

**ASSET PURCHASE AGREEMENT**

dated as of August 4, 2003

between

**NORTH TEXAS PUBLIC BROADCASTING, INC.**

and

**COMMUNITY TELEVISION EDUCATORS OF DFW, INC.**

THIS ASSET PURCHASE AGREEMENT (this "Agreement") dated as of August 4, 2003 between Community Television Educators of DFW, Inc., a Texas non-profit corporation ("Buyer"), and North Texas Public Broadcasting, Inc., a Texas non-profit corporation ("Seller").

WITNESSETH:

WHEREAS, Seller is engaged in non-commercial television broadcasting and operates and owns, leases, licenses or has the contractual right to use all of the assets and licenses used in the operation of non-commercial educational television broadcast Station KDTN-TV, Channel 2 and Station KDTN-DT, Channel 43, Denton, Texas (collectively, the "Station"), under licenses issued by the Federal Communications Commission (the "FCC"); and

WHEREAS, Buyer desires to purchase from Seller certain specified assets and assume certain specified liabilities, and Seller desires to sell to Buyer certain specified assets and transfer certain specified liabilities, related to the conduct of the Station on the terms and subject to the conditions hereinafter set forth;

NOW, THEREFORE, in consideration of the foregoing premises and for valuable consideration, the sufficiency and receipt of which are hereby acknowledged, Buyer and Seller hereby agree as follows:

**ARTICLE I**

**DEFINITIONS**

**SECTION 1.01 Definitions.**

As used in this Agreement, the following terms shall have the following meanings:

- (a) "Action" means any claim, action, suit, arbitration, inquiry, proceeding or investigation by or before any Governmental Authority.
- (b) "Affiliate" means, with respect to any Person, any other Person directly or indirectly Controlling, Controlled by or under common Control with such other Person.
- (c) "Agreement" has the meaning given such term in the preamble.
- (d) "Ancillary Agreements" means, as to any Person, all of the documents and instruments required to be executed pursuant to this Agreement by such Person.
- (e) "Assignment of Licenses" shall mean an instrument substantially in the form of Exhibit A by which Seller will transfer and assign the FCC Licenses to Buyer.
- (f) "Bill of Sale" shall mean the instrument substantially in the form of Exhibit B, by which Seller will convey to Buyer all of its rights, title and interests in and to the Personal Property.

- (g) "Business" means the conduct and operation of the Station by Seller as currently conducted.
- (h) "Business Day" means any day that is not a Saturday, a Sunday or other day on which banks are required or authorized by Law to be closed in the State of Texas.
- (i) "Buyer" has the meaning given such term in the preamble.
- (j) "Code" means the Internal Revenue Code of 1986, as amended.
- (k) "CERCLA" means The Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. (S)(S) 9601 et seq.
- (l) "Communications Act" means the Communications Act of 1934, as amended, the Telecommunications Act of 1996, the Children's Television Act and the rules and regulations promulgated thereunder, in each case, as in effect from time to time.
- (m) "Control" means, as to any Person, the power to direct or cause the direction of the management and policies of such Person, whether through the ownership of voting securities, by contract or otherwise. The terms "Controlled" and "Controlling" shall have a correlative meaning.
- (n) "Employee Plan" means any (i) employee benefit plan, arrangement or policy subject to ERISA, including without limitation, any retirement, pension, deferred compensation, severance, profit sharing, savings, group health, dental, life insurance, disability or cafeteria plan, policy or arrangement, (ii) any stock option, stock purchase or equity-based compensation plan, (iii) any bonus or incentive arrangement and (iv) any severance or termination agreements, policies or arrangements that are not covered by ERISA, in each case maintained or contributed to by either Seller or any of its Affiliates for the benefit of any current or former Station employee.
- (o) "Environmental Laws" means any applicable statute, ordinance, rule, regulation, decision, judgment, decree, permit or license, in each case, in effect on the date of this Agreement or the Closing Date, as applicable, whether local, state, or federal relating to: (i) Releases or threatened Releases of Hazardous Materials into the indoor or outdoor environment; (ii) the use, treatment, storage, disposal, handling, discharging or shipment of Hazardous Material; (iii) the regulation of storage tanks; or (iv) otherwise relating to pollution or protection of human health, occupational safety and the indoor or outdoor environment.
- (p) "FCC Consent" means the FCC's grant of its consent to the assignment of each of the FCC Licenses from Seller to Buyer.
- (q) "FCC Licenses" means the licenses, permits and other authorizations issued by the FCC for use in the operation of the Station, including any temporary waiver or special temporary authorization issued by the FCC for use in the operation of the Station, and any renewals thereof or any pending application therefor, each of which is identified on Schedule 3.10.

- (r) "Final Order" means an action by the FCC (i) that has not been vacated, reversed, stayed, enjoined, set aside, annulled or suspended, (ii) with respect to which no request for stay, petition for rehearing, reconsideration or review or appeal or sua sponte review by the FCC is pending, and (iii) as to which the time for filing any such request, petition or appeal or for review by the FCC on its own motion has expired.
- (s) "Governmental Authority" means any federal, state or local or any foreign government, governmental, regulatory or administrative authority, agency or commission or any court, tribunal, or judicial or arbitral body.
- (t) "Governmental Order" means any order, writ, judgment, injunction, decree, stipulation, determination or award entered by or with any Governmental Authority.
- (u) "Guarantor" means Word of God Fellowship, Inc., a Georgia non-profit corporation.
- (v) "Hazardous Material" means hazardous or toxic wastes, chemicals, substances, constituents, pollutants or related material, whether solids, liquids, or gases, defined or regulated under §101(14) of CERCLA; the Resource Conservation and Recovery Act, 42 U.S.C. §§6901 et seq.; the Toxic Substances Control Act, 15 U.S.C. §§2601 et seq.; the Safe Drinking Water Act, 42 U.S.C. §§300f et seq.; the Clean Air Act, as amended, 42 U.S.C. §§7401 et seq.; the Federal Water Pollution Control Act, 33 U.S.C. §§1251 et seq.; the Emergency Planning and Community Right-to-Know Act of 1986, 42 U.S.C. §§11001 et seq.; the Occupational Safety and Health Act of 1970, 29 U.S.C. §§651 et seq. or any similar federal, state or local Environmental Laws, including polychlorinated biphenyls (PCBs), asbestos, radioactive materials and wastes, and petroleum products (including crude oil and any fraction thereof).
- (w) "Knowledge of Seller" means the actual knowledge of any principal of Seller in their official capacities with Seller.
- (x) "Law" means any United States (federal, state, local) or foreign statute, law, ordinance, regulation, rule, code, order, judgment, injunction or decree.
- (y) "Lease Assignment" means the Assignment and Assumption of Lease, substantially in the form of Exhibit C, by which Seller will assign to Buyer all of Seller's right, title and interest in and to the Lease.
- (z) "Leasehold Mortgage" means the Leasehold Mortgage, substantially in the form of Exhibit D, by which Buyer will grant to Seller a lien upon the Lease to secure payment of the Note.
- (aa) "Lien" means, with respect to any property or asset, any mortgage, lien, pledge, charge, security interest or encumbrance of any kind, whether voluntarily incurred or arising by operation of Law or otherwise, in respect of such property or asset.

- (bb) "Material Adverse Effect" means a material adverse effect on (A) the condition, business, assets, or results of operations of the Business taken as a whole; or (B) the ability of Seller to perform its obligations under this Agreement or any Ancillary Agreement.
- (cc) "Material Consents" means the consents to the assignment of each of the agreements set forth on Schedule 9.03(c).
- (dd) "Permitted Liens" means, as to any property or asset, (A) liens for Taxes, assessments and governmental charges not yet due and payable or that are being contested in good faith, (B) zoning laws and ordinances and similar Laws that are not violated in any material respect by any existing improvement or that do not prohibit the use of the Leased Real Property as currently used in the Business; (C) any right reserved to any Governmental Authority to regulate the affected property (including restrictions stated in any license, permit or other authorization issued by any Governmental Authority); (D) in the case of any leased asset, (i) the rights of any lessor under the applicable lease agreement or any Lien granted by any lessor or otherwise encumbering the fee interest in the leased asset and (ii) any statutory Lien for amounts that are not yet due and payable or are being contested in good faith; (E) inchoate materialmen's, mechanics', workmen's, repairmen's or other like Liens arising in the ordinary course of business; and (F) any other Lien, other than a Lien securing a monetary obligation, that does not, individually or in the aggregate, materially detract from or interfere with any use of or impair the value of any such property or asset as currently used.
- (ee) "Person" means any natural person, general or limited partnership, corporation, limited liability company, firm, association, trust or other legal entity or organization, including a government or political subdivision or an agency or instrumentality thereof.
- (ff) "Release" means any release, spill, emission, leaking, dumping, injection, pouring, deposit, disposal, discharge, dispersal, leaching or migration into the environment (including ambient air, surface water, groundwater, land surface or subsurface strata) or within any building, structure, facility or fixture.
- (gg) "Tax" or "Taxes" means all income, excise, gross receipts, ad valorem, sales, use, employment, franchise, profits, gains, property, transfer, use, payroll, intangibles or other taxes, fees, stamp taxes, duties, charges, levies or assessments of any kind whatsoever (whether payable directly or by withholding), together with any interest and any penalties, additions to tax or additional amounts imposed by any Tax authority with respect thereto.
- (hh) "Tax Returns" means all returns and reports (including elections, declarations, disclosures, schedules, estimates and information returns) required to be supplied to a Tax authority relating to Taxes.
- (ii) "Transfer Taxes" means all excise, sales, use, value added, registration stamp, recording, documentary, conveyancing, franchise, property, transfer, gains and similar Taxes, levies, charges and fees.
- (jj) The following terms shall have the meaning given in the referenced sections:

- (a) "Actual Cost Differential" Section 7.06(f).

(b)	“American Tower”	Section 7.06(b).
(c)	“American Tower Lease”	Section 7.06(e).
(d)	“Assumed Liabilities”	Section 2.03.
(e)	“Base Amount”	Section 7.06(c).
(f)	“Buyer Indemnified Parties”	Section 11.03(a).
(g)	“Buyer Warranty Breach”	Section 11.02(a)(i).
(h)	“Buyer’s Antenna Notice”	Section 7.06(c).
(i)	“Cash Portion of the Purchase Price”	Section 2.06(c).
(j)	“Closing”	Section 2.08.
(k)	“Closing Date”	Section 2.08.
(l)	“Cost Differential”	Section 7.06(c).
(m)	“Default Payment”	Section 10.02(b)(i).
(n)	“ERISA”	Section 3.13.
(o)	“ERISA Affiliate”	Section 3.13.
(p)	“Escrow Agent”	Section 2.06(b).
(q)	“Escrow Deposit”	Section 2.06(b).
(r)	“Escrow Deposit Agreement”	Section 2.06(b).
(s)	“Estimated Cost Differential”	Section 7.06(c).
(t)	“Excluded Liabilities”	Section 2.04.
(u)	“FCC”	Recitals.
(v)	“FCC Applications”	Section 7.01(b).
(w)	“Indemnified Party”	Section 11.04(a).
(x)	“Indemnifying Party”	Section 11.04(a).
(y)	“Leased Real Property”	Section 2.01(c).
(z)	“Lease”	Section 2.01(c).
(aa)	“Losses”	Section 11.02(a).
(bb)	“Market Cable System”	Section 3.11(a).
(cc)	“Note”	Section 2.06(d).
(dd)	“Personal Property”	Section 2.01(b).
(ee)	“Purchased Assets”	Section 2.01.
(ff)	“Purchase Price”	Section 2.06(a).
(gg)	“Relocation”	Section 7.06(b).
(hh)	“Richland Tower”	Section 7.06(b).
(ii)	“Seller Indemnified Parties”	Section 11.02(a).
(jj)	“Seller Warranty Breach”	Section 11.03(a)(i).
(kk)	“Seller”	Preamble.
(ll)	“Specified Deposits”	Section 2.01(e).
(mm)	“Station”	Recitals.
(nn)	“Termination Date”	Section 10.01(b)(i).

**SECTION 1.02 Terms Generally.**

- (a) Capitalized terms used herein shall have the meaning ascribed to them in this Agreement.
- (b) Words in the singular shall be held to include the plural and vice versa and words of one gender shall be held to include the other genders as the context requires,
- (c) The terms “hereof,” “herein,” and “herewith” and words of similar import shall, unless otherwise stated, be construed to refer to this Agreement as a whole (including the Schedules and Exhibits hereto) and not to any particular provision of this Agreement, and Article, Section, paragraph, Exhibit and Schedule references are to the Articles, Sections, paragraphs, Exhibits and Schedules to this Agreement unless otherwise specified,
- (d) The word “including” and words of similar import when used in this Agreement means “including, without limitation,” unless otherwise specified, and
- (e) The word “or” shall not be exclusive.

**ARTICLE II**

**PURCHASE AND SALE**

**SECTION 2.01 Purchase and Sale.**

Except as otherwise provided below, upon the terms and subject to the conditions of this Agreement, Buyer agrees to purchase from Seller and Seller agrees to sell, convey, transfer, assign and deliver, or cause to be sold, conveyed, transferred, assigned and delivered, to Buyer at the Closing, free and clear of all Liens, other than Permitted Liens, all of Seller’s right, title and interest in, to and under the assets, contracts, properties and rights described in this Section 2.01, but excluding the Excluded Assets (the “Purchased Assets”):

- (a) all FCC Licenses;
- (b) the tangible personal property owned and leased (to the extent of Seller’s leasehold interest) by Seller and used or useful in connection with the operation of the Station (the “Personal Property”) to be transferred to Buyer pursuant hereto, all of which is listed on Schedule 3.05;
- (c) the lease agreement pertaining to the real property (the “Leased Real Property”) leased by Seller (to the extent of Seller’s leasehold interest) and used in connection with the operations of the Station, which is listed on Schedule 3.06(a)(i) (the “Lease”);
- (d) all books, records, files and papers, whether in hard copy or computer format, used in connection with the assets sold and FCC Licenses transferred pursuant to this Agreement and in the possession of Seller,

including, without limitation, technical and engineering information, manuals and data (to the extent permitted by Law);

- (e) the security deposits Seller has deposited with landlords, if any, as listed on Schedule 2.01(e) (the "Specified Deposits");
- (f) any insurance proceeds payable in accordance with Section 5.05; and
- (g) the call letters "KDTN".

## **SECTION 2.02 Excluded Assets.**

Notwithstanding any other provision of this Agreement, Buyer is purchasing only the Purchased Assets, and is not purchasing any assets of Seller not included in the Purchased Assets pursuant to Section 2.01 (all such assets not included in the Purchased Assets being herein referred to as the "Excluded Assets"). The Excluded Assets shall include the following assets of Seller, none of which Excluded Assets shall be transferred, conveyed, set over, delivered or assigned to Buyer:

- (a) Seller's cash on hand; utility deposits; accounts receivable attributable to the broadcast of material on the Station prior to the Closing; contributions and pledges to Seller from listeners and choses in action relating to the operations of the Station prior to the Closing;
- (b) all contracts, leases and agreements relating to the operations of the Station (other than the Lease), including programming and employment contracts;
- (c) all of Seller's rights in and to the intangible property rights of Seller relating to the operations of the Station, except the call letters "KDTN" and its use with any intangible property rights;
- (d) insurance policies relating to the Business and all claims, credits, causes of action or rights thereunder;
- (e) all rights to insurance proceeds relating to the Excluded Assets;
- (f) any assets of any Employee Plan sponsored by Seller or its Affiliates including any amounts due to such Employee Plan from Seller or any of its Affiliates;
- (g) all books, records, files and papers, whether in hard copy or computer format, prepared in connection with this Agreement or the transactions contemplated hereby and the corporate charter, qualification as a foreign corporation, arrangements with registered agents, taxpayer, employer and other identification numbers, seals, minute books, corporate or limited partnership records, stock or other equity records and transfer books, any shares of capital stock or other equity interest that are owned or held by Seller as treasury stock or similar equity, and other documents or instruments relating to the organization, maintenance and existence of Seller as a corporation;
- (h) all rights of Seller arising under this Agreement or the transactions contemplated hereby;

- (i) any Purchased Asset sold or otherwise disposed of in accordance with Section 5.01(c);
- (j) any and all claims of Seller with respect to transactions prior to the Closing, except to the extent that such claims are part of the Assumed Liabilities or the Purchased Assets;
- (k) all Tax Returns, all claims for refund of Taxes and other governmental charges of whatever nature;
- (l) The KDTN studio building, which is located at 3000 Harry Hines Boulevard, Dallas, Texas 75201; and
- (m) The transmitter building at the current antenna site for the analog station, which is located at 1366 West Belt Line Road, Cedar Hill, Texas 75104.

**SECTION 2.03 Assumed Liabilities.**

Upon the terms and subject to the conditions of this Agreement, Buyer agrees, effective at the Closing, to assume the following liabilities (the "Assumed Liabilities"):

- (a) All liabilities and obligations of Seller under the Lease arising after the Closing Date;
- (b) All liabilities and obligations of Seller under the FCC Licenses arising after the Closing Date; and
- (c) All liabilities and obligations arising out of Buyer's ownership of the Purchased Assets or its operation of the Station after the Closing Date.

**SECTION 2.04 Excluded Liabilities.**

Notwithstanding any provision in this Agreement to the contrary, Buyer is assuming only the Assumed Liabilities and is not assuming any other liability or obligation of Seller (or any predecessor of Seller) of whatever nature, whether presently in existence or arising hereafter. All such other liabilities and obligations shall be retained by and remain obligations and liabilities of Seller (all such liabilities and obligations not being assumed being herein referred to as the "Excluded Liabilities"), and, notwithstanding anything to the contrary in Section 2.03, none of the following shall be Assumed Liabilities for the purposes of this Agreement:

- (a) any liability or obligation of Seller under or with respect to the Lease required by the terms thereof to be discharged on or prior to the Closing Date;
- (b) any liability or obligation of Seller for borrowed money including interest and fees;
- (c) any liability or obligation relating to or arising out of any of the Excluded Assets;
- (d) any liability or obligation relating to vacation, bonuses and other employee-related benefits;

- (e) any Tax liability or obligation of Seller attributable to the conduct of the Business and operations of the Station for all taxable years (or portions thereof) ending on or before the Closing Date;
- (f) any liability or obligation relating to or arising out of any Employee Plan; and
- (g) any responsibility for satisfying the applicable requirements of Section 4980B of the Code with respect to persons employed (or formerly employed) by Seller in the Business who have a “qualifying event” (within the meaning of Section 4980B of the Code) with respect to any group health plan maintained by Seller.

**SECTION 2.05 Assignment of Rights.**

Notwithstanding any provision in this Agreement to the contrary, this Agreement shall not constitute an agreement to assign any Purchased Asset or any claim or right or any benefit arising thereunder or resulting therefrom if such assignment, without the consent of a third party thereto, would constitute a breach or other contravention of such Purchased Asset or in any way adversely affect the rights of Buyer or the Seller thereunder. Seller will use its commercially reasonable efforts to obtain the consent of the other parties to any such Purchased Asset or any claim or right or any benefit arising thereunder for the assignment thereof to Buyer as Buyer may reasonably request. Buyer shall cooperate with Seller and take such action as Seller may reasonably request in order to obtain such third party consents. If such consent is not obtained, or if an attempted assignment thereof would be ineffective or would adversely affect the rights of Seller thereunder so that Buyer would not in fact receive all such rights, Seller and Buyer will cooperate in a mutually agreeable arrangement under which Buyer would obtain the benefits and assume the obligations thereunder in accordance with this Agreement, including sub-contracting, sub-licensing, or sub-leasing to Buyer, or under which Seller would enforce for the benefit of Buyer, with Buyer assuming the Seller's obligations, any and all rights of Seller against a third party thereto. Buyer will promptly reimburse Seller for the reasonable out-of-pocket expenses incurred by Seller in carrying out any such cooperative arrangement. Seller will promptly pay to Buyer when received all monies received by Seller following the Closing in respect of any Purchased Asset.

**SECTION 2.06 Purchase Price; Payment Terms; Escrow.**

- (a) The purchase price for the purchase of the Purchased Assets shall be Twenty Million Dollars (\$20,000,000.00) (the “Purchase Price”).
- (b) Simultaneously with the execution of this Agreement, Buyer and Seller shall enter into an Escrow Agreement (the “Escrow Deposit Agreement”), substantially in the form of Exhibit E attached hereto, with Wells Fargo Bank (the “Escrow Agent”), pursuant to which Buyer shall, within one Business Day of the execution of this Agreement, deposit with the Escrow Agent the sum of One Million Dollars (\$1,000,000.00) (the “Escrow Deposit”) in cash or by wire transfer of immediately available federal funds. The Escrow Deposit shall be held and disbursed in accordance with the terms of this Agreement and the Escrow Deposit Agreement. Interest on the Escrow Deposit shall accrue to the Buyer.
- (c) At the Closing, Buyer shall pay to Seller the sum of Twelve Million Dollars (\$12,000,000.00) (the “Cash Portion of the Purchase Price”).

- (d) At the Closing, Buyer shall deliver to Seller a fully executed Promissory Note (the "Note"), substantially in the form of Exhibit F hereto, in the principal amount of Eight Million Dollars (\$8,000,000.00).
- (e) At the Closing, Buyer shall deliver to Seller a fully executed Security Agreement, substantially in the form of Exhibit G hereto.
- (f) At the Closing, Buyer shall cause to be delivered to Seller a Guaranty, fully executed by Guarantor, substantially in the form of Exhibit H hereto.

**SECTION 2.07      Transmission of Seller's Data.**

- (a) Buyer hereby grants to Seller an option, exercisable on written notice within six months of the Closing Date, to have, for a term of three (3) years commencing on the Closing Date, the exclusive right to transmit data over the facilities of Station KDTN-DT. If exercised by Seller, Seller shall have the right to use all the excess capacity of the station's digital transmission stream not used by Buyer for its broadcast programming and program related material, but not less than at least the capacity to transmit 1.5 mbps of data using the facilities of Station KDTN-DT. There shall be no charge to Seller for this option or for the data transmission service. The data shall be delivered at Seller's expense to the interconnection point agreed upon by Buyer and Seller and inserted into the digital transmission stream of Station KDTN-DT using data insertion equipment supplied by Seller and set to allow an opportunistic band width insertion.
- (b) Seller shall be responsible for providing, installing and maintaining at its own expense such equipment and facilities at Station KDTN-DT as may be necessary for Seller to transmit the data over the facilities of Station KDTN-DT. Buyer shall make available, at no cost to Seller, such space, electrical power, and environmental conditioning (heating, air conditioning and humidity control) as may be reasonably necessary for Seller to install the necessary equipment and facilities; provided, however, that any special environmental conditioning beyond that employed by Buyer for its equipment or any special equipment or facilities needed in connection with any of Seller's equipment or facilities shall be paid for by Seller. Buyer will permit Seller access to Seller's equipment at the Station during normal business hours for maintenance, repair, and replacement and shall cooperate with Seller in connection with any such maintenance, repair or replacement activities; provided, however, that Seller shall not unreasonably disturb Buyer's normal operations. Any changes to the physical plant of Buyer required by Seller in connection herewith shall be negotiated in good faith by the parties hereto.
- (c) To the extent required by the rules and regulations of the FCC, Buyer shall have the right to (i) reject any data provided by Seller the content of which Buyer, in the exercise of its reasonable judgment, determines is unsuitable for transmission over a broadcast media and (b) preempt any transmissions should Buyer determine that the public interest requires the broadcast of other material over the data stream used to transmit Seller's material. Buyer shall give Seller at least seven (7) Business Days' advanced notice in writing before exercising the right to reject or preempt Seller's data, except where the exigencies of time do not permit such advanced notice. In such event, Buyer shall give Seller as much advanced notice as practicable. Any notice that Seller's data will be rejected or preempted shall

explain the basis on which Buyer is rejecting or preempting Seller's data and afford Seller a reasonable opportunity to modify the content of the data to meet Buyer's objections.

- (d) Should the FCC determine that Seller's rights under this Section 2.07 to transmit Seller's data constitutes a right of reversion of the license or a reservation of the right to use the facilities of the Station in violation of Section 73.1150 of the FCC's rules or policies, the parties shall negotiate in good faith to revise the terms under which Seller may distribute its data over the facilities of Station KDTN-DT in accordance with Seller's objectives and FCC rules and regulations; provided, however, that if the parties cannot restructure the arrangement to meet FCC requirements, then Seller agrees to waive its rights under this Section 2.07 in order to facilitate the FCC's approval of the application for the assignment to Buyer of the FCC Licenses; and Buyer agrees, upon consummation of the sale of the Station, to use its commercially reasonable efforts to seek a waiver from the FCC of Section 73.1150 in order to permit Seller to transmit its data over the facilities of the Station in accordance with the provisions of this Section 2.07. Seller hereby agrees to file such waiver request promptly upon consummation of the sale and to cooperate with Buyer to prosecute the waiver request diligently and in good faith.

#### **SECTION 2.08 Closing.**

Subject to the provisions of Article IX, the closing (the "Closing") of the sale and purchase of the Purchased Assets and the assumption of the Assumed Liabilities hereunder shall take place at the offices of Buyer at 10:00 A.M. Central Time upon at least five (5) Business Days' written notice from Buyer to Seller after the FCC Consent becomes a Final Order; provided, however, that the Closing shall take place no later than ten (10) Business Days following the date upon which the FCC Consent becomes a Final Order, or at such other time or place as Seller and Buyer may mutually agree upon in writing (the day on which the Closing takes place being the "Closing Date"). If no petitions to deny or informal objections are filed with respect to the application to assign the FCC License, Seller will, at Buyer's request, waive the necessity of a Final Order and will close on five (5) Business Days' written notice from Buyer after the grant of the FCC Consent. Seller shall use commercially reasonable efforts to cooperate with Buyer to achieve a Closing which will be simultaneous with the closing on the sale by Buyer of Station KMPX-TV; provided, however, that in no event shall Seller be required to agree to extend the Closing Date beyond ten (10) Business Days following the date upon which the FCC Consent becomes a Final Order. The Closing shall be effective at 5:00 P.M. Central Time on the Closing Date, or at such other time as the parties may agree in writing. At the Closing:

- (a) Buyer and Seller shall cause the Escrow Agent to pay Buyer by wire transfer in immediately available federal funds, the Escrow Deposit, plus any and all interest accrued thereon during the period the Escrow Deposit was held by the Escrow Agent;
- (b) Buyer shall deliver to Seller the Cash Portion of the Purchase Price in immediately available federal funds to one or more accounts designated by Seller, by notice to Buyer, which notice shall be received no later than three (3) Business Days prior to the Closing Date; provided, however, that the failure by Seller to deliver such notice at least three (3) Business Days prior to the Closing Date shall not constitute a material breach by Seller that would entitle Buyer to terminate this Agreement pursuant to Section 10.01(d) hereof.

- (c) Seller shall deliver, or cause to be delivered to Buyer, properly executed and dated as of the Closing Date by Seller, (i) the Assignment of Licenses; (ii) the Bill of Sale; (iii) the Lease Assignment; (iv) the Leasehold Mortgage; (v) Seller's Closing Certificate; and (vi) such other documents, instruments and writings required to be delivered by Seller at or prior to the Closing pursuant to this Agreement.
- (d) Buyer shall deliver, or cause to be delivered to Seller, properly executed and dated as of the Closing Date: (i) the Note; (ii) the Security Agreement; (iii) the Guarantee; (iv) Buyer's Closing Certificate; (v) the Lease Assignment; (vi) the Leasehold Mortgage; (vii) the Assignment of Licenses; and (viii) such other documents, instruments and writings required to be delivered by Buyer at or prior to the Closing pursuant to this Agreement.

**SECTION 2.09 Proration of Income and Expenses.**

Except as otherwise provided herein, all deposits, reserves and prepaid and deferred income and expenses relating to the Purchased Assets or the Assumed Liabilities and arising from the conduct of the Business and the operation of the Station shall be prorated between Buyer and Seller in accordance with the principle that Seller shall be responsible for all expenses and entitled to all revenue arising from the operation of the Station prior to Closing and Buyer shall be responsible for all expenses and entitled to all revenue arising from the operation of the Station after Closing. Such proration shall include, without limitation, all ad valorem, real estate and other property taxes (but excluding taxes arising by reason of the transfer of the Purchased Assets as contemplated hereby which shall be paid as set forth in Section 8.01), business and license fees, music and other license fees, other copyright fees, sales and service charges, utility expenses, rents, property and equipment rentals, lease payments, and similar prepaid and deferred items. The prorations and adjustments shall be made as of the Closing within ninety (90) days of the Closing Date.

**ARTICLE III**

**SELLER'S REPRESENTATIONS AND WARRANTIES**

Seller represents and warrants to Buyer as follows:

**SECTION 3.01 Existence and Power.**

Seller is a corporation duly incorporated or formed, validly existing and in good standing under the Laws of the state of its incorporation and has all corporate powers and all governmental licenses, authorizations, permits, consents and approvals required to carry on its business as now conducted. Seller is duly qualified to do business as a foreign corporation and is in good standing in each jurisdiction where such qualification is necessary, except for those jurisdictions where failure to be so qualified could not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

**SECTION 3.02 Authorization.**

- (a) The execution and delivery of this Agreement by Seller and each Ancillary Agreement to which Seller will be a party, the performance by Seller of its obligations hereunder and thereunder and the consummation by Seller of the transactions contemplated hereby and thereby are within Seller's corporate powers and have been duly authorized by all requisite corporate action on the part of Seller.
- (b) This Agreement has been, and at the Closing each Ancillary Agreement will be, duly executed and delivered by Seller. This Agreement (assuming due authorization, execution and delivery by Buyer) constitutes, and each Ancillary Agreement to which Seller will be a party will constitute when executed and delivered by Seller, the legal, valid and binding obligation of Seller, enforceable against Seller in accordance with its terms, subject only to bankruptcy, insolvency, reorganization, moratorium or similar Laws at the time in effect affecting the enforceability or rights of creditors generally and by general equitable principles that may limit the right to obtain equitable remedies.

**SECTION 3.03 Governmental Authorization.**

The execution, delivery and performance by Seller of this Agreement and each Ancillary Agreement to which Seller will be a party and the consummation of the transactions contemplated hereby and thereby require no action by or in respect of, or filing with or notification to, any Governmental Authority other than the FCC, and any such action by or in respect of or filing with or notification to any Governmental Authority as to which the failure to take, make or obtain could not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

**SECTION 3.04 Noncontravention.**

Except as set forth in Schedule 3.04 and any consent required to transfer the Lease, the execution, delivery and performance of this Agreement by Seller and each Ancillary Agreement to which Seller will be a party and the consummation of the transactions contemplated hereby and thereby do not and will not (a) violate or conflict with the certificate of incorporation or bylaws of Seller, (b) assuming compliance with the matters referred to in Section 3.03, conflict with or violate any Law or Governmental Order applicable to Seller, (c) require any consent or other action by or notification to any Person under, constitute a default under, or give to any Person any rights of termination, amendment, acceleration or cancellation of any right or obligation of Seller or to a loss of any benefit relating to the Business to which Seller is entitled under, any provision of any note, bond, mortgage, indenture, contract, agreement, lease, license, permit, franchise or other agreement or instrument to which Seller is a party or by which any of its assets is or may be bound or (d) result in the creation or imposition of any Lien on any asset of Seller, except for Permitted Liens, and except, in the cases of clauses (b), (c) and (d), for any such conflicts, violations, consents, actions, notifications, defaults, rights or losses as could not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

**SECTION 3.05 Condition of Personal Property.**

Schedule 3.05 is a true and complete list of all Personal Property owned or leased by Seller and used or useful in connection with the operation of the Station that is to be conveyed to Buyer under this Agreement. Each material item of Personal Property is in good condition and repair, ordinary wear and tear excepted,

and is not in need of repair or replacements and those material items of Personal Property constituting transmitting equipment are operating in accordance with their intended use.

**SECTION 3.06 Lease.**

- (a) Schedule 3.06(a)(i) lists the Lease.
- (b) No default (with the lapse of time or giving of a notice or both) on the part of Seller and, to the Knowledge of Seller any other party thereto, exists under the Lease other than such defaults that could not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.
- (c) The Lease is in full force and effect and constitutes the legal and binding obligation of, and is legally enforceable against, Seller in accordance with its terms and, to the Knowledge of Seller, is legally enforceable against any other party thereto, except, in either such case, as could not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.
- (d) Seller has previously delivered to Buyer prior to the date of this Agreement true and complete copies of the Lease, including all amendments, modifications and supplements thereto, and any assignments thereof.
- (e) There are no leasing commissions or similar payments due, arising out of, resulting from or with respect to the Lease that are owed by the Seller.

**SECTION 3.07 Title to Purchased Assets; Liens.**

Seller has good and valid title to, valid leasehold interests in, or license or other contractual right to use, all of the Purchased Assets, free and clear of any and all Liens (other than Permitted Liens and Liens that will be discharged by Seller on or prior to the Closing Date). At the Closing, all of the Purchased Assets shall be transferred to Buyer free and clear of any and all Liens (other than Permitted Liens).

**SECTION 3.08 Absence of Litigation.**

Except for FCC rulemaking proceedings and other Actions generally affecting the television broadcasting business or as set forth in Schedule 3.08, there is no material Action pending or, to the Knowledge of Seller, threatened against or affecting Seller or any of the Purchased Assets before any Governmental Authority. Except for Governmental Orders generally applicable to television broadcast stations and any Governmental Order set forth in Schedule 3.08, the Station is not operating under or subject to any Governmental Order that could reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

**SECTION 3.09 Compliance with Laws.**

Except as set forth in Schedule 3.09 and except for matters relating to the FCC which are addressed by Section 3.10, Seller is not in material violation of, and has not violated in any material respect, and, to the Knowledge of Seller, is not under investigation with respect to and has not been threatened to be charged

with or given notice of any material violation of, any applicable Law or Governmental Order, except for violations that could not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

**SECTION 3.10 FCC Matters; Qualification.**

- (a) Schedule 3.10 contains a true and complete list of the FCC Licenses, and, except as set forth in Schedule 3.10, there are no other licenses, permits or other authorizations from the FCC required for the lawful operation of the Station substantially in the manner now operated. To the extent Seller has been able to obtain them, it has delivered true, correct and complete copies of the FCC Licenses to Buyer, including any and all amendments and modifications thereto. Except as set forth in Schedule 3.10, the FCC Licenses are validly held by Seller and are in full force and effect. All FCC actions with respect to the Station's main analog license or authorization are Final Orders. The FCC Licenses have been issued for the full terms customarily issued to a broadcast television station in the State of Texas, and the FCC Licenses are not subject to any condition except for conditions (i) generally applicable to broadcast television licenses generally, (ii) contained in the authorizations or (iii) otherwise disclosed in Schedule 3.10. Seller has filed or made all material applications, reports, and other disclosures required by the FCC to be filed or made by Seller with respect to the Station during the current license term. Except as set forth in Schedule 3.10, Seller has no reason to believe that the FCC will not renew the FCC Licenses in the ordinary course.
- (b) Station KDTN-TV is operating at full power and not pursuant to any temporary waiver. Except as set forth on Schedule 3.10, Seller has no applications pending before the FCC relating to the operation of the Station. A construction permit has been issued for Station KDTN-DT, and on May 7, 2003, the FCC granted Seller's application for an extension of time to complete construction of that station. Except as set forth in Schedule 3.10, no other application or request with respect to Station KDTN-DT is pending before the FCC.
- (c) Except as set forth on Schedule 3.10, Seller has operated the Station, its physical facilities, electrical and mechanical systems and transmitting and studio equipment in substantial compliance with the Communications Act and the FCC Licenses. To the Knowledge of Seller, all antenna support structures used in the operation of the Station have been registered with the FCC, if registration is required, and comply with all other requirements of the FCC and the Federal Aviation Administration. Except as set forth in Schedule 3.10, to the Knowledge of Seller, there are no applications, petitions, complaints, proceedings or other actions pending or threatened before the FCC relating to the Station, other than proceedings affecting the broadcast television industry generally.
- (d) To the Knowledge of Seller, there are no facts or circumstances that are reasonably likely to result in a denial of the FCC Applications or the designation of those FCC Applications for a hearing relating to or arising out of the Seller's operation of the Station, or the Seller or any of its Affiliates.

**SECTION 3.11 Cable and Satellite Matters.**

- (a) To the Knowledge of Seller, (i) Schedule 3.11 contains a list as of August 18, 2000, including channel positions, of all cable television systems with at least 2,500 subscribers and Satellite Carriers (as defined

by 47 U.S.C. § 339) on which the Station's signal is presently carried ("Market Cable Systems") as a mandatory carry signal, and (ii) Seller has taken such action as may be necessary to exercise its must-carry rights with respect to the Market Cable Systems.

- (b) Except as set forth in Schedule 3.11, (i) no Market Cable System has provided written notice to Seller of any signal quality issue or failed to respond to a request for carriage or, to the Knowledge of Seller, sought any form of relief from carriage of the Station from the FCC, and (ii) Seller has not received any written notice of any Market Cable System's intention to delete the Station from carriage or to change the Station's channel position on such cable system. Seller has no petition pending before the FCC to extend the Station's market for cable carriage purposes.
- (c) Notwithstanding any other provision in this Agreement, any failure to identify a cable system or satellite carrier pursuant to subsection (a) of this Section 3.11 or to identify any Market Cable System under subsection (b) of this Section 3.11 shall not constitute a breach of this Agreement or give rise to any claim by Buyer against Seller.

#### **SECTION 3.12      Taxes.**

Except as set forth in Schedule 3.12, (a) Seller has timely filed or been included in, or will timely file or be included in, all material Tax Returns required to be filed by it or in which it is to be included with respect to Taxes for any period ending on or before the Closing Date, (b) all material Taxes that are due with respect to the Seller have been paid except to the extent such Taxes are being contested in good faith, (c) no deficiency for any material amount of Tax has been asserted or assessed by a Tax authority against Seller or for which Seller may be liable, (d) there are no pending judicial proceedings with respect to material Taxes due from Seller; and (e) Seller is not a party to any contract, agreement, plan or arrangement covering any Person that, individually or collectively, could give rise to the payment of any amount that would not be deductible by reason of Section 280G of the Code.

#### **SECTION 3.13      ERISA.**

Neither Seller nor any trade or business that together with Seller would be treated as a "single employer" under Section 414 of the Code (an "ERISA Affiliate") has failed to make any contribution required under Section 412 of the Code that would result in the imposition of a lien under Section 412, nor has Seller or any ERISA Affiliate incurred any liability under Title IV of the Employee Retirement Income Security Act of 1974, as amended ("ERISA"), that would result in the imposition of a lien under ERISA.

#### **SECTION 3.14      Environmental.**

- (a) To the Knowledge of Seller, no Hazardous Material has been Released in violation of Environmental Laws at, on or under the Leased Real Property during the period in which Seller leased such Leased Real Property.
- (b) The Leased Real Property is not listed, nor to the Knowledge of Seller, proposed, for listing, on the National Priorities List promulgated pursuant to CERCLA, on CERCLIS (as defined in CERCLA) or on any similar federal, state or local list of sites requiring investigation or clean up.

- (c) To the Knowledge of Seller, there has been no environmental investigation, study, audit, test, review or other analysis conducted in connection with the Leased Real Property.

**SECTION 3.15 Brokers.**

Except for Media Venture Partners, whose fees are to be paid by Seller, there is no broker, finder, investment banker or other intermediary that has been retained by or is authorized to act on behalf of Seller who or that might be entitled to any fee or commission from Buyer or any of its Affiliates in connection with the transactions contemplated by this Agreement or the Ancillary Agreements.

**SECTION 3.16 Disclosure.**

Anything to the contrary in this Agreement or the Schedules notwithstanding, any information disclosed with reasonable particularity in this Agreement or in any one or more Schedules shall be deemed disclosed in this Agreement and in all Schedules. Certain information set forth in the Schedules is included for informational purposes only and may not be required to be disclosed pursuant to this Agreement. Buyer acknowledges and agrees that it is not relying on any other representations and warranties of Seller other than those set forth in this Article III.

**ARTICLE IV**

**BUYER'S REPRESENTATIONS AND WARRANTIES**

Buyer represents and warrants to the Seller as follows:

**SECTION 4.01 Corporate Existence and Power.**

Buyer is a non-profit corporation duly incorporated, validly existing and in good standing under the Laws of the State of Texas and has all corporate powers and all governmental licenses, authorizations, permits, consents and approvals required to carry on its business as now conducted.

**SECTION 4.02 Corporate Authorization.**

- (a) The execution and delivery of this Agreement and the Ancillary Agreements by Buyer, the performance by Buyer of its obligations hereunder and thereunder and the consummation by Buyer of the transactions contemplated hereby and thereby are within Buyer's corporate powers and have been duly authorized by all requisite corporate action on the part of Buyer.
- (b) This Agreement has been, and at the Closing each Ancillary Agreement will be, duly executed and delivered by Buyer. This Agreement (assuming due authorization, execution and delivery by Seller) constitutes, and each Ancillary Agreement to which Buyer will be a party will constitute when executed and delivered by Buyer, the legal, valid and binding obligation of Buyer, enforceable against Buyer in accordance with its terms, subject only to bankruptcy, insolvency, reorganization,