

ASSET PURCHASE AGREEMENT

THIS ASSET PURCHASE AGREEMENT, dated as of 11-20-2023, 2023 (this "Agreement"), is by and between **LEE ANDERSON, Manager of SOUTHEASTERN OKLAHOMA RADIO, LLC**, ("Seller"), and **MCALESTER STREAMING TECHNOLOGIES, LLC** ("Buyer").

WITNESSETH:

WHEREAS Seller is the licensee of radio station KMCO (FM), McAlester, Oklahoma, KNED (AM), McAlester, Oklahoma, KTMC-FM, McAlester, Oklahoma, and KTMC (AM), McAlester, Oklahoma, (Channel 101.3; 1150; 105.1; 1400) (the "Station"), pursuant to authorizations (the "FCC Authorizations") issued by the Federal Communications Commission (the "FCC"); and

WHEREAS on the terms and conditions described herein, Seller desires to sell and Buyer desires to acquire certain of the assets owned or leased by Seller and used or useful in connection with the operation of the Station.

NOW, THEREFORE, in consideration of the foregoing and of the mutual promises herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto hereby agree as follows:

1. Sale of Assets.

(a) On the Closing Date (as hereinafter defined), Seller shall sell, assign, and transfer to Buyer, and Buyer shall purchase and assume from Seller, all of the assets, properties, interest, and rights of Seller of whatsoever kind and nature, which are owned by Seller and used or useful in connection with the full on-air operation of the Station (the "Assets") (but excluding the Excluded Assets described in subparagraph (c) below), including without limitation:

- (i) Certain of Seller's equipment, machinery, furniture, furnishings, fixtures, office materials, and other tangible personal property used or useful in the conduct of the transmission operations of the Station (the "Tangible Personal Property"), together with such improvements and additions thereto and replacements thereof between the date hereof and the Closing Date, including, without limitation, the property set for on Schedule 1 hereto;
- (ii) All of the licenses, permits, applications and other authorizations, including the FCC Authorizations (collectively, the "Licenses"), issued by the FCC, the Federal Aviation Administration (the "FAA"), and any other federal, state, or local governmental authorities to Seller in connection with the conduct of the business and the full on-air operations of the Station, including without limitation, those set forth on Schedule 2 hereto;

- (iii) All of Seller's logs, books, files, data, FCC, and other governmental applications, equipment manuals and warranties, and other records relating to the full on-air broadcast operations of the Station, including without limitation all electronic data processing files and systems, FCC filings and all presently existing records required by the FCC to be kept by the Station; and
- (iv) Seller's right, title, and interest in and to all copyrights, licenses, patents, trademarks, service marks, logos, and trade names (including the Station call letters and any variation thereof) used in connection with the operation of the Station and all goodwill associated therewith, including registrations and applications for registration of any of the foregoing, and other similar intangible rights and interests.

(b) The Assets shall be transferred by Seller to Buyer free and clear of all debts, security interests, mortgages, trusts, claims, pledges, conditional sales agreements, and other liens, liabilities and encumbrances of every kind and nature ("Liens"), other than for taxes not yet due and payable ("Permitted Liens"). Buyer is not agreeing to, and shall not assume any liability, obligation, undertaking, expense, or agreement of Seller of any kind, absolute or contingent, known, or unknown, and the execution of and performance of this Agreement shall not render Buyer liable for any such liability, obligation, undertaking, expense, or agreement. All of such liabilities and obligations shall be referred to herein as the "Retained Liabilities." Without limiting the generality of the foregoing, it is understood and agreed that Buyer is not agreeing to, and shall not assume (i) any liability or obligation of Seller to Seller's employees under any existing written or oral agreements with Seller, including any such liability or obligation in respect of wages, salaries, bonuses, accrued vacation or sick pay or any other matter, or (ii) any liability arising out of any termination by Seller of the employment of any employee of the Station or any liability for any employee benefit plan or arrangement of Seller for the Station's employees.

(c) The following assets and obligations relating to the business of the Station shall be retained by Seller and shall not be sold, assigned, or transferred to or assumed by Buyer (the "Excluded Assets"):

- (i) Cash on hand and in banks (or their equivalents), and accounts receivable arising out of the operation of the Station prior to Closing;
- (ii) All rights of Seller under all contracts, leases, and agreements, including contracts of insurance and insurance proceeds of settlement and insurance claims made by Seller relating to property or equipment repaired, replaced, restored by Seller prior to the Closing Date;

- (iii) All pension, profit-sharing, retirement, stock purchase or savings plans or trusts and any assets thereof and all other employee benefit plans;
- (iv) All deposits and all prepaid expenses and taxes; and
- (v) Seller's corporate records.

2. **Purchase Price.**

(a) Upon the terms and subject to the conditions contained in this Agreement, and in consideration of the sale of the Assets, on the Closing Date Buyer shall pay to Seller the aggregate sum of One Million Two Hundred Thousand Dollars and 00/100 (\$1,200,000.00) (the "Purchase Price"). The Purchase Price shall be payable to Seller at Closing as follows:

- (i) On the Closing Date, Buyer shall pay to Seller, by wire transfer of immediately available funds, the sum of One Million One Hundred Ninety-Five Thousand Dollars; (\$1,195,000.00)

(b) Concurrently with the execution of this Agreement, Buyer has delivered to the RICHARD C. LERBLANCE TRUST ACCOUNT (the "Escrow Agent") the sum of Five Thousand Dollars (\$5,000.00) to be held as an earnest money deposit (the "Earnest Money Deposit") pursuant to an Escrow Agreement (the "Escrow Agreement") of even date herewith. The Earnest Money Deposit shall be paid to Seller as partial payment of the cash Purchase Price due at Closing to Seller or shall otherwise be made available to Seller or released to Buyer in accordance with the provisions of this Agreement.

(c) The parties agree to prorate all expenses arising out of the operation of the Station which are incurred, accrued or payable, as of 11:59 p.m. local time of the day preceding the Closing. The items to be prorated shall include, but not be limited to power and utilities charges, security deposits, and similar prepaid and deferred items. On the Closing Date, the prorations shall insofar as feasible, be determined and paid on the Closing Date, with final settlement and payment to be made within forty-five (45) days after the Closing Date.

(d) On or before the Closing Date, Seller and Buyer shall mutually determine an allocation of Purchase Price among the Assets that complies with Section 1060 of the Internal Revenue Code of 1986, as amended.

(e) Seller may obtain a bona fide independent appraisal of the Station Assets conveyed hereunder, and to the extent that the appraised fair market value of the State Assets exceeds the Purchase Price, Seller may seek a charitable deduction with respect to the difference between the Purchase Price and the appraised value, provided that **MCALESTER STREAMING TECHNOLOGIES, LLC** sole obligation shall be to offer reasonable cooperation to Seller in connection therewith, which does not include release of any donor information.

3. **FCC Consent; Assignment Application.**

(a) Buyer and Seller shall execute, file, and vigorously prosecute an application with the FCC (the "Assignment Application") requesting its consent to the assignment from Seller to Buyer, of all FCC Authorizations pertaining to the Station (the "FCC Consent") at a date not later than five (5) business days after the execution of this Agreement. Buyer and Seller shall take all reasonable steps to cooperate with each other and with the FCC to secure such FCC Consent without delay, and to promptly consummate this Agreement in full. Each party shall be responsible for all of its own costs with respect thereto. The Assignment Application filing fee will be shared equally between Buyer and Seller.

4. **Closing Date; Closing Place.** The closing (the "Closing") of the transactions contemplated by this Agreement shall occur ten (10) days following the date on which the FCC Consent shall have become a Final Order (as hereinafter defined) (the "Closing Date"), and the other conditions have either been waived or satisfied. For purposes of this Agreement, the term "Final Order" means action by the FCC consenting to an application that is not reversed, stayed, enjoined, set aside, annulled or suspended, and with respect to which action no timely request for stay, petition for rehearing or appeal is pending, and as to which the time for filing any such request, petition or appeal or reconsideration by the FCC on its own motion has expired. The Closing shall be held by mail, electronic mail or as the Parties may agree.

5. **Representations and Warranties of Seller.** Seller hereby makes the following representations and warranties to Buyer:

(a) Seller is a limited liability company duly organized, validly existing and in good standing under the laws of the State of Oklahoma. Seller has the power and authority to execute and deliver this Agreement and to consummate the transactions contemplated hereby. The execution and delivery of this Agreement and the consummation of the transactions contemplated hereby have been duly and validly authorized by Seller and no other proceedings on the part of Seller are necessary to authorize this Agreement or to consummate the transactions contemplated hereby. This Agreement has been duly and validly executed and delivered by Seller and constitutes the legal, valid, and binding obligation of Seller enforceable in accordance with its terms, except as may be limited by bankruptcy, insolvency or other laws affecting generally the enforcement of creditors' rights or the application of principles of equity.

(b) The execution, delivery and performance of this Agreement by Seller will not (i) constitute a violation of or conflict with Seller's limited liability company agreement or other similarly organizational documents, (ii) result in a default (or give rise to any right of termination, cancellation or acceleration) under or conflict with any of the terms, conditions or provisions of any note, bond, mortgage, indenture, agreement, lease or other instrument or obligation relating to the business of the Station and to which Seller or any of the Assets may be subject, except for such defaults (or rights of termination, cancellation or acceleration) as to which requisite waivers or

consents have been obtained and delivered to Buyer, (iii) violate any law, statute, rule, regulation, order, writ, injunction or decree of any federal, state or local governmental authority or agency and which is applicable to Seller or any of the Assets, (iv) result in the creation or imposition of any lien, charge or encumbrance of any nature whatsoever on any of the Assets, or (v) require the consent or approval of any governmental authority, lending institution or other third party other than the FCC Consent.

(c) Schedule 1 hereto contains a list of the Tangible Personal Property owned or leased by Seller that shall be transferred to Buyer. Seller owns and has, and will have on the Closing Date, good and marketable title to the Tangible Personal Property. The assets listed in Schedule 1 hereto include all of the material tangible personal property necessary to conduct the transmission operations of the Station as now conducted. Each material item of Tangible Personal Property (i) is in good condition and repair, ordinary wear and tear excepted, (ii) has been maintained in a manner substantially consistent with generally accepted standards of good engineering practice, (iii) is operating in substantial compliance with the FCC Authorizations and rules and regulations of the FCC and FAA, and (iv) to Seller's best knowledge, does not contain any PCB's. For purposes of this Section, material Tangible Personal Property shall be such property valued at One Hundred Dollars (\$100.00) or more.

(d) Schedule 2 hereto contains a true and complete list of the FCC Authorizations and all other licenses, permits or other authorizations from governmental or regulatory authorities that are required for the lawful conduct of the business and operations of the Station in the manner and to the full extent it is presently operated. The Licenses are in full force and effect, unimpaired by any act or omission of Seller. Seller lawfully holds each of the FCC Authorizations and other licenses, permits and authorizations listed on Schedule 2, none of which is subject to any restrictions or conditions that would limit in any material respect the operations of the Station. Except as set forth in Schedule 2, Seller is operating the Station in all material respects in accordance with the FCC Authorizations, and all rules, regulations, and policies of the FCC (the "Communications Laws"), including that the Station is transmitting at no less than 90% of its authorized effective radiated power. The Station is not short spaced to any other station and, to Seller's knowledge, is not transmitting or receiving any objectionable interference to or from any other station. There is not now pending or, to Seller's knowledge, threatened any action by or before the FCC to revoke, cancel, rescind, modify or refuse to renew any of such FCC Authorizations, and Seller has not received any notice of and has no knowledge of any pending, issued or outstanding order by or before the FCC, or any investigation, order to show cause, notice of violation, notice of apparent liability, notice of forfeiture, or material complaint against either the Station or Seller. Except as set forth in Schedule 2, all material reports and filings required to be filed with the FCC by Seller with respect to the operations of the Station have been timely filed, and all such reports and filings are accurate and complete in all material respects. Seller maintains a public inspection file for the Station and such file complies with Communication Laws.

(e) The existing tower used in the operation of the Station is obstruction marked and lighted and is properly registered with the FCC, by the tower owner to the extent required by and in accordance with the rules and regulations of the FAA and the FCC. To Seller's knowledge, the operations of the Station do not exceed permissible levels of exposure to RF radiation specified in the FCC's rules, regulations, and policies concerning RF radiation.

(f) The instruments to be executed by Seller and delivered to Buyer at the Closing, conveying the Assets to Buyer, will transfer good and marketable title to the Assets free and clear of all liens.

(g) There is no broker or finder or other person who would have any valid claim for a commission or brokerage in connection with this Agreement or the transaction contemplated hereby as a result of any agreement, understanding, or action by Seller.

(h) Seller is not subject to any order, writ, injunction, judgment, arbitration decision, or decree having binding effect and affecting the business of the Station or the Assets or which restrains or enjoins the transactions contemplated hereby, and no such proceeding is pending. There is no material litigation pending by or against, or to the best of the Seller's knowledge, threatened against Seller which relates to Seller or the Station or could affect any of the Assets. Seller, with respect to the Station, has complied in all material respects with all applicable laws, regulations, orders, or decrees in any material respect, and Seller has no knowledge of any basis for any claim for compensation or damage or other relief from any violation of the foregoing.

(i) All of the Assets that are insurable in character are insured against loss, injury, or damage to the full extent of their replacement value.

(j) Seller has duly, timely and in the required manner filed all federal, state, and local income, franchise, sales, use, property, excise, payroll and other tax returns and forms required to be filed, and has paid in full or discharged all taxes, assessments, excises, interest, penalties, deficiencies, and losses required to be paid. To Seller's knowledge, no event has occurred which could impose on Buyer any liability for any taxes, penalties, or interest due or to become due from Seller from any taxing authority.

(k) No representation or warranty made by Seller in this Agreement, and no statement made in any certificate, document, exhibit, or schedule furnished or to be furnished in connection with the transactions herein contemplated, 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 or warranty or any such statement not misleading to Buyer.

6. **Representations and Warranties of Buyer.** Buyer hereby makes the following representations and warranties to Seller:

(a) Buyer is MCALESTER STREAMING TECHNOLOGIES, LLC an Oklahoma LLC/Corporation duly organized, validly existing and in good standing under the laws of the State of Oklahoma, and has the requisite power and authority to own, lease and operate its properties and to carry on the business of the Station as now being conducted.

(b) Buyer has the power and authority to execute and deliver this Agreement and to consummate the transactions contemplated hereby. The execution and delivery of this Agreement and the consummation of the transactions contemplated hereby have been duly and validly authorized by Buyer and no other proceedings on the part of Buyer are necessary to authorize this Agreement or to consummate the transactions contemplated hereby. This Agreement has been duly and validly executed and delivered by Buyer and constitutes the legal, valid, and binding agreements of Buyer enforceable in accordance with their respective terms, except as may be limited by bankruptcy, insolvency, or other laws affecting generally the enforcement of creditors' rights or the application of principles of equity.

(c) The execution, delivery and performance of this Agreement by Buyer will not (i) conflict with or result in any breach of any provision of the articles of incorporation or by-laws of Buyer, or (ii) result in a default (or give rise to any right of termination, cancellation or acceleration) under or conflict with any of the terms, conditions or provisions of any note, bond, mortgage, indenture, agreement, lease or other instrument or obligation, relating to its own business, except for such defaults (or rights of termination, cancellation or acceleration) as to which requisite waivers or consents have been obtained and delivered to Seller, (iii) violate any law, statute, rule, regulation, order, writ, injunction, or decree of any federal, state, or local governmental authority or agency to which is applicable to Buyer, or (iv) require the consent or approval of any governmental authority, lending institution, or other third party other than the FCC Consent.

(d) Buyer is legally, financially, and technically qualified to acquire and become the licensee of the Station.

(e) There is no litigation, proceeding or governmental investigation pending or to the knowledge of Buyer, threatened, in any court, arbitration board, administrative agency, or tribunal against or relating to Buyer including without limitation, any voluntary or involuntary petition under Federal bankruptcy law or any state receivership or similar proceedings that would prevent or materially impede the consummation by Buyer of the transactions contemplated by this Agreement, nor does Buyer know of, or have any reasonable ground to know of, in view of its present situation or action it now contemplates taking, any basis for such litigation, proceeding or investigation.

(f) There is no broker or finder or other person who would have any valid claim for a commission or brokerage in connection with this Agreement or the transactions contemplated hereby as a result of any agreement, understanding, or action by Buyer.

(g) No representation or warranty made by Buyer in this Agreement, and no statement made in any certificate, document, exhibit or schedule furnished or to be furnished in connection with the transactions herein contemplated, 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 or warranty or any such statement not misleading to Seller to the best of Buyer's knowledge.

7. **Covenant.** Seller covenants with Buyer that, between the date hereof and the Closing Date, Seller shall act in accordance with the following:

(a) Seller shall maintain the Tangible Personal Property included in the Assets in accordance with standards of good engineering practice and replace any of such property which shall be worn out, lost, stolen, or destroyed with like property of substantially equivalent kind and value.

(b) Seller shall continue to operate and maintain the Station in accordance in all material respects with the terms of the FCC Authorization and in material compliance with all applicable laws and FCC rules and regulations. Seller will deliver to Buyer, promptly after filing, copies of any reports, applications or responses to the FCC or any communications from the FCC, or if from any other party directed to the FCC, promptly after receipt by Seller, related to the Station that are filed or received between the date of this Agreement and the Closing Date. Seller will not file any application to modify the Station's facilities without Buyer's prior written consent, and Seller shall take all actions necessary to keep the Licenses, including all material permits and applications pending before the FCC, valid and in full force and effect.

(c) In all other respects, except as disclosed in writing to and approved by Buyer, Seller shall operate the Station solely in the ordinary course of business and in accordance with past practice and shall pay all its obligations with respect to the Station in the ordinary course as such obligations become due.

(d) Seller shall maintain full force and effect through the Closing Date adequate property damage, liability, and other insurance with respect to the Assets.

(e) Prior to the Closing Date, Seller shall not, without the prior written consent of Buyer sell, lease, transfer or agree to sell, lease or transfer any of the Assets without replacement thereof with an equivalent asset of equivalent kind, condition, and value that satisfies industry standards for such assets, or create a new Lien on the Assets.

(f) On or before the Closing Date, Seller shall furnish to Buyer revised Schedules to this Agreement as may be necessary to render such Schedules accurate and complete as of the Closing Date. Seller shall give detailed written notice to Buyer promptly upon the occurrence of or becoming aware of the impending or threatened occurrence of any event which would cause or constitute a breach or would have caused a breach had such event occurred or been known to Seller prior to the date hereof, of any of Seller's representations or warranties contained in this Agreement

or in any Schedule. Seller shall promptly disclose to Buyer any problems or developments which materially affect the Station or the Assets. Seller shall give prompt written notice to Buyer if the Assets shall have suffered damage on account of fire, explosion, or other cause of any nature that is sufficient to prevent operation of the Station.

(g) Seller shall comply in all material respects with all federal, state, and local laws, rules, and regulations.

(h) If any event should occur which would prevent the consummation of the transactions contemplated hereunder, the Seller shall use its respective best efforts to cure the event as expeditiously as possible.

8. Conditions Precedent to Obligation to Close.

(a) The performance of the obligations of Seller hereunder is subject to the satisfaction of each of the following express conditions precedent, unless waived in writing by Seller:

- (i) Buyer shall have performed and complied in all material respects with all of the agreements, obligations, and covenants required by this Agreement to be performed or complied with by Buyer prior to or as of the Closing Date;
- (ii) The representations and warranties of Buyer set forth in this Agreement shall be true and correct in all material respects on and as of the Closing Date with the same effect as if made on and as of the Closing Date;
- (iii) The FCC Consent contemplated by this Agreement shall have been granted;
- (iv) Buyer shall have delivered to Seller on the Closing Date, the documents required to be delivered pursuant to Section 9 (b);
- (v) Buyer shall not be subject to any voluntary or involuntary petition under Federal bankruptcy law, or any state receivership or similar proceeding; and

(b) The performance of the obligations of Buyer hereunder is subject to the satisfaction of each of the following express conditions precedent:

- (i) Seller shall have performed and complied in all material respects with all the agreements, obligations, and covenants required by this Agreement to be performed or complied with by Seller prior to or as of the Closing Date;
- (ii) The representations and warranties of Seller set forth in this Agreement shall be true and correct in all material respects on and as of the Closing Date with the same effect as if made on and as of the Closing Date;

- (iii) The FCC Consent contemplated by this Agreement shall have become a Final Order;
- (iv) The Licenses shall be in full force and effect and there shall be no proceedings pending before the FCC to revoke, cancel, rescind, modify or refuse to renew any of such Licenses, and Seller has not received any notice of, and has no knowledge of any pending, issued or outstanding order by or before the FCC, or any investigation, order to show cause, notice of violation, notice of apparent liability, notice of forfeiture, or material complaint against either the Station or Seller;
- (v) The Assets shall not have suffered damage that shall cause a material adverse effect upon the Station or the Assets taken as a whole on account of fire, explosion or other cause of any nature which shall not have been repaired as of the Closing Date; provided that if such damage shall have occurred, Seller shall be afforded a reasonable opportunity to repair and restore such damaged assets to their prior conditions or, at Seller's election, to replace such damaged assets with assets of comparable quality and utility; and provided, further, that if Buyer elects to waive the condition set forth in this Section 8 and consummated the Closing, then Buyer shall be entitled to collect and receive the proceeds of any insurance payable to Seller on account of such damages which have not been applied to the repair thereof;
- (vi) Other than those presently existing Liens that are to be satisfied at Closing by Seller out of cash proceeds of this transaction, there shall not be any Liens on the Assets or any financing statements of record other than those created by Buyer in favor of Seller or Permitted Liens, and Seller shall have delivered to Buyer lien search reports, in form and substance satisfactory to Buyer and dated no earlier than thirty (30) days prior to the Closing, reflecting the results of UCC, tax and judgment lien searches conducted at Secretary of State offices of the State of Oklahoma, and in the County Clerk's Office of each county in which the Assets are located;
- (vii) No suit, action, claim or governmental proceeding shall be pending, and no order, decree or judgment of any court, agency or other governmental authority shall have been rendered against any party hereto which: (A) would render it unlawful, as of the Closing Date to effect the transactions contemplated by this Agreement in accordance with its terms; (B) questions the validity or legality of any transaction contemplated hereby; or (C) seeks to enjoin any transaction contemplated hereby;

- (ix) None of the events or conditions referenced in Section 19 below shall have occurred and not been remedied as set for in Section 19; and
- (x) Seller shall have delivered to Buyer on the Closing Date the documents required to be delivered pursuant to Section 9 (a).

9. **Closing Deliveries.**

(a) At the Closing, Seller will deliver to Buyer the following, each of which shall be in form and substance satisfactory to Buyer and its counsel:

- (i) A Bill of Sale, and other instruments of transfer and conveyance dated the Closing Date, in form and substance so as to effectively and legally transfer and assign to Buyer the Tangible Personal Property and effectively vest in Buyer good and marketable title to the Tangible Personal Property;
- (ii) An Assignment and Assumption of the Station's FCC Licenses;
- (iii) An Assignment and Assumption of Lease;
- (iv) Certified copies of the resolutions of the governing body of Seller authorizing and approving the execution and delivery of this Agreement and each of the other documents to be delivered in connection herewith and authorizing the consummation of the transactions contemplated hereby and thereby;
- (vi) A certificate dated the Closing Date, executed by the President of Seller, certifying the fulfillment of the conditions set forth in Section 8 (b)(i) and (ii) hereof;
- (vii) A certificate of existence or good standing for Seller from the Secretary of State of the State of Oklahoma;
- (viii) A joint notice to the Escrow Agent;
- (ix) Payoff letters and UCC-3 termination statements with respect to any lien of record shown on the reports delivered pursuant to Section 8 (b)(vi) hereof;
- (x) A copy of the Station's public inspection file delivered to Buyer's address via overnight delivery; and
- (xi) Such other documents, instruments, and agreements necessary to consummate the transactions contemplated by this Agreement or as Buyer shall reasonably request, each in form and substance satisfactory to Buyer and its counsel.

(b) Prior to or at the Closing, Buyer will deliver to Seller the following, each of which shall be in form and substance satisfactory to Seller and its counsel:

- (i) The payments to be made pursuant to Section 2 (a) hereof;
- (ii) An Assignment and Assumption of the Station's FCC Licenses;
- (iii) An Assignment and Assumption of Lease;
- (iv) A joint notice to Escrow Agent;
- (v) Certified copies of the resolutions of the Board of Directors of Buyers authorizing and approving the execution and delivery of this Agreement and each of the other documents to be delivered in connection herewith and authorizing the consummation of the transactions contemplated hereby and thereby;
- (vi) A certificate dated the Closing Date, executed by the President of Buyer, certifying the fulfillment of the conditions set forth in Section 8 (a)(i) and (ii) hereof;
- (vii) A certificate of existence or good standing for Buyer from the Secretary of State of the State of Oklahoma;
- (viii) Such other documents, instruments, and agreements necessary to consummate the transactions contemplated by this Agreement or as Seller shall reasonably request, each in form and substance satisfactory to Seller and its counsel.

10. **Indemnification.**

(a) Following the Closing, Seller shall indemnify, defend and hold harmless Buyer with respect to any and all demands, claims, actions, suits, proceedings, assessments, judgments, costs, losses, damages, liabilities, and expenses (including, without limitation, interest, penalties, court costs and reasonable attorney's fees) ("Damages") asserted against, resulting from, imposed upon or incurred by Buyer directly or indirectly relating to or arising out of: (i) the breach by Seller of any of its representations or warranties that survive the Closing, or failure by Seller to perform any of its covenants, conditions, or agreements set forth in this Agreement that survive the Closing; and (ii) any and all claims, liabilities, and obligations of any nature, absolute or contingent, relating to the ownership and operation of the Station prior to the Closing, including the Retained Liabilities and with respect to the Excluded Assets.

(b) Following the Closing, Buyer shall indemnify, defend, and hold Seller harmless with respect to any and all Damages asserted against, resulting from, imposed upon or incurred by Seller directly or indirectly relating to or arising out of: (i) the breach by Buyer of any of its representations, warranties, or failure by Buyer to perform any of its covenants, conditions, or agreements set forth in this Agreement that survive the Closing; and (ii) any and all claims,

liabilities, and obligations of any nature, absolute or contingent, relating to the ownership and operation of the Station as conducted by Buyer subsequent to the Closing.

(c) If either party hereto (the "indemnatee") receives notice or otherwise obtains knowledge of any matter with respect to which another party hereto (the "Indemnifying Party") may be obligated to indemnify the Indemnatee under this Section 10 I, thence the Indemnatee shall promptly deliver to the Indemnifying Party written notice described such matter in reasonable detail and specifying the estimated amount of the Damages or liability that may be incurred by the Indemnatee in connection therewith. The Indemnifying Party shall have the right, at its option, to assume the complete defense of such matter at its own expense and with its own counsel, provided such counsel is reasonably satisfactory to the Indemnatee. If the Indemnifying Party elects to assume the defense of such matter, then (i) notwithstanding anything to the contrary herein contained, the Indemnifying Party shall not be required to pay or otherwise indemnify the Indemnatee against any such matter following the Indemnifying Party's election to assume the defense of such matter, (ii) the Indemnatee shall fully cooperate as reasonably requested by the Indemnifying Party in the defense or settlement of such matter, (iii) the Indemnifying Party shall keep the Indemnatee informed of all material developments and events relating to such matter, and (iv) the Indemnatee shall have the right to participate, at its own expense, in the defense of such matter. In no event shall the Indemnifying Party be liable for any settlement or admission of liability with respect to such matter without its prior written consent.

11. **Termination.**

(a) This Agreement may be terminated by either Buyer or Seller, if the party seeking to terminate is not in default or breach of any of its material obligations under this Agreement upon written notice to the other upon the occurrence of any of the following: (i) if, on or prior to the Closing Date, the other party breaches any of its material obligations contained herein, and such breach is not cured by the earlies of the Closing Date or thirty (30) days after receipt of the notice of breach from the non-breaching party; or (ii) if the Assignment Application is denied by the FCC and such denial shall have become a Final Order; or (iii) solely by Buyer, if a third party files a petition to deny the Assignment Application and such petition is not resolved in Buyer of Seller's favor within six (6) months of filing the Assignment Application; and (iv) if there shall be in effect any judgment, final decree, or order that would prevent or make unlawful the Closing of this Agreement.

(b) Upon a termination of this Agreement by Seller due to a breach by Buyer of any of its material obligations under this Agreement, Seller's sole remedy shall be delivery of the Earnest Money Deposit from the Escrow Agent as liquidated damages. Seller and Buyer each acknowledge and agree that these liquidated damages are reasonable in light of the anticipated haram which would be caused by Buyer's breach of any of its material obligations under this Agreement and the difficulty of ascertaining damages and proof of loss and that the damages are not a penalty.

(c) Upon a termination of this Agreement due to a breach by and Seller of any of its material obligations under this Agreement, Buyer shall be entitled to the release of the Earnest Money Deposit, including all interest earned thereon, and Buyer may seek all rights and remedies that it may have in equity or at law.

(d) Upon a termination of this Agreement for any reason other than as a result of a breach by either party of any of its material obligations under this Agreements, Seller shall deliver the Earnest Money Deposit to Buyer immediately after termination, including all interest earned thereon, and, except as to compliance with Section 13, thereafter neither party shall have any further obligation to the other under this Agreement.

12. **Specific Performance.** Seller acknowledges that the Station is a unique asset not readily obtainable on the open market and that, in the event that Seller fails to perform its obligation to consummate the transaction contemplated hereby, money damages alone will not be adequate to compensate Buyer for its injury. Therefore, Seller agrees and acknowledges that in the event of Seller's failure to perform its obligation to consummate the transaction contemplated hereby, Buyer shall be entitled to specific performance of the terms of this Agreement and of Seller's obligation to consummate the transaction contemplated hereby. If any action is brought by Buyer to enforce this Agreement, Seller shall waive the defense that there is an adequate remedy at law, and Buyer shall be entitled to receive from Seller all court costs, attorney's fees and other out-of-pocket expenses incurred by Buyer in enforcing its rights under this provision.

13. **Confidentiality.**

(a) Each party shall hold, and shall cause its officers, employees, agents, and representatives, including, without limitation, attorneys, accountants, consultants, and financial advisors who obtain such information to hold, in confidence, and not use for any purpose other than evaluating the transactions contemplated by this Agreement, any confidential information of another party obtained through the investigations permitted hereunder, which for the purposes hereof shall not include any information which (i) is or becomes generally available to the public other than as a result of disclosure by the party which alleges the information is confidential or its affiliates, (ii) becomes available to a party on a nonconfidential basis from a source, other than the party which alleges the information is confidential or its affiliates, which has represented that such source is entitled to disclose it, or (iii) was known to a party on a nonconfidential basis prior to its disclosure to such party hereunder. If this Agreement is terminated, each party shall deliver, and cause its officers, employees, agents, and representatives, including, without limitation, attorneys, accountants, consultants, and financial advisors who obtain confidential information of another party pursuant to investigations permitted hereunder to deliver to such other party all such confidential information that is written (including copies or extracts thereof), whether such confidential information was obtained before or after the execution.

(b) If a party or a person to whom a party transmits confidential information of another party is requested or becomes legally compelled (by oral questions, interrogatories, requests for information or documents, subpoena, criminal or civil investigative demand or similar process) to disclose any of such confidential information, such party or person will provide the other applicable party with prompt written notice so that such party may seek a protective order or other appropriate remedy or waive compliance with Section 13 (a). If such protective order or other remedy is not obtained, or if the applicable party waives compliance with Section 13 (a), the party subject to the request will furnish only that portion of such confidential information which is legally required and will exercise its best efforts to obtain reliable assurance that confidential treatment will be accorded such confidential information.

14. Restrictive Covenants of Sellers.

(a) For a period of five (5) years from and after the Closing date (the Restricted Period), none of the Seller Parties will directly or indirectly, anywhere within sixty (60) miles of the location of the station(s) that are the subject of this Agreement, (i) engage in any Competitive Business or (ii) invest in, own, manage, operate, finance, control, or participate in the ownership, management, operation, financing or control of, be employed by, be affiliated with, lend its name, likeness, signature or any similar identification to, lend its credit to, or render services or advice to, any person that engages in any Competitive Business.

15. Employees.

(a) Buyer does not intend to or agree to, and by entering into this Agreement or consummating the Transaction will not be obligated to, hire, or accept transfer of, any employee or independent contractor of Seller. The Seller Parties will be solely responsible for (i) determining whether notices are required under the Worker Adjustment and Retraining Notification Act or other applicable state or local plant or business closing laws as a result of the Transaction and (ii) for providing such notices (if any) where required.

(b) Seller will be solely responsible for and will discharge all Employment Related Obligations owing with respect to its current and former employees (including those, if any, who become Hired Employees) as a result of or in connection with their employment with Seller or the termination of such employment. Employment Related Obligations means any and all amounts owing to an individual, or to his or her spouse, domestic partner, dependents, heirs, or beneficiaries, as a result of or in connection with that individual's employment with an employer or the termination of that employment, whether pursuant to applicable law, contract, benefit plan, company policy or otherwise. Employment Related Obligations include, but are not limited to, obligations or liabilities to pay wages, salaries, bonuses, commissions, vacation, overtime pay, paid time off and sick day accruals, insurance, wage continuation, employees benefits, perquisites, expense reimbursement, severance pay, termination pay, notice of termination and an in lieu of notice of termination.

(c) Buyer may elect, in its sole and absolute discretion (but will not be required to), to make offers of employment to one or more of Seller's employees on or after the Closing Date (in which case each person who accepts such offer of employment will be referred to herein as a "Hired Employee"). The Seller Parties hereby consent to offers of employment to and hiring of Seller's employees notwithstanding the existence of a contract between the Parties or any of their affiliates prohibiting same. Buyer will be solely responsible for and will discharge all Employment Related Obligations in relation to each out-of-pocket expenses reasonably incurred in providing such assistance.

16. **Notices.** All notices, elections and other communications permitted or required under this Agreement shall be in writing and shall be deemed effectively given or delivered upon personal delivery (or refusal thereof), or twenty-four (24) hours after delivery to a courier service which guarantees overnight delivery, or five (5) days after deposit with the U.S. Post Office, by registered or certified mail, postage prepaid, and in case of courier or mail delivery, addressed as follows (or at such other address for a party as shall be specified by like notice):

If to Seller, to:

Lee Anderson
P. O. Box 1068
McAlester, OK 74501

If to Buyer, to:

MCALESTER STREAMING TECHNOLOGIES, LLC
c/o Eric Grantham
Po Box 1369
McAlester, OK 74501

17. **Governing Law; Venue.** This Agreement shall be construed and enforced in accordance with the laws of the State of Oklahoma, without giving effect to the choice of law principles thereof.

18. **Partial Invalidity.** Wherever possible, each provision hereof shall be interpreted in such manner as to be effective and valid under applicable law, but in case any provision contained herein shall, for any reason, be held to be invalid or unenforceable, such provision shall be ineffective to the extent of such invalidity or unenforceability without invalidating the remainder of such provision or any other provisions hereof, unless such a construction would be unreasonable.

19. **Counterparts.** This Agreement may be executed in several counterparts, each of which will be deemed to be an original but all of which together will constitute one and the same instrument. This Agreement may be executed and exchanged by facsimile transmission or electronic mail, with the same legal effect as if the signatures had appeared in original handwriting on the same physical document. At the request of any party hereto or to any such agreement or

instrument, each other party hereto or thereto shall re-execute original forms thereof and deliver them to all other parties. No party hereto or to any such agreement or instrument shall raise the use of a facsimile machine or electronic mail to deliver a signature or the fact that any signature or agreement or instrument was transmitted or communicated through the use of a facsimile machine or electronic mail as a defense to the formation of a contract and each such party forever waives any such defense.

20. **Expenses.** Except as otherwise set forth herein, each party hereto shall be solely responsible for all costs and expenses incurred by it in connection with the negotiation, preparation, and performance of, and compliance with the terms of this Agreement. All federal, state, local, and other transfer, and sales taxes applicable to, imposed upon or arising out of the transfer to Buyer of the Assets as contemplated hereby shall be paid according to local custom.

21. **Risk of Loss.** The risk of loss to any of the Assets on or prior to the Closing Date shall be upon Seller. Seller shall use all commercially reasonable efforts to repair or replace any damaged or lost Assets, provided, however, that in the event that the Assets with a value of greater than fifty thousand dollars (\$50,000.00) are damaged or lost on the date otherwise scheduled for Closing, Buyer may, at its option, either (i) postpone Closing for a period of up to sixty (60) days while Seller repairs or replaces such Assets, or (ii) elect to Close with the Assets in their current condition, in which case Seller shall assign all proceeds from insurance on such lost or damaged Assets to Buyer, and Buyer shall have the responsibility to repair or replace the Assets. Seller shall have no responsibility to repair or replace damaged or destroyed Assets not covered by insurance if the cost of such repair exceeds fifty thousand dollars (\$50,000.00), provided, however, that should Seller advise Buyer within five (5) days after being requested to do so that Seller will not repair or replace such Assets, Buyer may terminate this Agreement without penalty upon written notice to Seller. Should the Station (i) not operate for a period in excess of seventy two (72) consecutive hours or (ii) not operate with full licensed facilities for a period of thirty (30) consecutive days, or should the Station be operating at less than 90% of its fully authorized effective radiated power as of the scheduled Closing Date and it is reasonably expected that either condition set for in clause (i) or (ii) of this sentence would be satisfied but for the occurrence of the originally scheduled Closing Date, Buyer may either elect to terminate this Agreement without penalty upon written notice to Seller, or postpone the Closing for a period of up to sixty (60) days while Seller attempts to cure the condition described in the preceding sentence of this Section 19.

22. **Assignment.** This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and permitted assigns. No party may voluntarily or involuntarily assign its interest or delegate its duties under this Agreement without the prior written consent of the other party.

21. **Entire Agreement.** This Agreement, and the exhibits attached hereto, supersede all prior agreements and understandings between the parties with respect to the subject matter hereof

and may not be changed or terminated orally, and no attempted change, amendment, or waiver of any of the provisions hereof shall be binding unless in writing and signed by both parties.

22. Time is of the essence in this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Asset Purchase Agreement as of the date and year first above written.

SELLER:

SOUTHEASTERN OKLAHOMA RADIO, LLC

By: 

Name: LEE ANDERSON

Its: Manager

BUYER: McAlester Streaming Technologies, LLC

By: 

Name: Bryan Rugan

Its: Manager

SCHEDULE 1

Tangible Personal Property

All tangible personal property being sold by the Sellers to the Buyers include all items of personal property, with the exception of the personal items belonging to the Sellers and its employees, presently located in the station presently located at 1801 Electric Ave., McAlester, Oklahoma, 2020 North A Street, McAlester, Oklahoma, and equipment located in the Tower house on property described as the Easterly 880' of the Southerly 990' of the SE ¼ SE ¼ of Section 15, Township 6 North, Range 15 East of the Indian Base and Meridian, Pittsburg County, State of Oklahoma.

SCHEDULE 2

CURRENT FCC LICENSES, AUTHORIZATIONS, AND
PENDING AUTHORIZATIONS FOR
KMCO (FM) McALESTER, OKLAHOMA
FCC Facility ID #37777
KNED (AM) McALESTER, OKLAHOMA
FCC Facility ID # 37778
KTMC (FM) McALESTER, OKLAHOMA
FCC Facility ID #67592
KTMC (AM) McALESTER, OKLAHOMA
FCC Facility ID #67593
SOUTHEASTERN OKLAHOMA RADIO, LLC,

Type of Authorization	Call Sign	FCC File Number	Grant Date	Expiration Date
Broadcast License	KMCO (FM)			
Broadcast Renewal	KMCO (FM)			
Broadcast License	KNED (AM)			
Broadcast Renewal	KNED (AM)			
Broadcast License	KTMC (FM)			
Broadcast Renewal	KTMC (FM)			
Broadcast License	KTMC (AM)			
Broadcast Renewal	KTMC (AM)			

ANTENNA STRUCTURE REGISTRATION

Registration Number	Constructed Date	Coordinates	Overall Height	Owner

BROADCAST AUXILIARY STATIONS

Type of Authorization	Call Sign	Issue Date	Expiration Date