

ASSET PURCHASE AGREEMENT

THIS AGREEMENT, made and entered into this 15th day of June, 2009, by and between **WILLIAM C. DOERNER** ("Seller"), and **PATRICIA MARTINEZ** ("Buyer").

WITNESSETH

WHEREAS, Seller is the owner, operator, and licensee of FM translator Station K241AT, Flour Bluff, Texas, Facility No. 142121 (the "Station"); and

WHEREAS, Seller desires to sell and Buyer desires to buy the assets and rights belonging to or used or to be used in the business and operation of the Station pursuant to the terms and conditions stated herein; and

WHEREAS, the assignment of the authorizations for the Station are subject to the prior approval of the Federal Communications Commission ("FCC").

NOW, THEREFORE, in consideration of the premises and of the mutual covenants and agreements stated herein, the parties hereto agree as follows:

1. **Assets Sold and Purchased.**

On the date of the closing of this Agreement, as provided for in Section 3 below (the "Closing Date"), Seller will cause to be sold, transferred, assigned and conveyed to Buyer, by appropriate instruments, and Buyer will purchase, subject to the terms and conditions set forth herein, all assets set forth below (collectively the "Assets"):

1.1 **FCC Licenses.** The FCC Licenses authorizing the operation of the Station as set forth in Schedule 1.1 hereto, and any and all other License, rights, permits and authorizations issued to Seller by any other regulatory agency which are used or useful in connection with the operation of the Station. Buyer acknowledges that the FCC Licenses are a "secondary authorization" and has no interference protection against a full power station, which could require the FCC License to be surrendered or canceled.

1.2 **Personal Property.** All of the assets used or useful in the operation of the Station, together with replacements thereof and improvements and additions made between the date hereof and the Closing Date (collectively the "Personal Property"), all free and clear of all liens, claims, security instruments and encumbrances of any kind whatsoever. Notwithstanding the foregoing, it is agreed that the towers used in conjunction with the Station are not being transferred to Buyer.

1.3 **Site Lease Agreements.** All of Seller's rights to the tower sites for the Station.

(a) Following Closing, it shall be the responsibility of Buyer to secure a formal lease for use of the transmitter site K241AT with the owner of the site.

1.4 **Intangible Assets.** The goodwill and all other intangible assets used or useful in the operation of the Station.

2. **Purchase Price.** The total purchase price for all of the assets sold and purchased, as described in Section 1 above, shall be **ONE HUNDRED AND TWENTY-FIVE THOUSAND DOLLARS (\$125,000.00)** (hereafter, the "Purchase Price"). The Purchase Price to be paid by Buyer to Seller shall be paid as follows:

2.1 **Earnest Money Payment.** There is no Earnest Money Deposit. The Purchase Price pursuant to a Promissory Note in the amount of **ONE HUNDRED AND TWENTY-FIVE THOUSAND DOLLARS (\$125,000.00)**, in the form attached hereto as **Attachment A.** Seller shall pay, perform, discharge and settle (i) all of the material liabilities at Closing which at such time, or with the passage of time, would result in an encumbrance on any of the Assets; and (ii) all other liabilities in the ordinary course of business and on a timely basis (except for liabilities being disputed by Seller in good faith and by appropriate proceedings) and Seller shall deliver the Assets to Buyer at Closing free and clear of liabilities, liens, or encumbrances.

3. **Closing of the Agreement.** The closing of this Agreement (the "Closing") shall take place by exchange of documents by email, overnight delivery and/or facsimile within ten (10) calendar days following the date on which FCC approval of the transfer and assignment of the FCC License to Buyer, as provided in Section 13 below, has become a Final Order (the "Closing Date"), unless the parties agree, in writing, to an earlier place, time and date. Finality may be waived by Buyer in writing after the date of FCC approval, and the parties may agree on and shall select such other place, date and time. The word "Final Order" shall mean the date on which the time for rehearing, reconsideration, review or appeal by the FCC or any court under the provisions of the Communications Act of 1934, as amended, or the regulations issued by the FCC thereunder, shall have expired without any request for rehearing, reconsideration, review or appeal pending.

4. **Contracts and Obligations Not Assumed.** Buyer does not hereby assume any obligation or liability for leases not terminable at will or not expressly assumed hereunder.

5. **Seller's Representations, Warranties and Covenants.** Seller makes the following representations, warranties, and covenants, each of which shall be deemed to be a separate representation, warranty, and covenant, all of which have been made for the purpose of inducing Buyer to join in and execute this Agreement, and in reliance on which Buyer has entered into this Agreement:

5.1 **Licenses.**

(a) Seller is the lawful holder of the FCC Licenses and all other permits and authorizations necessary for or used in connection with the operation of the Station.

(b) No application, action or proceeding is pending for the modification of the FCC Licenses or any of such permits or authorizations, and no application,

action or proceeding is pending or to Seller's knowledge threatened that may result in the revocation, modification, non-renewal or suspension of the FCC License or any such permits or authorizations, the issuance of a cease-and-desist order, or the imposition of any administrative or judicial sanction.

5.2 **Personal Property.** On the Closing Date, the Personal Property shall be free and clear of all liens and encumbrances, and Seller will be able to convey to Buyer good and marketable title to all the Personal Property, free and clear of all liens, pledges and encumbrances whatsoever. The assets listed on Schedule 1.2, together with all improvements, replacements and additions thereto from the date hereof to the Closing Date, will, at Closing, constitute all the tangible personal property owned by Seller which is used or useful in the operation of the Station and necessary to operate the Station in accordance with the FCC License. All such properties, equipment and assets to be sold hereunder are transferable by Seller by its sole act and deed and no consent on the part of any other person is necessary to validate the transfer thereof to Buyer, except as otherwise expressly contemplated by this Agreement. The Personal Property will be sold to Buyer "as is, where is" without any warranty of fitness for any particular purpose.

5.3 **FCC Licenses.** As limited by Section 1.1 above, the FCC Licenses to be assigned to Buyer hereunder is, and will be at the Closing, valid and existing authorizations in every material respect for the purpose of operating the Station.

5.4 **Leases.** The Leases attached hereto as Schedule 1.3 remain valid and enforceable. Seller is not in default of any of the provisions of the Leases, and is permitted to assign the Leases to Buyer under the terms and conditions contained therein.

5.5 **Adverse Developments.** Seller shall promptly notify Buyer, in writing, of any materially adverse developments with respect to the operations of the Station.

6. **Buyer's Representations and Warranties.** Buyer hereby makes the following representations, warranties and covenants each of which shall be deemed to be a separate representation, warranty and covenant, all of which have been made for the purpose of inducing Seller to join in and execute this Agreement, and in reliance on which Seller has entered into this Agreement:

6.1 **Standing.** Buyer is an individual and a United States citizen.

6.2 **Buyer Qualified.** After due inquiry, Buyer is legally, financially and otherwise qualified to acquire and operate the Assets consistent with the Communications Act of 1934, as amended, and the rules and regulations of the FCC. To the best of Buyer's knowledge, no circumstances exist which reasonably could support a conclusion by the FCC that Buyer lacks the requisite qualifications to acquire and operate the Station.

6.3 **No Conflict.** Neither the execution or delivery of this Agreement nor compliance with the terms of this Agreement will (i) conflict with any order, judgment, injunction, award or decree of any governmental body, administrative agency or court, or any

agreement, lease or commitment, to which Buyer is a party or by which Buyer is bound, or (ii) constitute a violation by Buyer of any law or regulation applicable to it.

6.4 **Litigation.** There is no claim, litigation, proceeding or governmental investigation pending or threatened, or any judgment, order, injunction or decree outstanding, against Buyer and Buyer does not know of any valid basis for future claims, litigations, proceedings or investigations against Buyer that might materially and adversely affect its ability to consummate the transactions contemplated by this Agreement.

7. **Survival of Representations and Warranties.** The several representations and warranties of the parties contained herein shall survive the Closing for a period of twelve (12) months.

8. **Actions Pending Closing.** Pending the Closing of this Agreement, Seller will comply in all material respects with all applicable federal, state and local laws, ordinances and regulations including, but not limited to, the Communications Act of 1934 and the rules and regulations of the FCC.

9. **Conditions Precedent to Buyer's Obligations to Close.** The obligation of Buyer to consummate this Agreement is subject to the satisfaction, or to Buyer's written waiver, on or before the Closing, of each of the following conditions:

9.1 **Representations and Warranties True and Correct.** The representations and warranties of Seller contained in this Agreement shall be true and correct in all material respects on and as of the Closing Date and all of the agreements of Seller to be performed on or prior to the Closing pursuant to the terms of this Agreement shall have been duly performed. Such facts shall be evidenced by a certificate to that effect, delivered at Closing, and signed by the Seller.

9.2 **No Litigation Threatened.** No litigation, investigation or proceeding of any kind shall have been instituted or threatened which would have a material adverse effect on the assets or operations of the Station.

9.3 **FCC Consent.** At the time of the Closing the FCC shall have granted its consent to the assignment of the FCC License to Buyer in writing and such authorization shall contain no adverse modifications of the terms of the FCC Licenses as they presently exist.

9.4 **Compliance with Conditions.** All of the terms, covenants and conditions to be complied with, or performed by Seller on or before the Closing Date shall have been duly complied with and performed in all respects.

9.5 **Closing Documents.** At Closing, Seller shall deliver to Buyer all the closing documents specified in Section 12, which documents shall be duly executed.

10. **Conditions Precedent to Seller's Obligations to Close.** The obligations of

Seller under this Agreement are subject to the satisfaction, or to Seller's written waiver, on or before the Closing, of the following conditions:

10.1 **Documents.** Buyer shall have executed all of the documents required by Section 12 hereof, and shall have delivered to Seller the Purchase Price in accordance with Section 2, hereof.

10.2 **Representations and Warranties True and Correct.** Each of the covenants, representations and warranties of Buyer contained herein shall, to the extent applicable, be true at and as of the Closing Date, as though each such covenant, representation or warranty had been made at and as of such time.

10.3 **Consents.** Seller shall have duly received, without any conditions materially adverse to it, all consents and approvals under any agreement to which Seller is a party, and under any statute, necessary for (i) consummation of the sale of the Assets to Buyer and (ii) Buyer to acquire control of the Station.

10.4 **Final Order.** The order of the FCC shall have become a Final Order unless finality is waived, in writing, by Buyer.

10.5 **No Injunction.** There shall not be in effect an injunction or restraining order issued by a court of competent jurisdiction in any action or proceeding against the consummation of the sale of the Assets contemplated by this Agreement.

11. **FCC Approval and Application.**

11.1 **Condition of FCC Consent.** Consummation of the transactions contemplated by this Agreement is subject to and conditioned upon receipt from the FCC of its consent in writing to the assignment to Buyer of the FCC License, which consent shall have become final on or before the Closing, unless waived by Buyer. Such consent shall be deemed to have become final ("Final Order") when it is no longer subject to timely review by the FCC or by any court or, in the event of reconsideration upon its own motion or otherwise by the FCC or in the event of an appeal by any person or any court, when the decision of such body is no longer subject to appeal or review. The requirement that the consent of the FCC shall have become final may be waived by mutual consent of the parties to this Agreement.

11.2 **Application for Consent.** The parties to this Agreement agree to proceed as expeditiously as practicable to file or cause to be filed an application requesting FCC consent to the assignment of the FCC License as contemplated by this Agreement (the "Assignment Application"). The parties agree that the Assignment Application shall be duly filed with the FCC not later than ten (10) business days after the date of this Agreement, and that such application shall be prosecuted in good faith and with due diligence. The failure of either party to timely file or diligently prosecute its portion of the Assignment Application shall be deemed a material breach of this Agreement.

11.3 Absence of FCC Consent. If a Final Order granting the Assignment Application is not secured within nine (9) months after the Assignment Application is filed, then this Agreement may be terminated at the option of either party upon written notice to the other; provided, however, that neither party may terminate this Agreement if such party is in default hereunder, or if a delay in any decision or determination by the FCC respecting the Assignment Application has been caused or materially contributed to by any failure of such party to furnish, file or make available information within its control or caused by the willful furnishing by such party of incorrect, inaccurate or incomplete information to the FCC, or caused by any action taken by such party for the purposes of delaying any decision or determination respecting the Assignment Application.

11.4 Designation for Hearing. The time for FCC consent provided in Section 11.3 notwithstanding, either party may terminate this Agreement upon written notice to the other, if, for any reason, the Assignment Application is designated for hearing by the FCC, *provided, however,* that the party giving such notice is not in default under the terms of this Agreement. Upon termination pursuant to this Paragraph, the parties shall be released and discharged of all obligations hereunder.

11.5 Control of Station Pending Closing. This Agreement shall not be consummated until after the FCC has given its written consent thereto, and between the date of this Agreement and the Closing Date, Buyer shall not directly or indirectly control, supervise or direct, or attempt to control, supervise or direct the operation of the Station.

12. Closing Documents. On the Closing Date at the Closing Place:

12.1 Seller shall deliver to Buyer:

(a) An Assignment transferring all of the interests of Seller in and to the FCC Licenses and all other license, permits, and authorizations issued by any other regulatory bodies which are used or useful in the operation of the Station; and

(b) A bill of sale conveying to Buyer all of the Personal Property in a form reasonably satisfactory to Buyer's counsel.

(c) An Assignment of Leases; and

(d) An Assignment of Intangibles.

12.2 Buyer shall deliver to Seller:

(a) the Purchase Price, in the manner provided for in Section 2, hereof.

(b) an assumption of the Lease Agreement and Indemnity with respect to the obligations assumed thereunder, in form reasonably acceptable to counsel for Seller.

(c) an executed Promissory Note in the form attached hereto as Attachment A.

13. **Prorations.**

13.1 **Apportionment of Income and Expense.** Seller shall be responsible for all expenses arising out of, the operations of the Station through the close of business on the Closing Date. Buyer shall be responsible for all expense arising out of, the operations of the Station after the close of business on the Closing Date. All overlapping items of expense, including the following, shall be prorated between the Seller and Buyer as of the close of business on the Closing Date (the "Prorations"):

(a) **Prepaid Expenses.** Prepaid expenses and deposits arising from payments made for goods or services prior to the close of business on the Closing Date where all or part of the goods or services have not been received or used at the close of business on the Closing Date (for example, rents or utilities paid in advance for a rental period extending beyond the Closing Date);

(b) **Liabilities.** Liabilities, customarily accrued, arising from expenses incurred, but unpaid, as of the close of business on the Closing Date, utility services, rent, and business and professional services; and

(c) **Utilities.** Utility charges related to the Station or in respect of any of the Assets.

13.2 **Determination and Payment.** Prorations shall be made and paid, insofar as feasible, on the Closing Date and shall be paid by separate check and not by way of adjustment to monthly payments. As to Prorations that cannot be made on the Closing Date, within sixty (60) days after the Closing Date, Buyer shall determine all such Prorations and shall deliver a statement of its determinations to Seller, which statement shall set forth in reasonable detail the basis for such determinations, and within thirty (30) calendar days thereafter Buyer shall pay to Seller or Seller shall pay to Buyer, as the case may be, the net amount due. If Seller does not concur with Buyer's determinations, the parties shall confer with regard to the matter and an appropriate adjustment and payment shall be made as agreed upon by the parties. If the parties are unable to resolve the matter, it shall be referred to a firm of independent certified public accountants, mutually acceptable to Seller and Buyer, whose decision shall be final, and whose fees and expenses shall be shared equally by Seller and Buyer.

14. **Default and Remedies.**

14.1 **Material Breaches.** A party shall be deemed to be in default under this Agreement only if such party has materially breached or failed to perform its obligations hereunder, and no non-material breaches or failures shall be grounds for declaring a party to be in default, postponing the Closing, or terminating this Agreement.

14.2 **Opportunity to Cure.** If either party believes the other to be in default hereunder, the former party shall provide the other with written notice specifying in reasonable detail the nature of such default. If the default has not been cured by the earlier of (i) the Closing Date, or (ii) within ten (10) business days after delivery of that notice (or such additional reasonable time as the circumstances may warrant provided the party in default undertakes diligent, good faith efforts to cure the default within such ten (10) day period and continue such efforts thereafter), then the party giving such notice may exercise the remedies available to such party pursuant to this Section, subject to the right of the other party to contest such action through appropriate proceedings.

14.3 **Buyer's Remedies.** Seller agrees that the purchased Assets include unique property that cannot be readily obtained on the open market and that Buyer will be irreparably injured if this Agreement is not specifically enforced. Buyer shall have the right specifically to enforce Seller's performance under this Agreement as its exclusive remedy, and Seller agrees to waive the defense in any such suit that Buyer has an adequate remedy at law and to interpose no opposition, legal or otherwise, as to the propriety of specific performance as a remedy.

15. **Damage.** The risk of loss or damage to the fixed and tangible assets to be sold to Buyer hereunder shall be upon Seller at all times prior to Closing. In the event of such loss or damage, Seller shall promptly notify Buyer thereof and repair, replace or restore any such damaged property to its former condition as soon as possible after its loss and prior to the Closing Date. If damage has occurred and such relief or restoration of any such damage has not been completed prior to the Closing Date, Buyer may, at its option:

(a) elect to consummate the Closing in which event Seller shall pay to Buyer the costs of such repairs, replacements or restoration as is required to restore the property to its former condition and against such obligation shall assign to Buyer all of Seller's rights under any applicable insurance policies. Buyer shall in such event submit to Seller an itemized list of the costs of such repairs, replacements or restoration. If the parties are unable to agree upon the costs of such repairs, the matter shall be referred to a qualified consulting communications engineer mutually acceptable to Seller and Buyer who is a member of the Association of Federal Communications Consulting Engineers, whose decision as to the costs shall be final, and whose fees and expenses shall be shared equally by Seller and Buyer; or

(b) elect to postpone the Closing Date for a period of up to ninety (90) days, with prior consent of the FCC if necessary, to permit Seller to make such repairs, replacements, or restoration as is required to restore the property to its former condition. If after the expiration of the extension period granted by Buyer the property has not been adequately repaired, replaced or restored, Buyer may terminate this Agreement. If the parties disagree as to whether the property has been adequately repaired, replaced or restored, the matter shall be referred to a mutually-acceptable qualified consulting communications engineer, who is a member of the Association of Federal Communications Consulting Engineers, whose decision shall be final, and whose fees and expenses shall be shared equally by Seller and Buyer.

16. **Brokerage.** Seller and Buyer represent each to the other that neither has engaged a broker in connection with this transaction, and agree to indemnify and hold each other harmless against any claim from any broker based upon any agreement, arrangement, or understanding alleged to have been made by Buyer.

17. **Notices.** Any notice, demand, waiver or consent required or permitted hereunder shall be in writing and shall be effective upon (a) actual delivery, if delivered by personal delivery, or (b) proof of actual or attempted delivery, if delivered by prepaid overnight courier or prepaid Express Mail, Priority Mail or certified mail, return receipt requested, to the appropriate party at the following address or at such other address as such party may by written notice designate as its address for purposes of notice hereunder:

(a) If to Buyer:

Patricia Martinez
6503 Swainson Tr.
Arlington, TX 76002

(b) If to Seller:

William C. Doerner
342 Caribbean Dr.
Corpus Christi, TX 78418

18. **Entire Agreement.** This Agreement supersedes any prior agreements between the parties and contains all of the terms agreed upon with respect to the subject matter hereof. This Agreement may not be altered or amended except by an instrument in writing signed by the party against whom enforcement of any such change is sought.

19. **Counterparts.** This Agreement may be signed in any number of counterparts and by facsimile transmission of signatures with the same effect as if the signature on each such counterpart were an original on the same instrument.

20. **Headings.** The headings of the paragraphs of this Agreement are for convenience only and in no way modify, interpret or construe the meaning of specific provisions of the Agreement.

21. **Exhibits.** The Exhibits to this Agreement are a material part hereof.

22. **Severability.** In case any one or more of the provisions contained in this Agreement should be invalid, illegal or unenforceable in any respect, the validity, legality, and enforceability of the remaining provisions contained herein shall not in any way be affected or impaired thereby.

23. **Choice of Laws.** This Agreement is to be construed and governed by the laws of the State of Texas, except for the choice of law rules utilized in that state.

24. **Bulk Sales.** Seller will indemnify and hold Buyer harmless against any cost or expense as a result of Seller's failure to comply with the provisions of any bulk sales or fraudulent conveyance statutes.

25. **Benefit; Assignment.** This Agreement shall inure to the benefit and be binding upon the parties hereto and their respective successors and assigns. Neither party may assign its rights under this Agreement without the written consent of the other party.

26. **Fees and Expenses.** Buyer shall pay or reimburse Seller as applicable for all FCC application filing fees and regulatory fees that may be incurred after the date of execution of this Agreement. Except as specifically set forth herein, Buyer and Seller shall each pay its own costs and expenses relating to the execution and delivery of this Agreement and the consummation of all transactions contemplated hereby.

27. **Public Announcements.** No party hereto shall make or shall authorize any other person to make any public announcement relating to any aspect of the transactions described herein without having first consulted with Buyer and Seller concerning the requirement for, and timing and content of, such public announcement and having received their prior consent thereto. Notwithstanding the foregoing, actions relative to obtaining approvals and like matters shall be permissible and Buyer may make all disclosures in its judgment necessary to obtain financing for purposes of carrying out the transactions described in this Agreement. Notwithstanding the foregoing, Seller shall publish local public notice of the filing of the application for assignment of FCC License in the newspapers serving the Station's community.

28. **Contingent Application.** Seller hereby grants Buyer, pursuant to Section 73.3517 of the FCC's rules, permission to file in Buyer's name a minor change application or applications to modify the license of Station, contingent on Buyer's acquisition of Station. Buyer may file a copy of this section of this Agreement with any application or application Buyer files with the FCC.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly authorized officers as of the date first written above.

SELLER:

WILLIAM C. DOERNER

A handwritten signature in cursive script, appearing to read "Will Doerner", written over a horizontal line.

BUYER:

PATRICIA MARTINEZ

A handwritten signature in cursive script, appearing to read "Patricia Martinez", written over a horizontal line.