

## ASSET PURCHASE AGREEMENT

THIS ASSET PURCHASE AGREEMENT (the "Agreement") is dated as of March 4, 2005, and is made by and between Steve Bumpous dba Big Bend Broadcasting ("Seller"), an individual residing in the State of New Mexico, and AGM-Nevada, LLC ("Buyer"), a Nevada limited liability company.

### Recitals

1. Seller holds a construction permit (the "CP") from the Federal Communications Commission (the "FCC") for FM translator station K275AO (the "Station"), which has been authorized by the FCC to serve the principal community of Albuquerque, New Mexico.

2. Seller desires to sell, assign, and transfer to Buyer, to the fullest extent permitted by law, and Buyer desires to purchase and otherwise acquire from Seller, to the fullest extent permitted by law, the CP, along with other assets owned or held by Seller and used or useful in the construction or operation of the Station, all in accordance with the terms and conditions of this Agreement.

NOW, THEREFORE, in consideration of the foregoing and the mutual promises and covenants contained herein, the parties hereby agree as follows:

### ARTICLE 1. Exchange of Consideration.

#### 1.1. Consideration Conveyed by Seller.

**1.1.1. Station Assets.** Subject to the terms and conditions of this Agreement, at the Closing, as defined herein, Seller shall assign, convey, transfer, and deliver to Buyer, and Buyer shall acquire from Seller, all of Seller's right, title and interest in and to assets owned or held by Seller and used or useful in the construction or operation of the Station (the "Station Assets"), in each case free and clear of any and all liens, judgments, security interests, and encumbrances of any kind or nature (collectively, "Liens") other than for taxes accrued but not yet due (the "Permitted Liens"), with the understanding that the Station Assets shall not include the Excluded Assets set forth in Section 1.1.2 hereof or the Retained Liabilities set forth in Section 1.1.3 hereof. The Station Assets include the following items:

(a) **CP.** The CP, a copy of which is annexed hereto in Schedule 1, along with any and all applications for modification or extension thereof (which are also identified in Schedule 1).

(b) **Records.** Any and all public inspection files and other records that relate to the construction or operation of the Station in the possession of Seller.

(c) **Goodwill.** All of Seller's goodwill in and going concern value of the Station.

**1.1.2. Excluded Assets.** Notwithstanding the foregoing, there shall be excluded from the Station Assets and retained by Seller, to the extent in existence on the Closing Date, the following assets (the "Excluded Assets"):

(a) **Cash and Investments.** All cash on hand or in bank accounts and all cash equivalents and similar investments of Seller, such as certificates of deposit.

(b) **Prepaid Items.** All deposits, reserves, and prepaid expenses and taxes (unless prorated as provided in Section 1.3. of this Agreement).

(c) **Personal Property.** All non-material tangible personal property disposed of or consumed in the ordinary course of business of the Station.

(d) **Insurance.** All contracts of insurance.

(e) **Securities.** Any and all securities owned or held by Seller.

(f) **Claims.** Any and all claims of Seller with respect to transactions which transpire prior to the Closing Date, including, without limitation, claims for tax refunds.

(g) **Agreements.** Any and all agreements, contracts, and leases with respect to the Station, its business and operations except those which Buyer, in the exercise of its discretion, agrees in writing to assume from Seller.

**1.1.3. Seller's Retained Liabilities.** Buyer shall not assume any liabilities of Seller with respect to the Station Assets except those expressly assumed by Buyer hereunder. Seller shall be responsible for any and all claims and liabilities relating to the Station Assets based on Seller's ownership or holding of the Assets prior to Closing, regardless of whether such claims or liabilities are known or unknown and regardless of whether any such claim or liability is asserted or otherwise made known to Seller before, on, or after the Closing Date.

## **1.2. Consideration Conveyed by Buyer.**

**1.2.1. Purchase Price.** Buyer shall pay Seller at the Closing One Hundred Twenty-Five Thousand Dollars (\$125,000) (the "Purchase Price") by wire transfer of immediately available federal funds pursuant to instructions from Seller, less adjustments, if any, made pursuant to this Agreement.

**1.2.2. Escrow Deposit.** Upon execution of this Agreement, Buyer shall deliver to Escrow Agent, as identified in the Escrow Agreement being executed this same day by and among Seller, Buyer, and Lee Peltzman as Escrow Agent, Twelve Thousand Five Hundred Dollars (\$12,500) (the "Escrow Deposit"), to secure Buyer's performance under this Agreement. At the Closing, the Escrow Deposit shall be credited toward the Purchase Price. If the Agreement is terminated solely because of Buyer's breach, the Escrow Deposit shall be paid to Seller as its exclusive remedy for such breach. Interest on the Escrow Deposit shall at all times be paid to Buyer.

**1.3. Allocation.** The Purchase Price shall be allocated in accordance with Schedule 2 annexed hereto. Seller and Buyer shall use such allocation for all purposes related to the valuation of the Station Assets, including, without limitation, in connection with any federal, state, county or local tax returns. Neither Seller nor Buyer shall take any position in any tax return, tax proceeding, tax audit or otherwise that is inconsistent with such allocation.

**1.4. Prorations.** At the Closing, all taxes and assessments and other expenses with respect to the Station Assets to be acquired by Buyer shall be apportioned and allocated between Buyer and Seller as of the Closing Date on the basis of the period of time to which such expenses apply. To the extent such items cannot be determined at Closing, a final settlement on such prorations shall be made within sixty (60) days after the Closing Date. If the Closing occurs before the tax rate is fixed for the then current term, the apportionment of taxes at Closing shall be upon the basis of the tax rate for the preceding tax year applied to the latest assessed valuation. If the tax rate is changed with respect to any period of time prior to the Closing Date, as defined herein, the post-Closing proration shall include a corresponding adjustment in the final proration made pursuant to this Section.

### **1.5. Closing.**

**1.5.1. Date and Location.** Unless otherwise agreed to by the parties, the consummation of the transactions provided for in this Agreement (the "Closing") shall be held at the offices of Dickstein, Shapiro, Morin & Oshinsky, LLP, 2101 L Street, N.W., Washington, D.C. 20037 commencing at 10:00 a.m. on a date (the "Closing Date") selected by Buyer which shall be within ten (10) days after an FCC order (the "Order") granting the Application becomes a Final Order: provided, that Buyer shall have the right to require that the Closing be held at any time ten (10) days after the Order becomes effective. For purposes of this Agreement, a "Final Order" is one that has not been stayed, is not subject to reconsideration or review by the FCC or a court of competent jurisdiction, and where the time to institute such administrative or judicial review has expired. Notwithstanding anything in this section 1.5.1 to the contrary, the Closing shall not be held prior to May 16, 2005.

**1.5.2. Exchange of Documents.** At the Closing, each party shall execute and deliver to the other party the other items specified herein as well as any additional document(s) and item(s) reasonably requested by either party to consummate the transactions contemplated herein and otherwise reflect the conveyance of the Station Assets to Buyer. Such additional documents shall be reasonably satisfactory to the other party as to both form and substance.

## **ARTICLE 2. Representations and Warranties of Seller.**

Seller represents and warrants to Buyer that the following matters are true and correct as of the date of this Agreement:

**2.1. Status.** Seller is an individual residing in the State of New Mexico and has the power to own, hold and use the Station Assets and to enter into and consummate the transactions contemplated by this Agreement.

**2.2. CP.** Seller is the holder of the CP, a copy of which is included in Schedule 1 to this Agreement. The CP is in full force and effect, has not been amended, and has the expiration date set forth on the CP. The CP is not the subject of any pending application at the FCC. The CP constitutes all of the authorizations required under the Communications Act of 1934, as amended (the “Act”), and the published rules and policies of the FCC and the FAA to build a new FM translator at the location and with the technical parameters specified in the particular CP. Seller has filed with the FCC all material applications, reports and other documents required by the Act and by FCC rules and policies. Other than proceedings of general applicability to the radio industry, there is not pending or, to Seller’s knowledge, threatened, any petition, complaint, objection (whether formal or informal), order to show cause, investigation, or other proceeding before the FCC or any court of competent jurisdiction with respect to the CP or the construction or operation of the Station. There is no outstanding Notice of Apparent Liability, Notice of Forfeiture, or any other order issued by the FCC or court of competent jurisdiction that in any way relates to the CP or Seller’s holding of the CP. Seller makes no representations or warranties regarding the feasibility of constructing the Station in a timely manner or at the transmitter site specified in the CP.

**2.3. Title to Assets.** The Station Assets are free and clear of all Liens of any kind or nature whatsoever except for Permitted Liens.

**2.4. Employees.** Seller acknowledges that Buyer is not required to employ any employee of Seller.

**2.5. Taxes.** Seller has duly and timely filed all required federal, state and local tax returns and paid all taxes, interest and penalties due with respect to the Station Assets.

**2.6. Contracts.** Seller acknowledges that, unless it agrees to do so in writing and in the exercise of its sole discretion, Buyer will not assume any contract to which Seller is a party.

**2.7. Litigation.** There is no litigation, proceeding, or investigation of any nature pending or, to Seller’s knowledge, threatened against Seller or in any way related to the Station Assets. Seller is not subject to, or in default with respect to, any order, judgment, writ, injunction, or decree of any court or any federal, state, municipal, or other governmental entity with respect to the Station Assets or the construction or operation of the Station.

**2.8. Compliance with Laws.** Seller is in material compliance with all applicable laws, rules, regulations, policies and orders of the federal, state, and local governments with respect to the Station Assets. The proposed construction of the Station does not violate any such laws, regulations, policies or orders in any material respect, and there is no investigation or proceeding regarding the foregoing which is currently pending or, to Seller's knowledge, threatened.

**2.9. No Defaults.** Neither the execution and delivery by Seller of this Agreement nor the consummation by Seller of the transactions contemplated herein are events that, by themselves or with the giving of notice or the passage of time or both, would (a) constitute a material violation of or conflict with or result in any material breach of or any default under (i) the terms, conditions, or provisions of any arbitration award, judgment, law, order, decree, writ,

or regulation to which Seller is subject or (ii) any agreement or instrument to which Seller is a party or by which Seller is bound, or (b) result in the creation of imposition of any Lien on any of the Station Assets.

**2.10. Brokers.** Other than Media Services Group, Inc. (whose fee will be paid solely by Seller), there is no broker, finder or other party who would, as a result of any agreement of or action taken by Seller, have any valid claim against any of the parties to this Agreement for a commission or brokerage fee in connection with this Agreement or the transactions contemplated herein.

**2.11. Insolvency.** 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 Station Assets is pending or, to Seller's knowledge, threatened, and Seller has not made any assignment for the benefit of creditors, nor taken any actions with a view to, or which would constitute the basis for, the institution of any such insolvency proceedings.

**2.12. Approvals.** No approval of any third party, governmental agency or court is required to be obtained by Seller with regard to the assignment of the CP and other Station Assets to Buyer except the approval by the FCC as provided herein.

**2.13. Material Omission.** Seller has not failed to disclose any material fact within its knowledge which would make any statement or representation in this Agreement inaccurate or misleading.

### **ARTICLE 3. Representations and Warranties of Buyer.**

Buyer represents and warrants to Seller as to the truth of the following matters as of the date of this Agreement:

**3.1. Status.** Buyer is a limited liability company duly organized, validly existing, and in good standing in the State of Nevada, and has the power to enter into and consummate the transactions contemplated by this Agreement.

**3.2. No Defaults.** Neither the execution and delivery by Buyer of this Agreement nor the consummation by Buyer of the transactions contemplated herein are events that, by themselves or with the giving of notice or the passage of time or both, would constitute a material violation of or will conflict with or result in any material breach of or any default under (a) the terms, conditions, or provisions of any arbitration award, judgment, law, order, or regulation to which Buyer is subject, (b) the articles of organization, operating agreement, or other organizational documents of Buyer, or (c) any agreement or instrument to which Buyer is a party or by which it is bound. This Agreement has been duly and validly authorized, executed, and delivered by Buyer and constitutes the valid and binding agreement of Buyer, enforceable in accordance with and subject to its respective terms, except as enforceability may be limited by laws affecting the enforcement of creditor rights or equitable principles generally. At the Closing, Buyer will provide Seller with a certified copy of the consent adopted by Buyer's managing members authorizing the execution, delivery and consummation of this Agreement.

**3.3. Brokers.** Other than Media Services Group (whose fee will be paid solely by Seller), there is no broker or finder or other person who would, as a result of any agreement of or action taken by Buyer, have any valid claim against any of the parties to this Agreement for a commission or brokerage fee in connection with this Agreement or the transactions contemplated herein.

**3.4. Litigation.** There is no litigation, proceeding, or investigation of any nature pending or, to Buyer's knowledge, threatened against or affecting Buyer that would affect Buyer's ability to carry out the transactions contemplated herein.

**3.5. Qualifications.** To its knowledge (and assuming the accuracy of Seller's representations and warranties in this Agreement), Buyer is financially and legally qualified under the Act and FCC rules and policies to acquire the Station Assets from Seller.

**3.6. No Material Omission.** Buyer has not failed to disclose any material fact within its knowledge which would make any statement or representation in this Agreement inaccurate or misleading.

#### **ARTICLE 4. FCC Application.**

Within ten (10) days after execution of this Agreement, the parties shall prepare and file an appropriate application (the "Application") with the FCC requesting its written consent to the assignment of the CP to Buyer. Buyer and Seller shall diligently take, or cooperate in the taking of, any and all commercially reasonable steps to secure a grant of the Application at the earliest practicable date. To that end, each of the parties shall promptly respond to any request from the FCC for information or amendments to the Application, shall cooperate in opposing any petition to deny, informal objection, or other challenge to the Application by a third party, and shall otherwise provide the other party with copies of any and all communications to or from the FCC relating to the Application. The FCC filing fees shall be divided equally between Seller and Buyer.

#### **ARTICLE 5. Covenants of Seller Pending Closing.**

Seller covenants and agrees that, from the date of this Agreement to and including the Closing, subject to the provisions of this Agreement, it will take, or refrain from taking, the following actions:

**5.1. Preservation of Station Assets.** Promptly upon execution of this Agreement and until either of (1) termination of the Agreement or (2) consummation of the transactions referred to herein, Seller shall preserve the CP and other Station Assets without adverse modification. To that end, Seller shall file with the FCC any and all reports, applications, and disclosures as may be required by the Act or FCC rules or policies and oppose any third party application, pleading or proposal at the FCC that could have an adverse impact on the Station Assets or result in an adverse modification of the CP. Prior to the Closing, Seller shall not, without the prior written consent of Buyer, sell, lease, transfer, modify, or agree to sell, lease, or transfer or modify any Station Asset.

**5.2. Access to Facilities, Files, and Records.** Seller shall give Buyer and its representatives reasonable access during normal business hours to all facilities, property, insurance policies, licenses, records, and other information in Seller's possession that relates in any way to the Station Assets.

**5.3. Representations and Warranties.** Seller shall give notice to Buyer promptly upon the occurrence of, or upon becoming aware of the impending or threatened occurrence of, any event that would cause or constitute a material breach of any of Seller's representations or warranties in this Agreement.

**5.4. Confidential Information.** Seller shall not disclose to third parties (except its agents and representatives, who will be bound by this section) any information received from Buyer or its agents in the course of investigating, negotiating, and consummating the transactions contemplated by this Agreement (all of which shall be deemed confidential): provided, that no information shall be deemed to be confidential that (1) becomes publicly known or available other than through disclosure by Seller; (2) is rightfully received by Seller from a third party who is under no obligation to retain the information's confidentiality; or (3) is independently developed by Seller. If the transactions contemplated in this Agreement are not consummated for any reason, all originals of all material provided to Seller by Buyer or its agents shall be returned to Buyer and all copies thereof shall be destroyed.

**5.5. Compliance with Law.** Seller will comply in all material respects with all applicable federal, state and local laws, ordinances and regulations, including but not limited to the Act and the rules and policies of the FCC.

**5.6. Litigation.** Seller will promptly notify Buyer (and in any event within five (5) business days) upon becoming aware of any actual or threatened claim, dispute, arbitration, litigation, complaint, judgment, order, decree action or proceeding relating to Seller, the Station Assets, or the consummation of this Agreement.

**5.7. Consummation of Agreement.** Seller shall fulfill and perform all conditions and obligations to be fulfilled and performed by Seller under this Agreement and make every reasonable effort to cause the transactions contemplated by this Agreement to be fully carried out.

## **ARTICLE 6. Covenants of Buyer Pending the Closing.**

Buyer covenants and agrees that, from the date of this Agreement to and including the Closing, it will take, or refrain from taking, the following actions:

**6.1. Confidential Information.** Buyer shall not disclose to third parties (except its lenders, agents and representatives, who will be bound by this section) any information received from Seller or its agents in the course of investigating, negotiating, and performing the transactions contemplated by this Agreement (all of which shall be deemed confidential): provided, that no information shall be deemed to be confidential that (1) becomes publicly known or available other than through disclosure by Buyer; (2) is rightfully received by Buyer

from a third party who is under no obligation to protect the information's confidentiality; or (3) is independently developed by Buyer. If the transactions contemplated in this Agreement are not consummated for any reason, all originals of material provided by Seller to Buyer or its agents shall be returned to Seller and all copies thereof destroyed.

**6.2 Litigation.** Seller will promptly notify Buyer (and in any event within five (5) business days) upon becoming aware of any actual or threatened claim, dispute, arbitration, litigation, complaint, judgment, order, decree action or proceeding relating to Seller, the Station Assets, or the consummation of this Agreement.

**6.3 Consummation of Agreement.** Buyer shall fulfill and perform in all material respects all conditions and obligations to be fulfilled and performed by Buyer under this Agreement and make every reasonable effort to cause the transactions contemplated by this Agreement to be fully carried out.

**6.4 Representations and Warranties.** Buyer shall give notice to Seller promptly upon the occurrence of, or upon becoming aware of the impending or threatened occurrence of, any event that would cause or constitute a material breach of any of Buyer's representations or warranties in this Agreement.

#### **ARTICLE 7. Conditions Precedent to Obligation of Seller to Close.**

The obligation of Seller to consummate the transactions under this Agreement is subject to the fulfillment of the following conditions prior to or at the Closing:

##### **7.1. Buyer's Representations, Warranties, and Covenants.**

**7.1.1. Buyer's Representations and Warranties.** Each of the representations and warranties of Buyer contained in this Agreement shall have been true and accurate in all material respects as of the date when made and as of the Closing Date (except for those representations and warranties already subject to a materiality qualification and, in that event, the representation and warranty shall be true and accurate in all respects);

**7.1.2. Buyer's Performance Under Agreement.** Buyer shall have performed and complied in all material respects with each and every covenant and agreement required by this Agreement to be performed or complied with by Buyer prior to or at the Closing (except for those covenants and agreements already subject to a materiality qualification and, in that event, the covenant and agreement shall have been performed or complied with in all respects); and

**7.1.3. Buyer's Deliveries.** Buyer shall have (a) delivered to Seller a certificate executed by an officer of Buyer, dated the Closing Date, certifying to the fulfillment of the conditions set forth in Sections 7.1.1. and 7.1.2., and (b) tendered the payment in full of the Purchase Price in compliance with the conditions set forth in Sections 1.2.1 and 1.2.2.

##### **7.2. Proceedings.**

**7.2.1. Absence of Litigation.** No action or proceeding shall have been instituted before any court or governmental body of competent jurisdiction which has resulted or could result in the issuance of a preliminary or permanent injunction against consummation of this Agreement.

**7.2.2. Notice of Investigation.** Neither of the parties shall have received written notice from any governmental body of the institution of any investigation to restrain, enjoin or nullify this Agreement or the transactions contemplated hereby (other than a routine letter of inquiry, including a routine Civil Investigative Demand).

**7.3. FCC Approval.** The FCC Order shall have been released and shall not include any conditions materially adverse to Seller.

## **ARTICLE 8. Conditions Precedent to Obligation of Buyer to Close.**

The obligation of Buyer to consummate the transactions under this Agreement is subject to the fulfillment of the following conditions prior to or at the Closing:

### **8.1. Seller's Representations, Warranties, and Covenants.**

**8.1.1. Seller's Representations and Warranties.** Each of the representations and warranties of Seller contained in this Agreement shall have been true and accurate in all material respects as of the date when made and as of the Closing Date (except for those representations and warranties already subject to a materiality qualification and, in that event, the representations and warranties shall be true and accurate in all respects).

**8.1.2. Seller's Performance under Agreement.** Seller shall have performed and complied in all material respects with each and every covenant and agreement required by this Agreement to be performed or complied with by it prior to or at the Closing (except for those covenants and agreements already subject to a materiality qualification and, in that event, those covenants and agreements shall have been performed and complied with in all respects); and

**8.1.3. Seller's Deliveries.** Seller shall have delivered to Buyer a certificate executed by Seller, dated the Closing Date, certifying to the fulfillment of the conditions set forth in Sections 8.1.1. and 8.1.2.

### **8.2. Proceedings.**

**8.2.1. Absence of Litigation.** No action or proceeding shall have been instituted before any court or governmental body of competent jurisdiction which has resulted or could result in the issuance of a preliminary or permanent injunction against consummation of this Agreement.

**8.2.2. Notice of Investigation.** Neither of the parties shall have received written notice from any governmental body of the institution of any investigation to restrain, enjoin or nullify this Agreement or the transactions contemplated hereby (other than a routine letter of inquiry, including a routine Civil Investigative Demand).

**8.3. FCC Approval.** The FCC Order shall have been released, shall not include any conditions materially adverse to Buyer, and shall have become a Final Order: provided, that Buyer may, in the exercise of its unilateral discretion, waive the requirement that the Order become a Final Order.

## **ARTICLE 9. Indemnification.**

**9.1. Survival.** The several representations, warranties, covenants, and agreements of the Seller and Buyer contained in or made pursuant to this Agreement shall be deemed to have been made on and as of the Closing, shall survive the Closing, and shall remain operative and in full force and effect for a period of eighteen (18) months after the Closing: provided, that all representations, warranties, covenants and agreements relating to litigation or taxes shall remain operative until the expiration of any applicable statutes of limitation; and provided further, that all liabilities assumed or retained, as the case may be, pursuant to this Agreement shall remain in effect until such liabilities have been paid or discharged in full.

**9.2. Indemnification by Seller.** Seller shall indemnify, defend, and hold Buyer as well as its members, representatives, and agents (the “Buyer Indemnities”) harmless from and against any and all damages, claims, losses, expenses, costs, obligations, and liabilities including, without limiting the generality of the foregoing, liabilities for reasonable attorneys' fees (“Loss and Expense”), suffered, directly or indirectly, by Buyer or the Buyer Indemnitees after the Closing Date by reason of, or arising out of, (1) any breach of a representation or warranty made by Seller in this Agreement, (2) any failure by Seller to perform or fulfill any of its covenants or agreements set forth in this Agreement, (3) any failure by Seller to pay or discharge any liabilities which relate to the holding or ownership of the Station Assets prior to the Closing Date, regardless of whether such liability was known or unknown prior to the Closing Date, (4) any failure by Seller to comply with any bulk sales law or comparable statute in New Mexico, or (5) any litigation, proceeding, or claim by any third party relating to the holding or ownership of the Station Assets or the construction of the Stations prior to the Closing.

**9.3. Indemnification by Buyer.** Buyer shall indemnify, defend, and hold Seller as well as its representatives and agents (the “Seller Indemnitees”) harmless from and against any and all Loss and Expense suffered, directly or indirectly, by Seller or the Seller Indemnities after the Closing Date by reason of, or arising out of, (1) any breach of a representation or warranty made by Buyer in this Agreement, (2) any failure by Buyer to perform or fulfill any of its covenants or agreements set forth in this Agreement, (3) any failure by Buyer to pay or discharge any liabilities which relate to the holding or ownership of the Station Assets after the Closing Date, or (4) any litigation, proceeding, or claim by any third party relating to the holding or ownership of the Station Assets or the construction of the Station after the Closing.

**9.4. Notice of Claim.** If either Seller or Buyer believes that any Loss and Expense has been suffered or incurred, such party shall notify the other promptly in writing describing such Loss and Expense, the amount thereof, if known, and the method of computation of such Loss and Expense, all with reasonable particularity and containing a reference to the provisions of this Agreement in respect of which such Loss and Expense shall have occurred. If any action at law

or suit in equity is instituted by a third party with respect to which any of the parties intends to claim any liability or expense as Loss and Expense under this Article 9, such party shall promptly notify the indemnifying party of such action or suit. In no event, however, may the indemnifying party avoid or limit its obligations under this Article 9 by reason of delay unless such delay has materially prejudiced the indemnifying party, and then the indemnifying party's obligations shall be reduced only to the extent of such prejudice.

**9.5. Defense of Third Party Claims.** The indemnifying party under this Article 9 shall have the right to conduct and control, through counsel of that party's own choosing, any third party claim, action, or suit at the indemnifying party's sole cost and expense, but the indemnified party may, at that latter party's election, participate in the defense of any such claim, action, or suit at that party's sole cost and expense. The indemnifying party shall not compromise or settle any third party claim, action, or suit without the prior written consent of the indemnified party, which consent will not be unreasonably withheld or delayed: provided, that any such compromise or settlement shall include a release for the Indemnified Party of all liability with respect to the matter being compromised or settled.

**9.6. Limitations.** Neither party shall be required to indemnify the other party under this Article 9 unless written notice of a claim under this Article 9 was received by the party within the pertinent survival period specified in Section 9.1.

## **ARTICLE 10. Termination.**

**10.1. Termination of Agreement.** This Agreement may be terminated immediately on or prior to the Closing under one or more of the following circumstances:

**10.1.1.** by the mutual consent of the parties hereto;

**10.1.2.** by either party, if the FCC has not released an Order granting the Application within twelve (12) months after the date on which it is filed;

**10.1.3.** by any party hereto, if the FCC denies the Application in an order which has become a Final Order;

**10.1.4.** by Seller, if any of the conditions provided in Article 7 hereof have not been met by the time required and have not been waived; or

**10.1.5.** by Buyer, if any of the conditions provided in Article 8 hereof have not been met by the time required and have not been waived.

**10.1.6.** by Buyer, on or before ten (10) business days following the date of this Agreement if, in the exercise of Buyer's sole discretion, it is unable to enter into a satisfactory lease agreement for the Station's transmitter site.

## **10.2. Liabilities Upon Termination**

**10.2.1. Seller's Remedies.** If the parties shall fail to consummate this Agreement on the Closing Date due solely to Buyer's material breach of any representation, warranty, covenant or condition hereunder, and Seller is not at that time in breach of any material representation, warranty, covenant or condition hereunder, then Seller shall be entitled to the Escrow Deposit as its exclusive remedy (with all interest accrued on the Escrow Deposit to be paid to Buyer), the parties recognizing that Seller would incur substantial damages that would be difficult, if not impossible, to quantify.

**10.2.2. Buyer's Remedies.** If the parties shall fail to consummate this Agreement on the Closing Date due solely to Seller's material breach of any representation, warranty, covenant or condition hereunder, and Buyer is not at that time in breach of any representation, warranty, covenant or condition hereunder, then Buyer shall be entitled to specific performance of the terms of this Agreement and of Seller's obligation to consummate the transaction contemplated hereby. If any action is brought by Buyer to enforce this Agreement by specific performance, Seller shall waive the defense that Buyer has an adequate remedy at law. Buyer's right to seek specific performance shall be an alternative to and not additional to the exercise of any other remedies available to Buyer at law.

**10.2.3. Notice of Breach.** In the event that any party believes that the other party is in breach of its representations, warranties or obligations hereunder, such party shall give prompt written notice thereof, detailing the nature of the breach and the steps necessary to cure such breach. For purposes of this Agreement, no "breach" shall be deemed to have occurred hereunder unless the party alleged to be in breach has been afforded a cure period of at least twenty (20) business days following such notice within which to cure such breach: provided, that the cure period may be extended for an additional 20 days in the event that such party is diligently and in good faith proceeding to cure such breach and the breach is reasonably capable of being cured within such extended period.

**10.2.4. Survival of Confidentiality Obligations.** Notwithstanding any other provision of this Agreement, the provisions of Sections 5.4, and 6.1 shall survive any termination of this Agreement.

## **ARTICLE 11. Miscellaneous.**

**11.1. Expenses.** Except as otherwise provided herein, each party hereto shall be solely responsible for all fees and expenses each party incurs in connection with the transactions contemplated by this Agreement, including, without limitation, legal fees incurred in connection herewith: provided, that the FCC filing fees and any transfer taxes shall be divided equally between Seller and Buyer; and, provided further, that all sales taxes or assessments imposed by any governmental body on the sale of the Station Assets shall be paid by Seller.

**11.2. Assignment.** Neither Seller nor Buyer may assign its rights or obligations under this Agreement without the prior written consent of the other party, which shall not be unreasonably withheld or delayed: provided, that Buyer may assign its rights under this Agreement without the prior written consent of Seller to any party who (1) controls Buyer or (2) is controlled by the same parties who control Buyer. This Agreement shall be binding on and inure to the benefit of the parties as well as their permitted assigns.

**11.3. Notices.** All notices, demands and other communications authorized or required by this Agreement shall be in writing, shall be delivered by personal delivery, by facsimile (with written confirmation of receipt), or by overnight delivery service (charges prepaid), and shall be deemed to have been given or made when personally delivered or upon attempted delivery. Notices shall be delivered to each party at the following addresses (or at such other address as any party may designate in writing to the other parties):

If to Seller:                    James S. Bumpous  
   1308 Apache Avenue, Suite 4  
   Santa Fe, New Mexico 87505

With a copy to  
(but not constitute  
notice to Seller):            Lee Peltzman, Esq.  
   Shainis & Peltzman, Chartered  
   Suite 240  
   1850 M Street, NW  
   Washington, DC 20036  
   Facsimile No.: (202) 293-0810

If to Buyer:                    L. Rogers Brandon, Managing Member  
   AGM-Nevada, LLC  
   1400 Easton Drive, Suite 130  
   Bakersfield, CA 93309

with a copy to (but  
not constitute notice  
to Buyer):

   Lewis J. Paper, Esq.  
   Dickstein Shapiro Morin & Oshinsky LLP  
   2101 L Street, N.W.  
   Washington, DC 20037  
   Facsimile No: (202) 887-0689

**11.4. Law Governing.** Except to the extent governed by federal law, this Agreement shall be governed by the laws of the State of New Mexico without regard to conflict of laws provisions.

**11.5. Waiver of Provisions.** The terms, covenants, representations, warranties, and conditions of this Agreement may be waived only by a written instrument executed by the party waiving compliance. The failure of any party at any time or times to require performance of any provision of this Agreement shall not affect the exercise of a party's rights at a later date. No waiver by any party of any condition or the breach of any provision, term, covenant,

representation, or warranty contained in this Agreement in any one instance shall be deemed to be or construed as a waiver of any other instance or any other provision, term, covenant, representation or warranty.

**11.6. Counterparts.** This Agreement may be executed in counterparts, and all counterparts so executed shall collectively constitute one agreement, binding on all of the parties hereto, notwithstanding that all the parties are not signatory to the same counterpart.

**11.7. Litigation Expenses.** If a formal legal proceeding is instituted by a party to enforce that party's rights under this Agreement, the party prevailing in the proceeding shall be reimbursed by the other party for all reasonable costs incurred thereby, including but not limited to reasonable attorneys' fees.

**11.8. Seller's Access to Records.** Any records delivered to Buyer by Seller relating to the Station Assets shall be retained by Buyer for a period of two (2) years from and after the Closing Date. Upon reasonable prior notice, Seller shall be entitled to inspect and copy (at its expense) any of such records. In the event that it wishes to dispose of such records prior to the expiration of the aforementioned 2-year period, Buyer shall give Seller thirty (30) days' prior written notice and an opportunity to retrieve such records at Seller's expense.

**11.9. Entire Agreement.** This Agreement constitutes the entire agreement among the parties, supersedes and cancels any and all prior or contemporaneous agreements and understandings between them. This Agreement may not be amended except in a writing signed by the parties.

**11.10. Headings and Cross-references.** Headings of the sections have been included for convenience of reference only and shall in no way limit or affect the meaning or interpretation of the specific provisions of this Agreement. All cross-references to sections herein shall mean the section of this Agreement unless otherwise stated or clearly required by the context. Words such as "herein" and "hereof" shall be deemed to refer to this Agreement as a whole and not to any particular provision of this Agreement unless otherwise stated or clearly required by the context. The term "including" means "including without limitation."

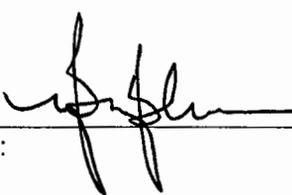
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IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year written above.

STEVE BUMPOUS dba BIG BEND BROADCASTING

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AGM-NEVADA, LLC

By:  \_\_\_\_\_  
Name:  
Title:

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year written above.

STEVE BUMPOUS dba BIG BEND BROADCASTING

A handwritten signature in cursive script, reading "Steve Bumpous", is written over a horizontal line.

AGM-NEVADA, LLC

By: \_\_\_\_\_  
Name:  
Title:

**SCHEDULE 1**

**Construction Permit**

(Attached)

**United States of America**  
**FEDERAL COMMUNICATIONS COMMISSION**  
**FM BROADCAST TRANSLATOR/BOOSTER STATION**  
**CONSTRUCTION PERMIT**

Authorizing Official:

Official Mailing Address:

\_\_\_\_\_  
BIG BEND BROADCASTING  
13915 LAKEVIEW DR  
AUSTIN TX 78732  
\_\_\_\_\_

\_\_\_\_\_  
James D. Bradshaw  
Deputy Chief  
Audio Division  
Media Bureau  
\_\_\_\_\_

Facility Id: 139243

Call Sign: K275AO

Permit File Number: BNPFT-20030821AEM

Grant Date: May 11, 2004

This permit expires 3:00 a.m.  
local time, 36 months after the  
grant date specified above.

Commission rules which became effective on February 16, 1999, have a bearing on this construction permit. See Report & Order, Streamlining of Mass Media Applications, MM Docket No. 98-43, 13 FCC RCD 23056, Para. 77-90 (November 25, 1998); 63 Fed. Reg. 70039 (December 18, 1998). Pursuant to these rules, this construction permit will be subject to automatic forfeiture unless construction is complete and an application for license to cover is filed prior to expiration. See Section 73.3598.

Name of Permittee: BIG BEND BROADCASTING

Principal community to be served: NM-ALBUQUERQUE

Primary Station: KTAO (FM) , Channel 270, TAOS, NM

Via: Direct - off-air

Frequency (MHz): 102.9

Channel: 275

Hours of Operation: Unlimited

Antenna Coordinates: North Latitude: 35 deg 13 min 00 sec  
West Longitude: 106 deg 27 min 07 sec

Transmitter: Type Accepted. See Sections 73.1660, 74.1250 of the Commission's Rules

Antenna type: (directional or non-directional): Directional

Major lobe directions 215  
(degrees true):

	Horizontally Polarized Antenna:	Vertically Polarized Antenna:
Effective radiated power in the Horizontal Plane (kw):	0.01	0.01
Height of radiation center above ground (Meters):	10	10
Height of radiation center above mean sea level (Meters):	3243	3243

Antenna structure registration number: Not Required

Overall height of antenna structure above ground: 18 Meters

Obstruction marking and lighting specifications for antenna structure:

It is to be expressly understood that the issuance of these specifications is in no way to be considered as precluding additional or modified marking or lighting as may hereafter be required under the provisions of Section 303(q) of the Communications Act of 1934, as amended.

None Required

Special operating conditions or restrictions:

- 1 The permittee/licensee in coordination with other users of the site must reduce power or cease operation as necessary to protect persons having access to the site, tower or antenna from radiofrequency electromagnetic fields in excess of FCC guidelines.
  
- 2 Prior to commencing program test operations, FM Translator or FM Booster permittee must have on file at the Commission, FCC Form 350, Application for an FM Translator or FM Booster Station License, pursuant to 47 C.F.R. Section 74.14.

\*\*\* END OF AUTHORIZATION \*\*\*