broadcast or otherwise transmitted. Each tower has been appropriately registered with the FCC.

Section 2.11      Environmental Matters.

(a) As used herein, (i) the term "**Environmental Laws**" shall mean any and all state, federal, and local statutes, regulations, ordinances, and the common law relating to the protection of human health and the environment, and (ii) the term "**Hazardous Material**" shall mean any hazardous or toxic substance, material, or waste including, without limitation, those substances, materials, pollutants, contaminants and wastes listed in the United States Department of Transportation Hazardous Materials Table (49 C.F.R. Section 172.101) or by the United States Environmental Protection Agency as hazardous substances (40 C.F.R. Part 302 and amendments thereto), petroleum products (as defined in Title I to the Resource Conservation and Recovery Act, 42 U.S.C. Section 6991-6991(i)) and their derivatives, and such other substances, materials, pollutants, contaminants and wastes as become regulated or subject to cleanup authority under any Environmental Laws.

(b) Each Seller represents and warrants that:

(i) Within Sellers' Knowledge, all activities of the Stations or of any Seller with respect to the Stations and the Real Property have been and are being conducted in compliance with all federal, state and local statutes, ordinances, rules, regulations and orders, as well as all requirements of common law concerning those activities, repairs or construction of any improvements, manufacturing processing and/or handling of any materials, and discharges to the air, soil, surface water or groundwater;

(ii) No Seller has any Knowledge of the release or presence of any Hazardous Material on, in, from or onto the Real Property;

(iii) No Seller has generated, manufactured, refined, transported, stored, handled, disposed of or released any Hazardous Material on the Real Property, nor has any Seller or any of the Stations permitted the foregoing;

(iv) No Seller has received any notice of any violation of any Environmental Laws;

(v) no action has been commenced or threatened regarding any Seller's compliance with any Environmental Laws;

(vi) within Sellers' Knowledge no tanks used for the storage of any Hazardous Material above or below ground are present or were at any time present on or about the Real Property;

(vii) no action has been commenced or, within Sellers' Knowledge, threatened regarding the presence of any Hazardous Material on or about the Real Property;

(viii) Within Sellers' Knowledge, no Hazardous Materials are present in any medium in the operations of the Stations (or of any Seller with respect to the Stations) and/or at the Real Property in such a manner as may require investigation or remediation under any applicable law;

(ix) Within Sellers' Knowledge, no polychlorinated biphenyls or substances containing polychlorinated biphenyls are present on the Real Property; and

(x) Within Sellers' Knowledge, no friable asbestos is present in the operations of the Stations and/or on the Real Property.

(c) Within forty-five (45) days of execution of this Agreement, Buyer shall have the right to conduct a Phase I audit of the Real Property and take soil and water samples (including groundwater samples) from the Real Property, and to test and analyze those samples to determine the extent of any contamination of the soils and water (including groundwater) on or about the Real Property. If, based on the results of the Phase I audit or the inspections and/or tests, Buyer determines that the condition of any of the Real Property is unsatisfactory or would expose Buyer to undue risks of government intervention or third party liability, Buyer may, without any liability owing to Seller, terminate this Agreement.

Section 2.12      Absence of Litigation. Except as set forth in **Schedule 2.12** or non-public matters of which no Seller has any Knowledge, there is no investigation, claim, arbitration or litigation pending or, within Sellers' Knowledge, threatened against, affecting or involving the Station Assets, the Stations, or the business or operation of the Stations, or the Subject Transactions, before or by any court, arbitrator or other governmental authority that could reasonably be expected to have a materially adverse effect on the business or operation of the Stations, and the Stations are not operating under or subject to an order, award, judgment, writ, decree, determination or injunction of any court, arbitrator or governmental authority.

Section 2.13      Intellectual Property. No Seller has received any notice to the effect that its use of the Intangible Assets infringes on any intellectual property right of another. Sellers have the right pursuant to the FCC Rules to use the call letters used by the Stations.

Section 2.14      Contracts. Prior to the date hereof, Sellers have provided Buyer with copies of the Assumed Contracts (and will promptly provide Buyer with copies of any additional agreements Seller enters into between the date hereof and the Closing Date). Each Assumed Contract is in full force and effect, and constitutes a legal, valid, and binding obligation of, and is legally enforceable against at least one of the Sellers. Except as disclosed in **Schedule 2.14**: (i) Sellers have complied in all material respects with the provisions of such Assumed Contracts and are not in material default thereunder and there has not occurred any event which (whether with or without notice or lapse of time) would constitute a material default thereunder by any Seller; (ii) there has not been any threatened cancellation of any Assumed Contract or any outstanding dispute thereunder; and (iii) all material Assumed Contracts are assignable to and may be assumed by Buyer.

Section 2.15      Employee Matters. Sellers are in compliance with all applicable laws and regulations relating to employment at the Stations. There are no collective bargaining agreements, and no employment agreements between any Seller and its employees or professional service contracts not terminable at will. The consummation of the Subject Transactions will not cause Buyer to incur or suffer any liability relating to, or obligation to pay, severance, termination, or other payments to Sellers' employees or their heirs, assigns or beneficiaries arising out of the employees' employment by Sellers, or any liability under any employee benefit plans for any period in which Sellers' employees were employed by Sellers.

Section 2.16      Insurance. Sellers maintain the insurance set forth in **Schedule 2.16** covering the Station Assets. All such policies are in full force and effect and Sellers shall use their best efforts to continue insurance at the present limits in full force and effect through the Closing Date.

Section 2.17      Insolvency. No insolvency proceedings of any character including, without limitation, bankruptcy, receivership, reorganization, composition or arrangement with creditors, voluntary or involuntary, affecting any Seller or any of the Stations is pending or, within Sellers' Knowledge, threatened.

Section 2.18      Bulk Sales. Neither the sale and transfer of the Station Assets pursuant to this Agreement, nor Buyer's possession and use thereof from and after Closing because of such sale and transfer, will be subject to any law pertaining to bulk sales or transfers or imposing liability upon Buyer for appraisal or liability owing to Sellers.

Section 2.19      Brokers. There is no broker or finder or other person entitled to a commission or brokerage fee or payment in connection with this Agreement or the Subject Transactions as a result of any agreement of, or action taken by, Sellers other than Sellers' agreement, at Closing, to pay all fees due to American Media Services brokerage firm with respect to the Subject Transactions.

Section 2.20      Disclosure. No provision of this Agreement relating to any Seller, the Stations or the Station Assets or any other document, Schedule, Exhibit or other written information furnished by Sellers to Buyer in connection with the execution, delivery and performance of this Agreement, or the consummation of the Subject Transactions, contains or will contain any untrue statement of a material fact or omits or will omit to state a material fact required to be stated in order to make the statement, in light of the circumstances in which it is made, not misleading. Sellers will disclose to Buyer any fact known to Sellers which Sellers know or believe would affect Buyer's decision to proceed with the execution and/or consummation of this Agreement.

Section 2.21      Knowledge Defined. An individual will be deemed to have "**Knowledge**" of a particular fact or other matter if:

(a) Such individual is actually aware of such fact or other matter;  
or

(b) A prudent individual could be expected to discover or otherwise become aware of such fact or other matter in the course of conducting a reasonably comprehensive investigation concerning a particular fact or other matter of which such individual is actually aware.

An entity shall be deemed to have Knowledge of a particular fact or other matter if any individual who is serving, or who has at any time served, as a director, officer, manager, employee, partner, executor, or trustee of such entity (or in any similar capacity) has, or at any time had, Knowledge of such fact or other matter.

### ARTICLE III REPRESENTATIONS AND WARRANTIES OF BUYER

Buyer represents and warrants to Sellers:

Section 3.1      Status. Buyer is a Delaware limited liability company which is duly organized, validly existing and in good standing under the laws of the State of Delaware and qualified to do business in Texas. Buyer has the requisite power to enter into and complete the Subject Transactions.

Section 3.2      No Conflicts. Neither the execution, delivery and performance by Buyer of this Agreement nor the consummation by Buyer of the Subject Transactions will: (a) conflict with or violate the certificate of incorporation, bylaws or operating agreement of Buyer; or (b) violate any judgment, decree, order, statute, rule or regulation applicable to Buyer.

Section 3.3      Company Action. All company actions necessary to be taken by or on the part of Buyer in connection with the Subject Transactions have been duly and validly taken, and this Agreement has been duly and validly authorized, executed and delivered by Buyer and constitutes the legal, valid and binding obligation of Buyer, enforceable against Buyer in accordance with and subject to its terms.

Section 3.4      Qualification. Buyer is qualified under the FCC Rules to acquire the Stations and to hold the FCC Authorizations.

Section 3.5      Brokers. There is no broker or finder or other person entitled to a commission or brokerage fee or payment in connection with this Agreement or the Subject Transactions as a result of any agreement of, or action taken by, Buyer.

Section 3.6      No Additional Representations. Buyer acknowledges that, except for the express representations and warranties of Sellers contained in this Agreement, neither Sellers nor any other person or entity has made any representation or warranty, express or implied, as to the accuracy or completeness of any information regarding the Stations, Station Assets, the Assumed Contracts or any potential modification, change or adjustment to the Stations' towers, antennas, allocations, or broadcast transmission sites or any potential auxiliary broadcast sites, except as expressly set forth in this Agreement, including any implied representation or warranty as to the maintenance, repair, condition, quality, suitability, design, marketability, merchantability, fitness for a particular purpose or conformity to models or samples of any of the Station Assets and that, EXCEPT FOR SELLERS' EXPRESS REPRESENTATIONS AND WARRANTIES CONTAINED IN THIS AGREEMENT: (i) BUYER TAKES THE STATION ASSETS ON AN "AS IS" AND "WHERE IS" BASIS, WITH ALL FAULTS; (ii) SELLERS EXPRESSLY DISCLAIM ANY REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, AS TO THE MAINTENANCE, REPAIR, CONDITION, QUALITY, SUITABILITY, DESIGN OR MARKETABILITY OF THE ASSETS; AND (iii) SELLER FURTHER DISCLAIMS ANY REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR CONFORMITY TO MODELS OR SAMPLES OF ANY OF THE ASSETS. Except with respect to the information provided in this Agreement and the Schedules and Exhibits hereto and any other documents that are provided by Sellers to Buyer, Buyer further agrees that neither Sellers nor any other person or entity will have or be subject to any liability to Buyer or any other person resulting from the

distribution to Buyer, or Buyer's use of, any information, statement, document, or material made available to Buyer, including discussions with any agent, employee, officer, director, partner, attorney or advisor of Sellers, or in any other form in expectation of the transactions contemplated by this Agreement.

## ARTICLE IV

### COVENANTS OF SELLER

Each Seller covenants and agrees that from the date hereof until the completion of the Closing:

#### Section 4.1      Operation of the Business.

(a) Sellers shall operate the Stations in accordance with the terms of the FCC Authorizations and in compliance with all applicable laws, rules and regulations, including without limitation the FCC Rules. Sellers shall maintain the FCC Authorizations in full force and effect and shall timely file and prosecute any necessary applications for renewal of the FCC Authorizations. Sellers will deliver to Buyer, within ten (10) business days after filing, copies of any reports, applications or responses to the FCC related to the Stations.

(b) Sellers shall not, by any act or omission, cause any of the representations and warranties set forth in Article II to become untrue or incorrect, shall satisfy or cause to be satisfied the conditions to Closing set forth in Article VII, and shall ensure that the Subject Transactions shall be consummated as set forth herein.

(c) Prior to the Closing Date, Sellers shall not, without the prior written consent of Buyer, apply to the FCC for any construction permit that would restrict the present operations of any of the Stations or, except in the Ordinary Course of Business, make any change in any of the buildings, leasehold improvements or fixtures of the Stations.

(d) Except as modified by an LMA, Seller shall carry on the business and activities of the Stations in the Ordinary Course of Business, including without limitation: (i) paying or otherwise satisfying all obligations (cash and barter) with regard to the Stations as they come due and payable in the Ordinary Course of Business; (ii) maintaining all Station Assets in customary repair, order and condition in the Ordinary Course of Business; (iii) maintaining books of account, records, and files in substantially the same manner as heretofore maintained in the Ordinary Course of Business; (iv) maintaining employment, staffing, and promotion levels in the Ordinary Course of Business; (v) using commercially reasonable efforts to preserve in the Ordinary Course of Business good relations with third parties such as parties to the Assumed Contracts, lessors, advertisers, clients, service providers, owners of properties adjacent to the Stations' transmitter site, and municipalities; and (vi) limiting prepaid expenses to the Ordinary Course of Business. For the purposes of this Agreement, "**Ordinary Course of Business**" shall mean, with respect to Sellers and the Stations, a course of business

consistent with past practices of Sellers and the Stations for the twelve (12) months prior to the date hereof.

Section 4.2      Access to Facilities, Employees, Files and Records.

Upon the Effective Date and thereafter, at the request of Buyer, Sellers shall from time to time give or cause to be given to the officers, employees, accountants, counsel, agents, consultants and representatives of Buyer: (a) reasonable access during normal business hours to those books and records identified and itemized in Section 1.1(d) hereof (and the Schedule thereto); and (b) reasonable access to Sellers' employees to permit the timely commencement of the LMA. In providing all such information, Sellers shall be deemed to have represented and warranted the information to be, in all material respects, correct, complete and fully responsive to Buyer's request therefor. Any investigation or examination by Buyer shall not in any way diminish, waive or obviate any representations or warranties of Sellers made in this Agreement. Sellers shall cause its accountants and any agent of any Seller in possession of Sellers' books and records to cooperate with Buyer's requests for information pursuant to this Agreement.

Section 4.3      Confidentiality. This Agreement and the warranties, representations, obligations and covenants of the Seller, in all events, shall remain subject to the terms and conditions of that certain Confidentiality Agreement, a true and correct copy of which is attached to this Agreement as **Schedule 4.3** and incorporated herein by reference.

Section 4.4      Encumbrances. Each Seller shall satisfy all liabilities associated with, and obtain discharges of, all mortgages, security interests, liens and similar claims by third parties encumbering the Station Assets (other than Permitted Encumbrances) at or prior to the Closing Date.

Section 4.5      Insurance. Sellers shall use best efforts to maintain in full force and effect casualty, liability, and other insurance policies through the Closing Date in amounts not less than those in effect on the date hereof. Sellers will use the proceeds of any claims for loss payable under such insurance policies to repair, replace, or restore any of the Station Assets destroyed by fire and other casualties to their former condition as soon as possible after the loss.

Section 4.6      Notifications. Upon receiving or learning of any violation, order to show cause, notice of violation, notice of apparent liability, forfeiture, or written complaint relating to any of the Stations, the FCC Authorizations or the FCC Rules, or any material violations under any other applicable laws and regulations, Sellers shall promptly notify Buyer and, at Sellers' expense, use best efforts to cure all such violations prior to the Closing Date.

Section 4.7      Interruption in Broadcast Operations. Sellers shall promptly notify Buyer in writing if any of the Stations ceases to broadcast at its authorized power for more than twelve (12) consecutive hours. Such notice shall specify the reason or reasons for such cessation and the corrective measures taken or to be taken by Sellers.

Section 4.8      Consents. Sellers shall: (i) obtain any third party consents that are required by the agreements listed in **Schedule 1.1(g)**; and (ii) obtain any third party consents that are required by the terms of relevant agreements with a third party to assign to Buyer the material Station Assets.

Section 4.9      Updating. Sellers shall at reasonable intervals following the date hereof use reasonable efforts to provide Buyer with documentation regarding any material changes to the Schedules hereto.

Section 4.10      Actions. Sellers shall take all reasonable efforts to fulfill the conditions in Article VII, and to cause the Subject Transactions to be fully carried out.

Section 4.11      Applications for FCC Consent. Sellers will cooperate with Buyer to file, within ten (10) days after the date of this Agreement, one or more applications with the FCC requesting the FCC's written consent to the assignment of the Stations' FCC Authorizations to Buyer and for the consummation of the Subject Transactions (the "**Applications**"). Sellers will diligently take, or cooperate in the taking of, all steps that are necessary, proper or desirable to expedite the prosecution of the Applications to a favorable conclusion. Seller will promptly provide Buyer with copies of any pleading, order or other document served on it relating to the Applications. In the event that Closing occurs prior to a Final FCC Consent, then Sellers' obligations under this Section 4.11 shall survive the Closing, if necessary, until there is a Final FCC Consent. Notwithstanding anything herein to the contrary, Sellers shall cooperate with Buyer with respect to the filing and prosecution of any application(s) for FCC consent to modifications of the Stations' facilities that would not have an adverse effect on those facilities or that would not be implemented by Buyer until after the Closing.

Section 4.12      Noncompetition and Nonsolicitation.

(a) For a period of three (3) months following the execution of this Agreement, neither Sellers nor Jose Jaime Garcia Jr. shall, directly or indirectly, be employed or retained by, own, manage, control or be connected with, in any capacity whatsoever, whether as an officer, director, shareholder, partner, associate, employee, owner, consultant, provider of professional services or otherwise, any business that owns or operates any radio station that broadcasts Spanish language or bilingual programming in any counties located in the Area of Dominant Influence (as defined by Arbitron) corresponding to the counties in which any of the Stations operates; provided, however, that nothing in this Section 4.12(a) shall preclude Jose Jaime Garcia Jr. from owning stock in any company publicly traded on the U.S. securities markets.

(b) For a period of three (3) months following the execution of this Agreement, neither Sellers nor Jose Jaime Garcia Jr. shall, directly or indirectly, encourage, discuss, solicit, entertain, negotiate, consider, offer or accept any proposals for any radio station that broadcasts Spanish language or bilingual programming in any counties located in the Area of Dominant Influence (as defined by Arbitron) corresponding to the counties in which the any of the Stations operates.

(c) Neither Sellers nor Jose Jaime Garcia Jr. shall, directly or indirectly, by any means or devices whatsoever, in any individual or representative capacity: (i) solicit, recruit or otherwise induce or attempt to induce any full-time employees of any of the Stations to leave their employment at the Stations; (ii) intentionally interfere with or disrupt the relationship between the full-time employees of the Stations and any subsequent owner of the Stations or any of such owner's affiliates; or (iii) engage in any conduct, verbal or otherwise, intended to disparage or harm the reputation of the Stations or any subsequent owner of the Stations or any of such owner's affiliates, or any of their assets or businesses, including without limitation any negative statements made verbally or in writing or electronically. The provisions of the foregoing sentence shall apply: (x) with respect to any radio station that any Seller or Jose Jaime Garcia Jr. is associated with in any capacity whatsoever, for a period of twelve (12) months following execution of the Agreement; and (y) with respect to any other business that any Seller or Jose Jaime Garcia is associated with in any capacity whatsoever; for a period of six (6) months following execution of the Agreement; provided, however, that nothing contained in this Section 4.12(c) is intended to prevent any Seller or Jose Jaime Garcia at any time from hiring an individual whose employment at the Stations ends for reasons not resulting from Sellers' or Jose Jaime Garcia Jr.'s actions under clauses (i), (ii) or (iii) of the foregoing sentence; provided, further, that the provisions of this Section 4.12(c) shall not apply with respect to that certain employee identified in **Schedule 4.12(c)**, incorporated herein by reference.

(d) The provisions of this Section 4.12 shall survive (and shall not be affected by) the Closing for the periods of time set forth herein.

Section 4.13      Lease for Pecan Property. Concurrently with the Closing, Pecan agrees to execute the lease attached hereto as **Schedule 4.13** (the "**Pecan Property Lease**"), which shall permit Buyer the non-exclusive right to utilize the Pecan Property, as set forth in the Pecan Property Lease.

Section 4.14      Notice of Proceedings. Sellers will promptly notify Buyer in writing upon: (a) becoming aware of any order or decree or any complaint praying for an order or decree restraining or enjoining the consummation of this Agreement or the Subject Transactions; or (b) receiving any notice from any governmental department, court, agency or commission of its intention (i) to institute an investigation into, or institute a suit or proceeding to restrain or enjoin, the consummation of this Agreement or the Subject Transactions, or (ii) to nullify or render ineffective this Agreement or the Subject Transactions if consummated.

Section 4.15      Negative Covenants. Pending and prior to the Closing, Sellers will not, without the prior written consent of Buyer, which consent Buyer may grant or withhold in its sole discretion, do or agree to do any of the following, as such actions relate to the Stations or the Station Assets:

(a) Dispositions; Mergers. Sell, assign, lease or otherwise transfer or dispose of any of the Station Assets other than in the Ordinary Course of

Business, give up Sellers' control of the FCC Authorizations, or merge or consolidate with or into any other entity or enter into any contracts relating thereto.

(b) Encumbrances; Additional Agreements. Create or assume any Lien on any of the Station Assets, whether now owned or hereafter acquired, unless discharged or terminated and fully released prior to the Closing Date; acquire or enter into any additional agreements except in the Ordinary Course of Business; or renew, extend, amend, alter, modify, replace or otherwise change any Assumed Contract, except in the Ordinary Course of Business.

(c) Contract Terminations. Subsequent to the date of this Agreement, do or omit to do any act (or permit such action or omission) which will cause the termination of any material contract or lease, other than in the case of Sellers purchasing or replacing a Station Asset with a comparable asset, to which any Seller is a party or by which any Seller is bound and will notify Buyer immediately of any threat by any Seller or a third party to terminate any such material contract or lease.

(d) Actions Affecting FCC Licenses. Change the call sign of any of the Stations, modify the facilities of any of the Stations, take or fail to take any action that affects Sellers' compliance with the FCC Rules or jeopardizes the validity or enforceability of or rights under the FCC Authorizations or, other than in the Ordinary Course of Business, take or fail to take any action under any contract where such action or inaction, as the case may be, would have a material adverse effect on the FCC Authorizations.

(e) Inconsistent Actions. Take any other action inconsistent with Sellers' obligations under this Agreement or which could hinder or delay the consummation of the transactions contemplated by this Agreement.

## ARTICLE V

### COVENANTS OF BUYER

Buyer covenants and agrees that from the date hereof until the completion of the Closing:

Section 5.1      Application for FCC Consent. Buyer will cooperate with Sellers to file, within ten (10) days after the date of this Agreement, the Applications. Buyer will diligently take, or cooperate in the taking of, all steps that are necessary, proper or desirable to expedite the prosecution of the Applications to a favorable conclusion. Buyer will promptly provide Sellers with copies of any pleading, order or other document served on it relating to the Application. In the event that Closing

occurs prior to a Final FCC Consent, then Buyer's obligations under this Section 5.1 shall survive the Closing if necessary, until there is a Final FCC Consent.

Section 5.2      Consummation of Agreement. Buyer shall satisfy or cause to be satisfied the conditions to Closing set forth in Article VI, and shall ensure that the Subject Transactions shall be consummated as set forth herein.

Section 5.3      Notice of Proceedings. Buyer will promptly notify Sellers in writing upon: (a) becoming aware of any order or decree or any complaint praying for an order or decree restraining or enjoining the consummation of this Agreement or the Subject Transactions; or (b) receiving any notice from any governmental department, court, agency or commission of its intention (i) to institute an investigation into, or institute a suit or proceeding to restrain or enjoin, the consummation of this Agreement or the Subject Transactions, or (ii) to nullify or render ineffective this Agreement or the Subject Transactions if consummated.

Section 5.4      Confidentiality. This Agreement and the warranties, representations, obligations, and covenants of the Buyer, in all events, shall remain subject to the terms and conditions of that certain Confidentiality Agreement, a true and correct copy of which is attached to this Agreement as **Schedule 4.3** and incorporated herein by reference.

## ARTICLE VI

### CONDITIONS TO THE OBLIGATIONS OF SELLER

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

Section 6.1      Representations, Warranties and Covenants.

(a) Each of the representations and warranties of Buyer contained in this Agreement shall have been true and correct in all material respects as of the date when made and shall be deemed to be made again on and as of the Closing Date and shall then be true and correct in all material respects, except to the extent changes are permitted or contemplated pursuant to this Agreement.

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

(c) Buyer shall have furnished Sellers with a certificate, dated the Closing Date and duly executed by an officer of Buyer authorized on behalf of Buyer to give such a certificate, to the effect that the conditions set forth in Section 6.1(a) and Section 6.1(b) have been satisfied.

Section 6.2      Proceedings.

(a) Neither Sellers nor Buyer shall be subject to any restraining order or injunction restraining or prohibiting the consummation of the Subject Transactions.

(b) In the event such a restraining order or injunction is in effect, this Agreement may not be abandoned by Sellers pursuant to this Section 6.2 prior to the Termination Date, but the Closing shall be delayed during such period. Buyer shall take all reasonable steps to have any such order dissolved or terminated in order to effectuate the Closing.

Section 6.3      Governmental Authorizations. The FCC shall have issued its approval of the Applications without any conditions materially adverse to Sellers and the Subject Transactions shall have been approved by all other governmental authorities whose approval is required.

Section 6.4      Deliveries. Buyer shall have complied with each of its obligations set forth in Section 8.2.

ARTICLE VII

CONDITIONS TO THE OBLIGATIONS OF BUYER

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

Section 7.1      Representations, Warranties and Covenants.

(a) Each of the representations and warranties of Sellers contained in this Agreement or in any documents delivered pursuant hereto shall be true and correct in all material respects on and as of the Closing Date except to the extent changes are permitted or contemplated pursuant to this Agreement, it being understood that for purposes of this Section 7.1(a), the representations and warranties of Sellers shall mean such representations of Sellers after disregarding all Knowledge qualifications of Sellers. Sellers shall use commercially reasonable efforts to identify any litigation to which any Seller is a party that is pending as of the Closing Date.

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

(c) Sellers shall have furnished Buyer with a certificate, dated the Closing Date and duly executed by a signatory of each Seller duly authorized to give such a certificate, to the effect that the conditions set forth in Section 7 have been satisfied.

Section 7.2      Proceedings.

(a) Neither Sellers nor Buyer shall be subject to any restraining order or injunction restraining or prohibiting the consummation of the Subject Transactions.

(b) In the event such a restraining order or injunction is in effect, this Agreement may not be abandoned by Buyer pursuant to this Section 7.2 prior to the Termination Date, but the Closing shall be delayed during such period. Sellers shall take all reasonable steps to have any such order dissolved or terminated in order to effectuate the Closing.

Section 7.3      Consents.

(a) Sellers shall have obtained on or prior to the Closing Date all consents, estoppels, authorizations or approvals necessary to release Liens relating to, and effect valid assignments to Buyer of, the Station Assets, including without limitation the assignment of the Assumed Contracts and estoppel certificates reasonably satisfactory to Buyer from the lessors of leased Real Property, but excepting the FCC Consent (which shall be governed by Section 7.4).

(b) The execution and delivery of each of the documents Sellers are obligated to provide under this Agreement, the fulfillment of and the compliance with the respective terms and provisions of each, and the consummation of the transactions described in each, do not and will not (i) conflict with or violate any law, regulation, order, award, judgment, injunction or decree applicable to or affecting any Seller, the Station Assets or any of the Stations, (ii) conflict with or result in any breach of or constitute a default (or an event which with notice or lapse of time or both would become a default) under any contract to which any Seller is a party or by which any Seller is bound or to which any of the Station Assets or any of the Stations is subject or affected (except with respect to consents of third parties referred to in Section 7.3.(a)), or result in the creation of any Lien upon the Station Assets, or (iii) conflict with or violate any provision of Sellers' organizational documents, except, in each case, as would not materially affect Buyer's ability to consummate Subject Transactions.

Section 7.4      Governmental Authorizations. The FCC shall have issued its approval of the Applications and such FCC Consent shall have become Final, without any conditions materially adverse to Buyer, and the Subject Transactions shall have been approved by all other governmental authorities whose approval is required.

Section 7.5      Absence of Litigation. Except as disclosed in **Schedule 2.12** and except for litigation against Buyer or litigation to the extent that it is based on actions or inactions of Buyer, there shall be no investigation, claim, arbitration or litigation pending against, affecting or involving the Station Assets, the Stations, or the business or operation of the Stations, or the Subject Transactions, before or by any court, arbitrator or other governmental authority, and none of the Stations shall be operating under or subject to an order, award, judgment, writ, decree, determination or injunction of

any court, arbitrator or governmental authority. There shall be no insolvency proceedings of any character pending against or involving any Seller, the Station Assets, any of the Stations or the business or operation of any of the Stations, and no Seller shall have taken any action in contemplation of, or that would constitute the basis for, the institution of any such insolvency proceedings.

Section 7.6      Pecan Property Lease. Pecan shall have entered into the Pecan Property Lease.

Section 7.7      Simultaneous Closings. Buyer shall not be obligated to close or consummate this Agreement with respect to any one Station unless there is a Closing with respect to all of the Stations simultaneously.

Section 7.8      Deliveries. Sellers shall have complied with each and every one of their obligations set forth in Section 8.1.

## ARTICLE VIII

### ITEMS TO BE DELIVERED AT THE CLOSING

Section 8.1      Deliveries by Sellers. At the Closing, Sellers shall deliver (or cause to be delivered) to Buyer the following documents and instruments of conveyance and assignment, in each case reasonably satisfactory in form and substance to Buyer and its counsel and duly executed by each Seller or such other signatory as may be required by the nature of the document:

(a) bills of sale, certificates of title, endorsements, assignments, consents and other good and sufficient instruments of sale, conveyance, transfer and assignment sufficient to sell, convey, transfer and assign the FCC Authorizations, the Assumed Contracts, and the Station Assets to Buyer free and clear of any Liens (other than Permitted Encumbrances) and to quiet Buyer's title thereto;

(b) certified copies of the consents and/or resolutions of the shareholders, directors and officers, or the general and limited partners, as the case may be, of each Seller, which shall be in full force and effect at the time of the Closing, authorizing the execution, delivery and performance by each Seller of this Agreement, and the consummation of the Subject Transactions;

(c) the certificate referred to in Section 7.1(c);

(d) all consents and estoppel certificates required pursuant to this Agreement;

(e) an opinion of Sellers' corporate counsel in a form reasonably satisfactory to Buyer's counsel; and an opinion of Sellers' FCC counsel substantially in the form of **Schedule 8.1(e)**;

(f) to the extent not previously transferred, the files, records and other information referenced in Section 1.1(d);

(g) payment to Buyer for the advance payments for services to be provided by the Stations after the Closing Date and proof of prepaid expenses made by Sellers for services to be provided to the Stations after the Closing Date, in each case as referenced in Section 1.1(f);

(h) written instructions by Sellers to terminate the Escrow Agreement and deliver the Escrow Deposit and the interest thereon to Buyer

(i) an executed copy of the Pecan Property Lease; and

(j) such other documents to be delivered by Sellers hereunder necessary for Buyer to effectuate and document the Subject Transactions.

Section 8.2 Deliveries by Buyer. At Closing, Buyer shall deliver to Sellers in a form reasonably agreeable to Seller and its counsel:

(a) the Consideration, which shall be paid in the manner specified in Section 1.4;

(b) an instrument or instruments of assumption of the Assumed Contracts and Real Property leases to be assumed by Buyer pursuant to this Agreement;

(c) certified copies of resolutions, duly adopted by the managers of Buyer, which shall be in full force and effect at the time of the Closing, authorizing the execution, delivery and performance by each Buyer of this Agreement and the consummation of the Subject Transactions;

(d) the certificate referred to in Section 6.1(c);

(e) such other documents to be delivered by Buyer hereunder necessary for Sellers to effectuate and document the Subject Transactions;

(f) an executed copy of the Pecan Property Lease; and

(g) written instructions by Buyer to terminate the Escrow Agreement and deliver the Escrow Deposit and the interest thereon to Buyer.

## ARTICLE IX

### SURVIVAL; INDEMNIFICATION

Section 9.1      Survival. All representations, warranties, covenants and agreements contained in this Agreement, or in any certificate, agreement, or other document or instrument, delivered pursuant hereto, shall survive (and not be affected in any respect by) the Closing for a period of one (1) year, any investigation conducted by any party hereto and any information which any party may receive, provided that if a Claim (as hereinafter defined) or notice for indemnification with respect to any such representation, warranty, covenant, agreement, certificate, or other document or instrument, arises prior to the end of the survival period, such Claim or notice shall continue (and such representation, warranty, covenant, agreement, certificate, or other document or instrument shall survive) indefinitely until such Claim is finally resolved. Notwithstanding anything to the contrary contained in this Agreement, the parties agree that any Claim related to any Seller's or to Jose Jaime Garcia Jr.'s breach of the provisions of Section 4.12 hereof shall survive (and not be affected in any respect by) the Closing for such periods of time as are described in Section 4.12.

Section 9.2      Indemnification in General. Buyer, Sellers and Jose Jaime Garcia Jr. agree that the rights to be indemnified and held harmless set forth in this Agreement, as between the parties hereto and their respective permitted successors and assigns, shall be exclusive of all rights (other than those specifically referenced in the Agreement) to be indemnified and held harmless that such party (or its permitted successors or assigns) would otherwise have by statute, common law or otherwise.

Section 9.3      Indemnification by Sellers. Each Seller shall individually, and the Sellers shall jointly and severally (and Jose Jaime Garcia shall with respect to Section 4.12 hereof), indemnify, defend, and hold harmless Buyer, any officer, director, manager or member thereof, and their permitted assigns with respect to any and all demands, claims, actions, suits, proceedings, assessments, judgments, costs, losses, damages, obligations, liabilities, recoveries, deficiencies, and expenses (including interest, penalties and reasonable attorneys' fees) of every kind and description (individually or collectively, a "**Claim**") relating to or arising out of:

9.3.1 Any breach or non-performance by Jose Jaime Garcia Jr. or any Seller of, or misrepresentation with respect to, any of Sellers' or Jose Jaime Garcia Jr.'s representations, warranties, covenants or agreements set forth in this Agreement or any other related document, it being understood that for purposes of this Section 9.3.1, the representations and warranties of Sellers and each Seller shall mean such representations of Sellers and such Seller after disregarding all Knowledge qualifications of Sellers and such Seller; or

9.3.2 Except for operations of the Stations by Buyer pursuant to an LMA, the operations or business of Sellers or the Stations prior to the Closing Date, to the extent such Claim relates to any period before the Closing Date, regardless of whether disclosed in any schedule or document and regardless of whether constituting a breach by any Seller of any representation, warranty, covenant or agreement, and any other liability or obligation of any Seller other than the post-Closing obligations assumed by Buyer pursuant to the Assumed Contracts; or

9.3.3 Any legal, administrative or tax proceedings pursuant to which any Seller is or could be made liable for any taxes, penalties, interest or other charges and the liability of which is extended to Buyer, including without limitation noncompliance by any Seller with the provisions of the Bulk Sales Act, if applicable, in connection with the transactions contemplated by this Agreement; or

9.3.4 Any and all damages occasioned by, arising out of or resulting from any claim by any person or entity that any agent, broker, investment or commercial banker, person or firm acting on behalf of any Seller that it is entitled to any broker, finder, financial advisor fee or any other commission or similar fee directly or indirectly in connection with the transaction contemplated by this Agreement.

Section 9.4      Indemnification by Buyer. Buyer shall indemnify, defend, and hold harmless Sellers, any shareholder, director, officer, or general or limited partner thereof, and their permitted assigns, with respect to any Claim of any kind and description relating to or arising out of:

9.4.1 Any breach or non-performance by Buyer of any of its representations, warranties, covenants or agreements set forth in this Agreement or any other document; or

9.4.2 The Assumed Contracts and any other liability, obligation or debt of Buyer or the Stations that arises or results from and is attributable to the operations or business of the Stations on or after the Closing Date excluding, however, any liability or obligation of any Seller specifically retained by any Seller;

9.4.3 Any and all damages occasioned by, arising out of or resulting from any claim by any person or entity that any agent, broker, investment or commercial banker, person or firm acting on behalf of Buyer that it is entitled to any broker, finder, financial advisor fee or any other commission or similar fee directly or indirectly in connection with the transaction contemplated by this Agreement;

9.4.4 The operations or business of Buyer or the Stations on or after the Closing Date and operations of the Stations by Buyer pursuant to an LMA prior to the Closing Date, to the extent such Claim relates to any period on or after the Closing Date or during any period Buyer is operating the Stations pursuant to an LMA, regardless of whether disclosed in any schedule or document and regardless of whether constituting a breach by Buyer of any representation, warranty, covenant or agreement, and any other liability or obligation of Buyer.

Section 9.5      Indemnification Procedure. For purposes of administering the indemnification provisions set forth in this Section 9, the following procedures shall apply:

9.5.1 Whenever a Claim shall arise under this Article, the party entitled to indemnification (the "**Indemnified Party**") shall promptly and in no event later than ten (10) business days after becoming aware of such a Claim, give written notice to the

party or parties from whom indemnification is sought (the "**Indemnifying Party**") setting forth in reasonable detail, to the extent then available, the facts concerning the nature of such Claim and the basis upon which the Indemnified Party believes that it is entitled to indemnification hereunder, provided that the Indemnified Party's failure to do so shall not preclude it from seeking indemnification hereunder unless such failure has materially prejudiced the Indemnifying Party's ability to defend such Claim.

9.5.2 In the event of any Claim hereunder resulting from or in connection with any Claim brought by a third party, the Indemnifying Party shall be entitled, at its sole expense, either:

9.5.2.1 to participate therein, or

9.5.2.2 to assume the entire defense thereof with counsel who is selected by it and who is reasonably satisfactory to the Indemnified Party provided that:

(a) the Indemnifying Party agrees in writing that it does not and will not contest its responsibility for indemnifying the Indemnified Party in respect of such Claim, and

(b) no settlement shall be made without the prior written consent of the Indemnified Party which shall not be unreasonably withheld (except that no such consent shall be required if the claimant is entitled under the settlement to only monetary damages to be paid solely by the Indemnifying Party). If, however,

(1) the Claim would, if successful, result in the imposition of damages for which the Indemnifying Party would not be solely responsible hereunder, or

(2) representation of both parties by the same counsel would otherwise be inappropriate due to actual or potential differing interests between them, then the Indemnifying Party shall not be entitled to assume the entire defense and each party shall be entitled to retain counsel (in the case of Clause (a) of this sentence, at their own expense) who shall cooperate with one another in defending against such Claim.

9.5.3 If the Indemnifying Party does not choose to defend against a Claim by a third party, the Indemnified Party may defend against such Claim in such manner as it deems appropriate or settle such Claim (after giving notice thereof to the Indemnifying Party) on such terms as the Indemnified Party may deem appropriate, and the Indemnified Party shall be entitled to periodic reimbursement of expenses incurred in connection therewith and prompt indemnification from the Indemnifying Party, including without limitation reasonable attorneys' fees, in accordance with this Article.

9.5.4 The Indemnifying Party will not, without the Indemnified Party's written consent, settle or compromise any Claim or consent to any entry of judgment which does not include, as an unconditional term thereof, the giving by the claimant to the Indemnified Party of a release from all liability with respect to such Claim. Neither Buyer nor Seller shall be deemed to have notice of any Claim by reason of any Knowledge acquired on or prior to the Closing Date by an employee of the Stations unless express evidence is available establishing actual notice to either party.

Section 9.6      Limitations on Indemnification; Special Procedural Provisions. Notwithstanding anything in this Agreement to the contrary, the following provisions shall apply to indemnification agreements and procedures under this Article IX:

- (a) If any legal proceeding referred to in this Article IX is brought against an Indemnified Party and it gives notice to the Indemnifying Party of the commencement of such proceeding, the Indemnifying Party shall be entitled to control the administration of such proceeding and to assume the defense of such proceeding with counsel satisfactory to the Indemnified Party, and the Indemnifying Party shall not, as long as it diligently conducts the defense of such proceeding, be liable to the Indemnified Party under this Article for any fees of other counsel or any other expenses with respect to the defense of such proceeding, in each case subsequently incurred by the Indemnified Party in connection with the defense of such proceeding, other than reasonable costs of investigation. In such case, no compromise or settlement of such claims may be effected by the Indemnifying Party without the Indemnified Party's consent unless (i) there is no finding or admission of any violation of the rights of any person and no effect on any other claims that may be made against the Indemnified Party, (ii) the sole relief provided is monetary damages that are paid in full by the Indemnifying Party; and (iii) the Indemnified Party will have no liability with respect to any compromise or settlement of such claims effected without its consent. If the Indemnifying Party does not, within fifteen days after such Indemnifying Party attains Knowledge of such proceeding, assume the defense of such proceeding, the Indemnifying Party will be bound to any determination made in such proceeding or any compromise or settlement effected by the Indemnified Party.
- (b) Any Indemnified Party hereunder shall use reasonable efforts to pursue insurance claims relating to any Claim for which it is seeking indemnification pursuant to this Agreement. However, the Indemnified Party is not obligated to pursue an insurance claim if the Indemnified Party, in its reasonable judgment, believes that the cost of pursuing the insurance claim together with any corresponding increase in insurance premiums or other charge

backs to the Indemnified Party would exceed the value of the insurance claim.

- (c) No Indemnified Party may claim indemnification for breach of a representation or warranty hereunder unless and until the Indemnified Party believes in good faith that the aggregate amount its Claims exceeds the amount of Twenty Thousand Dollars (\$20,000.00), and then only to the extent that the aggregate amount of such total Claims exceeds such threshold amount. The aggregate indemnification obligations of Buyer and Sellers, for all damages contemplated hereunder, shall not exceed the amount of Nineteen Million Dollars (\$19,000,000.00).
- (d) In calculating the amount of any Claim payable to any Indemnified Party pursuant to this Agreement, the amount of such Claim shall be reduced by: (i) any insurance proceeds actually received by the Indemnified Party in respect of such Claim or Claims net of any expenses incurred by the Indemnified Party to obtain the insurance proceeds; and (ii) any recoveries from third parties pursuant to indemnification (or otherwise) with respect thereto net of any expenses incurred by the Indemnified Party in obtaining such third party payment.
- (e) No Indemnifying Party shall be liable to an Indemnified Party for any punitive damages or exemplary damages in connection with any Claim for indemnification based upon the breach of a representation or warranty under this Agreement.

## ARTICLE X

### MISCELLANEOUS

Section 10.1 Termination. This Agreement may be terminated and the transactions contemplated hereby may be abandoned on a date (the "**Termination Date**") prior to the Closing Date, as follows:

- (a) by mutual written agreement of Sellers and Buyer; or
- (b) by Buyer, provided Buyer is not in material breach of this Agreement if: (i) any of the conditions set forth in Article VII of this Agreement shall not have been fulfilled by the Closing Date and Sellers have failed to cure such condition within ten (10) days after receipt of written notice of such failure from Buyer; (ii) the FCC institutes revocation of license proceedings against any of the Stations; or (iii) any of the FCC Authorizations is materially modified as a result of any action without the written consent of Buyer, which consent shall not be withheld unreasonably; or

(c) by Sellers, provided no Seller is in material breach of this Agreement and Sellers have satisfied their closing conditions, if any of the conditions set forth in Article VI of this Agreement shall not have been fulfilled by the Closing Date and Buyer has failed to cure such condition within ten (10) days after receipt of written notice of such failure from Sellers; or

(d) by Buyer or Sellers if Closing shall not have occurred within two years of the date of this Agreement (unless the Closing is delayed in accordance with Section 10.7); or

(e) by Buyer, if Buyer is not then in material breach of this Agreement and any Seller is then in material breach of this Agreement, and such breach remains uncured within thirty (30) days after receipt by such Seller of written notice thereof from Buyer; or

(f) by Sellers, if no Seller is then in material breach of this Agreement and Buyer is then in material breach of this Agreement, and such breach remains uncured within thirty (30) days after receipt by Buyer of written notice thereof from Sellers; or

(g) by Sellers, in the event of a default by Buyer under the terms of the LMA, as such default is defined in Section 13 of the LMA.

Section 10.2 Buyer's Remedies. The parties acknowledge that the Stations are of a special, unique and extraordinary character, and that Buyer's ability to pursue damages alone would be an inadequate remedy for a breach of this Agreement. In the event that Sellers are in a position to close because they have met all of their closing conditions or Buyer has waived those closing conditions any Seller has not met, and Buyer is ready, willing and able to close but for Sellers' refusal to close, as Buyer's sole and exclusive remedy, Buyer shall, provided Buyer is not in material breach of this Agreement, be entitled to an injunction restraining any such breach or threatened breach and, subject to obtaining any requisite approval of the FCC, to enforcement of this Agreement by a decree of specific performance requiring Sellers to fulfill their obligations under this Agreement, in each case without the necessity of showing economic loss or other actual damage and without any bond or other security being required.

In any action by Buyer to specifically enforce Sellers' obligation to close the transactions contemplated by this Agreement, Sellers shall waive the defense that there is an adequate remedy at law or in equity and agrees that Buyer shall be entitled to obtain specific performance of Sellers' obligation to close without being required to prove actual damages. As a condition to seeking specific performance, Buyer shall not be required to tender the Consideration as contemplated by Section 1.4, but shall be required to demonstrate that Buyer is ready, willing and able to tender the Consideration as contemplated by such Section 1.4 but for Sellers' refusal to close. In the event that Buyer is awarded specific performance, Buyer shall be entitled to monetary damages for the cost to Buyer of Buyer's obtaining such specific performance.

Section 10.3 Expenses. Each party hereto shall bear all of its expenses incurred in connection with the Subject Transactions including, without limitation, accounting and legal fees incurred in connection herewith; provided, however, that: (i) Sellers and Buyer shall each pay one-half of the FCC filing fees required to be paid in connection with the Applications; (ii) Sellers shall pay, and Buyer shall not have any liability or responsibility for, any sales or transfer taxes (including, without limitation, any real estate transfer taxes), arising from the transfer of the Station Assets to Buyer; (iv) Buyer shall solely responsible for the payment of any Hart-Scott-Rodino filing fees, if applicable; and (v) in any action to enforce a provision of this Agreement as provided herein, the prevailing party shall be awarded reasonable attorneys' fees, expert and non-expert witness costs and expenses, and other costs and expenses incurred in connection with such action.

Section 10.4 Liquidated Damages. If (a) Sellers terminate this Agreement prior to Closing pursuant to Section 10.1 (f), and Buyer is in material breach of and shall not then have a right to terminate this Agreement pursuant to the terms hereof; or if (b) as of the Closing Date, (i) Sellers shall have satisfied the conditions precedent to Closing by Buyer set forth in Article VII, (ii) Buyer shall not then have a right to terminate this Agreement pursuant to the terms hereof, and (iii) Buyer is in material breach of this Agreement; or if (c) as of ten (10) business days after the Closing Date (i) Sellers shall have satisfied the conditions precedent to Closing by Buyer set forth in Article VII, (ii) Buyer shall not then have a right to terminate this Agreement pursuant to the terms hereof, and (iii) Buyer shall fail or refuse to consummate the purchase and sale contemplated by this Agreement, then in the case of any of (a), (b) or (c) Sellers shall be entitled, as Sellers' sole and exclusive remedy hereunder, to receive from Buyer, and Buyer hereby agrees to pay One Million Three Hundred Thirty Thousand Dollars (\$1,330,000.00) as liquidated damages, it being understood and agreed that payment to Sellers of such liquidated damages will constitute full payment for any and all damages suffered by Sellers under this Agreement. The liquidated damages set forth in this Section 10.4 shall be guaranteed by the Deposit set forth in **Schedule 1.5**.

Section 10.5 Further Assurances. From time to time prior to, on and after the Closing Date, each party hereto will execute all such instruments and take all such actions as any other party shall reasonably request, without payment of further consideration, in connection with carrying out and effectuating the intent and purpose hereof and all Subject Transactions including, without limitation, the execution and delivery of any and all confirmatory and other instruments in addition to those to be delivered on the Closing Date, and any and all actions which may reasonably be necessary to complete the Subject Transactions. The parties shall cooperate fully with each other and with their respective counsel and accountants in connection with any steps required to be taken as part of their respective obligations under this Agreement.

Section 10.6      Public Announcements.

(a) Prior to the Closing Date, no party shall, without the approval of the other party hereto, make any press release or other public announcement concerning the Subject Transactions, except (i) to announce it has been entered into, and (ii) as and to the extent that such party shall be so obligated by law, in which case such party shall give advance notice to the other party and the parties shall use their best efforts to cause a mutually agreeable release or announcement to be issued.

(b) Notwithstanding the foregoing, the parties acknowledge that the FCC Rules require that public notice of the Subject Transactions be made after the Application has been filed with the FCC. The form and substance of such public notice, to the extent not dictated by the FCC Rules, shall be mutually agreed upon by Sellers and Buyer.

Section 10.7      Risk of Loss. The risk of loss, damage or destruction to any of the Station Assets shall be borne by Sellers at all times up to 12:01 a.m. on the Closing Date, and it shall be the responsibility of Sellers to repair or cause to be repaired and to restore the property to its condition prior to any such loss, damage, or destruction. In the event of any such loss, damage, or destruction, the proceeds of any claim for any loss, payable under any insurance policy with respect thereto, shall be used to repair, replace, or restore any such property to its former condition, subject to the conditions stated below. In the event of any material loss or damage to any of the Station Assets, Sellers shall notify Buyer thereof in writing immediately. Such notice shall specify with particularity the loss or damage incurred, the cause thereof (if known or reasonably ascertainable), and the insurance coverage. In the event that the subject property is not completely repaired, replaced or restored on or before the scheduled Closing Date, Buyer, at its option, may: (a) elect to postpone Closing until such time as the property has been completely repaired, replaced or restored (and, if necessary, Sellers shall join Buyer in requesting from the FCC any extensions of time in which to consummate the Closing that may be required in order to complete such repairs); or (b) elect to consummate the Closing and accept the subject property in its then-current condition, in which event Buyer shall receive as a credit against the Consideration an amount equal to the cost of completely repairing, replacing or restoring the Station Assets; or (c) terminate this Agreement.

Section 10.8      Intentionally Deleted.

Section 10.9      Application for FCC Consent. As soon as possible (but in no event later than ten (10) days after the date of this Agreement), Sellers and Buyer shall cooperate and join together in filing the Applications. Sellers shall furnish all information required by the FCC, and Sellers and Buyer shall have the right to be represented at all meetings or hearings scheduled to consider the Applications. The FCC's written consent to the Applications is referred to herein as the "**FCC Consent.**" For purposes of this Agreement, the term "**Final**" shall mean that action shall have been taken by the FCC (including action duly taken by the FCC's staff, pursuant to delegated

authority) which shall not have been reversed, stayed, enjoined, set aside, annulled or suspended; with respect to which no timely request for stay, petition for rehearing, appeal or certiorari or sua sponte action of the FCC with comparable effect shall be pending; and as to which the time for filing any such request, petition, appeal, certiorari or for the taking of any such sua sponte action by the FCC shall have expired or otherwise terminated. Upon written request of Buyer, Sellers shall take all steps necessary, proper or desirable to obtain extension(s) of the Final FCC Consent; provided, however, that except as provided in Section 10.7, Sellers shall not be obligated to request an extension of the Final FCC Consent to a date beyond the Termination Date.

Section 10.10     Non-Assignable Contracts. Nothing contained in this Agreement shall be construed as an assignment or an attempted assignment of any contract which is by law non-assignable without the consent of the other party or parties thereto, unless such consent shall be given in writing.

Section 10.11     Local Marketing Agreement. The parties acknowledge that concurrently herewith they are entering into the LMA.

Section 10.12     Employee Control.

(a) Prior to the Closing, all employees of the Stations shall be and remain Sellers' employees, with Sellers having full authority and control over their actions, and Buyer shall not assume the status of an employer or a joint employer of, or incur or be subject to any liability or obligations of an employer with respect to, any such employees. For purposes of this paragraph, employees of Buyer who perform work at the Stations' facilities shall not be deemed employees of the Stations or Sellers.

(b) Prior to the Closing, Buyer agrees to use commercially reasonable efforts to interview and consider for employment all of Sellers' current full-time employees who work at the Stations. Buyer may, on or after the Closing Date, hire any such employees as new hires of Buyer. Any of Sellers' employees that Buyer may hire shall be new employees of Buyer and shall not be considered continuing station employees. Sellers shall be and remain at all times responsible for any and all liabilities and obligations Sellers may have to the employees of the Stations incurred or accrued prior to Closing, including, without limitation, compensation, severance pay, incentive bonuses, health expenses, and accrued vacation time, sick leave and obligations under any of Sellers' employee benefit plans, if any. Notwithstanding anything to the contrary contained in this Agreement, Buyer shall not be obligated to hire any of Sellers' employees at any time.

## ARTICLE XI

### GENERAL PROVISIONS

Section 11.1     Successors and Assigns. Except as otherwise expressly provided herein, this Agreement shall be binding upon and inure to the benefit of the parties hereto, and their respective representatives, successors and assigns. Sellers may

not assign any of their rights or delegate any of their duties hereunder without the prior written consent of Buyer, and any such attempted assignment or delegation without such consent shall be void. Buyer may assign its rights and obligations hereunder in whole or in part without Sellers' consent; provided, however, that such assignment shall not relieve Buyer of any duties or obligations herein.

Section 11.2      Amendments; Waivers. The terms, covenants, representations, warranties and conditions of this Agreement may be changed, amended, modified, waived, or terminated only by a written instrument executed by the party waiving compliance. The failure of any party at any time or times to require performance of any provision of this Agreement shall in no manner affect the right of such party at a later date to enforce the same. No waiver by any party of any condition or the breach of any provision, term, covenant, representation or warranty contained in this Agreement, whether by conduct or otherwise, in any one or more instances shall be deemed to be or construed as a further or continuing waiver of any such condition or of the breach of any other provision, term, covenant, representation or warranty of this Agreement.

Section 11.3      Notices. All communications or notices required or permitted by this Agreement shall be in writing and shall be deemed to have been given (i) on the date of personal delivery to an officer of the other party, or (ii) if sent by facsimile machine to the facsimile number shown below, on the date of such confirmed facsimile transmission, provided a copy is also sent by commercial overnight delivery service, prepaid, to the address shown below (or to such changed facsimile number or address provided by notice in accordance with this Section 11.3):

If to Buyer:	Thomas Castro Border Media Partners, LLC 201 Main Street, Suite 2001 Fort Worth, Texas 76102 FAX: (817) 335-1197
With a copy to:	Lawrence Roberts, Esq. Skadden, Arps, Slate, Meagher & Flom LLP 1440 New York Ave., NW Washington, D.C. 20005 FAX: (202) 661-9121
If to Seller:	José Jaime Garcia (entity) Barron & Newburger, P.C. 1212 Guadalupe Street, Suite 104 Austin, Texas 78701
With a copy to:	Barbara M. Barron, Esq. Barron & Newburger, P.C. 1212 Guadalupe Street, Suite 104 Austin, Texas 78701

Section 11.4      Captions; References. The captions of Articles and Sections of this Agreement are for convenience only and shall not control or affect the meaning or construction of any of the provisions of this Agreement. References to an "Article" or "Section" when used without further attribution shall refer to the particular article or section of this Agreement.

Section 11.5      Governing Law. This Agreement and all questions relating to its validity, interpretation, performance and enforcement shall be governed by and construed in accordance with the laws of the State of Texas, without giving effect to principles of conflicts of laws.

Section 11.6      Intentionally Deleted.

Section 11.7      Entire Agreement. This Agreement, together with all Exhibits and Schedules attached hereto, constitute the full and entire understanding and agreement between the parties with regard to the subject matter hereof, and supersede all prior agreements, understandings, inducements or conditions, express or implied, oral or written, relating to the subject matter hereof. The express terms hereof control and supersede any course of performance and/or usage of trade inconsistent with any of the terms hereof. This Agreement has been prepared by all of the parties hereto, and no inference of ambiguity against the drafter of a document therefore applies against any party hereto.

Section 11.8      Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original as against any party whose signature appears thereon, and all of which shall together constitute one and the same instrument. This Agreement shall become binding when one or more counterparts hereof, individually or taken together, shall bear the signatures of all of the parties reflected hereon as the signatories.

Section 11.9      Interpretation. Should any provision of this Agreement require interpretation by a court or arbitrator, the parties hereto agree that the court or arbitrator interpreting or construing the same shall not apply a presumption that the terms hereof shall be more strictly construed against one party by reason of the rule of construction that a document is to be construed more strictly against the party which itself or through its agent prepared the same, it being agreed that the agents of each party have participated in the preparation hereof.

Section 11.10      Severability. In the event that one or more provisions of this Agreement are held to be unenforceable under applicable law, such provisions shall automatically be replaced with one that incorporates the original intent of the parties to the maximum extent permitted by law and the balance of the Agreement shall be enforced in accordance with its terms.

Section 11.11     No Joint Venture. No provision of this Agreement shall create a joint venture between the parties hereto.

Section 11.12     No Third Party Beneficiaries. No provision of this Agreement shall confer upon any person other than the parties hereto any rights or remedies hereunder.

[SIGNATURE PAGE FOLLOWS]

**SIGNATURE PAGE TO ASSET PURCHASE AGREEMENT**

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

**SELLERS:**

**PECAN RADIO PARTNERS, LTD.**

By:   
Its: General Partner

**EL GEN FM LIMITED PARTNERSHIP**

By:   
Its: General Partner

**NOGALES BROADCASTING, L.C.**

By:   
Its: General Partner

**DYNAMIC RADIO BROADCASTING CORP.**

By:   
Its: General Partner

**BUYER:**

**BORDER MEDIA PARTNERS, LLC**

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

**INDIVIDUALLY:**  
(with respect to Section 4.12  
Article IX)

**JOSE JAIME GARCIA JR.**



**SIGNATURE PAGE TO ASSET PURCHASE AGREEMENT**

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

**SELLERS:**

**PECAN RADIO PARTNERS, LTD.**

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

**ELGIN FM LIMITED PARTNERSHIP**

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

**NOGALES BROADCASTING, L.C.**

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

**DYNAMIC RADIO BROADCASTING CORP.**

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

**BUYER:**

**BORDER MEDIA PARTNERS, LLC**

By: Thomas H. Cantor  
Its: President

**INDIVIDUALLY:**  
(with respect to Section 4.12  
Article IX)

**JOSE JAIME GARCIA JR.**

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