

## ASSET PURCHASE AGREEMENT

**This Asset Purchase Agreement** (“Agreement”), made as of the 18th day of May, 2023, is by and between KMMR Radio, Inc., a Montana corporation (“Seller”), and KMMR Mustang Radio, LLC, a Montana limited liability company (“Buyer”).

### RECITALS

A. **WHEREAS**, Seller is the licensee of radio station KMMR Facility Identification Number 39749, licensed to Malta, Montana ( the “Station”), and holds related auxiliary licenses and authorizations issued by the Federal Communications Commission (the “FCC”); and

B. **WHEREAS**, Seller is willing to sell and Buyer desires to purchase certain property and assets of Seller used or useful in the operation of the Station and to obtain an assignment of the licenses, authorizations, and permits issued by the FCC for the operation of the Station, and of other licenses, permits, or authorizations issued by any regulatory agency in connection therewith; and

C. **WHEREAS**, the licenses issued by the FCC for the operation of the Station may not be assigned by Seller to Buyer without prior written consent of the FCC (the “FCC Consent”):

### Agreement

**NOW, THEREFORE**, taking the foregoing into account, and in consideration of the mutual covenants and agreements set forth herein, the parties, intending to be legally bound, hereby agree as follows:

### ARTICLE 1: PURCHASE OF ASSETS

1.1 Station Assets. On the terms and subject to the conditions hereof, on the Closing Date (defined below), Seller shall sell, assign, transfer, convey, and deliver to Buyer, and Buyer shall purchase and acquire from Seller all of those assets, properties, interests, and rights of Seller of whatsoever kind and nature, real and personal, tangible and intangible, which are used or useful in the operation of the Station and which are specifically described in this Section 1.1, but excluding the Excluded Assets as hereafter defined (the “Station Assets”), as follows:

(a) all licenses, permits, and other authorizations which are currently issued to Seller by the FCC with respect to the Station (the “FCC Licenses”) and described on Schedule 1.1(a), including any renewals or modifications thereof between the date hereof and Closing;

(b) (i) all items listed on Schedule 1.1(b); and (ii) all additional earth station equipment, electrical devices, hardware, transmitters, antennas, studio-transmitter link equipment associated exclusively with the Station, any spare parts for the assigned equipment and other tangible personal property of every kind and description which are used or which are intended

solely for use in the transmission of the Station's signals, except any retirements or dispositions thereof made between the date hereof and Closing in the ordinary course of business and consistent with past practices of Seller in accordance with Section 8.3 hereof (the "Tangible Personal Property");

(c) the Seller's leasehold interest in the real property used by Seller as the KMMR transmitter site, together with the transmitter building, and the Seller's leasehold interest in the real property used by Seller as the KMMR studio, both as described in Schedule 1.1 (c) (the "Real Property Leases");

(d) all of the files, documents, records, and books of account (or copies thereof) relating exclusively to the operation of the Station, including the KMMR programming information and studies, blueprints, technical information and engineering data, promotional studies, marketing and demographic data, and logs, as more fully described in Schedule 1.1(d);

(e) the Station's call letters and other intellectual property including, without limitation all jingles, trademarks, copyrights, slogans, and promotional materials pertaining to the Station; and

(f) all contracts for the sale of advertising time to be aired on the Station and entered into prior to closing in the ordinary course of Seller's business, as well as all contracts, license agreements, or other agreements for the provision of services listed in Schedule 1.1(f) (the "Station Contracts").

The Station Assets shall be transferred to Buyer free and clear of liens, claims, and encumbrances ("Liens").

1.2 Excluded Assets. Notwithstanding anything to the contrary contained herein, the Station Assets shall not include any of the following assets or any rights, title, or interest therein (the "Excluded Assets"):

(a) all cash and cash equivalents of Seller including, without limitation, certificates of deposit, commercial paper, treasury bills, marketable securities, asset, or money market accounts, and all such similar accounts or investments;

(b) Seller's name, minute books, charter documents and such other books and records as pertain to the organization, existence or capitalization of Seller, duplicate copies of the records of the Stations, Seller's tax records, and all records not relating to the operation of the Stations;

(c) any pension, profit sharing, or other employee benefit plan or arrangement and the assets thereof, if any, pertaining to Seller's employees;

(d) accounts receivable attributable to the commercial operations of the Station prior to the Closing Date;

(e) all claims, rights, and interest of Seller to any (i) refund of taxes or fees of any nature whatsoever, (ii) deposits or utility deposits, or (iii) pre-paid expenses, which in each case relate solely to the period prior to the Closing Date;

(f) any and all contracts that have terminated or expired prior to the Closing Date in the ordinary course of business as permitted hereunder;

(g) any trade payables and all non-advertising contracts of Seller other than those listed in Schedule 1.1(f), which excluded contracts will not be assumed by Buyer;

(h) contracts of insurance, including the cash surrender value thereof, and all insurance proceeds or claims made by Seller prior to the Closing Date; and

(i) all other assets, whether tangible or intangible, not mentioned herein and specified in Schedule 1.2(i).

## **ARTICLE 2: ASSUMED OBLIGATIONS.**

On the Closing Date, Buyer shall assume the obligations of Seller arising after Closing under the leases for the Real Property (“Real Property Leases”), and the Station Contracts, if any (the “Assumed Obligations”). Except for the Assumed Obligations, Buyer does not assume, and shall not be obligated to pay, discharge or perform, and will not be deemed by execution and delivery of this Agreement or any agreement, instrument or document delivered pursuant to or in connection with this Agreement or otherwise by reason of the consummation of the transactions contemplated hereby, to have assumed, any liabilities, obligations or commitments of Seller of any kind, whether or not disclosed to Buyer, including, without limitation: 1) any contracts not included in the Station Contracts, including, without limitation, any contract with Nielsen/Arbitron; 2) any liabilities arising under capital leases or other financing arrangements; 3) any taxes imposed by any governmental authority, including without limitation, income, sales or use taxes, or employment taxes related to Seller’s operations prior to the Closing Date; 4) any employee severance payments, pension, profit sharing, retirement, bonus, stock option or other employee benefit plan or compensation arrangement with employees, any group insurance premiums, any payroll or unemployment taxes, any accrued vacation, sick pay, unemployment compensation, workers’ disability benefits, salary withholding obligations and/or other employment costs relating to periods prior to the Closing Date; 5) any claims for negligence, other torts, breach of contract or claims of any other kind asserted by customers, former customers, insurance companies, or employees of Seller or any other party that are based on acts or omissions of Seller or its employees or agents occurring before the Closing Date; 6) any amounts due or that may be due to governmental or insurance payors, or any agency or intermediary thereof on account of reimbursement or payment adjustments attributable to any period prior to the Closing Date; 7) and, except as expressly provided herein, any debts, liabilities or obligations or the performance of any duties of Seller of any kind or nature whatsoever, whether arising before, on, or subsequent to the Closing, and whether contingent or liquidated in amount, including, without limitation, any debts, liabilities, obligations or duties arising out of accounts payable, tax liabilities, environmental, immigration or product liability

matters, employee wages and benefits, contracts, agreements or other liabilities of Seller or related to the operation of Seller's business prior to the Closing Date (the "Seller's Retained Liabilities").

### **ARTICLE 3: PURCHASE PRICE**

3.1 Purchase Price. In consideration for the sale of the Station Assets to Buyer, Buyer shall deliver to Seller an aggregate purchase price of Two Hundred Eighty Thousand Dollars (\$280,000.00), payable, subject to the adjustments and prorations described below, as set forth in Section 3.3 (the "Purchase Price").

3.2 Escrow Deposit. Within three (3) business days of the execution of this Agreement, Buyer shall deliver Sixteen Thousand Eight Hundred Dollars (\$16,800.00) (the "Deposit Amount") to Clifton Gardiner, LLC, as the "Escrow Agent," subject to an Escrow Agreement attached hereto as Schedule 3.2. The Deposit Amount is to be held subject to the following:

(a) If the purchase of the Station Assets under this Agreement is not consummated due to a breach by Buyer of any of its obligations under this Agreement, Seller, subject to Section 15.2(b), shall be entitled to the Deposit Amount (together with any interest thereon) as liquidated damages. The parties acknowledge and agree that payment of such amount shall constitute payment of liquidated damages and is not a penalty and that the liquidated damages amount is reasonable in light of the substantial but indeterminate harm anticipated to be caused by material breach or default under this Agreement, the difficulty of proof of loss and damages, the inconvenience and non-feasibility of otherwise obtaining an adequate remedy, and the value of the transactions to be consummated hereunder.

(b) If the purchase of the Station Assets under this Agreement is not consummated due to breach by Seller of any of its obligations under this Agreement, Seller shall not be entitled to the Deposit Amount (or any interest thereon) and, promptly after the termination of this Agreement in accordance with Article 15 of this Agreement, the Deposit Amount (together with the interest thereon) shall be immediately released to Buyer.

(c) If the purchase of the Station Assets under this Agreement is not consummated due to the failure of any of the conditions in Article 10 (other than as a result of Buyer's breach of any of its obligations under this Agreement), Seller shall not be entitled to the Deposit Amount (or any interest thereon) and, promptly after the termination of this Agreement in accordance with Article 15, the Deposit Amount (together with interest thereon) shall be immediately released to Buyer.

(d) At the Closing, the parties shall cause the Deposit Amount to be paid to Seller as part of, and shall be applied to, the Purchase Price. Any and all interest accrued on the Deposit Amount as of the Closing Date shall be paid to Buyer at Closing; provided that Escrow Agent may deduct the actual bank charges for the account from the interest prior to remittance to the Buyer.

3.3 Payment of Purchase Price. At the Closing, (i) the Parties shall cause the Escrow Agent to deliver the Deposit Amount to Seller as partial payment of the Purchase Price, and (ii) Buyer shall pay Seller the Purchase Price, subject to the prorations set forth in Section 3.4 hereof, in cash or by wire transfer of immediately available funds, pursuant to wire transfer instructions that Seller shall deliver to Buyer at least two (2) business days prior to the Closing Date.

3.4 Prorations and Adjustments. Except as otherwise provided herein, all deposits, reserves, utility costs, FCC regulatory fees, and property taxes relating to the Station Assets shall be prorated between Buyer and Seller in accordance with generally accepted accounting principles as of 11:59 p.m. on the date immediately preceding the Closing Date. As to those prorations and adjustments not capable of being ascertained on the Closing Date, an adjustment and proration shall be made within sixty (60) calendar days of the Closing Date.

3.5 Allocation. Within 60 days of this Agreement, the parties will jointly try to agree on the allocation of the Purchase Price among the Station Assets for tax purposes in accordance with the respective fair market values of the Station Assets and the goodwill being purchased and sold in accordance with the requirements of Section 1060 of the Internal Revenue Code of 1986, as amended (the "Code"). Each of Buyer and Seller shall file a tax return in accordance with and when required under the Code. The parties agree to use the allocations determined pursuant to this Section 3.5 for all tax purposes.

#### **ARTICLE 4: GOVERNMENTAL CONSENTS**

4.1 FCC. Within five (5) business days after the execution of this Agreement, Seller and Buyer shall join in and file with the FCC an application for consent to assignment of the license for the Station from Seller to Buyer (the "Assignment Application"). Seller and Buyer shall diligently prosecute the Assignment Application and shall seek a prompt grant of the Assignment Application, granting consent of the FCC to the assignment of the license for the Station from Seller to Buyer (the "FCC Consent").

4.2 General. Buyer and Seller shall notify each other of all documents filed with or received from any governmental agency with respect to this Agreement, the Assignment Applications, or the transactions contemplated hereby, and shall promptly respond to all requests for further information received from the FCC or governmental agency with regard to the Assignment Application. Buyer and Seller shall furnish each other with such information and assistance as such the other may reasonably request in connection with their preparation of any governmental filing hereunder. If Buyer or Seller becomes aware of any fact relating to them which would prevent or delay the FCC Consent, it shall promptly notify the other thereof and use its reasonable best efforts to remove such impediment.

4.3 FCC Filing Fees. All FCC filing fees with respect to the assignment of the FCC Licenses from Seller to Buyer shall be paid initially by Seller, but Fifty Percent (50%) of such fees by Seller shall be reimbursed to Seller by Buyer as an adjustment at Closing. Additionally,

Buyer shall pay or shall reimburse to Seller the documented legal fees charged to Seller by counsel in connection with the drafting of this Agreement and its associated schedules. Each party shall otherwise bear its own costs and expenses (including the fees and disbursements of its counsel) in connection with the preparation of the portion of the Assignment Application to be prepared by it and in connection with the processing and defense of the application.

#### **ARTICLE 5: TIMING OF CLOSING**

Closing of the acquisition of the Stations shall take place by exchange of documents in person or by e-mail or other electronic means on a mutually agreeable date which is within ten (10) business days of the date on which the FCC Consent to the Assignment Application has become a Final Order. (the "Closing Date.") For purposes of this Agreement, the term "*Final Order*" shall mean that action shall have been taken by the FCC (including action duly taken by the FCC's staff, pursuant to delegated authority) which shall not have been reversed, stayed, enjoined, set aside, annulled or suspended; with respect to which no timely request for stay, petition for rehearing, appeal or certiorari or *sua sponte* action of the FCC with comparable effect shall be pending; and as to which the time for filing any such request, petition, appeal, certiorari or for the taking of any such *sua sponte* action by the FCC shall have expired or otherwise terminated. If the Closing is accomplished by exchange of electronic signatures, such exchange shall be followed by an exchange of originals within ten (10) business days thereafter.

#### **ARTICLE 6: REPRESENTATIONS AND WARRANTIES OF BUYER**

Buyer hereby makes the following representations and warranties to Seller:

6.1 Organization and Standing. Buyer is duly organized, validly existing, and in good standing in the State of Montana, and at Closing shall be authorized to do business in the State of Montana, and such authorization shall be in good standing. Buyer has the requisite power and authority to execute and deliver this Agreement and all of the other agreements and instruments to be executed and delivered by Buyer pursuant hereto (collectively, the "Buyer Ancillary Agreements"), to consummate the transactions contemplated hereby, and thereby and to comply with the terms, conditions, and provisions hereof and thereof.

6.2 Authorization. The execution, delivery, and performance of this Agreement and the Buyer Ancillary Agreements by Buyer have been duly authorized and approved by all necessary actions of Buyer and of its stockholders and do not require any further authorization or consent of Buyer or of its stockholders. This Agreement is, and each Buyer Ancillary Agreement when executed and delivered by Buyer and the other parties thereto will be, a legal, valid, and binding agreement of Buyer enforceable in accordance with its respective terms, except in each case as such enforceability may be limited by bankruptcy, moratorium, insolvency, reorganization, or other similar laws affecting or limiting the enforcement of creditors' rights generally and except as such enforceability is subject to general principles of equity (regardless of whether such enforceability is considered in a proceeding in equity or at law).

6.3 No Conflicts. Neither the execution and delivery by Buyer of this Agreement and the Buyer Ancillary Agreements nor the consummation by Buyer of any of the transactions

contemplated hereby or thereby nor compliance by Buyer with or fulfillment by Buyer of the terms, conditions, and provisions hereof or thereof will: (i) conflict with any organizational documents of Buyer or of its stockholders or any law, judgment, order, or decree to which Buyer or its stockholders are subject; or (ii) require the approval, consent, authorization, or act of, or the making by Buyer of any declaration, filing, or registration with, any third party or any foreign, federal, state, or local court, governmental or regulatory authority or body, except the FCC Consent.

6.4 Qualifications. Buyer is legally, financially, and otherwise qualified to be the licensee of, acquire, own and operate the Stations under the Communications Act of 1934, as amended (the “Communications Act”) and the rules, regulations, and policies of the FCC. To the best of Buyer’s knowledge, there are no facts that would, under existing law and the existing rules, regulations, policies, and procedures of the FCC, disqualify Buyer as an assignee of the FCC Licenses or as the owner and operator of the Stations, and Buyer’s qualification does not require the divestiture of any other media interest. Buyer has no knowledge of any facts concerning Buyer or any person with an attributable interest (as such terms are presently defined under decisions, rules, and regulation of the FCC) in Buyer which would, under present law (including the Communications Act) and present rules, regulations, and practices of the FCC, raise a substantial and material question concerning Buyer’s level of market concentration which could result in further investigations by the FCC, the Department of Justice, or the Federal Trade Commission, or delay or prevent the grant of the assignment contemplated herein. Should Buyer become aware of any such facts, it will promptly notify Seller in writing thereof and shall use its best efforts to prevent such disqualification. There is no action, suit, or proceeding pending or threatened against Buyer which questions the legality or propriety of the transactions contemplated by this Agreement or could materially adversely affect Buyer’s ability to perform its obligations hereunder. Buyer will have available on the Closing Date sufficient funds to enable it to consummate the transactions contemplated hereby in the manner specified herein. To Buyer’s knowledge, no representation, warranty, or statement of Buyer omits or will omit to state any material fact necessary to make each representation or warranty or statement in this Agreement accurate and not misleading in any material respect

## **ARTICLE 7: REPRESENTATIONS AND WARRANTIES OF SELLER**

Seller makes to Buyer the following representations and warranties with regard to its company, stations, and operations:

7.1 Organization. Seller is duly organized, validly existing, and in good standing under the laws of the State of Montana. Seller has the requisite power and authority to execute and deliver this Agreement and all of the other agreements and instruments to be executed and delivered by Seller pursuant hereto (collectively, the “Seller Ancillary Agreements”), to consummate the transactions contemplated hereby and thereby and to comply with the terms, conditions, and provisions hereof and thereof.

7.2 Authorization. The execution, delivery, and performance of this Agreement and the Seller Ancillary Agreements have been duly authorized and approved by all necessary actions of Seller and its partners and do not require any further authorization or consent of Seller

or its partners. This Agreement is, and each Seller Ancillary Agreement when executed and delivered by Seller and the other parties thereto will be, a legal, valid, and binding agreement of Seller enforceable in accordance with its respective terms, except in each case as such enforceability may be limited by bankruptcy, moratorium, insolvency, reorganization, or other similar laws affecting or limiting the enforcement of creditors' rights generally and except as such enforceability is subject to general principles of equity (regardless of whether such enforceability is considered in a proceeding in equity or at law).

7.3 No Conflicts. Neither the execution and delivery by Seller of this Agreement and the Seller Ancillary Agreements, nor the consummation by Seller of any of the transactions contemplated hereby or thereby, nor compliance by Seller with or fulfillment by Seller of the terms, conditions and provisions hereof or thereof will: (i) conflict with any organizational documents of Seller or of its partners, or any law, judgment, order, or decree or contract to which Seller or its partners are subject; or (ii) require the approval, consent, authorization, or act of, or the making by Seller of any declaration, filing, or registration with, any third party or any foreign, federal, state or local court, governmental, or regulatory authority or body, except the FCC Consent.

7.4 Litigation; Compliance with Law. Except as specified on Schedule 7.4, there is no application, action, suit, investigation, claim, arbitration, proceeding, or litigation pending or, to Seller's knowledge, threatened against or involving Seller, the Station Assets, the Stations or the business or operations of the Stations, at law or in equity, or before or by any court, arbitrator or governmental authority. The Stations are not operating under or subject to any order, judgment, decree or injunction of any court, arbitrator or governmental authority. The Stations are in compliance in all material respects with all laws, ordinances, regulations, awards, orders, judgments, decrees and injunctions applicable to the Station Assets, including the federal, state, and local laws, ordinances, regulations and orders pertaining to employment of labor, zoning, and other matters. The Stations are in compliance, in all material respects, with all FCC rules and policies concerning human exposure to radio frequency radiation.

7.5 Real Property Leases. The Real Property Leases representations and warranties are as follows:

(a) Each of the Real Property Leases is in good standing, and Seller is not in default under either or both of such Real Property Leases. Schedule 1.1(c) includes a description of the Real Property Leases.

(b) The Real Property Leases collectively provide sufficient access to the Station's transmission and studio facilities without need to obtain any other access rights. No part of any Real Property is subject to any pending or, to Seller's knowledge, threatened suit for condemnation or other taking by any public authority. All buildings and other improvements included in the Real Property are in good operating condition and repair (ordinary wear and tear excepted) and free from material defect or damage and comply with applicable zoning, health and safety laws and codes. The Station's towers, guy wires and anchors, ground systems and other facilities and improvements do not encroach upon any adjacent premises, and no facilities from adjacent premises encroach upon the Station's properties.

7.6 Title to Assets. Seller has good and valid title to all the Station Assets free and clear of all Liens.

7.7 Condition of Tangible Assets. All of the tangible personal property included in the Station Assets to be conveyed to Buyer at the Closing, including the tangible personal property described on Schedule 1.1(b), is in good operating condition and repair, ordinary wear and tear excepted; and such Station Assets and the present use thereof are not in violation in any material respect of applicable FCC Licenses, statutes, generally accepted standards of good engineering practice in the radio broadcasting industry, or building, fire, zoning, health and safety or any other laws or regulations.

7.8 FCC Licenses and Operation of the Stations.

(a) Schedule 1.1(a) contains a true and complete list of all FCC Licenses associated with the Station. Seller is the holder of the FCC Licenses described on Schedule 1.1(a), which are all of the licenses, permits, and authorizations required for the present operation of the Station. The FCC Licenses set forth on Schedule 1.1(a) are valid and in full force and effect and, except as set forth in Schedule 7.8, there are no orders or, to Seller's knowledge, complaints, proceedings, or investigations pending or threatened, which could result in the revocation, suspension or limitation of the FCC Licenses.

(b) The FCC Licenses are not subject to any restrictions or conditions which would limit the technical operation of any of Stations as each of them presently operates.

(c) The operations of the Stations are in all material respects in accordance with the FCC Licenses, the Communications Act of 1934, as amended, and rules and regulations of the FCC covering operation of the Stations.

(d) All material reports and filings required to be filed with the FCC by Seller with respect to the Stations have been timely filed. All such reports and filings are accurate and complete in all material respects.

(e) To the knowledge of Seller, no broadcast station or communications facility is causing interference in violation of FCC rules to the Station's transmissions in any material respect, and, to the knowledge of Seller, the Stations are not causing interference in violation of FCC rules to the transmissions of any other broadcast station or communications facility in any material respect.

7.9 Warranties Complete. To Seller's knowledge, no representation, warranty, or statement of Seller omits or will omit to state any material fact necessary to make each representation or warranty or statement in this Agreement accurate and not misleading in any material respect

7.10 Brokers. Except with respect to Clifton Gardiner, LLC (“Broker”), which Seller exclusively has employed as broker in connection with this transaction, no broker, finder or other person is entitled to a commission, brokerage fee, or other similar payment in connection with this Agreement or the transactions contemplated hereby as a result of any action or agreement by Seller. Seller shall pay to Broker any and all brokers’ and/or finders’ fees involved in the transactions contemplated herein and due to Broker, and such payment shall be made in cash or by wire transfer of immediately available funds at the time of Closing.

### **ARTICLE 8: COVENANTS OF SELLER**

Seller covenants and agrees with respect to the Stations that, between the date hereof and Closing, except as permitted by this Agreement or otherwise with the prior written consent of Buyer, it shall:

8.1 operate the Stations in the normal and usual manner, substantially in accordance with its past practices and in accordance with each station’s licenses and/or permits; all rules, regulations, and policies of the FCC; the Communications Act of 1934, as amended; and all other applicable laws, regulations, and policies of the FCC and other governmental agencies; and shall conduct the business of the Stations only in the ordinary course;

8.2 upon receiving any finding, order, complaint, citation, or notice prior to Closing which states that any aspect of the Station’s operations violates any rule or regulation of the FCC or of any other governmental authority (an “Administrative Violation”), notify Buyer of the Administrative Violation, and use its best reasonable efforts to remove or correct the Administrative Violation;

8.3 not, other than in the ordinary course of business, initiate any layoffs of personnel, incur any liability, or sell, transfer, encumber, lease or dispose of or agree to sell, transfer, encumber, lease or dispose of any of the Station Assets unless replaced with similar items of substantially equal or greater value and utility; and

8.4 upon reasonable notice, give Buyer and its representatives reasonable access during normal business hours to the Station Assets, and furnish Buyer with information relating to the Station Assets that Buyer may reasonably request, provided that such access rights shall not be exercised in a manner that interferes with the operation of the Station.

### **ARTICLE 9: OTHER COVENANTS**

Buyer and Seller hereby covenant and agree that between the date hereof and Closing:

9.1 Co-operation. Subject to express limitations contained elsewhere herein, each party (i) shall co-operate fully with one another in taking any reasonable actions (including without limitation, reasonable actions to obtain the required consent of any governmental instrumentality or any third party) necessary or helpful to accomplish the transactions contemplated by this Agreement including, but not limited to, the prompt satisfaction of any condition to Closing set forth herein, and (ii) shall not take any action that conflicts with its

obligations hereunder or that causes its representations and warranties to become untrue in any material respect. Buyer and Seller shall co-operate in defending against any petition to deny, informal objection, or other document filed with the FCC expressing any opposition to the Assignment Application(s).

9.2 Control of Stations. Buyer shall not, directly or indirectly, control the operations of the Station prior to Closing. Such operations, including complete control, supervision, and direction of all programs, employees and policies, shall be the sole responsibility of Seller.

9.3 Confidentiality. Each party agrees that any and all information learned or obtained by it from the other shall be confidential and agrees not to disclose any such information to any person whatsoever other than as is necessary for the purpose of effectuating the transaction contemplated by this Agreement.

### **ARTICLE 10: CONDITIONS OF CLOSING BY BUYER**

The obligations of Buyer hereunder are, at its option, subject to satisfaction, at or prior to Closing, of each of the following conditions with regard to the respective station:

10.1 Representations, Warranties, and Covenants. The representations and warranties of Seller made in this Agreement shall be true and correct in all material respects as of the Closing Date, except for changes permitted or contemplated by the terms of this Agreement, and the covenants and agreements to be complied with and performed by Seller under this Agreement at or prior to the Closing shall have been complied with or performed in all material respects. Buyer shall have received a certificate dated as of the Closing Date from Seller to the effect that the conditions set forth in this Section have been satisfied.

10.2 FCC Consent. The FCC Consent shall have been granted with respect to the Station and shall have become a Final Order; provided, that the requirement for finality may be waived with the mutual consent of Seller and Buyer.

10.3 Compliance with Conditions. Conditions which the FCC Consent(s) or any order, ruling, or decree of any judicial or administrative body relating thereto or in connection therewith specifies and requires to be satisfied prior to assignment of the Station to Buyer shall have been satisfied. Notwithstanding the foregoing, Buyer may terminate this Agreement without penalty in the event that any such condition is, in Buyer's reasonable discretion, unsatisfactory to Buyer.

10.4 Notice to and Consent of Real Property Lease Lessors. Seller shall have provided the required advance notice of assignment of the Real Property Leases to the Lessors (as defined in the Real Property Leases) in accordance with the terms of the Real Property Leases. Any written consent of a Lessor necessary to assign either or both Real Property Leases from Seller to Buyer shall be obtained by Seller prior to the Closing Date.

### **ARTICLE 11: CONDITIONS OF CLOSING BY SELLER**

The obligations of Seller hereunder are, at its option, subject to satisfaction, at or prior to the Closing, as applicable, of each of the following conditions:

11.1 Representations, Warranties, and Covenants. The representations and warranties of Buyer made in this Agreement shall be true and correct in all material respects as of the Closing Date except for changes permitted or contemplated by the terms of this Agreement, and the covenants and agreements to be complied with and performed by Buyer at or prior to Closing shall have been complied with or performed in all material respects. Seller shall have received a certificate dated as of the Closing Date from Buyer, to the effect that the conditions set forth in this Section have been satisfied.

11.2 FCC Consent. The FCC Consent shall have been granted and shall have become a Final Order; provided, that the requirement for finality may be waived with the mutual consent of Seller and Buyer.

11.3 Compliance with Conditions. Conditions which the FCC Consent(s) or any order, ruling, or decree of any judicial or administrative body relating thereto or in connection therewith specifies and requires to be satisfied prior to assignment of the Stations to Buyer shall have been satisfied. Notwithstanding the foregoing, Seller may terminate this Agreement without penalty in the event that any such condition is, in Seller's reasonable discretion, unsatisfactory to Seller.

11.4 Purchase Price. The Purchase Price shall be paid in the amount and manner set forth in Section 3 of this Agreement.

11.5 Legal Proceedings. The Seller will not be subject to any injunction, restraining order, stay, or other order of a court or administrative body of competent jurisdiction requiring the Seller not to consummate any of the transactions that this Agreement contemplates.

## **ARTICLE 12: EXPENSES**

Each party shall be solely responsible for all costs and expenses incurred by it in connection with the negotiation, performance of, and compliance with the terms of this Agreement.

## **ARTICLE 13: DOCUMENTS TO BE DELIVERED AT CLOSING**

13.1 Seller's Documents. At Closing, Seller shall deliver or cause to be delivered to Buyer the following:

(i) certified copies of resolutions or Consent Actions authorizing the execution, delivery, and performance of this Agreement, including the consummation of the transactions contemplated hereby, together with a certificate of incumbency of the general partner;

(ii) the certificate described in Section 10.1;

- (iii) a certificate of good standing from the State of Montana;
- (iv) an assignment of the FCC licenses for the Stations;
- (v) a bill of sale conveying the Tangible Personal Property;
- (vi) a document authorizing the release of the Escrow Deposit;
- (vii) an assignment and assumption of each of the Real Property Leases (with Lessor's written consent, if required by the Real Property Lease);
- (viii) an assignment and assumption of the Station Contracts; and
- (ix) any such other bills of sale, assignments, and other instruments of conveyance, assignment and transfer executed by Seller as may be necessary to convey and transfer and assign the Station Assets to Buyer, free and clear of Liens.

13.2 Buyer's Documents. At Closing, Buyer shall deliver or cause to be delivered to Seller:

- (i) certified copies of resolutions or Consent Actions authorizing the execution, delivery, and performance of this Agreement, including the consummation of the transactions contemplated hereby, together with a certificate of incumbency of the Buyer's corporate officers;
- (ii) the certificate described in Section 11.1;
- (iii) a good standing certificate for Buyer issued by the Secretary of State of the State of Montana;
- (iv) a document authorizing the release of the Escrow Deposit;
- (v) an assignment and assumption of each of the Real Property Leases (with Lessor's written consent, if required by the Real Property Lease);
- (vi) an assignment and assumption of the Station Contracts;
- (vii) the remainder of the Purchase Price; and
- (viii) such instruments of assumption executed by the Buyer as may be necessary to assume the post-Closing obligations associated with the FCC Licenses and other Station Assets to be assigned to and assumed by the Seller pursuant to this Agreement.

#### **ARTICLE 14: SURVIVAL; INDEMNIFICATION**

14.1 Survival. The covenants, agreements, representations, and warranties in this Agreement shall survive Closing for a period of twelve (12) months from the Closing Date (the “Survival Period”), whereupon they shall expire and be of no further force or effect, except those under this Article 14 that relate to Damages (defined below) for which written notice is given by the indemnified party to the indemnifying party prior to the expiration of the Survival Period, which shall survive until resolved.

14.2 Indemnification.

(a) From and after the Closing, for the Survival Period, Seller shall defend, indemnify, and hold harmless Buyer from and against any and all losses, costs, damages, liabilities and expenses, including reasonable attorneys’ fees and expenses (“Damages”) incurred by Buyer arising out of or resulting from: (i) any breach or default by Seller under this Agreement; (ii) the Excluded Assets; or (iii) the business or operation of the Stations before Closing.

(b) From and after the Closing, for the Survival Period, Buyer shall defend, indemnify, and hold harmless Seller from and against any and all Damages incurred by Seller arising out of or resulting from: (i) any breach or default by Buyer under this Agreement; or (ii) the business or operation of the Stations after Closing.

14.3 Procedures. The indemnified party shall give prompt written notice to the indemnifying party of any demand, suit, claim, or assertion of liability by third parties or other circumstances that could give rise to an indemnification obligation hereunder against the indemnifying party (a “Claim”), but a failure to give such notice or delaying such notice shall not affect the indemnified party’s right to indemnification and the indemnifying party’s obligation to indemnify as set forth in this Agreement, except to the extent the indemnifying party’s ability to remedy, contest, defend, or settle with respect to such Claim is thereby prejudiced. The obligations and liabilities of the parties with respect to any Claim shall be subject to the following additional terms and conditions:

(a) The indemnifying party shall have the right to undertake, by counsel or other representatives of its own choosing, the defense or opposition to such Claim.

(b) In the event that the indemnifying party shall elect not to undertake such defense or opposition, or, within twenty (20) business days after written notice (which shall include sufficient description of background information explaining the basis for such Claim) of any such Claim from the indemnified party, the indemnifying party shall fail to undertake to defend or oppose, the indemnified party (upon further written notice to the indemnifying party) shall have the right to undertake the defense, opposition, compromise, or settlement of such Claim, by counsel or other representatives of its own choosing, on behalf of and for the account and risk of the indemnifying party, subject to the right of the indemnifying party to assume defense of or opposition to such Claim at any time prior to settlement, compromise, or final determination thereof.

(c) Anything herein to the contrary notwithstanding: (i) the indemnified party shall have the right, at its own cost and expense, to participate in the defense, opposition, compromise, or settlement of the Claim; (ii) the indemnifying party shall not, without the indemnified party's written consent, settle or compromise any Claim or consent to entry of any judgment which does not include as an unconditional term thereof the giving by the claimant or the plaintiff to the indemnified party of a release from all liability in respect of such Claim; and (iii) in the event that the indemnifying party undertakes defense of or opposition to any Claim, the indemnified party, by counsel or other representative of its own choosing and at its sole cost and expense, shall have the right to consult with the indemnifying party and its counsel or other representatives concerning such Claim and the indemnifying party and the indemnified party and their respective counsel or other representatives shall cooperate in good faith with respect to such Claim.

(d) All claims not disputed shall be paid by the indemnifying party within forty-five (45) calendar days after receiving notice of the Claim. "Disputed Claims" shall mean claims for Damages by an indemnified party which the indemnifying party objects to in writing within forty-five (45) calendar days after receiving notice of the Claim. In the event there is a Disputed Claim with respect to any Damages, the indemnifying party shall be required to pay the indemnified party the amount of such Damages for which the indemnifying party has, pursuant to a final determination, been found liable within twenty (20) calendar days after there is a final determination with respect to such Disputed Claim. A final determination of a Disputed Claim shall be (i) a judgment of any court determining the validity of a Disputed Claim, if no appeal is pending from such judgment and if the time to appeal therefrom has elapsed; (ii) an award of any arbitration determining the validity of such disputed claim, if there is not pending any motion to set aside such award and if the time within which to move to set aside such award has elapsed; (iii) a written termination of the dispute with respect to such claim signed by the parties thereto or their attorneys; (iv) a written acknowledgment of the indemnifying party that it no longer disputes the validity of such claim; or (v) such other evidence of final determination of a disputed claim as shall be acceptable to the parties. No undertaking of defense or opposition to a Claim shall be construed as an acknowledgment by such party that it is liable to the party claiming indemnification with respect to the Claim at issue or other similar Claims.

## **ARTICLE 15: TERMINATION**

15.1 Termination. This Agreement may be terminated at any time prior to Closing as follows:

- (a) by mutual written consent of Buyer and Seller;
- (b) by written notice of Buyer to Seller if Seller (i) does not satisfy the material conditions or perform the material obligations to be satisfied or performed by it on or before the Closing Date; or (ii) Seller otherwise breaches in any material respect any of its representations or warranties or defaults in any material respect in the performance of any of its covenants or agreements herein contained, and such breach or default is not cured within the Cure Period (defined below);

(c) by written notice of Seller to Buyer if Buyer (i) does not satisfy the material conditions or perform the material obligations to be satisfied or performed by it on or before the Closing Date; or (ii) otherwise breaches in any material respect any of its representations or warranties or defaults in any material respect in the performance of any of its covenants or agreements herein contained and such breach or default is not cured within the Cure Period (defined below);

(d) by written notice of Buyer to Seller, or by Seller to Buyer, if the FCC dismisses or denies the Assignment Application, or if the FCC or any judicial or administrative body requires a condition that is unsatisfactory to Buyer;

(e) by written notice of Seller to Buyer, or of Buyer to Seller, if the Closing shall not have been consummated before the date which is six (6) months after the date of this Agreement, unless the delay is due to the actions of the terminating party; or

(f) by written notice of either party to the other if the FCC designates any of the Assignment Applications for hearing.

The term "Cure Period" as used herein means a period commencing on the date Buyer or Seller receives from the other written notice of breach or default hereunder and continuing until the earlier of (i) thirty (30) calendar days thereafter or (ii) the Closing Date; *provided, however*, that if the breach or default cannot reasonably be cured within such thirty (30) period but can be cured before the Closing Date, and if diligent efforts to cure promptly commence, then the Cure Period shall continue as long as such diligent efforts to cure continue, but not beyond the Closing Date. Except as set forth below, the termination of this Agreement shall not relieve any party of any liability for breach or default under this Agreement prior to the date of termination. Notwithstanding anything contained herein to the contrary, Article 12 (Expenses) and Section 9.3 (Confidentiality) shall survive any termination of this Agreement for a period of ten years.

15.2 Remedies/Specific Performance. The termination of this Agreement shall not relieve either party of any liability for breach or default under this Agreement prior to the date of such termination. The parties recognize that if Seller defaults under this Agreement and as a result the Buyer terminates this Agreement, monetary damages alone will not be adequate to compensate the Buyer for its injury. Buyer shall therefore be entitled to obtain specific performance of the terms of this Agreement in addition to any other remedies, including but not limited to monetary damages that may be available to it at law or equity. If any action is brought by the Buyer to enforce this Agreement, Seller shall waive the defense that there is an adequate remedy at law. In the event of a default by either party (the "Breaching Party") which results in the filing of a lawsuit for damages, specific performance, or other remedy, the other party (the "Non-Breaching Party") shall be entitled to reimbursement by the Breaching Party of reasonable legal fees and expenses incurred by the Non-Breaching Party, provided that the Non-Breaching Party is successful in such lawsuit.

## **ARTICLE 16: MISCELLANEOUS PROVISIONS**

16.1 Risk of Loss. Seller shall bear the risk of all damage to, loss of or destruction of any of the Station Assets between the date of this Agreement and the Closing Date. If any material portion of the Station Assets shall suffer any material damage or destruction prior to the Closing Date (the "Damaged Assets"), Seller shall promptly notify Buyer in writing of such damage or destruction. If restoration, repair or replacement of such portion of the Damaged Assets is not accomplished prior to the Closing Date, Buyer may, at its option, elect either to consummate the Closing on the Closing Date, in which event Seller shall pay to Buyer the amount of any deductible under applicable insurance and assign to Buyer all of Seller's rights under applicable insurance policies, or to postpone the Closing Date by a period of up to ninety (90) days to allow time for restoration, repair or replacement of the Damaged Assets. If the Damaged Assets cannot be restored, repaired, or replaced to Buyer's reasonable satisfaction within ninety (90) calendar days, Buyer may elect to terminate this Agreement.

16.2 Further Assurances. After the Closing, Seller shall from time to time, at the request of and without further cost or expense to Buyer, execute and deliver such other instruments of conveyance and transfer and take such other actions as may reasonably be requested in order to more effectively consummate the transactions contemplated hereby to vest in Buyer good title to the Station Assets, and Buyer shall from time to time, at the request of and without further cost or expense to Seller, execute and deliver such other instruments and take such other actions as may reasonably be requested in order more effectively to relieve Seller of any obligations being assumed by Buyer hereunder.

16.3 Benefit and Assignment. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns. Neither Buyer nor Seller may assign its rights under this Agreement without the prior written consent of the other, which consent shall not be unreasonably withheld. All covenants, agreements, statements, representations, warranties, and indemnities in this Agreement by and on behalf of any of the parties hereto shall bind and inure to the benefit of their respective successors and permitted assigns of the parties hereto.

16.4 Amendments and Waivers. No amendment, waiver of compliance with any provision or condition hereof, or consent pursuant to this Agreement shall be effective unless evidenced by an instrument in writing signed by the party against whom enforcement of any waiver, amendment, change, extension, or discharge is sought.

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

16.6 Governing Law. The construction and performance of this Agreement shall be governed by the laws of the State of Montana without giving effect to the choice of law provisions thereof.

16.7 Notices. Any notice, demand or request required or permitted to be given under the provisions of this Agreement shall be in writing, including by facsimile or e-mail, and shall be deemed to have been received on the day of such facsimile or e-mail or on the day after delivery to a nationally recognized overnight courier service if sent by an overnight delivery

service for next morning delivery, and shall be addressed as follows (or to such other address as any party may request by written notice):

if to Seller, to:

Gregory A. Kielb  
KMMR Radio, Inc.  
140 South 2<sup>nd</sup> Avenue, East  
Malta, Montana 59538  
(E-mail): [gakmmr@yahoo.com](mailto:gakmmr@yahoo.com)

with a copy (which shall not be considered to be notice) to:

Anne Goodwin Crump, Esq.  
Fletcher, Heald & Hildreth, P.L.C.  
1300 N. 17th Street  
Eleventh Floor  
Arlington, VA 22209  
(E-mail): [crump@fhhlaw.com](mailto:crump@fhhlaw.com)

if to Buyer, to:

Rheiland Tharp  
KMMR Mustang Radio, LLC  
144 South 3<sup>rd</sup> Street, West  
Malta, Montana 59538  
(E-mail): [emsfire42@gmail.com](mailto:emsfire42@gmail.com)

with a copy (which shall not be considered to be notice) to:

(Email):

16.8 Counterparts. This Agreement may be executed in one or more counterparts, each of which will be deemed an original and all of which together will constitute one and the same instrument.

16.9 No Third Party Beneficiaries. Nothing herein expressed or implied is intended or shall be construed to confer upon or give to any person or entity other than the parties hereto and their successors or permitted assigns, any rights or remedies under or by reason of this Agreement.

16.10 Severability. The parties agree that if one or more provisions contained in this Agreement shall be deemed or held to be invalid, illegal, or unenforceable in any respect under any applicable law, this Agreement shall be construed with the invalid, illegal, or unenforceable

provision deleted, and the validity, legality, and enforceability of the remaining provisions contained herein shall not be affected or impaired thereby.

16.11 Bulk Transfer Laws. Buyer hereby waives compliance with the provisions of any applicable bulk transfer laws.

16.12 Time is of the Essence. Time shall be of the essence in this Agreement and the performance of each and every provision hereof.

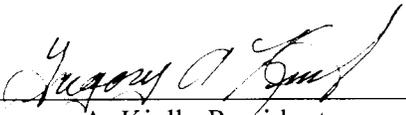
16.13 Co-operation. Seller and Buyer shall co-operate fully with each other in connection with any steps required to be taken under this Agreement and will use their respective best efforts to perform or fulfill all conditions and obligations to be performed or fulfilled by them under this Agreement.

16.14 Entire Agreement. This Agreement embodies the entire agreement and understanding of the parties hereto and supersedes any and all prior agreements, arrangements, and understandings relating to the matters provided for herein. This Agreement does not supersede any confidentiality agreement relating to the Stations.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first set forth above.

SELLER: KMMR RADIO, INC.

By:   
Gregory A. Kielb, President

By:   
Claudette Kielb

BUYER: KMMR MUSTANG RADIO, LLC

By:   
Rheiland Tharp

Title: President

**KMMR Radio, Inc.**  
**EXHIBITS**

Schedule 1.1(a)  
FCC Licenses

KMMR FM Broadcast License, File No. BMLH-19950110KD, most recently renewed by File No. 0000126031, expires 04/01/2029

WLJ712 Audio Studio-Transmitter Link, expires 04/01/2029

E201961 Receive-Only Earth Station Registration, expires 10/31/2033

Schedule 1.1(b)  
Equipment Inventory

Nautel VS 2.5 KW Transmitter  
NT-500-LCD/500 Watt Exciter  
146 Foot Tower  
3 Bay FM Antenna – Full Wave Harris C-3a  
Nicom Studio Transmitter Link and Receiver Link  
Inovonics FM Modulator Monitor  
Inovonics FM Subcarrier Monitor/Demod Model 540  
Smarts Digital Program Director Traffic and Billing system with three computers  
Emergency Alert Monitoring System  
(2) Arrakis Systems Marc-15 Control Boards  
Yamaha EMX 2125 Mixer/Amplifier  
(2) Numark MP103 CD Players  
Tascam CD-RW901 CD Player/Recorder  
(2) CDI 300 MP3/CD players  
Marantz Cassette Deck  
Marantz CD Player /Recorder  
(3) Shure SM58 Microphones  
Denon AM/Fm Tuner with Balanced XLR Output  
Sage Digital Endec  
BW Broadcast DSPX-FM  
Generac 16 KW Generator with Auto Transfer  
250 Gallon Propane Tank  
Office furniture and office equipment

Schedule 1.1.(c)  
Leasehold Interest in Real Property.

## ASSIGNMENT OF LEASE

THIS ASSIGNMENT IS MADE THIS 1<sup>st</sup> DAY OF March,  
2022, BY AND BETWEEN JAMES W. MURDOCK, AND KMMR RADIO, INC.

THE PARTIES RECITE AS FOLLOWS:

1. KMMR RADIO HAS LEASED FROM JAMES W. MURDOCK CERTAIN PREMISES ON WHICH A RADIO STATION TOWER AND TRANSMITTER BUILDING HAS BEEN CONSTRUCTED.
2. KMMR RADIO, INC. WISHES TO CONTINUE TO LEASE THE SITE OF THE TOWER AND TRANSMITTER BUILDING, AT THE 911 ADDRESS OF 2808 CONTENT ROAD, PHILLIPS COUNTY, MONTANA.
3. IN EXCHANGE FOR THE LEASE OF SAID SITE, JAMES W. MURDOCK REQUIRES THAT KMMR RADIO, INC. PAY FOR MAINTENANCE OF THE TWO YARDLIGHTS LOCATED IN THE MURDOCK YARD, WHICH IS EAST OF THE RADIO STATION TOWER. JAMES W. MURDOCK AND KMMR RADIO INC. REQUEST THAT BIG FLAT ELECTRIC SEND THE MONTHLY AMOUNT DUE FOR THE LIGHTS TO KMMR RADIO, INC. FOR PAYMENT.
4. KMMR RADIO, INC. SHALL BE ALLOWED ACCESS TO THE LEASE SITE FOR NECESSARY VISITS FOR THE PURPOSE OF MAINTENANCE, INSPECTIONS, REPAIRS AND OTHER NEEDED VISITS TO THE SITE. VISITS TO THE LEASE SITE BY BIG FLAT ELECTRIC, PROPANE DELIVERY TRUCKS AND OTHER SUCH SERVICES SHALL ALSO BE ALLOWED.
5. THE TRANSFER AND ASSIGNMENTS OF THE ABOVE MENTIONED AGREEMENTS SHALL BE AUTOMATICALLY TRANSFERRED TO ANYONE WHO SHOULD PURCHASE THE INTERESTS OF JAMES W. MURDOCK OR OF KMMR RADIO, INC., INVOLVING THIS LEASE SITE AND/OR RIGHT OF WAY TO THE LEASE SITE.

THIS AGREEMENT FOR LEASE IS FOR A 300 FOOT SQUARE TRACT, LOCATED IN THE SW ¼ OF SECTION 22, TOWNSHIP 29 NORTH, RANGE 30, BEING 200 FEET SOUTH OF THE HALF SECTION LINE, AND 400 FEET WEST OF THE SECTION LINE, RESERVING UNTO KMMR RADIO, INC., THE RIGHT TO OPERATE AND MAINTAIN RADIO BROADCASTING EQUIPMENT, AND ANY OTHER EQUIPMENT NEEDED TO ASSIST IN THAT OPERATION.

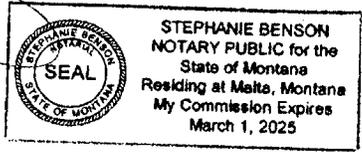
THE PARTIES SIGNING THIS LEASE AGREE THAT IT SHALL CONTINUE FROM THE DATE IT IS SIGNED, UNTIL MAY 31, 2072. RATE INCREASES FOR THE COST OF THE YARDLIGHTS IN THE YARD OF JAMES W. MURDOCK, SHALL ALSO BE PAID IN FULL BY KMMR RADIO, INC..

*Greg Kielb*  
KMMR Radio  
March 1, 2022

*James W. Murdock*

Acknowledged before me on March 1, 2022 by Greg Kielb & James Murdock.

*Stephanie Benson*



Schedule 1.1.(d)  
Documents and Data Relating to the Operation of the Station

Employee Handbook

Schedule 1.1(f)  
Contracts and Agreements

ABC Radio Network  
Northern Broadcasting Network  
Western AG Network  
Smarts Broadcast Systems

## Schedule 3.2

**ESCROW AGREEMENT**

THIS ESCROW AGREEMENT (this "Agreement") is made and entered into this \_\_\_\_ day of May, 2023, by and among KMMR Radio, Inc ("Seller"), KMMR Mustang Radio, LLC("Buyer"), and Clifton Gardiner, LLC, as earnest money deposit agent ("Deposit Agent"). Seller, Buyer and Deposit Agent are sometimes referred to herein, individually, as a "Party", and, collectively, as the "Parties".

WHEREAS, Buyer and Seller have entered into an Asset Purchase Agreement of even date herewith (the "Purchase Agreement") by which Seller has agreed to sell, assign, transfer, convey and deliver to Buyer, and Buyer has agreed to purchase from Seller, the Assets (as defined in the Purchase Agreement), including all applicable licenses of the Federal Communications Commission ("Commission"), all in accordance with and subject to the terms and conditions set forth in the Purchase Agreement and subject to the prior approval of the Commission; and

WHEREAS, Seller and Buyer have mutually agreed that Clifton Gardiner, LLC shall act as Deposit Agent, and

WHEREAS, pursuant to the Purchase Agreement, Buyer is required to deliver a deposit of Sixteen Thousand Eight Hundred Dollars (\$16,800) in immediately available funds, subject to the terms of the Purchase Agreement and of this Agreement;

NOW, THEREFORE, for and in consideration of the foregoing and of the mutual covenants and agreements hereinafter set forth, the Parties agree as follows:

1. Definitions. All terms contained in this Agreement shall have the meaning set forth in the Purchase Agreement.

2. Earnest Money Deposit Account.

2.1 Deposit. Buyer, upon Seller and Buyer both signing this Agreement and the Purchase Agreement, will wire transfer Sixteen Thousand Eight Hundred Dollars (\$16,800) in immediately available funds, as an earnest money deposit (the "Deposit"), to be held and disbursed by Deposit Agent as hereinafter set forth.

2.2 Investment. Deposit Agent shall hold the Deposit in a commercial bank reasonably acceptable to Buyer and Seller.

2.3 Release at Closing. Upon receipt of joint written instructions from Buyer and Seller stating that the Closing is occurring, Deposit Agent shall deliver the Deposit to

Seller at the Closing by wire transfer of federal funds to an account which will be identified by Seller prior to the Closing Date. Alternatively, at Seller's direction, the Deposit may be applied to brokerage fees payable by Seller to Clifton Gardiner, LLC.

2.4 Return to Buyer. Upon receipt of joint written instructions from Buyer and Seller stating that the Purchase Agreement has been terminated pursuant to the applicable section thereof, Deposit Agent shall deliver the Deposit to Buyer by wire transfer of federal funds to an account which will be identified by Buyer.

2.5 Other Release. Upon receipt of other joint written instructions from Buyer and Seller, Deposit Agent shall deliver the Deposit in accordance with such other written instructions, signed by Buyer and Seller (including, without limitation, instructions stating that Seller shall receive all or a portion of the Deposit as liquidated damages pursuant to the applicable section of the Purchase Agreement).

2.6 Conflicting Demands. If any dispute arises among the Parties concerning this Agreement (including, but not limited to, a failure by Seller and Buyer to jointly agree with respect to a disbursement of the Deposit or an objection by either Seller or Buyer to any written directions regarding a disbursement of the Deposit), Deposit Agent may, unless Seller and Buyer jointly, in writing, direct it to the contrary, hold the Deposit pending receipt of a certified copy of a final judgment of a court of competent jurisdiction or, if an appeal therefrom has been timely made and jurisdiction assumed, the final judgment of the highest court to which such appeal has been made and jurisdiction assumed, instructing Deposit Agent on the disbursal of the Deposit. Deposit Agent shall comply with such court judgment. In the alternative, Deposit Agent may interplead the Deposit with the Maricopa County Superior Court in Phoenix, Arizona, pursuant to Rule 22, Arizona Rules of Civil Procedure. If Deposit Agent files an interpleader action, it shall be indemnified for all costs, including reasonable attorney's fees, in connection with such interpleader action, and shall be fully protected in suspending all or part of its activities under this Agreement until it receives a final judgment in the interpleader action.

2.7 Interest. Buyer shall be entitled to the interest, if any, earned on the Deposit, and such interest, if any, shall be paid to Buyer concurrently with the release of the Deposit pursuant to Section 2.3, 2.4, 2.5 or 2.6. However, Deposit Agent may deduct the actual bank charges for the account from the interest prior to remittance to the Buyer.

### 3. Concerning Deposit Agent.

3.1 Duties. Deposit Agent undertakes to perform all duties which are expressly set forth herein without compensation.

#### 3.2 Indemnification

3.2.1 Deposit Agent may rely upon and shall be protected in acting or refraining from acting upon any written notice, instructions or request furnished to it hereunder and believed by it to be genuine and to have been signed or presented by the proper Party or Parties.

3.2.2 Deposit Agent shall not be liable for any action taken by it in good faith and without negligence, and believed by it to be authorized or within the rights or powers conferred upon it by this Agreement, and may consult with counsel of its own choice and shall have full and complete authorization and protection for any action taken or suffered by it hereunder in good faith and in accordance with the opinion of such counsel.

3.2.3 Buyer and Seller hereby agree to indemnify Deposit Agent for, and to hold Deposit Agent harmless against, any loss, liability or expense incurred without negligence or bad faith on the part of Deposit Agent, arising out of or in connection with Deposit Agent's entering into this Agreement and carrying out Deposit Agent's duties hereunder, including costs and expenses of successfully defending Deposit Agent against any claim of liability with respect thereto.

3.3 Other Matters. Deposit Agent reserves the right to resign as Deposit Agent at any time, provided thirty (30) days' prior written notice is given to the other Parties hereto. The other Parties jointly hereto reserve the right to remove Deposit Agent at any time, provided thirty (30) days' prior written notice is given to Deposit Agent. In the event of litigation or dispute by the Parties hereunder affecting its duties as Deposit Agent, Deposit Agent shall take no action until agreed to jointly by Seller and Buyer, or until Deposit Agent's receipt of an order of a court having jurisdiction.

4. Termination. This Agreement and the obligations of Deposit Agent with regard to the Deposit shall be terminated upon the delivery made pursuant to Section 2.3, 2.4, 2.5 or 2.6 hereof, and may be terminated by written mutual consent signed by all Parties hereto.

5. Notice. All notices, demands, requests, or other communications which may be or are required to be given or made by any of the Parties to other Parties pursuant to this Agreement shall be in writing and shall be given in the manner set forth in the applicable section of the Purchase Agreement to the following addresses: (a) if to Buyer or Seller, to their respective addresses set forth in the Purchase Agreement; and (b) if to Deposit Agent:

Clifton Gardiner, Manager  
Clifton Gardiner, LLC  
24645 S Augusta Ct  
Sun Lakes, AZ 85248

6. Benefit and Assignment. This Agreement shall be binding upon and shall inure to the benefit of the Parties hereto and their respective successors and assigns as permitted hereunder. No person or entity other than the Parties hereto is or shall be entitled to bring any action to enforce any provision of this Agreement against any of the Parties hereto, and the covenants and agreements set forth in this Agreement shall be solely for the benefit of, and shall be enforceable only by, the Parties hereto or their respective successors and assigns as permitted hereunder. None of the Parties to this Agreement may assign this Agreement or any rights hereunder without the prior written consent of

all of the Parties hereto.

7. Entire Agreement. This Agreement, together with the Purchase Agreement with respect to Seller and Buyer, contains the entire agreement among the Parties with respect to the subject matter hereof and supersedes all prior oral or written agreements, commitments or understandings with respect to such matters. This Agreement may not be changed orally, but only by an instrument in writing signed by the Party against whom enforcement of any waiver, change, modification, extension or discharge is sought.

8. Signature in Counterparts. This Agreement may be executed in separate counterparts, none of which need contain the signatures of all Parties, each of which shall be deemed to be an original and all of which taken together constitute one and the same instrument.

9. Interpretation. This Agreement shall be governed by and construed in accordance with the laws of the State of Arizona.

[The remainder of this page is intentionally blank.]

[Signature page to Escrow Agreement]

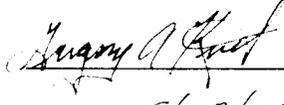
IN WITNESS WHEREOF, each of the Parties hereto has caused this Agreement to be duly executed and delivered in its name and on its behalf, all as of the date and year shown below.

**BUYER:**  
**KMMR Mustang Radio, LLC**

By: 

Date: 5/18/23

**SELLER:**  
**KMMR Radio, Inc.**

Date: 5/18/23

**DEPOSIT AGENT:**  
**CLIFTON GARDINER, LLC**

By: \_\_\_\_\_  
Clifton Gardiner, Manager

Date: \_\_\_\_\_  
Escrow Agreement