

## **MUTUAL MODIFICATION AGREEMENT**

This Mutual Modification Agreement (hereinafter "Agreement") is entered into as of July 19, 2007, by and between Impact Radio, LLC ("Impact") and Talking Stick Communications, LLC ("Talking Stick").

WHEREAS, Impact is the Federal Communication Commission ("FCC") licensee of Station WLKM-FM, Channel 240A, Three Rivers, Michigan (FCC Facility ID No. 70461);

WHEREAS, Talking Stick is the FCC licensee of Station WYPW (FM), Channel 239A, Nappanee, Indiana (FCC Facility ID No. 49174);

WHEREAS, Impact and Talking Stick desire to improve the service provided by their respective above-referenced radio stations;

WHEREAS, Impact and Talking Stick both understand that the short-spacing that presently exists between WLKM-FM and WYPW restricts the ability of each licensee to improve the facilities of its station in the absence of consent from the other licensee;

WHEREAS, pursuant to Section 73.213(c)(2) of the FCC's Rules and subject to the terms and conditions of this Agreement, Impact agrees to the modification of WYPW to operate in a nondirectional mode on Channel 239A with 6 kilowatts effective radiated power ("ERP") at an antenna height 100 meters above average terrain (or equivalent facilities) at the station's present transmitter site or at such other site (hereinafter "WYPW Modified Facilities") in a manner which complies with all applicable FCC rules relative to the WLKM-FM Modified Facilities, as defined below;

WHEREAS, pursuant to Section 73.213(c)(2) of the FCC's Rules and subject to the terms and conditions of this Agreement, Talking Stick consents to modification of WLKM-FM to operate from a site to be selected by Impact (the "WLKM-FM New Site") on Channel 240A with 6 kilowatts ERP at an antenna height 100 meters above average terrain (or equivalent facilities) (hereinafter "WLKM-FM Modified Facilities") in a manner that complies with all applicable FCC rules relative to the WYPW Modified Facilities;

WHEREAS, Talking Stick and Impact previous entered into a Mutual Modification Agreement dated May 3, 2005 (the "2005 Agreement"), which contemplated modifications to WYPW and WLKM-FM that, thought no fault of either party, were not accomplished;

WHEREAS, the 2005 Agreement expired on its own terms; and

WHEREAS, this Agreement replaces and supersedes the 2005 Agreement.

NOW, THEREFORE, in consideration of the promises and undertakings set forth herein, Impact and Talking Stick agree as follows:

1. Within 120 days after the date of this Agreement, Impact shall use its commercially reasonable best efforts to (a) select the WLKM-FM New Site, (b) obtain an option to acquire at the WLKM-FM New Site at a price that Impact, in its sole discretion, determines to be acceptable and (c) propose the WLKM-FM Modified Facilities.

2. Subject to its right to terminate this Agreement as provided in Section 15 of this Agreement, following Impact's selection of the WLKM-FM New Site, Talking Stick, at its sole expense (including all applicable FCC and other governmental filings fees), thereafter agrees to undertake all steps appropriate to verify that the WLKM-FM Modified Facilities may be constructed and operated at the WLKM-FM New Site in full compliance with all federal, state, county and local statutes, rules, regulations and policies. Such steps shall include, but are not limited to: (a) securing all necessary county and local approvals (including zoning approval and building permit(s)) for construction of the WLKM-FM Modified Facilities at the WLKM-FM New Site; (b) conducting a Phase 1 environmental audit (and, if such audit so indicates, additional environmental studies) to demonstrate that Impact's ownership and/or proposed use of the WLKM-FM New Site will not constitute a violation of any Environmental Laws, as hereinafter defined; (c) conducting such review and studies as necessary to comply with the National Historic Preservation Act of 1966 and the Nationwide Programmatic Agreement; (d) securing from the Federal Aviation Administration and other applicable governmental authorities a determination that construction of the tower Impact proposes to construct at the WLKM-FM New Site will not constitute a hazard to air navigation; (e) preparing the applications for construction permits for the WLKM-FM Modified Facilities and the WYPW Modified Facilities, to be filed jointly by the parties to this Agreement with the FCC in accordance with Section 73.3517(e) of the FCC's Rules (the "FCC Applications"); and (f) verifying through soil test borings and/or any other tests reasonably required that construction of the tower Impact proposes at the WLKM-FM New Site is feasible and will not entail construction expenses materially higher than normal for a tower of such height. Impact agrees that, until advised by Talking Stick of the satisfaction of all of the conditions in this Section 2, Impact will not incur any material expenses in fulfillment of this Agreement without obtaining Talking Stick's prior approval.

3. Upon the grant of the FCC Applications and the successful verification of the matters addressed in Section 2, Talking Stick shall provide notice thereof to Impact. The parties shall then take the following actions:

- a. Impact promptly shall acquire ownership of the WLKM-FM New Site, through exercise of the option it intends to secure.
- b. Talking Stick will pay to Impact the sum of \$ \_\_\_\_\_ (hereinafter the "Relocation Fund") for the construction of the WLKM-FM Modified Facilities, and Impact will use its commercially reasonable best efforts to construct promptly the WLKM-FM Modified Facilities in accordance with the terms of the FCC Application. Subject to adherence to the operating parameters specified by the FCC Application for WLKM-FM, Impact, in its sole discretion, shall develop all specifications for, and shall supervise and control all aspects of, the construction of the WLKM-FM Modified Facilities, including, but not limited to, the selection of the equipment to be purchased and the contractors to be used. It is specifically agreed that, subject to Talking Stick's performance of its obligations under this

Agreement, Impact bears all benefits and burdens with respect to the construction of the WLKM-FM Modified Facilities. By way of illustration and not limitation, if the cost of constructing the WLKM-FM Modified Facilities exceeds the Relocation Fund, Impact alone will bear the additional cost and promptly complete construction of the WLKM-FM Modified Facilities. Conversely, if Impact is able to construct the WLKM-FM Modified Facilities at a cost lower than the Relocation Fund, those savings will not reduce the Relocation Fund. The Relocation Fund shall be paid by Talking Stick to Impact as follows: (i) 20% upon the grant of the FCC Application for construction permit authorizing construction of the WLKM-FM Modified Facilities at the WLKM-FM New Site becoming a "Final Order," as hereinafter defined, and the satisfaction by Talking Stick of the other provisions of Section 2; (ii) an additional 20% upon Impact's presentation of documents verifying that firm orders have been placed for the tower to be constructed on the WLKM-FM New Site; (iii) an additional 30% upon delivery of the tower components to the site and the commencement of construction of the above-referenced tower; and (iv) the remaining 30% upon completion of construction of the WLKM-FM Modified Facilities and the filing of an FCC application for a license to cover those facilities.

4. Each party agrees to cooperate with the other in obtaining the FCC authorizations for construction and operation of the WLKM-FM Modified Facilities and the WYPW Modified Facilities. In the event the FCC or any third party raises any question or objection with respect to any aspect of this Agreement or the proposed modifications of WLKM-FM or WYPW, the parties hereto agree to act promptly to resolve any such question or objection by taking all reasonable measures, including, but not limited to amending this Agreement and/or the parties' respective FCC Applications, provided, however, that neither party shall be required to take any action that substantially diminishes the economic value it is to receive as a result of this Agreement or the modifications proposed.

5. Following issuance of all required authorizations, including the FCC Applications for construction permits for the modified facilities, each party shall proceed diligently and promptly with construction of its modified facilities. When construction of its modified facilities is completed, each party shall advise the other. The parties agree that neither shall commence operation of its station's modified facilities under Program Test Authority until the other is ready to commence operation with its modified facilities under Program Test Authority.

6. The parties expressly recognize the WLKM-FM Modified Facilities and the WLKM-FM New Site shall be the sole property of Impact and that Talking Stick will hold no lien on those assets, except for a temporary lien in favor of Talking Stick during the construction of the WLKM-FM Modified Facilities, which lien shall terminate upon the grant by Final Order of the license application for the WLKM-FM Modified Facilities. At that time, Impact is hereby expressly authorized to file any documentation necessary to terminate Talking Stick's above-referenced lien.

7. This Agreement shall be binding upon and inure to the benefit of the parties, as well as their successors and assigns. If either party enters into an agreement to assign its respective

station, such party shall require the assignee to assume and perform this Agreement and shall provide written documentation of such assumption to the other party upon request.

8. The parties agree to resolve any disputes arising out of or in connection with this Agreement by submitting the matter for arbitration in accordance with the Commercial Rules of Arbitration of the American Arbitration Association, provided that the parties shall have reasonable discovery rights. Such arbitration will be conducted in Kalamazoo, Michigan before one or more arbitrators knowledgeable about the radio broadcasting and radio engineering industries. The parties further agree that the party prevailing in such arbitration shall be entitled to receive from the other party reasonable attorneys' fees and all costs incurred in connection with the arbitration in an amount, if any, awarded by the arbitrator or arbitrators, and in the event that either party shall fail to pay the amount due under the award of the arbitrator or arbitrators, and legal action is commenced for the enforcement of the award (the venue for which litigation shall be in the St. Joseph County, Michigan Circuit Court), the prevailing party shall be entitled to receive reasonable attorneys' fees and all costs incurred in such action to be determined by the court in which such action is brought.

9. All notices, requests, demands, and other communications pertaining to this Agreement shall be in writing and shall be deemed duly given when delivered personally or on the date of delivery by FedEx or other recognized overnight courier service that issues a receipt or other confirmation of delivery to the address of the party for whom such communication is intended, addressed as follows:

If to Impact:

Dennis Rumsey  
Impact Radio, LLC  
59750 Constantine Road  
Three Rivers, MI 49093

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

Matthew H. McCormick  
Irwin, Campbell & Tannenwald, P.C.  
1730 Rhode Island Ave., N.W., Suite 200  
Washington, D.C. 20036

If to Talking Stick:

Alec C. Dille  
Talking Stick Communications, LLC  
237 Edison Road, Suite 200  
Mishawaka, IN 46545

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

Brian M. Madden  
Leventhal Senter & Lerman PLLC  
2000 K Street, N.W., Suite 600  
Washington, D.C. 20006

or any such other addresses as the parties may from time to time designate in writing.

10. Each of the parties represents to the other that it has all necessary power and approval to enter into this Agreement, and that this Agreement is a valid, legally binding obligation of such party, enforceable in accordance with its terms. The parties shall execute such other documents as may be necessary to the implementation and consummation of this Agreement.

11. This Agreement shall be governed, construed and enforced in accordance with the laws of the State of Michigan.

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

13. This Agreement represents the entire understanding and agreement between the parties hereto with respect to the subject matter hereof, supersedes all prior negotiations between such parties, and can be amended, supplemented or changed only by an agreement in writing which makes specific reference to this Agreement and is signed by both parties.

14. Nothing in this Agreement, whether express or implied, is intended to: (i) confer any rights or remedies on any person other than Impact, Talking Stick, and their respective successors and assignees; (ii) to relieve or discharge the obligation or liability of any third party; or (iii) to give any third party any right of subrogation or action against either Impact or Talking Stick.

15. Until all of the conditions specified in Section 2 have been satisfied to its sole satisfaction, Talking Stick may terminate this Agreement at any time by notice to Impact. Once Talking Stick has notified Impact of the satisfaction of the conditions specified in Section 2, this Agreement may be terminated only upon the mutual agreement of the parties. If by August 1, 2008, the conditions specified in Section 2 of this Agreement have not been satisfied to Talking Stick's satisfaction, this Agreement may be terminated by either party upon notice to the other, such notice to be delivered not later than August 31, 2008; upon termination of this Agreement, neither party will have any further obligation to the other with respect to the subject matter hereof. If this Agreement has not been terminated as of August 31, 2008, the parties recognize that if either party thereafter breaches this Agreement and refuses to perform its obligations hereunder, in addition to any other remedies that may be available, such non-breaching party (provided it is not itself in breach of this Agreement) shall be entitled to obtain specific enforcement of this Agreement, and the breaching party hereby agrees that it will not interpose an objection that the non-breaching party has available to it an adequate remedy at law.

16. For purposes of this Agreement, "*Environmental Laws*" shall mean all applicable federal, state and local laws, statutes, codes, rules, regulations, common law or other legal requirements relating to the environment, natural resources, and public or employee health and safety.

17. For purposes of this Agreement, "*Final Order*" shall mean action by the FCC (i) which has not been vacated, reversed, stayed, set aside, annulled or suspended, (ii) with respect to which no timely appeal, request for stay or petition for rehearing, reconsideration or review by any party or by the FCC on its own motion, is pending, and (iii) as to which the time for filing any such appeal, request, petition, or similar document or for the reconsideration or review by the FCC on its own motion under the Communications Act of 1934, as amended, and the rules and regulations of the Commission, has expired.

[SIGNATURE PAGE FOLLOWS IMMEDIATELY]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized officers on the day and year first above written.

**IMPACT RADIO, LLC**

By: Dennis W. Rumsey  
Dennis W. Rumsey,  
Member and Its President

**TALKING STICK COMMUNICATIONS, LLC**

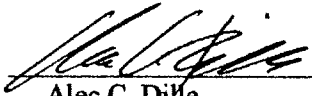
By: \_\_\_\_\_  
Alec C. Dille,  
Its Managing Member

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized officers on the day and year first above written.

**IMPACT RADIO, LLC**

By: \_\_\_\_\_  
Dennis W. Rumsey,  
Member and Its President

**TALKING STICK COMMUNICATIONS, LLC**

By:  \_\_\_\_\_  
Alec C. Dille,  
Its Managing Member