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**ASSET PURCHASE AGREEMENT**

by and between

**LOCALONE TV, L.P.**

and

**LOCALONE TEXAS, LTD.**

as Seller

and

**BARBA TELEVISION, CO.**

as Purchaser

November 2, 2006

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## ASSET PURCHASE AGREEMENT

THIS ASSET PURCHASE AGREEMENT (the "**Agreement**"), is made and entered into as of November 2, 2006 by and among LOCALONE TV, L.P., a Texas limited partnership ("**LocalOne TV**"), LOCALONE TEXAS, LTD., a Texas limited partnership ("**LocalOne Texas**") and collectively with LocalOne TV, the "**Seller**") and BARBA TELEVISION, CO., a Florida corporation (the "**Purchaser**"), effective as of the Effective Date as defined in Section 1.10 hereof.

### RECITALS:

WHEREAS, Seller holds certain licenses, permits and authorizations issued by the Federal Communications Commission (the "**FCC**") for the operation of commercial television station WFUN-LP, Channel 48 in Miami, Dade County, Florida; (the "**Station**"), and Seller owns and/or leases certain assets used in the operation and maintenance of the Station, as more particularly described in this Agreement;

WHEREAS, Seller desires to sell, transfer and assign such licenses, permits and authorizations to Purchaser and sell such assets to Purchaser, and Purchaser desires to acquire such licenses and assets, upon the terms and subject to the conditions herein set forth;

WHEREAS, simultaneously with the execution of this Agreement, Purchaser and Seller shall enter into a Time Brokerage Agreement (the "**TBA**") to be effective 30 days after the date of execution of this Agreement, pursuant to which Purchaser will acquire the right to provide programming on the Station and sell advertising on the Station for its own account, as set forth in such TBA, which shall be substantially in the form attached hereto as Exhibit A; and

WHEREAS, the sale, transfer and assignment of such licenses, permits and authorizations of the Station is subject to the prior approval of the FCC;

NOW, THEREFORE, in consideration of the premises and the mutual covenants and agreements herein contained, and intending to be legally bound hereby, Seller and Purchaser hereby agree as follows:

### ARTICLE I TERMS OF THE TRANSACTION

**1.1 Assets to be Transferred.** At the Closing, and on the terms and subject to the conditions set forth in this Agreement, Seller shall sell, assign, transfer, deliver and convey to Purchaser, and Purchaser shall purchase from Seller, all assets owned or used by Seller and associated with, related to or employed in the operation of the Station (other than for the Excluded Assets), which assets being transferred to Purchaser hereunder shall consist of the following assets and properties of Seller existing on the Closing Date:

(a) **FCC Licenses.** All licenses, permits and authorizations issued or granted by the FCC for the operation of or used or useful in connection with the operation of the Station, and all applications filed with the FCC (collectively, the "**FCC Licenses**"), as identified on Schedule 1.1(a).

(b) **Leased Real Property.** The leasehold estates relating to the Station under the leases identified on Schedule 1.1(b) covering the premises more particularly described on Schedule 1.1(b) (the "**Leased Real Property**"), and all rights (including rights of refund and offset relating to any

post-Closing events), privileges, and options in favor of Seller relating or pertaining to such leasehold estates.

(c) **Tangible Personal Property.** All of Seller's rights in and to the fixed and tangible personal property owned by Seller and used in the operation of the Station, consisting of the physical assets and equipment listed on Schedule 1.1(c), together with replacements thereof, additions and alterations thereto, and substitutions therefor, made between the date hereof and the Closing Date (hereinafter collectively the "**Owned Personal Property**").

(d) **Intellectual Property; Certain Intangibles.** All Intellectual Property (as hereinafter defined) owned by Seller relating to, or used or useful in connection with the operation of, the Station, goodwill and other intangible property of Seller used or useful in the operation of or otherwise relating to the Station, as identified on Schedule 1.1(d).

(e) **Personal Property Leases.** All right, title and interest of Seller in, to and under the personal property leases pertaining to the Station as identified on Schedule 1.1(e), and all rights (including rights of refund and offset relating to any post-Closing events), privileges, deposits, claims, causes of action and options in favor of Seller relating or pertaining to any of such leases.

(f) **Contracts.** All right, title, and interest of Seller in, to and under the contracts and agreements relating to the Station identified on Schedule 1.1(f) and agreed to be assumed by Purchaser, and all rights (including rights of refund and offset relating to any post-Closing events), privileges, and options in favor of Seller relating or pertaining to any of such contracts and agreements.

(g) **Books and Records.** Except as set out in Section 1.2 below all books, records, papers and instruments of Seller that relate specifically to the Assets or the operation of the Station, including without limitation the Station's local public files and other records required by the FCC to be maintained at the Station, programming information and studies, marketing and demographic data, dealings with customers, vendors and suppliers of the Station, and including computerized books and records and other computerized storage media and the software (including documentation and object and source codes) used in connection therewith; provided that Seller shall be entitled to retain copies of any such books and records that are necessary for its Tax, accounting or legal purposes.

All the assets and properties being transferred to Purchaser pursuant to this Agreement are collectively referred to herein as the "**Assets**." All Assets other than the FCC Licenses are owned by LocalOne TV and shall be transferred at the Closing by LocalOne TV to Purchaser. The FCC Licenses are owned by LocalOne Texas and shall be assigned at the Closing by LocalOne Texas to Purchaser.

**1.2 Excluded Assets.** The following assets and properties of Seller shall be excluded from the Assets to be transferred to Purchaser hereunder (collectively referred to herein as the "**Excluded Assets**"):

(a) the interest of Seller in commercial television station KCCX-LP, Channel 25 in Corpus Christi, Nueces County, Texas, and all assets and contracts relating thereto;

(b) all cash and cash equivalents, prepaid expenses, security deposits, marketable securities and other investments;

(c) all accounts receivable and notes receivable and other evidences of indebtedness and rights to receive payment generated by the operation of the Station for the period ending on or prior to the earlier of the Closing Date or the effective date of the TBA if Seller and Purchaser enter into a TBA;

(d) all policies of insurance;

(e) all rights of recovery, claims, and causes of action arising from the operation of the Station prior to the Closing Date;

(f) Seller's general ledgers and original books of entry subsidiary thereto, Tax Returns and supporting papers, checks, vouchers and bank statements and the corporate charter and minute book of Seller, subject to the right of Purchaser to have access to and to copy such records pertaining directly to the Station for the three year period prior to the Closing Date;

(g) any rights of Seller under or pursuant to contracts and agreements not assigned to and assumed by Purchaser pursuant hereto including all contracts that have terminated or expired prior to the Closing Date;

(h) all rights, claims and causes of action of Seller for refunds of Taxes and all other benefits, rights and claims of Seller arising in connection with or otherwise relating to Taxes relating to the Station for any period or partial period prior to the Closing;

(i) all rights of Seller under or pursuant to this Agreement; and

(j) any other asset of Seller not specifically described herein as part of the Assets.

**1.3 Purchase Price and Payment.** In consideration of the transfer by Seller to Purchaser of the Assets including a covenant not to compete, Purchaser shall pay to Seller the aggregate purchase price of \$3,000,000 (the "**Purchase Price**"), subject to adjustment as set forth in Sections 1.4 and 1.8 hereof. The Purchase Price shall be paid to Seller as follows:

(a) Within two business days after the execution and delivery of this Agreement, Purchaser shall deliver to Kalil & Co., Inc. (the "**Escrow Agent**"), cash or other immediately available United States funds in the amount of \$500,000 (the "**Deposit**"), such amount to be held in escrow pursuant to the terms of an Escrow Agreement to be entered into among Seller, Purchaser and the Escrow Agent in the form attached hereto as Exhibit B.

(b) Purchaser shall pay to Seller at the Closing an amount equal to the Purchase Price (including the Deposit), plus or minus any adjustments for Adjustment Items made at the Closing in accordance with Section 1.8, in immediately available funds by confirmed wire transfer to a bank account to be designated by Seller (such designation to occur no later than the second business day prior to the Closing Date).

If this Agreement is terminated in accordance with any provision of Section 9.1 other than 9.1(d), Purchaser shall be entitled to an immediate return of the Deposit, together with any interest and earnings thereon.



**1.4 Contingent Adjustment of Purchase Price.** During the period from the Effective Date until the later of (i) December 31, 2007, or (ii) the first anniversary of the Closing Date (the "**Price Adjustment Period**"), Seller may, if it so elects, attempt to have WFUN licensed as a Class A television station or continue to pursue any pending application or Petition for Reconsideration with the FCC regarding the Class A status of WFUN or otherwise. Purchaser hereby appoints Seller, effective as of the Closing, as its agent for the purpose of pursuing the grant of a Class A license for WFUN at the expense of Seller. If the licensee of WFUN is granted a license as a Class A television station prior to the end of the Price Adjustment Period, the Purchase Price shall be increased in the amount of \$500,000 (the "**Contingent Purchase Price Adjustment Amount**"), and such Contingent Purchase Price Adjustment Amount shall be paid by Purchaser to Seller within ten days after the grant of such Class A license by the FCC becomes a Final Order. Purchaser shall cooperate fully and timely with Seller in obtaining such Class A license and shall execute and file all documents with the FCC required to obtain such Class A license upon written request from Seller to do so.

**1.5 Allocation of Purchase Price.** The Purchase Price shall be allocated among the Assets including a covenant not to compete in the manner set forth on Schedule 1.5. Seller and Purchaser shall report the transactions contemplated hereby on all Tax Returns (including information returns and supplements thereto required to be filed by the parties under Section 1060 of the Code) in a manner consistent with such allocation.

**1.6 Liabilities Assumed by Purchaser.** As further consideration for the transfer of the Assets to Purchaser, Purchaser agrees, upon the terms and subject to the conditions set forth herein, to assume, at the Closing, and thereafter to pay, perform and discharge, the following liabilities and obligations of Seller (but only such liabilities and obligations and no others):

(a) all obligations of Seller accruing from and after the Closing Date under the leases, contracts and agreements identified on Schedules 1.1(b), 1.1(e) and 1.1(f) (collectively, the "**Assumed Contracts**"); and

(b) all obligations of Seller accruing from and after the Closing Date under the FCC Licenses.

All the liabilities and obligations being assumed by Purchaser pursuant to this Section are collectively referred to herein as the "**Assumed Liabilities**." Notwithstanding the foregoing, except as otherwise provided in any TBA between Seller and Purchaser, Purchaser shall not be liable for and shall not assume (i) defaults in performance of the Assumed Contracts in respect of periods prior to the Closing Date; or (ii) unpaid amounts in respect of the Assumed Contracts that relate to periods prior to the Closing Date. The Assumed Liabilities shall not include any Excluded Liabilities as defined in Section 1.7.

**1.7 Liabilities Not Assumed by Purchaser.** Purchaser shall not assume or take title to the Assets subject to, or in any way be liable or responsible for, any liabilities or obligations of Seller (whether or not referred to in any Schedule or Exhibit hereto), except as specifically provided in Section 1.6 or in the TBA, it being expressly acknowledged that it is the intention of the parties hereto that all liabilities and obligations that Seller has or may have in the future (whether accrued, absolute, contingent, unliquidated or otherwise, whether or not known or disclosed to Seller, and whether due or to become due), other than the Assumed Liabilities and the liabilities to be assumed or discharged by Purchaser under the TBA, shall constitute Excluded Liabilities including, but not limited to, that certain Programming Agreement between Starline Communications, Inc. and Seller pertaining to television station WFUN, and shall be either discharged by Seller prior to the Closing or shall remain the liabilities and obligations of Seller following the Closing. Purchaser does not assume or agree to discharge or perform and will not be deemed by reason of the execution and delivery of this Agreement or

any agreement, instrument or document delivered pursuant to or in connection with the Agreement or otherwise by reason of consummation of the transactions contemplated hereby, to have assumed or to have agreed to discharge or perform, any liabilities, obligations, or commitments of Seller of any nature whatsoever other than for the Assumed Liabilities and the liabilities to be assumed or discharged by Purchaser under the TBA.

## **1.8 Adjustments of Purchase Price.**

(a) **Adjustment Time.** The "Adjustment Time" as used herein shall be 12:01 A.M. Central Standard Time on the Closing Date.

(b) **Adjustment Items.** Except as otherwise provided in this Agreement or in the TBA, all income and expenses of the Station, including but not limited to the following items (the "Adjustment Items"), shall be prorated between Purchaser and Seller as of the Adjustment Time, assuming a 365-day year or a 30-day or 31-day month, as appropriate. Except as otherwise provided in this Agreement or in the TBA, Seller shall be entitled to such income and liable for such expenses prorated for the period up to and including the Adjustment Time, and Purchaser shall be entitled to such income and liable for such expenses prorated for the period subsequent to the Adjustment Time. Monies, if any, shall be paid in accordance with Section 1.8(c).

(i) Rentals or other charges, payable or paid in respect of the Assumed Contracts.

(ii) All real and personal property Taxes (including sewerage assessments and fees) imposed on or with respect to the Assets for the year in which the Closing occurs.

(iii) Transferable license, permit and registration fees, and like items.

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

(v) The amount of broadcasting time or other revenue and other charges prepaid by Seller in cash, merchandise or services applicable to the period subsequent to the Closing.

(c) **Adjustments After Closing Date.** If the amount of any Adjustment Items cannot be readily ascertained or agreed upon on the Closing Date, proration of such items shall be determined within 60 days after the Closing Date and payment therefor shall be made to the party entitled thereto within ten days after notice of such determination thereof has been given to Purchaser or Seller, as the case may be. In the event of any disputes between the parties as to adjustments, the amounts not in dispute shall nonetheless be paid at the time provided in this Section and such disputes shall be determined by an independent certified public accountant mutually acceptable to the parties. The accountant's resolution of the dispute shall be final and binding on the parties, and a judgment may be entered thereon in any court of competent jurisdiction. The fees and expenses of such accountant shall be paid one-half by Seller and one-half by Purchaser.

**1.9 Certain Defined Terms.** As used in this Agreement, each of the following terms has the meaning given it below:

**"Affiliate"** means a person that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or under common control with, the person specified.

**"Ancillary Documents"** means each agreement, instrument, and document (other than this Agreement) executed or to be executed by Seller or Purchaser in connection with the transactions contemplated by this Agreement.

**"Applicable Law"** means any statute, law, rule, or regulation or any judgment, order, writ, injunction, or decree of any Governmental Entity to which a specified Person or property is subject.

**"Code"** means the Internal Revenue Code of 1986, as amended from time to time.

**"Communications Act"** means the Communications Act of 1934, as amended.

**"Encumbrances"** means any lien, mortgage, pledge, reservation, restriction, security interest, right of first refusal, option, conditional sale agreement, default of title, easement, encroachment, hypothecation, infringement, title retention or other security arrangement, or any adverse right or interest, charge, claim or other encumbrance of any nature whatsoever of, on, or with respect to any property or property interest whether imposed by law, agreement, understanding or otherwise, other than Permitted Encumbrances.

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

**"FCC"** means the Federal Communications Commission.

**"FCC Rules"** means the rules, regulations and policies of the Federal Communications Commission.

**"Final Order"** means the grant by the FCC of the Assignment Application, including but not limited to, an order by the FCC's Staff, issued under delegated authority, which order has become final either (a) by expiration of the time for review, reconsideration or appeal of such order without any motion for review, reconsideration or appeal having been timely filed or instituted by the FCC on its own motion, or (b) in the event of review, reconsideration or appeal, the FCC's order has been affirmed and become final by expiration of the time for further review, reconsideration or appeal to the consummation of the transactions contemplated herein is in full force and is no longer subject to administrative or judicial review, recall or reconsideration.

**"Governmental Entity"** means any court or tribunal in any jurisdiction (domestic or foreign) or any federal, state, municipal, or other governmental body, agency, authority, department, commission, board, bureau, or instrumentality (domestic or foreign, federal or state).

**"Intellectual Property"** means trademarks, service marks, trade names, service names, brand names, copyrights, trade secrets, know-how, technology, inventions, computer software (including documentation and object and source codes), the call letters "WFUN" and logos, jingles, slogans, marketing plans, sales and promotional material, telephone numbers, facsimile numbers, and similar rights, and all registrations, applications, licenses and rights with respect to any of the foregoing.

**"IRS"** means the Internal Revenue Service.

**"Material Adverse Effect"** means a material adverse effect on the business, assets, results of operations, condition (financial or otherwise), or operation of the Station or any material portion thereof or on the ability of a party to perform on a timely basis any material obligations of such party under this Agreement or any Ancillary Document.

**"Ordinary Course of Business"** shall mean an action taken by a Person if:

- a. Such action is consistent with the past practices of such Person and is taken in the ordinary course of the normal day-to-day operations of such Person;
- b. Such action is not required to be authorized by the Board of Directors or comparable managing body of such Person and is not required to be specifically authorized by the parent corporation, if any, of such Person; and
- c. Such action is similar in nature and magnitude to actions customarily taken, without any authorization by the Board of Directors or comparable managing body, in the ordinary course of the normal day-to-day operations of other Persons that are in the same line of business as such Person.

**"Permitted Encumbrances"** means (i) Encumbrances created by Purchaser, (ii) liens for Taxes not yet due and payable, and (iii) statutory liens (including materialmen, mechanic, repairmen, landlord, and other similar liens) arising in connection with the ordinary course and securing payments not yet due and payable; provided, however, that at the Closing "Permitted Encumbrances" shall not include any liens for Taxes or statutory liens filed of record against the Assets which, individually or in the aggregate, are material to the Assets.

**"Person"** means any individual, corporation, partnership, joint venture, limited liability company, association, joint-stock company, trust, enterprise, unincorporated organization, Governmental Entity or other legal entity.

**"Proceedings"** means all proceedings, actions, claims, suits, investigations and inquiries by or before any arbitrator or Governmental Entity.

**"Taxes"** means any income taxes or similar assessments or any sales, excise, occupation, use, ad valorem, property, production, severance, transportation, employment, payroll, franchise, or other tax imposed by any United States federal, state, or local taxing authority, including any interest, penalties, or additions attributable thereto.

**"Tax Return"** means any return or report, including any related or supporting information, with respect to Taxes.

**"To the knowledge"** of a specified Person (or similar references to a Person's knowledge) means that the only information to be attributed to such Person is information actually known to (a) such Person in the case of an individual or (b) in the case of a corporation or other entity, a current officer or employee who devoted substantive attention to matters of such nature during the ordinary course of his employment by such Person.

**1.10 Effective Date.** This Agreement shall become effective upon the later of (i) the date of delivery of an executed counterpart of this Agreement by Seller and Purchaser to the other party hereto by

overnight delivery, facsimile or email, and (ii) the date of the receipt of the Deposit in full by the Escrow Agent (the "Effective Date"). Upon execution of this Agreement, Purchaser shall have two business days to fund the Deposit, and during such period, Seller shall not enter into an agreement with any third party to sell the Assets to any third party. However, if Purchaser fails to deliver the Deposit in full to the Escrow Agent within such two day period, this Agreement shall automatically terminate and be void ab initio without any further action required by any party hereto and neither Seller nor Purchaser shall have any further obligations or liability to the other hereunder or in connection with the transactions contemplated hereby.

## ARTICLE II REPRESENTATIONS AND WARRANTIES OF SELLER

Seller represents and warrants to Purchaser that:

**2.1 Organization.** LocalOne TV and LocalOne Texas are each a limited partnership duly organized and validly existing under the laws of the State of Texas and each has all requisite limited partnership power and authority to own, lease and operate its Assets and to conduct the business of the Station as now being conducted. No actions or proceedings to dissolve Seller are pending or threatened.

**2.2 Authority Relative to This Agreement.** Subject to the issuance of the Final Order, Seller has full limited partnership power and authority to execute, deliver and perform this Agreement and the Ancillary Documents to which Seller is a party and to consummate the transactions contemplated hereby and thereby. The execution, delivery and performance by Seller of this Agreement and the Ancillary Documents to which Seller is a party, and the consummation by Seller of the transactions contemplated hereby and thereby, have or will have been duly authorized by all necessary action of Seller. This Agreement has been duly executed and delivered by Seller and constitutes, and each Ancillary Document executed or to be executed by Seller has been, or when executed will be, duly executed and delivered by Seller and constitutes, or when executed and delivered will constitute, a valid and legally binding obligation of Seller, enforceable against Seller in accordance with their respective terms.

**2.3 Noncontravention.** The execution, delivery and performance by Seller of this Agreement and the Ancillary Documents to which Seller is a party and the consummation by Seller of the transactions contemplated hereby and thereby do not and will not (i) conflict with or result in a violation of any provision of the agreement of limited partnership of Seller, (ii) conflict with or result in a violation of any provision of, or constitute (with or without the giving of notice or the passage of time or both) a default under, or give rise (with or without the giving of notice or the passage of time or both) to any right of termination, cancellation or acceleration under, or require any consent, approval, authorization or waiver of, or notice to, any party to, any material bond, debenture, note, mortgage, indenture, lease, contract, agreement or other instrument or obligation to which Seller is a party or by which Seller, the Station or any of the Assets may be bound or any Permit held by Seller, (iii) result in the creation or imposition of any Encumbrance upon any of the Assets, or (iv) assuming compliance with the matters referred to in Section 2.4, violate any Applicable Law binding upon Seller, the Station or any of the Assets, except, in the case of clauses (ii) and (iv) above, for any such conflicts, violations, defaults, terminations, cancellations or accelerations which would not, individually or in the aggregate, have a Material Adverse Effect on Seller, the Assets or the Station, and except, in the case of clause (ii) above, for (A) such consents, approvals, authorizations and waivers that have been obtained and are unconditional and in full force and effect and such notices that have been duly given and (B) such consents, approvals, authorizations, waivers and notices that are disclosed on Schedule 2.3.

**2.4 Governmental Approvals.** Other than filings with and the grant of FCC consent, no consent, approval, order or authorization of, or declaration, filing or registration with, any Governmental Entity is

required to be obtained or made by Seller in connection with the execution, delivery or performance by Seller of this Agreement and the Ancillary Documents to which Seller is a party or the consummation by Seller of the transactions contemplated hereby or thereby, other than (i) as set forth on Schedule 2.4; (ii) filings with Governmental Entities to occur in the ordinary course following the Closing; and (iii) such consents, approvals, orders or authorizations which, if not obtained, and such declarations, filings or registrations which, if not made, would not, individually or in the aggregate, have a Material Adverse Effect on Seller, the Assets or the Station.

**2.5 FCC Licenses.** Seller is the holder of the FCC Licenses as listed in Schedule 1.1(a). The FCC Licenses constitute all of the licenses and authorizations issued to Seller by the FCC and required for and/or presently used in the operation of the Station as normally operated, and the FCC Licenses are in full force and effect unimpaired by any act or omission of Seller, or its employees or agents. Except as Disclosed in Schedule 1.1(a):

(a) The FCC Licenses listed in Schedule 1.1(a) comprise all of the material licenses, permits and other authorizations required by the FCC to conduct the business and operations of the Station in the manner and to the full extent it is now being conducted, and none of the FCC Licenses is subject to any restriction or condition which would limit the full operation of the Station as presently operated.

(b) Except as disclosed in Schedule 1.1(a), there is not pending or to Seller's knowledge, threatened any action by the FCC to revoke, cancel, rescind, modify or refuse to renew in the ordinary course any of the FCC Licenses.

(c) Except as discussed in Schedule 1.1(a), there is not pending at the FCC, any issued or outstanding, or to the knowledge of Seller threatened, proceeding, complaint, Notice of Violation, Notice of Apparent Liability or of Forfeiture relating to Seller or the Station.

(d) Subject to the provisions of Section 2.10 below and to the knowledge of Seller, the Station is being operated in accordance with the FCC Licenses, the Communications Act, and the FCC Rules, and Seller has filed all reports, forms and statements required to be filed by Seller with the FCC. Seller shall take all steps reasonably necessary to insure that the Station continues to be so operated until the Closing Date.

(e) To Seller's knowledge, the operation and maintenance by Seller of the antenna system and other facilities relating to the Station or used in connection with the transmission of its signal does not violate any regulation, law or rights of any person or legal entity.

(f) Except as set forth in Schedule 2.5, Seller does not have any direct or indirect equity or ownership interests in any corporation, partnership, joint venture or other entity which is involved, directly or indirectly, in the conduct of the business of the Station, the ownership and operations of the Assets, and the operations and maintenance of the Station and the Assets is conducted solely and exclusively by Seller.

**2.6 Title to Assets.** Seller is the owner of, and has good and marketable title to all of the Assets, free and clear of all Encumbrances other than the Permitted Encumbrances. Upon Seller's transfer of the Assets to Purchaser pursuant to this Agreement, Purchaser will have good and marketable title to all the Assets, free and clear of all Encumbrances other than the Permitted Encumbrances.

**2.7 Liabilities.** Subject to the provisions of Section 2.10 below, except for the Assumed Liabilities and the Permitted Encumbrances, Seller has no liabilities or obligations (whether accrued, absolute, contingent, unliquidated or otherwise, whether or not known to Seller and whether due or to become due) which might, individually or in the aggregate, subsequent to the Closing in any manner have a Material Adverse Effect on Seller, the Assets or the Station.

**2.8 Absence of Certain Changes.** Subject to the provisions of Section 2.10 below and except as disclosed on Schedule 2.8, since January 1, 2006 there has not been any event or condition that might reasonably be expected to result in a Material Adverse Effect on Seller, the Assets or the Station.

**2.9 Tax Matters.** Except as disclosed on Schedule 2.9, Seller has (and as of the Closing Date will have) (i) duly filed all material, federal, state, and local Tax Returns required to be filed by or with respect to it with the IRS or other applicable taxing authority, (ii) paid all material Taxes due, or claimed by any taxing authority to be due, from or with respect to it, except Taxes that are being contested in good faith by appropriate legal proceedings and for which adequate reserves have been set aside as disclosed on Schedule 2.9, and (iii) made all material deposits required with respect to Taxes, in each such case to the extent that the failure to do so would have a Material Adverse Effect on Seller, the Assets or the Station or would result in the imposition of any Encumbrance on the Assets. There has been no issue raised or adjustment proposed (and none is pending) by the IRS or any other taxing authority in connection with any Tax Returns relating to the Assets or the operation of the Station. No waiver or extension of any statute of limitations as to any Taxes relating to the Assets or the operation of the Station has been given by or requested from Seller.

**2.10 Compliance With Laws.** Except as hereinafter set forth in this Section 2.10, Seller has complied in all material respects with all Applicable Laws relating to the ownership or operation of the Assets or the operation of the Station (including without limitation Applicable Laws relating to properties, advertising and sales practices, employment practices, terms and conditions of employment, wages and hours, safety, occupational safety, health, environmental protection and civil rights), except for noncompliance with such Applicable Laws which, individually or in the aggregate, does not and will not have a Material Adverse Effect on Seller, the Station or the Assets, and Seller has not received any written notice, which has not been dismissed or otherwise disposed of, that Seller has not so complied. Seller is not charged or, to the knowledge of Seller, threatened with, or, to the knowledge of Seller, under investigation with respect to, any violation of any Applicable Law relating to any aspect of the ownership or operation of the Assets or the operation of the Station, other than violations which, individually or in the aggregate, do not and will not have a Material Adverse Effect on Seller, the Station or the Assets. **NOTWITHSTANDING THE PRECEDING, BY EXECUTING THIS AGREEMENT, PURCHASER ACKNOWLEDGES AND AGREES THAT SELLER HAS MADE NO REPRESENTATION, ORAL OR WRITTEN, PAST, PRESENT OR FUTURE, OF, AS TO, OR CONCERNING THE OPERATION OR COMPLIANCE OF SELLER OR THE STATION IN ACCORDANCE WITH THE RULES, REGULATIONS AND PRACTICES OF THE FCC PERTAINING TO A CLASS A LICENSE. AS TO ALL MATTERS PERTAINING TO THE QUALIFICATION, OPERATION OR LICENSE OF THE STATION AS A CLASS A TELEVISION STATION, PURCHASER IS ACQUIRING THE STATION ON AN "AS IS," WHERE IS," WITH ALL FAULTS" BASIS. THE TERMS AND CONDITIONS OF THIS SECTION 2.10 SHALL EXPRESSLY SURVIVE THE CLOSING AND SHALL NOT MERGE WITH THE PROVISIONS OF ANY CLOSING DOCUMENT.**

**2.11 Legal Proceedings.** Subject to the provisions of Section 2.10 hereof, there are no Proceedings pending or, to the knowledge of Seller, threatened against or involving Seller relating to the Assets or the business or operation of the Station, except as disclosed on Schedule 2.11. Except as disclosed on Schedule 2.11, any and all potential liability of Seller under such Proceedings is adequately covered (except for standard

deductible amounts) by the existing insurance maintained by Seller described in Section 2.20. No judgment, order, writ, injunction or decree of any Governmental Entity has been issued or entered against Seller or any of its Affiliates which continues to be in effect with respect to or affecting the Assets or the operation of the Station. There are no Proceedings pending or, to the knowledge of Seller, threatened seeking to restrain, prohibit or obtain damages or other relief in connection with this Agreement or the transactions contemplated hereby.

**2.12 Sufficiency and Condition of Assets.** The Assets (i) constitute all the assets and properties used or held for use in connection with the operation of the Station, except for the Excluded Assets, and (ii) except for the Excluded Assets, constitute all the assets and properties the use or benefit of which are reasonably necessary for the operation of the Station as currently conducted. All the Assets will be on the Closing Date, in the case of tangible assets and properties, in the same operating condition and repair (ordinary wear and tear excepted) as they are on the date of this Agreement and have been maintained in accordance with standard industry practice. Seller owns or has a valid leasehold interest in, or otherwise has a valid right to use, all the Assets. The Assets and their uses conform in all material respects to all Applicable Laws, including without limitation the regulations and requirements of the FCC and all FCC Licenses. All tangible assets and properties included in the Assets are in Seller's possession or under its control.

**2.13 Tangible Personal Property.** Schedule 1.1(c) accurately describes all of the furniture, equipment, machinery, computer hardware, materials, apparatus, tools, implements, appliances and other tangible personal property (other than spare parts, supplies, and inventories) owned by Seller and used or held for use in connection with the operation of the Station, except for Excluded Assets and items having a value individually of less than \$1,000. Seller is the owner of all of such tangible personal property and has good and marketable title to such property free and clear of any Encumbrances.

**2.14 Leased Property.** Seller has provided true and accurate copies of all leases under which Seller is the lessee of real or personal property used or held for use in connection with the operation of the Station, except for Excluded Assets. Seller has good and valid leasehold interests in all such properties held by Seller under lease. Seller has been in peaceable possession (or remedied any claims relating thereto) of the property covered by each such lease since the commencement of the original term of such lease. No waiver, indulgence or postponement of Seller's obligations under any such lease has been granted by the lessor or of the lessor's obligations thereunder by Seller. Seller is not in breach of or in default under, nor has any event occurred which (with or without the giving of notice or the passage of time or both) would constitute a default by Seller under any of such leases, and Seller has not received any notice from, or given any notice to, any lessor indicating that Seller or such lessor is in breach of or in default under any of such leases. To the knowledge of Seller, none of the lessors under any of such leases is in breach thereof or in default thereunder. Seller has full right and power to occupy or possess, as the case may be, all the property covered by each such lease, except as may be noted in Schedule 1.1(b).

**2.15 Intellectual Property.** Except for the Intellectual Property described on Schedule 1.1(d), Seller does not own, hold, use or have pending any Intellectual Property in connection with the operation of the Assets or the Station, except for Excluded Assets. Seller owns or has rights to use all Intellectual Property, free from burdensome restrictions, that are necessary for the operation of the Assets and the Station as presently operated. Seller has not received any written notice or claim of any infringement, violation, misuse or misappropriation by Seller in connection with the operation of the Assets or the Station of any Intellectual Property owned or purported to be owned by any other Person.



## **2.16 Agreements.**

(a) Seller has delivered to Purchaser accurate and complete copies of the agreements listed on Schedules 1.1(b) and 1.1(f) that are to be assigned to Purchaser pursuant to this Agreement. Each of such agreements is a valid and binding agreement of Seller and (to the knowledge of Seller) the other party or parties thereto, enforceable against Seller and (to the knowledge of Seller) such other party or parties in accordance with its terms. Seller is not in breach of or in default under, nor has any event occurred which (with or without the giving of notice or the passage of time or both) would constitute a default by Seller under any agreement, and Seller has not received any notice from, or given any notice to, any other party indicating that Seller is in breach of or in default under any material agreement. To the knowledge of Seller, no other party to any agreement is in breach of or in default under such agreements, nor has any assertion been made by Seller of any such breach or default. Except as disclosed on Schedules 1.1(b) or 1.1(f), each of such agreements is freely and fully assignable to Purchaser without penalty or other adverse consequence.

(b) Seller has not received notice of any plan or intention of any other party to any agreement to exercise any right of offset with respect to, or any right to cancel or terminate, any agreement, and Seller does not know of any fact or circumstance that would justify the exercise by any such other party of such a right other than the automatic termination of such agreement in accordance with its terms. Seller does not currently contemplate, or have reason to believe any other Person currently contemplates, any amendment or change to any agreement, which amendment or change could have a Material Adverse Effect on Seller, the Assets or the Station.

**2.17 ERISA.** During the past five years, neither Seller nor any of its Affiliates have made or been required to make contributions to any "multiemployer plan", as defined in Section 3(37) of ERISA. Seller and all the Affiliates of Seller have paid and discharged promptly when due all liabilities and obligations arising under ERISA or the Code of a character which if unpaid or unperformed might result in the imposition of a lien against any of the Assets. For purposes of this Section only, an "Affiliate" of any Person means any other Person which, together with such Person, would be treated as a single employer under Section 414 of the Code.

## **2.18 Environmental Matters.**

(a) Seller has received no written notice of any investigation or inquiry by any Governmental Entity under any Applicable Environmental Laws (as defined below) relating to the ownership or operation of the Assets or the Station. To the knowledge of Seller: (i) Seller has not disposed of any hazardous material (as defined below) on any of the Assets, and (ii) no condition exists on any of the Assets which would subject Seller or the Assets to any remedial obligations under any Applicable Environmental Laws.

(b) For purposes of this Agreement, "**Applicable Environmental Laws**" means any and all Applicable Laws pertaining to health, safety, or the environment in effect in any and all jurisdictions in which the Assets are located or in which Seller has conducted operations of the Station, including, without limitation, the Clear Air Act, as amended, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, the Rivers and Harbors Act of 1899, as amended, the Federal Water Pollution Control Act, as amended, the Occupational Safety and Health Act of 1970, as amended, the Resource Conservation and Recovery Act of 1976, as amended, the Safe Drinking Water Act, as amended, the Toxic Substances Control Act, as amended, the Superfund Amendments and Reauthorization Act of 1986, as amended, the Hazardous Materials Transportation Act, as amended, and other environmental conservation or

protection laws. For purposes of this Agreement, the term "hazardous material" means (i) any substance which is listed or defined as a hazardous substance, hazardous constituent, or solid waste pursuant to any Applicable Environmental Laws and (ii) petroleum (including crude oil and any fraction thereof), natural gas, and natural gas liquids.

**2.19 Labor Relations.** Except as disclosed on Schedule 2.19, (i) there are no collective bargaining agreements or other labor union contracts applicable to any employees of the Station to or by which Seller is a party or is bound, no such agreement or contract has been requested by any employee or group of employees of the Station, and no discussions have occurred with respect thereto by management of Seller with any such employees; (ii) no employees of the Station are represented by any labor organization, collective bargaining representative or group of employees; (iii) no labor organization, collective bargaining representative or group of employees claims to represent a majority of the employees of the Station; (iv) Seller is not aware of or involved with any representational campaign or other organizing activities by any union or other organization or group seeking to become the collective bargaining representative of any of the employees of the Station; (v) Seller is not obligated to bargain collectively with respect to wages, hours, and other terms and conditions of employment with any recognized or certified labor organization, collective bargaining representative or group of employees representing employees of the Station; and (vi) Seller is not aware of any strikes, work stoppages, work slowdowns, or lockouts or any threats thereof by or with respect to any employees of the Station, and there have been no significant labor disputes, strikes, work stoppages, work slowdowns, lockouts or similar matters.

**2.20 Insurance.** Seller shall maintain in full force and effect, policies of insurance with respect to the Assets and the Station against such casualties and contingencies of such types and in such amounts as are customary for Station owners of similar size engaged in similar lines of business. All premiums due and payable with respect to such policies have been timely paid. No notice of cancellation of, or indication of an intention not to renew, any such policy has been received by Seller.

**2.21 Books and Records.** All the books and records of Seller relating to the Assets or the Station, including all local public files, personnel files, employee data and other materials relating to employees of the Station, are substantially complete and correct in all material respects, and have been in all material respects maintained in accordance with good business practice and all Applicable Laws.

**2.22 Brokerage Fees.** Except as disclosed on Schedule 2.22, neither Seller nor any of its Affiliates has retained any financial advisor, broker, agent, or finder or paid or agreed to pay any financial advisor, broker, agent, or finder on account of this Agreement or any transaction contemplated hereby. Seller shall indemnify and hold harmless Purchaser from and against any and all losses, claims, damages and liabilities (including legal and other expenses reasonably incurred in connection with investigating or defending any claims or actions) with respect to any finder's fee, brokerage commission or similar payment in connection with any transaction contemplated hereby asserted by any Person on the basis of any act or statement made or alleged to have been made by Seller or any of its Affiliates.

**2.23 Disclosure.** Except for the "As Is" representation as to the Class A status matters pertaining to the Station set forth in Section 2.10 hereof and other sections herein specifically referring to Section 2.10, no representation or warranty made by Seller in this Agreement, and no statement of Seller contained in any document, certificate or other writing furnished or to be furnished by Seller pursuant hereto or in connection herewith, contains or will contain, at the time of delivery, any untrue statement of a material fact or omits or will omit, at the time of delivery, to state any material fact necessary in order to make the statements contained therein, in light of the circumstances under which they are made, not misleading. Seller knows of no matter

which has not been disclosed to Purchaser pursuant to this Agreement which has or, so far as Seller can now reasonably foresee, will have a Material Adverse Effect on the Assets or the Station.

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

Purchaser represents and warrants to Seller that:

**3.1 Organization.** Purchaser is a corporation duly organized, validly existing and in good standing under the laws of the State of Florida and has all requisite corporate power and authority to own its assets and to conduct its business as now being conducted. Purchaser is duly qualified to transact business and is in good standing in the State in which the Station is located. No proceedings to dissolve Purchaser are pending or threatened.

**3.2 Authority Relative to This Agreement.** Subject to the issuance of the Final Order, Purchaser has full power and authority to execute, deliver and perform this Agreement and the Ancillary Documents to which Purchaser is a party and to consummate the transactions contemplated hereby and thereby. The execution, delivery and performance by Purchaser of this Agreement and the Ancillary Documents to which Purchaser is a party, and the consummation by Purchaser of the transactions contemplated hereby and thereby, have been duly authorized by all necessary action of Purchaser. This Agreement has been duly executed and delivered by Purchaser and constitutes, and each Ancillary Document executed or to be executed by Purchaser has been, or when executed will be, duly executed and delivered by Purchaser and constitutes, or when executed and delivered will constitute, a valid and legally binding obligation of Purchaser, enforceable against Purchaser in accordance with their respective terms.

**3.3 Noncontravention.** The execution, delivery, and performance by Purchaser of this Agreement and the Ancillary Documents to which Purchaser is a party and the consummation by Purchaser of the transactions contemplated hereby and thereby do not and will not (i) conflict with or result in a violation of any provision of the formation or organizational documents of Purchaser, (ii) conflict with or result in a violation of any provision of, or constitute (with or without the giving of notice or the passage of time or both) a default under, or give rise (with or without the giving of notice or the passage of time or both) to any right of termination, cancellation or acceleration under, or require any consent, approval, authorization, or waiver of any party to, any material bond, debenture, note, mortgage, indenture, lease, contract, agreement or other instrument or obligation to which Purchaser is a party or by which Purchaser or any of its properties may be bound or any material Permit held by Purchaser, (iii) result in the creation or imposition of any Encumbrance upon the properties of Purchaser, or (iv) assuming compliance with the matters referred to in Section 3.4, violate any Applicable Law binding upon Purchaser, except, in the case of clauses (ii), (iii), and (iv) above, for any such conflicts, violations, defaults, terminations, cancellations, accelerations or Encumbrances which would not, individually or in the aggregate have a Material Adverse Effect on Purchaser or on the ability of Purchaser to consummate the transactions contemplated hereby.

**3.4 Governmental Approvals.** Other than filings with and the grant of FCC consent, no consent, approval, order, or authorization of or declaration, filing or registration with, any Governmental Entity is required to be obtained or made by Purchaser in connection with the execution, delivery or performance by Purchaser of this Agreement and the Ancillary Documents to which it is a party or the consummation by it of the transactions contemplated hereby or thereby, other than (i) filings with Governmental Entities to occur in the ordinary course following the consummation of the transactions contemplated hereby; and (ii) such consents, approvals, orders or authorizations which, if not obtained, and such declarations, filings or

registrations which, if not made, would not, individually or in the aggregate, have a Material Adverse Effect on Purchaser.

**3.5 Legal Proceedings.** There are no Proceedings pending or, to the knowledge of Purchaser, threatened seeking to restrain, prohibit, or obtain damages or other relief in connection with this Agreement or the transactions contemplated hereby or that would hinder Purchaser from performing its obligations pursuant to this Agreement or the Ancillary Documents to which it is or will be a party.

**3.6 Brokerage Fees.** Neither Purchaser nor any of its Affiliates has retained any financial advisor, broker, agent, or finder or paid or agreed to pay any financial advisor, broker, agent, or finder on account of this Agreement or any transaction contemplated hereby. Purchaser shall indemnify and hold harmless Seller from and against any and all losses, claims, damages and liabilities (including legal and other expenses reasonably incurred in connection with investigating or defending any claims or actions) with respect to any finder's fee, brokerage commission or similar payment in connection with any transaction contemplated hereby asserted by any Person on the basis of any act or statement made or alleged to have been made by Purchaser or any of its Affiliates.

**3.7 Qualifications.** Purchaser is legally, financially and otherwise qualified to be the licensee of, acquire, own and operate the Station under the Communications Act and the FCC Rules. There are no facts that would under existing law and the FCC Rules disqualify Purchaser as an assignee of the FCC Licenses or as the owner or operator of the Station. Purchaser knows of no reason why the application for the assignment of the FCC Licenses from Seller to Purchaser will not be approved by the FCC, and knows of no threatened objections to the completion of the transactions contemplated under this Agreement. Purchaser has and will have available on the Closing Date sufficient funds to enable it to consummate the transactions contemplated hereby.

#### **ARTICLE IV CONDUCT OF BUSINESS PENDING CLOSING**

Seller hereby covenants and agrees with Purchaser as follows:

**4.1 Conduct and Preservation of Business.** Except as expressly provided in this Agreement and subject to the provisions of Section 2.10 hereof, during the period from the Effective Date hereof to the Closing, Seller (i) shall operate and maintain the Station in conformity with the FCC Licenses, the Communications Act, the FCC Rules and in material compliance with all other Applicable Laws; (ii) shall use its commercially reasonable efforts, consistent with past practices, to preserve, maintain and protect the Assets; and (iii) subject to the TBA, shall use commercially reasonable efforts, consistent with past practices, to maintain existing relationships with licensors, licensees, suppliers, contractors, distributors, customers and others having business relationships with the Station.

**4.2 Restrictions on Certain Actions.** Without limiting the generality of the foregoing, and except as otherwise expressly provided in this Agreement, prior to the Closing, Seller shall not, without the prior written consent of Purchaser:

- (a) make any material change in the ongoing operations of the Assets or the Station, except as otherwise required by the Communications Act and applicable FCC Rules;

(b) except in the Ordinary Course of Business, create, incur, guarantee or assume any indebtedness for borrowed money in respect of the Station or the Assets, which obligation will not be discharged on or before the Closing Date;

(c) mortgage or pledge any of the Assets or create or suffer to exist any Encumbrance thereupon, other than the Permitted Encumbrances;

(d) sell, lease, transfer or otherwise dispose of, directly or indirectly, any of the Assets other than the disposition in the Ordinary Course of Business consistent with past practices of items that are replaced prior to the Closing Date with items of comparable or superior value and utility in the operation of the Station;

(e) make any capital expenditure or expenditures relating to the Station which, individually, is in excess of \$25,000 annually or, in the aggregate, are in excess of \$50,000 annually, except for repairs and equipment purchases necessary to keep the Station operating;

(f) acquire or enter into any network affiliation agreement, time brokerage agreement (other than a TBA with Purchaser), local marketing arrangements, joint brokerage agreements or similar contracts with respect to the Station;

(g) amend, modify or change any existing material lease, contract, permit or agreement relating to the Station or the Assets, other than in the Ordinary Course of Business consistent with past practice and except as specifically provided for herein or as may be required by order or regulation of the FCC;

(h) acquire or enter into any new agreement or contract which will bind the Station beyond the Closing except as specifically provided for herein;

(i) permit any current insurance or reinsurance policies to be canceled or terminated or any of the coverages thereunder to lapse if such policy covers Assets or insures risks, contingencies or liabilities of the Station, unless simultaneously with such cancellation, termination or lapse, replacement policies providing coverage equal to or greater than the coverage canceled, terminated or lapsed are in full force and effect and written copies thereof have been provided to Purchaser;

(j) take any action which makes any of the representations or warranties of Seller contained in this Agreement untrue or inaccurate as of any time from the date of this Agreement to the Closing or results in any of the conditions set forth in this Agreement not being satisfied; or

(k) authorize or propose, or agree in writing or otherwise to take, any of the actions described in this Section.

## **ARTICLE V ADDITIONAL AGREEMENTS**

### **5.1 Access to Information; Confidentiality.**

(a) Between the Effective Date hereof and the Closing, Seller (i) shall give Purchaser and its authorized representatives reasonable access, during regular business hours and upon reasonable advance notice, to all employees, all offices, and other facilities, and all books, records, agreements,

and commitments of Seller relating to the Assets or the Station, (ii) shall permit Purchaser and its authorized representatives to make such inspections as they may reasonably require, and (iii) shall cause Seller's officers to furnish Purchaser and its authorized representatives with such financial and operating data and other information with respect to the Assets and the Station as Purchaser may from time to time reasonably request; provided, however, that no investigation pursuant to this Section shall affect any representation or warranty of Seller contained in this Agreement or in any Ancillary Document; and provided further that Seller shall have the right to have a representative present at all times of any such inspections, interviews and examinations conducted at or on the offices or other facilities or properties of Seller or its Affiliates or representatives. Without limiting the generality of the foregoing, Seller shall deliver to Purchaser within ten business days after filing with the FCC, copies of all responses to complaints filed by Seller with the FCC.

(b) Each party acknowledges and agrees that irreparable damage would occur in the event any confidential information regarding the Assets or the Station were disclosed to or utilized on behalf of any Person which is in competition in any material respect with the current or intended uses of the Station. Accordingly, each party covenants and agrees that it will not, directly or indirectly, without the prior written consent of the other, use or disclose any of such confidential information; provided, however, that confidential information shall not be deemed to include information which (i) was or becomes generally available to the public other than as a result of disclosure by either party or its Affiliates or (ii) was or becomes available on a nonconfidential basis from a source other than the other party, provided that such source is not known by the disclosing party to be bound by a confidentiality agreement with respect to such confidential information. Notwithstanding the foregoing provisions of this paragraph, either party and its Affiliates may disclose any confidential information to the extent that, in the opinion of counsel, such Person is legally compelled to do so, provided that, prior to making such disclosure, such Person advises and consults with the other party regarding such disclosure and provided further that such Person discloses only that portion of such confidential information as is legally required. Purchaser may further disclose such confidential information as it may deem necessary to potential lenders or equity investors on a need to know basis to assist Purchaser in obtaining financing for, or equity participation or partnership with, Purchaser in its efforts to consummate the transaction contemplated herein, provided such third parties are informed by Purchaser of the confidential nature of such information and agree to be bound by the same provisions pertaining to the use and safeguarding of such confidential information that are applicable to Purchaser. If this Agreement is terminated without Closing, each party shall promptly return to the other all originals and copies of any confidential information it received from the other, including documents prepared by it incorporating such confidential information.

**5.2 Acquisition Proposals.** From and after the Effective Date of this Agreement until the earlier of the Closing or the termination of this Agreement, neither Seller nor any Affiliate, officer, employee or representative of Seller shall, directly or indirectly, (i) solicit, initiate, or knowingly encourage any Acquisition Proposal or (ii) engage in discussions or negotiations with, or disclose any nonpublic information relating to the Assets or the Station to, any Person that is considering making or has made an Acquisition Proposal. From and after the Effective Date, Seller shall immediately cease and cause to be terminated any existing activities, discussions or negotiations with any Persons conducted heretofore with respect to any Acquisition Proposal and shall promptly request each such Person who has heretofore entered into a confidentiality agreement in connection with an Acquisition Proposal to return to Seller all confidential information heretofore furnished to such Person by or on behalf of Seller. If Seller or its Affiliates shall receive any Acquisition Proposal after the Effective Date, Seller shall immediately communicate the terms of such proposal to Purchaser. The term "**Acquisition Proposal**", as used in this Section, means any offer or proposal for, or any indication of interest in, the acquisition of the Assets or the Station or Seller or any portion thereof effectuated directly or indirectly

through a sale of assets, sale of equity interests, by merger or otherwise, other than the transactions contemplated or expressly permitted by this Agreement.

**5.3 Third Party Consents.** Seller shall use commercially reasonable efforts to obtain all consents, approvals, orders, authorizations, and waivers of, and to effect all declarations, filings, and registrations with, all third parties (including Governmental Entities) that are necessary, required, or deemed by Purchaser to be desirable to enable Seller to transfer the Assets to Purchaser as contemplated by this Agreement and to otherwise consummate the transactions contemplated hereby. Except as otherwise provided in Section 5.5(b)(ii) all costs and expenses of obtaining or effecting any and all of the consents, approvals, orders, authorizations, waivers, declarations, filings, and registrations referred to in this Section shall be borne by Seller; provided, however, that Seller shall not be required to bear the cost of negotiating any changes that Purchaser may wish to have made in the terms of any agreements or authorizations for which consents to assignment are sought.

**5.4 Cooperation.** Each party hereto agrees that it will not voluntarily undertake any course of action inconsistent with the provisions or intent of this Agreement and will take, or cause to be taken, all action and to do, or cause to be done, all things reasonably necessary, proper or advisable under Applicable Laws to consummate the transactions contemplated by this Agreement.

**5.5 FCC Consent.**

(a) **FCC Consent.** Consummation of the purchase and sale provided for herein and the performance of the obligations of Seller and Purchaser under this Agreement are subject to the condition that the FCC shall have given its consent in writing by Final Order, and furthermore, that such consent is granted without any condition that is materially adverse to Purchaser or Seller, to the assignment of the FCC Licenses to Purchaser.

(b) **Application For FCC Consent.**

(i) Seller and Purchaser agree to use commercially reasonable efforts and to cooperate with each other in seeking the FCC's approval of the transactions contemplated hereunder through the preparation, filing and prosecution of an appropriate long-form application to assign the FCC Licenses from Seller to Purchaser (the "**Assignment Application**"). The Assignment Application shall be filed on a date selected by Purchaser, with such date being no later than ten calendar days after the Effective Date of this Agreement (the "**Application Filing Date**"). Upon Purchaser's selection of the Application Filing Date, Purchaser shall inform Seller's counsel of the Application Filing Date. Purchaser and Seller shall submit the Assignment Application to the FCC using Seller's existing CDBS account with the FCC (the "**CDBS Account**"). Seller's counsel shall inform Purchaser's counsel as to the CDBS account number and password. Within seven days of Seller's receipt of notification of the Application Filing Date, each party shall have prepared its portion of the Assignment Application and all information, data, exhibits, resolutions, statements and other materials necessary and proper in connection with such Assignment Application, and shall have delivered it to Purchaser's counsel for electronic filing with the FCC. Each party further agrees to prepare Assignment Application amendments, respond to oral or written inquiries and answer pleadings whenever such documents are required by the FCC or its rules.

(ii) Except as otherwise provided herein, each party will be solely responsible for the expenses incurred by it in the preparation, filing and prosecution of its respective portion

of the Assignment Application. Seller and Purchaser shall each be responsible for one-half of all filing fees imposed by the FCC.

(iii) Each party agrees to comply with any condition imposed on it by the FCC, except that no party shall be required to comply with a condition that would have a Material Adverse Effect upon it unless the condition was imposed in the ordinary course or as the result of a circumstance which constitutes a breach by that party of any of its representations, warranties or covenants in this Agreement. Purchaser and Seller shall oppose any efforts for reconsideration or judicial review of the grant by the FCC of the Assignment Application (but nothing in this Section shall limit any party's right to terminate this Agreement pursuant to Section 9.1 of this Agreement).

(c) **Notice of Application.** Seller shall, at its expense, give due notice of the filing of the Assignment Application by broadcasting on the Station, and by such other means as may be required by the FCC Rules.

(d) **Flash-Cut Application.** Seller will request dismissal of its pending digital companion channel application within two business days after the Effective Date of this Agreement. Seller will file a flash-cut application with the FCC in connection with the Station's current channel 48 frequency (the "**Flash-Cut Application**") within two business days of the dismissal by the FCC of the pending digital companion channel application. The Flash-Cut Application will be supported by an engineering study provided by a consulting engineer to be designated and paid by Purchaser. The filing of the Flash-Cut Application will be done through an attorney to be specified and paid by Purchaser. Notwithstanding any other provision of this Agreement to the contrary, the grant or other approval of the Flash-Cut Application by the FCC shall not be a condition precedent to Closing for either Seller or Purchaser.

**5.6 Transfer of Certain Contracts.** Seller agrees that between the Effective Date hereof and the Closing Date it will use commercially reasonable efforts to obtain or cause to be obtained the necessary consents to the transfer of each Assumed Contract which by its terms requires the consent of any other contracting party thereto (for purposes of this Section, "**Consent Required Contract**"), and Purchaser will cooperate with Seller in securing such consent. In the event that Seller shall have failed prior to the Closing Date to obtain consents to the transfer of any Consent Required Contract, the terms of this Section shall govern the transfer of the benefits of each such contract. Notwithstanding any provision contained in this Agreement to the contrary, the parties hereto acknowledge and agree that Purchaser shall not be obligated to Close if any of the Consent Required Contracts cannot be transferred by the Closing Date, provided however, that if Purchaser elects to waive the requirement of Closing with all Consent Required Contracts assigned and transferred, then with respect to each such unassigned Consent Required Contract, after the Closing Date Seller shall continue to deal with the other contracting party or parties to such Consent Required Contract as the prime contracting party and shall continue to use commercially reasonable efforts to obtain the consent of all required parties to the transfer of such Consent Required Contract to Purchaser, but Purchaser shall be entitled to the benefits of such Consent Required Contract accruing after the Closing Date to the extent that Seller may provide Purchaser with such benefits without violating the terms of such Consent Required Contract. To the extent permitted under such Consent Required Contract, Purchaser agrees to perform at its sole expense all the obligations of Seller to be performed under such Consent Required Contract, and to indemnify and reimburse Seller for any cost Seller incurs in its continued performance, provided that Purchaser receives the substantial benefits of such Consent Required Contract after the Closing Date. Notwithstanding the foregoing provisions of this Section, the parties expressly agree that Seller shall be required, as a condition to Closing as set forth in



Section 7.6, to deliver to Purchaser a duly executed estoppel letter and consent to assignment for each tower lease pertaining to the Station.

**5.7 Public Announcements.** Except as may be required by Applicable Law, neither Purchaser nor Seller shall issue any press release or otherwise make any public statement with respect to this Agreement or the transactions contemplated hereby without the prior written consent of the other party (which consent shall not be unreasonably withheld).

**5.8 Notification of Certain Matters.** Seller shall give prompt notice to Purchaser of (i) the occurrence or nonoccurrence of any event the occurrence or nonoccurrence of which would be likely to cause any representation or warranty contained in Article II to be materially untrue or inaccurate at or prior to the Closing, (ii) any material failure of Seller to comply with or satisfy any covenant, condition or agreement to be complied with or satisfied by Seller hereunder and (iii) any notice or other communication from any Person alleging that the consent or approval of such Person is or may be required in connection with the transactions contemplated by this Agreement (other than those consents and approvals indicated as required on Schedule 1.1(f)). Purchaser shall give prompt notice to Seller of (i) the occurrence or nonoccurrence of any event the occurrence or nonoccurrence of which would be likely to cause any representation or warranty contained in Article III to be untrue or inaccurate at or prior to the Closing and (ii) any material failure of Purchaser to comply with or satisfy any covenant, condition or agreement to be complied with or satisfied by Purchaser hereunder. The delivery of any notice pursuant to this Section shall not be deemed to (i) modify the representations or warranties hereunder of the party delivering such notice, (ii) modify the conditions set forth in Articles VI and VII, or (iii) limit or otherwise affect the remedies available hereunder to the party receiving such notice.

**5.9 Fees and Expenses.** Except as otherwise expressly provided in this Agreement, all fees and expenses, including fees and expenses of counsel, financial advisors and accountants, incurred in connection with this Agreement and the transactions contemplated hereby shall be paid by the party incurring such fee or expense, whether or not the Closing shall have occurred; provided, however, that if this Agreement shall have been terminated pursuant to Section 9.1 as a result of the willful breach by a party of any of its representations, warranties, covenants or agreements set forth in this Agreement, such breaching party shall pay the costs and expenses of the other party in connection with the transactions contemplated by this Agreement.

**5.10 Taxes; Other Charges.** All sales and use Taxes resulting from the consummation of the transactions contemplated hereby shall be borne one half by Purchaser and one half by Seller, and the parties shall cooperate in obtaining all exemptions from such Taxes. All other registration, transfer, recording, and deed and stamp taxes and fees incurred in connection with the consummation of the transactions contemplated hereby shall be borne equally by Seller and Purchaser. Seller shall file all necessary documentation with respect to, and make all payments of, such Taxes and fees on a timely basis.

**5.11 Amendment of Schedules.** Each party hereto agrees that, with respect to the representations and warranties of such party contained in this Agreement, such party shall supplement or amend the Schedules as of the Closing Date with respect to any matter hereafter arising or discovered which, if existing or known at the date of this Agreement, would have been required to be set forth or described in the Schedules. For all purposes of this Agreement, including without limitation for purposes of determining whether the conditions set forth in Sections 6.1 and 7.1 have been fulfilled, the Schedules hereto shall be deemed to include only that information contained therein on the date of this Agreement and shall be deemed to exclude all information contained in any supplement or amendment thereto; provided, however, that if the Closing shall occur, then all matters disclosed pursuant to any such supplement or amendment at or prior to the Closing shall be waived and no party shall be entitled to make a claim thereon pursuant to the terms of this Agreement.

**5.12 Possession and Control of Station.** Subject to the TBA, between the Effective Date hereof and the Closing Date, Purchaser shall not directly or indirectly control, supervise or direct, or attempt to control, supervise, or direct, the business and operations of the Station, and such operation, including complete control and supervision of all programming, shall be the sole responsibility of the owners of the Station except as contemplated by the TBA. On or after the Closing Date, Seller shall have no control over, or right to intervene, supervise, direct or participate in, the business and operations of the Station.

**5.13 Survival of Covenants.** Except for any covenant or agreement which by its terms expressly terminates as of a specific date, the covenants and agreements of the parties hereto contained in this Agreement shall survive the Closing for a period of 12 months from the Closing Date, except the covenant of Purchaser to pay Seller the Contingent Purchase Price Adjustment Amount, subject to the provisions of Section 1.4 hereof, shall survive the closing for a period of 24 months from the Closing Date.

## **ARTICLE VI CONDITIONS PRECEDENT TO OBLIGATIONS OF SELLER**

The obligations of Seller to consummate the transactions contemplated by this Agreement shall be subject to the fulfillment by Purchaser or waiver by Seller on or prior to the Closing Date of each of the following conditions:

**6.1 Representations and Warranties True.** All the representations and warranties of Purchaser contained in this Agreement, and in any Ancillary Document on or prior to the Closing Date, shall be true and correct as of the date made and (having been deemed to have been made again on and as of the Closing Date) shall be true and correct on and as of the Closing Date, except as affected by transactions permitted by this Agreement or the TBA, and except to the extent that any such representation or warranty is made as of a specified date, in which case such representation or warranty shall have been true and correct as of such specified date.

**6.2 Covenants and Agreements Performed.** Purchaser shall have performed and complied with in all material respects all covenants and agreements required by this Agreement to be performed or complied with by it on or prior to the Closing Date, including delivery of the full amount of the Purchase Price.

**6.3 Certificate.** Seller shall have received a certificate executed by an authorized officer of Purchaser, dated the Closing Date, representing and certifying, in such detail as Seller may reasonably request, that the conditions set forth in Sections 6.1 and 6.2 have been fulfilled and that Purchaser is not in breach of any provision of this Agreement.

**6.4 Final Order of FCC.** The grant by the FCC of the Assignment Application shall have become a Final Order.

**6.5 Legal Proceedings.** No preliminary or permanent injunction or other order, decree or ruling issued by a Governmental Entity, and no statute, rule, regulation or executive order promulgated or enacted by a Governmental Entity, shall be in effect which restrains, enjoins, prohibits or otherwise makes illegal the consummation of the transactions contemplated hereby; no Proceeding by a Governmental Entity shall have been commenced or threatened (and be pending or threatened on the Closing Date) against Purchaser, Seller or any of their respective Affiliates, managers, directors or officers seeking to prevent or challenging the transactions contemplated hereby; and no Proceeding before a court of competent jurisdiction shall have been commenced (and be pending on the Closing Date) against Purchaser, Seller or any of their respective

Affiliates, managers, directors or officers seeking to prevent or challenging the transactions contemplated hereby or seeking material damages in connection therewith.

**6.6 Other Documents.** Seller shall have received the certificates, instruments and documents described in Section 8.3.

## **ARTICLE VII CONDITIONS PRECEDENT TO OBLIGATIONS OF PURCHASER**

The obligations of Purchaser to consummate the transactions contemplated by this Agreement shall be subject to the fulfillment by Seller or waiver by Purchaser on or prior to the Closing Date of each of the following conditions:

**7.1 Representations and Warranties True.** All the representations and warranties of Seller contained in this Agreement, and in any Ancillary Document on or prior to the Closing Date, shall be true and correct as of the date made (and having been deemed to have been made upon and as of the Closing Date) shall be true and correct on and as of the Closing Date, except as affected by transactions permitted by this Agreement or the TBA, and except to the extent that any such representation or warranty is made as of a specified date, in which case such representation or warranty shall have been true and correct as of such specified date.

**7.2 Covenants and Agreements Performed.** Seller shall have performed and complied with in all material respects all covenants and agreements required by this Agreement to be performed or complied with by it on or prior to the Closing Date, including the filing of the Flash-Cut Application prior to the Closing Date.

**7.3 Certificate.** Purchaser shall have received a certificate executed by an authorized officer of Seller, dated the Closing Date, representing and certifying, in such detail as Purchaser may reasonably request, that the conditions set forth in Sections 7.1 and 7.2 have been fulfilled and that Seller is not in breach of any provision of this Agreement.

**7.4 Final Order of FCC.** The grant by the FCC of the Assignment Application shall have become a Final Order.

**7.5 Legal Proceedings.** No preliminary or permanent injunction or other order, decree or ruling issued by a Governmental Entity, and no statute, rule, regulation or executive order promulgated or enacted by a Governmental Entity, shall be in effect which restrains, enjoins, prohibits or otherwise makes illegal the consummation of the transactions contemplated hereby; no Proceeding by a Governmental Entity shall have been commenced or threatened (and be pending or threatened on the Closing Date) against Purchaser, Seller or any of their respective Affiliates, associates, directors or officers seeking to prevent or challenging the transactions contemplated hereby; and no Proceeding before a court of competent jurisdiction shall have been commenced (and be pending on the Closing Date) against Purchaser, Seller or any of their respective Affiliates, associates, directors or officers seeking to prevent or challenging the transactions contemplated hereby or seeking material damages in connection therewith.

**7.6 Consents.** All consents, approvals, orders, authorizations, and waivers of, and all declarations, filings and registrations with, third parties (including Governmental Entities) required to be obtained or made by or on the part of the parties hereto or otherwise reasonably necessary for the

consummation of the transactions contemplated hereby shall have been obtained or made, and all thereof shall be in full force and effect at the time of Closing.

**7.7 Risk of Loss.** The risk of loss to any of the Assets prior to the Closing Date shall remain with Seller. Seller shall use all commercially reasonable efforts to repair or replace any damaged or lost Assets, provided, however, that in the event that Assets with a value of greater than \$50,000 are damaged or lost on the date otherwise scheduled for Closing, Purchaser may, at its option, either (i) postpone Closing for a period of up to 60 days while Seller repairs or replaces such Assets, or (ii) elect to close with the Assets in their current condition, in which case Seller shall assign all proceeds from insurance on such lost or damaged Assets to Purchaser, and Purchaser shall have the responsibility to repair or replace the Assets. Seller shall have no responsibility to repair or replace damaged or destroyed Assets not covered by insurance if the cost of such repair exceeds \$50,000, provided, however, that should Seller not advise Purchaser within five days after being requested to do so that Seller will repair or replace such Assets, Purchaser may terminate this Agreement without penalty upon written notice to Seller.

**7.8 FCC Licenses.** Seller shall be the holder of each of the FCC Licenses and such licenses shall be in full force and effect.

**7.9 Noncompetition Agreement.** Seller shall have executed and delivered to Purchaser a Noncompetition Agreement in substantially the form attached hereto as Exhibit C (the "Noncompetition Agreement").

**7.10 Tender of Assets and Other Documents.** On the Closing Date, Seller shall have executed and delivered all necessary or appropriate instruments of transfer, bills of sale, deeds and other documents to transfer and vest good and indefeasible title to the Assets to Purchaser, subject only to any Permitted Encumbrances, including the documents, certificates and instruments described in Section 8.2. In addition, Purchaser shall have received the certificates, instruments, and documents listed below:

- (a) Executed copies of all consents and approvals of third parties required to be obtained by or on the part of Seller for the consummation of the transactions contemplated hereby.
- (b) All books and records of Seller relating to the Assets or the operation of the Station.
- (c) A certificate from the Secretary of State of Texas dated not more than five days prior to the Closing Date as to the legal existence of Seller under the laws of such state.
- (d) Lien search reports, conducted by Purchaser at its own cost and expense, each dated not more than ten days prior to the Closing Date, showing that no financing statements or other liens (or notices with respect to liens) affecting the Assets or any thereof naming Seller or the Station as debtor are on file in the Uniform Commercial Code or other relevant records of the office of the Secretary of State of the state of formation of Seller, or the county clerk's office of the county in which the Station is located, except any that will be fully discharged at Closing.

## **ARTICLE VIII CLOSING**

**8.1 Closing; Closing Date.** The closing of the transactions contemplated hereby (the "Closing") shall take place at the offices of Seller's counsel, Snell Wylie & Tibbals, P.C., 8150 N. Central Expressway, Suite 1800, Dallas, Texas 75206, or at such other place as is mutually agreed at 10:00 a.m., local time, within

10 days after the grant of the Assignment Application by the FCC shall have become a Final Order on the date within such period selected by Purchaser on five days notice to Seller, or if Purchaser waives the condition that the grant of the Assignment Application by the FCC shall have become a Final Order, on such earlier date set by Purchaser upon at least five days notice to Seller. The date on which the Closing is required to take place is herein referred to as the "**Closing Date**". All Closing transactions shall be deemed to have occurred simultaneously.

At the Closing, subject to the satisfaction or waiver of the conditions to its obligations set forth in this Agreement, Seller and Purchaser shall make the deliveries, set forth in Sections 8.2 and 8.3 hereof, respectively, or such deliveries in substitution therefor as are satisfactory to the indicated recipient.

## **8.2 Deliveries by Seller.**

(a) LocalOne TV shall execute and deliver to Purchaser a General Conveyance, Assignment and Bill of Sale and Transfer and Assumption of Assumed Liabilities substantially in the form of Exhibit D attached hereto (the "**Bill of Sale**"), and other instruments in form and substance reasonably satisfactory to Purchaser and sufficient to transfer to Purchaser and effectively vest in Purchaser all right, title, and interest of Seller in and to the Station and good and indefeasible title to the Assets (other than the FCC Licenses), to Purchaser subject only to the Permitted Encumbrances.

(b) LocalOne Texas shall execute and deliver to Purchaser the Assignment of FCC Licenses substantially in the form of Exhibit E attached hereto (the "**Assignment of FCC Licenses**").

(c) Seller shall deliver to Purchaser the Noncompetition Agreement duly executed by Seller.

(d) Seller shall deliver the right of possession of the Assets to Purchaser.

(e) Seller shall execute and deliver to Purchaser a certificate of an officer of Seller certifying (i) that attached to such certificate are true and correct copies of the resolutions adopted by Seller authorizing the execution, delivery and performance of this Agreement by Seller and that such resolutions are in full force and effect as of the Closing and (ii) the incumbency and signatures of the officers of Seller who have executed this Agreement and the other certificates, instruments and documents delivered at the Closing on behalf of Seller.

(f) Seller shall execute and deliver to Purchaser a certificate, which shall be dated as of the Closing Date and which shall be signed by a duly authorized officer of Seller certifying (i) the authority of Seller to enter into and consummate the transactions contemplated by this Agreement, (ii) the authority of the officers of Seller to execute and deliver this Agreement and any Ancillary Document contemplated by this Agreement on behalf of Seller, (iii) the representations and warranties of Seller contained in Article II hereof, and in any agreement, instrument or document delivered pursuant hereto or in connection herewith, were true and correct when made and are true and correct as of the Closing Date (except to the extent that any representation or warranty of Seller specifically relates to an earlier date, in which case such representation or warranty shall have been true and correct in all material respects as of such earlier date), and (iv) each and every covenant and agreement of Seller contained in the Agreement to be performed by Seller on or prior to the Closing Date has been performed by Seller.

(g) Seller shall deliver any necessary instructions to the Escrow Agent to release the Deposit to Seller and all interest and earnings on the Deposit to Purchaser.

(h) Seller shall execute and deliver to Purchaser such other certificates, instruments and documents as may be reasonably requested by, and in form and substance reasonably satisfactory to, Purchaser in order to effect the transactions contemplated by this Agreement to occur at the Closing.

### **8.3 Deliveries by Purchaser.**

(a) Purchaser shall deliver to Seller the Purchase Price.

(b) Purchaser shall execute and deliver to Seller the Bill of Sale.

(c) Purchaser shall execute and deliver to Seller a certificate of an officer of Purchaser certifying (i) that attached to such certificate is a true and correct copy of the resolutions adopted by the Board of Directors of Purchaser authorizing the execution, delivery and performance of this Agreement by Purchaser and that such resolutions are in full force and effect as of the Closing, and (ii) the incumbency and signatures of the officers of Purchaser who have executed this Agreement and the other certificates, instruments and documents delivered at the Closing on behalf of Purchaser.

(d) Purchaser shall execute and deliver to Seller a certificate, which shall be dated as of the Closing Date and which shall be signed by a duly authorized officer of Purchaser certifying (i) the authority of Purchaser to enter into and consummate the transactions contemplated by this Agreement, (ii) the authority of the officers of Purchaser to execute and deliver this Agreement and any Ancillary Document contemplated by this Agreement on behalf of Purchaser, (iii) the representations and warranties of Purchaser contained in Article III hercof were true and correct when made and are true and correct as of the Closing Date (except to the extent that any representation or warranty of Purchaser specifically relates to an earlier date, in which case such representation or warranty shall have been true and correct in all material respects as of such earlier date), and (iv) each and every covenant and agreement of Purchaser contained in the Agreement to be performed by Purchaser on or prior to the Closing Date has been performed by Purchaser.

(e) Purchaser shall deliver to Seller such other certificates, instruments and documents as may be reasonably requested by, and in form and substance reasonably satisfactory to, Seller in order to effect the transactions contemplated by this Agreement to occur at the Closing.

## **ARTICLE IX TERMINATION, AMENDMENT, AND WAIVER**

**9.1 Termination.** This Agreement may be terminated and the transactions contemplated hereby abandoned at any time prior to the Closing in the following manner:

(a) by mutual written consent of Seller and Purchaser;

(b) by either Seller or Purchaser, if the Closing shall not have occurred on or before one year from the date of execution of this Agreement, unless such failure to close shall be due to a breach of this Agreement by the party seeking to terminate this Agreement pursuant to this clause (b);

(c) by either Seller or Purchaser, if there shall be any statute, rule or regulation that makes consummation of the transactions contemplated hereby illegal or otherwise prohibited or a Governmental Entity shall have issued an order, decree or ruling or taken any other action permanently restraining, enjoining or otherwise prohibiting the consummation of the transactions contemplated hereby, and such order, decree, ruling or other action shall have become final and nonappealable;

(d) by Seller, if (i) any of the representations and warranties of Purchaser contained in this Agreement shall not be true and correct in any material respect, when made or at any time prior to the Closing as if made at and as of such time (except to the extent that any such representation or warranty is made as of a specified date, in which event such representation or warranty shall have been true and correct in all material respects as of such date), in any respect which is material to Purchaser or the ability of Purchaser to consummate the transactions contemplated hereby, or (ii) Purchaser shall have failed to fulfill in any material respect any of its material obligations under this Agreement, which failure is material to the obligations of Purchaser under this Agreement, and, in the case of each of clauses (i) and (ii), such misrepresentation, breach of warranty, or failure (provided it can be cured) has not been cured within 30 days after written notice thereof from Seller to Purchaser; provided, however, that Seller shall not be required to delay Closing for more than 30 days or beyond the one year anniversary of the date of execution of this Agreement, to allow a cure by Purchaser, provided further, however, that if Seller is aware of such condition as described in clauses (i) or (ii) herein and does not notify Purchaser in writing within 30 days of becoming aware of such condition, Seller shall be deemed to have waived its rights to termination under this Section 9.1(d);

(e) by Purchaser, if (i) any of the representations and warranties of Seller contained in this Agreement shall not be true and correct in any material respect, when made or at any time prior to the Closing as if made at and as of such time (except to the extent that any such representation or warranty is made as of a specified date, in which event such representation or warranty shall have been true and correct in all material respects as of such date), in any respect which is material to Seller or the ability of Seller to consummate the transactions contemplated hereby, or (ii) Seller shall have failed to fulfill in any material respect any of its material obligations under this Agreement, which failure is material to the obligations of Seller under this Agreement, and, in the case of each of clauses (i) and (ii), such misrepresentation, breach of warranty, or failure (provided it can be cured) has not been cured within 30 days after written notice thereof from Purchaser to Seller; provided, however, that Purchaser shall not be required to delay Closing for more than 30 days or beyond the one year anniversary of the date of execution of this Agreement, to allow a cure by Seller; or

(f) by Purchaser in accordance with the provisions of Section 7.7; or

(g) by Purchaser, if Seller fails to request dismissal of its pending digital companion channel application and file the Flash-Cut Application as provided in Section 5.5(d).

**9.2 Effect of Termination.** In the event of the termination of this Agreement pursuant to Section 9.1 by Seller or Purchaser, written notice thereof shall forthwith be given to the other party specifying the provision hereof pursuant to which such termination is made, and this Agreement shall become void and have no effect, except that the agreements contained in this Section and in Sections 3.6, 5.1(b), 5.7, 5.9, 9.5, 9.6, 11.1, 11.5, 11.13 and 11.14 shall survive the termination hereof for a period of 12 months.

**9.3 Amendment.** This Agreement may not be amended except by an instrument in writing signed by or on behalf of all the parties hereto.

**9.4 Waiver.** Each of Seller and Purchaser may (i) waive any inaccuracies in the representations and warranties of the other contained herein or in any document, certificate or writing delivered pursuant hereto or (ii) waive compliance by the other with any of the other's agreements or fulfillment of any conditions to its own obligations contained herein. Any agreement on the part of a party hereto to any such waiver shall be valid only if set forth in an instrument in writing signed by or on behalf of such party. No failure or delay by a party hereto in exercising any right, power, or privilege hereunder shall operate as a waiver thereof nor shall any single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any other right, power or privilege.

**9.5 Specific Performance by Purchaser.** Seller and Purchaser hereby acknowledge that the Assets are unique, and that the harm to Purchaser resulting from Seller's failure to perform Seller's obligations hereunder cannot be adequately compensated by damages. Accordingly, Seller agrees that Purchaser shall have the right to have all obligations, undertakings, agreements, covenants and other provisions of this Agreement specifically performed by Seller; provided such action is commenced within 60 days after the breach or termination of this Agreement. In any such specific performance action, Seller agrees to waive the defense that there is an adequate remedy at law for damages and agrees that Purchaser shall be entitled to obtain specific performance of Seller's obligations hereunder without having to post any bond or other security in any such proceeding.

**9.6 Deposit as Liquidated Damages.** In the event that Seller terminates this Agreement pursuant to Section 9.1(d), then the entire amount of the Deposit, excluding any interest and earnings thereon, shall be delivered to Seller as liquidated damages in full settlement of any Damages of any kind that Seller may suffer or allege to suffer as the result thereof. It is understood and agreed that the amount of liquidated damages represents Seller's and Purchaser's reasonable estimate of actual Damages and does not constitute a penalty. Such liquidated damages shall be the sole and exclusive remedy of Seller against Purchaser for Purchaser's breach in the event of such termination; provided, however, that if Seller should have to commence litigation to recover the Deposit, the prevailing party in such litigation shall be entitled to recover attorneys fees pursuant to Section 11.12 hereof.

**9.7 Effect of Termination on TBA.** In the event of the termination of this Agreement pursuant to Section 9.1, either Seller or Purchaser shall thereupon be entitled to terminate the TBA, by written notice to the other party in which event the TBA, notwithstanding any provision contained therein, shall be terminated upon receipt of such notice by such other party.

## **ARTICLE X SURVIVAL OF REPRESENTATIONS; INDEMNIFICATION**

### **10.1 Survival.**

(a) All representations, warranties, covenants and agreements of the parties hereto contained in this Agreement or in any certificate, instrument or document delivered pursuant hereto shall survive the Closing, regardless of any investigation made by or on behalf of any party, for a period of one year from the Closing Date, except that the representations as to title to the Assets set forth in Section 2.6 hereof shall survive forever and the covenant of Purchaser to pay Seller the Contingent Purchase Price Adjustment Amount, subject to the provisions of Section 1.4 hereof, shall survive the Closing for a period of 24 months. Any right of indemnification pursuant to this Article X with respect to a claimed breach of any representation, covenant or warranty shall expire or terminate on the date of expiration or termination of the representation, covenant or warranty claimed to be breached (each a "Survival Date"). From and after the Survival Date, no party hereto or any



shareholder, member, partner, director, manager, officer, or employee of such party shall be under any liability whatsoever (whether pursuant to this Article X or otherwise) with respect to any such representation or warranty, except with respect to matters as to which notice has been received in accordance with Section 10.1(b).

(b) No party hereto shall have any indemnification obligation pursuant to this Article X or otherwise in respect of any representation or warranty unless before the Survival Date it shall have received from the party seeking indemnification written notice of the existence of the claim for or in respect of which indemnification is sought. Such notice shall set forth with reasonable specificity (i) the basis under this Agreement, and the facts that otherwise form the basis, of such claim, (ii) an estimate of the amount of such claim (which estimate shall not be conclusive of the final amount of such claim) and an explanation of the calculation of such estimate, including a statement of any significant assumptions employed therein, and (iii) the date on and manner in which the party delivering such notice became aware of the existence of such claim; provided, however, that any notice which the party seeking indemnification delivers to the indemnifying party prior to the Survival Date which notifies the indemnifying party of the existence of a claim and, notwithstanding the failure of such notice to meet the requirements set forth in clauses (i), (ii), and (iii) above, does not materially prejudice the indemnifying party's ability to defend such claim, shall be deemed to have met the requirement of delivery of notice prior to the Survival Date for the purpose of preserving the indemnified party's right to indemnification pursuant to this Article X.

**10.2 Indemnification by Seller.** Subject to the terms and conditions of this Article X, Seller shall indemnify, defend and hold harmless Purchaser and its directors, managers, and officers, and their respective heirs, legal representatives, successors and assigns (collectively, the "**Purchaser Group**"), from and against any and all claims, actions, causes of action, demands, assessments, losses, damages, liabilities, judgments, settlements, penalties, costs and expenses (including reasonable attorneys' fees and expenses), of any nature whatsoever (collectively, "**Damages**"), asserted against, resulting to, imposed upon or incurred by any member of the Purchaser Group, directly or indirectly, by reason of or resulting from:

(a) any inaccuracy in or breach of any representation or warranty of Seller contained in this Agreement or in any certificate, instrument or document delivered pursuant hereto; provided, however, Seller shall have no obligation to indemnify Purchaser in connection with any matter disclosed in the original or updated Disclosure Schedules provided hereunder to Purchaser or otherwise known by Purchaser prior to the Closing;

(b) any breach by Seller of any of its covenants or agreements contained in this Agreement or in any certificate, instrument, or document delivered pursuant hereto;

(c) any Excluded Liability including any liability or obligation of Seller or its Affiliates (whether accrued, absolute, contingent, unliquidated or otherwise, whether or not known to Seller, and whether due or to become due), other than the Assumed Liabilities or liabilities of Purchaser under the TBA;

(d) the ownership, management, or use of the Assets prior to the Closing Date, except as otherwise provided in the TBA;

(e) the operation of the Station prior to the Closing Date, except as otherwise provided in the TBA;

(f) any Encumbrances; and

(g) any acts or omissions of Seller prior to the Closing Date or, except as otherwise provided in the TBA, any events or occurrences involving the Assets, the operation of the Station, or the employees or former employees of Seller or its Affiliates taking place prior to the Closing Date (clauses (a) through (g) of this Section collectively, "**Purchaser Claims**").

**10.3 Indemnification by Purchaser.** Subject to the terms and conditions of this Article X, Purchaser shall indemnify, defend and hold harmless Seller and its partners and officers and their respective heirs, legal representatives, successors and assigns (collectively, the "**Seller Group**"), from and against any and all Damages asserted against, resulting to, imposed upon, or incurred by any member of the Seller Group, directly or indirectly, by reason of or resulting from:

(a) any inaccuracy in or breach of any representation or warranty of Purchaser contained in this Agreement or in any certificate, instrument, or document delivered pursuant hereto;

(b) any breach by Purchaser of any of its covenants or agreements contained in this Agreement or in any certificate, instrument, or document delivered pursuant hereto;

(c) the performance or non-performance of the Assumed Liabilities after the Closing Date;

(d) the ownership, management, or use by Purchaser of the Assets from and after the Closing Date, except to the extent Purchaser is indemnified by Seller with respect to such matters pursuant to Section 10.2; and

(e) any acts or omissions of Purchaser after the Closing Date or any events or occurrences involving the Assets, the operation of the Assets, or the employees of Purchaser or its Affiliates taking place after the Closing Date, except to the extent Purchaser is indemnified by Seller with respect to such matters pursuant to Section 10.2 (clauses (a) through (e) of this Section collectively, "**Seller Claims**").

**10.4 Limitation of Liability.** The indemnification obligations of the parties hereto pursuant to this Article X shall be subject to the following:

(a) No indemnification shall be required to be made by Seller pursuant to this Article X with respect to any Purchaser Claims, unless and until the aggregate amount of Damages incurred by the Purchaser Group with respect to all Purchaser Claims (whether asserted, resulting, imposed or incurred before, on or after the Closing Date) exceeds \$25,000 (the "**Threshold**"), it being agreed and understood that, if such amount is exceeded, Seller shall be liable only to the extent such aggregate Damages exceed the Threshold, subject to the limitations set forth in this Section 10.4. Notwithstanding the foregoing, the Threshold shall not apply to Damages asserted against, resulting to, imposed upon or incurred by any member of the Purchaser Group, directly or indirectly, by reason of or resulting from any inaccuracy in or breach of any representation or warranty contained in Section 2.22 (Brokerage Fees) of this Agreement, which is not subject to the Threshold.

(b) No indemnification shall be required to be made by Purchaser pursuant to this Article X with respect to any Seller Claims, unless and until the aggregate amount of Damages incurred by the Seller Group with respect to all Seller Claims (whether asserted, resulting, imposed or incurred before,

on or after the Closing Date) exceeds the Threshold, it being agreed and understood that, if such amount is exceeded, Purchaser shall be liable only to the extent such aggregate Damages exceed the Threshold, subject to the limitations set forth in this Section 10.4. Notwithstanding the foregoing, the Threshold shall not apply to Damages asserted against, resulting to, imposed upon or incurred by any member of the Seller Group, directly or indirectly, by reason of or resulting from any inaccuracy in or breach of any representation or warranty contained in Section 3.6 (Brokerage Fees) of this Agreement, which is not subject to the Threshold.

(c) The amount of Damages required to be paid by any party to indemnify any other party pursuant to this Article X as a result of any Seller Claim or any Purchaser Claim shall be reduced to the extent of any amounts actually received by such other party after the Closing Date pursuant to the terms of the insurance policies (if any) covering such claim, but there shall not be taken into account any tax benefit realized directly or indirectly, by the indemnified party.

(d) The indemnification obligations of Seller and Purchaser pursuant to this Article X shall be limited to actual damages and shall not include incidental, consequential, indirect, punitive or exemplary damages.

(e) As a material inducement to Seller to enter into this Agreement and perform its obligations hereunder, Purchaser hereby agrees and acknowledges on behalf of itself and the other members of the Purchaser Group that, in relation to any breach, default or nonperformance of any representation, warranty, covenant, obligation or agreement made or entered into by Seller pursuant to this Agreement, or any ancillary document executed and delivered by Seller, the sole and exclusive relief and remedy available to Purchaser or a member of the Purchaser Group, in respect of said breach, default or nonperformance or any other claim or cause of action relating to or arising under this Agreement or any ancillary document (i) prior to Closing shall be to seek specific performance pursuant to the provisions of Section 9.5 hereof, and (ii) after Closing shall be to seek indemnification from Sellers for Damages to the extent properly claimable and as limited pursuant to the provisions of this Article X or to seek injunctive relief pursuant to the provisions of Section 11.11.

**10.5 Procedure for Indemnification.** Within 15 days after receipt by an indemnified party under Section 10.2 or 10.3 of notice of the commencement of any action, such indemnified party shall, if a claim in respect thereof is to be made against an indemnifying party under such Section, give written notice to the indemnifying party of the commencement thereof, but the failure so to notify the indemnifying party shall not relieve it of any liability that it may have to any indemnified party except to the extent the indemnifying party demonstrates that the defense of such action is prejudiced thereby. In case any such action shall be brought against an indemnified party and it shall give written notice to the indemnifying party of the commencement thereof, the indemnifying party shall be entitled to participate therein and, to the extent that it may wish, to assume the defense thereof with counsel reasonably satisfactory to such indemnified party. If the indemnifying party elects to assume the defense of such action, the indemnified party shall have the right to employ separate counsel at its own expense and to participate in the defense thereof. If the indemnifying party elects not to assume (or fails to assume) the defense of such action, the indemnified party shall be entitled to assume the defense of such action with counsel of its own choice, at the expense of the indemnifying party. If the action is asserted against both the indemnifying party and the indemnified party and there is a conflict of interests which renders it inappropriate for the same counsel to represent both the indemnifying party and the indemnified party, the indemnifying party shall be responsible for paying for separate counsel for the indemnified party; provided, however, that if there is more than one indemnified party, the indemnifying party shall not be responsible for paying for more than one separate firm of attorneys to represent the indemnified parties, regardless of the number of indemnified parties. If the indemnifying party elects to assume the defense of such

action, (a) no compromise or settlement thereof may be effected by the indemnifying party without the indemnified party's written consent (which shall not be unreasonably withheld) unless the sole relief provided is monetary damages that are paid in full by the indemnifying party and (b) the indemnifying party shall have no liability with respect to any compromise or settlement thereof effected without its written consent (which shall not be unreasonably withheld).

## **ARTICLE XI MISCELLANEOUS**

**11.1 Notices.** All notices, requests, demands, and other communications required or permitted to be given or made hereunder by any party hereto shall be in writing and shall be deemed to have been duly given or made if (i) delivered personally, (ii) transmitted by first class registered or certified mail, postage prepaid, return receipt requested, (iii) sent by prepaid overnight courier service, (iv) sent by telecopy or facsimile transmission, confirmation of receipt requested, or (v) sent by electronic mail, with confirmation of receipt, to the parties at the following addresses (or at such other addresses as shall be specified by the parties by like notice):

Seller:	LocalOne TV, L.P. 1227 W. Magnolia Avenue Suite 300 Fort Worth, Texas 76104 Attn: James L. Anderson Facsimile No.: (817) 920-9606 Email: <a href="mailto:janderson@mocappartners.com">janderson@mocappartners.com</a>
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With a copy to:	Snell Wylie & Tibbals, P.C. 8150 N. Central Expressway Suite 1800 Dallas, Texas 75206 Attn: William F. Pyne Facsimile No.: (214) 691-2501 Email: <a href="mailto:wpyne@snellwylie.com">wpyne@snellwylie.com</a>
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Purchaser:	Barba Television, Co. 1401 Brickell Avenue Suite 500 Miami, Florida 33131 Attn: Marcell Felipe, Esq Facsimile No.: (305) 381-6225 Email: <a href="mailto:mfelipe@marcellfelipe.com">mfelipe@marcellfelipe.com</a>
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With a copy to:	Marcell Felipe, Esq. 1401 Brickell Avenue Suite 500 Miami, Florida 33131 Facsimile No.: (305) 381-6225 Email: <a href="mailto:mfelipe@marcellfelipe.com">mfelipe@marcellfelipe.com</a>
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Such notices, requests, demands and other communications shall be effective (i) if delivered personally or sent by courier service, upon actual receipt by the intended recipient, (ii) if mailed, upon the earlier of five days after deposit in the mail or the date of delivery as shown by the return receipt therefor, or (iii) if sent by telecopy or facsimile or email transmission, when the answer back or confirmation of receipt is received. Notice given to counsel shall not be deemed notice to a party.

**11.2 Entire Agreement.** This Agreement, together with the Schedules, Exhibits, and other writings referred to herein or delivered pursuant hereto, constitutes the entire agreement between the parties hereto with respect to the subject matter hereof and supersedes all prior or contemporaneous agreements and understandings, both written and oral, between the parties with respect to the subject matter hereof.

**11.3 Binding Effect; Assignment; No Third Party Benefit.** This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and permitted assigns. Except as otherwise expressly provided in this Agreement, neither this Agreement nor any of the rights, interests or obligations hereunder shall be assigned by either of the parties hereto without the prior written consent of the other party, except that Purchaser may assign to any Affiliate of Purchaser or any entity in which Carlos Barba has a direct or indirect ownership interest any of Purchaser's rights, interests or obligations hereunder, upon notice to Seller, provided that no such assignment shall relieve Purchaser of its obligations hereunder. Except as provided in Article X, nothing in this Agreement, express or implied, is intended to or shall confer upon any Person other than the parties hereto, and their respective successors and permitted assigns, any rights, benefits, or remedies of any nature whatsoever under or by reason of this Agreement.

**11.4 Severability.** If any provision of this Agreement is held to be unenforceable, this Agreement shall be considered divisible and such provision shall be deemed inoperative to the extent it is deemed unenforceable, and in all other respects this Agreement shall remain in full force and effect; provided, however, that if any such provision may be made enforceable by limitation thereof, then such provision shall be deemed to be so limited and shall be enforceable to the maximum extent permitted by Applicable Law.

**11.5 GOVERNING LAW. THIS AGREEMENT IS MADE, ENTERED INTO AND IS PERFORMABLE IN FORT WORTH, TARRANT COUNTY, TEXAS AND SHALL BE GOVERNED BY AND CONSTRUED AND ENFORCED IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS, WITHOUT REGARD TO THE PRINCIPLES OF CONFLICTS OF LAWS THEREOF.**

**11.6 Further Assurances.** From time to time following the Closing, at the request of either party hereto and without further consideration, the other party hereto shall execute and deliver to such requesting party such instruments and documents and take such other action (but without incurring any material financial obligation) as such requesting party may reasonably request in order to consummate more fully and effectively the transactions contemplated hereby.

**11.7 Descriptive Headings.** The descriptive headings herein are inserted for convenience of reference only, do not constitute a part of this Agreement, and shall not affect in any manner the meaning or interpretation of this Agreement.

**11.8 Gender.** Pronouns in masculine, feminine, and neuter genders shall be construed to include any other gender, and words in the singular form shall be construed to include the plural and vice versa, unless the context otherwise requires.

**11.9 References.** All references in this Agreement to Articles, Sections and other subdivisions refer to the Articles, Sections, and other subdivisions of this Agreement unless expressly provided otherwise. The words "this Agreement", "herein", "hereof", "hereby", "hereunder" and words of similar import refer to this Agreement as a whole and not to any particular subdivision unless expressly so limited. Whenever the words "include", "includes" and "including" are used in this Agreement, such words shall be deemed to be followed by the words "without limitation". Each reference herein to a Schedule or Exhibit refers to the item identified separately in writing by the parties hereto as the described Schedule or Exhibit to this Agreement.

**11.10 Counterparts and Facsimile Execution.** This Agreement may be executed by the parties hereto in any number of counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same agreement. Each counterpart may consist of a number of copies hereof each signed by less than all, but together signed by all, the parties hereto. In order to facilitate the execution of this Agreement, an executed counterpart of the signature page or pages to the Agreement may be delivered by facsimile transmission to the other parties hereto and such facsimile signature shall be deemed an original signature for purposes of this Agreement and shall be binding on the parties hereto. An original executed counterpart of said signature page shall be promptly forwarded to the other parties hereto.

**11.11 Injunctive Relief.** The parties hereto acknowledge and agree that irreparable damage would occur in the event any of the provisions of this Agreement were not performed in accordance with their specific terms or were otherwise breached. It is accordingly agreed that, except to the extent any exclusive remedy is provided for herein, the parties shall be entitled to an injunction or injunctions to prevent breaches of the provisions of this Agreement, and shall be entitled to enforce specifically the provisions of this Agreement, in any court of the United States or any state thereof having jurisdiction, in addition to any other remedy to which the parties may be entitled under this Agreement or at law or in equity.

**11.12 Attorneys Fees.** In the event legal proceedings are commenced by either party to enforce any rights hereunder, the prevailing party, in addition to which they may be entitled pursuant to the terms of this Agreement, shall also be entitled to collect reasonable attorneys fees and expenses incurred in connection with such action.

**11.13 Consent to Jurisdiction.**

(a) The parties hereto hereby irrevocably submit to the jurisdiction of the applicable courts of the State of Texas located in Tarrant County, Texas and the federal courts of the United States of America located in Tarrant County, Texas, and appropriate appellate courts therefrom, over any dispute arising out of or relating to this Agreement or any of the transactions contemplated hereby and each party hereby irrevocably agrees that all claims in respect of such dispute or proceeding may be heard and determined in such courts, which courts shall be the exclusive courts of jurisdiction and venue. The parties hereby irrevocably waive, to the fullest extent permitted by Applicable Law, any objection which they may now or hereafter have to the laying of venue of any dispute arising out of or relating to this Agreement or any of the transactions contemplated hereby brought in such court or any defense of inconvenient forum for the maintenance of such dispute. Each of the parties hereto agrees that a judgment in any such dispute may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law. This consent to jurisdiction and venue is being given solely for purposes of this Agreement and is not intended to, and shall not, confer consent to jurisdiction or venue with respect to any other dispute in which a party to this Agreement may become involved.

(b) Each of the parties hereto hereby consents to process being served by any party to this Agreement in any suit, action, or proceeding of the nature specified in subsection (a) above by the mailing of a copy thereof in the manner specified by the provisions of Section 11.1.

**11.14 Preparation of Agreement.** All parties to this Agreement have participated equally in its preparation. Accordingly, if a dispute arises regarding or relating to this Agreement, the language or terms of the Agreement shall not be construed more or less favorably against one party over another.

**11.15 Time of the Essence.** Time is of the essence of this Agreement, unless otherwise provided herein or agreed to by the parties in writing.

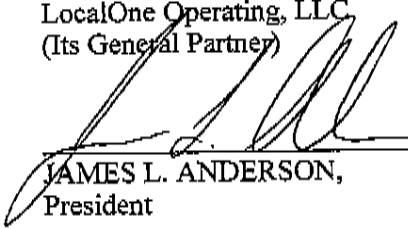
**(Signature Page Follows on Next Page)**

IN WITNESS WHEREOF, the parties have executed this Agreement, or caused this Agreement to be executed by their duly authorized representatives, all as of the day and year first above written.

**SELLER:**

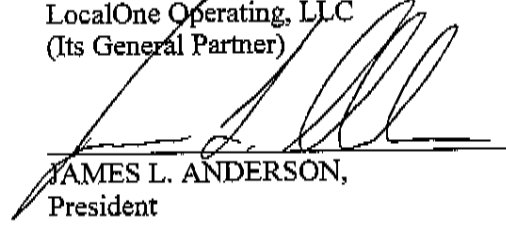
**LOCALONE TV, L.P.**

By: LocalOne Operating, LLC  
(Its General Partner)

By:   
JAMES L. ANDERSON,  
President

**LOCALONE TEXAS, LTD.**

By: LocalOne Operating, LLC  
(Its General Partner)

By:   
JAMES L. ANDERSON,  
President

**PURCHASER:**

**BARBA TELEVISION, CO.**

By: \_\_\_\_\_  
CARLOS BARBA  
President



IN WITNESS WHEREOF, the parties have executed this Agreement, or caused this Agreement to be executed by their duly authorized representatives, all as of the day and year first above written.

**SELLER:**

**LOCALONE TV, L.P.**

By: LocalOne Operating, LLC  
(Its General Partner)

By: \_\_\_\_\_  
JAMES L. ANDERSON,  
President

**LOCALONE TEXAS, LTD.**

By: LocalOne Operating, LLC  
(Its General Partner)

By: \_\_\_\_\_  
JAMES L. ANDERSON,  
President

**PURCHASER:**

**BARBA TELEVISION, CO.**

By: \_\_\_\_\_  
CARLOS BARBA  
President

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**EXHIBIT "A"**

**TIME BROKERAGE AGREEMENT**

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## TIME BROKERAGE AGREEMENT

This Time Brokerage Agreement (the "**Agreement**") is made as of the 2nd day of November, 2006, by and between LOCALONE TEXAS LTD., a Texas limited partnership (the "**Licensee**"), and BARBA TELEVISION, CO., a Florida corporation (the "**Programmer**").

### RECITALS

WHEREAS, Licensee holds certain licenses issued by the Federal Communications Commission (the "**FCC**") with respect to commercial low power television Station WFUN-LP, Channel 48 in Miami, Dade County, Florida (the "**Station**");

WHEREAS, Programmer and Licensee have entered into that certain Asset Purchase Agreement, dated of even date herewith (the "**Purchase Agreement**"), providing that Programmer shall acquire substantially all of the assets and FCC licenses of the Station on the terms and conditions set forth in the Purchase Agreement;

WHEREAS, Programmer desires to produce and/or provide an entertainment programming format for the Station's programming and to sell the Station's commercial advertising time, and therefore desires to purchase airtime from Licensee for the broadcast of such programs and advertisements; and

WHEREAS, Licensee has agreed to make available to Programmer airtime on the Station and the Station's equipment and studios and to accept for broadcast the programs and advertisements of Programmer on the terms and conditions set forth in this Agreement;

NOW, THEREFORE, in consideration of the premises, the mutual covenants and agreements contained herein and other good and valuable consideration, the sufficiency and receipt of which is hereby acknowledged, the parties hereto hereby agree as follows:

### ARTICLE 1 SALE OF TIME

1.1 **Broadcast of Programming.** Effective as of the thirtieth (30th) calendar day after the date of execution of the Purchase Agreement (the "**Commencement Date**"), Licensee shall broadcast on the Station, or cause to be broadcast on the Station, programs which are presented to it by Programmer as described in greater detail on Schedule 1.1 (the "**Programming**"). The term "Programming" shall include any and all matter of any nature transmitted over the Station.

1.2 **Payment.** Programmer shall pay Licensee for broadcast of the Programming the amounts, and at the times, specified in Schedule 1.2, subject to adjustment as set forth in Section 2.4 below.

1.3 **Licensee's Programming.** Licensee shall require Programmer to present programming responsive to the needs of the respective Station's community of license, as set forth on Schedule 1.1.

1.4 **Term.** Unless terminated earlier in accordance with the express provisions hereof, this Agreement shall commence effective as of 12:01 a.m. on the Commencement Date, and shall continue until the closing of the transactions contemplated by the Purchase Agreement unless terminated earlier as hereinafter provided. Notwithstanding the preceding, this Agreement shall automatically terminate upon the termination of the Purchase Agreement.

## ARTICLE 2 PROGRAMMING AND OPERATING STANDARDS AND PRACTICES

2.1 **Compliance with Standards.** All Programming delivered by Programmer and all programming supplied by Licensee during the term of this Agreement shall be in accordance with applicable state, local and federal laws and all FCC requirements, including but not limited to requirements governing the broadcast of lottery information, contests, fraudulent programming or false or misleading advertising. Licensee reserves the right to refuse to broadcast any Programming containing matter which the Licensee reasonably believes is not in the public interest or may be violative of any right of any third party, or which may constitute a "personal attack" as that term is and has been defined by the FCC or which Licensee reasonably determines is, or in the reasonable opinion of Licensee may be deemed to be, indecent or obscene by the FCC or any court or other regulatory body with authority over Licensee or the Station or any other programming which in the reasonable opinion of Licensee may not be in accordance with state, local or federal laws or with FCC requirements. If Programmer does not adhere to the foregoing requirements, Licensee may suspend or cancel any specific program not so in compliance, without any reduction or offset in the payments due Licensee under this Agreement.

### 2.2 **Political Broadcasts.**

(a) Programmer's sale or use of time on the Station shall conform to all federal and state laws governing the sale of political advertising on television stations. Programmer shall consult with Licensee and adhere to all applicable statutes and the rules, regulations and policies of the FCC, as announced from time to time, with respect to the carriage of political advertisements and programming (including, without limitation, the rights of candidates and, as appropriate, others to "equal opportunities" and the carriage of contrasting points of view as mandated by any "fairness" rule with respect to such "issue-oriented" advertising or programming as may be broadcast) and the charges permitted therefor.

(b) When required by law, Programmer shall sell such political advertising time only at the Station's lowest unit rate. Within seven days after the broadcast of political advertising, Programmer shall review the commercial spots that have aired on the Station, so as to insure that each political candidate was charged the lowest unit rate. In the event a refund or credit is due, Programmer shall pay such refund or provide such credits within seven days.

(c) Programmer shall timely deliver to Licensee all records and information required by the FCC to be placed in the public inspection files of the Station pertaining to the broadcast of political programming and advertisements, in accordance with the provisions of Sections 73.1940 and 73.3526 of the FCC's rules, and agrees to broadcast sponsored programming addressing political issues or controversial subjects of public importance, in accordance with the provisions of Section 73.1212 of the FCC's rules.

(d) In the event that Programmer fails to provide adequate broadcast time for the broadcast of paid political programming or advertising by political candidates, Licensee shall have the right to preempt commercial announcements supplied by Programmer to make time available to these political candidates.

(e) No failure to comply with the provisions of this Section 2.2 shall constitute a material default of this agreement in the absence of an adverse determination by the FCC.

2.3 **Handling of Communications.** Programmer shall receive and promptly respond to all mail, cables, telegrams or telephone calls directed to the Station in connection with the Programming provided by Programmer or any other matter relevant to its responsibilities hereunder. Programmer shall

provide copies of all such correspondence to Licensee. Programmer shall promptly advise Licensee of any public or FCC complaint or inquiry known to Programmer concerning such Programming, and shall provide Licensee with copies of any letters to Programmer from the FCC or the public, including complaints concerning such Programming. Notwithstanding the foregoing, Licensee shall handle all matters or inquiries relating to FCC complaints and any other matters required to be handled by Licensee under the rules and regulations of the FCC.

**2.4 Preemption.** Licensee may, from time to time, preempt portions of the Programming to broadcast emergency information or programs it deems would better serve the public interest, and may refuse to broadcast any program or announcement of Programmer should Licensee deem such program or announcement to be contrary to the public interest as set forth in Section 2.1. Programmer shall be notified at least one day in advance of any preemption of any of the Programming for the purpose of broadcasting programs Licensee deems necessary to serve the public interest unless such advance notice is impossible or impractical in which event Licensee shall notify Programmer promptly upon making such determination. In the event of any such preemption (other than for the broadcast of emergency information), Programmer shall be entitled to deduct from the Payment an amount equal to the percentage of the total programming hours per month (after the Commencement Date) brokered to Programmer which were preempted during such time period. Licensee represents and covenants that preemption shall only occur to the extent Licensee deems necessary to carry out its obligations as an FCC licensee, and expressly agrees that its right of preemption shall not be exercised in an arbitrary manner or for the commercial advantage of Licensee or others. In the event that Licensee preempts more than three hours in any calendar day, or more than seven hours over any seven consecutive calendar days, or more than 30 hours over any consecutive 30 day period, then Programmer shall be entitled at its sole option to terminate this Agreement without further obligation to Licensee except for payments (if any) already due to Licensee and to pursue all other legal remedies available to it, provided, however, that Programmer shall have no such right to terminate if Licensee preempts the Programming for periods in excess of those set forth above during the course of a local, regional or national emergency. In the event that Programmer terminates this Agreement pursuant to Section 2.4, Programmer will provide to Licensee written notice of termination at least seven days in advance of such termination.

**2.5 Rights in Programs.** All right, title and interest in and to the Programming provided by Programmer, and the right to authorize the use of the Programming in any manner and in any media whatsoever, shall be and remain vested at all times solely in Programmer.

**2.6 "Payola" and "Plugola".** Programmer agrees that it will take steps, including the continuation of Licensee's system for periodic execution of affidavits, reasonably designed to assure that neither it nor its employees or agents will accept any gift, gratuity or other consideration, directly or indirectly, from any person or company for the playing of any recording (record, tape, C.D., or otherwise), the presentation of any programming or the broadcast of any commercial announcement over the Station without such broadcast being announced as sponsored. It is further understood and agreed that no commercial message, plugs, or undue reference shall be made in programming presented over the Station to any business, venture, profit-making activity or other interest (other than non-commercial announcements for bona fide charities, church activities or other public service activities) without such broadcast being announced as sponsored.

**2.7 Advertising and Programming.** Beginning on the Commencement Date, Programmer shall be solely responsible for any expenses incurred in connection with and shall be entitled to all revenue from the sale of advertising or program time on the Station broadcast on or after the Commencement Date. Licensee shall remain entitled to all revenue from the sale of advertising or program time on the Station for all days prior to the Commencement Date. Except as otherwise provided herein, Programmer does not

assume any obligation of Licensee under any contract or advertising arrangement entered into by Licensee on or after the Commencement Date.

**2.8 Call Sign and Format Changes.** No change in either the call sign or the format of the Station will be implemented without the prior written consent of Licensee. Licensee hereby consents to the broadcast of the Programming of the type described on Schedule 1.1.

**2.9 Compliance with Laws.** At all times during the term of this Agreement, Programmer and Licensee shall comply in all material respects with all applicable federal, state and local laws, rules and regulations, including the use of FCC-licensed operators where such are required.

**2.10 Certifications.** Pursuant to Section 73.3555(a)(2)(ii) of the FCC's rules, Licensee certifies that it will maintain ultimate control over the Station's facilities, including specifically control over finances, personnel and programming, and Programmer certifies that this Agreement complies with the provisions of Sections 73.3555(a)(1) and (e)(1) of the FCC's rules.

**2.11 Class A License Eligibility.** At all times during the term of this Agreement, Programmer shall comply with all requirements for qualifying for and maintaining a Class A License for the Station, except that Programmer shall not be required to file any applications with the FCC pertaining to such Class A License. If Programmer fails to comply with such requirements, Licensee may comply with such requirements at the expense of Programmer, including preempting portions of the Programming to broadcast programming required to comply with such requirements. Any expenses incurred by Licensee in fulfilling the foregoing obligations of Programmer shall be promptly reimbursed by Programmer to Licensee upon receipt of an invoice from Licensee for such expenses. Such expenses shall be in addition to any expenses required to be paid by Programmer under other provisions of this Agreement.

### **ARTICLE 3 RESPONSIBILITY FOR EMPLOYEES AND EXPENSES**

#### **3.1 Programmer's Employees.**

(a) Programmer shall employ and be responsible for the payment of salaries, taxes, insurance and all other costs related to all personnel employed by Programmer to effectuate this Agreement. Programmer will not incur any liability on account of Licensee's employees in connection with the transactions contemplated by this Agreement including, without limitation, any liability on account of unemployment insurance contributions, termination payments, accrued sick leave or accrued vacation. It is expressly understood that Programmer is not obligated to employ or to pay, and has no authority over, any of Licensee's employees.

(b) In no event shall Programmer or its employees represent, depict, describe or portray Programmer as the licensee of the Station.

#### **3.2 Employees.**

(a) Licensee shall employ and be responsible for the payment of salaries, taxes, insurance and all other costs related to the personnel necessary to fulfill its obligations as Licensee. All decisions as to the hiring, discharge, compensation, duties and all other matters pertaining to the employees of Licensee shall be made solely by Licensee and Licensee shall not be required to consult with Programmer as to any such matter. Beginning on the Commencement Date, Programmer shall reimburse

Licensee for certain expenses set forth in Schedule 1.2. Programmer shall have no authority over and shall not supervise persons in the employ of Licensee after the Commencement Date.

(b) Programmer shall employ and be responsible for the payment of salaries, taxes, insurance and all other costs related to all personnel used in the production of the Programming. Licensee will not incur any liability on account of Programmer's employees in connection with the transactions contemplated by this Agreement including, without limitation, any liability on account of unemployment insurance contributions, termination payments, accrued sick leave or accrued vacation.

**3.3 Programmer's Expenses.** Beginning on the Commencement Date, Programmer shall pay for all costs associated with the production and delivery of the Programming (including advertising and marketing costs with respect to the Programming) with respect to the time periods following the Commencement Date, including, but not limited to, (i) all ASCAP, BMI, SESAC and other copyright fees on account of the Programming, (ii) any expenses incurred in connection with its sale of advertising time hereunder (including without limitation sales commissions) in connection with the Programming; and (iii) the salaries, taxes, insurance and related costs for all personnel used in the production of the Programming and all sales personnel. Beginning on the Commencement Date, Programmer shall reimburse Licensee for certain expenses set forth in Schedule 1.2.

**3.4 Licensee's Expenses.** Beginning on the Commencement Date, Licensee shall be responsible for the payment when due of all fees and expenses relating to the operation of the Station other than those specified in Section 3.3, including but not limited to: (a) maintaining the transmitting capability of the Station, including, without limitation, utility expenses, maintenance of the tower, transmitter and studio equipment, rental of the transmitter and insurance payments for the tower equipment and transmitter, (b) all other expenses relating to fulfilling its obligations as an FCC licensee and (c) any programming expenses incurred by Licensee in presenting Programming on the Station pursuant to Section 2.4.

#### **ARTICLE 4 ASSIGNMENT OF CERTAIN AGREEMENTS AND RIGHTS**

**4.1 Assignment.** On the Commencement Date, Licensee shall assign to Programmer all those contracts and other agreements related to programming and advertising identified on Schedule 4.1 (collectively, the "**Assigned Contracts**"), subject in all cases to the receipts of any required consents of third parties where required and as listed on Schedule 4.1. Programmer agrees that it will assume the Assigned Contracts and will broadcast on the Station the programming and advertising required by the Assigned Contracts. Any contracts and agreements related to the Station that are not being assigned to Programmer hereunder (the "**Retained Contracts**") are also identified on Schedule 4.1. True and complete copies, including amendments, of the Assigned Contracts and the Retained Contracts were provided to Programmer prior to the date hereof. Licensee shall continue to perform its obligations under such Retained Contracts and shall keep such Retained Contracts in full force and effect to ensure that Programmer receives the benefit of such contracts during the term hereof to the extent required to permit Programmer to enjoy the full benefit of its rights hereunder. No other agreements, contracts or understandings relating to the operation of the Station are assigned to Programmer hereunder. Programmer shall not have any liability under the Retained Contracts except as to reimbursement to Licensee as set forth in Schedule 1.2.

**4.2 Proration.**

(a) All expenses and income arising under the Assigned Contracts shall be prorated between Licensee and Programmer as of the Commencement Date in a manner such that the costs and

benefits thereunder through the date before the Commencement Date shall be for the account of Licensee and, thereafter, from the Commencement Date and during the term of this Agreement, for the account of Programmer.

(b) Except as provided in subparagraph (c), below, Licensee shall remain responsible for the payment of all direct and indirect expenses relating to operating the Station prior to the Commencement Date, including those related to (i) producing and broadcasting the Programming on the Station; (ii) licensing fees, (iii) maintaining the transmitting capability of the Station, including, without limitation, maintenance of the towers, transmitters and studio equipment; (iv) salaries, payroll taxes, insurance and all related costs of Licensee's employees; (v) income taxes, gross receipts, taxes, salaries, personal and real property tax, and/or other taxes related to the ownership of the Station; and (vi) fulfilling its obligations as an FCC licensee.

(c) If any disagreement with respect to the proration of such income and expenses cannot be resolved by the parties, Licensee and Programmer will select a certified public accountant knowledgeable in the broadcast industry to resolve the dispute. If the parties cannot agree on an accountant, each party shall select an accounting firm, both of which shall review the apportionment and agree on an appropriate adjustment, and payment shall be made as agreed upon by the accounting firms. If the two accounting firms selected by the parties are unable to resolve the matter, the two accounting firms shall select a third firm of independent certified public accountants, which shall review the apportionments and make a determination of an appropriate adjustment, and whose decision will be final and binding on the parties, and whose fees and expenses shall be borne by the parties in accordance with the following sentence; provided, however, in no event shall the adjustment resulting from such third accountant's review fall outside the range of adjustments proposed by the accountants chosen by the parties. Payment of the fees and expenses of all accounting firms shall be apportioned between the parties as follows: each party shall pay an amount equal to the sum of all fees and expense of the accounting firm multiplied by a fraction, the numerator of which is equal to (i) the net difference between the amount claimed by such party and the amount owned by or awarded to such party divided by (ii) the sum of (A) the net difference between the amount claimed by the successful party and the amount awarded to such party, plus (B) the net difference between the amount claimed by the unsuccessful party and the amount awarded to the successful party. The resolution of such disputes shall be binding on the parties and subject to judicial enforcement.

4.3 **Payment of Station Obligations.** Licensee shall promptly pay when due and satisfy all obligations owing to, or reach a settlement with, all third parties with respect to the operation of the Station prior to the Commencement Date, to the extent required to grant Programmer the full enjoyment of its rights hereunder.

## **ARTICLE 5 OPERATION OF STATION**

Notwithstanding any provision of this Agreement to the contrary, Licensee shall retain full authority and power with respect to the operation of the Station during the term of this Agreement. The parties agree and acknowledge that Licensee's continued control of the Station is an essential element of the continuing validity and legality of this Agreement. Accordingly, Licensee shall employ the General Manager of the Station on a full-time basis, one administrative employee on at least a part-time basis for the Station, and such other personnel for the Station as Licensee determines may be necessary to fulfill its obligations as a licensee under the Communications Act. Licensee shall retain full authority and control over the policies, programming and operations of the Station, including, without limitation, the decision whether to preempt Programming in accordance with Section 2.4 hereof. Licensee shall have full



responsibility to effectuate compliance with the Communications Act and with FCC rules, regulations and policies.

## ARTICLE 6 GRANT OF LICENSES

6.1 **License to Use Station's Equipment.** Effective as of the Commencement Date, Licensee grants Programmer a license to use all of the Station's equipment and furnishings (the "**Station's Equipment**") in the production and broadcasting of the Programming and sales and administration relating thereto, in accordance with the terms set forth in this Section 6 (the "**Programmer License**"). The Programmer License shall have a term beginning on the Commencement Date and ending upon the termination of this Agreement. Programmer shall not modify any of the Station's Equipment owned by or leased or licensed to Licensee, without Licensee's prior written consent, such consent not to be unreasonably withheld. Programmer's use of the Station's Equipment shall be exclusive except for Licensee's right to use such equipment as it deems appropriate in its sole discretion in connection with the satisfaction of Licensee's obligations as the licensee of the Station. Programmer shall use due care in the use of any property of Licensee. Programmer shall indemnify Licensee for any damage (normal wear and tear excepted) to Licensee's property (including but not limited to Station's facilities, equipment and furnishings) caused by Programmer or any employee, contractor, agent or guest of Programmer and shall promptly repair, replace or restore the property to its former condition.

6.2 **License of Intellectual Property.** Effective as of the Commencement Date, Licensee licenses to Programmer the exclusive right to use (or, to the extent Licensee does not hold exclusive rights, the non-exclusive right to use) all intellectual property owned by or licensed to Licensee and used in the operation of the Station (including, but not limited to, call signs, logos, jingles and promotional materials) (the "**IP License**"). Programmer shall not have the right to sublicense or assign the IP License without Licensee's express written consent. In the event of termination of this Agreement, the IP License shall terminate; provided, however, that Programmer shall own all trademarks, service marks, trade names, characters, formats, logos and positioning statements which it develops primarily for the Programming and uses for the Programming during the term of this Agreement, and Licensee may not make use of any such materials without the prior written consent of Programmer.

## ARTICLE 7 INDEMNIFICATION

7.1 **By Programmer.** With respect to any programming aired by Programmer (other than programming furnished by the Licensee), Programmer shall indemnify and hold Licensee harmless from and against any and all claims (including FCC matters); suits; actions; causes of action; damages and future damages and losses resulting from the loss of a license or licenses; and costs, including but not limited to attorney's fees, arising out of or relating to (a) the Programming, (b) any advertising placed on the Station by or on behalf of Programmer, (c) Programmer's failure to comply with any material provision of this Agreement or (d) responding to any FCC letter of inquiry arising from the actions of Programmer. This indemnification shall survive termination of this Agreement.

7.2 **By Licensee.** With respect to any programming originated by the Licensee and aired by the Programmer, Licensee shall indemnify and hold Programmer harmless from and against any and all claims; suits; actions; causes of action; damages; losses; and costs, including but not limited to attorney's fees, arising out of or relating to (a) any programming presented by Licensee, (b) any political advertising presented by Licensee or (c) Licensee's failure to comply with any material provision of this Agreement. This indemnification shall survive termination of this Agreement.

### 7.3 Procedures.

(a) If any claim or proceeding covered by Sections 7.1 or 7.2 hereof to indemnify and hold a party harmless shall arise, the party seeking indemnification (the "**Indemnitee**") shall give written notice thereof to the indemnifying party (the "**Indemnitor**") promptly, but in no event shall such notice be given more than 30 days from the date on which the Indemnitee first became aware of such claim or assertion; provided, however, that the Indemnified Party's failure to give the Indemnitor prompt notice shall not bar the Indemnified Party's right to indemnification unless such failure has materially prejudiced the Indemnitor's ability to defend the claim or proceeding. Notice of indemnification hereunder shall be accompanied by evidence demonstrating Indemnitee's right or possible right to indemnification, including a copy of all supporting documents relevant thereto. After Indemnitor acknowledges its obligation to defend against or settle any such claim or proceeding, the Indemnitor shall not be liable to Indemnitee under this Section 7 for any legal or other expenses subsequently incurred by Indemnitee in connection with the defense thereof, provided, however, that Indemnitee shall have the right to employ counsel to represent it if, in the Indemnitee's reasonable judgment, it is advisable for Indemnitee to be represented by separate counsel due to a conflict of interest, in which event the reasonable fees and expenses of such separate counsel shall be paid by the Indemnitor. The parties shall fully cooperate in the defense of each claim or proceeding and shall make available to each other all books or records necessary or appropriate for such defense.

(b) Indemnitor shall have the right to employ counsel reasonably acceptable to Indemnitee to defend against the claim or proceeding or to compromise, settle or otherwise dispose of the same; provided, however, that no settlement or compromise shall be effected without the express prior written consent of Indemnitee, which consent shall not be unreasonably withheld or delayed; and, provided, further, that if Indemnitee does not consent to a bona fide offer of settlement made by a third party and the settlement involves only the payment of money, then Indemnitor may, in lieu of payment of that amount to such third party, pay that amount to the Indemnitee. After such payment to the Indemnitee, Indemnitor shall have no further liability with respect to that claim or proceeding and the Indemnitee shall assume full responsibility for the defense, payment or settlement of such claim or proceeding.

(c) If the Indemnitor fails to acknowledge in writing its obligation to defend against or settle any claim or proceeding within 20 days after receiving notice of the claim or proceeding from the Indemnitee (or such shorter period of time specified in the notice as the circumstances of the matter may dictate), the Indemnitee shall be free to dispose of the matter, at the expense of the Indemnitor, in any commercially reasonable manner that the Indemnitee deems in its best interest, subject to the Indemnitor's right subsequently to contest through appropriate proceedings its obligation to provide indemnification.

## ARTICLE 8 DEFAULT

8.1 **Events of Default.** The following, after the expiration of the applicable cure periods specified in Section 8.2, shall constitute Events of Default under the Agreement.

(a) **Non-Payment.** Programmer's failure to timely pay the consideration (including reimbursement) provided for in Schedule 1.2;

(b) **Insolvency.** If either party (i) shall make a general assignment for the benefit of creditors, or (ii) files or has filed against it a petition for bankruptcy, for reorganization or an arrangement, or for the appointment of a receiver, trustee or similar creditors' representative for the property or assets of

such party under any federal or state insolvency law, which, if filed against such party, has not been dismissed or discharged within 60 days thereof;

(c) **Non-Performance.** Either party's default in the observance or performance of any material covenant, condition or agreement contained herein;

(d) **Breach of Representation.** Either party's material breach of any representation or warranty made by it herein, or in any certificate or document furnished pursuant to the provisions hereof, which shall prove to have been false or misleading in any material respect as of the time made or furnished; or

(e) **Failure to Maintain License.** Licensee's inability or failure to maintain the License in such a manner as to allow Programmer to operate the Station in substantially the manner contemplated by this Agreement.

8.2 **Cure Periods.** Unless otherwise specifically provided herein, if either party believes the other to be in default hereunder, the nondefaulting party shall provide the defaulting party with written notice specifying in reasonable detail the nature of such default. If the default has not been cured within 15 days after delivery of the notice (or such additional reasonable time as the circumstances may warrant provided the party in default undertakes diligent, good faith efforts to cure the default within such 15 day period and continues such efforts thereafter), then the party giving such notice may exercise the remedies available to such party pursuant to this Section, subject to the right of the other party to contest such action through appropriate proceedings.

## **ARTICLE 9 TERMINATION**

9.1 **Termination Upon Default.** In addition to other remedies available at law or equity, this Agreement may be terminated as set forth below by either Licensee or Programmer by written notice to the other if the party seeking to terminate is not then in material default or breach hereof, (a) upon the occurrence of an uncured Event of Default, or (b) pursuant to Section 13.15 hereof.

### **9.2 Certain Matters Upon Termination or Expiration.**

(a) Upon any termination or expiration of this Agreement, Licensee shall be under no further obligation to make available to Programmer any further broadcast time or broadcast transmission facilities and Programmer shall be responsible for all debts and obligations of Programmer resulting from the use of air time and transmission facilities.

(b) Upon any termination or expiration of this Agreement, Programmer shall (i) reassign to Licensee (after obtaining, at Programmer's expense, any necessary consents to such assignment for those Assigned Contracts for which "Consent Required" is specified) the Assigned Contracts on Schedule 4.1; (ii) be responsible for only those obligations under the Assigned Contracts arising on or after the Commencement Date and prior to the termination of this Agreement; and (iii) offer to Licensee all other contracts for the sale of time on the Station that are in effect on the date of such termination or expiration except those contracts for the sale of time that are not in the ordinary course or to the extent that such contracts have a term in excess of six months (the "Advertising Contracts").

(c) No expiration or termination of this Agreement shall terminate the obligation of each party to indemnify the other for claims under Section 7 hereof or limit or impair any party's rights to receive payments due and owing hereunder on or before the date of such termination.

## **ARTICLE 10 REMEDIES**

The remedies contained herein are not exclusive. Programmer and Licensee may seek any remedies available at law or equity in a court of competent jurisdiction. Licensee and Programmer agree that Programmer may seek specific performance of Licensee's obligations under this Agreement but only to the extent that this remedy, as applied, is consistent with Licensee's obligation under the Communications Act and the policies and rules of the FCC.

## **ARTICLE 11 CERTAIN REPRESENTATIONS AND WARRANTIES OF THE PARTIES**

**11.1 Representations and Warranties of Programmer.** Programmer hereby represents and warrants to Licensee as follows:

(a) **Organization.** Programmer is an entity duly organized and validly existing under the laws of the State of its formation and has full power and authority to conduct its business as currently conducted.

(b) **Authorization; Enforceability.** This Agreement has been duly authorized, executed and delivered by Programmer, and is valid, binding and enforceable against Programmer in accordance with its terms. Programmer has the power and authority to enter into and perform its obligations under this Agreement and to consummate the transactions contemplated hereby.

(c) **No Consent.** No consent of any other party and no consent, license, approval or authorization of, or exemption by, or filing, restriction or declaration with, any governmental authority, bureau, agency or regulatory authority, other than the filing of this Agreement with the FCC, is required in connection with the execution, delivery or performance of this Agreement by Programmer or will effect the validity or performance of this Agreement.

(d) **No Breach.** Neither the execution or delivery of this Agreement nor the consummation of the transactions contemplated hereby will constitute or result in the breach of any term, condition or provision of, or constitute a default under, or result in the creation of any lien, charge or encumbrance upon any property or assets of Programmer pursuant to the organization, formation or comparable documents of Programmer or any agreement or other instrument to which Programmer is a party or by which any part of its property is bound, or violate any law, regulation, judgment or order binding upon Programmer.

(e) **Actions and Proceedings.** No proceeding is pending against Programmer or, to the knowledge of Programmer, threatened before any court or governmental agency to restrain or prohibit, or to obtain damages, or other relief in connection with, this Agreement or the consummation of the transactions contemplated hereby or that might adversely affect Programmer's performance under this Agreement.

(f) **No Misleading Statements.** Neither this Agreement, nor any statement made by Programmer to Licensee and no written information provided or to be provided by Programmer to Licensee

pursuant to this Agreement, or in connection with the transactions contemplated herein, contains or will contain any untrue statement of material fact or omits to state any facts necessary to make such statements or information not materially misleading.

(g) **Compliance with Laws.** Programmer will cooperate with Licensee in Licensee's fulfillment of the obligations and duties set forth in Section 11.2(i) hereof.

(h) **Assumption of Contracts.** Programmer shall assume the Assigned Contracts listed on Schedule 4.1 and shall broadcast on the Station such programming and commercial announcements as is required by the Assigned Contracts.

(i) **Studio Location.** Any relocation of the Station's studio[s] will be in compliance with Section 73.1125 of the FCC Rules and will be subject to Licensee's consent, such consent not to be unreasonably withheld.

**11.2 Representations, Warranties and Covenants of Licensee.** Licensee hereby represents, warrants and covenants to Programmer as follows:

(a) **Authority.** Licensee has full power and authority to enter into and perform this Agreement.

(b) **Authorization; Enforceability.** This Agreement has been duly authorized, executed and delivered by Licensee, and is valid, binding and enforceable against Licensee in accordance with its terms. Licensee has full power and authority to enter into and perform its obligations under this Agreement and to consummate the transactions contemplated hereby.

(c) **No Consent.** No consent of any other party and no consent, license, approval or authorization of or exemption by, or filing, restriction or declaration with, any governmental authority, bureau, agency or regulatory authority, other than the filing of this Agreement with the FCC, is required in connection with the execution, delivery or performance of this Agreement or will affect the validity or enforceability of this Agreement.

(d) **No Breach.** Except to the extent any of the Assigned Contracts require consent to assignment, neither the execution or delivery of this Agreement nor the consummation of the transactions contemplated hereby will constitute or result in the breach of any term, condition or provision of, or constitute a default under, or result in the creation of any lien, charge or encumbrance upon any property or assets of Licensee pursuant to the Agreement of Limited Partnership of Licensee, any agreement or other instrument to which Licensee is a party or by which any part of its property is bound, or violate any law, regulation, judgment or order binding upon Licensee.

(e) **Actions and Proceedings.** There is no judgment outstanding and no litigation, claim, investigation or proceeding pending against Licensee or, to the knowledge of Licensee, threatened before any court or governmental agency to restrain or prohibit, or to obtain damages or other relief in connection with Agreement or the consummation of the transactions contemplated hereby or that might affect the continued operation of the Station or materially impair the value of the assets used or useful in operation of the Station.

(f) **Contracts, Agreements, and Leases.** Any Retained Contract with a stated duration beyond the Commencement Date will, on the Commencement Date, be in full force and effect and in good standing with no material defaults, and will be unimpaired by any acts or omissions of Licensee or

its employees or agents. The Assigned Contracts and the Retained Contracts are valid and binding obligations of the parties thereto, enforceable against such parties in accordance with their respective terms, except, in each case, as limited by laws affecting creditors' rights and equitable principles generally. Except as otherwise indicated on Schedule 4.1, the Licensee is not, and to the best of Licensee's knowledge, no other party thereto is, in default under any of the Assigned Contracts or Retained Contracts and no party has given any notice of default under any Assigned Contract or Retained Contract. Except as disclosed on Schedule 4.1, Licensee has not granted or been granted any material waiver or forbearance with respect to any of the Assigned Contracts or Retained Contracts. The Retained Contracts will not be modified without Programmer's written consent, which shall not be unreasonably withheld.

(g) **Ancillary Broadcast Rights.** Licensee represents that it does not transmit, shall not transmit while this Agreement is in effect, and will not permit third parties to transmit, over the Station's subcarrier frequencies.

(h) **Maintenance of Current Coverage.** During the term hereof, Licensee shall take no action which will have the effect of reducing the effective radiated power and the current coverage of the Station except in connection with necessary maintenance, which shall be conducted to the extent possible between 12:00 a.m. and 6:00 a.m. and shall not exceed three hours.

(i) **Compliance with Laws.** Licensee shall not knowingly take any action or omit to take any action which would have an adverse impact upon the FCC's Licenses, its assets utilized in the operation of the Station or upon Licensee's ability to perform this Agreement. All reports, annual regulatory fees and applications required to be filed with the FCC or any other governmental body have been and during the course of the term of this Agreement or any extension thereof, will be filed in a timely and complete manner. The facilities of the Station are and will continue to be in compliance in all material respects with the engineering requirements set forth in the FCC licenses of the Station and the rules of the FCC, and the Station shall be operated in compliance with all applicable laws.

(j) **FCC Licenses; License Renewal.** Licensee validly holds the FCC authorizations necessary to operate the Station. Licensee shall timely file all necessary applications and pay all requisite fees in connection with obtaining renewal of the Station's license from the FCC and shall thereafter prosecute such renewal applications with all reasonable diligence and otherwise use its commercially reasonable efforts to obtain the grant of such renewal applications as expeditiously as possible. Furthermore, Licensee shall be responsible for broadcasting those announcements required by the FCC of broadcast radio Station filing for license renewal. Programmer shall cooperate fully in Licensee's efforts to obtain renewal of the Station's license.

(k) **No Misleading Statements.** Neither this Agreement, nor any statement made by Licensee to Programmer and no written information provided or to be provided by Licensee to Programmer pursuant to this Agreement, or in connection with the transactions contemplated herein, contains or will contain any untrue statement of material fact or omits to state any facts necessary to make such statements or information not materially misleading.

## **ARTICLE 12 DELIVERIES PRIOR TO COMMENCEMENT DATE**

**12.1 Deliveries by Programmer.** Prior to or concurrently with Programmer's execution and delivery of this Agreement, Programmer shall deliver to Licensee such documents relating to Programmer's authority to enter into this Agreement as shall be reasonably requested by Licensee or its counsel.

12.2 **Deliveries by Licensee.** Prior to or concurrently with Licensee's execution and delivery of this Agreement, Licensee shall deliver to Programmer any necessary consents, in a form reasonably acceptable to Programmer, to the assignment to Programmer of those Assigned Contracts listed on Schedule 4.1.

### **ARTICLE 13 MISCELLANEOUS**

13.1 **Modification and Waiver.** No modification or waiver of any provision of this Agreement shall in any event be effective unless the same shall be in writing signed by the party against whom the waiver is sought to be enforced, and then such waiver and consent shall be effective only in the specific instance and for purpose for which given.

13.2 **No Waiver; Remedies Cumulative.** No failure or delay on the part of Licensee or Programmer in exercising any right or power hereunder shall operate as a waiver thereof, nor any single or partial exercise of any such right or power, or any abandonment or discontinuance of steps to enforce such a right or power, shall preclude any order or further exercise thereof or the exercise of any other right or power. The rights and remedies of Licensee and Programmer herein provided are cumulative and are not exclusive of any rights or remedies which they may otherwise have.

13.3 **Construction.** This Agreement shall be construed in accordance with the laws of the State of Texas without reference to conflict of laws principles, and the obligations of the parties hereto are subject to all federal state or municipal laws or regulations now or hereafter in force and to the regulations of the FCC and all other governmental bodies or authorities presently or hereafter duly constituted.

13.4 **Headings.** The headings contained in this Agreement are included for convenience only and no such headings shall in any way alter the meaning of any provision.

13.5 **Assignments.** No party may assign its rights or obligations hereunder without the express prior written consent of the other party; provided, however, that Programmer may assign its rights and obligations under this Agreement in connection with an assignment of its rights and obligations under the Purchase Agreement without Licensee's consent. Subject to the foregoing, this Agreement shall be binding upon, inure to the benefit of and be enforceable by the parties hereto and their respective heirs, legal representatives, successors and permitted assigns.

13.6 **Force Majeure.** Both parties acknowledge and agree that a party will not be liable for any failure to timely perform any of its obligations under this Agreement if such failure is due, in whole or in part, directly or indirectly, to accidents, fires, floods, governmental actions, war, civil disturbances, labor disputes, other causes beyond such party's control or any other occurrence which would generally be considered an event of force majeure.

13.7 **Broker.** The parties agree to indemnify and hold each other harmless against any claims from any broker or finder based upon any agreement, arrangement, or understanding alleged to have been made by the indemnifying party.

13.8 **Counterpart Signatures.** This Agreement may be signed in one or more counterparts.

13.9 **Notices.** All notices, requests, demands, and other communications pertaining to this Agreement shall be in writing and shall be deemed given if (i) mailed by certified mail, return receipt requested, or delivered by nationally recognized "next-day" delivery service (which shall include delivery

by Federal Express or other nationally recognized, reputable overnight courier service that issues a receipt or other confirmation of delivery) to the parties at the addresses set forth below (or at such other address for a party as shall be specified by like notice), or (ii) sent by facsimile with receipt confirmed electronically to the number set forth below (or such other number for a party as shall be specified by proper notice hereunder):

If the notice is to Programmer: Barba Television, Co.  
1401 Brickell Avenue  
Suite 500  
Miami, Florida 33131  
Attn: Marcell Felipe, Esq  
Facsimile No.: (305) 381-6225  
Email: [mfelipe@marcellfelipe.com](mailto:mfelipe@marcellfelipe.com)

With a copy to: Marcell Felipe, Esq.  
1401 Brickell Avenue  
Suite 500  
Miami, Florida 33131  
Facsimile No.: (305) 381-6225  
Email: [mfelipe@marcellfelipe.com](mailto:mfelipe@marcellfelipe.com)

If the notice is to Licensee: LocalOne Texas Ltd.  
1227 W. Magnolia Avenue, Suite 300  
Fort Worth, Texas 76104  
Attn: James L. Anderson, Chief Executive Officer  
Facsimile: (817) 920-9606

With a copy to: Snell Wylie & Tibbals, P.C.  
8150 N. Central Expressway, Suite 1800  
Dallas, Texas 75206  
Attention: William F. Pyne, Esq.  
Facsimile: (214) 691-2501

**13.10 Entire Agreement.** This Agreement (including all schedules) embodies the entire agreement between the parties and there are no other agreements, representations, warranties, or understandings, oral or written, between them with respect to the subject matter hereof.

**13.11 Severability.** Except as expressly set forth in Section 13.15, if any provision contained in this Agreement is held to be invalid, illegal or unenforceable in any respect by any court or other authority, then such provision shall be deemed limited to the extent that such court or other authority deems it reasonable and enforceable, and as so limited shall remain in full force and effect. In the event that such court or other authority shall deem any such provision wholly unenforceable, this shall not affect any other provision hereof, and this Agreement shall be construed as if such invalid, illegal or unenforceable provision or provisions had not been contained herein unless the invalidity or unenforceability of such provision or provisions causes the terms of this Agreement to conflict with the underlying business agreement of the parties as reflected in this Agreement as written.

**13.12 No Joint Venture.** The parties agree that nothing herein shall constitute a joint venture between them. The parties acknowledge that call letters, trademarks and other intellectual property shall at



all times remain the property of the respective parties and that neither party shall obtain any ownership interest in the other party's intellectual property by virtue of this Agreement (subject to the IP License set forth in Section 6.2).

**13.13 Damage to Station.** In the event of damage or destruction to the Station (other than damage or destruction caused by Programmer), Licensee shall proceed to repair, replace or restore the Station to its former condition.

**13.14 Noninterference.** During the term of this Agreement, neither Licensee nor any of its employees shall take any actions that might impair the operations of Programmer conducted hereunder, except to the extent expressly contemplated by this Agreement or as otherwise required by law.

**13.15 Regulatory Changes.** If the FCC determines that this Agreement is inconsistent with Licensee obligations or is otherwise contrary to FCC policies, rules and regulations, or if regulatory or legislative action subsequent to the date hereof alters the permissibility of this Agreement under the FCC's rules or the Communications Act, the parties shall renegotiate this Agreement in good faith and recast this Agreement in terms that are likely to cure such defects and return a balance of benefits to both parties comparable to the balance of benefits provided by the Agreement in its current terms. If, after such negotiations, either party determines in good faith and on reasonable grounds that recasting this Agreement to resolve such defects is impossible, either party may terminate the renegotiation contemplated herein by giving 30 days' prior written notice. If termination of negotiations shall occur pursuant to this paragraph, such termination shall extinguish and cancel this Agreement.

**13.16 Third Parties.** Nothing in this Agreement, whether expressed or implied, is intended to: (i) confer any rights or remedies on any person other than Programmer and Licensee and their respective successors; (ii) relieve or discharge the obligation or liability of any third party, or (iii) give any third party any right of subrogation or action against the Parties.

**13.17 Time of Essence.** Programmer and Licensee agree that "time is of the essence" in the performance of this Agreement.

**13.18 Attorneys Fees.** If either Programmer or Licensee initiates suit to enforce its rights under this Agreement, the prevailing party shall be entitled to its cost of suit, including its attorneys fees.

**13.19 Counsel.** Each Party has been represented by its own counsel in connection with the negotiation and preparation of this Agreement and, consequently, each Party hereby waives the application of any rule of law which would otherwise be applicable in connection with the interpretation of this Agreement and each provision shall be interpreted or construed against the party whose counsel drafted that provision.

**13.20 Venue.** Venue for any action relating to, or arising from, this Agreement shall be in Tarrant County, Texas.

**13.21 Jurisdiction and Service.** The parties hereto submit themselves to the jurisdiction of the state courts sitting in the Tarrant County, Texas, and consent to the service of process by mail to the address set forth in Section 13.9 above.

**13.22 Non-Agency.** Neither Licensee its officer, agents, or employees shall be deemed to be, or represent themselves to be, agents of Programmer. Neither Programmer, its officers, agents, or employees shall be deemed to be or represent themselves to be, agents of Licensee.

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

**LICENSEE:**

LOCALONE TEXAS, LTD.

By: \_\_\_\_\_  
JAMES L. ANDERSON,  
Chief Executive Officer

**PROGRAMMER:**

BARBA TELEVISION, CO.

By: \_\_\_\_\_  
CARLOS BARBA,  
President

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**EXHIBIT "C"**

**NONCOMPETITION AGREEMENT**

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## NONCOMPETITION AGREEMENT

THIS NONCOMPETITION AGREEMENT (the "**Agreement**") is made and entered into by and between LOCALONE TV, L.P. and LOCALONE TEXAS, LTD., each being a Texas limited partnership (collectively, the "**Seller**"), and BARBA TELEVISION, CO., a Florida corporation (the "**Purchaser**"), effective as of this \_\_\_\_ day of \_\_\_\_\_, 2006. Seller and Purchaser are sometimes referred to collectively as the "**Parties**" and individually as a "**Party**."

### RECITALS:

WHEREAS, Purchaser and Seller have entered into that certain Asset Purchase Agreement dated November 2, 2006 (the "**Purchase Agreement**") providing for the acquisition by Purchaser of substantially all of the assets of Seller pertaining to the operation of commercial low power television station WFUN-LP, Channel 48 in Miami, Dade County, Florida (the "**Station**");

WHEREAS, in connection with the Purchase Agreement and as a material inducement to Purchaser to enter into the Purchase Agreement and perform its obligations thereunder, including the payment of the Purchase Price to Seller, Seller agreed that Seller will not enter into competition with Purchaser relative to the operation of the Station for a period of two years from the date hereof, and the Parties hereto desire to more specifically delineate such agreement herein;

NOW THEREFORE, for and in consideration of the premises, the mutual covenants and agreements herein contained, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Seller and Purchaser do hereby mutually consent and agree that the following provisions shall govern with respect to the rights, duties and obligations of the parties hereto with respect to the subject matter hereof.

1. **Defined Terms.** Capitalized terms used and not otherwise defined in this Agreement shall have the meanings ascribed to them in the Purchase Agreement.

2. **Noncompetition and Nonsolicitation Agreements:**

(a) **Noncompetition Agreement.** Seller covenants and agrees that for a period of two years following the date hereof (the "**Restricted Period**"), Seller shall not, directly or indirectly, as principal, partner, joint venturer, shareholder, member, investor, owner, employer, officer, director, manager, consultant or otherwise (i) own, manage, operate, finance, control, engage in, consult with or otherwise participate in the ownership, management, operation, research, development, financing or control of, any business activity included within the "Competitive Business" (as defined in paragraph (c) of this Section 2), anywhere in the Restricted Area (as defined in paragraph (d) of this Section 2), or (ii) engage in any practice the purpose of which is to evade or avoid the provisions of this Agreement.

(b) **Nonsolicitation.** Seller covenants and agrees that during the Restricted Period, Seller shall not solicit, encourage, facilitate or induce any advertiser, customer, supplier, agent, sales representative, employee, independent contractor, consultant, or licensee of Purchaser or the Station or their respective affiliates to breach any agreement or contract with, or discontinue his or its business relationships with Purchaser, the Station or their respective affiliates in respect of the Competitive Business. Seller further covenants and agrees that during the Restricted Period, Seller shall not, directly or indirectly, solicit, hire or otherwise engage as an employee, independent contractor or

otherwise, any person who is an employee of Purchaser or its Affiliates either for Seller or for any other person, firm, corporation or other entity.

(c) **Definition of Competitive Business.** The term “**Competitive Business**” shall mean the operation and maintenance of a commercial television station within the Restricted Area.

(d) **Definition of Restricted Area.** The term “**Restricted Area**” shall mean the broadcast area of the Station.

3. **Injunctive and Equitable Relief.** Seller agrees that the remedy of Purchaser at law for any breach of Section 2 may be inadequate and that in the event of any such breach or violation by Seller, Purchaser shall be entitled to injunctive relief without posting bond or other security in addition to any other remedy at law, in equity or under this Agreement to which Purchaser may be entitled. Without limiting the generality of the preceding sentence, the Parties acknowledge and agree that it is impossible to measure in money all of the damages that would accrue to Purchaser by reason of any breach of Section 2. Seller waives in advance any claim or defense, in any action or proceeding that may in the future be commenced by Purchaser to enforce such provisions, that Purchaser has an adequate remedy at law.

4. **Certain Acknowledgments.** The Parties acknowledge and agree that (i) the provisions of this Agreement are necessary to protect their respective goodwill and other business interests with respect to the Competitive Business, (ii) the provisions of this Agreement are reasonable as to scope, duration and geographic extent for such purposes, (iii) the consideration received by Seller for its commitments under this Agreement is sufficient and adequate, and (vi) this Agreement is ancillary to the Purchase Agreement.

5. **Consideration.** In consideration for the agreements of Seller set forth herein, and the observance thereof, Purchaser shall pay Seller the aggregate sum allocated to a covenant not to compete as set forth in Schedule 1.5 to the Purchase Agreement upon execution of this Agreement. Seller also acknowledges and agrees that Seller’s execution of this Agreement and agreeing to be bound by the terms hereof was a material inducement and condition precedent to Purchaser entering into the Purchase Agreement and agreeing to perform its obligations thereunder, including the payment to Seller of the Purchase Price.

6. **Governing Law.** This Agreement shall be construed and interpreted in accordance with the laws of Texas without regard to its conflicts of law rules.

7. **Counterparts; Facsimile.** This Agreement may be executed by the execution of one or more counterparts of the execution page, which will be taken together and constitute the execution page, and one or more of such counterparts may be delivered by facsimile transmission.

8. **Waiver; Remedies.** No single or partial waiver of any breach of an provision of this Agreement shall be held to be a waiver of any other or subsequent breach, and the failure of Purchaser to enforce at any time any provision of this Agreement shall not be deemed a waiver of any right of Purchaser to subsequently enforce such provision. All remedies afforded in this Agreement shall be taken and construed as cumulative, that is, in addition to every other remedy provided in this Agreement or by law.

9. **Construction.** This Agreement shall be interpreted without regard to any presumption or rule requiring construction against the Party causing such Agreements to be drafted.

10. **Severable Provision.** The intent of each Party hereto is that the restrictions and limitations on Seller described herein shall apply and be enforceable to the fullest extent allowed by law and shall under no circumstances be terminated in full in the event that any portion of such limitations or restrictions exceed

applicable law. The illegality, invalidity or unenforceability of any term or provision of this Agreement shall have no effect on any other term or provision of this Agreement and the provision held to be void, illegal or unenforceable shall be limited so that it shall remain in effect to the extent permissible by law. In the event any court of competent jurisdiction determines that any part of the provisions hereof exceed any applicable geographical, temporal or other legal or equitable limitations or restrictions, then such court is hereby authorized and requested by the Parties to limit or reform the applicable limitations and restrictions to the minimum extent necessary so that such limitations and restrictions set forth herein are enforceable under applicable law.

11. **Attorney Fees.** The parties hereto agree that in the event that Purchaser finds it necessary to employ attorneys to enforce the provisions of this Agreement through litigation, Purchaser shall be entitled to be reimbursed its reasonable attorneys' fees and related court costs from Seller if Purchaser is the prevailing party in such litigation.

12. **Entire Agreement.** This Agreement and the Purchase Agreement constitute the sole understanding and agreement of the Parties with respect to the subject matter of this Agreement and supersede and cancel all prior understandings and agreements.

IN WITNESS WHEREOF, each of the Parties hereto, has executed this Agreement as of the date and year first above written.

**SELLER:**

LOCALONE TV, L.P.

By: LocalOne Operating, LLC  
(Its General Partner)

By: \_\_\_\_\_  
JAMES L. ANDERSON,  
President

LOCALONE TEXAS, LTD.

By: LocalOne Operating, LLC  
(Its General Partner)

By: \_\_\_\_\_  
JAMES L. ANDERSON,  
President

**PURCHASER:**

BARBA TELEVISION, CO.

By: \_\_\_\_\_  
CARLOS BARBA,  
President