

SIRIUS XM HOLDINGS INC.

FORM 8-K12B

(Notification that a class of securities of successor issuer is demed to be registered pursuant to section 12(b))

Filed 11/15/13 for the Period Ending 11/14/13

Address	1221 AVENUE OF THE AMERICAS 36TH FLOOR NEW YORK, NY 10020
Telephone	212-584-5100
CIK	0000908937
Symbol	SIRI
SIC Code	4832 - Radio Broadcasting Stations
Industry	Broadcasting & Cable TV
Sector	Services
Fiscal Year	12/31

SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

FORM 8-K

CURRENT REPORT
Pursuant to Section 13 or 15(d)
of the Securities Exchange Act of 1934

Date of Report (Date of earliest event reported): November 15, 2013 (November 14, 2013)

SIRIUS XM HOLDINGS INC.

(Exact Name of Registrant as Specified in its Charter)

Delaware
(State or other Jurisdiction
of Incorporation)

001-34295
(Commission
File Number)

38-3916511
(I.R.S. Employer
Identification No.)

1221 Avenue of the Americas, 36th Fl., New York, NY
(Address of Principal Executive Offices)

10020
(Zip Code)

Registrant's telephone number, including area code: (212) 584-5100

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions:

- Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
 - Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
 - Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
 - Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))
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Item 1.01 Entry into a Material Definitive Agreement.

On November 15, 2013, Sirius XM Radio Inc., a Delaware corporation (“Sirius”), reorganized its corporate structure (the “Reorganization”) whereby Sirius became a direct, wholly-owned subsidiary of Sirius XM Holdings Inc., a Delaware corporation (“Holdings”), pursuant to Section 251(g) of the General Corporation Law of the State of Delaware (the “DGCL”) and pursuant to an Agreement and Plan of Merger (the “Merger Agreement”), dated as of November 14, 2013, by and among Sirius, Holdings and Sirius XM Merger Sub Inc., a Delaware corporation (“Merger Sub”). Section 251(g) of the DGCL provides for the formation of a holding company without a vote of the stockholders of the constituent corporations.

To effect the Reorganization, Sirius formed Holdings as a wholly-owned subsidiary, which in turn formed Merger Sub as its wholly-owned subsidiary. Pursuant to the Merger Agreement, Merger Sub merged with and into Sirius (the “Merger”) with Sirius being the surviving entity. As a result, the separate corporate existence of Merger Sub ceased and Sirius became a direct, wholly-owned subsidiary of Holdings.

In accordance with the terms of the Merger Agreement:

(i) each share of common stock, par value \$0.001 per share, of Sirius (“Sirius Common Stock”) issued and outstanding immediately prior to the effective time of the Merger (other than any Sirius Common Stock held in treasury) was cancelled and extinguished and converted automatically into the right to receive one validly issued, fully paid and non-assessable share of common stock, par value \$0.001 per share, of Holdings (“Holdings Common Stock”), each share having the same designations, rights, powers and preferences, and the qualifications, limitations and restrictions thereof as the shares of Sirius Common Stock being so converted;

(ii) each share of Sirius Common Stock owned by Sirius immediately prior to the effective time of the Merger was automatically cancelled and ceased to exist;

(iii) each share of common stock, par value \$0.001 per share, of Merger Sub issued and outstanding immediately prior to the effective time of the Merger was cancelled and converted automatically into one share of Sirius Common Stock; and

(iv) each share of Holdings Common Stock issued and outstanding held by Sirius immediately prior to the effective time of the Merger was automatically cancelled and ceased to exist.

In connection with the Reorganization, Holdings is not assuming any of Sirius’ existing debt obligations, except for Sirius’ 7% Exchangeable Senior Subordinated Notes due 2014 (the “7% Notes”) as described in Item 2.03, which is hereby incorporated into this Item 1.01.

It is intended that the Merger will qualify as a reorganization under Section 368(a) of the Internal Revenue Code of 1986, as amended, and, as a result, the stockholders of Sirius will not recognize gain or loss for United States federal income tax purposes.

The business, management and directors of Holdings, and the rights and limitations of the holders of Holdings Common Stock immediately following the Merger are identical to the business, management and directors of Sirius, and the rights and limitations of holders of Sirius Common Stock immediately prior to the Merger.

In connection with the Reorganization, Holdings assumed and agreed to perform all of Sirius' obligations under the Sirius XM Radio Inc. 2009 Long-Term Stock Incentive Plan, the Amended and Restated Sirius Satellite Radio 2003 Long-Term Stock Incentive Plan, the XM Satellite Radio Holdings Inc. 2007 Stock Incentive Plan, the XM Satellite Radio Holdings Inc. 1998 Shares Award Plan, as amended, and the XM Satellite Radio Holdings Inc. Talent Option Plan (the "Equity Plans"). The agreements and plans of Sirius assumed by Holdings in the Reorganization were each amended as necessary to provide that references to Sirius in such agreements and plans shall be read to refer to Holdings. In addition, Sirius and Holdings entered into an Omnibus Amendment to the Equity Plans and various award agreements in connection with the assumption by Holdings of the Equity Plans and related agreements.

In addition, pursuant to the Merger Agreement, Holdings assumed and agreed to perform all of Sirius' obligations under its existing warrants for the issuance of Sirius Common Stock. Each warrant so assumed by Holdings will be exercisable solely to purchase shares of Holdings Common Stock, and the number of shares issuable upon exercise of such warrants, and the exercise price under such warrants, will be identical to the number of shares and the exercise price in effect immediately prior to the Merger.

In connection with the Reorganization, effective as of November 15, 2013, Holdings became the successor issuer to Sirius, pursuant to Rule 12g-3(a) under the Securities Exchange Act of 1934, as amended (the "Exchange Act"). Pursuant to Rule 12g-3(a) under the Exchange Act, the shares of Holdings Common Stock, as successor issuer, are deemed registered under Section 12(b) of the Exchange Act.

In accordance with Rule 414 under the Securities Act of 1933, as amended, Holdings adopted, as successor registrant, Sirius' Registration Statements on Forms S-8 denoted by File Nos. 333-179600, 333-160386, 333-159206 and 333-152574.

The foregoing description of the Reorganization, the Merger and the related agreements is qualified in its entirety by reference to the full text of the actual Merger Agreement, which is attached hereto as Exhibit 2.1 and is incorporated herein by reference.

Item 2.03 Creation of a Direct Financial Obligation or an Obligation under an Off-Balance Sheet Arrangement of a Registrant.

On November 15, 2013, in connection with the Reorganization Holdings, Sirius, certain of Sirius' subsidiaries and The Bank of New York Mellon, as trustee, entered into a supplemental indenture (the "Supplemental Indenture") to the indenture governing the 7% Notes issued by Sirius (as successor to XM Satellite Radio Inc.), as supplemented by the supplemental indenture, dated April 14, 2010, and the supplemental indenture, dated January 12, 2011 (the "7% Notes Indenture"). Pursuant to the Supplemental Indenture, (i) Holdings became a co-obligor with respect to all of the obligations of Sirius under the 7% Notes Indenture and the 7% Notes, and (ii) each 7% Note will be exchangeable, in accordance with the 7% Notes Indenture, into Holdings Common Stock in lieu of Sirius Common Stock. As of September 30, 2013, approximately \$502,370 aggregate principal amount of the 7% Notes was outstanding.

The terms and conditions of the 7% Notes as described in the Annual Report on Form 10-K for the year ended December 31, 2012 of Sirius filed on February 6, 2013 are herein incorporated by reference.

The foregoing description of the Supplemental Indenture is qualified in its entirety by reference to the full text of the Supplemental Indenture, a copy of which is attached hereto as Exhibit 4.1 and is incorporated herein by reference.

Item 3.03 Material Modification to Rights of Security Holders.

The response to Item 2.03 is hereby incorporated into this Item 3.03.

Item 5.02 Departure of Directors or Certain Officers; Appointment of Certain Officers; Compensatory Arrangements of Certain Officers.

Holdings assumed and agreed to perform all of Sirius' obligations under the Equity Plans, pursuant to which its named executive officers may participate.

Item 5.03 Amendments to Articles of Incorporation of Bylaws; Change in Fiscal Year.

Prior to the Reorganization, on November 14, 2013, Sirius filed a Certificate of Elimination with the Secretary of State of the State of Delaware to eliminate its Series A Convertible Preferred Stock ("Series A Preferred Stock"), Convertible Perpetual Preferred Stock, Series B-1 (the "Series B-1 Preferred Stock"), Convertible Perpetual Non-Voting Preferred Stock, Series B-2 (the "Series B-2 Preferred Stock"), and Series C Junior Preferred Stock (the "Series C Preferred Stock"). The Certificate of Elimination (i) eliminated the previous designation of 25,000,000 shares of Series A Preferred Stock, 12,500,000 shares of Series B-1 Preferred Stock, 11,500,000 shares of Series B-2 Preferred Stock and 9,000 shares of Series C Preferred Stock, none of which were outstanding at the time of filing, (ii) upon such elimination, caused such shares of Series A Preferred Stock, Series B-1 Preferred Stock, Series B-2 Preferred Stock and Series C Preferred Stock to resume their status as undesignated shares of Sirius preferred stock, and (iii) eliminated from Sirius' certificate of incorporation all references to the Series A Preferred Stock, the Series B-1 Preferred Stock, the Series B-2 Preferred Stock and the Series C Preferred Stock.

In connection with the Reorganization, Holdings adopted a certificate of incorporation (the "Certificate") and by-laws (the "By-Laws") effective as of November 15, 2013, that are identical to the pre-Merger certificate of incorporation and by-laws of Sirius, taking into account the Certificate of Elimination as described above, except for certain technical amendments that are permissible under Section 251(g) of the DGCL. Holdings has the same authorized capital stock and the designations, rights, powers and preferences of such capital stock, and the qualifications, limitations and restrictions thereof will be the same as that of Sirius' capital stock immediately prior to the Merger.

The Certificate and the By-Laws of Holdings, and the Certificate of Elimination of Sirius, are attached hereto as Exhibits 3.1, 3.2 and 3.3, respectively, and are herein incorporated by reference.

Item 9.01 Financial Statements and Exhibits.

(d) Exhibits

- 2.1 Agreement and Plan of Merger, dated as of November 14, 2013, by and among Sirius XM Radio Inc., Sirius XM Holdings Inc. and Sirius XM Merger Sub Inc.
- 3.1 Amended and Restated Certificate of Incorporation of Sirius XM Holdings Inc.
- 3.2 Amended and Restated By-Laws of Sirius XM Holdings Inc.
- 3.3 Certificate of Elimination of Series A Convertible Preferred Stock, Convertible Perpetual Preferred Stock, Series B-1, Convertible Perpetual Non-Voting Preferred Stock, Series B-2, and Series C Junior Preferred Stock of Sirius XM Radio Inc.
- 4.1 Supplemental Indenture, dated as of November 15, 2013, among Sirius XM Holdings Inc., Sirius XM Radio Inc., the guarantors named therein and The Bank of New York Mellon, as trustee, relating to the 7% Exchangeable Senior Subordinated Notes due 2014.
- 10.1 Assignment and Assumption Agreement, dated as of November 15, 2013, among Sirius XM Holdings Inc. and Sirius XM Radio Inc.
- 10.2 Omnibus Amendment to the XM Satellite Radio Holdings Inc. Talent Option Plan, the XM Satellite Radio Holdings Inc. 1998 Shares Award Plan, as amended, the Amended and Restated Sirius Satellite Radio 2003 Long-Term Stock Incentive Plan, the XM Satellite Radio Holdings Inc. 2007 Stock Incentive Plan and the Sirius XM Radio Inc. 2009 Long-Term Stock Incentive Plan and their Related Stock Option Agreements, Restricted Stock Agreements and Restricted Stock Unit Agreements, dated November 15, 2013.

SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

SIRIUS XM HOLDINGS INC.

By: /s/ Patrick L. Donnelly
Patrick L. Donnelly
Executive Vice President, General
Counsel and Secretary

Dated: November 15, 2013

AGREEMENT AND PLAN OF MERGER

by and among

SIRIUS XM RADIO INC.,

SIRIUS XM HOLDINGS INC.

and

SIRIUS XM MERGER SUB INC.

Dated as of November 14, 2013

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This **AGREEMENT AND PLAN OF MERGER** (this “Agreement”), dated as of November 14, 2013, is entered into by and among SIRIUS XM RADIO INC., a Delaware corporation (the “Company”), SIRIUS XM HOLDINGS INC., a Delaware corporation and a wholly-owned subsidiary of the Company (“Holdings”), and SIRIUS XM MERGER SUB INC., a Delaware corporation and a wholly-owned subsidiary of Holdings (“Merger Sub”).

WHEREAS, as of the date hereof, the authorized capital stock of the Company consists of 9,000,000,000 shares of common stock, par value \$0.001 per share (the “Company Common Stock”), of which, as of the close of business on November 8, 2013, approximately 6,136,299,171 shares were issued and outstanding;

WHEREAS, Holdings and Merger Sub are newly formed Delaware corporations organized for the purpose of participating in the transactions herein contemplated;

WHEREAS, as of the date hereof, the authorized capital stock of Holdings consists of 1,000 shares of common stock, par value \$0.001 per share (the “Holdings Common Stock”), of which 1,000 shares are issued and outstanding;

WHEREAS, as of the date hereof, the authorized capital stock of Merger Sub consists of 1,000 shares of common stock, par value \$0.001 per share (the “Merger Sub Common Stock”), of which 1,000 shares are issued and outstanding;

WHEREAS, the Company desires to create a new holding company structure by merging Merger Sub with and into the Company (the “Merger”), with the Company being the surviving corporation in the Merger (the “Surviving Corporation”), and in connection therewith, following the Effective Time (as defined below), all of the shares of Company Common Stock will be owned by Holdings and the Company will be a direct, wholly-owned subsidiary of Holdings;

WHEREAS, immediately following the Effective Time, the designations, rights, powers and preferences, and the qualifications, limitations and restrictions of the Holdings Common Stock will be the same as those of the Company Common Stock;

WHEREAS, the certificate of incorporation of Holdings and the by-laws of Holdings immediately following the Effective Time will be identical to the Amended and Restated Certificate of Incorporation of the Company (the “Company Charter”) and the Amended and Restated By-Laws of the Company (the “Company By-Laws”), in each case, in effect immediately prior to the Effective Time (other than with respect to certain modifications permitted by Section 251(g) of the General Corporation Law of the State of Delaware, as amended (the “DGCL”));

WHEREAS, immediately following the Effective Time, the certificate of incorporation of the Surviving Corporation will be identical to the Company Charter immediately prior to the Effective Time (other than with respect to certain modifications required by Section 251(g) of the DGCL);

WHEREAS, the directors and officers of the Company immediately prior to the Effective Time will be the directors and officers, respectively, of Holdings immediately following the Effective Time;

WHEREAS, for U.S. federal income tax purposes, it is intended that (i) the Merger qualify as a “reorganization” within the meaning of Section 368(a) of the Internal Revenue Code of 1986, as amended (the “Code”), and the rules and regulations promulgated thereunder and (ii) this Agreement shall constitute a “plan of reorganization” within the meaning of Sections 354 and 361 of the Code;

WHEREAS, for U.S. federal income tax purposes, it is intended that the Merger qualify as a transfer subject to Section 351 of the Code; and

WHEREAS, the Board of Directors of each of the Company, Holdings and Merger Sub have (i) determined that it is in the best interests of their respective companies and respective stockholders, and declared it advisable, to enter into this Agreement and (ii) approved the execution, delivery and performance of this Agreement and the consummation of the Merger in accordance with Section 251(g) of the DGCL and upon the terms set forth in this Agreement.

NOW, THEREFORE, in consideration of the representations, warranties, covenants and agreements contained in this Agreement, and subject to the conditions set forth herein, the parties hereto agree as follows:

ARTICLE I

THE MERGER

SECTION 1.01. The Merger. At the Effective Time and subject to the conditions set forth in this Agreement, and in accordance with the provisions of Section 251(g) of the DGCL, Merger Sub shall be merged with and into the Company, the separate corporate existence of Merger Sub shall cease, and the Company shall continue as the Surviving Corporation.

SECTION 1.02. Effective Time. Upon the terms and subject to the conditions set forth in this Agreement, the parties hereto shall cause the Merger to be consummated by filing a certificate of merger (the “Certificate of Merger”) in the form attached hereto as Exhibit A with the Secretary of State of the State of Delaware in accordance with the relevant provisions of the DGCL (the time of such filing, or such later time as may be agreed in writing by the parties prior to the Effective Time and specified in the Certificate of Merger, being referred to as the “Effective Time”).

SECTION 1.03. Effects of the Merger. The Merger shall have the effects set forth herein and in the applicable provisions of the DGCL (including, without limitation, Section 251(g) thereof). Without limiting the generality of the foregoing, at the Effective Time all the assets and property of every kind and every interest in the assets and property, wherever located, and the rights, privileges, immunities, powers, franchises and authority of Merger Sub and the Company shall vest in the Surviving Corporation, and all obligations and liabilities of Merger Sub and the Company shall become the obligations and liabilities of the Surviving Corporation.

SECTION 1.04. Articles of Incorporation and By-Laws.

(a) At the Effective Time, by virtue of the Merger and without any action on the part of Merger Sub or the Company, the Company Charter, as in effect immediately prior to the Effective Time, shall be the certificate of incorporation of the Surviving Corporation until thereafter changed or amended as provided therein and in accordance with the DGCL; provided, that from and after the Effective Time a new Article TWELVE shall be added thereto, reading as follows:

“TWELVE: Other than the election or removal of directors of the Corporation, any act or transaction by or involving the Corporation that requires for its adoption under the General Corporation Law of the State of Delaware or this Amended and Restated Certificate of Incorporation the approval of the stockholders of the Corporation shall, pursuant to Section 251(g)(7)(i) of the General Corporation Law of the State of Delaware, require, in addition, the approval of the stockholders of Sirius XM Holdings, Inc. (or any successor by merger), by the same vote as is required by the General Corporation Law of the State of Delaware and/or this Amended and Restated Certificate of Incorporation.”

(b) As of the Effective Time, by virtue of the Merger and without any action on the part of Merger Sub or the Company, the Company By-Laws, as in effect immediately prior to the Effective Time, shall be the by-laws of the Surviving Corporation until thereafter changed or amended as provided therein and in accordance with the DGCL and the certificate of incorporation of the Surviving Corporation.

(c) In accordance with Section 251(g) of the DGCL, Holdings agrees to file (and the Company as the sole stockholder of Holdings hereby approves the filing of) an Amended and Restated Certificate of Incorporation of Holdings with the Secretary of State of the State of Delaware immediately prior to the Effective Time identical to the Company Charter in effect immediately prior to the Effective Time, except that references to the name of the Company shall be replaced with references to the name of Holdings and with any such other modifications as may permitted by Section 251(g) of the DGCL. Holdings further agrees to adopt by-laws immediately prior to the Effective Time identical to the Company By-Laws in effect immediately prior to the Effective Time except that references to the name of the Company shall be replaced with references to the name of Holdings.

SECTION 1.05. Directors and Officers.

(a) Surviving Corporation. The parties hereto shall take all actions necessary so that from and after the Effective Time, (i) the officers of the Company immediately prior to the Effective Time shall be the officers of the Surviving Corporation and (ii) the directors of the Surviving Corporation shall consist solely of Patrick L. Donnelly, David J. Frear and James E. Meyer, in each case to hold office in accordance with the certificate of incorporation and by-laws of the Surviving Corporation until their respective successors are duly elected or appointed and qualified or until their earlier resignation or removal.

(b) Holdings. The parties hereto shall take all actions necessary so that from and after the Effective Time, the directors and officers of the Company immediately prior to the Effective Time shall be the directors and officers of Holdings immediately after the Effective Time, each to hold office in accordance with the certificate of incorporation and by-laws of Holdings until their respective successors are duly elected or appointed and qualified or until their earlier resignation or removal.

SECTION 1.06. Additional Actions. Subject to the terms of this Agreement, the parties hereto shall take all such reasonable and lawful action as may be necessary or appropriate in order to effectuate the Merger and to comply with the requirements of Section 251(g) of the DGCL. If, at any time after the Effective Time, the Surviving Corporation shall consider or be advised that any deeds, bills of sale, assignments, assurances or any other actions or things are necessary or desirable to vest, perfect or confirm, of record or otherwise, in the Surviving Corporation its right, title or interest in, to or under any of the rights, properties or assets of either Merger Sub or the Company acquired or to be acquired by the Surviving Corporation as a result of, or in connection with, the Merger or otherwise to carry out this Agreement, the officers and directors of the Surviving Corporation shall be authorized to secure and deliver, in the name and on behalf of each of Merger Sub and the Company, all such deeds, bills of sale, assignments and assurances and to take and do, in the name and on behalf of each of Merger Sub and the Company or otherwise, all such actions and things as may be necessary or desirable to vest, perfect or confirm any and all right, title and interest in, to and under such rights, properties or assets in the Surviving Corporation or otherwise to carry out this Agreement.

ARTICLE II

EFFECT OF THE MERGER

SECTION 2.01. Effect on Capital Stock. At the Effective Time, by virtue of the Merger and without any action on the part of Merger Sub, the Company, Holdings or any holder of any of the following securities:

(a) Conversion of Company Common Stock. Each share of Company Common Stock issued and outstanding immediately prior to the Effective Time (other than any Common Stock to be cancelled pursuant to Section 2.01(b)) shall be cancelled and extinguished and be converted automatically into the right to receive one validly issued, fully paid and nonassessable share of Holdings Common Stock having the same designations, rights, powers and preferences, and the qualifications, limitations and restrictions thereof as the shares of Company Common Stock being so converted.

(b) Cancellation of Treasury Stock. Each share of Company Common Stock that is owned by the Company immediately prior to the Effective Time shall automatically be canceled and shall cease to exist, and no consideration shall be delivered in exchange therefor.

(c) Capital Stock of Merger Sub. Each share of Merger Sub Common Stock issued and outstanding immediately prior to the Effective Time shall be cancelled and extinguished and converted automatically into one validly issued, fully paid and nonassessable share of common stock, par value \$0.001 per share, of the Surviving Corporation.

(d) Capital Stock of Holdings. Each share of Holdings Common Stock issued and outstanding that is owned by the Company immediately prior to the Effective Time shall automatically be cancelled and shall cease to exist, and no consideration shall be delivered in exchange therefor.

(e) No Appraisal Rights. In accordance with the DGCL, no appraisal rights shall be available to any holders of Company Common Stock in connection with the Merger.

SECTION 2.02. No Surrender of Certificates: Book-Entry Shares. At the Effective Time, the designations, rights, powers and preferences, and qualifications, limitations and restrictions, of the Holdings Common Stock will, in each case, be identical with those of the Company Common Stock immediately prior to the Effective Time. Accordingly, until thereafter surrendered for transfer or exchange in the ordinary course, each outstanding certificate that, immediately prior to the Effective Time, evidenced Company Common Stock shall, from the Effective Time, be deemed and treated for all corporate purposes to evidence the ownership of the same number of shares of Holdings Common Stock. In addition, each outstanding book-entry that, immediately prior to the Effective Time, evidenced Company Common Stock shall, from the Effective Time, be deemed and treated for all corporate purposes to evidence the ownership of the same number of shares of Holdings Common Stock.

SECTION 2.03. Effect on Options and Other Share-Based Awards.

(a) Options. At the Effective Time, each unexercised and unexpired option to purchase Company Common Stock (collectively, the “Options”) then outstanding under the Sirius XM Radio Inc. 2009 Long-Term Stock Incentive Plan, the XM Satellite Radio Holdings Inc. 2007 Stock Incentive Plan, the Amended and Restated Sirius Satellite Radio 2003 Long-Term Stock Incentive Plan, the XM Satellite Radio Holdings Inc. 1998 Shares Award Plan, as amended, the XM Satellite Radio Holdings Inc. Talent Option Plan and any other equity-based incentive plans of the Company in existence as of the Effective Time, which provides for the purchase, grant or issuance of Company Common Stock (collectively, the “Equity Plans”), whether or not then exercisable, shall, by virtue of the Merger and without any action on the part of the holder thereof, be assumed by Holdings. Each Option so assumed by Holdings under this Agreement will continue to have, and be subject to, the same terms and conditions as set forth in the applicable Equity Plan and any agreements in effect thereunder immediately prior to the Effective Time including, without limitation, the vesting schedule (without acceleration thereof by virtue of the Merger and the transactions contemplated hereby) and per share exercise price, except that each Option will be exercisable (or will become exercisable in accordance with its terms) for that number of shares of Holdings Common Stock equal to the number of shares of Company Common Stock which were subject to such Option immediately prior to the Effective Time.

(b) Restricted Stock. At the Effective Time, each share of Company Common Stock granted under an Equity Plan then outstanding that remains subject to vesting or other lapse restrictions (collectively, the “Restricted Stock”) shall, by virtue of the Merger and without any action on the part of the holder thereof, be assumed by Holdings. Each share of Restricted Stock so assumed by Holdings under this Agreement will continue to have, and be subject to, the same terms and conditions as set forth in the applicable Equity Plan and any agreements thereunder in effect immediately prior to the Effective Time (including, without limitation, the vesting or other lapse restrictions (without acceleration thereof by virtue of the Merger and the transactions contemplated hereby)), except that each share of Restricted Stock will be converted into one share of Holdings Common Stock, and each such share of Restricted Stock shall otherwise be treated in the same manner as each other share of Company Common Stock hereunder.

(c) Restricted Stock Units. At the Effective Time, each restricted stock unit granted under an Equity Plan that is then outstanding (collectively, the “RSUs”) shall, by virtue of the Merger and without any action on the part of the holder thereof, be assumed by Holdings. Each RSU so assumed by Holdings under this Agreement will continue to have, and be subject to, the same terms and conditions as set forth in the applicable Equity Plan and any agreements thereunder immediately in effect prior to the Effective Time (including, without limitation, the vesting schedule (without acceleration thereof by virtue of the Merger and the transactions contemplated hereby)), except that each RSU will be converted into an RSU subject to that number of shares of Holdings Common Stock equal to the number of shares of Company Common Stock which were subject to such RSU immediately prior to the Effective Time.

SECTION 2.04. Effect on Warrants. At the Effective Time, each warrant to purchase shares of the Company Common Stock that is then outstanding (each, a “Company Warrant”) shall, by virtue of the Merger and without any action on the part of the holder thereof, be assumed by Holdings (each, an “Assumed Warrant”). Each Assumed Warrant will continue to have, and be subject to, the same terms and conditions as set forth in the applicable Company Warrant immediately in effect prior to the Effective Time, except that subject to the terms of the Company Warrants, from and after the Effective Time, (a) each such Assumed Warrant may be exercised solely to purchase shares of Holdings Common Stock, (b) the number of shares of Holdings Common Stock issuable upon exercise of such Assumed Warrant shall be equal to the number of shares of Company Common Stock that were issuable upon exercise under the corresponding Company Warrant immediately prior to the Effective Time and (c) the per share exercise price under such Assumed Warrant shall be identical to the per share exercise price of the corresponding Company Warrant immediately prior to the Effective Time.

ARTICLE III

ACTIONS TO BE TAKEN IN CONNECTION WITH THE MERGER

SECTION 3.01. Assumption of Equity Plans. Holdings and the Company hereby agree that they will, at or promptly following the Effective Time, execute, acknowledge and deliver an assignment and assumption agreement (the “Assignment and Assumption Agreement”) pursuant to which, from and after the Effective Time, the Company will assign to Holdings, and Holdings will assume and agree to perform, all obligations of the Company pursuant to (i) the Equity Plans and (ii) each stock option agreement, restricted stock agreement, restricted stock unit agreement and/or any other similar agreement entered into pursuant to the Equity Plans, including, without limitation, each outstanding Option, Restricted Stock or RSU award granted thereunder (collectively, the “Award Agreements”). At or promptly following the Effective Time, the Equity Plans and the Award Agreements shall each be amended as necessary to provide that references to the Company in such agreements shall be read to refer to Holdings.

SECTION 3.02. Reservation of Shares. On or prior to the Effective Time, Holdings shall take all action reasonably necessary or appropriate to have available for issuance or transfer a sufficient number of shares of Holdings Common Stock for delivery upon exercise of the Options or settlement of the RSUs, in each case, under the Equity Plans, as applicable, or upon issuance under any other award agreements.

SECTION 3.03. Amendments to Registration Statements. As of the Effective Time, Holdings shall be deemed a “successor issuer” for purposes of continuing certain offerings of the Company under the Securities Act of 1933, as amended (the “Securities Act”). As soon as practicable following the Merger, Holdings will, to the extent deemed appropriate, file post-effective amendments to the Company’s registration statements on Forms S-8 covering the Equity Plans, adopting such registration statements as its own registration statements for all purposes of the Securities Act and the Securities Exchange Act of 1934, as amended (the “Exchange Act”), and setting forth any additional information necessary to reflect any material changes made in connection with or resulting from the succession, or necessary to keep the registration statements from being misleading in any material respect.

SECTION 3.04. Section 16 Matters. The Company and Holdings shall cause any dispositions of shares of Company Common Stock (including derivative securities with respect to shares of Company Common Stock) or acquisitions of shares of Holdings Common Stock (including derivative securities with respect to shares of Holdings Common Stock) resulting from the transactions contemplated by this Agreement by each officer or director of the Company who is subject to the reporting requirements of Section 16(a) of the Exchange Act with respect to the Company to be exempt under Rule 16b-3 promulgated under the Exchange Act.

ARTICLE IV

CONDITIONS PRECEDENT

SECTION 4.01. Conditions to Each Party’s Obligation to Effect the Merger. The respective obligation of each party to effect the Merger is subject to the satisfaction or (to the extent permitted by law) waiver by Holdings and the Company on or prior to the Effective Time of the following conditions:

(a) Tax Opinion. The Board of Directors of the Company shall have received evidence in form and substance reasonably satisfactory to it indicating that holders of Company Common Stock will not recognize gain or loss for United States federal income tax purposes as a result of the Merger.

(b) Consents. All third party and governmental consents and approvals required, or deemed by the Board of Directors of the Company advisable, to be obtained under any note, bond, mortgage, deed of trust, security interest, indenture, law, regulation, lease, license, contract, agreement, exchange membership, exchange allocation plan or instrument or obligation to which the Company or any subsidiary or affiliate of the Company is a party, or by which the Company or any subsidiary or affiliate of the Company, or any property of the Company or any subsidiary or affiliate of the Company may be bound, in connection with the Merger and the transactions contemplated thereby, shall have been obtained by the Company or its subsidiary or affiliate, as the case may be.

(c) Legality. No order, statute, rule, regulation, executive order, injunction, stay, decree, judgment or restraining order that is in effect shall have been enacted, entered, promulgated or enforced by any court or governmental or regulatory authority or instrumentality of competent jurisdiction that prohibits or makes illegal the consummation of the Merger or the transactions contemplated hereby.

ARTICLE V
MISCELLANEOUS

SECTION 5.01. Termination. This Agreement may be terminated at any time prior to the Effective Time by mutual written consent of Holdings and the Company. In the event of termination of this Agreement, this Agreement shall forthwith become void and have no effect, and neither the Company, Holdings, Merger Sub nor their respective stockholders, directors or officers shall have any liability with respect to such termination or abandonment.

SECTION 5.02. Amendment. This Agreement may not be amended except by an instrument in writing signed by each of the parties hereto.

SECTION 5.03. Interpretation. When a reference is made in this Agreement to an Article or a Section, such reference shall be to an Article of or a Section of this Agreement unless otherwise indicated. The table of contents and headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement. Whenever the words “include”, “includes” or “including” are used in this Agreement, they shall be deemed to be followed by the words “without limitation”. The words “hereof”, “herein” and “hereunder” and words of similar import when used in this Agreement shall refer to this Agreement as a whole and not to any particular provision of this Agreement. The word “will” shall be construed to have the same meaning and effect as the word “shall”. The word “or” is not exclusive. The word “extent” in the phrase “to the extent” shall mean the degree to which a subject or other thing extends, and such phrase shall not mean simply “if”. All terms defined in this Agreement shall have the defined meanings when used in any certificate or other document made or delivered pursuant hereto unless otherwise defined therein. The definitions contained in this Agreement are applicable to the singular as well as the plural forms of such terms and to the masculine as well as to the feminine and neutral genders of such term. Any law defined or referred to herein means such law as from time to time amended, modified or supplemented. References to a person are also to its permitted successors and assigns.

SECTION 5.04. Parties in Interest. This Agreement shall be binding upon and inure to the benefit of each party hereto and their respective successors and permitted assigns, and nothing in this Agreement, express or implied, is intended to confer upon any other person any rights or remedies of any nature whatsoever under or by reason of this Agreement.

SECTION 5.05. Counterparts. This Agreement may be executed in one or more counterparts, all of which shall be considered one and the same agreement and shall become effective when one or more counterparts have been signed by each of the parties and delivered to the other parties (including by facsimile or other electronic image scan transmission).

SECTION 5.06. Entire Agreement. This Agreement, together with the Assignment and Assumption Agreement, constitutes the entire agreement, and supersedes all prior agreements and understandings, both written and oral, among the parties with respect to the subject matter hereof and thereof.

SECTION 5.07. GOVERNING LAW. THIS AGREEMENT SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF DELAWARE, WITHOUT REGARD TO ITS CONFLICT OF LAWS PRINCIPLES.

SECTION 5.08. Assignment. Neither this Agreement nor any of the rights, interests or obligations hereunder shall be assigned, in whole or in part, by operation of law or otherwise by any of the parties without the prior written consent of the other parties, and any assignment without such consent shall be null and void. Subject to the preceding sentence, this Agreement will be binding upon, inure to the benefit of, and be enforceable by, the parties and their respective successors and assigns.

SECTION 5.09. Waiver of Jury Trial. Each party hereto hereby waives, to the fullest extent permitted by applicable law, any right it may have to a trial by jury in respect of any suit, action or other proceeding arising out of this Agreement or the transactions contemplated hereby.

SECTION 5.10. Severability. If any term or other provision of this Agreement is invalid, illegal or incapable of being enforced by any rule of law or public policy, all other conditions and provisions of this Agreement shall nevertheless remain in full force and effect.

[*signature page follows*]

IN WITNESS WHEREOF, Holdings, the Company and Merger Sub have caused this Agreement to be signed by their respective officers hereunto duly authorized, all as of the date first written above.

SIRIUS XM RADIO INC.

By: /s/ Patrick L. Donnelly
Patrick L. Donnelly
Executive Vice President, General Counsel and
Secretary

SIRIUS XM HOLDINGS INC.

By: /s/ Patrick L. Donnelly
Patrick L. Donnelly
Secretary

SIRIUS XM MERGER SUB INC.

By: /s/ Patrick L. Donnelly
Patrick L. Donnelly
Secretary

[Signature Page to Reorganization Merger Agreement]

CERTIFICATE OF MERGER

OF

SIRIUS XM MERGER SUB INC.

WITH AND INTO

SIRIUS XM RADIO INC.

Pursuant to Section 251 of the General Corporation Law of the State of Delaware (the “DGCL”), Sirius XM Radio Inc., a Delaware corporation (the “Corporation”), in connection with the merger of Sirius XM Merger Sub Inc., a Delaware corporation (“Merger Sub”), with and into the Corporation (the “Merger”), hereby certifies as follows:

FIRST: The names and states of incorporation of the constituent corporations to the Merger are:

<u>Name</u>	<u>State of Incorporation</u>
Sirius XM Radio Inc.	Delaware
Sirius XM Merger Sub Inc.	Delaware

SECOND: An Agreement and Plan of Merger, dated as of November 14, 2013, by and among Sirius XM Holdings Inc., the Corporation and Merger Sub (the “Merger Agreement”), setting forth the terms and conditions of the Merger, has been approved, adopted, executed and acknowledged by each of the Corporation and Merger Sub in accordance with Section 251(g) of the DGCL.

THIRD: The name of the surviving corporation is Sirius XM Radio Inc. (the “Surviving Corporation”).

FOURTH: The Amended and Restated Certificate of Incorporation of the Corporation as in effect immediately prior to the Merger shall be the certificate of incorporation of the Surviving Corporation with the addition of a new Article TWELVE which shall be added thereto, reading as follows:

“TWELVE: Other than the election or removal of directors of the Corporation, any act or transaction by or involving the Corporation that requires for its adoption under the General Corporation Law of the State of Delaware or this Amended and Restated Certificate of Incorporation the approval of the stockholders of the Corporation shall, pursuant to Section 251(g)(7)(i) of the General Corporation Law of the State of Delaware, require, in addition, the approval of the stockholders of Sirius XM Holdings Inc. (or any successor by merger), by the same vote as is required by the General Corporation Law of the State of Delaware and/or this Amended and Restated Certificate of Incorporation.”

FIFTH: The Merger shall become effective at 12:01 a.m. New York time on November 15, 2013.

SIXTH: The executed Merger Agreement is on file at the office of the Surviving Corporation located at 1221 Avenue of the Americas, New York, NY 10020. A copy of the Merger Agreement will be furnished by the Surviving Corporation, on request and without cost, to any stockholder of either the Corporation or Merger Sub.

[The remainder of this page is intentionally left blank .]

IN WITNESS WHEREOF, this Certificate of Merger has been executed on this 14th day of November, 2013.

SIRIUS XM RADIO INC.

By: /s/ Patrick L. Donnelly
Patrick L. Donnelly
Executive Vice President,
General Counsel and Secretary

AMENDED AND RESTATED
CERTIFICATE OF INCORPORATION
OF
SIRIUS XM HOLDINGS INC.

Sirius XM Holdings Inc., a corporation organized and existing under the laws of the State of Delaware (the “Corporation”), hereby certifies that:

1. The name of the corporation is Sirius XM Holdings Inc. The original Certificate of Incorporation of the Corporation was filed with the Secretary of State of the State of Delaware on May 21, 2013;

2. This Amended and Restated Certificate of Incorporation was duly adopted by the Board of Directors and by the sole stockholder of the Corporation in accordance with the provisions of Sections 242 and 245 of the General Corporation Law of the State of Delaware; and

3. The Certificate of Incorporation of the Corporation is hereby amended and restated, effective as of 12:01 a.m. New York time on November 15, 2013, to read in its entirety as follows:

FIRST: The name of the corporation is Sirius XM Holdings Inc. (the “Corporation”).

SECOND: The registered office and registered agent of the Corporation is The Corporation Trust Company, 1209 Orange Street, Wilmington, New Castle County, Delaware 19801.

THIRD: The purposes of the Corporation are to engage in any lawful act or activity for which corporations may be organized under the General Corporation Law of the State of Delaware.

FOURTH: (1) The total number of shares of all classes of stock which the Corporation shall have authority to issue is 9,050,000,000 shares, consisting of (1) 50,000,000 shares of preferred stock, par value \$0.001 per share (“Preferred Stock”), and (2) 9,000,000,000 shares of common stock, par value \$0.001 per share (“Common Stock”).

(2) The Board of Directors is hereby expressly authorized to provide, out of the unissued shares of Preferred Stock, for series of Preferred Stock and, with respect to each such series, to fix the number of shares constituting such series and the designation of such series, the voting powers (if any) of the shares of such series, and the preferences and relative, participating, optional or other special rights, if any, and any qualifications, limitations or restrictions thereof, of the shares of such series, by resolution or resolutions adopted by the Board of Directors providing for the issue of such series (a “Preferred Stock Designation”). The powers, preferences and relative, participating, optional and other special rights of each series of Preferred Stock, and the qualifications, limitations or restrictions thereof, if any, may differ from those of any and all other series at any time outstanding. The number of authorized shares of Preferred Stock may be increased or decreased (but not below the number of shares thereof then outstanding) by the affirmative vote of the holders of a majority of the voting power of all of the then outstanding shares of capital stock of the Corporation entitled to vote generally in the election of directors, voting together as a single class, without a separate vote of the holders of the Preferred Stock, or any series thereof, unless a vote of any such holders is required pursuant to any Preferred Stock Designation.

(3) Each holder of Common Stock, as such, shall be entitled to one vote for each share of Common Stock held of record by such holder on all matters on which stockholders generally are entitled to vote. Except as otherwise required by law or as otherwise provided in any Preferred Stock Designation, the holders of the Common Stock shall exclusively possess all voting power.

FIFTH: The right to cumulate votes in the election of directors shall not exist with respect to shares of stock of the Corporation.

SIXTH: No preemptive rights shall exist with respect to shares of stock or securities convertible into shares of stock of the Corporation.

SEVENTH: The business and affairs of the Corporation shall be managed by or under the direction of the Board of Directors. The directors need not be elected by ballot unless required by the bylaws of the Corporation.

EIGHTH: In furtherance and not in limitation of the powers conferred by statute, the Board of Directors is expressly authorized to make, alter or repeal the bylaws of the Corporation.

NINTH: The Corporation reserves the right to amend, alter, change or repeal any provision contained in this Amended and Restated Certificate of Incorporation, in the manner now or hereafter prescribed by statute, and all rights conferred upon stockholders herein are granted subject to such reservation.

TENTH: The Corporation is to have perpetual existence.

ELEVENTH: (1) A director of the Corporation shall not be held personally liable to the Corporation or its stockholders for monetary damages for breach of fiduciary duty as a director except for liability (i) for any breach of the director's duty of loyalty to the Corporation or its stockholders, (ii) for acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law, (iii) under Section 174 of the Delaware General Corporation Law, or (iv) for any transaction from which the director derived an improper personal benefit. If the Delaware General Corporation Law is amended after the effective date of this Article to authorize corporate action further eliminating or limiting the personal liability of directors, then the liability of a director of the Corporation shall be eliminated or limited to the fullest extent permitted by the Delaware General Corporation Law, as so amended.

(2) The Corporation shall indemnify, in the manner and to the full extent permitted by law, any person (or the estate of any person) who was or is a party to, or is threatened to be made a party to, any threatened, pending or complete action, suit or proceeding, whether or not by or in the right of the Corporation, and whether civil, criminal, administrative, investigative or otherwise, by reason of the fact that such person is or was a director, officer or employee of the Corporation, or is or was serving at the request of the Corporation as a director, officer or employee of another corporation, limited liability company, partnership, joint venture, trust or other enterprise. The Corporation may, to the full extent permitted by law, purchase and maintain insurance on behalf of any such person against any liability which may be asserted against him or her. To the full extent permitted by law, the indemnification provided herein shall include expenses (including attorneys' fees), judgments, fines and amounts paid in settlement, and, in the manner provided by law, any such expenses may be paid by the Corporation in advance of the final disposition of such action, suit or proceeding. The indemnification provided herein shall not be deemed to limit the right of the Corporation to indemnify any other person for any such expenses to the full extent permitted by law, nor shall it be deemed exclusive of any other rights to which any person seeking indemnification from the Corporation may be entitled under any agreement, vote of stockholders or disinterested directors or otherwise, both as to action in his or her official capacity and as to action in another capacity while holding such office.

Any repeal or modification of the foregoing paragraphs by the stockholders of the Corporation shall not adversely affect any right or protection of a director, officer or employee of the Corporation existing at the time of such repeal or modification.

IN WITNESS WHEREOF, Sirius XM Holdings Inc. has caused this Amended and Restated Certificate of Incorporation to be executed by its duly authorized officer on this 14th day of November, 2013.

SIRIUS XM HOLDINGS INC.

By: /s/ Patrick L. Donnelly
Patrick L. Donnelly
Executive Vice President,
General Counsel and Secretary

[Signature page to Sirius XM Holdings Inc. A&R Certificate of Incorporation]

AMENDED AND RESTATED

BY-LAWS

OF

SIRIUS XM HOLDINGS INC.

ARTICLE I

STOCKHOLDERS

Section 1. Annual Meetings. The annual meeting of the stockholders of the corporation for the purpose of electing directors and for the transaction of such other business as may properly be brought before the meeting shall be held on such date, and at such time and place within or without the State of Delaware as may be designated from time to time by the Board of Directors.

Section 2. Special Meetings. Special meetings of the stockholders shall be called at any time by the Secretary or any other officer, whenever directed by not less than two members of the Board of Directors or by the Chief Executive Officer. The purpose or purposes of the proposed meeting shall be included in the notice setting forth such call.

Section 3. Notice of Meetings. Except as otherwise provided by law, notice of the time, place and, in the case of a special meeting, the purpose or purposes of each meeting of stockholders shall be delivered personally or mailed not more than sixty, nor less than ten, days prior thereto, to each stockholder of record entitled to vote at the meeting at such address as appears on the records of the corporation.

Section 4. Quorum. The holders of a majority in voting power of the stock issued and outstanding and entitled to vote thereat, present in person or represented by proxy, shall constitute a quorum at all meetings of the stockholders for the transaction of business, except as otherwise provided by statute or by the Certificate of Incorporation; but if at any regularly called meeting of stockholders there shall be less than a quorum present, the stockholders present may adjourn the meeting from time to time without further notice other than announcement at the meeting until a quorum shall be present or represented. At such adjourned meeting at which a quorum shall be present or represented any business may be transacted which might have been transacted at the original meeting. If the adjournment is for more than 30 days, or if, after the adjournment, a new record date is fixed for the adjourned meeting, a notice of the adjourned meeting shall be given to each stockholder of record entitled to vote at the meeting.

Section 5. Meeting Procedures. The Chairman of the Board, or in the Chairman's absence or at the Chairman's direction, the Chief Executive Officer, or in the Chief Executive Officer's absence or at the Chief Executive Officer's direction, any officer of the corporation shall call all meetings of the stockholders to order and shall act as Chairman of such meeting. The Secretary of the

corporation or, in such officer's absence, an Assistant Secretary shall act as secretary of the meeting. If neither the Secretary nor an Assistant Secretary is present, the Chairman of the meeting shall appoint a secretary of the meeting. Unless otherwise determined by the Board of Directors prior to the meeting, the Chairman of the meeting shall determine the order of business and shall have the authority in his or her discretion to regulate the conduct of any such meeting, including, without limitation, by imposing restrictions on the persons (other than stockholders of the corporation or their duly appointed proxies) who may attend any such meeting, whether any stockholder or stockholders' proxy may be excluded from any meeting of stockholders based upon any determination by the Chairman, in his or her sole discretion, that any such person has unduly disrupted or is likely to disrupt the proceedings thereat, and the circumstances in which any person may make a statement or ask questions at any meeting of stockholders.

Section 6. Proxies. At all meetings of stockholders, any stockholder entitled to vote thereat shall be entitled to vote in person or by proxy, but no proxy shall be voted after three years from its date, unless such proxy provides for a longer period. Without limiting the manner in which a stockholder may authorize another person or persons to act for the stockholder as proxy pursuant to the General Corporation Law of the State of Delaware, the following shall constitute a valid means by which a stockholder may grant such authority: (1) a stockholder may execute a writing authorizing another person or persons to act for the stockholder as proxy, and execution of the writing may be accomplished by the stockholder or the stockholder's authorized officer, director, employee or agent signing such writing or causing his or her signature to be affixed to such writing by any reasonable means including, but not limited to, by facsimile signature; or (2) a stockholder may authorize another person or persons to act for the stockholder as proxy by transmitting or authorizing the transmission of a telegram, cablegram, or other means of electronic transmission to the person who will be the holder of the proxy or to a proxy solicitation firm, proxy support service organization or like agent duly authorized by the person who will be the holder of the proxy to receive such transmission, provided that any such telegram, cablegram or other means of electronic transmission must either set forth or be submitted with information from which it can be determined that the telegram, cablegram or other electronic transmission was authorized by the stockholder. If it is determined that such telegrams, cablegrams or other electronic transmissions are valid, the judge or judges of stockholder votes or, if there are no such judges, such other persons making that determination shall specify the information upon which they relied.

Any copy, facsimile telecommunication or other reliable reproduction of the writing or transmission created pursuant to the preceding paragraph of this Section 6 may be substituted or used in lieu of the original writing or transmission for any and all purposes for which the original writing or transmission could be used, provided that such copy, facsimile telecommunication or other reproduction shall be a complete reproduction of the entire original writing or transmission.

Proxies shall be filed with the Secretary of the meeting prior to or at the commencement of the meeting to which they relate.

Section 7. Voting. When a quorum is present at any meeting, the vote of the holders of a majority in voting power of the stock present in person or represented by proxy and entitled to vote on the matter shall decide any question brought before such meeting, unless the question is one upon which by express provision of statute, the Certificate of Incorporation or these By-Laws, a different vote is required, in which case such express provision shall govern and control the decision of such question.

Section 8. Record Date. In order that the corporation may determine the stockholders (a) entitled to notice of or to vote at any meeting of stockholders or any adjournment thereof, or (b) entitled to consent to corporate action in writing without a meeting, or (c) entitled to receive payment of any dividend or other distribution or allotment of any rights, or entitled to exercise any rights in respect of any change, conversion or exchange of stock or for the purpose of any other lawful action, the Board of Directors may fix a record date, which record date shall not precede the date upon which the resolution fixing the record date is adopted, and which record date (i) in the case of clause (a) above, shall not be more than sixty nor less than ten days before the date of such meeting, (ii) in the case of clause (b) above, shall not be more than ten days after the date upon which the resolution fixing the record date is adopted by the board of directors, and (iii) in the case of clause (c) above, shall not be more than sixty days prior to such action. If for any reason the Board of Directors shall not have fixed a record date for any such purpose, the record date for such purpose shall be determined as provided by law. Only those stockholders of record on the date so fixed or determined shall be entitled to any of the foregoing rights, notwithstanding the transfer of any such stock on the books of the corporation after any such record date is so fixed or determined.

Section 9. Stockholder List. The officer who has charge of the stock ledger of the corporation shall prepare and make, at least ten days before every meeting of stockholders, a complete list of the stockholders entitled to vote at the meeting, arranged in alphabetical order, and showing the address of each stockholder and the number of shares registered in the name of each stockholder. Such list shall be open to the examination of any stockholder, for any purpose germane to the meeting, during ordinary business hours, for a period of at least ten days prior to the meeting, either at a place within the city where the meeting is to be held, which place shall be specified in the notice of meeting, or, if not so specified, at the place where the meeting is to be held. The list shall also be produced at the time and kept at the place of the meeting during the whole time thereof, and may be inspected by any stockholder who is present.

Section 10. Judges of Election. The Board of Directors, in advance of all meetings of the stockholders, shall appoint one or more judges of stockholder votes, who may be stockholders or their proxies, but not directors of the corporation or candidates for office. In the event that the Board of Directors fails to so appoint judges of stockholder votes or, in the event that one or more judges of stockholder votes previously designated by the Board of Directors fails to appear or act at the meeting of stockholders, the Chairman of the meeting may appoint one or more judges of stockholder votes to fill such vacancy or vacancies. Judges of stockholder votes appointed to act at any meeting of the stockholders, before entering upon the discharge of their duties, shall be sworn faithfully to execute the duties of judge of stockholder votes with strict impartiality and according to the best of their ability and the oath so taken shall be subscribed by them. Judges of stockholder votes shall, subject to the power of the Chairman of the meeting to open and close the polls, take charge of the polls, and, after the voting, shall make a certificate of the result of the vote taken.

Section 11. Nominations, etc. (A) Annual Meetings of Stockholders.

(1) Nominations of persons for election to the Board of Directors of the corporation and the proposal of business to be considered by the stockholders may be made at an annual meeting of stockholders (a) pursuant to the corporation's notice of meeting delivered pursuant to Article 1, Section 3 of these By-Laws,

(b) by or at the direction of the Chairman of the Board or

(c) by any stockholder of the corporation who is entitled to vote at the meeting, who complied with the notice procedures set forth in subparagraphs (2) and (3) of this paragraph (A) of this By-Law and who was a stockholder of record at the time such notice is delivered to the Secretary of the corporation.

(2) For nominations or other business to be properly brought before an annual meeting by a stockholder pursuant to clause (c) of paragraph (A)(1) of this By-Law, the stockholder must have given timely notice thereof in writing to the Secretary of the corporation, and, in the case of business other than nominations, such other business must be a proper matter for stockholder action. To be timely, a stockholder's notice shall be delivered to the Secretary at the principal executive offices of the corporation not less than seventy days nor more than ninety days prior to the first anniversary of the preceding year's annual meeting; provided, however, that in the event that the date of the annual meeting is advanced by more than twenty days, or delayed by more than seventy days, from such anniversary date, notice by the stockholder to be timely must be so delivered not earlier than the ninetieth day prior to such annual meeting and not later than the close of business on the later of the seventieth day prior to such annual meeting or the tenth day following the day on which public announcement of the date of such meeting is first made; and provided further, that for purposes of the application of Rule 14a-4(c) of the Securities Exchange Act of 1934, as amended (the "Exchange Act") (or any successor provision), the date for notice specified in this paragraph (A)(2) shall be the earlier of the date calculated as hereinbefore provided or the date specified in paragraph (c)(1) of Rule 14a-4. Such stockholder's notice shall set forth (a) as to each person whom the stockholder proposes to nominate for election or re-election as a director all information relating to such person that is required to be disclosed in solicitations of proxies for election of directors, or is otherwise required, in each case pursuant to Regulation 14A under the Exchange Act, including such person's written consent to being named in the proxy statement as a nominee and to serving as a director if elected;

(b) as to any other business that the stockholder proposes to bring before the meeting, a brief description of the business desired to be brought before the meeting (including the text of any resolutions proposed for consideration and, in the event that such business includes a proposal to amend the by-laws of the Corporation, the language of the proposed amendment), the reasons for conducting such business at the meeting and any material interest in such business of such stockholder and the beneficial owner, if any, on whose behalf the proposal is made;

(c) as to the stockholder giving the notice and the beneficial owner, if any, on whose behalf the nomination or proposal is made (i) the name and address of such stockholder, as they appear on the corporation's books, and of such beneficial owner and (ii) the class and number of shares of the corporation which are owned beneficially and of record by such stockholder and such beneficial owner;

(d) a representation that the stockholder intends to appear in person or by proxy at the meeting to propose such business or nomination; and

(e) a representation whether the stockholder or the beneficial owner, if any, intends or is part of a group which intends (i) to deliver a proxy statement and/or form of proxy to holders of at least the percentage of the corporation's outstanding capital stock required to approve or adopt the proposal or elect the nominee and/or (ii) otherwise to solicit proxies from stockholders in support of such proposal or nomination.

(3) Notwithstanding anything in the second sentence of paragraph (A)(2) of this By-Law to the contrary, in the event that the number of directors to be elected to the Board of Directors of the corporation is increased and there is no public announcement naming all of the nominees for director or specifying the size of the increased Board of Directors made by the corporation at least eighty days prior to the first anniversary of the preceding year's annual meeting, a stockholder's notice required by this By-Law shall also be considered timely, but only with respect to nominees for any new positions created by such increase, if it shall be delivered to the Secretary at the principal executive offices of the corporation not later than the close of business on the tenth day following the day on which such public announcement is first made by the corporation.

(B) Special Meetings of Stockholders. Only such business shall be conducted at a special meeting of stockholders as shall have been brought before the meeting pursuant to the corporation's notice of meeting pursuant to Article I, Section 2 of these By-Laws. Nominations of persons for election to the Board of Directors may be made at a special meeting of stockholders at which directors are to be elected pursuant to the corporation's notice of meeting (a) by or at the direction of the Board of Directors or

(b) by any stockholder of the corporation who is entitled to vote at the meeting, who complies with the notice procedures set forth in this By-Law and who is a stockholder of record at the time such notice is delivered to the Secretary of the corporation. Nominations by stockholders of persons for election to the Board of Directors may be made at such a special meeting of stockholders if the stockholder's notice as required by paragraph (A)(2) of this By-Law shall be delivered to the Secretary at the principal executive offices of the corporation not earlier than the ninetieth day prior to such special meeting and not later than the close of business on the later of the seventieth day prior to such special meeting or the tenth day following the day on which public announcement is first made of the date of the special meeting and of the nominees proposed by the Board of Directors to be elected at such meeting.

(C) General.

(1) Only persons who are nominated in accordance with the procedures set forth in this By-Law shall be eligible to serve as directors and only such business shall be conducted at a meeting of stockholders as shall have been brought before the meeting in

accordance with the procedures set forth in this By-Law. Except as otherwise provided by law, the Certificate of Incorporation or these By-Laws, the Chairman of the meeting shall have the power and duty to determine whether a nomination or any business proposed to be brought before the meeting was made in accordance with the procedures set forth in this By-Law and, if any proposed nomination or business is not in compliance with this By-Law, to declare that such defective nomination shall be disregarded or that such proposed business shall not be transacted.

(2) For purposes of this By-Law, “public announcement” shall mean disclosure in a press release reported by the Dow Jones News Service, Associated Press or comparable national news service or in a document publicly filed by the corporation with the Securities and Exchange Commission pursuant to Section 13, 14 or 15(d) of the Exchange Act.

(3) For purposes of this By-Law, no adjournment or notice of adjournment of any meeting shall be deemed to constitute a new notice of such meeting for purposes of this Section 11, and in order for any notification required to be delivered by a stockholder pursuant to this Section 11 to be timely, such notification must be delivered within the periods set forth above with respect to the originally scheduled meeting.

(4) Notwithstanding the foregoing provisions of this By-Law, a stockholder shall also comply with all applicable requirements of the Exchange Act and the rules and regulations thereunder with respect to the matters set forth in this By-Law. Nothing in this By-Law shall be deemed to affect any rights of stockholders to request inclusion of proposals in the corporation’s proxy statement pursuant to Rule 14a-8 under the Exchange Act.

ARTICLE II

BOARD OF DIRECTORS

Section 1. Election; Term; etc. The Board of Directors of the corporation shall consist of such number of directors, not less than three nor more than 15, as shall from time to time be fixed exclusively by resolution of the Board of Directors. The directors shall be elected at each annual meeting of stockholders and each director shall be elected to serve until the conclusion of the next succeeding annual meeting and until his or her successor shall be elected and qualify or until his or her earlier death, resignation or removal. Directors shall (except as hereinafter provided for the filling of vacancies and newly created directorships) be elected by the holders of a plurality of the voting power present in person or represented by proxy and entitled to vote. A majority of the total number of directors then in office (but not less than one-third of the number of directors constituting the entire Board of Directors) shall constitute a quorum for the transaction of business and, except as otherwise provided by law or by the corporation’s Certificate of Incorporation, the act of a majority of the directors present at any meeting at which there is a quorum shall be the act of the Board of Directors. Directors need not be stockholders.

Section 2. Vacancies. Unless otherwise required by law, newly created directorships in the Board of Directors resulting from an increase in the number of directors, and any vacancy occurring in the Board of Directors, may be filled only by a majority of the directors then in office, although less than a quorum, or by a sole remaining director; and the directors so chosen shall hold office until his or her successor shall be duly elected and qualify or until his or her earlier death, resignation or removal.

Section 3. Meetings. Meetings of the Board of Directors shall be held at such place within or without the State of Delaware as may from time to time be fixed by resolution of the Board or as may be specified in the notice of any meeting. Regular meetings of the Board of Directors shall be held at such times as may from time to time be fixed by resolution of the Board and special meetings may be held at any time upon the call of the Chairman of the Board or the Chief Executive Officer or one-third of the directors then in office (rounded to the nearest whole number), by oral or written notice (including, telegraph, telex or transmission of a telecopy, e-mail or other means of transmission), duly served on or sent or mailed to each director to such director's address, e-mail address or telecopy number as shown on the books of the corporation not less than twelve hours before the meeting. The notice of any meeting need not specify the purposes thereof. A meeting of the Board may be held without notice immediately after the annual meeting of stockholders at the same place at which such meeting is held. Notice need not be given of regular meetings of the Board held at times fixed by resolution of the Board. Notice of any meeting need not be given to any director who shall attend such meeting in person (except when the director attends a meeting for the sale purpose of objecting, at the beginning of the meeting, to the transaction of any business because the meeting is not lawfully called or convened), or who shall waive notice thereof, before or after such meeting, in writing.

Section 4. Executive Committee. The Board of Directors may designate three or more directors to constitute an executive committee, one of whom shall be designated Chairman of such committee. The members of such committee shall hold such office until the next election of the Board of Directors and until their successors are elected and qualify. Any vacancy occurring in the committee shall be filled by the Board of Directors. Regular meetings of the committee shall be held at such times and on such notice and at such places as it may from time to time determine. The committee shall act, advise and aid the officers of the corporation in all matters concerning its interest and the management of its business, and shall generally perform such duties and exercise such powers as may from time to time be delegated to it by the Board of Directors, and shall have authority to exercise all the powers of the Board of Directors, so far as may be permitted by law, in the management of the business and the affairs of the corporation whenever the Board of Directors is not in session or whenever a quorum of the Board of Directors fails to attend any regular or special meeting of such Board. Without limiting the generality of the foregoing grant of authority, the executive committee is expressly authorized to declare dividends, whether regular or special, to authorize the issuance of stock of the corporation and to adopt a certificate of ownership and merger pursuant to Section 253 or any successor provision of the Delaware General Corporation Law. The committee shall have power to authorize the seal of the corporation to be affixed to all papers which are required by the Delaware General Corporation Law to have the seal affixed thereto. The fact that the executive committee has acted shall be conclusive evidence that the Board of Directors was not in session at such time or that a quorum of the Board had failed to attend the regular or special meeting thereof. The executive committee shall keep regular minutes of its transactions and shall cause them to be recorded in a book kept in the office of the corporation designated for that purpose, and shall report the same to the Board of Directors at their regular meeting. The committee shall make and adopt its own rules for the governance thereof and shall elect its own officers.

Section 5. Other Committees. The Board of Directors may from time to time establish other committees, to serve at the pleasure of the Board, which shall be comprised of such members of the Board and have such duties as the Board shall from time to time establish. Any director may belong to any number of committees of the Board. The Board may also establish such other committees with such members (whether or not directors) and such duties as the Board may from time to time determine.

Section 6. Written Consent. Unless otherwise restricted by the Certificate of Incorporation or these By-Laws, any action required or permitted to be taken at any meeting of the Board of Directors or of any committee thereof may be taken without a meeting if all members of the Board or committee, as the case may be, consent thereto in writing or by electronic transmission, and the writings and transmissions are filed with the minutes of proceedings of the Board of Directors.

Section 7. Chairman of the Board. The Board of Directors, after each annual meeting of stockholders, shall elect a Chairman of the Board. The Chairman of the Board need not be an officer of the corporation. The Chairman of the Board shall have such powers as specified in these By-Laws and such powers as may be assigned to him or her by a resolution of the Board of Directors. The Board of Directors may elect a new Chairman of the Board at any meeting of the Board.

Section 8. Teleconferences. The members of the Board of Directors or any committee thereof may participate in a meeting of such Board or committee, as the case may be, by means of conference telephone or other communications equipment by means of which all persons participating in the meeting can hear each other, and participation in a meeting pursuant to this section shall constitute presence in person at such a meeting.

Section 9. Compensation. The Board of Directors may establish policies for the compensation of directors and for the reimbursement of the expenses of directors, in each case, in connection with services provided by directors to the corporation.

ARTICLE III

OFFICERS

Section 1. Officers. The Board of Directors, after each annual meeting of the stockholders, shall elect officers of the corporation, including a Chief Executive Officer and a Secretary. The Board of Directors may also from time to time elect such other officers (including one or more Vice Presidents, a Treasurer, one or more Assistant Vice Presidents, one or more Assistant Secretaries and one or more Assistant Treasurers) as it may deem proper or may delegate to any elected officer of the corporation the power to appoint and remove any such other officers and to prescribe their respective terms of office, authorities and duties. Any Vice President may be designated Executive or Senior, or may be given such other designation or combination of designations as the Board of Directors may determine. Any two or more offices may be held by the same person.

Section 2. Term. All officers of the corporation elected by the Board of Directors shall hold office for such term as may be determined by the Board of Directors or until their respective successors are chosen and qualified. Any officer may be removed from office at any time either with or without cause by the affirmative vote of a majority of the members of the Board then in office, or, in the case of appointed officers, by any elected officer upon whom such power of removal shall have been conferred by the Board of Directors.

Section 3. Powers. Each of the officers of the corporation elected by the Board of Directors or appointed by an officer in accordance with these By-Laws shall have the powers and duties prescribed by law, by these By-Laws or by the Board of Directors and, in the case of appointed officers, the powers and duties prescribed by the appointing officer, and, unless otherwise prescribed by these By-Laws or by the Board of Directors or such appointing officer, shall have such further powers and duties as ordinarily pertain to that office. The Chief Executive Officer shall have the general power to direct the affairs of the corporation.

Section 4. Delegation. Unless otherwise provided in these By-Laws, in the absence or disability of any officer of the corporation, the Board of Directors may, during such period, delegate such officer's powers and duties to any other officer or to any director and the person to whom such powers and duties are delegated shall, for the time being, hold such office.

ARTICLE IV

CERTIFICATES OF STOCK

Section 1. Certificates. The shares of stock of the corporation shall be represented by certificates, provided that the Board of Directors may provide by resolution or resolutions that some or all of any or all classes or series of the corporation's stock shall be uncertificated shares. Any such resolution shall not apply to shares represented by a certificate until such certificate is surrendered to the corporation. Notwithstanding the adoption of such a resolution by the Board of Directors, every holder of stock represented by certificates and, upon request, every holder of uncertificated shares shall be entitled to have a certificate signed by, or in the name of the corporation by the Chairman of the Board of Directors, the President or a Vice President, and by the Treasurer, an Assistant Treasurer, the Secretary or an Assistant Secretary of the corporation, or as otherwise permitted by law, representing the number of shares registered in certificate form. Any or all the signatures on the certificate may be a facsimile.

Section 2. Transfers. Transfers of stock shall be made on the books of the corporation by the holder of the shares in person or by such holder's attorney upon surrender and cancellation of certificates for a like number of shares, or as otherwise provided by law with respect to uncertificated shares.

Section 3. Lost Certificates. No certificate for shares of stock in the corporation shall be issued in place of any certificate alleged to have been lost, stolen or destroyed, except upon production of such evidence of such loss, theft or destruction and upon delivery to the corporation of a bond of indemnity in such amount, upon such terms and secured by such surety, as the Board of Directors in its discretion may require.

ARTICLE V

CORPORATE BOOKS

The books of the corporation may be kept outside of the State of Delaware at such place or places as the Board of Directors may from time to time determine.

ARTICLE VI

CHECKS, NOTES, PROXIES, ETC.

All checks and drafts on the corporation's bank accounts and all bills of exchange and promissory notes, and all acceptances, obligations and other instruments for the payment of money, shall be signed by such officer or officers or agent or agents as shall be authorized from time to time by the Board of Directors. Proxies to vote and consents with respect to securities of other corporations owned by or standing in the name of the corporation may be executed and delivered from time to time on behalf of the corporation by the Chief Executive Officer, the President, or by such officers as the Board of Directors may from time to time determine.

ARTICLE VII

FISCAL YEAR

The fiscal year of the corporation shall begin on the first day of January in each year and shall end on the thirty-first day of December following.

ARTICLE VIII

CORPORATE SEAL

The corporate seal shall have inscribed thereon the name of the corporation. In lieu of the corporate seal, when so authorized by the Board of Directors or a duly empowered committee thereof, a facsimile thereof may be impressed or affixed or reproduced.

ARTICLE IX

AMENDMENTS

These By-Laws may be amended, added to, rescinded or repealed at any meeting of the Board of Directors or of the stockholders, provided notice of the proposed change was given in the notice of the meeting of the stockholders or, in the case of a meeting of the Board of Directors, in a notice given not less than twelve hours prior to the meeting. Notwithstanding any other provisions of these By-Laws or any provision of law which might otherwise permit a lesser vote of the stockholders, the affirmative vote of the holders of at least 80 percent in voting power of all shares of the corporation entitled to vote generally in the election of directors, voting together as a single class, shall be required in order for the stockholders to alter, amend or repeal Section 2 and Section 11 of Article I, or this second sentence of this Article IX of these By-Laws or to adopt any provision inconsistent with any of such Sections or with this sentence.

**CERTIFICATE OF ELIMINATION OF
SERIES A CONVERTIBLE PREFERRED STOCK,
CONVERTIBLE PERPETUAL PREFERRED STOCK, SERIES B-1,
CONVERTIBLE PERPETUAL NON-VOTING PREFERRED STOCK, SERIES B-2,
AND
SERIES C JUNIOR PREFERRED STOCK
OF
SIRIUS XM RADIO INC.**

Sirius XM Radio Inc., a corporation organized and existing under the laws of the State of Delaware (the “Corporation”), in accordance with the provisions of Section 151(g) of the General Corporation Law of the State of Delaware (the “DGCL”), hereby certifies as follows:

1. That, pursuant to Section 151 of the DGCL and authority granted in the Amended and Restated Certificate of Incorporation of the Corporation (the “Certificate of Incorporation”), the Board of Directors of the Corporation, by resolutions duly adopted, authorized the issuance of (a) 25,000,000 shares of Series A Convertible Preferred Stock, par value \$0.001 per share, of the Corporation (the “Series A Preferred Stock”), (b) 12,500,000 shares of Convertible Perpetual Preferred Stock, Series B-1, par value \$0.001 per share, of the Corporation (the “Series B-1 Preferred Stock”), (c) 11,500,000 shares of Convertible Perpetual Non-Voting Preferred Stock, Series B-2, par value \$0.001 per share, of the Corporation (the “Series B-2 Preferred Stock”), and (d) 9,000 shares of Series C Junior Preferred Stock, par value \$0.001 per share, of the Corporation (the “Series C Preferred Stock”), and in each case established the voting powers, designations, preferences and relative, participating and other rights, and the qualifications, limitations or restrictions thereof. On July 28, 2008 the Corporation filed a Certificate of Designations with respect to the Series A Preferred Stock, on March 5, 2009 filed a Certificate of Designations with respect to the Series B-1 Preferred Stock and a Certificate of Designations with respect to the Series B-2 Preferred Stock, and on April 30, 2009 filed a Certificate of Designation with respect to the Series C Preferred Stock, in each case in the office of the Secretary of State of the State of Delaware.

2. That no shares of said Series A Preferred Stock, Series B-1 Preferred Stock, Series B-2 Preferred Stock or Series C Preferred Stock are outstanding and no shares thereof will be issued.

3. That the Board of Directors of the Corporation has adopted the following resolutions:

RESOLVED, that, none of the authorized shares of Series A Convertible Preferred Stock of the Corporation (the “Series A Preferred Stock”), Convertible Perpetual Preferred Stock, Series B-1, of the Corporation (the “Series B-1 Preferred Stock”), Convertible Perpetual Non-Voting Preferred Stock, Series B-2, of the Corporation (the “Series B-2 Preferred Stock”), or Series C Junior Preferred Stock of the Corporation (the “Series C Preferred Stock”) are, in each case, outstanding;

RESOLVED, that no shares of Series A Preferred Stock, Series B-1 Preferred Stock, Series B-2 Preferred Stock or Series C Preferred Stock will be issued;

RESOLVED, that any officer of the Corporation be, and each of them hereby is, authorized and directed, for and on behalf of the Corporation, to execute and file a certificate setting forth this resolution with the Secretary of State of the State of Delaware pursuant to the provisions of Section 151(g) of the DGCL for the purpose of eliminating from the certificate of incorporation of the Corporation all references to the Series A Preferred Stock, the Series B-1 Preferred Stock, the Series B-2 Preferred Stock and the Series C Preferred Stock;

5. That, accordingly, all matters set forth in the Certificate of Designations with respect to the Series A Preferred Stock, the Certificate of Designations with respect to the Series B-1 Preferred Stock, the Certificate of Designations with respect to the Series B-2 Preferred Stock, and the Certificate of Designation with respect to the Series C Preferred Stock be, and hereby are, eliminated from the Certificate of Incorporation, and all shares of Series A Preferred Stock, Series B-1 Preferred Stock, Series B-2 Preferred Stock and Series C Preferred Stock shall resume the status of authorized but unissued shares of preferred stock, par value \$0.001 of the Corporation.

IN WITNESS WHEREOF, the Company has caused this Certificate to be executed by its duly authorized officer this 14th day of November, 2013.

SIRIUS XM RADIO INC.

By: /s/ Patrick L. Donnelly
Patrick L. Donnelly
Executive Vice President, General Counsel and
Secretary

SUPPLEMENTAL INDENTURE, dated as of November 15, 2013, among SIRIUS XM RADIO INC., a Delaware corporation (the “*Company*” and successor to XM Satellite Radio Inc.), SIRIUS XM HOLDINGS INC., a Delaware corporation and a wholly-owned subsidiary of the Company (“*Holdings*”), the guarantors listed on the signature pages hereto (the “*Guarantors*”) and THE BANK OF NEW YORK MELLON, as trustee (the “*Trustee*”). Capitalized terms that are not defined herein shall have the meanings assigned to them in the Indenture (defined below).

WHEREAS, the Company and the Guarantors have heretofore executed and delivered to the Trustee an indenture (as amended or supplemented from time to time, the “*Indenture*”), dated as of August 1, 2008, in connection with the issuance of 7% Exchangeable Senior Subordinated Notes due 2014 (the “*Notes*”);

WHEREAS, the Company desires to create a new holding company structure and intends to execute and file a Certificate of Merger (the “*Certificate of Merger*”) with the Secretary of State of the State of Delaware effective on November 15, 2013, to merge Sirius XM Merger Sub Inc., a Delaware corporation and a wholly-owned subsidiary of Holdings (the “*Merger Sub*”), with and into the Company, with the Company being the surviving corporation (the “*Merger*”), and thereby converting each outstanding share of Common Stock of the Company into one share of common stock of Holdings, par value \$0.001 per share (the “*Holdings Common Stock*”);

WHEREAS, Section 4.01 of the Indenture provides, among other things, that the Company shall not be prevented from merging with or into any other Person, with the Company being the surviving corporation, provided that, among other things, immediately after giving *pro forma* effect to such merger, no Default or Event of Default shall have occurred and be continuing;

WHEREAS, Section 8.01 of the Indenture provides, among other things, that the Company and the Trustee may from time to time and at any time amend the Indenture without the consent of any Holder to make any change that does not adversely affect the rights of any Holder;

WHEREAS, pursuant to Section 8.01 of the Indenture, the Company, the Guarantors and the Trustee are authorized to execute and deliver this Supplemental Indenture to amend the Indenture, without the consent of any Holder, to evidence the assumption by Holdings, jointly and severally with the Company, of the covenants, agreements, rights and obligations of the Company under the Indenture;

WHEREAS, pursuant to Section 8.05 of the Indenture, the Trustee is authorized to execute and deliver this Supplemental Indenture; and

WHEREAS, all acts and requirements necessary to make this Supplemental Indenture the legal, valid and binding obligation of each of the Guarantors, Holdings and the Company have been satisfied.

NOW, THEREFORE, THIS SUPPLEMENTAL INDENTURE WITNESSETH:

For and in consideration of the premises and intending to be legally bound hereby, it is mutually covenanted and agreed, for the equal and proportionate benefit of all Holders as follows:

ARTICLE I

REPRESENTATIONS OF THE COMPANY

The Company represents and warrants to the Trustee as of the date hereof as follows:

SECTION 1.01. The execution, delivery and performance by it of this Supplemental Indenture have been authorized and approved by all necessary corporate action on the part of it.

SECTION 1.02. Upon the filing of the Certificate of Merger with the Secretary of State of the State of Delaware or at such other time thereafter as is provided in the Certificate of Merger (the “*Effective Time*”), the Merger will be effective in accordance with Delaware law.

SECTION 1.03. Immediately after giving effect to the Merger, no Default or Event of Default shall have occurred and be continuing.

SECTION 1.04. The amendments contained herein do not adversely affect the rights of any Holder.

ARTICLE II

AGREEMENT TO BE BOUND

SECTION 2.01. Holdings hereby assumes, jointly and severally with the Company, the due and punctual payment of the principal of, and interest on, the Notes on the dates and in the manner provided in the Notes and in the Indenture and the due and punctual performance and observance of all of the covenants and conditions of the Indenture to be performed by the Company.

SECTION 2.02. No past, present or future director, officer, employee, incorporator, stockholder or agent of Holdings, as such, will have any liability for any obligations of the Company, Holdings or any Guarantor under the Notes, any Note Guarantees, the Indenture or this Supplemental Indenture or for any claim based on, in respect of, or by reason of, such obligations or their creation.

ARTICLE III

AMENDMENTS

SECTION 3.01. The Indenture is hereby amended by:

(a) deleting the definition of “Common Stock” in Section 1.01 therein and inserting in lieu thereof the following (in correct alphabetical order):

“Holdings Common Stock” means the common stock, par value \$0.001 per share, of Holdings or any such class or classes resulting from any reclassification or reclassifications thereof and which have no preference in respect of dividends or of amounts payable in the event of any voluntary or involuntary liquidation, dissolution or winding-up of Holdings and which are not subject to redemption by Holdings; provided that if at any time there shall be more than one such resulting class, the shares of each such class then so issuable shall be substantially in the proportion which the total number of shares of such class resulting from all such reclassifications bears to the total number of shares of all such classes resulting from all such reclassifications.

(b) adding the following definition to Section 1.01 (in correct alphabetical order):

“Holdings” means Sirius XM Holdings Inc., a Delaware corporation.

(c) every reference in the Indenture to “Common Stock” shall be amended and deemed to be a reference to “Holdings Common Stock”.

SECTION 3.02. Except as amended hereby, the Indenture is in all respects ratified and confirmed and all the terms thereof shall remain in full force and effect and the Indenture, as so amended, shall be read, taken and construed as one and the same instrument.

ARTICLE IV

MISCELLANEOUS

SECTION 4.01. The Trustee accepts the modification of the Indenture effected by this Supplemental Indenture, but only upon the terms and conditions set forth in the Indenture. Without limiting the generality of the foregoing, the Trustee will not be responsible in any manner whatsoever for or in respect of the validity or sufficiency of this Supplemental Indenture or for or in respect of the recitals contained herein, all of which recitals are made solely by each Guarantor, Holdings and the Company.

SECTION 4.02. If and to the extent that any provision of this Supplemental Indenture limits, qualifies or conflicts with another provision included in this Supplemental Indenture or in the Indenture, in either case that is required to be included in this Supplemental Indenture or in the Indenture by any of the provisions of Section 310 to 317, inclusive, of the Trust Indenture Act of 1939, such required provision shall control.

SECTION 4.03. This Supplemental Indenture and the Notes shall be governed by, and construed in accordance with, the laws of the State of New York.

SECTION 4.04. This Supplemental Indenture may be executed in any number of counterparts, each of which so executed shall be deemed to be an original, but all of which counterparts together shall constitute but one and the same instrument.

SECTION 4.05. The Section headings herein are for convenience only and will not affect the construction hereof.

SECTION 4.06. Nothing in this Supplemental Indenture is intended to or shall provide any rights to any parties other than those expressly contemplated by this Supplemental Indenture.

SECTION 4.07. This Supplemental Indenture shall become effective as of the Effective Time.

SECTION 4.08. Pursuant to Section 11.11 of the Indenture, the Company has caused to be filed with the Trustee and the Exchange Agent and to be mailed to each Holder the information required by such Section within the time period required.

SECTION 4.09. Pursuant to Section 11.07 of the Indenture, the Company shall cause notice of the execution of this Supplemental Indenture to be mailed to each Holder, at the address of such Holder as it appears on the register of the Notes maintained by the Registrar, within 20 days after the date of this Supplemental Indenture.

[remainder of page intentionally left blank]

IN WITNESS WHEREOF, the parties hereto have caused this Supplemental Indenture to be duly executed all as of the date first above written.

SIRIUS XM RADIO INC.

By: /s/ Patrick L. Donnelly
Patrick L. Donnelly
Executive Vice President, General Counsel and
Secretary

SIRIUS XM HOLDINGS INC.

By: /s/ Patrick L. Donnelly
Patrick L. Donnelly
Executive Vice President, General Counsel and
Secretary

SATELLITE CD RADIO, INC.

By: /s/ Patrick L. Donnelly
Patrick L. Donnelly
Secretary

XM 1500 ECKINGTON LLC

By: /s/ Patrick L. Donnelly
Patrick L. Donnelly
Secretary

XM INVESTMENT LLC

By: /s/ Patrick L. Donnelly
Patrick L. Donnelly
Secretary

XM RADIO INC.

By: /s/ Patrick L. Donnelly

Patrick L. Donnelly
Secretary

XM EMALL INC.

By: /s/ Patrick L. Donnelly

Patrick L. Donnelly
Secretary

THE BANK OF NEW YORK MELLON,
as Trustee

By: /s/ Laurence J. O'Brien
Name: Laurence J. O'Brien
Title: Vice President

ASSIGNMENT AND ASSUMPTION AGREEMENT

This ASSIGNMENT AND ASSUMPTION AGREEMENT (the “Agreement”) is made as of November 15, 2013, by and between Sirius XM Radio Inc., a Delaware corporation (“Assignor”) and Sirius XM Holdings Inc., a Delaware corporation (“Assignee”).

RECITALS

Pursuant to the Merger Agreement dated as of November 14, 2013, among Assignor, Assignee and Sirius XM Merger Sub Inc. (the “Merger Agreement”), Assignor will create a new holding company structure by merging Sirius XM Merger Sub Inc. with and into Assignor, with Assignor being the surviving corporation, and converting the capital stock of Assignor into the capital stock of Assignee (the “Merger”). In connection with the Merger, Assignor has agreed to assign to Assignee, and Assignee has agreed to assume from Assignor, all of the agreements listed on Exhibit A (together with the award agreements entered into pursuant to such plans, the “Assumed Agreements”).

AGREEMENT

NOW, THEREFORE, in consideration of the covenants and agreements set forth herein, the receipt and sufficiency of which is acknowledged by the parties hereto, the parties intending to be legally bound, agree as follows:

1. Defined Terms. Capitalized terms used in this Agreement and not otherwise defined shall have the respective meanings assigned to them in the Merger Agreement.
2. Assignment. Assignor hereby assigns to Assignee all of its rights and obligations under the Assumed Agreements listed on Exhibit A hereto.
3. Assumption. Assignee hereby assumes all of the rights and obligations of Assignor under the Assumed Agreements, and agrees to abide by and perform all terms, covenants and conditions of Assignor under such Assumed Agreements. In consideration of the assumption by Assignee of all of the rights and obligations of Assignor under the Assumed Agreements, Assignor agrees to pay (i) all expenses incurred by Assignee in connection with the assumption of the Assumed Agreements pursuant to this Agreement and (ii) all expenses incurred by Assignee in connection with the registration on Form S-8 of the shares of common stock of Assignee to the extent required in connection with the Equity Plans and the Stock Incentive Plans, including, without limitation, registration fees imposed by the Securities and Exchange Commission. At the Effective Time, the Assumed Agreements shall each be amended as necessary to provide that references to Assignor in such agreements shall be read to refer to Assignee.
4. Further Assurances. Subject to the terms of this Agreement, the parties hereto shall take all reasonable and lawful action as may be necessary or appropriate to cause the intent of this Agreement to be carried out, including, without limitation, entering into amendments to the Assumed Agreements and notifying the other parties thereto of such assignment and assumption.

5. Successors and Assigns. This Agreement shall be binding upon Assignor and Assignee, and their respective successors and assigns. The terms and conditions of this Agreement shall survive the consummation of the transfers provided for herein.

6. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Delaware, without giving effect to conflicts of laws principles.

7. Entire Agreement. This Agreement, including Exhibit A attached hereto, together with the Merger Agreement, constitute the entire agreement and supersede all other agreements and undertakings, both written and oral, among the parties, or any of them, with respect to the subject matter hereof. This Agreement may not be modified or amended except by a writing executed by the parties hereto.

8. Severability. The provisions of this Agreement are severable, and in the event any provision hereof is determined to be invalid or unenforceable, such invalidity or unenforceability shall not in any way affect the validity or enforceability of the remaining provisions hereof.

9. Third Party Beneficiaries. The parties to the various stock option, restricted stock and restricted stock unit agreements entered into pursuant to the Equity Plans and who are granted Options, Restricted Stock and/or RSUs, are intended to be third party beneficiaries to this Agreement.

10. Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original.

[*Remainder of page intentionally left blank .*]

This Assignment and Assumption Agreement is signed as of the date first written above.

Assignor:

SIRIUS XM RADIO INC.

By: /s/ Patrick L. Donnelly
Patrick L. Donnelly
Executive Vice President,
General Counsel and Secretary

Assignee:

SIRIUS XM HOLDINGS INC.

By: /s/ Patrick L. Donnelly
Patrick L. Donnelly
Executive Vice President,
General Counsel and Secretary

Assumed Agreements

Equity Plans *

Sirius XM Radio Inc. 2009 Long-Term Stock Incentive Plan

XM Satellite Radio Holdings Inc. 2007 Stock Incentive Plan

Amended and Restated Sirius Satellite Radio 2003 Long-Term Stock Incentive Plan

XM Satellite Radio Holdings Inc. 1998 Shares Award Plan, as amended

XM Satellite Radio Holdings Inc. Talent Option Plan

* Includes all stock option agreements, restricted stock agreements and restricted stock unit agreements entered into pursuant to any of the foregoing plans.

**Omnibus Amendment to the
XM Satellite Radio Holdings Inc. Talent Option Plan, the XM Satellite Radio Holdings Inc. 1998 Shares Award Plan, as amended, the
Amended and Restated Sirius Satellite Radio 2003 Long-Term Stock Incentive Plan, the XM Satellite Radio Holdings Inc. 2007 Stock
Incentive Plan and the Sirius XM Radio Inc. 2009 Long-Term Stock Incentive Plan (collectively, the “Equity Plans”) and their Related
Stock Option Agreements, Restricted Stock Agreements and Restricted Stock Unit Agreements**

November 15, 2013

WHEREAS, in connection with the reorganization of Sirius XM Radio Inc. (“Sirius”) approved by the Board of Directors of Sirius, pursuant to which Sirius has become a wholly owned subsidiary of Sirius XM Holdings Inc. (“Sirius Holdings”), it is necessary to amend each of the Equity Plans, each of the stock option agreements pursuant to which options to purchase shares of common stock of Sirius have been granted and are outstanding pursuant to one of the Equity Plans (collectively, the “Option Agreements”), each of the restricted stock agreements pursuant to which shares of common stock of Sirius which are subject to restrictions have been granted and are outstanding pursuant to one of the Equity Plans (collectively, the “Restricted Stock Agreements”), and each of the restricted stock unit agreements pursuant to which restricted stock units have been granted and are outstanding pursuant to one of the Equity Plans (collectively, the “RSU Agreements”).

NOW, THEREFORE, each of the Equity Plans, Option Agreements, Restricted Stock Agreements and RSU Agreements are hereby amended as follows, effective as of the closing of the reorganization of Sirius as a wholly owned subsidiary of Sirius Holdings:

1. The definition of the term “Board” or “Board of Directors,” as applicable, as contained in each Equity Plan, Option Agreement, Restricted Stock Agreement and RSU Agreement, to the extent applicable, is hereby amended by deleting the current definition and replacing it with the following:

“‘Board’/‘Board of Directors’ shall mean the board of directors of Sirius XM Holdings Inc. and any successor thereto.”

2. The definition of the term “Company”, “Corporation”, or “XM” as applicable, as contained in each Equity Plan, Option Agreement, Restricted Stock Agreement and RSU Agreement is hereby amended by deleting the current definition and replacing it with the following:

“‘Company’/‘Corporation’/‘XM’ shall mean Sirius XM Holdings Inc. and any successor thereto.”

3. The definition of the term “Common Shares”, “Share(s)”, or “Stock” as applicable, as contained in each Equity Plan, Option Agreement, Restricted Stock Agreement and RSU Agreement, to the extent applicable, is hereby amended by deleting the current definition and replacing it with the following:

“‘Common Shares’/‘Share(s)’/‘Stock’ shall mean the common stock of Sirius XM Holdings Inc., par value \$0.001 per share.”

4. All references to “Sirius XM Radio Inc.,” “XM Satellite Radio Holdings Inc.,” or “Sirius Satellite Radio Inc.” contained in each Equity Plan, Option Agreement, Restricted Stock Agreement and RSU Agreement not otherwise changed by the preceding amendments are hereby changed to “Sirius XM Holdings Inc.”

5. All other provisions of the Equity Plans, Option Agreements, Restricted Stock Agreements and RSU Agreements shall remain in full force and effect, except to the extent modified by the foregoing.

[Remainder of page intentionally left blank .]

IN WITNESS WHEREOF, the undersigned has duly executed this Omnibus Amendment as of the date first written above.

SIRIUS XM RADIO INC.

By: /s/ Patrick L. Donnelly
Patrick L. Donnelly
Executive Vice President,
General Counsel and Secretary

SIRIUS XM HOLDINGS INC.

By: /s/ Patrick L. Donnelly
Patrick L. Donnelly
Executive Vice President,
General Counsel and Secretary