

## ASSET PURCHASE AGREEMENT

This **ASSET PURCHASE AGREEMENT** (this "Agreement") is made as of November 25, 2014, by and between **GEOS COMMUNICATIONS** ("Seller"), a Pennsylvania General Partnership; and, **THE ST. LAWRENCE UNIVERSITY d/b/a NORTH COUNTRY PUBLIC RADIO** ("Buyer"), a New York non-profit corporation; collectively, the "Parties."

**WHEREAS**, pursuant to one or more authorizations issued to it by the Federal Communications Commission ("FCC"), Seller is the FCC licensee and owner of FM radio station **WXLE**, Indian Lake, New York, FCC Facility ID #183338 (the "Station"); and,

**WHEREAS**, Buyer and Smith & Fitzgerald, Partnership ("S&F") entered into that certain Local Management Agreement (the "LMA") dated March 15, 2014 in which Seller is successor-in-interest to S&F, and pursuant to which *inter alia* Buyer, as Manager thereunder has purchased from Seller, as Licensee thereunder, airtime on the Station in order to provide Seller with certain programming for broadcast on the Station; and,

**WHEREAS**, Buyer desires to purchase and acquire from Seller certain assets used or useful in connection with the ownership and operation of the Station, and Seller desires to sell, assign and convey such assets to Buyer, subject to the prior consent of the FCC and the terms and conditions contained in this Agreement.

**NOW THEREFORE**, in consideration of the mutual covenants contained herein, the Parties, intending to be legally bound, hereby agree as follows.

### **1. SALE AND TRANSFER OF PURCHASED ASSETS.**

**1.1. Purchased Assets.** Subject to the terms and conditions of this Agreement, on the Closing Date (as defined in Section 10.1 of this Agreement), Seller shall sell, assign, convey and deliver to Buyer, and Buyer shall purchase and acquire, all by instruments in form reasonably satisfactory to the Parties, certain assets owned, leased, licensed or otherwise held by Seller that are used or useful in connection with the ownership and operation of the Station, together with all rights and privileges associated with such assets and the business of the Station (collectively, the "Purchased Assets"). The Purchased Assets include only the following:

**(a) FCC Authorizations.** All licenses, permits and other authorizations issued by the FCC to Seller with respect to the Station, including without limit the Station's call letters, **WXLE**, and the Station's FCC license described on Schedule 1.1(a) attached hereto, together with any and all renewals, extensions, modifications and additions thereto, as well as any and all applications now pending or filed between the date hereof and the Closing Date as may be permitted hereunder and as may be reasonably acceptable to Buyer (collectively, the "FCC Authorizations").

(b) Broadcast Equipment. The broadcast equipment owned by Seller used or useful in the operation of the Station as described on Schedule 1.1(b) attached hereto, together with any replacement of like kind and quality that may be made between the date hereof and the Closing Date (the "Broadcast Equipment").

(c) FCC Records. An up-to-date and complete local public file, all program and engineering logs, and all other records that relate to the ownership and operation of the Station, including those records required to be maintained under the rules, regulations and policies of the FCC (collectively, the "FCC Records").

1.2 Excluded Assets. All other assets owned, leased, licensed or otherwise held by Seller, except for the Purchased Assets, shall be retained by Seller and excluded from this sale to Buyer (collectively, the "Excluded Assets").

## 2. PURCHASE PRICE.

2.1 Purchase Price. In consideration of all rights and obligations created hereunder, including without limit the sale by Seller and purchase by Buyer of the Purchased Assets, the total purchase price to be paid by Buyer to Seller shall be Twenty Thousand Dollars (\$20,000.00) (the "Purchase Price"), payable and subject to adjustment or proration as provided in this Agreement. The Purchase Price shall be paid as follows:

(a) Upon the execution of this Agreement, Buyer shall remit to Seller by seller's bank check or other mutually satisfactory means the sum of Two Thousand Dollars (\$2,000.00) as a good faith deposit (the "Deposit"). The Deposit shall be credited against payment of the Purchase Price at the Closing.

(b) At the Closing, Buyer shall remit to Seller by wire transfer or otherwise in immediately available funds the unpaid balance of the Purchase Price, i.e., Eighteen Thousand Dollars (\$18,000.00),

### 2.2 Prorations. Subject to the intent and provisions of the LMA:

(a) Seller shall be entitled to all income it earned, and shall be responsible for all liabilities and obligations it incurred, in connection with its ownership of the Station through 12:01 AM on the Closing Date; and,

(b) Buyer shall be entitled to all income it earned, and shall be responsible for all liabilities and obligations it incurred, in connection with its ownership of the Station after 12:01 AM on the Closing Date.

(c) All overlapping items of income or expense shall be reasonably apportioned pro-rata between the Parties as of 12:01 AM on the Closing Date.

### **3. NO ASSUMPTION OF LIABILITIES.**

Buyer does not and shall not assume any liabilities or obligations of Seller of any kind whatsoever, whether known or unknown, contingent or otherwise. Seller is and shall remain solely responsible for any and all liabilities or obligations of Seller, whether known or unknown, contingent or otherwise, including without limit those relating to the Station and the Excluded Assets. Without limiting the generality of the foregoing, Buyer is not and shall not be obligated in any event to assume or perform any lease, contract, agreement, obligation or commitment of Seller whatsoever.

### **4. SELLER'S REPRESENTATIONS AND WARRANTIES.**

Seller represents and warrants that the following statements as to Seller, the Station and the Purchased Assets are correct as of the date hereof and will be correct until and on the Closing Date:

#### **4.1 FCC Authorizations and Compliance.**

(a) Seller owns or validly holds all licenses, permits, consents, approvals or authorizations of any public or governmental agency materially necessary to the conduct by Seller of its business as now conducted, including without limit the FCC Authorizations. All are in full force and effect, and not subject to any lien, charge, encumbrance or limitation. Without material exception, Seller is in full compliance with all of its obligations with respect thereto, and no event has occurred which permits, or after notice or lapse of time, or both, would permit, the revocation or termination of any of the foregoing or would otherwise adversely affect either the rights or business of Seller or the rights or business of Buyer.

(b) Seller has no knowledge of any application, complaint, investigation or proceeding, pending or threatened as of the date hereof before the FCC, which may relate to or affect the FCC Authorizations, Station or Seller, other than proceedings of generally applicability to the broadcast industry. Between now and the Closing Date, the Station is and shall remain on-the-air, operating at full licensed power, and not under any Special Temporary Authority as defined by the FCC. Between now and the Closing Date, Seller and the Station shall operate in full compliance with the Communications Act of 1934 as amended (the "Act"), as well as with all FCC rules, regulations and policies promulgated thereunder. If notice of any FCC violation is received by Seller or if Seller otherwise becomes aware of any such violation prior to Closing Date, at its sole expense Seller shall promptly eliminate and remove any and all such violations prior to the Closing Date. All applications, reports and other information filings required to be filed by or with the FCC or any other governmental agency relating to Seller or the Station have been and will be timely filed by Seller, and all such applications, reports and other information filings are or will be complete and correct as filed. All FCC regulatory fees and any other payments required to be paid to the FCC or any other governmental agency relating to Seller or the Station have been and will be timely paid by Seller.

#### 4.2 Purchased Assets.

(a) Title and Rights. Seller is and will be the sole FCC licensee of the Station's FCC license. Seller is and will be the sole owner of all other Purchased Assets, in connection with which Seller has and will have good title. Seller has and will have the full legal right, power and authority to (and on the Closing Date Seller shall) sell, convey, assign, transfer and deliver all of the Purchased Assets to Buyer, with good title, free and clear of all claims, security interests, mortgages, pledges, liens and other encumbrances of every nature whatsoever. No action is or will be pending or threatened which would or could contest the ownership of, or right to transfer, any of the Purchased Assets. The Purchased Assets are not and will not on the Closing Date be subject to any other sale, contract or agreement.

(b) Broadcast Equipment. From the date hereof until the Closing Date, the Station and the Broadcast Equipment are and will be operated and maintained in good operating condition, without any material defects, in full compliance with all of the FCC's rules, regulations and policies, and in accordance with good engineering practices.

4.3 Employees and Agreements Relating to Employment. Seller has made no representation to any of its employees concerning their employment, if any, by Buyer after the Closing Date. Any decision by Buyer to employ any of Seller's employees on or after the Closing Date shall be made in the sole discretion of Buyer.

4.4 Disclosure. No covenant, representation or warranty made by Seller in this Agreement, and no statement made in any certificate or document furnished or to be furnished by Seller in connection with the transactions contemplated by this Agreement, contains or will contain any untrue statement of a material fact or omits or will omit to state any material fact necessary to make such representation, warranty or statement not misleading to Buyer.

4.5 Litigation. There are no actions, judgments, suits, proceedings, investigations or inquiries (collectively herein, "Actions") pending or to the knowledge of Seller threatened which might adversely affect Seller's power, authority or ability to enter into this Agreement and to carry out the transactions contemplated herein. Seller does not know or have reasonable grounds to know of any factors or circumstances which might be the basis of any such Actions.

#### 4.6 Compliance with Law.

(a) Generally. Seller has complied with and is in compliance in all material respects with all laws, rules, regulations, and orders of any governmental entity applicable to Seller, the Station and the Purchased Assets, including without limitation the Act and FCC rules, regulations and policies promulgated thereunder (collectively, "Applicable Laws"). Seller has not been charged with and is not under

investigation for any violation of Applicable Laws, nor, to the best of Seller's knowledge, is there any basis for any such charge or investigation.

(b) Hazardous Materials. To the best of Seller's knowledge, no hazardous or toxic materials (as hereinafter defined) exist in, on or under any structure or real property used as the Station's studios, offices or transmitter site, or in any equipment used or useful in connection with the Station, in such levels, amounts or concentrations which would require remediation or removal under any applicable environmental law. As used herein, "hazardous or toxic material" shall mean waste, substances, materials, smoke, gas, pollutants, contaminants, asbestos or asbestos related products, PCB's, petroleum, crude oil (or any fraction or distillate thereof) or particulate matter designated as hazardous, toxic or dangerous, or requiring special handling, treatment or storage, whether or not designated hazardous, toxic or dangerous under any environmental law. As used herein, "environmental law" shall mean the Comprehensive Environmental Response Compensation and Liability Act, any successor to such law, and/or any other applicable federal, state, or local environmental, health or safety law, rule or regulation concerning the treating, producing, handling, storing, releasing, spilling, leaking, pumping, pouring, emitting, or dumping of any hazardous or toxic material, or imposing any liability or standards in connection therewith.

4.7 Existence and Powers: No Conflict. Seller is a General Partnership duly formed, validly existing and in good standing under the laws of the State of Pennsylvania, and qualified to do business in the State of New York. Seller has full power and authority to own, lease or hold its assets and rights, to carry on its business as now being conducted, and to execute, deliver and perform this Agreement. The execution, delivery, and performance of this Agreement by Seller have been duly and validly authorized, and no other action or consent is required, other than FCC consent to the contemplated FCC license assignment application. Neither the execution and delivery of this Agreement by Seller, nor the compliance by Seller with the terms thereof: (i) will, to the best of Seller's knowledge, breach any Applicable Laws; (ii) will conflict with or result in a breach of or constitute a default (or an event which, with notice or lapse of time, or both, would become a default) under any of the terms, conditions or provisions of any judgment, order, arbitration, injunction, decree or ruling of any court or governmental authority to which Seller, any of its General Partners, the Station or any of the Purchased Assets is subject, Seller's Certificate of General Partnership or General Partnership Agreement, nor any agreement, commitment, arrangement, lease, insurance policy, or other instrument to which Seller or any of its General Partners is a party or otherwise bound; (iii) will result in the creation of any lien, equitable lien, tax lien, mortgage, charge, security interest or other encumbrance upon any of the Purchased Assets; (iv) will give to any other person or entity any interests or rights, including without limit any rights of termination or cancellation, in or with respect to any of the Purchased Assets, agreements, contracts or business of Seller; (v) will result in any adverse modifications or loss of the FCC Authorizations or any other license, franchise, permit or other governmental authorization granted to or held by Seller; or (vi) require the consent of any person or entity except the FCC.

4.8 Operation of Station.

(a) The Station has been, and shall continue to be, operated in material compliance with the FCC Authorizations and Applicable Laws, including without limit in a manner which will not expose human beings to any level of non-ionizing radiation higher than the levels recommended for human exposure in "Safety Levels With Respect to Human Exposure to Radio Frequency Electromagnetic Fields, 3 kHz to 300 GHz" (ANSI/IEEE C95.1-1992); adopted by the IEEE and by the American National Standards Institute, November 1992.

(b) Seller shall give prompt written notice to Buyer if: (i) the transmission of the regular broadcast programming of the Station in the normal and usual manner is interrupted or discontinued other than as a result of weekly routine maintenance or public utility company activity, (ii) the Station is operated at less than ninety (90%) of its licensed operating power, in either event for a period in excess of (A) twenty-four (24) consecutive hours or (B) an aggregate of seventy-two (72) hours in any thirty (30) day period, (iii) if the Station operates at reduced power for ten (10) days, thereby requiring written notification to the FCC pursuant to Section 73.1560(d) of the FCC rules, or (iv) the programming format of the Station is materially changed.

4.9 Absence of Insolvency. No insolvency proceedings of any character, including, without limitation, bankruptcy, receivership, reorganization, composition or arrangement with creditors, voluntary or involuntary, affecting the Seller, any of its General Partners, the Station, or any of the Purchased Assets, are pending or threatened, and Seller has made no assignment for the benefit of creditors, nor taken any action with a view to, or which would constitute the basis for, the institution of any such insolvency proceedings.

4.10 Taxes. Seller and all of its General Partners have and shall have timely and duly filed with the appropriate governmental agencies all tax returns, declarations of estimated tax, and tax reports required to be filed. Any and all taxes and other assessments which Seller or any of its General Partners is required to pay, withhold or collect, have been and will be timely and duly paid, withheld and collected. There are no present disputes as to taxes of any nature payable by Seller or any of its General Partners with respect to any of them, Seller, the Station or the Purchased Assets. Neither Seller nor any of its General Partners has filed an IRS Form 872 ("Consent Fixing Period of Limitations Upon Assessment of Income Tax") or otherwise agreed to extend the time for assessment of any taxes against it for any year. Any additional taxes, interest, penalties, assessments and deficiencies that shall become due and payable with respect to any tax return or tax obligation of Seller and any of its General Partners shall be their sole responsibility.

4.11 Absence of Material Adverse Changes. Between the date of this Agreement and the Closing Date there will not be: (i) any material adverse change in the business, property or rights of Seller, nor any material labor dispute, grievance or organizational effort, affecting Seller, Station or the Purchased Assets; (ii) any destruction, damage or loss not covered by insurance materially and adversely affecting the Seller, the Station or the Purchased Assets; (iii) any sale, assignment, lease or other transfer or disposition of the Purchased Assets or other assets or rights owned, leased or held by

Seller, except in the ordinary course of business and with adequate replacement property promptly being acquired; nor (iv) any waiver of any right resulting in a materially adverse affect on the Purchased Assets, the Station, Seller or its business.

## **5. BUYER'S REPRESENTATIONS AND WARRANTIES**

Buyer represents and warrants that the following statements as to Buyer are correct as of the date hereof and will be correct until and on the Closing Date:

5.1 FCC Qualifications. To the best of Buyer's knowledge, Buyer is qualified under the Act, and the rules, regulations and policies promulgated thereunder, to obtain FCC approval of the contemplated FCC license assignment application.

5.2 Existence and Powers; No Conflict. Buyer is a non-profit corporation duly formed, validly existing and in good standing under the laws of the State of New York. Buyer has full power and authority to own, lease or hold its assets and rights, to carry on its business as now being conducted, and to execute, deliver and perform this Agreement. The execution, delivery, and performance of this Agreement by Buyer have been duly and validly authorized, and no other action or consent is required, other than FCC consent to the contemplated FCC license assignment application. Neither the execution and delivery of this Agreement by Seller, nor the compliance by Buyer with the terms thereof: (i) will, to the best of Buyer's knowledge, breach any Applicable Laws; (ii) will conflict with or result in a breach of or constitute a default (or an event which, with notice or lapse of time, or both, would become a default) under any of the terms, conditions or provisions of any judgment, order, arbitration, injunction, decree or ruling of any court or governmental authority to which Buyer is subject, Buyer's Articles of Incorporation or Bylaws, nor any agreement, commitment, arrangement, lease, insurance policy, or other instrument to which Buyer is a party or otherwise bound; or (iii) require the consent of any person or entity except the FCC.

5.3 Disclosure. No covenant, representation or warranty made by Buyer in this Agreement and no statement made in any certificate or document furnished or to be furnished by Buyer in connection with the transactions contemplated by this Agreement contains or will contain any untrue statement of a material fact or omits or will omit to state any material fact necessary to make such representation, warranty or statement not misleading to Seller.

5.5 Litigation. There are no actions, judgments, suits, proceedings, investigations or inquiries (collectively herein, "Actions") pending or to the knowledge of Buyer threatened which might adversely affect Buyer's power, authority or ability to enter into this Agreement and to carry out the transactions contemplated herein. Buyer does not know or have reasonable grounds to know of any factors or circumstances which might be the basis for any such Actions.

## **6. CONTINGENT FCC APPLICATIONS.**

At anytime prior to the Closing Date, Seller shall fully cooperate with Buyer as Buyer may reasonably request in connection with any FCC application regarding the

Station that Buyer may request be prepared and filed at Buyer's sole expense, which application shall be subject to or contingent upon a Closing of sale of the Station by Seller to Buyer. Without limiting the generality of the foregoing, one such contingent FCC application Buyer may request is to modify the Station's currently commercial FCC license so that the Station post-Closing may be owned and operated by Buyer as a non-commercial or educational FM radio station.

## **7. CONDUCT PRIOR TO CLOSING.**

**7.1 Further Assurances.** From the date hereof until the Closing Date, Seller shall fully cooperate with Buyer, including without limit by providing access and information, taking actions, executing and delivering documents, and/or causing the execution or delivery of documents, all as Buyer may reasonably request.

**7.2 Conduct of Station Business.** Between the date hereof and the Closing Date:

(a) Seller shall in good faith: (i) conduct its business and the business of the Station in a prudent and responsible manner, as well as operate and maintain the Station and the Purchased Assets, all in accordance with good business and engineering practices, consistent with Seller's past practices, and in compliance with the terms of the FCC Authorizations and Applicable Laws; and (ii) keep all of its assets that may be used or useful in connection with Seller's ownership or operation of the Station (including without limit the Purchased Assets) in good operating condition and repair, reasonable wear and tear excepted.

(b) Seller shall not, without Buyer's prior written consent: (i) hire additional personnel or unreasonably increase the compensation or bonuses payable or to be payable to any of Seller's or the Station's employees, except in the ordinary and usual course of business; (ii) negotiate or enter into any agreement to sell, assign, lease, exchange or otherwise transfer or dispose of the Station or any of the Purchased Assets; (iii) enter into any new contract or renegotiate, modify, amend, renew, or terminate any existing contract regarding the Station; (iv) change the Station call letters or facilities, apply for any construction permit(s) with the FCC, or make any material adverse changes in or to the Station or the Purchased Assets; or (v) except as required by law or any governmental agency, disclose any confidential information relating to the Station to any person or entity, other than to Seller's authorized employees, agents and professional advisors in the ordinary course of business, and other than to Buyer and Buyer's authorized representatives as Buyer may request.

(c) Seller shall give Buyer prompt notice of any unusual operating problems and any developments affecting Seller or the Station between the date hereof and the Closing Date, including but not limited to any problem or development which would or could materially adversely affect Seller or the Station or any of the Purchased



Assets. Seller shall keep Buyer fully apprised of all matters having any material financial or other impact on Seller, the Station or the Purchased Assets.

### **7.3 Risk of Loss.**

(a) The risk of any destruction, loss or damage to the Station or any of the Purchased Assets from fire or other casualty or cause shall be borne solely by Seller at all times prior to 12:01 a.m. on the Closing Date. Upon the occurrence of any such loss or damage to the Station or any of the Purchased Assets, Seller shall immediately notify Buyer of same in writing, stating with reasonable particularity the extent of such loss or damage incurred, the cause thereof if known, and the extent to which restoration, replacement and repair of the Station or any Purchased Assets destroyed, lost or damaged will be reimbursed under any insurance policy. Seller shall also keep Buyer fully apprised of all progress, or lack thereof, in connection with the restoration, replacement and repair. Seller shall complete such restoration, replacement and repair promptly and within sixty (60) days from the date of loss or damage.

(b) If for any reason the restoration, replacement or repair is not completed within sixty (60) days from the date of loss or damage, Buyer shall have the option (but not the obligation), exercisable at any time thereafter, and on written notice to Seller, to:

(i) extend the date by which Seller shall complete the restoration, replacement or repair; or,

(ii) elect to consummate the Closing and accept the Purchased Assets in their "then" condition, in which event at the Closing Seller shall assign to Buyer all rights under any insurance claim covering the loss or damage and pay over to Buyer all proceeds under any such insurance policy theretofore received by Seller with respect thereto; or,

(iii) rescind this Agreement, which shall then be of no further binding force and effect.

(c) If Seller's time to complete the restoration, replacement or repair is extended by Buyer, the Parties shall cooperate to seek any necessary FCC approval for an extension of time to consummate the Closing.

(d) If Seller's time to complete the restoration, replacement or repair is extended by Buyer, but the restoration replacement or repair is not completed by Seller by such extended date, Buyer may at any time after such extended date, and on written notice to Seller, elect to instead consummate or rescind as provided in Section 7(b)(ii) or 7(b)(iii) respectively.

## **8. FCC ASSIGNMENT APPLICATION.**

8.1 Assignment Application. As promptly as practicable after the execution of this Agreement, but in no event later than ten (10) days thereafter, Buyer and

Seller shall join in an application to the FCC requesting the FCC's written consent to the assignment to Buyer of Seller's FCC license and other authorizations for the Station, and to the consummation of the transactions contemplated by this Agreement (the "FCC Assignment Application"). The Parties shall promptly respond to any FCC requests for the submission of additional information, and they shall oppose any informal objection, petition to deny, petition for reconsideration or application for review that may be filed. The Parties shall take all reasonable steps to expeditiously prosecute the FCC Assignment Application to a favorable conclusion.

8.2 Expenses. Each of the Parties shall bear its own expenses in connection with the preparation and prosecution of its respective sections of the FCC Assignment Application. Buyer shall be responsible to pay the filing fee charged by the FCC in connection with the FCC Assignment Application, if any. All other FCC fees or charges paid, payable or incurred prior to the Closing Date in the regular course of ownership or operation of the Station shall be the sole responsibility of Seller without any proration.

8.3 FCC Delay. If the FCC Assignment Application is designated for hearing by the FCC, or if one (1) year passes after the filing of the FCC Assignment Application and the FCC has not by then granted its consent thereto (regardless of whether such FCC consent has become a Final Order, as defined in Section 10.1), Buyer shall have the right to terminate this Agreement at anytime thereafter, on written notice to Seller, without any further obligation of Buyer to Seller hereunder, provided that the reason for such delay by the FCC is not accountable to Buyer.

8.4 Control of Station. From the date hereof until the Closing Date, Seller shall control the Station subject to the provisions of this Agreement and the LMA. This Agreement shall not be consummated until after the FCC has given its written consent to the assignment from Seller to Buyer of the FCC Authorizations for the Station.

## 9. BULK SALES LAW.

Buyer hereby waives compliance by Seller with the provisions of all bulk sales laws, or other similar provisions of Applicable Laws, provided however that Seller shall indemnify and hold Buyer harmless for any and all claims arising thereunder, including without limit reasonable attorney fees and costs.

## 10. CLOSING.

Subject to the terms and conditions in this Agreement, the Parties further agree as follows.

### 10.1 Closing Date and Final Order.

(a) The closing of the transactions contemplated herein (the "Closing") shall be held on a date (the "Closing Date") as specified by Buyer in writing to Seller that is no later than ten (10) business days after the date upon which the approval

of the FCC required for the consummation of the transactions contemplated herein ("FCC Consent") has been granted and becomes a "Final Order".

(b) As used herein, "Final Order" means the date on which the FCC Consent is no longer subject to administrative or judicial reconsideration, review, appeal or stay. The Parties hereby acknowledge and agree that, absent the pendency of any petition, motion or application seeking reconsideration, review, appeal or stay of the FCC Consent, and absent any FCC action reconsidering, reviewing, staying or modifying the FCC Consent, such consent shall become final as of 12:01 A.M. on the forty-first day after the date public notice of grant of the FCC Consent is released by the FCC.

(c) Notwithstanding the foregoing, Buyer may, at its option, elect to hold the Closing after initial grant of the FCC Consent and prior to the date that such consent becomes a Final Order. The Closing shall take place on the Closing Date at such time and place as the Parties may reasonably agree.

10.2 Seller's Deliverables at Closing. At the Closing, Seller shall execute and deliver or cause to be delivered to Buyer the following, with all of Seller's documentary deliverables to be in form and substance reasonably acceptable to Buyer:

(a) An assignment and assumption agreement by which Seller assigns to Buyer the FCC Authorizations, together with all necessary FCC consents relevant thereto, as well as complete and original copies of such FCC Authorizations.

(b) A bill of sale by which Seller conveys to Buyer the Broadcast Equipment, together with any applicable warranty documents, manuals and other relevant documents.

(c) Seller's FCC Records.

(d) A certificate from Seller stating that: (i) all representations and warranties of Seller as set forth in this Agreement or in any statement, certificate, schedule, exhibit or other document delivered pursuant to this Agreement by Seller are true and correct in all material respects as of the Closing Date; and (ii) Seller has, in all material respects, performed and complied with all covenants, agreements and conditions required by this Agreement to be performed or complied with by Seller on or before the Closing Date.

(e) Such other documents or instruments as may be necessary or reasonably requested by Buyer in order to effectuate the intent and provisions of this Agreement.

(f) Ownership and possession of all right, title and interest in and to the Purchased Assets, free and clear of all liens and other encumbrances.

10.3 Buyer's Deliverables at Closing. At the Closing, Buyer shall execute and deliver or cause to be delivered to Seller the following, with all of Buyer's documentary deliverables to be in form and substance reasonably acceptable to Seller:

(a) An assignment and assumption agreement by which Buyer assumes the FCC Authorizations.

(b) A certificate from Buyer stating that: (i) all representations and warranties of Buyer as set forth in this Agreement or in any statement, certificate, schedule, exhibit or other document delivered pursuant to this Agreement by Buyer are true and correct in all material respects as of the Closing Date; and (ii) Buyer has, in all material respects, performed and complied with all covenants, agreements and conditions required by this Agreement to be performed or complied with by Buyer on or before the Closing Date.

(c) Such other documents or instruments as may be necessary or reasonably requested by Seller in order to effectuate the intent and provisions of this Agreement.

(d) The unpaid balance of the Purchase Price as provided in Section 2.1(b) of this Agreement, subject to adjustment or proration as provided in this Agreement.

10.4 Conditions to Obligations of Buyer. The obligation of Buyer to consummate its purchase of the Purchased Assets at the Closing shall be subject to the performance, in all material respects, on or before the Closing Date, of all of the covenants and agreements as set forth in this Agreement to be performed by Seller, and upon the following additional conditions:

(a) The representations and warranties of Seller shall be true in all material respects as of the Closing Date.

(b) There shall not have occurred any material adverse change in or to the Station or the Purchased Assets that could or would in any material respect affect the operation of the Station in any adverse way, and which has not been cured after due notice as provided in Section 13.2 of this Agreement.

(c) FCC Consent to the FCC Assignment Application shall have been granted, without any condition materially adverse to Buyer, and shall be a valid Final Order as of the Closing Date.

(d) No action or proceeding shall be pending or threatened, challenging the validity of this Agreement or seeking to delay the consummation of any of the transactions for which this Agreement provides, which in the reasonable opinion of Buyer is material to the transactions contemplated by this Agreement.

(e) Seller shall have in all material respects performed and complied with all covenants, agreements and conditions required by this Agreement to be performed or complied with by it prior to and on the Closing Date.

(f) All of the requirements of Section 10.2 shall have been met.

Buyer shall have the right to waive any or all of the foregoing conditions of Closing at its sole option and risk, except for FCC Consent.

**10.5 Conditions to Obligations of Seller.** The obligation of Seller to consummate its sale of the Purchased Assets at the Closing shall be subject to the performance, in all material respects, on or before the Closing Date, of all of the covenants and agreements as set forth elsewhere in this Agreement to be performed by Buyer, and upon the following additional conditions:

(a) The representations and warranties of Buyer shall be true in all material respects as of the Closing Date.

(b) FCC Consent to the FCC Assignment Application shall have been granted, without any condition materially adverse to Buyer, and shall be a valid Final Order as of the Closing Date.

(c) Buyer shall have in all material respects performed and complied with all covenants, agreements and conditions required by this Agreement to be performed or complied with by it prior to and on the Closing Date; and,

(d) All of the requirements of Section 10.3 shall have been met.

Seller shall have the right to waive any or all of the foregoing conditions of Closing at its sole option and risk, except for FCC Consent.

**10.6 Further Assurance.** From time to time before, on and after the Closing Date, upon request and without further consideration, Seller and Buyer shall execute and deliver such other documents and take such other action as may be necessary or reasonably requested in order to effectuate the intent and provisions of this Agreement.

## **11. OTHER CLOSING OBLIGATIONS.**

**11.1 Sales and Transfer Taxes.** All sales and transfer taxes, if any, in respect of the conveyance or transfer of the Purchased Assets hereunder shall be paid by Seller.

**11.2 Pre-Closing Taxes.** All unemployment insurance, social security, sales, payroll and other taxes due any state, federal or local government by Seller, whether due before, on or after the Closing Date, shall be paid by Seller when due.

11.3 Employees. On the Closing Date, Seller shall notify all persons employed by Seller in connection with the Station of the change of the ownership of the Station, and Seller shall pay all wages and bonuses owing to such employees (and all vacation, severance pay and fringe benefits to which such employees may be entitled), such that any employee of Seller whom Buyer may elect to employ shall have no claim against Buyer by reason of any prior employment by Seller during Seller's ownership of the Station.

## 12. INDEMNIFICATION.

12.1 Survival of Representations and Warranties. All representations, warranties, covenants and indemnities contained in this Agreement shall survive for a period of one (1) year after the Closing Date ("Survival Period"). Each of the Parties shall give the other prompt written notice describing in reasonable detail the nature and basis of any claim for which indemnification may be sought. In the event such notice is given, the right to indemnification with respect thereto under this Section 12 shall survive the Survival Period until such claim is finally resolved and all obligations with respect thereto are fully satisfied.

12.2 Indemnity by Seller. Seller agrees to pay and discharge, and to indemnify and hold harmless Buyer, all members of its governing board, officers and agents, from and against all obligations, claims and demands (including but not limited to reasonable attorney fees and costs) arising out of or in connection with (a) ownership or operation of the Station, or ownership of the Purchased Assets, prior to the Closing Date (except for those that are reasonably Buyer's responsibility pursuant to the LMA), and (b) any material misrepresentation, breach or default by Seller in or under this Agreement.

12.3 Indemnity by Buyer. Buyer agrees to pay and discharge, and to indemnify and hold harmless Seller, its General Partners, officers and agents, from and against all obligations, claims, and demands (including but not limited to reasonable attorney fees and costs) arising out of or in connection with (a) ownership or operation of the Station, or ownership of the Purchased Assets, after the Closing Date (except for those that are reasonably Seller's responsibility pursuant to the LMA) and (b) any material misrepresentation, breach or default by Buyer in or under this Agreement.

12.4 Indemnification Procedure; Right of Offset. In the event that either of the Parties asserts a claim for indemnification hereunder, the party seeking indemnification shall give written notice to the indemnifying party specifying the nature and the amount, if known, of the claim asserted. The indemnifying party shall then have the right, using counsel reasonably satisfactory to the party seeking indemnification, to investigate, secure, contest or fully settle the claim alleged by such third party (hereinafter called a "Contest"), provided that the party seeking indemnification may participate voluntarily, at its own expense, in any such Contest through representatives and counsel of its own choice, and, provided further, that any such action by the indemnifying party relating to the Contest shall be without any prejudice, cost, expense, liability or obligation on the part of the party seeking indemnification. The Parties shall make mutually available to each other all relevant information in their possession relating to any such Contest and shall cooperate in

the defense thereof. Except as provided otherwise in this Section 12.4, the indemnifying party shall bear all costs of such Contests and shall indemnify and hold the party seeking indemnification harmless against and from all costs, fees, and expenses of such Contest. Unless and until the indemnifying party elects to prosecute the Contest, the party seeking indemnification shall have the full right, at its option, to do so and to look to the indemnifying party under the provisions of this Agreement for the amount of the costs, if any, of prosecuting the Contest. The failure of the indemnifying party to respond in writing to the aforesaid notice of the party seeking indemnification with respect to such Contest within twenty (20) days after the receipt thereof shall be deemed an election not to prosecute the same. If the indemnifying party fails to prosecute the Contest and the party seeking indemnification does not prosecute the Contest or does so and the decision is rendered against it, the amount paid by the party seeking indemnification to the third party in settlement or satisfaction of the Contest shall be deemed a valid claim hereunder. In the event that the Contest involves any of Seller's obligations, Buyer shall have the right to offset the amount of the costs, if any, incurred by Buyer in prosecuting the Contest together with any sums owed in connection with the resolution or settlement thereof, against any amounts which may be owed by Buyer to Seller.

### **13. TERMINATION BEFORE CLOSING; DEFAULT AND REMEDIES.**

**13.1 Termination before Closing.** If Closing shall not have previously occurred, this Agreement may be terminated either upon mutual written consent signed by both Parties, or upon notice from one party to the other as follows:

- (a) By Buyer pursuant to Section 7.3 (Risk of Loss).
- (b) By Buyer pursuant to section 8.3 (FCC Delay).
- (c) By Buyer, if Buyer is not in material breach of its obligations under this Agreement, upon the occurrence of a Seller's Event of Default (as defined in Section 13.2 (b)), or upon failure of any condition precedent to Buyer's obligation to close (as set forth in Section 10.4).
- (d) By Seller, if Seller is not in material breach of its obligations under this Agreement, upon the occurrence of a Buyer's Event of Default (as defined in Section 13.2(a)), or upon failure of any condition precedent to Seller's obligation to close (as set forth in Section 10.5).
- (e) Any such termination shall not affect the obligations that either party may have to the other under to the LMA.

### **13.2 Default and Remedies.**

- (a) The occurrence of any one or more of the following events shall constitute a material default of this Agreement by Buyer ("Buyer's Event of Default"):

(i) The material breach of any representation or warranty by Buyer hereunder, unless such breach is cured prior to the Closing Date within ten (10) days after delivery of written notice from Seller to Buyer.

(ii) The failure by Buyer to consummate the transactions contemplated by this Agreement in violation of the provisions of this Agreement; and,

(iii) The failure by Buyer to perform any other of its obligations under this Agreement, where such failure shall continue for a period of ten (10) days after delivery of written notice of demand therefor from Seller to Buyer; provided, however, that if more than ten (10) days are reasonably required to cure such failure, then Buyer shall not be deemed to be in default thereof if Buyer, in good faith, has commenced such cure within said ten (10) day period and thereafter diligently prosecutes such cure to completion and completes such cure prior to Closing.

(b) The occurrence of any one or more of the following events shall constitute a material default of this Agreement by Seller ("Seller's Event of Default"):

(i) The material breach of any representation or warranty by Seller hereunder, unless such breach is cured prior to the Closing Date within ten (10) days after delivery of written notice from Buyer to Seller.

(ii) The failure by Seller to consummate the transactions contemplated by this Agreement in violation of the provisions of this Agreement; and,

(iii) The failure by Seller to perform any other of its obligations under this Agreement, where such failure shall continue for a period of ten (10) days after delivery of written notice of demand therefor from Buyer to Seller; provided, however, that if more than ten (10) days are reasonably required to cure such failure, then Seller shall not be deemed to be in default thereof if Seller, in good faith, has commenced such cure within said ten (10) day period and thereafter diligently prosecutes such cure to completion and completes such cure prior to Closing.

(c) Upon the occurrence of a Seller's Event of Default, in addition to any and all other rights and remedies that Buyer may have (all of which are hereby reserved, including but not limited to, the right to return of the Deposit), Buyer shall be entitled to obtain a decree of specific performance or injunctive relief against Seller without the necessity of posting any bond or security. Seller specifically acknowledges and agrees that the Station and Purchased Assets are of a special, unique, and extraordinary character, and that any default or breach of this Agreement by Seller could not be adequately compensated for by damages. Seller hereby waives any defense that Buyer has or may have an adequate remedy at law.

(d) Upon the occurrence of a Buyer's Event of Default, Seller's sole and exclusive remedy shall be the right to keep the Deposit as liquidated damages. Buyer shall have no further obligation to Seller hereunder. Seller acknowledges and agrees that its actual damages are difficult to quantify or estimate on the date hereof and



would be difficult for it to prove, that the liquidated damages provided for herein are fair and reasonable, and do not constitute a penalty.

#### **14. NOTICES.**

All notices and other communications required or permitted hereunder shall be in writing and deemed to have been duly given when delivered personally, sent by overnight courier, or mailed by USPS Express mail, and addressed (subject to subsequent change of address by notice of like means) as follows:

- (a) If to Seller, to: GEOS COMMUNICATIONS  
Attention: Ben Smith  
268 Overton Road  
Dushore, Pennsylvania 18614
- (b) If to Buyer, to: THE ST. LAWRENCE UNIVERSITY  
Attention: Robert Sauter  
North Country Public Radio  
Canton, New York 13617

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

Donald E. Martin, P.C.  
P.O. Box 8433  
Falls Church, Virginia 22041

#### **15. CONTROL OF STATION.**

Between the date hereof and the Closing Date, Seller shall manage and control the operation of the Station subject to the terms and conditions of this Agreement, the LMA and Applicable Laws.

#### **16. EXPENSES.**

Unless otherwise agreed to herein or in another writing signed by the Parties, each party shall pay its own costs and expenses (including all legal and accounting fees) related to the contemplated transaction, including without limit the performance and compliance by each of the Parties with all covenants and conditions contained herein. The Parties represent, warrant and agree that no broker or finder has been involved with this transaction. Buyer shall be responsible for payment of the FCC filing fee associated with the Assignment Application, if any.

#### **17. HEADINGS.**

The headings contained in this Agreement are for reference purposes only, and they shall not affect in any way the meaning or interpretation of this Agreement.

**18. ENTIRE AGREEMENT.**

This Agreement, including any Schedules attached, constitutes the entire agreement of the Parties, and supersedes all prior understandings or agreements between them whether oral or written, with respect to the subject matter contained herein. Each of the Parties has read and understands this Agreement, and each has been represented by counsel of its own choice or has had the opportunity to engage such counsel. This Agreement shall not be changed, modified, amended, extended, terminated, waived or discharged except by a subsequent writing signed by the Parties. To the extent permitted by the FCC, the Schedules shall not be filed with the FCC Assignment Application.

**19. COUNTERPARTS.**

This Agreement may be executed and exchanged in one or more original, PDF or facsimile counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same agreement.

**20. ASSIGNABILITY.**

Neither this Agreement nor any rights or obligations hereunder may be assigned by Buyer or Seller without the express prior written consent of the other party. This Agreement shall be binding upon and inure to the benefit of the Parties, their heirs, legal representatives, successors and assigns.

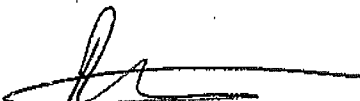
**21. GOVERNING LAW.**

This Agreement shall be governed by, construed and enforced in accordance with the laws of the State of New York, without regard to any conflict of laws principles. No presumption against any drafter shall be applicable.

**22. SEVERABILITY.**

In the event that any provision of this Agreement is held to be invalid, illegal or unenforceable, it shall be enforced to the maximum extent allowed by law; and, such invalidity, illegality, or unenforceability shall not affect the remainder of the Agreement, which shall remain in full force and effect.

**IN WITNESS WHEREOF**, the Parties have authorized the execution, delivery and performance of this Asset Purchase Agreement as of the date first written above.

  
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**GEOS COMMUNICATIONS ("Seller")**  
by: Benjamin P. Smith, General Partner



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**THE ST. LAWRENCE UNIVERSITY ("Buyer")**

by: \_\_\_\_\_

**Joseph P Manory'**  
**Vice President**  
**Finance & Treasurer**