

ASSET PURCHASE AGREEMENT

THIS ASSET PURCHASE AGREEMENT (this “**Agreement**”) is made and entered into as of March 17th, 2023, by and between **Tower Broadcasting, LLC**, a New York limited liability company (“**Seller**”), and **Radigan Broadcasting Group, LLC**, a New York limited liability company (“**Buyer**”). Seller and Buyer are sometimes individually referred to in this Agreement as a “**Party**” and collectively as the “**Parties**.”

RECITALS

WHEREAS, Seller desires to convey all rights, title, and interest in and to substantially all of the assets of broadcast stations **WOKN-FM** (FCC Facility ID No. 47322) Southport, NY, **WELM (AM)** (FCC Facility ID No. 52120) Elmira, NY, **WLKY (AM)** (FCC Facility ID No. 55271) Elmira Heights-Horsehead, NY, **W230BB (FX)** (FCC Facility ID No. 148156) Elmira, NY, **W244EC (FX)**(FCC Facility ID No. 202644) Corning, NY, **W273AC (FX)**(FCC Facility ID No. 47323) Corning, NY and **W293CZ (FX)**(FCC Facility ID No. 148214) Elmira, NY, (collectively WOKN-FM, WELM (AM) WLKY (AM), W230BB (FX), W244EC (FX) W273AC (FX) and W293CZ (FX) are the “**Stations**”), subject to the terms and conditions stated herein; and

WHEREAS, Buyer desires to receive and own the Stations and its assets under the terms and conditions stated herein; and

WHEREAS, Buyer and Seller are parties to a Time Brokerage Agreement (the “**TBA**”) by and between Seller and Buyer pursuant to which Buyer is providing programming on the Stations prior to the Closing contemplated herein; and

WHEREAS, the consummation of this Agreement is subject to the prior approval of the Federal Communications Commission (the “**FCC**”).

AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants and conditions herein contained, it is hereby agreed as follows:

1. ASSETS. Subject to the prior approval of the FCC, Seller agrees to transfer, assign, convey, and deliver to Buyer, and Buyer agrees to receive and accept, free and clear of all liabilities, debts, liens, charges, assessments, and encumbrances of any kind, the following:

(a) all licenses, construction permits, authorizations, or other rights of any kind issued or granted by the FCC to Seller with respect to the Stations (collectively the “**FCC Licenses**”) listed in **Schedule 1(a)**;

(b) leased real property used in the operation of WOKN-FM and all the FM translators’ transmitter facilities (the “**Leased Real Property**”) listed in **Schedule 1(b)**;

- (c) all of the broadcast equipment of the Stations (the “**Equipment**”) listed in **Schedule 1(c)**;
- (d) all intangible property of the Stations (“**Intangible Property**”) listed in **Schedule 1(d)**;
- (e) all FCC files and records pertaining to the Stations (“**FCC Records**”);
- (f) all contracts used in connection with the operation of the Stations (the “**Contracts**”) as detailed in **Schedule 1(f)**; and
- (g) goodwill and other rights (“**Other Rights**”).

The schedules as identified in the foregoing are attached hereto and made a part hereof. The FCC Licenses, Leased Real Property, Equipment, Intangible Property, FCC Records, Contracts and Other Rights are sometimes collectively referred to in this Agreement as the “**Assets**.” Seller will retain its accounts receivable, cash, deposits, and prepaid items, and any asset not specifically identified on **Schedules 1(a)** through **1(f)** hereto. Buyer assumes no liabilities, debts, or obligations, including without limitation, for Stations’ personnel or employment contracts, retirement obligations, or any contracts, obligations, or leases of Seller except as set forth in **Schedule 1(f)**. Buyer assumes no liability for periods on or before the Closing Date (as defined below) under any lease or contract or for any other liability, debt, or obligation of Seller, including without limitation, any which may have accumulated or accrued on any contracts, leases, or agreements on or before the Closing Date. Seller and an affiliate of Buyer are separately contracting to purchase the real estate (the “**Owned Real Property**”) associated with the operations of the two AM Stations.

2. PURCHASE PRICE & ESCROW DEPOSIT.

(a) **Purchase Price.** The purchase price for the Assets is **One Hundred Thousand Dollars (\$100,000.00)** (the “**Purchase Price**”). Subject to the terms of the TBA, all prepaid and deferred expenses arising from the conduct of the business and operations of the Stations shall be prorated as of 11:59 p.m. of the Closing Date. The prorations and adjustments contemplated by this **Section 2** shall be made to the extent practicable at the Closing (as defined below), and to the extent not made at the Closing shall be made within thirty (30) calendar days after the Closing Date.

(b) **Deposit.** Buyer shall make a cash deposit to Seller in an amount equal to Five Thousand Dollars (\$5,000.00) upon execution of this Agreement. The remaining balance of Ninety-Five Thousand Dollars (\$95,000.00) shall be paid at Closing to Seller, plus or minus applicable prorations and adjustments.

(c) **Allocation of Purchase Price.** Buyer and Seller agree to the allocation of the Purchase Price for the Assets acquired hereunder as set forth in **Schedule 2(b)** in a manner which complies with Section 1060 of the Internal Revenue Code of 1986, as amended to the date

hereof (the “**Code**”), and each party shall file returns with the Internal Revenue Service consistent therewith.

3. SELLER’S REPRESENTATIONS, WARRANTIES AND COVENANTS.

Seller hereby represents, warrants and covenants, as applicable as follows:

(a) The FCC Licenses are in full force and effect, and the Stations operate in material compliance with the FCC Licenses, the rules and regulations of the FCC, and, to Seller’s knowledge, applicable laws of the State of New York and federal laws.

(b) Except as set forth in **Schedule 3(b)** hereto, Seller is aware of no litigation, proceeding, or investigation whatsoever pending or threatened against or relating to Seller, its business, or the Assets to be transferred hereunder, and knows of no reason why the FCC Licenses would not be renewed in the ordinary course.

(c) Seller has good and marketable title to all owned Assets.

(d) Seller will convey said Assets to Buyer in good working order, reasonable wear and tear excepted, and, except as expressly set forth in this Agreement, makes no warranty whatsoever with regard to the condition of said Assets.

(e) Seller will deliver the Assets at Closing free and clear of all liabilities, debts, liens, claims, charges, assessments, or other encumbrances of any kind, except as set forth in **Schedule 1(f)** hereto.

(f) To Seller’s knowledge, there is no current condition on the Leased Real Property which violates any county, state, or federal environmental law or regulation which would materially impair the ability of the Stations to operate in the future in a similar manner to the Stations’ current operations. Seller will allow Buyer, at Buyer’s own expense, to conduct any and all investigations, examinations, and studies for the Leased Real Property as Buyer deems necessary including, but not limited to, a survey and an environmental study of the Leased Real Property before Closing.

(g) [Intentionally omitted].

(h) Seller has full power and authority to enter into and perform this Agreement, and this Agreement constitutes a valid and binding Agreement of Seller enforceable in accordance with its terms.

(i) Seller is responsible for all liabilities and other obligations to all current employees of the Stations and any employees hired by Seller up to the Closing Date. It is understood and agreed by the Parties that Buyer may hire new employees to operate the Stations for dates after the Closing Date, assumes no liabilities or obligations whatsoever for the Stations’ current employees, and is under no obligation to hire any such current employees.

(j) As of the Closing Date, Seller will have paid all taxes and assessments, rent, water, sewer, and other utility charges or assessments relating to the Assets, if any.

(k) On the Closing Date and on the condition that the Parties shall have in good faith agreed upon the terms to contemporaneously transfer the Owned Real Property, Seller shall cooperate with Buyer and use its best efforts to file and prosecute a notification of ownership change with the FCC for the Antenna Structure Registration associated with the AM Stations' towers.

(l) On the Closing Date, Seller (as Landlord) and Buyer (as Tenant) shall execute a ground lease for the Leased Real Property (the "**Site Lease**") on terms mutually agreeable between the parties which shall be a condition of Closing the transaction.

(m) 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 agreement or action of Seller.

(n) The warranties, representations, and covenants contained in this **Section 3** shall survive Closing for a period of one (1) year.

4. BUYER'S REPRESENTATIONS, WARRANTIES AND COVENANTS. Buyer hereby represents, warrants and covenants, as applicable, as follows:

(a) Buyer has full power and authority to enter into and perform this Agreement, and this Agreement constitutes a valid and binding Agreement of Buyer enforceable in accordance with its terms.

(b) Buyer knows of no reason why it should not be approved to become a holder of the FCC Licenses.

(c) Prior to Closing, Buyer will have inspected the Assets to be conveyed pursuant to the terms of this Agreement and found each item to be in satisfactory condition and suitable for Buyer's purposes.

(d) 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 agreement or action of Buyer.

(e) Warranties, covenants, and representations contained in this **Section 4** shall survive the Closing Date for a period of one (1) year.

5. FCC ASSIGNMENT APPLICATIONS. Within five (5) business days of the date of this Agreement, Seller and Buyer shall file all applications with the FCC (collectively, the "**FCC Applications**") necessary for requesting the FCC Consent to the assignment of the FCC Licenses from Seller to Buyer. Seller and Buyer shall diligently prosecute the FCC Applications and otherwise use their best efforts to obtain the FCC Consent as soon as practicable.

6. **CLOSING.** Subject to satisfaction or waiver of the conditions set forth herein, consummation of the sale of the Station Assets under this Agreement (the “**Closing**”) shall occur on a date (the “**Closing Date**”) mutually agreed upon by the parties which date shall be within ten (10) business days after the grant of FCC Consent (as defined below) having become a Final Order (as defined below), unless the requirement of a Final Order is waived by Buyer, in which case the Closing shall occur after the grant of FCC Consent upon notice by Buyer to Seller of Buyer’s waiver of the Final Order requirement.

The Closing is subject to and conditioned upon prior FCC consent (the “**FCC Consent**”) to the assignment of the FCC Authorizations to Buyer, and, unless waived by Buyer, the FCC Consent having become a Final Order. “**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.

The Closing is further contingent upon (i) the separate closing between Seller and an affiliate of Buyer for the Owned Real Property associated with the WELM and WLKY AM tower site, and (ii) a separate equipment lease of certain equipment (“Leased Equipment”) owned by Seller which Buyer desires to lease from Seller.

7. **CLOSING DOCUMENTS.**

(a) **Deliveries of 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 Assets (other than the FCC Licenses, Contracts, Leased Real Property, and Intangible Property) to Buyer free and clear of any Liens (the “**Bill of Sale**”);

(ii) an assignment and assumption sufficient to assign the FCC Licenses to Buyer (the “**FCC Licenses Assignment and Assumption**”);

(iii) an assignment and assumption sufficient to sell, convey, transfer and assign the Contracts to Buyer (the “**Contracts Assignment and Assumption**”);

(iv) the Site Lease;

(v) an Assignment and Assumption to assign the Intangible Property to Buyer (the “**Intangible Property Assignment and Assumption**”);

(vi) a certification executed by an officer of Seller (the “**Seller Bringdown Certificate**”) certifying that: (a) Each of the representations and warranties of Seller contained in this Agreement was true and correct in all material respects 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 in all material respects; (b) Seller has performed and complied in all material respects 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;

(vii) a closing statement summarizing the transaction (the “**Closing Statement**”); and

(viii) any other documents reasonably requested by Buyer necessary to effectuate the Closing.

(b) **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 payment of the Purchase Price in accordance with **Section 2**, including all adjustments thereto;

(ii) the FCC Licenses Assignment and Assumption;

(iii) the Contracts Assignment and Assumption;

(iv) the Intangible Property Assignment and Assumption;

(v) the Site Lease;

(vi) a certification executed by an officer of Buyer (the “**Buyer Bringdown Certificate**”) certifying that: (a) Each of the representations and warranties of Buyer contained in this Agreement was true and correct in all material respects 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 in all material respects; and Buyer has performed and complied in all material respects 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;

(vii) the Closing Statement; and

(viii) any other documents reasonably requested by Seller necessary to effectuate the Closing.

8. TERMINATION. This Agreement may be terminated at any time prior to the Closing as follows:

(a) by mutual written consent of Seller and Buyer;

(b) by written notice of Seller to Buyer if (i) Buyer breaches in any material respect any of its representations or warranties or other terms of this Agreement, 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 (as defined below); or (ii) if Buyer refuses to accept conveyance of the Owned Real Property by Seller or execute the lease of the Leased Equipment simultaneous with the Closing of this Agreement;

(c) by written notice of Buyer to Seller if (i) Seller breaches in any material respect any of its representations or warranties or other terms of this Agreement, 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; or (ii) if Seller refuses to convey the Owned Real Property to Buyer or execute the lease of the Leased Equipment simultaneous with the Closing of this Agreement; or

(d) by written notice of Seller to Buyer, or Buyer to Seller, if the Closing shall not have been consummated on or before the date which is nine (9) months after the execution of this Agreement, and if the party giving notice is not then in default hereunder.

The term “**Cure Period**” as used herein means a period commencing on the date that a party receives from the other party written notice of breach or default hereunder and continuing for twenty (20) days thereafter.

9. DAMAGES UPON TERMINATION. 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. Upon termination under **Section 8(a)**, **(c)**, or **(d)**, this Agreement shall be deemed null and void and the Deposit shall be returned to Buyer and neither party will have any further liability or obligation to the other. Upon termination under **Section 8(b)**, due to default of the Buyer, this Agreement shall be deemed null and void, the Deposit shall be distributed to Seller to offset any damages and Seller shall be entitled to all rights and remedies it may have against Buyer to recover damages resulting from Buyer’s default. If this Agreement is terminated pursuant to **Section 8(c)** due to the default of Seller, the Buyer may bring an action for specific performance, Seller hereby acknowledging that the Station Assets are of a special, unique, and extraordinary character, and that monetary damages would not be sufficient to compensate Buyer under such circumstances.

10. STATION CONTROL. Prior to Closing, Seller shall have complete control over the Assets and operation of the Station. Buyer shall have the right to reasonable access to the Station’s logs and other records as to the operation of the Station prior to Closing and to inspect the Assets upon prior reasonable written notice to Seller. Upon Closing and the transfer and assignment of the Assets, as contemplated herein, the Buyer shall have complete control over the Assets and operation of Station. Notwithstanding the foregoing, Seller and Buyer are parties to the TBA pursuant to which, among other things, and subject to the terms and conditions therein, Buyer is providing programming for, and is entitled to receive the revenues from the sale of advertising time on, the Stations prior to Closing. Consistent with the applicable communications laws, control, supervision and direction of Stations’ operations prior to Closing shall remain the sole responsibility of Seller.

11. INDEMNIFICATION.

(a) **Seller's Indemnification of Buyer.** 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 attorneys' 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 Station prior to the Closing Date hereunder, or arising out of any breach by Seller of any agreements which might be assigned to Buyer hereunder because of events occurring prior to the Closing Date. This **Section 11(a)** shall survive Closing for one (1) year.

(b) **Buyer's Indemnification of Seller.** 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 attorneys' 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 Station subsequent to the Closing Date hereunder or arising out of any breach by Buyer of any agreements assigned to the Buyer hereunder because of events occurring after the Closing Date hereunder. This **Section 11(b)** shall survive Closing for one (1) year.

12. NOTICES. All notices required or permitted to be given under the provisions of this Agreement shall be in writing, delivered by personal delivery, or sent by commercial delivery service or certified mail, return-receipt requested. Properly made notices shall be deemed to have been given on the date of personal delivery, or the date set forth in the records of the delivery service or on the return-receipt. Notices shall be addressed as follows:

If to Buyer: Radigan Broadcasting Group, LLC
193 S. Keystone Ave
Sayre, PA 18840
Attn: David M. Radigan, President

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

Anthony T. Lepore, Esq.
Radiotvlaw Associates, LLC
4101 Albemarle St NW #324
Washington, DC 20016-2151

If to Seller: Tower Broadcasting, LLC
56 Gail Drive
Owego, NY 13827
Attn: Gordon R. Ichikawa, Managing Member

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

Womble Bond Dickinson (US) LLP
2001 K St NW, Suite 400
Washington, DC 20006
Attn: Reid Avett, Esq.

13. **ASSIGNMENT.** Neither Party shall assign any right under this Agreement nor delegate any duty under this Agreement unless the other Party has consented to any such assignment or delegation in writing. This document shall be binding on the heirs, successors, and assigns of the Parties hereto.

14. **SEVERABILITY AND INDEPENDENT COVENANTS.** If any covenant or other provision of this Agreement is invalid, illegal, or incapable of being enforced by reason of any law, administrative order, judicial decision, or public policy, all other conditions and provisions shall remain in full force and effect. No covenant shall be deemed dependent upon any other covenant or provision unless so expressed in this Agreement.

15. **GOVERNING LAW.** This Agreement shall be governed, construed, and enforced in accordance with the laws of the State of New York, without regard, however, to the choice of law provisions thereof which may direct the application of the laws of another jurisdiction.

16. **ENTIRE AGREEMENT.** This Agreement, the Schedules hereto, and all documents, certificates, and other documents to be delivered by the Parties pursuant hereto collectively represent the entire understanding and agreement between Seller and Buyer with respect to the subject matter of this Agreement. This Agreement supersedes all prior negotiations among the Parties and cannot be amended, supplemented, or changed except by an agreement in writing that makes specific reference to this Agreement and that is signed by the Party against which enforcement of any such amendment, supplement, or modification is sought.

17. **WAIVER OF COMPLIANCE; CONSENTS.** Except as otherwise provided in this Agreement, any failure of any of the Parties to comply with any obligation, representation, warranty, covenant, agreement, or condition herein may be waived by the Party entitled to the benefits thereof only by a written instrument signed by the Party granting such waiver, but such waiver of failure to insist upon strict compliance with such obligation, representation, warranty, covenant, agreement, or condition shall not operate as a waiver of or estoppel with respect to any subsequent or other failure. Whenever this Agreement requires or permits consent by or on behalf of any Party hereto, such consent shall be given in writing in a manner consistent with the requirements for a waiver of compliance set forth in this **Section 17.**

18. **COUNTERPARTS.** This Agreement may be signed in counterparts with the same effect as if the signature on each counterpart were upon the same instrument. Executed copies of this Agreement transmitted by facsimile or other electronic means shall be valid and binding.

[SIGNATURES APPEAR ON FOLLOWING PAGE]

SIGNATURE PAGE TO ASSET PURCHASE AGREEMENT

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

SELLER: TOWER BROADCASTING LLC

By: Gordon Ichikawa March 17, 2023
Gordon R. Ichikawa, Managing Member

BUYER: RADIGAN BROADCASTING GROUP, LLC

By: David M. Radigan
David M. Radigan, Managing Member

Exhibit Regarding Purchase Agreement Completion

Some of the Schedules to the Asset Purchase Agreement (“APA”) listed below have been omitted because they do not reflect on the legal or other qualifications of the parties, nor do they contain information relevant to whether the structure of the transaction complies with the Commission’s rules. The Schedules and Appendixes contain public information already available or proprietary information relating to the Licensee and the Stations. Therefore, the Schedules need not be submitted to the Commission but will be provided to Commission staff upon the Commission’s request. See the Commission's Memorandum Opinion and Order in LUJ, Inc. And Long Nine, Inc., 17 FCC Rcd. 16980 (2002) (File No. BALH-200110111ABJ) and Public Notice DA 02-2049, 17 FCC Rcd. 16166 (2002).

Summary of APA Schedules:

Schedule 1(a)	FCC Licenses	INCLUDED
Schedule 1(b)	Leased Real Property	INCLUDED
Schedule 1(c)	Equipment	INCLUDED
Schedule 1(d)	Intangible Property	EXCLUDED
Schedule 1(f)	Contracts	EXCLUDED
Schedule 2(b)	Allocation of Purchase Price	EXCLUDED
Schedule 3(b)	Pending Litigation	EXCLUDED

Schedule 1(a)

FCC Licenses

WOKN-FM

License:BLH-20160311AAR

Renewal: 06/01/2030

Broadcast Auxiliaries: KCA298

Antenna Structure Reg: 1006946

WELM (AM)

License:BL-19871026AH

Renewal: 06/01/2030

Broadcast Auxiliaries: WLO544, KEK323, KF5655, WZB681

Antenna Structure Reg: 1008078, 1008079, 1008080

WLKY (AM)

License:BL-20030501ACS

Renewal: 06/01/2030

Broadcast Auxiliaries: WQJS921

Antenna Structure Registration: 1008078, 1008079, 1008080

W230BB

License:BLFT-20180703AAQ

Renewal: 06/01/2030

W244EC

License:BLANK-0000145698

Renewal: 06/01/2030

W273AC

License: BLFT-20170411AAD

Renewal: 06/01/2030

W293CZ

License:BLFT-20180703AAR

Renewal: 06/01/2030

Schedule 1(b)

Leased Real Property

Comfort Hill Tower Lease for:

- WOKN-FM(FCC Facility ID No. 47322) Southport, NY
- W230BB (FX) (FCC Facility ID No. 148156) Elmira, NY
- W293CZ (FX)(FCC Facility ID No. 148214) Elmira, NY

Higman Hill Tower Lease for:

- W244EC (FX)(FCC Facility ID No. 202644) Corning, NY
- W273AC (FX)(FCC Facility ID No. 47323) Corning, NY

Schedule 1(c)

Equipment

WOKN-FM Transmitter

WOKN-FM Antenna

W230BB Transmitter & Antenna

W244EC Transmitter & Antenna

W273AC Transmitter & Antenna

W293CZ Transmitter & Antenna

WELM Transmitter

WLKY Transmitter