

ASSET PURCHASE AGREEMENT

THIS ASSET PURCHASE AGREEMENT (this “Agreement”) is entered into as of November 29th, 2022 (“Effective Date”) between **WOODCHUCK RADIO, LLC**, a Vermont limited liability company (“Seller”), and **MUD RADIO, LLC**, a Vermont limited liability company (“Buyer”) (individually Seller and Buyer are a “Party” and collectively, the “Parties”).

Recitals

A. Seller owns and operates FM commercial radio broadcast station WEXP, Brandon, Vermont (FCC Facility Id. 65961) (the “Station”), pursuant to certain authorizations issued by the Federal Communications Commission (the “FCC”).

B. The Parties are entering into a Local Marketing Agreement (“LMA”) of the same date.

C. Pursuant to the terms and subject to the conditions set forth in this Agreement, Seller desires to sell to Buyer, and Buyer desires to purchase from Seller, the Assets, as defined below.

Agreement

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

ARTICLE 1: SALE AND PURCHASE

1.1 Assets. On the terms and subject to the conditions hereof, on the Closing Date, as defined below, Seller shall sell, assign, transfer, convey and deliver to Buyer, and Buyer shall purchase and acquire from Seller, all right, title and interest of Seller in and to the following assets, properties, interests and rights of Seller, real and personal, tangible and intangible, that are primarily used or held for use in the operation of the Station (“Assets”) (but excluding the Excluded Assets, as defined below):

(a) all licenses, permits and other authorizations issued to Seller by the FCC with respect to the Station (the “FCC Licenses”), including those described on *Schedule 1.1(a)*, as well as any renewals or modifications thereof between the Effective Date and Closing, as defined below and any other federal, state or local governmental authorities issued to Seller in connection with the conduct of the business and the operation of the Station (collectively, the “Other Licenses”);

(b) all Seller’s equipment, transmitters, antennas, cables, vehicles, furniture, fixtures, spare parts and other tangible personal property of every kind and description that are listed on *Schedule 1.1(b)* or otherwise primarily used or held for use in the operation of the Station, together with any replacements thereof or additions and improvements thereto (the “Tangible Personal Property”);

(c) the contracts, agreements and leases that are used in the operation of the Station and specifically identified on *Schedule 1.1(c)* if any, (the “Assumed Contracts”);

(d) all Seller’s rights in and to the Station’s call letters and Seller’s rights in, to and under the trademarks, trade names, service marks, copyrights, domain names, computer software, programs and jingles, slogans, logos, trade secrets, Station web-site content and other intangible property owned by Seller and used primarily for the operation of the Station, including those listed on *Schedule 1.1(d)* (the “Intangible Property”);

(e) all Seller's rights in, to or under all the files, documents, records, and books of account (or copies thereof) relating to the operation of the Station, including the Station's local public files, blueprints, technical information and engineering data, advertising studies, marketing and demographic data, sales correspondence, lists of sponsors, credit and sales reports, and logs (but excluding records related to the Excluded Assets); and

(f) all Seller's goodwill in, and the going concern value of, the Station.

The Assets shall be transferred to Buyer free and clear of debts, liens, claims and encumbrances, security interests, mortgages, trusts, pledges, conditional sales agreements, equipment leases, and other liabilities and encumbrances of every kind and nature ("Liens"), except for the Assumed Obligations, as defined below, liens for taxes not yet due and payable and Liens in favor of Seller's lenders that will be released at or prior to Closing (collectively, "Permitted Liens").

1.2 Excluded Assets. Notwithstanding anything to the contrary contained herein, the Assets shall not include the following assets (the "Excluded Assets"):

(a) all cash and cash equivalents of Seller, including certificates of deposit, commercial paper, treasury bills, marketable securities, money market accounts and all such similar accounts or investments;

(b) Seller's fee interest or leasehold interest in the real property for the Station's current transmitter location and office/studio building and any appurtenant easements and improvements located thereon including the broadcast tower and tower related facilities used in connection with the operation of the transmitter site.

(c) all contracts and agreements not included in the Assumed Contracts including (i) any leases or licenses for use of the real property, (ii) all programming contracts that are used in the operation of the Station, and (iii) and employment agreements for employees of the Station (if any);

(d) all of Seller's interests in all programs and programming materials and elements of whatever form or nature used exclusively in the operation of the Station, whether recorded on tape or any other media, or intended for live performance, and whether completed or in production, and all related common-law and statutory copyrights used in the operation of the Station;

(e) Seller's trade names not used or held for use in connection with the operation of the Station, charter documents, and books and records relating to the organization, existence or ownership of Seller, duplicate copies of the records of the Station, and all records not relating to the operation of the Station;

(f) contracts of insurance, and all insurance proceeds and claims made thereunder, except as provided by Section 5.4;

(g) all pension, profit sharing and deferred compensation plans and trusts and the assets thereof and any other employee benefit plan or arrangement and the assets thereof, if any, maintained by Seller;

(h) the Station's accounts receivable (if any) and any other donations or rights to payment for advertising or programming broadcast prior to the Closing Date;

(i) any non-transferable shrink-wrapped computer software and any other non-transferable computer licenses used in the operation of the Station;

(j) all rights and claims of Seller, whether mature, contingent or otherwise, against third parties with respect to the Station or Assets, to the extent arising during or attributable to any period prior to Closing;

(k) all deposits and prepaid expenses (and rights arising therefrom or related thereto), except to the extent Seller receives a credit therefor under Section 1.5; and

(l) all corporate assets or other assets owned by Seller and not primarily used in the operation of the Station.

1.3 Assumed Obligations. At the Closing, Seller shall assign to Buyer, and Buyer shall assume from Seller (and Buyer shall thereafter pay, perform, discharge or otherwise satisfy in accordance with their respective terms) (a) all liabilities and obligations arising with respect to the operation of the Station (including the Assets) on or after the Closing Date, including, all obligations and liabilities related to Assumed Contracts (if any) and the FCC Licenses, (b) any and all taxes with respect to the Assets or operation of the Station for all periods beginning on or after the Adjustment Time (defined below) (including the post-Adjustment Time portion of any straddle period), as defined at Section 1.5, and (c) any liability or obligation to the extent of the amount of any adjustment therefor in favor of Buyer in the calculation of the Purchase Price under Section 1.5 (collectively, the “Assumed Obligations”). Except for the Assumed Obligations, Buyer does not assume, and will not be deemed by the execution and delivery of this Agreement or the consummation of the transactions contemplated hereby to have assumed any other liabilities or obligations of Seller (collectively the “Retained Obligations”).

1.4 Purchase Price Upon the terms and subject to the conditions contained in this Agreement, and in consideration of the sale of the Assets, Buyer shall pay to Seller the aggregate sum of Thirty Thousand Dollars (\$30,000.00) (the “Purchase Price”), subject to any adjustments required by Section 1.5 of the Agreement as follows (a) the Purchase Price shall be reduced as provided for in the LMA (the “Deposits”) and (b) Buyer shall execute a Promissory Note for the remaining amount in favor of Seller for the balance of the Purchase Price providing for monthly payments of \$2,000 at zero percent (0%) interest until the balance of the Purchase Price is paid in full.

1.5 Prorations.

(a) Except as otherwise provided herein, all expenses arising from Seller’s ownership of the Assets to be conveyed hereunder that are customarily prorated shall be prorated between Buyer and Seller in accordance with generally accepted accounting principles as of 12:01 local time on the Closing Date (the “Adjustment Time”), on the basis that all expenses which accrue prior to the Adjustment Time are for the account of Seller, and all expenses which accrue after the Adjustment Time are for the account of Buyer. Such prorations shall include, without limitation, all ad valorem, and other property taxes and similar prepaid and deferred items associated with the Assets.

(b) The prorations and adjustments to the Purchase Price contemplated by this Section 1.5, to the extent practicable, shall be made on the Closing Date. As to those prorations and adjustments not capable of being ascertained on the Closing Date, an adjustment and proration shall be made within sixty (60) days following the Closing Date, with payment made by wire transfer of immediately available funds to an account designated by the party who is to receive such payment. In the event of any disputes between the parties as to such adjustments, the amounts not in dispute shall nonetheless be paid at such time and such disputes shall be resolved by a mutually acceptable independent certified public accountant

with experience in the broadcast industry (the “CPA”), and the fees and expenses of such CPA shall be paid one-half by Seller and one-half by Buyer. The decision of such CPA shall be rendered within one hundred eighty (180) days after the Closing and shall be conclusive and binding on the parties.

1.6 Allocation. Prior to Closing, Buyer and Seller shall exercise commercially reasonable efforts to determine a mutually agreeable allocation of the Purchase Price for tax purposes in accordance with the respective fair market values of the Assets and the goodwill being purchased and sold in accordance with the requirements of Section 1060 of the Internal Revenue Code of 1986, as amended (the “Code”). Each of Buyer and Seller shall file a tax return reflecting its allocation as and when required under the Code. In the event that Buyer and Seller shall be unable to mutually agree upon the allocation by Closing, Buyer and Seller shall negotiate in good faith for a period of twenty (20) days, and if such negotiations do not resolve the allocation matters, the parties shall select the CPA within twenty (20) days after the Closing who shall make a determination of the allocation within sixty (60) days after his or her selection. Buyer and Seller agree that the allocation determined by their mutual agreement or otherwise by the CPA, as the case may be, shall be conclusive and binding on Buyer and Seller for all purposes, including without limitation, reporting and disclosure requirements of the Internal Revenue Service.

1.7 Closing. The consummation of the sale and purchase of the Assets pursuant to this Agreement (the “Closing”) shall take place within ten (10) business days after the later of (a) the date of the FCC Consent becoming a Final Order (defined below) and (b) the date of the satisfaction or waiver of the last of the conditions required to be satisfied or waived pursuant to Articles 6 or 7 below (other than those requiring a delivery of a certificate or other document, or the taking of other action, at the Closing). The date on which the Closing is to occur is referred to herein as the “Closing Date.” “Final Order” means an FCC Consent (a) that is no longer subject to review, set aside, or rehearing by the FCC or any court, and (b) that has received no timely requests for stay, petition for rehearing or appeal. The Closing shall take place remotely by email, or in such other manner and at such other place as the parties may agree in writing.

1.8 FCC Consent. Within ten (10) business days after this Agreement is executed and delivered by both parties, Buyer and Seller shall file an application (the “FCC Application”) requesting FCC consent to the assignment of the FCC Licenses from Seller to Buyer (the “FCC Consent”). Seller and Buyer shall diligently prosecute the FCC Application and use commercially reasonable efforts to obtain the FCC Consent as expeditiously as possible. Each party shall promptly provide the other with a copy of any pleading, order or other document served on it relating to the FCC Application, and shall furnish all information required by the FCC. Buyer and Seller shall notify each other of all documents filed with or received from any governmental agency with respect to this Agreement or the transactions contemplated hereby, or the Station or its operations. Buyer and Seller shall furnish each other with such information and assistance as the other may reasonably request in connection with their preparation of any governmental filing hereunder. Buyer shall be responsible for the preparation of the FCC Application and all other filings required to obtain the FCC Consent and shall be responsible for all fees and expenses in connection therewith, but not Seller’s legal fees either in the negotiation of this transaction or the FCC Application.

ARTICLE 2: SELLER REPRESENTATIONS AND WARRANTIES

Seller represents and warrants to Buyer as follows:

2.1 Organization. Seller is limited liability company duly formed and organized under the laws of the State of Vermont. Seller has the requisite power and authority to own and operate the Station, to

carry on the Station's business as now conducted by it, and Seller has the requisite power and authority to execute, deliver and perform this Agreement and the documents to be made pursuant hereto.

2.2 Authorization. The execution, delivery and performance of this Agreement and the documents to be made pursuant hereto have been duly authorized and approved by all necessary action of Seller (the "Seller Authorization") and do not require any further authorization or consent of Seller. This Agreement and the documents to be made pursuant hereto are legal, valid and binding agreements of Seller enforceable in accordance with their respective terms, except in each case as such enforceability may be limited by bankruptcy, moratorium, insolvency, reorganization or other similar laws affecting or limiting the enforcement of creditors' rights generally and except as such enforceability is subject to general principles of equity (regardless of whether such enforceability is considered in a proceeding in equity or at law).

2.3 No Conflicts. The execution, delivery and performance by Seller of this Agreement and the documents to be made pursuant hereto do not conflict with any organizational documents of Seller or any law, judgment, order, or decree to which Seller is subject, and does not require the consent, approval or authorization, or filing with, any third party or any court or governmental authority, except for the (i) FCC Consent, and (ii) the notice and consent of any counter-party required to assign any Assumed Contract.

2.4 FCC Licenses. Seller holds the FCC Licenses and any Other Licenses listed and described on *Schedule 1.1(a)*. The FCC Licenses constitute all of the authorizations required under the Communications Act of 1934, as amended (the "Communications Act"), or the rules, regulations and policies of the FCC for the present operation of the Station. The FCC Licenses and Other Licenses are in full force and effect and have not been revoked, suspended, canceled, rescinded or terminated and have not expired. There is not pending or, to Seller's knowledge, threatened any action by or before the FCC to revoke, suspend, cancel, rescind or adversely modify any of the FCC Licenses (other than proceedings relating to FCC rules of general applicability) and there is no order to show cause, notice of violation, notice of apparent liability, or notice of forfeiture or complaint pending or, to Seller's knowledge, threatened against Seller or the Station by or before the FCC. Seller is operating the Station in all material respects in accordance with the FCC Licenses and Other Licenses, and all applicable rules, regulations and policies of the FCC (collectively, the "Communications Laws"), including that the Station is now and on the Closing Date will be transmitting at no less than ninety percent (90%) of its authorized power. All material reports and filings required to be filed with the FCC by Seller with respect to the operation of the Station have been timely filed, and all such reports and filings are accurate and currently are in material compliance.

2.5 Taxes. Seller has 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 in connection with the Station's business, and has paid all taxes which have become due pursuant to such returns or pursuant to any assessments which have become payable.

2.6 Personal Property. *Schedule 1.1(b)* contains a list of all material items of Tangible Personal Property included in the Assets that is used or useful in the operation of the Station in the manner in which it is currently operated (other than those assets which are Excluded Assets). Seller owns and has, and will have on the Closing Date, good and marketable title to the Tangible Personal Property and other Assets.

2.7 Real Property. [Reserved].

2.8 Contracts. *Schedule 1.1(c)* contains a list of all Assumed Contracts. Seller has performed its obligations under each of the Assumed Contracts in all material respects, and is not in default thereunder. To Seller's knowledge, the Assumed Contracts are binding on the other parties thereto.

2.9 Environmental. [Reserved].

2.10 Intangible Property. *Schedule 1.1(d)* contains a description of all material Intangible Property. Seller has received no notice of any claim that any Intangible Property or the use thereof conflicts with, or infringes upon, any rights of any third party (and there is no basis for any such claim of conflict). No Intangible Property is the subject of any pending, or, to Seller's knowledge, threatened legal proceedings claiming infringement or unauthorized use.

2.11 Employees. Seller has materially complied with all labor and employment laws, rules and regulations applicable to the Station's business, including those which relate to prices, wages, hours, discrimination in employment and collective bargaining, and is not liable for any arrears of wages or any taxes or penalties for failure to comply with any of the foregoing. There is no unfair labor practice charge or complaint against Seller in respect of the Station's business pending or threatened before any court or governmental authority, and there is no strike, dispute, request for representation, slowdown or stoppage pending or threatened in respect of the Station's business. Seller is not party to any collective bargaining, union or similar agreement with respect to the employees of Seller at the Station, and no union represents or claims to represent or is attempting to organize such employees. Seller acknowledges that Buyer is not hiring any employee of the Station as a result of this Agreement and Seller shall be solely responsible for all employment matters related to employees of the Station prior to Closing.

2.12 Assets. Except for the Excluded Assets, the Assets constitute all the assets used or held for use in the business or operation of the Station. At Closing, Seller will transfer to Buyer good and marketable title to the Assets, free and clear of Liens, except for Permitted Liens.

2.13 Compliance with Law. Except as set forth in Schedule 2.4, Seller has complied in all material respects and is in compliance in all material respects with all laws, regulations, rules, writs, injunctions, ordinances, franchises, decrees or orders of any court or of any foreign, federal, state, municipal or other governmental authority which are applicable to the Station or the Assets. There is no action, suit or proceeding pending or, to Seller's knowledge, threatened against Seller in respect of the Station or the Assets. There are no complaints, claims or investigations pending or threatened against Seller in respect of the Station or the Assets.

2.14 No Finder. 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.

ARTICLE 3: BUYER REPRESENTATIONS AND WARRANTIES

Buyer represents and warrants to Seller as follows:

3.1 Organization. Buyer is a limited liability company duly organized, validly existing and in good standing under the laws of the State of Vermont and has the requisite power and authority to execute, deliver and perform this Agreement and the documents to be made pursuant hereto.

3.2 Authority. The execution, delivery and performance of this Agreement and the documents to be made pursuant hereto have been duly authorized and approved by all necessary action of Buyer (the "Buyer Authorization") and do not require any further authorization or consent of Buyer. This Agreement and the documents to be made pursuant hereto are legal, valid and binding agreements of Buyer enforceable in accordance with their respective terms, except in each case as such enforceability may be limited by bankruptcy, moratorium, insolvency, reorganization or other similar laws affecting or limiting the

enforcement of creditors' rights generally and except as such enforceability is subject to general principles of equity (regardless of whether such enforceability is considered in a proceeding in equity or at law).

3.3 No Conflicts. The execution, delivery and performance by Buyer of this Agreement and the documents to be made pursuant hereto does not conflict with any organizational documents of Buyer or any law, judgment, order, or decree to which Buyer is subject, and does not require the consent, approval or authorization, or filing with, any third party or any court or governmental authority, except the FCC Consent.

3.4 Qualification. Buyer is legally and financially qualified to hold the FCC Licenses and operate the Station under the Communications Act and the rules, regulations and policies of the FCC as they exist on the date of this Agreement. Buyer is not aware of any facts related to Buyer that would, under existing law, disqualify Buyer as an assignee of the FCC Licenses or as the owner and operator of any of the Station. No waiver of or exemption from any existing FCC rule or policy on the part of Buyer is necessary for the FCC Consent to be obtained.

3.5 No Finder. 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.

ARTICLE 4: SELLER COVENANTS

4.1 Covenants. From the date hereof until Closing, Seller shall:

(a) operate the Station in the ordinary course of business and keep its books and accounts, records and files in the ordinary course, and preserve the business and goodwill of the Station and the Assets;

(b) operate the Station in accordance with the terms of the FCC Licenses and in compliance with the Communications Act, FCC rules, regulations and policies, and all other applicable laws, rules and regulations, and maintain the FCC Licenses in full force and effect and, if applicable, timely file and diligently prosecute any necessary applications for renewal of the FCC Licenses;

(c) maintain the Tangible Personal Property in its present condition (ordinary wear and tear excepted) and otherwise preserve intact the Assets and maintain in effect its current insurance policies with respect to the Station and the Assets;

(d) not, without the prior written consent of Buyer:

(i) sell, lease or otherwise dispose of any Assets, except for non-material dispositions in the ordinary course of business of items which are replaced by assets of comparable or superior kind, condition and value;

(ii) create, assume or permit to exist any Liens on the Assets (other than Liens in effect on the Effective Date which will be released at Closing and Permitted Liens), and not dissolve, liquidate, merge or consolidate with any other entity;

(iii) modify any of the FCC Licenses; or

(iv) amend or terminate any of the Assumed Contracts, or enter into any contract, lease or agreement with respect to the Station, except renewals or extensions of any Assumed

Contract in the ordinary course, consistent with the terms in such Assumed Contract and new contracts which will be fully performed by Seller prior to Closing.

ARTICLE 5: JOINT COVENANTS

5.1 Confidentiality. Subject to the requirements of applicable law, all non-public information regarding the parties and their business and properties that is disclosed in connection with the negotiation, preparation or performance of this Agreement shall be confidential and shall not be disclosed to any other person or entity, except on a confidential basis to the parties' attorneys, accountants, investment bankers, investors and lenders, and their respective attorneys for the purpose of consummating the transaction contemplated by this Agreement, or when such disclosure is required under Vermont law.

5.2 Announcements. The parties shall coordinate the timing of a mutually agreeable announcement and employee notice. Prior to such announcement and notice, no party shall, without the prior written consent of the other, issue any press release or make any other public announcement concerning the transactions contemplated by this Agreement, in which case such party shall give advance notice to the other, and except as necessary to enforce rights under or in connection with this Agreement. Notwithstanding the foregoing, the parties acknowledge that this Agreement and the terms hereof and thereof will be filed with the FCC Application and thereby become public.

5.3 Control. Consistent with FCC rules, control, supervision and direction of the operation of the Station prior to Closing shall remain the responsibility of Seller as the holder of the FCC Licenses.

5.4 Risk of Loss. Seller shall bear the risk of any loss of or damage to any of the Assets at all times prior to the Closing, and Buyer shall bear the risk of any such loss or damage thereafter. If prior to the Closing any item of Tangible Personal Property is damaged or destroyed or otherwise not in the condition described in Section 2.6 in any material respect, then Seller shall use commercially reasonable efforts to repair or replace such item in all material respects in the ordinary course of business, but if such repair or replacement is not completed prior to Closing, then, at the Buyer's option, the parties shall proceed to Closing, and as Buyer's sole remedy, the proceeds of any insurance covering such damage or destruction shall be assigned to Buyer at Closing, and to the extent such proceeds are not sufficient to cover the cost of such repair or replacement, the Purchase Price shall be reduced by an amount equal to the deficiency, and, if Buyer elects to so proceed to Closing, Seller's representations and warranties, and Buyer's pre-Closing termination rights and post-Closing indemnification rights, with respect to the affected Assets will thereby be deemed qualified solely to the extent necessary to take into account such damage or destruction and its remedy.

5.5. Consents. Prior to Closing, Seller shall use commercially reasonable efforts to obtain any third-party consents required to transfer the Assumed Contracts to Buyer. To the extent that any Assumed Contract may not be assigned without the consent of any third party, and such consent is not obtained prior to Closing, this Agreement and any assignment executed at Closing pursuant hereto shall not constitute an assignment thereof, but to the extent permitted by law shall constitute an equitable assignment by Seller and assumption by Buyer of Seller's rights and obligations under the applicable Assumed Contract, with Seller making available to Buyer the benefits thereof and Buyer paying any monies owed and performing and complying with the obligations thereunder on Seller's behalf.

5.6 Employees. Buyer is not obligated to and does not intend to offer employment to any of the Station's employees. Seller shall be responsible for all compensation and benefits arising prior to Closing for its employees (in accordance with Seller's employment terms). Buyer does not assume any of Seller's employee obligations (including any severance obligations), all of which are Retained Obligations and not Assumed Obligations.

ARTICLE 6: SELLER CLOSING CONDITIONS

The obligation of Seller to consummate the Closing is subject to satisfaction of the following conditions at or prior to Closing:

6.1 Bringdown.

(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 at Closing and is then true and correct in all material respects, except with respect to changes that are contemplated or permitted by this Agreement.

(b) Buyer shall have performed and complied in all material respects with each and every covenant and agreement required by the Agreement to be performed or complied with by Buyer prior to or at Closing.

(c) Seller shall have received a certificate, dated as of Closing Date, from Buyer (executed by an authorized officer) to the effect that the conditions set forth in Sections 6.1(a) and 6.1(b) have been satisfied (the “Buyer Bringdown Certificate”).

6.2 Proceedings. Neither Seller nor Buyer shall be subject to any court or governmental order or injunction restraining or prohibiting the consummation of the transactions contemplated hereby.

6.3 FCC Consent. The FCC Consent shall have been granted and become a Final Order.

6.4 Deliveries. Buyer shall have made the deliveries to be made by it at Closing under this Agreement.

ARTICLE 7: BUYER CLOSING CONDITIONS

The obligation of Buyer to consummate the Closing is subject to satisfaction of the following conditions at or prior to the Closing:

7.1 Bringdown.

(a) Each of the representations and warranties of Seller contained in this Agreement are true and correct in all material respects as of the date when made and is deemed to be made again at Closing and is then true and correct in all material respects, except with respect to changes that are contemplated or permitted by this Agreement.

(b) Seller shall have 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 Seller prior to or at Closing.

(c) Buyer shall have received a certificate dated as of Closing from Seller (executed by an authorized officer) to the effect that the conditions set forth in Sections 7.1(a) and 7.1(b) have been satisfied (the “Seller Bringdown Certificate”).

7.2 Proceedings. Neither Seller nor Buyer shall be subject to any court or governmental order or injunction restraining or prohibiting the consummation of the transactions contemplated hereby.

7.3 FCC Consent. The FCC Consent shall have been granted and become a Final Order.

7.4 Deliveries. Seller shall have made the deliveries to be made by it at Closing under this Agreement.

ARTICLE 8: CLOSING DELIVERIES

8.1 Seller Deliveries. At Closing, Seller shall deliver or cause to be delivered:

- (a) a certified copy of the Seller Authorization;
- (b) the Seller Bringdown Certificate;
- (c) an Assignment and Assumption of FCC Licenses (and Other Licenses), in form and substance reasonably acceptable to Buyer, assigning the FCC Licenses from Seller to Buyer ("License Assignment");
- (d) an Assignment and Assumption of Assumed Contracts, in form and substance reasonably acceptable to Buyer, assigning the Assumed Contracts from Seller to Buyer ("Contract Assignment");
- (e) domain name transfers assigning the Station's domain names from Seller to Buyer following customary procedures of the domain name administrator;
- (f) a bill of sale, in form and substance reasonably acceptable to Buyer, conveying all Assets to Buyer;
- (g) any consents required to be obtained from third party to assign the Assumed Contract to Buyer.
- (h) any additional consents to assignment obtained by Seller;
- (i) appropriate documentation necessary to release all Liens (if any), except for Permitted Liens, on the Assets; and
- (l) any other documents and instruments of conveyance, assignment and transfer that may be reasonably necessary to convey, transfer and assign the Assets to Buyer, free and clear of Liens, except for Permitted Liens.

8.2 Buyer Deliveries. At the Closing, Buyer shall deliver to Seller:

- (a) the Purchase Price less the Deposits in accordance with the terms of this Agreement;
- (b) a certified copy of the Buyer Authorization;
- (c) the Buyer Bringdown Certificate;
- (d) the License Assignment, executed by Buyer;
- (e) the Contract Assignment, executed by Buyer;

(f) the Promissory Note; and

(g) any other documents and instruments of assumption that may be reasonably necessary to assume the Assumed Obligations.

ARTICLE 9: SURVIVAL AND INDEMNIFICATION

9.1 Survival. The representations and warranties in this Agreement shall survive Closing for a period of twelve (12) months from the Closing Date at which time they shall expire and be of no further force or effect, except that if within such applicable period the indemnified party gives the indemnifying party written notice of a claim for breach thereof describing in reasonable detail the nature and basis of such claim, then such claim shall survive until the resolution of such claim. The covenants and agreements in this Agreement shall survive Closing until performed.

9.2 Indemnification.

(a) From and after Closing, Seller shall defend, indemnify and hold harmless Buyer from and against any and all losses, costs, damages, liabilities and expenses (“Losses”), including reasonable attorneys’ fees and expenses (“Damages”) incurred by Buyer to the extent that such Losses arises out of or results from:

(i) any breach by Seller of its representations and warranties under this Agreement;

(ii) any default by Seller of its covenants and agreements under this Agreement;

(iii) the Retained Obligations; and

(iv) without limiting the foregoing, the business or operation of the Station prior to Closing (including any third-party claim arising from such operations).

(b) From and after Closing, Buyer shall defend, indemnify and hold harmless Seller from and against any and all Damages incurred by Seller arising out of or resulting from:

(i) any breach by Buyer of its representations and warranties under this Agreement;

(ii) any default by Buyer of its covenants and agreements under this Agreement;

(iii) the Assumed Obligations; and

(iv) without limiting the foregoing, the business or operation of the Station after Closing (including any third-party claim arising from such operations).

(c) Notwithstanding the foregoing or anything else herein to the contrary (except as otherwise specifically set forth below), after Closing, the maximum aggregate liability of Seller for Damages shall be the Purchase Price.

9.3 Procedures.

(a) The indemnified party shall give prompt written notice to the indemnifying party of any demand, suit, claim or assertion of liability by a third party that is subject to indemnification hereunder (a “Claim”), but a failure to give such notice or delaying such notice shall not affect the indemnified party’s rights or the indemnifying party’s obligations, except to the extent the indemnifying party’s ability to remedy, contest, defend or settle with respect to such Claim is thereby prejudiced.

(b) The indemnifying party shall have the right to undertake the defense or opposition to such Claim with counsel reasonably satisfactory to the parties. In the event that the indemnifying party does not undertake such defense or opposition in a timely manner, the indemnified party may undertake the defense, opposition, compromise or settlement of such Claim with counsel selected by it at the indemnifying party’s cost, provided, however, that except as permitted by Section 9.3(c), there shall be no settlement or compromise with respect to such claim without the prior written consent of the indemnifying party. If the indemnifying party does not agree to such settlement or compromise, it will undertake all costs of defending the claim and the other party shall not agree to such settlement or compromise.

(c) Notwithstanding anything herein to the contrary:

(i) the indemnified party shall have the right, at its own cost and expense, to participate in the defense, opposition, compromise or settlement of any Claim, and shall have the right to consult with the indemnifying party and its counsel concerning any Claim, and the indemnifying party and the indemnified party shall cooperate in good faith with respect to any Claim;

(ii) the indemnifying party shall not, without the indemnified party’s written consent, settle or compromise any Claim or consent to entry of any judgment which does not include a release of the indemnified party from all liability in respect of such Claim; and

(iii) the indemnified party shall not, without the indemnifying party’s written consent, settle or compromise any Claim or consent to entry of any judgment which does not include a release of the indemnifying party from all liability in respect of such Claim.

ARTICLE 10: TERMINATION AND REMEDIES

10.1 Termination. This Agreement may be terminated prior to Closing as follows:

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

(b) by written notice of Buyer to Seller:

(i) if Seller does not perform or comply with any of the obligations to be performed or complied with by it under this Agreement within the Cure Period (defined below); or

(ii) if Seller breaches any of its representations or warranties contained in this Agreement and does not cure such breach within the Cure Period;

(iii) as provided in Section 5.4 (Risk of Loss);

(c) by written notice of Seller to Buyer if Buyer:

(i) does not perform or comply with any of the obligations to be performed or complied with by it under this Agreement within the Cure Period; or

(ii) breaches any of its representations or warranties contained in this Agreement which breach has not been cured within the Cure Period;

(d) by written notice of Buyer to Seller, or by Seller to Buyer, if the FCC does not grant the FCC Application within nine (9) months of the Effective Date;

(e) by written notice of Buyer to Seller, or by Seller to Buyer, if the Closing does not occur within twelve (12) months after the FCC issues a public notice for the FCC Application; or

(f) termination of the LMA, provided that the party seeking termination of this Agreement is not in material default of the LMA.

The term “Cure Period” as used herein means a period commencing the date Buyer or Seller receives from the other written notice of breach or default hereunder and continuing until the earlier of (i) thirty (30) calendar days thereafter or (ii) the Closing Date determined under Section 1.7 provided, however, that if the breach or default is non-monetary and cannot reasonably be cured within such thirty (30) day period but can be cured before the Closing Date determined under Section 1.7, and if diligent efforts to cure promptly commence, then the Cure Period shall continue as long as such diligent efforts to cure continue, but not beyond the Closing Date determined under Section 1.7. 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, 5.1 (Confidentiality), 5.2 (Announcements), 10.3 (Attorneys’ Fees) and 11.1 (Expenses) shall survive any termination of this Agreement. The foregoing notwithstanding, Cure Period shall not apply to failure by Seller to pay the Purchase Price on the Closing Date.

10.2 Specific Performance. In the event of a material breach by Seller of any representation, warranty, covenant or agreement under this Agreement, at Buyer’s election, Buyer shall be entitled to an injunction restraining any such breach or threatened breach and to enforcement of this Agreement by a decree of specific performance requiring Seller, after receipt of all required governmental consents, to fulfill its obligations under this Agreement, in each case without the necessity of showing economic loss or other actual damage and without any bond or other security being required. In the event that this Agreement is terminated as a result of the breach of its terms by Buyer, including Buyer’s wrongful refusal to close, then Seller shall be entitled to pursue all available legal and equitable remedies.

10.3. Effect of Termination.

(a) Upon a termination of this Agreement by Seller due to a breach by Buyer of any of its material obligations under this Agreement, Seller shall retain the Deposits (along with any accrued interest) as liquidated damages and not as a penalty (“Liquidated Damages”). THE RECEIPT OF THE LIQUIDATED DAMAGES BY SELLER SHALL BE CONSIDERED LIQUIDATED DAMAGES AND NOT A PENALTY, AND SHALL BE SELLER’S SOLE REMEDY AT LAW OR IN EQUITY FOR A BREACH HEREUNDER IF CLOSING DOES NOT OCCUR. BUYER AND SELLER EACH ACKNOWLEDGE AND AGREE THAT THIS LIQUIDATED DAMAGES AMOUNT IS REASONABLE IN LIGHT OF THE ANTICIPATED HARM WHICH WILL BE CAUSED BY A BREACH OF THIS AGREEMENT BY BUYER, THE DIFFICULTY OF PROOF OF LOSS, THE INCONVENIENCE AND NON-FEASIBILITY OF OTHERWISE OBTAINING AN ADEQUATE REMEDY, AND THE VALUE OF THE TRANSACTION TO BE CONSUMMATED HEREUNDER.

(b) Upon a termination of this Agreement by Buyer due to a breach by Seller of any of its material obligations under this Agreement, Seller shall return the Deposits to Buyer and Buyer may seek all rights and remedies that it may have in equity or at law.

(c) Upon a termination of this Agreement for any reason other than as a result of a breach by Buyer or Seller, Seller shall return the Deposits to Buyer (along with any accrued interest thereon) and thereafter neither Party will have any further liability or obligation to the other with respect to this Agreement, except with respect to any provisions herein that by their terms survive termination.

10.4 Attorneys' Fees. In any civil proceeding brought under the terms of this Agreement, the party that substantially prevails on the merits shall be entitled to receive, in addition to the receipt of any damages awarded in the underlying proceeding, reasonable attorneys' fees and costs incurred in bringing such action.

ARTICLE 11: MISCELLANEOUS.

11.1 Expenses. Each party shall be solely responsible for all costs and expenses incurred by it in connection with the negotiation, preparation and performance of and compliance with the terms of this Agreement.

11.2 Further Assurances. After Closing, each party hereto shall execute all such instruments and take all such actions as any other party may reasonably request, to effect the transactions contemplated by this Agreement, including the execution and delivery of confirmatory and other transfer documents in addition to those to be delivered at Closing.

11.3 Assignment. This Agreement shall be binding upon and inure to the benefit of the parties hereto, and their respective successors and permitted assigns. Prior to Closing, neither party may assign any of its rights or delegate any of its obligations hereunder without the prior written consent of the other party. Any attempted assignment or delegation in violation of this Section shall be void.

11.4 Notices. Any notice pursuant to this Agreement shall be in writing and shall be deemed delivered on the date of confirmed delivery by a nationally recognized overnight courier service, and shall be addressed as follows (or to such other address as any party may request by written notice):

If to Seller, then to:

Glen Wright
Woodchuck Radio, LLC
P.O. Box 550
Waterbury, VT 05676

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

Langrock Sperry & Wool, LLP
P.O. Box 721
210 College Street
Burlington, VT 05402
Attention: Eric M. Knudsen, Esq.

If to Buyer, then to:

Mud Radio, LLC
560 Lake Street
Bridport, VT 05734
Attention: Elliott Morgan

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

Rini O'Neil, PC
2101 L Street, NW
Suite 300
Washington, DC 20037
Attention: David G. O'Neil

11.5 Severability. If any court or governmental authority holds any provision in this Agreement invalid, illegal or unenforceable under any applicable law, then, so long as no party is deprived of the benefits of this Agreement in any material respect, this Agreement shall be construed with the invalid, illegal or unenforceable provision deleted and the validity, legality and enforceability of the remaining provisions contained herein shall not be affected or impaired thereby.

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

11.7 Schedules. Seller may propose to supplement or amend its schedules hereto, by written notice to Buyer, with respect to any matter that would have been required to be set forth or described in a schedule or that is necessary to correct any information in a schedule or in any representation or warranty. Any request by Seller to supplement or amend any schedule with any contract, agreement, lease, or license, or amendment or modification thereto, shall be accompanied by full, complete and legible copies of the relevant contract, agreement, lease or license (or amendment or modification thereto).

11.8 Miscellaneous. No amendment or waiver of compliance with any provision hereof or consent pursuant to this Agreement shall be effective unless in a writing signed by the party against whom enforcement of such amendment, waiver, or consent is sought. No waiver of any provision of this Agreement shall be deemed or shall constitute a waiver of any other provision hereof (whether or not similar), nor shall such waiver constitute a continuing waiver unless otherwise provided. No delay on the part of any party hereto in exercising any right, power or privilege hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any right, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, power or privilege hereunder. This Agreement constitutes the entire agreement and understanding of the parties hereto with respect to the subject matter hereof, and supersedes all prior agreements and understandings with respect to the subject matter hereof. The Exhibits and Schedules to this Agreement are hereby incorporated by reference into and made a part of this Agreement for all purposes. As used herein, (x) "business day" means any day other than Saturday, Sunday or any day on which banks located in Washington, D.C. are authorized or obligated to close, and (y) "affiliate" means, with respect to any natural person or entity, any other natural person or entity that controls, is controlled by, or is under common control with, such natural person or entity.


[SIGNATURE PAGE FOLLOWS]

SIGNATURE PAGE TO ASSET PURCHASE AGREEMENT

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

SELLER:

WOODCHUCK RADIO, LLC

By: 
Kenley D. Squier, Member, by
Glen A. Wright, his attorney-in-fact

BUYER:

MUD RADIO, LLC

By: _____
Elliott Morgan
Managing Member

SIGNATURE PAGE TO ASSET PURCHASE AGREEMENT

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

SELLER:

WOODCHUCK RADIO, LLC


By: _____

Kenley D. Squier, Member, by
Glen A. Wright, his attorney-in-fact

BUYER:

MUD RADIO, LLC

By: _____


Elliott Morgan
Managing Member