

## **ASSET PURCHASE AGREEMENT**

THIS ASSET PURCHASE AGREEMENT (the "Agreement") is entered into as of the 10<sup>th</sup> day of August, 2005, by and between **Educational Communications of Colorado Springs, Inc.** ("Seller") and **Educational Media Foundation** ("Buyer").

### **Background**

WHEREAS, Seller holds a construction permit (the "Permit") issued by the Federal Communications Commission ("FCC") for FM Translator Station K258BE, Estes Park, Colorado (FCC Facility ID No. 142149); and

WHEREAS, subject to FCC consent, Seller wishes to sell the Permit for the Station to Buyer, and Buyer wishes to purchase same from Seller.

NOW, THEREFORE, in consideration of the foregoing and the mutual promises, representations and covenants contained herein, the parties, intending to be bound legally, subject to the terms and conditions set forth herein agree as follows:

1. **Assignment and Sale of Permit.**

a. Subject to the terms and conditions set forth in this Agreement, Seller agrees to convey, transfer and assign to Buyer at the Closing (as defined in Section 3) all of Seller's right, title and interest in and to the Permit for the Station (a copy of which is annexed hereto in Schedule 1). There are no other assets relating to the Station being sold.

b. The consideration to be paid for the Permit shall be Thirty Thousand Dollars (\$30,000.00) (the "Purchase Price"). The Purchase Price shall be paid as follows:

(1) Upon execution of this Agreement, Buyer shall deliver to Seller by certified or bank cashier's check or wire transfer of immediately available funds a refundable good faith deposit of Six Thousand Dollars (\$6,000) (the "Good Faith Deposit") to secure Buyer's performance under this Agreement. At the Closing, the Good Faith Deposit shall be credited toward the Purchase Price.

(2) At the Closing, if the FCC Consent (as defined below) is issued for the assignment of the Permit, Buyer shall deliver to Seller by certified or bank cashier's check or wire transfer of immediately available federal funds, the balance of the Purchase Price of Twenty-Four Thousand Dollars (\$24,000.00).

2. **FCC Consent.** Within five (5) business days of the execution of this Agreement, the parties shall file an application (the "Assignment Application") for FCC consent to the assignment of the Permit for the Station (the "FCC Consent"). Each party shall be responsible for its own costs relating to the preparation of the Assignment Application. Buyer and Seller agree to proceed expeditiously and with due diligence to use their best efforts to cooperate with each other in seeking the FCC's approval of the transaction contemplated herewith.

3. **Closing.** Within ten (10) days after the FCC Consent becomes Final, i.e. no longer subject to administrative or judicial review, reconsideration or appeal, the parties shall consummate the transactions contemplated by this Agreement at a closing (the "Closing"). At the Closing, Seller shall deliver to Buyer a Bill of Sale and an Assignment of Construction Permit and any other documents of conveyance reasonably requested by Buyer and necessary to consummate the transaction contemplated by this Agreement.

4. **Pre-Closing Covenants.** Should Buyer wish to modify the facilities of the Station prior to Closing, Seller will cooperate by the filing of such applications or by providing written permission to Buyer for filing with the FCC, as necessary; however, Buyer shall be responsible for the payment of all legal and engineering costs associated with such filings. The parties will cooperate fully with each other in fulfilling their respective obligations under this Agreement, including using their respective reasonable best efforts to obtain the required FCC Consent.

5. **Condition Precedent to Closing.**

The parties acknowledge and agree that the FCC Consent to the assignment of the Permit from Seller to Buyer is a condition precedent to the Closing.

6. **Representations and Warranties.** Each party hereto expressly represents and warrants that it has the full power and authority to enter into and execute this Agreement. Subject only to the FCC Consent, there is no constraint upon either party's legal ability to perform its responsibilities hereunder. Seller represents and warrants to Buyer that no person or entity is entitled to any brokerage commissions or finder's fees in connection with the transactions contemplated by this Agreement as a result of any action taken by Seller. Buyer represents and warrants to Seller that no person or entity is entitled to any brokerage commissions or finder's fees in connection with the transactions contemplated by this Agreement as a result of any action taken by Buyer. Seller represents and warrants to Buyer that the Permit has been validly issued by the FCC, that it is in full force and effect, that it constitutes all of the authorizations issued by the FCC in connection with the Station and it is not subject to any restriction or condition that would limit the operation of the Station. Seller makes no representations or warranties regarding the feasibility of constructing the Station in a timely manner or at the transmitter sites specified in the Permit.

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

(a) by mutual written consent of Buyer and Seller; or

(b) by written notice from a party that is not then in material breach of this Agreement if the other party has failed to cure or commenced to cure any material breach of any of its representations, warranties or covenants under this Agreement within ten (10) business days after receipt of written notice of such breach from the party not in material breach; or

(c) by written notice of a party to the other party, if the Closing shall not have occurred by the first anniversary from the filing of the Assignment Application, provided, however, that if the Closing shall not have occurred because the FCC Consent shall not have

been granted, this Agreement may not be terminated by a party who materially contributed to the delay in the issuance of the FCC Consent.

**8. Effect of Termination.**

(a) If this Agreement is terminated by the parties pursuant to Section 7(a) or (c), the Good Faith Deposit shall be returned to Buyer and neither party shall have any further liability to the other, and this Agreement shall be deemed null and void and of no further force and effect.

(b) If this Agreement is terminated by Buyer pursuant to Section 7(b), the Good Faith Deposit shall be returned to Buyer.

**9. Miscellaneous.**

a. Specific Performance. The parties recognize that if Seller refuses to perform its obligations under this Agreement, monetary damages alone would not be adequate to compensate Buyer for its injury. Buyer shall therefore be entitled to obtain specific performance of this Agreement. 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 to interpose no opposition to the propriety of specific performance as a remedy.

b. Notices. All notices, demands, requests or other communication required or permitted hereunder shall be in writing and sent by overnight air courier service (charges prepaid), or personal delivery to the appropriate party at the address specified below (or to such other address which a party shall specify to the other party in writing):

**If to Seller:**

Educational Communications of Colorado Springs, Inc.  
1665 Briargate Boulevard, Suite 100  
Colorado Springs, CO 80920-3400  
Attn: Dr. Ronald A. Johnson

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

Lee Peltzman, Esquire  
Shainis & Peltzman, Chartered  
1850 M Street, N.W., Suite 240  
Washington, DC 20036

**If to Buyer:**

Educational Media Foundation  
5700 West Oaks Boulevard  
Rocklin, CA 95765

Attn: Richard Jenkins

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

David Oxenford, Jr., Esq.  
Pillsbury Winthrop Shaw Pittman, LLP  
2300 N Street, NW  
Washington, DC 20037-1128

Each party may change its address for notice purposes by providing written notice in accordance with this Section.

c. Assignment and Binding Effect. Neither party may assign its rights or obligations under this Agreement without the prior written consent of the other party, except that Buyer may assign its rights and obligations under this Agreement without the prior consent of Seller to any business entity which owns and controls Buyer, which Buyer owns and controls or which is owned and controlled by the same entity which owns and controls Buyer. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and permitted assigns.

d. Governing Law. Except to the extent governed by federal law, this Agreement shall be governed, construed and enforced in accordance with the laws of the State of Colorado, without regard to the choice of law provisions thereof. Venue and jurisdiction with respect to any lawsuit or court action arising under this Agreement shall be in the state courts of Colorado.

e. Counterparts. This Agreement may be signed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same Agreement.

f. Entire Agreement. This Agreement represents the entire understanding and agreement between the parties with respect to the subject matter hereof. This Agreement supersedes all prior negotiation, memoranda and agreements between the parties with respect to the subject matter hereof, and may not be altered, changed, modified or amended except by a written instrument signed by each of the parties hereto.

g. No Waiver. No provision or condition of this Agreement shall be waived by either party hereto except by a written instrument delivered to the other party and signed by the party consenting to and to be charged with such waiver.

h. Other and Further Documents. The parties hereto agree to execute, acknowledge and deliver, before, at or after the Closing, such other and further instruments and documents as may be reasonably necessary to implement, consummate and effectuate the terms of this Agreement.

i. Good Faith. All parties hereto shall act with reasonable diligence, and in good faith, in performing and discharging their respective duties and obligations hereunder.

j. Headings and Cross References. Headings of the sections have been included for convenience of reference only and shall in no way limit or affect the meaning or interpretation of the specific provisions of this Agreement. All cross references to sections herein shall mean the section of this Agreement unless otherwise stated or clearly required by the context.

k. Litigation Expenses. If a formal legal proceeding is instituted by a party to enforce that party's rights under this Agreement, the prevailing party in the proceeding shall be reimbursed by the other party for all reasonable costs incurred thereby, including but not limited to reasonable attorney's fees.

l. Expenses. Except as otherwise provided herein, each party shall be solely responsible for all fees and expenses each party incurs in connection with the transaction contemplated by this Agreement, including, without limitation, legal fees incurred in connection herewith.

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

**SELLER:**

EDUCATIONAL COMMUNICATIONS OF  
COLORADO SPRINGS, INC.

By: 

Ronald A. Johnson  
Chairman

**BUYER:**

EDUCATIONAL MEDIA FOUNDATION

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

Richard Jenkins  
President

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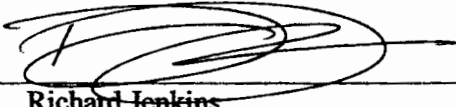
**SELLER:**

EDUCATIONAL COMMUNICATIONS OF  
COLORADO SPRINGS, INC.

By: \_\_\_\_\_  
Ronald A. Johnson  
Chairman

**BUYER:**

EDUCATIONAL MEDIA FOUNDATION

By:  \_\_\_\_\_  
Richard Jenkins  
President