

**ASSET PURCHASE AGREEMENT**

THIS ASSET PURCHASE AGREEMENT (this “*Agreement*”) is made as of 28<sup>th</sup> day of April 2017, by and between **TANANA VALLEY TELEVISION COMPANY**, an Alaska corporation (“*Seller*”) and **TOR INGSTAD LICENSES, LLC**, an Alaska limited liability company (“*Buyer*”).

**RECITALS**

WHEREAS, Seller owns and operates radio broadcast station KDJF(FM), Ester, Alaska (FCC Facility ID Number: 164233) (the “*Station*”) pursuant to certain authorizations issued by the Federal Communications Commission (the “*FCC*”);

WHEREAS, services are currently being provided to Seller and the Station pursuant to the Advertising Referral Agreement and Facilities and Services Agreement, each dated December 21, 2016, with third party Last Frontier Mediactive, LLC;

WHEREAS, Buyer desires to purchase from Seller substantially all of the assets used or held for use in the business and operation of the Station, subject to the prior approval of the FCC;

WHEREAS, Seller’s affiliated company Tanana Valley Radio, LLC, licensee of KYSC(FM), Fairbanks, Alaska (FCC Facility ID Number: 77906) (“*KYSC*”), is subject to a separate Asset Purchase Agreement dated the date hereof pursuant to which Rob Ingstad Licenses, LLC shall acquire substantially all the assets used or held for use in the business and operation of KYSC, subject to the prior approval of the FCC (the “*Other Purchase Agreement*”); and

WHEREAS, pursuant to the terms and conditions set forth herein, the parties desire to provide for the sale and purchase of the Assets (defined below) as set forth in this Agreement.

**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. Subject to the terms and conditions herein contained, on the Closing Date (defined below), Seller shall sell, assign, transfer, convey and deliver to Buyer, and Buyer shall purchase and acquire from Seller, all rights, title, and interest of Seller in and to all personal assets, tangible and intangible, that are used or held for use in the business and operation of the Station, except the Excluded Assets (defined below) (“*Assets*”), including without limitation the following:

(a) Licenses and Authorizations. All of the licenses, construction permits and other authorizations issued by the FCC with respect to the Station that are described on **Schedule 1.1(a)**, together with all applications therefor and any renewals or extensions thereof

(collectively the “FCC Authorizations”).

(b) Tangible Property. All equipment, transmitters, antennas, cables, towers, furniture, and other tangible personal property used or held for use in the business and operation of the Station that are described on **Schedule 1.1(b)** (“Tangible Personal Property”).

(c) Contracts. All contracts and agreements entered into in the ordinary course of business for the sale of advertising time on the Station for cash, together with all contracts and agreements used in connection with the business and operation of the Station, including any real property and/or tower site leases and programming agreements, as specifically described on **Schedule 1.1(c)** hereto (“Contracts”).

(d) Intangible Property. All trademarks, trade names, service marks, domain names, copyrights, jingles, slogans, logotypes, and other intangible rights and interests used or held for use exclusively in connection with the business and operation of the Station (excluding, for the avoidance of doubt, the name of the Seller), including without limitation all rights, title and interests to the Station’ call letters and that are described in **Scheduled 1.1(d)** (“Intangible Property”).

(e) Files and Records. All files, documents, records, and books of account (or copies thereof) relating to the business and operation of the Station (but excluding, for the avoidance of doubt, any books and records pertaining to any other radio station owned or operated by either Seller), including the Station’s FCC local public file, programming information and studies, technical information and engineering data, marketing and demographic data, sales correspondence, credit and sales reports, and logs.

(f) Goodwill. All of Seller’s goodwill in, and going concern value of, the Station, if any.

The Assets shall be transferred to Buyer free and clear of all liens, claims and encumbrances (“Liens”) except for Assumed Obligations (defined below) and liens for taxes not yet due and payable and for which Seller receives a credit pursuant to Section 2.2 (“Permitted Liens”).

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

(a) Cash. All cash and cash equivalents.

(b) Accounts Receivable. All accounts receivable, notes receivable and other monies due to Seller for sales and deliveries of goods, performance of services, sale of advertisements, broadcast time and programming and other business transactions related to the Station attributable to the period prior to the Adjustment Time (defined below) (“Receivables”).

(c) Contracts. Any contracts or obligations not specifically assumed herein by Buyer.

(d) Other. All insurance policies, coverages and proceeds thereunder and all

rights in connection therewith, records pertaining to Seller's corporate organization, and pension, profit sharing and all other employee benefit plans.

1.3. Assumption of Obligations. Subject to the terms and conditions hereof, on the Closing Date (defined below), Buyer shall assume all liabilities, obligations, and commitments of any kind of Seller arising from the business or operation of the Station after the Closing Date (defined below) or otherwise relating to the Contracts, Station or its operation ("Assumed Obligations"). Except for the Assumed Obligations, Buyer does not assume or agree to discharge or perform, and will not be deemed by reason of the execution and delivery of this Agreement or the consummation of the transactions contemplated hereby, to have assumed or to have agreed to discharge or perform, any liability, obligation, or commitment of Seller arising from the business or operation of the Station before the Closing Date ("Retained Liabilities").

1.4 Employees. Upon Closing, Buyer may, but shall not be obligated to, re-hire the current employees of the Station.

## **ARTICLE 2. PURCHASE PRICE**

2.1. 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 sum of Two Hundred Seventy-five Thousand Dollars (\$275,000.00), subject to adjustments pursuant to Section 2.2 ("Purchase Price"). The Purchase Price shall be paid by wire transfer of immediately available funds by Buyer to Seller pursuant to wire instructions to be provided to Buyer prior to Closing as follows:

(a) Concurrently with the execution of this Agreement, Buyer has delivered to WashingtonFirst Bank (the "Escrow Agent"), the sum of Twenty-seven Thousand Five Hundred Dollars (\$27,500.00) to be held as an earnest money deposit, which shall be credited towards the Purchase Price at Closing (the "Earnest Money Deposit"), pursuant to an Escrow Agreement of even date herewith, a form of which is attached hereto as **Exhibit 1**.

(b) On the Closing Date, the remaining balance of the Purchase Price, subject to the prorations and adjustments provided in Section 2.2 hereof.

2.2. Prorations and Adjustments. The business and operation of the Station until 12:01 a.m. on the day of Closing ("Adjustment Time") shall be for the account of Seller and thereafter for the account of Buyer. All of the Station's expenses shall be prorated between Seller and Buyer as of the Adjustment Time in accordance with generally accepted accounting principles, and the Purchase Price shall be adjusted accordingly. Such prorations shall include all property taxes (except for transfer taxes), business and license fees, music and other license fees utility expenses, and other amounts under Contracts and similar prepaid and deferred items.

2.3. Allocations. The parties hereby agree to the valuation of the Assets as described on **Schedule 2.3**. The parties further agree to file all tax returns reflecting such allocations.

## **ARTICLE 3. CLOSING; FCC APPLICATION**

3.1. Closing. The consummation of the transactions contemplated herein shall take

place on a mutually acceptable date within ten (10) business days after the date that the FCC Consent (defined below) to the assignment of licenses is granted (the “Closing”). The Closing shall be simultaneous with the consummation of the transactions contemplated in and by the Other Purchase Agreement (the “Other Closing”). The date on which the Closing is to occur is referred to herein as the “Closing Date.”

3.2. FCC Application. Buyer and Seller shall jointly file applications with the FCC (“FCC Application”) requesting the FCC’s written consent to the assignment of the FCC Authorizations from Seller to Buyer within five (5) business days from the execution of the Agreement. The parties shall diligently take all steps necessary, proper, or desirable to expedite the prosecution of the FCC Applications to a favorable conclusion. Each party shall promptly provide the other with a copy of any pleading, order, or other document served on it relating to its respective FCC Application. The written consent to an FCC Application by initial order of the FCC is referred to herein as the “FCC Consent.”

3.3 Assignment of Contracts. To the extent that the transfer or assignment hereunder by Seller to Buyer of any Contract is not permitted or is not permitted without the consent or approval of another person, any such Contract shall not be assigned by Seller to Buyer at Closing if such consent or approval is not given or obtained by the Closing or if such agreement at Closing otherwise would constitute a breach thereof or constitute a loss of benefits thereunder. Seller and Buyer shall use their commercially reasonable efforts to obtain any and all such third party consents or approvals under all Contracts; provided, however, that neither Seller nor Buyer shall be required to pay or incur any cost or expense to obtain any third party consent or approval that it is not otherwise required to pay or incur in accordance with the terms of the applicable Contract, except for usual and customary legal fees and expenses. If any such third party consent or approval for the assignment or transfer of a Contract is not obtained before the Closing, Seller shall cooperate with Buyer in any reasonable arrangement designed to provide for Buyer after the Closing the benefits intended to be assigned to Buyer under the applicable Contract. Enforcement of any and all rights of Seller against the other party thereto arising out of the breach thereof by such other party or otherwise prior to the Closing shall be at the cost of Seller. Enforcement of any and all rights of Seller against the other party thereto arising out of the breach thereof by such other party or otherwise after the Closing shall be at the cost of Buyer but only to the extent that Buyer has enjoyed the full benefits of such contract as if such consent, waiver or approval had been obtained. Buyer shall indemnify and hold harmless Seller for any costs, expenses or liabilities (including legal fees and expenses) incurred by it in connection with the enforcement of such Contract at the request of Buyer. Upon receipt of any such third party consent or approval after Closing, the applicable Contract shall be automatically assigned to, and assumed by, Buyer on the terms hereof without further action by Buyer or Seller.

#### **ARTICLE 4. REPRESENTATIONS AND WARRANTIES OF SELLER**

Seller represents and warrants to Buyer as follows:

4.1. Organization. Seller is a corporation duly organized, validly existing and in good standing under the laws of the state of Alaska. Seller has the requisite power and authority to own and operate the Station, to conduct the business of the Station as is now conducted, and to execute, deliver and perform the transactions contemplated in this Agreement and the documents

to be made pursuant hereto.

4.2. 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 Seller 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 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).

4.3. No Conflicts, Defaults. The execution, delivery and performance of this Agreement by Seller and the documents to be made pursuant hereto does not or will not: (a) conflict with any organizational documents of Seller, law, judgment, order, or decree to which Seller, the Station or the Assets are subject; (b) require the consent, approval or authorization, or filing with, any third party or any court or governmental authority, except the FCC Consent and counter-party consent to assign certain Contracts; (c) constitute or result in a breach of or default (or an event which with notice or lapse of time, or both, would constitute a default) under, or result in the termination or suspension of, or accelerate the performance required by, or result in a right of termination, cancellation or acceleration of any contract, or any other material agreement, indenture, covenant, instrument, license or permit by which Seller is bound; or (d) result in the creation or imposition of any lien, charge or encumbrance against the Station or the Assets.

4.4. FCC Authorizations. Seller is the holder of the FCC Authorizations as set forth on **Schedule 1.1(a)**. The FCC Authorizations constitute all of the licenses and authorizations required under the Communications Act of 1934, as amended ("*Communications Act*"), or the rules, regulations and policies of the FCC ("*FCC Rules*") for, and used in the operation of, the Station. The FCC Authorizations are in full force and effect and have not been revoked, suspended, cancelled, rescinded or terminated and have not expired. The Station is operated in material compliance with all governmental authority including the Communications Act, and all applicable FCC Rules. There is not now pending or threatened, any action by or before the FCC or any other body to revoke, cancel, rescind, modify or refuse to renew any of the FCC Authorizations or other permits, and Seller has not received any notice of any pending, issued or outstanding order by or before the FCC or any other body, or of any investigation, order to show cause, notice of violation, notice of apparent liability, notice of forfeiture, or material complaint against the Station or Seller.

4.5. Tangible Personal Property. Seller is the owner of all of the owned Tangible Personal Property set forth on **Schedule 1.1(b)** hereto, or has a valid leasehold interest in the leased Tangible Personal Property set forth thereon. The Tangible Personal Property is in good operating condition and repair, ordinary wear and tear excepted, is functioning in the manner and purposes for which it was intended, and has been maintained in accordance with industry standards.

4.6. Contracts. **Schedule 1.1(c)** is a list of all of the Contracts related to the operation

of the Station. Each of the Contracts is in effect and is binding upon the parties thereto (subject to bankruptcy, insolvency, reorganization or other similar laws relating to or affecting the enforcement of creditors' rights generally). Seller has performed its obligations under each of the Contracts to which it is a party in all material respects, and is not in material default thereunder, and to Seller's knowledge, no other party to any of the Contracts is in default thereunder in any material respect.

4.7. Intangible Property. Seller has a right, title and interest in and to the Intangible Property described on **Schedule 1.1(d)** as being held by it. No Intangible Property is the subject of any pending, or, to Seller's knowledge, threatened legal proceedings claiming infringement or unauthorized use.

4.8. Taxes. Seller has filed all federal, state, local or foreign income, franchise, sales, use, property and other tax returns and forms pertaining to the Assets to be transferred hereunder. There is no pending or threatened investigation or claims against Seller for or relating to any liability in respect of taxes.

4.9. Brokers. No broker, finder or other person entitled to a commission or brokerage fee or payment in connection with this Agreement or the transactions contemplated hereby as a result of any agreement or action by Seller, other than to Kepper, Tupper and Company. Payment of any broker engaged by Seller shall be at Seller's sole cost and expense.

4.10. Compliance with Law. Seller has complied 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 its Station or the Assets. There is no action, suit or proceeding pending or, to Seller's knowledge, threatened against Seller with respect to the Station or the Assets. To Seller's knowledge, there are no claims or investigations pending or threatened against Seller with respect to the Station or the Assets.

4.11. Disclosure. No provision of this Agreement relating to Seller contains any untrue statement of a material fact or omits or will omit to state a material fact necessary to make such representation or warranty or any such statement not misleading to Buyer.

## **ARTICLE 5. REPRESENTATIONS AND WARRANTIES OF BUYER**

Buyer represents and warrants to Seller as follows:

5.1. Organization. Buyer is a limited liability company duly organized, validly existing and in good standing under the laws of the state of Alaska and is, or at Closing will be, authorized to transact business in the state of Alaska. Buyer has the requisite power and authority to execute, deliver and perform the transactions contemplated in this Agreement and the documents to be made pursuant hereto.

5.2. 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 and do not require any further authorization or consent of Buyer. The 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).

5.3. FCC Qualification. Buyer is legally, financially, and otherwise qualified under the Communications Act and the rules, regulations and policies of the FCC to hold the FCC Authorizations. Acquisition of the FCC Authorizations by Buyer complies with the Communications Act and the rules, regulations and policies of the FCC with respect to multiple ownership as they exist on the date of this Agreement.

5.4. No Conflicts. The execution, delivery and performance 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.

5.5. Brokers. There is no broker or finder or other person entitled to a commission or brokerage fee or payment in connection with this Agreement or the transactions contemplated hereby as a result of any agreement or action by Buyer. Payment of any broker engaged by Buyer shall be at Buyer's sole cost and expense.

5.6. Disclosure. No provision of this Agreement relating to Buyer contains any untrue statement of a material fact or omits or will omit to state a material fact necessary to make such representation or warranty or any such statement not misleading to Seller.

## **ARTICLE 6. COVENANTS OF SELLER**

Seller covenants and agrees that from the date hereof until the completion of Closing:

### 6.1. Operation of the Business.

(a) Seller shall continue to carry on the business of the Station in the ordinary course consistent with past practice and keep all books and accounts, records, and files in the usual and ordinary manner;

(b) Seller shall operate the Station in material compliance with the terms of the FCC Authorizations and in compliance with the Communications Act, FCC rules, regulations and policies, all other applicable laws, rules and regulations and in accordance with good engineering practices and shall maintain the FCC Authorizations in full force and effect without adverse modification;

(c) Seller shall keep the Tangible Personal Property in good operating condition (ordinary wear and tear excepted) and repair and maintain adequate and usual supplies, spare parts and other materials as have been customarily maintained in the past, and otherwise preserve intact the Assets and maintain in effect current insurance policies with respect to the Station and Assets.

(d) Prior to the Closing Date, Seller shall not without Buyer's prior written consent:

- (i) Modify any of the FCC Authorizations;
- (ii) Sell, lease, transfer, or agree to sell, lease or transfer, any of the Assets except for non-material sales or leases in the ordinary course of business of items which are replaced by assets of comparable or superior kind, condition and value;
- (iii) Renew, amend, or terminate any Contract, or enter into any new contract with respect to the Station in any manner that will be binding upon Buyer or the Station after Closing; or
- (iv) Create, assume or permit to exist any Liens on the Assets, except for Permitted Liens.

6.2. Consents. Seller shall obtain any third-party consents necessary to assign the Contracts to Buyer.

6.3. Access. Between the date hereof and the Closing Date, Seller will afford Buyer reasonable access to the Station and the Assets. Buyer, at its sole expense, shall be entitled to make such engineering and other inspections of the Assets as Buyer may desire, so long as such inspection would not unreasonably interfere with the operation of the Station.

## ARTICLE 7. JOINT COVENANTS

7.1. Confidentiality. Subject to requirements of applicable law, Seller and Buyer shall each keep confidential all information obtained by it with respect to the other parties hereto in connection with this Agreement and the negotiations preceding this Agreement ("Confidential Information"); provided that, either party hereto may furnish such Confidential Information to its employees, agents, and representatives who need to know such Confidential Information (including its, tax, financial, and legal advisers, its banks and other lenders) ("Representatives"); provided however, the disclosing party shall be responsible for all actions or omissions of such Representatives with regard to Representatives' breach of this Section. Each party hereto shall, and shall cause each of such party's Representatives to, use the Confidential Information solely in connection with the transactions contemplated by this Agreement, and not for any competitive purpose or advantage detrimental to the other party hereto or any of its affiliates.

7.2. 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 Authorizations.

7.3. Announcements. Prior to Closing, 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, except to the extent that such party is so obligated by law.

7.4. Receivables. All Receivables from the Station's broadcasts that occurred prior to

Adjustment Time shall belong to Seller, and from broadcasts that occur thereafter shall belong to Buyer. After Closing, Buyer shall collect Receivables on behalf of Seller for a period of Ninety (90) days (the "Collection Period"). Buyer shall collect such Receivables without commission or compensation, and Buyer shall forward to Seller such Receivables beginning on the thirtieth (30<sup>th</sup>) day after Closing and every 30 days thereafter for the remainder of the Collection Period. Buyer shall not incur any liability as the result of failure to collect said Receivables and shall not be required to institute suit to collect, but Buyer will exercise commercially reasonable efforts to collect said Receivables.

## **ARTICLE 8. CONDITIONS TO THE OBLIGATIONS OF BUYER**

The obligations of Buyer under this Agreement are, at its option, subject to the fulfillment of the following conditions prior to or on the Closing Date:

8.1. Representations, Warranties, and Covenants. The representations and warranties of Seller made in this Agreement shall be true and correct in all material respects as of the Closing except for changes permitted by the terms of this Agreement. The obligations to be performed by Seller at or prior to Closing shall have been performed in all material respects. Seller shall have furnished Buyer with a certificate, dated as of the Closing Date and duly executed by an officer authorized on behalf of Seller to give such a certificate, to the effect that such conditions have been satisfied.

8.2. No Material Adverse Change. There shall have been no material adverse effect upon any of the Assets or the business of the Station.

8.3. Liens. All Liens, other than Permitted Liens, shall have been released, as evidenced by payoff letters from any party holding a Lien to be released at the Closing, and releases or UCC-3 termination statements sufficient to terminate Liens on the Assets acquired at Closing.

8.4. Consents. The Required Consents shall have been obtained. For purposes of this Agreement, "Required Consents" are identified as such in Schedule 1.1(c).

8.5. Proceedings. Seller shall not be subject to any court or governmental order or injunction restraining or prohibiting the consummation of the transactions contemplated herein.

8.6. FCC Consent. The FCC Consent shall have been granted.

8.7. Deliveries. Seller shall have complied with its obligations set forth in Section 10.1.

8.8. Contracts. Seller shall have provided Buyer with true, complete and fully-executed copies of all Contracts within 30 days from the date hereof.

## **ARTICLE 9. CONDITIONS TO THE OBLIGATIONS OF SELLER**

The obligations of Seller under this Agreement are, at their option, subject to the fulfillment of the following conditions prior to or on the Closing Date:

9.1. Representations, Warranties, and Covenants. The representations and warranties of Buyer made in this Agreement shall be true and correct in all material respects as of the Closing except for changes permitted by the terms of this Agreement. The obligations to be performed by Buyer at or prior to Closing shall have been performed in all material respects. Buyer shall have furnished Seller with a certificate, dated as of the Closing Date and duly executed by a person authorized on behalf of Buyer to give such a certificate, to the effect that such conditions have been satisfied.

9.2. Proceedings. Buyer shall be subject to any court or governmental order or injunction restraining or prohibiting the consummation of the transactions contemplated herein.

9.3. FCC Consent. The FCC Consent shall have been granted.

9.4. Deliveries. Buyer shall have complied with its obligations set forth in Section 10.2.

9.5. Other Closing. All conditions giving rise to the obligations of the parties to the Other Purchase Agreement to proceed to the Other Closing shall have been, or at the Other Closing shall be, satisfied or waived such that the Other Closing is ready to occur simultaneously with the Closing.

## **ARTICLE 10. CLOSING DELIVERIES**

10.1. Deliveries by Seller. At the Closing, Seller shall deliver to Buyer the following:

- (a) An Assignment and Assumption of FCC Authorizations assigning the FCC Authorizations to Buyer;
- (b) A Bill of Sale transferring title to the Tangible Personal Property and Intangible Property to Buyer;
- (c) An Assignment and Assumption of Contracts assigning the Contracts to Buyer;
- (d) The Required Consents;
- (e) The Certificate of Seller referred to in Section 8.1;
- (f) A joint notice to the Escrow Agent directing the Escrow Agent to release the Earnest Money Deposit to Seller as payment of a portion of the Purchase Price;
- (g) A customary estoppel certificate signed by the Landlord under the Lease confirming certain matters with respect to the Lease;
- (h) A Termination of all prior agreements, if any, with Last Frontier

Mediactive, LLC, if required; and

(i) Any other documents and instruments of conveyance, assignment and transfer that may be reasonably necessary to sell, assign, transfer, convey, or otherwise provide good and marketable title in and to the Assets to Buyer free and clear of Liens, except for Permitted Liens.

10.2. Deliveries by Buyer. At the Closing, Buyer shall deliver to Seller the following:

(a) An Assignment and Assumption of FCC Authorizations assuming the FCC Authorizations from Seller;

(b) An Assignment and Assumption of Contracts assuming the obligations under the Contracts from Seller;

(c) The Certificate of Buyer referred to in Section 9.1;

(d) The Purchase Price in immediately available wire transferred funds as provided in Section 2.1;

(e) A joint notice to the Escrow Agent directing the Escrow Agent to release the Earnest Money Deposit to Seller as payment of a portion of the Purchase Price due from Buyer; and

(f) Any other documents and instruments of assumption that may be reasonably necessary to purchase and acquire the Assets and to assume the Assumed Obligations.

## **ARTICLE 11. SURVIVAL**

The representations and warranties in this Agreement shall expire one (1) year after the Closing ("*Survival Period*"), except as otherwise expressly stated herein. The covenants and agreements in this Agreement, and indemnification obligations with respect to such provisions, shall survive Closing until performed. No claim may be brought under this Agreement unless written notice describing in reasonable detail the nature and basis of such claim is given on or prior to the earlier of the last day of the Survival Period or expiration of the applicable statute of limitations. In the event such notice is given, the right to indemnification with respect thereto shall survive the Survival Period until such claim is finally resolved and any obligations thereto are fully satisfied. Any investigation by or on behalf of any party hereto shall not constitute a waiver as to enforcement of any representation, warranty, covenant or agreement contained herein.

## **ARTICLE 12. TERMINATION AND REMEDIES**

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

(a) By mutual written consent of both parties;

(b) By written notice of Buyer to Seller if Seller:

(i) does not perform the obligations to be performed by it under this Agreement on the Closing Date and such breach or default is not cured within thirty (30) calendar days ("Cure Period") after Seller receives notice of such breach or default from Buyer; or

(ii) otherwise breaches in any material respect any of its representations or warranties or defaults in any material respect in the performance of any of its covenants or agreements contained in this Agreement and such breach or default is not cured within the Cure Period after Seller receives written notice of such breach or default from Buyer.

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

(i) does not perform the obligations to be performed by it under this Agreement on the Closing Date and such breach or default is not cured within the Cure Period after Buyer receives notice of such breach or default from Seller; or

(ii) otherwise breaches in any material respect any of its representations or warranties or defaults in any material respect in the performance of any of its covenants or agreements contained in this Agreement and such breach or default is not cured within the Cure Period after Buyer receives written notice of such breach or default from Seller.

(d) By written notice of one party to the other if the FCC denies the FCC Application or if there is any law that prohibits the consummation of the transactions contemplated in this Agreement, provided, however, that the right to terminate this Agreement under this Section 12.1(d) shall not apply to any party whose action or inaction shall have been a cause for such dismissal or prohibition; or

(e) By written notice of one party to the other if Closing does not occur within one (1) year after the date of this Agreement.

Termination of this Agreement shall not relieve any party of any liability it would otherwise have for a breach or default under this Agreement.

12.2. 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, in addition to any other remedy available to it, Buyer shall be entitled to an injunction restraining any such material breach and the enforcement of this Agreement by a decree of specific performance requiring Seller 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.

12.3. Liquidated Damages. In the event that this Agreement is terminated by Seller pursuant to Section 12.1(c), Seller shall be entitled to keep the Earnest Money Deposit as liquidated damages. Seller hereby waives all other legal and equitable remedies it may otherwise have as a result of any breach or default by Buyer under this Agreement.

#### 12.4. Indemnification.

(a) Following the Closing, Seller shall indemnify, defend and hold harmless Buyer with respect to any and all demands, claims, actions, suits, proceedings, assessments, judgments, costs, losses, damages, liabilities and expenses (including interest, penalties, court costs and reasonable attorneys' fees) ("*Damages*") asserted against, resulting from, imposed upon or incurred by Buyer directly or indirectly relating to or arising out of: (i) the breach by Seller of any of its representations, warranties or certifications made in or pursuant to, or failure by Seller to perform any of its covenants, conditions or agreements set forth in this Agreement or any other transaction documents; or (ii) the Retained Liabilities.

(b) Following the Closing, Buyer shall indemnify, defend and hold Seller harmless with respect to any and all Damages asserted against, resulting from, imposed upon or incurred by Seller directly or indirectly relating to or arising out of: (i) the breach by Buyer of any of its representations, warranties or certifications made in or pursuant to, or failure by Buyer to perform any of its covenants, conditions or agreements set forth in, this Agreement or any other transaction document; or (ii) any and all claims, liabilities and obligations of any nature, absolute or contingent, relating to the ownership and operation of the Station subsequent to the Closing and the Assumed Obligations.

(c) If any party (the "*Indemnitee*") receives notice or otherwise obtains knowledge of any matter with respect to which another Party (the "*Indemnifying Party*") may be obligated to indemnify the Indemnitee under this Section 12.4, then the Indemnitee shall promptly deliver to the Indemnifying Party written notice describing such matter in reasonable detail and specifying the estimated amount of the Damages or liability that may be incurred by the Indemnitee in connection therewith; provided that no failure or delay in the giving of such notice shall affect the Indemnitee's rights under this Section 12.4 except to the extent that such failure or delay has materially prejudiced the Indemnifying Party's ability to defend the matter in question.

(d) Notwithstanding the foregoing or anything else herein to the contrary, after Closing, (i) neither party shall have any liability to the other under Section 12.1 or 12.2, as applicable, until such party's aggregate Damages exceeds \$5,000.00 (the "*Threshold Amount*"), and (ii) the maximum aggregate liability of a party to the other, under Section 12.4(a) or (b), as applicable, shall be an amount equal to \$20,000.00 (the "*Cap Amount*").

(e) If the Indemnifying Party is entitled to and does elect to assume the defense of any matter pursuant to Section 12.4(c) and conducts such defense in a reasonably vigorous manner, then (i) the Indemnitee, at the Indemnifying Party's expense, shall fully cooperate as reasonably requested by the Indemnifying Party in the defense of such matter, (ii) the Indemnifying Party shall keep the Indemnitee informed of all material developments and events relating to such matter, (iii) the Indemnitee shall have the right to participate, at its own expense, in the defense of such matter, and (iv) except with the prior written consent of the Indemnitee, the Indemnifying Party will not, in the defense of such matter, consent to the entry of any judgment (other than a judgment of dismissal on the merits without cost), or enter into any settlement, that does not include as an unconditional term thereof the giving by the claimant or the plaintiff to the Indemnitee of a release from all Damages in respect of such matter. In no

event shall the Indemnifying Party be liable for any settlement or admission of liability with respect to such matter without its prior written consent.

(f) Any representation, warranty or certification that is specifically identified in a written claim for indemnification delivered within the period herein provided shall survive until the claim in question is either settled or finally adjudicated.

(g) The parties agree that any indemnity payments made pursuant to this Section 12.4 will be treated by the parties on all applicable tax returns as an adjustment to the Purchase Price.

### **ARTICLE 13. GENERAL PROVISIONS**

13.1. Risk of Loss. The risk of loss of or damage to any of the Assets shall remain with Seller at all times until 12:01 a.m. local time on the day of Closing, and Buyer shall bear such risk on and after the Closing Date. In the event of any casualty loss or similar damage to any Asset ("Damaged Asset") prior to the Closing Date that remains unrepaired or has not been replaced (other than a Damaged Asset that was obsolete and unnecessary for the continued operation of the Stations) by the date on which the Closing would otherwise occur under this Agreement, then the proceeds in respect of such loss or damage under any insurance covering such Damaged Asset ("Proceeds") shall be assigned to Buyer at Closing. In the event that the Proceeds are insufficient to fully repair or replace a Damaged Asset, then Buyer will be entitled, but not obligated, to accept the Damaged Assets in their then-current conditions and will receive a reduction in the Purchase Price in an amount equal to the difference between the reasonably estimated amount necessary to repair or replace the Damaged Assets to a reasonable operating condition and the amount of any unused Proceeds and payment of any related deductible amount. If Buyer elects to accept Damaged Assets at a reduced Purchase Price, then Buyer shall be deemed to have waived any breach of the representations, warranties or covenants set forth in this Agreement with respect to such loss or damage.

13.2. 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. All fees related to the FCC Applications under Section 3.2 of this Agreement shall be shared equally between Buyer and Seller.

13.3. Further Assurances. Each party shall execute all such instruments and take all such actions as any other party may reasonably request, without payment of further consideration, to effectuate the transactions contemplated by this Agreement, including without limitation the execution and delivery of confirmatory and other transfer documents in addition to those to be delivered at Closing.

13.4. Assignment. This Agreement shall be binding upon and inure to the benefit of the parties hereto, their heirs, legal representatives, successors and permitted assigns. This Agreement and any rights or obligations hereunder may be assigned by Buyer or Seller only with the prior written consent of the other party, which shall not be unreasonably withheld.

13.5. Notices. Any notice, request, demand or other communication required or

permitted under this Agreement shall be in writing and shall be deemed delivered on the date of personal delivery, confirmed facsimile transmission, confirmed delivery by a nationally recognized overnight courier service, or on the third (3<sup>rd</sup>) day after prepaid mailing by certified U.S. mail, return receipt requested, and shall be address as follows (or to such other address as any party may request by written notice):

if to Seller, then to:

Tanana Valley Television Company  
1244 View Pointe Drive  
Fairbanks, AK 99709  
Attn: William F. St. Pierre  
Tel: (907) 322-5336  
Email: [bill@tvtv.com](mailto:bill@tvtv.com)

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

Brooks, Pierce, McLendon, Humphrey &  
Leonard, LLP  
1700 Wells Fargo Capitol Center  
150 Fayetteville Street  
Raleigh, North Carolina 27601  
Attn: Coe W. Ramsey  
Telephone: (919) 839-0300  
Fax: (919) 839-0304  
[cramsey@brookspierce.com](mailto:cramsey@brookspierce.com)

If to Buyer, then to:

Tor Ingstad Licenses, LLC  
P.O Box 16683  
Minneapolis, MN 55416  
Attn: Tor Ingstad  
Tel: (952) 913-4017  
Fax:  
Email: [tor@ingstadmedia.com](mailto:tor@ingstadmedia.com)

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

Sciarrino & Shubert, PLLC  
4601 North Fairfax Dr.  
Suite 1200  
Arlington, VA 22203  
Attn: Dawn M. Sciarrino, Esq  
Tel: (202) 256-9551  
Fax: (703) 991-7120  
Email: [dawn@sciarrinolaw.com](mailto:dawn@sciarrinolaw.com)

13.6. Amendments and Waivers. 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.

13.7. Entire Agreement. 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.

13.8. 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.

13.9. Governing Law; Venue. The construction and performance of this Agreement shall be governed by the laws of the state of Alaska without giving effect to the choice of law provisions thereof.

13.10. Counterparts. This Agreement may be executed in separate counterparts, each of which shall be deemed to be an original and all of which together constitute one and the same agreement.

[SIGNATURE PAGE FOLLOWS]

SIGNATURE PAGE TO ASSET PURCHASE AGREEMENT

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

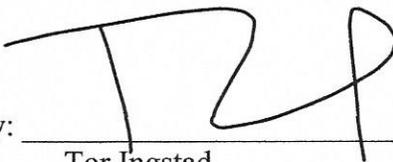
**SELLER:**

**TANANA VALLEY TELEVISION COMPANY**

By:   
William F. St. Pierre  
President

**BUYER:**

**TOR INGSTAD LICENSES, LLC**

By:   
Tor Ingstad  
Sole Member

## Schedules

These disclosure schedules (the “Schedules”) are referred to in the Asset Purchase Agreement (the “Agreement”) by and among Tanana Valley Television Company, an Alaska corporation (“Seller”) and Tor Ingstad Licenses, LLC, an Alaska limited liability company (“Buyer”).

Capitalized terms used but not defined in these Schedules shall have the respective meanings ascribed to them in the Agreement. The fact that any item or information is contained in these Schedules shall not be construed to mean that such item or information is required to be disclosed in or by the Agreement or that such item or information is material (as such term is used in the Agreement).

\* \* \* \* \*

**CONTENTS**

<u>Schedule</u>	<u>Description</u>
Schedule 1.1(a)	FCC Authorizations
Schedule 1.1(b)	Tangible Personal Property
Schedule 1.1(c)	Contracts
Schedule 1.1(d)	Intangible Property
Schedule 2.3	Allocation