

# **ASSET PURCHASE AGREEMENT**

*By and Between*

**LARKO COMMUNICATIONS, INC.  
AND  
ESTATE OF CHRISTOPHER LARKO**

*and*

**Brian R. Walsh**

March **20**, 2015

## TABLE OF CONTENTS

<b>Section</b>	<b>Subject</b>	<b>Page</b>
1	Definitions	2
2	Purchase and Sale of Assets	4
3	Purchase Price for Assets	5
4	Deliberately left blank	5
5	Obligations of Seller and Estate to be Assumed by Buyer	5
6	Deliberately left blank	6
7	Proration of Income and Expense	6
8	Commission Consent	7
9	Filing and Prosecution of Application	7
10	Possession and Control	7
11	Termination Rights in the Absence of a Breach by Any Party	7
12	Representations and Warranties of Seller and Estate	8
13	Tangible Personal Assets	11
14	Real Property	11
15	Seller's and Estate's Compliance with Environmental Laws	13
16	Representations and Warranties of Buyer	14
17	Affirmative Covenants of Seller and Estate	15
18	Negative Covenants of Seller	16
19	Buyer's Covenants	17
20	Conditions precedent to Buyer's obligations	18
21	Conditions precedent to Seller's and Estate's Obligations	19
22	Risk of Loss	19
23	Buyer's Remedies Upon Default by Seller or Estate	20
24	Remedies of Seller and Estate Upon Default by Buyer	21
25	Cross Defaults	21
26	Survival of Representations and Warranties	21
27	Indemnification of Buyer by Seller and Estate	21
28	Indemnification of Seller and Estate by Buyer	22
29	Indemnity Procedures	22

## TABLE OF CONTENTS

<i>Section</i>	<i>Subject</i>	<i>Page</i>
30	Deliveries of Seller and Estate at Closing	23
31	Buyer's Deliveries at Closing	24
32	Expenses	24
33	Transfer Taxes and Similar Charges	24
34	Confidentiality	24
35	Press Release	25
36	Assignment	25
37	No Third Party Beneficiaries	25
38	Notices	25
39	Severability	26
40	Governing Law; Construction; Venue; Enforcement	26
41	Deliberately left blank	26
42	Appendices	26
43	Counterparts	26
44	Headings	26
45	Time of the Essence	27
46	Broker	27
47	Other Documents	27
48	Further Assurances	27
49	Amendment	27
50	Waivers	27
51	Bulk Sales Law	27
52	Entire Agreement	27

# Asset Purchase Agreement

THIS ASSET PURCHASE AGREEMENT ("Agreement"), is made and entered into as of March ~~20~~ 2015, by and between: Larko Communications, Inc., an Indiana corporation ("Seller"); the Estate of Christopher Larko ("Estate"); and Brian R. Walsh, individually, a resident of Warsaw, Indiana ("Buyer").

## WITNESSETH:

Whereas, Seller is the owner and licensee of Radio Station WMYQ(FM), South Whitley, Indiana ("Station"), pursuant to authorizations issued by the Federal Communications Commission ("Commission"); and

Whereas, pursuant to Commission authorization, Station was silent from December 13, 2013, until it was returned to the air by Seller from December 8, 2014 through February 3, 2015; and

Whereas, Station was again returned to the air on March 13, 2015, by Buyer who is operating it, under Seller's control, pursuant to Time Brokerage Agreement ("TBA") executed by Seller and Buyer March 6, 2015;

Whereas, Estate owns certain land and a building used by Seller as the transmitter site and transmitter building of Station; and

Whereas, Buyer desires to purchase all of the property, assets and rights owned by Seller and Estate and used or intended by them for use, in the business and operation of Station, including assignments of certain of the authorizations issued by the Commission for the operation of Station, and Seller and Estate desire to sell, assign, transfer and convey the same to Buyer; and

Whereas, Buyer acknowledges its understanding that certain of the assets to be sold hereunder are, or may become, subject to certain liens and encumbrances (see **Appendices H, I and K**) which Seller and Estate cannot pay except from the proceeds of this sale;

Whereas, Seller and Estate have agreed that the entire Purchase Price shall be held by Escrow Agent and disbursed by it: i) first to the costs of administration of Estate; ii) second, to repayment of amounts loaned to Seller by Estate between January 1, 2014, and Closing; iii) third, to repayment of any amounts loaned to Seller between January 1, 2014, and Closing by any other shareholder of Seller; iv) fourth, to payment of any obligations giving rise to valid encumbrances on the assets to be sold, whether or not disclosed in **Appendices H, I and K**; v) fifth, to the payment of broker's commission; vi) sixth, to the payment of certain legal fees of Estate and Seller; and vii) seventh, to the payment of the obligations of unsecured creditors;

Whereas, Escrow Agent and counsel for Seller have agreed to use best efforts to obtain releases of all encumbrances promptly after closing and provide evidence of the releases to Buyer;

Whereas, Buyer, Seller, Estate and Roehling Broadcast Services, Ltd., Unionville, Indiana ("Escrow Agent"), have entered into an Escrow Agreement dated March 6, 2015, providing for Escrow Agent to hold Buyer's Earnest Money Deposit and the balance of the Purchase Price in a Trust Account and disburse those funds as provided in the Escrow Agreement;

Whereas, Buyer on January 5, 2015, pursuant to Commission authorization, fully disposed of his former attributable interests in Blessed Beginnings Communications, Inc. and WIOE-LP, Warsaw, Indiana; and

Whereas, this Agreement cannot be consummated without the prior written consent of the Commission to assignment of Station's licenses as contemplated herein;

**NOW, THEREFORE**, in consideration of the premises and the mutual agreements, promises, covenants and warranties set forth below, the parties intending to be legally bound, agree as follows:

**1. Definitions.** Unless otherwise stated in this Agreement, the following terms will have the following meanings:

**Application** refers to an application which the parties will join in and file with the Commission requesting its written consent to the terms of this Agreement and the assignment of Station's licenses from Seller to Buyer.

**Closing (or Closing Date)** means a date to be designated by Buyer upon which this Agreement will be consummated, which date shall not be earlier than the fifth nor later than the tenth Business Day after the Commission's grant of the Application has become a "Final Order". The Parties may, however, mutually waive finality and, if so, designate an earlier Closing Date following the release of a Public Notice by the Commission that the Application has been approved.

**Closing Place** means the Law Offices of Burt, Blee, Dixon, Sutton and Bloom, Fort Wayne, Indiana, or such other place as Seller, Estate and Buyer may agree.

**Commission Licenses** means all licenses, construction permits, renewals, extensions, modifications, additions and other authorizations issued by the Commission for the operation of Station, *except* Seller's auxiliary broadcast license or permit for studio-transmitter link Station WMF - 721, which will be surrendered by Seller.

**Environmental Contamination** means any contamination or damage to the environment relating to the use, handling, storage, treatment, recycling, generation, transportation, release of Hazardous Materials by Seller or its predecessors in interest.

With respect to claims by individuals, Environmental Contamination also includes the exposure of persons to Hazardous Materials at a work place of Seller.

**Environmental Law** means any federal, state, or local law, ordinance, order, rule, or regulation relating to contamination, pollution, protection of workers, the public, or the environment, or relating to releases, discharges, or emissions into the environment.

**Environmental Lien** means any lien imposed on or attaching to any of Station's Assets by federal, state, or local court, agency, or regulatory body, pursuant to Environmental Laws.

**Escrow Agent or Broker** means Roehling Broadcast Services, Ltd., Unionville, Indiana.

**Deposit** means the Earnest Money Deposit held by Escrow Agent pursuant to the TBA, this Agreement and the Escrow Agreement. The Deposit shall be held in a federally insured, interest-bearing trust account.

**Excluded Assets** means the following assets of Seller and Estate which are not being acquired by Buyer pursuant to this Agreement: All cash on hand or in bank accounts, Seller's accounts receivable, all contracts, agreements or leases other than the Assumed Contracts, all contracts of insurance for Station and its assets, Employee Pension, profit sharing, savings plans, trusts and 401(k) plans or the like, together with the assets of such plans or trusts, union contracts or employment agreements, Seller's corporate books and records, except that Seller shall provide Buyer with copies of: i) any financial records that may be necessary to Buyer in making federal, state, or local tax filings; and ii) Commission or other filings or correspondence required by federal, state or local governmental authorities.

**Final Order** means an Order of the Commission, or its staff, granting its consent to assignment of the Commission licenses to Buyer, which Order is no longer subject to rehearing, reconsideration or review by the Commission, or to a request for stay, or appeal or review by any court under the Communications Act of 1934, as amended ("Act"), or the Commission's Rules and Regulations ("Rules").

**Hazardous Materials** means any substance or material designated as hazardous or toxic (or by any similar term) under any Environmental Law, including, without limitation, petroleum or petroleum products, Polychlorinated Biphenyls ("PCBs") and friable materials containing more than one percent (1.0%) asbestos by weight.

**Immediately Available Funds** means cash, a bank cashier's check, or funds immediately available by wire transfer.

**Station's Assets** means the assets to be sold by Seller and Estate and purchased by Buyer pursuant to this Agreement, as described in Section 2.

**Time Brokerage Agreement ("TBA")** means the agreement executed on March 6, 2015, by Seller and Buyer, providing for Buyer's operation of Station, subject to Seller's control, until its sale to Buyer.

**Trust Account** means the account maintained by Escrow Agent pursuant to the Escrow Agreement to hold funds deposited by Buyer pursuant to this Agreement or the TBA.

**2. Purchase and Sale of Assets.** Seller and Estate, on the Closing Date and at the Closing Place, shall sell, assign, transfer, convey, and deliver to Buyer, by instruments in form reasonably satisfactory to Buyer, all of the assets and properties, except the Excluded Assets, of every kind and description owned and used by Seller or Estate, or intended by them for use, in the business and operation of Station, including real and personal property, tangible and intangible property, rights under contracts and leases, inventories and goodwill as listed in **Appendices A, B, C and D** hereto, together with any replacements or additions made between this date and the Closing Date, less any retirements made in the ordinary and usual course of business.

**Station's Assets.** Without limiting the generality of the foregoing, Station's Assets shall include:

i) Those Commission and other governmental licenses and related applications listed in **Appendix A** hereto and all of Seller's right, title and interest in and to the call letters "WMYQ(FM)".

ii) All ownership, leasehold and other real property interests of Estate and Seller in land, buildings, structures, towers and improvements, including all easements, rights of way, permits and consents, if any, relating to or used in connection with Station, as listed in **Appendix B** hereto.

iii) All tangible personal property, physical assets, fixtures, leasehold improvements, furniture and equipment, spare parts, supplies, music libraries, computers and software and data files whether now owned or subsequently acquired by Seller or Estate and intended by them for use in the operation of Station, as listed in **Appendix C** hereto, provided that Buyer has advised Seller that it does not wish to acquire Seller's "on-air" computer or Seller's music library maintained on the computer

iv) All intangible property now owned or held by Seller or Estate and used, or intended by them for use in the operation of Station, including, but not limited to the property listed in **Appendix D** hereto, including the right to use any copyrights, program rights, service marks, trademarks, trade names, "logos", promotions, jingles, slogans, original copy, trade secrets, proprietary technical information, all other intellectual property rights, to the extent transferable.

Pursuant to Commission authorization, Station was silent from December 13, 2013, until December 8, 2014 and was operated by a third party under a Time Brokerage Agreement from March 9, 2012, thru November 15, 2013. That third party has refused to provide Seller financial or other records of its operation of Station during that period. It has also refused to return various items of Seller's equipment in its possession pursuant to the TBA. As a result, Seller has few, if any, operating and maintenance logs, sales records, promotional materials useful to Buyer. Seller has no program logs and no program or other service contracts which are assumable by Buyer. Upon Buyer's reasonable, written request, Seller shall provide Buyer copies of those business and operating records, if any, which it has for the period since January 1, 2010.

**3. Purchase Price for Assets; Deposit.** The Purchase Price to be paid to Seller and Estate for all of the Assets to be acquired by Buyer shall be, subject to any closing adjustments provided for in this Agreement, the sum of Two Hundred Twenty Thousand Dollars, payable as follows:

i) Simultaneously with the execution of this Agreement, Buyer shall increase its Deposit by Twenty Thousand Dollars, in Immediately Available Funds. Buyer's Deposit shall secure its performance hereunder and under the TBA. At Closing, Escrow Agent shall disburse this and all other amounts in the Trust Account as provided in the Escrow Agreement before paying any amounts to Seller or Estate;

ii) At Closing, Buyer shall pay into Trust Account the balance of the Purchase Price, One Hundred Eighty-Five Thousand Dollars, in Immediately Available Funds, plus or minus the net of any prorations or adjustments called for by this Agreement.

**4. Deliberately left blank.**

**5. Obligations of Seller and Estate to be Assumed by Buyer.**

Station's Assets shall be sold and conveyed to Buyer free and clear of all liens, contract obligations and other liabilities, except that, on the Closing Date, Buyer shall assume and agree to pay and perform those obligations of Seller and Estate that arise after the Closing Date under the Assumed Contracts, if any, listed in **Appendix F** hereto. Written consents to the assignments of the Assumed Contracts shall be provided by Seller if required by the terms of the instrument assumed or by law. Should Buyer not receive the full, pro-rata benefit of Seller's or Estate's rights under any such contract, Buyer shall assume such liabilities only to the extent Buyer obtains such rights and benefits.

Except as specifically set forth in **Appendix F**, Buyer does not assume and shall not be obligated to pay, perform or discharge any of Estate's or Seller's obligations, liabilities, agreements or commitments. Estate and Seller shall indemnify and hold Buyer harmless from, any loss, liability, damage or expense (including reasonable attorneys' fees) arising out of Seller's or Estate's failure to pay, perform or discharge any of Seller's or Estate's obligations or agreements or commitments not specifically assumed by Buyer.

Without limiting the generality of the foregoing, Buyer shall not assume or be liable for:

- i) any liability or obligation under any contracts assumed by Buyer under the terms of this Agreement relating to a breach prior to the Closing;
- ii) any liability or obligation for any federal, state or local income or other taxes of Seller, (subject, in the case of real estate taxes, to proration);
- iii) any liability or obligation with respect to any Excluded Assets;
- iv) any liability or obligation to any employee or former employee of Seller attributable to any period of time on or through the Closing Date;

**6. Deliberately left blank.**

**7. Proration of Income and Expense.** At the time of Closing, Station will be operating pursuant to the TBA so there will be relatively little income or expense to be allocated except under the provisions of the TBA. All income and expense arising from the operation of Station under the TBA, or otherwise, shall be prorated between Buyer and Seller in accordance with its terms, this Agreement and generally accepted accounting principles as of 11:59 PM, local time, on the day immediately preceding the Closing Date.

Seller or Estate shall pay all real and personal property taxes due and payable in 2014. Buyer shall pay all real and personal property taxes which become due and payable in 2015. Other pro-rations shall include, without limitation, business license fees, music and other license fees, Commission regulatory fees. The TBA shall govern the payment of utility expenses, rents and similar prepaid and deferred items attributable to the ownership and operation of Station.

Salaries, wages, sales commissions, fringe benefit accruals and termination or severance pay for Seller's or Buyer's employees shall not be pro-rated but shall be the sole responsibility of each employer.

The prorations and adjustments contemplated by this Section, 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 thirty days after the Closing Date. 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 an independent certified public accountant mutually acceptable to the parties, and the fees and expenses of such accountant shall be paid one-half by Seller and one-half by Buyer. The decision of such accountant shall be conclusive and binding on the parties. All prorations and adjustments made on the Closing Date shall be paid in the form of an increase or decrease of the amount payable by Buyer at the Closing. All prorations and adjustments made after the Closing shall be paid within five (5) business days of the determination thereof.

**8. Commission Consent.** The consummation of this Agreement shall be subject to the prior consent of the Commission without conditions or qualifications materially adverse in Buyer's reasonable judgment to Buyer or to the operation of Station.

**9. Filing and Prosecution of Application.** Upon the execution of this Agreement, Seller and Buyer will proceed expeditiously to prepare and file with the Commission the requisite Application, together with such other necessary instruments and documents as may be required. Any filing fee or application processing fee charged by the Commission in connection with the Application will be shared equally by Buyer and Seller.

Seller and Buyer shall use best efforts to tender the Application to the Commission within seven business days of the date of execution of this Agreement, to thereafter prosecute the Application with diligence, to cooperate with each other in good faith, to use their best efforts to obtain the requisite consent and approval promptly and to carry out the provisions of this Agreement. Each party shall promptly provide the other with a copy of any pleading, order or other document served on it relating to the Application.

Upon the filing of the Application, Seller shall timely provide such public notice as is required by the Commission's Rules.

**10. Possession and Control.** Except as provided in the TBA, between the date of this Agreement and the Closing Date, Buyer shall not control the operation of Station, and Seller will remain responsible for such control. Effective on the Closing Date and thereafter, neither Seller nor Estate shall have any control over, nor right to intervene or participate in, the operation of Station.

**11. Termination Rights in the Absence of a Breach by Any Party.**

***Failure to Receive FCC Approval.*** If the Commission has not acted upon and granted its consent and approval to the proposed assignment Application within six months of the date of Public Notice of its acceptance of the Application for filing, or has denied its approval of the Application, this Agreement, at the option of either Seller or Buyer, and upon fifteen day's written notice to the other, will become void; provided, however, that the party giving such notice is not in material default under its representations and warranties and has otherwise complied with its obligations under this Agreement.

***Termination Upon Designation for Hearing.*** Either party may also terminate this Agreement upon fifteen day's written notice to the other, if, for any reason, the Application is designated for hearing by the Commission *provided, however,* that the written Notice of termination is given within fifteen days after release of the Hearing Designation Order and the party giving such Notice is not in material default under its representations and warranties and has otherwise complied with its obligations under this Agreement.

***Broadcast Transmission of Station Prior to Closing Date.*** If, prior to the Closing Date any event occurs which prevents the regular broadcast transmission of Station in the normal and usual manner for a period of two continuous days or more, Seller or

Buyer, as appropriate, shall give prompt written notice of that fact to the other. If normal and usual transmission is not restored within twenty-one days after such notice, Buyer may give written notice to Seller of its election to terminate this Agreement.

**Other.** This Agreement may also be terminated at any time prior to the Closing Date without liability by Buyer pursuant to Section 20 and by Seller pursuant to Section 21 of this Agreement.

**Return of Escrow Deposit.** Upon Termination pursuant to this Section, and provided that Buyer is not otherwise in breach of this Agreement or the TBA, the Earnest Money Deposit and all interest earned thereon shall be returned to Buyer and the parties shall be released and discharged from any further obligation to each other, except for liability for any breaches of this Agreement by either party prior to such termination.

**12. Representations and Warranties of Seller and Estate.** Seller, and Estate where specifically noted, hereby represent and warrant to Buyer as follows:

***Organization and Standing.***

a) Seller is a corporation duly organized, validly existing, and in good standing under Indiana law. Seller is duly qualified and authorized under Indiana law to carry on the business of Station as presently conducted; and

b) Estate duly exists under Indiana law.

**Authority.** Seller and Estate have full power and authority to enter into, and to consummate the transactions contemplated by, this Agreement; the execution and delivery of this Agreement have been duly approved by Seller's Board of Directors and a majority in interest of Seller's shareholders and the Personal Representative of Estate; and the Agreement constitutes a valid and binding obligation of Seller and Estate and is enforceable in accordance with its terms, except as enforcement may be limited by bankruptcy or other laws effecting creditor's right generally.

**No Conflicts.** Neither the execution nor the delivery of this Agreement by Seller or Estate, nor its performance by Seller or Estate, either immediately or upon the giving of notice or the lapse of time or both:

i) Violates, conflicts with, or constitutes a default or an event giving a right to terminate or to accelerate obligations under the organizational documents of Seller or Estate, or any law, statute, rule, regulation, ordinance, judgment, decree, order, contract, lease, commitment, agreement, license, permit, franchise, or indenture to which Seller or Estate is a party or by which Seller or Estate are bound; or

ii) Results in the creation or imposition of any lien, or gives any other person or entity any interest in, or rights to, the assets of Seller or Estate.

**Commission Licenses.** Seller is the holder of the Commission licenses listed in **Appendix A**. Those licenses constitute all of the licenses and authorizations required for and/or presently used in the operation of Station, and, at Closing, such licenses shall be in full force and effect, unimpaired by any act or omission of Seller, its officers, directors, stockholders, employees or agents.

Except as disclosed in **Appendix A**:

(a) There is no pending or threatened action by the Commission to revoke, cancel, rescind, modify or refuse to renew in the ordinary course any of the Commission licenses.

(b) There is not pending at the Commission any issued or outstanding, or to the knowledge of Seller threatened, any complaint, Notice of Violation, Notice of Apparent Liability for Forfeiture.

(c) Station has operated in compliance with its Commission Licenses, the Act and the Commission's Rules and Station shall file all reports, forms and statements required to be filed by Seller with the Commission.

(d) There are no other Commission or other material licenses, permits or authorizations from governmental or regulatory authorities that are required for the lawful conduct of the business and operation of the Station as currently conducted.

(e) The operation and maintenance by Seller of the tower, antenna system and other facilities relating to the Station or used in connection with the transmission of its signal do not violate any regulation, law or rights of any person or legal entity which could have a material adverse impact on Station's Assets.

**Public Inspection File.** Except as disclosed in its pending license renewal application, and the absence of Quarterly Lists of Community Problems and Responsive Programs for the second, third and fourth quarters of 2013, the Public Inspection File at Station is in order and has been maintained by Seller in accordance with the Commission's Rules.

**Seller's Qualifications to Assign its License.** Seller will at Closing be qualified under the Act and the Commission's Rules to assign the Commission Licenses to Buyer.

Except as disclosed in **Appendix A**, Seller neither knows, nor with reasonable diligence could know, of any facts relating to it which would cause the Commission to withhold its consent to the assignment of the Commission Licenses to Buyer.

**Seller's Insurance.** Seller now has in force adequate property damage, liability and other insurance with respect to Station's Assets.

**Litigation.** Except as disclosed in **Appendix H**, there is not outstanding any judgment or any claim, litigation, proceeding, or to the knowledge of Seller, any investigation or claim threatened against Seller which might adversely affect Seller's ability to carry out fully the transactions contemplated by this Agreement and Seller knows of no facts which would form the basis for such a claim, litigation, proceeding or investigation.

**Solvency.** There are no insolvency proceedings of any character affecting Seller or Estate, or any of their respective assets or properties. Neither Seller nor Estate has made any assignment for the benefit of creditors, nor have they taken any action with a view to, or which would constitute the basis for, the institution of any such insolvency proceedings.

**Seller's Taxes.** Except as disclosed in **Appendix I**, Seller has filed all federal, state and local tax returns and state franchise tax returns that are required to have been filed, and has paid in full when due all taxes, interest, penalties, assessments and deficiencies that have been assessed or levied against Station or any of the Station's Assets based upon such returns.

Except as disclosed in **Appendix I**, Seller has paid all taxes that have become due pursuant to such returns or pursuant to any assessment received by it, and has paid all installments of estimated taxes due; and all taxes, levies and other assessments that Seller is required by law to withhold or to collect have been duly withheld and collected, and have been paid over to the proper governmental authorities or held by Seller for such payments. All such reports, returns and statements are substantially complete and correct as filed.

Except as disclosed in **Appendix I**, there are no pending or, to the best knowledge of Seller, threatened, investigations or claims against Seller for or relating to any liability in respect of taxes and, to the best knowledge of Seller, no facts or circumstances exist which indicate that any such, investigations or claims in respect of taxes may be brought or are under discussion with any governmental authorities.

**Absence of Certain Contracts by Seller.** Seller has no written or oral contracts of employment with any employee that will extend beyond Closing; is not a party to or subject to any collective bargaining agreements with respect to Station nor does it have any other contracts with any labor union or other labor organization. Seller is not a party to any pending or, to its knowledge, threatened labor dispute affecting Station. Except as set forth in **Appendix J**, Seller has complied in all material respects with all applicable federal, state, and local laws, ordinances, rules and regulations and requirements relating to the employment of labor, including provisions relative to wages, hours, collective bargaining and payment of Social Security, unemployment and withholding taxes and is not liable for any arrears of wages or any taxes or penalties for failure to comply with any of the foregoing.

Seller has no written or oral retirement, pension, profit-sharing, bonus, hospitalization, vacation or other employee benefit plan, and no such plan is included in the Assumed Contracts.

**Status of Contracts to be Assumed by Buyer.** Seller is not in default under any of the Assumed Contracts and all payments, services or other consideration due have been made by Seller. **Appendix F** is a true and complete list of all of the Assumed Contracts, except contracts for the sale of time which have less than a thirteen (13) week term.

**Encumbrances.** Except as disclosed in **Appendices H, I and K**, none of Station's Assets are, as of the date of this Agreement, mortgaged, pledged or subjected to lien. At Closing, Escrow Agent shall first apply the Purchase Price to payment of the obligations which give rise to the existing or prospective encumbrances disclosed in **Appendices H, I and K** so that, as promptly as possible after Closing, Station's Assets will be free and clear of any and all encumbrances.

**13. Tangible Personal Assets.** **Appendix C** contains a true and complete list of the Tangible Personal Assets to be conveyed to Buyer. Any Tangible Personal Assets which are leased are identified as such on **Appendix C**. The Tangible Personal Assets are all of the tangible personal property necessary to operate the Station in the manner in which it was most recently operated by Seller. Seller: i) is the lawful owner of all of the Tangible Personal Assets it purports to own, and ii) has valid leasehold interests in the Tangible Personal Assets it purports to lease.

**"As Is" Condition of Tangible Personal Property.** Buyer acknowledges its understanding that the Tangible Personal Property shall be conveyed in "as is, where is" condition and Seller makes no representations as to its condition.

**14. Real Property.** **Appendix B** contains descriptions of all the Real Property owned by Estate to be acquired by Buyer, and all buildings, structures and other improvements on it. The representations and warranties set forth in this section shall apply to any real property interests owned by Estate, whether land and buildings or leasehold interests and improvements.

Estate has made no material changes in the Real Property since December, 1992. Estate believes that, if a certificate of occupancy was required when the improvements to the Real Property were constructed, one was obtained but it cannot locate a copy.

Within ten days after the Closing Date, Estate shall have good and marketable title to the Real Property to be conveyed pursuant to this Agreement, free and clear of any and all Liens. Estate shall provide Buyer a title insurance commitment from an insurer willing to provide title insurance at Buyer's cost. The title insurance commitment shall disclose all easements of record, none of which shall be to the material detriment of Buyer, and will insure that there are no liens, claims, charges, encumbrances, security interests, equities or encroachments of record. The commitment will be to insure the Real Property for its full market value against any claim upon or defect of title.

**Appendix B** also contains a description of all real property leases (the "Leases") to which Seller is, with respect to Station, a party as a tenant (or subtenant or landlord) as of

the date of this Agreement. The Leases are valid, binding and enforceable in accordance with their terms. Neither Seller nor any other party to any of the Leases is in default under any of the Leases and no condition or event exists which with the giving of notice, passage of time, or both would give rise to any such default.

There are no offsets or defenses by Seller, or to Seller's knowledge, any other party under any of the Leases. Seller is not a tenant under any of the Leases. There are no amendments or changes to any of the Leases which would affect the full use and enjoyment of the leasehold premises. If any consent to the assignment of any such Lease is required, Seller shall obtain such consent. All improvements, roads, parking facilities and other construction, if any, contemplated by the Leases have been fully constructed, paid for and accepted and approved by the respective parties.

Except as disclosed in **Appendix B** or **Appendix D**, there are no leases, rental agreements, employment contracts, concession contracts, or contracts for service or maintenance existing and relating to or connected with the occupancy or operation of the Real Property, and Seller and Estate covenant to hold Buyer harmless from any claim, demand or cause of action which may be asserted against the Buyer arising from any lease, rental agreement, or contract for service or maintenance to the contrary.

There are no variances or special use permits relating to the Real Property which are required for the operation of Station on the Real Property.

No condemnation of any of the Real Property has occurred; there is no existing notice covering future condemnation; and neither Seller nor Estate has reason to believe that the Real Property will be condemned. Except as set forth in **Appendix B**, neither Seller nor Estate has received notice and has no knowledge of any pending improvements or special assessments to be made against any of the Real Property by any governmental authority.

Except as set forth in **Appendix B**, Seller's Real Property does not violate any provision of any applicable building code, fire regulation, zoning ordinance or regulation, building restriction, or other governmental ordinance, order or regulation, and the Estate will convey the property free of any such violations except those disclosed in **Appendix B**. The zoning of Seller's Real Property permits the current uses of such property, together with all activities related or incidental to such use.

The transmitting facilities of Station and all other related buildings, fixtures, structures and appurtenances are located entirely within the Real Property listed on **Appendix B** and related easements.

Telephone and electricity services used in the most recent operation of Station either enter the property through adjoining public streets, or if they pass through adjoining private land they do so in accordance with valid public easements. Seller does not know of any pending or threatened limitation or reduction in the quality or quantity telephone or

electrical services available to the Real Property. No water or sewage services are currently provided to the Real Property.

Except as set forth in **Appendix B**, there are no notices of violations of law or ordinances, orders or requirements noted in or issued by any department of the State of Indiana, or any local governmental agency or authority, affecting the Real Property.

**15. Seller's and Estate's Compliance with Environmental Laws.**

Neither Seller nor Estate has unlawfully disposed of any Hazardous Materials in a manner which has caused, or could cause, Buyer to incur a material liability under applicable law in connection therewith; and Seller warrants that the broadcast equipment included in the Tangible Personal Property does not contain any Hazardous Materials that are required by law to be removed, and if any equipment does contain Hazardous Materials that is not required by law to be removed, such equipment is stored and maintained in compliance with applicable law.

Seller has complied in all material respects with all federal, state and local environmental laws, rules and regulations applicable to the Station and its operations, including but not limited to the Commission's guidelines regarding RF radiation.

No Hazardous material has been disposed of by Seller or Estate, and to the best of Estate's knowledge, no Hazardous Material has been disposed of by any other person on Estate's Real Property.

Except as disclosed in **Appendix L**, Estate has not received any notice or order from any governmental agency or public or private entity advising it that Estate is responsible for or potentially responsible for cleanup or paying for the cost of cleanup of any Hazardous Materials and Estate has not entered into any agreements concerning such cleanup, nor is Estate aware of any facts which might reasonably give rise to such notice, order or agreement.

Seller has, with respect to Station and the Station's Assets, obtained all required permits, licenses, approvals, and other authorizations that are required under Environmental Laws and any orders, licenses, codes, plans, decrees, judgments, injunctions, notices or demand letters in any way relating thereto arising or promulgated thereunder. **Appendix L** contains a complete list of all permits, licenses, and other authorizations required to be obtained by the business under the Environmental Laws.

Except as disclosed in **Appendix L**, to the best of Estate's and Seller's knowledge, no storage tanks, either above ground and underground, or associated piping, are now or have ever been located on the Real Property.

To Estate's knowledge, its real property is not "wetlands" under any Environmental Law and no current or planned activity of Seller at that site is affected by, or will adversely impact upon any wetlands.

**16. Representations and Warranties of Buyer.** Buyer represents and warrants to Seller and Estate the following:

**Authority.** Buyer has full power and authority to enter into this Agreement and the Agreement constitutes a valid and binding obligation of Buyer enforceable in accordance with its terms.

**No Conflicts.** The execution, delivery and performance of this Agreement does not, either immediately or upon the giving of notice or the lapse of time or both:

- i) violate, conflict with or constitute a default under, any provision of any agreement or other instrument to which Buyer is a party or by which he or his property are bound or affected;
- ii) Result in the creation or imposition of any lien or give any other person or entity an interest in or right to any assets of Buyer.

**Commission Qualifications.** Except as disclosed in **Appendix M**, Buyer: i) is qualified under the Act and the Commission's Rules to be and become the licensee of Station; and ii) knows of no facts, and with exercise of reasonable diligence could know of no facts, which would cause the Commission to withhold its consent to the assignment of Station's licenses to it. Prior to Closing, Buyer shall eliminate any factors disclosed in **Appendix M** which could disqualify it from owning Station.

**Litigation.** There is not outstanding any judgment or any claim, litigation, proceeding, or to the knowledge of Buyer, any investigation or claim threatened against Buyer which might adversely affect Buyer's ability to carry out fully the transactions contemplated by this Agreement and Buyer knows of no facts which would form the basis for such claim, litigation, proceeding or investigation.

**Solvency.** No insolvency proceedings of any character are pending against Buyer or any of his assets or properties. Buyer has not made any assignment for the benefit of creditors, nor has he taken any action with a view to, or which would constitute the basis for, the institution of any such insolvency proceedings. Buyer has not consented to the appointment of or taking possession by a receiver or other custodian for all or a material portion of his property.

**Maintenance of Equipment.** Buyer will, to the extent provided in the TBA, maintain the Tangible Personal Assets and improvements on the Real Property, in their present condition.

**Station Operation.** To the extent provided in the TBA, Buyer shall, under Seller's control, and with its cooperation, operate Station in compliance with the Commission's Rules and the Act.

***Accuracy and Completeness of Representations and Warranties.*** At Closing no representation or warranty by Buyer and no written statement, schedule or certificate furnished by him pursuant to any covenant, representation or warranty, or pursuant to the Closing, shall contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements set forth not misleading.

**17. Affirmative Covenants of Seller and Estate.** Seller and Estate covenant that, through the Closing, they shall:

***Station Operation.*** Except to the extent provided in the TBA, Seller shall be responsible for operating Station in compliance with the Commission's Rules and the Act. Seller shall keep and maintain the Public Inspection File of Station in accordance with Commission Rules. To the extent provided in the TBA, Buyer shall operate Station in accord with the terms of its Commission Licenses and in compliance in all material respects with the Commission Rules and the Act.

Seller will deliver to Buyer, within seven days after filing, copies of any reports, applications or responses to the Commission related to Station that are filed between the date of this Agreement and the Closing Date. Except to the extent otherwise provided in the TBA, Seller agrees that it shall cure, prior to Closing, and at Seller's sole expense, any violations, or deficiencies of which it is aware.

***Maintenance of Equipment.*** The TBA provides that Buyer and Seller will have shared responsibility for maintaining Station's equipment. Seller will, to the extent provided in the TBA, maintain all of Tangible Personal Assets and improvements on the Real Property in their present condition.

***Insurance.*** Maintain in full force and effect through the Closing Date adequate property damage, liability, and other insurance with respect to the Station's Assets in at least the amounts provided for in Seller's current insurance policies.

***Notices.*** Give written notice to Buyer promptly upon the occurrence of, or upon becoming aware of the impending or threatened occurrence of, any event that would cause or constitute a breach of any of Seller's representations or warranties contained in this Agreement or in any schedule referred to by it.

Seller shall give prompt written notice to Buyer if: i) Station's Assets shall suffer material damage on account of fire, explosion or other casualty which is sufficient to prevent the operation of Station for more than twenty-four hours; or ii) the regular broadcast transmission of Station in the normal and usual manner is interrupted at any time after March 13, 2015, for a period of twenty-four hours or more.

***Fulfill Conditions.*** Use best efforts to obtain any and all consents, transfers, authorizations, or approvals required for the consummation of the transactions contemplated hereby. Use best efforts to otherwise fulfill and perform all conditions and

obligations on its part to be fulfilled and performed under this Agreement and to cause the transactions contemplated by this Agreement to be fully carried out.

**Permit Access.** Upon the filing of Application, provide to Buyer, at Station's main studio, upon reasonable notice and during normal business hours, such titles, contracts, books of account, records and affairs of Station as Seller may possess for the period since January 1, 2009. Seller shall also make available to Buyer such other information as it possesses concerning the affairs of Station as Buyer may reasonably request.

Seller shall permit Buyer to inspect the facilities and equipment of Station as provided in the TBA.

**Employees.** Ensure that any employees of Station are terminated, without liability to Buyer, on or before the Closing Date.

**Removal of Liens.** Take such steps as are necessary to ensure that any and all liens against the Station's Assets which are not part of the Assumed Liabilities shall be removed as expeditiously as possible after Closing Date, and that all documents required to be filed with governmental authorities to record such removal, have been, or will be filed expeditiously.

**18. Negative Covenants of Seller.** Prior to the Closing Date, Seller shall not, without the prior written consent of Buyer:

**Dispose of Any of Station's Assets.** Sell, lease, transfer, or agree to sell, lease, or transfer any of Station's Assets without notice to Buyer and without replacement of such asset with a substantially equivalent asset of substantially equivalent kind, condition, and value.

**Enter Into Any Labor or Employment Contracts.** Enter into any contract of employment or collective bargaining agreement, permit any increases or changes in the compensation or benefits of any of Station's employees or otherwise hire any employee except to replace any non-managerial or sales employee whose employment terminates prior to the Closing Date on substantially the same terms and conditions as the terminated employee.

**Diminish Station's Commission Authorizations or Facilities.** Apply to the Commission for any construction permit or modification of license which would materially restrict the Station's present operation, or make any material change in the Station's buildings, leasehold improvements or fixtures.

**Create New Encumbrances.** Create or assume any new mortgage, security interest or pledge, or subject to Lien any of Station's Assets, whether now owned or later acquired.

**Enter Into Trade or Barter Agreements.** Seller has no existing trade or barter agreement and shall not enter into any such agreements, except with the prior written approval of Buyer.

**Fail to Meet Commission Obligations.** Seller shall not by any act or omission of it, its officers, directors, stockholders, employees or agents, surrender, modify, forfeit or fail to seek timely renewal of the Commission Licenses or cause the Commission to institute any proceedings for revocation, cancellation or modification of such licenses, or fail to prosecute with due diligence, or participate in the prosecution of, the Application, including all amendments to it, as necessitated by the Commission's Rules or as requested by the Commission staff.

**No Voluntary Bankruptcy.** From the time of execution of this Agreement through a ninety (90) day period after the Closing Date, the Seller shall not commence a voluntary case under any provision of any applicable bankruptcy, insolvency or other similar law, or take any action to assist in or consent to the entry of an order for relief in an involuntary case under any such law or consent to the appointment of or taking possession by a receiver, or trustee or other custodian for all or a substantial part of its property.

**Breach or Terminate Any Assumed Contracts.** Commit any act or omit to do any act which will cause a breach or termination of any of the Assumed Contracts except in the normal course of business.

**Violate Laws.** Violate, or remain in violation of any law, statute, rule, governmental regulation or order of any court or governmental regulatory authority (whether federal, state or local).

**No Inconsistent Actions or Omissions.** Take any action or omit to take such action which would be inconsistent with Seller's obligations under this Agreement.

**19. Buyer's Covenants..** Between the date hereof, and Closing, Buyer shall:

**Fulfill Conditions.** Use best efforts to fulfill and perform all conditions and obligations on its part to be fulfilled and performed under this Agreement and to cause the transactions contemplated by this Agreement to be fully carried out.

**Notices.** Give detailed written notice to Seller promptly upon the occurrence of, or upon becoming aware of the impending or threatened occurrence of, any event that would cause or constitute a breach of any of Buyer's representations or warranties contained in this Agreement or in any schedule referred to by it.

**Third Party Consents.** Cooperate with Seller in providing such information and taking such actions as are commercially reasonable, to obtain any necessary third party consents to assignment of the Assumed Contracts.

**Not Violate Laws.** Not violate, or remain in violation of any law, statute, rule, governmental regulation or order of any court or governmental regulatory authority (whether federal, state or local).

**No Inconsistent Actions or Omissions.** Not take any action or omit to take such action which would be inconsistent with Buyer's obligations under this Agreement.

**20. Conditions Precedent to Buyer's Obligations.** The obligation of Buyer to consummate the transactions contemplated by this Agreement is subject to the fulfillment prior to or at the Closing Date of each of the following conditions:

**Commission Approval.** The Commission shall have consented to the Application without any condition or qualification materially adverse in Buyer's reasonable judgment to Buyer or the operation of Station, and unless waived by Buyer, such consent shall have become a Final Order.

**Consent of Seller's Voting Shareholders.** Seller has ten shareholders, six of whom hold only Class A voting shares or a combination of Class A and Class B non-voting shares. The four remaining shareholders hold only Class B non-voting shares. Prior to Closing, Seller shall have obtained votes in favor of this sale from all holders of voting stock.

**Up-Dated Title Search.** Not less than seven days prior to Closing, Seller and Estate shall deliver to Buyer up-dated title searches relating to each of them for Allen and Kosciusko Counties.

**Agreements to Release Valid Encumbrances against the Assets to be Sold.** Prior to Closing, Seller and Estate shall have obtained written agreements with all creditors holding valid encumbrances against the assets to be sold agreeing to release those encumbrances promptly after Closing upon payment of agreed amounts.

Should Seller or Estate deem any claimed encumbrance not valid, they shall either: i) nonetheless obtain a release; or ii) provide Buyer an opinion of local counsel that the claimed encumbrance is invalid and cannot be enforced.

**Seller's Representations and Warranties.** The representations and warranties of Seller contained in this Agreement, or in any related document attached or delivered pursuant to it, shall be true and correct as of this date and as of the Closing Date as though such representations and warranties were made at and as of such time. Buyer shall be entitled to set off against any obligation to Seller which is or may become due, all reasonable amounts necessary to restore Buyer's position to that which would exist if all such representations and warranties were true or such covenants were fully performed.

**Performance.** Seller shall have performed and complied with all covenants, agreements and conditions required by this Agreement to be performed or complied with by it prior to or at the Closing Date.

**Proceedings.** No action or proceeding shall have been instituted before any court or governmental body to restrain or prohibit, or to obtain substantial damages in respect of, the consummation of this Agreement that, in the reasonable opinion of Buyer, may be expected to result in an injunction against such consummation or, if consummated, an order to nullify or render ineffective such consummation or the recovery against Seller or Buyer of substantial damages.

None of the parties to this Agreement shall have received written notice from any governmental body of its intention to institute any action or proceeding to restrain or enjoin or nullify this Agreement or the transactions contemplated by it, or to commence any investigation (other than a routine letter of inquiry) into the consummation of this Agreement

**Closing Deliveries.** Seller shall have made all deliveries to Buyer at Closing required under this Agreement.

**21. Conditions Precedent to Seller's and Estate's Obligations.** The obligation of Seller and Estate to consummate the transactions contemplated by this Agreement are subject to the fulfillment prior to or at Closing of each of the following conditions:

**Commission Approval.** Subject to Buyer's right to waive finality as set forth herein, the Commission shall have consented to the Assignment Application without any condition or qualification materially adverse in Seller's reasonable judgment to Seller.

**Buyer's Representations and Warranties.** That the representations and warranties of the Buyer herein, or in any related document attached or delivered pursuant to it, shall be true and correct as of this date and as of the Closing Date as though such representations and warranties were made at and as of such time.

**Performance.** Buyer shall have performed and complied with all covenants, agreements and conditions required by this Agreement to be performed or complied with by it prior to or at the Closing Date.

**Closing Deliveries.** Buyer shall have made all deliveries at Closing required under this Agreement.

**22. Risk of Loss.** The risk of loss, damage or destruction to any of Station's Assets to be transferred to the Buyer from fire or other casualty or cause shall be borne by Seller at all times up to the close of business on the Closing Date, and it will be the responsibility of Seller to repair or cause to be repaired and to restore the property to its condition prior to any such loss, damage, or destruction. In the event of any such loss, damage, or destruction, the proceeds of any claim for any loss, payable under any insurance policy, will be used to repair, replace, or restore any such property to its former condition subject to the conditions stated below.

In the event of any loss or damage to any of Station's Assets prior to the close of business on the day before the Closing Date, the Seller shall immediately notify Buyer of same in writing. Such notice shall specify with particularity the loss or damage incurred, the cause (if known or reasonably ascertainable), and the insurance coverage. If the property is not completely repaired, replaced or restored on or before the Closing Date, Buyer, at its sole option, may: (a) elect to postpone Closing until such time as the property has been completely repaired, replaced or restored to the reasonable satisfaction of Buyer and, if necessary Seller shall join Buyer in requesting any Closing or other extensions which may be required in order to complete such repairs; or (b) elect to close and accept the property in its then condition, in which event Seller shall assign to Buyer all proceeds of insurance covering the property involved; or ( c ) elect to close and accept the property in its then condition and make reasonable deductions from the purchase price to cover its cost of restoring Station's Assets to their prior condition; or (d) terminate this Agreement and declare it of no further effect, whereupon the Trust Account and all interest thereon shall be returned to Buyer.

### **23. Buyer's Remedies Upon Default By Seller or Estate.**

***Specific Performance.*** The parties mutually agree that all of the assets and property to be assigned and conveyed pursuant to this Agreement are unique and cannot readily be purchased on the open market. For that reason, among others, Buyer will be irreparably damaged in the absence of its consummation. In the event of a default by Seller or Estate under this Agreement, Buyer's rights, and the obligations of Seller and Estate, shall, at Buyer's election, be enforceable by decree of specific performance, subject to Commission consent. In such event of Seller's default, and if Buyer pursues the remedy of specific performance of this Agreement:

i) Seller and Estate hereby agree not to raise any defense or objection to any specific performance action by Buyer on the grounds that Buyer's damage may be adequately compensated by money damages only;

ii) Buyer shall be entitled to such monetary damages for actual damages of a material nature incurred by Buyer as a result of any breach by Seller or Estate of any of their representations, covenants, warranties and agreements contained in this Agreement which cannot be, or have not been, cured through the remedy of specific performance of Seller's obligations under this Agreement; and

iii) Buyer shall also be entitled to recover all costs of enforcement and reasonable attorneys' fees and expenses.

***Monetary Damages.*** In the event of a default by Seller or Estate under this Agreement, and if Buyer elects not to seek, or is denied the remedy of specific performance of the obligations of Seller under this Agreement:

i) Buyer shall be entitled to recover its actual damages including damages for loss of business opportunity, plus all costs of enforcement and reasonable attorneys' fees and expenses; and

ii) Buyer shall be entitled to the return of the Deposit, together with all interest earned thereon.

**24. Seller's Remedies Upon Default By Buyer.** If this Agreement or the TBA is not consummated because of a material default on the part of Buyer under either this Agreement or the TBA, Seller may, provided it is not in material default under this Agreement or the TBA, terminate this Agreement and the TBA upon providing ten days written notice to Buyer. The parties recognize that it would be extremely difficult and impractical to ascertain the actual damages sustained by Seller as a result of a default by Buyer. Accordingly, it is mutually agreed that, in the event of such default, Buyer shall forfeit to Seller, as liquidated damages, the entire Deposit, together with all interest earned thereon (so long as Seller is not in material default under this Agreement or the TBA. The parties mutually agree that such forfeiture is not in the nature of a penalty; that no penalty shall be payable by Buyer; and that this sum will constitute full payment for any and all damages suffered by Seller or Estate, its officers, directors, and stockholders, by reason of any default by Buyer and/or failure to consummate this Agreement.

**25. Cross Defaults.** Any default under this Agreement shall also constitute a default under the TBA defined in Section 1. A default under either this Agreement or the TBA shall be deemed a default under both.

Buyer and Seller shall exercise their respective remedies on default with respect to both transactions, and may not exercise their remedies with respect to one or the other transaction alone.

**26. Survival of Representations and Warranties.** All representations and warranties made in this Agreement shall survive the Closing Date for twelve months.

**27. Indemnification of Buyer By Seller and Estate.** Seller and Estate, jointly, shall indemnify and hold Buyer and his attorneys, representatives, agents, successors or assigns harmless from and against any and all liabilities, losses, costs, expenses, judgments, orders, settlements, obligations, deficiencies, claims, suits, proceedings (whether formal or informal), investigations, liens or other damages of any nature, absolute, contingent or otherwise, including, without limitation, costs of suit, attorneys' fees and expenses, (all of the foregoing items for purposes of this Agreement are referred to as "Damages"), resulting from:

i) a material breach of any representation, warranty, covenant, agreement or obligation of Seller contained herein, or in any agreement or instrument delivered pursuant to this Agreement, or from any material misrepresentation in, or omission from, any certificate or other instrument furnished to Buyer by Seller pursuant to this Agreement, or in connection with any of the transactions contemplated by it;

ii) the Excluded Liabilities; or

iii) any and all claims, liabilities or obligations of any nature, absolute, contingent, or otherwise relating to the business or operation of the Station or ownership of the Station's Assets through the Closing Date, including, without limitation, any Damages arising from or obligations to be performed under any of the Assumed Contracts.

The term "Damages" as used in this Agreement is not limited to matters asserted by third-parties against a party, but includes Damages incurred or sustained by a party in the absence of third-party claims.

**28. Indemnification of Seller and Estate by Buyer.** Buyer shall indemnify and hold Seller and Estate, their attorneys, affiliates, representatives, agents, officers, directors, successors or assigns, harmless from and against any Damages, as defined in Section 27, resulting from, arising out of, or incurred with respect to:

i) a material breach of any representation, warranty, covenant, agreement or obligation of Buyer contained herein, or in any agreement or instrument delivered pursuant to this Agreement, or from any material misrepresentation in, or omission from, any certificate or other instrument furnished by Buyer to Seller pursuant to this Agreement, or in connection with any of the transactions contemplated by it;

ii) the Assumed Liabilities; or

iii) Any and all claims, liabilities or obligations of any nature, absolute, contingent, or otherwise relating to the business or operation of Station or ownership of Station's Assets after Closing, including, without limitation, any damages arising from or obligations to be performed under any of the Assumed Contracts.

**29. Indemnity Procedures.** Promptly after the receipt by any party (the "Indemnified Party") of notice of (a) any claim or (b) the commencement of any action or proceeding which may entitle such party to indemnification under this Article, such party shall, within ten days of such event, give the other party (the "Indemnifying Party") written notice of such claim or the commencement of such action or proceeding and shall permit the Indemnifying Party to assume the defense of any such claim or any litigation resulting from such claim.

If such claim does not arise from the claim of a third party, the Indemnifying Party shall have thirty (30) days after such notice to cure the conditions giving rise to such claim to the Indemnified Party's reasonable satisfaction. Failure by the Indemnifying Party to notify an Indemnified Party of its election to defend any such claim or action by a third party within thirty (30) days after Notice thereof shall have been given to the Indemnifying Party shall be deemed a waiver by the Indemnifying Party of its rights to defend such claim or action.

If the Indemnifying Party assumes the defense of any such claim or litigation resulting therefrom with counsel reasonably acceptable to the Indemnified Party, the Indemnifying Party shall take all steps necessary in the defense or settlement of such claim or litigation resulting therefrom and hold the Indemnified Party harmless from and against any Damages caused by or arising out of any settlement approved by the Indemnifying Party or any judgment in connection with such claim or litigation resulting therefrom; however, the Indemnified Party may participate, at its expense, in the defense of such claim or litigation. The Indemnified Party shall cooperate and make available all books and records reasonably necessary and useful in connection with the defense. Except with the prior written consent of the Indemnified Party, the Indemnifying Party shall not, in the defense of such claim or any litigation resulting therefrom, consent to the entry of any judgment (other than a judgment of dismissal on the merits without cost) or enter into any settlement which does not include as an unconditional term thereof the giving by the claimant or the plaintiff to the Indemnified Party of a release from all Damages in respect of such claim or litigation.

If the Indemnifying Party shall not assume the defense of any such claim or litigation resulting therefrom, the Indemnified Party may, but shall have no obligation to, defend against such claim or litigation in such manner as it may deem appropriate, and the Indemnified Party may compromise or settle such claim or litigation without the Indemnifying Party's consent. Within thirty (30) days of written request, the Indemnifying Party shall promptly reimburse the Indemnified Party for the amount of all Damages incurred by the Indemnified Party in connection with the defense against or settlement of such claim or litigation. If no settlement of the claim or litigation is made, the Indemnifying Party shall promptly reimburse the Indemnified Party for the amount of any judgment rendered with respect to such claim or in such litigation.

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

**30. Deliveries of Seller and Estate at Closing.** On the Closing Date and at the Closing Place, Seller and Estate shall duly execute and deliver the following:

- i) Possession of the Station's Assets;
- ii) A Certificate of Good Standing from the Indiana Secretary of State.
- iii) A Certificate signed by an Officer of Seller that the representations and warranties of Seller contained in this Agreement, or in any related document attached or delivered pursuant to it, are true and correct as of the Closing Date, and that Seller has performed and complied with all covenants, agreements and conditions required by this Agreement to be performed or complied with by it prior to or at the Closing Date.
- iv) An Assignment to Buyer of the Commission Licenses for Station, together with any and all other related authorizations, including all of Seller's right, title and interest in and to the Call Letters, "WMYQ(FM) " and other governmental licenses and authorizations.

v) A Personal Representative's deed in form consistent with local practice conveying to Buyer good and marketable title to the Real Property, together with a title insurance commitment.

vi) One or more Bills of Sale assigning, transferring and conveying to Buyer free and clear title to all of the Tangible Personal Assets.

vii) An Assignment and Assumption Agreement, assigning to Buyer the Assumed Contracts together with any necessary third party consents and the originals or true copies of said documents.

viii) Instructions to the Escrow Agent, as required.

ix) An Assignment of all Intangibles owned or held by Seller.

x) Reasonably available files, records, logs and books of account of Stations as requested by Buyer.

**31. Buyer's Deliveries at Closing.** On the Closing Date at the Closing Place, Buyer shall, subject to later receipt of the releases, assurances and other documentation as provided herein, execute and deliver the following to Seller or Escrow Agent:

i) A Certificate of Buyer that his representations and warranties herein or any document attached or delivered pursuant to it, are true and correct as of the Closing Date, and that Buyer has performed and complied with all covenants, agreements and conditions required by this Agreement to be performed or completed with it prior to or at the Closing Date.

ii) Instructions to the Escrow Agent, as required.

iii) The Purchase Price, less the Escrow Deposit, in Immediately Available Funds, plus or minus the net of adjustments provided for herein, shall be paid to Escrow Agent.

iv) The Assignment and Assumption Agreement for the Assumed Contracts.

**32. Expenses.** Except as otherwise expressly set forth in this Agreement, each party hereto shall be solely responsible for all costs and expense incurred by it in connection with the negotiation and preparation of the Agreement and the transactions contemplated thereby.

**33. Transfer Taxes and Similar Charges.** Recordation, transfer and documentary taxes and fees, and any excise, sales or use taxes imposed by reason of the transfer of the Assets in accordance with this Agreement shall be borne by Seller and Buyer as is usual and customary in Indiana, subject to the adjustments and prorations provided for herein.

**34. Confidentiality.** Seller and Buyer each promise, represent and warrant to the other that they will not reveal or disclose to any Unauthorized Person any financial information, account lists, trade secrets, plans of operation (including those relating to format), marketing or sales information, details of their negotiations or information regarding the agreements reached in connection with the proposed purchase and sale of Stations. The term "Unauthorized Person" means any person other than the parties, their officers, directors, stockholders, key employees, agents or representative (including legal counsel, accountants, consultants and financiers) who require such information in connection with their employment or professional responsibilities and obligations or the Commission or other agency, as required by law.

**35. Press Release.** Seller and Buyer will jointly prepare and release any press release or announcement to the public relating to this Agreement and the proposed sale and purchase of the Station.

**36. No Assignment.** This Agreement may not be assigned by Seller, Buyer or Estate to any third party without the express written consent of the other parties. Any such assignment shall occur before the Application is filed with the Commission;

**37. No Third Party Beneficiaries.** Nothing herein expressed or implied is intended or shall be construed to confer upon or give to any person or entity other than the parties hereto and their successors or permitted assigns, any rights or remedies under or by reason of this Agreement.

**38. Notices.** Any notices required or permitted hereunder shall be sent by certified mail, postage prepaid with return receipt requested, or by overnight or same day delivery service, with delivery confirmation, and addressed as follows:

If to Seller or Estate, to  
Ms. Kelli J. Richards  
Larko Communications, Inc.  
405 Lower Huntington Road  
Fort Wayne, Indiana 46819

with a copy to:  
James R. Cooke  
Law offices of James R. Cooke  
2821 Beechwood Circle  
Arlington, VA 22207

If to Buyer, to:  
Mr. Brian R. Walsh  
722 East Center Street  
Warsaw, Indiana 54307

with a copy to:  
Peter Gutmann, Esq.  
Womble, Carlyle, Sandridge & Rice, PLLC  
Fifth Floor  
1200 19<sup>th</sup> Street, N. W.  
Washington, D. C. 20036

Parties may change their addresses for notice by written notice as described above. Notices shall be deemed effective upon their confirmed receipt. The provision of notice by telephone, facsimile or to counsel shall not constitute notice hereunder.

**39. Severability.** In the event that any one or more of the provisions contained in this Agreement or in any other instrument referred to herein, shall, for any reason, be held to be invalid, illegal or unenforceable in any respect, then to the maximum extent permitted by law, such invalidity, illegality or unenforceability shall not affect any other provision of this Agreement or any other such instrument, and this Agreement shall be construed as if such invalid, illegal or unenforceable provision or provisions had not been contained herein.

**40. Governing Law; Construction; Venue; Enforcement.** This Agreement shall be construed and enforced in accordance with the laws of Indiana, without regard to the conflict of laws provisions thereof.

As a matter of convenience, this Agreement has been prepared by counsel for Seller. It shall not be construed for or against any party on that account.

Any action, suit or other proceeding with respect to this Agreement shall be brought in the courts of Allen County, Indiana, and each party consents to and accepts for itself and in respect of its property, the jurisdiction of such courts. Nothing herein shall prevent any party from bringing or removing any such proceeding to the United States District Court for the Northern District of Indiana, Fort Wayne Division if such jurisdiction is otherwise available. Each party irrevocably waives any objection, which it may now or hereafter have to the bringing of any such action, suit or other proceeding in such courts.

Should any party hereto institute any action or proceeding at law or in equity to enforce or defend any provision of this Agreement, the prevailing party shall be entitled to recover from the losing party or parties its costs and expenses, including reasonable attorneys' fees and costs for services rendered to the prevailing party in such action or proceeding.

**41. Deliberately left blank.**

**42. Appendices.** All Appendices attached to this Agreement shall be deemed to be part of this Agreement and incorporated in it, where applicable, as if fully set forth in the body of this Agreement. If any provision in any Appendix conflicts with or is not consistent with the provisions of this Agreement, the terms of the Appendix shall govern.

**43. Counterparts.** This Agreement may be signed in any number of counterparts with the same effect as if the signature of each such counterpart were upon the same instrument.

**44. Headings.** The headings of the provisions of this Agreement are inserted as a matter of convenience and for reference purposes only and in no way define, limit or describe the scope of this Agreement nor the intent of any provision.

FROM :

FAX NO. :2604781180

Mar. 20 2015 06:27PM P1

**45. Time of the Essence.** Time is deemed to be of the essence with respect to this Agreement.

**46. Broker.** All parties recognize that this Agreement was brought about through the services of Mr. Edward Roehling, Roehling Broadcast Services, Ltd., Unionville, Indiana. Seller shall be solely responsible for payment of fees due Broker pursuant to the terms of a separate agreement between Seller and Broker.

**47. Other Documents.** The parties shall execute such other documents as may be necessary or desirable to the implementation and consummation of this Agreement

**48. Further Assurances.** The parties agree to take whatever steps are reasonably necessary, in good faith, and use their best efforts to carry out their obligations under this Agreement in order that the transactions contemplated may be consummated completely and expeditiously.

**49. Amendment.** This Agreement may not be amended except by an instrument in writing signed on behalf of each of the parties hereto.

**50. Waivers.** No waiver of any right under this Agreement or waiver of a breach of it shall be effective unless in writing and signed by the party or parties waiving such right or breach. No waiver of any right or waiver of any breach shall constitute a waiver of any other or similar right or breach and no failure to enforce any right under this Agreement shall preclude or affect the later enforcement of such right.

**51. Bulk Sales Law.** The parties each acknowledge their understanding that Indiana no longer has a bulk sales law applicable to this transaction.

**52. Entire Agreement.** This Agreement, its Appendices, the TBA and the Escrow Agreement provided for herein, constitute the entire agreement and understanding of the parties hereto relating to the matters provided for herein and supersede any and all prior agreements, arrangements, negotiations, discussions and understandings, written or oral, relating to those matters.

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

Seller                    LARKO COMMUNICATIONS, INC.

By *Kelli J. Richards, as President Larko Comm, Inc*  
Kelli J. Richards, President

FROM :

FAX NO. :2604781180

Mar. 20 2015 06:27PM P2

**Estate**

**Estate of Christopher Larko**

By *Kelli Richards, as Pers Rep Estate of Chris Larko*  
Kelli Richards, Personal Representative

**BUYER**

---

Brian R. Walsh, Individually

