

## AGREEMENT

This Agreement is made as of this 19<sup>th</sup> day of September 2013, by and between Salisbury University Foundation, Inc., a Maryland not-for-profit corporation ("SUF"), and Salisbury University, a constituent institution of higher education in the University System of Maryland and an agency of the State of Maryland ("the University").

**WHEREAS**, SUF is the licensee of noncommercial, educational FM radio broadcast stations WSCL (Facility ID No. 58660), Salisbury, Maryland and WSDL (Facility ID No. 83090), Ocean City, Maryland (together, "the Stations") operating under licenses (the "Licenses") issued by the Federal Communications Commission ("FCC"); and

**WHEREAS**, the parties hereto wish to enter into this Agreement with the intention of transferring ownership of the Stations to the University and to provide for the University to become solely responsible for the Stations;

**NOW, THEREFORE**, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, this Agreement is made between the parties hereto as follows:

1. Preamble. The preamble above is an integral part hereof and not mere recitations.
2. Conveyance of Assets. On the Closing Date (as hereinafter defined), SUF shall assign and transfer to the University, and the University shall assume from SUF, all assets, properties, interests, title and rights of SUF that are used or useful principally in connection with the operation of the Stations except the Excluded Assets as defined below (the "Assets"), including:
  - (a) SUF's equipment, machinery, fixtures, and other tangible personal property, which shall include the building owned by SUF at the WSCL tower site (the "Tangible Personal Property"), together with such improvements and additions thereto and replacements thereof between the date hereof and the Closing Date, as set forth in Schedule 1 hereto;
  - (b) All pledges, cash or cash equivalents on hand or in financial institutions that represents the proceeds, or right to receive proceeds, of or from donations, contributions, underwriting support, or grants for the Stations' use from any and all sources, including the public, underwriters, the Corporation for Public Broadcasting, the State of Maryland, and the State of Delaware;
  - (c) All of the licenses, permits, and other authorizations, including the Licenses, issued by the FCC (collectively, the "FCC Authorizations"), and also those issued by any other federal, state, or local governmental authorities (collectively, with the FCC Authorizations, the "Government Authorizations") to SUF in connection with the conduct of the business and the operations of the Stations and any renewals or modifications thereof between the date hereof and Closing, including, without limitation, those set forth on Schedule 2 hereto;

- (d) All of SUF's logs, books, files, data, software, FCC and other governmental applications, equipment manuals and warranties, and other records relating to the on-air broadcast and other operations of the Stations, including, without limitation, the Stations' local public files, all FCC filings and all records required by the FCC to be kept by the Stations;
- (e) All contracts, leases, and other agreements to which SUF is a party or that are binding upon SUF and that relate principally to or affect the Assets or the business and operations or indebtedness of the Stations, as set forth in Schedule 3 hereto ("Station Contracts"), provided that the University shall have the right to refuse to assume any Station Contract identified on Schedule 3 that contains one or more provisions that are not acceptable to the University unless that Station Contract is modified to revise those provisions in a manner acceptable to the University prior to the Closing. Station Contracts shall include the leases for the WSCL tower site at 330 Virginia Avenue, Seaford, DE and for the WSDL tower site at 35096 Bennett Road, Frankford, DE (the "Tower Leases");
- (f) All SUF's rights to the call signs "WSCL" and "WSDL" and all trademarks, trade names, service marks, copyrights, programs and program material, jingles, slogans, logos, including but not limited to the name Delmarva Public Radio (including any variations thereof), and any other intangible property (whether or not registered) which are used or held for use in the operation of the Stations, whether owned, used, licensed by or leased by or on behalf of or for the benefit of the Stations and all goodwill associated therewith, including, without limitation, those set forth on Schedule 4 hereto (collectively the "Intangible Property");
- (g) All rights to the Internet website and URLs listed on Schedule 4 hereto and to the telephone number 410-543-6895;
- (h) All underwriter and membership lists, data, and documentation; and
- (i) All of SUF's goodwill in and the going business value of the Stations.

The Assets shall be transferred by SUF to the University free and clear of all debts, security interests, mortgages, trusts, claims, pledges, options, rights of first refusal or offer, conditional sales agreements, and other liens, liabilities, restrictions, and encumbrances of every kind and nature (all of the preceding collectively "Liens"), except as disclosed on Schedule 3 ("Permitted Liens"). SUF is only conveying and the University is only assuming the liabilities and obligations specifically set forth herein. All liabilities not specifically assumed by the University shall be retained by SUF. Without limiting the foregoing, the following assets and obligations relating to the business of the Stations shall be retained by SUF and shall not be Assets or sold, assigned, or transferred to or assumed by the University (the "Excluded Assets"):

- (aa) All contracts, leases, and agreements that are not Station Contracts, including all SUF employment agreements, including those employees providing support to the Stations, contracts of insurance and insurance proceeds of settlement and insurance

claims made by SUF relating to property or equipment repaired, replaced, or restored by SUF prior to the Closing Date;

- (bb) Any and all pension, profit-sharing, retirement, stock acquisition, or savings plans or trusts and any assets thereof and all other employee benefit plans;
- (cc) All deposits identified on Schedule 5 and all prepaid expenses and taxes; and
- (dd) SUF's institutional records.

The University and SUF shall each bear its own respective costs and expenses for any attorneys, accountants, and other advisors retained by or representing it in connection with the negotiation and execution of this Agreement and consummation of the transaction proposed hereby.

3. Acquisition Consideration and Assumption of Obligations.

- (a) The conveyance of the Assets provided for in this Agreement shall be made in exchange for the assumption by the University of the responsibility of operating the Stations, which shall become assets to its academic program, in the public interest to serve the community, including the assumption of all obligations relating to the Assets as of and from the Closing.
- (b) At the Closing, the University shall assume and agree to pay and perform all obligations and liabilities of SUF under the Station Contracts listed on Schedule 3 (collectively, the "Assumed Obligations").
- (c) Notwithstanding anything herein to the contrary, except for the Assumed Obligations, the University does not assume, and will not be deemed by the execution and delivery of this Agreement or the consummation of the transactions contemplated hereby to have assumed, any other liabilities, obligations or commitments of SUF of any nature whatsoever, whether presently in existence or arising hereafter. All such other liabilities and obligations shall be retained by and remain obligations and liabilities of SUF (all such liabilities and obligations not being assumed being herein referred to as the "Retained Obligations"). Without limiting the generality of the foregoing, such Retained Obligations include any liability and obligation arising out of or relating to the Excluded Assets.

4. FCC Consent; Assignment Application. No later than ten (10) business days after the execution of this Agreement, the University and SUF shall prepare and file an application with the FCC (the "Assignment Application") requesting its consent to the assignment from SUF to the University of the FCC Authorizations (the "FCC Consent"). The University and SUF shall vigorously prosecute the Assignment Application and cooperate with each other and with the FCC to secure such FCC Consent without delay.

5. Closing Date; Closing Place. The closing (the "Closing") of the transactions contemplated by this Agreement shall occur on a mutually acceptable date (the "Closing Date") no later than ten (10) business days following the date on which the FCC Consent shall have become a



Final Order (as hereinafter defined) and the other conditions to closing set forth in Section 9 have either been satisfied or waived. For purposes of this Agreement, the term "Final Order" means action by the FCC consenting to the application which is not reversed, stayed, enjoined, set aside, annulled, or suspended, and with respect to such action no timely request for stay, petition for rehearing, or appeal is pending, and as to which the time for filing any such request, petition or appeal has expired and the time within which the FCC may review the action on its own motion has expired.

6. Representations and Warranties of SUF. SUF hereby makes the following representations and warranties to the University:

- (a) SUF is a not-for-profit corporation, validly existing and in good standing under the laws of the State of Maryland. SUF has the power and authority to execute, deliver, and perform 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 SUF and no other proceedings on the part of SUF are necessary to authorize this Agreement or to consummate the transactions contemplated hereby. This Agreement has been duly and validly executed and delivered by SUF and constitutes the legal, valid, and binding agreement of SUF 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) The execution, delivery, and performance of this Agreement by SUF will not (i) constitute a violation of or conflict with SUF'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 SUF 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 the University, (iii) violate any law, statute, rule, regulation, order, writ, injunction, or decree of any federal, state, or local governmental authority or agency that is applicable to SUF or any of the Assets, (iv) result in the creation or imposition of any lien, charge, or encumbrance of any nature whatsoever on any of the Assets, or (v) require the consent or approval of any governmental authority, lending institution, or other third party other than the FCC Consent.
- (c) Schedule 1 hereto contains a list of the Tangible Personal Property owned by SUF principally for use in connection with the operation of the Stations, which includes all of the Tangible Personal Property necessary for University to operate the Stations as they are currently operated. Except for property now owned by the University, SUF owns and has, and will have on the Closing Date, good and marketable title to the Tangible Personal Property, free and clear of any Liens. Except as set forth on Schedule 1, all items of Tangible Personal Property are in good operating condition

and repair, ordinary wear and tear excepted; provided, however that the University acknowledges that most of the Tangible Personal Property was acquired in 1986.

- (d) Schedule 2 hereto contains a true and complete list of the Government Authorizations relating to the Stations and such Government Authorizations are all of the Government Authorizations required for the lawful conduct of the business and operations of the Stations in the manner and to the full extent they are currently operated. SUF lawfully holds each of the Government Authorizations listed on Schedule 2. There is not now pending or, to SUF's knowledge, threatened any action by or before the FCC to revoke, suspend, cancel, rescind, modify, or refuse to renew any of the FCC Authorizations and SUF has not received any notice of and has no knowledge of any pending, issued, or outstanding order by or before the FCC, or of any investigation, petition, order to show cause, notice of violation, notice of apparent liability, notice of forfeiture, complaint, proceeding, or other actions against the Stations (other than proceedings affecting the broadcast radio industry generally) and to SUF's knowledge, there are no facts that would reasonably be expected to result in any of the above.
- (e) The FCC Authorizations were validly issued by the FCC, are validly held by SUF and are in full force and effect and have not been revoked, suspended, canceled, rescinded or terminated and have not expired, and all FCC actions with respect to the FCC Authorizations are Final Orders. The FCC Authorizations have been issued for the full terms customarily issued to radio broadcast stations in the State of Maryland, and the FCC Authorizations are not subject to any condition except for those conditions applicable to radio broadcast licenses generally. SUF has operated the Stations, and the Stations are operating, in compliance in all material respects with the FCC Licenses, the Communications Act of 1934, as amended, and the rules, regulations and published policies of the FCC (collectively, the "Communications Act"). The Stations are, and shall be, operating and transmitting their broadcasting signals at their authorized power and using the facilities authorized by the FCC Licenses and not pursuant to any temporary waiver.
- (f) Except as set forth on Schedule 2, as of the date of this Agreement, SUF has no applications pending before the FCC relating to the operation of the Stations. SUF has timely filed or made all applications, reports and other disclosures required by the FCC to be filed or made by SUF with respect to the Stations. The operation of the Stations does not exceed permissible levels of exposure to non-ionizing electromagnetic radiofrequency ("RF") radiation specified in the FCC's rules and regulations concerning RF radiation.
- (g) Schedule 3 includes a complete and accurate description of SUF's leases pertaining to the Station's operations. True and complete copies of the written Tower Leases have been provided by SUF to the University. Descriptions of and additional information concerning the Tower Leases are set forth on Schedule 6(g) hereto. Upon the Closing, all right, title and interest of SUF in, to and under the Tower Leases will be transferred to the University free and clear of all Liens.

- (h) Schedule 3 sets forth (i) all amounts owing to the lender(s) of SUF and (ii) all amounts owing to creditors of SUF, in both cases associated with the Assumed Obligations, but to the extent that such amounts are expenses arising from the operation of the Stations, then only to the extent such expenses relate to the period prior to the Closing.
- (i) Except as set forth on Schedule 3, each of the Station Contracts (including the Tower Leases) is in full force and effect and is valid and binding upon Seller and, to Seller's knowledge, the other parties thereto. SUF has performed its obligations under each of the Station Contracts in all material respects, and is not in material default thereunder, and neither does any circumstance or condition exist thereunder which with notice or lapse of time or both would constitute a material default thereunder, and to SUF's knowledge, no other party to any of the Station Contracts is in material default thereunder and neither does any circumstance or condition exist thereunder which with notice or lapse of time or both would constitute a material default thereunder. Except as set forth on Schedule 3, SUF has previously provided to the University a true and complete copy of each Station Contract, including all amendments, modifications and supplements thereto, and any assignments thereof. Upon the Closing, all right, title and interest of SUF in, to and under the Station Contracts will be transferred to the University free and clear of all Liens, except Permitted Liens.
- (j) SUF owns or has the right to use the Intangible Property free and clear of any Liens. Each Intangible Property is valid and enforceable, and none of the Intangible Property owned by Seller is licensed to a third party. SUF has sufficient rights: (i) to assign, transfer and convey to the University all of the Intangible Property, and its rights to the Intangible Property, without the consent of any third party, and (ii) to use the Intangible Property in connection with the operation of the Stations. Neither SUF nor any affiliate, licensor or licensee of SUF, has received any written notice, or otherwise have knowledge, that any of the Intangible Property is the subject of a judicial or administrative finding, opinion or action or has been adjudged invalid, unenforceable or unregistrable in whole or in part. The use of the Intangible Property does not conflict with or otherwise violate the rights of any third parties. There is no action pending, or to SUF's knowledge threatened, contesting or challenging the ownership, validity, registerability or enforceability of, or the SUF's right to use, any Intangible Property, and there are no facts that would reasonably be expected to result in such an action.
- (k) To SUF's knowledge, no hazardous or toxic substance or waste regulated under any applicable environmental, health or safety law has been generated, stored, transported or released on, in, from or to the real property associated with the leases. To SUF's knowledge, SUF has complied in all material respects with all environmental, health and safety laws applicable to the Stations.

- (l) SUF maintains insurance policies with respect to the Stations and the Assets consistent with broadcast industry standards, and shall maintain such policies or arrangements in full force and effect until the Closing.
- (m) SUF has complied in all material respects with all laws, rules, regulations, writs, injunctions, ordinances, franchises, decrees and orders of any court or governmental authority which are applicable to the operation of the Stations.
- (n) There is no claim, litigation, arbitration, action, suit, proceeding or investigation pending or, to SUF's knowledge, threatened against SUF in respect of the Stations, the operation of the Stations or the SUF Assets or the rights of any party to acquire the Stations or the Assets.
- (o) SUF has, or prior to Closing will have, all consents and permissions and has, or prior to Closing will have, complied with all requirements, including those of the Corporation for Public Broadcasting, necessary for SUF to provide University with all donor and underwriter lists, data, and documentation related to the Stations.
- (p) SUF 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. There is no material litigation pending by or against, or, to the best of SUF's knowledge, threatened against SUF that relates to the Stations or could affect any of the Assets.
- (q) No representation or warranty made by SUF 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 the University.

7. Representations and Warranties of the University. The University hereby makes the following representations and warranties to SUF:

- (a) The University is a member of the University System of Maryland 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 University has the power and authority to execute, deliver, and perform 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 the University, and no other proceedings on the part of the University are necessary to authorize this Agreement or to consummate the transactions contemplated hereby. This Agreement has been duly and validly executed and delivered by the University and constitutes



the legal, valid, and binding agreement of the University 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.

- (c) The execution, delivery, and performance of this Agreement by the University will not (i) conflict with or result in any violation of statute governing the University and/or the University System of Maryland, or any University System of Maryland Board of Regents policies governing the University, 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 SUF, (iii) violate any law, statute, rule, regulation, order, writ, injunction, or decree of any federal, state, or local governmental authority or agency that is applicable to the University, or (iv) require the consent or approval of any governmental authority, lending institution, or other third party other than the FCC Consent.
- (d) The University is legally, financially, and technically qualified to acquire and become the licensee of the Stations.
- (e) There is no material litigation, proceeding, or governmental investigation pending or, to the knowledge of the University, threatened, in any court, arbitration board, administrative agency, or tribunal against or relating to the University, 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 the University of the transactions contemplated by this Agreement, nor does the University know of, or have any reasonable ground to know of, in view of its present situation or action it now contemplates taking, any basis for such litigation, proceeding, or investigation.

8. Covenants. SUF covenants with the University that, between the date hereof and the Closing Date, the parties shall act in accordance with the following:

- (a) SUF shall maintain the Tangible Personal Property included in the Assets in good operating condition, ordinary wear and tear excepted in accordance with standards of good engineering practice as applicable, and replace any of such property which shall become worn out, lost, stolen, or destroyed with like property of substantially equivalent kind and value.
- (b) SUF shall continue to operate and maintain the Stations in accordance with the terms of the Government Authorizations and in material compliance with all applicable laws and FCC rules and regulations, and shall continue to operate the Stations in the ordinary course of business. SUF shall deliver to the University, promptly after filing or receipt, 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 that are filed between the date of this Agreement and the Closing Date. SUF will not file any application to modify the Stations' facilities without the University's prior written consent (not to be unreasonably withheld), and SUF shall take all actions necessary to keep the Government Authorizations valid and in full force and effect.

- (c) SUF shall maintain in full force and effect through the Closing Date adequate property damage, liability, and other insurance with respect to the Assets.
- (d) Prior to the Closing Date, SUF shall not, without the prior written consent of the University, sell, lease, transfer, or agree to sell, lease, or transfer any of the Assets without replacement thereof with an asset of equivalent kind, condition, and value that meets industry standards for such assets, or create any Lien on the Assets.
- (e) On or before the Closing Date, SUF shall furnish to the University revised Schedules to this Agreement as may be necessary to render such Schedules accurate and complete as of the Closing Date. SUF shall give detailed written notice to the University promptly upon the occurrence of, or becoming aware of the impending or threatened occurrence of, any event that would cause or constitute a breach or would have caused a breach had such event occurred or been known to SUF prior to the date hereof, of any of SUF's representations or warranties contained in this Agreement or in any Schedule.
- (f) If any event occurs that would prevent the consummation of the transactions contemplated hereunder, SUF shall use its commercially reasonable efforts to cure the event as expeditiously as possible. SUF shall, as licensee of the Stations until the assignment of the FCC Authorizations, continue to oversee their operation and exercise control over their facilities, programming, employment, and dealings with the FCC.
- (g) SUF shall comply in all material respects with all laws applicable to the Stations, and operate and maintain the Stations in all material respects in conformity with the Government Authorizations and all applicable laws, ordinances, regulations, rules and orders.
- (h) SUF shall conduct the business of the Stations and operate and maintain the Stations and the Station Assets in the ordinary course of business, in accordance with SUF's past practices, and use best efforts to preserve the business operation, revenue, goodwill and reputation of the Stations, including relationships with employees, underwriters, suppliers and other business contacts.
- (i) SUF shall not change, amend, terminate or otherwise modify or agree or commit to change, amend, terminate or otherwise modify any terms of any Station Contract.

- (j) The parties shall use commercially reasonable efforts to obtain any third party consents necessary for the assignment of any Station Contracts. To the extent that any Station Contract may not be assigned without the consent of any third party, and such consent is not obtained prior to Closing, this Agreement and any assignment executed pursuant to this Agreement shall not constitute an assignment of such Station Contract; provided, however, with respect to each such Station Contract, SUF and the University shall cooperate to the extent feasible in effecting a lawful and commercially reasonable arrangement under which the University shall receive the benefits under the Station Contract from and after Closing, and to the extent of the benefits received, the University shall pay and perform SUF's obligations, except those obligations that are not acceptable to the University as contemplated in Section 2(e) of this Agreement, arising under the Station Contract from and after Closing in accordance with its terms.
- (k) SUF shall not sell, lease or dispose of or agree to sell, lease or dispose of any of the Station Assets, or create, assume or permit to exist any Liens upon the Station Assets other than Permitted Liens.

9. Conditions Precedent to Obligation to Close.

The obligation of SUF to consummate the closing hereunder is subject to the satisfaction of each of the following express conditions precedent at or prior to Closing, unless waived in writing by SUF:

- (a) The University 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 the University prior to or as of the Closing Date;
- (b) The representations and warranties of the University 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;
- (c) The FCC Consent required by this Agreement shall have become a Final Order, unless said requirement be waived by the University;
- (d) The University shall have obtained all necessary third party consents and approvals necessary to consummate the transaction contemplated hereby;
- (e) The University shall have delivered to SUF, on the Closing Date, the documents required to be delivered pursuant to Section 10;
- (f) The University shall not be subject to any voluntary or involuntary petition under Federal bankruptcy law or any state receivership or similar proceeding; and
- (g) If any event occurs that would prevent the consummation of the transaction contemplated hereunder, the University shall use its commercially reasonable efforts to cure the event as expeditiously as possible.

The obligations of the University to consummate the closing hereunder is subject to the satisfaction of each of the following express conditions precedent at or prior to Closing, unless waived in writing by the University:

- (aa) SUF 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 SUF prior to or as of the Closing Date;
- (bb) The representations and warranties of SUF 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;
- (cc) The FCC Consent contemplated by this Agreement shall have become a Final Order and shall contain no provision materially adverse to University and shall be on terms no more onerous to University than are the terms of SUF under the existing FCC Authorizations, unless said requirement be waived by SUF;
- (dd) SUF shall have obtained all necessary third party consents and approvals necessary to consummate the transaction contemplated hereby;
- (ee) SUF shall have obtained all necessary approvals for the transaction contemplated hereby by its Board;
- (ff) There shall not be any Liens on the Assets or any financing statements of record other than those to be discharged at Closing, other than Permitted Liens;
- (gg) The parties shall have entered an agreement acceptable to the University regarding SUF's continued support of the Stations, including employee and financial support;
- (hh) SUF shall have delivered to the University, on the Closing Date, the documents required to be delivered pursuant to Section 10; and
- (ii) SUF shall not be subject to any voluntary or involuntary petition under Federal bankruptcy law or any state receivership or similar proceeding.

10. Closing Deliveries.

SUF's Documents. At the Closing, SUF shall deliver or cause to be delivered to the University the following:

- (a) A certificate, dated as of the Closing Date, from SUF, executed by SUF after due inquiry, to the effect that:
  - (i) The representations and warranties of SUF contained in the Agreement are true and complete in all material respects on and as of the Closing Date as if made on and as of that date; and

- (ii) SUF has complied with or performed in all material respects all terms, covenants, and conditions to be complied with or performed by it on or prior to the Closing Date.
- (b) Instruments of conveyance and transfer, in form and substance reasonably satisfactory to the University, effecting the transfer, assignment, and conveyance of the Station Assets to the University, including: (i) assignments of the Government Authorizations; (ii) bills of sale for all Tangible Personal Property; and (iii) assignments of the contracts to be assigned hereunder, including any necessary third party consents.
- (c) Domain name transfers assigning the URLs listed on Schedule 4 from SUF to University following customary procedures of the domain name administration.
- (d) Originals and all copies of all records required to be maintained by the FCC with respect to the Stations, including the local public inspection files of the Stations, and all donor and underwriter lists, data and documentation, which shall be left at the Stations and thereby delivered to the University.
- (e) Certified resolutions of the SUF Board approving the execution, delivery, and performance of this Agreement and authorizing the consummation of the transactions contemplated hereby.
- (f) Such additional information, materials, agreements, documents, and instruments as the University and its counsel may reasonably request in order to consummate the Closing.

University's Documents. At the Closing, the University shall deliver or cause to be delivered to SUF the following:

- (aa) Certified resolutions of the University approving the execution, delivery and performance of this Agreement and authorizing the consummation of the transactions contemplated hereby.
- (bb) Such additional information, materials, agreements, documents, and instruments as SUF and its counsel may reasonably request in order to consummate the Closing.

#### 11. Indemnification.

Following the Closing, SUF, to the extent permitted by law, shall indemnify, defend, and hold harmless the University, the State of Maryland, the Board of Regents of the University System of Maryland, the University System of Maryland and the respective agents, servants and employees of each of the above entities in both their personal and official capacities, with respect to any and all demands, claims, actions, charges, 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 the University the State of Maryland, the Board of Regents of the University System of Maryland,



and/or the University System of Maryland directly or indirectly relating to or arising out of: (i) the breach by SUF of any of its representations or warranties or failure by SUF to perform any of its covenants, conditions, or agreements set forth in this Agreement; (ii) the Excluded Assets; and (iii) any and all claims, liabilities, and obligations of any nature, absolute or contingent, relating to the ownership and operation of the Stations prior to the Closing.

The University's liability shall be governed exclusively in accordance with Maryland Annotated Code, State Government Article, Title 12, as amended.

If either party hereto (the "Indemnitee") receives notice or otherwise obtains knowledge of any matter with respect to which the other party hereto (the "Indemnifying Party") may be obligated to indemnify the Indemnitee under this Section 11, then the Indemnitee 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 Indemnitee in connection therewith, but a failure to give such notice or delay in such notice shall not affect the Indemnitee's rights or the Indemnifying Party's obligations except to the extent the Indemnitee's ability to remedy, contest, defend or settle with respect to such matter is thereby prejudiced.

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 Indemnitee. If the Indemnifying Party elects to assume the defense of such matter, then (i) the Indemnitee shall fully cooperate as reasonably requested by the Indemnifying Party in the defense or settlement of such matter, (ii) the Indemnifying Party shall keep the Indemnitee informed of all material developments and events relating to such matter, and (iii) the Indemnitee shall have the right to participate, at its own expense, in the defense of such matter. In no event shall the Indemnifying Party settle or compromise any matter or consent to entry of any judgment which does not include the giving by the claimant to the Indemnitee of a written release from all liability in respect of such matter, without the Indemnitee's written consent.

In the event that the Indemnifying Party does not undertake such defense or opposition in a timely manner, the Indemnitee may undertake the defense, opposition, compromise or settlement of such matter with counsel selected by it at the Indemnifying Party's cost (subject to the right of the Indemnifying Party to assume defense of or opposition to such matter at any time prior to settlement, compromise or final determination thereof and subject to the University being authorized by statute or otherwise for payment of such costs).

The representations and warranties of SUF contained in this Agreement shall expire on the first anniversary of the Closing Date.

## 12. Termination.

- (a) This Agreement may be terminated by mutual consent of SUF and the University or either the University or SUF, 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: (a) 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; or (b) if the Assignment Application is denied by Final Order; or designated for a trial-type hearing; or (c) if there shall be in effect any judgment, final decree, or order that would prevent or make unlawful the Closing of this Agreement; or (d) if the Closing has not occurred within twelve (12) months after the date that the FCC releases a public notice of its acceptance for filing of the Assignment Application.

- (b) This Agreement may also be terminated by the University, in whole or in part, should the University determine that such termination is in the best interest of the University, University System of Maryland, and/or the State. The University will pay all reasonable costs associated with its obligations under this Agreement up to the date of termination.

13. **Specific Performance.** SUF acknowledges that the Stations are unique assets and of a type not readily obtainable on the open market and that, in the event SUF fails to perform its obligation to consummate the transaction contemplated hereby, money damages alone will not be adequate to compensate the University for its injury. Therefore, in the event of SUF's failure to perform its obligation to consummate the transaction contemplated hereby, the University shall be entitled, in addition to any other rights and remedies on account of such failure, to specific performance of the terms of this Agreement and of SUF's obligation to consummate the transaction contemplated hereby, provided that the University is not in breach of its material obligations under this Agreement. If any action is brought by the University to enforce this Agreement, SUF shall waive the defense that there is an adequate remedy at law.

14. **Risk of Loss or Damage.** The risk of loss or damage to any of the Assets on or prior to the Closing Date shall be upon SUF. SUF shall use all commercially reasonable efforts to repair or replace any damaged or lost Assets, provided, however, that in the event that Assets with an aggregate value of greater than Ten Thousand Dollars (\$10,000) are damaged or lost as of the date otherwise scheduled for Closing, the University may, at its option, either (i) postpone Closing for a period of up to sixty (60) days while SUF repairs or replaces such lost or damaged Assets, which SUF shall be obligated to do, or (ii) elect to close with the Assets in their condition as of that time, in which case SUF shall assign all proceeds from insurance on such lost or damaged Assets to the University, and the University shall have the responsibility to repair or replace the Assets. Notwithstanding the foregoing, if either of the Stations are for reasons beyond SUF's control not broadcasting with at least 90% of their full authorized power as of the scheduled Closing Date and it is reasonably expected that SUF can cure the condition within sixty (60) days, the Closing shall be postponed for a period of up to sixty (60) days while SUF attempts to cure the condition. If the condition is not so cured or if it is not reasonably expected that SUF can cure the condition within sixty (60) days, the University may elect to terminate this Agreement.

15. **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.

16. Entire Agreement. This Agreement contains the entire understanding of the parties relating to the subject matter hereof and supersedes all prior written or oral and all contemporaneous oral agreements and understandings relating to the subject matter hereof. The Schedules to this Agreement are hereby incorporated by reference into and made a part of this Agreement for all purposes.

17. Governing Law and Jurisdiction. This Agreement shall be governed by and construed and enforced in accordance with the laws of the State of Maryland, without giving effect to the choice of law principles thereof. Exclusive venue and jurisdiction with respect to each lawsuit or court action, if any, arising under or relating to this Agreement, shall be in the state or federal courts of the State of Maryland.

18. Amendments/Waivers/Forbearance. No amendment or waiver of compliance with any provision hereof or consent pursuant to this Agreement shall be effective unless evidenced by an instrument in writing signed by the party against whom enforcement of such amendment, waiver, or consent is sought. No failure or delay on the part of SUF or University in exercising any right or power under this Agreement shall operate as a waiver thereof, nor shall any single or partial exercise of any such right or power, or any abandonment or discontinuance of steps to enforce such a right or power, preclude any other or further exercise thereof or the exercise of any other right or power.

19. Notices. Any notices, consents or other communications required under this Agreement must be in writing and delivered personally or sent by overnight air courier (prepaid) or by registered or certified mail (postage prepaid with return receipt requested), addressed to the parties address set forth below. Each party shall immediately notify the other party of any change of address. Notices, consents or other communications will be deemed received (a) on the date delivered, if delivered personally or if sent by registered or certified mail or (b) on the next business day after mailing or deposit with an overnight air courier.

For purpose hereof, until further notice, the addresses of the parties are:

SUF:

Salisbury University Foundation, Inc.  
P.O. Box 2596  
Salisbury, MD 21802

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

Howard M. Liberman, Esq.  
Drinker Biddle & Reath LLP  
1500 K Street, N.W., Suite 1100  
Washington, DC 20005

The University:

Two copies shall be sent to the following:

Salisbury University  
1101 Camden Avenue  
Salisbury, MD 21801-6837  
Attn: Vice President Administration and Finance

and

Salisbury University  
1101 Camden Avenue  
Salisbury, MD 21801-6837  
Attn: General Counsel

With copies (which shall not constitute notice) to:

John W. Bagwell, Esq.  
Lerman Senter PLLC  
2000 K Street, N.W., Suite 600  
Washington, D.C. 20006

and

Joy K. Gaslevic, Esq.  
Assistant Attorney General  
Educational Affairs Division  
Office of the Maryland Attorney General  
200 St Paul Place, 17th Floor  
Baltimore, MD 21202

20. Force Majeure. Neither party to this Agreement shall be liable for its failure to perform hereunder due to contingencies beyond its reasonable control, including but not limited to strike, riot, war, fire, act of God, accident, plant breakdown, compliance with any law, regulation or order, whether valid or invalid, of the United States of America or any other governmental body or of any instrumentality thereof, whether now existing or hereafter created.

21. No Third Party Beneficiaries. This Agreement is made solely for the benefit of the parties hereto and nothing contained herein, express or implied, is intended to or shall confer upon any other person any third party beneficiary right or any other legal or equitable rights, benefits or remedies of any nature whatsoever under or by reason of this Agreement.



22. Neutral Construction. The parties to this Agreement agree that this Agreement was negotiated fairly between them at arms' length and that the final terms of this Agreement are the product of the parties' negotiations. Each party represents and warrants that it has sought and received legal counsel of its own choosing with regard to the contents of this Agreement and the rights and obligations affected hereby. The parties agree that this Agreement shall be deemed to have been jointly and equally drafted by them, and that the provisions of this Agreement therefore should not be construed against a party on the grounds that the party drafted or was more responsible for drafting the provision(s).

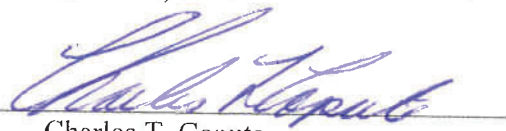
23. Severability. In the event that any one or more of the provisions or parts of a provision contained in this Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect in any jurisdiction, such invalidity, illegality or unenforceability shall not affect any other provision or part of a provision of this Agreement or any other jurisdiction, but this Agreement shall be reformed and construed in any such jurisdiction as if such invalid or illegal or unenforceable provision or part of a provision had never been contained herein and such provision or part shall be reformed so that it would be valid, legal and enforceable to the maximum extent permitted in such jurisdiction. Upon such determination that any term or other provision is invalid, illegal or unenforceable, the parties hereto shall negotiate in good faith to modify this Agreement so as to effect the original intent of the parties as closely as possible in any acceptable manner to the end that the transactions contemplated hereby are fulfilled to the greatest extent possible.

24. Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original and all of which together will constitute one and the same instrument. Facsimile signatures shall be treated as original signatures for all purposes hereunder.

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

**SALISBURY UNIVERSITY  
FOUNDATION, INC.**

By



Charles T. Capute  
Chairman of Board

**SALISBURY UNIVERSITY**

By



Janet Dudley-Eshbach  
President

## Schedule 2

### FCC Authorizations

Call Sign	Community of License	Facility ID Number	License Expiration Date
WSCL(FM)	Salisbury, MD	58660	October 1, 2019
WLP764	Broadcast Auxiliary Station (Studio Transmitter Link)		October 1, 2019
WSDL(FM)	Ocean City, MD	83090	October 1, 2019
WPNJ990	Broadcast Auxiliary Station (Studio Transmitter Link)		October 1, 2019
E050357	Receive-only Earth Station Registration	N/A	November 30, 2020