

ASSET PURCHASE AGREEMENT

THIS ASSET PURCHASE AGREEMENT (the “Agreement”) is entered into as of this 9th day of September, 2022 (the “Effective Date”), by and between TRIANGLE MARKETING ASSOCIATES, INC., a North Carolina corporation (“Seller”) and FM 102.3 LLC, a North Carolina limited liability company (“Buyer”) (each a “Party” and, collectively, the “Parties”).

RECITALS

WHEREAS, Seller is the licensee and operator of radio station WKJO(FM) (102.3 MHz), Smithfield, North Carolina (FCC Facility ID No. 61259) (the “Station”) pursuant to certain authorizations issued by the Federal Communications Commission (the “FCC”) and Seller owns all other assets used in connection with the operation of the Station; and

WHEREAS, on the terms and conditions described herein, Seller desires to sell and Buyer desires to purchase substantially all of the assets owned or leased by Seller and used in connection with the operation of the Station;

NOW, THEREFORE, taking the foregoing into account, and in consideration of the mutual covenants and agreements set forth herein, the Parties, intending to be legally bound, hereby agree to the following terms and conditions:

ARTICLE 1: SALE AND PURCHASE

1.1 **Station Assets**. Subject to the terms and conditions contained herein, Seller shall grant, convey, sell, assign, transfer and deliver to Buyer on the Closing Date (defined below) all assets, interests, and rights of Seller used or held for use in connection with the operation of the Station, other than the Excluded Assets, as defined in Section 1.2 below, including without limitation the following (collectively, the “Station Assets”):

(a) **Licenses and Authorizations**. All licenses, permits and other authorizations issued to Seller by the FCC with respect to the Station, including without limitation those described on Schedule 1.1(a), including any renewals or modifications thereof between the date hereof and Closing (collectively, the “FCC Licenses”);

(b) **Tangible Personal Property**. All equipment, transmitters, antennas, cables, towers, spare parts and other tangible property of every kind and description owned or leased by Seller that are used or held for use in connection with business and operation of the Station, including, the tangible personal property listed in Schedule 1.1(b) (the “Tangible Personal Property”);

(c) **Intangible Property**. All rights and interests of Seller in the call signs and all copyrights and copyrightable works, slogans, trade names, logos, trademarks, service marks, trade dress, domain names, websites and social media accounts and related content, databases, and account names/handles, and all other intellectual and intangible property that are used or held for use in connection with business and operation of the Station, including, the intangible property listed in Schedule 1.1(c) (the “Intangible Property”);

(d) **Assumed Contracts.** All rights and obligations, to the extent arising on or occurring after the Closing Date, under (i) contracts or commitments for advertising on the Station entered into in the ordinary course of business (“Advertising Contracts”), (ii) contracts or commitments pursuant to which Seller has agreed to sell or trade commercial air time in consideration for any property or service in lieu of cash (other than program barter agreements) entered into in the ordinary course of business (“Trade Contracts”), and (iii) the contracts, agreements, and leases listed on Schedule 1.1(d) (collectively with the Advertising Contracts and the Trade Contracts, the “Assumed Contracts”);

(e) **Files and Records; Public File.** All files and documents and records pertaining to the Station, including all engineering files and all files required by the FCC to be maintained by the Station, and other files and records pertaining to the Station and required by the FCC to be maintained in the Station’s FCC online public inspection file; provided that Seller may retain copies thereof;

(f) **Post-Closing Claims.** Any and all post-closing claims and rights against third parties if and to the extent that they relate exclusively to the Tangible Personal Property, including, without limitation, all rights under manufacturers’ and vendors’ warranties; and

(g) **Goodwill.** All goodwill associated with the Station Assets.

1.2 **Excluded Assets.** Notwithstanding anything to the contrary contained herein, the Station Assets shall not include the following assets or any rights, title and interest therein and shall be retained by Seller (the “Excluded Assets”):

(a) all cash and cash equivalents (including Big Deals gift certificates) of Seller, including without limitation certificates of deposit, commercial paper, treasury bills, marketable securities, money market accounts and all such similar accounts or investments (other than deposits, reserves and other prepaid expenses for which Seller receives a credit at Closing pursuant to Section 1.7);

(b) the lease for the Station’s office and studio (104 Airport Industrial Drive, Suite 102, Clayton, NC 27520) and all other contracts, leases, or other agreements that are not Assumed Contracts;

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

(d) corporate and organizational documents, minute books, tax records and returns (and tax refunds), or similar internal documents of Seller;

(e) the employees, or employment contracts and benefit plans, of the Station or of Seller; and

(f) all accounts receivable, notes receivable and other monies due to the Seller for sales and deliveries of goods, performance of services, sale of advertisements, broadcast time

and programming and other business transactions related to the Station attributable to the period prior to the Closing Date.

1.3 **Liabilities.** The Station Assets shall be transferred by Seller to Buyer free and clear of any and all debts, security interests, mortgages, trusts, claims, pledges, conditional sales agreements, equipment leases, and other liens, liabilities and encumbrances of any and every kind and nature (“Liens”), except for (i) obligations or liabilities under the Assumed Contracts arising on or occurring after the Closing Date, (ii) liens for taxes not yet due and payable for which adequate reserves have been established, and (iii) liens that will be released on or prior to the Closing Date (“Permitted Liens”). All other Liens shall be discharged prior to Closing. Buyer shall only assume and undertake to pay, discharge and perform only those obligations and liabilities under the Assumed Contracts arising on or occurring after the Closing Date (the “Assumed Obligations”). Except for the Assumed Obligations, Buyer does not assume, and will not be deemed by the execution and delivery of this Agreement or the consummation of the transactions contemplated hereby to have assumed, any other liabilities or obligations of Seller of any nature (the “Retained Liabilities”).

1.4 **Purchase Price.** The purchase price to be paid for the Station Assets is TWO MILLION EIGHTY THOUSAND DOLLARS (\$2,080,000.00) (the “Purchase Price”).

1.5 **Payment of Purchase Price.** At Closing, the Buyer will pay to Seller the Purchase Price, plus or minus the adjustments made pursuant to Section 1.6, in cash by wire transfer of immediately available funds.

1.6 **Prorations.** The parties agree to prorate all expenses arising out of the operation of the Station which are incurred, accrued, or payable, as of 11:59 p.m. local time of the day preceding the Closing. The prorated items shall include, but not be limited to, power and utilities charges, FCC regulatory fees (based on the most recent publicly available information about the cost of such regulatory fees for the Station), property taxes upon the basis of the most recent tax bills and information available, security deposits, and similar prepaid and deferred items. If on the Closing Date, any Trade Contract has an aggregate *negative* balance (*i.e.*, the amount by which the value of air time any Station is obligated to provide after the Closing Date exceeds the fair market value of corresponding goods and services to be received by such Station after such time), there shall be no proration or adjustment therefor, unless the aggregate negative balance of the Trade Contracts exceeds \$5,000, in which event only such excess shall be treated as prepaid time sales of the Station, and adjusted for as a proration in Buyer’s favor; and (ii) if on the Closing Date, any Trade Contract has an aggregate *positive* balance (*i.e.*, the amount by which the value of air time any Station is obligated to provide after the Closing Date is less than the fair market value of corresponding goods and services to be received by such Station after such time), there shall be no proration or adjustment therefor, unless the aggregate positive balance of the Trade Contracts exceeds \$5,000, in which event only such excess shall be treated as prepaid goods or services for the Station and adjusted for as a proration in Seller’s favor. The prorations shall, insofar as feasible, be determined and paid on the Closing Date, with final settlement and payment to be made within sixty (60) days after the Closing Date.

1.7 **Allocation of Purchase Price.** Buyer and Seller shall allocate the Purchase Price hereunder in a manner which complies with Section 1060 of the Internal Revenue Code of 1986,

as amended (the “Code”), as set forth on Schedule 1.7. The allocation shall be consistently and accurately reported by both Buyer and Seller on Form 8594, or comparable tax reporting disclosure, in compliance with the Code.

ARTICLE 2: FCC CONSENT; CLOSING

2.1 **FCC Consent; Assignment Application**. Not later than five (5) business days after the Effective Date, Buyer and Seller shall prepare, execute, and file an application to the FCC (the “Assignment Application”) requesting the FCC’s consent (the “FCC Consent”) to the assignment of the FCC Licenses from Seller to Buyer. Buyer and Seller shall prosecute the Assignment Application and cooperate with each other and with the FCC in order to secure such FCC Consent without delay and to promptly consummate the transaction contemplated hereby. Buyer and Seller shall equally split (50/50) the FCC filing fee for the Assignment Application.

2.2 **Closing Date; Closing Place**. The closing of the sale of the Station Assets (the “Closing”) shall occur by electronic exchange of closing deliveries. Unless the parties otherwise agree in writing, the Closing shall occur (i) ten (10) business days after the date on which the FCC Consent approving the assignment application shall have been initially granted or (ii) if an objection has been filed against the assignment application as defined herein, the Closing shall occur five (5) business days after the date on which the FCC Consent has become Final Order; but in each of (i) and (ii) only if the conditions set forth in Articles 7 and 8 have been satisfied or waived (such date, the “Closing Date”). The Closing shall be deemed to be effective as of 12:01 A.M., Eastern Time, on the Closing Date. For purposes of this Agreement, the term “Final Order” shall mean that action shall have been taken by the FCC (including action duly taken by the FCC’s staff, pursuant to delegated authority) approving the Assignment Application which shall not have been reversed, stayed, enjoined, set aside, annulled or suspended; with respect to which no timely request for stay, petition for rehearing, appeal or certiorari or *sua sponte* action of the FCC with comparable effect shall be pending; and as to which the time for filing any such request, petition, appeal, certiorari or for the taking of any such *sua sponte* action by the FCC shall have expired or otherwise terminated.

ARTICLE 3: REPRESENTATIONS AND WARRANTIES OF SELLER

Seller makes the following representations and warranties to Buyer:

3.1 **Organization and Authorization**. Seller is duly organized, validly existing, and in good standing under the laws of the State of North Carolina. Seller has the power and authority to execute and deliver this Agreement and to consummate the transaction contemplated hereby. Seller’s execution and delivery of this Agreement and consummation of the transaction contemplated hereby, have been duly and validly authorized, and no other actions on the part of Seller are necessary to authorize the execution and delivery of, or the performance of Seller’s obligations under this Agreement or to consummate the transaction contemplated hereby. This Agreement constitutes the legal, valid, and binding obligation of Seller enforceable in accordance with its terms, except as may be limited by bankruptcy, insolvency, or other laws affecting generally the enforcement of creditors’ rights or the application of principles of equity.

3.2 **No Defaults.** The execution, delivery, and performance of this Agreement by Seller will not (i) constitute a violation of, or conflict with, Seller's articles of organization or operating agreement, (ii) result in a default (or give rise to any right of termination, cancellation, or acceleration) under, or conflict with, any of the terms, conditions, or provisions of any obligation relating to the business of the Station (iii) violate any law, statute, regulation, order, injunction, or decree of any federal, state, or local governmental authority or agency applicable to Seller or any of the Station Assets, (iv) result in the creation or imposition of any Lien on the Station Assets, other than Permitted Liens, or (v) require the consent or approval of any governmental authority, lending institution, or other third party other than the FCC Consent or as set forth in Schedule 1.1(d).

3.3 **FCC Licenses and Other Licenses.** Schedule 1.1(a) hereto contains a true and complete list of all FCC Licenses (including any pending applications) and all other licenses, permits, or other authorizations from governmental or regulatory authorities that are required for the lawful conduct of the business and operations of the Station in the manner and to the full extent that the Station is presently operated. Such FCC Licenses constitute all of the material licenses and authorizations required under the Communications Act of 1934, as amended (the "Communications Act"), or the rules, regulations and policies of the FCC for, and used in the operation of, the Station. The FCC Licenses are in full force and effect and have not been revoked, suspended, canceled, rescinded or terminated and have not expired. There is not pending, or to the Knowledge of Seller threatened, any action by or before the FCC to revoke, suspend, cancel, rescind or modify any of the FCC Licenses (other than proceedings to amend FCC rules of general applicability), and there is not now issued or outstanding or pending, or to the Knowledge of Seller threatened, by or before the FCC, any order to show cause, notice of violation, notice of apparent liability, hearing designation, notice of forfeiture, complaint, or any similar matters against Seller or the Station. The Station is operating in material compliance with the FCC Licenses, the Communications Act, and the rules, regulations and policies of the FCC.

3.4 **Tangible Personal Property.** Schedule 1.1(b) contains a list of certain material items of Tangible Personal Property. All Tangible Personal Property included in the Station Assets constitute all of the assets necessary to operate the Station and the business of the Station in the manner presently operated by Seller. Seller has, or will have on the Closing Date, good and marketable title to the Tangible Personal Property free and clear of Liens (other than Permitted Liens). Each material item of Tangible Personal Property (i) is in good operating condition and repair, ordinary wear and tear excepted, (ii) is operating in full compliance, in all material respects, with the FCC Licenses, and (iii) is suitable for use in the ordinary course of business of the Station as presently conducted.

3.5 **Intangible Property.** Schedule 1.1(c) contains a description of the material Intangible Property included in the Station Assets. To Seller's Knowledge, Seller's use of the Intangible Property does not infringe upon any third party rights in any material respect; none of the Intangible Property is being infringed by any third party; and Seller has not received any written notice that its use of the Intangible Property at the Station is unauthorized or violates or infringes upon the rights of any other party or challenging the ownership, use, validity or enforceability of any Intangible Property.

3.6 **Assumed Contracts.** Schedule 1.1(d) contains a correct and complete list of the Assumed Contracts included in the Station Assets other than the Advertising Contracts and the Trade Contracts. Each Assumed Contract listed on Schedule 1.1(d) represents a valid, binding and enforceable obligation of the Seller in accordance with the respective terms thereof and, to the Seller's Knowledge, represents a valid, binding and enforceable obligation of each of the other parties thereto. Neither Seller, and to the Knowledge of the Seller, nor any other party is in material breach or default under any Assumed Contract listed on Schedule 1.1(d). Seller has not received any written notice of default, termination, or intent not to renew or materially amend Assumed Contract listed on Schedule 1.1(d). True, correct and complete copies of the Assumed Contracts listed on Schedule 1.1(d) have been made available to Buyer.

3.7 **Litigation; Compliance with Law.** Seller has operated the Station in material compliance with all laws, regulations, orders, or decrees. Seller is not subject to any order, writ, injunction, judgment, arbitration, decision, or decree having a binding effect and affecting the business of the Station or the Station Assets or which restrains or enjoins, or purports to restrain or enjoin, or could reasonably be expected to restrain or enjoin, the transaction contemplated hereby, and to Seller's Knowledge no such proceeding is pending. There are no suits, arbitrations, administrative charges or other legal proceedings, claims or governmental investigations pending against, or to the Knowledge of Seller threatened against, the Station, Seller relating to or affecting the Station nor, to the Knowledge of Seller, is there any basis for any such suit, arbitration, administrative charge or other legal proceeding, claim or governmental investigation. Seller has not been operating under or subject to, or in default with respect to, any judgment, order, writ, injunction or decree of any court or federal, state, municipal or other governmental department, commission, board, agency or instrumentality, foreign or domestic.

3.8 **Taxes.** Seller has duly, timely, and in the required manner filed all federal, state, and local income, franchise, sales, use, property, excise, payroll, and other tax returns and forms required to be filed, and has paid in full or discharged all taxes, assessments, excises, interest, penalties, deficiencies, and losses required to be paid. To Seller's Knowledge, no event has occurred which could impose upon Buyer any liability for any taxes, penalties, or interest due or to become due from Seller from any taxing authority.

3.9 **Brokers.** There is no broker or finder or other person who would have a valid claim for a commission or a brokerage fee in connection with this Agreement or the transaction contemplated hereby under any agreement, arrangement or understanding made by or on behalf of Seller.

3.10 **No Other Representations.** Seller disclaims any and all other representations and warranties (express or implied, oral or written), except as expressly set forth in this Article 3. Buyer specifically acknowledges that Seller shall not be deemed to have made, and Buyer is in no way relying upon, any representation or warranty not expressly set forth in this Article 3, including with respect to materials, if any, previously delivered or made available to Buyer concerning the Station Assets.

ARTICLE 4: REPRESENTATIONS AND WARRANTIES OF BUYER

Buyer makes the following representations and warranties to Seller:

4.1 **Organization and Authorization.** Buyer is duly organized, validly existing, and in good standing under the laws of the State of North Carolina. Buyer has the power and authority to execute and deliver this Agreement and to consummate the transaction contemplated hereby. Buyer's execution and delivery of this Agreement and consummation of the transaction contemplated hereby, have been duly and validly authorized, and no other actions on the part of Buyer are necessary to authorize the execution and delivery of, or the performance of Buyer's obligations under this Agreement or to consummate the transaction contemplated hereby. This Agreement constitutes the legal, valid, and binding obligation of Buyer enforceable in accordance with its terms, except as may be limited by bankruptcy, insolvency, or other laws affecting generally the enforcement of creditors' rights or the application of principles of equity.

4.2 **No Defaults.** The execution, delivery, and performance of this Agreement by Buyer will not (i) conflict with or result in any breach of any provision of the articles of incorporation or bylaws of Buyer, or (ii) result in a default (or give rise to any right of termination, cancellation, or acceleration) under, or conflict with, any of the terms, conditions, or provisions of any note, bond, mortgage, indenture, agreement, lease, or other instrument or obligation relating to Buyer or its business, except for such defaults (or rights of termination, cancellation, or acceleration) or conflicts as to which requisite waivers or consents have been obtained and delivered to Seller, (iii) violate any statute, regulation, order, injunction, or decree of any federal, state, or local governmental authority or agency which is applicable to Buyer, or (iv) require the consent or approval of any governmental authority, lending institution, or other third party other than the FCC Consent.

4.3 **Buyer's Qualification.** Buyer is, or will be as of the Closing Date, legally and financially qualified to acquire, and to become the FCC licensee of, the Station and to perform its obligations under this Agreement.

4.4 **Litigation.** Buyer is not subject to any order, writ, injunction, judgment, arbitration, decision, or decree having a binding effect and affecting the business of Buyer or which restrains or enjoins, or purports to restrain or enjoin, or could reasonably be expected to restrain or enjoin, the transaction contemplated hereby, and no such proceeding is pending. There is no material litigation pending by or against, or, to the knowledge of Buyer, or threatened against Buyer, that would prevent or materially impede the consummation by Buyer of the transaction contemplated by this Agreement.

4.5 **Brokers.** There is no broker or finder or other person who would have a valid claim for a commission or a brokerage fee in connection with this Agreement or the transaction contemplated hereby under any agreement, arrangement or understanding made by or on behalf of Buyer.

ARTICLE 5: COVENANTS OF SELLER

5.1 **Station Assets.** The Station Assets shall be maintained by Seller consistent with good engineering practice and in material conformity with all applicable FCC technical regulations. Seller shall keep and maintain all Tangible Personal Property in good operating condition (ordinary wear and tear excepted) and repair. Seller shall preserve intact the Station Assets and maintain in effect its current casualty and liability insurance on the Station Assets.

5.2 **FCC Compliance.** Seller shall continue to operate and maintain the Station in accordance with the terms of the FCC Licenses and in material compliance with all applicable laws and FCC regulations and published policies. Seller will not file any application with the FCC requesting authority to modify the Station's facilities without Buyer's prior written consent and Seller shall take all actions necessary to keep the FCC Licenses, including all material permits and applications pending before the FCC, valid and in full force and effect.

5.3 **Operation of Station in Ordinary Course.** Except as provided herein, Seller shall operate the Station in the ordinary course of business and in accordance with past practice, and shall pay and perform all of its obligations with respect to the Station in the ordinary course as such obligations become due.

5.4 **Disposition of Assets.** Prior to the Closing Date, Seller shall not, without the prior written consent of Buyer, sell, lease, or transfer, any of the Station Assets without replacement thereof with an asset of equivalent kind, condition, and value that satisfies industry standards for such assets, nor create any new Lien on the Station Assets other than Permitted Liens and Liens arising pursuant to, and in accordance with the terms of, this Agreement.

5.5 **Access and Information.** From the date hereof until the earlier to occur of the Closing Date or the termination of this Agreement, Seller shall permit Buyer and its representatives to make such investigation of the Station Assets as Buyer deems reasonably necessary or desirable in connection with the transactions contemplated hereby. Access to the Station Assets shall be made upon reasonable notice and at reasonable places and times. Such access and information shall not in any way affect or diminish any of the representations or warranties hereunder except to the extent the Buyer fails to promptly notify Seller of any inaccuracy or breach of any of the representations or warranties of Seller upon any such discovery by Buyer. Notwithstanding any provision to the contrary herein, however, Buyer shall not, directly or indirectly, control, supervise or direct the operations of the Station prior to the Closing.

5.6 **Compliance with Law.** Seller shall comply in all material respects with all federal, state, and local laws, rules and regulations in connection with the operation of the Station.

5.7 **Consummation of Agreement.** Seller shall use commercially reasonable efforts to fulfill and perform all conditions and obligations on its part to be fulfilled and performed under this Agreement, and to consummate the transaction contemplated hereby.

5.8 **Assumed Contract Consents.** Seller shall use commercially reasonable efforts to obtain any third party consents necessary for the assignment of any Assumed Contract. To the extent that any Assumed Contracts may not be assigned without the consent of any third party, and such consent is not obtained prior to Closing, this Agreement and any assignment executed pursuant to this Agreement shall not constitute an assignment of such Assumed Contracts; provided, however, with respect to each such Assumed Contracts, Seller and Buyer shall cooperate to the extent feasible in effecting a lawful and commercially reasonable arrangement under which Buyer shall receive the benefits under the Assumed Contracts from and after Closing, and to the extent of the benefits received, Buyer shall pay and perform Seller's obligations arising under the Assumed Contracts from and after Closing in accordance with its terms.

ARTICLE 6: COVENANTS OF BUYER

6.1 **Consummation of Agreement.** Buyer shall use commercially reasonable efforts to fulfill and perform all conditions and obligations on its part to be fulfilled and performed under this Agreement, and to consummate the transaction contemplated hereby.

6.2 **Assumed Contract Consents.** Buyer shall use commercially reasonable efforts to obtain any third party consents necessary for the assignment of any Assumed Contract. To the extent that any Assumed Contracts may not be assigned without the consent of any third party, and such consent is not obtained prior to Closing, this Agreement and any assignment executed pursuant to this Agreement shall not constitute an assignment of such Assumed Contracts; provided, however, with respect to each such Assumed Contracts, Seller and Buyer shall cooperate to the extent feasible in effecting a lawful and commercially reasonable arrangement under which Buyer shall receive the benefits under the Assumed Contracts from and after Closing, and to the extent of the benefits received, Buyer shall pay and perform Seller's obligations arising under the Assumed Contracts from and after Closing in accordance with its terms.

ARTICLE 7: CONDITIONS TO THE OBLIGATIONS OF SELLER

The obligations of Seller under this Agreement are subject to the fulfillment of the following conditions prior to or on the Closing Date. Upon the Closing, each such condition shall be deemed to have been satisfied.

7.1 **Representations, Warranties and Covenants.**

(a) Each of the representations and warranties of Buyer contained in this Agreement was true and correct, in all material respects, as of the date when made and is deemed to be made again on and as of the Closing Date and is then true and correct, in all material respects, except to the extent changes are permitted or contemplated pursuant to this Agreement.

(b) 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 it prior to or on the Closing Date.

7.2 **Proceedings.** Neither Seller nor Buyer is subject to any restraining order or injunction (or similar action) which would restrain or prohibit the consummation of the transaction contemplated hereby.

7.3 **FCC Consent.** The FCC Consent has been issued by the FCC.

7.4 **Deliveries.** Buyer has complied with each and every one of its obligations set forth in Section 9.2.

ARTICLE 8: CONDITIONS TO THE OBLIGATIONS OF BUYER

The obligations of Buyer under this Agreement are subject to the fulfillment of the following conditions prior to or on the Closing Date. Upon the Closing, each such condition shall be deemed to have been satisfied.

8.1 **Representations, Warranties and Covenants.**

(a) Each of the representations and warranties of Seller contained in this Agreement was true and correct, in all material respects, as of the date when made and is deemed to be made again on and as of the Closing Date and is then true and correct, in all material respects, except to the extent changes are permitted or contemplated pursuant to this Agreement.

(b) 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 on the Closing Date.

8.2 **Proceedings.** Neither Seller nor Buyer is subject to any restraining order or injunction (or similar action) which would restrain or prohibit the consummation of the transaction contemplated hereby.

8.3 **FCC Consent.** The FCC Consent has been issued by the FCC.

8.4 **Deliveries.** Seller has complied with each and every one of the obligations set forth in Section 9.1.

8.5 **Intentionally Omitted.**

ARTICLE 9: ITEMS TO BE DELIVERED AT CLOSING

9.1 **Deliveries by Seller.** At Closing, Seller shall deliver to Buyer, duly executed by Seller or such other signatory as may be required by the nature of the document:

(a) a bill of sale and assignment and assumption sufficient to sell, convey, transfer and assign the Tangible Personal Property and any other assets included in the Station Assets to Buyer (the “Bill of Sale and Assignment”);

(b) a certificate executed by an authorized officer of Seller certifying the satisfaction of the conditions set forth in Section 8.1:

(c) a certified copy of resolutions authorizing Seller’s execution, delivery and performance of this Agreement, including the consummation of the transactions contemplated hereby; and

(d) such additional documents, instruments, and agreements as Buyer may reasonably request in connection with the consummation of the transactions contemplated by this Agreement

9.2 **Deliveries by Buyer.** At the Closing, Buyer shall deliver to Seller, duly executed by Buyer or such other signatory as may be required by the nature of the document:

(a) the Purchase Price;

(b) the Bill of Sale and Assignment;

(c) a certificate executed by an authorized officer of Buyer certifying the satisfaction of the conditions set forth in Section 7.1;

(d) a certified copy of resolutions authorizing Buyer's execution, delivery and performance of this Agreement, including the consummation of the transactions contemplated hereby;

(e) a termination of that certain Site Lease Agreement dated December 1, 2014, between Seller and Buyer's affiliate New Age Communications, Inc.;

(f) a termination of that certain Option Agreement dated February 19, 2014, by and between Seller and the Curtis Legacy Trust u/a/d December 21, 2012; and

(g) such additional documents, instruments, and agreements as Seller may reasonably request in connection with the consummation of the transactions contemplated by this Agreement.

ARTICLE 10:INDEMNITY

10.1 **Survival of Representations and Warranties.** The representations and warranties of Buyer and Seller contained in this Agreement shall survive the Closing for twelve (12) months from the Closing Date.

10.2 **Seller's Indemnity Obligation.** Subject to Section 10.1, Seller hereby agrees to indemnify, defend, save, and hold Buyer harmless with respect to any and all claims, losses, obligations, liabilities, costs and expenses, including reasonable counsel fees (collectively, "Losses"), threatened, suffered, incurred, or sustained by Buyer: (a) by reason of any misrepresentations by Seller or any breach by Seller of this Agreement or of any of Seller's warranties, covenants, or representations contained in this Agreement; (b) arising from or by reason of Seller's ownership of the Station Assets or operation of the Station prior to the Closing Date hereunder; or (c) arising from or related to in any manner any Excluded Asset, Retained Liability.

10.3 **Buyer's Indemnity Obligation.** Subject to Section 10.1, Buyer hereby agrees to indemnify, defend, save, and hold Seller harmless with respect to any and all Losses threatened, suffered, incurred, or sustained by Seller (a) by reason of any misrepresentations by Buyer or any breach by Buyer of this Agreement or of any of Buyer's warranties, covenants, or representations contained in this Agreement; (b) relating to the Buyer's operation of the Station and any Station Asset from and after the Closing Date; or (c) arising from or related to in any manner any Assumed Obligation.

10.4 **Exclusive Remedy.** After the Closing, the indemnification rights provided in this Article 10 shall be the sole remedy, exclusive of any other rights or remedies arising under contract, at law, in equity, or otherwise, available to the Parties against one another for any claims in any way arising out of or relating to this Agreement or the transactions contemplated hereby.

ARTICLE 11: TERMINATION

11.1 **Termination.** This Agreement may be terminated at any time prior to Closing:

- (a) by the mutual written consent of Seller and Buyer;
- (b) by written notice of Seller to Buyer if Buyer defaults in any material respect in the performance of any of Buyer's covenants or agreements under this Agreement; and in any of which events such default is not cured within the Cure Period (as defined below), if applicable;
- (c) by written notice of Buyer to Seller if Seller defaults in any material respect in the performance of any of Seller's covenants or agreements under this Agreement; and in any of which events such default is not cured within the Cure Period (as defined below), if applicable; or
- (d) by written notice of Seller to Buyer, or Buyer to Seller if the Closing has not been consummated within twelve (12) months of the Effective Date; provided, however, that the right to terminate this Agreement under this clause shall not be available to any Party whose breach of this Agreement has been the cause of, or resulted in, the failure of the Closing to occur on or before such date.

11.2 **Cure Period.** The term "Cure Period" as used herein means a period commencing with the date that Buyer or Seller receives from the other Party written notice of breach or default hereunder and continuing until thirty (30) days thereafter; provided, however, that if the breach or default cannot reasonably be cured within such period but can be cured before the Closing Date, and if diligent efforts to cure promptly commence, then the Cure Period shall continue as long as such diligent efforts to cure continue, but not beyond the Closing Date.

ARTICLE 12: MISCELLANEOUS

12.1 **Governing Law.** This Agreement shall be construed and governed by the laws of the State of North Carolina (exclusive of those relating to conflicts of laws that would direct the application of the laws of another state).

12.2 **Expenses.** Except as otherwise specifically provided herein, each Party hereto shall bear all of its expenses incurred in connection with the transaction contemplated by this Agreement, including without limitation, accounting, engineering and legal fees incurred in connection herewith. Notwithstanding the foregoing, Buyer and Seller shall equally split (50/50) the legal fees and filing fees incurred connection with the transaction contemplated by this Agreement.

12.3 **Entire Agreement; Amendment; No Waiver.** This Agreement, including the schedules and exhibits hereto, contain the entire agreement and understanding by and between the Parties, and no other representations, promises, agreements, or understanding, written or oral, not contained herein shall be of any force or effect. No oral agreement shall have any effect. No modification, amendment or waiver of any provision of, or consent required by, this Agreement, or any consent to any departure here from, shall be effective unless it is in writing and signed by the Parties hereto. Such modification, amendment, waiver or consent shall be effective only in the

specific instance and for the purpose for which given. No failure or delay in exercising any right hereunder shall be deemed or construed to be a waiver of such right, either prospectively or in the particular instance.

12.4 **Risk of Loss/Interruption of Operations.** The risk of loss to any of the Station Assets on or prior to the Closing Date shall be upon Seller. If any material portion of the Station Assets (other than items that are obsolete and not necessary for the continued operations of the Station) shall suffer damage or destruction prior to the Closing Date, Seller shall promptly notify Buyer in writing of such damage or destruction, shall promptly take all commercially reasonable steps to restore, repair or replace such Station Assets at Seller's expense, and shall advise Buyer in writing of the estimated cost to complete such restoration, repair or replacement and all amounts actually paid as of the date of the estimate. In the event of damage to any material portion of the Station Assets that cannot be restored, repaired or replaced prior to the Closing, Buyer at its sole option: (a) may elect to postpone Closing until such time as such Assets have been completely repaired, replaced or restored to the reasonable satisfaction of Buyer if the repair, replacement or restoration can be accomplished within one (1) month following the date of the loss or damage or the Closing Date, whichever is the earlier; (b) may elect to consummate the Closing and accept the Station Assets in their then existing condition, in which event Seller shall pay to Buyer all unused proceeds of insurance and assign to Buyer the right to any unpaid proceeds; or (c) terminate this Agreement without liability to either Party.

12.5 **Successors and Assigns.** This Agreement shall be binding upon and inure to the benefit of the Parties hereto, and their respective representatives, successors and assigns. Neither Buyer nor Seller may assign this Agreement or any part hereof without the prior written consent of the other Party.

12.6 **Notices.** All notices, requests, demands and other communications required or permitted under this Agreement shall be in writing and shall be deemed to have been duly made and received when personally served, or when delivered by FedEx or a similar overnight courier service, expenses prepaid, addressed as set forth below:

If to **Seller**, then to:

225 Belve Dr.
Garner, NC 27529
Attention: Richard Heilmann, Sr.

If to **Buyer**, then to:

3012 Highwood Blvd., Suite 201
Raleigh, NC 27604
Attention: Donald W. Curtis

12.7 **Knowledge.** Whenever used herein with respect to a Party, the term "Seller's Knowledge" or "Knowledge of Seller" shall mean the knowledge of Richard Heilmann, Sr. after reasonable inquiry.

12.8 **Further Assurances.** From time to time prior to, on and after the Closing Date, each party hereto will execute all such instruments and take all such actions as any other party shall reasonably request, without payment of further consideration, in connection with carrying out and effectuating the intent and purpose hereof and all transactions contemplated by this Agreement, including without limitation the execution and delivery of any and all confirmatory and other instruments in addition to those to be delivered on the Closing Date, and any and all actions which may reasonably be necessary to complete the transactions contemplated hereby. The parties shall cooperate fully with each other and with their respective counsel and accountants in connection with any steps required to be taken as part of their respective obligations under this Agreement.

12.9 **Counterparts.** This Agreement may be executed in one (1) or more counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one (1) and the same instrument. Any such counterpart signature page may be delivered by electronic means, including e-mail in PDF or other image form, and shall be treated as between the Parties as an original signature page for all purposes.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

SIGNATURE PAGE TO ASSET PURCHASE AGREEMENT

IN WITNESS WHEREOF, the Parties have duly executed this Agreement as of the date first above written.

SELLER:

TRIANGLE MARKETING ASSOCIATES, INC.

By: 

Name: Richard Heilmann, Sr.

Title: President

BUYER:

FM 102.3 LLC

By: FM 102.9 LLC, its Manager

By: _____

Name: Donald W. Curtis

Title: Manager

SIGNATURE PAGE TO ASSET PURCHASE AGREEMENT


IN WITNESS WHEREOF, the Parties have duly executed this Agreement as of the date first above written.

SELLER: **TRIANGLE MARKETING ASSOCIATES, INC.**

By: _____
Name: Richard Heilmann, Sr.
Title: President

BUYER: **FM 102.3 LLC**

By: FM 102.9 LLC, its Manager

By:  _____
Name: Donald W. Curtis
Title: Manager

Schedule 1.1(a)
FCC Licenses

<u>Call Sign</u>	<u>Type of Service</u>	<u>FCC File Number</u>	<u>Expiration</u>
WKJO(FM) ¹	FM	BLH-20101029ACW	12/01/2027
KPL727	Remote Pickup (Goldsboro Fixed) ²		12/01/2027
KB96970	Remote Pickup (Goldsboro Mobile)		12/01/2027

* * * * *

¹ Operates from tower owned by New Age Communications, Inc. (ASRN 1267863).

² Operates from tower owned by New Age Communications, Inc. (ASRN 1007841).

Schedule 1.1(b)
Tangible Personal Property

All transmitting equipment owned or leased by Seller and located at the Station's transmitter site, including:

- Nautel 7.5KW FM Transmitter
- Harris 3.5KW Transmitter
- ERI 3-bay FM Antenna
- Dummy Load/Switches/Coax Cables
- Generator and Transfer Switch
- Harris Intraplex
- Burke Remote Control
- Orban Processor
- Comrex STL (Backup)

All studio, office, transmitting equipment owned or leased by Seller and located at the Station's office and studio (104 Airport Industrial Drive, Suite 102, Clayton, NC 27520).

* * * * *

Schedule 1.1(c)
Intangible Property

All call sign and intellectual property rights with respect to:

WKJO
WKJO-FM



* * * * *

Schedule 1.1(d)
Assumed Contracts

None, except to the extent otherwise mutually agreed to by Buyer and Seller, in which case the Parties shall amend this Schedule prior to Closing.

Schedule 1.7
Allocation of Purchase Price

To be completed prior to Closing

CLASS	AMOUNT
Class I. Cash and general deposit accounts (including savings and checking accounts) other than certificates of deposit.	[\$_____]
Class II. Actively traded personal property (including publicly traded stock and US government securities), certificates of deposit and foreign currency.	[\$_____]
Class III. Assets that a taxpayer marks-to-market at least annually for US federal income tax purposes, accounts receivables and most debt instruments.	[\$_____]
Class IV. Inventory and property primarily held for sale to customers.	[\$_____]
Class V. All assets other than Class I, II, III, IV, VI, and VII assets. Class V assets generally include furniture and fixtures, buildings, land, vehicles and equipment, which constitute all or part of a trade or business.	[\$_____]
Class VI. All IRC Section 197 intangibles except goodwill and going concern value.	[\$_____]
Class VII. Goodwill and going concern value (whether or not the goodwill or going concern value qualifies as a IRC Section 197 intangible).	[\$_____]
TOTAL	\$2,080,000.00