

ASSET PURCHASE AGREEMENT

This ASSET PURCHASE AGREEMENT, dated as of October 24, 2022 (this “Agreement”), by and between Lehigh Valley Community Broadcasters Association, a non-profit Pennsylvania corporation (“Seller”), and Major Keystone LLC, a Pennsylvania limited liability company (“Buyer”).

WITNESSETH:

WHEREAS, Seller is the licensee of FM translator station W229AO, 93.7 MHz, Fogelsville, Pennsylvania, FCC Facility ID No. 88255 (the “Station”), pursuant to authorizations issued by the Federal Communications Commission (the “FCC”); and

WHEREAS, on the terms and conditions described herein, Seller desires to sell and Buyer desires to acquire the Station’s license and certain of the assets owned by Seller and used in connection with the operation of the Station; and

WHEREAS, concurrent with the execution of this Agreement, Seller and Buyer are entering into that certain Translator Rebroadcast Agreement relating to the Station (the “TRA”).

NOW, THEREFORE, in consideration of the foregoing and of the mutual promises herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto hereby agree as follows:

1. **Sale of Assets.**

(a) Upon the terms and subject to the conditions in this Agreement, on the Closing Date (as hereinafter defined), Seller shall sell, assign and transfer to Buyer, and Buyer shall purchase and assume from Seller the right, title and interest of the Seller in and to the following assets used in connection with the operation of the Station (the “Assets”) (but excluding the Excluded Assets described in subparagraph (b) below):

(i) The equipment and other tangible personal property of Seller used in the transmission operations of the Station (the “Tangible Personal Property”), including those set forth on Schedule 1 hereto;

(ii) Licenses, permits and other authorizations (collectively, the “FCC Authorizations”), issued by the FCC to Seller in connection with the operations of the Station, as set forth on Schedule 2 hereto;

(iii) Subject to the conditions of Schedule 3, all of Seller’s right, title, and interest in and to the lease agreement (the “Lease Agreement”) for the Station’s licensed transmitter site as further described on Schedule 3 hereto;

(b) Seller shall not sell, assign or transfer to Buyer any assets, of whatever kind or nature, wherever located, which are held by Seller and used or useful in connection with the operations or ownership of any station or stations other than the Station, including any privileges,

rights, interests and claims associated therewith (the “Excluded Assets”) and specifically including, without limitation, the following:

- (i) Cash on hand and in banks (or their equivalents), and accounts receivable arising out of the operation of the Station prior to Closing;
- (ii) All deposits and all prepaid expenses and taxes;
- (iii) Seller’s corporate records;
- (iv) All tangible and intangible personal and real property used or useful in connection with Seller’s broadcast properties other than the Station; and
- (v) Any leases, other contracts, liabilities, obligations, payables, of any kind, nature or description not listed on the Schedules hereto as assumed by Buyer.

2. **Consideration.**

(a) Purchase Price. Upon the terms and subject to the conditions contained in this Agreement, and in consideration of the sale of the Assets, on the Closing Date, Buyer shall pay to Seller the sum of SIXTY THOUSAND DOLLARS (\$60,000.00) (the “Purchase Price”). The Purchase Price shall be payable to Seller at Closing by check or by wire transfer of funds. The sum of the Monthly Payments (as defined in the TRA) made by Buyer to Seller pursuant to the TRA shall be credited towards the Purchase Price at Closing (by way of example, if three (3) TRA Monthly Payments of ONE THOUSAND DOLLARS (\$1,000.00) are made by Buyer to Seller prior to the Closing hereunder, the amount due at Closing shall be reduced by THREE THOUSAND DOLLARS (\$3,000.00)).

(b) Deposit. Not later than five (5) business days after the date hereof, Buyer shall deliver to Gross McGinley, LLP (the “Escrow Agent”) pursuant to an escrow agreement (the “Escrow Agreement”) executed by Seller, Buyer and Escrow Agent, the sum of THIRTY THOUSAND DOLLARS (\$30,000.00) (the “Deposit”). The parties agree that the Escrow Deposit will be held in a non-interest-bearing account and will be disbursed by the Escrow Agent in accordance with the Escrow Agreement and this Agreement. Seller and Buyer shall equally share all fees, costs, and expenses charged by the Escrow Agent pursuant to the Escrow Agreement. At Closing, the Deposit shall be disbursed to Seller and applied to the Purchase Price. If this Agreement (i) is terminated by Buyer pursuant to Section 11(a)(i) for Seller’s uncured breach, or (ii) is terminated pursuant to Section 11(a)(ii) and such denial or designation for hearing is not on the account of Buyer, or (iii) is terminated pursuant to Section 11(a)(iii) and such judgment, final decree or order is not on the account of a material breach of this Agreement by Buyer, or (iv) is terminated pursuant to Section 11(a)(iv) and Buyer is not in material breach of this Agreement, or (v) is terminated pursuant to Section 11(a)(v), the Deposit shall be disbursed to Buyer. If this Agreement is terminated by Seller pursuant to Section 11(a)(i) for Buyer’s uncured breach, or as otherwise set forth in Section 11(c), the Deposit shall be disbursed to Seller. The parties shall each instruct the Escrow Agent to disburse the Deposit to the party entitled thereto and shall not, by any act or omission, delay or prevent any such disbursement.

3. **FCC Consent; Assignment Application.** Buyer and Seller shall execute, file and use commercially reasonable efforts to prosecute an application with the FCC (the “Assignment Application”) requesting FCC consent to the assignment, from Seller to Buyer, of all FCC Authorizations pertaining to the Station (the “FCC Consent”), such Assignment Application to be filed within five (5) business days from the date the Deposit is delivered by Buyer to the Escrow Agent. Buyer and Seller shall take all reasonable steps to cooperate with each other and with the FCC to secure such FCC Consent without delay, and to promptly consummate this Agreement in full.

4. **Closing Date; Closing Place.** The closing (the “Closing”) of the transactions contemplated by this Agreement shall occur on a mutually agreeable date (the “Closing Date”) which shall be after the FCC Consent has been granted and no later than ten (10) days following the date on which the FCC Consent shall have become a Final Order (as hereinafter defined), unless a Final Order is waived by Buyer, and the other conditions to closing set forth in Section 8 have either been waived or satisfied. For purposes of this Agreement, the term “Final Order” means action by the FCC consenting to an application that is not reversed, stayed, enjoined, set aside, annulled or suspended, and with respect to which action no timely request for stay, petition for rehearing or appeal is pending, and as to which the time for filing any such request, petition or appeal or reconsideration by the FCC on its own motion has expired. The Closing shall be held by mail, facsimile, or electronic mail, as the parties may agree.

5. **Representations and Warranties of Seller.** Seller hereby makes the following representations and warranties to Buyer:

(a) Seller is a non-profit corporation duly organized, validly existing and in good standing under the laws of the Commonwealth of Pennsylvania and is authorized to do business in the Commonwealth of Pennsylvania. Seller has the power and authority to execute and deliver this Agreement and to consummate the transactions contemplated hereby. This Agreement has been duly and validly executed and delivered by Seller and constitutes the legal, valid and binding agreement 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.

(b) Except for the FCC Consent and consent to assign the Lease Agreement, the execution, delivery and performance by Seller of this Agreement and the consummation by Seller of the transactions contemplated hereby does not conflict with any organizational documents of Seller or any other contract or agreement to which Seller is a party or by which it is bound, or any law, judgment, order, or decree to which Seller is subject, or require the consent or approval of, or a filing by Seller with, any governmental or regulatory authority or any third party.

(c) Schedule 1 hereto contains a list of the Tangible Personal Property owned by Seller that shall be transferred to Buyer. Seller owns and has, and will have on the Closing Date, good and marketable title to the Tangible Personal Property, free and clear of security interests, liens or other encumbrances of any kind or nature except for liens for taxes not yet due and payable. Each item of Tangible Personal Property (i) is operational, (ii) has been maintained in a

manner consistent with generally accepted standards of good engineering practice, and (iii) is operating in substantial compliance with all governmental licenses, including, but not limited to, the FCC Authorizations and rules and regulations of all relevant federal and state governments, agencies, or departments, including, but not limited to, the FCC.

(d) Schedule 2 hereto contains a true and complete list of the FCC Authorizations that are required by the FCC to operate the Station. The FCC Authorizations are in full force and effect, unimpaired by any act or omission of Seller. Seller lawfully holds each of the FCC Authorizations listed on Schedule 2, none of which is subject to any restrictions or conditions that would limit in any material respect the operations of the Station, except such conditions as are stated on the face thereof. There are no outstanding unsatisfied FCC notices of violation, complaints of interference, citations or cease and desist orders against the Station, and any FCC citations or orders subsequently issued shall be satisfied prior to Closing. To Seller's knowledge, there is no ongoing investigation of Seller or the Station by the FCC or by any other federal or state governmental agency that could materially impede this transaction or affect the value of the Assets or which may delay grant of the FCC Application. To the knowledge of Seller, there are no matters relating to the Station or to the qualifications of Seller which could reasonably be expected to result in the FCC's refusal to grant the FCC Application in the ordinary course or in the designation of the FCC Application for evidentiary hearing. Seller shall not materially adversely modify, and shall maintain in full force and effect in all material respects, the FCC Authorizations.

(e) All material reports and filings required to be filed with the FCC by Seller with respect to the Station have been timely filed. All such reports and filings are accurate and complete in all material respects. Seller maintains FM translator station records for the Station in material compliance with 47 C.F.R. Section 74.1281.

(f) Schedule 3 hereto contains a true and complete copy of the Lease Agreement for the Station, or, in the alternative, a true description of the arrangement between Seller and the landlord of the Station's licensed transmitter site. The Lease Agreement constitutes all the real property and leasehold interests necessary for the operation of the Station as presently licensed by the FCC.

(g) Seller represents and warrants that Seller has, in respect of the Station's business, filed all foreign, federal, state, county and local income, excise, property, sales, use, franchise and other tax returns and reports which are required to have been filed by it under applicable law, and has paid all taxes which have become due pursuant to such returns or pursuant to any assessments which have become payable.

(h) 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 or any party acting on Seller's behalf. Payment of any broker engaged by Seller shall be Seller's sole cost and expense.

(i) No representation or warranty made by Seller in this Agreement, and no statement made in any certificate, document, exhibit or schedule furnished or to be furnished in

connection with the transactions herein contemplated, contains or will contain any untrue statement of a material fact or omits or will omit to state any material fact necessary to make such representation or warranty or any such statement not misleading to Buyer to the best of Seller's knowledge.

6. **Representations and Warranties of Buyer.** Buyer hereby makes the following representations and warranties to Seller:

(a) This Agreement has been duly and validly executed and delivered by Buyer and constitutes the legal, valid and binding agreement of Buyer 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.

(b) Buyer is legally, financially and technically qualified to acquire and become the licensee of, acquire, own and operate the Station under the Communications Act of 1934, as amended (the "*Communications Act*") and the rules, regulations and policies of the FCC. 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 Authorizations or as the owner and operator of the Station. No waiver of any FCC rule or policy with respect to Buyer, its business or operations, is necessary for the FCC Consent to be obtained. Buyer has and will have available on the Closing Date sufficient funds to enable it to consummate the transactions contemplated hereby.

(c) 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 or any party acting on Buyer's behalf. Payment of any broker engaged by Buyer shall be Buyer's sole cost and expense.

(d) No representation or warranty made by Buyer in this Agreement, and no statement made in any certificate, document, exhibit or schedule furnished or to be furnished in connection with the transactions herein contemplated, contains or will contain any untrue statement of a material fact or omits or will omit to state any material fact necessary to make such representation or warranty or any such statement not misleading to Seller to the best of Buyer's knowledge.

7. **Covenants.**

(a) Seller covenants with Buyer that, between the date hereof and the Closing Date, Seller shall take all reasonable actions necessary to keep the FCC Authorizations, including all material permits and applications pending before the FCC, valid and in full force and effect.

(b) Seller covenants that it will undertake commercially reasonable efforts to ensure that, prior to Closing, no breach or default will exist or occur under the Lease Agreement, including without limitation, that all rent due under the Lease Agreement prior to the date of Closing has and will be paid in full.

8. **Conditions Precedent to Obligation to Close.**

(a) The performance of the obligations of Seller hereunder is subject to the satisfaction of each of the following express conditions precedent, unless waived in writing by Seller:

(i) Buyer shall have performed and complied in all material respects with all of the agreements, obligations and covenants required by this Agreement to be performed or complied with by Buyer prior to or as of the Closing Date;

(ii) The representations and warranties of Buyer set forth in this Agreement shall be true and correct in all material respects on and as of the Closing Date with the same effect as if made on and as of the Closing Date;

(iii) The FCC Consent contemplated by this Agreement shall have been granted;

(iv) Buyer shall have delivered to Seller, on the Closing Date, the documents required to be delivered pursuant to Section 9(b); and

(v) Buyer shall have delivered to Seller, on the Closing Date, the Purchase Price required to be delivered pursuant to Section 2.

(b) The performance of the obligations of Buyer hereunder is subject to the satisfaction of each of the following express conditions precedent:

(i) Seller shall have performed and complied in all material respects with all the agreements, obligations and covenants required by this Agreement to be performed or complied with by Seller prior to or as of the Closing Date;

(ii) The representations and warranties of Seller set forth in this Agreement shall be true and correct in all material respects on and as of the Closing Date with the same effect as if made on and as of the Closing Date;

(iii) The FCC Consent contemplated by this Agreement shall have been granted by Final Order;

(iv) The FCC Authorizations shall be in full force and effect and there shall be no proceedings pending before the FCC to revoke, materially modify, cancel, rescind, or refuse to renew any of such FCC Authorizations; and

(v) Seller shall have delivered to Buyer, on the Closing Date, the documents required to be delivered pursuant to Section 9(a).

9. **Closing Deliveries.**

(a) At the Closing, Seller will execute and deliver to Buyer the following, each of which shall be in form and substance satisfactory to Buyer and its counsel:

(i) A Bill of Sale;

(ii) An Assignment and Assumption of the Station's FCC

Authorizations;

(iii) If the Lease Agreement is assumed by Buyer at Closing, an Assignment and Assumption of the Lease Agreement;

(iv) If the Lease Agreement contains commercially reasonable terms, a Consent to Assignment of the Lease Agreement to Buyer executed by the landlord thereunder, or, if such Lease Agreement is not assumed by Buyer, the delivery of a new agreement between the landlord of the Station's licensed transmitter site and Buyer specifying commercially reasonable terms, including, without limitation, an annual rent not to exceed the amount set forth on Schedule 3;

(v) If the Lease Agreement is assumed by Buyer at Closing, an Estoppel Certificate or equivalent document executed by the landlord thereunder confirming that Seller is the current Lessee under the Lease Agreement, that, to its knowledge, no breach or default exists under the Lease Agreement, no event has occurred or condition exists that, with notice or passage of time or both, would constitute such a breach or default, and all rent due under the Lease Agreement prior to the date of Closing has been paid in full; and

(vi) Such other documents, instruments and agreements necessary to consummate the transactions contemplated by this Agreement or as Buyer shall reasonably request, each in form and substance satisfactory to Buyer and its counsel.

(b) Prior to or at the Closing, Buyer will execute and deliver to Seller the following, each of which shall be in form and substance satisfactory to Seller and its counsel:

(i) The payments to be made pursuant to Section 2 hereof;

(ii) An Assignment and Assumption of the Station's FCC

Authorizations;

(iii) If the Lease Agreement is assumed by Buyer at Closing, an Assignment and Assumption of the Lease Agreement assuming the obligations of Seller under that Agreement from and after the Closing Date; and

(iv) Such other documents, instruments and agreements necessary to consummate the transactions contemplated by this Agreement or as Seller shall reasonably request, each in form and substance satisfactory to Seller and their counsel.

10. **Indemnification.** Each party agrees to indemnify the other for any breach of representations, warranties and covenants contained herein. The several representations and warranties of Seller and Buyer contained in or made pursuant to this Agreement shall expire twelve (12) months after the Closing Date. Notwithstanding the foregoing, the maximum amount that either party may recover by way of indemnification or otherwise as a post-closing claim shall be limited to the amount of the Purchase Price.

11. **Termination.**

(a) This Agreement may be terminated by either Buyer or Seller, if the party seeking to terminate is not in default or breach of any of its material obligations under this Agreement upon written notice to the other upon the occurrence of any of the following: (i) if, on or prior to the Closing Date, the other party breaches any of its material obligations contained herein, and such breach is not cured by the earlier of the Closing Date or thirty (30) days after receipt of the notice of breach from the non-breaching party; or (ii) if the Assignment Application is denied by the FCC and such denial has become a Final Order or the FCC designates the Assignment Application for a trial-type hearing; or (iii) if there shall be in effect any judgment, final decree or order that would prevent or make unlawful the Closing of this Agreement, or (iv) if the Closing has not occurred by March 1, 2023; or (v) by Buyer, if the FCC Authorizations for the Station are revoked or otherwise terminated by the FCC, or materially adversely modified or limited in operation, or if the Station exceeds a period of 364 days of continuous silent status.

(b) **Specific Performance.** In the event of failure or threatened failure by Seller to comply with the terms of this Agreement, Buyer shall be entitled to an injunction restraining such failure or threatened failure and, subject to obtaining any necessary FCC consent, to enforcement of this Agreement by a decree of specific performance requiring compliance with this Agreement.

(c) **Liquidated Damages.** If Seller terminates this Agreement (i) pursuant to Section 11(a)(1) for Buyer's uncured breach of this Agreement, provided Seller is not in breach of this Agreement, or (ii) pursuant to Section 11(a)(ii) and such denial or designation for hearing is on the account of Buyer, or (iii) pursuant to Section 11(a)(iii) and such judgment, final decree or order is on the account of a material breach of this Agreement by Buyer, Seller will be entitled to delivery of the Deposit, and such amount shall constitute liquidated damages and the sole remedy of Seller under this Agreement. Buyer acknowledges and agrees that Seller's recovery of such amount shall constitute payment of liquidated damages and not a penalty and that Seller's liquidated damages amount is reasonable in light of the substantial but indeterminate harm anticipated to be caused by Buyer's material breach or default under this Agreement, the difficulty of proof of loss and damages, the inconvenience and non-feasibility of otherwise obtaining an adequate remedy, and the value of the transactions to be consummated hereunder.

(d) **Survival.** Except as provided by Section 11(c), 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,

Section 2(b) (Deposit), Section 11(c) (Liquidated Damages) and Section 16 (Expenses) shall survive any termination of this Agreement.

12. **Notices.** All notices, elections and other communications permitted or required under this Agreement shall be in writing and shall be deemed effectively given or delivered upon personal delivery (or refusal thereof), or twenty-four (24) hours after delivery to a courier service which guarantees overnight delivery, or five (5) days after deposit with the U.S. Post Office, by registered or certified mail, postage prepaid, and, in the case of courier or mail delivery, addressed as follows (or at such other address for a party as shall be specified by like notice):

If to Seller, to:

Lehigh Valley Community Broadcasters Association
301 Broadway
Bethlehem, PA 18105-1456
Attention: Greg Capogna
with a copy (which shall not constitute notice) to:

Foster Garvey PC
1000 Potomac Street, NW
Suite 200
Washington, DC 20007
Attention: Melodie A. Virtue

If to Buyer, to:

Major Keystone LLC
435 North Main Street
Allentown, PA 18104-4854
Attention: Pat Cerullo

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

Repp Law Firm
1629 K Street, NW, Suite 300
Washington, DC 20006-1631
Attention: Marissa G. Repp, Esq.

13. **Governing Law; Venue.** The construction and interpretation of this Agreement shall at all times and in all respects be governed by the laws of the Commonwealth of Pennsylvania (exclusive of those relating to conflicts of laws). Any action at law, suit in equity or judicial proceeding arising directly, indirectly, or otherwise in connection with, out of, related to or from this Agreement, or any provision hereof, shall be litigated only in the federal or state courts of the Commonwealth of Pennsylvania. The Parties hereby consent to the personal and

subject matter jurisdiction of such courts and waive any right to transfer or change the venue of any litigation between them.

14. **Partial Invalidity.** Wherever possible, each provision hereof shall be interpreted in such manner as to be effective and valid under applicable law, but in case any provision contained herein shall, for any reason, be held to be invalid or unenforceable, such provision shall be ineffective to the extent of such invalidity or unenforceability without invalidating the remainder of such provision or any other provisions hereof, unless such a construction would be unreasonable.

15. **Counterparts.** This Agreement may be executed in several counterparts, each of which will be deemed to be an original but all of which together will constitute one and the same instrument. This Agreement may be executed and exchanged by facsimile transmission or electronic mail, with the same legal effect as if the signatures had appeared in original handwriting on the same physical document.

16. **Expenses.** Each party hereto shall bear all of its expenses incurred in connection with the transaction contemplated by this Agreement, including without limitation, accounting, engineering and legal fees incurred in connection herewith; provided, however, that Seller and Buyer shall share equally (a) all filing fees required to be paid in connection with the Assignment Application as set forth in Section 3, (b) the fees owed to the Escrow Agent, and (c) any transfer taxes on the sale of the Station Assets.

17. **Assignment.** This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and permitted assigns. No party may voluntarily or involuntarily assign its interest or delegate its duties under this Agreement without the prior written consent of the other party, provided, however, that Buyer may assign its rights hereunder, in whole or in part, to an affiliate of Buyer upon written notice to, but without consent of, Seller, provided that (i) any such assignment does not delay processing of the Assignment Application, grant of the FCC Consent or Closing, (ii) any such assignee delivers to Seller a written assumption of this Agreement, and (iii) Buyer shall remain liable for all of its obligations hereunder.

18. **Entire Agreement.** This Agreement, and the exhibits attached hereto, supersede all prior agreements and understandings between the parties with respect to the subject matter hereof and may not be changed or terminated orally, and no attempted change, amendment, or waiver of any of the provisions hereof shall be binding unless in writing and signed by both parties.

19. **Cooperation.** From time to time after the date of execution hereof, the parties shall take such further action and execute such further documents, assurances and certificates as either party reasonably may request of the other to effectuate the purposes of this Agreement.

REMAINDER OF PAGE INTENTIONALLY LEFT BLANK

IN WITNESS WHEREOF, the parties hereto have executed this Asset Purchase Agreement as of the day and year first above written.

Seller:

**LEHIGH VALLEY COMMUNITY BROADCASTERS
ASSOCIATION**

By: Karen M. El-Chaar

Name: Karen M. El-Chaar

Title: President _____

Buyer:

MAJOR KEYSTONE LLC

By: PC

Name: Patrick Cerullo

Title: Member