

## **ASSET PURCHASE AGREEMENT**

THIS ASSET PURCHASE AGREEMENT, made and entered into this 27th day of June, 2013 (this "Agreement"), by and among, **MILLARD S. YOUNTS, RECEIVER** (hereinafter "Receiver") and **LIBERTY UNIVERSITY, INC.**, a Virginia non-stock corporation ("Buyer").

**WITNESSETH:**

### **Recitals and Basic Understanding and Agreement**

**WHEREAS**, the Receiver was duly appointed by the U. S. District Court, Southern District of West Virginia (the "Court"), by Amended Judgment order in Civil Action No. 5:04-01204 (the "Case"), entered June 18, 2010 (the "Order"), to sell the assets of Digital Television Station WEFC-TV, which is licensed to operate on Channel 24 at Danville, Virginia, FCC Facility Identification Number 15507 (the "Station"), pursuant to authorizations issued by the Federal Communications Commission ("FCC"); and

**WHEREAS**, the parties hereto acknowledge and agree that this Agreement and all the rights and liabilities created hereby are specifically governed by the Court, the Order, and any future orders of the Court and the FCC; and

The parties hereto, Receiver and Buyer, agree and understand the following basic premises underlying and controlling this Agreement:

1. THE PARTIES AGREE AND ACKNOWLEDGE THAT THE TERMS OF THIS PORTION OF THIS AGREEMENT, ENTITLED "RECITALS AND BASIC UNDERSTANDING" GOVERN THIS AGREEMENT AND TO THE EXTENT ANY TERMS SET FORTH IN OTHER PORTIONS OF THIS AGREEMENT CONFLICT OR CAUSE CONFUSION OR AMBIGUITY, THE TERMS IN THIS SECTION WILL CONTROL AND SUCH OTHER TERM(S) WILL NOT BE VALID.
2. This Agreement is subject to Court approval and such compliance with FCC law and regulations as is necessary.
3. Receiver is executing this Agreement in his capacity as the Receiver in the Case and not in his personal capacity and he will have no liability or personal obligation hereunder.
4. The Receivership in this Case presently has limited funds at its disposal and cannot pay anything in connection with this Agreement or any closing hereunder.
5. The Receiver presently intends to sell the Station as described herein, but the sale of

the Station is a part of this Case, which involves maximizing the return to the receivership estate, therefore the parties enter into this agreement with the following express caveats and understandings:

- a). The Court may require bidding at a hearing in order to maximize the amount received in exchange for the Station; and
- b). The Receiver generally intends to honor this Agreement subject to Court approval, however, because of his duty to use reasonable efforts to maximize the return to the estate in exchange for the Station, he reserves the right to recommend to the Court that bidding at the hearing be allowed if he, in his sole discretion, deems such bidding to be in the best interest of the estate.

6. The Receiver is selling the Station, **“as-is-where-is.”** The Receiver may cancel this Agreement only under its terms or if ordered to do so by a Final Order of the Court.

**WHEREAS** Receiver desires to sell, subject to the terms of this section and Buyer desires to purchase, all of the assets used in the operation of the Station upon the terms and conditions set forth herein; and

**NOW, THEREFORE**, in consideration of the premises and the mutual agreements, promises, covenants and warranties set forth below, the parties intending to be legally bound, agree as follows:

## **ARTICLE 1. DEFINITIONS**

Unless otherwise stated in this Agreement, the following terms will have the following meanings:

- 1.1 Agreement** means this Asset Purchase Agreement.
- 1.2 Assignment Application (or Application)** refers to an application which the Parties (defined below) will join in and file with the Commission requesting its written consent to the terms of this Agreement and the assignment of the FCC Licenses from Receiver to Buyer.
- 1.3 Assumed Contracts** means those contracts, leases and agreements of Receiver to be assumed by Buyer, as further described in Article 2 and **Appendix D** herein.
- 1.4 Business Day** means any calendar day, excluding Saturdays or Sundays on which federally chartered banks in the city of Danville are regularly open for business.
- 1.5 Buyer** means the **LIBERTY UNIVERSITY, INC.**, or its permitted assigns.
- 1.6 Closing (or Closing Date)** means a date to be designated by Receiver upon which this Agreement will be consummated, which date will occur within ten (10) days after the Commission's consent to the Assignment Application has been granted, unless there shall have been an objection filed against the Application; and in such case, within ten (10) days after the

Commission's consent shall have become a "Final Order", unless otherwise agreed to by the parties.

**1.7 Closing Place** means the offices of counsel for Receiver or such other convenient place as Receiver and Buyer mutually agree to, or through an exchange of documents by e-mail, facsimile or overnight courier.

**1.8 Commission** (or "FCC") means the Federal Communications Commission, with offices in Washington, D.C.

**1.9 Communications Laws** means the Communications of Act of 1934, as amended, and the published rules of the FCC, promulgated thereunder.

**1.10 Escrow Agent** shall mean the law firm of Fletcher, Heald & Hildreth, PLC, at 1300 North 17<sup>th</sup> Street, 11<sup>th</sup> Floor, Arlington, VA 22208-3801.

**1.11 Escrow Deposit** shall mean the sum of FIFTY THOUSAND DOLLARS (\$50,000.00) which Buyer shall upon execution of this Agreement deliver to Escrow Agent to be held under the Escrow Agreement attached hereto and applied to the Purchase Price at Closing, or otherwise disposed of as provided in this Agreement.

**1.12 Final Order of the Commission** means an Order of the Commission, or its staff pursuant to delegated authority, granting its consent and approval to the assignment of the FCC Licenses to Buyer, which Order is no longer subject to rehearing, reconsideration or review by the Commission, or to a request for stay, an appeal or review by any court under the Communications Act of 1934, as amended (the "Communications Act"), or the rules and regulations of the Commission. Final Order may be waived by the parties. A **Final Order of the Court** means an order of the Court which is no longer subject to appeal, rehearing or stay under the applicable law or rules of the Court, and is no longer subject to upset or modification by an appellate court with jurisdiction over the Case.

**1.13 Immediately Available Funds** means funds immediately available by wire transfer, all in, or payable in, the valid currency and legal tender of the United States.

**1.14 Lien (or Liens)** means any lien at common law, or any statutory or judgment lien, including any tax lien or mechanic's lien, claim, charge, attachment, garnishment, security interest, encroachment, prescriptive easement or other encumbrance. It shall be the Buyer's responsibility to search public records for evidence of any Liens.

**1.15 Receiver** means **MILLARD S. YOUNTS, RECEIVER.**

**1.16 Station** means Television Station WEFC-TV (formerly WDRL-TV), Danville, Virginia (FCC Facility I.D. No. 15507).

**1.17 Station Assets** means the Assets to be sold and purchased pursuant to this Agreement, as further delineated in Article 2 below.

**1.18** *FCC Licenses* means all licenses, construction permits, renewals, extensions, modifications, additions and other authorizations issued to or held by Receiver from the Commission for the operation of the Station, as it is presently operated, including any current auxiliary broadcast licenses or permits.

**1.19** *Parties or Party* means Receiver and/or Buyer unless otherwise delineated.

## ARTICLE 2. PURCHASE AND SALE OF ASSETS.

Receiver, on the Closing Date at the Closing Place, will sell, assign, transfer, convey, and deliver to Buyer, by instruments in form reasonably satisfactory to Buyer, all of the assets and properties of Receiver, real and personal, tangible and intangible, of every kind and description owned or used by Receiver in the operation of the Station, including real and personal property, equipment, rights under contracts and leases and intangibles, but excluding the Excluded Assets. Without limiting the generality of the foregoing, the Station Assets shall include:

**2.1** *FCC Licenses.* All Station FCC Licenses necessary for the operation of the Station. A list of all FCC Licenses is set forth in *Appendix A* attached hereto.

**2.2** *Other Licenses.* Other Station licenses, permits and authorizations issued or granted by any other governmental or regulatory agency or authority which are necessary for the operation of the Station.

**2.3** *Real Property.* All leasehold interests used in connection with the operation of the Station, held by Receiver (except as otherwise provided in this Agreement) as of the date of this Agreement, including those interests set forth in *Appendix B* attached to this Agreement, and those interests acquired between this date and the Closing Date as permitted by this Agreement (“Real Property Leases”).

**2.4** *Personal Tangible Assets.* All tangible personal property, physical assets, fixtures, furniture and equipment used in the operation of the Station, including all items listed in *Appendix C* attached to this Agreement (“Personal Tangible Assets”). The parties agree and understand that the Personal Tangible Assets though functional are being sold in an “**as-is-where-is**” condition, with no warranties of fitness or otherwise.

**2.5** *Assumed Contracts.* The Station leases, contracts and agreements of Receiver that Buyer has reviewed and specifically agreed to assume, and that have been listed and described in *Appendix D*.

**2.6** *Intellectual Property.* All intellectual property, including call letters, logos, websites, software, domain names, trademarks, service marks, program materials and the like

now owned or held by Receiver, used, or intended for use by Receiver for the operation of the Station, as listed in *Appendix E*.

**2.7 Public Inspection File.** A copy of the Station Public Inspection File as of the Closing Date.

**2.8 Station Logs and Business Records.** The station logs of the Station, together with such files and records pertaining to the operation of each Station as Buyer may reasonably require.

**2.9 Goodwill.** All of Receiver's goodwill in, if any, and going concern value of, the Station.

### ARTICLE 3. LIABILITIES OF RECEIVER.

**3.1 Assumed Liabilities.** The Station Assets shall be sold and conveyed to Buyer free and clear of all Liens, or other liabilities, except that on the Closing Date, Buyer shall assume and agree to pay and perform those obligations of Receiver (the "Assumed Liabilities") that arise after the Closing Date under the Assumed Contracts. Upon receipt of Buyer's report indicating that there are liens on the Station Assets, Receiver will cooperate with Buyer to remove or release such liens at Closing and any amounts necessary to release the liens will be deducted from the Purchase Price.

**3.2 Excluded Liabilities** Except as specifically set forth in this Agreement, Buyer does not assume and shall not be obligated to pay, perform or discharge any of Receiver's obligations, liabilities, agreements or commitments not specifically assumed by Buyer.

### ARTICLE 4. CONSIDERATION.

**4.1 Purchase Price.** The Purchase Price to be paid to Receiver for all of the Station Assets to be acquired shall be, subject to any adjustments provided for below or elsewhere in this Agreement, the sum of **One Million Dollars (\$1,000,000.00)** cash, payable in the manner set forth below.

**4.2 Method of Payment.** At the Closing, the Buyer shall deliver to Receiver, by wire transfer to Receiver's account, the sum of **Nine Hundred Fifty Thousand Dollars (\$950,000.00)**, plus or minus the net of any adjustments or prorations provided for by this Agreement, and shall, together with Receiver, instruct the Escrow Agent to wire the Escrow Deposit to Receiver.

**4.3 Proration of Income and Expenses.** The prorations and adjustments contemplated by this Section, to the extent practicable, shall be made on the Closing Date. As to

those prorations and adjustments not capable of being ascertained on the Closing Date, an adjustment and proration shall be made within thirty (30) days of the Closing Date. In the event of any disputes between the Parties as to such adjustments, the amounts not in dispute shall nonetheless be paid at such time and such disputes shall be resolved by an independent certified public accountant mutually acceptable to the Parties, and the fees and expenses of such accountant shall be paid one-half by Receiver and one-half by Buyer. The decision of such accountant shall be conclusive and binding on the Parties. All prorations and adjustments made on the Closing Date shall be paid in the form of an increase or decrease of the amount payable by Buyer at the Closing. All prorations and adjustments made after the Closing shall be paid within five (5) business days of the determination thereof.

#### **ARTICLE 5. GOVERNMENTAL CONSENTS.**

**5.1 FCC Consent.** It is specifically understood and agreed that the consummation of this Agreement shall be subject to the prior consent of the Court and the Commission without conditions or qualifications materially adverse in each Party's reasonable judgment to that Party or, in Buyer's reasonable judgment, to the operation of the Station.

**5.2 Filing and Prosecution of Assignment Application.** Within five (5) business days following the execution of this Agreement, (i) Receiver will submit a request with the Court for approval of this Agreement, and (ii) Receiver and Buyer will jointly file with the Commission and thereafter prosecute the Assignment Application with diligence, to cooperate with each other in good faith, to use their best efforts to obtain the requisite Court and Commission consent and approval promptly and to carry out the provisions of this Agreement. Each Party will promptly provide the other with a copy of any pleading, order or other document served on it relating to the Assignment Application.

**5.3 Legal Notice of Assignment Application.** Upon the filing of the Assignment Application, Receiver shall be responsible for, and shall take the necessary steps, to provide such legal notice concerning the filing in timely fashion as required by the rules of the Commission. Receiver shall provide Buyer with evidence of Receiver's compliance with the Commission's legal notice requirements.

**5.4 Possession and Control.** Between the date of this Agreement and the Closing Date, Buyer will not control the operation of the Station, and Receiver will remain responsible for such control. Effective as of the Closing, Receiver shall have no further control over, nor right to intervene or participate in, the operation of the Station.

## ARTICLE 6. TERMINATION RIGHTS.

**6.1 Failure to Receive FCC Approval.** If the Commission has not granted the Assignment Application within nine (9) months after the Assignment Application is filed, or if the FCC has dismissed or denied the Assignment Application within such nine (9)-month period, this Agreement, at the option of either Receiver or Buyer, and upon fifteen (15) days written Notice to the other, may be terminated by either party; provided, however, that the Party giving such Notice is not in default of any provision of this Agreement. Notwithstanding the foregoing, in the event of an objection, petition or the like is filed against this transaction at the Court or the Commission, this time period above be automatically extended by an additional three (3) months.

**6.2 Failure to Receive Court Approval.** If the Court has not approved the Agreement in substantially the form as submitted to the Court within one hundred eighty (180) days after its submission to the Court by Receiver, either Party may terminate this Agreement upon fifteen (15) days written Notice to the other.

**6.3 Breach of this Agreement.** Either Party, provided it not in breach of this Agreement, may terminate this Agreement if the other Party is in breach of any representation, warranty or covenant contained herein. The Party receiving Notice under this Section 6.3 shall be afforded thirty (30) days from the date of the Notice to cure the deficiency which gave rise to the Notice.

**6.4 Party in Breach.** Notwithstanding anything in this Article to the contrary, no Party shall be entitled to terminate this Agreement while such Party is in material breach hereunder.

## ARTICLE 7. REPRESENTATIONS AND WARRANTIES OF RECEIVER.

**7.1 Organization and Standing.** Receiver has all necessary legal power and authority to conduct the business of ownership of the Station.

**7.2 Authority.** Receiver has full power and authority to enter into, and to consummate the transactions contemplated by, this Agreement and to consummate the transactions contemplated herein subject to Court and Commission approval.

**7.3 No Conflicts.** To the Receiver's best knowledge, neither the execution nor the delivery of this Agreement by Receiver, nor the performance by Receiver of its obligations under this Agreement, nor the consummation of the transaction contemplated in this Agreement by Receiver, violate any contract provision or other commitment to which Receiver is a party or any judgment or order, and will not result in the creation or imposition of any lien charge, security interest or encumbrance of any nature whatsoever upon the assets of the Station.

**7.4 FCC Licenses.**

7.4.1 Receiver is the holder of the FCC Licenses as listed in *Appendix A*. The FCC Licenses constitute all of the licenses and authorizations required for the operation of the Station and, to Receiver's knowledge, the FCC Licenses are in full force and effect unimpaired by any act or omission of Receiver, employees or agents.

7.4.2 Except as disclosed in *Appendix A*:

(a) There is not pending or, to Receiver's knowledge, threatened any action by the Commission to revoke, cancel, rescind, modify or refuse to renew in the ordinary course any of the FCC Licenses.

(b) There is not pending at the Commission any issued or outstanding, or to the knowledge of Receiver threatened, any complaint, Notice of Violation, Notice of Apparent Liability or of Forfeiture with respect to the Station.

(c) To the Receiver's knowledge, there are no other FCC or other material licenses, permits or authorizations from governmental or regulatory authorities that are required for the lawful conduct of the business and operation of the Station as currently conducted.

**7.5 FCC Qualifications.**

7.5.1 Receiver is qualified under the Communications Laws to assign the FCC Licenses to Buyer.

7.5.2 Receiver knows of no facts which would cause the Commission to withhold its consent to the assignment of the FCC Licenses to Buyer.

**7.6 Personal Tangible Assets.** *Appendix C* contains a true and complete list of the Personal Tangible Assets.

**7.7 Intellectual Property.** *Appendix E* hereto includes a true and complete list of all Intellectual Property.

**7.8 Real Property.** *Appendix B* contains true and correct descriptions of the Real Property Leases, complete copies of which have been provided to Buyer.

**7.9 Litigation; Liens.** Except as disclosed in *Appendix A*, to the knowledge of the Receiver, there are no, Liens, judgments claims, lawsuits, proceedings or investigations pending against the Station or the Receiver relating to the Station.

**7.10 Contracts and Agreements.** *Appendix D* is a true and complete list of all of the Assumed Contracts.

**7.11 Taxes.** [Intentionally omitted.]

**7.12 Disclosure.** No representation or warranty by Receiver and no written statement, schedule or certificate furnished by it pursuant to any covenant, representation or

warranty, or pursuant to the Closing, contains any untrue statement of a material fact or will omit to state a material fact necessary to make the statements set forth not misleading.

**7.13 Encumbrances.** At Closing, the Station Assets will be delivered free and clear of any and all Liens.

## **ARTICLE 8. REPRESENTATIONS AND WARRANTIES OF BUYER.**

Buyer represents and warrants to Receiver the following:

**8.1 Organization and Standing.** Buyer is a non-stock corporation existing and in good standing under the laws of the Commonwealth of Virginia.

**8.2 Authorization.** Buyer has full power and authority to enter into this Agreement and the Agreement constitutes a valid and binding obligation.

**8.3 FCC Qualifications.**

8.3.1 Buyer is qualified under the Communications Laws to be and become the licensee of the Station.

8.3.2 Buyer knows of no facts which would cause the Commission to withhold its consent to the assignment of the FCC Licenses to Buyer.

8.4.3 No waiver of any Commission rule or policy is necessary for the Commission's consent to the transactions contemplated hereto to be obtained.

**8.4 Litigation.** There is no action or outstanding judgment, or any pending claim, litigation, proceeding, or, to the knowledge of Buyer, any investigation or claim threatened against Buyer which might adversely affect Buyer's ability to carry out fully the transactions contemplated by this Agreement or which would encumber Receiver's rights to the Purchase Price, and Buyer knows of no facts which would form the basis for such claim, litigation, proceeding or investigation.

## **ARTICLE 9. COVENANTS.**

**9.1 Affirmative Covenants of Receiver.** Receiver shall, through the Closing Date, with respect to the Station:

9.1.1 *Representations and Warranties.* Take such steps as are necessary to ensure that all representations and warranties of the Receiver set forth in this Agreement remain true and correct up to and including the Closing Date.

9.1.2 *Notification.*

(a) Give detailed written Notice to Buyer promptly upon the occurrence of, or upon becoming aware of the impending or threatened occurrence of, any event

that would cause or constitute a material breach of Receiver's representations or warranties contained in this Agreement or in any schedule referred to in this Agreement; and

(b) Promptly notify Buyer in writing upon becoming aware of any order or decree or any petition or complaint praying for an order or decree restraining or enjoining the consummation of this Agreement or the transactions contemplated by it, or upon receiving notice from any governmental department, court, agency, or commission of its intention to institute an investigation into, or institute a suit or proceeding to restrain or enjoin the consummation of this Agreement or such transactions, or to nullify or render ineffective this Agreement or such transactions if consummated.

*9.1.3 Fulfill Conditions.* Use best efforts to fulfill and perform all conditions and obligations on his part to be fulfilled and performed under this Agreement and to cause the transactions contemplated by this Agreement to be fully carried out.

*9.1.4 Consents, Approvals and Cooperation.* Use best efforts to obtain any necessary third-party consents, transfers, authorizations, estoppel certificates or approvals required for the consummation of the transactions contemplated hereby.

**9.2 Buyer's Covenants.** Between the date hereof, and the Closing Date, Buyer shall:

*9.2.1* Use best efforts to fulfill and perform all conditions and obligations on its part to be fulfilled and performed under this Agreement and to cause the transactions contemplated by this Agreement to be fully carried out, and not take any action that conflicts with its obligations hereunder or that causes its representations and warranties to become untrue in any material respect.

*9.2.2*

(a) Give detailed written Notice to Receiver promptly upon the occurrence of, or upon becoming aware of the impending or threatened occurrence of, any event that would cause or constitute a breach of any of Buyer's representations or warranties contained in this Agreement or in any schedule referred to by it.

(b) Promptly notify Receiver in writing upon becoming aware of any order or decree or any petition or complaint praying for an order or decree restraining or enjoining the consummation of this Agreement or the transactions contemplated by it, or upon receiving any notice from any governmental department, court, agency, or commission of its intention to institute an investigation into, or institute a suit or proceeding to restrain or enjoin the consummation of this Agreement or such transactions, or to nullify or render ineffective this Agreement or such transactions if consummated.

*9.2.3 Third Party Consents.* Cooperate with Receiver in providing such information and taking such actions as are commercially reasonable, to obtain any necessary Third Party Consents and Estoppel Certificates to the Assumed Contracts.

## ARTICLE 10. CONDITIONS.

**10.1 Conditions Precedent to Buyer's Obligations.** The obligation of Buyer to consummate the transactions contemplated by this Agreement is subject to the fulfillment prior to or at the Closing Date of each of the following conditions:

*10.1.1 Court and Commission Approval.* That the Court and the Commission shall have consented to the transaction.

*10.1.2 Representations and Warranties.* That the representations and warranties of the Receiver contained in this Agreement, or in any related document attached or delivered pursuant to it, shall be true and correct in all material respects as of the Closing Date, except for changes expressly permitted by the terms of this Agreement.

*10.1.3 Performance.* That Receiver shall have performed and complied with, in all material respects, all covenants, agreements and conditions required by this Agreement to be performed or complied with by it prior to or at the Closing Date.

*10.1.4 Proceedings.* That (i) no action or proceeding that has not been dismissed within 30 days shall have been instituted before any court or governmental body to restrain or prohibit, or to obtain substantial damages in respect of, the consummation of this Agreement that, in the reasonable opinion of Buyer, may be expected to result in an injunction against such consummation or, if consummated, an order to nullify or render ineffective such consummation or the recovery against Receiver or Buyer of substantial damages; (ii) none of the Parties shall have received written notice from any governmental body of its intention to institute any action or proceeding to restrain or enjoin or nullify this Agreement or the transactions contemplated by it, or to commence any investigation (other than a routine letter of inquiry) into the consummation of this Agreement; and (iii) the complaint on file against the Station described in *Appendix A* shall have been resolved by Receiver through a tolling agreement or otherwise such that Buyer, as of the Closing Date and thereafter, is free and clear from any claim, liability or responsibility with respect to any administrative sanctions of any type, or any other claims, liabilities, obligations or responsibilities of any type, that may flow from FCC adjudication of the complaint or the subject matter of such complaint.

*10.1.5 Transmitter Site Leases.* Buyer shall have either assumed the Real Property Leases or shall have entered into replacement leases for the tower space and land covered in the Real Property Leases.

*10.1.6 Closing Deliveries.* Receiver shall have made all deliveries to Buyer at Closing required under Section 11.1 of this Agreement.

**10.2 Conditions Precedent to Receiver's Obligations.** The obligation of Receiver to consummate the transactions contemplated by this Agreement is subject to the fulfillment prior to or at the Closing Date of each of the following conditions:

**10.2.1 Court and Commission Approval.** The Court and Commission shall have consented to the transaction.

**10.2.2 Representations and Warranties.** That the representations and warranties of the Buyer contained in this Agreement, or in any related document attached or delivered pursuant to it, shall be true and correct in all material respects as of the Closing Date, except for changes expressly permitted by the terms of this Agreement.

**10.2.3 Performance.** That the Buyer shall have performed and complied with, in all material respects, all covenants, agreements and conditions required by this Agreement to be performed or complied with by it prior to or at the Closing Date.

**10.2.4 Closing Deliveries.** That Buyer shall have made all deliveries to Receiver at Closing required under Section 11.2 of this Agreement, including, but not limited to, payment of the Purchase Price.

## **ARTICLE 11. CLOSING DELIVERIES.**

**11.1 Receiver's Deliveries at Closing.** On the Closing Date, Receiver shall, upon receipt of Buyer's documentation required by this Agreement, duly execute and deliver or cause to be delivered to Buyer the following:

11.1.1 Copy of the Court order approving the sale.

11.1.2 An Assignment to Buyer of the FCC Licenses for the Station.

11.1.3 One or more Bills of Sale assigning, transferring and conveying to Buyer free and clear title to all of the Personal Tangible Assets.

11.1.4 An Assignment and Assumption Agreement, assigning to Buyer the Assumed Contracts together with any necessary Third Party Consents.

11.1.5 An Assignment of all Intangibles Assets owned or held by Receiver.

11.1.6 The files, records, logs and books of the Station.

11.1.7 Joint Instructions to the Escrow Agent directing it to pay the Escrow Deposit to Receiver (the "Escrow Instructions").

11.1.8 A bring-down certificate updating the Receiver's Article 7 representations and warranties as of the Closing Date.

11.1.9 Such other assignments, bills of sale or other instruments of transfer, assignment or conveyance as may be reasonably required by Buyer to effectuate the assignment, transfer and conveyance to Buyer of all the Station Assets, property, rights, privileges and

immunities of Receiver which are to be sold, transferred, conveyed and assigned to Buyer, as specified in this Agreement.

**11.2 Buyer's Deliveries at Closing.** On the Closing Date, Buyer shall, upon receipt of Receiver's releases, assurances and other documentation provided for by this Agreement (including receipt of evidence that any and all mortgages, security interests or encumbrances of any kind in and to all of the assets to be acquired by Buyer have been removed) duly execute and deliver or cause to be delivered to Receiver the following:

11.2.1 A certificate of Buyer's Secretary showing that Buyer's Chancellor and President was and is authorized by Buyer's governing documents to execute this Agreement and all documents necessary to consummate the transactions provided for in this Agreement.

11.2.2 The wire transfer of the balance of the Purchase Price, plus or minus the net of any adjustments provided for by this Agreement.

11.2.3 The Assignment and Assumption Agreement for the Assumed Contracts.

11.2.4 Buyer's executed counterpart to the Escrow Instructions.

11.2.5 Buyer's bring-down certificate updating Buyer's Article 8 representations and warranties as of the Closing Date.

## **ARTICLE 12. TAXES, FEES AND EXPENSES.**

**12.1 Expenses.** Except as otherwise expressly set forth in this Agreement, each Party shall be solely responsible for all costs and expense incurred by it in connection with the negotiation and preparation of the Agreement and the transactions contemplated thereby.

**12.2 Transfer Taxes and Similar Charges.** Recordation, transfer and documentary taxes and fees, and any excise, sales or use taxes imposed by reason of the transfer of the Assets in accordance with this Agreement shall be paid by Buyer, one-half of such fees and taxes to be deducted from the Purchase Price at Closing.

**12.3 Governmental Filing or Grant Fees.** Any filing or grant fees imposed by any governmental authority the consent of which is required to the transactions contemplated hereby shall be advanced and paid by Buyer with one-half of such fees deducted from the Purchase Price at Closing.

## **ARTICLE 13. MISCELLANEOUS.**

**13.1 Finders, Consultants and Brokers.** Receiver and Buyer mutually represent and warrant that there is no Broker in this transaction.

**13.2 Assignment.** This Agreement may not be assigned by either party without the written consent of the other Party, except Buyer may assign this Agreement to a commonly-controlled entity, as common control is defined under FCC policies and rules governing the use of FCC Form 316. Except for such a permitted assignment, any purported assignment of any such rights without such consent will be void *ab initio*.

**13.3 No Third Party Beneficiaries.** Nothing herein expressed or implied is intended or shall be construed to confer upon or give to any person or entity other than the Parties and their successors or permitted assigns, any rights or remedies under or by reason of this Agreement.

**13.4 Notices.**

13.4.1 Any Notices required or permitted to be given under this Agreement by either party to the other may be effected by certified mail, postage prepaid with return receipt requested, or by USPS Express air service, overnight air courier service or same day delivery service, and addressed as follows:

*If to Receiver:*

Millard S. Younts, Receiver  
6802 Patterson Avenue  
Richmond, VA 23226

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

Gary S. Smithwick, Esq.  
Smithwick & Belendiuk, P.C.  
5028 Wisconsin Avenue, NW  
Suite 301  
Washington, DC 20016

*If to Buyer:*

Liberty University, Inc.  
1971 University Boulevard  
Lynchburg, Virginia 24502-2269  
Attention: Jerry L. Falwell, Jr, Chancellor

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

Harry C. Martin, Esq.  
Fletcher, Heald & Hildreth, P.L.C.  
1300 North 17<sup>th</sup> Street  
11<sup>th</sup> Floor  
Arlington, VA 22209-3801

**13.4.2** Notices shall be addressed to the Parties at the addresses given above, but each Party may change its address by written Notice to the other Party in accordance with this Section.

**13.4.3** Notice shall be deemed to have been given three (3) business days after mailing if sent by registered or certified mail, or on the next business day if sent by USPS express mail, overnight air courier, or on the same day delivered by a same day delivery service. The provision of notice by telephone facsimile or to counsel shall not constitute Notice under this Agreement.

**13.5** *Benefit.* This Agreement shall be binding upon and inure to the benefit of the Parties, their successors and assigns.

**13.6** *Other Documents.* The parties shall execute such other documents as may be necessary or desirable to the implementation and consummation of this Agreement.

**13.7** *Further Assurances.* The parties each pledge to the other that they shall take whatever steps are reasonably necessary, in good faith, and use their best efforts to carry out their obligations under this Agreement in order that the transactions contemplated may be consummated in a complete and expeditious manner.

**13.8** *Separate Counsel.* The parties have retained independent counsel in connection with the negotiation and preparation of this Agreement, and have consulted with and sought advice from their respective counsel, prior to execution, concerning their respective rights and duties under this Agreement.

**13.9** *Appendices.* All Appendices and Schedules attached to this Agreement shall be deemed to be part of this Agreement and incorporated in it, where applicable, as if fully set forth in the body of this Agreement. If any provision in any Appendix or Schedule conflicts with or is not consistent with the provisions of this Agreement, the terms of this Agreement shall govern.

**13.10** *Counterparts.* This Agreement may be signed by any number of counterparts with the same effect as if the signature of each such counterpart were upon the same instrument.

**13.11** *Headings.* The headings of the Articles, Sections and paragraphs of this Agreement are inserted as a matter of convenience and for reference purposes only and in no way define, limit or describe the scope of this Agreement nor the intent of any Section or paragraph.

**13.12** *Time of the Essence.* Time is deemed to be of the essence with respect to this Agreement, however, both parties may agree in writing to modify any time requirement contained herein.

**13.13 Entire Agreement.** This Agreement and all Appendices attached hereto and the ancillary documents provided for herein, constitute the entire agreement and understanding of the Parties hereto relating to the matters provided for herein and supersede any and all prior agreements, arrangements, negotiations, discussions and understandings relating to the matters provided for herein.

**13.14 Amendment.** This Agreement may not be amended except by an instrument in writing signed on behalf of each of the Parties hereto.

**13.15 Waivers.** No waiver of any right under this Agreement or waiver of a breach of it shall be effective unless in writing and signed by the Party or Parties waiving such right or breach. No waiver of any right or waiver of any breach shall constitute a waiver of any other or similar right or breach and no failure to enforce any right under this Agreement shall preclude or affect the later enforcement of such right.

**13.16 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, then to the maximum extent permitted by law, 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 as if such invalid, illegal or unenforceable provision or provisions had not been contained herein.

**13.17 Number and Gender.** Whenever required by the context, the singular number shall include the plural and the masculine, feminine, or neuter gender shall include all genders.

**13.18 Governing Law.** This Agreement shall be construed and enforced in accordance with the laws of the United States and the Commonwealth of Virginia, without giving effect to the choice of law provisions thereof.

**13.10 Force Majeure.** Either Party's failure to perform its covenants or agreements, in whole or part, due to any Act of God, strikes or threats thereof, *force majeure*, or any other cause beyond the reasonable control of that Party shall not constitute a breach of this Agreement, and Buyer or Receiver, as the case may be, will not be liable to the other Party therefore, provided that the failing Party uses reasonable diligence to correct such failure or impairment as soon as reasonably possible.

**13.11 Remedies on Breach.** Should Receiver materially breach this Agreement, Buyer shall be entitled to a decree of specific performance as its sole and exclusive remedy. Should Buyer materially breach this Agreement, Buyer shall forfeit to Receiver the Escrow Deposit as liquidated damages and the Parties agree that the Escrow Deposit is a reasonable amount of damages, since the ability to compute such actual damages would be very difficult.

**SIGNATURE PAGE TO  
ASSET PURCHASE AGREEMENT**

**IN WITNESS WHEREOF**, the parties have duly executed this Agreement as of the date and year first above written.

RECEIVER

**MILLARD S. YOUNTS, RECEIVER**

By:   
Millard S. Younts, Receiver

BUYER:

**LIBERTY UNIVERSITY, INC.**

By: \_\_\_\_\_  
Jerry L. Falwell, Jr.  
Chancellor and President

**SIGNATURE PAGE TO  
ASSET PURCHASE AGREEMENT**

**IN WITNESS WHEREOF**, the parties have duly executed this Agreement as of the date and year first above written.

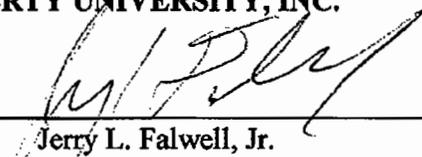
RECEIVER

**MILLARD S. YOUNTS, RECEIVER**

By: \_\_\_\_\_  
Millard S. Younts, Receiver

BUYER:

**LIBERTY UNIVERSITY, INC.**

By:  \_\_\_\_\_  
Jerry L. Falwell, Jr.  
Chancellor and President

## APPENDICES