

## **ASSET PURCHASE AGREEMENT**

This **ASSET PURCHASE AGREEMENT** (this "**Agreement**") is dated as of January 27, 2016, by and between THE TRUSTEES OF INDIANA UNIVERSITY, a body politic created and existing under the laws of the State of Indiana ("**Seller**") and KENTUCKY RIVER BROADCASTING CO., INC., a for-profit Kentucky corporation ("**Buyer**").

WITNESSETH:

***WHEREAS***, Seller is the permittee of the following unbuilt FM Translator Stations

W233BU Seymour, Indiana, Facility ID # 155988  
W251BS Greensburg, Indiana, Facility ID # 155944  
W225BQ French Lick, Indiana, Facility ID # 156048

(collectively referred to hereafter as the "**Stations**"), pursuant to authorizations issued by the Federal Communications Commission (the "**FCC**" or the "**Commission**"); and

***WHEREAS***, Seller desires to sell, transfer, assign, convey and deliver to Buyer, and Buyer desires to acquire from Seller, certain FCC authorizations owned and held by Seller and used or useful solely in connection with the Stations.

***NOW, THEREFORE***, in consideration of the foregoing premises and the mutual covenants and agreements hereinafter set forth, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto, intending to be legally bound, hereby agree as follows:

1. **Sale of Assets.** On the Closing Date (as hereinafter defined), subject to FCC approval, Seller agrees to sell, transfer, assign, convey and deliver to Buyer all of the right, title and interest of Seller in and to those certain assets of Seller owned in connection with the Stations (the "**Assets**"), which are limited to the following:
  - (a) The FCC construction permits and authorizations to construct and operate the Stations (the "**FCC Authorizations**"), as set forth on **Schedule 1**.
  - (b) **Excluded Assets.** All other assets of any type or nature not specifically identified in Schedule 1 to this Agreement shall be excluded from this transaction and retained by Seller.
2. **Purchase Price.** In consideration of the sale, transfer, assignment, conveyance and delivery of the Assets to Buyer, Buyer shall pay to Seller the aggregate sum of One Hundred Ten Thousand Dollars (\$110,000.00) (the "**Purchase Price**") by wire transfer of immediately available funds, or such other payment method mutually satisfactory to the parties. Buyer shall remit to Media Services Group ("**Escrow Agent**") the advance sum of Fifteen Thousand Dollars

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(\$15,000.00) (the "**Earnest Money Deposit**"). On the Closing Date, the Earnest Money Deposit shall be paid to Seller and credited against the Purchase Price and Buyer shall pay to Seller the Ninety-Five Thousand Dollars (\$95,000.00) balance of the Purchase Price. Payment shall be made by wire transfer of immediately available funds, pursuant to written wire instructions that Seller shall deliver to Buyer at or prior to Closing.

3. **Seller's Remedies.** The parties acknowledge that Buyer shall deposit the Earnest Money Deposit with Escrow Agent as provided in Section 2 above. In the event Buyer fails to consummate this Agreement, and such failure is by reason of a default of Buyer in material breach of Buyer's obligations under this Agreement, the Earnest Money Deposit shall be paid to Seller and shall be Seller's sole remedy.

4. **Buyer's Remedies.** The parties mutually understand and agree that the assets and property to be transferred pursuant to this Agreement are unique and cannot readily be purchased on the open market. For that reason, in the event Seller fails to consummate this Agreement, and such failure is by reason of a default of Seller in material breach of Seller's obligations under this Agreement, in lieu of an action for damages, the rights of Buyer under this Agreement, as well as the obligations of Seller, shall be enforceable by a decree of specific performance, subject to Commission consent. Provided however, if the Buyer seeks damages in any court due to Seller's failure to consummate this Agreement by reason of a default of Seller in material breach of Seller's obligations under this Agreement, such damages shall be limited to an amount not greater than the amount of the Earnest Money Deposit.

5. **FCC Consent; Assignment Application.** It is specifically understood and agreed by Seller and Buyer that the assignment of the FCC Authorizations is subject to the prior consent of the FCC ("**FCC Consent**"). Within five (5) business days after execution of this Agreement, but not later than January 28, 2016, Seller and Buyer shall jointly file with the FCC an application for assignment of the FCC Authorizations (the "**Assignment Application**") from Seller to Buyer. Seller and Buyer shall thereafter prosecute the Assignment Application with all reasonable diligence and otherwise use their mutual best efforts to obtain the grant of the Assignment Application as expeditiously as practicable.

(a) Buyer and Seller shall be jointly responsible to each pay one-half of the FCC application filing fee associated with the Assignment Application.

(b) Buyer and Seller agree that this Agreement is not contingent upon FCC grant of the Modification Applications or any other application other than FCC consent of the Assignment Agreement.

(c) Buyer and Seller agree to use WFIU (Channel 103.7, FCC Facility ID 68269) Bloomington, IN as the Primary Stations in the Assignment Application for FCC Consent ("**Assignment Primary Stations**") for a term lasting until the earlier of the Closing or termination of this Agreement.

(d) Seller hereby grants its consent for Buyer to retransmit WFIU on the Stations as the Assignment Primary Stations for a term lasting until the earlier of the

Closing or termination of this Agreement with the understanding that Buyer may in its sole discretion name a different primary station in the Modification Applications.

6. **Modification Applications.**

- (a) On January 29, 2016 (prior to 11:59 p.m. Washington, DC time), Buyer shall at its sole expense electronically file with the FCC applications on FCC Form 349 for minor modifications to the FCC Authorizations (the "**Modification Applications**") in accordance with and pursuant to the *First Report and Order, Further Notice of Proposed Rule Making, and Notice of Inquiry* in MB Docket 13-249 (the "**Report and Order**"), in the First Modification Window as that term is defined in DA-1491 (released December 23, 2015) in MB Docket 13-249 requesting changes in transmitter sites to locations designated by Buyer and different frequencies (as necessary) to relocate the Stations; provided however notwithstanding the foregoing, if Buyer shall have technical or site difficulties beyond its control which cause delay, Buyer will file the Modification Applications as soon as possible after January 29, 2016, but in any event not later than ten (10) days thereafter, unless the consent of Seller is obtained. Failure by Buyer to file the Modification Applications as required above shall be considered a material breach of this Agreement by Buyer, which shall be grounds for Seller to terminate this Agreement and retain the Earnest Money Deposit as liquidated damages in accordance with Section 3;
- (b) Buyer will be responsible for prosecution of the Modification Applications with the FCC and to do so at its sole expense;
- (c) Seller shall execute Schedule 2 to this Agreement, contemporaneous with executing this Agreement, to provide Seller's written permission for Buyer to file the Modification Applications with the FCC; and Seller will add Buyer's FRN 0001784339 to the Stations' FRN Manager in the FCC's database prior to January 29, 2016, so as to enable Buyer to file the Modification Applications in Buyer's name;
- (d) Each party will each provide to the other party a copy of every written communication and a summary of every material verbal communication which such party may receive from the FCC concerning the Modification Applications or the Assignment Application not later than one (1) business day following receipt of such written or verbal communication; and
- (e) Buyer will join with Seller in filing a request for waiver the construction deadlines for the FCC Authorizations for the Stations as outlined in paragraph 15, footnote 36 of the *Report and Order*, in MB Docket 13-249, including the express written commitment by Buyer as referenced in footnote 36 to promptly construct the facilities set forth in the Modification Applications upon approval and initiate broadcast operations. The foregoing request for waiver shall be filed if practicable on January 29, 2016, but in any event no later than ten (10) days thereafter.

7. **Closing Date.** The closing (the "**Closing**") of the transactions contemplated by

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this Agreement shall occur on a date mutually agreed upon by Buyer and Seller within ten (10) days following the date on which the FCC Consent becomes a Final Order (as that term is herein defined) and satisfaction of the conditions specified in Section 11, provided, however, that Buyer may elect, in its sole discretion, to proceed to Closing upon written notice to Seller upon the release of public notice of the grant of the FCC Consent by delegated authority, in which event the Closing shall be held not sooner than the fifth (5th) business day after the date of Buyer's notice to Seller. For purposes of this Agreement, the term "Final Order" means action by the FCC consenting to the assignment application which is not reversed, stayed, enjoined, set aside, annulled or suspended, and with respect to which action no timely request for stay, petition for rehearing or appeal is pending, and as to which the time for filing any such request, petition or appeal or reconsideration by the FCC on its own motion has expired.

8. **Seller's Representations and Warranties.** Seller represents and warrants to Buyer (except as otherwise indicated both as of this date and up and to the Closing Date):

- (a) Seller represents and warrants that Seller is a body politic created and existing under the laws of the State of Indiana. Seller has the right, power and authority, and has taken all necessary action, to enter into this Agreement and to fully perform all of its obligations under this Agreement. Seller knows of no reason why execution and performance of this Agreement would constitute a violation, breach, or default under any law, regulation, agreement or other obligation to which Buyer is or will become subject.
- (b) Until Closing, Seller will be the authorized legal holder of the FCC Authorizations and any other licenses, permits and authorizations used with the Stations.
- (c) The FCC Authorizations are in full force and effect and have not been modified, revoked, canceled or rescinded; provided however, the facilities authorized in the FCC Authorizations have not been constructed and accordingly expire on the dates set forth on such FCC Authorizations as reflected in Schedule 1.
- (d) At Closing, Buyer shall receive a document entitled Assignment of FCC Authorizations signed by Seller reflecting assignment of the FCC Authorizations from the Seller to the Buyer, free and clear of any security interest, mortgage or other encumbrance.
- (e) There is no action, suit or proceeding pending or, to Seller's knowledge, threatened against Seller in respect of the Stations that might subject Buyer to liability or which might affect Seller's ability to perform its obligations under this Agreement. Seller is not operating under or subject to any order, writ, injunction or decree relating to the Stations or the FCC Authorizations, other than the expiration of the FCC Authorizations as reflected in Schedule 1, the provisions of MB Docket 13-249, and those of general applicability such as FCC proceedings for authorizations such as the FCC Authorizations, of any court or governmental authority which

might have a material adverse effect on the FCC Authorizations or on the ability of Seller to enter into this Agreement or consummate the transactions contemplated hereby, other than those of general applicability.

9. **Buyer's Representations and Warranties.** Buyer represents and warrants to Seller (except as otherwise indicated both as of this date and up and to the Closing Date):

- (a) Buyer is a corporation duly formed under the laws of the State of Kentucky, and is validly existing and in good standing.
- (b) Buyer has the right, power and authority, and has taken all necessary action, to enter into this Agreement and to fully perform all of its obligations under this Agreement.
- (c) The execution and performance of this Agreement does not constitute a violation, breach, or default under any law, regulation, agreement or other obligation to which Buyer is or will become subject.
- (d) Buyer is legally, financially and otherwise qualified under the Communications Act of 1934, as amended, and the rules, regulations and policies of the FCC, to become the permittee of the Stations and to consummate the transactions contemplated herein.
- (e) This Agreement constitutes a valid and binding obligation of Buyer enforceable against Buyer in accordance with the terms of this Agreement. No representation or warranty made by Buyer in this Agreement or any Schedule, exhibit, statement, certificate, or other document heretofore or hereafter furnished to Seller and pursuant to this Agreement or in connection with the transaction contemplated hereby contains or will contain any knowingly untrue statement or knowingly omits to state a material fact necessary to make the statement contained therein not misleading.

10. **Further Assurances.** Each party shall, from time to time at the request of, and without further cost or expense to the other, execute and deliver such other instruments and take such other actions as may reasonably be requested in order to more effectively consummate the transactions contemplated hereby.

11. **Conditions Precedent to Obligation to Close.**

(a) The performance of the obligations of Seller hereunder are subject to the satisfaction of each of the following express conditions precedent:

(i) Buyer shall have performed and complied in all material respects with all of the agreements, obligations and covenants required by this Agreement to be performed or complied with by Buyer prior to or as of the Closing Date;

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(ii) The representations and warranties of Buyer set forth in this Agreement shall be true and correct in all material respects on and as of the Closing Date with the same effect as if made on and as of the Closing Date;

(iii) The FCC Consent shall have been issued without any condition that would have a material adverse effect upon Seller; and

(iv) Buyer shall have delivered to Seller on the Closing Date the Purchase Price as provided for in Section 2, herein.

(b) The performance of the obligations of Buyer hereunder are subject to the satisfaction of each of the following express conditions precedent:

(i) Seller shall have performed and complied in all material respects with all the agreements, obligations and covenants required by this Agreement to be performed or complied with by Seller prior to or as of the Closing Date;

(ii) The representations and warranties of Seller set forth in this Agreement shall be true and correct in all material respects on and as of the Closing Date with the same effect as if made on and as of the Closing Date; and

(iii) The FCC Consent shall have been issued without any condition that would have a material adverse effect upon Buyer unless the condition was imposed as the result of a circumstances which constitutes a breach by Buyer of any of its representations, warranties, or covenants in this Agreement.

12. **Closing Deliveries.** At the Closing, Seller shall deliver to Buyer such documents, instruments and agreements as Buyer shall request and as shall be reasonably necessary to consummate the transactions contemplated by this Agreement, each in form and substance reasonably satisfactory to counsel for Buyer.

13. **Termination.** This Agreement may be terminated prior to Closing (a) by mutual written consent of Buyer and Seller; (b) by written notice of Seller to Buyer or Buyer to Seller if Closing does not occur by the date twelve (12) months after the date of this Agreement provided that the party seeking termination is not in default of this Agreement; or (c) in the event either party is in material uncured default of this Agreement, by the non-defaulting party. In the event of termination of this Agreement pursuant to clauses (a) and (b) of Section, this Agreement shall forthwith become void and the parties shall be released for any further obligation hereunder

14. **Transfer Fees, Taxes and Construction Status.** Seller is acquiring the FCC Authorizations for the unbuilt FM translator Stations without any assurances from Seller that the Buyer will obtain approval of the Modification Applications, and Seller is under no obligation whatsoever to acquire or convey any transmitters, equipment, or tower sites, or rights to site locations for the Stations to Buyer or without limitation, to otherwise prepare for, facilitate, commence, or construct the Stations at any time prior or subsequent to Closing or to prosecute

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the Modification Applications or file any other unrelated modification applications. Seller and Buyer shall split equally any and all bulk transfer fees, transfer taxes, sales taxes or other taxes, assessments, associated with the purchase of the Stations. Buyer shall be solely responsible for and all fees associated with the filing and prosecution of the Modification Applications.

15. **Miscellaneous.**

- (a) This Agreement shall inure to the benefit of, and shall be binding upon, the parties hereto and their heirs, successors, executors, legal representatives and assigns, provided however that neither party hereto may voluntarily assign this Agreement without the express written consent of the other party and provided that the party assigning its rights and obligations under this Agreement shall remain jointly and severally liable to perform such obligations.
- (b) 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 hereto and their successors or permitted assigns, any rights or remedies under or by reason of this Agreement.
- (c) The construction and performance of this Agreement shall be governed by the laws and courts of the State of Indiana, without regard to conflicts of law principles, and with venue for any court action in courts with jurisdiction in Bloomington, Indiana.
- (d) This Agreement embodies the entire agreement and understanding of the parties hereto relating to the matter provided for herein, and supersedes any and all prior agreements, arrangements and understandings relating to the matters provided for herein.
- (e) No amendment, waiver of compliance with any provision or condition hereof or consent pursuant to this Agreement shall be effective unless evidenced by an instrument in writing signed by the party against whom enforcement of any waiver, amendment, change, extension or discharge is sought.
- (f) Except as otherwise provided for in this Agreement, each party shall be solely responsible for all costs and expenses incurred by it in connection with the negotiation, preparation and performance of and compliance with the terms of this Agreement. All FCC application fees and charges applicable to any requests for the FCC Consent shall be paid by Buyer.
- (g) Time shall be of the essence in this Agreement and the performance of each and every provision hereof.
- (h) Nothing in this Agreement shall be deemed or construed to be waiver of

the sovereign immunity of the Seller under the Constitution of Indiana, the Eleventh Amendment to the United States Constitution, under the laws of Indiana, or any other applicable law and Buyer expressly reserves the right to assert such defense to any claim made under the terms of this Agreement.

- (i) No party shall be deemed the drafter of this Agreement, and this Agreement shall not be construed against either party as the drafter of the Agreement.

16. **Notices.** All notices and other communications permitted or required under this Agreement shall be in writing and shall be deemed effectively given or delivered upon personal delivery or twenty-four (24) hours after delivery to a courier service which guarantees overnight delivery or five (5) days after deposit with the U.S. Post Office, by registered or certified mail, postage prepaid, and, in the case of courier or mail delivery, addressed as follows (or at such other address for a party as shall be specified by like notice):

If to Seller to:

The Trustees of Indiana University  
Attention: Don Lukes, University Treasurer  
Indiana University  
Bryan Hall 212  
107 South Indiana Avenue  
Bloomington, IN 47405-7000

With a copy to (which shall not constitute legal notice):  
M. Scott Johnson, Esq.  
Fletcher, Heald & Hildreth, PLC  
1300 North 17<sup>th</sup> Street, 11<sup>th</sup> Floor  
Arlington, VA 22209

If to Buyer to:

Kentucky River Broadcasting Co., Inc.  
Attention: Kelly T. Wallingford  
120 Big Hill Ave.  
Richmond, KY 40475

With a copy to (which shall not constitute legal notice)  
John Neely, Esq.  
Miller and Neely, PC  
Suite 203  
3750 University Blvd., West  
Kensington, MD 20895



17. **Counterparts.** This Agreement may be signed in counterpart originals, which collectively shall have the same legal effect as if all signatures had appeared on the same physical document. This Agreement may be signed and exchanged by facsimile transmission or other generally accepted electronic means (including PDF or DocuSign), with the same legal effect as if the signatures had appeared in original handwriting on the same physical document.

18. **Responsibilities of the Parties**

(a) Seller shall be responsible for any and all claims, liabilities and obligations of any nature, absolute or contingent, of third parties relating to the ownership of the FCC Authorizations and Assets by Seller prior to the Closing.

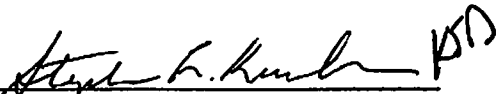
(b) Buyer shall be responsible for any and all claims, liabilities and obligations of any nature, absolute or contingent, of third parties relating to the ownership of the FCC Authorizations by Buyer and operation of the Stations as conducted by Buyer subsequent to the Closing and with respect to the Modification Applications and any applications pertaining to the Stations proposed, prepared, filed and/or prosecuted by Buyer or on Buyer's behalf prior to and after the Closing.

19. **Brokers.** 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 Seller or any party acting on Seller's behalf, other than Robert L. Heymann Jr. of Media Services Group, which commission Seller will pay pursuant to the terms of its brokerage agreement with Media Services Group. 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 or any party acting on Buyer's behalf.

*(The next page following includes the signatures of the parties.)*

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the day and year first above written.

**THE TRUSTEES OF INDIANA UNIVERSITY**

By:   
Name: Stephen Keucher  
Title: Associate Vice President for Administration

**KENTUCKY RIVER BROADCASTING CO., INC.**

By: \_\_\_\_\_  
Name: Kelly T. Wallingford  
Title: President

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the day and year first above written.

**THE TRUSTEES OF INDIANA UNIVERSITY**

By: \_\_\_\_\_

Name: Stephen Keucher

Title: Associate Vice President for Administration

**KENTUCKY RIVER BROADCASTING CO., INC.**

By: \_\_\_\_\_

Name: Kelly T. Wallingford

Title: President

**SCHEDULE 1**

**FCC Authorizations**

W233BU Seymour, Indiana, Facility ID # 155988  
FCC CP File No. BNPL- 20130328AQV

W251BS Greensburg, Indiana, Facility ID # 155944  
FCC CP File No. BNPL- 20130328AQT

W225BQ French Lick, Indiana, Facility ID # 156048  
FCC CP File No. BNPL- 20130328AQR

**SCHEDULE 2**

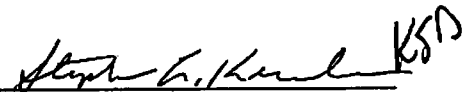
W233BU Seymour, Indiana, Facility ID # 155988

The Trustees of Indiana University is the permittee and proposed assignor of FM translator Station W233BU Seymour, Indiana, Facility ID # 155988 to Kentucky River Broadcasting Co., Inc., as proposed assignee.

Pursuant to Section 73.3517 of the rules of the Federal Communications Commission, Kentucky River Broadcasting Co., Inc., is hereby granted permission to file an application for minor modification of the construction permit issued by the Federal Communications Commission for FM translator Station W233BU contingent upon the approval and consummation of the above-referenced assignment of the W233BU broadcast construction permit from The Trustees of Indiana University to Kentucky River Broadcasting Co., Inc.

The Trustees of Indiana University

By



Stephen Keucher

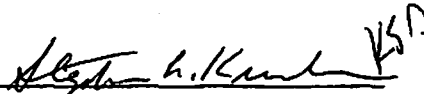
Associate Vice President for Administration

W225BQ French Lick, Indiana, Facility ID # 156048

The Trustees of Indiana University is the permittee and proposed assignor of FM translator Station W225BQ French Lick, Indiana, Facility ID # 156048 to Kentucky River Broadcasting Co., Inc., as proposed assignee.

Pursuant to Section 73.3517 of the rules of the Federal Communications Commission, Kentucky River Broadcasting Co., Inc., is hereby granted permission to file an application for minor modification of the construction permit issued by the Federal Communications Commission for FM translator Station W225BQ contingent upon the approval and consummation of the above-referenced assignment of the W225BQ broadcast construction permit from The Trustees of Indiana University to Kentucky River Broadcasting Co., Inc.

The Trustees of Indiana University

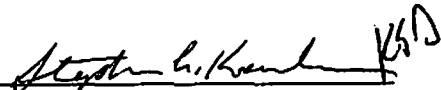
By    
Stephen Keucher  
Associate Vice President for Administration

W251BS Greensburg, Indiana, Facility ID # 155944

The Trustees of Indiana University is the permittee and proposed assignor of FM translator Station W251BS Greensburg, Indiana, Facility ID # 155944 to Kentucky River Broadcasting Co., Inc., as proposed assignee.

Pursuant to Section 73.3517 of the rules of the Federal Communications Commission, Kentucky River Broadcasting Co., Inc., is hereby granted permission to file an application for minor modification of the construction permit issued by the Federal Communications Commission for FM translator Station W251BS contingent upon the approval and consummation of the above-referenced assignment of the W251BS broadcast construction permit from The Trustees of Indiana University to Kentucky River Broadcasting Co., Inc.

The Trustees of Indiana University

By   
Stephen Keucher  
Associate Vice President for Administration