

ASSET PURCHASE AGREEMENT

THIS ASSET PURCHASE AGREEMENT (this “Agreement”) is made as of June 27, 2019, by and between TRINITY RIVER VALLEY BROADCASTING COMPANY, a Texas corporation (“Seller”), and KSBJ EDUCATIONAL FOUNDATION, INC., a Texas not-for-profit corporation (“Buyer”).

WHEREAS, Seller holds the authorizations for Station KSHN-FM, Liberty, Texas (the “Station”), issued by the Federal Communications Commission (the “FCC”); and

WHEREAS, Buyer and Seller have entered into that certain Local Marketing Agreement (the “LMA”) dated of even date herewith, pursuant to which Buyer will provide programming to the Station; and

WHEREAS, subject to the terms and conditions set forth herein, Seller desires to assign the Station’s FCC authorizations and sell substantially all of the assets used in connection with the Station, except the studio facilities, associated studio equipment, furniture, and other excluded items as designated in this Agreement and Schedule 2(h) attached hereto, and Buyer desires to purchase and accept such authorizations and assets.

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

1. Assets. Seller agrees to assign, transfer, convey and deliver to Buyer, and Buyer shall acquire from Seller, all of the right, title, and interest of Seller in and to certain assets, properties, interests and rights of Seller, tangible and intangible, which are used in the operation of the Station (the “Assets”), including the following:

(a) all licenses, permits and other authorizations or other governmental authority with respect to the Station held by Seller (the “Licenses”);

(b) the transmitter(s), antenna(s), transmission line(s), utilized at the site of the transmission tower sites and other tangible assets of the Seller used in the operation of the Station (the “Included Tangible Assets”), listed on Schedule 1(b); and

(c) All of Seller's logs, books, files, FCC and other governmental applications, equipment manuals and assignable warranties, and other records relating to operation of the Station, including without limitation all electronic data processing files and systems related only to the transmitter site, FCC filings and all records required by the FCC to be kept by the Station, including, but not limited to, the Station's public inspection file.

2. Excluded Assets. Notwithstanding anything to the contrary contained herein, the Station Assets shall not include the following assets or any rights, title and 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, money market accounts and all such similar accounts or investments including all accounts receivable;

(b) Seller's corporate and trade names unrelated to the operation of the Station, charter documents, and books and records relating to the organization, existence or ownership of Seller, duplicate copies of the records of the Station, and all records not relating to the operation of the Station;

(c) all contracts of insurance, all coverages and proceeds thereunder and all rights in connection therewith, including without limitation rights arising from any refunds due with respect to insurance premium payments to the extent related to such insurance policies;

(d) any non-transferable shrink-wrapped computer software and any other non-transferable computer licenses that are not material to the operation of the Station;

(e) all rights and claims of Seller, whether mature, contingent or otherwise, against third parties with respect to the Station and the Station Assets, to the extent arising during or attributable to any period prior to the Closing Date;

(f) all deposits and prepaid expenses (and rights arising therefrom or related thereto), except to the extent Seller receives a credit therefor under Section 3(c); and

(h) the Excluded Tangible Assets listed on Schedule 2(h) (if any).

3. Purchase Price. The purchase price to be paid for the Assets will be One Million Three Hundred Thousand Dollars (\$1,300,000.00) (the "Purchase Price"), which shall be paid by Buyer as follows:

(a) Escrow Deposit: Upon execution of an Escrow Agreement by both parties, coincident with the signing of this Agreement, Buyer shall deliver by wire transfer of same day Federal funds to the IOLTA trust account of Fletcher, Heald & Hildreth, PLC (the "Escrow Agent") a deposit in the amount of One Hundred Thirty Thousand Dollars and 00/100 (\$130,000.00) (the "Escrow Deposit") with a verified copy of the wire transfer sent simultaneously to Bill Buchanan at the email address located elsewhere in this document;

(b) At Closing: The Escrow Deposit shall be released to Seller and the Buyer shall pay to Seller the balance of the Purchase Price, One Million One Hundred Seventy Thousand and 00/100 Dollars (\$1,170,000.00), as further adjusted by any prorations pursuant to Section 3(c) hereof, which shall be delivered by wire transfer of same day Federal funds to an account designated by Seller on the Closing Date.

(c) Prorations. The parties shall prorate all expenses arising out of the operation of the Station which re-incurred, accrued or payable, as of 11:59 p.m. local time of the day preceding the Closing. The items to be prorated shall include, but not be limited to, FCC regulatory fees (if any), personal property taxes upon the basis of the most recent tax bills and information available, security deposits, and similar prepaid and deferred items. The prorations shall, insofar as feasible, be determined and paid on the Closing Date, with final settlement and payment to be made within sixty (60) days after the Closing Date.

4. Tower Lease. On or before the Closing Date, Buyer shall expedite and comply with all processes needed for the approval and assignment of Buyer's lease with IWG Tower Assets II,

LLC, used in the operation of the Station, to Seller (the “Tower Lease”).

5. Assumption of Obligations. Excepting the obligations attendant to the maintenance of the FCC Licenses in good standing, Buyer shall assume no obligations arising from the business or operation of the Station after the Closing Date and shall have no responsibility for Station employees or their benefits.

6. Closing. Subject to satisfaction or waiver of the conditions set forth herein, consummation of the sale of the Assets under this Agreement (the “Closing”) shall occur on a date (the “Closing Date”) mutually agreed upon by the parties which date shall be within ten (10) business days after the grant of FCC Consent (as defined below) having become a Final Order (as defined below), unless the requirement of a Final Order is waived by Buyer, in which case the Closing shall occur after the grant of FCC Consent upon notice by Buyer to Seller of Buyer’s waiver of the Final Order requirement.

7. FCC Consent. The Closing is subject to and conditioned upon prior FCC consent (the “FCC Consent”) to the assignment of the FCC Licenses to Buyer, and, unless waived by Buyer, the FCC Consent having become a Final Order. “Final Order” means an action by the FCC as to which: (a) no request for stay by the FCC is pending, no such stay is in effect, and any deadline for filing a request for any such stay has passed; (b) no appeal, petition for rehearing or reconsideration, or application for review is pending before the FCC and the deadline for filing any such appeal, petition or application has passed; (c) the FCC has not initiated reconsideration or review on its own motion and the time in which such reconsideration or review is permitted has passed; and (d) no appeal to a court, or request for stay by a court, of the FCC’s action is pending or in effect, and the deadline for filing any such appeal or request has passed.

8. FCC Application. Within five (5) business days of the date of this Agreement, Seller and Buyer shall file an application with the FCC (the “FCC Application”) requesting the FCC Consent. Seller and Buyer shall diligently prosecute the FCC Application and otherwise use their best efforts to obtain the FCC Consent as soon as practicable.

9. Buyer’s Representations and Warranties. Buyer makes the following representations and warranties to Seller:

(a) Buyer is duly organized, validly existing and in good standing under the laws of the State of Texas. Buyer has the requisite power and authority to execute and deliver this Agreement and to comply with the terms, conditions and provisions hereof.

(b) The execution, delivery and performance of this Agreement by Buyer have been duly authorized and approved by all necessary corporate action of Buyer. This Agreement is a legal, valid and binding agreement of Buyer enforceable in accordance with its terms, except (i) as may be limited by bankruptcy, moratorium, insolvency, reorganization or other similar laws affecting or limiting the enforcement of creditors’ rights generally, and (ii) as such enforceability is subject to general principles of equity.

(c) Scott Knoblauch of Spectrum Media LLC is the broker for the Buyer and any commission, brokerage fee or other similar payment in connection with this Agreement

or the transactions contemplated hereby as a result of any agreement or action of Buyer shall be borne solely by Buyer.

(d) Buyer is legally, financially and otherwise qualified to be the licensee of, acquire, own and operate the Station under the Communications Act of 1934, as amended, and the rules, regulations, and policies of the FCC.

(e) There are no suits, arbitrations, administrative charges or other legal proceedings, claims or governmental investigations pending against, or, to Buyer's knowledge, threatened against, Buyer relating to or affecting this Agreement, or the transactions contemplated hereby.

10. Seller's Representations and Warranties. Seller makes the following representations and warranties to Buyer:

(a) Seller is duly organized, validly existing and in good standing under the laws of the State of Texas. Seller has the requisite power and authority to execute and deliver this Agreement and to comply with the terms, conditions and provisions hereof.

(b) The execution, delivery and performance of this Agreement by Seller have been duly authorized and approved by all necessary corporate action of Seller. This Agreement is a legal, valid and binding agreement of Seller enforceable in accordance with its terms, except (i) as may be limited by bankruptcy, moratorium, insolvency, reorganization or other similar laws affecting or limiting the enforcement of creditors' rights generally, and (ii) as such enforceability is subject to general principles of equity.

(c) The Licenses are held by Seller and have been issued for the full terms customarily issued to radio Station. The Licenses are in full force and effect and have not been revoked, suspended, canceled, rescinded or terminated and have not expired. There are no applications, complaints, investigations or proceedings pending or, to the knowledge of Seller, threatened in writing before the FCC relating to the operation of the Station other than those affecting the broadcasting industry generally. Seller is not subject to any outstanding judgment or order of the FCC relating to the Station. Seller has operated and is operating in material compliance with all laws, regulations and governmental orders applicable to the operation of the Station.

(d) Seller has good and valid title to all Included Tangible Assets, free and clear of all liens and encumbrances, except for liens for taxes not yet due and payable and for which Buyer receives a credit, and except for the security interests, if any, which will be released on or before Closing. All of the items of Included Tangible Assets are of types, kinds and/or designs in accordance with standard industry practices and are in good operating condition and repair.

(e) No insolvency proceedings of any character, including without limitation, bankruptcy, receivership, reorganization, composition or arrangement with creditors, voluntary or involuntary, affecting Seller or any of the Assets, are pending or, to Seller's knowledge, threatened in writing, and Seller has not made any assignment for the benefit

of creditors or taken any action which would constitute the basis for the institution of such insolvency proceedings.

(f) Other than Scott Knoblauch of Spectrum Media LLC, whose commission or fees, if any, shall be the sole responsibility of Buyer, 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 agreement or action of Seller.

(g) There are no suits, arbitration, administrative charges or other legal proceedings, claims or governmental investigations pending, or, to Seller's knowledge, threatened against Seller relating to or affecting this Agreement or the transactions contemplated hereby.

11. Buyer's General Covenants. Buyer covenants and agrees that between the date hereof and the Closing, Buyer shall:

- (a) maintain its qualifications to be the licensee of the Station as set forth in Section 9 above;
- (b) take necessary steps as required to be able to pay the Purchase Price and otherwise consummate this transaction; and
- (c) notify the Seller promptly of any event, circumstance or occurrence which will interfere with the prompt consummation of this transaction at Closing.

12. Seller's General Covenants. Seller covenants and agrees that between the date hereof and the Closing, Seller shall:

- (a) operate the Station in the ordinary course of business consistent with best practices;
- (b) not directly or indirectly, including by dissolution, liquidation, merger or otherwise, sell, lease or dispose of any of the Assets which are to be transferred to the Buyer at closing or are necessary to operate the station through Closing unless those assets are replaced with assets of equal or greater value;
- (c) maintain the Included Tangible Assets in its current condition (reasonable wear and tear in ordinary usage excepted); and
- (d) furnish Buyer with reasonable access to the technical facilities of the Station and the books and records of the Station.

13. Joint Covenants. Seller and Buyer hereby covenant and agree that between the date hereof and the Closing they shall cooperate fully with each other in taking any commercially reasonable actions (including to obtain the required consent of any governmental instrumentality or any third party) necessary to accomplish the transactions contemplated by this Agreement, including, but not limited to, the prompt satisfaction of any condition to the Closing set forth

herein.

14. Seller's Conditions to Closing. The obligations of Seller hereunder are, at its option, subject to satisfaction at or prior to the Closing of each of the following conditions:

- (a) 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 the Closing shall have been complied with or performed in all material respects.
- (b) The FCC Consent shall have been obtained and shall be in full force and effect, and no court, administrative or governmental order prohibiting the Closing shall be in effect.
- (c) Buyer shall have made each of the deliveries contemplated by Section 16 hereof or otherwise reasonably required by this Agreement.

15. Buyer's Conditions to Closing. The obligations of Buyer hereunder are, at its option, subject to satisfaction at or prior to the Closing of each of the following conditions:

- (a) 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 at or prior to the Closing shall have been complied with or performed in all material respects.
- (b) The FCC Consent shall have been obtained, shall be in full force and effect, and shall have become a Final Order, and no court or governmental order prohibiting the Closing shall be in effect.
- (c) All security interests pertaining to the Assets shall be released of record and there shall be no liens in respect of such assets.
- (d) Seller shall have made each of the deliveries contemplated by Section 16 hereof or otherwise reasonably required by this Agreement.
- (e) The Tower Lease with IWG Tower Assets II, LLC shall have been assigned to Buyer by IWG Tower Assets II, LLC.

16. Closing Deliveries. At the Closing, Seller shall deliver or cause to be delivered to Buyer: such bills of sale, documents of title and other instruments of conveyance, assignment and transfer as may reasonably be requested by Buyer to convey, transfer and assign the Assets to Buyer, free and clear of liens. At the Closing, Buyer shall deliver or cause to be delivered to Seller such documents and instruments of assumption as may reasonably be requested by Seller for Buyer to assume the Assets. Buyer shall also deliver the Purchase Price, as adjusted pursuant to Section 3(b) hereof.

17. Survival. The covenants, agreements, representations and warranties in this Agreement shall expire at Closing and be of no further force or effect, with the exception of: (i) the indemnification obligations of Seller and Buyer under Section 18 hereof with respect to Claims (as defined below) made by third parties against Buyer or Seller, as applicable, shall survive for one (1) year; (ii) those Claims made under Section 18 that relate to Buyer's Damages or Seller's Damages (as defined below), as applicable, for which timely written notice is given by the indemnified party to the indemnifying party prior to expiration of this survival period, shall survive until resolved.

18. Indemnification. From and after the Closing, Seller shall defend, indemnify and hold harmless Buyer from and against losses, costs, damages, liabilities and expenses, including reasonable attorneys' fees and expenses ("Buyer's Damages") incurred by Buyer arising out of or resulting from: (a) any failure by Seller to perform any covenant or agreement contained in this Agreement, or any other breach or default by Seller under this Agreement; and (b) the operation of the Station before the Closing, except to the extent such claims arise from programming provided the station pursuant to any time brokerage or local marketing agreement performed by Buyer. From and after the Closing, Buyer shall defend, indemnify and hold harmless Seller from and against losses, costs, damages, liabilities and expenses, including reasonable attorneys' fees and expenses ("Seller's Damages") incurred by Seller arising out of or resulting from: (y) any failure by Buyer to perform any covenant or agreement contained in this Agreement, or any other any breach or default by Buyer under this Agreement; and (z) the operation of the Station after the Closing. 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 on the part of the indemnifying party (a "Claim"), but a failure to give such notice or a delay in giving 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.

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

- (a) by mutual written consent of Seller and Buyer;
- (b) by written notice of Seller to Buyer if Buyer breaches in any material respect any of its representations or warranties or other terms of this Agreement, 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 (as defined below);
- (c) by written notice of Buyer to Seller if Seller breaches in any material respect any of its representations or warranties or other terms of this Agreement, 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; or

(d) by written notice of Seller to Buyer, or Buyer to Seller, if the Closing shall not have been consummated on or before the date which is nine (9) months after the execution of this Agreement, and if the party giving notice is not then in default hereunder.

The term "Cure Period" as used herein means a period commencing on the date that a party receives from the other party written notice of breach or default hereunder and continuing for twenty (20) days thereafter.

20. Damages upon Termination. 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. Upon termination under Section 19 (a), (c), or (d), this Agreement shall be deemed null and void and the Deposit shall be returned to Buyer and neither party will have any further liability or obligation to the other. Upon termination under Section 19(b), due to default of the Buyer, this Agreement shall be deemed null and void, and Seller shall be entitled to the Escrow Deposit and any fees paid by Buyer pursuant to the LMA as liquidated damages as its exclusive remedy. If this Agreement is terminated pursuant to Section 19(c) due to the default of Seller, the Buyer may bring an action for specific performance, Seller hereby acknowledging that the Assets are of a special, unique and extraordinary character, and that monetary damages would not be sufficient to compensate Buyer under such circumstances.

21. Expenses. Each party shall be solely responsible for all costs and expenses incurred by it in connection with the negotiation, preparation and performance of and compliance with the terms of this Agreement, except that filing fees with respect to the FCC Application shall be paid by Buyer.

22. Assignment. Neither party may assign any of its rights or obligations under this Agreement, without the express prior written consent of the non-assigning party.

23. Amendments. No amendment to, or 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 or amendment is sought.

24. 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.

25. Governing Law. The construction and performance of this Agreement shall be governed by the laws of the State of Texas applicable to contracts made and to be fully performed within such State, without giving effect to the choice of law provisions thereof that may require the application of the laws of any other state.

26. Notices. Any notice, demand or request required or permitted to be given under the provisions of this Agreement shall be in writing, and shall be deemed to have been received on the date of personal delivery, on the fifth day after deposit in the U.S. mail if mailed by registered or certified mail, postage prepaid and return receipt requested, on the day after delivery to a nationally recognized overnight courier service if sent by an overnight delivery service for next morning delivery (or to such other address as any party may request by written notice):

If to Seller: Trinity River Valley Broadcasting Company
2099 Sam Houston Street
Liberty, TX 77575
Attention: Bill Buchanan

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

C. Bruce Stratton
Stratton Law Firm
P. O. Box 230 – 609 Travis
Liberty, Texas 77575

If to Buyer: KSBJ Educational Foundation, Inc.
1722 Treble Dr.
Humble, Texas 77338
Attention: LaRanda Burke

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

Davina Sashkin, Esq.
Fletcher, Heald & Hildreth, PLC
1300 N. 17th Street, Suite 1100
Arlington, VA 22209

27. 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.

28. 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.

29. 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, unless such construction would alter the fundamental purposes of this Agreement.

30. 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.

31. Attorneys' Fees. In the event of a dispute relating to this Agreement involving the interpretation or enforcement of the terms of this Agreement, resulting in litigation brought by either party, the prevailing party in such litigation shall be entitled, in addition to other relief ordered by the Court, to reasonable attorneys' fees and costs.

32. Further Assurances. After the Closing, each party shall from time to time, at the request of and without further cost or expense to the other, execute and deliver such other instruments and take such other actions as may reasonably be requested in order to more effectively consummate the transactions contemplated hereby.

[SIGNATURE PAGE IS THE NEXT PAGE]

[SIGNATURE PAGE TO ASSET PURCHASE AGREEMENT – KSHN]

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

SELLER:

TRINITY RIVER VALLEY BROADCASTING COMPANY

By: 

Name: BILL BUCHANAN

Title: Pres./G.M.

BUYER:

KSBJ EDUCATIONAL FOUNDATION, INC.

By: 

Joe Paulo
President & CEO

Table of Schedules

1(a)	Licenses
1(b)	List of Included Tangible Assets
2(h)	List of Excluded Tangible Assets

Schedule 1(a)

Licenses

FCC License File No. BLH-20171004AAJ (expires August 01, 2021)