

## **ASSET PURCHASE AGREEMENT**

THIS ASSET PURCHASE AGREEMENT (the "Agreement") is entered into as of the 6<sup>th</sup> day of April, 2016, by and between **Mercer County Community College** ("Seller") and **Radio Sharon Foundation** ("Buyer").

### **Background**

WHEREAS, Seller is the licensee of FM Translator Station W300AC, Chatsworth, New Jersey (Facility ID No. 41191) (the "Station"), pursuant to certain licenses, authorizations and approvals (the "FCC Authorizations") issued by the Federal Communications Commission (the "FCC"); and

WHEREAS, subject to FCC consent, Seller wishes to assign its FCC Authorizations related to the Station to Buyer, and Buyer wishes to acquire the FCC Authorizations.

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

#### **1. Sale and Purchase.**

1.1 Station Assets. Subject to and in reliance upon the representations, warranties and agreements herein set forth, and subject to the terms and conditions herein contained, Seller shall grant, convey, sell, assign, transfer and deliver to Buyer on the Closing Date (as hereinafter defined), and Buyer shall purchase and accept from Seller, the interests of Seller in certain of the assets, rights, interests and claims, tangible and intangible, including its business and goodwill used or held for use in the business and operations of the Station (collectively, the "Station Assets"). The Station Assets shall include the following:

a. Licenses and Authorizations. All of the FCC Authorizations issued with respect to the Station including, without limitation, all rights in and of the W300AC call letters and all of those FCC Authorizations listed and described on Schedule 1.1(a) attached hereto, and all applications therefor.

b. Tangible Personal Property. All interests of Seller as of the date of this Agreement in all equipment and other tangible personal property, used or held for use in connection with the business and operations of the Station, which are expressly listed and described on Schedule 1.1(b) attached hereto (collectively, the "Tangible Personal Property").

c. Real Property Leases. All interests of Seller in real property leases for the Station's antenna site (the "Leases").

**2. FCC Consent.** Within five (5) business days of the execution of this Agreement, the parties shall file an application (the "Assignment Application") for FCC consent to the assignment of the FCC Authorizations for the Station (the "FCC Consent"). Buyer shall be

responsible for payment of FCC filing fees. Buyer and Seller agree to proceed expeditiously and with due diligence to use their best efforts to cooperate with each other in seeking the FCC's approval of the transaction contemplated herewith.

3. **Closing.** Within ten (10) business days after the FCC Consent appears in an FCC public notice, the parties shall consummate the transaction contemplated by this Agreement at a closing (the "Closing"); provided, however, Buyer, it is sole discretion, may consummate the transaction prior to that date upon five (5) days advance notice to Seller. At the Closing, Seller shall deliver to Buyer a Bill of Sale, an Assignment of Leases and an Assignment of FCC Authorizations and any other documents of conveyance reasonably requested by Buyer and necessary to consummate the transaction contemplated by this Agreement.

4. **Purchase Price.** The consideration for the sale of the Station Assets shall be Twenty-Eight Thousand, Three Hundred Dollars (\$28,300.00) (the "Purchase Price"). The Purchase Price shall be paid as follows.

4.1 Upon execution of this Agreement, Buyer shall deliver to Seller by certified or bank cashier's check or wire transfer of immediately available federal funds a good faith deposit of Five Thousand Dollars (\$5,000.00) (the "Good Faith Deposit") to secure Buyer's performance under this Agreement. At the Closing, the Good Faith Deposit shall be credited toward the Purchase Price.

4.2 At the Closing, Buyer shall deliver to Seller, by certified or bank cashier's check or wire transfer of immediately available federal funds, the balance of the Purchase Price in the amount of Twenty-Three Thousand, Three Hundred Dollars (\$23,300.00).

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

6. **Condition Precedent to Closing.**

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

7. **Representations and Warranties.** Each party hereto expressly represents and warrants that it has the full power and authority to enter into and execute this Agreement. Subject only to the FCC Consent, the parties represent and warrant that there is no constraint upon either party's legal ability to perform its responsibilities hereunder. Seller represents and warrants to Buyer that no person or entity is entitled to any brokerage commissions or finder's fees in connection with the transaction contemplated by this Agreement as a result of any action taken by Seller. Buyer represents and warrants to Seller that no person or entity is entitled to any brokerage commissions or finder's fees in connection with the transaction contemplated by this

Agreement as a result of any action taken by Buyer. Seller represents and warrants to Buyer that it is the holder of the FCC Authorizations listed on Schedule 1.1(a), and that the FCC Authorizations have been validly issued by the FCC, that they are in full force and effect and that they constitute all of the authorizations issued by the FCC in connection with the Station. Seller further warrants that the FCC Authorizations shall be unencumbered in any way and shall be free and clear of all claims. Seller makes no representation or warranty regarding the condition or adequacy of the items of Tangible Personal Property and Buyer accepts the Tangible Personal Property in "as-is" condition without recourse. Buyer represents that it is legally, financially and otherwise qualified to be the licensee of and own and operate a broadcast station under the Communications Act of 1934, as amended and the rules and policies of the FCC, and that there are no facts that would, under existing law and the rules and policies of the FCC, disqualify Buyer as licensee, owner and operator of a station.

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

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

(b) by written notice from a party that is not then in material breach of this Agreement if the other party has failed to cure its material breach of any of its representations, warranties, covenants or agreements under this Agreement within fifteen (15) business days after receipt of written notice of such breach from the party not in material breach (however, if Buyer is unable or unwilling to pay the Purchase Price at Closing to Seller, it shall be considered a material breach of the Agreement without an opportunity to cure and Seller may terminate immediately upon written notice to Buyer); or

(c) by written notice of a party to the other party, if the Closing shall not have occurred by two hundred seventy (270) days from the filing of the Assignment Application, provided, however, that if the Closing shall not have occurred because the FCC Consent shall not have been granted, this Agreement may not be terminated by a party who materially contributed to the delay in the issuance of the FCC Consent.

**9. Effect of Termination.**

(a) If this Agreement is terminated by the parties pursuant to Section 8(a) or (c), then neither party shall have any further liability to the other, and this Agreement shall be deemed null and void and of no further force and effect.

(b) If this Agreement is terminated by Buyer pursuant to Section 8(b), subject to Section 10.1 hereof, Buyer shall have all rights to pursue any remedies available to it for breach.

(c) If this Agreement is terminated by Seller pursuant to Section 8(b), Seller shall retain the Good Faith Deposit as liquidated damages, which shall constitute full payment and the exclusive remedy for any damages suffered by Seller by reason of Buyer's material breach of this Agreement. Seller and Buyer agree in advance that actual damages would be difficult to ascertain and that the Good Faith Deposit is a fair and equitable amount to reimburse Seller for damages sustained due to Buyer's material breach of this Agreement.

**10. Miscellaneous.**

10.1. Specific Performance. The parties recognize that if Seller refuses to perform its obligations under this Agreement, monetary damages alone would not be adequate to compensate Buyer for its injury. Buyer shall therefore be entitled to obtain specific performance of this Agreement. If any action is brought by Buyer to enforce this Agreement, Seller shall waive the defense that there is an adequate remedy at law and to interpose no opposition to the propriety of specific performance as a remedy. Buyer's right to seek specific performance shall be an alternative to and not additional to the exercise of any other remedies available to Buyer at law.

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

**If to Seller:**

Mercer County Community College  
1200 Old Trenton Road  
West Windsor, NJ 08550  
Attn: Peter Fretwell

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

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

**If to Buyer:**

Radio Sharon Foundation  
385 Sharon Street  
Providence, Rhode Island 02908  
Attn: Ana Belliard

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

10.3. Assignment and Binding Effect. Neither party may assign its rights or obligations under this Agreement without the prior written consent of the other party, except that Buyer may assign its rights and obligations under this Agreement without the prior consent of Seller to any business entity which owns and controls Buyer, which Buyer owns and controls or which is owned and controlled by the same entity which owns and controls Buyer. This

Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and permitted assigns.

10.4. Governing Law. Except to the extent governed by federal law, this Agreement shall be governed, construed and enforced in accordance with the laws of the State of New Jersey, without regard to the choice of law provisions thereof.

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

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

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

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

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

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

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

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

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

**SELLER:**

MERCER COUNTY COMMUNITY COLLEGE

By: J. Wang 3.31.16  
Dr. Jianping Wang  
President

**BUYER:**

RADIO SHARON FOUNDATION

By: Ana M. Belliard  
Ana M. Belliard  
Director

**SCHEDULE 1.1(a)**

**FCC AUTHORIZATIONS**

<u>Authorization</u>	<u>File No.</u>	<u>Grant Date</u>	<u>Exp. Date</u>
W300AC Renewal	BRED-20140203AJY	5/23/2014	6/01/2022
W300AC License	BLFT-19930806TD	9/30/1993	6/01/1996
W300AC Construction Permit	BMPFT-19930604TC	9/30/1993	10/03/1993

**SCHEDULE 1.1(b)**

**TANGIBLE PERSONAL PROPERTY**

Antenna  
Coax Cables



**SCHEDULE 1.1(c)**

**LEASES**

**Tower Lease by and between Mercer County Community College and CTI Towers**