

**ASSET PURCHASE AGREEMENT**

**for**

**the SALE of TELEVISION STATION**

**WSWG, ALBANY, GEORGIA**

**by and among**

**GRAY TELEVISION, INC.**

**MARQUEE BROADCASTING GEORGIA, INC.**

**and**

**MARQUEE BROADCASTING, INC.**

**Dated as of August 15, 2018**

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**EXHIBITS**

- Exhibit A - Form of Bill of Sale and Assignment and Assumption Agreement
- Exhibit B - Form of Assignment of Seller FCC Authorizations
- Exhibit C - Form of Transition Services Agreement

**SCHEDULES**

## ASSET PURCHASE AGREEMENT

This **ASSET PURCHASE AGREEMENT**, dated as of August 15, 2018 (this “Agreement”), by and among Gray Television, Inc., a Georgia corporation (the “Seller”), on the one hand, and Marquee Broadcasting Georgia, Inc., a Georgia corporation (the “Buyer”), and Marquee Broadcasting, Inc. (the “Buyer Guarantor”), on the other hand. For the purposes of this Agreement all references to Seller shall mean the Seller and its Affiliates.

### WITNESSETH:

**WHEREAS**, Seller, Raycom Media, Inc., a Delaware corporation (“Raycom”) and East Future Group, Inc., a Delaware corporation and a wholly-owned subsidiary of Seller (“Merger Sub”) are parties to the Merger Agreement pursuant to which Merger Sub ultimately will be merged with and into Raycom such that Seller will become the direct and indirect parent of Raycom and the existing subsidiaries of Raycom;

**WHEREAS**, on the date of this Agreement, Seller owns and operates television broadcast station WSGW, Albany, Georgia (the “Station”), pursuant to certain authorizations issued by the Federal Communications Commission (the “FCC”);

**WHEREAS**, following the closing of the Merger, the Buyer desires to purchase the Purchased Assets and assume the Assumed Liabilities, and the Seller desires to sell to the Buyer the Purchased Assets and transfer the Assumed Liabilities, on the terms and subject to the conditions hereinafter set forth; and

**NOW, THEREFORE**, in consideration of the mutual covenants and agreements hereinafter set forth and for other good and valuable consideration (the receipt and sufficiency of which are hereby acknowledged), it is hereby agreed among the parties as follows:

## ARTICLE I

### DEFINITIONS

**Section 1.1. Definitions.** As used in this Agreement, the following terms have the meanings specified or referred to in this Section 1.1:

“**Active Employees**” has the meaning specified in Section 6.2(a).

“**Agreement**” has the meaning specified in the introductory paragraph hereof.

“**Affiliate**” means, with respect to any Person, any other Person which directly or indirectly controls, is controlled by or is under common control with such Person. As used in this definition, the term “control” (including the terms “controlling,” “controlled by” and “under common control with”) shall mean the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a Person, whether through the ownership of voting securities, by contract or otherwise.

“**Agreed Accounting Principles**” means the United States generally accepted accounting principles used in the preparation of the Balance Sheet.

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

**“Antitrust Law”** means the HSR Act, the Federal Trade Commission Act, as amended, the Sherman Act, as amended, the Clayton Act, as amended, and any applicable foreign antitrust Laws and all other applicable Laws that are designed or intended to prohibit, restrict or regulate actions having the purpose or effect of monopolization or restraint of trade or lessening of competition through merger or acquisition.

**“Assignment of the Seller FCC Authorizations”** has the meaning specified in Section 2.7.

**“Assumed Liabilities”** has the meaning specified in Section 2.3(a).

**“Balance Sheet”** has the meaning specified in Section 3.3.

**“Balance Sheet Date”** has the meaning specified in Section 3.3.

**“Bill of Sale and Assignment and Assumption Agreement”** has the meaning specified in Section 2.7(a).

**“Business”** means the business of the Station (and shall not include the Other Seller Stations or the other businesses or assets of the Seller or Raycom).

**“Business Day”** means any day on which the principal offices of the Securities and Exchange Commission are open to accept filings and on which banks in the City of New York are not required or authorized to close.

**“Buyer”** has the meaning specified in the introductory paragraph hereof.

**“Buyer Guarantor”** has the meaning specified in the introductory paragraph hereof.

**“Buyer Ancillary Agreements”** has the meaning specified in Section 4.2(a).

**“Buyer Group Member”** means the Buyer, its Affiliates, and each of their successors and assigns, and their respective directors, officers, employees and agents.

**“CERCLA”** means the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §§ 9601 et seq., and any regulations promulgated thereunder.

**“Claim Notice”** has the meaning specified in Section 9.3(a).

**“Closing”** has the meaning specified in Section 2.4.

**“Closing Date”** has the meaning specified in Section 2.4.

**“Closing Date Adjustments”** has the meaning specified in Section 2.6.

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

**“Communications Act”** means the Communications Act of 1934, as amended, and the rules and regulations of the FCC promulgated under the foregoing, in each case, as in effect from time to time.

**“Confidentiality Agreement”** has the meaning specified in Section 5.1.

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

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

**“DOJ Final Judgment”** means any proposed final judgment the DOJ may file in any court of law or equity of competent jurisdiction in connection with the Merger, as such proposed final judgment may be modified with the approval of any court of law or equity of competent jurisdiction.

**“Employment Agreement”** means any contract or agreement of the Seller with any individual Employee pursuant to which Seller has an actual or contingent liability to provide compensation and/or benefits in consideration for past, present or future services.

**“Employees”** means the individuals employed by the Seller who are listed on Schedule 3.12 and any full-time, part-time and per diem employees who become employed by Seller after the date hereof in accordance with Section 5.4 exclusively in connection with the Business; provided, however, that no such Person shall be considered an “Employee” if he or she is not employed by the Seller at the Closing. For purposes of the foregoing, an individual shall not be considered “not employed” by virtue of the fact that he or she is on authorized leave of absence, sick leave, short or long term disability leave or military leave.

**“Employee Plan”** means each material (i) pension, retirement, profit sharing, deferred compensation, stock bonus or other similar plan, (ii) medical, vision, dental or other health plan, (iii) life insurance plan and (iv) other employee benefit plan, in each case, to which Seller is required to contribute, or which Seller sponsors for the benefit of the Employees of Seller, as applicable, or under which Employees (or their beneficiaries) of Seller, as applicable, are eligible to receive benefits, including any “employee benefit plan” (as defined in Section 3(3) of ERISA), but in each case excluding any plan that is a “multiemployer plan” within the meaning of ERISA Section 3(37).

**“Employment Commencement Date”** has the meaning specified in Section 6.2(a).

**“Encumbrance”** means any lien, claim, charge, security interest, mortgage, pledge, easement, conditional sale or other title retention agreement, defect in title, covenant or other restrictions of any kind, other than any license of, option to license, or covenant not to assert claims of infringement or misappropriation with respect to, Intellectual Property.

**“Environmental Law”** means all Requirements of Laws relating to or addressing the prevention of pollution, the environment, human health, occupational health or safety, including but not limited to CERCLA, OSHA, RCRA, the Toxic Substances Control Act, 15 U.S.C. §§ 2601 et seq.; the Safe Drinking Water Act, 42 U.S.C. §§ 300(f) et seq.; the Clean Air Act, as amended, 42 U.S.C. §§ 7401 et seq.; the Federal Water Pollution Control Act, 33 U.S.C. §§ 1251 et seq.; the Emergency Planning and Community Right-to-Know Act of 1986, 42 U.S.C. §§ 11001 et seq.; and any state equivalents thereof.



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

**“Excluded Assets”** has the meaning specified in Section 2.2.

**“Excluded Liabilities”** has the meaning specified in Section 2.3(b).

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

**“FCC”** has the meaning specified in the preamble.

**“FCC Applications”** has the meaning specified in Section 5.3(a).

**“FCC Consent”** means action by the FCC (including action by staff acting on delegated authority) granting its consent to the FCC Applications.

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

**“Governmental Body”** means any foreign, federal, state, local or other governmental authority, or judicial or regulatory body.

**“Governmental Consents”** means (i) the FCC Consent, and (ii) all authorizations, consents, Orders and approvals of all Governmental Bodies, including any State Attorney General, that are or may become necessary for the execution, delivery and consummation of the transactions contemplated hereby.

**“Governmental Permits”** has the meaning specified in Section 3.8(a).

**“Hazardous Materials”** means any waste, pollutant, hazardous substance, toxic substance, hazardous waste, special waste, regulated or defined as “hazardous,” “toxic” or words of similar import pursuant to any Environmental Law, including asbestos, asbestos containing material, petroleum or petroleum-derived substance or waste, or any constituent of any such substance or waste.

**“HSR Act”** means the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended.

**“Inactive Employees”** has the meaning specified in Section 6.2(a).

**“Indemnified Party”** has the meaning specified in Section 9.3(a).

**“Indemnitor”** has the meaning specified in Section 9.3(a).

**“Independent Accountant”** has the meaning specified in Section 2.6.

**“Intellectual Property”** means (a) patents, (b) Trademarks, (c) copyrights, (d) registrations and applications for registration of any of the foregoing in (a)-(c), and (e) trade secrets, including

advertising customer lists, mailing lists, processes, know-how and other proprietary or confidential information.

**“Knowledge of the Seller”** means, as to a particular matter, the actual knowledge, after reasonable inquiry of the following persons: Kevin Latek and Jim Ryan.

**“Laws”** means any and all domestic (federal, state or local) or foreign or provincial laws, statutes, ordinances, rules, published regulations, judgments, orders, injunctions, awards, or agency policies, procedures, requirements or decrees promulgated by any Governmental Body.

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

**“Market”** means, with respect to the Station, the “Designated Market Area,” as determined by The Nielsen Company, of the Station.

**“Material Adverse Effect”** means a material adverse effect on (i) the ability of the Seller to perform its obligations under this Agreement, or (ii) the assets, results of operations or financial condition of the Business, taken as a whole; provided, however, that for purposes of determining whether there has been or is reasonably likely to be a “Material Adverse Effect” for purposes of clause (ii), the results and consequences of the following events, occurrences, facts, conditions, changes, developments or effects shall not be taken into account: (a) any changes that generally affect the industries in which the Seller operates or the Market of the Station, (b) resulting from the announcement by the Seller of its intention to sell the Business, including the announcement or pendency of this Agreement or the transactions contemplated hereby, or the facts, circumstances or events relating to any of the Buyer or its Affiliates, or actions taken by any of them including the impact thereof on relationships, contractual or otherwise, with agents, customers, suppliers, vendors, licensees, licensors, lenders, partners, employees or regulators, including the FCC, (c) the taking of any action expressly required by, or the failure to take any action expressly prohibited by, this Agreement, or the taking of any action at the written request or the prior written consent of the Buyer, (d) any failure of the Business to meet internal or external projections or forecasts or any estimates of earnings, revenues or other metrics for any period (provided, however, that any event, occurrence, fact, condition, change, development or effect giving rise to such failure or change may be taken into account in determining whether there has been, or is reasonably likely to be, a Material Adverse Effect, except to the extent otherwise excluded hereunder), (e) the renegotiation of the Station’s network affiliation agreements or retransmission consent agreements, (f) any changes in the economy or capital, financial or securities markets generally, including changes in interest or exchange rates, (g) changes in Laws or generally accepted accounting principles (or the interpretation thereof) or in legal, regulatory or political conditions, (h) the commencement, escalation or worsening of any war or armed hostilities or the occurrence of acts of terrorism or sabotage occurring after the date hereof and (i) earthquakes, hurricanes, floods or other natural disasters.

**“Merger”** means the merger of Merger Sub with and into Raycom with Raycom being the surviving company pursuant to the Merger Agreement.

**“Merger Agreement”** means that certain Agreement and Plan of Merger, dated as of June 23, 2018, as it may be amended from time to time, by and among Raycom, Merger Sub and Seller.

**“Merger Closing Date”** means the date upon which the Merger is consummated.

**“Merger Sub”** has the meaning specified in the first recital hereof.

**“Multi-Station Contract”** has the meaning specified in Section 5.6.

**“MVPD”** means any multi-channel video programming distributor, including cable systems, telephone companies and direct broadcast satellite systems.

**“Order”** means any order, judgment, injunction, awards, stipulations, decree or writ handed down, adopted or imposed by, including any consent decree, settlement agreement or similar written agreement with, any Governmental Body.

**“OSHA”** means the Occupational Safety and Health Act, 29 U.S.C. §§ 651 et seq., and any regulations promulgated thereunder.

**“Other Seller Stations”** has the meaning specified in Section 5.6.

**“Owned Real Property”** has the meaning specified in Section 3.9(a).

**“Payment Date”** has the meaning specified in Section 2.7.

**“Permitted Encumbrance”** means (a) liens for Taxes, assessments or other governmental charges which are not yet due and payable or Taxes being contested in good faith by appropriate proceedings, (b) terms and conditions of any leases assumed by Buyer, (c) zoning laws and ordinances and similar Laws that are not materially violated by any existing improvement or that do not prohibit the use of the Real Property as currently used in the operation of the Business; (d) any right reserved to any Governmental Body to regulate the affected property; (e) in the case of any leased asset, (i) the rights of any lessor under the applicable lease agreement or any Encumbrance granted by any lessor or any Encumbrance that the applicable lease is subject to, (ii) any statutory lien for amounts that are not yet due and payable or are being contested in good faith, (iii) any subleases listed in any Schedule hereto and (iv) the rights of the grantor of any easement or any Encumbrance granted by such grantor on such easement property; (f) easements, rights of way, restrictive covenants and other encumbrances, encroachments or other similar matters affecting title that do not materially adversely affect title to the property subject thereto or materially impair the continued use of the property in the ordinary course of the Business; (g) inchoate materialmen's, mechanics', workmen's, repairmen's or other like Encumbrances arising in the ordinary course of business for amounts that are not yet due and payable or that are being contested in good faith by appropriate proceedings; (h) minor defects of title, easements, rights-of-way, restrictions and other Encumbrances not interfering with the present use of the applicable assets subject thereto; (i) any state of facts that an accurate survey or physical inspection would show, provided such facts do not render title unmarketable or interfere with the present use of the applicable Real Property; (j) Encumbrances that will be released prior to or as of the Closing Date, including all mortgages and security interests securing indebtedness of Seller; (k) licenses of Intellectual Property granted in the ordinary course of business that, individually or in the aggregate, do not, and would not reasonably be expected to, materially detract from the value of such Intellectual Property, or interfere with the use thereof by the Station; and (l) any other Encumbrance disclosed on any Schedule hereto.

**“Person”** means any person, employee, individual, corporation, limited liability company, partnership, trust, or any other non-governmental entity or any governmental or regulatory authority or body.

**“Program Rights”** means all rights of the Stations to broadcast television programs or shows as part of the Stations’ programming, including all rights of the Stations under film and program barter agreements, sports rights agreements, news rights or service agreements, affiliation agreements and syndication agreements.

**“Prorated Taxes”** means all personal property, real property, intangible property and other ad valorem Taxes imposed on or with respect to the Business and/or the Purchased Assets for any taxable period that begins on or before and ends after the Closing Date.

**“Purchased Assets”** has the meaning specified in Section 2.1.

**“Purchased Intellectual Property”** has the meaning specified in Section 2.1(e).

**“Purchase Price”** has the meaning specified in Section 2.5.

**“Raycom”** means Raycom Media, Inc., a Delaware corporation.

**“RCRA”** means the Resource Conservation and Recovery Act, 42 U.S.C. §§ 6901 et seq., and any regulations promulgated thereunder.

**“Real Property”** has the meaning specified in Section 3.9(b).

**“Real Property Leases”** has the meaning specified in Section 3.9(b).

**“Release”** means any release, spill, emission, leaking, pumping, injection, deposit, disposal, discharge, dispersal, leaching or migration into the indoor or outdoor environment or into or out of any property, including the movement of Hazardous Materials through or in the air, soil, surface water, groundwater or property.

**“Required Consents”** has the meaning specified in Section 5.3(e).

**“Requirements of Law”** means any foreign, federal, state or local law, rule or regulation, Governmental Permit or other binding determination of any Governmental Body.

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

**“Seller”** has the meaning specified in the introductory paragraph hereof.

**“Seller FCC Authorizations”** means those Governmental Permits issued to Seller by the FCC with respect to the Station that are material to the Station’s operations.

**“Seller Group Member”** means the Seller, its Affiliates, each of their successors and assigns, and their respective directors, officers, employees, agents and representatives.

**“Solvent”** when used with respect to any Person or group of Persons on a combined basis, means that, as of any date of determination, (A) the amount of the “fair saleable value” of the assets of such Person (or group of Persons on a combined basis) will, as of such date, exceed (1) the value

of all “liabilities of such Person, including contingent and other liabilities,” as of such date, as such quoted terms are generally determined in accordance with applicable Laws governing determinations of the insolvency of debtors, and (2) the amount that will be required to pay the probable liabilities of such Person (or group of Persons on a combined basis) on its existing debts (including contingent liabilities) as such debts become absolute and matured, (B) such Person (or group of Persons on a combined basis) will not have, as of such date, an unreasonably small amount of capital for the operation of the businesses in which it is engaged or proposed to be engaged following such date and (C) such Person (or group of Persons on a combined basis) will be able to pay its liabilities, including contingent and other liabilities, as they mature.

“**Station**” has the meaning specified in the second recital hereof.

“**Station Agreements**” has the meaning specified in Section 3.15.

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

“**Tangible Personal Property**” has the meaning specified in Section 2.1(c).

“**Tax**” means any federal, state, local or foreign net income, alternative or add-on minimum, gross income, gross receipts, property, sales, use, transfer, gains, license, employment, payroll, capital stock, escheat, environmental, franchise, social security, stamp, registration and value-added taxes, withholding or minimum tax, or other tax, together with any interest or any penalty, addition to tax or additional amount imposed by any Governmental Body.

“**Tax Return**” means any return, declaration, report, claim for refund or other document relating to Taxes, including any schedule or attachment thereto, and amendment thereof.

“**Termination Date**” has the meaning specified in Section 10.1(a)(v).

“**Third Person Claim Notice**” has the meaning specified in Section 9.4(a).

“**Trade Agreement**” means any contract, agreement or commitment, oral or written, other than film and program barter agreements, pursuant to which Seller has agreed to sell or trade commercial air time or commercial production services of a Station in consideration for any property or service in lieu of cash.

“**Trademarks**” means trademarks, service marks, Internet domain names, trade dress, trade names, and corporate names, all applications and registrations for the foregoing, and all goodwill connected with the use thereof and symbolized thereby.

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

“**Transferred Employees**” has the meaning specified in Section 6.2(a).

“**Treasury Regulation**” means regulations promulgated by the United States Department of the Treasury under the Code.

“WARN Act” has the meaning specified in Section 6.2(a).

## ARTICLE II

### PURCHASE AND SALE OF PURCHASED ASSETS

**Section 2.1. Purchase and Sale of Purchased Assets.** Upon the terms and subject to the conditions of this Agreement, at the Closing, Seller shall, or shall cause its Affiliates to, sell, transfer, assign, convey and deliver to the Buyer, and the Buyer shall purchase from the Seller, pursuant to this Agreement, free and clear of all Encumbrances (except for Permitted Encumbrances), all of the right, title and interest of the Seller to the assets, properties and business (excepting only the Excluded Assets) of every kind and description, real, personal or mixed, tangible or intangible, then owned or held by the Seller and used exclusively in the Business (herein collectively referred to as the “Purchased Assets”), including, all right, title and interest of the Seller as of Closing to the following (excepting only the Excluded Assets):

(a) (x) The Seller FCC Authorizations and (y) all other assignable Governmental Permits exclusively related to the Station, and including any applications therefor and renewals or modifications thereof between the date hereof and Closing;

(b) All Owned Real Property;

(c) All machinery, equipment (including cameras, computers and office equipment), auxiliary and translator facilities, transmitting towers, transmitters, broadcast equipment, antennae, supplies, inventory (including all films, programs, records, tapes, recordings, compact discs, cassettes, spare parts and equipment), vehicles, furniture and other tangible personal property owned by Seller and used exclusively in the Business except for any retirements or dispositions thereof made between the date hereof and Closing in accordance with Section 5.4 (“Tangible Personal Property”)

(d) All Intellectual Property owned by the Seller and used exclusively in the Business (the “Purchased Intellectual Property”), including the Station call sign WSWG, but, for the avoidance of doubt, excluding any Intellectual Property used in connection with any Other Seller Stations;

(e) Subject to Section 5.6, (i) all contracts and agreements of the Station to the extent such contracts and agreements are for the sale or barter of broadcast time on the Station for advertising or other purposes; (ii) all contracts and agreements of the Seller to the extent such contracts or agreements are for the purchase or lease, as applicable, of merchandise, supplies, equipment or other personal property, or for the receipt of services, in each case used exclusively in the Business; (iii) all contracts and agreements listed or described in Schedule 3.14, and (iv) any other contract or agreement entered into by the Seller exclusively for the Business which (A) is of the general nature described in clauses (b), (c), (g), (h), (i), (j) or (k) of Section 3.14, but which, by virtue of the threshold amounts or other specific terms set forth in such subsections, is not required to be listed in Schedule 3.14 or (B) is entered into after the date hereof consistent with the provisions of Section 5.4 of this Agreement;

(f) All claims or causes of action of the Seller, as applicable, against third parties solely to the extent that any such claims or causes of action arise out of the Purchased Assets or Assumed Liabilities;

(g) All management and other systems (including computers and peripheral equipment), databases, computer software, disks and similar assets owned by the Seller which are used exclusively in the Business, and all licenses of the Seller to the extent relating thereto;

(h) All books and records of the Seller that relate exclusively to the Business, including all files, logs, programming information and studies, technical information and engineering data, news and advertising studies or consulting reports and sales correspondence exclusively relating to the Business excluding records relating to Excluded Assets or the Other Seller Stations; and

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

(a) Any cash or cash equivalents (including any marketable securities or certificates of deposit) of Seller, other than petty cash held at the Station;

(b) All bank and other depository accounts of the Seller;

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

(d) All Tangible Personal Property of Seller sold, transferred to a non-Affiliate, retired or otherwise disposed of between the date of this Agreement and Closing;

(e) All Station Agreements that are terminated or expire (and are not renewed or extended by Seller) prior to Closing;

(c) All claims, rights and interests of the Seller in and to any refunds of Taxes or fees of any nature whatsoever, including all items of loss, deduction or credit for Tax purposes, in each case, relating to the Business, the Purchased Assets or the Assumed Liabilities for, or applicable to, periods (or portions thereof) ending on or prior to the Closing Date;

(d) Any rights, claims or causes of action of the Seller against third parties relating to the assets, properties or operations of the Business prior to the Closing Date (including all amounts payable to the Seller, if any, from the United States Copyright Office or such arbitration panels as may be appointed by the United States Copyright Office that relate to the Business prior to the Closing that have not been paid as of the Closing);

(e) All bonds held, contracts or policies of insurance and prepaid insurance with respect to such contracts or policies;

(f) The Seller’s minute books, stock transfer books, records relating to formation or incorporation, Tax returns and related documents and supporting work papers and any other records and returns relating to Taxes, assessments and similar governmental levies (other than real and personal property Taxes, assessments and levies imposed on the Purchased Assets) and any books and records not exclusively relating to the Business;

(g) Any rights under any non-transferable shrink-wrapped or click-wrapped licenses of computer software and any other non-transferable licenses of computer software;

(h) All records prepared in connection with or relating to the sale or transfer of the Station, including bids received from others and analyses relating to the Station and the Purchased Assets;

(i) All rights and claims of Seller, whether mature, contingent or otherwise, against third parties with respect to the Station and the Purchased Assets, to the extent arising during or attributable to any period prior to the Cutoff Time;

(j) The items designated in Schedule 2.2(j) as “Excluded Assets”;

(k) The Retained Names and Marks;

(l) All Intellectual Property of Seller (other than the Purchased Intellectual Property);

(m) All real and personal, tangible and intangible assets of Seller that are used or held for use in the operation of the Other Seller Stations to the extent that it is used primarily by the Other Seller Stations (including, without limitation, any such assets that are used both in Station and in the Other Seller Stations);

(n) All records and documents relating to Excluded Assets or to liabilities other than Assumed Liabilities;

(o) All capital stock or other equity securities of the Seller or its Affiliates and all other equity interests in any entity that are owned beneficially or of record by Seller or its Affiliates;

(p) Other than as set forth in Section 6.2, all of the employee benefit agreements, plans or arrangements sponsored or maintained by the Seller or any of its Affiliates (including, without limitation, all Employee Plans) and any assets of any such agreement, plan or arrangement;

(q) Any intercompany receivables of the Business from the Seller; and

(r) Any rights of or payment due to the Seller, under or pursuant to this Agreement or the other agreements with the Buyer or any of its Affiliates contemplated hereby.

### **Section 2.3. Assumption of Liabilities.**

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

(i) the liabilities and obligations arising with, or relating to, the operation of the Station, including the owning or holding of the Purchased Assets, on and after the Closing Date;

(ii) all liabilities and obligations relating to the Business or the Purchased Assets arising out of Environmental Laws, whether or not presently existing, except for liabilities and obligations that are required to be disclosed on Schedule 3.19, but which are not so disclosed;



(iii) subject to Section 5.6, all liabilities and obligations under the Station Agreements and other contracts and agreements included as Purchased Assets (except to the extent that such liabilities or obligations were required by the terms thereof to be discharged prior to the Closing);

(iv) all Taxes (other than any Prorated Taxes or Transfer Taxes) of the Buyer for any Tax period, (ii) any Prorated Taxes for the portion of any Straddle Period beginning after the Closing Date (determined in accordance with Section 6.1) and (iii) any Transfer Taxes that are the responsibility of the Seller pursuant to Section 6.1; and

(v) all liabilities and obligations of the Buyer or its Affiliates pursuant to Section 6.2 hereof.

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

(b) The Buyer shall not assume or be obligated for any of, and the Seller shall solely retain, pay, perform, defend and discharge all of, their liabilities or obligations of any and every kind whatsoever, direct or indirect, known or unknown, absolute or contingent, not expressly assumed by the Buyer under Section 2.3(a) and, notwithstanding anything to the contrary in Section 2.3(a), none of the following (herein referred to as “Excluded Liabilities”) shall be “Assumed Liabilities” for purposes of this Agreement:

(i) all Taxes (other than any Prorated Taxes or Transfer Taxes) of Seller for any Tax period, (ii) any Prorated Taxes for the portion of any Straddle Period beginning after the Closing Date (determined in accordance with Section 6.1), and (iii) any Transfer Taxes that are the responsibility of the Buyer pursuant to Section 6.1;

(ii) other than as set forth in Section 6.2, any of the liabilities or obligations under the employee benefit agreements, plans or arrangements sponsored or maintained by the Seller (including, without limitation, all Employee Plans);

(iii) any intercompany payables of the Business owing to any of the Affiliates of the Seller; and

(iv) any Seller liabilities or obligations under this Agreement or the Ancillary Agreements.

**Section 2.4. Closing Date.** Subject to any prior termination of this Agreement pursuant to Section 10.1, the purchase and sale of the Purchased Assets provided for in Section 2.1 (the “Closing”) shall be consummated at 10:00 A.M., central time, three (3) Business Days after the conditions set forth in Articles VII and VIII are satisfied or, if legally permissible, waived (other than those conditions that by their nature are to be satisfied (or validly waived) at the Closing, but subject to such satisfaction or waiver), at the offices of Cooley LLP, 1299 Pennsylvania Avenue, N.W., Suite 700, Washington, DC 20004, unless such time or date is changed by mutual agreement of the Seller and the Buyer (the “Closing Date”). The Closing may be conducted virtually by electronic exchange of executed documents.

**Section 2.5. Purchase Price.** The purchase price for the Purchased Assets (the “Purchase Price”) shall be equal to Eight Million Five Hundred Thousand Dollars (\$8,500,000), subject to adjustment as provided in this Agreement. The Purchase Price shall be paid at Closing by wire transfer in immediately available funds to an account(s) designated by Seller.

**Section 2.6. Prorations and Adjustments.**

(a) All income and expenses arising from the Business, including, without limitation, Assumed Liabilities and prepaid expenses, ad valorem and property taxes and assessments (but excluding Seller’s accounts receivable), annual regulatory fees payable to the FCC, power and utilities charges, and rents and similar prepaid and deferred items shall be prorated between Seller and Buyer in accordance with the Agreed Accounting Principles to reflect the principle that Seller shall be entitled to all income and be responsible for all expenses arising from the Business through the Cutoff Time and Buyer shall be entitled to all income and be responsible for all expenses arising from the Business after the Cutoff Time. Notwithstanding anything in this Section 2.6 to the contrary, (i) except as set forth herein, with respect to Trade Agreements for the sale of time for goods or services assumed by Buyer, if at the Cutoff Time, the Trade Agreements have an aggregate negative balance (i.e., the amount by which the value of air time the Station are obligated to provide after the Cutoff Time exceeds the fair market value of corresponding goods and services to be received by the Station after such date), there shall be no proration or adjustment, unless the aggregate negative balance of the Station’s Trade Agreements exceeds \$25,000, in which event only such excess shall be treated as prepaid time sales of the Station, and adjusted for as a proration in Buyer’s favor, (ii) there shall be no proration under this Section 2.6 to the extent there is an aggregate positive balance with respect to the Station’s Trade Agreements and (iii) there shall be no proration under this Section 2.6 for Program Rights agreements except to the extent that any payments or performance due under such Program Rights agreements relate to a payment period that straddles the Cutoff Time in which case the amount payable in the payment period will be prorated based on the number of days in such period. The prorations and adjustments to be made pursuant to this Section 2.6 are referred to as the “Closing Date Adjustments.”

(b) Within ninety (90) days after the Closing, Buyer shall deliver to Seller a statement of the Closing Date Adjustments, and no later than the close of business on the thirtieth (30) day after the delivery of such statements (the “Payment Date”), Buyer shall pay to Seller, or Seller shall pay to Buyer, as the case may be, any amount due as a result of the adjustment (or, if there is any good faith dispute, the undisputed amount). Except with respect to items that Seller notifies Buyer that it objects to prior to the close of business on the date that is at least one (1) Business Day prior to the Payment Date, the adjustments set forth in Buyer’s statement shall be final and binding on the parties effective at the close of business on the Payment Date. If Seller disputes Buyer’s determinations or Buyer disputes Seller’s determinations, the parties shall consult with regard to the matter and an appropriate adjustment and payment shall be made as agreed upon by the parties within thirty (30) days after the Payment Date. If such thirty (30) day consultation period expires, and the dispute has not been resolved, then the parties shall select BDO USA, LLP or, if such firm is unable to serve in such capacity, a mutually acceptable, nationally recognized independent accounting firm that does not then have a relationship with Seller or Buyer (the “Independent Accountant”), to resolve the disagreement and make a determination with respect thereto as promptly as practicable. The determination by the Independent Accountant on the matter shall be binding. If an Independent Accountant is engaged pursuant to this Section 2.6, the fees and expenses of the Independent Accountant shall be borne by Seller and Buyer in inverse proportion as such parties may prevail on the resolution of the disagreement which proportionate allocation also will be determined by the Independent Accountant and be included in the Independent Accountant’s written report, and an appropriate adjustment and payment shall be made within three (3) Business Days of the resolution by the Independent Accountant, which resolution shall be rendered within thirty (30) days after such submission.

## **Section 2.7. Closing Date Deliveries.**

(a) At the Closing, the Seller shall deliver or cause to be delivered to the Buyer (i) a bill of sale and assignment and assumption agreement from the Seller in substantially the form of Exhibit A (the “Bill of Sale and Assignment and Assumption Agreement”), providing for the conveyance of all of the Purchased Assets (other than the Owned Real Property and the Seller FCC Authorizations) and the assumption of all of the Assumed Liabilities, (ii) an assignment of the Seller FCC Authorizations from the Seller, in substantially the form of Exhibit B (the “Assignment of the Seller FCC Authorizations”), assigning to the Buyer the Seller FCC Authorizations, (iii) a transition services agreement from the Seller, substantially in the form of Exhibit C (the “Transition Services Agreement”), (iv) general warranty deeds (in the customary form for such jurisdiction) conveying to the Buyer the Owned Real Property, (v) all of the documents and instruments required to be delivered by the Seller pursuant to Article VIII, (vi) specific assignment and assumption agreements duly executed by the Seller relating to any agreements included as Purchased Assets that the Buyer or the Seller have determined to be reasonably necessary to assign such agreements to the Buyer and for the Buyer to assume the Assumed Liabilities thereunder and (vii) such other documents and instruments as the Buyer has determined to be reasonably necessary to consummate the transactions contemplated hereby.

(b) At the Closing, the Buyer shall deliver to the Seller (i) the Purchase Price, (ii) the Bill of Sale and Assignment and Assumption Agreement, (iii) the Transition Services Agreement, (iv) all of the documents and instruments required to be delivered by the Buyer pursuant to Article VII, (v) specific assignment and assumption agreements duly executed by the Buyer relating to any agreements included as Purchased Assets that the Buyer or the Seller have determined to be reasonably necessary to assign such agreements to the Buyer and for the Buyer to assume the Assumed Liabilities thereunder, and (vi) such other documents and instruments as the Seller has determined to be reasonably necessary to consummate the transactions contemplated hereby.

## **Section 2.8. Further Assurances.**

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

(b) Without limiting Section 5.3(e), to the extent that any Station Agreement or other agreement or contract included as a Purchased Asset cannot be assigned without consent and such consent is not obtained prior to the Closing, the Seller shall use all commercially reasonable efforts to provide the Buyer the benefits of any such agreement and the Buyer shall perform or discharge on behalf of the Seller the obligations and liabilities under such agreement that constitute Assumed Liabilities. In addition to the Buyer’s obligation pursuant to the foregoing sentence, as to any Station Agreement or other agreement or contract included as a Purchased Asset that is not effectively assigned to the Buyer as of the Closing Date but is thereafter effectively assigned to the Buyer, the Buyer shall, from and after the effective date of such assignment, assume, and shall thereafter pay, perform and discharge as and when due, all Assumed Liabilities of the Seller arising under such agreement.

(c) From time to time following the Closing, the Buyer shall execute and deliver, or cause to be executed and delivered, to the Seller such other undertakings and assumptions as the Seller may reasonably request or as may be otherwise necessary to effectively evidence the Buyer’s assumption of and obligation to pay, perform and discharge the Assumed Liabilities.

**Section 2.9. Allocation of Purchase Price.** Following the Closing Date, the Seller shall provide to the Buyer an allocation of the applicable portions of the Purchase Price in accordance with Section 1060 of the Code and the Treasury Regulations promulgated thereunder (and any similar provisions of state, local, or non-U.S. Law, as appropriate). The Buyer shall provide the Seller with any comments to such allocation within fifteen (15) days after the date of receipt by the Buyer, and the Buyer and the Seller shall negotiate in good faith to finalize such allocation no later than sixty (60) days prior to the earliest due date (taking into account, for these purposes, any applicable extension of a due date) for the filing of a Tax Return to which such allocation is relevant (unless the Buyer does not provide any comments within such fifteen-day period, in which case the Seller's allocation shall be deemed final). If the parties are unable to mutually agree to such allocation then the parties shall have no further obligation under this Section 2.9, and each party shall make its own determination of such allocation for financial and tax reporting purposes, which determination, for the avoidance of doubt, shall not be binding on the other party.

### **ARTICLE III**

#### **REPRESENTATIONS AND WARRANTIES OF THE SELLER**

As an inducement to the Buyer to enter into this Agreement and to consummate the transactions contemplated hereby, Seller represents and warrants to the Buyer as follows:

**Section 3.1. Organization.** Seller is organized, validly existing and in good standing under the laws of its state of incorporation. Seller has the requisite organizational power and authority to operate the Station as now operated by it, to use the Purchased Assets as now used by it and to carry on the Business as now conducted by it.

**Section 3.2. Authority of the Seller.**

(a) The Seller has the requisite organizational power and authority to execute and deliver this Agreement and the Ancillary Agreements to be executed and delivered by it pursuant hereto, to consummate the transactions contemplated hereby and thereby and to comply with the terms, conditions and provisions hereof and thereof.

(b) The execution, delivery and performance of this Agreement and the Ancillary Agreements by Seller (to the extent a party thereto) has been duly authorized and approved by all necessary organizational action on the part of the Seller and does not require any further authorization or consent on the part of Seller or its Affiliates. This Agreement is, and each other Ancillary Agreement when executed and delivered by Seller (to the extent a party thereto) will be, a legal, valid and binding agreement of the Seller, enforceable in accordance with its respective terms, except in each case as such enforceability may be limited by bankruptcy, moratorium, insolvency, reorganization or other similar laws affecting or limiting the enforcement of creditors' rights generally and except as such enforceability is subject to general principles of equity (regardless of whether such enforceability is considered in a proceeding in equity or at law).

(c) Except for the FCC Consent and as set forth in Schedule 3.2, none of the execution, delivery and performance by the Seller of this Agreement or the Ancillary Agreements, the consummation by the Seller of the transactions contemplated hereby or thereby or compliance by the Seller with or fulfillment by the Seller of the terms, conditions and provisions hereof or thereof will:

(i) conflict with, result in a breach of the terms, conditions or provisions of, or constitute a default, an event of default or an event creating rights of acceleration, termination or cancellation or a loss of rights under, or result in the creation or imposition of any Encumbrance upon any of the Purchased Assets under, (A) the certificate of incorporation, bylaws or other organizational documents of the Seller, (B) any Station Agreement, (C) any Governmental Permit, (D) any judgment, order, award or decree to which such Person is a party or any of the Purchased Assets is subject or by which such Person is bound, or (E) any material indenture, note, mortgage, lease, guaranty or material agreement to which the Seller is a party, except, in the case of each of the foregoing clauses (B), (C), (D) or (E), as would not, individually or in the aggregate, be reasonably likely to have a Material Adverse Effect; or

(ii) require the approval, consent, authorization or act of, or the making by Seller of any declaration, filing or registration with, any third Person or any foreign, federal, state or local court, Governmental Body, except for such of the foregoing as are necessary pursuant to the HSR Act, and except, in any case, as would not, individually or in the aggregate, be reasonably likely to have a Material Adverse Effect.

**Section 3.3. Financial Statements.** Schedule 3.3 contains (a) the unaudited balance sheets of the Business as of December 31, 2017 and December 31, 2016, respectively, and the related statements of income for the years then ended and (b) the unaudited balance sheet (the “Balance Sheet”) of the Business as of March 31, 2018 (the “Balance Sheet Date”). Except as set forth in Schedule 3.3 or in the accompanying notes, each of such balance sheets and statements of income present fairly, in all material respects, the financial position and results of operations of the Business as of their respective dates and for the respective periods covered thereby.

**Section 3.4. Operations Since Balance Sheet Date.**

(a) Except as set forth in Schedule 3.4(a), from the Balance Sheet Date, there has been no change in the financial condition or the results of operations of the Business which, individually or in the aggregate, has had or would reasonably be reasonably likely to have a Material Adverse Effect.

(b) Except as set forth in Schedule 3.4(b), from the Balance Sheet Date through the date of this Agreement, the Business has been conducted in all material respects in the ordinary course other than in connection with the Merger and the process relating to the sale of the Business.

**Section 3.5. No Undisclosed Liabilities.** Except as set forth in Schedule 3.5, Seller is not subject, with respect to the Business, to any liability (including unasserted claims, whether known or unknown), whether absolute, contingent, accrued or otherwise, which would be required to be disclosed on a balance sheet of the Business prepared in accordance with the Agreed Accounting Principles or the notes thereto, except for liabilities which are (a) reflected or reserved for on the Balance Sheet, (b) liabilities incurred in the ordinary course of business since the Balance Sheet Date, (c) liabilities to be performed in the ordinary course of business pursuant to the Station Agreements and other agreements included in the Purchased Assets, or (d) which, individually or in the aggregate, have not had and would not be reasonably likely to have a Material Adverse Effect.

**Section 3.6. Taxes.**

(a) Except as would not, individually or in the aggregate, reasonably be likely to have a Material Adverse Effect, (i) Seller has filed all material Tax Returns with respect to the Business and the Purchased Assets required to be filed prior to the date hereof and all such Tax Returns were true, correct and complete in all material respects, and have paid all Taxes reflected on such Tax Returns, (ii) is in compliance in all material respects with the provisions of the Code relating to the withholding and payment of Taxes with respect to the Business and the Purchased Assets and have, within the time and in the manner prescribed by Law, withheld from employee wages and paid over to the proper Governmental Body all required amounts, and (iii) there are no Encumbrances for Taxes on any of the Purchased Assets other than Permitted Encumbrances. To the Knowledge of the Seller, (i) no Tax Return relating to the Business or the Purchased Assets is currently under audit or examination by any Governmental Body, and (ii) there are no suits, actions, proceedings or investigations pending with respect to any material Taxes relating to the Business or the Purchased Assets.

(b) The representations and warranties contained in this Section 3.6 are the sole and exclusive representations and warranties of the Seller relating to Taxes.

**Section 3.7. All Assets.** Except for the Excluded Assets, the Purchased Assets constitute all the assets and properties whether tangible or intangible, whether personal, real or mixed, wherever located, that are used by the Seller exclusively in the operation of the Station.

**Section 3.8. Governmental Permits; FCC Matters.**

(a) As of the date of this Agreement, Seller holds or possesses all registrations, licenses, permits, approvals and regulatory authorizations from a Governmental Body that are reasonably necessary to entitle it to own or lease, operate and use the assets of the Station and to carry on and conduct the Business substantially as conducted immediately prior to the date of this Agreement (herein collectively called "Governmental Permits"), except for such Governmental Permits as to which the failure to so own, hold or possess would not, individually or in the aggregate, be reasonably likely to have a Material Adverse Effect. Schedule 3.8(a) sets forth a list of each of the Seller FCC Authorizations, held by the Seller as of the date of this Agreement. The Seller FCC Authorizations constitute all material registrations, licenses, franchises, permits, approvals and regulatory authorizations issued by the FCC to the Seller in respect of the Station and held by the Seller as of the date of this Agreement.

(b) Seller has fulfilled and performed its obligations under each of the Governmental Permits except for noncompliance that, individually or in the aggregate, has not had and would not be reasonably likely to have a Material Adverse Effect. Each of the Governmental Permits is valid, subsisting and in full force and effect and has not been revoked, suspended, canceled, rescinded or terminated, other than those that the revocation, suspension, cancellation, rescission or termination of which, individually and in the aggregate, would not be reasonably likely to have a Material Adverse Effect.

(c) The Station is being operated in accordance with the Seller FCC Authorizations and in compliance in all material respects with the Communications Act and all other Laws applicable to the Station, except for such noncompliance that, individually or in the aggregate, has not had and would not be reasonably likely to have a Material Adverse Effect. Except as disclosed in Schedule 3.8(c), there is not (i) pending, or, to the Knowledge of the Seller, threatened, any material action or legal proceeding, other than actions or proceedings affecting broadcast television stations generally, by or before the FCC to revoke, suspend, cancel, rescind, terminate, materially adversely modify or refuse to renew in the ordinary course any Seller FCC Authorization (other than, in the case of modifications, proceedings to amend the FCC rules of general applicability), or (ii) issued or outstanding, by or before the FCC, any (A) order to show cause, (B)

notice of violation, (C) notice of apparent liability or (D) order of forfeiture, in each case, against the Station, Seller with respect to the Station that has resulted or would reasonably be expected to result in any action described in the foregoing clause (i) with respect to such Seller FCC Authorizations. The Seller FCC Authorizations have been issued by the FCC for full terms customarily issued by the FCC for each class of Station, and the Seller FCC Authorizations are not subject to any condition except for those conditions appearing on the face of the Seller FCC Authorizations and conditions applicable to broadcast licenses generally. Seller has (i) paid or caused to be paid all FCC regulatory fees due and payable by it in respect of the Station, and (ii) timely filed all material registrations and reports required to have been filed by it with the FCC relating to the Seller FCC Authorizations except where the failure to do so would not, individually or in the aggregate, be reasonably likely to have a Material Adverse Effect. This Section 3.8 does not relate to Governmental Permits for environmental, health and safety matters which are the subject solely of Section 3.20.

### **Section 3.9. Real Property; Real Property Leases.**

(a) Schedule 3.9(a) contains a brief description of all real property owned by the Seller as of the date of this Agreement exclusively for use in the Business (the “Owned Real Property”). Except as would not be reasonably likely to have a Material Adverse Effect, the Seller has good and valid title (free and clear of any Encumbrances other than Permitted Encumbrances) to the Owned Real Property.

(b) Schedule 3.9(b) sets forth a list of each material lease or similar contract or agreement under which Seller is a lessee of, or occupies, exclusively for use in the Business, any real property owned by any third Person (each such lease, contract or agreement, whether or not material, a “Real Property Lease,” and the property leased under the Real Property Leases is referred to herein, together with the Owned Real Property, as the “Real Property”) that is in effect as of the date of this Agreement. Except as would not, individually or in the aggregate, be reasonably likely to have a Material Adverse Effect, Seller has a valid leasehold interest in, sub leasehold interest in, or other occupancy right with respect to, the leased or occupied premises under the Real Property Leases in effect as of the date hereof.

(c) Except as would not, individually or in the aggregate, be reasonably likely to have a Material Adverse Effect, neither the whole nor any part of the Owned Real Property nor, to the Knowledge of the Seller, any property leased by Seller under any Real Property Lease is subject to any pending or threatened suit for condemnation or other taking by any public authority. Except as would not, individually or in the aggregate, be reasonably likely to have a Material Adverse Effect, Seller’s use and occupancy of the Real Property complies with all regulations, codes, ordinances and statutes of all applicable Governmental Bodies.

### **Section 3.10. Intellectual Property.**

(a) Schedule 3.10(a) contains a list of all patents and patent applications, trademark, service mark and copyright registrations and applications for registration, and Internet domain name registrations, in each case, that are included in the Purchased Intellectual Property. To the Knowledge of the Seller, (i) each material registration included in the Purchased Intellectual Property is valid and enforceable and (ii) each material registration and pending application included in the Purchased Intellectual Property is subsisting.

(b) Except as would not, individually or in the aggregate, be reasonably likely to have a Material Adverse Effect, to the Knowledge of the Seller, the Business is not infringing, misappropriating or otherwise violating any Intellectual Property owned by any third party. The Buyer acknowledges that the

representations and warranties set forth in this Section 3.10(b) are the only representations and warranties the Seller makes in this Agreement with respect to any activity that constitutes, or otherwise with respect to, infringement, misappropriation or other violation of Intellectual Property.

(c) Except as would not, individually or in the aggregate, be reasonably likely to have a Material Adverse Effect, to the Knowledge of the Seller, there are no actions, suits or proceedings by or before any court or any Governmental Body which are pending or, to the Knowledge of the Seller, threatened regarding or disputing the ownership, registrability or enforceability, or use by the Seller, of any Purchased Intellectual Property, other than the review of pending patent and trademark applications by applicable Governmental Bodies. Seller is not party to any outstanding Order that restricts, in a manner material to the Business, the use or ownership of any Purchased Intellectual Property.

**Section 3.11. Title to Tangible Personal Property.** Except as would not, individually or in the aggregate, be reasonably likely to have a Material Adverse Effect, Seller has good and valid title or a valid right to use all of the material Tangible Personal Property included in the Purchased Assets free and clear of all Encumbrances, except for Permitted Encumbrances.

**Section 3.12. Employees.** Schedule 3.12 contains: (a) a list of all full-time, part-time and per diem employees of the Seller as of the date of this Agreement whose employment relates exclusively to the Business; and (b) the current rate of annual base salary provided by the Seller, to such employees as of the date hereof.

**Section 3.13. Employee Relations.**

(a) Seller is not a party to any labor agreement or collective bargaining agreement in respect of the Station or covering any Employee as of the date hereof.

(b) Except as disclosed on Schedule 3.13, as of the date of this Agreement, no unfair labor practice charge against the Seller in respect of the Station is pending or, to the Knowledge of the Seller, threatened before the National Labor Relations Board, any state labor relations board or any court or tribunal. As of the date of this Agreement, there is no material strike or other material labor dispute pending or, to the Knowledge of the Seller, threatened in respect of the Station.

**Section 3.14. Contracts.** Except as set forth in Schedule 3.14 or any other Schedule hereto, as of the date of this Agreement, Seller is not a party to or bound by:

(a) any contract for the purchase, sale, license or lease of material assets used or to be used exclusively in the Business outside of the ordinary course of business which it would reasonably be expected that the Business would make annual payments of \$100,000 or more during any twelve (12) month period or the remaining term of such contract;

(b) any programming agreement relating exclusively to the Business under which it would reasonably be expected that the Business would make annual payments of \$100,000 or more during any twelve (12) month period or the remaining term of such contract;

(c) any retransmission consent agreement with any MVPDs with more than 10,000 paid subscribers with respect to the Station;



(d) any contract or agreement that is a “local marketing agreement” or time brokerage agreement, joint sales agreement, shared services agreement, management services agreement, local news sharing agreement or similar contract exclusively related to the Business;

(e) any material partnership, joint venture or other similar contract or agreement exclusively related to the Business;

(f) any affiliation agreement with a Big 5 national television network for the Station;

(g) any contract or agreement for capital expenditures with respect to the Business for an amount in excess of \$100,000 during any twelve (12) month period or the remaining term of such contract;

(h) any material Employment Agreement with compensation in excess of \$150,000 other than such service providers that are terminable at will;

(i) any material Real Property Lease; or

(j) any contract (other than any contract of the type described in clauses (a) through (j) above) that exclusively relates to the Business that is not terminable by Seller without penalty on ninety (90) days’ notice or less and which is reasonably expected to involve the payment by the Seller after the date hereof of more than \$100,000 during any twelve (12) month period or the remaining term of such contract.

**Section 3.15. Status of Contracts.** Except as set forth in Schedule 3.15 or in any other Schedule hereto or as, individually or in the aggregate, has not had and would not be reasonably likely to have a Material Adverse Effect, each of the leases, contracts and other agreements listed in Schedule 3.14 (collectively, the “Station Agreements”) constitutes a valid and binding obligation of the Seller, and, to the Knowledge of the Seller, the other parties thereto and is in full force and effect (in each case, subject to bankruptcy, insolvency, reorganization or other similar laws relating to or affecting the enforcement of creditors’ rights generally and except as such enforceability is subject to general principles of equity (regardless of whether such enforceability is considered in a proceeding in equity or at law)). Except as, individually or in the aggregate, has not had and would not be reasonably likely to have a Material Adverse Effect, (i) Seller is not in breach of, or default under, any Station Agreement and, to the Knowledge of the Seller, no other party to any Station Agreement is in breach of, or default under, any Station Agreement, and (ii) to the Knowledge of the Seller, no event has occurred which would result in a breach of, or default under, any Station Agreement (in each case, with or without notice or lapse of time or both). Copies of each of the Station Agreements, together with all amendments thereto, have heretofore been made available to the Buyer by the Seller.

**Section 3.16. No Violation, Litigation or Regulatory Action.** Except as set forth in Schedule 3.16:

(a) Seller is in compliance with all Laws and Orders which are applicable to the Purchased Assets, the Station or the Business, except where the failure to comply would not, individually or in the aggregate, be reasonably likely to have a Material Adverse Effect; and

(b) Since January 1, 2018 and through the date of this Agreement, Seller has not received any written notice of violation of any applicable Laws, except for such violations that, individually or in the aggregate, have not had and would not be reasonably likely to have a Material Adverse Effect; and

(c) As of the date of this Agreement, except for threatened actions, suits or proceedings in connection with the transactions contemplated by the Merger, there are no actions, suits or proceedings by or before any court or any Governmental Body which are pending or, to the Knowledge of the Seller, threatened against Seller, in respect of the Purchased Assets, any Station or the Business which would, individually or in the aggregate, be reasonably be likely to have a Material Adverse Effect.

**Section 3.17. Insurance.** Seller maintains, in respect of the Purchased Assets, the Stations and the Business, policies of fire and extended coverage and casualty, liability and other forms of insurance in such amounts and against such risks and losses as are in the judgment of the Seller prudent for the Business. Except as set forth in Schedule 3.17 with respect to the Business, there are no outstanding claims under any insurance policy or default with respect to provisions in any such policy which claim or default, individually or in the aggregate, would be reasonably likely to have a Material Adverse Effect.

**Section 3.18. Employee Plans; ERISA.**

(a) Schedule 3.18 sets forth a list of each Employee Plan in effect as of the date of this Agreement. A true and correct copy of the summary plan description (or other written summary of the material terms) of each such Employee Plan has been made available to the Buyer.

(b) All Employee Plans are in compliance with the provisions of ERISA, the Code and other applicable Laws and the rules and regulations promulgated thereunder to the extent that ERISA, the Code and other applicable Laws and such rules and regulations are intended to apply, except for any noncompliance that, individually or in the aggregate, would be reasonably likely to have a Material Adverse Effect.

**Section 3.19. Environmental Protection.**

(a) Except as set forth in Schedule 3.19:

(i) As of the date of this Agreement, the Business is in compliance with all Environmental Laws, except where the failure to comply would not be reasonably likely to have a Material Adverse Effect;

(ii) Seller has, in respect of the Business, obtained all Governmental Permits required under Environmental Law necessary for its operation, except for such Governmental Permits as to which the failure to so own, holds or possesses would not, individually or in the aggregate, be reasonably likely to have a Material Adverse Effect. Seller is in compliance with all terms and conditions of such Governmental Permits except where failure to comply would not be reasonably likely to have a Material Adverse Effect;

(iii) As of the date of this Agreement, Seller, with respect to the Business, is not the subject of any pending or, to the Knowledge of the Seller, threatened action, claim, complaint, investigation or notice of noncompliance or potential responsibility or other proceedings alleging any failure of the Business to comply with, or liability of the Business under, any Environmental Law, except as would not, individually or in the aggregate, be reasonably likely to have a Material Adverse Effect, however, regardless of whether such threatened action, claim, complaint, investigation, or

allegation may be deemed to have a Material Adverse Effect, it shall be listed in Schedule 3.19; and

(iv) To the Knowledge of the Seller, there has been no Release of Hazardous Materials at, under, about or from any Real Property reasonably expected to require Seller to conduct any investigation, remediation or other response action, or incur Losses, under Environmental Law except as would not, individually or in the aggregate, be reasonably likely to have a Material Adverse Effect.

(b) The representations and warranties contained in this Section 3.19 are the sole and exclusive representations and warranties relating to Environmental Law or Hazardous Materials.

**Section 3.20. No Finder.** Other than Wells Fargo Securities, LLC (the fees and expenses of which shall be payable by Seller), Seller is obligated to pay any fee or commission to any broker, finder or intermediary for or on account of the transactions contemplated by this Agreement for which the Buyer may become liable.

## ARTICLE IV

### REPRESENTATIONS AND WARRANTIES OF THE BUYER

As an inducement to the Seller to enter into this Agreement and to consummate the transactions contemplated hereby, the Buyer represents and warrants to the Seller as follows:

**Section 4.1. Organization.** Each of the Buyer and the Buyer Guarantor is organized, validly existing and in good standing under the laws of the state of its organization. Each of the Buyer and the Buyer Guarantor has the requisite organizational power and authority to own, lease and operate the properties and assets used in connection with its business as currently being conducted or to be acquired pursuant hereto.

**Section 4.2. Authority of the Buyer.**

(a) Each of the Buyer and the Buyer Guarantor has the requisite organizational power and authority to execute and deliver this Agreement and all of the other agreements and instruments to be executed and delivered by the Buyer or the Buyer Guarantor, as applicable, pursuant hereto (collectively, the “Buyer Ancillary Agreements”), to consummate the transactions contemplated hereby and thereby and to comply with the terms, conditions and provisions hereof and thereof.

(b) The execution, delivery and performance of this Agreement and the Buyer Ancillary Agreements by each of the Buyer and the Buyer Guarantor have been duly authorized and approved by all necessary organizational action on the part of the Buyer, the Buyer Guarantor and their Affiliates and do not require any further authorization or consent on the part of the Buyer, the Buyer Guarantor or any of their Affiliates. This Agreement is, and each other Buyer Ancillary Agreement when executed and delivered by the Buyer, the Buyer Guarantor or any of their Affiliates and the other parties thereto will be, a legal, valid and binding agreement of the Buyer, the Buyer Guarantor or such Affiliates party thereto enforceable in accordance with its respective terms, except in each case as such enforceability may be limited by bankruptcy, moratorium, insolvency, reorganization or other similar laws affecting or limiting the enforcement of creditors’ rights generally and except as such enforceability is subject to general principles of equity (regardless of whether such enforceability is considered in a proceeding in equity or at law).

(c) Except for the FCC Consent and as set forth in Schedule 4.2, none of the execution, delivery and performance by the Buyer or the Buyer Guarantor of this Agreement, or by the Buyer, the Buyer Guarantor or any of their Affiliates, as applicable, of the Buyer Ancillary Agreements to which it is a party, the consummation by the Buyer, the Buyer Guarantor or their Affiliates, as applicable, of the transactions contemplated hereby or thereby or compliance by the Buyer, the Buyer Guarantor or any Affiliates, as applicable, with or fulfillment by the Buyer, the Buyer Guarantor or their Affiliates, as applicable, of the terms, conditions and provisions hereof or thereof will:

(i) conflict with, result in a breach of the terms, conditions or provisions of, or constitute a default, an event of default or an event creating rights of acceleration, termination or cancellation or a loss of rights under, or result in the creation or imposition of any Encumbrance upon any assets of the Buyer under, (A) the certificate of incorporation, bylaws or other organizational documents of the Buyer or the Buyer Guarantor, or (B) any material indenture, note, mortgage, lease, guaranty or material agreement, or any judgment, order, award or decree, to which the Buyer, the Buyer Guarantor or any of their Affiliates is a party; or

(ii) require the approval, consent, authorization or act of, or the making by the Buyer, the Buyer Guarantor or any of their Affiliates of any declaration, filing or registration with, any third Person or any foreign, federal, state or local court, governmental or regulatory authority or body, except for such of the foregoing as are necessary pursuant to the HSR Act.

**Section 4.3. Litigation.** None of the Buyer, the Buyer Guarantor or any of their Affiliates is a party to any action, suit or proceeding pending or, to the knowledge of the Buyer, threatened which, if adversely determined, would reasonably be expected to restrict the ability of the Buyer to consummate promptly the transactions contemplated by this Agreement. There is no order to which the Buyer, the Buyer Guarantor or any of their Affiliates is subject which would reasonably be expected to restrict the ability of the Buyer or the Buyer Guarantor to consummate promptly the transactions contemplated by this Agreement.

**Section 4.4. No Finder.** None of the Buyer, the Buyer Guarantor or any of their Affiliates, or any party acting on any of their behalf has paid or become obligated to pay any fee or commission to any broker, finder or intermediary for or on account of the transactions contemplated by this Agreement.

**Section 4.5. Qualifications as FCC Licensee.**

(a) Subject to the Compliance Showing (as defined below), Buyer is legally, financially and otherwise qualified to be the licensee of, and to acquire, own, operate and control, the Station under the Communications Act, including the provisions relating to media ownership and attribution, foreign ownership and control, and character qualifications. Subject to the Compliance Showing, there are no facts or circumstances that would, under the Communications Act or any other applicable Laws, (i) disqualify the Buyer as the assignee of the Seller FCC Authorizations with respect to the Station or as the owner and operator of the Station, (ii) delay the FCC's processing of the FCC Applications, or (iii) cause the FCC to impose a material condition or conditions on its granting of the FCC Consent. No waiver of or exemption from, whether temporary or permanent, any provision of the Communications Act, or any divestiture or other disposition by the Buyer or any of their respective Affiliates of any asset or property, is necessary for the FCC Consent to be obtained under the Communications Act.

**Section 4.6. Financial Capacity; Solvency.** The Buyer has, as of the date of this Agreement, and will have as of the Closing Date, on hand (or access through committed credit facilities to) adequate funds to perform all of its obligations under this Agreement (including, but not limited to, payment of the Purchase Price and all fees and expenses required to be paid by Buyer in connection with the transactions contemplated by this Agreement), and there is no restriction or condition on the use of such funds for such purposes or fact or circumstance that, individually or in the aggregate with all other facts and circumstances, could reasonably be expected to prevent or delay the availability of such funds at the Closing. The Buyer is Solvent as of the date of this Agreement and will, immediately after giving effect to all of the transactions contemplated by this Agreement, including payment of the Purchase Price and all other amounts required to be paid, borrowed or refinanced in connection with the consummation of the transactions contemplated by this Agreement and all related fees and expenses, be Solvent at and after the Closing Date.

## ARTICLE V

### ACTION PRIOR TO THE CLOSING DATE

The respective parties hereto covenant and agree to take the following actions between the date hereof and the Closing Date:

**Section 5.1. Access to the Business.** Upon the written request of the Buyer, the Seller shall use reasonable efforts to cause reasonable access during normal business hours, and upon reasonable prior notice, to the offices, properties, employees and business and financial records of the Business to the extent reasonably necessary for Buyer's transition planning and shall furnish to the Buyer or its authorized representatives such additional information concerning the Business as shall be reasonably requested to the extent reasonably necessary for Buyer's transition planning; provided, however, that the Seller shall not be required to violate any obligation of confidentiality or other obligation under applicable Law to which the Seller is subject in discharging their obligations pursuant to this Section 5.1. The Buyer agrees that any such access shall be conducted in such a manner as not to interfere unreasonably with the operations of Business or the Seller. Notwithstanding the foregoing, Seller shall not be required to ((i) take any action which would constitute a waiver of attorney-client or other privilege or would compromise the confidential information of the Seller not related to the Business, (ii) supply the Buyer with any information which, in the reasonable judgment of the Seller, is under a contractual or legal obligation not to supply or (iii) permit the Buyer or any of its Affiliates to conduct any sampling of soil, sediment, groundwater, surface water or building material. Any information disclosed to the Buyer by the Seller under this Section 5.1 shall be held in accordance with the Non-Disclosure Agreement, dated as of June 25, 2018 (the "Confidentiality Agreement"), by and among Seller, Raycom and Buyer.

**Section 5.2. Notification of Certain Matters.**

(a) The Buyer or the Buyer Guarantor, on the one hand, and the Seller, on the other hand, shall promptly notify the other upon becoming aware of any material breach of any representation or warranty contained in this Agreement including, in the case of the Buyer or the Buyer Guarantor, upon any of their officers, employees or authorized representatives becoming aware of such a breach as a result of the access to the Business permitted by Section 5.1.

(b) Each party shall promptly notify the other of any action, suit or proceeding that shall be instituted or threatened against such party to restrain, prohibit or otherwise challenge the legality of any

transaction contemplated by this Agreement. The Seller shall promptly notify the Buyer and the Buyer Guarantor, and the Buyer and the Buyer Guarantor shall promptly notify the Seller, of any lawsuit, claim, proceeding or investigation that may be threatened, brought, asserted or commenced against the other which would have been listed in Schedule 3.16 or would be an exception to Section 4.3 if such lawsuit, claim, proceeding or investigation had arisen prior to the date hereof.

**Section 5.3. FCC Consent; HSR Act Approval; Other Consents and Approvals.**

(a) As promptly as practicable after the date hereof, but in any event no later than five (5) Business Days hereafter, the Buyer and its Affiliates, as applicable shall file with the FCC the necessary applications requesting its consent to the Assignment of the Seller FCC Authorizations to the Buyer, as contemplated by this Agreement (the “FCC Applications”). Buyer and Seller acknowledge that as part of the FCC Applications they may be submitting a showing demonstrating compliance with the FCC’s local television ownership rule (the “Compliance Showing”) as a result of Buyer’s agreement to acquire WSST-TV, Cordele, Georgia and the proposed acquisition of the Station. Buyer shall pay all costs incurred in the preparation of the Compliance Showing. The Seller shall cooperate in the preparation of such applications, including the Compliance Showing and will diligently take, or cooperate in the taking of, all necessary, desirable and proper steps, provide any additional information required by the FCC and shall use reasonable best efforts to obtain promptly the FCC Consent; provided, however, that the parties hereto acknowledge and agree that Seller may take various actions related to obtaining necessary approvals for the Merger and to consummate the Merger, including amending the FCC Applications (which may affect the timing of FCC action with respect to the FCC Applications), and such actions shall not be deemed a violation of this obligation. The Seller, on the one hand, and the Buyer, on the other hand, shall bear the cost of FCC filing fees relating to the FCC Applications equally. The Buyer and the Seller shall oppose any petitions to deny or other objections filed with respect to the FCC Applications to the extent such petition or objection relates to any such party. Neither Seller nor Buyer shall, and each shall cause its Affiliates not to, take (and, in the case of Seller, shall use reasonable efforts to take any intentional action that would, or intentionally fail to take such action the failure of which to take would, reasonably be expected to have the effect of materially delaying the receipt of the FCC Consent; provided, however, that the parties hereto acknowledge and agree that the Seller and Raycom may take various actions related to obtaining necessary approvals for the Merger and to consummate the Merger, including amending the FCC Applications (which may affect the timing of FCC action with respect to the FCC Applications), and such actions shall not be deemed a violation of this obligation. The parties agree that they will cooperate to amend the FCC Applications as may be necessary or required to reflect the consummation of the Merger or to otherwise obtain the timely grant of the FCC Consent. As may reasonably be necessary to facilitate the grant of the FCC Consent, in the event that in order to obtain the FCC Consent in an expeditious manner, it is necessary for the Buyer or any of its Affiliates to enter into a customary assignment, assumption, tolling, or other similar arrangement with the FCC to resolve any complaints with the FCC relating to the Station, the Buyer shall enter, or cause its Affiliates, as applicable, to enter, into such a customary assignment, assumption, tolling or other arrangement with the FCC.

(b) As promptly as practicable after the date hereof, but in any event no later than five (5) Business Days thereafter, to the extent required by applicable Laws, the Seller and the Buyer shall, and shall cause their respective Affiliates to file (if necessary), with the FTC and the Antitrust Division of the DOJ any notifications and other information required to be filed with such commission or department under the HSR Act, or any rules and regulations promulgated thereunder, with respect to the transactions contemplated by this Agreement, and shall request early termination of the waiting period thereunder. Each of the Seller and

the Buyer shall file, and shall cause their respective Affiliates to file, as promptly as practicable such additional information as may be requested to be filed by such commission or department. The Seller and the Buyer shall each bear their own cost of any filing fees payable under the HSR Act in connection with the notifications and information described in this Section 5.3(b) .

(c) Subject to the terms and conditions herein, the Seller and the Buyer shall, use their respective reasonable best efforts to consummate and make effective the transactions contemplated hereby and to cause the conditions set forth in Article VII and Article VIII to be satisfied as promptly as reasonably practicable after the date hereof, including (i) in the case of the Buyer, the obtaining of all necessary consents, approvals, waivers and authorizations of, actions or nonactions by, and making of all required filings and submissions with, any Governmental Body or any third party required in connection with the transactions contemplated by this Agreement, (ii) cooperating with each other in (A) determining which filings are required to be made prior to the Closing with, and which consents, approvals, permits, notices or authorizations are required to be obtained prior to Closing from, Governmental Bodies or third parties in connection with the execution and delivery of this Agreement and related agreements, and consummation of the transactions contemplated hereby and thereby and (B) timely making all necessary filings and timely seeking all consents, approvals, permits, notices or authorizations, (iii) the defending of any lawsuits or other legal proceedings, whether judicial or administrative, challenging this Agreement or the consummation of the transactions performed or consummated by such party in accordance with the terms of this Agreement, including seeking to have any stay or temporary restraining order entered by any court or other Governmental Body vacated or reversed and (iv) taking, or causing to be taken all other actions and doing, or causing to be done, and cooperating with each other in order to do, all other things necessary or appropriate to consummate the transactions contemplated hereby as soon as practicable; provided, however, that the parties hereto acknowledge and agree that Seller and Raycom may take various actions related to obtaining necessary approvals for the Merger and to consummate the Merger, including amending the FCC Applications (which may affect the matters referred to in clauses (ii), (iii) and (iv) above), and such actions shall not be deemed a violation of this obligation. The Buyer agrees not to, and shall cause its Affiliates not to, take any action that would reasonably be expected to materially delay, materially impede or prevent receipt of the Governmental Consents.

(d) In furtherance of and without limiting the generality of the foregoing, the Buyer shall, and shall cause its Affiliates to, (i) use their respective reasonable best efforts to (x) obtain approval of the transactions by the DOJ or the FTC as required under the HSR Act (if necessary) and the DOJ Final Judgment, including using such reasonable best efforts prior to the filing of the DOJ Final Judgment in any court, and (y) take promptly any and all steps necessary to avoid or eliminate each and every impediment and obtain all consents under any Antitrust Laws or communications or broadcast Laws that may be required by any U.S. federal, state or local antitrust or competition Governmental Body, or by the FCC or similar Governmental Body, in each case with competent jurisdiction or by the DOJ Final Judgment, so as to enable the parties to close the transactions contemplated by this Agreement as promptly as practicable, (ii) vigorously contest (including by means of litigation) (x) any actions, arbitrations, litigations, suits or other civil or criminal proceedings brought, or threatened to be brought, by any Governmental Body or any other Person seeking to enjoin, restrain, prevent, prohibit or make illegal the consummation of any of the transactions contemplated hereby or seeking damages or to impose any terms or conditions in connection with the transactions contemplated hereby, and (y) any Order that enjoins, restrains, prevents, prohibits or makes illegal the consummation of any of the transactions contemplated hereby or imposes any damages, terms or conditions in connection with the transactions contemplated hereby and (iii) resolve any objections any Governmental Body may assert under any applicable Law with respect to the transactions contemplated by this Agreement and to obtain any clearance required under the HSR Act, any DOJ Final Judgment or broadcast Laws or any objection that any other third party relating to the obtaining of any consent, approval,

waiver or authorization required from such third party in connection with the transactions contemplated by this Agreement other approval, consent or authorization necessary under applicable Law for the consummation of the transactions contemplated hereby (including agreeing to and making divestitures, entering into hold separate arrangements, terminating, assigning or modifying contracts (or portions thereof) or other business relationships, accepting restrictions on business operations and entering into of commitments and obligations). Further, and for the avoidance of doubt, the Buyer shall, and shall cause its Affiliates to, take any and all actions necessary in order to ensure that (x) no requirement for any non-action, consent or approval of the FTC, the DOJ, any authority enforcing applicable Antitrust Laws or communications or broadcast Laws, any state attorney general or other Governmental Body, (y) no decree, judgment, injunction, temporary restraining order or any other order in any suit or proceeding, and (z) no other matter relating to any Antitrust Laws or any communications or broadcast Laws, would preclude consummation of the transactions contemplated by this Agreement by the Termination Date, provided, however, if the DOJ rejects the Buyer as the acquirer of the Station in writing that Seller may terminate this Agreement with immediate effect.

(e) The Seller and the Buyer shall, and shall cause their respective Affiliates to , (including, in the case of Seller, by using reasonable efforts to obtain all consents and amendments from the parties to the Station Agreements which are required by the terms thereof or this Agreement for the consummation of the transactions contemplated by this Agreement; provided, however, that neither the Seller, the Buyer, nor any of their respective Affiliates shall have any obligation to offer or pay any consideration in order to obtain any such consents or amendments, including, with respect to the Seller, any obligation to amend, modify or otherwise alter the terms of any contract or agreement with any such party that is not included in the Purchased Assets or, insofar as any Multi-Station Contract relates to Other Seller Stations (as such terms are defined in Section 5.6), the terms thereof relating to Other Seller Stations; and provided, further, that the parties acknowledge and agree that such third party consents are not conditions to Closing, except for the certain third party consent applicable to the Station set forth on Schedule 5.3(e) (the “Required Consents”).

#### **Section 5.4. Operations of the Station Prior to the Closing Date.**

(a) Prior to the Closing Date, except as approved by the Buyer (which approval shall not be unreasonably withheld, delayed or conditioned), the Seller (x) shall and, prior to the Merger Closing Date, shall use its reasonable best efforts to cause its Affiliates to, and (y) following the Merger Closing Date shall, and shall cause its Affiliates to, use its commercially reasonable efforts to operate and carry on the Business in all material respects in the ordinary course of the Business, and to the extent consistent therewith (i) continue to promote and conduct advertising on behalf of the Station at levels substantially consistent with past practice, (ii) keep and maintain the Purchased Assets in good operating condition and repair (wear and tear in ordinary usage excepted), (iii) maintain the business organization of the Station intact, and (iv) preserve the goodwill of the suppliers, contractors, licensors, employees, customers, distributors and others having business relations with the Business.

(b) Notwithstanding Section 5.4(a) and subject to Section 6.3 regarding control of the Station, except (w) as expressly contemplated by this Agreement, (x) as set forth in Schedule 5.4(b), (y) as required by applicable Laws or by any Governmental Body of competent jurisdiction, or (z) with the prior written consent of the Buyer (which approval shall not be unreasonably withheld, delayed or conditioned), not to, and (ii) following the Merger Closing Date, shall not, and shall cause each of its Affiliates not to, in respect of the Station:



(i) enter into any contract or commitment that would be binding on the Buyer after the Closing Date and that involves the payment or potential payment of more than \$150,000 per annum;

(ii) other than those capital expenditures listed in Schedule 5.4(b)(ii), make or authorize any new capital expenditures, other than capital expenditures to address exigent circumstances that do not exceed \$100,000 individually or \$300,000 in the aggregate;

(iii) sell, lease (as lessor), transfer or otherwise dispose of or mortgage or pledge, or impose or suffer to be imposed any Encumbrance on, any of the material assets or properties relating to the Purchased Assets, other than the sale, lease (as lessor), transfer or other disposal of property in the ordinary course of the Business or pursuant to existing contracts or commitments, and other than Permitted Encumbrances;

(iv) fail to use all commercially reasonable efforts to maintain in full force and effect in accordance with their respective terms and conditions, any of the material Seller FCC Authorizations, or to not take or fail to take any action that could reasonably be expected to cause the FCC or any other Governmental Body to institute proceedings for the suspension, revocation or adverse modification of any of the material Seller FCC Authorizations in any material respect;

(v) other than in the ordinary course of the Business, enter into any new, or materially modify the terms of any existing, Employment Agreement with any Employee whose annual compensation would exceed \$100,000 after giving effect to such action;

(vi) in respect of the Business, materially change any accounting period or change in any material respect its accounting methods (or underlying assumptions), principles or practices affecting its assets, liabilities or business, in each case, in effect on the date hereof, except as required by changes in applicable Law;

(vii) materially increase the annual cash compensation of the Employees, other than increases in compensation in accordance with normal compensation practices and consistent with past compensation practices of Employees whose annual compensation would not exceed \$100,000 after giving effect to any such increase and it being agreed that the granting of annual cash incentive bonus awards in the ordinary course shall not constitute an increase in compensation for purposes hereof; or

(viii) agree or commit to do any of the foregoing.

**Section 5.5. Public Announcement.** Neither the Seller, Buyer nor any of their Affiliates shall, without the approval of the other, make any press release or other public announcement concerning the transactions contemplated by this Agreement, except as and to the extent that any such party shall be so obligated by Laws or by the rules, regulations or policies of any national securities exchange or association.

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

(a) any allocation set forth in the Multi-Station Contract shall control;

(b) if there is no allocation in the Multi-Station Contract as described in clause (a) hereof, then any reasonable allocation previously made by the Seller in the ordinary course of business shall control;

(c) if there is no reasonable allocation as described in clause (b) hereof, then then reasonable accommodation (to be determined by mutual good faith agreement of the Seller and Buyer) shall control.

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

## ARTICLE VI

### ADDITIONAL AGREEMENTS

#### **Section 6.1. Taxes.**

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

(b) In the case of any Prorated Taxes for any Straddle Period, the portion of such Prorated Taxes that are allocable to the portion of such Straddle Period ending on the Closing Date and that

constitute an Excluded Liability shall be deemed to equal the amount of such Taxes for the entire Straddle Period multiplied by a fraction the numerator of which is the number of calendar days in the portion of the Straddle Period ending on the Closing Date and the denominator of which is the number of calendar days in the entire Straddle Period, and the remaining portion of such Prorated Taxes shall be allocable to the portion of such Straddle Period beginning after the Closing Date and shall constitute an Assumed Liability.

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

(d) Any Transfer Taxes shall be borne by the Buyer. The Seller and the Buyer shall reasonably cooperate in the preparation, execution and filing of all Tax Returns, questionnaires, applications or other documents regarding any such Transfer Taxes.

## **Section 6.2. Employees; Employee Benefit Plans.**

(a) Employment. As of or before the Closing, the Buyer or any of its Affiliates shall offer employment to each Employee who (i) is not then on authorized leave of absence, sick leave, short or long term disability leave, military leave or layoff with recall rights (“Active Employees”); or (ii) is then on authorized leave of absence, sick leave, short or long term disability leave, military leave or layoff with recall rights and who returns to active employment immediately following such absence and within six (6) months of the Closing Date, or such later date as required under applicable Laws (“Inactive Employees”). For the purposes hereof, all Active Employees and Inactive Employees who accept an offer of employment from the Buyer and commence employment on the applicable Employment Commencement Date are hereinafter referred to collectively as the “Transferred Employees,” and the “Employment Commencement Date” as referred to herein shall mean (x) as to those Transferred Employees who are Active Employees, the Closing Date, and (y) those Transferred Employees who are Inactive Employees, the date on which the Transferred Employee begins employment with the Buyer or any of its Affiliates. The Buyer shall employ at-will those Transferred Employees who do not have employment agreements with the Seller initially at a monetary compensation (consisting of base salary, and, as applicable, commission rate and annual bonus opportunity) substantially the same as those provided by Seller immediately prior to the Employment Commencement Date. The initial terms and conditions of employment for those Transferred Employees who have Employment Agreements with the Seller shall be as set forth in such Employment Agreements, which shall, to the extent permitted under the applicable agreements, be assigned to Buyer and assumed by Buyer. The Buyer agrees that it or one of its Affiliates shall, for at least one (1) year after the Closing Date, provide each Transferred Employee who remains employed with the Buyer or any of its Affiliates with (i) benefits and compensation that are substantially similar in the aggregate to those provided to other employees of Buyer, as applicable as of the date hereof and (ii) severance benefits in accordance with the terms of the Buyer severance policy, applied in a manner consistent with the manner in which Buyer has applied such policy under similar circumstances, and not amend such program in any way with respect to the Transferred Employees except as required by applicable Law or to increase benefits payable to the Transferred Employees under the program.

(b) Service Credit. For purposes of determining eligibility to participate, vesting and benefit accrual (other than benefit accrual under a defined benefit pension plan) under any plan maintained by the Buyer or any of its Affiliates in which Transferred Employees are eligible to participate, the Buyer shall, and shall cause its Affiliates to, recognize or cause to be recognized for purposes of eligibility, vesting and benefit accruals each Transferred Employee's service with the Seller, and with any predecessor employer, to the same extent recognized by the Seller, as applicable, as service with the Buyer or any of its Affiliates to the same extent such service was recognized immediately prior to the Closing, except that such service need not be recognized to the extent such recognition would result in the duplication of benefits for the same period of service.

(c) Welfare Plans. The Seller shall retain responsibility for and continue to pay all medical, life insurance, disability and other welfare plan expenses and benefits for each Transferred Employee with respect to claims incurred under the terms of the Employee Plans by such Employees and their covered dependents prior to the Employment Commencement Date. Expenses and benefits with respect to claims incurred by Transferred Employees and their covered dependents on or after the Employment Commencement Date shall be the responsibility of the Buyer and its Affiliates. With respect to any welfare benefit plans maintained by the Buyer or any of its Affiliates in which the Transferred Employees are eligible to participate on or after the Employment Commencement Date, to the extent permitted by Laws, the Buyer shall, and shall cause its Affiliates to (a) cause there to be waived any eligibility requirements or pre-existing condition limitations and (b) give effect, in determining any deductible and maximum out-of-pocket limitations, to amounts paid by such Transferred Employees (and their covered dependents) under the Employee Plans.

(d) Vacation. The Buyer shall assume as of Closing all liabilities for unpaid, accrued vacation of each Transferred Employee as of the Employment Commencement Date, giving service credit under the vacation policy of the Buyer for service with the Seller, and shall permit Transferred Employees to use their vacation entitlement accrued as of Closing in accordance with the policy of the Seller as of Closing for carrying over unused vacation. The value of any positive balance shall be reflected as a Closing Date Adjustment in accordance with Section 2.6.

(e) Sick Leave. The Buyer shall grant credit to Transferred Employees for all unused sick leave accrued by Transferred Employees on the basis of their service during the current calendar year as employees of the Seller. The value of any positive balance shall be reflected as a Closing Date Adjustment in accordance with Section 2.6.

(f) Payroll Matters.

(i) The Seller and the Buyer shall follow the "standard procedures" for preparing and filing Internal Revenue Service Forms W-2 (Wage and Tax Statements), as described in Revenue Procedure 2004-53 for Transferred Employees. Under this procedure, (i) the Seller shall provide all required Forms W-2 to (x) all Transferred Employees reflecting wages paid and taxes withheld by the Seller prior to the Employment Commencement Date, and (y) all other employees and former employees of the Seller who are not Transferred Employees reflecting all wages paid and taxes withheld by the Seller, and (ii) the Buyer (or one of its Affiliates) shall provide all required Forms W-2 to all Transferred Employees reflecting all wages paid and taxes withheld by the Buyer (or one of its Affiliates) on and after the Employment Commencement Date.

(ii) The Seller and the Buyer shall adopt the “alternative procedure” of Revenue Procedure 2004-53 for purposes of filing Internal Revenue Service Forms W-4 (Employee’s Withholding Allowance Certificate) and W-5 (Earned Income Credit Advance Payment Certificate). Under this procedure, the Seller shall provide to the Buyer all Internal Revenue Service Forms W-4 and W-5 on file with respect to each Transferred Employee and any written notices received from the Internal Revenue Service under Reg. § 31.3402(f)(2)-1(g)(5) of the Code, and the Buyer will honor these forms until such time, if any, that such Transferred Employee submits a revised form.

(iii) With respect to garnishments, tax levies, child support orders, and wage assignments in effect with the Seller on the Employment Commencement Date for Transferred Employees and with respect to which the Seller has notified the Buyer in writing, the Buyer shall, and shall cause its Affiliates to, honor such payroll deduction authorizations with respect to Transferred Employees and shall, or shall cause its Affiliates to, continue to make payroll deductions and payments to the authorized payee, as specified by a court or order which was filed with the Seller on or before the Employment Commencement Date, to the extent such payroll deductions and payments are in compliance with applicable Laws, and the Seller will continue to make such payroll deductions and payments to authorized payees as required by Laws with respect to all other employees of the Business who are not Transferred Employees. The Seller shall, as soon as practicable after the Employment Commencement Date, provide the Buyer with such information in the possession of the Seller as may be reasonably requested by the Buyer and necessary for the Buyer or its Affiliates to make the payroll deductions and payments to the authorized payee as required by this Section 6.2(f).

(g) WARN Act. The Buyer shall not, and shall cause its Affiliates not to, take any action on or after the Closing that would cause any termination of employment of any employees by the Seller that occurs before the Closing to constitute a “plant closing” or “mass layoff” under the Worker Adjustment and Retraining Act of 1988, as amended (the “WARN Act”) or any similar state or local Laws, or to create any liability to the Seller for any employment terminations under applicable Laws. The Buyer shall be responsible for all liabilities with respect to any amounts (including any severance, fines or penalties) payable under or pursuant to the WARN Act or any similar state or local Laws with respect to any Employees who do not become Transferred Employees as a result of the failure of the Buyer to extend offers of employment or continued employment as required by Section 6.2 or in connection with events that occur from and after the Closing, and the Buyer shall reimburse the Seller for any such amounts.

(h) Without limiting the generality of Section 11.6, nothing in this Section 6.2, express or implied, is intended to confer on any Person (including any Transferred Employees and any current or former employees of the Seller) other than the parties hereto and their respective successors and assigns, any rights, benefits, remedies, obligations or liabilities (including any third-party beneficiary rights) under or by reason of this Section 6.2. Accordingly, notwithstanding anything to the contrary in this Section 6.2, the parties expressly acknowledge and agree that this Agreement is not intended to create a contract between the Buyer, the Seller or any of their respective Affiliates, on the one hand, and any employee of the Seller on the other hand, and no employee of the Seller may rely on this Agreement as the basis for any breach of contract claim against the Buyer, the Seller or any of their respective Affiliates. Nothing in this Section 6.2 shall constitute an amendment to or modification of any Employee Plan or other compensation or benefit plan, program, policy, agreement or arrangement.

**Section 6.3. Control of Operations Prior to Closing Date.** Notwithstanding anything contained herein to the contrary, the sale of the Purchased Assets contemplated hereby shall not be consummated prior to the grant by the FCC of the FCC Consent. The Seller and the Buyer acknowledge and agree that at all times commencing on the date hereof and ending on the Closing Date, (x) nothing in this Agreement, including Section 5.4, shall be construed to give the Buyer any right to, control, direct or otherwise supervise, or attempt to control, direct or otherwise supervise, any of the management or operations of any Station prior to the Closing Date, Seller shall have complete control and supervision of the programming, operations, policies and all other matters relating to the Stations.

**Section 6.4. Bulk Transfer Laws.** The Buyer hereby waives compliance by the Seller with the provisions of any so-called bulk sales or bulk transfer law of any jurisdiction in connection with the sale of the Purchased Assets to the Buyer hereunder.

**Section 6.5. Use of Names.** The Seller is not conveying ownership rights or granting the Buyer a license to use any of the Retained Names and Marks and, after the Closing, the Buyer shall not and shall not permit any of its Affiliates to use in any manner the Retained Names and Marks or any word that is similar in sound or appearance to such names or marks. In the event the Buyer violates any of its obligations under this Section 6.5, the Seller may proceed against the Buyer in law or in equity for such damages or other relief as a court may deem appropriate. The Buyer acknowledges that a violation of this Section 6.5 may cause the Seller irreparable harm, which may not be adequately compensated for by money damages. The Buyer therefore agrees that in the event of any actual or threatened violation of this Section 6.5, any of such parties shall be entitled, in addition to other remedies that they may have, to a temporary restraining order and to preliminary and final injunctive relief against the Buyer or any such Affiliate of the Buyer to prevent any violations of this Section 6.5, without the necessity of posting a bond.

## ARTICLE VII

### CONDITIONS PRECEDENT TO OBLIGATIONS OF THE SELLER

The obligations of the Seller under this Agreement to consummate the sale of the Purchased Assets contemplated hereby shall be subject to the satisfaction, fulfillment or, where legally possible, waiver, on or prior to the Closing Date, of the following conditions:

**Section 7.1. No Breach of Covenants and Warranties.** (a) The Buyer shall have performed and complied in all material respects with its covenants and agreements contained herein required to be performed or complied with by it as of or prior to the Closing; and (b) each of the representations and warranties of the Buyer contained in this Agreement shall be true and correct on the Closing Date as though made on the Closing Date (except to the extent that they expressly speak as of a specific date or time other than the Closing Date, in which case they need only have been true and correct as of such specified date or time), except where the failure of such representations and warranties to be true and correct (without giving effect to any qualifiers or exceptions relating to “materiality” set forth in such representations and warranties), individually or in the aggregate, has not had and would not be reasonably likely to have a material adverse effect on the ability of the Buyer to perform its obligations under this Agreement. In addition, the Buyer shall have delivered to the Seller a certificate, dated as of the Closing Date, signed by an executive officer of the Buyer and certifying as to the satisfaction of the conditions specified in this Section 7.1.

**Section 7.2. No Restraint.** There shall not be in effect any Order (whether temporary, preliminary or permanent) issued by any U.S. federal or state court of competent jurisdiction preventing the consummation of the sale of the Purchased Assets contemplated hereby.

**Section 7.3. Certain Governmental Approvals.**

(a) The FCC Consent shall have been granted and shall be effective;

(b) Any waiting period (and any extension thereof) applicable to consummation of the transactions contemplated by this Agreement under the HSR Act shall have expired or shall have been terminated, if necessary; and

**Section 7.4. Merger.** The Merger shall have been consummated.

**Section 7.5. Deliveries.** The Buyer shall have made, or stands ready at the Closing to make, the deliveries contemplated by Section 2.7 to the Seller.

## ARTICLE VIII

### CONDITIONS PRECEDENT TO OBLIGATIONS OF THE BUYER

The obligations of the Buyer under this Agreement to consummate the sale of the Purchased Assets contemplated hereby shall, be subject to the satisfaction, fulfillment or, where legally possible, waiver on or prior to the Closing Date, of the following conditions:

**Section 8.1. No Breach of Covenants and Warranties.** (a) The Seller shall have performed and complied with in all material respects its covenants and agreements contained herein required to be performed or complied with by it as of or prior to the Closing; and (b) each of the representations and warranties of the Seller contained in this Agreement shall be true and correct on the Closing Date as though made on the Closing Date (except to the extent that they expressly speak as of a specific date or time other than the Closing Date, in which case they need only have been true and correct as of such specified date or time), except where the failure of such representations and warranties to be true and correct (without giving effect to any qualifiers or exceptions relating to “materiality” or “Material Adverse Effect” set forth in such representations and warranties), would not, individually or in the aggregate, be reasonably likely to have a Material Adverse Effect. In addition, the Seller shall have delivered to the Buyer a certificate, dated as of the Closing Date, signed by an executive officer of the Seller and certifying as to the satisfaction of the conditions specified in this Section 8.1.

**Section 8.2. No Restraint.** There shall not be in effect any Order (whether temporary, preliminary or permanent) issued by any U.S. federal or state court of competent jurisdiction preventing the consummation of the sale of the Purchased Assets contemplated hereby.

**Section 8.3. Certain Governmental Approvals.**

(a) The FCC Consent shall have been granted and shall be effective;

(b) Any waiting period (and any extension thereof) applicable to consummation of the transactions contemplated by this Agreement under the HSR Act shall have expired or shall have been terminated, if necessary; and

**Section 8.4. Merger.** The Merger shall have been consummated.

**Section 8.5. Closing Deliveries.** The Seller shall have made, or stand ready at the Closing to make, the deliveries contemplated by Section 2.7 to the Buyer.

## ARTICLE IX

### INDEMNIFICATION

**Section 9.1. Indemnification by the Seller.** From and after the Closing and subject to Section 11.1, the Seller agrees to indemnify and hold harmless the Buyer from and against any and all Losses and Expenses imposed upon, or incurred or suffered by, any Buyer Group Member as a result of or arising out of:

- (i) any breach by the Seller of, or any other failure of the Seller to perform, any of its covenants, agreements or obligations pursuant to this Agreement;
- (ii) any breach of any warranty or the inaccuracy of any representation of Seller contained or referred to in this Agreement or any certificate delivered by or on behalf of Seller pursuant hereto; or
- (iii) the failure of the Seller to perform any Excluded Liabilities.

provided, however, that Seller shall not be required to indemnify and hold harmless pursuant to clause (ii) above with respect to Loss and Expense incurred by Buyer Group Members until, and then only to the extent that, the aggregate amount of all such Loss and Expense exceeds \$42,500 (the “Deductible”); and, provided, further, that the aggregate amount that Seller shall be required to indemnify and hold harmless pursuant to clause (ii) with respect to Loss and Expense incurred by Buyer Group Members shall not exceed \$850,000 (the “Cap”). Notwithstanding anything herein to the contrary, neither the Deductible nor the Cap shall apply (i) in the case of common law fraud; (ii) with respect to Seller’s and Seller’s indemnification obligations pursuant to any provision of Section 9.1 other than Section 9.1(ii) (regardless of whether a claim could also be brought under Section 9.1(ii)); or (iii) with respect to any breach of any Seller Fundamental Representations (except, with respect to the Cap, Section 3.11). In addition, Seller shall not be required to indemnify and hold harmless Buyer with respect to Loss and Expense to the extent that such Loss or Expense was included in the Closing Date Adjustment or pursuant to Section 2.6. The indemnification provided for in this Section 9.1 shall terminate twelve (12) months after the Closing Date (and no claims shall be made by any Buyer Group Members under this Section 9.1 thereafter), except that the indemnification by Seller shall continue in any event as to:

- (A) the representations and warranties in Sections 3.1, 3.2(a), 3.2(b) and 3.11 (the “Seller Fundamental Representations”), which shall terminate thirty-six (36) months after the Closing;



(B) any Loss or Expense incurred by any Buyer Group Member in connection with or arising out of the failure of Seller to pay or perform any Excluded Liability, ) as to which no time limitation shall apply; and

(C) any Loss or Expense of which any Buyer Group Member has notified Seller in accordance with the requirements of Section 9.3 on or prior to the date such indemnification would otherwise terminate in accordance with this Section 9.1, as to which the obligation of Seller shall continue until the liability of Seller shall have been determined pursuant to this Article IX, and Seller shall have reimbursed all Buyer Group Members for the full amount of such indemnifiable Loss and Expense (if any) in accordance with this Article IX.

**Section 9.2. Indemnification by the Buyer.** From and after the Closing and subject to Section 11.1, the Buyer agrees to indemnify and hold harmless Seller from and against any and all Losses and Expense imposed upon, or incurred or suffered by, any Seller Group Member as a result of or arising out of:

(i) any breach by the Buyer of, or any other failure of the Buyer to perform, any of its covenants, agreements or obligations in this Agreement;

(ii) any breach by Buyer, or any other failure of Buyer to perform, any of its covenants, agreements or obligations in this Agreement; or

(iii) the failure of the Buyer to perform any of the Assumed Liabilities and, except for claims in respect of which the Seller is obligated to indemnify the Buyer Group Members pursuant to Section 9.1, the Buyer's (or any successor's or assignee's) operation of the Business and/or the ownership and/or use of the Purchased Assets after the Closing Date.

provided, however, that Buyer shall not be required to indemnify and hold harmless pursuant to clause (ii) with respect to Loss and Expense incurred by Seller Group Members until, and then only to the extent that, the aggregate amount of all such Loss and Expense exceeds the Deductible; and, provided, further, that the aggregate amount that Buyer shall be required to indemnify and hold harmless pursuant to clause (ii) with respect to Loss and Expense incurred by Seller Group Members shall not exceed the Cap. Notwithstanding anything herein to the contrary, neither the Deductible nor the Cap shall apply (i) in the case of common law fraud; (ii) with respect to Buyer's indemnification obligations pursuant to any provision of Section 9.2 other than Section 9.2(ii) (regardless of whether a claim could also be brought under Section 9.2(ii)); or (iii) with respect to any breach of any Buyer Fundamental Representations. . In addition, Buyer shall not be required to indemnify and hold harmless Seller with respect to Loss and Expense to the extent that such Loss or Expense was included in the Closing Date Adjustment or pursuant to Section 2.6. The indemnification provided for in this Section 9.2 shall terminate twelve (12) months after the Closing Date (and no claims shall be made by any Seller Group Member under this Section 9.2 thereafter), except that the indemnification by Buyer shall continue in any event as to:

(A) the representations and warranties in Sections 4.1, 4.2(a) 4.2(b) and 4.4 (the “Buyer Fundamental Representations”), which shall terminate thirty-six (36) months after the Closing Date;

(B) any Loss or Expense incurred by any Seller Group Member in connection with or arising out of the failure of Buyer to pay or perform any Assumed Liabilities, as to which no time limitation shall apply; and

(C) any Loss or Expense of which any Seller Group Member has notified Buyer in accordance with the requirements of Section 9.3 on or prior to the date such indemnification would otherwise terminate in accordance with this Section 9.2, as to which the obligation of Buyer shall continue until the liability of Buyer shall have been determined pursuant to this Article IX, and Buyer shall have reimbursed all Seller Group Members for the full amount of such Loss and Expense in accordance with this Article IX.

### **Section 9.3. Notice of Claims; Determination of Amount.**

(a) Any party seeking indemnification hereunder (the “Indemnified Party”) shall give promptly to the party or parties, as applicable, obligated to provide indemnification to such Indemnified Party (the “Indemnitor”) a written notice (a “Claim Notice”) describing in reasonable detail the facts giving rise to the claim for indemnification hereunder and shall include in such Claim Notice (if then known) the amount or the method of computation of the amount of such claim, and a reference to the provision of this Agreement or any certificate delivered hereunder upon which such claim is based. Subject to Section 11.1, the failure of any Indemnified Party to give the Claim Notice promptly as required by this Section 9.3 shall not affect such Indemnified Party’s rights under this Article IX except to the extent such failure is actually prejudicial to the rights and obligations of the Indemnitor.

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

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

### **Section 9.4. Third Person Claims.**

(a) Notwithstanding anything to the contrary contained in Section 9.3, in order for a party to be entitled to any indemnification provided for under this Agreement in respect of, arising out of or involving a claim or demand made by any third Person against the Indemnified Party, such Indemnified Party must notify the Indemnitor in writing, and in reasonable detail, of the third Person claim promptly, but in any

event within ten (10) days, after receipt by such Indemnified Party of written notice of the third Person claim, which such notification must include a copy of the written notice of the third Person claim that was received by the Indemnified Party (the “Third Person Claim Notice”). Thereafter, the Indemnified Party shall deliver to the Indemnitor, promptly, but in any event within five (5) Business Days, after the Indemnified Party’s receipt thereof, copies of all notices and documents (including court papers) received by the Indemnified Party relating to the third Person claim. Notwithstanding the foregoing, should a party be physically served with a complaint with regard to a third Person claim, the Indemnified Party must notify the Indemnitor with a copy of the complaint promptly, but in any event within five (5) Business Days, after receipt thereof and shall deliver to the Indemnitor promptly, but in any event within seven (7) Business Days, after the receipt of such complaint copies of notices and documents (including court papers) received by the Indemnified Party relating to the third Person claim. Subject to Section 11.1, the failure of any Indemnified Party to promptly provide a Third Person Claim Notice as required by this Section 9.4 shall not affect such Indemnified Party’s rights under this ARTICLE IX except to the extent such failure is actually prejudicial to the rights and obligations of the Indemnitor.

(b) In the event of the initiation of any legal proceeding against the Indemnified Party by a third Person, the Indemnitor shall have the sole and absolute right after the receipt of a Third Person Claim Notice, at its option and at its own expense, to be represented by counsel of its choice and to control, defend against, negotiate, settle or otherwise deal with any proceeding, claim, or demand which relates to any loss, liability or damage indemnified against hereunder; provided, however, that the Indemnified Party may participate in any such proceeding with counsel of its choice and at its expense. The parties hereto agree to cooperate fully with each other in connection with the defense, negotiation or settlement of any such proceeding, claim or demand. Prior to the time the Indemnified Party is notified by the Indemnitor as to whether the Indemnitor will assume the defense of such proceeding, claim or demand, the Indemnified Party shall take all actions reasonably necessary to timely preserve the collective rights of the parties with respect to such proceeding, claim or demand, including responding timely to legal process. To the extent the Indemnitor elects not to defend such proceeding, claim or demand (or fails to confirm its election) within thirty (30) days after the giving by the Indemnified Party to the Indemnitor of a Third Person Claim Notice, the Indemnified Party may retain counsel, reasonably acceptable to the Indemnitor, at the expense of the Indemnitor, and control the defense of, or otherwise deal with, such proceeding, claim or demand. Regardless of which party assumes the defense of such proceeding, claim or demand, the parties agree to cooperate with one another in connection therewith. Such cooperation shall include providing records and information that are relevant to such proceeding, claim or demand, and making each parties’ employees and officers available on a mutually convenient basis to provide additional information and explanation of any material provided hereunder and to act as a witness or respond to legal process. Whether or not the Indemnitor assumes the defense of such proceeding, claim or demand, the Indemnified Party shall not admit any liability with respect to, or settle, compromise or discharge, such proceeding, claim or demand without the Indemnitor’s prior written consent (which consent shall not be unreasonably withheld, conditioned or delayed). The Indemnitor shall not consent to a settlement of, or the entry of any judgment arising from, any such proceeding, claim or demand without the Indemnified Party’s prior written consent (which consent shall not be unreasonably withheld, conditioned or delayed) unless such settlement or judgment (a) relates solely to monetary damages for which the Indemnitor shall be responsible and (b) includes as an unconditional term thereof the release of the Indemnified Party from all liability with respect to such proceeding, claim or demand, in which event no such consent shall be required. After any final judgment or award shall have been rendered by a court, arbitration board or administrative agency of competent jurisdiction and the time in which to appeal therefrom has expired, or a settlement shall have been consummated, or the Indemnified Party and the Indemnitor shall arrive at a mutually binding agreement with respect to each separate matter alleged to be indemnified by the Indemnitor hereunder, the Indemnified Party shall forward to the Indemnitor notice of any sums due and owing by it with respect to such matter and the Indemnitor shall pay all of the sums so owing to the

Indemnified Party by wire transfer, certified or bank cashier's check within thirty (30) days after the date of such notice.

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

To the extent of any inconsistency between this Section 9.4 and Section 6.1(c) with respect to Taxes, the provisions of Section 6.1(c) shall control.

#### **Section 9.5. Limitations; Subrogation; Exclusive Remedies.**

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

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

(c) Except for remedies that cannot be waived as a matter of law and injunctive and provisional relief, if the Closing occurs, this ARTICLE IX shall be the exclusive remedy for breaches of this Agreement (including any covenant, obligation, representation or warranty contained in this Agreement or in any certificate delivered pursuant to this Agreement) or otherwise relating to the subject matter of this Agreement, including any claims arising under any Environmental Laws.

**Section 9.6. No Special Damages; Mitigation.** Notwithstanding anything to the contrary contained in this Agreement, none of the parties hereto shall have any liability under any provision of this Agreement for any punitive, incidental, consequential, special or indirect damages, including loss of future profits, revenue or income, damages based on any multiple of revenue or income, diminution in value or loss of business reputation or opportunity relating to the breach or alleged breach of this Agreement, regardless of whether such damages were foreseeable, except to the extent such damages are payable to a third Person. Each of the parties agrees to take all reasonable steps to mitigate their respective Losses and Expenses upon and after becoming aware of any event or condition which could reasonably be expected to give rise to any Losses and Expenses that are indemnifiable hereunder, including using its commercially reasonable efforts to obtain insurance proceeds or other recoveries from third Persons in respect thereof.

**ARTICLE X**  
**TERMINATION**

**Section 10.1. Termination.**

(a) Notwithstanding anything contained in this Agreement to the contrary, this Agreement may be terminated at any time prior to the Closing:

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

(ii) by the Seller, if a breach or failure to perform any of the covenants or agreements of the Buyer contained in this Agreement shall have occurred, or there shall be any material inaccuracy of any of the representations or warranties of the Buyer contained in this Agreement, and such breach, failure to perform or inaccuracy either individually or in the aggregate would, if occurring or continuing on the Closing Date, give rise to the failure of a condition set forth in Section 7.1, and such breach, failure to perform or inaccuracy if curable, is not cured by, on or before the earlier of (i) the Termination Date or (ii) thirty (30) days following receipt of written notice by Buyer, or which by its nature or timing cannot be cured prior to the Termination Date;; provided, however, that the Seller shall not have the right to terminate this Agreement pursuant to this Section 10.1(a)(ii) if Seller is then in breach of any of their respective covenants or agreements contained in this Agreement or any of the representations or warranties of the Seller contained in this Agreement shall be in accurate, and, in any such case would give rise to the failure of a condition set forth in Section 8.1;

(iii) by the Buyer, if a breach or failure to perform any of the covenants or agreements of the Seller contained in this Agreement shall have occurred, or there shall be any inaccuracy of any of the representations or warranties of the Seller contained in this Agreement, and such breach, failure to perform or inaccuracy either individually or in the aggregate would, if occurring or continuing on the Closing Date, give rise to the failure of a condition set forth in Section 8.1, and such breach, failure to perform or inaccuracy if curable, is not cured by, on or before the earlier of (i) the Termination Date or (ii) thirty (30) days following receipt of written notice by Buyer, or which by its nature or timing cannot be cured prior to the Termination Date: provided, however, that the Seller shall not have the right to terminate this Agreement pursuant to this Section 10.1(a)(iii) if Seller is then in breach of any of their respective covenants or agreements contained in this Agreement or any of the representations or warranties of the Seller contained in this Agreement shall be inaccurate, and, in any such case would give rise to the failure of a condition set forth in Section 7.1;

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

(v) by the Seller or the Buyer if the Closing shall not have been consummated on or before June 30, 2019 (the “Termination Date”); provided, however, that if the “Outside Date” is extended under the terms of the Merger Agreement in accordance with its current terms, the Termination Date shall be extended automatically to the same date as the “Outside Date” under the Merger Agreement, as amended. Notwithstanding the foregoing, the right to terminate this Agreement under this Section 10.1(a)(v) shall not be available to any party if the failure of the Closing to occur by such date shall be due to the failure of such party to perform or observe the covenants and agreements of such party set forth in this Agreement; or

(vi) by the Seller, upon the termination of the Merger Agreement for any reason or pursuant to Section 5.3(d).

(b) The party desiring to terminate this Agreement pursuant to (a) (other than pursuant to Section 10.1(a)(i)) shall give written notice of such termination to the other party or parties, as applicable.

(c) Subject to clause (d) below, in the event that this Agreement shall be terminated pursuant to Section 10.1(a), all further obligations of the parties under this Agreement (other than Section 5.5, this ARTICLE X and ARTICLE XI, and, for the avoidance of doubt, the Confidentiality Agreement, which, in each case, shall remain in full force and effect) shall be terminated without further liability of any party; provided that nothing herein shall relieve any party from liability for any breach of this Agreement.

**Section 10.2. Withdrawal of Certain Filings.** In the event of termination under the provisions of this ARTICLE X, all filings, applications and other submissions relating to the transactions contemplated by this Agreement as to which termination has occurred shall, to the extent practicable, be withdrawn from the Governmental Body or other Person to which made.

## ARTICLE XI

### GENERAL PROVISIONS

**Section 11.1. Survival of Obligations.** None of the covenants, agreements or obligations shall survive the consummation of the Closing, except to the extent such covenants, agreements and obligations contemplate performance after the Closing, in which case each such covenant, agreement and obligation shall survive until performed. No claim may be brought under this Agreement unless written notice describing in reasonable detail the facts giving rise to the claim is given on or prior to the last day of the applicable survival period. In the event such notice is given, the right to indemnification with respect thereto shall survive the applicable survival period until such claim is finally resolved and any obligations with respect thereto are fully satisfied.

**Section 11.2. Confidential Nature of Information.** Each party agrees that it will treat in confidence all documents, materials and other information which it shall have obtained regarding the other party or parties during the course of the negotiations leading to the consummation of the transactions contemplated hereby (whether obtained before or after the date of this Agreement), the investigation provided for herein and the preparation of this Agreement and other related documents, and, in the event the transactions contemplated hereby shall not be consummated, each party will return to the other party or parties all copies of nonpublic documents and materials which have been furnished in connection therewith. Without limiting the right of either party to

pursue all other legal and equitable rights available to it for violation of this Section 11.2 by the other party, it is agreed that other remedies cannot fully compensate the aggrieved party for such a violation of this Section 11.2 and that the aggrieved party shall be entitled to injunctive relief to prevent a violation or continuing violation hereof.

**Section 11.3. Governing Law.** This Agreement and all claims or causes of action (whether in contract, tort or otherwise) that may be based upon, arise out of or relate to this Agreement or the negotiation, execution or performance of this Agreement (including any claim or cause of action based upon, arising out of or related to any representation or warranty made in or in connection with this Agreement or as an inducement to enter into this Agreement) shall be governed and construed in accordance with the internal Laws of the State of Delaware applicable to contracts made and wholly performed within the State of Delaware, without regard to any applicable conflicts of law principles that would result in the application of the Laws of any other jurisdiction.

**Section 11.4. Exclusive Jurisdiction; Court Proceedings.** The parties hereto agree that any suit, action or proceeding seeking to enforce any provision of, or based on any matter arising out of or in connection with, this Agreement or the transactions contemplated hereby shall be brought exclusively in the Chancery Court of the State of Delaware and any state appellate court therefrom or, if such court lacks subject matter jurisdiction, the United States District Court sitting in New Castle County in the State of Delaware, and each of the parties hereby irrevocably consents to the exclusive jurisdiction of such courts (and of the appropriate appellate courts therefrom) in any such suit, action or proceeding and irrevocably waives, to the fullest extent permitted by Law, any objection that it may now or hereafter have to the laying of the venue of any such suit, action or proceeding in any such court or that any such suit, action or proceeding brought in any such court has been brought in an inconvenient forum. Process in any such suit, action or proceeding may be served on any party anywhere in the world, whether within or without the jurisdiction of any such court. Without limiting the foregoing, each party agrees that service of process on such party as provided in Section 11.4 shall be deemed effective service of process on such party. EACH OF THE PARTIES HERETO HEREBY IRREVOCABLY WAIVES ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL PROCEEDING (WHETHER IN CONTRACT OR TORT OR OTHERWISE) ARISING OUT OF OR RELATED TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY (INCLUDING ANY ACTION, PROCEEDING, CLAIM OR COUNTERCLAIM INVOLVING ANY FINANCING SOURCE AND THEIR RESPECTIVE NONPARTY AFFILIATES)

**Section 11.5. Notices.** Any notice or other communication required or permitted to be delivered to any party under this Agreement shall be in writing and shall be deemed properly delivered, given and received (a) when delivered by hand, by registered mail, by courier or express delivery service or (b) upon confirmation of receipt (other than an automatically-generated confirmation) when sent by electronic mail to the address or email address, as applicable, set forth beneath the name of such party below (or to such other address or email address, as applicable, as such party shall have specified in a written notice given to the other parties hereto):

If to the Seller:

Gray Television, Inc.  
4370 Peachtree Rd NE

Atlanta, GA, 30319  
Attention: Kevin P. Latek  
Email: Kevin.Latek@gray.tv

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

Cooley LLP  
1299 Pennsylvania Ave., NW  
Suite 700  
Washington, DC 20004  
Attention: Kevin Mills and Maureen Nagle  
Email: kmills@cooley.com and mnagle@cooley.com

If to the Buyer, to:

Marquee Broadcasting Georgia, Inc,  
4400 Brookeville Rd  
Brookeville, MD 20833  
Attention: Brian Lane  
Email: brian\_lane@wmdt.com

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

Fletcher, Heald & Hildreth  
1300 N 17<sup>th</sup> Street  
Alexandria, VA 22209  
Attention: Dan Kirkpatrick  
Email: Kirkpatrick@fhhlaw.com

**Section 11.6. Successors and Assigns; Third Party Beneficiaries.**

(a) This Agreement and all of its terms shall be binding upon and inure to the benefit of the parties and their respective successors and permitted assigns, including any successor by a merger or conversion referenced below. Except as provided in this Section 11.6(a) and Section 6.1(a), this Agreement shall not be assigned by any party hereto. Any party (including, for this purpose, Seller) may assign or transfer any of its rights or obligations under this Agreement to any of its Affiliates, provided that no such assignment or transfer materially delays the grant of the FCC Consent, clearance under the HSR Act, if necessary, or approval by the DOJ pursuant to the DOJ Final Judgment and, provided further, that no such assignment or transfer shall operate to relieve a party of any of its liabilities or obligations hereunder.

(b) Nothing in this Agreement, expressed or implied, is intended or shall be construed to confer upon any Person other than the parties and successors and assigns permitted by this Section 11.6 any right, remedy or claim under or by reason of this Agreement.

**Section 11.7. Access to Records after Closing.**

(a) For a period of six (6) years after the Closing Date, the Seller and their representatives shall have reasonable access to all of the books and records of the Business transferred to the Buyer hereunder to the extent that such access may reasonably be required by the Seller in connection with



matters relating to or affected by the operations of the Business prior to the Closing Date. Such access shall be afforded by the Buyer upon receipt of reasonable advance notice and during normal business hours. The Seller shall be solely responsible for any costs or expenses incurred by it pursuant to this Section 11.7(a). If the Buyer shall desire to dispose of any of such books and records prior to the expiration of such six (6) year period, it shall, prior to such disposition, give the Seller a reasonable opportunity, at the Seller's expense, to segregate and remove such books and records as the other party may select.

(b) For a period of six (6) years after the Closing Date, the Buyer and its representatives shall have reasonable access to all of the books and records relating to the Business which the Seller may retain after the Closing Date. Such access shall be afforded by the Seller upon receipt of reasonable advance notice and during normal business hours. The Buyer shall be solely responsible for any costs and expenses incurred by it pursuant to this Section 11.7(b). If the Seller shall desire to dispose of any of such books and records prior to the expiration of such six-(6) year period, such party shall, prior to such disposition, give the Buyer a reasonable opportunity, at the Buyer's expense, to segregate and remove such books and records as the other party may select.

**Section 11.8. Entire Agreement; Amendments.** This Agreement, the Exhibits and Schedules referred to herein and the other documents delivered pursuant hereto contain the entire understanding of the parties hereto with regard to the subject matter contained herein or therein, and supersede all prior agreements, understandings or intents between or among any of the parties hereto. The parties hereto, by mutual agreement in writing, may amend, modify and supplement this Agreement.

**Section 11.9. Interpretation.** Article titles and headings to Sections herein are inserted for convenience of reference only and are not intended to be a part of or to affect the meaning or interpretation of this Agreement. The Schedules and Exhibits referred to herein shall be construed with and as an integral part of this Agreement to the same extent as if they were set forth verbatim herein. For purposes of this Agreement, (i) the words "include," "includes" and "including" shall be deemed to be followed by the words "without limitation," (ii) the word "or" is not exclusive and (iii) the words "herein", "hereof", "hereby", "hereto" and "hereunder" refer to this Agreement as a whole. Unless the context otherwise requires, references herein (a) to Articles, Sections, Exhibits and Schedules mean the Articles and Sections of, and the Exhibits and Schedules attached to, this Agreement and (b) to an agreement, instrument or other document means such agreement, instrument or other document as amended, supplemented and modified from time to time to the extent permitted by the provisions thereof and by this Agreement. This Agreement, the Buyer Ancillary Agreements and the Ancillary Agreements shall be construed without regard to any presumption or rule requiring construction or interpretation against the party drafting an instrument or causing any instrument to be drafted. References to a "party hereto" or the "parties hereto" or similar phrases shall refer to the Seller and the Buyer. An asset or right shall be deemed to be "exclusively related" to or "exclusively used in" the Business if in the ordinary course of the Business such asset or right is used solely in the Business and is not used by the other businesses and operations of the Seller.

**Section 11.10. Waivers.** Any term or provision of this Agreement may be waived, or the time for its performance may be extended, by the party or parties entitled to the benefit thereof. The failure of any party hereto to enforce at any time any provision of this Agreement shall not be construed to be a waiver of such provision, nor in any way to affect the validity of this Agreement or any part hereof or the right of any party thereafter to enforce each and every such provision. No waiver of any breach of this Agreement shall be held to constitute a waiver of any other or subsequent breach.

**Section 11.11. Expenses.** Except as otherwise expressly provided herein, each of the Seller and the Buyer will pay all of its own respective costs and expenses incident to its negotiation and preparation of this Agreement and to its performance and compliance with all agreements and conditions contained herein on its part to be performed or complied with, including the fees, expenses and disbursements of its counsel and accountants.

**Section 11.12. Partial Invalidity.** Wherever possible, each provision hereof shall be interpreted in such manner as to be effective and valid under applicable law, but in case any one or more of the provisions contained herein shall, for any reason, be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provisions of this Agreement, and this Agreement shall be construed as if such invalid, illegal or unenforceable provision or provisions had never been contained herein.

**Section 11.13. Execution in Counterparts.** This Agreement may be executed in one or more counterparts, each of which shall be considered an original instrument, but all of which shall be considered one and the same agreement, and shall become binding when one or more counterparts have been signed by each of the parties and delivered to each of the Seller and the Buyer.

**Section 11.14. Disclaimer of Warranties.** Seller makes no representations or warranties with respect to any projections, forecasts or forward-looking information provided to the Buyer. There is no assurance that any projected or forecasted results will be achieved. EXCEPT AS TO THOSE MATTERS EXPRESSLY COVERED BY THE REPRESENTATIONS AND WARRANTIES IN THIS AGREEMENT AND THE CERTIFICATES DELIVERED BY THE SELLER PURSUANT TO SECTION 8.1, THE SELLER IS SELLING THE BUSINESS AND THE PURCHASED ASSETS ON AN "AS IS, WHERE IS" BASIS AND SELLER DISCLAIMS ALL OTHER WARRANTIES, REPRESENTATIONS AND GUARANTIES WHETHER EXPRESS OR IMPLIED. THE SELLER MAKES NO REPRESENTATION OR WARRANTY AS TO MERCHANTABILITY, SUITABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE AND NO IMPLIED WARRANTIES WHATSOEVER. The Buyer acknowledges that neither the Seller nor any of its representatives or Affiliates nor any other Person has made any representation or warranty, express or implied, as to the accuracy or completeness of any memoranda, charts, summaries or schedules heretofore made available by the Buyer or its representatives or Affiliates or any other information which is not included in this Agreement or the Schedules hereto, and neither the Seller nor any of its representatives or Affiliates nor any other Person will have or be subject to any liability to the Buyer, any Affiliate of the Buyer or any other Person resulting from the distribution of any such information to, or use of any such information by, the Buyer, any Affiliate of the Buyer or any of their agents, consultants, accountants, counsel or other representatives. In making its determination to proceed with the transactions contemplated by this Agreement the Buyer and its Affiliates have relied solely on (a) the results of their own independent investigation and (b) the representations and warranties of Seller expressly and specifically set forth in this Agreement. The Buyer and its Affiliates expressly and specifically disclaim that it they are relying upon or have relied upon any representation or warranty of any kind or nature, whether express or implied, not included in this Agreement that may have been made by any Person, and acknowledge and agree that the Seller expressly and specifically disclaims any such other representations and warranties. However, this Section 11.14 shall not apply to any common law fraud.

**Section 11.15. Specific Performance.** The parties agree that irreparable damage would occur in the event that any provision of this Agreement was not performed in accordance with

its specific terms or was otherwise breached or the Closing was not consummated, and that money damages would not be an adequate remedy, even if available. It is accordingly agreed that the parties shall be entitled to an injunction or injunctions, or any other appropriate form of specific performance or equitable relief, to prevent breaches of this Agreement and to enforce specifically the terms and provisions hereof (including the parties' obligations to consummate the Closing) in any court of competent jurisdiction, this being in addition to any other remedy to which they are entitled at law or in equity. Each of the parties agrees that it will not oppose the granting of an injunction, specific performance and other equitable relief on the basis that any other party has an adequate remedy at law or that any award of specific performance is not an appropriate remedy for any reason at law or in equity. Any party seeking an injunction or injunctions to prevent breaches of this Agreement and to enforce specifically the terms and provisions of this Agreement shall not be required to post any bond or other security in connection with any such order or injunction.

**Section 11.16. Guarantee.** As consideration for the benefits that Buyer and the Buyer Guarantor will receive as a result of Buyer entering into this Agreement, the Buyer Guarantor hereby agrees that it shall be responsible for all of the obligations of Buyer (and any Person to whom Buyer assigns any of its rights or delegates any of its obligations under this Agreement, in whole or in part) under any of the provisions of this Agreement, and the Buyer Guarantor hereby guarantees to the Seller the due and punctual performance and payment in full of the Purchase Price, any purchase price adjustment and any other amounts payable by Buyer or its assignee hereunder. This guaranty by the Buyer Guarantor is an absolute, unconditional, present and continuing guaranty of payment and performance (as opposed to a guaranty only of collection) and the Seller may enforce its rights under this guaranty without notice of default or undertaking any proceeding or filing any cause of action against Buyer (or any Person to whom Buyer assigns any of its rights or delegates any of its obligations under this Agreement, in whole or in part). The Buyer Guarantor hereby waives any and all defenses applicable to a guarantor or a surety under applicable Law in connection with its obligations under this guaranty and, without limiting the foregoing, the terms and conditions of the obligations of Buyer (or any Person to whom Buyer assigns any of its rights or delegates any of its obligations under this Agreement, in whole or in part) under this Agreement may be modified, amended or supplemented without the consent or approval of the Buyer Guarantor and the guaranty of the Buyer Guarantor shall continue in full force and effect as so modified, amended or supplemented.

[Signatures on following page]

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

**SELLER**

GRAY TELEVISION, INC.

A handwritten signature in black ink, appearing to read "Kevin P. Latek". The signature is written in a cursive, flowing style.

By:

Name: Kevin P. Latek

Title: Executive Vice President

**BUYER**

**MARQUEE BROADCASTING GEORGIA, INC.**

By: Patricia K Lane  
Name: Patricia K Lane  
Title: Mrs

**BUYER GUARANTOR**

**MARQUEE BROADCASTING, INC.**

By: Patricia K Lane  
Name: Patricia K Lane  
Title: Mrs

## TRANSITION SERVICES AGREEMENT

THIS TRANSITION SERVICES AGREEMENT (this “Agreement”) is made and entered into as of [MONTH] [DAY], 2018 (“Effective Date”), between Gray Television, Inc., a Georgia corporation (“Gray”), and each subsidiary of Gray set forth on the signature page hereto (collectively, with Gray, “Provider”), and Marquee Broadcasting Georgia, Inc., a Georgia corporation (“Recipient”). Provider and Recipient are each referred to herein as a “Party” and collectively as the “Parties”. Capitalized terms not otherwise defined herein shall have the meanings set forth in the Purchase Agreement (as defined below).

WHEREAS, Provider and Recipient are parties to that certain Asset Purchase Agreement, dated as of August 15, 2018, (the “Purchase Agreement”), pursuant to which, among other things, Provider agreed to sell to Recipient, and Recipient agreed to purchase, the Purchased Assets;

WHEREAS, Provider has agreed to provide to Recipient, from and after the Effective Date, certain temporary transition services on the terms and conditions set forth herein; and

WHEREAS, this Agreement constitutes the Transition Services Agreement referred to in the Purchase Agreement.

NOW, THEREFORE, in consideration of the foregoing and the mutual covenants, conditions and provisions contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, each of Provider and Recipient hereby agrees as follows:

### ARTICLE I

#### TRANSITION SERVICES TO BE PROVIDED BY PROVIDER

1.1 Transition Services. During the Term, Provider shall provide to Recipient, on the terms set forth herein, the services specifically listed on Schedule A [through Schedule [X]] attached hereto ([each, a//the] “Services Schedule”). The services described in the Services Schedule[s] are, collectively, the “Transition Services”. Upon the expiration of the Term (or earlier pursuant to Article V) the obligations of Provider with respect to the provision of the Transition Services (or applicable Transition Service) shall automatically and immediately terminate.

1.2 Standard of Performance. Provider shall use commercially reasonable efforts to provide (or cause to be provided) to Recipient the Transition Services at substantially the same level of service, and with substantially the same degree of care, as Provider uses in the operation of its own television stations. It is understood and agreed that Provider may from time to time modify, change or enhance the manner, nature, quality and/or standard of care of any Transition Service to the extent Provider is making a similar change in the performance of its own services similar to such Transition Services or to the extent that such change is in connection with the termination or relocation of Provider’s employees who are providing the Transition Services.

1.3 Usage. The Transition Services may not be used by Recipient for any other purpose or in any other manner (including as to volume, amount, level or frequency, as applicable) other than as the Transition Services were used in connection with the Business as of the Closing Date. Without limiting the generality of the foregoing, the Transition Services shall be used only by Recipient and solely in connection with the operation of the Business and Recipient shall not resell, license the use of, or otherwise permit the use by others of any such Transition Services.

1.4 Right to Change Practices. Nothing herein shall prohibit Provider from making such changes as it deems necessary in its sole discretion (including upgrading or changing technology, software or information systems used by it in connection with this Agreement and replacing third-party service providers) and applying such changes, to the extent applicable, to the Transition Services; provided that the Provider shall, to the extent reasonably practicable, provide at least twenty (20) days' prior notice of any change that could reasonably be expected to materially and adversely affect the Transition Services and the Parties shall discuss in good faith whether such change can be implemented so as not to so affect the Transition Services provided hereunder. Provider shall have no obligation to provide, or cause to be provided, Transition Services to the extent that any changes are made to the business of the Recipient or its Affiliates that materially increase or materially and adversely change Provider's burden or cost with respect to the provision of such Transition Services, or that make commercially impracticable the provision of such Transition Services. Provider shall have no obligation to provide, or to cause to be provided, Transition Services to any Person other than the Recipient and its Affiliates. Without limiting the generality of the foregoing, the Transition Services are not intended to (and shall not) include assistance for expansion, acquisition, employee additions or reductions not in the ordinary course of business, new applications, or site redesign by the Recipient or any of its Affiliates or their respective businesses.

1.5 Cooperation; Access.

(a) Recipient agrees to fully and completely cooperate (at Recipient's sole cost and expense) with Provider in connection with any matters related to the provision or receipt of the Transition Services. To the extent required for the performance of any Transition Service, Recipient shall, at its own expense, provide to Provider reasonable access, on an as needed basis, to Recipient's and its Affiliates' personnel, equipment, office space, telecommunications and computer systems and any other assets and operations reasonably required for delivery of all or any part of the Transition Services. Recipient shall, at the request of Provider in consultation with Recipient, from time to time and without further consideration, execute and deliver such powers of attorney, acknowledgements, assurances and other documents as may be reasonably necessary for Provider to satisfy and perform its obligations hereunder. Provider and its Affiliates and Third Party Service Providers shall be entitled to rely, without inquiry, upon the genuineness, validity or truthfulness of any document, instrument or other writing presented by Recipient or its Affiliates in connection with this Agreement.

(b) Provider and its Affiliates and any Third Party Service Providers shall not be liable for any impairment of any Transition Service directly caused by their not receiving the information, materials or access required by this Section 1.5. If any Transition Service provided hereunder is dependent on, or will require the involvement or performance of, Recipient or any

of its Affiliates (including Recipient or its Affiliate maintaining sufficient and appropriate levels of staffing, including, as applicable, with respect to level of experience and skill), Provider and its Affiliates and Third Party Service Providers shall not be deemed in breach of this Agreement, including any Services Schedule hereto, or otherwise be liable for any failure to provide any Transition Services, or to otherwise fully perform any of its obligations hereunder, including any Services Schedule, to the extent arising from any failure of Recipient or any of its Affiliates to fully perform its obligations hereunder.

(c) As required by the Communications Act of 1934, as amended, at all times Recipient shall be responsible for maintaining the supervision and control of the Station to which the Transition Services are being provided, including control of such Station's personnel, programming and finances.

1.6 Transitional Nature of Services. Recipient acknowledges and agrees that Provider is providing (or causing to be provided) the Transition Services on a transition basis only in order to allow Recipient a period of time to provide or obtain similar services for itself, and that Provider is not a commercial provider of such Transition Services. Accordingly, as promptly as practicable following the execution of this Agreement and in no event later to the end of the Term, Recipient agrees to use commercially reasonable efforts to promptly transition each Transition Service to its own internal organization or obtain alternate third-party sources to provide the Transition Services and end its use of each and every Transition Service (the cessation of a Transition Service, a "Service Migration"). In no event shall Provider be responsible for providing any services in connection with, or bearing any costs of, any Service Migration.

1.7 Compliance with Law; Exclusions.

(a) Neither Provider nor any of its Affiliates nor any Third Party Service Provider shall be obligated to perform, or to cause to be performed, any Transition Service in a manner that is not consistent with their respective policies, procedures and practices, and Provider shall determine, in its sole discretion, the means and resources used to provide the Transition Services pursuant to this Agreement. Provider's obligation to provide the Transition Services hereunder is subject, in all respects, to the current policies, procedures and practices of Provider and its Affiliates, including as such policies, procedures and practices may be amended by Provider or its Affiliates from time to time in the ordinary course of business, as applicable. Provider shall not have any obligation to (x) replace or cause the replacement of any Person who is employed or otherwise engaged by Provider or any of its Affiliates to perform Transition Services upon the termination of such Person's employment or other engagement with Provider or any of its Affiliates, as the case may be, for whatever reason (provided that Provider shall still provide the Transition Services using suitably qualified, skilled and experienced personnel), or (y) perform or cause to be performed any Transition Services performed by any Person who is employed or otherwise engaged by Provider or any of its Affiliates if such Person becomes employed or otherwise engaged by Recipient or any of its Affiliates during the Term.

(b) Each Party shall perform its obligations and exercise its rights hereunder in material compliance with all applicable Laws. Notwithstanding anything to the contrary herein, including in any Services Schedule, Provider, its Affiliates and any Third Party Service



Providers shall not be required hereunder to take any action (including by providing any Transition Services) that would constitute (a) a violation of applicable Law, (b) a breach of any of Provider's contractual obligations to a third party, or (c) any other violation of a third party's rights.

(c) Notwithstanding any other provision of this Agreement, the Transition Services shall in no event include, and Provider shall not be required to provide or cause to be provided to Recipient, services that involve or relate to (i) the custody of cash; (ii) the commingling of funds; (iii) the provision of legal, compliance, regulatory or tax advice; (iv) the filing of tax returns; (v) the provision of data or records except as otherwise provided in the Purchase Agreement or herein; (vi) the funding of any "employee benefit plan" as such term is defined in Section 3(3) of ERISA, or other retirement, deferred compensation, incentive, equity based, severance, employment, change in control or fringe benefit plan, program, policy or arrangement, whether or not subject to ERISA, adopted or maintained by Recipient or its Affiliates (the "Recipient Employee Benefit Plans"); (vii) any benefit program compliance services with respect to any Recipient Employee Benefit Plans; (viii) the funding of any payroll, payroll taxes or workers' compensation or (ix) the reimbursement of any travel expenses. Recipient further acknowledges and agrees that Provider will not become a fiduciary (including for purposes of ERISA) with respect to any Recipient Employee Benefit Plans by reason of providing any of the Transition Services under this Agreement, and to the extent the provision of any such Transition Service would cause Provider to become a fiduciary (including for purposes of ERISA, the Code, or other applicable Laws) with respect to any Recipient Employee Benefit Plan, Provider shall not be required to provide, or cause to be provided, such Transition Services to any of the Recipient or its Affiliates.

1.8 Delegation of Transition Services. Recipient acknowledges that Provider may provide the applicable Transition Services itself, through any of its Affiliates or through one or more third parties engaged by Provider to provide Transition Services in accordance with the terms of this Agreement (each such third party, a "Third Party Service Provider"). Provider acknowledges that notwithstanding any delegation of its responsibilities under this Agreement, it shall remain responsible for the provision of the Transition Services and its Affiliates' and Third Party Service Provider's compliance with the standard of performance set forth herein.

1.9 Intellectual Property Rights. Each Party shall retain all right, title and interest in and to its Intellectual Property. All Intellectual Property created or developed by or on behalf of Provider in connection with this Agreement shall belong to Provider. Except as set forth in Section 1.10, no license, express or implied, is being granted by Provider under this Agreement.

1.10 License to Use Purchased Assets. Recipient, on behalf of itself and its Affiliates, hereby grants to Provider, its Affiliates and any Third Party Service Provider a limited, royalty-free, non-exclusive, worldwide right and license (with the right to grant sublicenses as provided herein) to use the Intellectual Property included in the Purchased Assets, and any other Purchased Assets and other Intellectual Property controlled by Recipient or any of its Affiliates, in each case, as may be reasonably necessary to perform the Transition Services in connection with, and solely during the Term of, and for the purposes of performing the Transition Services under, this Agreement. The license set forth in this Section 1.10 and any sublicenses granted pursuant hereto shall automatically and immediately terminate upon the termination of the Term.

## ARTICLE II PRICING AND PAYMENT FOR TRANSITION SERVICES

2.1 Service Fees. The fees (“Fees”) payable to Provider for each Transition Service during the Initial Term are set forth in the attached Services Schedules<sup>1</sup>; provided that (x) the Fees for each Transition Service which is reflected as a per employee hour fee shall be calculated on the Fully-Loaded Labor Cost incurred by Provider or any of its Affiliates in connection with the provision of the Transition Services and (y) Third Party Service Provider fees and expenses will be paid on Third Party Pass Through Cost basis. “Fully-Loaded Labor Cost” means fully-loaded labor cost, which shall include all (i) out-of-pocket expenses, costs, fees and Taxes, and (ii) base salary and wages, pro-rated bonus, medical benefits, withholding Taxes and all other employee- and service-related expenses, costs (including third party costs), fees and Taxes, in each case of (i) and (ii), incurred, paid or payable in connection with the Transition Services. Commencing upon the expiration of the Initial Term and for the remainder of the Term, all Fees will increase eighteen percent (18%).

2.2 Third Party Costs. Recipient shall reimburse Provider for all costs, fees and charges paid by Provider to Third Party Service Providers in connection with performing the applicable Transition Services (collectively, the “Third Party Pass Through Cost”). In the event any Third Party Service Provider notifies Provider of a change in such Third Party Service Provider costs, fees and charges, the Third Party Pass Through Cost will be automatically adjusted to reflect such changes.

2.3 Invoices. Provider shall invoice Recipient monthly for the Transition Services, including all Third Party Pass Through Costs, and Recipient shall pay Provider within twenty (20) days after the date of each such invoice. Each invoice shall set forth in reasonable detail the applicable Transition Services provided during such period and the corresponding amounts owed for each of the Transition Services. Recipient shall not offset any amounts payable by it hereunder against any other amounts owed to it by Provider. If Recipient fails to pay the full amount of any invoice within such twenty (20) day period, such failure will be considered a material breach of this Agreement, for which Provider may, without liability and in its sole discretion, suspend its obligations hereunder to provide any and all Transition Services to Recipient until such time as all invoices have been paid in full or terminate this Agreement.

2.4 Interest Payable on Amounts Past Due. All payments required to be made pursuant to this Agreement shall bear interest from and including the date such payment is due until but excluding the date of payment, at a monthly rate equal to the lesser of (i) one and one quarter of one percent (1.25%) per month or (ii) the maximum rate permitted by applicable Law. In addition, Recipient shall indemnify Provider for its costs, including reasonable attorneys’ fees and disbursements, incurred to collect any unpaid amount.

2.5 Taxes. The fees described herein with respect to the Transition Services do not include any Taxes. In addition to the amounts required to be paid as set forth herein, Recipient

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<sup>1</sup> NTD: There will need to be a fee listed for each Transition Service so that the fee can be determined on partial termination.

shall pay and be responsible for and shall promptly reimburse Provider for any Taxes imposed with respect to such amounts or the provision of Transition Services hereunder.

2.6 No Right to Setoff. There shall be no right of setoff or counterclaim with respect to any claim, debt or obligation against payments to Provider under this Agreement.

### ARTICLE III REPRESENTATIVES

3.1 Coordinators. Provider and Recipient shall each designate in writing a representative to act as Provider's and Recipient's respective primary contact persons to coordinate the provision of all of the Transition Services (collectively, the "Primary Coordinators"). Each Primary Coordinator may designate one or more service coordinators for each specific Transition Service (the "Service Coordinators"). Each Party may treat an act of a Primary Coordinator of another Party as being authorized by such other Party without inquiring behind such act or ascertaining whether such Primary Coordinator had authority to so act, and each Party may treat an act of a Service Coordinator as being authorized by such other Party only to the extent such act is directly related to the Transition Service for which such Service Coordinator has been designated; provided, however, that no such Primary Coordinator or Service Coordinator has authority to amend this Agreement. Each Party shall promptly (and in any event within ten (10) business days) advise the other in writing of any change in its Primary Coordinator or any Service Coordinator for a particular Transition Service. Provider and Recipient agree that all communications relating to the provision of the Transition Services shall be by electronic mail and shall be directed to the Service Coordinators for such Transition Service with copies to the Primary Coordinators.

### ARTICLE IV CONTRACT RIGHTS

4.1 Third Party Consents. Provider's obligation to deliver any Transition Services described in this Agreement is conditional upon Provider obtaining the consent, where necessary, of any relevant third party, and Provider will use commercially reasonable efforts to obtain such third-party consents; provided, however, that if such consents cannot be obtained, the Parties shall work together in good faith and use their respective commercially reasonable efforts to arrange for alternative methods of delivering such Transition Service. All costs, fees and expenses of obtaining any third party consents or arranging alternative methods of delivering Transition Services will be the responsibility of Recipient.

### ARTICLE V TERM; TERMINATION

5.1 Term. This Agreement shall become effective upon the Effective Date of this Agreement and shall remain in effect for ninety (90) days (the "Initial Term"), unless earlier terminated pursuant to Sections 5.2 or 5.3. Each Transition Service will terminate on the earlier of: (i) the expiration date specified in the applicable Services Schedule, if any, for such Transition Service; (ii) the termination or reduction in scope of such Transition Service pursuant to Section 5.2; and (iii) the expiration or termination of this Agreement.

5.2 Partial Termination. Recipient may terminate or reduce the scope of the provision of any Transition Service (in whole or in part) upon thirty (30) days' prior written notice to Provider. Any election to so terminate or reduce any Transition Service or a portion thereof shall not relieve Provider of its continuing duty to provide those Transition Services or portions thereof that have not been terminated or reduced. Recipient will reimburse Provider for the costs incurred by Provider resulting from Recipient's early termination or reduction of such Transition Service being performed, including commitments made to, or in respect of, personnel or Third Party Service Providers, prepaid expenses related to the terminated or reduced Transition Service and costs related to terminating such commitments. Such reimbursement shall be made by Recipient to Provider in accordance with Article II.

5.3 Complete Termination. The Parties may terminate this Agreement, in whole, solely in accordance with this Section 5.3.

(a) By Recipient. Recipient may terminate this Agreement for any reason or no reason, at any time, upon not less than thirty (30) days' prior written notice to Provider. Recipient will reimburse Provider for the costs incurred by Provider resulting from Recipient's early termination, including commitments made to, or in respect of, personnel or Third Party Service Providers, prepaid expenses related to the terminated Transition Services and costs related to terminating such commitments. Such reimbursement shall be made by Recipient to Provider in accordance with Article II. All accrued and unpaid charges for Transition Services shall be due and payable upon termination of this Agreement and shall be paid by Recipient to Provider in accordance with Article II.

(b) By Provider. Except with respect to a termination by Provider for Recipient's non-payment of Invoices which is governed by Section 2.3 above, Provider may terminate this Agreement in the event of a material breach of this Agreement by Recipient (i) if such material breach is not curable, upon written notice to Recipient, or (ii) if such material breach is curable, if such material breach is not cured within ten (10) days after Provider notifies Recipient of such material breach.

(c) By Either Party. Either party may terminate this Agreement any time upon giving written notice to the other party if the other party is adjudicated as bankrupt, becomes insolvent, suffers permanent or temporary court-appointed receivership of substantially all of its property, makes a general assignment for the benefit of creditors, or suffers the filing of a voluntary or involuntary bankruptcy petition that is not dismissed within sixty (60) days after filing.

(d) By Both Parties. This Agreement will terminate upon the mutual written agreement of the Parties.

5.4 Extension. The Initial Term may be extended only by mutual written agreement of the Parties either in whole or with respect to one or more of the Transition Services. The Initial Term and any extension thereof are collectively the "Term."

5.5 Effect of Termination or Expiration. Except as otherwise agreed by the Parties, promptly following the expiration or termination of this Agreement (but in no event later than

thirty (30) days thereafter), each Party shall return to the other Party in accordance with such other Party's instructions all of the other Party's Confidential Information in its possession or control that was disclosed under this Agreement. Each Party acknowledges and agrees that the termination or expiration of a Transition Service or this Agreement for any reason shall not release a Party from any liability or obligation that already has accrued as of the effective date of such termination or expiration, as applicable, and shall not constitute a waiver or release of, or otherwise be deemed to adversely affect, any rights, remedies or claims which a Party may have hereunder at Law, in equity or otherwise or which may arise out of or in connection with such termination or expiration.

5.6 Survival. Section 1.9 (Intellectual Property Rights), Article II (Pricing and Payment for Transition Services), Section 5.5 (Effect of Termination or Expiration), this Section 5.6 (Survival), Section 6.2 (DISCLAIMER OF WARRANTIES), Article VII (LIMITATION OF LIABILITY), Article VIII (Confidentiality) and Article IX (Miscellaneous) shall survive any termination or expiration of this Agreement.

## ARTICLE VI REPRESENTATIONS AND WARRANTIES

6.1 Representations and Warranties. Each Party represents and warrants to the other that:

(a) it is a legal entity validly existing and in good standing (to the extent such concept is legally recognized) under the Laws of the jurisdiction of its organization;

(b) it has all necessary power and authority, and has taken all action necessary, to authorize, execute, deliver and perform this Agreement, in accordance with the terms of this Agreement; and

(c) this Agreement has been duly and validly executed and delivered by such Party, and, assuming the due authorization, execution and delivery by the other Party, constitutes a valid, legal and binding agreement of such Party, enforceable against such Party in accordance with its terms, subject to the effect of any applicable Laws relating to bankruptcy, reorganization, insolvency, moratorium, fraudulent conveyance or preferential transfers, or similar Laws relating to or affecting creditors' rights generally and subject, as to enforceability, to the effect of general principles of equity (regardless of whether such enforceability is considered in a proceeding at equity or at Law).

(d) The Parties acknowledge and agree that, except as expressly set forth herein, the Recipient assumes all risks and liabilities arising from or relating to its use of and reliance upon the Transition Services, and Provider makes no representation or warranty with respect thereto.

6.2 DISCLAIMER OF WARRANTIES. THIS IS A SERVICE AGREEMENT. EXCEPT AS EXPRESSLY STATED IN THIS ARTICLE VI, (I) PROVIDER DOES NOT GUARANTEE, REPRESENT OR WARRANT THE TRANSITION SERVICES TO BE PROVIDED HEREUNDER, (II) THE TRANSITION SERVICES SHALL BE PROVIDED ON AN "AS IS" AND "WITH ALL FAULTS" BASIS, AND (III) THERE ARE NO OTHER, AND

PROVIDER DOES NOT MAKE AND HEREBY DISCLAIMS ALL OTHER, REPRESENTATIONS, WARRANTIES OR GUARANTEES OF ANY KIND WITH RESPECT TO THIS AGREEMENT OR THE TRANSITION SERVICES, EXPRESS OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY, TITLE/NONINFRINGEMENT OR FITNESS FOR A PARTICULAR PURPOSE, WHICH ARE SPECIFICALLY DISCLAIMED. PROVIDER DOES NOT GUARANTEE, REPRESENT OR WARRANT THE CORRECTNESS, COMPLETENESS, CURRENTNESS, MERCHANTABILITY, OR FITNESS FOR A PARTICULAR PURPOSE OF ANY DATA PROVIDED TO RECIPIENT.

## ARTICLE VII LIMITATION OF LIABILITY

7.1 Indemnification by Recipient. Recipient agrees to indemnify, defend and hold Provider, its Affiliates, the Third Party Service Providers, and each of Provider's, its Affiliates' and the Third Party Service Providers' respective employees, agents, officers and directors harmless from and against any losses, costs, interest, charges, expenses (including reasonable attorneys' fees), obligations, liabilities, settlement payments, awards, judgments, fines, penalties, damages, assessments or deficiencies ("Losses") arising out of any third-party claim in connection with or by reason of this Agreement, any Transition Services provided by or on behalf of Provider hereunder, or any use of such Transition Service by Recipient, except to the extent such Losses arise out of Provider's willful misconduct or gross negligence.

7.2 LIMITATION ON LIABILITY. IN NO EVENT SHALL PROVIDER BE LIABLE FOR ANY SPECIAL, PUNITIVE, CONSEQUENTIAL, INDIRECT, INCIDENTAL OR EXEMPLARY DAMAGES (INCLUDING LOSS OF DATA, PROFITS, INTEREST, OR REVENUE OR ANY INTERRUPTION OF BUSINESS) IN CONNECTION WITH, ARISING FROM OR IN RELATION TO THIS AGREEMENT (INCLUDING ANY OF THE TRANSITION SERVICES TO BE PROVIDED HEREUNDER OR THE PERFORMANCE OF OR FAILURE TO PERFORM PROVIDER'S OBLIGATIONS UNDER THIS AGREEMENT), WHETHER BASED ON WARRANTY, CONTRACT, TORT (INCLUDING NEGLIGENCE OR STRICT LIABILITY) OR ANY OTHER LEGAL OR EQUITABLE GROUNDS, AND REGARDLESS OF WHETHER SUCH DAMAGES ARE FORESEEABLE OR WHETHER PROVIDER IS ADVISED OF THE POSSIBILITY OR LIKELIHOOD OF SUCH DAMAGES. IN NO EVENT SHALL PROVIDER BE LIABLE FOR ANY LOSSES IN CONNECTION WITH, ARISING FROM OR IN RELATION TO THIS AGREEMENT (INCLUDING ANY OF THE TRANSITION SERVICES TO BE PROVIDED HEREUNDER OR THE PERFORMANCE OF OR FAILURE TO PERFORM PROVIDER'S OBLIGATIONS UNDER THIS AGREEMENT) FOR ANY AMOUNT IN EXCESS OF THE AGGREGATE FEES RECEIVED (AT THE TIME OF THE DISPUTE) BY PROVIDER UNDER THIS AGREEMENT FOR THE TRANSITION SERVICE THAT IS THE SUBJECT OF THE DISPUTE. THE PARTIES INTEND THAT NO DOUBLE REMEDIES OR RECOVERIES ARE INTENDED OR PERMITTED UNDER THIS AGREEMENT AND THAT CLAIMS ASSERTED UNDER ONE SECTION OR SUBSECTION OF THIS AGREEMENT MAY NOT ALSO BE ASSERTED UNDER ANOTHER SECTION OR SUBSECTION OF THIS AGREEMENT OR UNDER THE PURCHASE AGREEMENT OR ANY OTHER ANCILLARY DOCUMENT IF SUCH ASSERTION WOULD RESULT IN DOUBLE RECOVERY.



## ARTICLE VIII CONFIDENTIALITY

8.1 Duty of Confidentiality. Each Party (a “Receiving Party”) agrees to safeguard the other Party’s (the “Disclosing Party”) Confidential Information received under this Agreement with the same degree of care that the Receiving Party uses to protect its own similar Confidential Information, but in no event less than a reasonable degree of care. Such Confidential Information of the Disclosing Party received hereunder may be used by the Receiving Party in connection with the Transition Services only and may only be copied or reproduced to the extent reasonably necessary for the Receiving Party to perform its obligations or enforce its rights under this Agreement. The Disclosing Party shall not disclose any such Confidential Information of the Receiving Party to any Person; provided, that, Provider may disclose Recipient’s Confidential Information to any of its Affiliates or Third Party Service Providers for any purpose consistent with this Agreement.

8.2 Permitted Disclosure. Notwithstanding anything contained herein to the contrary, Section 8.1 shall not restrict the Receiving Party from disclosing Confidential Information to the extent reasonably necessary in connection with the enforcement of this Agreement or as required by applicable Law or legal or regulatory process (including to the extent requested by any Governmental Body in connection with any such Law or legal or regulatory process), including any Tax audit or litigation. In the event that the Receiving Party or its permitted service providers become legally required by deposition, interrogatory, request for documents, subpoena, civil investigative demand, formal regulatory request or similar judicial or administrative process to disclose any Confidential Information of the Disclosing Party, the Receiving Party shall, to the extent permitted by Law, provide the Disclosing Party with prompt prior written notice of such requirement so that the Disclosing Party may seek a protective order or other similar remedy to cause such Confidential Information not to be disclosed. The Receiving Party shall reasonably cooperate with the Disclosing Party, at the Disclosing Party’s expense, in connection with the Disclosing Party’s seeking of such protective order or similar remedy. In the event that such protective order or other similar remedy is not obtained or the Disclosing Party waives compliance with the provisions of this Section 8.2, the Receiving Party or its permitted service provider shall furnish only that portion of the Confidential Information that has been legally required, and shall exercise commercially reasonable efforts to obtain assurance that confidential treatment shall be accorded such disclosed Confidential Information.

8.3 Confidential Information. The following shall be considered “Confidential Information” of a Party under this Agreement: all proprietary and confidential information, provided or received in connection with the provision of the Transition Services hereunder, concerning the business, business relationships (including prospective customers and business partners) and financial affairs of such Party or its Affiliates, whether or not in writing and whether or not labeled or identified as confidential or proprietary, including inventions, trade secrets, technical information, know-how, product and pricing information and plans, research and development activities, marketing plans and activities, customer, supplier and prospect information, employee and financial information, and information disclosed by third parties of a proprietary or confidential nature or under an obligation of confidence; provided that Confidential Information does not include, and there shall be no obligation hereunder, with respect to information that (i) is or becomes generally available to the public, other than as a

result of a disclosure in breach of this Agreement by the Receiving Party, (ii) the Receiving Party can demonstrate was or became available to the Receiving Party from a third party not bound by any confidentiality obligation to the Disclosing Party, (iii) was already in the Receiving Party's possession (without an obligation of confidentiality) prior to direct or indirect disclosure pursuant to this Agreement (or any predecessor agreement between the Parties governing the confidentiality of such information) and was not generated in the course of, or in connection with, the Transition Services, or (iv) is developed independently by the Receiving Party without reference to the Disclosing Party's Confidential Information.

## ARTICLE IX MISCELLANEOUS

9.1 Amendment and Waiver. This Agreement may not be modified or amended except by an instrument or instruments in writing signed by each Party and to the extent required approval by the DOJ. Either Party to this Agreement may, only by an instrument in writing, waive compliance by the other Party to this Agreement with any term or provision of this Agreement on the part of such other Party to this Agreement to be performed or complied with. The waiver by any Party to this Agreement of a breach of any term or provision of this Agreement shall not be construed as a waiver of any subsequent breach.

9.2 Notices. All notices and other communications to be given to any Party hereunder shall be sufficiently given for all purposes hereunder if in writing and upon delivery if delivered by email or by hand, one (1) Business Day after being sent by courier or overnight delivery service, three (3) Business Days after being mailed by certified or registered mail, return receipt requested, with appropriate postage prepaid, or when sent in the form of a facsimile and receipt confirmation is received, and shall be directed to the address or facsimile number set forth below (or at such other address or facsimile number as such Party shall designate by like notice):

If to Provider:

Gray Television Group, Inc.  
4370 Peachtree Road, NE  
Atlanta, GA 30319-3023  
Attn: Executive Vice President  
Facsimile No.: 404-261-9607  
Email: kevin.latek@gray.tv

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

Cooley LLP  
1299 Pennsylvania Avenue, NW Suite 700  
Washington, DC 20004  
Attn: J. Kevin Mills and Maureen R. Nagle  
Telephone: 202-776-2045  
Fax: (202) 842-7899  
Email: [kmills@cooley.com](mailto:kmills@cooley.com)



mnagle@cooley.com

If to Recipient:

Marquee Broadcasting Georgia, Inc,  
4400 Brookeville Rd  
Brookeville, MD 20833  
Attention: Brian Lane  
Email: brian\_lane@wmdt.com

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

Fletcher, Heald & Hildreth  
1300 N 17th Street  
Alexandria, VA 22209  
Attention: Dan Kirkpatrick  
Email: Kirkpatrick@fhhlaw.com

9.3 Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the Parties to this Agreement and their respective successors and assigns; provided, however, that no Party to this Agreement may assign this Agreement without the express prior written consent of the other Party to this Agreement.

9.4 Severability. If any term, provision, covenant or restriction of this Agreement is held by a court of competent jurisdiction or other authority to be invalid, void or unenforceable, the remainder of the terms, provisions, covenants and restrictions of this Agreement shall remain in full force and effect and shall in no way be affected, impaired or invalidated so long as the economic or legal substance of the transactions contemplated hereby is not affected in any manner materially adverse to any Party. Upon such a determination, the Parties shall negotiate in good faith to modify this Agreement so as to effect the original intent of the Parties as closely as possible in a mutually acceptable manner in order that the transactions contemplated hereby be consummated as originally contemplated to the fullest extent possible.

9.5 Third-Party Beneficiaries. Except with respect to any indemnitees under Section 7.1, this Agreement is not intended to confer on or on behalf of any Person not a party to this Agreement (and their successors and assigns) any rights, benefits, causes of action or remedies with respect to the subject matter or any provision hereof.

9.6 Entire Agreement. This Agreement (including the Services Schedule[s]), together with Purchase Agreement, Confidentiality Agreement and other Ancillary Agreements, constitutes the entire agreement between the Parties with respect to the subject matter of this Agreement and supersedes any prior discussion, correspondence, negotiation, proposed term sheet, agreement, understanding or arrangement. Each Schedule to this Agreement is hereby incorporated into this Agreement by reference.

9.7 Counterparts; Electronic Delivery. This Agreement may be executed in one or more counterparts, and by either of the Parties in separate counterparts, each of which when

executed shall be deemed to be an original but all of which taken together shall constitute one and the same agreement. Delivery of an executed counterpart of a signature page to this Agreement by facsimile shall be as effective as delivery of a manually executed counterpart of this Agreement.

9.8 Headings; Definitions. The section and article headings contained in this Agreement are inserted for convenience of reference only and will not affect the meaning or interpretation of this Agreement.

9.9 Governing Law.

(a) This Agreement shall be governed by and construed in accordance with the Laws of the State of Delaware applicable to contracts executed and to be performed wholly within such State and without reference to the choice-of-law principles that would result in the application of the Laws of a different jurisdiction.

(b) Each Party irrevocably submits to the exclusive jurisdiction of the federal courts located in the State of Delaware any Action arising out of or relating to this Agreement, and hereby irrevocably agrees that all claims in respect of such Action may be heard and determined in such court. Each Party hereby irrevocably waives, to the fullest extent that it may effectively do so, the defense of an inconvenient forum to the maintenance of such Action. The Parties further agree, (i) to the extent permitted by Law, that a final and unappealable judgment against any of them in any Action contemplated above shall be conclusive and may be enforced in any other jurisdiction within or outside the United States by suit on the judgment, a certified copy of which shall be conclusive evidence of the fact and amount of such judgment and (ii) that service of process upon such Party in any such Action shall be effective if notice is given in accordance with Section 9.2.

(c) Each Party to this Agreement waives trial by jury in any Action brought by any of them against the other arising out of or in any way connected with this Agreement or any other agreements executed in connection herewith, or the administration thereof, or any of the transactions contemplated herein or therein. No Party to this Agreement shall seek a jury trial in any Action based upon, or arising out of, this Agreement or any related instruments or the relationship between the Parties. No Party will seek to consolidate any such Action in which a jury trial has been waived with any other action in which a jury trial cannot be or has not been waived. Each Party to this Agreement certifies that it has been induced to enter into this Agreement or instrument by, among other things, the mutual waivers and certifications set forth above in this section. No Party has in any way agreed with or represented to any other Party that the provisions of section will not be fully enforced in all instances.

9.10 Relationship of the Parties. The Parties hereto are independent contractors and Recipient and Provider are not employees, partners or joint venturers of the other. Under no circumstances shall any of the employees of Recipient or Provider be deemed to be employees of the other for any purpose. Recipient and Provider shall not have the right to bind the other to any agreement with a third party nor to represent itself or themselves as a partner or joint venturer of the other. For the avoidance of doubt, Recipient and Provider shall be solely responsible for the operation of their respective businesses and the decisions and actions taken in connection

therewith, and nothing contained herein shall impose any liability or responsibility on Provider with respect thereto.

9.11 Purchase Agreement. Nothing herein is intended to modify, limit or otherwise affect the representations, warranties, covenants, agreements and indemnifications contained in the Purchase Agreement, and such representations, warranties, covenants, agreements and indemnifications shall remain in full force and effect in accordance with the terms of the Purchase Agreement.

9.12 Force Majeure. Neither Party shall be liable to the other for any failure or delay in the performance of its obligations under this Agreement (other than with respect to payment obligations under this Agreement) to the extent such failure or delay is caused by a Force Majeure Event. Upon the occurrence of a Force Majeure Event, (i) the non-performing Party shall promptly notify the other Party of the circumstances hindering its performance and of its plans and efforts to implement a work-around, (ii) the non-performing Party shall be excused from any further performance or observance of the affected obligation(s) for as long as such circumstances prevail, and (iii) the non-performing Party shall continue to attempt to recommence performance or observance to the greatest extent possible without delay. The non-performing Party shall also notify the other Party promptly when the Force Majeure Event has abated. If Provider fails to provide any Transition Services in connection with any Force Majeure Event, the amounts due Provider under this Agreement shall be equitably adjusted in a manner such that Recipient shall not be responsible for the payment of any amounts for such Transition Services that Provider failed to provide. The term “Force Majeure Event” shall mean an event or condition that is caused by or results from any (a) act of war, terrorism, civil riots or rebellions, (b) Law, demand, seizure or requirement of any Governmental Body, quarantine, embargo or any other similar unusual action of a Governmental Body, (c) extraordinary element of nature or act of God, fire, flood, or storm, (d) strike, lockout or other labor trouble, delays by suppliers or carriers, shortages of fuel, power, raw materials or components, or (e) any other event or condition outside the reasonable control of the Party subject to such failure or delay. Additionally, Provider shall not be liable under this Agreement for any failure to provide or make available Transition Services as set forth herein to the extent such failure was the direct result of Recipient’s operations or systems, or acts or omissions of Recipient.

9.13 Interpretation; Absence of Presumption. For the purposes of this Agreement, (i) words in the singular shall be held to include the plural and vice versa, and words of one gender shall be held to include the other gender as the context requires; (ii) references to the terms Article, Section, and Schedule are references to the Articles, Sections, and Schedules to this Agreement unless otherwise specified; (iii) the terms “hereof,” “herein,” “hereby,” “hereto,” and derivative or similar words refer to this entire Agreement, including the Schedules hereto; (iv) references to “\$” shall mean U.S. dollars; (v) the word “including” and words of similar import when used in this Agreement shall mean “including without limitation,” unless otherwise specified; (vi) the word “or” shall not be exclusive; (vii) the word “extent” in the phrase “to the extent” shall mean the degree to which a subject or other thing extends, and such phrase shall not mean simply “if”; (viii) references to “written” or “in writing” include in electronic form; (ix) provisions shall apply, when appropriate, to successive events and transactions; (x) the headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement; (xi) Provider and Recipient have each

participated in the negotiation and drafting of this Agreement and if an ambiguity or question of interpretation should arise, this Agreement shall be construed as if drafted jointly by the parties thereto and no presumption or burden of proof shall arise favoring or burdening either Party by virtue of the authorship of any of the provisions in this Agreement; (xii) a reference to any Person includes such Person's successors and permitted assigns; (xiii) any reference to "days" means calendar days unless Business Days are expressly specified; (xiv) when calculating the period of time before which, within which or following which any act is to be done or step taken pursuant to this Agreement, the date that is the reference date in calculating such period shall be excluded; and (xv) unless otherwise stated in this Agreement, references to any Contract are to that Contract as amended, modified or supplemented from time to time in accordance with the terms thereof.

\* \* \* \* \*

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their duly authorized officers as of the date first set forth above.

PROVIDER

GRAY TELEVISION, INC.

By: \_\_\_\_\_  
Name: Kevin P. Latek  
Title: Executive Vice President

RAYCOM MEDIA, INC.

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

RECIPIENT

MARQUEE BROADCASTING  
GEORGIA, INC.

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

## **SCHEDULE [X]**

### Transition Services

[TBD prior to Closing after Recipient on site visit to Stations]

**Schedule 3.9**  
**Real Property; Real Property Leases**

(a)

None.

(b)

1. Tower Site Lease No: 4052892, dated September 21, 2004, between Gray Television Group, Inc. and Pinnacle Towers LLC, as assigned pursuant to that certain Assignment and Assumption of Lease, dated November 10, 2005, among Pinnacle Towers LLC, P.D. Communications, LLC and Gray Television Group, Inc., and as amended by that certain First Amendment dated June 19, 2006. (“***Tower Site Lease***”)
2. Commercial Lease, dated November 4, 2016, between Gray Television Group, Inc. and Pine Avenue, LLC.