

## ASSET PURCHASE AGREEMENT

This Asset Purchase Agreement ("Agreement"), made as of the \_\_\_ day of February, 2020, is by and among Northern Radio of Gaylord, Inc., a Michigan Corporation and Northern Michigan Radio, Inc. (individually, "NRG" and "NMR" and, collectively, "Seller"), and MacDonald Garber Broadcasting, Inc., a Michigan Corporation ("Buyer").

### RECITALS

A. **WHEREAS**, NRG is the licensee of radio station WSRT, Facility Identification Number 1159, licensed to Gaylord, Michigan ("WSRT" or a "Station"), and holds related auxiliary licenses and authorizations issued by the Federal Communications Commission (the "FCC"); and NMR is the licensee of FM translator station W252DA, Facility Identification Number 144605, licensed to Petoskey, Michigan, ("W252DA" or a "Station", or, collectively with WSRT, the "Stations") and holds related licenses and authorizations issued by the FCC; and Seller holds certain assets used and useful in the operation of the Stations; and

B. **WHEREAS**, Seller is willing to sell and Buyer desires to purchase certain property and assets of Seller used or useful in the operation of the Stations and to obtain assignment of the licenses and permits issued by the FCC for the operation of the Stations, and of other licenses, permits, or authorizations issued by any regulatory agency in connection therewith; and

C. **WHEREAS**, the licenses issued by the FCC for the operation of the Stations may not be assigned by Seller to Buyer without prior written consent of the FCC (the "FCC Consent"):

### Agreement

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

### ARTICLE 1: PURCHASE OF ASSETS

1.1 Station Assets. On the terms and subject to the conditions hereof, on the Closing Date (defined below), Seller shall sell, assign, transfer, convey, and deliver to Buyer, and Buyer shall purchase and acquire from Seller all of those assets, properties, interests, and rights of Seller of whatsoever kind and nature, real and personal, tangible and intangible, which are used or useful in the operation of the Stations and which are specifically described in this Section 1.1, but excluding the Excluded Assets as hereafter defined (the "Station Assets"), as follows:

(a) all licenses, permits, and other authorizations which are currently issued to Seller by the FCC with respect to the Stations (the "FCC Licenses") and described on Schedule 1.1(a), including any renewals or modifications thereof between the date hereof and Closing;

*M*  
2/14/20

*Wesley*  
2/14/20

(b) (i) all items listed on Schedule 1.1(b); and (ii) all additional WSRT and W252DA equipment, electrical devices, hardware, transmitters, antennas, studio-transmitter link equipment associated exclusively with the Stations, any spare parts for the assigned equipment and other tangible personal property of every kind and description which are used or which are intended solely for use in the transmission of the Stations' signals, except any retirements or dispositions thereof made between the date hereof and Closing in the ordinary course of business and consistent with past practices of Seller in accordance with Section 8.3 hereof (the "Tangible Personal Property");

(c) the Seller's leasehold interest in the real property used by Seller as the WSRT transmitter site, together with the transmitter building, and the Seller's leasehold interest in tower space and transmitter building space used as the W252DA transmitter site, all as described in Schedule 1.1 (c) (the "Real Property Leases");

(d) engineering maintenance and operational records relating exclusively to the operation of the Stations, including the WSRT technical and logs, as more fully described in Schedule 1.1(d);

(e) the Station's call letters; and

(f) any agreements for the provision of services that are listed in Schedule 1.1(f) (the "Station Contracts").

The Station Assets shall be transferred to Buyer free and clear of liens, claims, and encumbrances ("Liens").

1.2 Excluded Assets. Notwithstanding anything to the contrary contained herein, the Station Assets shall not include any of the following assets or any rights, title, or interest therein (the "Excluded Assets"):

(a) all cash and cash equivalents of Seller including, without limitation, certificates of deposit, commercial paper, treasury bills, marketable securities, asset, or money market accounts, and all such similar accounts or investments;

(b) Seller's name, minute books, charter documents and such other books and records as pertain to the organization, existence or capitalization of Seller, duplicate copies of the records of the Stations, Seller's tax records, and all records not relating to the operation of the Stations;

(c) promotional studies and materials, marketing and demographic data, and any programming information and studies developed for WSRT;

(d) any pension, profit sharing, or other employee benefit plan or arrangement and the assets thereof, if any, pertaining to Seller's employees;

- (e) books of account and accounts receivable attributable to the commercial operations of the Stations prior to the Closing Date;
- (f) all claims, rights, and interest of Seller to any (i) refund of taxes or fees of any nature whatsoever, (ii) deposits or utility deposits, or (iii) pre-paid expenses, which in each case relate solely to the period prior to the Closing Date;
- (g) any and all contracts that have terminated or expired prior to the Closing Date in the ordinary course of business as permitted hereunder;
- (h) any trade payables and all non-advertising contracts of Seller other than those listed in Schedule 1.1(f), which excluded contracts will not be assumed by Buyer;
- (i) contracts of insurance, including the cash surrender value thereof, and all insurance proceeds or claims made by Seller prior to the Closing Date;
- (j) WSRT's current main studio and the tower located at the WSRT main studio location;
- (k) all studio and transmission equipment, and all other tangible and intangible assets not listed in Schedules 1.1 (a) – (f) and used in the operation of any other station or stations licensed to Seller or entities with common ownership with Seller; and
- (l) all other assets, whether tangible or intangible, not mentioned herein and specified in Schedule 1.2(i).

**ARTICLE 2: ASSUMED OBLIGATIONS.**

2.1 On the Closing Date, Buyer shall assume the obligations of Seller arising after Closing under the lease for the Real Property ("Real Property Leases"), and the Station Contracts, if any (the "Assumed Obligations"). Except for the Assumed Obligations, Buyer does not assume, and shall not be obligated to pay, discharge or perform, and will not be deemed by execution and delivery of this Agreement or any agreement, instrument or document delivered pursuant to or in connection with this Agreement or otherwise by reason of the consummation of the transactions contemplated hereby, to have assumed, any liabilities, obligations or commitments of Seller of any kind, whether or not disclosed to Buyer, including, without limitation: 1) any contracts not included in the Station Contracts, including, without limitation, any contract with Nielsen/Arbitron; 2) any liabilities arising under capital leases or other financing arrangements; 3) any taxes imposed by any governmental authority, including without limitation, income, sales or use taxes, or employment taxes related to Seller's operations prior to the Closing Date; 4) any employee severance payments, pension, profit sharing, retirement, bonus, stock option or other employee benefit plan or compensation arrangement with employees, any group insurance premiums, any payroll or unemployment taxes, any accrued vacation, sick pay, unemployment compensation, workers' disability benefits, salary withholding

2-14-20  
MC

*W. J. ...*  
2-14-20

obligations and/or other employment costs relating to periods prior to the Closing Date; 5) any claims for negligence, other torts, breach of contract or claims of any other kind asserted by customers, former customers, insurance companies, or employees of Seller or any other party that are based on acts or omissions of Seller or its employees or agents occurring before the Closing Date; 6) any amounts due or that may be due to governmental or insurance payors, or any agency or intermediary thereof on account of reimbursement or payment adjustments attributable to any period prior to the Closing Date; 7) and, except as expressly provided herein, any debts, liabilities or obligations or the performance of any duties of Seller of any kind or nature whatsoever, whether arising before, on, or subsequent to the Closing, and whether contingent or liquidated in amount, including, without limitation, any debts, liabilities, obligations or duties arising out of accounts payable, tax liabilities, environmental, immigration or product liability matters, employee wages and benefits, contracts, agreements or other liabilities of Seller or related to the operation of Seller's business prior to the Closing Date (the "Seller's Retained Liabilities").

2.2 Absence of Undisclosed Liabilities. Seller does not have any Liabilities relating to the operation of the Station other than commercial liabilities and obligations incurred in the ordinary course of business and consistent with past practice and none of which has or will have a material adverse effect on the business or results of operations of the Station, and none of which shall be assumed or payable by Buyer.

### ARTICLE 3: PURCHASE PRICE

3.1 Purchase Price. In consideration for the sale of the Station Assets to Buyer, Buyer shall deliver to Seller an aggregate purchase price of Two Hundred Fifteen Thousand Dollars (\$215,000.00), payable, subject to the adjustments and prorations described below, as set forth in Section 3.3 (the "Purchase Price").

3.2 Escrow Deposit. Concurrently with the execution of this Agreement, Buyer shall deliver Ten Thousand Seven Hundred Fifty Dollars (\$10,750.00) (the "Deposit Amount") to Seller as a non-refundable down payment.  
At the Closing, the Deposit Amount shall be applied to the Purchase Price.

3.3 Payment of Purchase Price. At the Closing, Buyer shall pay Seller the Purchase Price, subject to the prorations set forth in Section 3.4 hereof, less the Down Payment Amount, by wire transfer of immediately available funds, pursuant to wire transfer instructions that Seller shall deliver to Buyer on the Closing Date, the sum of Two Hundred Four Thousand Two Hundred Fifty Dollars (\$204,250), plus or minus the net amount of the prorations set forth in Section 3.4 hereof, to an account at a bank or other financial institution as specified in such instructions.

3.4 Prorations and Adjustments. Except as otherwise provided herein, all deposits, reserves, utility costs, FCC regulatory fees, and property taxes relating to the Station Assets shall be prorated between Buyer and Seller in accordance with generally accepted accounting principles as of 11:59 p.m. on the date immediately preceding the Closing Date. As to those

104  
2-14-20

*W. G. King*  
2-14-20

prorations and adjustments not capable of being ascertained on the Closing Date, an adjustment and proration shall be made within sixty (60) calendar days of the Closing Date.

3.5 Allocation. The Purchase Price shall be allocated among the Station Assets in a manner as agreed between the parties prior to the Closing, with Seller delivering to Buyer its proposed allocation schedule no later than two (2) business days prior to the Closing. If Seller and Buyer are unable to reach an agreement with regard to the allocation, then the allocation shall be made in accordance with an appraisal of the Station Assets performed by an independent and neutral appraiser to be mutually agreed upon between Seller and Buyer and paid for equally by the parties. The parties agree to use the allocations determined pursuant to this Section 3.5 for all tax purposes.

#### ARTICLE 4: GOVERNMENTAL CONSENTS

4.1 FCC. Within five (5) business days after the execution of this Agreement, Seller and Buyer shall join in and file with the FCC an application for consent to assignment of the license for the Station from Seller to Buyer (the "Assignment Application"). Seller and Buyer shall diligently prosecute the Assignment Application and shall seek a prompt grant of the Assignment Application, granting consent of the FCC to the assignment of the license for the Station from Seller to Buyer (the "FCC Consent").

4.2 General. Buyer and Seller shall notify each other of all documents filed with or received from any governmental agency with respect to this Agreement, the Assignment Applications, or the transactions contemplated hereby, and shall promptly respond to all requests for further information received from the FCC or governmental agency with regard to the Assignment Application. Buyer and Seller shall furnish each other with such information and assistance as such the other may reasonably request in connection with their preparation of any governmental filing hereunder. If Buyer or Seller becomes aware of any fact relating to them which would prevent or delay the FCC Consent, it shall promptly notify the other thereof and use its reasonable best efforts to remove such impediment.

4.3 FCC Filing Fees. All FCC filing or grant fees with respect to the assignment of the FCC Licenses from Seller to Buyer shall be paid one-half by Buyer and one-half by Seller. Buyer and Seller recognize, however, that such fees must be paid in a single payment, and should one party advance the entire amount of the fee, the other party shall reimburse the paying party or the amount of the half due from the non-paying party shall be an adjustment at Closing. Each party shall otherwise bear its own costs and expenses (including the fees and disbursements of its counsel) in connection with the preparation of the portion of the Assignment Application to be prepared by it and in connection with the processing and defense of the application.

#### ARTICLE 5: TIMING OF CLOSING

Closing of the acquisition of the Stations shall take place by exchange of documents by Federal Express or facsimile on a mutually agreeable date which is within five (5) business days of the date on which the FCC Consent to the Assignment Application has become a Final Order. (the "Closing Date.") For purposes of this Agreement, the term "*Final Order*" shall mean that

(01401980-1)

*Ma*  
2-14-20

*W. G. King*  
2-14-20

action shall have been taken by the FCC (including action duly taken by the FCC's staff, pursuant to delegated authority) which shall not have been reversed, stayed, enjoined, set aside, annulled or suspended; with respect to which no timely request for stay, petition for rehearing, appeal or certiorari or *sua sponte* action of the FCC with comparable effect shall be pending; and as to which the time for filing any such request, petition, appeal, certiorari or for the taking of any such *sua sponte* action by the FCC shall have expired or otherwise terminated. If the Closing is accomplished by exchange of facsimile signatures, such exchange shall be followed by an exchange of originals within ten (10) business days thereafter.

#### ARTICLE 6: REPRESENTATIONS AND WARRANTIES OF BUYER

Buyer hereby makes the following representations and warranties to Seller:

6.1 Organization and Standing. Buyer is duly organized, validly existing, and in good standing in the State of Michigan, and at Closing shall be authorized to do business in the State of Michigan, and such authorization shall be in good standing. Buyer has the requisite power and authority to execute and deliver this Agreement and all of the other agreements and instruments to be executed and delivered by Buyer pursuant hereto (collectively, the "Buyer Ancillary Agreements"), to consummate the transactions contemplated hereby, and thereby and to comply with the terms, conditions, and provisions hereof and thereof.

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

6.3 No Conflicts. Neither the execution and delivery by Buyer of this Agreement and the Buyer Ancillary Agreements nor the consummation by Buyer of any of the transactions contemplated hereby or thereby nor compliance by Buyer with or fulfillment by Buyer of the terms, conditions, and provisions hereof or thereof will: (i) conflict with any organizational documents of Buyer or of its stockholders or any law, judgment, order, or decree to which Buyer or its stockholders are subject; or (ii) require the approval, consent, authorization, or act of, or the making by Buyer of any declaration, filing, or registration with, any third party or any foreign, federal, state, or local court, governmental or regulatory authority or body, except the FCC Consent.

6.4 Qualifications. Buyer is legally, financially, and otherwise qualified to be the licensee of, acquire, own and operate the Stations under the Communications Act of 1934, as amended (the "Communications Act") and the rules, regulations, and policies of the FCC, except as set forth herein. To the best of Buyer's knowledge, except for its attributable interest in

Ag  
2-14-20

WLB  
2-14-20

WKAD and other stations, there are no facts that would, under existing law and the existing rules, regulations, policies, and procedures of the FCC, disqualify Buyer as an assignee of the FCC Licenses or as the owner and operator of the Stations. Provided any attributable interest in WKAD is divested pursuant to Article 9 hereof, Buyer has no knowledge of any facts concerning Buyer or any person with an attributable interest (as such terms are presently defined under decisions, rules, and regulation of the FCC) in Buyer which would, under present law (including the Communications Act) and present rules, regulations, and practices of the FCC, raise a substantial and material question concerning Buyer's level of market concentration which could result in further investigations by the FCC, the Department of Justice, or the Federal Trade Commission, or delay or prevent the grant of the assignment contemplated herein. Should Buyer become aware of any such facts, it will promptly notify Seller in writing thereof and shall use its best efforts to prevent such disqualification. There is no action, suit, or proceeding pending or threatened against Buyer which questions the legality or propriety of the transactions contemplated by this Agreement or could materially adversely affect Buyer's ability to perform its obligations hereunder. Buyer will have available on the Closing Date sufficient funds to enable it to consummate the transactions contemplated hereby in the manner specified herein. To Buyer's knowledge, no representation, warranty, or statement of Buyer omits or will omit to state any material fact necessary to make each representation or warranty or statement in this Agreement accurate and not misleading in any material respect

#### **ARTICLE 7: REPRESENTATIONS AND WARRANTIES OF SELLER**

Seller makes to Buyer the following representations and warranties with regard to its company, stations, and operations:

7.1 **Organization.** Seller is duly organized, validly existing, and in good standing under the laws of the State of Michigan. Seller has the requisite power and authority to execute and deliver this Agreement and all of the other agreements and instruments to be executed and delivered by Seller pursuant hereto (collectively, the "Seller Ancillary Agreements"), to consummate the transactions contemplated hereby and thereby and to comply with the terms, conditions, and provisions hereof and thereof.

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

7.3 **No Conflicts.** Neither the execution and delivery by Seller of this Agreement and the Seller Ancillary Agreements, nor the consummation by Seller of any of the transactions contemplated hereby or thereby, nor compliance by Seller with or fulfillment by Seller of the

*[Handwritten signature]*  
2-14-20

*[Handwritten signature]*  
2-14-20

terms, conditions and provisions hereof or thereof will: (i) conflict with any organizational documents of Seller or of its partners, or any law, judgment, order, or decree or contract to which Seller or its partners are subject; or (ii) require the approval, consent, authorization, or act of, or the making by Seller of any declaration, filing, or registration with, any third party or any foreign, federal, state or local court, governmental, or regulatory authority or body, except the FCC Consent.

7.4 Litigation; Compliance with Law. Except as specified on Schedule 7.4, there is no application, action, suit, investigation, claim, arbitration, proceeding, or litigation pending or, to Seller's knowledge, threatened against or involving Seller, the Station Assets, the Stations or the business or operations of the Stations, at law or in equity, or before or by any court, arbitrator or governmental authority. The Stations are not operating under or subject to any order, judgment, decree or injunction of any court, arbitrator or governmental authority. The Stations are in compliance in all material respects with all laws, ordinances, regulations, awards, orders, judgments, decrees and injunctions applicable to the Station Assets, including the federal, state, and local laws, ordinances, regulations and orders pertaining to employment of labor, zoning, and other matters. The Stations are in compliance, in all material respects, with all FCC rules and policies concerning human exposure to radio frequency radiation.

7.5 Real Property Leases. The Real Property Leases representations and warranties are as follows:

(a) The Real Property Leases are in good standing, and Seller is not in default under either or both such Real Property Leases. Schedule 1.1(c) includes a description of the Real Property Leases.

(b) The Real Property Leases each provide sufficient access to the respective Station's facilities without need to obtain any other access rights. No part of any Real Property is subject to any pending or, to Seller's knowledge, threatened suit for condemnation or other taking by any public authority. All buildings and other improvements included in the Real Property are in good operating condition and repair (ordinary wear and tear excepted) and free from material defect or damage and comply with applicable zoning, health and safety laws and codes. Each Station's towers, guy wires and anchors, ground systems and other facilities and improvements do not encroach upon any adjacent premises, and no facilities from adjacent premises encroach upon either Station's properties.

7.6 Title to Assets. Seller has good and valid title to all the Station Assets free and clear of all Liens.

7.7 Condition of Tangible Assets. All of the tangible personal property included in the Station Assets to be conveyed to Buyer at the Closing, including the tangible personal property described on Schedule 1.1(b), is in good operating condition and repair, ordinary wear and tear excepted; and such Station Assets and the present use thereof are not in violation in any material respect of applicable FCC Licenses, statutes, generally accepted standards of good

2.14.20

W. C. C. C.  
2-14-20

engineering practice in the radio broadcasting industry, or building, fire, zoning, health and safety or any other laws or regulations.

7.8 FCC Licenses and Operation of the Stations.

(a) Schedule 1.1(a) contains a true and complete list of all FCC Licenses associated with the Stations. Seller is the holder of the FCC Licenses described on Schedule 1.1(a), which are all of the licenses, permits, and authorizations required for the present operation of the Station. The FCC Licenses set forth on Schedule 1.1(a) are valid and in full force and effect and, except as set forth in Schedule 7.8, there are no orders or, to Seller's knowledge, complaints, proceedings, or investigations pending or threatened, which could result in the revocation, suspension or limitation of the FCC Licenses.

(b) The FCC Licenses are not subject to any restrictions or conditions which would limit the technical operation of any of Stations as each of them presently operates.

(c) The operations of the Stations are in all material respects in accordance with the FCC Licenses, the Communications Act of 1934, as amended, and rules and regulations of the FCC covering operation of the Stations.

(d) All material reports and filings required to be filed with the FCC by Seller with respect to the Stations have been timely filed. All such reports and filings are accurate and complete in all material respects.

(e) To the knowledge of Seller, no broadcast station or communications facility is causing interference in violation of FCC rules to the either or both of the Stations' transmissions in any material respect, and, to the knowledge of Seller, the Stations are not causing interference in violation of FCC rules to the transmissions of any other broadcast station or communications facility in any material respect.

7.9 Warranties Complete. To Seller's knowledge, no representation, warranty, or statement of Seller omits or will omit to state any material fact necessary to make each representation or warranty or statement in this Agreement accurate and not misleading in any material respect

7.10 Brokers. Except with respect to Jason James or Greg Guy of Patrick Communications ("Broker"), which Seller exclusively has employed as broker in connection with this transaction, no broker, finder or other person is entitled to a commission, brokerage fee, or other similar payment in connection with this Agreement or the transactions contemplated hereby as a result of any action or agreement by Seller. Seller shall pay to Broker any and all brokers' and/or finders' fees involved in the transactions contemplated herein and due to Broker.

7.11 Insurance. Seller maintains insurance policies or other arrangements with respect to the Stations and the Purchased Assets and will maintain such policies or arrangements until the closing.

Ag  
2-14-20

WJ  
2-14-20

7.12 Environment. To Seller's knowledge, no hazardous or toxic substance or waste regulated under any applicable environmental, health or safety law has been generated, stored, transported or released on, in, from or to the Leased Real Property included in the Stations' Assets. To Seller's knowledge, Seller has complied in all material respects with all environmental, health and safety laws applicable to the Stations.

7.13 Hazardous Materials. To Seller's knowledge, no hazardous or toxic materials (as hereinafter defined) exist in any structure located on, or exist on or under the surface of, any of the real property or equipment to be conveyed to or leased by Buyer. For purposes of this Agreement, "hazardous or toxic material" shall mean waste, substances, materials, smoke, gas, pollutants, contaminants, asbestos or asbestos related products, PCB's, petroleum, crude oil (or any fraction or distillate thereof) or particular matter designated as hazardous, toxic or dangerous, or requiring special handling, treatment or storage whether or not designated hazardous, toxic or dangerous under any environmental laws. For purposes of this Agreement "environmental law" shall be interpreted to mean the Comprehensive Environmental Response Compensation and Liability Act, any successor to such law, and/or any other applicable federal, state, or local environmental, health or safety law, rule or regulation concerning the treating, producing, handling, storing, releasing, spilling, leaking, pumping, pouring, emitting, or dumping of any waste, substance, materials, smoke, gas or particulate matter or imposing liability or standards in connection therewith.

7.14 No Third-Party Options. There are no existing agreements with, operations or rights of, or commitments to any person other than Buyer to acquire any of the Purchased Assets or any interest therein or in the Station. Seller hereby agrees to indemnify, defend and hold harmless Buyer from and against all third-party option claims that may be asserted against Seller and Buyer with regard to the transaction contemplated by this Agreement.

#### ARTICLE 8: COVENANTS OF SELLER

Seller covenants and agrees with respect to the Stations that, between the date hereof and Closing, except as permitted by this Agreement or otherwise with the prior written consent of Buyer, it shall:

8.1 operate the Stations in the normal and usual manner, substantially in accordance with its past practices and in accordance with each station's licenses and/or permits; all rules, regulations, and policies of the FCC; the Communications Act of 1934, as amended; and all other applicable laws, regulations, and policies of the FCC and other governmental agencies; and shall conduct the business of the Stations only in the ordinary course;

8.2 upon receiving any finding, order, complaint, citation, or notice prior to Closing which states that any aspect of the Station's operations violates any rule or regulation of the FCC or of any other governmental authority (an "Administrative Violation"), notify Buyer of the Administrative Violation, and use its best reasonable efforts to remove or correct the Administrative Violation;

8.3 not, other than in the ordinary course of business, initiate any layoffs of personnel, incur any liability, or sell, transfer, encumber, lease or dispose of or agree to sell, transfer,

PM  
2-14-20

W. L. Wilkins  
2-14-20

encumber, lease or dispose of any of the Station Assets unless replaced with similar items of substantially equal or greater value and utility; and

8.4 upon reasonable notice, give Buyer and its representatives reasonable access during normal business hours to the Station Assets, and furnish Buyer with information relating to the Station Assets that Buyer may reasonably request, provided that such access rights shall not be exercised in a manner that interferes with the operation of the Station.

{01401980-1 ;

*M*  
2-14-20

*W2 Leaky*  
2-14-20

**ARTICLE 9: BUYER COVENANTS**

Buyer hereby covenants and agrees that it shall:

9.1 by a date no later than February 24, 2020, enter into an agreement, intended to be legally binding, for sale and assignment of the license for WKAD from an entity related to Buyer to a third party not affiliated with Buyer, and shall file an application (the "WKAD Assignment Application") seeking FCC consent to such assignment of the WKAD license to the unrelated third party no later than March 1, 2020; and

9.2 diligently prosecute such WKAD Assignment Application, promptly and fully respond to any and all FCC requests for further information, amendments, or documentation, and subject to FCC approval, shall close on the proposed assignment of the WKAD license prior to May 29, 2020, and shall immediately notify the FCC of such closing; provided that, if the FCC consent is not granted prior to May 29, 2020, then Buyer shall close the proposed assignment of the WKAD license as soon as possible following the grant of FCC consent and in accordance with any conditions placed on such grant of consent.

**ARTICLE 10: OTHER COVENANTS**

Buyer and Seller hereby covenant and agree that between the date hereof and Closing:

10.1 Co-operation. Subject to express limitations contained elsewhere herein, each party (i) shall co-operate fully with one another in taking any reasonable actions (including without limitation, reasonable actions to obtain the required consent of any governmental instrumentality or any third party) necessary or helpful to accomplish the transactions contemplated by this Agreement including, but not limited to, the prompt satisfaction of any condition to Closing set forth herein, and (ii) shall not take any action that conflicts with its obligations hereunder or that causes its representations and warranties to become untrue in any material respect. Buyer and Seller shall co-operate in defending against any petition to deny, informal objection, or other document filed with the FCC expressing any opposition to the Assignment Application(s).

10.2 Control of Stations. Buyer shall not, directly or indirectly, control the operations of the Station prior to Closing. Such operations, including complete control, supervision, and direction of all programs, employees and policies, shall be the sole responsibility of Seller.

10.3 Confidentiality. Each party agrees that any and all information learned or obtained by it from the other shall be confidential and agrees not to disclose any such information to any person whatsoever other than as is necessary for the purpose of effectuating the transaction contemplated by this Agreement.

**ARTICLE 11: CONDITIONS OF CLOSING BY BUYER**

The obligations of Buyer hereunder are, at its option, subject to satisfaction, at or prior to Closing, of each of the following conditions with regard to the respective station:

*M*  
2-14-20

*M. G. Kelly*  
2-14-20

11.1 Representations, Warranties, and Covenants. The representations and warranties of Seller made in this Agreement shall be true and correct in all material respects as of the Closing Date, except for changes permitted or contemplated by the terms of this Agreement, and the covenants and agreements to be complied with and performed by Seller under this Agreement at or prior to the Closing shall have been complied with or performed in all material respects. Buyer shall have received a certificate dated as of the Closing Date from Seller to the effect that the conditions set forth in this Section have been satisfied.

11.2 FCC Consent. The FCC Consent shall have been granted with respect to the Station and shall have become a Final Order; provided, that the requirement for finality may be waived with the mutual consent of Seller and Buyer.

11.3 Compliance with Conditions. Conditions which the FCC Consent(s) or any order, ruling, or decree of any judicial or administrative body relating thereto or in connection therewith specifies and requires to be satisfied prior to assignment of the Station to Buyer shall have been satisfied. Notwithstanding the foregoing, Buyer may terminate this Agreement without penalty in the event that any such condition is, in Buyer's reasonable discretion, unsatisfactory to Buyer; provided, however, that Buyer may not terminate this Agreement based solely on a condition which requires Closing either prior to the filing or after the grant of a license renewal application for the Station.

11.4 Notice to and Consent of Real Property Lease Lessor. Seller shall have provided the required advance notice of assignment of the Real Property Lease to the Lessor (as defined in the Real Property Lease) in accordance with the terms of the Real Property Lease. Any written consent of Lessor necessary to assign the Real Property Lease from Seller to Buyer shall be obtained by Seller prior to the Closing Date.

#### ARTICLE 12: CONDITIONS OF CLOSING BY SELLER

The obligations of Seller hereunder are, at its option, subject to satisfaction, at or prior to the Closing, as applicable, of each of the following conditions:

12.1 Representations, Warranties, and Covenants. The representations and warranties of Buyer made in this Agreement shall be true and correct in all material respects as of the Closing Date except for changes permitted or contemplated by the terms of this Agreement, and the covenants and agreements to be complied with and performed by Buyer at or prior to Closing shall have been complied with or performed in all material respects. Seller shall have received a certificate dated as of the Closing Date from Buyer, to the effect that the conditions set forth in this Section have been satisfied.

12.2 FCC Consent. The FCC Consent shall have been granted and shall have become a Final Order; provided, that the requirement for finality may be waived with the mutual consent of Seller and Buyer.

(01401980-1)

*Mg*  
2-14-20

*W. Laury*  
2-14-20

12.3 Compliance with Conditions. Conditions which the FCC Consent(s) or any order, ruling, or decree of any judicial or administrative body relating thereto or in connection therewith specifies and requires to be satisfied prior to assignment of the Stations to Buyer shall have been satisfied. Notwithstanding the foregoing, Seller may terminate this Agreement without penalty in the event that any such condition is, in Seller's reasonable discretion, unsatisfactory to Seller; provided, however, that Seller may not terminate this Agreement based solely on a condition which requires Closing either prior to the filing or after the grant of a license renewal application for the Station.

12.4 Purchase Price. The Purchase Price shall be paid in the amount and manner set forth in Section 3 of this Agreement.

12.5 Legal Proceedings. The Seller will not be subject to any injunction, restraining order, stay, or other order of a court or administrative body of competent jurisdiction requiring the Seller not to consummate any of the transactions that this Agreement contemplates.

### **ARTICLE 13: EXPENSES**

Each party shall be solely responsible for all costs and expenses incurred by it in connection with the negotiation, preparation and performance of and compliance with the terms of this Agreement, except that any filing fees, transfer fees, or recordation fees shall be paid equally by Seller and Buyer. The parties recognize that one party must initially pay the FCC Application filing fee, and the party not initially paying the filing fee agrees to reimburse to the payment party the amount equal to one-half of the filing fee as an adjustment at Closing.

### **ARTICLE 14: DOCUMENTS TO BE DELIVERED AT CLOSING**

14.1 Seller's Documents. At Closing, Seller shall deliver or cause to be delivered to Buyer the following:

- (i) certified copies of resolutions or Consent Actions authorizing the execution, delivery, and performance of this Agreement, including the consummation of the transactions contemplated hereby, together with a certificate of incumbency of the general partner;
- (ii) the certificate described in Section 11.1;
- (iii) a certificate of good standing from the State of Michigan;
- (iv) the leases described in Section 1.3;
- (v) assignments of the FCC licenses for the Stations;
- (vi) a bill of sale conveying the Tangible Personal Property;

*PK*  
2-14-20

*W.L. G. Hmy*  
2-14-20

- (vii) a document authorizing the release of the Escrow Deposit;
- (viii) assignments and assumptions of the Real Property Leases (with Lessors' written consents, if required by the Real Property Leases);
- (ix) an assignment and assumption of the Station Contracts; and
- (ix) any such other bills of sale, assignments, and other instruments of conveyance, assignment and transfer executed by Seller as may be necessary to convey and transfer and assign the Station Assets to Buyer, free and clear of Liens.

14.2 Buyer's Documents. At Closing, Buyer shall deliver or cause to be delivered to Seller:

- (i) certified copies of resolutions or Consent Actions authorizing the execution, delivery, and performance of this Agreement, including the consummation of the transactions contemplated hereby, together with a certificate of incumbency of the Buyer's corporate officers;
- (ii) the certificate described in Section 11.1;
- (iii) a good standing certificate for Buyer issued by the Secretary of State of the State of its organization;
- (iv) a document authorizing the release of the Escrow Deposit;
- (v) assignments and assumptions of the Real Property Leases (with Lessors' written consents, if required by the Real Property Leases);
- (vi) an assignment and assumption of the Station Contracts;
- (vii) the remainder of the Purchase Price; and
- (viii) such instruments of assumption executed by the Buyer as may be necessary to assume the post-Closing obligations associated with the FCC Licenses and other Station Assets to be assigned to and assumed by the Seller pursuant to this Agreement.

**ARTICLE 15: SURVIVAL; INDEMNIFICATION**

15.1 Survival. The covenants, agreements, representations, and warranties in this Agreement shall survive Closing for a period of twelve (12) months from the Closing Date (the "Survival Period"), whereupon they shall expire and be of no further force or effect, except those under this Article 15 that relate to Damages (defined below) for which written notice is given by the indemnified party to the indemnifying party prior to the expiration of the Survival Period, which shall survive until resolved.

(01401980-1)

*Handwritten:* 2/14/20

*Handwritten signature:* W. L. ...  
7-14-20

15.2 Indemnification.

(a) Seller's Indemnity Obligation. Seller hereby agrees to indemnify, defend, save, and hold Buyer and Buyer's shareholders, officers, directors, and employees ("Buyer Affiliates") harmless with respect to any and all claims, losses, obligations, liabilities, costs and expenses, including reasonable counsel fees ("Damages"), threatened, suffered, incurred, or sustained by Buyer and/or Buyer Affiliates by reason of any misrepresentations by Seller or any breach by Seller of this Agreement or of any of Seller's warranties, covenants, or representations contained in this Agreement, or arising from or by reason of Seller's ownership of the Station Assets or operation of the Station prior to the Closing Date hereunder, or arising out of any breach by Seller of the Real Property Leases or of any other agreements which might be assigned to Buyer hereunder because of events occurring prior to the Closing Date. Seller's cumulative and total obligations under this Section 15.2 shall not exceed the amount of Fifty Thousand Dollars (\$50,000).

(b) Buyer's Indemnity Obligation. Buyer hereby agrees to indemnify, defend, save, and hold Seller and Seller's shareholders, officers, directors, and employees ("Seller Affiliates") harmless with respect to any and all Damages threatened, suffered, incurred, or sustained by Seller and/or Seller Affiliates by reason of any misrepresentations by Buyer or any breach by Buyer of this Agreement or of any of Buyer's warranties, covenants, or representations contained in this Agreement or arising from or by reason of Buyer's ownership of the Station Assets or operation of the Station subsequent to the Closing Date hereunder or arising out of any breach by Buyer of the Tower Lease assigned to the Buyer hereunder because of events occurring after the Closing Date hereunder. Notwithstanding other provisions of this Agreement, obligations to indemnify, defend, save, and hold Seller harmless in connection with Buyer's breach of the Real Property Leases after the Closing Date shall survive until the expiration of the each Real Property Lease's respective term. Buyer's cumulative and total obligations under this Section 15.2 shall not exceed the amount of Fifty Thousand Dollars (\$50,000).

(c) Indemnification Procedures. If either party hereto (the "Indemnitee") receives notice or otherwise obtains knowledge of any matter with respect to which another party hereto (the "Indemnifying Party") may be obligated to indemnify the Indemnitee under this Section 15.2, then the Indemnitee shall promptly deliver to the Indemnifying Party written notice describing such matter in reasonable detail and specifying the estimated amount of the Damages or liability that may be incurred by the Indemnitee in connection therewith. The Indemnifying Party shall have the right, at its option, to assume the complete defense of such matter at its own expense and with its own counsel, provided such counsel is reasonably satisfactory to the Indemnitee. If the Indemnifying Party elects to assume the defense of such matter, then (i) notwithstanding anything to the contrary contained herein, the Indemnifying Party shall not be required to pay or otherwise indemnify the Indemnitee against the cost otherwise associated with Indemnitee's defense of such matter for the period following the Indemnifying Party's election to assume the defense of such matter, but shall be responsible for payment of any Damages or liability that may be assessed against the Indemnitee, (ii) the Indemnitee shall fully cooperate as reasonably requested by the Indemnifying Party in the defense or settlement of such matter, (iii) the Indemnifying Party shall keep the Indemnitee informed of all material developments and events relating to such matter, and (iv) the Indemnitee shall have the right to participate, at its own expense, in the defense of such matter. In no event shall the Indemnifying Party be liable

19  
2-14-20

W. G. G. G.  
2-14-20

for any settlement or admission of liability with respect to such matter without its prior written consent.

(d) Computation of Damages. Any computation of the Damages payable pursuant to this Article 10 shall be decreased to the extent of any amounts recovered by the indemnified party from any third party (including insurance proceeds) in respect of any such Damages. The indemnified party shall use its commercially reasonable efforts to pursue payment under or from any insurer or third-party in respect of such Damages. Each Indemnitee shall take, and cause its Affiliates to take, all reasonable steps to mitigate any Damages upon becoming aware of any event or circumstance that would be reasonably expected to, or does, give rise thereto, including incurring costs only to the minimum extent necessary to remedy the breach that gives rise to such Damages. Seller shall not be liable under this Article 15 for any Damages based upon or arising out of any inaccuracy in or breach of any of the representations or warranties of Seller contained in this Agreement if Buyer had knowledge of such inaccuracy or breach prior to the Closing.

#### ARTICLE 16: TERMINATION

16.1 Termination. This Agreement may be terminated at any time prior to Closing as follows:

- (a) by mutual written consent of Buyer and Seller;
- (b) by written notice of Buyer to Seller if Seller (i) does not satisfy the material conditions or perform the material obligations to be satisfied or performed by it on or before the Closing Date; or (ii) Seller otherwise breaches in any material respect any of its representations or warranties or defaults in any material respect in the performance of any of its covenants or agreements herein contained, and such breach or default is not cured within the Cure Period (defined below);
- (c) by written notice of Seller to Buyer if Buyer (i) does not satisfy the material conditions or perform the material obligations to be satisfied or performed by it on or before the Closing Date; or (ii) otherwise breaches in any material respect any of its representations or warranties or defaults in any material respect in the performance of any of its covenants or agreements herein contained and such breach or default is not cured within the Cure Period (defined below);
- (d) by written notice of Buyer to Seller, or by Seller to Buyer, if the FCC dismisses or denies the Assignment Application, or if the FCC or any judicial or administrative body requires a condition that is materially adverse to Buyer or to Seller; provided that an FCC condition which requires Closing to take place either prior to the filing of license renewal applications or after grant of such applications shall not be considered to be materially adverse;

1/19  
2-14-20

W. Coleman  
2-14-20

(e) by written notice of Seller to Buyer, or of Buyer to Seller, if the Closing shall not have been consummated before November 1, 2020, unless the delay is due to the actions of the terminating party; or

(f) by written notice of either party to the other if the FCC designates any of the Assignment Applications for hearing.

The term "Cure Period" as used herein means a period commencing on the date Buyer or Seller receives from the other written notice of breach or default hereunder and continuing until the earlier of (i) thirty (30) calendar days thereafter or (ii) the Closing Date; *provided, however*, that if the breach or default cannot reasonably be cured within such thirty (30) period but can be cured before the Closing Date, and if diligent efforts to cure promptly commence, then the Cure Period shall continue as long as such diligent efforts to cure continue, but not beyond the Closing Date. Except as set forth below, the termination of this Agreement shall not relieve any party of any liability for breach or default under this Agreement prior to the date of termination. Notwithstanding anything contained herein to the contrary, Article 13 (Expenses) and Section 10.3 (Confidentiality) shall survive any termination of this Agreement for a period of two years.

16.2 Remedies/Specific Performance. The termination of this Agreement shall not relieve either party of any liability for breach or default under this Agreement prior to the date of such termination. The parties recognize that if Seller defaults under this Agreement and as a result the Buyer terminates this Agreement, monetary damages alone will not be adequate to compensate the Buyer for its injury. Buyer shall therefore be entitled to obtain specific performance of the terms of this Agreement in addition to any other remedies, including but not limited to monetary damages that may be available to it at law or equity. If any action is brought by the Buyer to enforce this Agreement, Seller shall waive the defense that there is an adequate remedy at law. In the event of a default by either party (the "Breaching Party") which results in the filing of a lawsuit for damages, specific performance, or other remedy, the other party (the "Non-Breaching Party") shall be entitled to reimbursement by the Breaching Party of reasonable legal fees and expenses incurred by the Non-Breaching Party, provided that the Non-Breaching Party is successful in such lawsuit.

## ARTICLE 17: MISCELLANEOUS PROVISIONS

17.1 Risk of Loss. Seller shall bear the risk of all damage to, loss of or destruction of any of the Station Assets between the date of this Agreement and the Closing Date. If any material portion of the Station Assets shall suffer any material damage or destruction prior to the Closing Date (the "Damaged Assets"), Seller shall promptly notify Buyer in writing of such damage or destruction. If restoration, repair or replacement of such portion of the Damaged Assets is not accomplished prior to the Closing Date, Buyer may, at its option, elect either to consummate the Closing on the Closing Date, in which event Seller shall pay to Buyer the amount of any deductible under applicable insurance and assign to Buyer all of Seller's rights under applicable insurance policies, or to postpone the Closing Date by a period of up to ninety (90) days to allow time for restoration, repair or replacement of the Damaged Assets. If the

Ag  
7-14-20

W. L. [Signature]  
2-14-20

Damaged Assets cannot be restored, repaired, or replaced to Buyer's reasonable satisfaction within ninety (90) calendar days, Buyer may elect to terminate this Agreement.

17.2 Further Assurances. After the Closing, Seller shall from time to time, at the request of and without further cost or expense to Buyer, execute and deliver such other instruments of conveyance and transfer and take such other actions as may reasonably be requested in order to more effectively consummate the transactions contemplated hereby to vest in Buyer good title to the Station Assets, and Buyer shall from time to time, at the request of and without further cost or expense to Seller, execute and deliver such other instruments and take such other actions as may reasonably be requested in order more effectively to relieve Seller of any obligations being assumed by Buyer hereunder.

17.3 Benefit and Assignment. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns. Neither Buyer nor Seller may assign its rights under this Agreement without the prior written consent of the other, which consent shall not be unreasonably withheld. All covenants, agreements, statements, representations, warranties, and indemnities in this Agreement by and on behalf of any of the parties hereto shall bind and inure to the benefit of their respective successors and permitted assigns of the parties hereto.

17.4 Amendments and Waivers. No amendment, waiver of compliance with any provision or condition hereof, or consent pursuant to this Agreement shall be effective unless evidenced by an instrument in writing signed by the party against whom enforcement of any waiver, amendment, change, extension, or discharge is sought.

17.5 Headings. The headings set forth in this Agreement are for convenience only and will not control or affect the meaning or construction of the provisions of this Agreement.

17.6 Governing Law. The construction and performance of this Agreement shall be governed by the laws of the State of Michigan without giving effect to the choice of law provisions thereof.

17.7 Notices. Any notice, demand or request required or permitted to be given under the provisions of this Agreement shall be in writing, including by facsimile or e-mail, and shall be deemed to have been received on the day of such facsimile or e-mail or on the day after delivery to a nationally recognized overnight courier service if sent by an overnight delivery service for next morning delivery, and shall be addressed as follows (or to such other address as any party may request by written notice):

if to Seller, to:

Northern Radio of Gaylord, Inc.  
Northern Michigan Radio, Inc.  
1020 Hastings  
Traverse City, MI 49686  
Attn: William Langer Gokey

{01401980-1}

*WJ*  
2-14-20

*WJ*  
2-14-20

Telecopier: \_\_\_\_\_

(E-mail): [Langergokey@gmail.com](mailto:Langergokey@gmail.com)

with a copy (which shall not be considered to be notice) to:

Anne Goodwin Crump, Esq.  
Fletcher, Heald & Hildreth, P.L.C.  
1300 N. 17th Street  
Eleventh Floor  
Arlington, VA 22209  
Telecopier: 703-812-0486

if to Buyer, to:

MacDonald Garber Broadcasting, Inc.  
2095 U.S. 131 South  
Petoskey, MI 49770  
Attn: Patricia MacDonald Garber  
Telecopier: 231-347-9920

(E-mail): [trish.garber@106khq.com](mailto:trish.garber@106khq.com)

with a copy (which shall not be considered to be notice) to:

Cary S. Tepper, Esquire  
Tepper Law Firm, LLC  
4900 Auburn Avenue  
Suite 100  
Bethesda, MD 20814-2632  
Telecopier: 301-718-1820

(Email): [tepperlaw@aol.com](mailto:tepperlaw@aol.com)

17.8 Counterparts. This Agreement may be executed in one or more counterparts, each of which will be deemed an original and all of which together will constitute one and the same instrument.

17.9 No Third Party Beneficiaries. Nothing herein expressed or implied is intended or shall be construed to confer upon or give to any person or entity other than the parties hereto and their successors or permitted assigns, any rights or remedies under or by reason of this Agreement.

17.10 Severability. The parties agree that if one or more provisions contained in this Agreement shall be deemed or held to be invalid, illegal, or unenforceable in any respect under any applicable law, this Agreement shall be construed with the invalid, illegal, or unenforceable

*Ag*  
*2/14/20*

*W.C. Crump*  
*2-14-20*

provision deleted, and the validity, legality, and enforceability of the remaining provisions contained herein shall not be affected or impaired thereby.

17.11 Bulk Transfer Laws. Buyer hereby waives compliance with the provisions of any applicable bulk transfer laws.

17.12 Time is of the Essence. Time shall be of the essence in this Agreement and the performance of each and every provision hereof.

17.13 Co-operation. Seller and Buyer shall co-operate fully with each other in connection with any steps required to be taken under this Agreement and will use their respective best efforts to perform or fulfill all conditions and obligations to be performed or fulfilled by them under this Agreement.

17.14 Choice of Closing Date. Notwithstanding the provisions of Articles 11 and 12 hereof, Seller and Buyer shall use their reasonable best efforts, subject to the requirement of FCC consent to the assignment of licenses contemplated herein, complete Closing on a date prior to June 1, 2020, and shall agree to waive the requirement that the FCC consent be a Final Order should such a waiver be necessary to proceed with Closing prior to June 1, 2020; provided that if such a waiver is required, Seller and Buyer shall enter into an agreement for the unwinding of the Closing should the FCC consent to the assignment of the Stations' licenses be rescinded.

17.15 Entire Agreement. This Agreement embodies the entire agreement and understanding of the parties hereto and supersedes any and all prior agreements, arrangements, and understandings relating to the matters provided for herein. This Agreement does not supersede any confidentiality agreement relating to the Stations.

[SIGNATURE PAGE FOLLOWS]

(01401980)

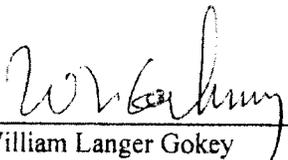
*[Handwritten signature]*  
12/14/20

*[Handwritten signature]*  
2-17-20

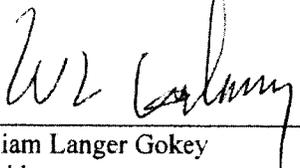
IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first set forth above.

SELLER:

**NORTHERN RADIO OF GAYLORD, INC.**

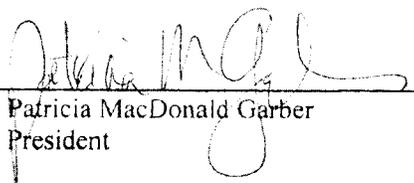
By:   
William Langer Gokey  
President

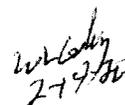
**NORTHERN MICHIGAN RADIO, INC.**

By:   
William Langer Gokey  
President

BUYER:

**MacDONALD GARBER BROADCASTING, INC.**

By:   
Patricia MacDonald Garber  
President

  
2-7-80