

## ASSET PURCHASE AGREEMENT

May 25, 2016

THIS ASSET PURCHASE AGREEMENT (this "Agreement") is made as of ~~December XXXX, 2015~~ by and between Northern Star Broadcasting, LLC, a Michigan limited liability company ( "Seller"), and Up North Radio, LLC, a Michigan limited liability company (collectively, "Buyer").

### Recitals

A. Seller owns and operates radio broadcast station WCKC(FM), Cadillac, MI (FIN: 22183) ( "Station") pursuant to certain authorizations issued by the Federal Communications Commission (the "FCC"); and

B. 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 (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 (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 only those assets, properties, interests and rights of Seller, personal, tangible and intangible, that are used or held for use in the operation of the Station as specified in this Section 1.1, and excluding all other assets including those Excluded Assets (defined below) (the "Assets"), including, without limitation, the following:

(a) the licenses, permits and other authorizations issued to Seller by the FCC with respect to the Station (the "FCC Licenses"), as specifically described on *Schedule 1.1(a)* attached hereto, including any renewals or modifications thereof between the date hereof and Closing (defined below);

(b) the equipment and other tangible personal property (collectively, the "Tangible Personal Property"), as specifically described on *Schedule 1.1(b)* attached hereto;

(c) the contracts and agreements that are specifically listed on *Schedule 1.1(c)* attached hereto (collectively, the "Assumed Contracts");

(d) the Station's call letters as specifically listed on *Schedule 1.1(d)* attached hereto (the "Intangible Property");

(f) the Station's local public files, technical information and engineering data; and

(g) The Station's tower site (FCC ASR No. 1000702), including the land, building and tower as specifically listed on Schedule 1.1(g).

The Assets shall be transferred to Buyer free and clear of liens, claims and encumbrances ("Liens") except for the obligations of Seller arising after Closing under the Assumed Contracts (collectively, the "Assumed Obligations"), and statutory liens for taxes not yet due and payable (collectively, the "Permitted Encumbrances").

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

- (a) Seller's cash and cash equivalents;
- (b) all of the Station's accounts receivable existing at Closing (the "A/R");
- (c) all contracts of insurance, all coverages and proceeds thereunder and all rights in connection therewith;
- (d) all pension, profit sharing plans and trusts and the assets thereof and any other employee benefit plan or arrangement and the assets thereof, if any, and all collective bargaining agreements maintained by Seller; and
- (e) Seller's corporate name, charter documents, books and records relating to the organization, existence or ownership of Seller, and all records not relating to the operation of the Station.

1.3 Retained Liabilities. Except for the Assumed Obligations, Buyer does not assume and will not be deemed by execution and delivery of this Agreement or any agreement, instrument or document delivered pursuant to or in connection with this Agreement or otherwise by reason of the consummation of the transactions contemplated hereby, to have assumed any liabilities, obligations or commitments of Seller of any kind, whether or not disclosed to Buyer, including, without limitation, any liability or obligation of Seller under any contracts not included in the Assumed Contracts and any item set forth on *Schedule 1.3*, and any liability for any debt of the Seller, and any liability arising out of or related to the Excluded Assets (the "Retained Liabilities").

1.4 Purchase Price. The purchase price to be paid for the Assets shall be One Hundred and Eighty Thousand Dollars (\$180,000) (the "Purchase Price"). The Purchase Price shall be paid at Closing to Seller in cash in immediately available funds pursuant to the written instructions to be delivered by Seller to Buyer at least three (3) business days prior to Closing, which amount shall be increased or decreased by the proration amount referred to in Section 1.5 below.

1.5 Prorations.

(a) The operation of the Station and the income and operating expenses attributable thereto until 11:59 p.m. on the date preceding the day of Closing (the "Adjustment Time") shall be for the account of Seller and thereafter for the account of Buyer, and income and expenses shall be prorated between Seller and Buyer as of the Adjustment Time in accordance with generally accepted accounting principles ("GAAP"), and the amount to be paid at Closing shall be adjusted accordingly.

(b) Such prorations shall include, without limitation, all ad valorem, real estate and other property taxes (except transfer taxes, if any, as provided by Section 11.1), music and other license fees, FCC regulatory fees, utility expenses, rent and other amounts under Assumed Contracts and similar prepaid and deferred items. Prorations and adjustments shall be made at Closing to the extent practicable. As to those prorations and adjustments not capable of being ascertained at Closing, an adjustment and proration shall be made within sixty (60) calendar days after Closing.

(c) Notwithstanding anything to the contrary contained herein, there shall be no adjustment for and Seller shall remain solely liable for any contracts or agreements not included in the Assumed Obligations.

1.6 Allocation. At Closing, Seller and Buyer will each allocate the Purchase Price 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"). The allocation shall be determined by mutual agreement of the parties. Buyer and Seller shall each file its federal income tax returns and its other tax returns reflecting such allocation as and when required under the Code.

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 date that the FCC Consent becomes Final (defined below), or at Buyer's option within ten (10) business days after the FCC Consent is initially granted, in any case subject to 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."

1.8 FCC Consent.

(a) Within five (5) business days after the date the hereof, 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. 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. 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.

## ARTICLE 2: SELLER REPRESENTATIONS AND WARRANTIES

Except as otherwise disclosed herein (including, without limitation, as disclosed in the Schedules hereto), Seller represents and warrants to Buyer as follows:

2.1 Organization. Seller is duly organized, validly existing and in good standing under the laws of the State of Michigan, and is qualified to do business in each jurisdiction in which the Assets are located. 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 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 does 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 the FCC Consent and except for counterparty consent to assign those Assumed Contracts designated on *Schedule 1.1(c)*.

2.4 FCC Licenses. Except as disclosed on *Schedule 1.1(a)*, Seller holds the FCC Licenses listed and described on *Schedule 1.1(a)*. Such 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 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 modify any of the FCC Licenses (other than proceedings relating to FCC rules of general applicability), and except as disclosed on *Schedule 1.1(a)* attached hereto, 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.

2.5 Taxes. Seller has filed all 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 the Tangible Personal Property included in the Assets. Each item of Tangible Personal Property is in good operating condition and repair, is free from material defect or damage, is functioning in the manner and purposes for which it was intended and has been maintained in accordance with industry standards, ordinary wear and tear excepted.

2.7 Contracts. *Schedule 1.1(c)* contains a list the Assumed Contracts (other than ordinary course time sales agreements for cash). Each of the Assumed Contracts is in effect and is binding upon Seller and, to Seller's knowledge, the other 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 Assumed Contracts in all material respects, and is not in material default thereunder, and to Seller's knowledge, no other party to any of the Assumed Contracts is in default thereunder in any material respect.

2.8 Intangible Property. *Schedule 1.1(d)* contains a description of the Intangible Property. No Intangible Property is the subject of any pending, or, to Seller's knowledge, threatened legal proceedings claiming infringement or unauthorized use. The Station has the exclusive right to use the Intangible Property listed on *Schedule 1.1(d)*.

2.9 Litigation. Except as set forth in *Schedule 2.11*, Seller is not subject to any litigation, proceeding or governmental investigation pending in any court, arbitration board, administrative agency, or tribunal against or relating to the Seller or the Station or that could affect any of the Assets or prevent or materially impede the consummation by Seller of the transactions contemplated by this Agreement.

2.10 Assets. Seller has good and marketable title to the Assets, free and clear of Liens, except for Permitted Encumbrances and the Liens or other indebtedness disclosed on *Schedule 2.10*. At Closing, Seller will transfer to Buyer good and marketable title to the Assets, free and clear of Liens, except for Permitted Encumbrances. Seller maintains insurance policies in commercially reasonable amounts with respect to the Station and the Assets and will maintain such policies in full force and effect until Closing.

2.11 No Finder. Except for Patrick Communications, no broker, finder or other person is entitled to a commission, brokerage fee or other similar payment in connection with this Agreement or the transactions contemplated hereby as a result of

any agreement or action of Seller or any party acting on Seller's behalf. Payment of Patrick Communications shall be Seller's sole cost and expense.

2.12 Disclosure. This Agreement and the documents made pursuant hereto do not and will not contain any untrue statement of material fact or omit to state a material fact required to be made in order to make the statements herein and therein not misleading in light of the circumstances in which they are made. Seller represents and warrants that all information provided by Seller to Buyer in connection with Buyer's due diligence review of the Assets is true and correct in all material respects to the best of Seller's knowledge.

### ARTICLE 3: BUYER REPRESENTATIONS AND WARRANTIES

Buyer represents and warrants to Seller as follows:

3.1 Organization. Buyer is duly organized, validly existing and in good standing under the laws of the State of Michigan and is, or at Closing will be, authorized to transact business in any State in which the Assets are located. Buyer 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, financially and otherwise qualified to hold the FCC Licenses under the Communications Act and the rules, regulations and policies of the FCC as they exist on the date of this Agreement.

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. Payment of any broker engaged by Buyer shall be Buyer's sole cost and expense.

#### ARTICLE 4: SELLER COVENANTS

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

(a) operate the business and the Station as previously conducted in the ordinary course of business consistent with past practice, or obtain from the FCC and maintain in effect authorizations to remain silent;

(b) keep its books and accounts, records and files in the ordinary course; preserve the FCC Licenses and the business and goodwill of the Station and the Assets; collect the Station's accounts receivable only in the ordinary course of business consistent with past practice, and timely pay all expenses of the Station as they become due and make any necessary capital improvements in order to maintain the Station and the Assets in materially the same condition as of the date hereof;

(c) obtain and maintain in force all necessary FCC authorizations to remain silent, and otherwise maintain the FCC Licenses in full force and effect;

(d) keep all Tangible Personal Property and Real 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 its current insurance policies with respect to the Station and the Assets;

(e) at the request of Buyer, from time to time give Buyer access during normal business hours to all of the Station's , facilities, properties, deeds, title papers, insurance policies, licenses, agreements, contracts, commitments, records and files, equipment, machinery, fixtures and furniture and all other Assets, and provide Buyer all other information concerning the Station as Buyer may reasonably request (any investigation or examination by Buyer shall not in any way diminish any representations or warranties of Seller made in this Agreement);

(f) pay accounts payable in the ordinary course of business consistent with past practice;

(g) 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, except for Permitted Encumbrances;

(iii) not dissolve, liquidate, merge or consolidate with any other entity;

(iv) increase the compensation or benefits payable to any employee of the Station, or enter into any employment, labor or union agreement or plan (or amendments of any such existing agreement or plan) with a term that would extend past the Closing;

(v) amend or terminate any of the Assumed Contracts or enter into any contract, lease or agreement with respect to the Station except for ordinary course cash time sales agreements and any other agreements entered into in the ordinary course of business that will be paid and performed in full before Closing;

(vi) modify any of the FCC Licenses; or

(vii) permit any representation or warranty set forth in Article 2 to become untrue or inaccurate in any material respect; and

(i) obtain all consents required under the Assumed Contracts as necessary to complete the transactions contemplated by this Agreement. Without limiting the generality of the foregoing, obtaining consent to the assignment of those Assumed Contracts designated with the symbol † on *Schedule 1.1(c)* shall be a condition to Buyer's obligation to close (the "Required Consents"). Without limiting the generality of the foregoing, Seller shall provide to all parties to Assumed Contracts such information as requested in order to obtain all Required Consents, at its own cost.

## 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 the lenders' affiliates, general partners, auditors and rating agencies, on a need to know and confidential basis), and their respective attorneys in furtherance of the consummation of the transaction contemplated by this Agreement.

5.2 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, in which case such party shall give advance notice to the other and the parties shall cooperate to make a mutually agreeable announcement, 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 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. The risk of loss of or damage to any of the Station's Assets shall remain with Seller at all times until 12:01 a.m. local time on the day of Closing, and prior to Closing, Seller shall repair and replace any lost or damaged Assets.

5.5 Final Order.

(a) For purposes of this Agreement, the term "Final" shall mean that action shall have been taken by the FCC (including action duly taken by the FCC's staff, pursuant to delegated authority) which shall not have been reversed, stayed, enjoined, set aside, annulled or suspended; with respect to which no timely request for stay, petition for rehearing, appeal or certiorari or *sua sponte* action of the FCC with comparable effect shall be pending; and as to which the time for filing any such request, petition, appeal, certiorari or for the taking of any such *sua sponte* action by the FCC shall have expired or otherwise terminated.

(b) If Buyer elects to proceed to Closing prior to a Final FCC Consent, and prior to becoming Final the FCC Consent is reversed or otherwise set aside, and there is a Final order of the FCC (or court of competent jurisdiction) requiring the re-assignment of the FCC Licenses to Seller, then the purchase and sale of the Assets shall be rescinded. In such event, Buyer shall reconvey to Seller the Assets, and Seller shall repay to Buyer the Purchase Price and reassume the Assumed Obligations.

(c) Any such rescission shall be consummated on a mutually agreeable date within thirty (30) days of such Final order (or, if earlier, within the time required by such order). In connection therewith, Buyer and Seller shall each execute such documents (including execution by Buyer of instruments of conveyance of the Assets to Seller and execution by Seller of instruments of assumption of the Assumed Obligations) and make such payments (including repayment by Seller to Buyer of the Purchase Price) as are necessary to give effect to such rescission.

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. The representations and warranties of Buyer made in this Agreement shall be true and correct in all material respects as of Closing. Buyer shall have performed the obligations to be performed by it under this Agreement at or prior to Closing in all material respects, and Seller shall have received a certificate dated as of the Closing Date from Buyer (executed by an authorized officer) to the effect that the conditions set forth in this Section 6.1 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.

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

6.5 Concurrent Transaction. The sale of WCBY(AM), Cheboygan, MI (FIN: 56074), WGFM(FM), Cheboygan, MI (FIN: 56073), WGFM(FM), Glen Arbor, MI (FIN: 10750), WMKC(FM), Indian River, MI (FIN: 42141), WOEZ(FM), Onaway, MI (FIN: 189540), WQEZ(FM), Glen Arbor, MI (FIN: 15631), W264CF, St. Ignace, MI (FIN: 148065) and WCHY(FM), Cheboygan, MI (FIN: 189567) shall have been consented to by the FCC and the closing shall have been consummated.

#### 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. The representations and warranties of Seller made in this Agreement shall be true and correct in all material respects as of Closing. Seller shall have performed the obligations to be performed by it under this Agreement at or prior to Closing in all material respects, and Buyer shall have received a certificate dated as of the Closing Date from Seller (executed by an authorized officer) to the effect that the conditions set forth in this Section 7.1 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, nor shall there be any proceeding pending or threatened that may result in any FCC Licenses being revoked, cancelled, not renewed, or modified.

7.3 FCC Licenses. The FCC Licenses shall be and remain valid and in full force and effect, and, unless operations of the Station have been resumed pursuant to an LMA, the Station shall have valid authority to remain silent through and after the Closing Date.

7.4 FCC Consent. The FCC Consent shall have been granted and shall have become Final.

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

7.6 Consents. The Required Consents and Estoppel Certificates shall have been obtained.

#### ARTICLE 8: CLOSING DELIVERIES

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

- (a) a good standing certificate (electronic if available) issued by Seller's jurisdiction of formation;
- (b) a certified copy of the Seller Authorization;
- (c) the Seller Bringdown Certificate;
- (d) an Assignment of FCC Licenses assigning the FCC Licenses to Buyer;
- (e) an Assignment and Assumption of Contracts assigning the Assumed Contracts to Buyer;
- (f) the Indemnification Agreement;
- (g) an Assignment and Assumption of Intangibles assigning the Station's registered marks (if any) and other Intangible Property to Buyer;
- (h) a bill of sale conveying all Assets to Buyer;
- (i) the Required Consents;
- (j) customary payoff letters and other appropriate documents necessary to release all Liens (except for Permitted Encumbrances) on the Assets;
- (k) a quit claim deed for the Station's tower site (FCC ASR No. 1000702);
- (l) a list of advertising clients that purchased advertising based upon the WCKC signal during 2015, including the contact information and the WCKC advertising client revenue details; and
- (m) 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 Encumbrances.

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

- (a) the Purchase Price;
- (b) good standing certificates (electronic if available) issued by Buyer's jurisdiction of formation;
- (c) a certified copy of the Buyer Authorization;
- (c) the Buyer Bringdown Certificate;
- (e) an Assignment and Assumption of Contracts assuming the obligations arising after Closing under the Assumed Contracts;

(f) an Assignment and Assumption of Intangibles assuming the Station' registered marks (if any) and other Intangible Property;

(g) a quit claim deed for the Station's tower site (FCC ASR No. 1000702; and

(h) 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 whereupon they shall expire and be of no further force or effect, except (a) those under Section 2.5 (Taxes), which shall survive until the expiration of any applicable statute of limitations, (b) those with respect to title to the Assets, which shall survive indefinitely, (c) those with respect to Seller's debts and liabilities, which shall survive until the same are discharged; and (d) 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.

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, without limitation, 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 or warranties, or failure by Seller to perform any of its covenants, conditions or agreements set forth in this Agreement; (ii) any and all claims, liabilities and obligations of any nature, absolute or contingent, relating to Seller's ownership of the Station prior to the Closing (including liability for any enforcement action by the FCC relating to any period prior to Closing and any liability or obligation with respect to any modification of channel, frequency, class or community of license required by the FCC or any agreement with third parties); and (iii) the Retained Liabilities and Excluded Assets. Without limiting the foregoing, at Closing, Seller and Buyer shall enter into an agreement (the "Indemnification Agreement") pursuant to which Seller shall indemnify and hold harmless Buyer from and against any and all Damages arising from or related to any of Seller's debts or obligations under the Retained Liabilities and/or the Excluded Assets.

Following the Closing Buyer shall indemnify, defend and hold harmless Seller 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 failure by Buyer to perform any of its covenants, conditions or agreements set forth in this Agreement; and (ii) any and all claims, liabilities and obligations of any nature, absolute or contingent, relating to the ownership of the Station and the Assets subsequent to the Closing, except with respect to Retained Liabilities.

### 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.

(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) neither party shall have any liability to the other under any circumstances for special, indirect, consequential, punitive or exemplary damages or lost profits or similar damages of any kind, whether or not foreseeable.

## 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 if Seller:

(i) does not perform the obligations required to be performed by it under this Agreement on the Closing Date, all conditions to its obligations to do so having been satisfied (other than delivery of the Purchase Price) or waived; 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 (defined below);

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

(i) does not perform the obligations required to be performed by it under this Agreement on the Closing Date, all conditions to its obligations to do so having been satisfied or waived; 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;

(d) by written notice of Buyer to Seller, or of Seller to Buyer, if the FCC denies the FCC Application;

(e) by written notice of Buyer to Seller, or of Seller to Buyer, if the Closing does not occur by the date one (1) year after the date of this Agreement; or

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 (1) fifteen (15) calendar days thereafter or (2) the Closing Date. Except as provided in Section 10.3, 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, Sections 1.5 (Deposit), 5.1 (Confidentiality), 5.2 (Announcements), 10.3 (Liquidated Damages), and 11.1 (Expenses) shall survive any termination of this Agreement.

**10.2 Specific Performance.** In the event of a breach or threatened breach by Seller of any representation, warranty, covenant, obligation 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 breach or threatened breach and to 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.

**10.3 Liquidated Damages.** If this Agreement is terminated by Seller pursuant to Section 10.1(c), then the Buyer shall be liable to Seller in an amount equal to ten percent (10%) of the Purchase Price as liquidated damages as the sole and exclusive remedy of Seller (and any interest accrued thereon shall be disbursed to Buyer). 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.

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, except that each of Buyer and Seller shall pay one-half of the filing fee charged by the FCC for the request for FCC Consent, and Seller shall pay all other governmental taxes, fees and charges applicable to the transfer of the Assets under 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, 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.

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. Seller may not assign any of its rights or delegate any of its obligations hereunder, and any such attempted assignment or delegation without such consent shall be void. Buyer may assign its right to acquire the Assets (in whole or in part) to an affiliate of Buyer without Seller's consent.

11.4 Notices. Any notice pursuant to this Agreement shall be in writing and shall be deemed delivered on the date of personal delivery or confirmed facsimile transmission or confirmed electronic mail delivery, or 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 addressed as follows (or to such other address as any party may request by written notice):

if to Buyer, then to:

Up North Radio, LLC  
Attention: Jennifer Theodore  
14550 E. Horsehead Lake Dr.  
Mecosta, MI 49332  
Facsimile: (231) 779-5911  
gsiprod@aol.com

with a copy (which shall not  
Dom Theodore

Dominochannel@aol.com

constitute notice) to:

if to Seller, then to:

Northern Star Broadcasting, LLC

Attention: Mary Reynolds  
514 Munson Avenue,  
Traverse City, MI 49686  
Facsimile: \_\_\_\_\_  
nsbradio@gmail.com

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

Sciarrino & Shubert, PLLC  
5425 Tree Line Drive  
Centreville, VA 20120  
Attention: Dawn M. Sciarrino  
Facsimile: (703) 991-7120  
dawn@sciarrinolaw.com

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 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. This Agreement (together with the Schedules and Exhibit hereto) 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. Nothing in this Agreement expressed or implied is intended or shall be construed to give any rights to any person or entity other than the parties hereto and their respective successors and permitted assigns. The construction and performance of this Agreement shall be governed by the laws of the State of Michigan without giving effect to the choice of law provisions thereof. The prevailing party in a lawsuit brought to enforce the performance or compliance of any provision of this Agreement may recover reasonable attorneys' fees and costs from the non-prevailing party. The parties waive trial by jury of any matter arising from this Agreement. 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 first set forth above.



BUYER:

Up North Radio, LLC

By: Jennifer Theodore  
Name: Jennifer Theodore  
Title: Chief Executive Officer

SELLER:

Northern Star Broadcasting, LLC.

By: Del M. Reynolds  
Name: DEL REYNOLDS  
Title: PRESIDENT