

## PURCHASE AND SALE AGREEMENT

This PURCHASE AND SALE AGREEMENT (the “*Agreement*”), dated as of the 8<sup>th</sup> day of April, 2024 (the “*Effective Date*”), is by and between *Kansas Broadcast Company, LLC*, a Kansas limited liability company (the “*Purchaser*”) and *Melia Communications, Inc.*, a Kansas corporation (the “*Seller*”, and together with the Purchaser, the “*Parties*” and each a “*Party*”). Capitalized terms used and not otherwise defined herein shall have the meaning ascribed to them in Appendix I hereto.

## RECITALS

WHEREAS, the Seller is engaged in the business of owning and operating radio stations, radio networks, and digital media platforms (the “*Business*”) including, those certain FM and AM radio stations described and set forth on Addendum B attached hereto and incorporated herein (each a “*Station*” and collectively, the “*Stations*”);

WHEREAS, the Seller holds the licenses, permits, approvals, and authorizations, and applications therefor issued by the Federal Communications Commission (the “*FCC*”) and used in connection with the operation of the Business (collectively, the “*FCC Licenses*” or “*Licenses*”);

WHEREAS, on March 26, 2022, Seller and its affiliated companies (the “*Affiliated Debtors*”), filed four separate voluntary petitions for relief under Chapter 11 Subchapter V of the Bankruptcy Code (the “*Related Cases*”) in the United States Bankruptcy Court for the District of Kansas (the “*Bankruptcy Court*”), commencing Case No. 22-20242, which was jointly administered among the Affiliated Debtors (the “*Bankruptcy Case*”);

WHEREAS, on May 13, 2022, Affiliated Debtors amended their schedules and withdrew their Subchapter V designation. The Bankruptcy Cases proceed under Chapter 11 of the Bankruptcy Code;

WHEREAS, Seller desires to sell, transfer, convey and assign to Purchaser, and Purchaser desires to purchase from Seller, the assets of the Stations, including the FCC Licenses (the assets together being referred as the “*Broadcasting Assets*”), all in accordance with the terms and subject to the conditions set forth herein; and

WHEREAS, the Parties contemplate that such Broadcasting Assets will be sold, transferred, conveyed and assigned to Purchaser and/or its designee pursuant to §§ 363 and 365 of the Bankruptcy Code and in accordance with this Agreement and subject to an order to be entered by the Bankruptcy Court; and subject nevertheless to the prior consent of the FCC to assignment of the Licenses to Purchaser and compliance with applicable regulations of the FCC and the Communications Act of 1934, as amended.

NOW, THEREFORE, in consideration of the mutual representations, warranties, covenants and undertakings herein contained, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

Bankruptcy Court Approval. The Parties' respective obligations to purchase and sell the Broadcasting Assets pursuant to this Agreement are subject to Bankruptcy Court approval after notice and a hearing, and the provisions, requirements and limitations of the Sale Order issued by the Bankruptcy Court on March 1, 2024 (as defined in paragraph 10 of the Bankruptcy's Court's Order) (“*Sale Order*”): (A) approving (I) bidding procedures and (II) form and manner of notices; (B) scheduling the time, date, and place for the auction and hearing to consider final approval of sale; and (C) granting related relief dated November 15, 2023 (collectively, the “*Procedures Order*”). Notwithstanding any provision of this Agreement, all obligations of the Purchaser

hereunder are subject to a final, non-appealable Sale Order that is satisfactory to Purchaser in its commercially reasonable discretion.

## I. Purchase; Purchase Price; Allocation; Proration

- 1.1. Sale and Purchase of Property. Subject to the terms and conditions of this Agreement and the Sale Order, and subject to the exclusive jurisdiction and approval of the Bankruptcy Court, on the Closing Date (defined below), (a) Seller shall assign and deliver to Purchaser, and Purchaser shall accept assignment from Seller of the FCC Licenses; (b) Seller shall sell, assign, transfer, convey and deliver to Purchaser, and Purchaser shall purchase from Seller, the other Broadcasting Assets, in each case free and clear of all Encumbrances, except for Permitted Encumbrances; and (c) Seller shall assign to Purchaser and Purchaser shall assume from Seller all of Seller's rights, title, interest and obligations under the real property leases identified in Schedule 1.1(a) and the Assumed Contracts. The Parties acknowledge and agree that, notwithstanding anything herein to the contrary, the Excluded Assets shall be retained by Seller and shall not be included in any sale and assignment hereunder. The Closing shall occur within ten (10) business days after the date on which FCC Consent has been granted and has become Final for all of the Stations, and all other conditions specified in this Agreement shall have been met (or if applicable, waived), unless otherwise provided for herein or if Purchaser and Seller mutually agree to a different time and date (such date shall be the "**Closing Date**") and shall take place at the offices of the Seller, or via courier or facsimile transmission or such method as Purchaser and Seller may mutually agree upon.
- 1.2. Purchase Price. For and in full consideration of the assignments, conveyances, and transfers of the Broadcasting Assets described herein, the total purchase price (the "**Purchase Price**") to be paid for the Broadcasting Assets is defined in Addendum A.
- 1.3. No Liabilities Assumed. Purchaser shall not and does not assume any Liabilities of Seller, other than those expressly set forth on Schedule 1.3 hereof (the "**Assumed Liabilities**").
- 1.4. Allocation of Purchase Price. The Purchase Price shall be allocated among the Broadcasting Assets in accordance with an allocation schedule prepared by a representative of Purchaser pursuant to Section 1060 of the Internal Revenue Code and mutually agreed upon by Seller and Purchaser. Seller and Purchaser shall prepare the allocation schedule at or prior to Closing, and shall use such allocation for tax, accounting, and all other purposes. If Seller and Purchaser are unable to agree upon the allocation of the Purchase Price, the Closing shall nevertheless take place as scheduled and the dispute shall be referred to a firm of independent certified public accountants or other well qualified appraiser, mutually acceptable to Seller and Purchaser, whose decision shall be final, and whose fees and expenses shall be paid one-half by Seller and one-half by Purchaser. The Parties will request that the accounting firm or appraiser issue its opinion within sixty (60) days of submission of the request for an appraisal. Purchaser will be responsible for the preparation of IRS Form 8594, subject to Seller's approval, which shall not be unreasonably withheld or delayed. Purchaser shall prepare that form and deliver it to Seller in time to enable Seller to submit its income tax returns in a timely manner.
- 1.5. Proration. Expenses for all taxes, including real estate, property and any other taxes, all other cost and expense items arising from Seller's ownership of the Broadcasting Assets and operation of the Business, including utility charges, FCC Regulatory Fees and any deposits or prepaid and deferred items, shall be prorated between Seller and Purchaser as of 12:01 a.m. on the Closing Date. Seller shall be responsible for all such items that have accrued and/or are owing prior to the Closing Date (except to the extent Purchaser has expressly assumed such Liability), and Purchaser shall be responsible for such items that accrue and/or are owing on and after the

Closing Date. Expenses relating to FCC application(s) shall be equally divided between Purchaser and Seller, as detailed in Section 19.1 hereof.

- 1.6. Seller shall be entitled to all income attributable to the operation of the Business and ownership of the Broadcasting Assets until 12:01 a.m. on the Closing Date and Purchaser shall be entitled to all income attributable to the operation of the Business after 12:01 a.m. on the Closing Date.
- 1.7. Determination. Adjustments or prorations, insofar as feasible, shall be determined in accordance with Generally Accepted Accounting Principles, consistently applied, and paid on the Closing Date based upon Seller's good faith calculation delivered to Purchaser for Purchaser's approval prior to the Closing Date and reasonably approved by Purchaser, with final settlement and payment by the appropriate Party occurring no later than ninety (90) days after the Closing Date (the "**Proration Period**"), unless there is a dispute with respect thereto. If the Parties are unable to agree on the prorations, the matter shall be referred to a firm of independent certified public accountants, mutually acceptable to Seller and Purchaser, whose decision shall be final, and whose fees and expenses shall be paid one-half by Seller and one-half by Purchaser. The Purchaser agrees that during the Proration Period, the Purchaser will record on a spreadsheet (the "**Proration Report**") all monies paid or received for in respect of the transferred Stations, itemizing the name of the third-party payee or payor and the amount paid or received on the account of the transferred Stations. The running Proration Report will be delivered monthly to the Seller within ten (10) business days of the end of each calendar month and paid as soon as possible not to exceed thirty (30) days of the receipt of the Prorations Report.
- 1.8. Property Taxes. If the amount of any tax to be prorated is not known on the Closing Date, such tax shall be apportioned on the basis of the most recent tax assessment. As soon as the new tax rate and valuation can be ascertained, there shall be a reapportionment and adjustment with respect to such tax even though that final proration and adjustment may take place more than ninety (90) days after the Closing Date.
- 1.9. Trade and Barter. Notwithstanding the foregoing, with respect to trade, barter or similar agreements for the sale of time for goods or services that are included in the Assumed Contracts, if at Closing Seller has a negative barter balance in excess of \$15,000 (*i.e.*, the amount by which the value of air time to be provided after Closing exceeds the fair market value of corresponding goods and services to be received after such date), then the amount in excess of such threshold shall be treated as prepaid time sales and adjusted for at Closing as a proration in Purchaser's favor. If at Closing, Seller has a (i) a positive barter balance or (ii) a negative barter balance of \$15,000 or less, there shall be no adjustment or proration to account for such barter balance.

## II. Station Employees

2. Station Employees. With respect to those employees of any Station who remain employed by Seller between the Effective Date and the Closing Date, Seller shall terminate or redeploy, effective as of the close of business on the Closing Date, all of such Seller's employees engaged in the operation of the Stations at that time and, if so terminated, Seller will pay such terminated employees all compensation, including, but not limited to, wages, commissions, profit sharing (if any), bonuses and accrued vacation pay or compensation for unused sick leave, if any, earned or accrued up to the time of termination, including overtime pay or any severance required by the terms of Seller's employment policies. Seller, in accordance with all applicable laws including, without limitation, the Worker Adjustment and Retraining Notification Act (WARN) (29 USC 2100 et. seq.), shall, with the assistance from Purchaser, notify such terminated employees prior to the Closing that as of such date they shall cease to be employees of the Stations. Purchaser may, in its sole but reasonable discretion, extend at Closing to some or all of the

Stations' terminated employees an offer of employment for hire in accordance with Purchaser's standard hiring practices; provided, however, that Purchaser shall be under no obligation to offer employment to any of the Stations' terminated employees.

### III. Accounts Receivable

3. Collection of Accounts Receivable. At Closing, Seller shall retain all of Seller's accounts receivable directly attributable to the operation of the Stations (the "***Accounts Receivable***"), which Accounts Receivable shall be an Excluded Asset. Purchaser shall have no obligation to collect any Accounts Receivable owed to Seller nor shall Purchaser make any payment to Seller therefor. If Purchaser receives a payment from any of Seller's vendors for services incurred prior to the Closing Date, Purchaser shall deliver such payment to Seller.

### IV. Certain Regulatory Matters

4. Application for FCC Consent. Seller and Purchaser will jointly file, as soon as reasonably practicable, but in any event not later than ten (10) business days after the execution and delivery of this Agreement, with the FCC an application (the "***Application***") requesting the consent of the FCC to the assignment of the FCC Licenses from Seller to Purchaser (the "***FCC Consent***").
  - 4.1. Cooperation and Notification Regarding FCC Approval. Seller and Purchaser shall prosecute the Application before the FCC, including opposing any petitions to deny or other objections filed against any of the Application, with all reasonable diligence, in order to obtain the FCC Consent promptly and in order to carry out the provisions of this Agreement.
    - 4.1.1. If an FCC reconsideration or review, or if judicial review, is sought with respect to the Applications or the FCC's Consent thereof, by a third-party or upon the FCC's own motion, Seller and Purchaser shall cooperate in opposing such requests for FCC reconsideration or review or for judicial review.
    - 4.1.2. Each Party shall notify the other Party hereto in the event it is or becomes aware of any facts or circumstances that could delay or otherwise affect the FCC approval process or the transactions contemplated by this Agreement. Each of Seller and Purchaser shall make available to the other, promptly after the filing thereof, copies of all reports filed by it or its affiliates on or prior to the Closing Date with the FCC in respect to the Stations.
    - 4.1.3. If any FCC Consent imposes any condition upon any Party hereto, such Party shall use its commercially reasonable efforts to comply with such condition. If any Party to this Agreement seeks FCC reconsideration or review, or judicial review, of a materially adverse condition imposed by the FCC, the other parties shall cooperate fully with the Party seeking reconsideration or review of such condition; provided, however, that neither Party shall seek or cause to be sought, without the prior written consent of the other Party, which consent shall not be unreasonably withheld, FCC reconsideration or review, or judicial review, of any condition or qualification that is not a materially adverse condition. For purposes of this Agreement, a "materially adverse condition" shall not include any condition generally applicable to the broadcast industry regulated by the FCC or a transaction of this kind. Cost of any such action shall be the responsibility of the Party seeking reconsideration.

### V. Representations and Warranties of Seller

5. Seller represents and warrants to Purchaser as follows:



- 5.1. Organization and Standing. Seller is duly organized, validly existing and in good standing under the laws of Kansas. Seller has full power and authority to own and sell or assign the FCC Licenses and the other Broadcasting Assets (subject to Bankruptcy Court approval), to transact the Business of operating the Stations in which it is currently engaged, and to perform all obligations required to be performed by it hereunder and to consummate the transactions contemplated hereby. Seller is duly qualified to do business in each jurisdiction in which the nature of the business conducted by Seller with respect to the Stations requires such qualification, except where the failure to be so qualified would not have a Material Adverse Effect.
- 5.2. Authorization and Binding Obligations. The execution, delivery and performance by Seller of this Agreement and the instruments contemplated hereby have been, or will by the Closing Date be, duly and validly authorized by all necessary corporate actions and constitute valid and binding agreements of Seller enforceable in accordance with their terms, subject to bankruptcy or other laws relating to or affecting creditors' rights and the exercise of judicial discretion in accordance with general equitable principles.
- 5.3. No Contravention; Consents.
- 5.3.1. No Contravention. The execution, delivery and performance of this Agreement and the other documents to be executed in connection herewith, the consummation of the transactions contemplated hereby and thereby and the compliance with the provisions hereof and thereof by Seller do not: (i) conflict with or violate any provisions of the charter documents or bylaws of Seller; (ii) assuming receipt of the consents and waivers referred to in Section 5.3.2 below, result in the breach of, constitute a default under, conflict with or result in the termination or alteration of, the provisions of any agreement or other instrument to which Seller is a party or by which the property of Seller is bound or affected, or result in the creation of any Encumbrance upon any of the Broadcasting Assets; or (iii) violate or conflict with any material laws, regulations, orders, writs, injunctions, decrees or judgments applicable to Seller (with respect to the Stations) or any of the Broadcasting Assets.
- 5.3.2. Consents. The Parties' respective obligations to purchase and sell the Broadcasting Assets pursuant to this Agreement are subject to Bankruptcy Court approval after notice and a hearing and the provisions, requirements and limitations of the Sale Order. The Closing hereunder is further conditioned on the prior consent of the FCC to the assignment of the FCC Licenses to Purchaser, with the FCC Consent having become Final or, upon mutual agreement of the Parties, a different time and date following the issuance of the FCC Consent.
- 5.3.3. Title to the Broadcasting Assets and Licenses. Seller has good, valid and marketable title to, or valid leasehold or other interest in, the Broadcasting Assets, which as of the Closing shall be free and clear of all mortgages, deeds of trust, security interests, pledges, liens, charges, adverse claims, unsatisfied judgments, and any encumbrances of any kind (collectively, "*Encumbrances*"), other than Permitted Encumbrances specifically listed herein.
- 5.4. Licenses and Authorizations.
- 5.4.1. Licenses. Schedule 3.1.1(c) hereto contains a true and complete list of all FCC Licenses. Seller is the authorized and legal holder of the FCC Licenses. The Seller's conduct of the Business and operations of the Stations are in material compliance with the FCC Licenses. To the Knowledge of the Seller, the Stations are operating in compliance in all material respects with the Communications Act of 1934, as amended, and the rules, regulations and policies of the FCC and the Federal Aviation Administration (FAA). To the Knowledge of the Seller, all necessary FCC filings have been accomplished timely by Seller relative to the FCC Licenses and all necessary regulatory fees have been paid.

- 5.4.2. Authorizations. The FCC Licenses are valid and in full force and effect, and have been complied with in all material respects. To the Knowledge of Seller, no investigation, notice of investigation, notice of apparent liability, notice of violation, forfeiture, order, complaint, action or other proceeding is pending or threatened before the FCC or any other Governmental Authority to vacate, revoke, suspend, refuse to renew or modify the FCC Licenses or which could in any manner threaten or adversely affect the FCC Licenses. The FCC Licenses have been renewed or in the process of being renewed in the ordinary course for a full renewal term, without adverse conditions. To the Knowledge of Seller, no facts exist and no event has occurred which may result in the revocation, modification, non-renewal or suspension of any FCC Licenses; the denial of any pending applications related thereto; the issuance of any cease and desist order, the imposition of any administrative actions by the FCC with respect to the FCC Licenses, or which may adversely affect Purchaser's ability to operate the Stations upon consummation of the Closing in accordance with the FCC Licenses and the FCC's rules and regulations. Each Station is operating at full power in accordance with its FCC licensed parameters.
- 5.5. Reports. All reports and other filings currently required to be filed by Seller with the FCC or with any other federal, state, or local governmental agency with respect to the Licenses have been timely filed and complied with and shall continue to be timely filed and be in compliance on a current basis until the Closing Date. All such reports and other filings are (or will be, in the case of future reports) complete and correct as filed in all material respects.
- 5.6. Taxes. Seller has filed or caused to be filed all returns, declarations of estimated taxes, reports, statements and information statements (the "**Tax Returns**") required to be filed by Seller with any taxing authority prior to the date hereof with respect to the Seller, the Licenses and the Broadcasting Assets, and any such Tax Returns required to be filed after the date hereof but prior to Closing will be filed on or prior to Closing. Seller has paid or caused to be paid all Taxes due and payable by Seller with respect to the Seller, the Licenses and the Broadcasting Assets, and any such Taxes required to be paid after the date hereof but prior to Closing will be paid on or prior to Closing, excepting such taxes, assessments, and other levies as will not be due until after the Closing Date and that are to be prorated between Seller and Purchaser pursuant to Section 1.5. No federal, state, local or foreign audits or other administrative or court proceedings are presently pending with regard to any Tax Returns or Taxes of Seller relating to the Licenses and the Broadcasting Assets and Seller has not received written notice from any governmental authority of the expected commencement of such proceedings. There are no Encumbrances for unpaid Taxes on the Licenses or the Broadcasting Assets. Seller is not a "**foreign person**" within the meaning of Section 1445(b)(2) of the Internal Revenue Code.
- 5.7. Books and Records. The books and records of the Stations delivered to Purchaser are true and correct in all material respects. The records required to be kept by the FCC rules include all public file records, originals and/or copies of all FCC Licenses and the Stations' logs in the possession of Seller as of the Closing Date.
- 5.8. Real Property. Schedule 1.1(a) describes all interests, including all leasehold license or similar contract or agreement under which the Seller is a lessee or licensee of, or occupies, for the use in the business, real property included in the Broadcasting Assets and the nature of the right, title, or interest that Seller has in such real estate. The Seller has good and marketable title to all parcels of real property owned or leased by Seller that are included in the Broadcasting Assets (the "**Real Property**"). Seller has delivered to Purchaser a copy of all policies of title insurance currently existing in favor of Seller with respect to the Real Property. To the Knowledge of Seller, Seller's current use of the Real Property or any real property subject to any lease of Real Property, does not violate in any material respect any

restrictive covenants affecting the Real Property or the real property subject to such Real Property lease. The Seller has a valid leasehold interest in, sub-leasehold interest in, or other license or occupancy right with respect to, the leased, licensed or occupied premises under the Real Property Leases in effect as of the date hereof. All buildings, structures, and fixtures included in the Broadcasting Assets are in good operating condition (ordinary wear and tear excepted) and are properly located on the Real Property or on real property leased under the Real Property leases. The Real Property and rights of Purchaser under the Real Property leases include all rights of access reasonably necessary to provide both legal and physical (and vehicular) access to the Real Property or real property leased under the Real Property leases.

- 5.9. Personal Property. Each of the material items of Tangible Personal Property owned by Seller that are used in the operation of the Stations and included in the Broadcasting Assets are listed in Schedule 1.1(b)(i) and Schedule 1.1(b)(ii). The Seller has good and marketable title to the Tangible Personal Property. The Tangible Personal Property is in good operating condition and repair (ordinary wear and tear excepted), except as otherwise disclosed in Schedule 3.13 attached hereto. Seller agrees, if requested by Purchaser, to conduct a joint personal property inventory with Purchaser prior to the Closing Date, and deliver an amended and restated Schedule 1.1(b)(i) and Schedule 3.13 as necessary to accurately state the inventory results. All Encumbrances, outside of Permitted Encumbrances, on the Tangible Personal Property shall be released on the Closing Date.
- 5.10. Certain Contracts. Schedule 1.1(d)(i) (Assumed Contracts) lists certain contracts, commitments, agreements, leases, licenses (other than the Licenses), understandings and obligations to which Seller is party or by which Seller or the Broadcasting Assets are bound, that are used in the operation of the Stations and which Purchaser has agreed to assume as Assumed Contracts. Seller has delivered or will, prior to Closing, deliver to Purchaser true and complete copies of all written Assumed Contracts and true and complete memoranda of all oral Assumed Contracts, including any and all amendments and other modifications thereto. Except as set forth in Schedule 3.14, Seller knows of no existing defaults, and to the Seller's Knowledge, no events or circumstances have occurred which, with or without notice or lapse of time or both, would constitute defaults, under any of the Assumed Contracts which would individually or in the aggregate have a Material Adverse Effect. Any contract not included in either Schedule 1.1(a) (real property leases) or Schedule 1.1(d)(i) (Assumed Contracts) is not a contract being assumed by Purchaser and Purchaser will have no obligation therefor whatsoever. All other contracts affecting the Stations and Licenses shall be terminated as of the Closing Date if not otherwise assumed. The term "Assumed Contracts" shall be deemed to include the Real Property leases.
- 5.11. Compliance with Decrees and Laws. There is no outstanding or, to the Knowledge of Seller, threatened, order, writ, injunction or decree of any court, governmental agency or arbitration tribunal against or involving Seller that is related to the Stations or the other Broadcasting Assets and Seller's operation of the Business and the Stations is in material compliance with all applicable laws.
- 5.12. Adequacy of Assets. The Broadcasting Assets being acquired by Purchaser hereunder (including after the removal of any assets by a contract vendor that is in the possession of the Stations pursuant to the terms of a network programming contract) comprise materially all of the property, assets, and rights, tangible and intangible, used, held for use, or acquired for use in the Business of the Stations during the twelve (12) month period immediately preceding the date hereof, and to the Knowledge of Seller, such Broadcasting Assets are, and immediately after Closing will be, sufficient to operate the Stations in their ordinary course of business.

## VI. Representations and Warranties of Purchaser

### 6. Purchaser represents, warrants and covenants to Seller that:

- 6.1. Organization and Standing. Purchaser is a limited liability company duly formed, validly existing and in good standing under the laws of Kansas. Purchaser has full power and authority to own its properties and to transact the business in which it is currently engaged and to perform the obligations required to be performed by it hereunder and to consummate the transactions contemplated hereby. Purchaser is duly qualified to do business and is in good standing in every jurisdiction in which the nature of the business conducted by it requires such qualification.
- 6.2. Authorization and Binding Obligations. The execution, delivery and performance of this Agreement and the instruments contemplated hereby have been, or as of the Closing Date will be, duly and validly authorized by Purchaser and constitute valid and binding agreements of Purchaser enforceable in accordance with their terms except as such enforceability may be limited by bankruptcy, insolvency, moratorium or other laws relating to or affecting creditors' rights generally and the exercise of judicial discretion in accordance with general equitable principles.
- 6.3. No Contravention. The execution, delivery and performance of this Agreement and the other documents to be executed in connection herewith, the consummation of the transactions contemplated hereby and thereby and the compliance with the provisions hereof and thereof by Purchaser do not and will not, after the giving of notice, or the lapse of time, or otherwise: (i) conflict with or violate any provisions of the organization documents of Purchaser; (ii) result in the breach of, conflict with, or constitute a default under, the provisions of any agreement or other instrument to which Purchaser is a party or by which the property of Purchaser is bound or affected; or (iii) violate or conflict with any laws, regulations, orders, writs, decrees, injunctions or judgments applicable to Purchaser, including FCC regulations, or require any partner consent or consent under applicable law other than the FCC Consent.
- 6.4. Litigation. Except for administrative rulemaking or other proceedings of general applicability to the broadcast industry, there is no proceeding or investigation of any nature pending or, to the best of Purchaser's knowledge, threatened against or affecting Purchaser that would adversely affect Seller, the Licenses, the Stations or Purchaser's ability to consummate the transactions contemplated in this Agreement.
- 6.5. Financial Qualification. Purchaser is financially qualified to perform all obligations under this Agreement. Purchaser has funds on hand and/or firm commitment letters from financial lenders for amounts sufficient to assure the availability and payment of the Purchase Price and any and all other amounts which Purchaser will be obligated to pay to Seller hereunder on or before the Closing Date and thereafter; and Purchaser will have such funds available at Closing. Purchaser acknowledges and agrees that its obligation to consummate the transactions under this Agreement is not conditioned on obtaining financing.
- 6.6. FCC Matters. Purchaser is legally qualified under FCC rules and policies to become the licensee of the Stations. There is no fact known to Purchaser that, under the Communications Act, reasonably may be expected to disqualify Purchaser from holding the FCC Licenses, or that would prevent Purchaser from consummating the transactions contemplated by this Agreement. Purchaser shall take no action that would reasonably be likely to cause disqualification prior to the Closing Date. Purchaser is able to certify on an FCC Form 314 that it is financially qualified to be the licensee of the Stations.



## VII. Access and Information

7. From the date of execution of this Agreement, Seller shall give Purchaser and its representatives reasonable access during normal business hours upon prior request, to all of the Broadcasting Assets to be acquired hereunder and shall furnish Purchaser and its representatives during such period with such information relating to the Broadcasting Assets as Purchaser may reasonably request in writing in order to enable Purchaser to make such reasonable examinations and investigations thereof in order to consummate the transactions contemplated hereby.

Purchaser understands and agrees that any access to the Real Property shall occur at reasonable times after reasonable prior notice to Seller (which shall, in any event, be at least twenty-four (24) hours in advance). Seller shall have the right (but not the obligation) to accompany Purchaser or its representatives during the performance of any inspection of the Broadcasting Assets. Purchaser shall contact Quinn Miller, representative of Seller, at Rocking M Media LLC, Attn: Quinn Miller, 1065 S. Range, Colby, KS 67701, qmiller1999@gmail.com, in connection with any request by Purchaser or its representatives to enter the Real Property pursuant to this Section. All inspections shall be conducted at Purchaser's sole cost and expense. Purchaser shall be liable for all costs and expenses, damage or injury to any person or property resulting from Purchaser's inspection of the Broadcasting Assets, whether occasioned by Purchaser's acts or acts of its employees, agents and/or representatives. IN ALL EVENTS, PURCHASER SHALL INDEMNIFY, DEFEND, EXONERATE, HOLD HARMLESS AND SAVE SELLER AND ITS REPRESENTATIVES FREE FROM AND AGAINST: (i) ANY AND ALL LOSSES, COSTS, DAMAGES, EXPENSES, LIENS, LIABILITIES, AND CLAIMS IN ANY WAY ARISING OUT OF, OCCASIONED BY OR IN CONNECTION WITH THE ACCESS, INSPECTIONS, TESTING AND OTHER EXAMINATIONS CONDUCTED BY PURCHASER OR ITS REPRESENTATIVES ("**ACCESS**"), WHETHER SUCH ACCESS OCCURRED BEFORE OR AFTER THE DATE OF THIS AGREEMENT, INCLUDING, WITHOUT LIMITATION, ANY CLAIMS BY A THIRD PARTY ARISING FROM ANY ACT OR FAILURE TO ACT AUTHORIZED BY PURCHASER OR ITS REPRESENTATIVES, BUT EXCLUDING ANY PREEXISTING CONDITIONS (EXCEPT TO THE EXTENT EXACERBATED BY THE ACTIVITIES OF PURCHASER AND/OR ITS REPRESENTATIVES) AND EXCLUDING ANY LOSSES ARISING OUT OF THE DISCOVERY OF THE PROPERTY'S CONDITION AND EXCLUDING ANY LOSSES ARISING OUT OF THE GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF SELLER OR ITS REPRESENTATIVES; (ii) ANY DAMAGE OR INJURY TO PERSON OR PROPERTY CAUSED BY PURCHASER AND/OR ITS REPRESENTATIVES; AND (iii) ALL COSTS AND EXPENSES, INCLUDING ATTORNEY'S FEES, INCURRED BY SELLER AS A RESULT OF THE FOREGOING. WITHOUT LIMITING THE FOREGOING, PURCHASER SHALL, AND SHALL CAUSE ITS REPRESENTATIVES TO, KEEP THE PROPERTY FREE AND CLEAR OF ANY MECHANICS' LIENS OR MATERIALMEN'S LIENS BEING CLAIMED BY, THROUGH OR UNDER PURCHASER AND/OR ITS REPRESENTATIVES AND DIRECTLY OR INDIRECTLY RELATED TO ANY SUCH ACCESS. NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED HEREIN, PURCHASER'S OBLIGATIONS UNDER THIS PARAGRAPH SHALL SURVIVE ANY TERMINATION OF THIS AGREEMENT AND SHALL SURVIVE CLOSING. Purchaser may assume the defense of any action for which Seller may seek indemnification with counsel selected by Purchaser, in Purchaser's sole discretion.

## VIII. Conduct of Business to Closing



8. Each Party hereto covenants and agrees that pending the Closing, except to the extent contemplated by this Agreement, or except with the prior written consent of the other Party:
  - 8.1. Operation of Stations. Subject to the provisions of this Agreement, Seller shall continue to operate the Stations in the normal and ordinary course and shall use all reasonable efforts to avoid any act that might have a Material Adverse Effect upon the Broadcasting Assets, the Licenses, or the transaction contemplated hereby. Seller shall not, without the prior written consent of Purchaser, transfer the Licenses or any of the other Broadcasting Assets except that, Seller shall have the right to replace the Stations' equipment and other personal property in the ordinary course of business with equipment or personal property serving the same function and of equal or greater value. For the purposes of this Agreement, "*transfer*" shall be interpreted broadly and shall include, but not be limited to, any sale, gift, assignment or other disposition, including any disposition under judicial order, legal process, execution, attachment or enforcement of a pledge, trust or other encumbrance. Nor shall Seller, prior to Closing, engage in any reorganization or change of its structure so as to constitute a transfer of control as defined by FCC rules and policies with respect to the Licenses, without the prior consent of Purchaser.
  - 8.2. Agreements. Seller shall perform all material obligations required to be performed prior to Closing by it under all Assumed Contracts, and shall not, without Purchaser's consent, amend the Assumed Contracts or enter into any new agreements pertaining to the operation of the Stations which would be binding on Purchaser or the Broadcasting Assets on and after Closing. With respect to the Assumed Contracts, the assignment and/or assumption of such contracts by Purchaser does not constitute an admission, agreement or concession by Purchaser that any such contracts are valid, binding or enforceable according to their terms and, notwithstanding anything herein to the contrary, Purchaser reserves all rights it may have post-Closing with respect to the Assumed Contracts relative to their enforceability or validity, either in their entirety or with respect to any term or terms contained therein. Purchaser agrees to indemnify Seller for any losses (as defined in Section 16.2 below) Seller may incur as a result of Purchaser's actions or inactions with respect to Purchaser's reservation of rights in this subsection. Seller shall have no indemnification obligations under Section 16.2 with respect to actions taken by Purchaser directly or indirectly relating to or arising from any challenge to the validity of any Assumed Contract post-Closing.
  - 8.3. Third-Party Consents of Assumed Contracts. Seller and Purchaser shall use commercially reasonable efforts to obtain the consent of the other contracting parties to the assignment to Purchaser of the Assumed Contracts if such consent is so required, provided that neither Seller nor Purchaser shall be obligated to pay money to any other contracting party to obtain any such consent. If the Parties are unable to obtain any consent necessary to permit the valid assignment of any Assumed Contract, Seller and Purchaser shall cooperate in a mutually agreeable arrangement under which Purchaser would obtain the benefits and assume the obligations under such contract until such consent is obtained. Each Party shall cooperate fully with the other to obtain any other consents or approvals necessary to consummate the transactions contemplated by this Agreement.
  - 8.4. No Breach of Representations and Warranties. Neither Seller nor Purchaser shall take any action or pursue any other course of conduct, or fail to take any action, that would cause any of its representations and warranties made in this Agreement to be untrue, incorrect or inaccurate in any material respect when made, or to become untrue, incorrect or inaccurate thereafter.
  - 8.5. Temporary FCC Actions and Freezes. Purchaser and Seller expressly agree that in the event that the FCC institutes a freeze or takes similar action with respect to FCC applications or filings

generally (as opposed to a specific action taken by the FCC with respect to this transaction or the Licenses), then any obligations of the Parties or deadlines contained herein that are impacted or affected by such FCC freeze or similar action shall automatically be extended for a period of time equal to the period of time that such FCC freeze or similar action is in effect, provided that such extended time period shall not exceed twelve (12) months. No such delay shall create any default on the part of either Party hereto.

- 8.6. No Implied Representations or Warranties. Purchaser hereby acknowledges and agrees that Seller is not making any representations or warranties whatsoever, express or implied, except those representations and warranties of Seller explicitly set forth in this Agreement or in the disclosure schedules attached hereto and incorporated herein. Subject to the foregoing, and subject to the provisions of this Agreement, the Broadcasting Assets other than the Licenses being acquired by Purchaser at the Closing as a result of this Agreement and the transactions contemplated hereby shall be acquired by Purchaser on an “as-is, where-is” basis and in their then present condition (except that all equipment listed in the schedules, and any replacement equipment acquired by Seller prior to Closing, and Real Property shall be in good operating condition and repair (ordinary wear and tear excepted and except as otherwise disclosed in the schedules) as of the Closing Date), and Purchaser shall rely solely upon its own examination thereof. In any event, except as explicitly set forth herein, neither Seller nor any of its officers directors, employees, affiliates or representatives, as the case may be, has made or is making any representation, express or implied, as to the value of any asset of business being so acquired, or any warranty of merchantability, suitability or fitness for a particular purpose or quality, or as to the condition or workmanship thereof, or as to the enforceability or validity of any contract or as to the absence of any defects or breaches of any assets or contracts, whether latent or patent.

FURTHER, PURCHASER AGREES THAT, WITH RESPECT TO THE OWNED REAL PROPERTY, PURCHASER WILL CONDUCT SUCH INSPECTIONS AND INVESTIGATIONS OF THE OWNED REAL PROPERTY (INCLUDING, BUT NOT LIMITED TO, THE PHYSICAL AND ENVIRONMENTAL CONDITION THEREOF) AND RELY UPON SAME AND, UPON CLOSING, SHALL ASSUME THE RISK THAT ADVERSE MATTERS, INCLUDING, BUT NOT LIMITED TO, THE DISCLAIMED MATTERS, MAY NOT HAVE BEEN REVEALED BY PURCHASER’S INSPECTIONS AND INVESTIGATIONS. SUCH INSPECTIONS AND INVESTIGATIONS OF PURCHASER SHALL BE DEEMED TO INCLUDE AN ENVIRONMENTAL AUDIT OF THE OWNED REAL PROPERTY, AN INSPECTION OF THE PHYSICAL COMPONENTS AND GENERAL CONDITION OF ALL PORTIONS OF THE OWNED REAL PROPERTY, SUCH STATE OF FACTS AS AN ACCURATE SURVEY AND INSPECTION OF THE OWNED REAL PROPERTY WOULD SHOW, PRESENT AND FUTURE ZONING AND LAND USE ORDINANCES, RESOLUTIONS AND REGULATIONS OF THE CITY, COUNTY AND STATE WHERE THE OWNED REAL PROPERTY IS LOCATED AND THE VALUE AND MARKETABILITY OF THE OWNED REAL PROPERTY. EXCEPT FOR THE REPRESENTATIONS AND WARRANTIES EXPRESSLY SET FORTH IN THIS AGREEMENT AND ANY DOCUMENTS REFERENCED HEREIN THAT ARE DELIVERED BY SELLER TO PURCHASER AT CLOSING, SELLER SHALL SELL AND CONVEY TO PURCHASER, AND PURCHASER SHALL ACCEPT, THE PROPERTY “AS IS”, “WHERE IS”, AND WITH ALL FAULTS, AND THERE ARE NO ORAL AGREEMENTS, WARRANTIES OR REPRESENTATIONS, COLLATERAL TO OR AFFECTING THE OWNED REAL PROPERTY BY SELLER OR ANY THIRD PARTY. WITHOUT IN ANY WAY LIMITING ANY PROVISION OF THIS SECTION, EXCEPT TO THE EXTENT OF CRIMINAL OR FRAUDULENT ACTS BY SELLER, ITS REPRESENTATIVES OR AGENTS GIVING RISE TO SUCH CLAIMS, PURCHASER

SPECIFICALLY ACKNOWLEDGES AND AGREES THAT IT HEREBY WAIVES, RELEASES AND DISCHARGES ANY CLAIM IT HAS, MIGHT HAVE HAD OR MAY HAVE AGAINST SELLER WITH RESPECT TO:

- (a) THE DISCLAIMED MATTERS;
- (b) THE CONDITION OF THE OWNED REAL PROPERTY, EITHER PATENT OR LATENT;
- (c) THE PAST, PRESENT OR FUTURE CONDITION OR COMPLIANCE OF THE PROPERTY WITH REGARD TO ANY ENVIRONMENTAL LAWS; AND
- (d) ANY OTHER STATE OF FACTS THAT EXISTS WITH RESPECT TO THE OWNED REAL PROPERTY.

The terms of this Section shall survive the Closing and in furtherance of this Section, Purchaser shall not contact the Kansas Department of Natural Resources with respect to any claims it may have that may cause further liability to Seller.

## **IX. Conditions Precedent to the Obligations of the Parties**

### **9. Conditions Precedent**

- 9.1. Conditions To Seller's Obligation To Close. The obligations of Seller to sell, transfer, convey and deliver the Broadcasting Assets and to proceed with the Closing are subject to the satisfaction on or prior to the Closing of each of the following conditions (unless waived in writing by Seller, with the exception of Sections 9.1.1 and 9.1.2, which cannot be waived):
  - 9.1.1. FCC Consent. The FCC shall have granted the FCC Consent and the FCC Consent shall have become Final for the assignment of the Licenses from Seller to Purchaser.
  - 9.1.2. Court Approval. This Agreement is subject to approval by the Bankruptcy Court, pursuant to the Sale Order. Following execution of this Agreement, Seller will submit to the Bankruptcy Court a motion for approval of the sale. In the event the Bankruptcy Court does not approve and authorize this Agreement and the transactions contemplated herein pursuant to the Sale Order, then this Agreement shall automatically terminate, the Earnest Money Deposit otherwise known as the Bid Deposit (as defined in the Procedures Order) shall be returned to Purchaser, and neither Party hereto shall have any further obligation to the other hereunder except as expressly otherwise provided herein.
  - 9.1.3. Consideration. Purchaser shall have delivered to Seller, in accordance with Addendum A attached hereto, the consideration specified therein, including the release to Seller of the Earnest Money Deposit as defined in the Procedures Order and the release of the accrued interest thereon, if any, to Purchaser.
  - 9.1.4. Accuracy of Representations and Warranties. The representations and warranties made herein by Purchaser shall be true and correct in all material respects when made on and as of the Closing Date with the same force and effect as though made on and as of the Closing Date.
  - 9.1.5. Compliance with Agreement. All of the terms, agreements, covenants and conditions of this Agreement to be performed or complied with by the Purchaser on or prior to the Closing shall have been duly performed or complied with.
  - 9.1.6. No Governmental Intervention. Neither of the Parties to this Agreement shall have received written notice from any Governmental Authority of: (i) its intention to institute any action or proceeding to restrain or enjoin or nullify or render ineffective this Agreement or the transactions contemplated hereby if consummated, or commence any investigation into the consummation of this Agreement and the transactions contemplated hereby; or (ii) the actual commencement of such an investigation.
  - 9.1.7. No Order. No order, decree or judgment of any Governmental Authority shall be existing against any of the Parties which would render it unlawful or materially restrain or limit the

- Parties' ability, as of the Closing Date, to effect the transactions contemplated hereunder in accordance with the terms hereof or Purchaser's ability to operate the Stations as presently being conducted or as proposed to be operated by Purchaser.
- 9.1.8. Officers' Certificates. Purchaser shall have delivered a certificate signed by an authorized officer of Purchaser, to the effect that the conditions set forth herein have been satisfied.
- 9.1.9. Consummation of Purchase of Stations Owned by Rocking M Media, LLC. All closing conditions required for Purchaser and Rocking M Media, LLC ("***RMM***") and its affiliate to consummate the Purchase and Sale Agreement entered into between them on the Effective Date shall have been satisfied and be ready to close contemporaneously with the Closing hereunder ("***Rocking M Closing Condition***").
- 9.1.10. Assumption of Assumed Liabilities. A duly executed undertaking and assumption agreement, dated the Closing Date, in form and substance reasonably satisfactory to Seller pursuant to which Purchaser shall assume and undertake to perform the Assumed Liabilities.
- 9.1.11. Assumption of Real Property Leases. Purchaser shall be ready to and shall assume from Seller all of Seller's rights, title, interest and obligations under the Real Property identified in Schedule 1.1(a).
- 9.1.12. Assumption of Assumed Contracts. Purchaser shall be ready to and shall assume from Seller all of Seller's rights, title, interest and obligations to the Assumed Contracts.
- 9.1.13. Miscellaneous. Such other documents as Seller, or its legal counsel, may reasonably request in order to carry out the purposes of this Agreement.
- 9.2. Conditions To Purchaser's Obligation To Close. The obligation of Purchaser to purchase the Broadcasting Assets and to proceed with the Closing is subject to the satisfaction at or prior to the Closing of each of the following conditions (unless waived in writing by Purchaser, with the exception of Sections 9.2.1 and 9.2.2):
- 9.2.1. FCC Consent. The FCC shall have granted the FCC Consent and the FCC Consent shall have become Final for the assignment of the Licenses from Seller to Purchaser.
- 9.2.2. Court Approval. This Agreement and the transactions contemplated hereby are approved by the Bankruptcy Court pursuant to a final, non-appealable Sale Order acceptable to Purchaser in its commercial reasonable discretion.
- 9.2.3. Transfer of Documents. Purchaser shall have received the instruments and other documents (in form and substance reasonably satisfactory to its counsel) required to be delivered to it pursuant to Article X hereof.
- 9.2.4. Accuracy of Representations and Warranties. The representations and warranties made herein by Seller shall be true and correct in all material respects when made and on and as of the Closing Date with the same force and effect as though made on and as of the Closing Date. Seller may deliver an Amended and Restated Schedule 1.1(b)(i) and Schedule 3.13 revising the tangible personal property list and exceptions to conditions of the tangible personal property consistent with the results of the joint property inventory, provided that the results of such inventory must be acceptable to Purchaser in its commercially reasonable discretion.
- 9.2.5. Compliance with Agreement. All of the terms, agreements, covenants and conditions of this Agreement to be performed or complied with by Seller on or prior to the Closing shall have been duly performed or complied with.
- 9.2.6. No Governmental Intervention. Neither of the Parties to this Agreement shall have received written notice from any Governmental Authority of (i) its intention to institute any action or proceeding to restrain or enjoin or nullify or render ineffective this Agreement or the transactions contemplated hereby if consummated, or commence any investigation into the consummation of this Agreement and the transactions contemplated hereby; or (ii) the actual commencement of such an investigation.



- 9.2.7. No Order. No order, decree or judgment of any Governmental Authority shall be subsisting against any of the Parties that would render it unlawful or materially restrain or limit Purchaser's ability, as of the Closing Date, to effect the transactions contemplated hereunder in accordance with the terms hereof or to operate the Stations as presently being conducted.
- 9.2.8. Officers' Certificates. Seller shall have delivered a certificate signed by an authorized officer of Seller, to the effect that the conditions set forth herein have been satisfied.
- 9.2.9. Secretary's Certificate. Seller shall have delivered to Purchaser (a) a copy of a resolution of the Board of Directors, or other applicable governing body of Seller authorizing the sale of the Broadcasting Assets, and (b) certificates of good standing or the equivalent thereof for Seller for the State of Kansas.
- 9.2.10. FCC Matters. On the Closing Date, Seller shall be the owner and holder of the Licenses to the extent that such Licenses can be owned or held by Seller under the Communications Act, and the Licenses shall be in full force and effect, valid for the balance of the current license terms applicable generally to radio stations licensed to communities located in the State of Kansas. Seller shall not have acted or failed to act in any manner that reasonably could be expected to result in the expiration, revocation, suspension or modification of any of the FCC Licenses, except to the extent the FCC imposes any modifications consistent with the transactions contemplated by this Agreement.
- 9.2.11. Consummation of Purchase of Stations Owned by Rocking M Media, LLC. The Rocking M Closing Condition shall have been satisfied.
- 9.2.12. Termination of TBA. The Time Brokerage Agreement entered into between Seller and Rocking M. Radio, Inc., with respect to KLOE, KWGB, KKCI shall have been terminated at or prior to Closing.

## **X. Instruments of Conveyance and Transfer**

10. Instruments of Conveyance and Transfer of Personal Property. At the Closing, to effect the transfers, conveyances and assignments from Seller to Purchaser, Seller shall deliver to Purchaser the following, all in form reasonably satisfactory to counsel for each of Seller and Purchaser, and dated as of the Closing Date:
- 10.1. Bills of Sale. Bills of sale for all Tangible Personal Property included in the Broadcasting Assets;
- 10.2. Assignments of Licenses. Assignments of the Licenses and all other authorizations for Seller included in the Broadcasting Assets;
- 10.3. Deeds. If applicable, Kansas general warranty deeds for all Real Property owned by Seller and part of the Broadcast Assets.
- 10.4. Assignment and Assumption of Leases. If applicable, assignment and assumption of leases in form and content sufficient for Seller to transfer and assign to Purchaser and for Purchaser to assume Seller's leasehold interest in any Real Property leased by Seller and part of the Broadcasting Assets.
- 10.5. Assignment of Assumed Contracts. Instrument of assignment and assumption of Seller's interest in the Assumed Contracts; and
- 10.6. Other Documents. Such other instruments or documents as Purchaser may reasonably request, in form reasonably acceptable to Seller and Purchaser and their respective legal counsel, to effect the transfer to Purchaser of the real and personal property included in the Broadcasting



Assets to be transferred, not inconsistent with the obligations of Seller under this Agreement. Such documents to include a Seller's affidavit sufficient or other document sufficient to delete the standard exceptions (other than any exception that can only be deleted with an ALTA survey) in any ALTA owner's title insurance policy that Purchaser elects to obtain for the Real Property (at Purchaser's sole cost and expense), if applicable, and any other documents or deliverables reasonably necessary to support extended coverage title insurance and to complete the closing of the acquisition, if applicable, of the Real Property through a title company issuing title insurance for the Real Property.

## **XI. Risk of Loss; Insurance**

The risk of any loss, damage or impairment, confiscation or condemnation of the Broadcasting Assets or any part thereof from fire, explosion, disaster, flood, accident, riot, insurrection, war, act of God or other similar occurrence shall be borne by Seller at all times prior to the Closing and by Purchaser at all times thereafter. In any such event, the proceeds of, or any claim for any loss payable under, any insurance policy, claim, judgment or award with respect thereto (collectively, the "**Proceeds**") shall be applied toward the repair, replacement or restoration of such Broadcasting Assets as soon as possible after its loss, impairment, confiscation or condemnation. If prior to Closing, a Station is off the air or operating at a power level that results in a material reduction in coverage (a "**Broadcast Interruption**"), then Seller shall use commercially reasonable efforts to return such Station to the air and restore prior coverage as promptly as possible in the ordinary course of business. Notwithstanding anything herein to the contrary, if prior to Closing there is a Broadcast Interruption in excess of 24 hours, then Purchaser may postpone Closing until the date five (5) Business Days after such Station returns to the air and prior coverage is restored in all material respects.

## **XII. Event of Loss**

If any Broadcasting Assets with a value of greater than Five Thousand and no/100 Dollars (\$5,000.00) are damaged or destroyed after the Effective Date and prior to the Closing Date and shall not be restored, replaced or repaired by the Closing Date, Purchaser may, at its option and upon reasonable notice to Seller, either (i) postpone the Closing for a period of up to thirty (30) days while Seller repairs or replaces such Broadcasting Assets, which period shall automatically be extended if the necessary repairs or replacement have not occurred by the expiration of such thirty-day period provided that Seller is using commercially reasonable efforts to complete such repairs or replacement and for so long as Seller continues to diligently endeavor in good faith and on a timely basis to complete such repairs and replacement, or (ii) elect to close with the Broadcasting Assets in their current condition, in which case Seller shall assign all proceeds from insurance on such damaged or destroyed Broadcasting Assets to Purchaser, and Purchaser shall have the responsibility to repair or replace such Broadcasting Assets, or (iii) elect to close the transactions contemplated by this Agreement with the Broadcasting Assets in their current condition, in which case Purchaser shall have the responsibility to repair or replace such Broadcasting Assets and the estimated cost to complete the repair or replacement of such damaged or destroyed Broadcasting Asset shall be held back from the Purchase Price and applied towards the repair costs incurred by Purchaser and any unused funds shall be released to Seller upon Purchaser's completion of such repair or replacement. Purchaser acknowledges and agrees that if Purchaser elects clause (ii) or (iii) above, Purchaser shall be deemed to have waived any right or claim it may have had on account of any such damaged or destroyed Broadcasting Asset, except in respect of a claim to such insurance proceeds or the held back amount, as the case may be. For purposes of this Article XII, the term damaged shall mean and refer to any Tangible Personal Property being transferred, conveyed and assigned to Purchaser that suffers a change in the condition with which it was delivered on the Effective Date and which cost to repair is in excess of \$500.00.

## **XIII. Books and Records**

Purchaser shall be entitled to all records relating to the Broadcasting Assets, including, but not limited to, the Public File, technical information and engineering data, FCC logs, asset history files and other files, documents and correspondence of Seller relating to the Broadcasting Assets prior to the Closing Date as shall be reasonably necessary to the maintenance of the Broadcasting Assets after the Closing Date, but expressly excluding those books, records and files identified as Excluded Assets. At, or as soon as practicable after the Closing, but in no event later than ten (10) business days after the Closing, Seller shall deliver to Purchaser in accordance with Purchaser's instructions the foregoing documents relating to the Broadcasting Assets that are in the possession of Seller, or any of their representatives, agents or Affiliates.

#### **XIV. Possession and Control of Stations**

Notwithstanding any other provision of this Agreement, or between the date of this Agreement and the Closing Date, Purchaser shall not directly or indirectly control, supervise or direct, or attempt to control, supervise or direct, the operations of the Stations, and the conduct of such business operations, including control and supervision of programming, shall be the sole responsibility of, and in the complete discretion and independent and separate control of Seller. Neither title to, nor right to possession of, the Broadcasting Assets shall pass to Purchaser until the Closing Date.

#### **XV. Brokers**

Seller represents and warrants to Purchaser that it has not engaged any person or firm other than Greg Guy of Tideline Partners, LLC as broker, in connection with this Agreement and the transactions contemplated herein. Purchaser represents and warrants to Seller that it has not engaged any person or firm as the broker in connection with this Agreement and the transactions contemplated herein. Except for the Purchaser's premium for certain commissions contemplated by paragraph 3(d) of the Procedures Order, Seller shall be solely responsible for and pay all fees of Greg Guy of Tideline Partners, LLC. Seller and Purchaser each agree to indemnify and hold the other harmless from any and all loss, cost, liability, damage and expense (including legal and other expenses incident thereto) in respect to any claim for a broker, finder or consultant's fee or commission or similar payment by virtue of any alleged agreements, arrangements or understandings with the indemnifying Party.

#### **XVI. Survival; Indemnification**

##### **16. Survival and Indemnification.**

16.1. The several representations, warranties and covenants of the Parties contained in this Agreement shall be deemed to have been made on the date of this Agreement and on the Closing Date, shall survive the Closing Date and shall remain operative and in full force and effect for a period of twelve (12) months after the Closing Date except: (i) with respect to Taxes which shall survive for the applicable statute of limitations period, (ii) Articles XVIII and XIX which shall survive in accordance with their terms, and (iii) that Purchaser's obligations with respect to the Assumed Liabilities shall survive in accordance with their terms (each an "**Indemnification Cut-Off Date**"). The Indemnification Cut-Off Date shall not affect the rights of a Party in respect of any indemnification claim made by such Party in writing prior to the Indemnification Cut-Off Date.

16.2. **Seller's Indemnification.** After the Closing, and subject to this Section, Seller agrees to indemnify, defend and hold Purchaser harmless from and against: any and all liabilities, known or unknown, actions, suits, proceedings, demands, assessments, judgments, costs and expenses (including reasonable legal and other expenses incident thereto) (collectively, "**Losses**") resulting from causes of action or claims of any kind (excluding any and all claims and liabilities arising or resulting from a breach of any of Purchaser's representations or warranties or from an inaccuracy

in any of Purchaser's representations hereunder) arising from (a) any untrue representation, breach of warranty, or nonfulfillment of any covenant by Seller contained herein, (b) Seller's operation of the Stations and ownership of the Broadcasting Assets prior to Closing, and (c) any and all contracts, agreements, liabilities and obligations of Seller not included in the Assumed Liabilities.

16.2.1. Limitation of Seller Indemnification. Notwithstanding anything herein to the contrary:

- 16.2.1.1. Purchaser shall not be entitled to indemnification for Losses in respect of claims made pursuant to Section 16.2(a) unless the total of all Losses in respect of such claims made by Purchaser shall exceed Five Thousand and no/100 Dollars (\$5,000.00) in the aggregate (the "***Seller Deductible***"), whereupon, only such Losses in respect of such claims above such amount shall be recoverable by Purchaser in accordance with the terms hereof;
- 16.2.1.2. Except as set forth below, the maximum amount payable to Purchaser for Losses in respect of claims made by Purchaser under Section 16.2(a) shall not exceed Fifty Thousand and no/100 Dollars (\$50,000) (the "***Seller Cap***"); for the avoidance of doubt, the Seller Cap shall not apply to Losses incurred by Purchaser as a result of intentional fraud or Liabilities which are not Assumed Liabilities.
- 16.2.1.3. Seller shall not be obligated to provide indemnification hereunder with respect to any claim made by Purchaser after the applicable Indemnification Cut-Off Date;
- 16.2.1.4. Seller shall not be liable for Losses under Section 16.2 resulting from any breach of representation, warranty or covenant with respect to which Purchaser or any of its employees or agents had timely, actual knowledge at least five (5) business days prior to the Closing of such breach or that the breach was threatened. Seller will have no liability under any provision of this Agreement for any Losses to the extent that such Losses relate to actions taken or not taken by Purchaser after the Closing. After the Closing, Purchaser will take all commercially reasonable steps to mitigate all Losses upon and after becoming aware of any event or circumstance that could reasonably be expected to give rise to any Losses with respect to which indemnification may be required hereunder; and
- 16.2.1.5. Any liability for indemnification under Section 16.2 shall be determined without duplication of recovery by reason of the state of facts giving rise to such liability constituting a breach of more than one representation, warranty or covenant. Seller shall not in any event be liable under this Section 16.2, and no claim for indemnification may in any event be asserted against Seller under this Section 16.2 for any punitive, incidental or consequential damages by reason of a breach of any representation, warranty, covenant or indemnity contained herein.

16.3 Indemnification by Purchaser. Purchaser shall indemnify, defend and hold harmless Seller and its officers, directors and employees acting within the scope of employment from, against and with respect to any Loss arising out of or in connection with any of the following:

- 16.3.1. Any breach of any of the representations and warranties of Purchaser contained in this Agreement;
- 16.3.2. Any failure by Purchaser to perform or observe, or to have performed or observed any covenant, agreement or condition to be performed or observed by it pursuant to this Agreement;
- 16.3.3. All obligations under the Assumed Contracts arising on or after the Closing Date, and all other obligations expressly assumed by Purchaser under this Agreement; or
- 16.3.4. Purchaser's ownership and operation of the Stations and the Broadcasting Assets on and after the Closing.

**XVII. Default; Termination****17. Default; Termination**

- 17.1. Default and Cure. If prior to Closing either Party believes the other Party to be in material breach or default of its representations, warranties, covenants or obligations hereunder, the non-defaulting Party may provide the defaulting party with notice specifying in reasonable detail the nature of such breach or default. If such breach or default cannot be cured, or has not been cured by the earlier of (i) the Closing Date, or (ii) within thirty (30) calendar days after delivery of such notice, then the non-defaulting Party giving such notice may (x) terminate this Agreement in accordance with Section 17.2 or (y) extend the Closing Date by ten (10) business days to permit such cure (but no such extension shall constitute a waiver of the non-defaulting Party's right to terminate as a result of such default). Such rights are contingent upon the giving of such notice.
- 17.2. Termination. This Agreement may be terminated at any time prior to Closing as follows:
- 17.2.1. Mutual Consent. This Agreement may be terminated by mutual written consent of Seller and Purchaser.
  - 17.2.2. Seller. This Agreement may be terminated on notice by Seller (i) pursuant to Section 17.1 hereof provided Seller is not then in material breach of this Agreement, or (ii) if both the Purchaser and Seller agree that any condition set forth in Section 9.2 (other than Section 9.2.1 and 9.2.2.) cannot be met and has not been waived.
  - 17.2.3. Purchaser. This Agreement may be terminated on notice by Purchaser (i) pursuant to Section 17.2.1 hereof provided Purchaser is not then in material breach of this Agreement, or (ii) if both the Purchaser and Seller agree that any condition set forth in 9.1 (other than Section 9.1.1 and 9.1.2) cannot be met and has not been waived.
  - 17.2.4. Passage of Time; Court Disapproval. This Agreement will terminate automatically if the Bankruptcy Court for the District of Kansas does not approve the sale; and/or, unless extended by mutual agreement of the Parties hereto, if FCC Consent to assign the Licenses for the Stations has not been granted and has not become Final within twelve (12) months of the date of this Agreement, provided that at that time, neither Party is in material breach of any provision of this Agreement.
- 17.3. Effect of Termination. In the event of termination of this Agreement pursuant to Section 17.2, this Agreement shall forthwith become void and the Parties shall be released and discharged from any further obligation hereunder except that (i) the agreements, rights and obligations contained in this Article XVII (Default, Termination) and Articles XVIII (Confidentiality) and XIX (Miscellaneous) hereof shall survive the termination hereof, and (iii) in the case of fraud in which case such fraudulent Party shall be liable for Losses incurred or suffered by the other Party as a result of such fraud.
- 17.4. Remedies; Specific Performance; Release of Earnest Money Deposit. The Parties hereby agree that, in the event of a material breach of this Agreement by Seller, Purchaser shall be entitled to either (i) specific performance of the obligations of Seller under this Agreement or (ii) termination of this Agreement in accordance with Section 17.2.3 above and release to Purchaser of the Earnest Money Deposit, which shall be Purchaser's sole remedies hereunder absent Seller's fraud. The Parties hereby further agree that if this Agreement is terminated pursuant to Section 17.2.2 as a result of Purchaser's breach or default or a reason caused otherwise by Purchaser, Seller shall be entitled to the Earnest Money Deposit including the interest accrued thereon (which shall be released to Seller promptly upon such termination, but in any event no later than five (5) business days thereafter) as liquidated damages, which shall be Seller's sole remedy hereunder in the case of such termination absent Purchaser's fraud. Purchaser agrees that damages suffered by



Seller in the event of a termination of this Agreement would be difficult to determine, and that the Earnest Money Deposit represents a reasonable estimate of actual damages and not a penalty. In the event this Agreement is terminated by mutual agreement pursuant to Section 17.2.1. or pursuant to Section 17.2.4 (and not as a result of breach of the Agreement by either Party), then the Purchaser shall be entitled to receive the Earnest Money Deposit (along with any accrued interest) (which shall be released to Purchaser promptly upon such termination but in any event no later than five (5) business days thereafter).

#### **XVIII. Confidentiality**

18. The Parties agree that they shall, at all times prior to and for one (1) year after the Closing, maintain confidential and not use for any purpose other than the operation of Stations, any information relating to this transaction, the Stations, the Broadcasting Assets, the Licenses and the other confidential and proprietary information of the other Party (other than information in the public domain not as the result of a breach of this Agreement), except: (i) for disclosure to authorized representatives of a Party, provided that any such person shall agree to maintain confidential any such information; (ii) as reasonably necessary to the performance of this Agreement or in connection with any financing of Purchaser; (iii) as authorized in writing by the other Party; or (iv) to the extent that disclosure is required by law or the order of any Governmental Authority under color of law or in connection with any litigation; provided, that prior to disclosing any information pursuant to this clause (iv), the Party from whom disclosure is requested shall have given reasonable prior written notice thereof to the other Party and provided such Party with the opportunity to contest such disclosure at such Party's expense. Neither Party shall issue any press releases or communications to the press or general public relating to the transactions contemplated by this Agreement or the terms or existence of this Agreement, without the prior written approval of the other Party. Notwithstanding the foregoing, each Party acknowledges that this Agreement must be filed with the FCC as part of the Application.

#### **XIX. Miscellaneous**

##### **19. Miscellaneous**

- 19.1. **Costs, Expenses.** Each Party will be responsible for and shall bear all of its own costs and expenses (including any expenses of its representatives) incurred at any time in connection with pursuing or consummating the acquisition. FCC filing fees or application fees in connection with the assignment of the Licenses shall be equally divided between Purchaser and Seller. All recording costs and fees incurred in connection with the clearing and removing of any Encumbrances to which the Broadcasting Assets may be subject, so as to permit Seller to convey good and marketable title to the Broadcasting Assets free and clear of all Encumbrances (other than Permitted Encumbrances), shall be the responsibility of Seller. Any fees owed to the Escrow Agent shall be shared equally by Seller and Purchaser.
- 19.2. **Taxes.** The payment of all sales, use, transfer or similar Taxes, documentation stamps, or other charges imposed by any and all Governmental Authorities (excluding any income or gain Taxes) with respect to the transfer of title to the Broadcasting Assets hereunder and the other transactions anticipated hereby shall be the responsibility of the Party required by law to pay any such taxes, or if not specified by law, such shall be paid by Purchaser. The obligation to pay such taxes may be subject to waiver pursuant to United States Code Section 1146.



- 19.3. Further Assurances. Each Party shall, from time to time, upon the request of the other Party, execute, acknowledge and deliver to the other Party such other documents or instruments, and take any and all actions as are reasonably necessary for the implementation and consummation of the transactions contemplated by this Agreement.
- 19.4. Notice of Proceedings. Purchaser or Seller, as the case may be, will promptly and in any case within five (5) business days notify the other in writing upon becoming aware of any pending or threatened order or similar issuance restraining or enjoining the consummation of this Agreement or the transactions contemplated hereunder.
- 19.5. Notices. Any notice, request, demand or consent required or permitted to be given under this Agreement shall be in writing and shall be effective when transmitted and confirmation of receipt is obtained for facsimile transmissions; when delivered personally; one (1) Business Day after sent by recognized overnight courier; and five (5) calendar days after sent by mail, first class, postage prepaid; in each case to the following address or telephone number, as applicable:

If to Seller to:

Melia Communications, Inc.  
1065 S. Range  
Colby, KS 67701  
Attention: Monte M. Miller, Jr. and Doris D. Miller  
Montemiller1940@gmail.com  
Dorisdowningmiller1942@gmail.com

With copies to:

Sharon L. Stolte, Esquire  
Sandberg Phoenix  
4600 Madison Avenue, Suite 1000  
Kansas City, MO 64112  
sstolte@sandbergphoenix.com

And:

Christopher D. Imlay  
Booth, Freret & Imlay, LLC  
14356 Cape May Road  
Silver Spring, MD 20904-6011  
chris@imlaylaw.com

If to Purchaser to:

Kansas Broadcast Company, LLC  
2211 Stardust Dr.  
Clay Center, KS 67432  
Attn. Kyle Bauer  
kbauer@kfrfm.com

With a copy to:

David D. Oxenford  
Paige K. Fronabarger  
Wilkinson Barker Knauer LLP  
1800 M Street, NW  
Suite 800N  
Washington, DC 20036  
doxenford@wbklaw.com  
pfronabarger@wbklaw.com

or at such other address as either Party shall specify by notice to the other.

- 19.6. Headings, Entire Agreement, Amendment. The section and subsection headings do not constitute any part of this Agreement and are inserted herein for convenience of reference only. This Agreement embodies the entire agreement between the Parties with respect to the subject matter hereof and supersedes all prior oral or written agreements, understandings, representations and warranties, and courses of conduct and dealing between the Parties on the subject matter hereof. It may not be amended, modified or changed orally, but only in writing signed by the Party against whom enforcement of any amendment, modification, change, waiver, extension or discharge is sought.
- 19.7. Waiver. No waiver of a breach of, or default under, any provision of this Agreement shall be deemed a waiver of such provision or of any subsequent breach or default of the same or similar nature or of any other provision or condition of this Agreement.
- 19.8. Binding Effect and Assignment. This Agreement shall be binding upon and shall inure to the benefit of the Parties and their successors and permitted assigns. Neither this Agreement nor any obligation hereunder shall be assignable by Seller except with the prior written consent of the Purchaser which consent may not be unreasonably withheld, *except that* the rights of Seller under this Agreement may be collaterally assigned to Lender as collateral security for repayment of debts and performance of obligations owed by Seller to Lender, and notwithstanding any other provision of this Agreement to the contrary, Purchaser hereby consents to the assignment of Seller's rights under this Agreement to Lender, and its successors and assigns, as collateral security for such debts and obligations, provided that any such assignment does not constitute an encumbrance on any of the assets to be assigned to Purchaser at Closing which cannot be released prior to Closing. Neither this Agreement nor any obligation hereunder shall be assignable by Purchaser except with the prior written consent of the Seller, which consent may not be unreasonably withheld, *except that* Purchaser may assign all or any portion of its rights and obligations under this Agreement to an affiliate of Purchaser who agrees in writing to assume all of Purchaser's obligations under this Agreement, and Purchaser will be released from all obligations hereunder with respect to any such assignment.
- 19.9. Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original, but which taken together shall constitute one agreement.
- 19.10. Exhibits, Schedules and Appendices. The Exhibits, Schedules and Appendices attached to this Agreement are incorporated herein and shall be considered a part of this Agreement for the purposes stated herein, except that in the event of any conflict between any of the provisions of such exhibits and the provisions of this Agreement, the provisions of this Agreement shall control.

- 19.11. Rights Cumulative. Except as set forth herein, all rights, powers and remedies herein given to Purchaser and Seller are cumulative and not alternative, and are in addition to all statutes or rules of law.
- 19.12. Governing Law. This Agreement, and the rights and obligations of Purchaser and Seller hereunder, shall be governed by and construed in accordance with the laws of the State of Kansas applicable to contracts made and to be performed therein, and to the Communications Act of 1934, as amended and relevant provisions of the regulations of the FCC.
- 19.13. Severability. If any provision of this Agreement or the application thereof to any Person or circumstance, is held invalid, such invalidity shall not affect any other provision that can be given effect without the invalid provision or application. Any such invalid provision shall be given effect to the extent possible or shall be reformed so as to make it enforceable and valid while preserving the original intent of the Parties.
- 19.14. Third-Party Rights. Neither Seller nor Purchaser assumes any duty hereunder to any other person or entity, and this Agreement shall operate exclusively for the benefit of the Parties hereto and their respective affiliated corporations and not for the benefit of any other person or entity.
- 19.15. Time of Essence. Time is of the essence in the performance of this Agreement.
- 19.16. Drafting Ambiguities. Each Party to this Agreement and its counsel have reviewed and revised this Agreement. The normal rule of construction to the effect that any ambiguities are to be resolved against the drafting Party shall not be employed in the interpretation of this Agreement or of any amendments, schedules, appendices or exhibits to this Agreement.
- 19.17. Entire Agreement. This Agreement, the Escrow Agreement and the Schedules, Exhibits and Appendices hereto and thereto constitute the entire contract between the Parties hereto pertaining to the subject matter hereof, and supersede all prior and contemporaneous agreements and understandings between the Parties with respect to such subject matter.

[Signature Page Follows]

IN WITNESS WHEREOF, each party has caused this Agreement to be duly executed and delivered in its name and on its behalf, all as of the date and year first above written.

**SELLER:**

**MELIA COMMUNICATIONS, INC.**

*Monte M. Miller*

By: \_\_\_\_\_  
Name: Monte M. Miller, Jr.  
Title: President

**PURCHASER:**

**KANSAS BROADCAST COMPANY, LLC**

*Kyle Bauer*

By: \_\_\_\_\_  
Name: Kyle Bauer  
Title: President

**Appendix I**  
**Defined Terms**

“**Agreement**” means this Purchase and Sale Agreement, as the same may be amended, supplemented or otherwise modified from time to time.

“**Assumed Contracts**” means (i) all of the Stations’ advertising and time sale contracts entered into in the ordinary course of business that exist at Closing and that are cancelable without penalty (upon not more than sixty (60) days prior notice) and (ii) the agreements, contracts and obligations of Seller described in Schedule 1.1(d) hereto which will be assumed by Purchaser under this Agreement.

“**Bankruptcy Court**” means the United States Bankruptcy for the District of Kansas.

“**Broadcasting Assets**” means Seller's rights, title and interest in and to the properties and assets identified below (but shall not in any event include any Excluded Assets):

(a) Seller's right, title and interest in and to the real property (including the fee estates and buildings, fixtures, and improvements thereon, leases and leasehold interests, licenses, easements, rights to access, rights-of-way, and other real property interests) used or held for use in connection with the business and operations of the Stations that are listed and described in Schedule 1.1(a) hereto (the “**Real Property**”);

(b) Seller's transmitters, antenna towers, antenna systems, equipment, machinery, furniture, furnishings, fixtures, computers, telephone systems, office equipment, office materials, vehicles and other tangible personal property used or held for use in connection with the business and operations of the Stations (together with such improvements and additions thereto and replacements thereof between the date hereof and the Closing Date), as identified in Schedule 1.1(b)(i) and the motor vehicles identified in Schedule 1.1(b)(ii) (collectively, the “**Tangible Personal Property**”);

(c) The FCC Licenses and any other licenses, permits and authorizations issued by any Governmental Authority to Seller held and used or held for use by Seller in connection with the business and operations of the Stations as of the date hereof, as set forth in Schedule 3.1.1(e) hereto, and any additions, renewals and extensions thereto between the date hereof and the Closing Date, including, but not limited to, any and all FCC construction permits, FAA licenses and other authorizations;

(d) The Assumed Contracts;

(e) The registered and unregistered trademarks, trade names, service marks, copyrights owned by Seller or in which Seller has a transferable interest, patents and applications therefor and all other similar intangible assets used or held for use in connection with the business and operation of the Stations, telephone numbers, jingles, logos, slogans, programming material, Internet domain names, Internet URLs, Internet web sites and social media sites and apps, or any of them, including, but not limited to, the call letters of all of the Stations and the goodwill related to the foregoing, all of which are listed or described on Schedule 1.1(e) (the “**Intellectual Property**”);



(f) All of the Stations' technical information and data, machinery and equipment warranties (to the extent such warranties are assignable), if any, maps, plans, diagrams, blueprints, and schematics used or held for use in connection with the business and operation of the Stations, if any, including filings with the FCC which relate to the Stations, and goodwill relating to the foregoing;

(g) All books and records used or held for use in connection with the business and operations of the Stations, including, without limitation, (1) executed copies of the Assumed Contracts or, if no executed agreement exists, summaries of the Assumed Contracts transferred pursuant to this Agreement and (2) all records required by the FCC to be kept by Seller with respect to the Stations; all subject to the right of Seller to have the books and records made reasonably available to Seller for tax and corporate purposes for a period of three (3) years after the Closing;

(h) To the extent assignable, all computer programs and software, and all rights and interests in and to computer programs and software used or held for use in connection with the business and operations of the Stations;

(i) Those other assets used or held for use in connection with the operations or business of the Stations that are listed on the attached Schedule 1.1(i); and

(j) All prepaid expenses and deferred items and similar other assets prorated in favor of Purchaser pursuant to Section 1.5 hereof.

**"Closing"** means the consummation of the purchase, assignment and sale of the Broadcasting Assets and assumption of the Assumed Liabilities as contemplated hereby.

**"Closing Date"** means a time and business date not later than ten (10) business days after the date on which FCC Consent has been granted and has become Final for all of the Stations, and all other conditions specified in this Agreement shall have been met (or if applicable, waived), unless otherwise provided for herein or if Purchaser and Seller mutually agree to a different time and date;

**"Encumbrances"** has the meaning set forth in Section 5.3.3.

**"Excluded Assets"** shall mean (a) any assets, of whatever kind or nature, which are held by Seller and used in connection with the operations of any networks, radio broadcast station or stations or other activities of Seller other than the Stations, and (b) the following assets relating to the Stations:

(i) any contracts or agreements other than the Assumed Contracts and the Real Property leases identified Schedule 1.1(a);

(ii) cash and cash equivalents on hand or in banks, certificates of deposit, money market funds, stocks, bonds, securities, and similar type investments;

(iii) accounts receivable and net positive trade balances (if any);

(iv) promissory notes, amounts due from employees, bonds, letters of credit, certificates of deposit, other similar items, and any cash surrender value in regard thereto;

(v) all pension, profit-sharing, retirement, stock purchase or savings plans or trusts and any assets thereof and all other employee benefit plans;

(vi) all prepaid expenses and deferred items and similar other assets prorated in favor of Seller pursuant to Section 1.5 hereof;

(vii) Seller's corporate minute books and other books and records relating to internal corporate matters and any other books and records not related to the Stations or to the business or operations of any of the Stations;

(viii) all tax returns and supporting materials, all original financial statements and supporting materials, all books and records that Seller is required by law to retain, and all records of Seller relating to the sale and assignment of the Broadcasting Assets; and duplicate copies of the books and records necessary to enable Seller to file its tax returns and reports;

(ix) any claims, rights and interests in and to any refunds or overpayments of federal, state or local franchise, income or other taxes or fees of any nature whatsoever which relate solely to the period prior to the Closing Date;

(x) all insurance policies relating to the Stations, including policies relating to property, liability, business interruption, health and workers' compensation naming the Seller as insured, and any premium, refunds, proceeds and other amounts related to such insurance policies;

(xi) all causes of action of Seller which existed on or prior to the Closing Date and which relate entirely to the Seller's ownership and operation of the Stations during the period of time before the Closing Date; and any and all causes of action and claims of Seller arising out of or relating to transactions prior to the Closing Date, including, without limitation, claims for tax refunds;

(xii) all intangible personal property within the Broadcasting Assets disposed of or consumed in the ordinary course of business consistent with the past practices of Seller, and the terms and conditions of this Agreement, between the date hereof and the Closing Date;

(xiii) any personal property owned by Seller's principals; and

(xiv) all rights of Seller to and under any owned or leased real property not listed on Schedule 1.1(a) hereto.

"**FCC**" means the Federal Communications Commission.

"**FCC Consent**" means to the extent required by applicable law, the consent of the FCC to the consummation of the transactions contemplated by this Agreement, including without limitation the assignment of Licenses.

"**Final**" shall mean action by the FCC: (i) which has not been vacated, reversed, stayed, set aside, annulled or suspended; (ii) with respect to which no timely appeal, timely request for stay, or timely petition for rehearing, reconsideration or review by any Person or Governmental Authority or by the FCC on its own motion, is pending; and (iii) as to which the time for filing any such timely appeal, timely request, timely petition or for the reconsideration or review by the FCC on its own motion, has expired.

"**Governmental Authority**" means any court or federal, state, municipal or other governmental or quasi-governmental authority, department, commission, board, agency or instrumentality, foreign or

domestic, or any employee or agent thereof, or any mediator, arbitrator or similar forum of alternative dispute resolution.

**“Knowledge”**, when discussed in the context of the Seller, refers to the actual knowledge of Quinn Miller.

**“Liabilities”** means all claims, obligations, indebtedness, commitments, whether direct or indirect, absolute, accrued, contingent, or otherwise, or due or to become due, asserted or unasserted, matured or unmatured, including without limitation trade accounts payable, accrued liabilities for payroll and related expenses, obligations for borrowed money or for the deferred purchase price of property or services, obligations secured by any Encumbrance on or with respect to any property or assets owned by a Person or acquired by a Person subject thereto (whether or not the obligation secured thereby shall have been assumed), obligations under direct or indirect guarantees, and other obligations (contingent or otherwise) to purchase, to provide funds for payment or otherwise acquire property or to assure a creditor against loss, obligations to reimburse the issuer with respect to letters of credit, liabilities in respect of unfunded accrued vested benefits under any employee benefit plan, capital lease obligations and any other known or unknown obligations or liabilities.

**“Licenses”** has the meaning set forth in the recitals hereto.

**“Material Adverse Effect”** means an effect on, or change in, the business, financial condition or results of operations of Seller, the Broadcasting Assets and/or the Licenses, which is the result of an action taken outside the normal course of business; which is not the result or consequence of an action taken pursuant to any provision of this Agreement, by either Party; which is not the result or consequence of any action or actions taken by Seller or Seller's agents which are at the request of, or with the approval of Purchaser; and which has the effect, either individually or when aggregated with other such effects, of jeopardizing the fundamental value of the transactions contemplated by this Agreement.

**“Parties”** shall mean the parties to this Agreement set forth in the recitals hereto and their successors and permitted assignees.

**“Permitted Encumbrances”** means (i) Encumbrances for Taxes not due and payable; (ii) current zoning, building codes, and other land use laws regulating the use, ownership, or occupancy of the Real Property and that are not violated by the current use, ownership or, occupancy of such Real Property or the operating of the Business of the Stations thereon; and (iii) the Encumbrances set forth on Schedule 3.4, if any.

**“Person”** shall mean any natural person, corporation, partnership, limited liability company, firm, joint venture, joint-stock company, trust, association, unincorporated entity of any kind, trust, governmental or regulatory body or other entity.

**“Proceeds”** has the meaning set forth in Article XI.

**“Purchase Price”** has the meaning set forth in Addendum A.

**“Purchaser”** has the meaning set forth in the recitals hereto.

**“Seller”** has the meaning set forth in the recitals hereto.

**“Stations”** means the radio stations of Seller set forth and described on Addendum B hereof.

“*Tax*” or “*Taxes*” means all federal, state, local, foreign and other taxes, assessments or other governmental charges, including, without limitation, income, estimated income, ad valorem, excise, value-added, gross receipts, business, occupation, franchise, property (real or personal) or environmental tax or premium, sales, use, transfer, stamp, employment or withholding taxes, registration and licensing fees, and other assessments and similar taxes, including, without limitation, interest, penalties, additions in connection therewith (whether disputed or not), and any liability under Treasury Regulation Section (or any comparable provision of foreign, state or local law) or any other tax obligation which Seller has assumed or for which Seller is or was liable.

“*Tax Returns*” has the meaning set forth in Section 5.6.

**Other Definition Provisions.**

The masculine form of words includes the feminine and the neuter and vice versa, and, unless the context otherwise requires, the singular form of words includes the plural and vice versa. The words “herein,” “hereof,” “hereunder” and other words of similar import when used in this Agreement refer to this Agreement as a whole, and not to any particular section or subsection.

**ADDENDUM A**

**Purchase Price.** For and in full consideration of the assignments, conveyances, and transfers of the Broadcasting Assets described herein, the total purchase price (the “***Purchase Price***”) to be paid for the Broadcasting Assets shall be Six Hundred Ten Thousand and no/100 Dollars (\$610,000.00) cash. The Purchase Price shall be payable in the following manner:

**Earnest Money Deposit.** Concurrently with the execution and delivery of this Agreement, the sum of Sixty-One Thousand and no/100 Dollars (\$61,000.00) (including of any Bid Deposit already paid by Purchaser for the Stations) (the “***Earnest Money Deposit***”) will be deposited by Purchaser as an earnest money deposit, by means of wire transfer of immediately available funds, into a separate account maintained by First American Title Insurance Company (the “***Escrow Agent***”), acting as escrow agent for the Parties, pursuant to the terms of that certain Escrow Agreement, dated as of the Effective Date (the “***Escrow Agreement***”). On the Closing Date, the Earnest Money Deposit shall be released to Seller as partial payment of the Purchase Price, and the accrued interest thereon shall be returned to Purchaser. In the event of termination of this Agreement prior to Closing, the Earnest Money Deposit shall be released in accordance with Section 17 of the Agreement.

**Remaining Purchase Price.** On the Closing Date, the sum of Five Hundred Forty-Nine Thousand and no/100 Dollars (\$549,000.00) shall be paid by Purchaser to Seller by means of wire transfer of immediately available funds to the bank account or accounts designated in writing by Seller prior to the Closing Date.



**ADDENDUM B**

**STATIONS**

**Main Stations:**

<b>Call Letters</b>	<b>City of License</b>	<b>FCC Facility Id.</b>
KKCI-FM	Goodland, Kansas	18076
KWGB-FM	Colby, Kansas	81915
KLOE-AM	Goodland, Kansas	18077

**LIST of SCHEDULES**

1.1(a)	Real Property
1.1(b)(i)	Tangible Personal Property
1.1(b)(ii)	Motor Vehicles
1.1(d)(i)	Assumed Contracts
1.1(e)	Intellectual Property
1.1(i)	Other Assets
1.3	Assumed Liabilities
3.1.1(c)	FCC Licenses
3.3.2	Required Consents
3.4	Permitted Encumbrances
3.5	Exceptions to FCC Licenses Representations
3.13	Exceptions to the Tangible Personal Property
3.14	Exceptions to the Assumed Contracts Representation