

ASSET PURCHASE AGREEMENT

THIS ASSET PURCHASE AGREEMENT (this “Agreement”) is made as of September 1st, 2018, among David L. Smith (“Seller”), and Two Hearted Media, LLC, a Michigan limited liability company (“Buyer”).

Recitals

A. Seller is the licensee of station WMJT(FM), 96.7 MHz, McMillan, Michigan, FCC Facility ID No. 164160 (the “Station”), pursuant to certain authorizations issued by the Federal Communications Commission (the “FCC”).

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 (as defined below).

Agreement

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

ARTICLE 1: PURCHASE OF ASSETS

1.1. Assets. On the terms and subject to the conditions hereof, at Closing (defined below), Seller shall sell, assign, transfer, convey and deliver to Buyer, and Buyer shall purchase and acquire from Seller, all right, title and interest of Seller in and to the following assets of Seller (collectively, the “Assets”):

(a) those licenses, permits and other authorizations issued to Seller by the FCC with respect to the Station and listed on *Schedule 1.1(a)* (the “FCC Licenses”), including any renewals or permitted modifications thereof between the date hereof and Closing;

(b) Seller’s equipment and other tangible personal property as listed on *Schedule 1.1(b)* (the “Tangible Personal Property”);

(c) those contracts and agreements listed as assumed contracts on *Schedule 1.1(c)* (the “Assumed Contracts”);

(d) all of Seller’s rights in and to the trademarks, trade names, service marks, internet domain names, websites, copyrights, patents, programs and programming material, jingles, slogans, logos, and other intangible property related to the Station; and

(e) the contents of the public inspection file maintained by Seller for the Station pursuant to the FCC’s public inspection file requirements.

The Assets shall be transferred to Buyer free and clear of liens, claims and encumbrances (“Liens”) except for Assumed Obligations (defined in Section 1.2), liens for taxes not yet due

and payable, and liens that will be released at or prior to Closing (collectively, "Permitted Liens").

1.2. Assumption of Obligations. Excluding any claims, demands, liabilities or obligations of any nature whatsoever (including claims, demands, liabilities or obligations in respect of environmental matters, occupational safety, workers' or workmen's compensation, grievance proceedings or actual or threatened litigation, suits, claims, demands or governmental proceedings) which arose or were incurred prior to the Closing Date, or which arise from or are based on events occurring or conditions existing prior to the Closing Date, on the Closing Date (defined below), Buyer shall assume the obligations of Seller with respect to the Assets arising during, or attributable to, any period of time on or after the Closing Date (collectively, the "Assumed Obligations").

1.3. Excluded Assets. The following assets and associated liabilities relating to the business of the Station shall be retained by Seller and/or the Smiths and shall not be sold, assigned or transferred to Buyer (the "Excluded Assets"):

(a) cash on hand held by Seller or in Seller's bank accounts (or their equivalents), deposits, pre-paid expenses, taxes and accounts receivable arising out of Seller's operation of the Station prior to Closing;

(b) all rights and obligations of Seller under all contracts, leases and agreements made by Seller relating to the Station prior to the Closing Date or which are not Assumed Contracts;

(c) Seller's financial and corporate records;

1.4. Purchase Price. In consideration for the sale of the Assets to Buyer, at Closing Buyer shall pay Seller the sum of ONE HUNDRED THOUSAND DOLLARS (\$100,000.00) (the "Purchase Price"). On the Closing Date, Buyer shall execute and deliver to Seller a first-priority secured promissory note in a mutually-agreeable form (the "Promissory Note") in the aggregate principal amount of the balance of the Purchase Price. The principal of and interest on the Promissory Note shall be amortized over a term of eight (8) years. The loan evidenced by the Promissory Note shall bear interest at the rate of four percent (4.0%) per annum. Buyer shall pay monthly, in arrears, NINETY-SIX (96) equal installments of principal and interest, commencing on the first business day after thirty (30) days after Closing (the "Note Payment Start Date"). To secure Buyer's payment obligations under the Promissory Note, Buyer shall execute and deliver to Seller on the Closing Date (i) a security agreement in substantially in a mutually-agreeable form (the "Security Agreement") granting Seller, among other things, a first-priority perfected security interest in the Assets to the extent permitted by law and all proceeds therefrom, (b) a pledge agreement in a mutually-agreeable form (the "Pledge Agreement") pledging to Seller a security interest in all the outstanding ownership interests in Buyer, and (c) a personal guaranty in a mutually-agreeable form (the "Personal Guaranty") whereby the President of Buyer personally guarantees the timely payments due under the Promissory Note.

1.5. Prorations and Adjustments. All expenses relating to the Assets shall be prorated between Buyer and Seller in accordance with generally accepted accounting principles ("GAAP") as of 12:01 a.m. on the day of Closing (the "Effective Time").

1.6. Allocation. Buyer and Seller will allocate the Purchase Price and other consideration received by Seller from Buyer in accordance with the respective fair market values of the Assets being purchased and sold in accordance with the requirements of Section 1060 of the Internal Revenue Code of 1986, as amended. The allocation shall be determined by mutual agreement of the parties on or before the Closing Date. Buyer and Seller further agree to file their federal income tax returns and other tax returns reflecting such allocation.

1.7. Closing. The consummation of the sale and purchase of the Assets provided for in this Agreement (the “Closing”) shall take place on or before the tenth (10th) business day after the grant of the FCC Consent (as defined below), or on such other day after the grant of the FCC Consent as Buyer and Seller may mutually agree, subject to the satisfaction or waiver of the conditions set forth in Articles 4 or 5 below. The date on which the Closing is to occur is referred to herein as the “Closing Date.”

1.8. FCC Consent.

(a) Within seven (7) business days of the date of this Agreement, Seller and Buyer shall file an application with the FCC (the “FCC Application”) requesting FCC consent to the assignment of the FCC Licenses to Buyer. FCC consent, including the consent of the Audio Division of the Media Bureau of the FCC pursuant to delegated authority, to the FCC Application without any material adverse conditions other than those of general applicability is referred to herein as the “FCC Consent.” Buyer and Seller shall diligently prosecute the FCC Application and otherwise use their commercially reasonable efforts to obtain the FCC Consent as soon as possible. The parties acknowledge that it shall not be a condition of Closing by either party that the FCC Consent has become a Final Order (as hereinafter defined). “Final Order” means a grant, consent or authorization by the FCC which is no longer subject to reconsideration or review by the FCC or a court of competent jurisdiction.

(b) 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.

1.9. Risk of Loss. Seller shall bear the risk of any loss of or damage to any of the Assets at all times until the Closing, and Buyer shall bear the risk of any such loss or damage thereafter.

ARTICLE 2: REPRESENTATIONS, WARRANTIES AND COVENANTS OF SELLER AND THE SMITHS

2.1. Authorization. Seller represents, warrants, and covenants that (a) Seller has the full right and legal authority to enter into and fully perform this Agreement in accordance with the terms and conditions hereof; and (b) the execution, delivery and performance of this Agreement by Seller does not and will not violate or cause a breach of any other agreements or obligations to which Seller is a party or by which it is bound.

2.2. FCC Licenses. Seller represents and warrants that:

(a) Seller is the holder of the FCC Licenses described on *Schedule 1.1(a)*, which are all of the licenses, permits and authorizations required 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 materially adversely modify the FCC Licenses (other than proceedings to amend FCC rules of general applicability). There is not issued or outstanding, by or before the FCC, any order to show cause, notice of violation, notice of apparent liability, or order of forfeiture against the Station or against Seller with respect to the Station that could result in any such action.

(b) All material reports and filings required to be filed with the FCC by Seller with respect to the Station have been filed during the current license term. All such reports and filings are accurate and complete in all material respects.

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

2.4. Ownership and Condition of Assets. Seller represents and warrants that Seller has good and marketable title to the Assets, free and clear of Liens. Seller represents and warrants that all tangible items of Assets are in good operating condition, ordinary wear and tear excepted.

2.5. Compliance with Law. Seller represents and warrants that Seller has materially complied with all laws, regulations, rules, writs, injunctions, ordinances, franchises, decrees or orders of any court or of any foreign, federal, state, municipal or other governmental authority which are applicable to the Assets. Seller represents and warrants that there is no action, suit or proceeding pending or, to Seller's knowledge, threatened against Seller in respect of the Assets.

2.6. Brokers. Seller represents and warrants that Seller knows of no broker, finder, or intermediary who has been involved in the transactions provided for in this Agreement or who might be entitled to a fee or commission upon the consummation of such transactions.

2.7. Terrorist Organizations Lists. Seller has no knowledge that any of his partners, members, shareholders, owners, employees, officers, directors, representatives, or agents that is or will become a person or entity with whom U.S. persons or entities are restricted from doing business under regulations of the Office of Foreign Asset Control ("OFAC") of the Department of the Treasury (including those named on the OFAC's Specially Designated and Blocked Persons List) or under any statute, executive order (including the September 24, 2001, Executive Order Blocking Property and Prohibiting Transactions with Persons Who Commit, Threaten to Commit, or Support Terrorism), or other governmental action.

2.8. Pending Actions. To Seller's knowledge, Seller has not received written notice of any action, lawsuit, arbitration, unsatisfied order or judgment, government investigation, or proceeding pending against Seller that if adversely determined, could materially interfere with the transactions contemplated by this Agreement.

2.9. Seller's Covenants. Between the date hereof and Closing, except as permitted by this Agreement or with the prior written consent of Buyer, which shall not be unreasonably withheld, delayed or conditioned, Seller shall not materially adversely modify, and in all material respects maintain in full force and effect, the FCC Licenses and will maintain the Tangible Personal Property in the ordinary course of business.

2.10. Undisclosed Obligations. Seller represents and warrants that Seller does not have any material obligation or liability relating to the Station that will be included in any obligations assumed by Buyer that has not been disclosed to Buyer. Seller represents and warrants that no representation or warranty set forth or in any schedule referred to herein contains any untrue statement of a material fact or omits to state a material fact necessary to make the statements contained herein or therein not misleading.

ARTICLE 3: REPRESENTATIONS, WARRANTIES AND COVENANTS OF BUYER

3.1. Authorization. Buyer represents, warrants, and covenants that (a) Buyer is a corporation duly organized, validly existing and in good standing under the laws of the State of Michigan, (b) it has the full right and legal authority to enter into and fully perform this Agreement in accordance with the terms and conditions hereof; and (c) the execution, delivery and performance of this Agreement does not and will not violate or cause a breach of any other agreements or obligations to which it is a party or by which it is bound.

3.2. Qualification. Buyer represents and warrants that (a) Buyer is legally, financially and otherwise qualified to be the licensee of the Station under the Communications Act and the rules, regulations and policies of the FCC, (b) there are no facts that would, under existing law and the existing rules, regulations, policies and procedures of the FCC, disqualify Buyer as an assignee of the FCC Licenses or as the owner and operator of the Station, and (c) no waiver of any FCC rule or policy with respect to Buyer, its business or operations, is necessary for the FCC Consent to be obtained.

3.3. Brokers. Buyer represents and warrants that Buyer knows of no broker, finder, or intermediary who has been involved in the transactions provided for in this Agreement or who might be entitled to a fee or commission upon the consummation of such transactions.

3.4. Terrorist Organizations Lists. Neither Buyer, to Buyer's knowledge, nor any of its respective partners, members, shareholders, owners, employees, officers, directors, representatives, or agents is or will become a person or entity with whom U.S. persons or entities are restricted from doing business under regulations of OFAC (including those named on the OFAC's Specially Designated and Blocked Persons List) or under any statute, executive order (including the September 24, 2001, Executive Order Blocking Property and Prohibiting Transactions with Persons Who Commit, Threaten to Commit, or Support Terrorism), or other governmental action.

ARTICLE 4: SELLER CLOSING CONDITIONS

The obligation of Seller to consummate the Closing hereunder is subject to satisfaction, at or prior to Closing, of each of the following conditions (unless waived in writing by Seller):

4.1. Representations and Covenants. The representations and warranties of Buyer made in this Agreement shall be true and correct in all material respects as of the Closing Date except for changes permitted or contemplated by the terms of this Agreement, and the covenants and agreements to be complied with and performed by Buyer at or prior to Closing shall have been complied with or performed in all material respects.

4.2. 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.

4.3. FCC Consent. The FCC Consent pursuant to the FCC's initial order shall have been obtained.

4.4. Deliveries. Buyer shall have complied with its obligations set forth in Section 6.2.

ARTICLE 5: BUYER CLOSING CONDITIONS

The obligation of Buyer to consummate the Closing hereunder is subject to satisfaction, at or prior to Closing, of each of the following conditions (unless waived in writing by Buyer):

5.1. Representations and Covenants. The representations and warranties of Seller and the Smiths made in this Agreement shall be true and correct in all material respects as of the Closing Date except for changes permitted or contemplated by the terms of this Agreement, and the covenants and agreements to be complied with and performed by Seller at or prior to Closing shall have been complied with or performed in all material respects.

5.2. 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.

5.3. FCC Consent. The FCC Consent pursuant to the FCC's initial order shall have been obtained.

5.4. Operations. As of the Closing Date, the Station shall be operating in material compliance with all laws, regulations and governmental orders applicable to the operation of the Station.

5.5. Deliveries. Seller shall have complied with its obligations set forth in Section 6.1.

ARTICLE 6: CLOSING DELIVERIES

6.1. Seller Documents. At Closing, Seller shall deliver or cause to be delivered to Buyer:

- (i) an assignment of FCC authorizations assigning the FCC Licenses from Seller to Buyer;
- (ii) a bill of sale conveying the other Assets from Seller to Buyer;

(iii) an assignment and assumption of the Assumed Contracts;

(iv) a certificate, dated as of the Closing Date, executed by an officer of Seller, to the effect that: (a) the representations and warranties of Seller contained in this Agreement are true and complete in all material respects on and as of the Closing Date as if made on and as of that date; and (b) that Seller has complied with or performed in all material respects all terms, covenants and conditions to be complied with or performed by it on or prior to the Closing Date; and

(v) any other instruments of conveyance, assignment and transfer that may be reasonably necessary to convey, transfer and assign the Assets from Seller to Buyer, free and clear of Liens, except for Permitted Liens.

6.2. Buyer Documents. At Closing, Buyer shall deliver or cause to be delivered to Seller:

(i) the Purchase Price in accordance with Section 1.4;

(ii) an assignment and assumption of the Assumed Contracts;

(iii) A certificate, dated as of the Closing Date, executed by an officer of Buyer, to the effect that: (a) the representations and warranties of Buyer contained in this Agreement are true and complete in all material respects on and as of the Closing Date as if made on and as of that date; and (b) that Buyer has complied with or performed in all material respects all terms, covenants and conditions to be complied with or performed by it on or prior to the Closing Date; and

(iv) any other instruments of conveyance, assignment and transfer that may be reasonably necessary to convey, transfer and assign the Assets from Seller to Buyer, free and clear of Liens, except for Permitted Liens.

ARTICLE 7: INDEMNIFICATION AND TERMINATION

7.1. Indemnification.

(a) Seller shall defend, indemnify and hold harmless Buyer from and against any and all losses, costs, damages, liabilities and expenses, including reasonable attorneys' fees and expenses incurred by Buyer arising out of or resulting from (i) any breach by Seller of its representations and warranties made under this Agreement; (ii) any default by Seller of any covenant or agreement made under this Agreement; or (iii) any and all claims, liabilities and obligations of any nature, absolute or contingent, relating to the ownership and operation of the Station prior to the Closing.

(b) Buyer shall defend, indemnify and hold harmless Seller and the Smiths from and against any and all losses, costs, damages, liabilities and expenses, including reasonable attorneys' fees and expenses incurred by Seller arising out of or resulting from (i) any breach by Buyer of its representations and warranties made under this Agreement; (ii) any default by Buyer of any covenant or agreement made under this Agreement; or (iii) any and all claims, liabilities

and obligations of any nature, absolute or contingent, relating to the ownership and operation of the Station after the Closing.

(c) The several representations and warranties of Seller and Buyer contained in or made pursuant to this Agreement shall be deemed to have been made on the date of this Agreement and shall survive the Closing Date for a period of one (1) year following the Closing Date, or, in the case of a third-party claim, until the applicable statute of limitations with respect to such claim shall have expired.

7.2. Termination. Subject to Section 7.3, and provided the terminating party is not in material breach of this Agreement, 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 breaches its representations or warranties or defaults in the performance of its covenants contained in this Agreement and such breach or default is material in the context of the transactions contemplated hereby and is not cured within the Cure Period (defined below);

(c) by written notice of Seller to Buyer if Buyer breaches its representations or warranties or defaults in the performance of its covenants contained in this Agreement and such breach or default is material in the context of the transactions contemplated hereby and is not cured within the Cure Period; provided, however, that the Cure Period shall not apply to Buyer's obligation to pay the Purchase Price at Closing;

(d) by written notice of Buyer to Seller or Seller to Buyer if the FCC Application is denied by an initial FCC Order or the FCC designates it for a trial-type hearing; or

(e) by written notice of Seller to Buyer or Buyer to Seller if Closing does not occur by September 1, 2019.

7.3. Cure Period. Each party shall give the other party prompt written notice upon learning of any breach or default by the other party under this Agreement. The term "Cure Period" as used herein means a period commencing on the date Buyer or Seller receives from the other written notice of breach or default hereunder and continuing until the earlier of (i) ten (10) calendar days thereafter or (ii) the Closing Date determined under Section 1.8.

7.4. Survival. The termination of this Agreement shall not relieve any party of any liability for breach or default under this Agreement prior to the date of termination. Notwithstanding anything contained herein to the contrary, Section 8.1 (Expenses) shall survive any termination of this Agreement.

7.5. Specific Performance. Seller and Buyer mutually agree that 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 would be irreparably damaged in the absence of the consummation of the transactions contemplated by this Agreement. In the event of a default by Seller under this Agreement in any material respect,

Buyer's rights under this Agreement shall, at its election, be enforceable by decree of specific performance. If Buyer pursues the remedy of specific performance, Seller hereby agrees not to raise any defense or objection to the enforcement action on the grounds that Buyer's damage may be adequately compensated by money damages only.

ARTICLE 8: MISCELLANEOUS

8.1. 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. All fees and charges applicable to any requests for the FCC Consent shall be paid by the party upon whom the applicable authority imposes the fee or charge (or shall be shared equally if not imposed upon either party). Seller and Buyer shall share equally any governmental taxes, fees and charges applicable to the transfer of the Assets under this Agreement. Each party is responsible for any commission, brokerage fee, advisory fee or other similar payment that arises as a result of any agreement or action of it or any party acting on its behalf in connection with this Agreement or the transactions contemplated hereby.

8.2. Further Assurances. After Closing, each party shall from time to time, at the request of and without further cost or expense to the other, execute and deliver such other instruments of conveyance and assumption and take such other actions as may reasonably be requested in order to more effectively consummate the transactions contemplated hereby.

8.3. Assignment. Neither party may assign this Agreement without the prior written consent of the other party hereto, provided, however, that Buyer may assign its rights hereunder to an affiliate of Buyer upon written notice to, but without consent of, Seller, provided that (i) any such assignment does not delay processing of the FCC Application, grant of the FCC Consent or Closing, (ii) any such assignee delivers to Seller a written assumption of this Agreement, and (iii) Buyer shall remain liable for all of its obligations hereunder. The terms of this Agreement shall bind and inure to the benefit of the parties' respective successors and any permitted assigns, and no assignment shall relieve any party of any obligation or liability under this Agreement.

8.4. 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 delivery by a nationally recognized overnight courier service, and shall be addressed as follows (or to such other address as any party may request by written notice):

if to Buyer

Two Hearted Media, LLC
210 W. John St.
Newberry, MI 49868
Attention: Travis Sumbera
Telephone: 906-293-1400
Facsimile: 906-293-5622

if to Seller:

Dave L. Smith.
17 Glen Eagles Ct.
Chillicothe, OH 45601
Telephone: 740-772-6039

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

Repp Law Firm
1629 K Street, NW, Suite 300
Washington, DC 20006-1631
Attention: Marissa G. Repp, Esq.
Telephone: 202-656-1619
Facsimile: 202-400-3737

8.5. Amendments. No amendment or waiver of compliance with any provision hereof or consent pursuant to this Agreement shall be effective unless evidenced by an instrument in writing signed by the party against whom enforcement of such amendment, waiver, or consent is sought.

8.6. Entire Agreement. This Agreement (including the Schedules and Exhibits hereto) constitutes the entire agreement and understanding among the parties hereto with respect to the subject matter hereof, and supersedes all prior agreements and understandings with respect to the subject matter hereof, except any confidentiality agreement among the parties with respect to the Stations, which shall remain in full force and effect. No party makes any representation or warranty with respect to the transactions contemplated by this Agreement except as expressly set forth in this Agreement.

8.7. 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.

8.8. No Beneficiaries. 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 successors and permitted assigns.

8.9. Governing Law. 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.

8.10. Counterparts. This Agreement may be executed in separate counterparts, each of which will be deemed an original and all of which together will constitute one and the same agreement. Delivery of an executed counterpart signature page to this Agreement by facsimile or e-mail shall be deemed sufficient to render this Agreement effective.


[SIGNATURE PAGE FOLLOWS]

SIGNATURE PAGE TO ASSET PURCHASE AGREEMENT

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

SELLER:

DAVID L. SMITH

By:  _____
Name: David L. Smith

BUYER:

TWO HEARTED MEDIA, LLC

By: _____
Name: Travis Sumbera
Title: President

SIGNATURE PAGE TO ASSET PURCHASE AGREEMENT

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

SELLER:

DAVID L. SMITH

By: _____

Name: David L. Smith

BUYER:

TWO HEARTED MEDIA, LLC

By: Travis Sumbera

Name: Travis Sumbera

Title: President

Schedule 1.1(a)

FCC Licenses

Federal Communications Commission FM Broadcast Station License, Call Sign WMJT, File Number BLH-20110624AAM, Facility ID Number 161460, as renewed File Number BRH-20120529ACC.

Federal Communications Commission Aural Studio Transmitter Link WQFV583.