

ASSET PURCHASE AGREEMENT

THIS ASSET PURCHASE AGREEMENT (this “Agreement”) is made on this 13th day of June, 2020, by and between **Robert E. Phillips II** (“Seller”), and **White Pine Enterprises, Inc.**, a Virginia corporation (“Buyer”). Seller and Buyer are sometimes individually referred to in this Agreement as a “Party” and collectively as the “Parties.”

RECITALS

WHEREAS, Seller desires to convey all rights, title, and interest in and to certain assets used in the operation of AM broadcast station, WPAK, Farmville, Virginia (Facility ID No. 24456) and the construction permit for unconstructed FM translator, W260DJ, Farmville, Virginia (Facility ID No. 201069) (collectively, the “Stations”), subject to the terms and conditions stated herein;

WHEREAS, Buyer desires to receive and own the Stations and its assets under the terms and conditions stated herein; and

WHEREAS, the consummation of this Agreement is subject to the prior approval of the Federal Communications Commission (the “FCC”).

AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants and conditions herein contained, it is hereby agreed as follows:

1. **ASSETS**. Subject to the prior approval of the FCC, Seller agrees to transfer, assign, convey, and deliver to Buyer, and Buyer agrees to receive and accept, free and clear of all liabilities, debts, liens, charges, assessments, and encumbrances of any kind, the following:

(a) all licenses, construction permits, authorizations, or other rights of any kind issued or granted by the FCC to Seller with respect to the Stations (collectively the “FCC Authorizations”) listed in **Schedule 1(a)**;

(b) real property lease used in the operation of WPAK’s transmitter facility (“Real Property Lease”) listed in **Schedule 1(b)**;

(c) all of the broadcast equipment of the Station (the “Equipment”) listed in **Schedule 1(c)**; and

(d) all FCC files and records pertaining to the Station (“FCC Records”).

The schedules as identified in the foregoing are attached hereto and made a part hereof. The FCC Authorizations, Real Property Lease, Equipment, and FCC Records are sometimes collectively referred to in this Agreement as the “Assets.” Seller will retain its accounts receivable, cash,

deposits, and prepaid items, and any asset not specifically identified on **Schedules 1(a)** and **1(b)** hereto. Buyer assumes no liabilities, debts, or obligations, including without limitation, for Stations' personnel or employment contracts, retirement obligations, or any contracts, obligations, or leases of Seller except as set forth in **Schedule 1(b)** as to the Real Property Lease. Buyer assumes no liability for periods on or before the Closing Date (as defined below) under any lease or contract or for any other liability, debt, or obligation of Seller, including without limitation, any which may have accumulated or accrued on any contracts, leases, or agreements on or before the Closing Date.

2. Purchase Price. The purchase price for the Assets is FIVE HUNDRED AND ONE DOLLARS (\$501.00) (the "**Purchase Price**"). Buyer shall pay Seller the Purchase Price at Closing in the form of immediately available funds.

3. Seller's Covenants and Warranties. Seller hereby covenants and warrants as follows:

- (a) The FCC Authorizations are in full force and effect.
- (b) Seller has good and marketable title to all owned Assets.
- (c) Seller will convey said Assets to Buyer in "**AS IS, WHERE IS**" condition on the Closing Date and, except as expressly set forth in this Agreement, makes no warranty whatsoever with regard to the condition of said Assets.
- (d) Seller will deliver the Assets at Closing free and clear of all liabilities, debts, liens, claims, charges, assessments, or other encumbrances of any kind.
- (e) Seller has full power and authority to enter into and perform this Agreement and this Agreement constitutes a valid and binding Agreement of Seller enforceable in accordance with its terms.
- (f) The Real Property Lease is in good standing and in full force and effect.
- (g) Seller is responsible for all liabilities and other obligations to all current employees of the Stations and any employees hired by Seller up to the Closing Date. It is understood and agreed by the Parties that Buyer may hire new employees to operate the Stations for dates after the Closing Date, assumes no liabilities or obligations whatsoever for the Stations' current employees, and is under no obligation to hire any such employees.
- (h) As of the Closing Date, Seller will have paid all taxes and assessments, rent, water, sewer, and other utility charges or assessments relating to the Assets, if any.
- (i) The warranties, representations, and covenants contained in this **Section 3** shall survive Closing for a period of one (1) year.

4. **Buyer's Covenants and Warranties.** Buyer hereby covenants and warrants as follows:

(a) Buyer has full power and authority to enter into and perform this Agreement, and this Agreement constitutes a valid and binding Agreement of Buyer enforceable in accordance with its terms.

(b) Buyer knows of no reason why it should not be approved to become a holder of the FCC Authorizations.

(c) Prior to Closing, Buyer will have inspected the Assets to be conveyed pursuant to the terms of this Agreement and found each item to be in satisfactory condition and suitable for Buyer's purposes.

(e) No broker, finder, or other person is entitled to a commission, brokerage fee, or other similar payment in connection with this Agreement or the transactions contemplated hereby as a result of any agreement or action of Buyer.

(e) Warranties, covenants, and representations contained in this **Section 4** shall survive the Closing Date for a period of one (1) year.

5. **FCC Assignment Application.** Seller and Buyer shall file an application ("**FCC Assignment Application**") with the FCC for consent to the assignment of the FCC Authorizations to Buyer within five (5) business days after executing this Agreement and to cooperate fully and diligently in seeking FCC's consent (the "**FCC Consent**") to assignment of the FCC Authorizations from Seller to Buyer.

6. **Closing.** The closing (the "**Closing**") of the transaction contemplated in this Agreement shall occur on a date (the "**Closing Date**") that is no more than ten (10) business days following the date on which the FCC Consent shall have become a Final Order (as defined below) unless such requirement shall have been waived by Buyer in its sole discretion, and in no even later than ten (10) months after the date on which FCC Consent is issued.

For purposes of this Agreement, the term "**Final Order**" means action by the FCC consenting to the Assignment Application, and such consent shall not have been reversed, stayed, enjoined, set aside, annulled, or suspended, and with respect to which action no timely request for stay, petition for rehearing, petition for reconsideration, application for review, or notice of appeal is pending, and as to which the times for filing any such request, petition, application, notice, or appeal, or for reconsideration or review by the FCC on its own motion, shall have expired

7. **Closing Documents.** Seller will at Closing execute and deliver to Buyer customary assignments, deeds, instruments, and other documents sufficient to grant to Buyer title to the Assets, free and clear of liabilities, debts, claims, assessments, liens, and other encumbrances of any kind. Buyer will at Closing execute and deliver to Seller such documents and instruments of assumption as may reasonably be requested by Seller for Buyer to assume the

assignment of the Assets, including the Real Property Lease. Buyer shall also deliver the Purchase Price as provided in **Section 2** above.

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

- (a) by mutual written consent of Seller and Buyer;
- (b) by written notice of Seller to Buyer if Buyer breaches in any material respect any of its representations or warranties or other terms of this Agreement, or defaults in any material respect in the performance of any of its covenants or agreements herein contained, and such breach or default is not cured within the Cure Period (as defined below);
- (c) by written notice of Buyer to Seller if Seller breaches in any material respect any of its representations or warranties or other terms of this Agreement, or defaults in any material respect in the performance of any of its covenants or agreements herein contained, and such breach or default is not cured within the Cure Period; or
- (d) by written notice of Seller to Buyer, or Buyer to Seller, if the Closing shall not have been consummated on or before the date which is ten (10) months after the execution of this Agreement, and if the party giving notice is not then in default hereunder.

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

9. Damages Upon Termination. Termination of this Agreement shall not relieve any party of any liability for breach or default under this Agreement prior to the date of termination. Upon termination under **Section 8(a)**, **(c)**, or **(d)**, this Agreement shall be deemed null and void, and neither party will have any further liability or obligation to the other. Upon termination under **Section 8(b)**, due to default of the Buyer, this Agreement shall be deemed null and void and Seller shall be entitled all other rights and remedies it may have against Buyer to recover damages resulting from Buyer's default. If this Agreement is terminated pursuant to **Section 8(c)** due to the default of Seller, the Buyer may bring an action for specific performance, Seller hereby acknowledging that the Assets are of a special, unique and extraordinary character, and that monetary damages would not be sufficient to compensate Buyer under such circumstances.

10. Control of the Stations. Prior to Closing, Seller shall have complete control over the Assets and operation of the Stations. Buyer shall have the right to reasonable access to the Stations' logs and other records as to the operation of the Stations prior to Closing and to inspect the Assets upon prior reasonable written notice to Seller. Upon Closing and the transfer and assignment of the Assets, as contemplated herein, the Buyer shall have complete control over the Assets and operation of Stations.

11. Indemnification.

(a) 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, threatened, suffered, incurred, or sustained by Buyer 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, or arising from or by reason of Seller's ownership of the Assets or operation of the Stations before the Closing Date hereunder, or arising out of any breach by Seller of the Real Property Lease or of any other agreements which might be assigned to Buyer hereunder because of events occurring prior to the Closing Date. This **Section 11(a)** shall survive Closing for one (1) year.

(b) Buyer hereby agrees to indemnify, defend, save, and hold Seller harmless with respect to any and all claims, losses, obligations, liabilities, costs, and expenses, including reasonable counsel fees, threatened, suffered, incurred, or sustained by Seller 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 or arising from or by reason of Buyer's ownership of the Assets or operation of the Stations after the Closing Date hereunder or arising out of any breach by Buyer of the Real Property Lease assigned to the Buyer hereunder because of events occurring after the Closing Date hereunder. This **Section 11(b)** shall survive Closing for one (1) year.

12. Notices. All notices required or permitted to be given under the provisions of this Agreement shall be in writing, delivered by personal delivery, or sent by commercial delivery service or certified mail, return-receipt requested. Properly made notices shall be deemed to have been given on the date of personal delivery, or the date set forth in the records of the delivery service or on the return-receipt. Notices shall be addressed as follows:

If to Seller: Robert E. Phillips II
8357 New Chapel Road
Spout Spring, VA 24593

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

Fletcher, Heald & Hildreth, PLC
1300 N 17th Street, Suite 1100
Arlington, VA 22209
Attention: Keenan P. Adamchak, Esq.

If to Buyer: White Pine Enterprises, Inc.
P.O. Box 2005
Hillsville, VA 24343-0000
Attention: Emory F. Bearden, President, Treasurer, and CEO

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

Fletcher, Heald & Hildreth, PLC
1300 N 17th Street, Suite 1100
Arlington, VA 22209
Attention: Keenan P. Adamchak, Esq.

13. Assignment. Neither Party shall assign any right under this Agreement nor delegate any duty under this Agreement unless the other Party has consented to any such assignment or delegation in writing. This document shall be binding on the heirs, successors, and assigns of the Parties hereto.

14. Severability and Independent Covenants. If any covenant or other provision of this Agreement is invalid, illegal, or incapable of being enforced by reason of any law, administrative order, judicial decision, or public policy, all other conditions and provisions shall remain in full force and effect. No covenant shall be deemed dependent upon any other covenant or provision unless so expressed in this Agreement.

15. Governing Law. This Agreement shall be governed, construed and enforced in accordance with the laws of the Commonwealth of Virginia, without regards, however, to the choice of law provisions thereof which may direct the application of the laws of another jurisdiction.

16. Entire Agreement. This Agreement, the Schedules hereto, and all documents, certificates, and other documents to be delivered by the Parties pursuant hereto collectively represent the entire understanding and agreement between Seller and Buyer with respect to the subject matter of this Agreement. This Agreement supersedes all prior negotiations among the Parties and cannot be amended, supplemented, or changed except by an agreement in writing that makes specific reference to this Agreement and that is signed by the Party against which enforcement of any such amendment, supplement, or modification is sought.

17. Waiver of Compliance; Consents. 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 of 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 set forth in this **Section 17.**

18. Counterparts. This Agreement may be signed in counterparts with the same effect as if the signature on each counterpart were upon the same instrument. Executed copies of this Agreement transmitted by facsimile or other electronic means shall be valid and binding.

19. Costs. Seller shall be responsible for all costs and fees associated with the preparation of this Agreement and the preparation and filing of the FCC Application, including, not limited to, the filing fee for the FCC Assignment Application and attorneys' fees.

20. Risk of Loss. The risk of loss to any of the Assets on or prior to the Closing Date shall be upon Seller.

[REST OF PAGE INTENTIONALLY LEFT BLANK/ SIGNATURE PAGE FOLLOWS]

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

SELLER: ROBERT E. PHILLIPS II

By: _____
Name: Robert E. Phillips II

BUYER: WHITE PINE ENTERPRISES, INC.

By: Emory F. Bearden 6-13-20
Name: Emory F. Bearden
Title: President, Treasurer, and CEO

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

SELLER: ROBERT E. PHILLIPS II

By: 
Name: Robert E. Phillips II

BUYER: WHITE PINE ENTERPRISES, INC.

By: _____
Name: Emory F. Bearden
Title: President, Treasurer, and CEO

Table of Schedules

- 1(a) FCC Authorizations**
- 1(b) Real Property Lease**
- 1(c) Inventory of Equipment**

Schedule 1(a)
FCC Authorizations

WPAK(AM), Farmville, Virginia (Facility ID No. 24456)

FCC License: File No. BL-19790919AE (Granted: December 14, 1979)

License Renewal: File No. 0000073371 (Granted: Sept. 24, 2019/ Expiration: Oct. 1, 2027)

Broadcast Auxiliaries: Remote Pickup, KA21513

FM Translator, W260DJ, Farmville, Virginia (Facility ID No. 201069)

Construction Permit: File No. BNPFT-20171211ACY (Granted: January 11, 2018/
Expiration: January 11, 2021)

Schedule 1(b)

Real Property Lease

[To be Supplied]

Schedule 1(c)

Inventory of Equipment

[To be supplied]