

## ASSET PURCHASE AGREEMENT

THIS ASSET PURCHASE AGREEMENT (this “Agreement”) dated as of February 17, 2023, by and between KXLE, INC., a Washington corporation (“Seller”) and ELLENSBURG RADIO BROADCASTING, LLC, a Washington limited liability company (“Buyer”). The parties hereto shall be known as the Parties in the plural or a Party in the singular.

WHEREAS, Seller is the holder of certain broadcast authorizations (the “FCC Authorizations”) issued by the Federal Communications Commission (“FCC”) for the following “Stations”:

- (a) KXLE-AM, Ellensburg, WA: FAC ID# 35958; and
- (b) KXLE-FM, Ellensburg, WA: FAC ID# 35957

WHEREAS, Seller desires to sell and assign the FCC Authorizations and sell certain related assets of the Stations to Buyer, and Buyer desires to purchase and acquire the FCC Authorizations and purchase certain related assets of the Stations from Seller upon the terms and conditions set forth herein, and

WHEREAS, the FCC Authorizations may not be sold nor assigned without the prior consent of the FCC.

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein, Buyer and Seller, intending to be legally bound, hereby agree as follows:

1. Assets To Be Sold. Subject to the approval of the FCC and to the terms and conditions of this Agreement, Seller agrees to sell, and Buyer agrees to purchase the following assets (collectively the “Assets”). Seller shall convey and transfer to Buyer good and marketable title to the Assets free and clear of liens or encumbrances, except for liens for taxes not yet due and payable and liens, as set forth on Schedule 1, which will be released at or prior to Closing (collectively, the “Permitted Liens”).

(a) FCC Authorizations. The FCC Authorizations issued by the FCC to Seller in connection with the business and operations of the Stations, as listed in Schedule 1(a) hereto, together with any additional authorizations or licenses issued by the FCC with respect to the operation of the Stations between the date hereof and the Closing Date and the Stations’ Call Letters.

(b) Tangible Personal Property. The personal property used or useful in the operation of the Stations, all as listed in Schedule 1(b) hereto, together with any replacements thereof made between the date of this Agreement and the Closing Date (the “Tangible Personal Property”).

(c) Intangible Assets. The Intangible Assets includes all right, title, and interest in Seller’s Intellectual Property associated with the Stations to include Station logos, trademarks, slogans, and Social Media accounts which pertain to the Stations. Social Media accounts would include without limitation, and to the degree such exist; Facebook, Twitter, Instagram, and so forth, and associated internet accounts and the domain registrations.

(d) Records. All records required by the FCC to be created and retained by Seller on behalf of the Stations, software, warranties, engineering studies, and business records that relate to or affect the Assets or the operation of the Stations and that are within Seller's possession and control, including the contents of the Stations' online public inspection files.

(e) Assumed Contracts. The contracts, leases, and agreements to which Seller is a party, as listed in Schedule 1(e) attached hereto and included herein by reference, which Buyer has reviewed and agreed to assume, (the "Assumed Contracts"). Seller's provision of the Assumed Contracts and any consents to assignment which may apply shall be conditions precedent to Closing.

(f) Accounts Receivable. Buyer shall purchase Seller's Accounts Receivable on the books of the Stations prior to and as of the Closing Date (the "Accounts Receivable") as they pertain to cash advertising sales only, no Trades. As of the Closing, Seller shall provide Buyer a true and complete list of the Accounts Receivable to include their balances, and the aging thereof. The value of the Accounts Receivable shall be determined as of the Closing Date. Buyer has agreed to pay Seller an amount equal to eighty percent (80%) of the cumulative value of the Accounts Receivable.

2. Excluded Assets. Without limiting the foregoing, the Assets shall not include the following excluded assets ("Excluded Assets"):

(a) All Seller's assets and other property, contractual rights, or leasehold interests (except those leasehold interests in any Real Property described in Section 2(c) below);

(b) Cash, and cash equivalents;

(c) Real Property to include the KXLE-AM tower site and/or any office/studio locations;

(d) Any employment contracts or obligations regarding any personnel working at or for the Stations prior to the Closing Date subject further to the conditions set forth at Section 3 hereinbelow;

(e) Federal, state, and local tax refunds pending, accrued, and not paid as of the Closing Date;

(f) Personnel and other records Seller is required to retain provided Seller shall provide complete copies of such records for any employee of Seller whom Buyer employs post-Closing;

(g) Personal cell phones and computers of Brad Tacher, not to be considered Tangible Personal Property of the Stations;

(h) Seller's corporate minute books and stock records;

(i) Seller's tax and accounting records;

(j) Contracts of insurance or insurance proceeds and insurance claims made by Seller relating to property or equipment repaired, replaced, or restored by Seller prior to the Closing Date;

(k) Payment of accounts payable in existence as of the Closing Date shall be the sole responsibility of Seller, except for Buyer's pro-rated expenses as of Closing;

(l) Buyer shall assume only those contracts, leases, agreements, and/or obligations which Buyer shall have reviewed and agreed in writing to assume; and

(m) Upon Closing, there shall be no active Trade accounts on the Stations and Buyer shall not be required to assume any Trade accounts which had been carried on the Stations prior to Closing or those projected to occur post-Closing.

3. Personnel.

(a) On or before the Date of this Agreement, Seller shall deliver to Buyer a list of the Stations' employees and the compensation and benefits provided to each employee showing:

(i) The names of all persons on the payroll of the Stations, together with a statement of the amount paid or payable to each such person for their services;

(ii) The bonus or other material compensation arrangements and personnel benefits or policies in effect, if any, for each employee;

(iii) A complete copy of each such plan, benefit, and policy; and

(iv) Vacation allowance per employee.

(b) Seller has made no representation to any of the Stations' employees concerning employment by Buyer after the Closing Date. Any decision by Buyer to employ any of the employees of the Stations on or after the Closing Date is made in its sole discretion absent any representation or warranty as to the qualifications of such employee by Seller. In no event shall Buyer be obligated to employ, hire, or engage any of Seller's employees or independent contractors. Such employment or engagement, if any, shall be exclusively within the sole discretion of Buyer and such employment shall be on terms consistent with Buyer's employment practices.

(c) Buyer will provide to any person who is employed by Seller for the Stations on the day prior to the Closing Date and who is not retained by Seller thereafter with an opportunity to file an application for employment with Buyer for future employment at the Stations. Buyer will give due consideration to any employment application received from a former employee of Seller but in no event shall Buyers' willingness to interview or consider former employees of Seller for employment at the Stations be deemed to be a guarantee of employment by Buyer, nor shall Buyer be obligated to hire any such person.

(d) Buyer does not and shall not be responsible for any severance or final payments due Seller's terminated employees and Seller shall represent and warrant at Closing that all employees accrued and unpaid vacation, PTO, sick leave, bonuses, or similar compensation has been paid by Seller to the affected employees.

(e) The foregoing notwithstanding, Buyer has indicated to Seller that it desires to retain the management services of Brad Tacher for a period of time post-Closing upon terms and conditions to be set forth in a Management Agreement, negotiated and entered into separately from this Agreement.

4. Lease Agreement. In conjunction with the mutual execution of this Agreement, the Parties have entered into a Lease Agreement regarding the office/studio facilities and co-located transmission facilities situated at 1311 Vantage Highway, Ellensburg, Washington. A copy of the Lease Agreement shall be delivered to Buyer at Closing as a separate document, and the mutual execution and delivery of the Lease Agreement shall be a condition precedent to the Closing of this Agreement.

5. Purchase Price. The Purchase Price to be paid pursuant to this Agreement shall be Two Hundred Fifty Thousand Dollars (\$250,000.00) to be paid by Buyer to Seller as follows:

(a) Escrow Deposit. Within three (3) business days of the execution hereof, Buyer shall deposit into escrow the sum of Twenty-Five Thousand Dollars (\$25,000.00) (the “Escrow Deposit”) with Hawkins Law, PLLC, Walla Walla, Washington (as “Escrow Agent”) and in conjunction with the preparation and execution of this Agreement, the Parties shall execute an Escrow Agreement, substantially in the form attached hereto as Exhibit 1, which shall set forth irrevocable instructions, mutually agreeable to both Parties concerning the deposit, disposition, and delivery of an Escrow Deposit. Pursuant to the Escrow Agreement, on the Closing Date and the consummation of the transaction, Buyer and Seller agree that the Escrow Deposit shall be released to Seller as directed by Seller and credited towards the Purchase Price.

(b) Payment at Closing. On the Closing Date, Buyer shall deliver to Seller the additional amount of Two Hundred Twenty-Five Thousand Dollars (\$225,000.00) via wire transfer or as directed by Seller, subject to any adjustments pursuant to Section 5(c) below.

(c) Prorations. All of Seller’s pre-paid expenses shall be prorated between Buyer and Seller as of the Closing Date. For the avoidance of doubt, such prorations shall include all utility expenses, property taxes, rents and similar prepaid items for which Buyer receives the benefit. Post-closing expenses that are Seller’s responsibility shall also be prorated.

(d) Purchase Price Allocation. The Purchase Price shall be allocated among the Assets as follows;

- (i) The FCC Licenses, goodwill, and intangible property: \$225,000.00;
- (ii) The Tangible Personal Property: \$25,000.00.

6. Liabilities Assumed and Excluded.

(a) Assumed Liabilities. Upon the Closing, Buyer shall assume, pay, and perform the liabilities and obligations of Seller arising on and after the Closing Date relating to the Assumed Contracts or any Purchased Asset, in each case to the extent arising or occurring after the Closing (collectively, “Assumed Liabilities”).

(b) Excluded Liabilities. Except for the Assumed Liabilities, Buyer does not assume, nor shall Buyer be obligated for, any other liabilities, obligations, or responsibilities whatsoever of Seller or arising from or related to Seller's operation of the Stations through the Closing Date (the "Excluded Liabilities"). Without limiting the generality of the foregoing, Seller shall retain and perform all obligations and liabilities related to any employees providing services to the Stations, incurred on or prior to the Closing Date, including, without limitation, any obligations that may arise as the result of the consummation of the transactions contemplated by this Agreement.

7. Pre-Closing Covenants.

(a) Seller's Pre-Closing Covenants.

(i) From the date of this Agreement to the Closing Date, the Stations shall be operated in material compliance with their FCC Authorizations.

(ii) From the date of this Agreement to the Closing Date, Seller will (A) maintain, preserve and keep the Assets and technical facilities of the Stations in good repair, working order and condition, reasonable wear and tear excepted; (B) maintain appropriate insurance on the Assets, (C) pay all liabilities and obligations pertaining to the Stations, the Assets and technical facilities of the Stations that become due and payable in the ordinary course of business, including all taxes, assessments and government charges upon or against the Assets or the technical facilities or operations of the Stations; and (D) comply in all material respects with all statutes, rules and regulations applicable to the Assets or the operation of the Stations.

(iii) Seller will not, without the prior written consent of Buyer, other than in the ordinary course of Seller's business and which consent shall not be unreasonably withheld or delayed and which shall be deemed accepted if, following a request from Seller that is delivered to Buyer pursuant to Section 23 hereof, Buyer does not timely respond to Seller's request: (A) make any sale, assignment, transfer, or other conveyance of any of the Assets; (B) subject any of the Assets or any part thereof to any mortgage, pledge, security interest, or lien, other than Permitted Liens; or (C) enter into any agreement, license, lease or other arrangements with respect to the Stations or the Assets, or amend any existing agreements, licenses or leases with respect thereto.

(iv) Seller shall not cause or permit, by any act or failure to act, any of the FCC Authorizations to expire or to be revoked, suspended, or modified, or take any action that would reasonably be expected to cause the FCC or any other governmental authority to institute proceedings for the suspension, revocation, or adverse modification of any of the authorizations issued for the operation of the Stations. Seller shall not fail to prosecute with reasonable diligence any applications to any governmental authority necessary for the continued operation of the Stations.

(v) Seller shall timely perform all its obligations under the Assumed Contracts and shall maintain each of them in full force and effect. Seller shall not commit or permit any action, or omit or permit to omit any action, the commission or omission of which could reasonably be foreseen to potentially result in default under or termination of any Assumed Contract.

(vi) Unless Buyer shall have given its prior written consent, Seller shall not enter into any new material contract or incur any material obligation that would, by its terms, be binding on Buyer after the Closing, other than in the ordinary course of business.

(vii) Seller shall not take any action that is inconsistent with its obligations under this Agreement that could reasonably be expected to cause any of its representations or warranties set forth herein to be untrue as of Closing in any material respect, or that could hinder or delay the consummation of the transactions contemplated by this Agreement.

(b) Buyer's Pre-Closing Covenants. Buyer shall not take any action that is inconsistent with its obligations under this Agreement that could reasonably be expected to cause any of its representations or warranties set forth herein to be untrue as of Closing in any material respect, or that could hinder or delay the consummation of the transactions contemplated by this Agreement.

## 8. FCC Approval.

(a) FCC Approval Required. Consummation of the sale of the Assets (the "Closing") is conditioned upon the FCC having given its consent to the assignment from Seller to Buyer of all FCC Authorizations (the "FCC Approval").

(b) Filing of Assignment Application. The Parties shall cooperate in good faith and jointly prepare and file the application for FCC Approval (the "Assignment Application") not later than five (5) business days after execution of this Agreement.

(c) Prosecution of Assignment Application. Buyer and Seller shall diligently prosecute the Assignment Application and otherwise use their commercially reasonable efforts to obtain the FCC Approval as soon as possible; provided however, neither Buyer nor Seller shall be required to pay consideration to any third party to obtain the FCC Approval. Buyer and Seller each shall oppose any petition to deny, or other objections filed with respect to the Assignment Application to the extent such petition or objection relates to such Party. Each Party agrees to comply with any condition imposed on it by the FCC Approval, except that no Party shall be required to comply with a condition if compliance with a condition that would have a Material Adverse Effect (as defined below) upon it or upon the Station. Buyer and Seller shall oppose any requests for reconsideration or judicial review of the FCC Approval. If the Closing shall not have occurred for any reason within ninety (90) days of the FCC Approval, and neither Party shall have terminated this Agreement, the Parties shall jointly request one (1) extension of the deadline to consummate this transaction.

(d) Closing Date. The Closing shall take place on a mutually agreed upon date (the "Closing Date") that is not later than five (5) business days following the date of the initial FCC Approval. Notwithstanding the foregoing, if a petition to deny or an informal objection has been filed against the Assignment Application, Buyer may elect to defer the Closing until the fifth (5<sup>th</sup>) business day after the FCC Approval has become a Final Order. For purposes of this Agreement, "Final Order" means an action by the FCC that has not been reversed, stayed, enjoined, set aside, annulled, or suspended, and with respect to which no requests are pending for administrative or judicial review, reconsideration, appeal, or stay, and the time for filing any such requests and the time for the FCC to set aside the action on its own motion have expired. The FCC Approval shall become a Final Order when the time for any appeal, request for reconsideration, or request to vacate or set it aside, has expired and no such appeal or request is pending.

(e) Closing Method. The Closing will take place by the exchange of documents delivered by overnight carrier, email, facsimile, or by such other method as Buyer and Seller may select by mutual agreement with payment of the Purchase Price pursuant to Section 5 hereinabove.

9. Seller's Representations and Warranties. Seller represents and warrants to Buyer as follows:

(a) Organization and Standing. Seller is a corporation legally formed, constituted, and in good standing under the laws of the State of Washington and is authorized under the laws of Washington to conduct business in Washington. Seller possesses all power and authority necessary to own and operate the Assets and Stations and execute, deliver, and perform this Agreement.

(b) Authorization and Binding Obligation. The execution, delivery, and performance of this Agreement by Seller have been duly authorized by all necessary actions on the part of Seller. This Agreement has been duly executed and delivered by Seller and constitutes the legal, valid, and binding obligation of Seller, enforceable against Seller in accordance with its terms except as the enforceability of this Agreement may be affected by bankruptcy, insolvency, or similar laws affecting creditors' rights generally and by judicial discretion in the enforcement of equitable remedies.

(c) Current and Valid FCC Authorizations. Schedule 1(a) contains an accurate and complete list in all material respects of the FCC Authorizations as of the date hereof. Seller validly holds all material authorizations that are required under the Communications Act of 1934, as amended, and the rules and published policies of the FCC promulgated thereunder (collectively, "Communications Laws") for the ownership or operation of the Stations as currently conducted. Other than the FCC Authorizations, applicable local business permits, and any applicable real property restrictions, Seller is not required to hold any license, permit or other authorization from any governmental authority for the lawful conduct of the operation of the Stations. No action or proceeding is pending or, to the knowledge of the Seller, threatened, before the FCC or other governmental or judicial body, for the cancellation, suspension or material or adverse modification of FCC Authorizations. To Seller's knowledge, there is no reason to believe that the FCC Authorizations will not be renewed in the ordinary course.

(d) Operation of the Stations. Seller (i) is operating the Stations in all material respects in compliance with the Communications Laws, and otherwise in compliance with all applicable local, state and Federal laws, (ii) has filed all material tax returns, FCC reports and other documents required to be filed by any governmental authority with respect to the Assets or the Stations; (iii) has maintained the online public inspection files for the Stations in material compliance with FCC requirements, and (iv) has not stored, disposed of nor used, nor has any knowledge that any other party has disposed of or used, any hazardous substance in a manner that is likely to result in liability for Buyer under any applicable law or regulation. All material reports and other filings required by the FCC with respect to the FCC Authorizations, Seller, the Assets, or the operation of the Stations have been timely filed with the FCC, and all such reports and other filings are materially complete and correct as filed.

(e) Absence of Conflicting Agreements. There are no outstanding agreements or understandings for the sale of the Stations to any party other than Buyer. Subject to obtaining FCC Approval, the execution, delivery, and performance by Seller of this Agreement and the Closing documents contemplated hereby (with or without the giving of notice, the lapse of time,

or both): (i) will not conflict with the organizational documents of the Seller; (ii) will not materially conflict with, result in a breach of, or constitute a default under, any law, judgment, order, injunction, decree, rule, regulation, or ruling of any court or governmental instrumentality applicable to Seller; and (iii) will not conflict with, constitute grounds for termination of, result in a breach of, constitute a default under, or accelerate or permit the acceleration of any performance required by the terms of, any agreement, instrument, license, or permit to which Seller is a party or by which Seller may be bound.

(f) Title to and Condition of Assets. Seller has good and marketable title to the Assets. Schedule 1(b) contains an accurate list of the material Tangible Personal Property used or useful by the Stations as of the date hereof. The Tangible Personal Property listed on Schedule 1(b) constitutes all of the material assets and properties required for and used exclusively for the operation of the Stations' transmission facilities as currently operated by Seller. To Seller's actual knowledge, the Assets are in good condition and repair, ordinary wear and tear excepted, and do not have any structural or other material defects. The Assets are, or at Closing, will be free of all liens, encumbrances, or hypothecations, other than Permitted Liens. On the Closing Date, each item comprising the Assets shall be in the same operating condition in all material respects as on the date of execution of this Agreement, ordinary wear and tear excepted. If necessary, Seller shall update Schedule 1(b) at the Closing.

(g) Assumed Contracts. Seller has performed its obligations under each of the Assumed Contracts in all material respects, and Seller is not in material default thereunder, and to Seller's knowledge, no other party to any of the Assumed Contracts is in default thereunder in any material respect. Each of the Assumed Contracts is and on the Closing Date will be in effect and binding.

(h) Claims and Litigation. There is no judgment outstanding or any claim or litigation or proceeding pending or, to Seller's knowledge, threatened regarding the title or interest of Seller to or in any of the Assets or the Stations' operations, or which could prevent or adversely affect the ownership, use, or operation of the Stations by Buyer. Except as indicated in conjunction with the exhibits provided on Schedule 1(a), there is (i) no complaint or other proceeding pending, outstanding, or to Seller's actual knowledge threatened, before the FCC as a result of which an investigation, notice of apparent liability or order of forfeiture may be issued from the FCC relating to any of the Stations, (ii) no FCC notice of apparent liability or order of forfeiture pending, outstanding, or to Seller's actual knowledge threatened, against Seller or any of the Stations, and (iii) no investigation pending, outstanding, or to Seller's knowledge threatened, with respect to any violation or alleged violation of any Communications Law by Seller.

(i) Disclosure. No representation or warranty made by Seller in this Agreement, or any statement or certificate furnished by, or to be furnished by, Seller to Buyer pursuant hereto, or in connection with the transaction contemplated hereby, contains, or will contain, any untrue statement of a material fact, or omits, or will omit, to state a material fact necessary to make the statements contained therein not misleading.

(j) No Other Representations. Seller disclaims any and all other representations and warranties (express or implied, oral, or written), except as expressly set forth in this Section 9. Buyer specifically acknowledges that Seller shall not be deemed to have made, and Buyer is in no way relying upon, any representation or warranty not expressly set forth in this Section 9, including with respect to materials, if any, previously delivered or made available to Buyer concerning the Purchased Assets.



10. Buyer's Representations and Warranties. Buyer represents and warrants to Seller as follows:

(a) Organization and Standing. Buyer is a Washington limited liability company validly formed and in good standing under the laws of the State of Washington. Buyer possesses all power and authority necessary to own and operate the Assets and Stations and execute, deliver, and perform this Agreement.

(b) Authorization and Binding Obligation. The execution, delivery, and performance of this Agreement by Buyer have been duly authorized by all necessary actions on the part of Buyer. This Agreement has been duly executed and delivered by Buyer and constitutes the legal, valid, and binding obligation of Buyer, enforceable against Buyer in accordance with its terms except as the enforceability of this Agreement may be affected by bankruptcy, insolvency, or similar laws affecting creditors' rights generally and by judicial discretion in the enforcement of equitable remedies.

(c) Absence of Conflicting Agreements. Subject to obtaining FCC Approval, the execution, delivery, and performance by Buyer of this Agreement and the Closing documents contemplated hereby (with or without the giving of notice, the lapse of time, or both): (i) will not conflict with any organizational documents of the Buyer; (ii) will not materially conflict with, result in a breach of, or constitute a default under, any law, judgment, order, injunction, decree, rule, regulation, or ruling of any court or governmental instrumentality applicable to Buyer; (iii) will not conflict with, constitute grounds for termination of, result in a breach of, constitute a default under, or accelerate or permit the acceleration of any performance required by the terms of, any agreement, instrument, license, or permit to which Buyer is a party or by which Buyer may be bound.

(d) Buyer's Qualifications. Buyer is legally, financially, and otherwise qualified to be the licensee of and acquire, own, and operate the Stations under the Communications Laws. Buyer knows of no fact that would, under existing law and the existing Communications Laws, disqualify Buyer as assignee of the FCC Authorizations or as the owner and operator of the Stations.

(e) Disclosure. No representation or warranty made by Buyer in this Agreement, or any statement or certificate furnished by, or to be furnished by, Buyer to Seller pursuant hereto, or in connection with the transactions contemplated hereby contains, or will contain, any untrue statement of a material fact or omits, or will omit, to state a material fact necessary to make the statement contained therein not misleading.

11. Risk of Loss. Risk of loss, damage, or destruction to the Assets to be sold and conveyed hereunder ("Loss") shall be upon the Seller until the Closing Date. After Closing, the risk of Loss shall be solely upon Buyer. In the event that any such Loss occurring prior to Closing shall be sufficiently substantial so that any representation or warranty of Seller shall not be true and correct in all material respects at Closing (after giving consideration to any repairs, restoration, or replacement ("Repairs") to occur prior to Closing), Seller shall promptly notify Buyer in writing of the circumstances.

(a) At such time Seller notifies Buyer of any such Loss, Seller shall provide Buyer with a detailed description of the Loss and an itemized estimation of the Repairs;

(b) In addition to the itemization and estimation of the Repairs, Seller will provide Buyer with the details of any and all anticipated insurance proceeds with which to carry out the Repairs and Seller's intentions to proceed with the Repairs; or in the alternative if Seller proposes to assign the insurance proceeds to Buyer who may then perform the Repairs post-Closing;

(c) Buyer, at any time within ten (10) days after receipt of such notice and the details required pursuant to Sections 11(a) and (b) above, may elect by written notice to Seller either to (i) proceed toward consummation of the transactions contemplated by this Agreement in accordance with the terms hereof, and subject to the occurrence of Closing, complete the Repairs post-Closing, in which event Seller shall deliver to Buyer all insurance proceeds received in connection with such Loss, or (ii) if the costs of Repairs exceed the insurance proceeds, Buyer shall have the option to proceed to Closing assuming the incremental un-insured costs of Repairs or absent any appropriate adjustment to the Purchase Price, terminate this Agreement.

12. Access to Information. Seller shall provide Buyer and its designated representatives access to the Assets and the Stations' facilities, including the Stations' transmitter sites, upon reasonable advance notice during normal business hours prior to Closing and at times that will not interfere with the operation of the Stations. After execution of this Agreement and until Closing, Seller shall affirmatively and promptly disclose to Buyer any material matters affecting the Assets or operations of the Stations of which Seller may become aware, including claims made and contract obligations to be entered into by Seller.

13. Brokers, Costs and Expenses. Buyer and Seller shall bear their respective costs and expenses for attorneys, accountants, brokers, and advisors retained by or representing them in connection with their respective negotiation and execution of this Agreement and the performance of their respective obligations hereunder. Buyer and Seller each represents that there are no fees (including, but not limited to, brokerage fees) due to any broker as the result of this Agreement, other than MCH Enterprises, Inc., the fees of which shall be the sole responsibility of Buyer. Buyer, at Buyer's sole cost and expense, may obtain lien, tax, and judgment searches with respect to Seller and the Assets. Buyer and Seller shall each be responsible for one half (1/2) of the FCC filing fees associated with the Assignment Application.

14. Conditions Precedent to Buyer's Obligation to Close. The obligation of Buyer to purchase the Assets and to otherwise consummate the transactions contemplated by this Agreement are subject to the satisfaction or waiver by Buyer, on or prior to the Closing Date, of each of the following conditions:

(a) The FCC Approval shall have been granted, and Seller shall have complied with any conditions imposed on it by the FCC Approval that Seller is obligated to satisfy under the terms of this Agreement.

(b) All representations and warranties of Seller contained in this Agreement shall be true and complete at and as of the Closing Date as if such representations and warranties were made at and as of the Closing Date except for (i) any inaccuracies that in the aggregate could not reasonably be expected to have a Material Adverse Effect on the Assets or the operation of the Stations, or (ii) any representation or warranty that is expressly stated only as of a specified earlier date, in which case such representation or warranty shall be true as of such earlier date.

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

(d) Seller shall hold valid, current, and unexpired FCC Authorizations for each of the Stations.

(e) The Assets shall be free and clear of all liens and encumbrances as of Closing, other than Permitted Liens.

(f) No injunction, restraining order or decree of any nature of any court or governmental authority of competent jurisdiction shall be in effect that restrains or prohibits Buyer from consummating the transactions contemplated by this Agreement.

(g) Buyer shall have received from Seller the documents and other items to be delivered by Seller pursuant to Section 17 of this Agreement.

15. Conditions Precedent to Seller's Obligation to Close. The obligations of Seller to sell the Assets and to otherwise consummate the transactions contemplated by this Agreement are subject to the satisfaction or waiver by Seller, on or prior to the Closing Date, of each of the following conditions:

(a) The FCC Approval shall have been granted and Buyer shall have complied with any conditions imposed on it by the FCC Approval that Buyer is obligated to satisfy under the terms of this Agreement.

(b) All representations and warranties of Buyer contained in this Agreement shall be true and complete at and as of the Closing Date as if such representations and warranties were made at and as of the Closing Date except for (i) any inaccuracies that in the aggregate could not reasonably be expected to have a Material Adverse Effect on Buyer's ability to consummate the transaction contemplated by this Agreement, or (ii) any representation or warranty that is expressly stated only as of a specified earlier date, in which case such representation or warranty shall be true as of such earlier date.

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

(d) No injunction, restraining order or decree of any nature of any court or governmental authority of competent jurisdiction shall be in effect that restrains or prohibits Seller from consummating the transactions contemplated by this Agreement.

(e) Seller shall have received from Buyer the documents and other items to be delivered by Buyer pursuant to Section 16 of this Agreement.

16. Buyer's Delivery at Closing. At the Closing, Buyer will deliver or will have delivered to Seller, duly executed as may be appropriate:

(a) The Purchase Price as described in Section 5.

(b) An Assignment and Assumption of FCC Authorizations.

(c) An Assignment and Assumption of each of the Assumed Contracts to include the Site Easement Agreement With Option described at Section 1(e) hereinabove.

(d) Delivery of the Lease Agreement described at Section 4 hereinabove.

(e) A certificate dated as of the Closing Date, executed on behalf of Buyer by an officer of Buyer, attesting to its fulfillment of the conditions set forth in Section 14.

(f) Delivery of the Lease Agreement consistent with the terms set forth at Section 1(e) hereinabove.

(g) Such additional instruments as Seller may reasonably require effectuating the assignment from Seller to Buyer of the Stations and Assets, and the objectives of this Agreement.

17. Seller's Delivery at Closing. At the Closing, Seller shall deliver or have delivered to Buyer, duly executed:

(a) An Assignment and Assumption of FCC Authorizations.

(b) A Bill of Sale conveying title to the Tangible Personal Property.

(c) An Assignment and Assumption of each of the Assumed Contracts to include the Site Easement Agreement With Option described at Section 1(e) hereinabove.

(d) Delivery of the Lease Agreement described at Section 4 hereinabove.

(e) A certificate dated as of the Closing Date, executed on behalf of Seller by an officer of Seller, attesting to its fulfillment of the conditions set forth in Section 15.

(f) Such additional instruments as Buyer may reasonably require effectuating the assignment from Seller to Buyer of the Stations and Assets, and the objectives of this Agreement.

18. Survival of Warranties. All representations and warranties made by the Parties in this Agreement shall survive the Closing and remain operative in full force and effect for a period of one (1) year (and shall not be deemed merged into any document or instrument executed or delivered at the Closing) after the Closing. All covenants and obligations of the Parties in this Agreement that are not fully performed as of the Closing shall survive the Closing until fully performed.

19. Indemnification.

(a) Indemnification by Seller. Seller shall indemnify and hold harmless Buyer and any of Buyer's officers, trustees, employees, agents, successors and permitted assigns against and in respect of any and all liabilities, obligations, claims, and demands (including reasonable expenses of investigation and attorneys' fees) (hereinafter collectively "Claims") arising out of or related to (i) Seller's operation of the Stations or ownership of the Assets prior to Closing (including, but not limited to, Claims related to compliance with the Communications Laws); (ii) any failure by Seller to perform any covenant or obligation of Seller in this Agreement; (iii) any

inaccuracy in or breach of any representation, warranty, or covenant made by Seller herein; and (iv) any Excluded Assets or any Excluded Liabilities.

(b) Indemnification by Buyer. Buyer shall indemnify and hold harmless Seller and any of Seller's officers, trustees, employees, agents, successors and permitted assigns against and in respect of any and all Claims arising or related to (i) Buyer's operation of the Stations or ownership of the Assets after the Closing (including, but not limited to, Claims related to compliance with the Communications Laws); (ii) any failure by Buyer to perform any covenant or obligation of Buyer in this Agreement; (iii) any inaccuracy in or breach of any representation, warranty, or covenant made by Buyer herein; and (iv) any Assumed Liabilities.

(c) Indemnification by the Parties. The Parties agree to indemnify and hold harmless MCH Enterprises, Inc. and any of its officers, trustees, employees, agents, and successors from and against any and all disputes by and between the Parties arising from the prosecution of this Agreement and those agreements associated with this Agreement.

20. No Assignment. This Agreement may not be assigned by either Party without the other Party's prior written consent, except to a party under common control with the Party seeking to undertake such assignment.

21. Specific Performance. The Parties recognize the uniqueness of the Stations and the Assets, authorizations, and attributes that are associated with their operation, and for that reason agree that Buyer shall have the right to Specific Performance of this Agreement upon default of Seller. If any action is brought by Buyer to enforce this Agreement, Seller shall waive the defense that there is an adequate remedy at law.

22. Termination.

(a) Termination by Seller. This Agreement may be terminated by Seller and the purchase and sale of the Assets abandoned, if Seller is not then in material default, upon written notice to Buyer, upon the occurrence of any of the following:

(i) Buyer's Breach. If Buyer is in material breach of its obligations hereunder and Buyer fails to cure such breach within thirty (30) days following receipt of written notice of such default from Seller; provided, however, that in the case of a breach by Buyer of Section 5 hereto or the failure of Buyer to deliver the Purchase Price at the Closing, the cure period shall be five (5) business days, provided that the FCC Approval has been issued by and no petition to deny or informal objection was filed against the Assignment Application. Notwithstanding the foregoing, if Buyer shall fail to deliver the Escrow Deposit within the timeframe set forth in Section 5 hereto, Seller may terminate this Agreement without affording Buyer the opportunity to cure.

(ii) Conditions. If, on the date that would otherwise be the Closing Date, any condition precedent to the obligations of Seller to consummate the transactions set forth in this Agreement has not been satisfied or waived in writing by Seller.

(iii) Judgments. If there shall be in effect on the date that would otherwise be the Closing Date any judgment, decree, or order that would prevent or make unlawful the Closing.

(b) Termination by Buyer. This Agreement may be terminated by Buyer and the purchase and sale of the Assets abandoned, if Buyer is not then in material default, upon written notice to Seller, upon the occurrence of any of the following:

(i) Seller's Breach. If Seller is in material breach of its obligations hereunder and Seller fails to cure such breach within thirty (30) days following receipt of written notice of such default from Buyer.

(ii) Conditions. If, on the date that would otherwise be the Closing Date, any condition precedent to the obligations of Buyer to consummate the transactions set forth in this Agreement has not been satisfied or waived in writing by Buyer.

(iii) Judgments. If there shall be in effect on the date that would otherwise be the Closing Date any judgment, decree, or order that would prevent or make unlawful the Closing.

(c) Termination by Either Party. This Agreement may be terminated by either Party, if the terminating Party is not then in material default, upon written notice, if the FCC (i) has not granted the Assignment Application by the date nine (9) months after it was filed with the FCC, or (ii) dismisses, denies or designates for an evidentiary hearing the Assignment Application, provided that the right to terminate this Agreement under this Section shall not apply to any Party whose action or inaction in fulfilling a material obligation under this Agreement shall have been a cause for the Closing to fail to occur within the time period set forth herein; or the FCC to dismiss, deny or designate for hearing the FCC Application.

(d) Effect of Termination.

(i) If neither Party hereto is in material breach of any provision of this Agreement, the Parties hereto shall not have any further liability to each other.

(ii) Buyer recognizes that if the transaction contemplated by this Agreement is not consummated as a result of Buyer's breach or default, Seller would be entitled to compensation, the extent of which is extremely difficult and impractical to ascertain. If this Agreement is terminated due to the breach or default of Buyer, Seller shall be entitled to retain the Escrow Deposit as Liquidated Damages, and not as a penalty, as its sole and exclusive remedy. The Parties agree that such Liquidated Damages shall be in lieu of any other remedies to which Seller might otherwise be entitled in law or equity due to Buyer's wrongful failure to consummate the transaction contemplated by this Agreement.

(iii) If the transaction contemplated by this Agreement is not consummated as a result of Seller's breach or default, Buyer, at its option, shall be entitled to the remedy of Specific Performance as stated in Section 21 above, or the return of the Escrow Deposit but not both.

23. Notices. All notices, demands, and requests required or permitted to be given under the provisions of this Agreement shall be (i) in writing, may be delivered by personal delivery, sent by commercial delivery service or certified mail, return receipt requested, or sent by email (with, if available under email options, a "delivery receipt" and a "read receipt" being requested), (ii) deemed to have been given on the date of actual receipt, which may be presumptively evidenced by the date set forth in the records of any commercial delivery service or on the return

receipt, or on the date of the sender's receipt of a "read receipt" from recipient or sender's confirmation by phone of recipient's receipt, and (iii) addressed to the recipient at the address specified below, or with respect to any Party, to any other address that such Party may from time to time designate in a writing delivered in accordance with this Section.

(a) If to Seller:

Mr. Brad Tacher, President  
KXLE, Inc.  
3840 Naneum Road  
Ellensburg, WA 98926  
brad@kxleradio.com

With a copy to:

Ms. Mary A. Tacher  
KXLE, Inc.  
101 101<sup>st</sup> Ave., S.E. #B-201  
Bellevue, WA 98004  
mary@tacher.com

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

Mr. Christopher P. Frost  
Attorney at Law  
11120 N.E. 2<sup>nd</sup> St.,  
Ste. 100  
Bellevue, WA 98004  
cpf7627@aol.com

(b) If to Buyer:

Mr. Greg Smith  
Ellensburg Radio Broadcasting, LLC  
121 Powder Cap Ct.  
Cle Elum, WA 98922  
gsmith0605@msn.com

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

Mr. Greg Smith  
Ellensburg Radio Broadcasting, LLC  
P.O. Box 26487  
Prescott Valley, AZ 86312-6487  
gmsith0605@msn.com

24. Further Assurances. Each of the Parties hereto shall execute and deliver to the other Party hereto such other instruments as may be reasonably required in connection with the performance of this Agreement.

25. Choice of Law, Venue, Arbitration. Any controversy, dispute, or claim, arising out of this Agreement, including its formation and performance, shall be settled by binding arbitration within Kittitas County, Washington, by and in accordance with the Judicial Arbitration and Mediation Services. Judgment on the award rendered by the arbitrator(s) may be entered in any court having jurisdiction. The arbitrator(s) shall apply and resolve the matter pursuant to current Washington law, and the prevailing Party shall be entitled to such attorney fees and costs as may be reasonably incurred.

26. Headings. The headings of sections in this Agreement are for convenience only and will not control or affect the meaning or construction of the provisions of this Agreement.

27. Entire Agreement. This Agreement and the schedules hereto supersede all prior agreements and understandings between the Parties with respect to the sale and purchase of the Assets to be sold and purchased hereunder and may not be changed or terminated orally, and no attempted change, termination, amendment, or waiver of any of the provisions hereof shall be binding unless in writing and signed by both Parties. All schedules attached to this Agreement shall be deemed part of this Agreement and are incorporated herein, where applicable, as if fully set forth herein. This Agreement cannot be amended, supplemented, or modified except by an agreement in writing that makes specific reference to this Agreement, or an agreement delivered pursuant hereto, as the case may be, and which is signed by the Party against which enforcement of any such amendment, supplement, or modification is sought.

28. Waiver of Compliance. Except as otherwise provided in this Agreement, any failure of any of the Parties to comply with any obligation, representation, warranty, covenant, agreement, or condition herein may be waived by the Party entitled to the benefits thereof only by a written instrument signed by the Party granting such waiver, but such waiver or failure to insist upon strict compliance with such obligation, representation, warranty, covenant, agreement, or condition shall not operate as a waiver of, or estoppel with respect to, any subsequent or any other failure. Whenever this Agreement requires or permits consent by or on behalf of any Party hereto, such consent shall be given in writing in a manner consistent with the requirements for a waiver of compliance as set forth in this Section.

29. Severability. In the event that any one or more of the provisions contained in this Agreement or in any other instrument referred to herein, shall, for any reason, be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision of this Agreement, or any other such instrument and this Agreement shall be construed in a manner that, as nearly as possible, reflects the original intent of the Parties.

30. Counterparts. This Agreement may be executed in several counterparts, all of which when taken together shall constitute one Agreement. Delivery of counterpart signature pages may be affected by email of scanned copies of executed signature pages; *provided, however*, that the Parties shall promptly arrange to exchange executed original signature pages by personal or commercial overnight delivery.

31. Construction. This Agreement has been jointly negotiated and drafted by the Parties. Each Party has had the opportunity to seek the advice of counsel of its choice in connection with this Agreement. No ambiguous provision in this Agreement shall be construed against a Party on the grounds that it drafted this Agreement or the provision in question.



32. No Consequential Damages. NOTWITHSTANDING ANYTHING IN THIS AGREEMENT TO THE CONTRARY, NO PARTY SHALL BE HELD LIABLE IN RESPECT OF THIS AGREEMENT FOR INCIDENTAL, INDIRECT, SPECIAL, EXEMPLARY, PUNITIVE OR CONSEQUENTIAL DAMAGES, OR FOR DAMAGES FOR LOST PROFITS, LOST OPPORTUNITY COSTS, BUSINESS INTERRUPTION OR LOSS OF BUSINESS REPUTATION, WHETHER OR NOT SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

33. Material Adverse Effect. As used herein Material Adverse Effect means: (a) any effect, change, condition, fact, development, occurrence, event, circumstance or state of facts (each, an “Effect”) that, individually or in the aggregate with any other Effect, prevents or materially delays or would reasonably be expected to prevent or materially delay Seller from consummating the transactions contemplated hereby; or (b) any Effect that, individually or in the aggregate with any other Effect, has, or would reasonably be expected to have, a materially adverse effect to or on the financial condition, business, assets, operations, results of operations or prospects of the Stations, and, with respect to this clause (b), excluding (i) Effects that impact, or would reasonably be expected to impact, the commercial broadcast radio industry in the United States generally, except to the extent such Effects disproportionately affect the Stations relative to other participants in the commercial broadcast radio industry in the United States generally, (ii) Effects due to conditions in the economy of the United States generally, including changes in the United States or foreign credit, debt, capital or financial markets (including changes in interest or exchange rates) or the economy of any town, city or region in which the Stations conduct business, except to the extent the Stations are disproportionately affected relative to commercial broadcast radio stations in the relevant geographical area generally, (iii) Effects due directly to the execution and delivery of this Agreement or the announcement of this Agreement and the transactions (including the consummation thereof or the taking of any action required hereby) contemplated hereby, (iv) Effects due to earthquakes, hurricanes, tornadoes, pandemics or epidemics, natural disasters or global, national or regional political conditions, including hostilities, military actions, political instability, acts of terrorism or war or any escalation or material worsening of any such hostilities, military actions, political instability, acts of terrorism or war existing or underway as of the date hereof, except to the extent the Stations are disproportionately affected relative to commercial broadcast radio stations in the United States generally, (v) Effects due directly to any breach by Buyer of its obligations under this Agreement; or (vi) Effects due to changes in law, except to the extent the Stations are disproportionately affected relative to commercial broadcast radio stations in the United States generally.

34. Bulk Sales Law. The Parties agree that no bulk sales or financial conveyance statute applies to the transactions contemplated by this Agreement. Buyer therefore waives compliance by Seller with the requirements of any such statutes, and Seller agrees to indemnify and hold Buyer harmless against any claim made against Buyer by any creditor of Seller as a result of a failure to comply with any such statute. In the event the transaction represented herein is subject to a State Sales Tax or similar charges, the Party responsible for such tax shall be as stipulated by Washington State law.

35. Confidentiality. The Parties agree to use their best efforts to keep confidential any and all information furnished to either of them by a Party in the course of the negotiations and the business, technical, and legal reviews, except such information as may be available to the public or to the other Party from another source not under an obligation of confidentiality.

36. Unwind. If, following the Closing, the FCC Approval is reversed on reconsideration, review or appeal or otherwise overturned on its own motion and such reversal becomes a Final Order, the Parties agree to cooperate and to take all necessary and advisable actions to unwind the transaction and to return the Parties to the *status quo ante* within ninety (90) days thereof.

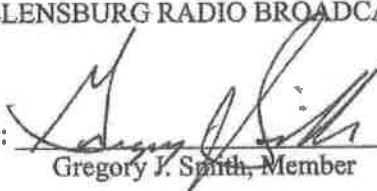
37. Attorneys' Fees. If any action at law or equity is brought, whether in a judicial proceeding or arbitration, to enforce or interpret any provision of this Agreement, the prevailing Party shall be entitled to recover reasonable attorneys' fees and expenses from the other Party, which fees and expenses shall be in addition to any other relief, which may be awarded.

IN WITNESS WHEREOF, the Parties hereto have executed this Asset Purchase Agreement as of the date first set forth above.

SELLER  
KXLE, INC.

By:   
Brad Tacher, President

BUYER  
ELLENSBURG RADIO BROADCASTING, LLC

By:   
Gregory J. Smith, Member

SCHEDULE 1  
Permitted Liens

None.

SCHEDULE 1(a)  
FCC Authorizations

1. KXLE-AM  
Ellensburg, WA  
FAC: 35958  
License Renewal: 1/24/22  
Expiry: 2/1/30  
File in LMS No.: 0000159950
2. KXLE-FM  
Ellensburg, WA  
FAC: 35957  
License Renewal: 1/24/22  
Expiry: 2/1/30  
File in LMS No.: 0000159956
3. Claims and Litigation: None

SCHEDULE 1(b)  
Tangible Personal Property

The following is a partial list of Tangible Personal Property being sold “as-is, where-is” with no warranties post-Closing. Buyer has had an opportunity to inspect the property during due diligence and has found no significant deficiencies. In addition to the itemized items below, the Tangible Personal Property includes all furniture and fixtures used in association with the broadcast equipment and the office/studio. A complete list of Tangible Personal Property will be delivered by Seller to Buyer at Closing:

KXLE EQUIPMENT LIST

HARRIS 20 KW FM TX W/DIGITAL FM TRANSMITTER at tower site

ANDREW DEHYDRATOR at tower site

KAY ROTARY PHASE CONVERTER not operating at tower site

ERIMPX-6C POWER ANTENNA (6) at tower site

ROHN TOWER 196 FEET at tower site

BUILDING APPROXIMATELY 12 FT BY 10 FT at tower site

PHASE CONVERTER #2 phase perfect 40hp 230 V Digital Phase Converter(?) at tower site

EXCITER HARRIS MX 15 at tower site

STL ANTENNAS one at station one at tower site

MOSELY PCL 6010 AURAL STL TRANSMITTER one at tower (receiver) one at station TUBE FOR TRANSMITTER 4cx 20000 at tower site

ORBAN FM OPTIMOD MODEL 8400 at station

ARRIKAS 12,000 series broad cast board at the station

**SCHEDULE 1(e)**  
**Assumed Contracts**

As a condition precedent to Closing, Seller will deliver to Buyer a list, copy, or other documentation of all leases, contracts, and agreements which will be assigned to Buyer at Closing. In the absence of written documentation, Seller will deliver to Buyer the pertinent contact information and the basic terms and conditions, and Seller agrees further to assist Buyer in obtaining such written agreements as Buyer deems necessary and prudent in the acquisition of the Stations and the operations of the Stations.

1. That certain Site Easement Agreement With Option by and between Lawrence Lattin (“Grantor”) and KXLE, Inc. (“Grantee”) dated as of June 13, 2002, regarding a portion of real property (the “Property”) located in the County of Kittitas, State of Washington as described therein.

A true copy of the Agreement shall have been provided as a separate document to Buyer prior to or in conjunction with the execution of this Purchase Agreement.

2. Other:

**EXHIBIT 1**  
**Escrow Agreement**

Provided as a separate document.