

Asset Purchase Agreement

by and among

West Virginia Media Holdings, LLC,

Television Acquisition IV, LLC,

and

High Mountain Broadcasting Corporation

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ASSET PURCHASE AGREEMENT

AGREEMENT dated this 8th day of November, 2002, by and among **West Virginia Media Holdings, LLC** a Delaware limited liability company (“WVMH”) and **Television Acquisition IV, LLC**, a West Virginia limited liability company (“TA4”), both having their principal place of business at 13 Kanawha Boulevard, West, Charleston, West Virginia 25302 (TA4 and, collectively with WVMH, the “Purchaser” and each of TA4 and WVMH, a “Purchaser”), and **High Mountain Broadcasting Corporation**, a Delaware corporation (“Seller”), having its principal place of business at 141 Old Cline Road, Ghent, West Virginia 25843.

W I T N E S S E T H :

WHEREAS, Seller owns and operates television station WVSX-TV, Beckley, West Virginia, and its auxiliary facilities (the “Station”) pursuant to licenses issued by the Federal Communications Commission (the “FCC”); and

WHEREAS, Seller desires to sell, transfer, convey and assign, and Purchaser desires to purchase and acquire substantially all of the assets, properties and rights of Seller in the Station on the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the premises and the mutual covenants hereinafter set forth, the parties hereto agree as follows:

1. Definitions.

Unless otherwise stated in this Agreement, the following terms shall have the following meanings:

1.1 The term “Affiliate” means, with respect to a Person, any other Person which, directly or indirectly, is in control of, is controlled by or is under common control with such Person. For purposes of the foregoing definition, “control” of a Person means the power, direct or indirect, to direct or cause the direction of the management and policies of such Person whether by contract or otherwise.

1.2 The term “Agreement” means this agreement, including the schedules and all exhibits hereto, as the same may be amended or otherwise modified from time to time, and the terms “herein”, “hereof”, “hereunder” and like terms shall be taken as referring to this Agreement in its entirety and shall not be limited to any particular section or provision hereof.

1.3 The term “Code” means the Internal Revenue Code of 1986, as amended.

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

1.5 The term “ERISA” means the Employee Retirement Income Security Act of 1974, as amended from time to time, and any successor statute thereto and all final or temporary regulations promulgated thereunder.

1.6 The term “ERISA Affiliate” shall mean with respect to Seller, all members of a controlled group of corporations and all trades or businesses (whether or not incorporated) under common control and all other entities which, together with Seller, are treated as a single employer under any or all of Sections 414(b), (c), (m) or (o) of the Code.

1.7 The term “FCC Consent” means action by the FCC granting its consent to the assignment of the Station Licenses to WVMH as contemplated by this Agreement.

1.8 The term “Final Order” means written action or order issued by the FCC, setting forth the FCC Consent and (i) which has not been reversed, stayed, enjoined, set aside, annulled or suspended and (ii) with respect to which no requests have been filed for administrative or judicial review, reconsideration, appeal or stay and the period provided by statute or FCC regulations for filing of any such request for administrative or judicial review, reconsideration, appeal or stay or for the FCC to set aside the action on its own motion has expired.

1.9 The term “GAAP” means generally accepted accounting principles set forth in opinions and pronouncements of the Accounting Principals Board of the American Institute of Certified Public Accountants and statements and pronouncements of the Financial Accounting Standards Board or in such other statements by such other entity as may be approved by a significant segment of the accounting profession, in each case as the same are applicable to the circumstances as of the date of determination.

1.10 The term “Intellectual Property” means any (i) registered United States and foreign patents, patent applications, patent disclosures and improvements thereto, (ii) registered United States and foreign trademarks, service marks, trade dress, logos, trade names and corporate names, the goodwill associated therewith, and the registrations and applications for registration thereof, and (iii) registered United States and foreign copyrights, and the registrations and applications for registration thereof.

1.11 The term “knowledge” or similar words shall be deemed to mean the actual personal knowledge as of the date specified or if no such date is specified, as of the Closing Date, in the case of Seller, of those employees of Seller identified on Schedule 1.11 annexed hereto and, in the case of Purchaser, of those employees of Purchaser identified on Schedule 1.11 annexed hereto.

1.12 The term “Lien” means any charge, lien, mortgage, pledge, security interest or other encumbrance of any nature whatsoever upon, of or in property or other assets of a Person, whether absolute or conditional, voluntary or involuntary, whether created pursuant to agreement, arising by force of statute, by judicial proceedings or otherwise.

1.13 The term “Material Adverse Effect” means any change or effect that is materially adverse to the properties, operations, business, financial condition or results of operations of the Station or to the Assets.

1.14 The term “Permitted Encumbrances ” means (i) those matters identified on Schedule 1.14 annexed hereto and (ii) the lien for ad valorem real estate taxes not yet due and payable.

1.15 The term “Person” shall include an individual, a partnership, a joint venture, a corporation, a limited liability company, a trust, an estate, an unincorporated organization or association or a governmental agency.

1.16 The term “Proprietary Rights” means any (i) Intellectual Property, (ii) trade secrets and confidential business information (including, without limitation, ideas, formulas, compositions, inventions (whether patentable or unpatentable and whether or not reduced to practice), know-how, research and development information, software, drawings, specifications, designs, plans, proposals, technical data, copyrightable works, financial, marketing and business data, pricing and cost information, business and marketing plans and customer and supplier lists and information, (iii) other proprietary rights, (iv) copies and tangible embodiments thereof (in whatever form or medium), and (v) licenses granting any rights with respect to any of the foregoing.

1.17 The term “Station Licenses” means the licenses, permits and other authorizations issued by the FCC to Seller in connection with the conduct of the business and operation of the Station, including the licenses, permits and other authorizations listed on Schedule 8.4 annexed hereto.

1.18 Unless the context otherwise requires:

1.18.1 a term has the meaning assigned to it;

1.18.2 an accounting term not otherwise defined has the meaning assigned to it in accordance GAAP and all accounting calculations will be determined in accordance with such principles;

1.18.3 “or” is not exclusive;

1.18.4 “including” means including without limitation; and

1.18.5 words in the singular include the plural and words in the plural include the singular.

2. **Purchase and Sale of Assets.**

2.1 **Assets.** On the terms and subject to the conditions of this Agreement, Seller shall transfer, convey, assign and deliver to Purchaser, and Purchaser shall acquire and accept from Seller on the Closing Date (as herein defined), all of the right, title and interest of Seller in and to all assets, properties and rights of Seller (including all assets held under or in the name of “WVSX-TV”) used or held for use in connection with the operation of the Station or located on or at the Real Property, of every nature, kind and description, wherever located, tangible and intangible, real, personal and mixed (excluding only the Excluded Assets as specified in Section 2.2 below) as the same shall exist at and as of the Closing Date (the “Assets”), including, without limitation, the following:

2.1.1 all rights in and to the licenses, permits and other authorizations issued to Seller by any governmental authority and held by Seller and used or intended for use in

the conduct of the business and operation of the Station, including the Station Licenses listed on Schedule 8.4 annexed hereto, together with any renewals, extensions or modification thereof and additions thereto between the date hereof and the Closing Date, the goodwill and other intangible personal property associated with or related to the Station or the operation thereof, the business of the Station as a going concern, and all of Seller's rights in and to the call letters "WVSX-TV";

2.1.2 all land, leaseholds and other interests of every kind and description in real property owned by Seller as of the date hereof and used or held for use in connection with the operation of the Station, including, without limitation, those shown on Schedule 8.9 annexed hereto, and any buildings, towers and antennae, and fixtures and improvements thereon and additions, improvements, replacements and alterations thereto made between the date hereof and the Closing Date, together with all appurtenances thereunto belonging;

2.1.3 all equipment, cameras, transmitters, antennas, office furniture and fixtures, office materials and supplies, tools, inventory, spare parts, and other tangible personal property of every kind and description, owned by Seller and used or held for use in connection with the operation of the Station or located on or at the Real Property, including the property listed on Schedule 8.10 annexed hereto, together with, to the extent permitted by this Agreement, any replacements thereof and additions thereto made between the date hereof and the Closing Date, and less any retirements or dispositions thereof made between the date hereof and the Closing Date which are permitted by this Agreement;

2.1.4 all leases, contracts, licenses, purchase orders, sales orders, commitments and other agreements relating to the business and operation of the Station to which Seller is a party or in which Seller has rights, listed on Schedule 8.8 annexed hereto, including the affiliation agreement with CBS Television Network (sometimes referred to herein as the "CBS Affiliation Agreement"), or not required by Section 8.8 hereof to be set forth on Schedule 8.8, and those leases, contracts, licenses, purchase orders, sales orders, commitments and other agreements relating to the business and operation of the Station entered into by Seller between the date hereof and the Closing Date in accordance with Section 10.2 hereof, except for those that expire by their terms or are cancelled or terminated between the date hereof and the Closing Date;

2.1.5 all orders and agreements now existing, or entered into in the ordinary course of business between the date hereof and the Closing Date, for the sale of advertising time on the Station except those which on the Closing Date have already been filled or cancelled or terminated in accordance with Section 10.2 hereof or have expired;

2.1.6 all programs and programming materials and elements of whatever form or nature as of the date hereof and used or held for use in connection with the operation of the Station, whether recorded on tape or any other substance or intended for live performance, and whether completed or in production, and all related common-law and statutory copyrights owned by or licensed to Seller and used or held for use in connection with the operation of the Station, together with all such programs, materials, elements, and copyrights acquired by Seller in connection with the business and operations of the Station between the date hereof and the

Closing Date, except those that expire or are cancelled or terminated in accordance with Section 10.2 hereof between the date hereof and the Closing Date;

2.1.7 all rights of Seller in and to Proprietary Rights and all licenses and other agreements relating thereto and used in connection with the business and operation of the Station, including those listed on Schedule 8.11 annexed hereto;

2.1.8 all causes of action, judgments, claims, demands and other rights of Seller of every kind or nature to the extent the same relate to the business and operation of the Station except to the extent that such causes of action, judgments, claims, demands or other rights relate to the Excluded Assets, the Excluded Liabilities or the Excluded Contracts;

2.1.9 all rights of Seller relating to or arising out of or under express or implied warranties from suppliers with respect to the tangible property included in the Assets;

2.1.10 all prepaid film and programming expenses and all barter receivables arising in connection with agreements for the sale of advertising time in exchange for goods or services ("trade-out agreements") now existing or hereafter entered into in the ordinary course of business (it being understood that the consideration being paid by Purchaser includes consideration for the contracts and commitments of Seller relating to motion pictures and other programming and for barter receivables arising in connection with trade-out agreements of the Station and that no further consideration shall be due to Seller or proration shall be due in respect thereof);

2.1.11 all books and records, including, but not limited to, correspondence, employment records, production records, accounting records, property records, filings with the FCC, mailing lists, customer and vendor lists and other records and files of or relating to the Assets, other than the Excluded Records; provided, however, that such books and records shall be maintained in existence for a period of six years following the Closing Date and shall be made available for inspection and duplication by Seller, at its expense, upon reasonable notice during normal business hours; and

2.1.12 those other assets, properties and rights described on Schedule 2.1 annexed hereto.

2.2 **Excluded Assets.** Anything contained in Section 2.1 above to the contrary notwithstanding, Seller shall not transfer, convey or assign to Purchaser and the Assets shall not include the following (the "Excluded Assets"):

2.2.1 the consideration delivered by Purchaser to Seller pursuant to this Agreement and all other rights of Seller under this Agreement, any agreement, certificate, instrument or other document executed and delivered by Seller in connection with the transactions contemplated hereby, or any side agreement between Seller and Purchaser entered into on or after the date of this Agreement;

2.2.2 any prepaid expenses, advances or deposits made by Seller (other than relating to motion pictures and other programming of the Station), cash or cash equivalents

or money market instruments, including unprocessed checks, savings and checking accounts and other deposits, certificates of deposits, Treasury bills and other marketable securities of Seller;

2.2.3 Receivables of Seller as of the Closing Date;

2.2.4 all assets, whether real or personal, tangible or intangible, which are owned, used or held for use by Seller exclusively to conduct any business operation or activity other than the operation of the Station;

2.2.5 Seller's minute books and such other books and records (other than books and records specifically described in Section 2.1.11 hereof) as pertain to the organization, existence or ownership of Seller (the "Excluded Records");

2.2.6 Excluded Contracts and contracts, commitments and agreements of Seller to the extent the same relate to Excluded Assets and not to the operation of the Station and actions, claims suits, proceedings, arbitral actions, deposits, prepayments, refunds, causes of action, chooses in action, rights of recovery, rights of set off, and rights of recoupment of any kind or nature (including any such item relating to income taxes) relating to the Excluded Assets or the Excluded Liabilities;

2.2.7 assets sold by Seller after the date hereof and prior to the Closing Date in accordance with Section 10.2 hereof;

2.2.8 any refunds of Federal, state, local or other taxes, including, without limitation, income, property or sales taxes, or other taxes of any kind or description which relate to periods prior to the Closing Date;

2.2.9 those other assets, properties and rights listed on Schedule 2.2 annexed hereto.

2.3 **Transfer of Assets.** The transfer of the Assets as herein contemplated shall be made by Seller free and clear of all Liens other than the Permitted Encumbrances. The transfer of the Assets shall be effected by delivery by Seller of such endorsements, assignments, drafts, checks, deeds, affidavits of title, bills of sale and other instruments of transfer, conveyance and assignment, including customary deeds with respect to real property to be conveyed hereunder, as shall be necessary or appropriate to transfer, convey and assign good and marketable title to the Assets to Purchaser on the Closing Date as contemplated by this Agreement and as shall be reasonably requested by Purchaser. The conveyancing documents shall be by general warranty deeds, bills of sale or assignments, as applicable, with covenants that the conveyance or assignment, as applicable, is free and clear of all Liens, subject only to any Permitted Encumbrances. Seller shall, at any time and from time to time after the Closing Date, execute and deliver such other instruments of transfer and conveyance and do all such further acts and things as may be reasonably requested by Purchaser to transfer, convey, assign and deliver to Purchaser or to aid and assist Purchaser in collecting and reducing to possession, any and all of the Assets, or to vest in Purchaser good, valid and marketable title to the Assets.

2.4 **Accounts Receivable and Accounts Payable.** At least 3 business days prior to the scheduled Closing Date, Seller will deliver to Purchaser a statement setting forth the

estimated outstanding accounts receivable of Seller as of the Closing Date arising out of the sale of advertising time on the Station for cash (the "Receivables") and the outstanding cash accounts payable, including unpaid commissions due to employees, national sales representatives and advertising agency sales representatives, of Seller as of the Closing Date arising out of the operation of the Station (the "Payables") prior to the Closing Date. On the Closing Date, Purchaser will pay Seller an amount equal to eighty percent (80%) of the amount by which the amount of such Receivables exceeds the amount of such Payables (the "Closing Date Estimated Payment"). On the Closing Date, Seller will assign to Purchaser for purposes of collection all of the Receivables. Subject to the terms and provisions in this Section 2.4, Purchaser will collect the Receivables in the same manner and with the same diligence that Purchaser uses to collect its own accounts receivable for a period of 120 days following the Closing Date (the "Collection Period"). All amounts received by Purchaser after the Closing from an account debtor will be applied first to the Receivables of such account debtor in the order of their origination, unless the account debtor in good faith disputes such Receivable in writing. The calculation of net Receivables shall be net of commissions due to employees, national sales representatives and advertising agency sales representatives (unless already paid), and Purchaser shall promptly pay such commissions to the appropriate party. During the Collection Period, Purchaser will use the net Receivables collected to pay, as Seller's agent, the Payables in a timely manner. Purchaser will not be obligated to, and without the prior written consent of Seller will not, institute litigation, employ any collection agency, legal counsel, or other third party, or take any other extraordinary means of collections or pay any expenses to third parties to collect the Receivables. Within five days after the end of each month during the Collection Period, Purchaser will deliver to Seller a written report with respect to (i) the collections made with respect to the Receivables, (ii) the calculation of net Receivables and (iii) payments remitted with respect to the Payables. On the 121st day after the Closing Date, Purchaser shall deliver to Seller a final written report and remit to Seller the amount by which the collected net Receivables (less the amount of the Closing Date Estimated Payment) exceeds the amount paid in respect of the Payables. The final report shall contain (i) a statement of accounts for each account prepared in the manner in which the Station has heretofore prepared such reports, (ii) copies of all open Receivables invoices, (iii) copies of all invoices for Payables received by the Station after the Closing Date for periods ending on or before the Closing Date and (iv) a Receivables aging report. If the amount paid in respect of the Payables exceeds the amount of the collected net Receivables (less the amount of the Closing Date Estimated Payment), Seller will pay to Purchaser such difference within 15 business days after the delivery to Seller of the final report. On the 121st day after the Closing Date, Purchaser will reassign to Seller any Receivables that remain uncollected (which shall not include any receivables deemed paid by the account debtor by reason of the application of payment in the manner required by this Section). If during the Collection Period a dispute arises with regard to an account included among the Receivables, Purchaser shall promptly advise Seller thereof and may (or, if requested by Seller, shall) return that account to Seller. Purchaser shall not issue any credit or accommodation against any Receivable without the prior written consent of Seller. Any amounts received by Purchaser after any Receivable has been reassigned to Seller which can be specifically identified as a payment on account of such reassigned Receivable will be promptly paid over or forwarded to Seller. All amounts due to Seller or Purchaser under this Section 2.4 that are not paid in accordance with the provisions hereof shall bear interest until paid at a rate per annum equal to the lesser of (a) the generally prevailing prime interest rates (as reported by The Wall Street

Journal), plus five percentage points (5%), or (b) the maximum amount permitted by applicable law. In the event of any dispute between the parties with respect to the amounts due to Seller or Purchaser under this Section 2.4, the amounts not in dispute shall nonetheless be promptly paid and such dispute shall be determined, and payment (with interest, as appropriate) made, in the manner set forth in Section 5.2.3 hereof.

2.5 **Power of Attorney.** Effective upon the Closing Date, Seller hereby irrevocably constitutes and appoints Purchaser, its successors and assigns, the true and lawful attorney of Seller with full power of substitution, in the name of Purchaser, or the name of Seller, on behalf of and for the benefit of Seller, to collect the Receivables, to endorse, without recourse, checks, notes and other instruments in the name of Seller, to pay the Payables and to do all such further acts and things in relation thereto as is contemplated by Section 2.4 hereof. Seller agrees that the foregoing powers are coupled with an interest and shall be irrevocable by Seller except as provided in Section 2.4 hereof.

2.6 **Non-Assignable Assets.** Notwithstanding anything contained in this Agreement to the contrary, this Agreement shall not constitute an agreement or an attempted agreement to transfer or assign any contract, license, lease, commitment, sales order, purchase order or other agreement, or any claim or right of any benefit arising thereunder or resulting therefrom if any such attempted transfer or assignment thereof, without the consent of any other party thereto, would constitute a breach thereof or in any way affect the rights of Purchaser thereunder. Seller shall, between the date hereof and the Closing Date, take commercially reasonable efforts to obtain the consent of any party or parties to any such material contracts, licenses, leases, commitments, sales orders, purchase orders or other agreements to the transfer or assignment thereof by Seller to Purchaser hereunder in all cases in which such consent is required for transfer or assignment. If after Seller has used commercially reasonable efforts to obtain the consent of any such other party to such material contract, license, lease, commitment, sales order, purchase order or other agreement, such consent shall not be obtained at or prior to the Closing, or an attempted assignment thereof at the Closing would be ineffective and would affect the rights of Seller, as applicable, thereunder, Seller will cooperate with Purchaser in any reasonable arrangement designed to provide for Purchaser the benefits under any such material contract, license, lease, commitment, sales order, purchase order or other agreement, including the enforcement, for the benefit of Purchaser, of any and all rights of Seller, as applicable, against such other party thereto arising out of the breach or cancellation thereof by such other party or otherwise.

3. **Assumption of Liabilities.**

3.1 **Assumed Liabilities.** Subject to the terms and conditions of this Agreement and the performance by the parties hereto of their respective obligations hereunder, on the Closing Date, simultaneously with the transfer, conveyance and assignment by Seller to Purchaser of the Assets, Purchaser shall assume or otherwise be liable for, subject to the limitations contained herein, the liabilities and obligations of Seller, incurred in the ordinary course of business (the "Assumed Liabilities") under:

3.1.1 the contracts, agreements and commitments pertaining to the Station set forth on Schedule 8.8 annexed hereto, other than Excluded Contracts, to the extent

that the liabilities and obligations thereunder arise and are incurred, or are to be performed (other than obligations for the payment of Payables), on or after the Closing Date; provided, however, that with respect to the Millennium National Sales Rep Contract ("Millennium Contract"), Purchaser shall only assume the payment of all commissions and other obligations under the Millennium Contract arising and incurred during the period beginning on the Closing Date and ending on October 31, 2003 (the term "Payables" as used in this Section 3.1 shall mean Payables as defined in Section 2.4 and any other indebtedness which arose or has been incurred prior to the Closing Date).

3.1.2 contracts, agreements and commitments pertaining to the Station in existence on the date hereof and not required by Section 8.8 hereof to be set forth on Schedule 8.8 annexed hereto, other than Excluded Contracts, to the extent that the liabilities and obligations thereunder arise and are incurred, or are to be performed (other than obligations for the payment of Payables), on or after the Closing Date;

3.1.3 contracts, agreements and commitments pertaining to the Station with customers and advertising agencies accepted in the ordinary course of business for the sale of advertising time, to the extent that the liabilities and obligations thereunder arise and are incurred, or are to be performed (other than obligations for the payment of Payables), on or after the Closing Date;

3.1.4 contracts, agreements and commitments pertaining to the Station of the type set forth in Sections 3.1.1, 3.1.2 or 3.1.3, to the extent that the liabilities and obligations thereunder arise and are incurred, or are to be performed (other than obligations for the payment of Payables), on or after the Closing Date, to which Seller becomes a party in the ordinary course of business subsequent to the date hereof and prior to the Closing Date, which (i) are not fully performed or discharged prior to the Closing Date, (ii) are permitted to be entered into by Seller under the terms and conditions of this Agreement and (iii) are assigned and transferred to Purchaser as contemplated herein;

3.1.5 liabilities for commissions, salaries, employee vacation and sick time for Transferred Employees which have been earned on or after the Closing Date.

3.2 **Instruments of Assumption for the Assumed Liabilities.** The assumption by Purchaser of the Assumed Liabilities shall be effected by such instruments of assumption delivered to Seller on the Closing Date as shall be necessary or appropriate to effect such assumption and shall be reasonably satisfactory to Seller. Assumption by Purchaser of the Assumed Liabilities shall in no way expand the rights or remedies of third parties against Purchaser as compared to the rights and remedies which such parties would have had against Seller had this Agreement not been consummated.

3.3 **Excluded Liabilities.** Purchaser does not and shall not assume, pay, perform or discharge any liabilities or obligations of Seller other than the Assumed Liabilities, and, without limiting the foregoing, it is expressly agreed by the parties hereto that Purchaser shall not assume or be liable for any of the following liabilities or obligations of Seller (the "Excluded Liabilities"):

3.3.1 liabilities or obligations of Seller for borrowed money or to any of its stockholders or to any Person affiliated therewith;

3.3.2 liabilities or obligations of Seller incurred with respect to its entry into this Agreement or its consummation of any of the transactions contemplated hereunder (including, without limitation, Seller's legal and accounting fees and any brokerage or finder's fees payable by Seller pursuant to Section 19 hereof);

3.3.3 liabilities or obligations for Federal, state, local or other taxes based on income;

3.3.4 any pension, retirement, profit-sharing plan or trust or other employee benefit plan of Seller;

3.3.5 any litigation, proceeding, or claim by any Person relating exclusively to the business or operation of the Station prior to the Closing Date, including any litigation, proceeding or claim listed on Schedule 8.13 hereto; and

3.3.6 liabilities or obligations arising under or with respect to the contracts, agreements and commitments listed on Schedule 3.3 hereof (the "Excluded Contracts").

3.3.7 all liabilities, commissions and other obligations arising under or with respect to the Millennium Contract, to the extent that the same arise or are incurred prior to the Closing Date or after October 31, 2003.

4. **Acquisitions by WVMH and TA4.**

4.1 Notwithstanding any provision herein to the contrary, and unless Purchaser requests otherwise, (a) the property described above in Section 2.1.2 and Section 2.1.3 shall be conveyed/assigned to and acquired by TA4, and (b) all other property comprising the Assets, including the Station Licenses, the Proprietary Rights and the CBS Affiliation Agreement, shall be conveyed/assigned to and acquired by WVMH.

5. Closing Payment; Allocation.

5.1 **Purchase Price.** The purchase price (the "Purchase Price") for the Assets shall be Six Million Four Hundred Thousand Dollars (\$6,400,000.00) and the assumption of the Assumed Liabilities as herein provided. The Purchase Price shall be paid as follows (a) Two Hundred Thirty Thousand Dollars (\$230,000.00) to Seller upon the full execution of this Agreement ("Deposit"); and (b) the balance of the Purchase Price (less and except the sum of Twenty Thousand Dollars (\$20,000.00) which sum was paid to Seller in connection with that certain letter agreement dated October 11, 2002, between Seller and WVMH and is to be credited against the Purchase Price) to Seller at the Closing, in each case by wire transfer of immediately available funds to an account designated by Seller.

5.2 Closing Adjustments.

5.2.1 All income and expenses arising from the conduct of the business and operation of the Station shall be prorated between Purchaser and Seller in accordance with customary proration practices in broadcasting acquisitions as of 12:00 a.m. local time, Beckley, West Virginia, on the Closing Date. Such prorations shall include, without limitation, all ad valorem real estate and other property taxes, business and license fees, lease payments, payments made pursuant to Assumed Liabilities, rents, wages and salaries of employees, workers' compensation premiums, utility expenses, water and sewer use charges, unbilled time sales agreements, prepaid fees and expenses to the extent Purchaser will receive a benefit thereof, and all other income and expenses attributable to the ownership and operation of the Station. The prorations shall not include: (i) accruals for bonuses, commissions, vacation and sick pay, (ii) taxes arising by reason of the transfer of the Assets as contemplated hereby, which shall be paid as set forth in Section 10.6 hereof, and (iii) taxes based on income of Seller. Seller acknowledges, however, that the consideration hereunder for the Assets includes consideration for the contracts and commitments of Seller relating to motion pictures and other programming and for barter receivables arising in connection with trade-out agreements and that no further payment to Seller or proration shall be due in respect thereof. Prorations under this Section 5.2, to the extent possible, shall be determined and paid on the Closing Date with final settlement thereof to occur, to the extent possible, within 30 calendar days after the Closing Date in accordance with Sections 5.2.2 and 5.2.3 below.

5.2.2 As promptly as practicable, but in any event within 30 calendar days after the Closing, Seller shall cause to be prepared and delivered to Purchaser a schedule of its proposed prorations (which shall set forth in reasonable detail the basis for those determinations) (the "Final Prorations Schedule"). The Final Prorations Schedule shall be conclusive and binding on Purchaser and Seller shall pay to Purchaser, or Purchaser shall pay to Seller, as the case may be, any amount due as a result of such adjustment, unless Purchaser provides Seller with written notice of objection (the "Notice of Disagreement") within 15 calendar days after Purchaser's receipt of the Final Proration Schedule, which notice shall state the prorations of expenses proposed by Purchaser ("Purchaser's Proration Amount") and be accompanied by payment of any amount shown thereon to be due to Seller. Seller shall have 15 calendar days from receipt of a Notice of Disagreement to accept or reject Purchaser's Proration Amount. Final payment pursuant to this Section 5.2.2 shall be due within 5 calendar days after the last to occur of (i) Purchaser's failure to reject the Final Prorations Schedule within 15

calendar days after Purchaser's receipt of the Final Prorations Schedule or (ii) Seller's failure to reject Purchaser's Proration Amount within 15 calendar days after Seller's receipt of a Notice of Disagreement.

5.2.3 In the event of any disputes between the parties as to the prorations and adjustments described in Section 5.2, the amounts not in dispute shall nonetheless be promptly paid and such disputes shall be determined by an independent certified public account of national recognition that does not then have a relationship with Seller or Purchaser, or any of their respective Affiliates, mutually acceptable to Seller and Purchaser, with the fees and expenses of such accountant being shared equally by Seller and Purchaser. Any payment required by Seller to Purchaser or Purchaser to Seller, as the case may be, under this Section 5.2 shall be paid by wire transfer of immediately available funds to an account designated by such party. If either Seller or Purchaser fails to pay when due any amount under Section 5.2, interest on such amount will accrue from the date payment was due to the date such payment is made at a rate per annum equal to the lesser of (i) the generally prevailing prime interest rates (as reported by The Wall Street Journal), plus five percentage points (5%), or (ii) the maximum amount permitted by applicable law, and such interest shall be payable upon demand. Notwithstanding the provisions of Sections 5.2.1 and 5.2.2, if the amount of any taxes to be prorated pursuant to Section 5.2 is not known by 30 calendar days after the Closing, then the amount will be estimated as of such date, and such estimated amount shall be taken into account in the preparation of the Final Prorations Schedule, subject to subsequent adjustment; once the amount of such taxes is known, Seller shall pay to Purchaser, or Purchaser shall pay to Seller, as the case may be, any net amount due as a result of the actual apportionment of such taxes.

5.3 **Allocation**. As promptly as practicable after the date hereof, the parties will attempt to agree in writing on an allocation for tax purposes of the Purchase Price among the Assets being acquired by Purchaser. In the event that the parties have not mutually agreed on such allocation within 20 calendar days of the date hereof, the parties shall proceed to determine such allocation, as follows: As promptly as practicable, but in any event, within 30 calendar days of the date hereof, Purchaser shall cause to be prepared and deliver to Seller a schedule of its proposed allocation (the "Allocation Schedule") for tax purposes of the Purchase Price among the Assets being acquired by Purchaser. The Allocation Schedule shall be conclusive and binding for purposes of Section 5.3 on Purchaser and Seller unless Seller provides Purchaser with a notice of objection (the "Objection Notice") within 10 calendar days after Seller's receipt of the Allocation Schedule, which notice shall state the allocation proposed by Seller (the "Seller Allocation Schedule"). Purchaser shall have 10 calendar days from receipt of the Objection Notice to accept or reject the Seller Allocation Schedule. The Seller Allocation Schedule shall be conclusive and binding for purposes of Section 5.3 on Purchaser and Seller, unless the Purchaser provides Seller with notice of objection within 10 calendar days after receipt of the Seller Allocation Schedule. In the event that the parties are unable to agree on an allocation after good faith negotiations, then the parties agree to be bound by an appraisal of such assets by an independent nationally recognized firm of valuation experts mutually acceptable to Seller and Purchaser. The cost of such appraisal shall be equally borne by Seller and Purchaser. Such appraisal shall be conclusive and binding for the purposes of this Section 5.3 on Purchaser and Seller. Purchaser and Seller (i) shall execute and file all tax returns and prepare all financial statements, returns and other instruments in a manner consistent with the allocation as determined in accordance with this Section 5.3, (ii) shall not take any position before any

governmental authority or in any judicial proceeding that is inconsistent with such allocation, and (iii) shall cooperate with each other in a timely filing, consistent with such allocation, of Form 8594 with the Internal Revenue Service ("IRS").

6. **Closing.** The closing of the transactions contemplated by this Agreement (the "Closing") shall take place at 10:00 a.m. local time, on a date within five business days following the date that the FCC Consent becomes a Final Order, but in no event earlier than January 2, 2003. The Closing shall take place at the offices of Bowles Rice McDavid Graff & Love PLLC, 600 Quarrier Street, Charleston, West Virginia 25301, or at such other place as may be agreed to by Purchaser and Seller. The date of the Closing is herein referred to as the "Closing Date." The transactions contemplated by this Agreement shall be effective as of 12:00 a.m. on the Closing Date. It is understood and agreed, however, that the Closing shall take place on or before April 1, 2003. In the event that the Closing does not take place on or before April 1, 2003, this Agreement will be terminable by either party by written notice to the other. Upon such termination, Seller shall promptly return the Deposit to Purchaser (unless Seller is entitled to retain the Deposit as provided in Section 15.3 hereof, and subject to the retention of any funds as provided in Section 13.2 hereof) and the parties shall be relieved of all further duties and obligations hereunder (except as otherwise expressly provided in this Agreement).

7. **Governmental Consents.**

7.1 **FCC Consent.** The assignment of the Station Licenses to Purchaser as contemplated by this Agreement is subject to prior FCC Consent.

7.1.1 Promptly after the full execution of this Agreement, Purchaser and Seller shall proceed to prepare for filing with the FCC appropriate applications for consent to the assignment of the Station Licenses to WVMH (the "FCC Application"), which shall be filed with the FCC as soon as practicable but in no event later than seven business days after the date of this Agreement. The FCC Application shall include such information relating to the Station as is required in order to effect the timely closing of the transactions contemplated by this Agreement. The parties shall thereafter prosecute the FCC Application with all reasonable diligence and otherwise use their reasonable best efforts to obtain the grant of such application as expeditiously as practicable (but no party shall have any obligation to take any unreasonable steps to satisfy complainants, if any). If the FCC Consent imposes any condition on any party hereto, such party shall use its reasonable best efforts to comply with such condition unless compliance would have a material adverse effect upon it, its parent entity, or any of its or its parent entity's subsidiaries or Affiliates, as appropriate. Purchaser and Seller shall each pay 50% of all filing fees payable with respect to all filings required by the FCC in connection with the transactions contemplated by this Agreement and made pursuant to this Section 7.1.1.

7.1.2 The transfer of the Assets hereunder is expressly conditioned upon the grant of the FCC Consent and compliance by the parties hereto with the conditions (if any) imposed in such consent.

7.2 **Other Governmental Consents.** Promptly following the full execution of this Agreement, the parties will proceed to prepare and file with the appropriate governmental authorities any other requests for approval or waiver that are required from governmental

authorities in connection with the transactions contemplated hereby, and shall diligently and expeditiously prosecute, and shall cooperate fully with each other in the prosecution of, such requests for approval or waiver and all proceedings necessary to secure such approvals and waivers.

8. **Representations and Warranties of Seller.**

In order to induce Purchaser to enter into this Agreement and to perform its obligations hereunder, Seller hereby makes the following representations and warranties to Purchaser:

8.1 **Organization and Standing.** Seller is a corporation duly organized, validly existing and in good standing under the laws of the State of Delaware and Seller has all requisite power and authority to own, lease, use and operate its properties and assets at and carry on its business in the places where such properties and assets are now owned, leased or operated or where such business is now conducted. Seller is duly qualified to do business and is in good standing in the State of West Virginia.

8.2 **Power and Authority.** Seller has all requisite power and authority to enter into this Agreement and the documents and instruments contemplated hereby and to assume and perform its obligations hereunder and thereunder. The execution and delivery of this Agreement and the documents and instruments contemplated hereby and the performance by Seller of its obligations hereunder and thereunder have been duly and validly authorized by all necessary action and no further action or approval is required in order to constitute this Agreement and the documents and instruments contemplated hereby as valid and binding obligations of Seller, enforceable in accordance with their terms, except as the enforceability of such agreements, documents and instruments, may be limited by or subject to, any bankruptcy, insolvency, reorganization, moratorium or other similar laws now or hereafter in effect relating to creditors' rights generally.

8.3 **No Conflicts.** Except as set forth on Schedule 8.3 annexed hereto and except for any consent required for the assignment to Purchaser of any contract, lease, agreement or commitment included within the Assets, the execution and delivery by Seller of this Agreement and the documents and instruments contemplated hereby, the consummation by Seller of the transactions contemplated hereby and the performance by Seller of its obligations hereunder and thereunder:

8.3.1 do not and will not conflict with or violate any provision of the Certificate of Incorporation, Bylaws or other corporate documents of Seller;

8.3.2 do not and will not conflict with or result in any breach of any condition or provision of, or constitute a default under or give rise to any right of termination, cancellation or acceleration or (whether after the giving of notice or lapse of time or both) result in the creation or imposition of any Lien (other than Permitted Encumbrances) upon any of the Assets by reason of the terms of any contract, mortgage, Lien, lease, agreement, indenture, instrument, judgment or decree to which Seller is a party or which is or purports to be binding upon Seller or which affects or purports to affect any of the Assets except as would not,

individually or in the aggregate, have, or could reasonably be expected to have, a Material Adverse Effect; and

8.3.3 subject to the receipt of any governmental approvals required in connection with the transfer of the Assets to Purchaser, do not and will not conflict with or result in a violation of or default under (with or without notice of the lapse of time or both) any statute, regulation, rule, judgment, order, decree, stipulation, injunction, charge or other restriction of any court, administrative agency or commission or other governmental authority or instrumentality except as would not, individually or in the aggregate, have, or could reasonably be expected to have, a Material Adverse Effect.

8.4 **Government Approval.** Seller is the holder of the Station Licenses, all of which are set forth on Schedule 8.4 annexed hereto, which constitute all necessary authorizations from the FCC to enable the Station to broadcast and transmit the present television programming of the Station. Other than FCC rulemaking procedures of general applicability, there are no fines, forfeitures, notices of apparent liability, orders to show cause or any other administrative or judicial orders outstanding nor any proceedings pending or, to Seller's knowledge, threatened, the effect of which would be the revocation, cancellation, non-renewal, suspension or material adverse modification of the Station Licenses or otherwise have any Material Adverse Effect. Except as contemplated in Section 7 hereof, no action, approval, consent, authorization or other action by or filing with any governmental or quasi-governmental agency, commission, board, bureau or instrumentality, is necessary or required as to Seller for the due execution, delivery or performance by Seller of this Agreement or any document or instrument contemplated hereby except where the failure to obtain such approval, consent, authorization or filing, would not, individually or in the aggregate, have, or could reasonably be expected to have, a Material Adverse Effect.

8.5 **Validity.** This Agreement constitutes and the other documents and instruments contemplated hereby will, on the due execution and delivery thereof, constitute the legal, valid and binding obligations of Seller, enforceable in accordance with their respective terms, except as the enforceability of such agreements, documents and instruments, may be limited by or subject to, any bankruptcy, insolvency, reorganization, moratorium or other similar laws now or hereafter in effect relating to creditors' rights generally and that the remedies of specific performance, injunction, and other forms of equitable relief are subject to certain principles of equity jurisdiction, equitable defenses and the discretion of the court before which any proceeding therefor may be brought.

8.6 **Financial Statements.** Annexed hereto as Schedule 8.6 are the following financial statements of Seller (collectively the "Financial Statements"): audited balance sheets and related statements of income, stockholders' equity and cash flow statements for the years ended December 31, 1999, 2000 and 2001, and the internal unaudited statements of operation for the nine month period ending September 30, 2002. Except as set forth on Schedule 8.6, the Financial Statements are true, correct and complete in all material respects, are in accordance with GAAP and the books and records of Seller and fairly, completely and accurately present the results of operations for the periods covered.

8.7 **Taxes.** Seller has duly filed all foreign, Federal, state, county and local income, excise, sales, property, withholding, social security, franchise, license, information returns and other tax returns and reports required to have been filed by Seller pertaining to the operation of the Station and Seller has paid all amounts shown to be due thereon.

8.8 **Contracts.**

8.8.1 Except only those contracts, agreements or commitments listed and described on Schedule 8.8 annexed hereto (copies of which have been heretofore delivered to Purchaser or, with respect to oral agreements, written summaries of the terms of which have been heretofore delivered to Purchaser), the Excluded Contracts and contracts, agreements or commitments entered into in the ordinary course of business of the Station and (i) involving less than \$5,000 over their term or (ii) involving more than \$5,000 over their term but not more than \$25,000 in the aggregate for all such contracts, agreements or commitments or (iii) involving sales of advertising time in accordance with the Station's customary rate practices, Seller is not a party to nor does Seller have any contract, agreement or commitment of any kind or nature whatsoever, written or oral, formal or informal, with respect to the business and operation of the Station. Except as set forth on Schedule 8.8, each of the written contracts and commitments referred to therein is valid and existing, in full force and effect, unmodified and enforceable in accordance with its terms, except as the enforceability of such agreements, documents and instruments, may be limited by or subject to, any bankruptcy, insolvency, reorganization, moratorium or other similar laws now or hereafter in effect relating to creditors' rights generally and that the remedies of specific performance, injunction, and other forms of equitable relief are subject to certain principles of equity jurisdiction, equitable defenses and the discretion of the court before which any proceeding therefor may be brought, and no party thereto is in default and no claim of default by any party has been made or is now pending, except for such defaults as would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

8.8.2 The Station is currently affiliated with CBS Television Network pursuant to the CBS Affiliation Agreement listed on Schedule 8.8. The CBS Affiliation Agreement is in full force and effect and Seller is not aware of any state of facts which would permit the termination for cause of such CBS Affiliation Agreement prior to the expiration of the term thereof (subject to obtaining from CBS Television Network the approval of the assignment of the Assets, including the CBS Affiliation Agreement, to Purchaser and, in that connection, Purchaser's entering into an agreement satisfactory to CBS Television Network under which Purchaser will assume and perform all obligations of Seller under the CBS Affiliation Agreement (and related agreements) on and after the Closing Date, as contemplated in the CBS Affiliation Agreement).

8.9 **Real Property.**

8.9.1 Schedule 8.9 annexed hereto is a complete and correct list of all real property or premises owned or, as noted on said Schedule 8.9, leased by Seller and used in connection with the business and operation of the Station ("Real Property").

8.9.2 Except as shown on Schedule 8.9.2, Seller has all required legal and valid occupancy permits and other licenses or government approvals for each of the Real Properties owned or leased by it except where the failure to obtain such permit or license would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

8.9.3 Except for Permitted Encumbrances and any Liens as may be set forth on Schedule 8.9 annexed hereto, Seller has good, marketable and insurable fee simple title to the Real Property owned by it, free and clear of all Liens, and has good, marketable and insurable leasehold title to the Real Property leased by it, free and clear of all Liens and except for any Liens set forth on Schedule 8.9 annexed hereto, no party has the right to acquire or use such Real Property or any improvements, fixtures or equipment located thereon. Except for any Liens set forth on Schedule 8.9 or Schedule 8.10, Seller has good and marketable title and owns outright, free and clear of all Liens (other than Permitted Encumbrances), each improvement, fixture and item of equipment located in or on each Real Property owned or leased (subject to the terms of the applicable lease) by it.

8.9.4 None of the Real Property has been condemned or otherwise taken by any public authority, and no condemnation or taking is, to Seller's knowledge, threatened or contemplated.

8.9.5 To Seller's knowledge, no improvement, fixture or equipment located on or at the Real Property is in violation of any zoning or subdivision law and the Real Property is zoned or otherwise lawfully used for the purposes for which it is now used by Seller.

8.9.6 All Liens identified on Schedule 8.9 and Schedule 8.10, except for those which are also Permitted Encumbrances (which Permitted Encumbrances are identified on Schedule 1.14 hereof), shall be released, discharged and/or terminated on or prior to Closing.

8.10 **Personal Property.** Schedule 8.10 annexed hereto is a true and complete list of (i) all tangible personal property and equipment owned by Seller and used exclusively in connection with the business and operation of the Station or located on or at the Real Property (other than Excluded Assets) having a book value at the date hereof in excess of \$5,000 per item and (ii) all personal property and equipment owned by a third party which is leased or otherwise used by Seller in connection with the business and operation of the Station or located on or at the Real Property (other than Excluded Assets), including, without limitation, leases or other agreements relating to the use or operation of any machinery, equipment, motor vehicles, office furniture or fixtures owned by any third party (copies of which leases or other agreements have been heretofore delivered to Purchaser) but excluding leases not required to be set forth on Schedule 8.8. Each such personal property lease is in full force and effect and constitutes a legal, valid and binding obligation of Seller and there is not under any such lease any default or any claim of default or of an event which, with or without notice or the lapse of time or both, could reasonably be expected, individually or in the aggregate to have a Material Adverse Effect. Except for Permitted Encumbrances and any Liens as may be set forth on Schedule 8.10, all personal property purported to be owned by Seller is owned by it, free and clear of all Liens. All Liens identified on Schedule 8.10, except for those which are Permitted Encumbrances (which Permitted Encumbrances are identified on Schedule 1.14 hereof) shall be released, discharged and/or terminated on or prior to Closing.

8.11 **Intellectual Property.** Schedule 8.11 annexed hereto is a complete and correct list of all Intellectual Property owned by Seller, to the extent such Intellectual Property is used or held for use in connection with the operation of the Station. Seller owns or has a valid right to use all Proprietary Rights used or held for use by Seller in connection with the operation of the Station as currently conducted by Seller, without infringing upon the rights of any other Person, except as would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

8.12 **Insurance.** Schedule 8.12 annexed hereto is a complete and correct list, and brief description (including name of insurer, agent, type of coverage, policy number, amount of coverage, expiration date and any pending claims thereunder) of all insurance policies, including, without limitation, liability, burglary, theft, fidelity, errors and omissions, life, fire, product liability, workers' compensation, health and other forms of insurance of any kind held by Seller in connection with the business and operation of the Station; each such policy is in full force and effect; except as set forth on Schedule 8.12 hereto, Seller and its Affiliates are the sole beneficiaries of each such policy; no such policy, or the future proceeds thereof, has been assigned to any other Person; to Seller's knowledge, there is no act or fact or failure to act which has or might cause any such policy to be cancelled or terminated; and each such policy is adequate for the business and operation of the Station. No notice of cancellation or non-renewal with respect to, or disallowance of any material claim under, any insurance policies or binders of insurance which relate to the Assets or the Station has been received by Seller.

8.13 **Litigation.** Except as set forth on Schedule 8.13 annexed hereto, no action, suit, claim, investigation, proceeding or controversy, whether legal or administrative or in mediation or arbitration, is pending or, to Seller's knowledge, threatened, at law or in equity or admiralty, before or by any court or Federal, state, municipal or other governmental department, commission, board, bureau, agency or instrumentality by or against Seller with respect to the Station or seeking to restrain, prohibit, invalidate, set aside, rescind, prevent or make unlawful this Agreement or the carrying out of this Agreement or the transactions contemplated hereby. Seller is not operating under or subject to, or in default in respect of, any judgment, order, writ, injunction or decree of any court or any Federal, state, municipal or other governmental department commission, board, bureau, agency or instrumentality.

8.14 **Compliance with Law.** To Seller's knowledge, (i) Seller has all material permits, licenses, orders and approvals of all Federal, state or local governmental regulatory bodies required for it to conduct the business and operation of the Station; (ii) all such permits, licenses, orders and approvals are in full force and effect in all material respects and no suspension or cancellation of any of them is pending or threatened and (iii) Seller is in compliance in all material respects with each law, rule, ordinance, regulation, order and decree applicable to the business and operation of the Station, including, without limitation, laws, rules and regulations respecting occupational safety, environmental protection and employment practices.

8.15 **Labor.** Schedule 8.15 annexed hereto is a complete and correct list of all of the representation or labor contracts with respect to any employees at the Station. Seller has not received any written notice from any other labor union or group of employees that such union or group represents or believes or claims it represents or intends to represent any of the

employees of Seller; to Seller's knowledge, no strike or work interruption by the employees of the Station is planned, under consideration, threatened or imminent; and Seller has not made any loan or given anything of value, directly or indirectly, to any officer, official, agent or representative of any labor union or group of employees other than salaries and ordinary course compensation.

8.16 **Employees.** Schedule 8.16 annexed hereto is a complete and correct list of the names and current annual salary, bonus, commission and perquisite arrangements, written or unwritten, for each employee of the Station (including any employee who is an inactive employee on paid or unpaid leave of absence). Seller does not have any written contract for the future employment of any employee except as may be listed on Schedule 8.16.

8.17 **Employee Benefit Plans.** Schedule 8.17 annexed hereto is a complete and correct list of all employment, bonus, incentive compensation, deferred compensation, pension, profit sharing, retirement, stock purchase, stock option, stock ownership, stock appreciation rights, phantom stock, equity (or equity-based), leave of absence, layoff, vacation, day or dependent care, legal services, cafeteria, life, health, medical, accident, disability, workers' compensation or other insurance, severance, separation, termination, change of control or other benefit plan, agreement (including any collective bargaining agreement), practice, policy or arrangement, whether written or oral, and whether or not subject to ERISA (including, without limitation, any "employee benefit plan" within the meaning of Section 3(3) of ERISA) ("Employee Plans") sponsored, maintained or contributed to by Seller or any ERISA Affiliate of Seller in connection with the business and operation of the Station. True and complete copies of each Employee Plan have been heretofore made available to Purchaser. All Employee Plans, related trust instruments or annuity contracts (or any other funding instruments) are legal, valid and binding and are in full force and effect. All Employee Plans have been maintained and operated, in all material respects, in accordance with the requirements of the Code and ERISA, or any other applicable statute, regulation or rule. There are no pending claims against any Employee Plan (other than routine claims for benefits in accordance with its terms) nor, to the knowledge of Seller, has any claim been threatened in writing by any participant thereof or beneficiary thereunder.

8.17.1 Except as set forth on Schedule 8.17 annexed hereto, all Employee Plans are in material compliance with all applicable reporting, disclosure, filing and other administrative requirements pertaining to employee benefit plans set forth in the Code and ERISA and rules and regulations promulgated under either, including but not limited to those set forth in Sections 6057, 6058 and 6059 of the Code and applicable rules and regulations thereunder, and in Sections 101, 102, 103, 104, 105, and 107 of ERISA.

8.17.2 Seller and any ERISA Affiliate at all times have been in full compliance with (i) all provisions of the Title X of the Consolidation Omnibus Budget Reconciliation Act of 1985, as amended, and with the provisions of Part 6 of Title I of ERISA; (ii) the secondary payor requirements imposed by Section 1862 of the Social Security Act; or (iii) the health insurance portability and anti-discrimination requirements of Part 7 of Title I of ERISA.

8.17.3 Except as set forth on Schedule 8.17, during the twelve-consecutive month period prior to the date of this Agreement, no steps have been taken to terminate any Employee Plan, and no contribution failure has occurred with respect to any Employee Plan sufficient to give rise to a lien under Section 302(f) of ERISA. To Seller's knowledge, no condition exists or event or transaction has occurred with respect to an Employee Plan which might result in the incurrence of any material liability, fine or penalty by or against Seller or any ERISA Affiliate of Seller. Neither Seller nor any ERISA Affiliate of Seller has any contingent liability with respect to any post-retirement benefit under any welfare plan, as such term is defined in Section 3(1) of ERISA, other than liability for continuation coverage described in Part 6 of Title I of ERISA.

8.17.4 The transactions contemplated by this Agreement will not result in any payment or series of payments by Seller to any Person of a parachute payment within the meaning of Section 280G of the Code.

8.17.5 There have been no acts or omissions relating to any Employee Plan that have resulted or may result in the imposition of fines, penalties, taxes or related charges under ERISA or the Code, including, but not limited to, (i) ERISA Sections 502(c), (i) or (l); (ii) ERISA Section 4071; (iii) the prohibited transaction provisions of ERISA Section 406 or Code Section 4975; or (iv) the imposition of a lien pursuant to Code Sections 401(a)(29) or 412(n).

8.18 **Environmental Matters.**

8.18.1 To the knowledge of Seller, the Real Property does not contain any environmental hazards, conditions, defects or hazardous materials, including but not limited to any flammables, explosives, radioactive materials, asbestos, asbestos containing material, PCBs, hazardous waste, any petroleum, petroleum product derivative, compound or mixture, and without limitation, those substances defined as "hazardous substances" or "hazardous wastes" (collectively referred to as "Hazardous Substances") under any Environmental Laws, as defined below). Further, Seller has not received any notice to the effect that and Seller has no knowledge that the Real Property is not in compliance with any of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 and Superfund Amendments and Preauthorization Act of 1986, the Hazardous Materials Transportation Act, the Resource Conservation and Recovery Act of 1976, the Water Pollution Control Act, the Clean Air Act, all regulations promulgated under all such Acts, as well as any other Federal, state or local law, ordinance or regulation pertaining to health, industrial hygiene or the environment and/or applicable to the existence, removal, generation, transportation, discharge, process, storage or treatment of Hazardous Substances, as the same may have been amended (collectively referred to as "Environmental Laws"). Seller represents that: (i) Seller has not caused or knowingly permitted (nor, at any time prior to the Closing, will Seller cause or consent to) any Hazardous Substances to be deposited in or on the Real Property in violation of any Environmental Laws; and (ii) Seller is not aware of any environmental contamination at the Real Property except as may be reflected on Schedule 8.18.

9. **Representations and Warranties of Purchaser.**

In order to induce Seller to enter into this Agreement and to perform its obligations hereunder, each of Purchaser hereby jointly and severally makes the following representations and warranties to Seller:

9.1 **Organization and Standing.** WVMH is a limited liability company duly organized, validly existing and in good standing under the laws of the State of Delaware and has all requisite power and authority, to own, lease, use and operate its properties and assets at and carry on its business in the places where such properties and assets are now owned, leased or operated or where such business is now being conducted. TA4 is a limited liability company duly organized, validly existing and in good standing under the laws of the State of West Virginia and has all requisite power and authority to own, lease, use and operate its properties and assets at and carry on its business in the places where such properties and assets are now owned, leased or operated or where said business is now being conducted.

9.2 **Power and Authority.** Purchaser has all requisite power and authority to enter into this Agreement and the documents and instruments contemplated hereby and to assume and perform its obligations hereunder and thereunder. The execution and delivery of this Agreement and the documents and instruments contemplated hereby and the performance by Purchaser of its obligations hereunder and thereunder have been duly and validly authorized by all necessary action and no further action or approval is required in order to constitute this Agreement and the documents and instruments contemplated hereby as valid and binding obligations of Purchaser, enforceable in accordance with their terms, except as the enforceability of such agreements, documents and instruments, may be limited by or subject to, any bankruptcy, insolvency, reorganization, moratorium or other similar laws now or hereafter in effect relating to creditors' rights generally and that the remedies of specific performance, injunction, and other forms of equitable relief are subject to certain principles of equity jurisdiction, equitable defenses and the discretion of the court before which any proceeding therefor may be brought.

9.3 **No Conflicts.** The execution and delivery by Purchaser of this Agreement and the documents and instruments contemplated hereby, the consummation by Purchaser of the transactions contemplated hereby and the performance by Purchaser of its obligations hereunder and thereunder:

9.3.1 do not and will not conflict with or violate any provision of the Certificate of Formation or the Operating Agreement of Purchaser;

9.3.2 do not and will not conflict with or violate any agreements, contracts or instruments to which Purchaser is a party except as would not, individually or in the aggregate, have, or could reasonably be expected to have, a Material Adverse Effect or affect the ability of Purchaser to consummate the transactions contemplated hereby or perform its obligations hereunder; and

9.3.3 subject to the receipt of any governmental approvals required in connection with the transfer of the Assets to Purchaser, do not and will not conflict with or result

in a violation of or default under (with or without notice of the lapse of time or both) any statute, regulation, rule, judgment, order, decree, stipulation, injunction, charge or other restriction of any court, administrative agency or commission or other governmental authority or instrumentality except as would not, individually or in the aggregate, have, or could reasonably be expected to have, a Material Adverse Effect or affect the ability of Purchaser to consummate the transactions contemplated hereby or perform its obligations hereunder.

9.4 **Government Approval.** Except as contemplated in Section 7 hereof, no action, approval, consent or authorization or other action, including, but not limited to, any action, approval, consent or authorization or other action by or filing with any governmental or quasi-governmental agency, commission, board, bureau or instrumentality, is necessary or required as to Purchaser for the due execution, delivery or performance by Purchaser of this Agreement or any document or instrument contemplated hereby except where the failure to obtain such approval, consent, authorization or filing, would not, individually or in the aggregate, have, or could reasonably be expected to have, a Material Adverse Effect or affect the ability of Purchaser to consummate the transactions contemplated hereby or perform its obligations hereunder.

9.5 **Validity.** This Agreement constitutes and the other documents and instruments contemplated hereby will, on the due execution and delivery thereof, constitute the legal, valid and binding obligations of Purchaser, enforceable in accordance with their respective terms, except as the enforceability of such agreements, documents and instruments, may be limited by or subject to, any bankruptcy, insolvency, reorganization, moratorium or other similar laws now or hereafter in effect relating to creditors' rights generally and that the remedies of specific performance, injunction, and other forms of equitable relief are subject to certain principles of equity jurisdiction, equitable defenses and the discretion of the court before which any proceeding therefor may be brought.

9.6 **Solvency.** As of the Closing Date and after giving effect to the transactions contemplated by this Agreement, Purchaser will be solvent and able to pay its debts as they come due.

9.7 **Litigation.** No action, suit, claim, investigation, proceeding or controversy, whether legal or administrative or in mediation or arbitration, is pending or, to Purchaser's knowledge, threatened, at law or in equity or admiralty, before or by any court or Federal, state, municipal or other governmental department, commission, board, bureau, agency or instrumentality which, if adversely determined, would affect Purchaser's ability to carry out this Agreement or the transactions contemplated hereby.

10. **Additional Covenants and Warranties of Seller.**

Seller further covenants and warrants as follows:

10.1 **Books and Records.** Between the date hereof and the Closing Date, Seller shall give Purchaser and its authorized representatives reasonable access, during regular business hours, to any and all of its premises, properties, contracts, books and records relating to the business and operation of the Station and will cause its employees to furnish to Purchaser and

its authorized representatives any and all data and information pertaining to the business and operation of the Station as Purchaser or its authorized representatives shall from time to time reasonably request.

10.2 **Interim Operations.** From the date hereof until the earlier of the Closing Date or the termination of this Agreement pursuant to Section 16, except as otherwise consented to or approved in writing by Purchaser or as required by this Agreement, Seller shall not:

10.2.1 sell, assign, lease, transfer or otherwise dispose of any of the Assets except in the ordinary course of business;

10.2.2 mortgage, pledge or grant any Lien on any of the Assets;

10.2.3 effect any change in the accounting practices, procedures or methods of the Station; or

10.2.4 enter into any transaction other than in the ordinary course of business and consistent with past practices of the Station.

10.3 **Discharge of Liens.** On or prior to the Closing, Seller will cause all Liens with respect to the Assets (other than Permitted Encumbrances) to be terminated, released and/or discharged.

10.4 **Maintenance of Insurance.** From the date hereof through and including the Closing Date, Seller will maintain in full force and effect all insurance policies listed on Schedule 8.12.

10.5 **Compliance.** Seller shall use its reasonable best efforts to take or cause to be taken all action and shall use its reasonable best efforts to do, or cause to be done, all things necessary, proper or advisable to consummate the transactions contemplated by this Agreement, including, without limitation, to obtain all consents, approvals and authorizations of third parties and to make all filings with and give all notices to third parties which may be necessary or required in order to effectuate the transactions contemplated hereby.

10.6 **Payment of Taxes.** Seller shall be responsible for all Federal, state, county, local, income, property, sales, use, intangibles and other taxes attributable to the operation or ownership of the Station or the Assets for all periods prior to the Closing Date. Purchaser shall be responsible for all such taxes for subsequent periods. Any taxes paid by either party pertaining to the operation of the Station which relate to periods both before and after the Closing shall be prorated in accordance with Section 5.2 hereof. Seller shall file all Federal, state, county and local income and other tax returns and reports required to be filed by it pertaining to the operation of the Station for the period up to and including the Closing Date and shall pay all taxes, interest and penalties shown on such returns or reports.

10.7 **Financial Statements.** Seller shall provide Purchaser with the following financial information with respect to the Station:

10.7.1 as soon as practicable (but in no event later than 30 calendar days after the end of each month), an unaudited statement of income and expense for each month after the date hereof and before the Closing Date; and

10.7.2 such other financial information with respect to the Station as Purchaser may from time to time reasonably request.

10.8 **FCC Consent**. Seller shall diligently prosecute the FCC Application and use all reasonable efforts to obtain the FCC Consent as promptly and expeditiously as possible. Seller shall not intentionally take or omit to take any action that will cause the FCC to deny, delay or fail to approve the FCC Application or cause the FCC Consent not to be granted.

10.9 **COBRA Obligations**. Seller shall be solely responsible for providing continuation health care coverage in accordance with the provisions of Section 4980B of the Code and Sections 601 through 608 of ERISA, if such coverage is applicable, with respect to any current or former employee of Seller who is not a Transferred Employee (as herein defined), and for any qualified beneficiary (as defined in Section 4980B(g)(1) of the Code) of any such employee who is not a Transferred Employee.

10.10 **Further Assurances**. Seller shall, at any time, and from time to time, after the Closing Date, use its reasonable best efforts to: (i) take, or cause to be taken, all appropriate action, and to do, all things necessary, proper or advisable to consummate the transactions contemplated by this Agreement, including, without limitation, executing and delivering any additional instruments, certificates or other documents; and (ii) have the present and future officers, directors and employees of Seller cooperate with Purchaser in furnishing information, evidence, testimony and other assistance in connection with any tax return filing obligations, actions, proceedings, arrangements or disputes of any nature with respect to matters relating to the Station for all periods prior to the Closing Date.

10.11 **Compliance with Laws**. Seller will comply in all material respects with all rules and regulations of the FCC pertaining to the operation of the Station, and with all other applicable laws, rules, ordinances and regulations pertaining to the operation of the Station. Upon receipt of notice of violation of any of such laws, rules, ordinances and regulations, Seller shall use its reasonable best efforts to contest in good faith or to cure such violation prior to the Closing Date. Seller will file with the FCC, when due, all ownership reports, renewal applications, financial reports and other documents required to be filed between the date hereof and the Closing Date, and all such reports, applications and documents will be true and correct to Seller's knowledge and will comply in all material respects with the Communications Act and the rules and regulations of the FCC. From the date hereof through and including the Closing Date, Seller will take all reasonable actions to preclude the suspension, revocation or adverse modification of the Station Licenses and any other material governmental licenses, permits and other authorizations listed on Schedule 8.4. Seller will not take any action, by commission or omission, which would cause the FCC or any other governmental authority to institute proceedings for the suspension, revocation or adverse modification of any of said licenses, permits and authorizations, or fail to prosecute with due diligence any pending application to any governmental authority, or take any action within its control which would result in the Station

being in non-compliance with the requirements of the Communications Act or the rules and regulations of the FCC material to the transactions contemplated by this Agreement.

11. **Additional Covenants of Purchaser.**

Purchaser further covenants as follows:

11.1 **Compliance.** Purchaser shall use its reasonable best efforts to take or cause to be taken all action and do or cause to be done all things necessary, proper or advisable to consummate the transactions contemplated by this Agreement, including, without limitation, to obtain all consents, approvals and authorizations of third parties and to make all filings with and give all notices to third parties which may be necessary or required in order to effectuate the transactions contemplated hereby. Without limitation to the foregoing, Purchaser will cooperate in obtaining the approval of CBS Television Network to the assignment to Purchaser of the Assets and will expressly assume in writing Seller's obligations under the CBS Affiliation Agreements in accordance with Section 3.1.1 hereof and as contemplated in Section 8.8.2.

11.2 **Control of the Station.** Prior to the Closing, Purchaser shall not, directly or indirectly, control, supervise, direct, or attempt to control, supervise or direct, the operations of the Station, such operations, including complete control and supervision of all the Station's programs, employees and policies, shall be the sole responsibility of Seller until the consummation of the Closing hereunder.

11.3 **FCC Consent.** Purchaser shall diligently prosecute the FCC Application and use all reasonable efforts to obtain the FCC Consent as promptly and expeditiously as possible. Purchaser shall not intentionally take or omit to take any action that will cause the FCC to deny, delay or fail to approve the FCC Application or cause the FCC Consent not to be granted.

11.4 **FCC Compliance.** Between the date hereof and the Closing Date, Purchaser agrees that it will not take or fail to take any action within its control which would result in material noncompliance by Purchaser with the requirements of the Communications Act and the rules and regulations of the FCC material to the transactions contemplated by this Agreement. Purchaser will take no action that Purchaser knows, or has reason to know, would disqualify WVMH from being the assignee of the Station Licenses.

11.5 **Books and Records.** If the acquisition contemplated herein is consummated, Purchaser covenants and agrees that it shall preserve and keep the records of Seller delivered to it hereunder for a period of six years after the Closing Date and shall make such records available to Seller and its authorized representatives as reasonably required by Seller in connection with any legal proceedings against or governmental investigation of Seller or in connection with any tax examination of Seller.

11.6 **Further Assurances.** Purchaser shall, at any time, and from time to time, after the Closing Date, use its reasonable best efforts to: (i) take, or cause to be taken, all appropriate action, and to do, all things necessary, proper or advisable to consummate the transactions contemplated by this Agreement, including, without limitation, executing and delivering any additional instruments, certificates or other documents; and (ii) have the present

and future officers, directors, employees of Purchaser, including the Transferred Employees, cooperate with Seller in furnishing information, evidence, testimony and other assistance in connection with any tax return filing obligations, actions, proceedings, arrangements or disputes of any nature with respect to matters relating to the Station for all periods prior to the Closing Date.

12. **Employees and Employee Benefit Matters.**

12.1 Purchaser shall have the option of offering employment as of the Closing Date to any employee (whether active or inactive) set forth in Schedule 8.16 hereto who remains employed by Seller immediately prior to the Closing, and each additional employee (whether active or inactive) who is hired to work at the Station following the date hereof and prior to the Closing who remains employed by Seller immediately prior to the Closing. As of the Closing Date, Purchaser shall offer employment to any such employee (referred to hereafter as “Transferred Employees”) at a salary and on other terms and conditions that Purchaser deems appropriate for its business operations; provided, however, that nothing herein shall confer or be construed to confer on any such employee any right to continue in the employment of Purchaser or interfere in any way with the right of Purchaser to terminate the employment of such employees at any time, with or without cause. Purchaser shall provide each Transferred Employee credit for years of service prior to the Closing with Seller or any prior owner of the Station for (a) the purpose of eligibility and vesting under Purchaser’s health, vacation and other employee benefit plans and (b) any and all pre-existing condition limitations and eligibility waiting periods under group health plans of Purchaser, and shall cause to be credited to any deductible or out-of-pocket expenses under any health plans of Purchaser any deductibles or out-of-pocket expenses incurred by Transferred Employees and their beneficiaries and dependents during the portion of the calendar year prior to their participation in the health plans of Purchaser. Seller shall be responsible for any salaries, benefits or other preexisting plans to which its employees, who are not offered employment by Purchaser, were or are entitled prior to the Closing Date, and thereafter.

12.2 Purchaser shall be solely responsible for providing continuation of health care coverage in accordance with the provisions of Section 4980B of the Code and Sections 601 through 608 of ERISA with respect to any Transferred Employee who qualifies for such coverage after the Closing Date, and any qualified beneficiary of such Transferred Employee (as defined in Section 4980B(g)(1) of the Code).

13. **Environmental Audit.**

13.1 Within 30 calendar days from the date hereof, Purchaser shall have the right, at its sole cost and expense, to engage a recognized environmental engineering or consulting firm (the “Consultant”), which Consultant shall be reasonably acceptable to Seller, to conduct a Phase I Environmental Assessment, as such term is commonly understood (a “Phase I Environmental Assessment”), with respect to the Real Property.

13.2 If the assessment conducted in connection with Section 13.1 above details a Recognized Environmental Condition (as such term is defined in the American Society of Testing and Materials Standard for Phase I Environmental Assessments) (a “Recognized

Environmental Condition”) in connection with the Real Property, and the Consultant reasonably recommends further investigatory action with respect to such Recognized Environmental Condition, Purchaser shall have the right, until the Closing to conduct the investigation so recommended (the “Phase II Inspection”). Any damage caused by Purchaser or its agents in the course of the Phase I Environmental Assessment or any Phase II Inspection shall be promptly repaired by Purchaser, at its sole cost and expense ; if Purchaser has not promptly repaired such damage or made arrangements for such repair satisfactory to Seller, Seller can proceed to have such repairs made, with the cost and expense thereof to be paid by Purchaser (without limitation to the foregoing, Seller may withhold the estimated, or actual if the work has been completed, cost and expense of such repairs from any repayment of the Deposit to which the Purchaser may otherwise be entitled hereunder).

13.3 If applicable, the Consultant shall estimate the cost and expense of clean up, removal, remedial, corrective or responsive action necessary to address such Recognized Environmental Condition the (the “Environmental Work”), which estimate shall set forth in reasonable detail the basis for those estimates; provided, however, the Environmental Work shall be designed to meet the least stringent standards or requirements so as not to be a violation under applicable Environmental Law (taking into account the zoning of the applicable Real Property and the current uses of resources thereon).

13.4 The parties understand and agree, subject to the provisions of Sections 16.5 and 16.6, that the procedures outlined in this Section 13 shall in no event delay the Closing beyond the date on which the Closing would occur but for such procedures.

14. **Conditions of Closing.**

14.1 **Obligation of Purchaser to Close.** The obligation of Purchaser to close hereunder shall be subject to the fulfillment and satisfaction, prior to or at the Closing, of the following conditions or the written waiver thereof by Purchaser:

14.1.1 **Representations.** The representations and warranties of Seller in this Agreement shall be true and correct in all material respects when made and shall be true and correct in all material respects on and as of the Closing Date, except for changes permitted or contemplated by this Agreement, and Purchaser shall have received, and Seller covenants to provide to Purchaser, a certificate to that effect dated the Closing Date and executed by an appropriate officer of Seller.

14.1.2 **Covenants.** Each of the agreements and covenants of Seller to be performed under this Agreement at or prior to the Closing Date shall have been duly performed in all material respects, and Purchaser shall have received, and Seller covenants to provide to Purchaser, a certificate to that effect dated the Closing Date and executed by an appropriate officer of Seller.

14.1.3 **No Injunction.** No injunction or restraining order shall be in effect to forbid or enjoin the consummation of the transactions contemplated by this Agreement and no Federal, state or local statute, rule or regulation shall have been enacted which prohibits, restricts or delays the consummation of such transactions.

14.1.4 **Station Licenses**. Seller shall be the holder of the Station Licenses and all other material governmental licenses, permits and other authorizations listed on Schedule 8.4, and there shall not have been any modification of any of such licenses, permits and other authorizations which could reasonably be expected to have a Material Adverse Effect.

14.1.5 **FCC Consent**. The FCC Consent shall have been granted, and shall have become a Final Order.

14.1.6 **Other Consents**. Consents for the assignments to WVMH and TA4, as applicable, of all contracts, licenses and permits, which are reasonably deemed material by Purchaser, shall have been obtained.

14.1.7 **Instruments of Transfer**. Purchaser shall have received the deeds, bills of sale, endorsements, assignments, drafts, checks and other documents of transfer, conveyance and assignment contemplated by Section 2.3 valid to transfer all of Seller's right, title and interest in and to the Assets to Purchaser and to vest in Purchaser good, marketable and insurable title to the Assets, subject only to Permitted Encumbrances .

14.1.8 **Books of Account**. Purchaser shall have received Seller's books of account, records, leases, indentures, contracts, agreements, correspondence and other documents pertaining to the Assets and the Station (other than the Excluded Records). Unless otherwise requested by Purchaser, delivery of the foregoing shall not be effected by physical delivery at the Closing but by surrendering access to the premises containing the foregoing to Purchaser.

14.1.9 **Resolutions**. Purchaser shall have received, and Seller covenants to provide to Purchaser, a certified copy of resolutions duly adopted by the shareholders and the board of directors of Seller authorizing and approving the transfer of the Assets and performance by Seller of its obligations hereunder and the other documents and instruments to be executed and delivered in connection herewith.

14.2 **Obligation of Seller to Close**. The obligation of Seller to close hereunder shall be subject to the fulfillment and satisfaction, prior to or at the Closing, of the following conditions or the written waiver thereof by Seller:

14.2.1 **Representations**. The representations and warranties of Purchaser in this Agreement shall be true and correct in all material respects when made and shall be true and correct in all material respects on and as of the Closing Date except for changes permitted or contemplated by this Agreement, and Seller shall have received, and Purchaser covenants to provide to Seller, a certificate to that effect dated the Closing Date and executed by an appropriate officer of Purchaser.

14.2.2 **Covenants**. Each of the agreements and covenants of Purchaser to be performed under this Agreement at or prior to the Closing Date shall have been duly performed in all material respects, and Seller shall have received, and Purchaser covenants to provide to Seller, a certificate to that effect dated the Closing Date and executed by an appropriate officer of Purchaser.

14.2.3 **No Injunction.** No injunction or restraining order shall be in effect to forbid or enjoin the consummation of the transactions contemplated by this Agreement and no Federal, state, or local statute, rule or regulation shall have been enacted which prohibits, restricts or delays the consummation of such transactions.

14.2.4 **FCC Consent.** The FCC Consent shall have been granted.

14.2.5 **Receipt of Purchase Price Payable at Closing.** Seller shall have received the Purchase Price due Seller.

14.2.6 **Assumption Agreements.** Purchaser shall have executed and delivered the instruments of assumption contemplated by Section 3.2 hereof.

15. **Remedies for Breach.**

15.1 **Purchaser Declines to Close.** If Purchaser shall be entitled to decline to close, and shall decline to close the transactions contemplated by this Agreement, in accordance with the provisions of Section 16 hereof, Purchaser shall have no liability to Seller under or in any way by reason hereof, and Purchaser shall be entitled to payment of, and Seller shall promptly refund to Purchaser, the Deposit (subject to the provisions of Section 13.2 hereof).

15.2 **Purchaser Elects to Close.** If Purchaser shall be entitled to decline to close the transactions contemplated by this Agreement in accordance with the provisions of Section 16 hereof, but Purchaser shall elect nevertheless to close, Purchaser shall be deemed to have waived any claims of any nature arising from the failure of Seller to comply with any of the terms and conditions of this Agreement of which Purchaser had knowledge at the time of the Closing. If Purchaser elects to close the transactions contemplated by this Agreement and Seller wrongfully refuses to do so, or if Seller fails, or if a failure by Seller is threatened, to comply in any material respect with any of its covenants and agreements contained in this Agreement, then, in addition to all other remedies which may be available to it, Purchaser shall be entitled to injunctive and other equitable relief, including, without limitation, specific performance, and shall be entitled to recover from Seller its losses, costs and expenses, including reasonable attorneys' fees incurred by Purchaser in securing such injunctive or equitable relief and, if the closing does not occur as a result of the acts or omissions by Seller, Seller shall promptly pay and refund to Purchaser the Deposit.

15.3 **Purchaser Fails to Close.** If this Agreement fails to close or is terminated by reason of or under circumstances arising from a breach by Purchaser of its representations, warranties, or covenants hereunder in any material respect, or if Purchaser refuses or fails to close after the conditions to its Closing have been satisfied, in either case without Seller being in breach in any material respect of any of its representations, warranties or covenants hereunder then, in that event, Seller shall be entitled to retain the Deposit as liquidated damages, it being understood that this sum shall constitute full payment for any and all damages suffered by Seller by reason of Purchaser's breach and failure to close this Agreement. The parties acknowledge that the damages actually suffered by Seller would be difficult to determine, but that the amount of the Deposit is a reasonable estimate of the damages anticipated to be suffered by Seller in such event. If Seller is otherwise permitted to decline to close the transactions contemplated by

this Agreement and does decline to close, then Seller shall pay and refund the Deposit to Purchaser (subject to the provisions of Section 13.2).

15.4 **Seller Elects to Close.** If Seller shall be entitled to decline to close the transactions contemplated by this Agreement in accordance with the provisions of Section 16 hereof, but Seller shall elect nevertheless to close, Seller shall be deemed to have waived any claims of any nature arising from the failure of Purchaser to comply with any of the terms and conditions of this Agreement of which Seller had knowledge at the time of the Closing.

15.5 **Remedies Cumulative.** Except as set forth above in Section 15.3 with respect to Seller's liquidated damages, the specific remedies to which any party may resort under the terms of this Agreement are cumulative and are not intended to be exclusive of any other remedies or means of redress to which such party may lawfully be entitled in case of any breach, threatened breach or failure of observance or performance of any representation, warranty, covenant, agreement or commitment made hereunder or relating hereto or by reason of any such representation, warranty, covenant, agreement or commitment being untrue or incorrect, provided however, that under no circumstances shall Seller's liability to Purchaser for Seller's failure to close for any reason exceed \$230,000, exclusive of the Deposit.

16. **Termination Rights.**

This Agreement may be terminated upon written notice from one party to the other upon the occurrence of any of the following:

16.1 by either Seller or Purchaser at any time prior to the Closing with the mutual written consent of the other party hereto;

16.2 by Seller, if Purchaser has materially breached this Agreement and Seller is not in material breach of this Agreement, except that, if such breach is curable by Purchaser through the exercise of its commercially reasonable efforts, then, for a period of up to 30 days, but only as long as Purchaser continues to use its commercially reasonable efforts to cure such breach (the "Purchaser Cure Period"), such termination shall not be effective, and such termination shall become effective only if the breach is not cured within the Purchaser Cure Period; provided, however, Purchaser's failure to pay (i) the Deposit at the time of the execution of this Agreement or (ii) the balance of Purchase Price in full to Seller at the Closing shall not be subject to the Purchaser Cure Period and shall be an incurable breach of this Agreement;

16.3 by Purchaser, if Seller has materially breached this Agreement and Purchaser is not in material breach of this Agreement, except that, if such breach is curable by Seller through the exercise of its commercially reasonable efforts, then, for a period of up to 30 days, but only as long as Seller continues to use its commercially reasonable efforts to cure such breach (the "Seller Cure Period"), such termination shall not be effective, and such termination shall become effective only if the breach is not cured within the Seller Cure Period;

16.4 by either Purchaser or Seller, if not then in material default, if the purchase of the Assets by Purchaser pursuant to this Agreement shall not have been effected on or prior to April 1, 2003; or

16.5 by Purchaser on or before Closing if the reasonable estimate of costs and expenses of the Environmental Work as determined by the Consultant, pursuant to Section 13, exceed One Hundred Thousand Dollars (\$100,000.00), unless Seller agrees either to reduce the Purchase Price by the amount equal to such estimated costs and expenses or to assume responsibility for implementing the Environmental Work at Seller's sole cost and expense.

16.6 by Seller on or before the Closing if the reasonable estimate of costs and expenses of the Environmental Work as determined by the consultant, pursuant to Section 13, exceed One Hundred Thousand Dollars (\$100,000), unless Purchaser expressly agrees in writing to be responsible for implementing the Environmental Work at Purchaser's sole cost and expense.

17. **Effect of Termination.**

If this Agreement is terminated pursuant to Section 16 hereof, this Agreement shall become null and void and neither party hereto shall have any further liability hereunder except that (i) the provisions of Sections 13.2, 15, 16, 17, 18, 19, 20.1 and 20.8 hereof shall remain in full force and effect; and (ii) each party hereto shall remain liable to the other party hereto for any willful breach of its obligations under this Agreement prior to such termination.

18. **Indemnification.**

18.1 **Indemnification of Seller.** Subject to Seller's liquidated damages provision set forth above in Section 15.3, Purchaser shall defend and promptly indemnify Seller and save and hold Seller harmless from, against, for and in respect of and shall pay any and all damages, losses, obligations, liabilities, claims, encumbrances, deficiencies, costs and expenses, including, without limitation, reasonable attorneys' fees and other costs and expenses incident to any action, investigation, claim or proceeding (all hereinafter collectively referred to as "Losses") suffered, sustained, incurred or required to be paid by Seller by reason of: (i) the Assumed Liabilities; (ii) any representation or warranty of Purchaser herein being untrue or incorrect in any material respect; (iii) the ownership of the Assets or the operation of the Station on and after the Closing Date; or (iv) any breach or failure of observance or performance of any covenant, agreement or commitment made by Purchaser hereunder or under any document or instrument relating hereto or executed pursuant hereto.

18.2 **Indemnification of Purchaser.** Seller shall defend and promptly indemnify Purchaser, and save and hold it harmless from, against, for and in respect of and pay any and all Losses suffered, sustained, incurred or required to be paid by Purchaser by reason of: (i) any and all obligations and liabilities of Seller with respect to the Excluded Assets and the Excluded Liabilities; (ii) any representation or warranty of Seller herein being untrue or incorrect in any material respect; (iii) the ownership of the Assets or operation of the Station prior to the Closing Date (other than the Assumed Liabilities); or (iv) any breach or failure of observance or performance of any covenant, agreement or commitment made by Seller hereunder or under any document or instrument relating hereto or executed pursuant hereto; (v) any liability or obligation of Seller for Federal, state, local or other taxes. Seller shall not under any circumstances have any obligation to indemnify Purchaser for any losses arising out of

environmental matters, except for any breach of warranty or representation expressly given by Seller hereunder.

18.3 **Limitations of Indemnification.** No payment shall be required to be made by either party to the other pursuant to Section 18 in the case of claims under clause (ii) of Sections 18.1 and 18.2, respectively, unless, and only to the extent, that the amount of damages suffered by the party seeking indemnification in connection with such claims, together with all claims asserted therewith or previously asserted under such clause (ii) by such party, exceeds \$10,000 in the aggregate. The right of any party to indemnification under Section 18 shall be subject to such party's duty to mitigate damages. No right to indemnification may be asserted under clause (ii) or clause (iv) of Section 18.1 or 18.2 after two years following the Closing Date, except any such rights to indemnification arising out of or in connection with any claim as to which the notice required by Section 18.4 has been given within two years following the Closing Date. In no event shall the aggregate amount payable by Seller pursuant to Section 18 exceed \$1,280,000 (exclusive of the Deposit and of any claim asserted under clause (v) of Section 18.2). Except as may otherwise be provided herein, the sole recourse of either party for the breach of any representation or warranty shall be pursuant to this Section 18.

18.4 **Procedures for Third-Party Claims.**

18.4.1 Any party (an "Indemnified Party") seeking indemnification pursuant to this Section 18 in connection with any legal proceeding, action or claim, instituted by a third party, including any governmental entity (a "Third-Party Claim"), shall give the other party (the "Indemnifying Party") from whom indemnification with respect to such claim is sought (i) prompt written notice of such Third-Party Claim and (ii) copies of all documents and information relating to any such Third-Party Claim; provided, however, that the failure by the Indemnified Party to so notify or provide copies to the Indemnifying Party shall not relieve the Indemnifying Party from any liability to the Indemnified Party for any liability hereunder except to the extent that such failure shall have prejudiced the defense of such Third-Party Claim.

18.4.2 The Indemnifying Party shall have the right and obligation, at its sole expense, to defend against, negotiate, settle or otherwise deal with any Third-Party Claim with respect to which it is the Indemnifying Party and to be represented by counsel of its own choice, and the Indemnified Party will not admit any liability with respect thereto or settle, compromise, pay or discharge the same without the consent of the Indemnifying Party, which consent shall not be unreasonably withheld, so long as the Indemnifying Party is contesting or defending the same with reasonable diligence and in good faith; provided, however, that the Indemnified Party may participate in any proceeding with counsel of its choice and at its expense; provided further, that the Indemnifying Party may not enter into a settlement of any such Third-Party Claim without the consent of the Indemnified Party, which consent shall be not unreasonably withheld, unless such settlement requires no more than a monetary payment for which the Indemnified Party is fully indemnified by the Indemnifying Party or involves other matters not binding upon the Indemnified Party; and provided further that, in the event the Indemnifying Party fails timely to defend against, negotiate, settle or otherwise deal with such Third-Party Claim as provided above in this Section 18.4.2, then the Indemnified Party shall have the right to defend against, negotiate, settle or otherwise deal with the Third-Party Claim in

such manner as the Indemnified Party deems appropriate, in its sole discretion, and may recover all other amounts paid as a result of such Third-Party Claim or compromise or settlement thereof.

18.5 **Survival of Representations and Warranties.** The representations, warranties, agreements and covenants made by Seller herein (collectively, the “Seller Covenants”), except as they may be fully performed prior to or contemporaneously with the Closing, shall survive the Closing for a period of two years from the Closing Date (unless suit to enforce such Seller Covenants is brought within such two year period, and in that event, such Seller Covenants shall continue to survive) and shall be fully enforceable at law or in equity against Seller and its successors and assigns by Purchaser and its successors and assigns. The representations, warranties, agreements and covenants made by Purchaser herein (collectively, the “Purchaser Covenants”), except as they may be fully performed prior to or contemporaneously with the Closing, shall survive the Closing for a period of two years from the closing date (unless suit to enforce such Purchaser Covenants is brought within such two year period, and in that event, such Purchaser Covenants shall continue to survive) and shall be fully enforceable at law or in equity against Purchaser and its successors and assigns by Seller and its successors and assigns.

19. **Brokers.**

Seller, on the one hand, and Purchaser, on the other, covenant and represent to each other that they had no dealings with any broker or finder in connection with this Agreement or the transactions contemplated hereby and no broker, finder or other Person is entitled to receive any broker’s commission or finder’s fee or similar compensation in connection with any such transaction. Each of the parties agrees to defend, indemnify and hold harmless the other from, against, for and in respect of any and all losses sustained by the other as a result of any liability or obligation to any broker or finder on the basis of any arrangement, agreement or acts made by or on behalf of such party with any Person whatsoever.

20. **Miscellaneous.**

20.1 **Confidentiality.** Purchaser and Seller agree that neither party, except if required by law, will make public any material information regarding the proposed transactions without the written consent of the other party. Further, unless otherwise required by law, any confidential (non-public) materials or documents exchanged by the parties shall be considered confidential and shall only be disclosed to the officers, employees, representatives and agents of the parties.

20.2 **Entire Agreement.** This Agreement constitutes the entire agreement of the parties (and supersedes any prior understanding of the parties) with respect to the subject matter hereof. The representations, warranties, covenants and agreements set forth in this Agreement, and in any financial statements, schedules or exhibits delivered pursuant hereto constitute all the representations, warranties, covenants and agreements of the parties hereto and upon which the parties have relied and except as may be specifically provided herein, no change, modification, amendment, addition or termination of this Agreement or any part thereof shall be valid unless in writing and signed by or on behalf of the party to be charged therewith. The

information disclosed on any schedule to this Agreement shall be deemed to be disclosed on any other applicable schedule.

20.3 **Notices.** Any and all notices or other communications or deliveries required or permitted to be given or made pursuant to any of the provisions of this Agreement shall be deemed to have been duly given or made for all purposes if sent by certified or registered mail, return receipt requested and postage prepaid, hand delivery, overnight delivery service or telephone facsimile:

If to Purchaser, at:

West Virginia Media Holdings, LLC
13 Kanawha Boulevard, West
Charleston, West Virginia 25302
Telephone: (304) 720-6520
Facsimile: (304) 345-7280
Attention: Bray Cary

With a copy to:

Bowles Rice McDavid Graff & Love PLLC
P.O. Box 1386
Charleston, WV 25325-1386
Telephone: (304) 347-1100
Facsimile: (304) 343-3058
Attention: F. T. Graff, Jr., Esq.

Overnight Courier:
600 Quarrier Street
Charleston, WV 25301

If to Seller at:

High Mountain Broadcasting Corporation
c/o John B. Tupper
112 High Ridge Avenue
Ridgefield, Connecticut 06877
Telephone: (203) 431-3366
Facsimile: (203) 431-3864
Attention: John B. Tupper

With a copy to:

SALANS
620 Fifth Avenue
New York, New York 10020
Telephone: (212)632-5511

Facsimile: (212)632-5555
Attention: John D. Viener, Esq.

or at such other address as any party may specify by notice given to the other party in accordance with this Section 20.3. The date of the giving of any notice sent by mail shall be three business days following the date of the posting of the mail, if delivered in person, the date delivered in person, the next business day following delivery to an overnight delivery service, or the date sent by telephone facsimile.

20.4 **Public Announcement.** Except for any disclosures or announcements which Seller or Purchaser shall be required to make pursuant to the Communications Act or the rules and regulations of the FCC, or disclosures or announcements required to be made pursuant to the rules and regulations of the Securities and Exchange Commission or any other Federal or state governmental agency, Purchaser and Seller will jointly prepare and determine the timing of any press release or other announcement to the public (including any announcement to the employees of the Station) concerning the execution of this Agreement and the transactions contemplated herein. Except as provided for in the preceding sentence, no party hereto will issue any press release or make any other public announcement relating to the execution of this Agreement or the transactions contemplated herein, except that any party may make any disclosure required to be made by it under applicable law if it determines in good faith that it is appropriate to do so and gives prior notice and a reasonable time to comment to the other party hereto.

20.5 **No Waiver.** No waiver of the provisions hereof shall be effective unless in writing and signed by the party to be charged with such waiver. No waiver shall be deemed a continuing waiver in respect of any subsequent breach or default, either of similar or different nature, unless expressly so stated in writing.

20.6 **Governing Law.** This Agreement shall be governed, interpreted and construed in accordance with the laws of the State of West Virginia applicable to contracts to be performed entirely within that State. Should any clause, section or part of this Agreement be held or declared to be void or illegal for any reason, all other clauses, sections or parts of this Agreement which can be effected without such illegal clause, section or part shall nevertheless continue in full force and effect.

20.7 **Consent to Jurisdiction.** Each of the parties hereto hereby consents to the exclusive jurisdiction and venue of the Courts of the State of West Virginia, located in the County of Kanawha and the United States District Court for the Southern District of West Virginia with respect to any matter relating to this Agreement and performance of the parties' obligations hereunder, the documents and instruments executed and delivered concurrently herewith or pursuant hereto and performance of the parties' obligations thereunder and each of the parties hereto hereby consents to the personal jurisdiction of such courts and shall subject itself to such personal jurisdiction. Any action, suit or proceeding relating to such matters shall be commenced, pursued, defended and resolved only in such courts and any appropriate appellate court having jurisdiction to hear an appeal from any judgment entered in such courts. Service of process in any action, suit or proceeding relating to such matters may be made and

served within or outside the State of West Virginia, County of Kanawha or the Southern District of West Virginia by registered or certified mail to the parties and their representatives at their respective addresses specified in Section 20.3 hereof, provided that a reasonable time, not less than 30 days, is allowed for response. Service of process may also be made in such other manner as may be permissible under the applicable court rules.

20.8 **Expenses**. Except as otherwise provided herein, Purchaser and Seller shall each bear their own costs and expenses in connection with the transactions contemplated by this Agreement. If attorneys' fees or other costs are incurred to secure performance of any obligations hereunder, or to establish damages for the breach thereof or to obtain any other appropriate relief, whether by way of prosecution or defense, the prevailing party will be entitled to recover reasonable attorneys' fees and costs incurred in connection therewith. Notwithstanding the foregoing, Seller shall pay all of the transfer taxes (including stock transfer, sales, use, real estate transfer, deed recordation and deed taxes) on the transfer of the Assets. Purchaser shall pay all recording costs associated with the transfer of the Assets from Seller to Purchaser pursuant to this Agreement. Seller and Purchaser shall cooperate in the preparation, execution and filing of all tax returns regarding any transfer taxes which become payable as a result of the transfer of the Assets from Seller to Purchaser pursuant to this Agreement.

20.9 **Binding Agreement**. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns; provided, however, that no party may assign any of its rights or delegate any of its duties under this Agreement without the prior written consent of the other party hereto. Notwithstanding the foregoing, upon giving Seller 15 days prior written notice, Purchaser may assign all or part of its rights under this Agreement prior to the Closing to an Affiliate of Purchaser without the prior written consent of Seller; provided, however, that Purchaser shall remain fully liable for all of Purchaser's obligations under this Agreement, including, without limitation, any breach of a representation or warranty because of such assignment to such assignee or breach of any covenant to be performed by such assignee, and provided, further, that such assignment (i) will not delay the Closing in any way or manner, (ii) is not prohibited by the Communications Act or (iii) will not require any additional governmental or third party consents or approvals.

20.10 **Good Faith**. Recognizing the complex nature of the transactions contemplated in this Agreement, the parties hereto agree to cooperate in good faith to effectuate the transactions set forth herein in accordance with the intent of the parties as expressed herein.

20.11 **Headings**. The headings or captions under sections of this Agreement are for convenience and reference only and do not in any way modify, interpret or construe the intent of the parties or effect any of the provisions of this Agreement.

20.12 **Counterparts**. This Agreement may be executed in one or more counterparts each of which when taken together shall constitute one agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be signed on the date and year first above written.

WEST VIRGINIA MEDIA HOLDINGS, LLC

By: _____
Name: Bray Cary
Title: President & Chief Executive Officer

TELEVISION ACQUISITION IV, LLC

By: _____
Name:
Title:

**HIGH MOUNTAIN BROADCASTING
CORPORATION**

By: _____
Name:
Title:

-Schedules Omitted-

For further explanation, see Assignor Exhibit 4 “Explanation,” or Assignee Exhibit 10.