

ASSET PURCHASE AGREEMENT

THIS ASSET PURCHASE AGREEMENT (“**Agreement**”) is made as of this 16 day of July, 2018, by and between WESTERN CAROLINA UNIVERSITY, an educational institution in the University of North Carolina system (“**Seller**”), and WESTERN NORTH CAROLINA PUBLIC RADIO, a nonprofit corporation organized in the State of North Carolina (“**Buyer**”).

W I T N E S S E T H:

WHEREAS, Seller is the Federal Communications Commission (“**FCC**”) licensee of noncommercial educational radio Station WWCU(FM), Channel 213, 90.5 MHz, Facility ID Number 71766, Cullowhee, North Carolina (“**Station**”); and

WHEREAS, Seller desires to sell the FCC Authorizations and related assets of the Station to Buyer, and Buyer desires to purchase the FCC Authorizations and related assets of the Station from Seller upon the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein, Buyer and Seller, intending to be legally bound, hereby agree as follows:

1. Assets Transferred. Subject to the approval of the FCC and to the terms and conditions of this Agreement, Seller agrees to sell and Buyer agrees to purchase the following assets (collectively the “**Assets**”), all free and clear of liens, mortgages and encumbrances of any nature whatsoever:

(a) FCC Authorizations. The authorizations issued by the FCC to Seller in connection with the business or operations of the Station, as listed in Schedule 1(a) hereto, together with any additional authorizations or licenses issued by the FCC with respect to the operation of the Station between the date hereof and the Closing Date (“**FCC Authorizations**”);

(b) Tangible Assets. The personal property used or useful in the operation of the Station listed in Schedule 1(b) hereto, together with any replacements thereof made between the date of this Agreement and the Closing Date (“**Tangible Assets**”);

(c) Lease Agreement. A tower lease for the transmitter site listed in Schedule 1(c) hereto (“**Lease Agreement**”); and

(d) Assumed Contracts. All contracts, leases and other agreements, written or oral, to which Seller is a party or which are binding upon Seller and which relate to or affect the Assets or the business or operations of the Station, and that Buyer agrees in writing to assume upon its purchase of the Station, as listed in Schedule 1(d) hereto, and other contracts entered into by Seller between the date of this Agreement and the Closing Date that Buyer agrees in writing to assume (“**Assumed Contracts**”); and

(e) Records. All records required by the FCC to be created and retained by the Station, including the contents of the Station’s public inspection files, software, warranties,

engineering studies, and business records that relate to or affect the Assets or the operation of the Station and that are within Seller's possession and control.

2. Excluded Assets. Without limiting the foregoing, the Assets shall not include the following excluded assets ("**Excluded Assets**"):

(a) Any assets located at the Station's current studio facilities except those specifically listed in Schedule 1(b); and

(b) Any employment contracts or obligations regarding any personnel working at or for the Station prior to the Closing Date; and

(c) Contracts of insurance or insurance proceeds and insurance claims made by Seller relating to property or equipment repaired, replaced or restored by Seller prior to the Closing Date; and

(d) All intangible assets and intellectual property rights associated with the Station, including goodwill, the call sign WWCU, the Station's website and website address, any social media accounts related to the Station, copyrights, programs and programming materials, slogans, and logos; and

(e) The Station's membership lists, underwriting database, and underwriting agreements;

(f) The Station's FM booster equipment and the auxiliary licenses and related equipment listed in Schedule 2(f); and

(g) All Seller's assets and other property or leasehold interests not referenced in *Section 1(a) to (e)* above.

Seller shall convey and transfer to Buyer good and marketable title to the Assets free and clear of liens or encumbrances, except for liens for taxes not yet due and payable and liens that will be released at or prior to Closing (collectively, "**Permitted Liens**").

3. Consideration.

(a) Purchase Price. The consideration for this Agreement shall consist of a purchase price ("Purchase Price") for the Assets in the amount of Ninety-Seven Thousand Dollars (\$97,000) paid by Buyer to Seller by wire transfer in immediately available funds at Closing.

(b) Prorations and Adjustments. All expenses arising from the operation of the Station prior to the Closing Date, including any business and license fees, utility charges, and similar prepaid and deferred items shall be prorated between Seller and Buyer, as of 11:59 p.m. on the day prior to the Closing Date, in accordance with GAAP and subject to the general principle that Seller shall be responsible for all costs, expenses and liabilities allocable to the Station for the period prior to the Closing Date, and Buyer shall be responsible for all costs, expenses and liabilities allocable to the Station on and after the Closing Date. Insofar as feasible,

prorations under this paragraph shall be determined and paid on the Closing Date, as an adjustment to the Purchase Price. If and to the extent required, a final accounting of prorated items, and the sum due from one party to the other, shall be determined and paid within sixty (60) days after the Closing Date.

4. Liabilities Assumed and Excluded.

(a) Assumed Liabilities. Upon the Closing, Buyer shall assume, pay, and perform the liabilities and obligations of Seller arising on and after the Closing Date under the Lease Agreement, Assumed Contracts and the FCC Authorizations (“**Assumed Liabilities**”).

(b) Excluded Liabilities. Except for the Assumed Liabilities, Buyer does not assume nor shall Buyer be obligated for any other liabilities, obligations or responsibilities whatsoever of Seller or arising from or related to Seller’s operation of the Station through the Closing Date (“**Excluded Liabilities**”). Without limiting the generality of the foregoing, Seller shall retain and perform all obligations and liabilities related to any employees providing services to the Station, incurred on or prior to the Closing Date, including, without limitation, any obligations that may arise as the result of the consummation of the transactions contemplated by this Agreement.

5. Pre-Closing Covenants.

(a) Seller’s Pre-Closing Covenants.

(i) From the date of this Agreement to the Closing Date, Seller will continue to operate the Station in the ordinary course of business and will not take any action that could reasonably be expected to have a material adverse effect on the Assets or the Station or Buyer’s rights and interests under this Agreement.

(ii) From the date of this Agreement to the Closing Date, Seller will (A) maintain, preserve and keep the Assets and technical facilities of the Station in good repair, working order and condition, reasonable wear and tear excepted; (B) maintain appropriate insurance on the Assets, (C) pay all liabilities and obligations pertaining to the Station, the Assets and technical facilities of the Station that become due and payable in the ordinary course of business, including all taxes, assessments and government charges upon or against the Assets or the technical facilities or operations of the Station; and (D) comply in all material respects with all statutes, rules and regulations applicable to the Assets or the operation of the Station.

(iii) Seller will not, without the prior written consent of Buyer: (A) make any sale, assignment, transfer, or other conveyance of any of the Assets; (B) subject any of the Assets or any part thereof to any mortgage, pledge, security interest, or lien; or (C) enter into any agreement, license, lease or other arrangements with respect to the Station or the Assets, or amend any existing agreements, licenses or leases with respect thereto, that will be binding on Buyer after the Closing.

(iv) Seller shall not cause or permit, by any act or failure to act, any of the FCC Authorizations to expire or to be revoked, suspended, or modified, or take any action that could cause the FCC or any other governmental authority to institute proceedings for the

suspension, revocation, or adverse modification of any of the authorizations issued for the operation of the Station. Seller shall not fail to prosecute with reasonable diligence any applications to any governmental authority in connection with the operation of the Station.

(v) Seller shall use its commercially reasonable efforts not to (A) default under, or breach any term of, or suffer or permit to exist any condition, that would constitute a default under the Lease Agreement or the Assumed Contracts, nor (B) cause the termination, modification or amendment of the Lease Agreement and Assumed Contracts. Unless Buyer shall have given its prior written consent, Seller shall not enter into any new contract or incur any obligation that will be binding on Buyer after the Closing.

(vi) Seller shall not take any action that is inconsistent with its obligations under this Agreement, that could reasonably be expected to cause any of its representations or warranties set forth herein to be untrue as of Closing in any material respect, or that could hinder or delay the consummation of the transactions contemplated by this Agreement. Seller shall use its commercially reasonable efforts to cause the transactions contemplated by this Agreement to be consummated in accordance with the terms hereof.

(vii) Notwithstanding any provision of this Agreement, pending the Closing, Seller shall maintain actual (*de facto*) and legal (*de jure*) control over the Station. Seller shall retain responsibility for the operation of the Station pending the Closing, including responsibility for: ultimate control of the daily operation of the Station; creation and implementation of policy decisions; employment and supervision of Seller's employees; and payment of expenses incurred in the operation of the Station prior to the Closing.

(viii) Seller shall cooperate with Buyer, upon Buyer's request, in the filing of an application for a construction permit to modify the Station which shall be prepared at Buyer's expense ("**Modification Application**"). The Closing is not contingent on the grant of the Modification Application. Other than Seller's cooperation in filing the Modification Application, Seller shall have no obligation with respect to the preparation or grant of the Modification Application.

(ix) Seller shall cooperate with Buyer, upon Buyer's request, in the filing of a call sign change request with the FCC to call letters selected by Buyer to be effective upon Closing. Any call sign change request shall be at Buyer's expense. Other than Seller's cooperation in filing the call sign change request, Seller shall have no obligation to ensure the availability or grant of Buyer's desired call sign.

(b) Buyer's Pre-Closing Covenants.

(i) Buyer shall use its commercially reasonable efforts to cause the transactions contemplated by this Agreement to be consummated in accordance with the terms hereof.

(ii) Buyer shall not take any action that is inconsistent with its obligations under this Agreement, that could reasonably be expected to cause any of its representations or warranties set forth herein to be untrue as of Closing in any material respect,

or that could hinder or delay the consummation of the transactions contemplated by this Agreement.

6. FCC Approval.

(a) FCC Approval Required. Consummation of the sale (“**Closing**”) is conditioned upon the FCC having given its consent in writing to the assignment from Seller to Buyer of all FCC Authorizations (“**FCC Approval**”) and, at Buyer’s election, said consent having become a “Final Order.” For purposes of this Agreement, (“**Final Order**”) means an action by the FCC that has not been reversed, stayed, enjoined, set aside, annulled, or suspended, and with respect to which no requests are pending for administrative or judicial review, reconsideration, appeal, or stay, and the time for filing any such requests and the time for the FCC to set aside the action on its own motion have expired.

(b) Filing of FCC Application. The parties shall cooperate in good faith and jointly prepare and file the application for FCC Approval (FCC Form 314) (“**FCC Application**”) not later than ten (10) days after execution of this Agreement.

(c) Prosecution of FCC Application. Buyer and Seller shall diligently prosecute the FCC Application and otherwise use their commercially reasonable efforts to obtain the FCC Approval as soon as possible; *provided, however*, neither Buyer nor Seller shall be required to pay consideration to any third party to obtain the FCC Approval. Buyer and Seller each shall oppose any petition to deny or other objections filed with respect to the FCC Application to the extent such petition or objection relates to such party. Each party agrees to comply with any condition imposed on it by the FCC Approval, except that no party shall be required to comply with a condition if compliance with the condition would have a material adverse effect upon it. Buyer and Seller shall oppose any requests for reconsideration or judicial review of the FCC Approval. If the Closing shall not have occurred for any reason within the original effective period of the FCC Approval, and neither party shall have terminated this Agreement, the Seller shall request an extension of the effective period of the FCC Approval. No extension of the FCC Approval shall limit the exercise by either Party of its rights under Section 20.

(d) Closing Date and Method. The Closing shall take place on a date (“**Closing Date**”) set by mutual agreement of the parties but no sooner than sixty (60) days after the final completion of all construction of the new WWCU tower site as determined exclusively by Seller. The Closing will take place by the exchange of documents by email or facsimile or by such other method as Buyer and Seller may select by mutual agreement.

7. Seller’s Representations and Warranties. Seller represents and warrants to Buyer as follows:

(a) Organization and Standing. Seller is an educational institution legally formed and constituted and in good standing under the laws of the State of North Carolina. Seller possesses all power and authority necessary to own and operate the Assets and Station and execute, deliver and perform this Agreement.

(b) Authorization and Binding Obligation. The execution, delivery, and performance of this Agreement by Seller have been duly authorized by all necessary actions on the part of Seller. This Agreement has been duly executed and delivered by Seller and constitutes the legal, valid, and binding obligation of Seller, enforceable against Seller in accordance with its terms except as the enforceability of this Agreement may be affected by bankruptcy, insolvency, or similar laws affecting creditors' rights generally and by judicial discretion in the enforcement of equitable remedies.

(c) Current and Valid FCC Authorizations. Schedule 1(a) contains an accurate and complete list in all material respects of the FCC Authorizations as of the date hereof. Seller validly holds all authorizations that are required under the rules and regulations of the FCC for the ownership or operation of the Station. Other than the FCC Authorizations, Seller is not required to hold any license, permit or other authorization from any governmental authority for the lawful conduct of the operation of the Station. No action or proceeding is pending or, to the knowledge of the Seller, threatened, before the FCC or other governmental or judicial body, for the cancellation, suspension or material and adverse modification of FCC Authorizations. To Seller's knowledge, there is no reason to believe that the FCC Authorizations will not be renewed in the ordinary course.

(d) Operation of the Station. Seller (i) is operating the Station in all material respects in compliance with FCC rules and regulations, and otherwise in compliance with all applicable local, state and Federal laws, (ii) has filed all tax returns, FCC reports and other documents required to be filed by any governmental authority with respect to the Assets or the Station; (iii) has maintained its local and/or online public inspection file in material compliance with FCC requirements; and (iv) has not stored, disposed of nor used, nor has any knowledge that any other party has disposed of or used, any hazardous substance in a manner that is likely to result in liability for Buyer under any applicable law or regulation. All material reports and other filings required by the FCC with respect to the FCC Authorizations, Seller, the Assets or the operation of the Station have been timely filed with the FCC, and all such reports and other filings are substantially complete and correct as filed. Seller has satisfied all liabilities to or in respect of any employees providing services to the Station, including, without limitation, any obligations relating to compensation or other remuneration, any employee benefit plan or other arrangement providing compensation in excess of salary or hourly wages and the withholding and payment of any related taxes. Seller is not a party to any collective bargaining agreement governing the terms and conditions of employment for any employees providing services to the business of the Station.

(e) Absence of Conflicting Agreements. There are no outstanding agreements or understandings for the sale of the Station to any party other than Buyer. Subject to obtaining FCC Approval [and other third party consents that may be required to assign any of the Assumed Contracts and Lease Agreement to Buyer], the execution, delivery, and performance by Seller of this Agreement and the Closing documents contemplated hereby (with or without the giving of notice, the lapse of time, or both): (i) will not conflict with the organizational documents of the Seller; (ii) will not materially conflict with, result in a breach of, or constitute a default under, any law, judgment, order, injunction, decree, rule, regulation, or ruling of any court or governmental instrumentality applicable to Seller; and (iii) will not conflict with, constitute grounds for termination of, result in a breach of, constitute a default under, or accelerate or

permit the acceleration of any performance required by the terms of, any agreement, instrument, license, or permit to which Seller is a party or by which Seller may be bound.

(f) Title to and Condition of Assets. Seller has good and marketable title to the Assets. Schedule 1(b) contains an accurate and complete list in all material respects of the Tangible Assets as of the date hereof. The Tangible Assets listed on Schedule 1(b) constitute all of the assets and properties required for the operation of the Station's transmission facilities as currently operated by Seller. The Assets are free of all liens, encumbrances or hypothecations, other than Permitted Liens. On the Closing Date, each item comprising the Assets shall be in the same operating condition in all material respects as on the date of execution of this Agreement, ordinary wear and tear excepted.

(g) Lease Agreement. To Seller's knowledge, the property leased pursuant to the Lease Agreement ("**Property**") and Seller's activities and operations on the Property are in material compliance with all applicable environmental laws and regulations and zoning, building and other laws and regulations of all governmental authorities having jurisdiction thereof. The buildings and fixtures used in the operation of the Station on the Property are suitable for their intended use as currently used by Seller. To Seller's knowledge, all utilities necessary for Seller's use of the Property are installed and in working order and are subject to valid easements. Upon closing, all costs and fees associated with the utilities necessary for Buyer's use of the Property shall become the responsibility of the Buyer. Seller has received no notice that any condemnation proceedings have been instituted or threatened against the Property.

(h) Claims and Litigation. There is no judgment outstanding or any claim or litigation or proceeding pending or, to Seller's knowledge, threatened regarding the title or interest of Seller to or in any of the Assets or the Station's operations, or which could prevent or adversely affect the ownership, use, or operation of the Station by Buyer. Except as indicated on Schedule 1(a), there is (i) no complaint or other proceeding pending, outstanding, or to Seller's knowledge threatened, before the FCC as a result of which an investigation, notice of apparent liability or order of forfeiture may be issued from the FCC relating to the Station, (ii) no FCC notice of apparent liability or order of forfeiture pending, outstanding, or to Seller's knowledge threatened, against Seller or the Station, and (iii) no investigation pending, outstanding, or to Seller's knowledge threatened, with respect to any violation or alleged violation of the Communications Act or any FCC rule, regulation or policy by Seller.

(i) Assumed Contracts. All Assumed Contracts (including the Lease Agreement) are valid, binding, and enforceable by Seller in accordance with their terms. Neither Seller nor, to Seller's knowledge, any other party to such Assumed Contracts is in material breach or default on any of the Assumed Contracts, there is no claim of breach or default by Seller, Seller has received no notice of breach or default from any other party thereto, and Seller has no knowledge of any act or omission which has occurred or which has been threatened which could result in any party to such Assumed Contracts being in breach or default thereof.

(j) Disclosure. No representation or warranty made by Seller in this Agreement, or any statement or certificate furnished by, or to be furnished by, Seller to Buyer pursuant hereto, or in connection with the transaction contemplated hereby, contains, or will

contain, any untrue statement of a material fact, or omits, or will omit, to state a material fact necessary to make the statements contained therein not misleading.

8. Buyer's Representations and Warranties. Buyer represents and warrants to Seller as follows:

(a) Organization and Standing. Buyer is a nonprofit corporation legally formed and constituted and in good standing under the laws of the State of North Carolina. Buyer possesses all corporate power necessary to execute, deliver and perform this Agreement and own and operate the Station.

(b) Authorization and Binding Obligation. Buyer has obtained all necessary organizational approvals required for authorization of this Agreement, including, without limitation, approve of Seller's Board of Directors. The execution, delivery, and performance of this Agreement by Buyer have been duly authorized by all necessary actions on the part of Buyer. This Agreement has been duly executed and delivered by Buyer and constitutes the legal, valid, and binding obligation of Buyer, enforceable against Buyer in accordance with its terms except as the enforceability of this Agreement may be affected by bankruptcy, insolvency, or similar laws affecting creditors' rights generally and by judicial discretion in the enforcement of equitable remedies.

(c) Absence of Conflicting Agreements. Subject to obtaining FCC Approval, the execution, delivery, and performance by Buyer of this Agreement and the Closing documents contemplated hereby (with or without the giving of notice, the lapse of time, or both): (i) will not conflict with the organizational documents of the Buyer; (ii) will not materially conflict with, result in a breach of, or constitute a default under, any law, judgment, order, injunction, decree, rule, regulation, or ruling of any court or governmental instrumentality applicable to Buyer; (iii) will not conflict with, constitute grounds for termination of, result in a breach of, constitute a default under, or accelerate or permit the acceleration of any performance required by the terms of, any agreement, instrument, license, or permit to which Buyer is a party or by which Buyer may be bound.

(d) Buyer's Qualifications. Buyer is legally, financially and otherwise qualified to be the licensee of and acquire, own and operate the Station under the Communications Act of 1934, as amended, and the rules, regulations and policies of the FCC. Buyer knows of no fact that would, under existing law and the existing rules, regulations, policies and procedures of the FCC disqualify Buyer as assignee of the FCC Authorizations or as the owner and operator of the Station.

(e) Disclosure. No representation or warranty made by Buyer in this Agreement, or any statement or certificate furnished by, or to be furnished by, Buyer to Seller pursuant hereto, or in connection with the transactions contemplated hereby contains, or will contain, any untrue statement of a material fact or omits, or will omit, to state a material fact necessary to make the statement contained therein not misleading.

9. Risk of Loss. Risk of loss, damage, or destruction to the Assets to be sold and conveyed hereunder shall be upon the Seller until the Closing Date. After Closing, the risk of

loss shall be solely upon Buyer. In the event that any such loss, damage or destruction occurring prior to Closing shall be sufficiently substantial so that any representation or warranty of Seller shall not be true and correct in all material respects at Closing (after giving consideration to any repairs, restoration or replacement to occur prior to Closing), Seller shall promptly notify Buyer in writing of the circumstances. Buyer, at any time within ten (10) days after receipt of such notice, may elect by written notice to Seller either to (i) proceed toward consummation of the transactions contemplated by this Agreement in accordance with the terms hereof (with Seller's representations and warranties deemed modified to take into account any such loss, damage, or destruction), and subject to the occurrence of Closing, complete the restoration and replacement of the Assets after Closing, in which event Seller shall deliver to Buyer all insurance proceeds received, less any applicable deductible, in connection with such damage, destruction or other event, or (ii) if the cost of such restoration or replacement is greater than Ten Thousand Dollars (\$10,000.00), terminate this Agreement.

10. Access to Information. Seller shall provide Buyer and its designated representatives access to the Assets and Station's facilities, including the Station's transmitter site, upon reasonable advance notice during normal business hours prior to Closing and at times that will not interfere with the operation of the Station. After execution of this Agreement and until Closing, Seller shall affirmatively and promptly disclose to Buyer any material matters affecting the Assets or operation of the Station of which Seller may become aware, including claims made and contract obligations to be entered into by Seller.

11. Brokers, Costs and Expenses. Buyer and Seller each represent and warrant to the other that they are not represented by any broker in connection with the transaction contemplated by this Agreement. Buyer and Seller shall bear their respective costs and expenses for attorneys, accountants, brokers and advisors retained by or representing them in connection with their respective negotiation and execution of this Agreement and the performance of their respective obligations hereunder. Seller acknowledges that Buyer, at Buyer's sole cost and expense, may obtain lien, tax and judgment searches with respect to Seller and the Assets.

12. Conditions Precedent to Buyer's Obligation to Close. The obligations of Buyer to purchase the Assets and to otherwise consummate the transactions contemplated by this Agreement are subject to the satisfaction or waiver by Buyer, on or prior to the Closing Date, of each of the following conditions:

(a) The FCC Approval shall have been granted, Seller shall have complied with any conditions imposed on it by the FCC Approval that Seller is obligated to satisfy under the terms of this Agreement, and, if Buyer so elects, the FCC Approval shall have become a Final Order.

(b) All representations and warranties of Seller contained in this Agreement shall be true and complete at and as of the Closing Date as if such representations and warranties were made at and as of the Closing Date except for (i) any inaccuracies that in the aggregate could not reasonably be expected to have a material adverse effect on the Assets or the operation of the Station, or (ii) any representation or warranty that is expressly stated only as of a specified earlier date, in which case such representation or warranty shall be true as of such earlier date.

(c) Seller shall have performed and complied with in all material respects all agreements, obligations, and conditions required by this Agreement to be performed or complied with by Seller prior to or at the Closing Date.

(d) Seller shall hold valid, current, and unexpired FCC Authorizations for the Station.

(e) Seller shall have obtained any required third party consents, including the consent to assign the Lease Agreement.

(f) The Assets shall be free and clear of all liens and encumbrances as of Closing, other than Permitted Liens.

(g) Buyer shall have received from Seller the documents and other items to be delivered by Seller pursuant to *Section 15* of this Agreement.

(h) No injunction, restraining order or decree of any nature of any court or governmental authority of competent jurisdiction shall be in effect that restrains or prohibits Buyer from consummating the transactions contemplated by this Agreement.

13. Conditions Precedent to Seller's Obligation to Close. The obligations of Seller to sell the Assets and to otherwise consummate the transactions contemplated by this Agreement are subject to the satisfaction or waiver by Seller, on or prior to the Closing Date, of each of the following conditions:

(a) The FCC Approval shall have been granted and Buyer shall have complied with any conditions imposed on it by the FCC Approval that Buyer is obligated to satisfy under the terms of this Agreement.

(b) All representations and warranties of Buyer contained in this Agreement shall be true and complete at and as of the Closing Date as if such representations and warranties were made at and as of the Closing Date except for (i) any inaccuracies that in the aggregate could not reasonably be expected to have a material adverse effect on Buyer's ability to consummate the transaction contemplated by this Agreement, or (ii) any representation or warranty that is expressly stated only as of a specified earlier date, in which case such representation or warranty shall be true as of such earlier date.

(c) Buyer shall have performed and complied with in all material respects all agreements, obligations, and conditions required by this Agreement to be performed or complied with by Buyer prior to or at the Closing Date.

(d) Seller shall have received from Buyer the documents and other items to be delivered by Buyer pursuant to *Section 14* of this Agreement.

(e) No injunction, restraining order or decree of any nature of any court or governmental authority of competent jurisdiction shall be in effect that restrains or prohibits Seller from consummating the transactions contemplated by this Agreement.

14. Buyer's Performance at Closing. At the Closing, Buyer will deliver or will have delivered to Seller:

(a) The Purchase Price;

(b) A certificate dated as of the Closing Date, executed on behalf of Buyer by an officer of Buyer, attesting to its fulfillment of the conditions set forth in *Section 13(a), (b) and (c)*;

(c) Certified copies of all resolutions necessary to authorize the execution, delivery and performance of this Agreement, including the consummation of the transactions contemplated hereby; and

(d) Buyer's signatures, as applicable, on the documents described in Section 15(d) below.

15. Seller's Performance at Closing. At the Closing, Seller shall deliver or have delivered to Buyer:

(a) Originals, if available, and otherwise available copies of the FCC Authorizations for the Station listed on Schedule 1(a), together with such assignments of the same as Buyer may reasonably require;

(b) A certificate dated as of the Closing Date, executed on behalf of Seller by an officer of Seller, attesting to its fulfillment of the conditions set forth in *Section 12(a), (b) and (c)*;

(c) Certified copies of all resolutions necessary to authorize the execution, delivery and performance of this Agreement, including the consummation of the transactions contemplated hereby;

(d) Such instruments of conveyance, transfer, and assignment, in form and substance reasonably satisfactory to Buyer as shall be sufficient to convey, transfer and assign to Buyer all of Seller's right, title and interest in and to all the Assets and FCC Authorizations, in each case free and clear of all liens (other than Permitted Liens), such instruments to include (to the extent applicable) a bill of sale, an assignment of FCC Authorizations, an assignment and assumption of agreements and intangibles, an assignment and assumption of lease agreements, certificates of title if applicable, in each case in form consistent with the terms of this Agreement.

16. Survival of Warranties. All representations and warranties made by the parties in this Agreement shall survive the Closing and remain operative in full force and effect for a period of one (1) year (and shall not be deemed merged into any document or instrument executed or delivered at the Closing) after the Closing. All covenants and obligations of the parties in this Agreement that are not fully performed as of the Closing shall survive the Closing until fully performed.

17. Indemnification.

(a) Indemnification by Seller. Seller shall indemnify and hold harmless Buyer and any of Buyer's officers, trustees, employees, agents, successors and permitted assigns against and in respect of any and all liabilities, obligations, claims, and demands (including reasonable expenses of investigation and attorneys' fees) (hereinafter collectively "**Claims**") arising out of or related to (i) Seller's operation of the Station or ownership of the Assets prior to Closing (including, but not limited to, Claims related to compliance with FCC rules and regulations); (ii) any failure by Seller to perform any covenant or obligation of Seller in this Agreement; (iii) any inaccuracy in or breach of any representation, warranty, or covenant made by Seller herein; and (iv) any Excluded Assets set forth in *Section 2* or any Excluded Liabilities set forth in *Section 4(b)*.

(b) Indemnification by Buyer. Buyer shall indemnify and hold harmless Seller and any of Seller's officers, trustees, employees, agents, successors and permitted assigns against and in respect of any and all Claims arising or related to (i) Buyer's operation of the Station or ownership of the Assets after the Closing (including, but not limited to, Claims related to compliance with FCC rules and regulations), (ii) any failure by Buyer to perform any covenant or obligation of Buyer in this Agreement, including the breach or non-performance by Buyer of the Assumed Liabilities, (iii) any inaccuracy in or breach of any representation, warranty, or covenant made by Buyer herein.

18. No Assignment. This Agreement may not be assigned by either party without the other party's prior written consent.

19. Specific Performance. The parties recognize the uniqueness of the Station and the Assets, authorizations, and attributes that are associated with its operation, and for that reason agree that Buyer shall have the right to specific performance of this Agreement upon default of Seller. Buyer shall therefore be entitled, in addition to any other remedies that may be available, including money damages, to obtain specific performance of the terms of this Agreement. If any action is brought by Buyer to enforce this Agreement, Seller shall waive the defense that there is an adequate remedy at law.

20. Termination.

(a) Termination by Seller. This Agreement may be terminated by Seller and the purchase and sale of the Assets abandoned, if Seller is not then in material default, upon written notice to Buyer, upon the occurrence of any of the following:

(i) Buyer' Breach. If Buyer is in material breach of its representations, warranties, covenants, or obligations hereunder and Buyer fails to cure such breach within 30 days following notice of such default from Seller, except that no cure period shall be applicable to Buyer's failure to pay the Purchase Price when due.

(ii) Conditions. If, on the date that would otherwise be the Closing Date, any condition precedent to the obligations of Seller set forth in this Agreement has not been satisfied or waived in writing by Seller.

(iii) Judgments. If there shall be in effect on the date that would otherwise be the Closing Date any judgment, decree, or order that would prevent or make unlawful the Closing.

(b) Termination by Buyer. This Agreement may be terminated by Buyer and the purchase and sale of the Station abandoned, if Buyer is not then in material default, upon written notice to Seller, upon the occurrence of any of the following:

(i) Seller's Breach. If Seller is in material breach of its representations, warranties, covenants, or obligations hereunder and Seller fails to cure such breach within 30 days following notice of such default from Buyer.

(ii) Conditions. If, on the date that would otherwise be the Closing Date, any condition precedent to the obligations of Buyer set forth in this Agreement has not been satisfied or waived in writing by Buyer.

(iii) Judgments. If there shall be in effect on the date that would otherwise be the Closing Date any judgment, decree, or order that would prevent or make unlawful the Closing.

(c) Termination by Either Party. This Agreement may be terminated by either party, if the terminating party is not then in material default, upon written notice, if (i) the Closing shall not have occurred within twelve (12) months after public notice of the FCC's acceptance for filing of the FCC Application, or (ii) the FCC for any reason designates the FCC Application for hearing.

(d) Effect of Termination.

(i) Upon termination: (i) if neither party hereto is in material breach of any provision of this Agreement, the parties hereto shall not have any further liability to each other; or (ii) if either party shall be in material breach of any provision of this Agreement, the other party shall have all rights and remedies available at law or equity, including for Buyer the right of specific performance provided in *Section 19*. Any and all provisions of this Agreement notwithstanding, neither Seller nor Buyer shall be liable to the other for punitive or consequential damages.

(ii) The rights and obligations of the parties described in *Section 17 and Sections 19 through 28* shall survive any termination.

21. Press Releases and Announcements. Buyer acknowledge that as an agency of the State of North Carolina Seller is obligated to comply with the North Carolina Public Records Act. Subject to such obligations, both parties agree that they or their appointed agents shall work jointly and cooperatively in preparing all public announcements and press releases regarding the Agreement. Prior to the Closing, neither Buyer nor Seller shall make any public announcement or issue any press release regarding this Agreement or the transaction contemplated hereby without the prior written consent of the other party. Notwithstanding the foregoing, if the parties have cooperated in good faith and used commercially reasonable efforts to agree upon the timing and content of a joint announcement or release, but cannot reach such agreement, each party may

make its own announcement or issue its own release so long as such announcement or release does not conflict with the issuing party's obligations under this Agreement. Neither Buyer nor Seller shall permit the airing of any remarks about the Agreement or the transaction, including, without limitation, on the Station, without the prior written consent of the other party (except for on-air announcements required by the FCC).

22. Notices. All notices, demands, and requests required or permitted to be given under the provisions of this Agreement shall be (i) in writing, may be delivered by personal delivery, sent by commercial delivery service or certified mail, return receipt requested, or sent by email (with, if available under email options, a "delivery receipt" and a "read receipt" being requested), (ii) deemed to have been given on the date of actual receipt, which may be presumptively evidenced by the date set forth in the records of any commercial delivery service or on the return receipt, or on the date of the sender's receipt of a "read receipt" from recipient or sender's confirmation by phone of recipient's receipt, and (iii) addressed to the recipient at the address specified below, or with respect to any party, to any other address that such party may from time to time designate in a writing delivered in accordance with this *Section 22*.

If to Seller:

Western Carolina University
1 University Drive
Cullowhee, NC 28723
Attn: Dr. Alison Morrison-Shetlar, Acting Chancellor
Phone: (828) 227-7100
Email: aimorrison@wcu.edu

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

Stephen Hartzell, Esq.
Brooks, Pierce, McLendon, Humphrey & Leonard, LLP
1700 Wells Fargo Capitol Center
150 Fayetteville Street
Raleigh, NC 27601
Phone: (919) 839-0300
E-mail: shartzell@brookspierce.com

If to Buyer:

Western North Carolina Public Radio
73 Broadway
Asheville, NC 28801
Attn: David Feingold, CEO
Phone: (828) 210-4805
Email: dfeingold@bpr.org

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

John Crigler, Esq.
Garvey Schubert Barer
1000 Potomac Street, NW, Suite 200
Washington, DC 20007
Phone: (202) 965-7880
Email: jcrigler@gsblaw.com

23. Further Assurances. Each of the parties hereto shall execute and deliver to the other party hereto such other instruments as may be reasonably required in connection with the performance of this Agreement.

24. Construction. This Agreement shall be construed and enforced in accordance with the laws of the State of North Carolina. The headings are for convenience only and will not control or affect the meaning or construction of the provisions of this Agreement.

25. Entire Agreement. This Agreement, the included cover letter, and the schedules hereto supersede all prior agreements and understandings between the parties with respect to the sale and purchase of the Assets to be sold and purchased hereunder and may not be changed or terminated orally, and no attempted change, termination, amendment, or waiver of any of the provisions hereof shall be binding unless in writing and signed by both parties. All schedules attached to this Agreement shall be deemed part of this Agreement and are incorporated herein, where applicable, as if fully set forth herein. This Agreement cannot be amended, supplemented, or modified except by an agreement in writing that makes specific reference to this Agreement or an agreement delivered pursuant hereto, as the case may be, and which is signed by the party against which enforcement of any such amendment, supplement, or modification is sought.

26. Waiver of Compliance. Except as otherwise provided in this Agreement, any failure of any of the parties to comply with any obligation, representation, warranty, covenant, agreement, or condition herein may be waived by the party entitled to the benefits thereof only by a written instrument signed by the party granting such waiver, but such waiver or failure to insist upon strict compliance with such obligation, representation, warranty, covenant, agreement, or condition shall not operate as a waiver of, or estoppel with respect to, any subsequent or other failure. Whenever this Agreement requires or permits consent by or on behalf of any party hereto, such consent shall be given in writing in a manner consistent with the requirements for a waiver of compliance as set forth in this Section.

27. Severability. In the event that any one or more of the provisions contained in this Agreement or in any other instrument referred to herein, shall, for any reason, be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision of this Agreement or any other such instrument and this Agreement shall be construed in a manner that, as nearly as possible, reflects the original intent of the parties.

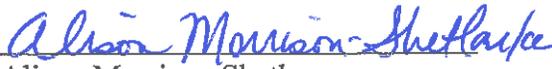
28. Counterparts. This Agreement may be executed in several counterparts, all of which when taken together shall constitute one Agreement. Delivery of counterpart signature

pages may be effected by email of scanned copies of executed signature pages; *provided, however,* that the parties shall promptly arrange to exchange executed original signature pages by personal or commercial overnight delivery upon request.

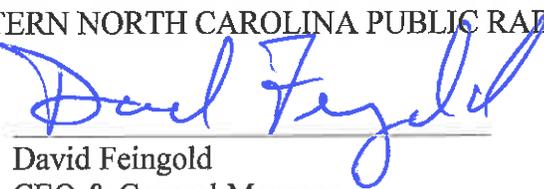
[Signature Page Follows]

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

WESTERN CAROLINA UNIVERSITY (SELLER)

By: 
Alison Morrison-Shetlar
Acting Chancellor

WESTERN NORTH CAROLINA PUBLIC RADIO (BUYER)

By: 
David Feingold
CEO & General Manager

Schedule 1(a)
FCC Authorizations

WWCU(FM) Broadcast Station License in FCC File Number BLED-20040819AAB as renewed on November 25, 2011 for a term expiring on December 1, 2019.

Schedule 1(b)
Tangible Personal Property

| <u>Item</u> | <u>Description</u> |
|-----------------|--|
| Scala | 3 Bay Directional FM Antenna & power divider |
| Shively | Antenna Study - proof of performance |
| Valmont | 3 Bay Directional FM Antenna custom mounts |
| Valmont | Ice Bridges to tower for coax cable |
| Andrew | 150 feet 7/8" Coax to FM antenna |
| PolyPhaser | RF lightning and surge protection |
| Crown | Crown FMX250E FM transmitter |
| Inovonics | Modulation monitor |
| Broadcast Tools | 8-Channel Web and voice Remote Control System |
| APC | Smart UPS |
| DDB Unlimited | Weather proof transmitter cabinet |
| American Tower | Concrete foundation pad and halo ground system |

Schedule 1(c)
Lease Agreement

License Agreement, dated February 25, 2004, between American Tower Management Inc., and Western Carolina University, as amended by the First Amendment to License Agreement, dated August 10, 2004.

Section 1(d)
Assumed Contracts

See Schedule 1(c)

Schedule 2(f)

Excluded Licenses and Equipment

Seller shall retain the equipment used with the licenses listed below. Seller shall cancel and not assign to Buyer the booster license. Prior to or effective with Closing, Seller may cancel or change the association of the Remote Pickup and Aural Studio Transmitter Links to one of Seller's other facilities.

FM Booster WWCU-FM1, Cullowhee, NC.

Remote Pick Up WQFV974.

Aural Studio Transmitter Link WQFZ564.

Aural Studio Transmitter Link WQFZ568.