

## **ASSET PURCHASE AGREEMENT**

**THIS ASSET PURCHASE AGREEMENT** (this "Agreement") is dated as of the 18th day of July 2016 (the "Effective Date"), by and between **EDUCATIONAL MEDIA FOUNDATION**, a California non-profit, religious corporation ("Seller") and **FOREVER SOUTH LICENSES, LLC** a Delaware limited liability company ("Buyer").

### **WITNESSETH:**

**WHEREAS**, Seller is the licensee of radio station W226BC(FM), Brighton, Illinois (Channel 226D; 93.1 MHz; FIN# 145215) ("W226BC") pursuant to authorizations (the "FCC Authorizations") issued by the Federal Communications Commission (the "FCC");

**WHEREAS**, Seller is the licensee of radio station K300BU(FM), Sikeston, Missouri (Channel 300D; 107.9 MHz; FIN# 150142) ("K300BU") and together with W226BC, the "Stations") pursuant to FCC Authorizations issued by the FCC; and

**WHEREAS**, on the terms and conditions described herein, Seller desires to sell and Buyer desires to acquire certain assets owned by Seller and used or useable in connection with the operation of the Stations.

**NOW, THEREFORE**, in consideration of the foregoing and of the mutual promises herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto hereby agree as follows:

#### **1. Assets and Liabilities.**

(a) On the Closing Date (as defined below), Seller shall sell, assign and transfer, or cause to be delivered, to Buyer, and Buyer shall purchase, assume and accept from Seller, certain assets, properties, interests and rights of Seller of whatsoever kind and nature, used or useable in connection with the operation of the Stations and which are specifically described below, but excluding the Excluded Assets described in subparagraph (c) below, (collectively, the "Assets");

(i) Seller's equipment identified on Schedule 1(a)(i) hereto (collectively, the "Equipment");

(ii) all of the licenses, permits and other authorizations issued by the FCC (including, but not limited to, the FCC Authorizations), the Federal Aviation Administration (the "FAA"), and any other federal, state or local governmental authorities to Seller in connection with the conduct of the business and the operation of the Stations, identified on Schedule 1(a)(ii) hereto (collectively, the "Licenses"); and

(iii) all of Seller's right, title and interest in and to W226BC's tower lease and K300BU's tower lease (collectively, the "Tower Leases"), as further identified and described, and subject to the limitations identified on Schedule 1(a)(iii) hereto and referred to herein

(b) The Assets shall be transferred by Seller to Buyer free and clear of all debts, security interests, mortgages, trusts, claims, pledges, conditional sales agreements and other liens, liabilities and encumbrances of every kind and nature ("Liens"), except (i) liens for taxes not due and payable or, that are being contested in good faith by appropriate proceedings; and (ii) liens or mortgages, in each case that will be released on or before the Closing or otherwise satisfied by Seller with Buyer's consent.

(c) Buyer is not agreeing to, and shall not, assume any liability, obligation, undertaking, expense or agreement of Seller of any kind, absolute or contingent, known or unknown, and the execution and performance of this Agreement shall not render Buyer liable for any such liability, obligation, undertaking, expense or agreement, except for the obligations of Seller arising after Closing under either Tower Lease or any other liabilities of Seller for which Buyer receives a credit under Section 2(c) (collectively, the "Assumed Liabilities"). All liabilities, except for the Assumed Liabilities, shall be retained by Seller. Without limiting the generality of the foregoing, it is understood and agreed that Buyer is not agreeing to, and shall not, assume (i) any liability or obligation of Seller to Seller's employees under any existing written or oral agreements with Seller, including any such liability or obligation in respect of wages, salaries, bonuses, accrued vacation or sick pay or any other matter, (ii) any liability arising out of any termination by Seller of the employment of any employee of the Stations or any liability for any employee benefit plan or arrangement of Seller for Stations employees, (iii) any liability or obligation of Seller arising under either Tower Lease at or prior to Closing, or (iv) any liability or obligation of Seller arising under any contracts (other than the Tower Leases) related to the Station..

(d) The following assets and obligations relating to the business of the Stations shall be retained by Seller and shall not be sold, assigned or transferred to or assumed by Buyer (the "Excluded Assets");

(i) any and all cash, cash equivalents, cash deposits to secure contract obligations, all inter-company receivables from any affiliate of Seller and all other accounts receivable, bank deposits and securities held by Seller in respect of the Stations at the Closing Date;

(ii) any and all claims of Seller with respect to transactions prior to the Closing;

(iii) all prepaid expenses;

(iv) all contracts of insurance and claims against insurers;

(v) all employee benefit plans and the assets thereof and all employment contracts;

(vi) all contracts that are terminated in accordance with the terms and provisions of this Agreement or have expired prior to Closing in the ordinary course of business, and all loans and loan agreements;

(vii) all tangible personal property disposed of or consumed between the date hereof and Closing in the ordinary course of business;

(viii) Seller's corporate records;

(ix) all commitments, contracts, leases and agreements except to the extent that they are specifically assumed in this Agreement; and

(x) all equipment and other items located at the Stations' studio facility.

## **2. Purchase Price.**

(a) Upon the terms and subject to the conditions contained in this Agreement, and in consideration of the sale of the Assets, on the Closing Date, Buyer shall pay to Seller the aggregate sum of Eighty-Five Thousand and 00/100 Dollars (\$85,000.00) (the "Purchase Price").

(b) The parties agree to prorate all expenses arising out of the operation of the Stations which are incurred, accrued or payable, as of 11:59 p.m. local time of the day preceding the Closing. The items to be prorated shall include, but not be limited to, power and utilities charges, FCC regulatory fees, real and personal property taxes upon the basis of the most recent tax bills and information available, security deposits, and similar prepaid and deferred items. 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.

## **3. FCC Consent; FCC Applications.**

(a) At a date not later than five (5) business days after the Effective Date, Buyer and Seller shall execute, file and vigorously prosecute applications with the FCC (collectively, the "Assignment Applications") requesting its consent to the assignment, from Seller to Buyer, of all FCC Authorizations pertaining to each of the Stations (the "FCC Consent"). Buyer and Seller shall take all reasonable steps to cooperate with each other and with the FCC to secure such FCC Consent without delay, and to promptly consummate this Agreement in full.

(b) In addition to the Assignment Applications, at a date not later than five (5) business days after the Effective Date, Seller shall execute, file and vigorously prosecute applications with the FCC (the "Modification Application") requesting its consent to the relocation of the Stations' transmitting facilities (collectively, the "New Sites").

**4. Closing Date; Closing Place.** The closing of the transactions contemplated by this Agreement (the "Closing") shall occur on a date fixed by Buyer (the "Closing Date"), which such date shall be no later than ten (10) days following the date on which the final FCC Consent shall have become a Final Order (defined below) and the other conditions to closing set forth in Section 8 have either been waived or satisfied. Buyer shall deliver to Seller at least five (5) days' prior written notice of the Closing Date. For purposes of this Agreement, "Final Order" means an FCC Consent (a) that is no longer subject to review, set aside, or rehearing by the FCC or any court, and (b) that has received no timely requests for stay, petition for rehearing or

appeal. The Closing shall take place remotely by email, or in such other manner and at such other place as the parties may agree in writing.

**5. Representations and Warranties of Seller.** Seller hereby represents and warrants to Buyer:

(a) Seller is a non-profit, religious corporation duly organized, validly existing and in good standing under the laws of the State of California, and has the requisite power and authority to own, lease and operate its properties and to carry on its business as now being conducted;

(b) The execution, delivery, and performance of this Agreement by Seller will not (i) constitute a violation of or conflict with Seller's organizational documents, (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 the business of the Stations and to which Seller or any of the Assets may be subject, except for such defaults (or rights of termination, cancellation or acceleration) as to which requisite waivers or consents have been obtained and delivered to Buyer, (iii) violate any law, statute, rule, regulation, order, writ, injunction or decree of any federal, state or local governmental authority or agency and which is applicable to Seller or any of the Assets, (iv) result in the creation or imposition of any Lien of any nature whatsoever on any of the Assets, or (v) require the consent or approval of any governmental authority or other third party, other than the FCC Consent or the lessor under each Tower Lease;

(c) Schedule 1(a)(i) hereto contains a complete and accurate list of the Equipment owned by Seller that will be acquired by and transferred to Buyer. Seller owns and has, and will have on the Closing Date, good and marketable title to the Equipment. Each item of Equipment is sold by Seller and acquired by Buyer "as-is, where-is";

(d) Schedule 1(a)(ii) contains a true and complete list of the FCC Authorizations and all other Licenses that are required for the lawful conduct of the business and operations of the Stations in the manner and to the full extent it is presently operated. Seller lawfully holds each of the FCC Authorizations and Licenses listed on Schedule 1(a)(ii). Except as set forth in Schedule 1(a)(ii), Seller is operating the Stations in all material respects in accordance with the FCC Authorizations, and all applicable rules, regulations and policies of the FCC (collectively, the "Communications Laws"), including, without limitation, that the Stations is now and on the Closing Date will be transmitting at no less than ninety percent (90%) of its authorized power. Except as set forth in Schedule 1(a)(ii), all material reports and filings required to be filed with the FCC by Seller with respect to the operation of the Stations have been timely filed, and all such reports and filings are accurate and currently are in material compliance. Seller maintains a public inspection file for the Stations and, such file complies with the Communications Laws;

(e) Seller has a valid leasehold interest in the Tower Leases as described on Schedule 1(a)(iii), free and clear of all Liens, and no party is in material breach or default with respect to the same. Each Tower Lease is in effect and is binding upon Seller and, to Seller's knowledge, the other party thereto (subject to bankruptcy, insolvency, reorganization or other

similar laws relating to or affecting the enforcement of creditors' rights generally). A complete and correct copy of each Tower Lease, together with all amendments thereto, has been delivered to Buyer by Seller

(f) The instruments to be executed by Seller and delivered to Buyer at the Closing, conveying the Assets to Buyer, will transfer good and marketable title to the Assets free and clear of all Liens, other than the Assumed Liabilities and Permitted Liens;

(g) Buyer shall have no obligation to offer employment to any employee of Seller or the Stations, and shall have no liability with respect to any such employee or for benefits of any kind or nature;

(h) There is no broker or finder or other person, who would have any valid claim for a commission or brokerage in connection with this Agreement or the transaction contemplated hereby as a result of any agreement, understanding or action by Seller;

(i) Seller is not subject to any order, writ, injunction, judgment, arbitration decision or decree having binding effect and affecting the business of the Stations or the Assets or which restrains or enjoins the transactions contemplated hereby, and no such proceeding is pending;

(j) No event has occurred which imposes on Buyer any liability for any taxes, penalties or interest due or to become due from Seller from any taxing authority; and

(k) No representation or warranty made by Seller in this Agreement, and no statement made in any certificate, document, exhibit or schedule furnished or to be furnished in connection with the transactions herein contemplated, contains or will contain any untrue statement of a material fact or omits or will omit to state any material fact necessary to make such representation or warranty or any such statement not misleading to Buyer. The term "knowledge," when applied to Seller herein, means actual knowledge of the officers of Seller having responsibility for or holding a position that reasonably could be expected to involve substantial knowledge about the subject matter to which such knowledge relates.

**6. Representations and Warranties of Buyer.** Buyer hereby represents and warrants to Seller:

(a) Buyer is duly formed, validly existing and in good standing under the laws of Seller's State of formation. Buyer has the power and authority to execute and deliver this Agreement and to consummate the transactions contemplated hereby. The execution and delivery of this Agreement and the consummation of the transactions contemplated hereby have been duly and validly authorized by Buyer and no other proceedings on the part of Buyer are necessary to authorize this Agreement or to consummate the transactions contemplated hereby. This Agreement has been duly and validly executed and delivered by Buyer and 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;

(b) Buyer has the power and authority to execute and deliver this Agreement and to consummate the transactions contemplated hereby. The execution and delivery of this Agreement and the consummation of the transactions contemplated hereby have been duly and validly authorized by Buyer and no other proceedings on the part of Buyer are necessary to authorize this Agreement or to consummate the transactions contemplated hereby. This Agreement has been duly and validly executed and delivered by Buyer and constitutes the legal, valid and binding obligation of Buyer, enforceable in accordance with their respective 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;

(c) 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 by-laws 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 its own business, except for such defaults (or rights of termination, cancellation or acceleration) as to which requisite waivers or consents have been obtained and delivered to Seller, (iii) violate any law, statute, rule, regulation, order, writ, injunction or decree of any federal, state or local governmental authority or agency and which is applicable to Buyer, or (iv) require the consent or approval of any governmental authority, lending institute or other third party other than the FCC Consent or each lessor under each Tower Lease;

(d) Buyer is legally, financially and technically qualified to acquire and become the FCC licensee of the Stations and to operate the Stations in the manner contemplated hereby;

(e) Each item of Equipment is sold by Seller and acquired by Buyer "as-is, where-is";

(f) There is no litigation, proceeding or governmental investigation pending or to the knowledge of Buyer, threatened, in any court, arbitration board, administrative agency, or tribunal against or relating to Buyer including without limitation, any voluntary or involuntary petition under Federal bankruptcy law or any state receivership or similar proceedings, that would prevent or materially impede the consummation by Buyer of the transactions contemplated by this Agreement; and

(g) There is no broker or finder or other person, who would have any valid claim for a commission or brokerage in connection with this Agreement or the transaction contemplated hereby as a result of any agreement, understanding or action by Buyer.

## 7. Covenants.

(a) Seller covenants with Buyer that, between the Effective Date and the Closing Date, Seller shall act in accordance with the following:

(i) Seller shall continue to operate and maintain the Stations in accordance with the terms of the Licenses and in material compliance with all applicable laws, rules, and regulations. Seller shall deliver to Buyer, promptly after filing, copies of any reports,

applications or responses to the FCC or any communications from the FCC or any other party directed to the FCC related to the Stations which are filed between the Effective Date and the Closing Date. Except as otherwise required or permitted herein, Seller shall not file any application to modify the Stations' facilities except such modifications as are required by the public interest as determined in the sole discretion of Seller, exercised in good faith after consultation with Buyer, and Seller shall take all actions necessary to keep the Licenses valid and in full force and effect;

(ii) Seller shall not, without the prior written consent of Buyer, sell, lease, transfer or agree to sell, lease or transfer any of the Assets;

(iii) Seller shall be in material compliance with all federal, state and local laws, rules and regulations; and

(iv) Seller shall not amend or terminate either Tower Lease.

(b) Subject to the terms and conditions of this Agreement, each of the parties hereto will use commercially reasonable efforts to take all action and to do all things necessary, proper or advisable to satisfy any condition to the parties' obligations hereunder in its power to satisfy and to consummate and make effective as soon as practicable the transactions contemplated by this Agreement.

#### **8. Conditions Precedent to Obligation to Close.**

(a) The performance of the obligations of Seller hereunder is 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;

(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 Order for each Station shall be effective;

(iv) Buyer shall have delivered to Seller the documents required to be delivered pursuant to Section 9(b); and

(v) Buyer shall not be subject to any voluntary or involuntary petition under Federal bankruptcy law, or any state receivership or similarly proceeding.

(b) The performance of the obligations of Buyer hereunder is 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;

(iii) The FCC Consent for each Station shall be effective and shall have become a Final Order;

(iv) Seller shall not be subject to any voluntary or involuntary petition under Federal bankruptcy law, or any state receivership or similarly proceeding;

(v) Neither Seller nor Buyer shall be subject to any court or governmental order or injunction restraining or prohibiting the consummation of the transactions contemplated hereby; and

(vi) There shall not be any Liens on the Assets, other than the Assumed, Liabilities, Permitted Liens, or any financing statements of record.

#### **9. Closing Deliveries.**

(a) At the Closing, Seller shall deliver, or cause to be delivered, to Buyer the following:

(i) a Bill of Sale, executed by Seller (a "Bill of Sale");

(ii) an Assignment and Assumption Agreement transferring to Buyer the rights and obligations of Seller pursuant to FCC Authorizations (an "FCC Assignment"), executed by Seller ;

(iii) written consent to the assignment of each Tower Lease from Seller to Buyer, executed by each lessor under the Tower Leases

(iv) an Assignment and Assumption Agreement transferring to Buyer the rights and obligations of Seller pursuant to W226BC's Tower Lease and K300BU's Tower Lease (collectively, "Tower Lease Assignments"), executed by Seller;

(v) a certificate, dated as of the Closing Date, executed by an officer of Seller, certifying Seller's fulfillment of Seller's conditions precedent under this Agreement;

(vi) a closing statement, executed by Seller;

(vii) an IRS Form W-9, completed and executed by Seller; and

(viii) such other documents, instruments, and agreements as Buyer may reasonably deem necessary to consummate the transactions contemplated by this Agreement.



(b) At the Closing, Buyer shall deliver, or cause to be delivered, to Seller the following:

- (i) the Purchase Price;
- (ii) an FCC Assignment, executed by Buyer;
- (iii) Tower Lease Assignments, executed by Buyer;
- (iv) certified copies of the resolutions of the Board of Managers of Buyer authorizing and approving the execution and delivery of this Agreement and authorizing the consummation of the transactions contemplated hereby and thereby;
- (v) a certificate, dated the Closing Date, executed by an officer of Buyer, certifying the fulfillment of Buyer's conditions precedent under this Agreement;
- (vi) a closing statement, executed by Buyer; and
- (vii) such other documents, instruments, and agreements as Seller may reasonably deem necessary to consummate the transactions contemplated by this Agreement.

#### **10. Indemnification and Survival.**

(a) Seller shall indemnify, defend and hold harmless Buyer with respect to any and all demands, claims, actions, suits, proceedings, assessments, judgments, costs, losses, damages, liabilities and expenses (including, without limitation, interest, penalties, court costs and reasonable attorneys' fees) ("Damages") asserted against, resulting from, imposed upon or incurred by Buyer directly or indirectly relating to or arising out of: (i) either the breach by Seller of any of its representations or warranties or the failure by Seller to perform any of its covenants, conditions or agreements set forth in this Agreement; and (ii) any and all claims, liabilities and obligations of any nature, absolute or contingent, relating to the ownership and operation of the Stations, as conducted by Seller, prior to the Closing.

(b) Buyer shall indemnify, defend and hold Seller harmless with respect to any and all Damages asserted against, resulting from, imposed upon or incurred by Seller directly or indirectly relating to or arising out of: (i) either the breach by Buyer of any of its material representations or warranties or the failure by Buyer to perform any of its material covenants, conditions or agreements set forth in this Agreement; and (ii) any and all claims, liabilities and obligations of any nature, absolute or contingent, relating to the ownership and operation of the Stations, subsequent to the Closing.

(c) If either party hereto (the "Indemnatee") receives notice or otherwise obtains knowledge of any matter with respect to which another party hereto (the "Indemnifying Party") may be obligated to indemnify the Indemnatee under this Section 10(c), then the Indemnatee shall promptly deliver to the Indemnifying Party written notice describing such matter in reasonable detail and specifying the estimated amount of the Damages or liability that may be incurred by the Indemnatee in connection therewith. The Indemnifying Party shall have the right, at its option, to assume the complete defense of such matter at its own expense and with its own

counsel, provided such counsel is reasonably satisfactory to the Indemnatee. If the Indemnifying Party elects to assume the defense of such matter, then (i) notwithstanding anything to the contrary contained herein, the Indemnifying Party shall not be required to pay or otherwise indemnify the Indemnatee against the cost otherwise associated with Indemnatee's defense of such matter for the period following the Indemnifying Party's election to assume the defense of such matter, but shall be responsible for payment of any Damages or liability that may be assessed against the Indemnatee, (ii) the Indemnatee shall fully cooperate as reasonably requested by the Indemnifying Party in the defense or settlement of such matter, (iii) the Indemnifying Party shall keep the Indemnatee informed of all material developments and events relating to such matter, and (iv) the Indemnatee shall have the right to participate, at its own expense, in the defense of such matter. In no event shall the Indemnifying Party be liable for any settlement or admission of liability with respect to such matter without its prior written consent.

(d) The representations and warranties in this Agreement shall survive Closing for a period of twelve (12) months from the Closing Date, whereupon they shall expire and be of no further force or effect. The covenants and agreements in this Agreement shall survive Closing until performed.

**11. W226BC Tower Lease.** If Buyer duly provides to the lessor under W226BC's Tower Lease ("Lessor") a notice of termination pursuant to W226BC's Tower Lease, Seller shall pay the fees incurred in connection with such termination, but only to the extent such fees are attributable to the period between the effective date of such notice of termination through January 31, 2017 (the "Term Expiration Date"). Seller shall have no responsibility or liability for any fees incurred after or attributable to a date after the Term Expiration Date.

**12. Termination.**

(a) This Agreement may be terminated by either Buyer or Seller, if the party seeking to terminate is not in default or breach of any of its material obligations under this Agreement, upon written notice to the other upon the occurrence of any of the following: (i) if, on or prior to the Closing Date, the other party breaches any of its material obligations contained herein, and such breach is not cured by the earlier of the Closing Date or thirty (30) days after receipt of the notice of breach from the non-breaching party, provided however that such opportunity to cure shall not apply to the failure of a party to perform its obligations set forth in Section 4 or Section 9, hereof; (ii) if the Assignment Application is denied by Final Order; (iii) if there shall be in effect any judgment, final decree or order that would prevent or make unlawful the Closing of this Agreement; or (iv) if the Closing has not occurred within twelve (12) months after the Effective Date.

(b) Upon a termination of this Agreement by Buyer due to a breach by Seller of any of its material obligations under this Agreement, Buyer's sole remedy shall be payment by Seller to Buyer, as liquidated damages and not as a penalty, of an amount equal to three percent (3%) of the Purchase Price ("Liquidated Damages"). If Buyer is entitled to the Liquidated Damages, Seller shall deliver the Liquidated Damages to Buyer.

(c) THE DELIVERY OF THE LIQUIDATED DAMAGES AMOUNT TO BUYER SHALL BE CONSIDERED LIQUIDATED DAMAGES AND NOT A PENALTY,

AND SHALL BE BUYER'S SOLE REMEDY AT LAW OR IN EQUITY FOR A BREACH HEREUNDER IF CLOSING DOES NOT OCCUR. SELLER AND BUYER EACH ACKNOWLEDGE AND AGREE THAT THIS LIQUIDATED DAMAGE AMOUNT IS REASONABLE IN LIGHT OF THE ANTICIPATED HARM WHICH WILL BE CAUSED BY A BREACH OF THIS AGREEMENT, THE DIFFICULTY OF PROOF OF LOSS, THE INCONVENIENCE AND NON-FEASIBILITY OF OTHERWISE OBTAINING AN ADEQUATE REMEDY, AND THE VALUE OF THE TRANSACTION TO BE CONSUMMATED HEREUNDER.

(d) Upon the termination of this Agreement due to a breach by Buyer of any of its material obligations under this Agreement, Seller may seek all rights and remedies that it may have in equity or at law.

(e) Upon the termination of this Agreement for any reason other than as a result of a breach by Buyer of any of Buyer's material obligations under this Agreement, neither party will have any further liability or obligation to the other with respect to this Agreement, except with respect to the confidentiality provisions herein and any other provisions that survive termination.

**13. Specific Performance.** Seller acknowledges that the Stations is a unique asset not readily obtainable on the open market and that, in the event that Seller fails to perform its obligation to consummate the transaction contemplated hereby, money damages alone will not be adequate to compensate Buyer for its injury. Therefore, Seller agrees and acknowledges that in the event of Seller's failure to perform its obligation to consummate the transaction contemplated hereby, Buyer shall be entitled, (in lieu of any other rights and remedies on account of such failure if such relief is granted), to specific performance of the terms of this Agreement and of Seller's obligation to consummate the transaction contemplated hereby. If any action is brought by Buyer to enforce this Agreement, Seller shall waive the defense that there is an adequate remedy at law, and Buyer shall be entitled to receive from Seller all court costs, attorney's fees and other out-of-pocket expenses incurred by Buyer in enforcing its rights under this provision.

**14. Confidentiality.**

(a) Neither party (the "Receiving Party") shall disclose the Confidential Information of the other (the "Disclosing Party") to any third party. The Receiving Party shall also limit access to the Confidential Information of the Disclosing Party within its own organization only to those employees who need to know such Confidential Information in order to implement this Agreement and who are expressly obligated to maintain such Confidential Information in confidence and in accordance with the restrictions set forth herein. These obligations shall not apply to any Confidential Information received by the Receiving Party which the Receiving Party can reasonably demonstrate (i) was in the public domain at the time of receipt by the Receiving Party; (ii) entered the public domain after receipt by the Receiving Party, but through no fault of the Receiving Party; (iii) was known by the Receiving Party prior to its receipt; (iv) is lawfully disclosed to the Receiving Party by a third party that was not under an obligation of confidence to the Disclosing Party; or (v) which the Receiving Party is compelled to disclose by law or legal process, provided the Disclosing Party is given prompt written notice of any such requirement and an opportunity to contest such disclosure. This

confidentiality provision shall survive the expiration or earlier termination of this Agreement, until all Confidential Information disclosed hereunder becomes publically known or made generally available through no action or inaction of the Receiving Party. The parties acknowledge that a copy of this Agreement, redacted where appropriate, will be included in the Assignment Application.

(b) "Confidential Information" means the confidential information of the Disclosing Party, which has not been released to the public by the Disclosing Party, including, but not limited to, this Agreement technical information, designs, procedures, processes, configurations, formulas, discoveries, inventions, improvements, concepts, ideas, techniques, know-how, pricing and sales information, or any other non-public information, whether disclosed through written, oral or visual means.

(c) In the event that either party determines in good faith that a press release or other public announcement is desirable under any circumstances, the parties shall consult with each other to determine the appropriate timing, form and content of such release or announcement. Notwithstanding anything contained herein to the contrary, prior to either party distributing any press release or announcement regarding this Agreement or any of the transactions contemplated hereby, such party shall obtain the other party's written consent to distribute such press release or announcement.

**15. Notices.** All notices, elections 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 refusal thereof), 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:

Educational Media Foundation  
5700 West Oaks Boulevard  
Rocklin, CA 95765  
Attn: Mike Novak, President

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

David Oxenford, Esq.  
Wilkinson, Barker, Knauer LLP  
1800 M Street, NW  
Suite 800N  
Washington, DC 20036

If to Buyer, to:

Forever South Licenses, LLC  
Attn: Christine Hillard, President  
1919 Scottsville Rd.  
Bowling Green, KY 42104

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

Robert F. Wright, Esq.  
2604 Commons Blvd.  
Augusta, GA 30309

**16. Governing Law.** This Agreement shall be construed and enforced in accordance with the laws of the State of California, without giving effect to the State's choice or conflicts of law provisions.

**17. Partial Invalidity.** Wherever possible, each provision hereof shall be interpreted in such manner as to be effective and valid under applicable law, but in case any provision contained herein shall, for any reason, be held to be invalid or unenforceable, such provision shall be ineffective to the extent of such invalidity or unenforceability without invalidating the remainder of such provision or any other provisions hereof, unless such a construction would be unreasonable.

**18. Counterparts.** This Agreement may be executed in several counterparts, each of which will be deemed to be an original but all of which together will constitute one and the same instrument. This Agreement may be executed and exchanged by facsimile or other electronic transmission, with the same legal effect as if the signatures had appeared in original handwriting on the same physical document. At the request of any party hereto or to any such agreement or instrument, each other party hereto or thereto shall re-execute original forms thereof and deliver them to all other parties. No party hereto or to any such agreement or instrument shall raise the use of a facsimile machine to deliver a signature or the fact that any signature or agreement or instrument was transmitted or communicated through the use of a facsimile machine as a defense to the formation of a contract and each such party forever waives any such defense.

**19. Expenses.** Except as otherwise set forth in this Section, each party hereto 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. The FCC filing fees relating to the Assignment Application shall be shared equally between Buyer and Seller. All federal, state, local and other transfer and sales taxes applicable to, imposed upon or arising out of the transfer to Buyer of the Assets as contemplated hereby shall be paid by the party responsible for such amounts under applicable law.

**20. Assignment.** This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and permitted assigns. No party may voluntarily or involuntarily assign its interest or delegate its duties under this Agreement without the prior written consent of the other party, which consent shall not be unreasonably withheld or delayed

provided, however, that Buyer may assign the rights to acquire any of the Assets, other than the Licenses, to Forever Communications, Inc..

**21. Entire Agreement; Amendment.** This Agreement embodies the entire agreement and understanding of the parties hereto in respect of the subject matter contained herein. There are no restrictions, promises, representations, warranties, covenants, or undertakings, other than those expressly set forth or referred to herein. This Agreement supersedes all prior agreements and understandings between the parties with respect to such subject matter. This Agreement may not be changed or terminated orally, and no attempted change, amendment, or waiver of any of the provisions hereof shall be binding, unless in writing and signed by both parties.

**22. Schedules and Exhibits.** Unless otherwise specified herein, each Schedule or Exhibit referred to in this Agreement is attached hereto, and each such Schedule and Exhibit (if any) is hereby incorporated herein by this reference.

[SIGNATURE PAGE FOLLOWS.]

**IN WITNESS WHEREOF**, the parties hereto have executed this W226BC and K200BU Asset Purchase Agreement as of the Effective Date.

**SELLER:**

**EDUCATIONAL MEDIA FOUNDATION**

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

Name: Mike Novak

Title: President & CEO

**BUYER:**

**FOREVER SOUTH LICENSES, LLC**

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

Name: Christine Hillard

Title: Authorized Member



IN WITNESS WHEREOF, the parties hereto have executed this W226BC and K200BU Asset Purchase Agreement as of the Effective Date.

**SELLER:**

**EDUCATIONAL MEDIA FOUNDATION**

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

Name: Mike Novak

Title: President & CEO

**BUYER:**

**FOREVER SOUTH LICENSES, LLC**

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

Name: Christine Hillard

Title: Authorized Member