

ASSET PURCHASE AGREEMENT

THIS ASSET PURCHASE AGREEMENT (the “Agreement”) is entered into as of this 16th day of February, 2022 (the “Effective Date”), by and between Taconite Broadcasting, Inc., a Michigan corporation, (“Seller”), and the Keweenaw Bay Indian Community, a federally-recognized Indian tribe (“Buyer”) (each a “Party” and, collectively, the “Parties”).

RECITALS

WHEREAS, Seller is the licensee and operator of the following radio broadcast stations (each a “Station,” and collectively the “Stations”) pursuant to certain authorizations issued by the Federal Communications Commission (the “FCC”):

WMQT(FM), Ishpeming, Michigan (FCC Facility ID No. 64503)
WZAM(AM), Ishpeming, Michigan (FCC Facility ID No. 64504)
W227CJ, Marquette, Michigan (FCC Facility ID No. 148033)
W295CX, Marquette, Michigan (FCC Facility ID No. 200442)

and Seller owns or leases all other assets used in connection with the operation of the Stations; and

WHEREAS, on the terms and conditions described herein, Seller desires to sell and Buyer desires to purchase substantially all of the assets owned or leased by Seller and used in connection with the operation of the Stations.

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 to the following terms and conditions:

ARTICLE 1: SALE AND PURCHASE

1.1 **Station Assets**. Subject to the terms and conditions contained herein, Seller shall grant, convey, sell, assign, transfer and deliver to Buyer on the Closing Date (defined below) all assets, properties, interest and rights of Seller used or useful in connection with the operation of the Stations (collectively, the “Station Assets”), but excluding the Excluded Assets (defined below). The Station Assets shall be delivered to Buyer free and clear of all debts, security interests, mortgages, trusts, claims, pledges, conditional sales agreements, equipment leases, and other liens, liabilities and encumbrances of every kind and nature (“Liens”), other than Liens that will be discharged prior to Closing or liens for Taxes, assessments and governmental charges not yet due and payable (“Permitted Liens”) and shall include, without limitation, the following:

(a) All licenses, authorizations, permits and approvals issued to Seller with respect to the Stations by the FCC (and any pending applications before the FCC), including, without limitation, those described on Schedule 1.1(a) attached hereto, and any pending applications, construction permits, renewals or modifications thereof (collectively, the “FCC Licenses”).

(b) All machinery and equipment, transmitters, antennas, furniture, fixtures, computers, cables, spare parts and other tangible personal property owned by Seller and used or useful in connection with the operation of the Stations, including those items listed in Schedule 1.1(b) (the “Tangible Personal Property”).

(c) (i) all real property interests owned by Seller or affiliates of Seller and used in the business and operation of the Station, including those listed on Schedule 1.1(c) (the “Owned Real Property”) and any interest of Seller therein, including without limitation, land, easements, air rights, mineral rights to the extent owned by Seller, rights of way and fee ownership, buildings, structures, fixtures, fittings and improvements, including any towers, guy wires and anchors, if any and (ii) all of the real property interest leased, subleased, licensed, or otherwise occupied by and used in the business and operation of the Station (the “Real Property Leases”) (including any appurtenant easements, building, structures, fixtures, and other improvements located thereon), as described in Schedule 1.1(c) (together with the Owned Real Property, the “Real Property”);

(d) contracts and agreements in connection with the business and operations of the Stations, including those described in Schedule 1.1(d), together with all similar contracts and agreements that are entered into in the Ordinary Course of Business of the Stations between the date of this Agreement and the Closing Date (the “Contracts”). “Ordinary Course of Business” means the ordinary course of business consistent with past custom and practice (including with respect to quantity and frequency);

(e) all deposits, prepaid expenses and charges attributable to the period prior to or on the Closing Date in respect of the Stations and attributable to periods after the Closing Date, in each case, to the extent reflected in the Prorations set forth in Section 1.6 below;

(f) all of the Seller’s rights, claims, credits, causes of action or rights of set-off against third parties relating to the Stations or Station Assets, including claims pursuant to all warranties, representations and guarantees made by suppliers, manufacturers, contractors and other third parties in connection with products or services purchased by or furnished to the Seller for use in the Stations or affecting any of the Station Assets;

(g) all of the Seller’s rights in connection with any “barter” transactions and “trade” agreements affecting the Stations;

(h) all trademarks, trade names, call letters, service marks, copyrights, software licenses, domain names, websites and other intangible rights, owned or licensed and used or held for use by Seller in the operation of the Stations, including those identified on Schedule 1.1(e) (the “Intangible Property”);

(i) the Stations’ public inspection files, filings with the FCC relating to the Stations, and such other program logs, technical information, engineering data, books and records that relate to the Stations and the Station Assets being conveyed hereunder; all sales and promotional literature, manuals and data, sales and purchase correspondence, advertiser lists, lists of present and former suppliers, and lists of present and former customers that relate to the

Stations and the Station Assets; except that Seller may retain copies of all such documents and files reasonably necessary for preparation and submission of Seller's tax filings;

(j) all goodwill associated with the Station Assets; and

(k) all other assets, tangible and intangible, held by Seller and used or useful in the business and operation of the Stations, except for the Excluded Assets.

1.2 **Excluded Assets.** The following shall be excluded from the Station Assets and retained by Seller (collectively, the "Excluded Assets"):

(a) all cash, cash equivalents or similar investments such as certificates of deposit, treasury bills and other marketable securities on hand and/or in banks and deposits of Seller;

(b) any insurance policies, intercompany accounts, promissory notes, amounts due from employees, or other similar items, any cash surrender value in regard thereto of Seller, and any proceeds from insurance claims made by Seller relating to property or equipment included in the Station Assets that has been repaired, replaced or restored by Seller prior to the Closing Date;

(c) any pension, profit-sharing or cash or deferred (Section 401(k)) plans and trusts and assets thereof, or any other employee benefit plan or arrangement, and the assets thereof;

(d) any tangible and intangible personal property of Seller disposed of or consumed between the date of this Agreement and the Closing in the ordinary course of business;

(e) except as provided in Section 1.1(i) all the financial records, account books and general ledgers, and all corporate records (including organizational documents) of Seller, including tax returns and donor lists;

(f) all accounts receivable, notes receivable and other monies due to the Seller for sales and deliveries of goods, performance of services, sale of advertisements, broadcast time and programming, digital advertising services and other business transactions related to the Stations attributable to the period on or prior to the Closing Date which are outstanding and uncollected as of the Closing Date (the "Accounts Receivable"); and

(g) all assets listed on Schedule 1.2(g).

1.3 **Assumed Liabilities.** Upon the terms and subject to the conditions set forth herein, at the Closing the Buyer shall assume from the Seller (and thereafter pay, perform, discharge or otherwise satisfy in accordance with their respective terms), and the Seller shall irrevocably convey, transfer and assign to the Purchaser, all of the Assumed Liabilities of the Seller. For all purposes of and under this Agreement, the term "Assumed Liabilities" shall mean, refer to and include all Liabilities of the Seller (i) under the Contracts validly assigned to the Buyer (other than any contracts included in the Excluded Assets) to the extent arising or accruing

after the Closing Date, (ii) relating exclusively to the Stations that arise with respect to events occurring after the Closing Date and that relate to the period commencing after the Closing Date; and (iii) to the extent included in the calculation of the Prorations in favor of the Seller, but only up to the amount of such Proration with respect to such Liability; provided, however, that, for the avoidance of doubt, Liabilities arising from or related to the Excluded Assets shall not be Assumed Liabilities and shall be Excluded Liabilities.

1.4 **Excluded Liabilities.** The Buyer shall not assume, and the term Assumed Liabilities shall not mean, refer to or include (and, therefore, the “Excluded Liabilities” shall consist of) all Liabilities of the Seller not expressly assumed by the Buyer as Assumed Liabilities hereunder, including the following:

- (a) Liabilities of the Seller or its Affiliates under any employee benefit plan;
- (b) Liabilities for indebtedness for borrowed money of the Seller;
- (c) Liabilities for taxes of the Seller or any of its Affiliates;
- (d) Liabilities of the Seller not arising out of or relating to the Stations or the Station Assets;
- (e) Liabilities of the Seller arising out of or relating to the Stations or the Station Assets arising during, or attributable to, any period of time on or before the Closing Date (except to the extent included in the calculation of the Prorations), including any Liabilities arising out of Environmental Laws and Liabilities that could be asserted by the FCC against the Stations based on any conduct occurring on or prior to the Closing Date;
- (f) Liabilities to any Affiliate of the Seller;
- (g) any Liability for Taxes payable with respect to the Seller’s transfer of the Station Assets to the Buyer and the Seller’s consummation of the Transactions;
- (h) Liabilities under any Excluded Contract;
- (i) any Liability to or in respect of, or arising out of or in connection with, the employment or cessation of employment by the Seller of any Business Employees or former Business Employees of the Seller;
- (j) any claim by any broker, finder or other Person employed or allegedly employed by the Seller or its Affiliates or agents or representatives in connection with the Transactions; and
- (k) All Liabilities of the Seller arising under this Agreement.

1.5 **Purchase Price and Payment.** The purchase price to be paid for the Station Assets is Four Hundred Thousand and 00/100 Dollars (\$400,000.00) (the “Purchase Price”), subject to the prorations described in Section 1.6, and shall be paid to Seller in full at Closing.

1.6 **Prorations.** The parties agree to prorate all expenses arising out of the operation of the Station which are incurred, accrued, or payable, as of 11:59 p.m. local time of the Closing Date. The prorated items shall include, but not be limited to, power and utilities charges, FCC regulatory fees (based on the most recent publicly available information about the cost of such regulatory fees for the Stations), real and personal property taxes upon the basis of the most recent tax bills and information available, security deposits, and similar prepaid and deferred items. The prorations shall, insofar as feasible, be determined and paid on the Closing Date, with final settlement and payment to be made within forty-five (45) days after the Closing Date.

ARTICLE II. FCC CONSENT; CLOSING

2.1 **FCC Consent; Assignment Application.** Not later than five (5) business days after the Effective Date, Buyer and Seller shall prepare, execute, and file an application to the FCC (the "Assignment Application") requesting the FCC's consent (the "FCC Consent") to the assignment of the FCC Licenses from Seller to Buyer. Buyer and Seller shall prosecute the Assignment Application and cooperate with each other and with the FCC in order to secure such FCC Consent without delay and to promptly consummate the transaction contemplated hereby. Each party shall be responsible for all of its other costs with respect to the preparation, filing and prosecution of the Assignment Application, including attorneys fees.

2.2 **Closing Date; Closing Place.** The closing (the "Closing") of the transaction contemplated in this Agreement shall occur on the final day of the calendar month in which (i) the FCC Consent becomes a Final Order and (ii) the other conditions to the Closing set forth in Articles 7 and 8 hereof shall have been satisfied or waived (the "Closing Date"); or alternatively, on such other date after the FCC Consent is granted as both parties may agree in writing. The Closing shall be by exchange of documents via email, or as Seller and Buyer may agree. The term "Final Order" means an action by the FCC as to which: (a) no request for stay by the FCC is pending, no such stay is in effect, and any deadline for filing a request for any such stay has passed; (b) no appeal, petition for rehearing or reconsideration, or application for review is pending before the FCC and the deadline for filing any such appeal, petition or application has passed; (c) the FCC has not initiated reconsideration or review on its own motion and the time in which such reconsideration or review is permitted has passed; and (d) no appeal to a court, or request for stay by a court, of the FCC's action is pending or in effect, and the deadline for filing any such appeal or request has passed.

ARTICLE III. REPRESENTATIONS AND WARRANTIES OF SELLER

Seller makes the following representations and warranties to Buyer:

3.1 **Organization and Authorization.** Seller is a corporation duly organized, validly existing, and in good standing under the laws of the State of Michigan. Seller has the power and authority to execute and deliver this Agreement and to consummate the transaction contemplated hereby. Seller's execution and delivery of this Agreement and consummation of the transaction contemplated hereby, have been duly and validly authorized, and no other actions on the part of Seller are necessary to authorize the execution and delivery of, or the performance of Seller's obligations under this Agreement or to consummate the transaction contemplated hereby. This Agreement constitutes the legal, valid, and binding obligation of Seller enforceable in

accordance with its terms, except as may be limited by bankruptcy, insolvency, or other laws affecting generally the enforcement of creditors' rights or the application of principles of equity.

3.2 **No Defaults.** The execution, delivery, and performance of this Agreement by Seller will not (i) constitute a violation of, or conflict with, Seller's articles of organization or bylaws, (ii) result in a default (or give rise to any right of termination, cancellation, or acceleration) under, or conflict with, any of the terms, conditions, or provisions of any obligation relating to the business of the Stations (iii) violate any law, statute, regulation, order, injunction, or decree of any federal, state, or local governmental authority or agency applicable to Seller or any of the Station Assets, (iv) result in the creation or imposition of any Lien on the Station Assets, other than Permitted Liens, or (v) require the consent or approval of any governmental authority, lending institution, or other third party other than the FCC Consent.

3.3 **Tangible Personal Property.** Seller owns and has, and will have on the Closing Date, good and marketable title to the Tangible Personal Property, free and clear of all Liens other than Permitted Liens. Schedule 1.1(b) hereto contains a true and complete list of all items of Tangible Personal Property having a value of at least \$1,000 or that are otherwise material to the operation of the Stations. Except as specified on Schedule 1.1(b), all Tangible Personal Property is (i) in reasonable operating condition and repair, subject to normal wear and tear, adequate for its current use, and available for use, in the operation of the Stations and the conduct of the business and operations of the Stations as presently conducted, and (ii) maintained in material compliance with good engineering practice, industry practice and in material compliance with all applicable FCC and Federal Aviation Administration (the "FAA") rules and policies. Except for the Excluded Assets, the Station Assets are all of the assets necessary to operate in all material respects the Stations as presently operated by the Seller and in material compliance with all Laws, including all applicable rules and regulations of the FCC and FAA.

3.4 **FCC Licenses and Other Licenses.** Schedule 1.1(a) hereto contains a true and complete list of the FCC Licenses (including any pending applications) and all other licenses, permits, or other authorizations from governmental or regulatory authorities that are required for the lawful conduct of the business and operations of the Stations in the manner and to the full extent that the Stations are presently operated. The FCC Licenses and other licenses are in full force and effect, unimpaired by any act or omission of Seller. Seller lawfully holds each of the FCC Licenses and the other licenses, permits, and authorizations listed on Schedule 1.1(a), none of which is subject to any restrictions or conditions that would limit in any material respect the operations of the Stations, other than (i) as may be set forth on the faces of such FCC Licenses and other licenses, or (ii) as may be applicable to the radio broadcasting industry. Seller is operating the Stations in compliance with the FCC Licenses, the Communications Act of 1934, as amended, and all regulations and published policies of the FCC (the "Communications Laws"). There is not now pending or, to the knowledge of Seller, threatened any action by or before the FCC to revoke, cancel, rescind, modify, or refuse to renew any of such FCC Licenses, and Seller has not received any notice of, and has no knowledge of, any pending, issued, or outstanding order by or before the FCC, or of any investigation, order to show cause, notice of violation, notice of apparent liability, notice of forfeiture, or material complaint against the Stations or Seller.

3.5 **Owned Real Property.** Schedule 1.1(c) lists by legal description all of the Owned Real Property. With respect to the Owned Real Property: (i) Seller has good and marketable fee simple title to such parcel, free and clear of all liens, other than Permitted Encumbrances; (ii) there are no pending, or to Seller's knowledge, threatened actions relating to the Owned Real Property; (iii) Except as set forth on Schedule 1.1(c), Seller has not leased or otherwise granted to any Person the right to use or occupy any of the Owned Real Property or any portion of the income or profits from the sale, operation or development thereof; (iv) there are no contracts, agreements, options or rights to purchase such parcel, or any portion thereof, or any interest therein; and (v) to Seller's Knowledge, there are no Persons or entities (other than Seller) in possession of such parcel, or any portion thereof. All improvements owned by Seller on the Owned Real Property have received all material permits required in connection with the current ownership or operation by Seller thereof and are being operated and maintained by Seller in all material respects in accordance with Applicable Law. There is access for ingress and egress to the Owned Real Property. All facilities located on such Owned Real Property have access to such utilities as are necessary for the operation of such facilities as currently operated, all of which services are adequate in all material respects in accordance with all Applicable Laws. Seller has not received any written or, to Seller's Knowledge, oral notice alleging that the Owned Real Property fails to comply with Applicable Laws, including zoning laws, or the building, health and safety, fire and environmental protection codes of any governmental entity and to Seller's knowledge, the Owned Real Property complies with all Applicable Laws. During the period Seller has owned the Owned Real Property, Seller has occupied, used and operated the Owned Real Property in material compliance with all applicable Environmental Laws. To Seller's knowledge, no conditions, circumstances or activities have existed or currently exist on or in regard to, and Seller has not engaged in any activities with respect to, the Owned Real Property that violate any Environmental Law or violated any Environmental Law in effect at the time in which such activities were engaged. "Environmental Law" shall mean any and all federal, state or local laws, statutes, rules, regulations, codes, written policies, ordinances, orders and injunctions in effect on or prior to the date of this Agreement: (a) related to releases or threatened releases of any Hazardous Materials; (b) governing the use, treatment, storage, disposal, transport or handling of Hazardous Materials; or (c) related to worker health and safety (with respect to management of or exposure to Hazardous Materials) and "Hazardous Materials" shall mean all materials, substances or wastes classified, characterized, designated or regulated as "hazardous," "toxic," "pollutant" or "contaminant," or words of similar meaning under any Environmental Law or otherwise subject to imposition of liability or standards of conduct under any Environmental Law.

3.6 **Real Property Leases.** Schedule 1.1(c) lists all Real Property Leases to which Seller is a party which are used and useful in the operations of any of the Stations. With respect to the Real Property Leases: (i) they are and shall be at Closing in full force and effect, (ii) all accrued and currently payable rents and other payments required under the Real Property Leases to be paid by Seller have been paid as of the date of this Agreement and as of the Closing, (iii) to Seller's knowledge, Seller is in peaceable possession of the real estate covered by the Real Property Leases, and (iv) neither Seller nor, to Seller's knowledge, any other party thereto, is in default under the Real Property Leases.

3.7 **Contracts.** Schedule 1.1(d) accurately describes all written contracts, agreements, powers of attorney, guaranties, surety arrangements or other commitments related to

the operation of the Stations, other than that relate solely to Excluded Liabilities, to which Seller is a party, and which will be assigned to Buyer. Seller has provided to Buyer true copies of all Contracts described on Schedule 1.1(d) and all amendments, modifications, extensions and renewals thereof. Seller is not in violation or breach of any of the material terms, conditions or provisions of any Contract. All accrued and heretofore payable amounts due from Seller under any Contract have been paid in the Ordinary Course of Business, except where a good faith claim has been raised by Seller. To Seller's knowledge, no other party thereto is in default or breach under any of the Contracts.

3.8 **Intangible Property.** All material copyrights, trademarks and domain names, and all other Intangible Property owned by Seller and used in connection with the Stations are described, listed or set forth on Schedule 1.1(e). Except as set forth on Schedule 1.1(e), Seller has not received any written or, to Seller's Knowledge, oral notice of any material claims, demands or proceedings pending by any third party challenging Seller's right to use any of the Intangible Property or that any Intangible Property or any services provided by Seller conflict with, infringe or otherwise violate the material intellectual property rights of third parties. Except as set forth on Schedule 1.1(e), the Station Assets include all material Intangible Property, including rights in and to call letters used in the operation of the Stations and, to Seller's knowledge, no third party has materially infringed or is materially infringing on any of the Intangible Property. Seller has not received any written notice that any of the owned Intangible Property is the subject of an outstanding judicial or administrative finding, opinion or office action materially restricting the use thereof by Seller or has been adjudged invalid, unenforceable or unregistrable in whole or in part.

3.9 **Financial Statements.** Seller has provided to Buyer true, correct and complete copies of the following financial statements (collectively, the "Financial Statements"): (i) the profit and loss statement of the Stations (the "Latest Balance Sheet") as of December 31, 2021, (the "Latest Balance Sheet Date"), (ii) the profit and loss statements of the Stations for the calendar years ended December 31, 2019 and December 31, 2020. The Financial Statements were derived from the books and records of the Stations and fairly present, in all material respects, the financial position and results of operations of the Stations as of the respective dates thereof and for the respective periods indicated therein, except as otherwise noted therein and subject, in the case of the Latest Balance Sheet, to normal and recurring immaterial year-end adjustments and the absence of footnotes. The Seller is not subject, with respect to the Assets, to any material Liability which is not shown or reserved for in the Latest Balance Sheet, other than (i) Liabilities incurred in the ordinary course of business consistent with past practice since the Latest Balance Sheet Date (none of which results from, arises out of, relates to, is in the nature of, or was caused by any breach of contract, breach of warranty, tort, infringement, or violation of Law), and (ii) any Liabilities set forth on Schedule 3.9. Books of account and other financial records of the Seller pertaining to the ownership and operation of the Stations or the Station Assets, all of which have been made available to the Buyer heretofore, are complete and correct in all material respects and represent actual, bona fide transactions and have been maintained in all material respects in accordance with sound business practices using a standard system of accounting administered on a consistent basis.

3.10 **Litigation; Compliance with Law.** Seller has operated the Stations in material compliance with all laws, regulations, orders, or decrees. Seller is not subject to any order, writ,

injunction, judgment, arbitration, decision, or decree having a binding effect and affecting the business of the Stations or the Station Assets or which restrains or enjoins, or purports to restrain or enjoin, or could reasonably be expected to restrain or enjoin, the transaction contemplated hereby, and to Seller's knowledge no such proceeding is pending. Except as set forth on Schedule 3.10, there are no suits, arbitrations, administrative charges or other legal proceedings, claims or governmental investigations pending against, or, to Seller's knowledge, threatened against, Seller relating to or affecting this Agreement or the transactions contemplated hereby or the Station Assets, other than pending FCC rulemaking proceedings that affect all similarly situated broadcast stations.

3.11 **Taxes.** Seller has filed any and all applicable federal, state, local and foreign income, franchise, sales, use, property, excise, payroll and other tax returns and forms required to be filed, and has paid in full or discharged all taxes, assessments, excises, interest, penalties, deficiencies and losses required to be paid with respect to the Stations.

3.12 **Brokers.** There is no broker or finder or other person who would have a valid claim for a commission or a brokerage fee in connection with this Agreement or the transaction contemplated hereby.

ARTICLE IV. REPRESENTATIONS AND WARRANTIES OF BUYER

Buyer makes the following representations and warranties to Seller:

4.1 **Organization and Standing.** Buyer is a federally-recognized Indian tribe.

4.2 **Authorization.** Buyer has the power and authority to execute and deliver this Agreement, and to consummate the transaction contemplated hereby. The execution and delivery of this Agreement and the consummation of the transaction contemplated hereby have been duly and validly authorized by Buyer, and no other proceedings on the part of Buyer are necessary to authorize the execution and delivery of, or the performance of Buyer's obligations under this Agreement, or to consummate the transaction contemplated hereby. This Agreement constitutes the legal, valid, and binding agreement of Buyer enforceable in accordance with its terms.

4.3 **No Defaults.** The execution, delivery, and performance of this Agreement by Buyer will not (i) conflict with or result in any breach of any provision of the articles of organization or bylaws of Buyer, or (ii) result in a default (or give rise to any right of termination, cancellation, or acceleration) under, or conflict with, any of the terms, conditions, or provisions of any note, bond, mortgage, indenture, agreement, lease, or other instrument or obligation relating to Buyer or its business, except for such defaults (or rights of termination, cancellation, or acceleration) or conflicts as to which requisite waivers or consents have been obtained and delivered to Seller, (iii) violate any statute, regulation, order, injunction, or decree of any federal, state, or local governmental authority or agency which is applicable to Buyer, or (iv) require the consent or approval of any governmental authority, lending institution, or other third party other than the FCC Consent.

4.4 **Buyer's Qualification.** Buyer is legally and financially qualified to acquire, and to become the FCC licensee of, the Stations and to perform its obligations under this Agreement.

4.5 **Litigation.** Buyer is not subject to any order, writ, injunction, judgment, arbitration, decision, or decree having a binding effect and affecting the business of Buyer or which restrains or enjoins, or purports to restrain or enjoin, or could reasonably be expected to restrain or enjoin, the transaction contemplated hereby, and no such proceeding is pending. There is no material litigation pending by or against, or, to the knowledge of Buyer, or threatened against Buyer, that would prevent or materially impede the consummation by Buyer of the transaction contemplated by this Agreement.

4.6 **Brokers.** There is no broker or finder or other person who would have a valid claim for a commission or a brokerage fee in connection with this Agreement or the transaction contemplated hereby.

ARTICLE V. COVENANTS OF SELLER

At all times during the period commencing upon the execution and delivery of this Agreement by the parties hereto and terminating upon the earlier of the Closing or the termination of this Agreement pursuant to and in accordance its terms, unless the Buyer shall otherwise consent in writing, and except as otherwise required by Law or to enable the Seller to comply with its obligations hereunder or as otherwise set forth herein, the Seller shall:

5.1 use commercially reasonable efforts to conduct the operations of the Stations in the Ordinary Course of Business, consistent with past practice, except to the extent otherwise provided herein;

5.2 use commercially reasonable efforts to preserve and maintain in all material respects the goodwill of the Stations and the current relationships of the Seller with employees, customers, advertisers, suppliers and others with significant and recurring business dealings with the Stations;

5.3 use commercially reasonable efforts to obtain any required consents necessary for the assignment to Buyer of the Contracts and the Real Property Leases;

5.4 maintain the Station Assets in the usual and ordinary manner consistent with good engineering practice;

5.5 not cause or permit, or agree or commit to cause or permit, by act or failure to act, any of the FCC Licenses to expire or to be revoked, suspended or adversely modified, or take or fail to take any action that would cause the FCC or any other governmental authority to institute proceedings for the suspension, revocation or adverse modification of any of the FCC Licenses;

5.6 not, without the prior written consent of Buyer, sell, lease, or transfer, or agree to sell, lease, or transfer, any of the Station Assets without replacement thereof with an asset of equivalent kind, condition, and value that satisfies industry standards for such assets, nor create any new Lien on the Station Assets other than Permitted Liens and Liens arising pursuant to, and in accordance with the terms of, this Agreement.

5.7 comply in all material respects with all federal, state, and local laws, rules and regulations in connection with the operation of the Station.

5.8 use commercially reasonable efforts to fulfill and perform all conditions and obligations on its part to be fulfilled and performed under this Agreement, and to consummate the transaction contemplated hereby.

ARTICLE VI. COVENANTS OF BUYER

Buyer covenants and agrees that from the date hereof until the completion of the Closing, Buyer shall use commercially reasonable efforts to diligently and timely fulfill and perform all conditions and obligations on its part to be fulfilled and performed under this Agreement, and to consummate the transactions contemplated hereby as set forth herein.

ARTICLE VII. CONDITIONS TO THE OBLIGATIONS OF SELLER

The obligations of Seller under this Agreement are subject to the fulfillment of the following conditions prior to or on the Closing Date.

7.1 Representations, Warranties and Covenants.

(i) Each of the representations and warranties of Buyer contained in this Agreement was true and correct as of the date when made and is deemed to be made again on and as of the Closing Date and is then true and correct.

(ii) Buyer shall have materially performed and complied with each and every covenant and agreement required by this Agreement to be performed or complied with by it prior to or on the Closing Date.

7.2 **Proceedings.** Neither Seller nor Buyer shall be subject to any restraining order or injunction (or similar action) which would restrain or prohibit the consummation of the transaction contemplated hereby.

7.3 **FCC Consent.** The FCC Consent shall have been issued by the FCC and shall have become a Final Order.

7.4 **Employment Agreement.** Buyer and Thomas Mogush shall have entered into an employment agreement (the "Employment Agreement") providing for Mr. Mogush's full-time employment by Buyer for a term of up to two (2) years with an annual compensation of \$45,760. Such Employment Agreement shall also contain a non-compete clause restricting Mr. Mogush from engaging in the business of radio or television broadcasting or media advertising sales in any manner within the Michigan counties of Marquette, Houghton, Iron, Baraga, Keweenaw, Delta, Gogebic, Ontonagon, Dickinson, Alger, Schoolcraft and Menominee for a period of one (1) year following termination of his employment with Buyer.

7.5 **Deliveries.** Buyer shall have complied with each and every one of its obligations set forth in Section 9.2.

ARTICLE VIII. CONDITIONS TO THE OBLIGATIONS OF BUYER

The obligations of Buyer under this Agreement are subject to the fulfillment of the following conditions prior to or on the Closing Date.

8.1 **Representations, Warranties and Covenants.**

(i) Each of the representations and warranties of Seller contained in this Agreement was true and correct as of the date when made and is deemed to be made again on and as of the Closing Date and is then true and correct.

(ii) Seller shall have materially performed and complied with each and every covenant and agreement required by this Agreement to be performed or complied with by it prior to or on the Closing Date.

8.2 **Proceedings.** Neither Seller nor Buyer shall be subject to any restraining order or injunction (or similar action) which would restrain or prohibit the consummation of the transaction contemplated hereby.

8.3 **FCC Consent.** The FCC Consent shall have been issued by the FCC and such consent shall have become a Final Order.

8.4 **Real Property Lease Consents.** All landlord consents and/or estoppels necessary for the assignment of the Real Property Lease from Seller to Buyer shall have been obtained.

8.5 **Employment Agreement.** Buyer and Thomas Mogush shall have entered into an employment agreement (the "Employment Agreement") providing for Mr. Mogush's full-time employment by Buyer for a term of up to two (2) years with an annual compensation of \$45,760. Such Employment Agreement shall also contain a non-compete clause restricting Mr. Mogush from engaging in the business of radio or television broadcasting or media advertising sales in any manner within the Michigan counties of Marquette, Houghton, Iron, Baraga, Keweenaw, Delta, Gogebic, Ontonagon, Dickinson, Alger, Schoolcraft and Menominee for a period of one (1) year following termination of his employment with Buyer.

8.6 **Deliveries.** Seller shall have complied with each and every one of the obligations set forth in Section 9.1.

ARTICLE IX. ITEMS TO BE DELIVERED AT CLOSING

9.1 **Deliveries by Seller.** At Closing, Seller shall deliver to Buyer, duly executed by Seller or such other signatory as may be required by the nature of the document:

(i) a bill of sale sufficient to sell, convey, transfer and assign the Tangible Personal Property and any other assets included in the Station Assets (other than the FCC Licenses) to Buyer free and clear of any Liens other than Permitted Liens (the "Bill of Sale");

(ii) an Assignment and Assumption Agreement sufficient to assign the FCC Licenses (including the Station's call letters) to Buyer (the "FCC Licenses Assignment and Assumption");

(iii) one or more Assignment and Assumption document(s) sufficient to assign the Real Property Leases to Buyer (collectively, the "Real Property Lease Assignment and Assumption");

(iv) a general warranty deed for the Owned Real Property;

(v) the Employment Agreement; and

(vi) any other documents and instruments of conveyance, assignment and transfer that may be reasonably necessary to convey, transfer and assign the Station Assets to Buyer, free and clear of Liens, except for Permitted Liens.

9.2 **Deliveries by Buyer.** At the Closing, Buyer shall deliver to Seller, duly executed by Buyer or such other signatory as may be required by the nature of the document:

(i) the Bill of Sale;

(ii) the Purchase Price;

(iii) the FCC Licenses Assignment and Assumption;

(iv) the Real Property Lease Assignment and Assumption;

(v) the Employment Agreement; and

(vi) any other documents and instruments of conveyance, assignment and transfer that may be reasonably necessary to assume the Station Assets.

ARTICLE X. SURVIVAL AND INDEMNITY

10.1 **Seller's Indemnity Obligation.** Seller hereby agrees to indemnify, defend, save, and hold Buyer harmless with respect to any and all claims, losses, obligations, liabilities, costs and expenses, including reasonable counsel fees, threatened, suffered, incurred, or sustained by Buyer 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 Assets or operation of the Stations prior to the Closing Date hereunder. This Section 10.1 shall survive Closing for one (1) year.

10.2 **Buyer's Indemnity Obligation.** Buyer hereby agrees to indemnify, defend, save, and hold Seller harmless with respect to any and all claims, losses, obligations, liabilities, costs, and expenses, including reasonable counsel fees, threatened, suffered, incurred, or sustained by Seller 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 Assets or operation of the Stations

subsequent to the Closing Date hereunder. This Section 10.2 shall survive Closing for one (1) year.

ARTICLE XI. TERMINATION

11.1 **Termination.** This Agreement may be terminated at any time prior to Closing:

- (i) by the mutual written consent of Seller and Buyer;
- (ii) by written notice of Seller to Buyer if Buyer defaults in any material respect in the performance of any of Buyer's covenants or agreements under this Agreement; and in any of which events such default is not cured within the Cure Period (as defined below), if applicable;
- (iii) by written notice of Buyer to Seller if Seller defaults in any material respect in the performance of any of Seller's covenants or agreements under this Agreement; and in any of which events such default is not cured within the Cure Period (as defined below), if applicable; or
- (iv) by written notice of Seller to Buyer, or Buyer to Seller if the Closing has not been consummated within twelve (12) months of the Effective Date if the terminating party is not then in breach or default of its obligations under this Agreement.

11.2 **Cure Period.** The term "Cure Period" as used herein means a period commencing with the date that Buyer or Seller actually receives from the other Party written notice of breach or default hereunder and continuing until ten (10) days thereafter.

11.3 **Specific Performance.** Seller acknowledges that the Station Assets are unique assets not readily obtainable on the open market and money damages alone will not be adequate to compensate Buyer for its injury if Seller breaches its obligations under this Agreement. Therefore, Seller agrees and acknowledges that in the event of Seller's failure to perform its obligation to consummate the transaction following satisfaction of, and in accordance with, the terms and conditions herein, as an alternative to terminating this Agreement Buyer shall be entitled to seek specific performance of only such obligations to consummate the transaction by Seller, and in such proceeding Seller shall waive the defense that there is an adequate remedy at law.

ARTICLE XII. MISCELLANEOUS

12.1 **Employees.** Buyer shall have no obligation to offer continued employment to any employee of Seller and any and all Liabilities related to Seller's employees shall be borne by Seller. Notwithstanding the foregoing, Buyer and Seller shall cooperate in good faith regarding Buyer's hiring of Seller's key employees on terms acceptable to Buyer in its sole discretion, such hiring(s), if any, to be effective post-Closing.

12.2 **Governing Law.** The Agreement shall be governed by and construed in accordance with the laws of the Keweenaw Bay Indian Community and the Communications Act of 1934, as amended, and the regulations and published policies of the FCC. The laws of the

State of Michigan shall apply to the extent that the laws of the Keweenaw Bay Indian Community and the FCC are silent on an issue.

12.3 **Entire Agreement; Amendment; No Waiver.** This Agreement, including the schedules and exhibits hereto, contain the entire agreement and understanding by and between the Parties, and no other representations, promises, agreements, or understanding, written or oral, not contained herein shall be of any force or effect. No oral agreement shall have any effect. No failure or delay in exercising any right hereunder shall be deemed or construed to be a waiver of such right, either prospectively or in the particular instance.

12.4 **Confidentiality.** Seller and Buyer agree that all financial or other information about the other party, or other information of a confidential or proprietary nature, disclosed in connection with the proposed transaction shall be kept confidential and shall not be disclosed to any Person or used by the receiving party (other than to its agents, accountants, attorneys, consultants, financing sources or employees in connection with the transactions contemplated by this Agreement) except: (i) with the prior written consent of the other party; (ii) as may be required by Applicable Law or court process; (iii) such information which may have been otherwise acquired or obtained by such party (other than through disclosure by the other party in connection with the transaction contemplated by this Agreement); or (iv) such information which is or becomes generally available to the public other than as a result of a violation of this provision. This Section 12.4 shall remain in full force and effect and survive forever or until the expiration of the applicable statute of limitations. In the event of a breach or threatened breach by any party of the provisions of this Section 12.4, the non-breaching party shall be entitled to seek an injunction restraining such party from such breach.

12.5 **Control.** Buyer shall not, directly or indirectly, control, supervise or direct the operations of the Stations prior to the Closing. Such operations, including complete control and supervision of all programs, employees, finances, and policies, shall be the sole responsibility of Seller until the Closing.

12.6 **No Negotiation.** Until such time as this Agreement shall be terminated pursuant to Article 11, Seller and its respective directors, officers, investment bankers, brokers, and agents shall cease any discussions or negotiations with, and shall not, directly or indirectly, solicit, initiate, encourage or entertain any inquiries or proposals from, negotiate with, provide any nonpublic information to or consider the merits of any inquiries or proposals from any Person (other than Buyer) relating to any business combination transaction involving the Station Assets or the Stations. Seller shall notify Buyer of any such inquiry or proposal within two business days after receipt of any such inquiry or proposal by Seller of which Seller has knowledge.

12.7 **Publicity.** All press releases and other announcements, whether written or oral, to be made by either party with respect to the transactions contemplated by this Agreement, shall be subject to the agreement of the parties prior to the dissemination thereof; provided, however, that either party may make any announcement required by applicable law.

12.8 **Risk of Loss.** The risk of loss to any of the Station Assets on or prior to the Closing Date shall be upon Seller.

12.9 **Successors and Assigns.** This Agreement shall be binding upon and inure to the benefit of the Parties hereto, and their respective representatives, successors and assigns. Neither Buyer nor Seller may assign this Agreement or any part hereof without the prior written consent of the other Party.

12.10 **Notices.** All notices, requests, demands and other communications required or permitted under this Agreement shall be in writing and shall be deemed to have been duly made and received when personally served, or when delivered by Federal Express or a similar overnight courier service, expenses prepaid, addressed as set forth below:

If to **Seller**, then to:

Taconite Broadcasting, Inc.
121 N. Front Street
Marquette, MI 49855
Attn: Thomas Mogush
Email: tom@wmqt.com

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

Booth, Freret, & Imlay, LLC
14356 Cape May Road
Silver Spring, MD 20904
Attn: Christopher D. Imlay, Esq.
Email: chris@imlaylaw.com

If to **Buyer**, then to:

Kewenaw Bay Indian Community
16429 Beartown Road
Baraga, MI 49908
Attention: Ed Janisse
Email: eaglemediagm@gmail.com

With a copy (which shall not constitute notice), to:

BakerHostetler LLP
1050 Connecticut Avenue, N.W. Suite 1100
Washington, DC 20036
Attention: Daniel Kirkpatrick, Esq.
Email: dkirkpatrick@bakerlaw.com

12.11 **Further Assurances.** Each Party hereto will execute all such instruments and take all such actions as any other party shall reasonably request, without payment of further consideration, in connection with carrying out and effectuating the intent and purpose of this Agreement and the transactions contemplated hereby.


12.12 **Counterparts.** This Agreement may be executed by facsimile or email transmission and in counterparts, each of which shall constitute an original but together will constitute a single document.

SIGNATURE PAGE TO ASSET PURCHASE AGREEMENT

IN WITNESS WHEREOF, the Parties have duly executed this Agreement as of the date first above written.


SELLER:

Taconite Broadcasting, Inc.

By: 
Name: Thomas Mogush
Title: President

BUYER:

Keweenaw Bay Indian Community

By: 
Name: Kim Klopstein
Title: President