



State of New Jersey
OFFICE OF THE STATE TREASURER
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CHRIS CHRISTIE
Governor

KIM GUADAGNO
Lt. Governor

2011 JUN 13 A 11: 28

ANDREW P. SIDAMON - ERISTOFF
State Treasurer

June 13, 2011

Hon. Stephen M. Sweeney, President of the New Jersey Senate
Hon. Sheila Oliver, Speaker of the New Jersey General Assembly

Dear President Sweeney and Speaker Oliver:

As State Treasurer, pursuant to Section 5(g) of the New Jersey Public Broadcasting System Transfer Act, L. 2010, c. 104 (the "Transfer Act"), I am submitting a negotiated asset purchase agreement (the "Negotiated Sales Contract") to be entered into with the New Jersey Public Broadcasting Authority ("NJPBA") and New York Public Radio ("NYPR"). The Negotiated Sales Contract provides for the sale of certain stations of the NJPBA's Radio Broadcast Network. These stations are: WNJT-FM Trenton, WNJY(FM) Netcong, WNJP(FM) Sussex and WNJO(FM) Toms River. Because the sale of these stations will require approval by the Federal Communications Commission ("FCC"), it is also necessary that the NJPBA and NYPR enter into a short-term management and programming agreement for these stations (the "Negotiated Management Agreement") so that NYPR can begin managing and programming the stations on July 1, 2011 until such time as the FCC approves the sale of the station licenses. The Negotiated Sales Contract and the Negotiated Management Agreement shall be collectively referred to herein as the "Negotiated Contracts". Kindly cause the date of the submission of these Negotiated Contracts to be recorded upon the Senate Journal and the Minutes of the General Assembly, respectively.

NYPR's board has approved the entering into by NYPR of these Negotiated Contracts and an authorized officer of NYPR has executed the Negotiated Contracts. In accordance with Section 5(g)(2) of the Transfer Act, unless a concurrent resolution is adopted by the State Senate and the General Assembly disapproving the Negotiated Contracts, within fifteen (15) days of this submission, the Negotiated Contracts shall be deemed approved by the State Legislature. Once the Negotiated Contracts have been deemed approved and the NJPBA has given its approval, the Negotiated Contracts will be executed by the State Treasurer, as Chairman of the NJPBA. The effective date of the Negotiated Contracts is July 1, 2011.

NYPR was selected pursuant to a competitive procurement process. The State Treasurer issued a Request for Proposals for Sale of the New Jersey Network (NJN) Radio Broadcast Network on February 7, 2011. Proposals were received from three

bidders by the submission deadline of March 11, 2011. The proposals were reviewed by the State Treasurer's financial advisor, Public Radio Capital, Boulder, Colorado and by special counsel on Federal Communications Commission ("FCC") matters, Dow Lohnes PLLC, Washington, D.C. The proposals were then evaluated by the State Advisory Committee consisting of Gregg Edwards, Director of Policy, Office of the Governor, Steven Petrecca, Assistant State Treasurer and Michael Jonas, Operations Manager, Department of the Treasury. On March 28, 2011, the State Advisory Committee recommended that two bidders, WHYY and New York Public Radio, be invited to interviews to discuss their proposals and to subsequently submit best and final offers. These interviews took place and each entity submitted their best and final offers by the April 15, 2011 deadline. The best and final offers were evaluated by Public Radio Capital and Dow Lohnes. The best and final offers were then evaluated by the State Advisory Committee, which recommended to the State Treasurer that the offer of NYPR with respect to the stations listed above be selected. Negotiations with NYPR on the Negotiated Contracts commenced and were concluded on June 3, 2011.

The FCC regulates broadcasting stations and NJPBA, as license holder for the radio broadcasting licenses, remains ultimately responsible to the FCC for the radio stations and their programming and operation, during the term of the Negotiated Management Agreement. During the term of the Negotiated Management Agreement, the NJPBA, as FCC license holder, will still have control of the radio stations under FCC rules. As such, NJPBA will remain as an operating State authority, with the necessary amount of employees to satisfy FCC requirements provided by the Department of the Treasury ("Treasury") to the NJPBA pursuant to a memorandum of understanding to be entered into between Treasury and NJPBA. Once the sale of the radio station licenses from NJPBA to NYPR is approved by the FCC and the radio sales consummated, the radio licenses for the stations listed above will be conveyed to NYPR and the Negotiated Management Agreement will terminate. After these radio stations are conveyed to NYPR, NJPBA will no longer have any FCC obligations in connection with these stations.

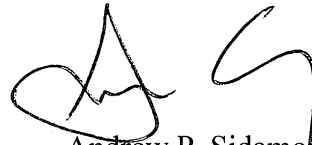
Funding for NJPBA going forward will be incorporated into the State budget. It is estimated that for Fiscal Year 2012, that amount will be approximately \$2 million. Additionally, the proceeds received from the sale of the NJPBA's radio broadcasting licenses and stations will be deposited pursuant to the Transfer Act in the Trust Fund for the Support of Public Broadcasting ("Trust Fund"). The Transfer Act requires that monies in the Trust Fund be dedicated for the support of a public broadcasting system serving the State. In furtherance of that purpose, monies in the Trust Fund will be used for capital improvements and repairs in order to maintain and preserve the State's remaining broadcasting assets, including its tower assets. Such assets are not being alienated from the State.

Enclosed is a copy of the Negotiated Sales Contract and the Negotiated Management Agreement. Also included is a summary of the material terms of the Negotiated Contracts and a summary of the procurement process which was used to arrive at the winning bidder for the Negotiated Contracts. By separate cover, we will also

deliver copies of all documents relevant to this proposed transaction for your consideration.

Finally, these Negotiated Contracts with NYPR fulfill the goals outlined by Governor Christie last year of transitioning NJN to independence and sustainability, ending both the taxpayer subsidy of and the State's role in public radio broadcasting, while preserving a New Jersey-centric coverage and programming mission. The Negotiated Contracts with NYPR will result in a stronger overall programming schedule that draws upon the full range of NYPR offerings and increased and expanded New Jersey-centric public affairs programming through an expansion of staff assigned to the creation of New Jersey-centric programming and the creation of a "New Jersey News Cooperative." With these Negotiated Contracts with NYPR, New Jerseyans can be confident that public broadcasting in New Jersey will not only continue, but also has a bright and dynamic future with a strong plan by NYPR to expand its New Jersey-centric programming.

Sincerely,

A handwritten signature in black ink, appearing to read 'Andrew P. Sidamon-Eristoff', with a stylized, flowing script.

Andrew P. Sidamon-Eristoff
Treasurer, State of New Jersey

Attachments: Negotiated Sales Contract
Negotiated Management Agreement
Summary of Material Terms

SUMMARY OF RADIO STATION SALE TO NEW YORK PUBLIC RADIO

A. Overview

- New Jersey Public Broadcasting Authority ("NJPBA") proposes to enter into the agreements described below to sell the specified NJPBA-owned radio stations to New York Public Radio, a New York nonprofit corporation ("NYPR"), and to arrange the short-term management of those radio stations by NYPR prior to FCC approval of the assignment of the underlying FCC licenses to NYPR.

B. The Stations

- WNJT-FM, Trenton, New Jersey, WNJY(FM), Netcong, New Jersey, WNJP(FM), Sussex, New Jersey, WNJO(FM), Toms River, New Jersey (together, collectively, the "Stations").

C. Asset Purchase Agreement

- Pursuant to the Asset Purchase Agreement (the "APA"), NJPBA will sell to NYPR the licenses issued by the Federal Communications Commission ("FCC") for each of the Stations, along with certain of NJPBA's assets used or useful in the operation of the Stations, in exchange for \$1,000,000 in cash and certain non-cash consideration valued at \$1,802,690. Non-cash consideration consists of broadcast of PSAs on WQXR-FM and distribution of such PSAs on the WQXY website, the creation of New Jersey-centric radio content, certain media internships and a post-Closing contingent payment if the assets are sold within 5 years after the consummation of the transactions contemplated by the APA.
- The APA contains representations, warranties and covenants that are typical of noncommercial broadcast radio transactions of this type.
- Closing is conditioned upon FCC approval of the assignment of the Stations' license to NYPR, as well as NJPBA obtaining third-party consents necessary to assign or sublease certain tower site property leases to NYPR.

D. Management and Programming Agreement

- Pending FCC approval of the APA, NYPR will assume the management and programming of the Stations pursuant to a Management and Programming Agreement (the "MPA") between NJPBA and NYPR.
- During the term of the MPA, which would terminate following the consummation or termination of the APA, NYPR's operation and management of the Stations would be subject to NJPBA's ultimate control as the FCC licensee of the Stations.
- In exchange for the right to provide programming to the Stations during the term if the MPA, NYPR would reimburse NJPBA for certain expenses incurred by NJPBA in connection with the operation of the Stations.

E. Facilities Use Agreement

- During the term of the MPA, NYPR is permitted access to certain NJPBA facilities.

F. Lease Agreements

- At the closing of the transaction contemplated by the APA, NJPBA and NYPR will enter into Lease Agreements to provide NYPR with subleases/sublicenses necessary to permit access to certain facilities.

G. Sharing Agreement

- Certain of the equipment used in connection with the operation of the Stations is being retained by NJPBA (1) for use in the operation of the NJPBA television stations or (2) because such equipment is shared with third parties and, thus, is not freely assignable by NJPBA (such equipment described in (1) and (2), the "Shared Equipment"). Following the closing of the APA, NYPR will need to use certain of the Shared Equipment in connection with the operation of certain of the Stations. To that end, at the closing of the transaction contemplated by the APA, NJPBA and NYPR will enter into a Sharing Agreement to permit NYPR to use the Shared Equipment. The parties will share (pro rata) the costs

of operating and maintaining the Shared Equipment.

ASSET PURCHASE AGREEMENT

This Asset Purchase Agreement (this “**Agreement**”) is made this ____ day of June 2011, by and between the New Jersey Public Broadcasting Authority, an independent instrumentality of the State of New Jersey allocated in, but not of, the Department of the Treasury of the State of New Jersey (the “**Seller**”), and New York Public Radio, a New York nonprofit corporation (the “**Buyer**”).

RECITALS

A. Seller holds certain licenses, permits and authorizations issued by the Federal Communications Commission (“**FCC**”) for the operation of the noncommercial radio stations identified in **Schedule 1.1(a)** hereto (collectively, the “**Stations**”);

B. In accordance with the New Jersey Public Broadcasting System Transfer Act (L. 2010, c. 104) (the “**Transfer Act**”), Seller has been authorized to sell the Stations’ licenses and certain related assets; and

C. Seller desires to sell the Stations’ licenses and certain related assets to Buyer, and Buyer desires to purchase the Stations’ licenses and such related assets from Seller.

AGREEMENTS

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein, Buyer and Seller, intending to be legally bound, hereby agree as follows:

1. **Assets to be Sold**

1.1 Assets to be Sold at Closing. Subject to the prior approval of the FCC and to the terms and conditions of this Agreement, on the Closing Date (as defined below) Seller shall sell, assign, transfer, convey and deliver to Buyer and Buyer shall purchase and acquire all right, title and interest of Seller in and to the following assets (collectively, the “**Assets**”) free and clear of all liens, mortgages, claims and encumbrances of any nature whatsoever (“**Liens**”) except Permitted Liens (as defined below):

(a) **Authorizations.** All licenses, permits and authorizations issued or granted by the FCC and held by Seller for the operation of the Stations, listed in **Schedule 1.1(a)** hereto and including any renewals or modifications thereof and applications therefor between the date of this Agreement and the Closing Date (the “**FCC Authorizations**”), and, to the extent they are assignable, all other licenses, permits and authorizations or similar rights issued by any federal, state or local governmental authority and held by Seller for the operation of the Stations;

(b) **Tangible Assets.** Those fixed assets and personal property used or intended for use in the operation of the Stations that are listed in **Schedule 1.1(b)**

hereto, together with any additions thereto between the date of this Agreement and the Closing Date (collectively, the “**Tangible Personal Property**”);

(c) **Intangible Assets.** Those intangible assets owned by Seller and used or intended for use in the operation of the Stations that are listed on **Schedule 1.1(c)** hereto (collectively, the “**Intangible Property**”);

(d) **Leased Real Property.** The interests of Seller in those lease agreements set forth in **Schedule 1.1(d)** hereto for the real property leased by Seller in connection with the operation of the Stations (the “**Real Property Leases**”) (the real estate leased pursuant to the Real Property Leases is referred to herein as the “**Real Property**”); and

(e) **Records.** Those records of Seller that are required by the FCC to be kept by the Stations and copies of those business records, technical records and engineering data which directly relate to or directly affect the Assets and which belong to Seller and are within its possession and control, including membership lists, donor lists, prospect lists, information on fundraisers and appeals (such list and information on fundraisers and appeals, the “**Donor Information**”).

1.2 Excluded Assets. Without limiting the foregoing, the Assets shall not include the following excluded assets, along with all right, title and interests therein (the “**Excluded Assets**”):

(a) All cash, cash equivalents or other similar type investments of Seller, including, without limitation, certificates of deposit, money market accounts, commercial paper, Treasury bills and other marketable securities on hand and/or in banks as of the Closing Date;

(b) Seller’s accounts receivable for services performed by it in connection with the operation of the Stations attributable to the period prior to the Closing (as defined below) or commencement of the MOA (as defined below), as applicable;

(c) All claims, right and interest of Seller to any refunds of fees of any nature whatsoever or deposits of any kind that relate to the period prior to the Closing, except to the extent Seller receives a credit therefor under **Section 2.3**;

(d) All contracts of Seller that are not Real Property Leases;

(e) Any and all contracts of insurance, including the cash surrender value thereof, or insurance proceeds and insurance claims made by Seller prior to the Closing Date;

(f) All pension, profit sharing or cash or deferred (Section 401(k) and/or 457) plans and trusts and assets thereof and any other employee benefit plan or arrangement and the assets thereof, if any, maintained by Seller; and

(g) All Seller's assets and other property not specifically included in Sections 1.1(a)-(e) above and the schedules to this Agreement.

1.3 Permitted Liens. The Assets shall be transferred to Buyer free and clear of Liens except, (a) with respect to the Real Property, any easements, rights of way, building and use restrictions and similar encumbrances on the Real Property that do not in any material respect detract from the value of the property subject thereto or impair the use thereof in the ordinary course of the business of the Stations, and (b) the lien listed on Schedule 1.3 (collectively, "Permitted Liens").

2. Consideration.

2.1 Purchase Price. Buyer shall pay to Seller the purchase price for the Assets (the "Purchase Price") of:

(a) On the Closing Date, ONE MILLION DOLLARS (\$1,000,000) (the "Cash Purchase Price"), as adjusted pursuant to Section 2.3 below, by wire transfer of immediately available funds to an account designated in writing by Seller; and

(b) Certain non-cash consideration set forth on Schedule 2.1(b) with a total value of \$1,802,690 shall be provided to Seller by Buyer as additional consideration for the Assets.

2.2 MOA. Concurrently with the execution of this Agreement, Buyer and Seller shall enter into and thereafter perform their obligations under a short term Management and Operations Agreement (the "MOA") in the form set forth in Schedule 2.2(a) hereto and the temporary Facilities Use Agreement ("FUA") in the form set forth in Schedule 2.2(b) hereto.

2.3 Prorations and Adjustments.

(a) Subject to the terms of the MOA, all income and normal operating expenses arising from conduct of the business and operations of the Stations, including, without limitation, assumed liabilities and prepaid expenses, power and utilities charges, and rents and similar prepaid and deferred items, shall be prorated between Seller and Buyer in accordance with United States Generally Accepted Accounting Principles ("GAAP") to reflect the principle that Seller shall be entitled to all income and be responsible for all expenses arising from, or attributable to, the conduct of the business and operations of the Stations through 12:01 a.m. New Jersey time on the Closing Date (the "Adjustment Time") and Buyer shall be entitled to all income and be responsible for all expenses arising from, or attributable to, the conduct of the business and operations of the Stations after the Adjustment Time. The prorations and adjustments to be made pursuant to this Section 2.3 are referred to as the "Closing Date Adjustments." Five (5) Business Days (defined below) prior to the Closing Date, Seller shall estimate all Closing Date Adjustments pursuant to this Section 2.3 and shall deliver a statement of its estimates to Buyer (which statement shall set forth in reasonable detail the basis for those estimates). At the Closing, the net amount due to Buyer or Seller as a

result of the estimated Closing Date Adjustments (excluding any item that is in good faith dispute) shall be applied as an adjustment to the Cash Purchase Price as appropriate.

(b) Within forty-five (45) days after the Closing, Seller shall deliver to Buyer a statement of any adjustments to Seller's estimate of the Closing Date Adjustments, and no later than the close of business on the tenth (10th) Business Day after the delivery to Buyer of Seller's statement (the "**Payment Date**"), Buyer shall pay to Seller, or Seller shall pay to Buyer, as the case may be, any amount due as a result of the adjustment (or, if there is any good faith dispute, the undisputed amount). Except with respect to items that Buyer notifies Seller that it objects to prior to the close of business on the Payment Date, the adjustments set forth in Seller's statement shall be final and binding on the parties effective at the close of business on the Payment Date.

(c) If the Buyer disputes any of Seller's determinations in the statement delivered pursuant to **Section 2.3(b)**, the parties shall confer with regard to the matter and shall work in good faith to promptly resolve any such dispute, and an appropriate adjustment and payment shall be made as agreed upon by the parties within three (3) Business Days after such agreement. For purposes of this Agreement, the term "**Business Day**" means any day of the year on which banks are not required or authorized to be closed in the State of New Jersey.

2.4 Deposit. Within two (2) Business Days following execution of this Agreement, Buyer shall pay to Seller, by delivery to Seller of a cashier's check, a good faith deposit in the amount of One Hundred Thirty Seven Thousand Seven Hundred Fifty Dollars (\$137,750) (the "**Deposit**"). At the Closing, the Deposit shall be applied to the Cash Purchase Price. In the event that this Agreement is terminated in accordance with its terms, the Deposit shall be distributed as provided in **Section 10** of this Agreement.

3. Liabilities Assumed and Excluded.

3.1 Assumed Liabilities. In addition to those obligations and liabilities assumed under, arising out of, or caused by Buyer's actions in connection with the MOA or the FUA, or the failure of Buyer to perform or discharge any obligations required by the MOA or the FUA, upon the terms and subject to the conditions of this Agreement, commencing on the Closing Date, Buyer shall pay, perform and discharge in accordance with their terms, the following obligations and liabilities of the Seller (the "**Assumed Liabilities**"):

(a) All liabilities and obligations related to the business and operations of the Stations (except with respect to the Excluded Assets) or the ownership of the Assets attributable to the period after the Closing, including all liabilities and obligations associated with the lien listed on **Schedule 1.3**;

(b) All liabilities and obligations in respect of which an adjustment is made to the Cash Purchase Price in favor of Buyer pursuant to **Section 2.3**; and

(c) All liabilities and obligations under the Real Property Leases to the extent arising, or attributable to the period, after the Closing.

3.2 Excluded Liabilities. Subject to the terms of the MOA and the FUA, except for the Assumed Liabilities, Buyer does not assume nor shall Buyer be obligated for any other liabilities or responsibilities whatsoever of Seller, including without limitation any liability under Seller's collective bargaining agreements (the "**Excluded Liabilities**"). In addition, Seller does not assign to, and Buyer does not assume, any collective bargaining agreement(s) that cover employees of the Seller.

4. FCC Approval.

4.1 FCC Approval Required. The parties acknowledge that consummation of the sale and purchase provided for herein (the "**Closing**") and the performance of the obligations of Seller and Buyer under this Agreement are subject to the FCC's consent to the assignment of the FCC Authorizations from Seller to Buyer without any material adverse conditions (the "**FCC Approval**").

4.2 Filing of FCC Application. The parties agree to proceed as expeditiously as practical to prepare an assignment application for submission to the FCC (the "**FCC Application**") and to file the FCC Application with the FCC not later than ten (10) Business Days after the date of this Agreement. The parties shall prosecute the FCC Application in good faith and with due diligence, and the parties shall amend the FCC Application, respond to oral or written inquiries, and answer pleadings, in all cases, acting as expeditiously as possible, whenever such actions are required by the FCC or its rules. Each party shall promptly provide the other with a copy of any pleading, order or other document served on it relating to the FCC Application. Buyer and Seller shall notify each other of all documents filed with or received from any governmental agency with respect to this Agreement or the transactions contemplated hereby. Buyer and Seller shall furnish each other with such information and assistance as such the other may reasonably request in connection with their preparation and prosecution of the FCC Application.

4.3 Main Studio Waiver. Seller acknowledges that, as part of the FCC Application or by way of a separate filing or filings, as appropriate, Buyer will request waivers of the FCC's "main studio" rule with respect to all Stations other than WNJT-FM, such waivers to be effective on the Closing Date (the "**Main Studio Waivers**"). Such requests shall be made and prosecution thereof (to the extent separate from the FCC Application) shall be conducted at Buyer's expense. Seller hereby consents to the filing and prosecution of such main studio waiver requests.

5. Sharing Agreement. Seller has disclosed to Buyer and Buyer acknowledges that (i) certain equipment and components of the Stations' program delivery network are used by Seller in the operation of Seller's other broadcast radio and television stations (such equipment and components, the "**Shared Infrastructure**") and (ii) that such Shared Infrastructure is not part of the Assets and, as such, shall not be sold to Buyer at the Closing. To facilitate Buyer's operation of the Stations following the

Closing, Seller and Buyer shall, at the Closing, enter into a Sharing Agreement (the “Sharing Agreement”) in the form set forth in Schedule 5(a) and into lease agreements with respect to items 2-4 on Schedule 1.1(d) and the New Brunswick relay site (each, a “New Lease” and collectively, the “New Leases”) in the form set forth in Schedule 5(b). In the event that the consent to assign item 1 on Schedule 1.1(d) is not obtained by Closing, Seller may elect to enter into a New Lease with Buyer with respect to item 1 on Schedule 1.1(d) and the condition to Closing with respect to item 1 shall be deemed to have been met. With respect to the New Leases, the parties agree to the rent terms set forth in Schedule 5(c).

6. Representations and Warranties

6.1 Seller’s Representations and Warranties. Seller represents and warrants to Buyer as follows:

(a) **Organization and Standing.** Seller is a legally formed and constituted independent instrumentality of the State of New Jersey allocated in but not of the Department of the Treasury of the State of New Jersey, and possesses all power necessary to own and operate the Stations and to execute, deliver and carry out the provisions of this Agreement and has the authority to convey the Assets.

(b) **Authorization and Binding Obligation.** Seller has obtained the approvals required by the Transfer Act for authorization of this Agreement and any other approvals required by statute, regulation or as otherwise required by law. The execution, delivery and performance of this Agreement by Seller have been duly authorized by all necessary actions on the part of Seller. This Agreement constitutes a valid and binding obligation of Seller, enforceable against Seller in accordance with its terms except as the enforceability of this Agreement may be affected by bankruptcy, insolvency, or similar laws affecting creditors’ rights generally and by judicial discretion in the enforcement of equitable remedies.

(c) **FCC Authorizations.** Seller holds the FCC Authorizations listed in Schedule 1.1(a). The FCC Authorizations listed in Schedule 1.1(a) are the only authorizations necessary for Seller to own and operate the Stations in all material respects as operated as of the date of this Agreement. The FCC Authorizations are in full force and effect and have not been revoked, suspended, canceled, rescinded or terminated and have not expired. No action or proceeding is pending, or to Seller’s knowledge threatened, before the FCC or other governmental or judicial body that reasonably could be expected to result in the cancellation, suspension, revocation, rescission, or material and adverse modification, of the FCC Authorizations, except as disclosed in Schedule 6.1(c). There is no order to show cause, notice of violation, notice of apparent liability, or notice of forfeiture or complaint pending or, to Seller’s knowledge threatened, against Seller or the Stations by or before the FCC. Seller and the Stations are in compliance in all material respects with the FCC Authorizations, the Communications Act of 1934, as amended, and the rules, regulations and policies of the FCC. All reports and filings required to be filed with the FCC by Seller with respect to the Stations (including without limitation all required equal employment opportunity reports) have been timely filed, and

all such reports and filings are accurate and complete in all material respects. Seller maintains public files for the Stations as required in all material respects by FCC rules. To Seller's knowledge, all antenna structures owned by Seller and used in the operation of the Stations are lighted, painted, marked and registered in accordance in all material respects with FCC and FAA rules.

(d) Operation of the Stations.

(i) Seller is operating the Stations in compliance in all material respects with FCC rules and regulations, and otherwise in compliance in all material respects with all laws, regulations, rules, writs, injunctions, ordinances, franchises, decrees or orders of any court or of any foreign, federal, state, municipal or other governmental authority which are applicable to the Stations or the Assets.

(ii) To Seller's knowledge, Seller has not stored, generated, released, disposed of or used, nor does Seller have any knowledge that any other party has stored, generated, released, disposed of or used, at any physical location where any of the Assets are situated or used in connection with the business and operations of the Stations, any hazardous substance or other material regulated under any applicable environmental, health or safety law, except de minimis amounts used in the ordinary course of business in compliance with applicable law. To Seller's knowledge, Seller has complied and is in compliance in all material respects with all environmental laws applicable to the operation of the Stations or the Assets.

(e) Absence of Conflicting Agreements. Subject to obtaining the consents specified in **Schedule 6.1(e)** hereto, the FCC Approval, the consent of NTIA and any consents necessary with respect to the use of the Donor Information by Buyer after Closing, the execution, delivery, and performance by Seller of this Agreement and the transactions contemplated hereby (with or without the giving of notice, the lapse of time, or both): (i) will not conflict with any statute of the State of New Jersey governing Seller; (ii) will not conflict with, result in a breach of, or constitute a default under, any law, judgment, order, injunction, decree, rule, regulation, or ruling of any court or governmental instrumentality individually or in the aggregate material to the transactions contemplated hereby and applicable to Seller; and (iii) will not conflict with, constitute grounds for termination of, result in a breach of, constitute a default under, or accelerate or permit the acceleration of any performance required by the terms of, any agreement, instrument, license, or permit individually or in the aggregate material to the transactions contemplated hereby and to which Seller is a party or by which Seller may be bound.

(f) Good Title to Properties. Except for Permitted Liens, Seller has, and on the Closing Date will have, good title and ownership, free of all Liens or hypothecations, to all Assets being assigned to Buyer. **Schedule 1.1(b)** contains a list of all items of Tangible Personal Property included in the Assets. All of the Assets are in adequate operating condition and repair (ordinary wear and tear excepted) and have been maintained in accordance with reasonable engineering practice, industry standards, and any standards or guidelines imposed by the FCC. Seller maintains sufficient insurance policies or otherwise self-insures with respect to the Stations and the Assets.

(g) **Real Property.** **Schedule 1.1(d)** includes a description of each Real Property Lease included in the Assets (whether by sublease or assignment of the existing lease at Closing). The buildings and fixtures used in the operation of the Stations are suitable for their intended use as currently used by Seller. To Seller's knowledge, all utilities necessary for Seller's use of the real property used by the Stations are installed and in working order and are subject to valid easements to the extent required. The Real Property Leases are in effect and, to Seller's knowledge, valid, binding, and enforceable in all material respects by Seller in accordance with their terms. Neither Seller nor, to Seller's knowledge, any other party to any such Real Property Leases is in material breach or default on any of such Real Property Leases, there are no claims of material breach or default by Seller, and Seller has received no notice of breach or default from any other party thereto. Seller has performed its obligations under each of the Real Property Leases in all material respects. True and complete copies of the Real Property Leases, together with all amendments thereto, have been delivered to Buyer by Seller. To Seller's knowledge, the Real Property Leases include sufficient access to the applicable facilities without need to obtain any other access rights. Seller has received no written notice that any condemnation proceedings have been instituted or threatened against the real property used by the Stations.

(h) **Claims and Litigation.** Except as set forth on **Schedule 6.1(h)**, there is no judgment outstanding or any claim or litigation or proceeding pending or, to the Seller's knowledge, threatened against Seller in respect of the Stations or the Assets. To Seller's knowledge, there are no investigations pending or threatened against Seller in respect of the Stations or the Assets.

(i) **Intangible Property.** Seller owns or has the right to use the Intangible Property. Seller has received no notice of any claim that any Intangible Property or the use thereof conflicts with, or infringes upon, any rights of any third party (and there is no basis for any such claim of conflict).

(j) **Actions Pursuant to the MOA and the FUA.** Notwithstanding anything contained in this Agreement to the contrary, Seller shall not be deemed to have breached any of its representations, warranties, covenants or agreements contained herein or to have failed to satisfy any condition precedent to Buyer's obligation to perform under this Agreement if the inaccuracy of any such representation, the breach of any such warranty, covenant or agreement or the inability to satisfy any such condition precedent is principally caused by (i) any actions taken by or under the control of Buyer, or any affiliated entities (or any of their respective officers, directors, employees, agents or representatives) in connection with Buyer's performance of its obligations under the MOA and the FUA, or (ii) the failure of Buyer to perform or discharge any of its obligations as required by the MOA or the FUA.

6.2 Buyer's Representations and Warranties. Buyer represents and warrants to Seller as follows:

(a) **Organization and Standing.** Buyer is a legally formed and constituted nonprofit educational and charitable corporation that: (i) has been

qualified as a nonprofit corporation under Section 501(c)(3) of the federal Internal Revenue Code of 1986, as amended (the "Code"), and is exempt from taxation pursuant to Section 501(a) of the Code; (ii) is duly qualified to do business and is in good standing under the laws of the State of New York and the State of New Jersey; and (iii) possesses all corporate power necessary to own and operate the Stations and to execute, deliver and carry out the provisions of this Agreement and has or will have the authority and financial capability to acquire the Assets.

(b) **Authorization and Binding Obligation.** Buyer has obtained all necessary corporate approvals required for authorization of the Agreement and any other approvals required by statute, regulation or as otherwise required by law. The execution, delivery, and performance of this Agreement by Buyer have been duly authorized by all necessary actions on the part of Buyer. When countersigned by Seller, this Agreement will constitute a valid and binding obligation of Buyer, enforceable against Buyer in accordance with its terms except as the enforceability of this Agreement may be affected by bankruptcy, insolvency, or similar laws affecting creditors' rights generally and by judicial discretion in the enforcement of equitable remedies.

(c) **Absence of Conflicting Agreements.** Subject to obtaining the FCC Approval, the execution, delivery, and performance by Buyer of this Agreement and the transactions contemplated hereby (with or without the giving of notice, the lapse of time, or both): (i) will not conflict with the Buyer's organizational documents; (ii) will not conflict with, result in a breach of, or constitute a default under, any law, judgment, order, injunction, decree, rule, regulation, or ruling of any court or governmental instrumentality individually or in the aggregate material to the transactions contemplated hereby and applicable to Buyer; and (iii) will not conflict with, constitute grounds for termination of, result in a breach of, constitute a default under, or accelerate or permit the acceleration of any performance required by the terms of, any agreement, instrument, license, or permit individually or in the aggregate material to the transactions contemplated hereby and to which Buyer is a party or by which Buyer may be bound.

(d) **Buyer's Qualifications.** Buyer is legally, financially and otherwise qualified to be the licensee of and acquire, own and operate the Stations under the Communications Act of 1934, as amended, and the rules, regulations and policies of the FCC. Buyer knows of no fact related to Buyer that would, under existing law and the existing rules, regulations, policies and procedures of the FCC, disqualify Buyer as assignee of the FCC Authorizations or as the owner and operator of the Stations.

(e) **New Jersey Standard Terms and Conditions.** Buyer acknowledges its receipt of the State of New Jersey Standard Terms and Conditions (the "**Standard Terms**") set forth in **Schedule 6.2(e)** hereto.

7. Covenants

7.1 Seller Operation of the Stations. Subject to the terms of the MOA and the FUA, from the date of this Agreement to the Closing Date, Seller covenants that it will:

(a) Continue to operate the Stations in the ordinary course of business;

(b) Operate the Stations in accordance with the FCC Authorizations and in compliance in all material respects with FCC rules, regulations and policies, and maintain the FCC Authorizations in full force and effect;

(c) (i) maintain, preserve and keep the Assets and technical facilities of the Stations in adequate repair, working order and condition; (ii) maintain commercially reasonable insurance on the Assets and the Stations or continue to self-insure at the levels it self-insures as of the date of this Agreement; (iii) pay all liabilities and obligations pertaining to the Stations, the Assets and technical facilities of the Stations that become due and payable in the ordinary course of business; (iv) not enter into any employment, labor, or union agreement or plan (or amendments of any such existing agreements or plan) that will be binding upon Buyer after Closing; and (v) comply in all material respects with all valid and applicable statutes, rules and regulations; and

(d) Not (i) make any sale, assignment, transfer, or other conveyance of any of the Assets; (ii) change the format of any Station to anything other than public radio news and information; (iii) change the manner in which any signal of any of the Stations is transmitted from its main transmitters; (iv) subject any of the Assets or any part thereof to any mortgage, pledge, security interest, or other Lien; or (v) enter into any agreement, license, lease or other arrangements with respect to the Stations or the Assets, or amend any existing agreements, licenses or leases with respect thereto, with respect to (iv) and (v) that will be binding on Buyer after Closing except with Buyer's prior written consent.

7.2 Access to Information. Seller covenants that it shall accord reasonable access to the Assets, including the Stations' transmitter sites, upon reasonable advance notice during normal business hours prior to Closing and at times that will not unreasonably interfere with the operation of the Stations as reasonably determined by Seller, to Buyer or its designated representatives to review the Assets and technical facilities of the Stations, and shall provide Buyer with all information concerning the Assets and the Stations that may be reasonably requested by Buyer.

7.3 No Control by Buyer. Notwithstanding any provision of this Agreement to the contrary, pending the Closing, Buyer covenants that it will do nothing to interfere with Seller's actual (*de facto*) and legal (*de jure*) control over the Stations; provided, however, that Buyer and Seller acknowledge that Buyer will be performing certain duties and obligations with respect to the Stations pursuant to the terms of the MOA.

7.4 Joint Covenants.

(a) From the date of this Agreement until the Closing Date, each party shall give prompt notice to the other of any occurrence that comes to

its attention that may constitute a misrepresentation, breach of warranty or nonfulfillment of any covenant or condition on the part of such party contained in this Agreement. Buyer and Seller shall comply with the Standard Terms.

(b) NTIA Approval. The parties agree to proceed as expeditiously as practical to file or cause to be filed with the National Telecommunications and Information Administration (“NTIA”) all necessary applications for consent to the transfer of grants and/or requests for approval of the transaction with respect to Assets purchased by Seller with the assistance of a grant from the Public Telecommunications Facilities Program (“PTFP”), as set forth in Schedule 1.3.

7.5 Seller’s Employees. Buyer covenants, from the date hereof and continuing after the Closing, to interview and consider for employment all individuals that apply for publicly advertised employment opportunities with Buyer for positions that are primarily stationed in New Jersey, provided that such individuals (i) were employed by Seller with respect to the Stations on June 30, 2011, and (ii) possess the qualifications (in Buyer’s sole discretion) required for the position(s) for which they have applied, so long as the employment opportunity is posted between July 1, 2011 and the date six (6) months after the Closing Date. Buyer may (but is not obligated to) offer post-Closing or post-MOA (as applicable) employment to any of the Stations’ employees. Seller shall remain responsible for any obligations Seller may have to any employee of Seller (“Seller Employee”), including any employees maintained under FCC rules, arising on or prior to the date on which the Seller Employee’s employment with Seller ends, including any severance or other obligations arising out of the termination of such employee’s employment by Seller (“Seller Employee Obligations”). Buyer does not assume any Seller Employee Obligations, all of which are Excluded Liabilities and not Assumed Liabilities. Seller shall be solely responsible for giving any notices required under and for compliance with, as applicable, the WARN Act and any state equivalent, to the extent such notices or other compliance obligations arise out of the termination of the employment of Seller Employees by Seller.

The terms of this Agreement are solely for the benefit of (and may be enforced only by) the parties hereto and their respective successors and permitted assigns. Without limiting the foregoing, nothing in this Agreement gives any rights to any employee, and no employee may enforce any provision of this Agreement against any of the parties hereto.

7.6 Risk of Loss. Except for damages or losses directly caused by or directly resulting from the actions of Buyer under the MOA or the FUA, or any action taken in connection with the MOA or the FUA by Buyer or any entities affiliated with Buyer, the risk of loss, damage, or destruction to the Assets to be sold and conveyed hereunder shall be upon the Seller prior to the Closing and upon the Buyer after the Closing. If prior to Closing any item of Tangible Personal Property is damaged or destroyed or otherwise not in the condition described in Section 6.1(f) in any material respect, then Seller shall repair or replace such item. If such repair or replacement is not completed prior to Closing, then the parties shall proceed to Closing and the Purchase

Price shall be reduced by the reasonably estimated cost of completion of repair or replacement; provided that if the parties disagree regarding the estimate, they shall each obtain one estimate and the average of the two estimates shall be the amount of the reduction to the Purchase Price and such reduction shall be made to the amount of noncash consideration set forth in **Schedule 2.1(b)** available to Seller.

7.7 Brokers and Expenses. Buyer and Seller each shall bear their respective expenses for any brokers or financial advisors engaged in connection with the negotiation and execution of this Agreement and its Closing. Buyer and Seller shall also bear their respective costs and expenses for attorneys, accountants and other advisors retained by or representing them in connection with the negotiation and execution of this Agreement and its Closing. Buyer and Seller shall split the FCC Application filing fee(s) due, if any, related to the transactions contemplated by this Agreement. Seller acknowledges that Buyer, at Buyer's sole cost and expense, may make a lien and judgment search on the Assets if Buyer desires to conduct such a search prior to Closing.

7.8 Closing Conditions. From the date hereof until the Closing, Seller and Buyer each shall use their commercially reasonable efforts to take such actions as are reasonably necessary to expeditiously satisfy the Closing conditions set forth in **Section 8** hereof.

7.9 Consents. The parties shall use commercially reasonable efforts to obtain any third party consents necessary for the assignment of any Real Property Leases or subleasing of any real property used by the Stations, which shall not require any payment to any such third party, but no such consents are conditions to Closing except for the Required Consents. Receipt of consent to assign to Buyer the Real Property Leases and to sublease the real property designated on **Schedule 1.1(d)** with an asterisk is a condition precedent to Buyer's obligation to close under this Agreement (collectively, the "**Required Consents**").

To the extent that any Real Property Lease 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 Real Property Lease; provided, however, with respect to each such Real Property Lease, Seller and Buyer shall cooperate to the extent feasible in effecting a lawful and commercially reasonable arrangement under which Buyer shall receive the benefits under the Real Property Lease from and after Closing, and to the extent of the benefits received, Buyer shall pay and perform Seller's obligations arising under the Real Property Lease from and after Closing in accordance with its terms, and upon receipt of any such third party consent, the applicable Real Property Lease shall be automatically assigned to Buyer without further action by Buyer or Seller.

8. Closing.

8.1 Closing Date and Place. The Closing shall take place on a date (the "**Closing Date**") mutually agreed by the parties but no later than ten (10) Business Days after such date on which the FCC Approval has been granted, subject to the

satisfaction or waiver of the other conditions to Closing set forth in **Section 8.2** and **Section 8.3**. The Closing will take place by the exchange of documents by email or at such other location and by such method as Buyer and Seller may select by mutual agreement.

8.2 Conditions Precedent to Buyer's Obligation to Close. Buyer shall not be obligated to close under this Agreement unless and until the following conditions have been met or waived by Buyer:

- (a) The FCC Approval shall have been granted;
- (b) Seller shall stand ready to deliver to Buyer the documents described in **Section 8.5** below;
- (c) All representations and warranties of Seller contained in this Agreement or in any schedule, certificate or document delivered pursuant to the provisions hereof or in connection with the transactions contemplated herein, shall be true, correct and complete in all material respects at and as of the Closing Date with the same force and effect as if each such representation and warranty were made at and as of such time except for (i) such changes as are contemplated or permitted by this Agreement, (ii) any representation or warranty that is expressly stated only as of a specified earlier date, in which case such representation or warranty shall be true as of such earlier date, or (iii) changes in any representation or warranty as a direct result of any act or omission of Buyer or its agents, including under the MOA or the FUA;
- (d) Seller shall have performed and complied in all material respects with all covenants, agreements and obligations required by this Agreement to be performed or complied with by it prior to the Closing Date except to the extent that such noncompliance results from any act or omission of Buyer or its agents, including under the MOA or the FUA; and
- (e) No injunction, restraining order or decree of any nature of any court or governmental authority of competent jurisdiction shall be in effect that restrains or prohibits Buyer or Seller from consummating the transactions contemplated by this Agreement.
- (f) The Main Studio Waivers shall have been granted;
- (g) Each Required Consent shall have been obtained without any material adverse change in the terms or conditions of the agreement to which such consent relates.
- (h) Between the date of this Agreement and the Closing Date, no Material Adverse Change shall have occurred. As used herein, "**Material Adverse Change**" means any event, circumstance or condition that, individually or when aggregated with all other similar events, circumstances or conditions, would reasonably be expected to have a material adverse effect on one or all of the Stations or the Assets; *provided, however*, that Material Adverse Change shall not include any effect arising out

of or resulting from (i) the transactions contemplated by this Agreement, (ii) changes in national, regional or local economic conditions generally, (iii) changes affecting the radio broadcasting industry generally or public broadcasting generally, (iv) acts of war or terrorism, (v) changes in law or regulation or the implementation thereof, including, without limitation, the Transfer Act, (vi) actions taken by or on behalf of Buyer, including, without limitation, its actions under the MOA or the FUA, or (vii) the partial or total loss of all funding of the Stations and any resulting impact on the Stations.

8.3 Conditions Precedent to Seller's Obligation to Close. Seller shall not be obligated to close under this Agreement unless and until the following conditions have been met or waived by Seller:

- (a) The FCC Approval shall have been granted;
- (b) Buyer shall stand ready to deliver to Seller the documents described in **Section 8.4** below.
- (c) Buyer shall stand ready to perform all of the obligations set forth in **Section 2.1** of this Agreement;
- (d) All representations and warranties of Buyer contained in this Agreement or in any schedule, certificate or document delivered pursuant to the provisions hereof or in connection with the transactions contemplated herein, shall be true, correct and complete in all material respects at and as of the Closing Date with the same force and effect as if each such representation and warranty were made at and as of such time except for (i) such changes as are contemplated or permitted by this Agreement, or (ii) any representation or warranty that is expressly stated only as of a specified earlier date, in which case such representation or warranty shall be true as of such earlier date;
- (e) Buyer shall have performed and complied in all material respects with all covenants, agreements and obligations required by this Agreement to be performed or complied with by it prior to the Closing Date; and
- (f) No injunction, restraining order or decree of any nature of any court or governmental authority of competent jurisdiction shall be in effect that restrains or prohibits Seller or Buyer from consummating the transactions contemplated by this Agreement.

8.4 Buyer's Deliveries at Closing. At the Closing, Buyer shall deliver to Seller: (i) the Cash Purchase Price less the Deposit, (ii) countersigned signature pages to the Sharing Agreement and the New Leases, (iii) a certificate executed by Buyer certifying that the conditions set forth in **Sections 8.3(d)** and **(e)** have been satisfied, and (iv) such instruments as Seller may reasonably require in order to consummate the transactions provided for in this Agreement, including without limitation, an assignment and assumption of the applicable Real Property Leases.

8.5 Seller's Deliveries at Closing. At the Closing, Seller shall:

(a) Deliver to Buyer the FCC Authorizations, together with such assignments of the same as Buyer may reasonably require.

(b) Deliver to Buyer: (i) countersigned signature pages to the Sharing Agreement and the New Leases, (ii) a certificate executed by Seller certifying that the conditions set forth in Sections 8.2(c) and (d) have been satisfied, (iii) the Required Consents, and to the extent obtained, any other consents to assign Real Property Leases obtained by Seller, and (iv) such assignments and further instruments of conveyance as Buyer may reasonably require to effectuate the assignment from Seller to Buyer of the Stations and Assets being conveyed and assigned herein, including without limitation, a bill of sale and an assignment and assumption of the applicable Real Property Leases, all free and clear of Liens other than Permitted Liens.

9. Survival of Representations, Warranties and Covenants; Indemnification.

9.1 Survival. All of the parties' representations and warranties contained in this Agreement shall survive the Closing until the twelve (12) month anniversary of the Closing Date. The covenants of the parties hereunder to be performed in whole or in part after Closing shall survive until thirty (30) days after the date on which such covenants are performed and discharged in full. The covenants of the parties hereunder to be performed in whole prior to the Closing shall not survive the Closing.

9.2 Indemnification by Buyer. After the Closing, Buyer agrees to indemnify and hold Seller and its employees, officers, directors, advisers and representatives (collectively, the "**Seller Indemnitees**") harmless from and against all liability, loss, damage, claim, injury, interest and penalty and all costs and expenses (including reasonable counsel fees and costs and expenses of any suit related thereto or relating to investigating, preparing, defending against or prosecuting any such suit) of any kind or character (collectively, "**Losses**") suffered or incurred by the Seller Indemnitees arising from (a) any breach of any representation or warranty of Buyer contained in this Agreement, (b) any failure to perform or observe any covenant or agreement of Buyer contained in this Agreement, or (c) the Assumed Liabilities or Buyer's ownership of the Assets or operation of the Stations after the Adjustment Time. Notwithstanding the foregoing or anything else herein to the contrary, after Closing, the maximum aggregate liability of Buyer for a breach of a representation or warranty under this Agreement shall be an amount equal to the Purchase Price.

9.3 No Indemnification by Seller The parties acknowledge and agree that Seller shall not provide indemnification and that any claim by Buyer against Seller related to this Agreement or the transactions contemplated hereby shall be governed by the New Jersey Contractual Liability Act (L. 1974, c. 45, N.J.S.A. 59:13-1 et seq.) and the New Jersey Tort Claims Act (L.1972, c. 45, N.J.S.A. 59:1-1 et seq.) and further agree that there shall be no recovery by Buyer with respect thereto for a breach of a representation or warranty under this Agreement in excess of the Purchase Price.

9.4 Procedures. The indemnified party shall promptly give notice to the indemnifying party of any demand, suit, claim or assertion of liability that is subject to indemnification hereunder, whether between the parties (a “**Direct Claim**”) or brought by a third party (in either case, a “**Claim**”), specifying (i) to the indemnified party’s knowledge, the factual basis for such claim and (ii) a good faith estimate of the amount of the claim, if such amount is capable of estimation. If the claim relates to an action, suit or proceeding filed by a third party (a “**Third Party Claim**”), such notice shall be given reasonably promptly after written notice of such Third Party Claim is received; provided, however, that the failure of the indemnified party to give timely notice hereunder shall not relieve the indemnifying party of its obligations under this **Section 9**, except to the extent the indemnifying party’s ability to remedy, contest, defend or settle with respect to such Third Party Claim is thereby prejudiced and provided that such notice is given within the time period described in **Section 9.1**.

9.5 Materiality and Limitations. The parties acknowledge and agree that (1) for purposes of determining whether a party shall be obligated to indemnify the other under this **Section 9** and calculating the amount of Losses, each of the representations, warranties and covenants contained herein shall be read and construed without regard to any materiality or other qualifications that may be contained therein, and (2) neither party shall have any liability to the other under any circumstances for special, indirect, consequential, punitive or exemplary damages or lost profits or similar damages of any kind, whether or not foreseeable, unless such damages constitute actual damages paid to a third party.

10. Termination.

10.1 Termination by Seller. This Section shall supersede section 4.2 of the “Standard Terms.” This Agreement may be terminated by Seller and the purchase and sale of the Assets abandoned upon written notice to Buyer, upon the occurrence of any of the following:

(a) **Conditions.** If the Buyer breaches or fails to perform in any material respect any of its representations, warranties, covenants or agreements contained in this Agreement and such breach or failure to perform (A) would give rise to the failure of a condition set forth in **Section 8.3** if such breach or failure to perform exists at the time scheduled for Closing, or (B) has not been cured within thirty (30) days following Buyer’s receipt of written notice thereof and has not been waived in writing by Seller.

(b) **Judgments.** If there shall be in effect on the date that would otherwise be the Closing Date any judgment, decree, or order, not caused by Seller, that would prevent or make unlawful the Closing.

10.2 Termination by Buyer. This Agreement may be terminated by Buyer and the purchase and sale of the Stations abandoned upon written notice to Seller, upon the occurrence of any of the following:

(a) **Conditions.** If the Seller breaches or fails to perform in any material respect any of its representations, warranties, covenants or agreements contained in this Agreement and such breach or failure to perform (A) would give rise to the failure of a condition set forth in Section 8.2 if such breach or failure to perform exists at the time scheduled for Closing, or (B) has not been cured within thirty (30) days following the Seller's receipt of written notice thereof and has not been waived in writing by Buyer.

(b) **Judgments.** If there shall be in effect on the date that would otherwise be the Closing Date any judgment, decree, or order, not caused by Buyer, that would prevent or make unlawful the Closing.

10.3 Termination by Agreement or by Either Party. This Section shall supersede section 4.2 of the "Standard Terms." This Agreement may be terminated at any time by the mutual agreement of the parties in writing or by either party upon written notice to the other if the FCC denies the FCC Application or if the Closing shall not have occurred within twelve (12) months the date of this Agreement.

10.4 Effect of Termination. This Section shall supersede section 4.2 of the "Standard Terms."

(a) If this Agreement is terminated pursuant to **Section 10.1(b), Section 10.2(b) or Section 10.3** or any other Section of this Agreement other than **Section 10.1(a) or Section 10.2(a)**, Seller shall, within five (5) Business Days of the date of termination of this Agreement, return the Deposit (in full) to the Buyer by wire transfer of immediately available funds or return of Buyer's cashier's check.

(b) If this Agreement is terminated pursuant to **Section 10.1(a)**, Seller shall retain the Deposit and such retention shall constitute liquidated damages and the sole remedy of Seller. The parties acknowledge and agree that payment of such amount shall constitute payment of liquidated damages and is not a penalty and that the liquidated damages amount is reasonable in light of the substantial but indeterminate harm anticipated to be caused by material breach or default under this Agreement, the difficulty of proof of loss and damages, the inconvenience and non-feasibility of otherwise obtaining an adequate remedy, and the value of the transactions to be consummated hereunder. Seller hereby waives all other legal and equitable remedies it may otherwise have as a result of any breach or default by Buyer under this Agreement.

(c) If this Agreement is terminated pursuant to **Section 10.2(a)**, Seller shall, within five (5) Business Days of the date of termination of this Agreement, disburse an amount equal to the Deposit, multiplied by 2 to Buyer and such payment shall constitute liquidated damages and the sole remedy of Buyer. The parties acknowledge and agree that payment of such amount shall constitute payment of liquidated damages and is not a penalty and that the liquidated damages amount is reasonable in light of the substantial but

indeterminate harm anticipated to be caused by material breach or default under this Agreement, the difficulty of proof of loss and damages, the inconvenience and non-feasibility of otherwise obtaining an adequate remedy, and the value of the transactions to be consummated hereunder. Buyer hereby waives all other legal and equitable remedies it may otherwise have as a result of any breach or default by Seller under this Agreement.

10.5 Survival. Except as provided by **Section 10.4**, the termination of this Agreement shall not relieve any party of any liability for breach or default under this Agreement prior to the date of termination. Notwithstanding anything contained herein to the contrary, **Sections 2.4** (Deposit) (and **Section 10.4** with respect to the Deposit), and **7.7** (Brokers and Expenses) shall survive any termination of this Agreement.

11. Miscellaneous.

11.1 Notices. All notices, demands, requests, waivers or other communications required or permitted under the provisions of this Agreement shall be (i) in writing; (ii) delivered by personal delivery, facsimile transmission (with automatic machine confirmation) or sent by commercial delivery service or certified U.S. mail, return receipt requested; (iii) deemed to have been given on the date of personal delivery, facsimile transmission (with automatic machine confirmation) or the date of delivery set forth in the records of the commercial delivery service or on the return receipt; and (iv) addressed to the recipient at the address specified below, or with respect to any party, to any other address that such party may from time to time designate in a writing delivered in accordance with this **Section 11.1**:

If to Seller:

New Jersey Public Broadcasting Authority
25 South Stockton Street
P.O. Box 777
Trenton, New Jersey 08625
jblair@njin.org
Attn: John Blair
Telephone: (609) 777-5255
Fax: (609) 633-0254

David A. Ridolfino
Director, Division of Administration
N.J. Dept. of the Treasury
50 West State Street, 8th Floor
P.O. Box 211
Trenton, N.J. 08625
phone: 609-633-2825
fax: 609-633-9090

Office of the Attorney General

Richard J. Hughes Justice Complex
25 Market Street
6th Fl., P.O. Box 106
Trenton, NJ 08625
kavin.mistry@dol.lps.state.nj.us
Attn: Kavin K. Mistry, Assistant Chief, Deputy Attorney General
Telephone: (609) 292-8564
Fax: (609) 777-3515

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

Margaret L. Miller, Esq.
Dow Lohnes, PLLC
1200 New Hampshire Avenue, Suite 800
Washington, DC 20036
Telephone: (202) 776-2914
Fax: (202) 776-4914

If to Buyer:

New York Public Radio
160 Varick Street
New York NY 10013
Attn: Laura Walker
Telephone: (646) 829-4445
Fax: (646) 829-4568

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

Wiley Rein LLP
1776 K Street, NW
Washington, DC 20006
Attn: Richard Bodorff
Jessica Rosenthal
Telephone: (202) 719-7000
Fax: (202) 719-7049

11.2 Further Assurances. On and after the Closing Date, the parties will take all appropriate and reasonable actions and execute all documents, instruments or conveyances of any kind that may be reasonably necessary or advisable to put Buyer in possession and operating control of the Assets and the Stations, or to otherwise carry out any of the provisions hereof.

11.3 Waivers of Compliance; Consents. Except as otherwise provided in this Agreement, any failure of any party to comply with any obligation, representation, warranty, covenant, agreement, or condition herein may be waived by the party entitled to the benefits thereof only by a written instrument signed by the party

granting such waiver, but such waiver or failure to insist upon strict compliance with such obligation, representation, warranty, covenant, agreement, or condition shall not operate as a waiver of, or estoppel with respect to, any subsequent or other failure. Whenever this Agreement requires or permits consent by or on behalf of any party hereto, such consent shall be given in writing in a manner consistent with the requirements for a waiver of compliance as set forth in this **Section 11.3**.

11.4 Benefit and Assignment. Neither this Agreement nor any of the rights or obligations hereunder may be voluntarily or involuntarily assigned by Seller or Buyer without the prior written consent of the other party hereto. Subject to the foregoing, this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and permitted assigns. No assignment shall relieve a party of any obligations under this Agreement.

11.5 Governing Law. This Agreement and any and all litigation arising therefrom or related thereto shall be governed by the applicable laws, regulations and rules of evidence of the State of New Jersey without reference to conflict of laws principles and shall be filed in the appropriate Division of the New Jersey Superior Court. Seller does not consent to federal court jurisdiction.

11.6 Entire Agreement. This Agreement, all schedules hereto, and all documents and certificates to be delivered by the parties pursuant hereto, collectively represent the entire understanding and agreement between the parties hereto with respect to the subject matter of this Agreement. All schedules attached to this Agreement shall be deemed part of this Agreement and are incorporated herein, where applicable, as if fully set forth herein. This Agreement supersedes all prior negotiations, letters of intent or other writings between the parties and their respective representatives with respect to the subject matter hereof and cannot be amended, supplemented, or modified except by an agreement in writing that makes specific reference to this Agreement or an agreement delivered pursuant hereto, as the case may be, and which is signed by each party hereto. The Standard Terms are incorporated in this Agreement; provided, however, that if any provision of this Agreement directly conflicts with any of the Standard Terms, the terms of this Agreement shall control solely to the extent of such direct conflict.

11.7 Severability. In the event that any one or more of the provisions contained in this Agreement or in any other instrument referred to herein, shall, for any reason, be held to be invalid, illegal or unenforceable in any respect, then so long as no party is deprived of the benefits of this Agreement in any material respect, such invalidity, illegality or unenforceability shall not affect any other provision of this Agreement or any other such instrument and this Agreement shall be construed in a manner that, as nearly as possible, reflects the original intent of the parties.

11.8 Counsel. The parties acknowledge and agree that this Agreement is the result of extensive negotiations between the parties and their respective counsel, and that this Agreement shall not be construed against any party by virtue of its role or its counsel's role in the drafting hereof.

11.9 Counterparts. This Agreement may be executed in several counterparts, all of which when taken together shall constitute one Agreement.

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13304886


IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first set for above.

NEW JERSEY PUBLIC BROADCASTING AUTHORITY

By: _____

Title: _____

NEW YORK PUBLIC RADIO

By:  _____

Title:  _____

[SIGNATURE PAGE TO ASSET PURCHASE AGREEMENT]

Schedule 1.1(a): FCC Authorizations

<u>Description</u>	<u>File No.</u>	<u>Expiration Date</u>
Main Station License for WNJT-FM, Trenton, New Jersey Facility Identification Number 48488	BRED-20060201ATB BLED-19961001KE	June 1, 2014
Remote Pickup KPH719 Remote Pickup KPH733		

<u>Description</u>	<u>File No.</u>	<u>Expiration Date</u>
Main Station License for WNJY(FM), Netcong, New Jersey Facility Identification Number 93964	BLED-20080707AEO (initial license)	June 1, 2014

Antenna Structure Registration (ASR): 1046972 (State of New Jersey)

<u>Description</u>	<u>File No.</u>	<u>Expiration Date</u>
Main Station License for WNJP(FM), Sussex, New Jersey Facility Identification Number 48471	BRED-20060201ASS BLED-19980729KC	June 1, 2014
Aural STL WMV792		

Antenna Structure Registration (ASR): 1045122 (New Jersey Public Broadcasting
Authority d/b/a New Jersey Network)

<u>Description</u>	<u>File No.</u>	<u>Expiration Date</u>
Main Station License for WNJO(FM), Toms River, New Jersey Facility Identification Number 123020	BMLED-20110322AAK	June 1, 2014

Schedule 1.1(b): Schedule of Tangible Assets

All equipment quantities are One ("1") unless noted

WNJP – "Sussex"

- Belar FMS-2 Stereo Monitor
- Belar FMM-2 Modulation Monitor
- Harris Quest 500 watt FM Transmitter
- Orban 8200 Audio Processor/Stereo Generator (needs repair)
- Arbitron Encoding Monitor
- Arbitron Encoders (quantity 2)
- Moseley DSP-6000D Digital Encoder
- Moseley PCL 6020 Microwave Receiver
- Gentner Silence Sensor
- Gentner VRC Command Relay Panel
- Gentner VRC 2000 Remote Control
- Jampro 2 Bay FM Broadcast Antenna System (including radomes), and associated coaxial cable feedline
- STL Receive Antenna & associated coaxial cable feedline
- 6 foot tall equipment rack
- Dehydrator for transmission line to broadcast antenna
- Microwave Radio TV STL audio subcarrier demodulator

WNJY – "Netcong"

- Belar FMS-2 Stereo Monitor
- Belar FMM-2 Modulation Monitor
- Fostex Audio Amp/Speaker (quantity 2, with rack mount)
- Crown FM-300 FM Transmitter
- Orban 8200 Audio Processor/Stereo Generator
- Moseley DSP-6000D Digital Encoder
- Moseley PCL 6030 Microwave Receiver
- Arbitron Encoding Monitor
- Arbitron Encoders (quantity 2)
- Sine Systems PR-8 Remote Control Relay Panel
- Sine Systems RFC-1B/RAK-1 Remote Control System Controller
- 1 POTS Line Telephone
- STL Receive Antenna & associated coaxial cable feedline
- Scala 2 Bay FM Broadcast Antenna System, and associated coaxial feedline
- 6 foot tall equipment rack

WNJO – “Toms River”

- Belar FMS-2 Stereo Monitor
- Belar FMM-2 Modulation Monitor
- Fostex Audio Amp/Speaker (quantity 2, with rack mount)
- Inovonics David 2 Audio Processor/ Stereo Generator
- Modulation Sciences Composite Clipper
- Sine Systems RFC-1B/RAK-1 Remote Control System Controller
- Fanfare FT-1AP FM Receiver and associated bandpass filter
- Sine Systems PR-8 Remote Control Relay Panel
- Crown PA-2000 FM Power Amplifier
- Crown PS-2000 Power Supply for PA-2000
- Crown FM-150 FM Transmitter/Exciter
- Accurite Indoor/Outdoor thermometer
- Weather resistant transmitter equipment enclosure and air conditioner
- SWR FME/2 FM Broadcast Antenna System and associated coaxial feedline
- FM receive antenna and associated feedline
- Scala Paraflector Microwave STL antenna (mounted on tower, but not in use)
- Elevated metal 4' X 4' platform mounted on 4' high concrete pier

WNJT – “Trenton”

- Belar FMM-2 Modulation Monitor
- Belar FMS-2 Stereo Monitor
- Harris Digit FM Transmitter/Exciter
- Orban 8200 Audio Processor/Stereo Generator
- Arbitron Encoding Monitor
- Arbitron Encoders (quantity 2)
- Gentner Silence Sensor
- DB Products 5 Bay FM Broadcast Antenna System, and associated coaxial feedline
- Moseley DSP DSP-6000D Digital Encoder

“WARREN” – Microwave Hub

- Moseley PCL 6010 Microwave Transmitter
- Moseley DSP-6000D Digital Encoder(s) (quantity 2)
- Microwave Radio TV STL audio subcarrier demodulator
- Moseley PCL 6010 Microwave Transmitter (SPARE)
- Moseley PCL Series 6000 Microwave Receiver (SPARE)
- Microwave Transmit Antenna and associated coaxial feedline

SPARE EQUIPMENT/PARTS – as noted in BIA Kelsey report

- Orban 8200 Audio Processor/Stereo Generator
- Moseley DSP-6000D Digital Encoder
- Miscellaneous Harris spare parts (in lots)

Schedule 1.1(c): Schedule of Intangible Assets

1. the Stations' call signs
2. programming information and studies
3. marketing and demographic data
4. underwriting studies,
5. sales correspondence,
6. lists of underwriters, and
7. credit and underwriting reports

in the cases of items 2-7 above, to the extent made available to Buyer prior to Closing.

As to call sign WNJT-FM, the FCC permits use of common call letters by a second station only with the consent of the first user. Accordingly, for purposes of FCC assignment of call letters, Seller hereby consents to retention of the WNJT call letters by Buyer for use on WNJT-FM.

Schedule 1.1(d): Real Property Leases

1. Site Lease Agreement, dated August 13, 2008, by and between Seller and Borough of Seaside Park (WNJO) (consent to assign)*
2. License Agreement, dated 5/22/02, by and between Seller and the Department of Law and Public Safety, Division of State Police (WNJY).
3. State of New Jersey, Department of Environmental Protection, Division of Parks and Forestry (consent to sublease for WNJT facilities)*
4. State of New Jersey, Department of Environmental Protection, Division of Fish, Game and Wildlife (consent to sublease for WNJP facilities)*

* Required Consent. In the event that the consent to assign item 1 is not obtained by Closing, Seller may elect to sublease to Buyer and the condition to Closing with respect to item 1 shall be deemed to have been met.

Schedule 1.3: Permitted Lien

Lien listed below in connection with the Public Telecommunications Facilities Program:

Grant #	Description	Award	Federal Interest Period Ends	Grant Officer
34-01-06163	WNJY-FM, WNJO-FM	\$161,120	09/30/2018	Walter Sheppard wsheppard@ntia.doc.gov

Schedule 2.1(b): Non-Cash Consideration

1. Subject to the following terms and conditions, for a period beginning on the Closing Date and ending on the date five (5) years thereafter, Buyer shall make available to Seller, at no cost, access to the following broadcast and website platforms for use by Seller to raise public awareness of significant issues, services, and arts and cultural activities in the State of New Jersey (the “Messages”). The State shall be responsible for scheduling the Messages with Buyer on a quarterly basis proportionally through each contract year on a use-it-or-lose-it basis for each quarter, and for providing the Messages to Buyer on a timely basis. Should Seller not elect to utilize any Messages by the end of its scheduled quarter, such unused Messages shall still count toward fulfillment of Buyer’s obligation and may not be carried forward to future quarters (and any order that is not timely delivered shall be deemed used by Seller). The Messages shall conform to the regulations and policies of public radio and Buyer, and Buyer shall have the right to preempt or reject any Message(s). For accounting purposes such access shall be valued at the Buyer’s then-current standard, except that no quarterly value shall be lower than the value of the first quarterly schedule on each platform. Messages shall be scheduled at Buyer’s sole reasonable discretion during each quarter, except that Buyer shall guarantee the State a minimum access on each platform as follows:
 - on radio station WQXR-FM (FCC Facility ID #46978), a minimum of 500 Messages each contract year (total value = \$780,000)
 - on the WQXR.org website, a scheduled presence for a minimum of 48 weeks per year (total value = \$157,690)
- Seller may not resell, assign or transfer any of the Messages to any third party; and
- Buyer has no obligation to adjust the limits or terms set forth herein in order for Seller to achieve the aggregate values for the Messages set forth above.
2. For a period beginning on the Closing Date and Buyer and ending five (5) years thereafter, Buyer shall invest in the creation of New Jersey-centric content, for broadcast on the Stations and, at Buyer’s sole discretion, other outlets. Such investment shall be in the form of personnel specifically assigned to the creation of New Jersey-centric content and related expenses thereto. (total value = \$865,000).
3. From the Closing Date until the date three (3) years thereafter, Buyer may, but is not obligated to, investigate possible internship programs with one or more New Jersey state colleges and universities and investigate a content or training collaboration with the student-operated radio station(s) at such schools.

4. In the event that, during the period beginning on the Closing Date and ending on _____, 2016, Buyer consummates the sale to an unaffiliated third party of any of the Stations' FCC Authorizations (such FCC Authorizations, along with any of the Assets to be sold to the unrelated third party with such FCC Authorizations, referred to herein as "Third Party Sale Assets," and any sale of Third Party Sale Assets to an unrelated third party, a "Third Party Sale") at a price reflecting a fair market valuation for such Third Party Sale Assets that is greater than the fair market valuation of such Third Party Sale Assets used to determine the Cash Purchase Price *plus* the value of capital expenditures made by Buyer for such assets, then Buyer shall cause Seller to be paid, promptly after the consummation of such Third Party Sale, an amount equal to (A) the difference between (i) the net cash proceeds received by Buyer at the closing of the Third Party Sale and (ii) the Cash Purchase Price paid to Seller on the Closing Date *plus* the value of capital expenditures (but if only a portion of the Assets are sold in such Third Party Sale, then the applicable pro rata portion of the Cash Purchase Price and capital expenditures shall be used to determine this value), multiplied by (B) the applicable "Multiplier" specified below:

<u>Date on which Buyer executes the binding agreement for the Third Party Sale</u>	<u>Multiplier</u>
Closing Date – _____, 2012	1
_____, 2012 – _____, 2013	0.8
_____, 2013 – _____, 2014	0.6
_____, 2014 – _____, 2015	0.4
_____, 2015 – _____, 2016	0.2

Schedule 2.2(a): Form of Management and Operations Agreement

See attached.

MANAGEMENT AND PROGRAMMING AGREEMENT

THIS MANAGEMENT AND PROGRAMMING AGREEMENT (this "Agreement") is made this ____ day of June, 2011, by and between New Jersey Public Broadcasting Authority, an independent instrumentality of the State of New Jersey allocated in, but not of, the Department of the Treasury of the State of New Jersey ("Licensee") and New York Public Radio ("Manager").

RECITALS:

WHEREAS, Licensee is the Federal Communications Commission ("FCC") licensee of noncommercial educational radio stations WNJT-FM, Trenton, NJ, WNJY(FM), Netcong, NJ, WNJP(FM), Sussex, NJ and WNJO(FM), Toms River, NJ (the "Stations");

WHEREAS, Manager is an experienced noncommercial station broadcaster and the licensee of multiple noncommercial educational FM radio stations, pursuant to authorization of the FCC;

WHEREAS, Licensee and Manager desire that Manager undertake the management and programming of the Stations for, and under the supervision of, Licensee;

WHEREAS, Licensee expects that management by Manager will promote quality public radio programming, including New Jersey-centric news and information programming, over the facilities of the Stations;

WHEREAS, Manager and Licensee are entering into this Agreement under the authority of and subject in all respects to all applicable provisions of the New Jersey Public Broadcasting System Transfer Act (L. 2010, c. 104) (the "Transfer Act");

WHEREAS, Licensee and Manager have entered into an Asset Purchase Agreement of even date herewith (the "Purchase Agreement"), pursuant to which Licensee has agreed to sell to Manager, and Manager has agreed to purchase from Licensee, the Stations and associated assets as described therein under the terms and conditions set forth in the Purchase Agreement;

WHEREAS, concurrently herewith Licensee and Manager are entering into a Facilities Use Agreement (the "FUA") with respect to Manager's use of certain Licensee facilities during the term of this Agreement; and

WHEREAS, capitalized terms used herein but not defined herein have the meaning ascribed to them in the Purchase Agreement.

NOW, THEREFORE, in consideration of the above recitals and mutual promises and other good consideration, the parties agree as follows:

1. MANAGEMENT

Manager hereby agrees to manage and program the Stations during the term of this Agreement (as described in Section 2) under the supervision and control of Licensee (including as described in Section 6). As FCC licensee, Licensee shall at all times retain ultimate responsibility for the Stations' essential functions, including programming, finances and personnel of the Stations employed by Licensee. Subject to the foregoing limitations, the services to be provided by Manager pursuant to this Agreement shall include without limitation the production and acquisition of programming, engineering maintenance and support for Stations' facilities, accounting services and routine engineering services.

(a) Programming. During the term of this Agreement, Manager will provide programming for the Stations for 24 hours per day, seven days per week (the "Programming") with a public radio station news and information format. Licensee shall broadcast the Programming on the Stations, subject to the last sentence of this Section 1(a). The Programming shall endeavor to serve the needs and interests of the communities of Trenton, New Jersey, Netcong, New Jersey, Sussex, New Jersey and Toms River, New Jersey and further Licensee's educational objectives. Manager will not change the format of the Stations without the prior consent of Licensee. The Programming will comply with Licensee's program standards, set forth in Attachment 1 (which is in a form that Licensee has adopted for each Station), the Communications Act of 1934, as amended, the FCC's rules and all applicable content-related law for broadcast programming. Manager will be responsible for obtaining or maintaining any and all intellectual property rights, including copyright licenses, necessary for the broadcast of the Programming it provides or licenses over the Stations, and Licensee will be responsible for maintaining any and all intellectual property rights, including copyright licenses, necessary for the broadcast of any programming it licenses for use on the Stations. Licensee acknowledges that its right to broadcast the Programming is non-exclusive and that ownership or license rights in the Programming shall be and remain vested in Manager. Each of Manager and Licensee shall promptly report any listener complaints or FCC inquiry concerning the Programming or the Stations to the other. Licensee shall have the right to preempt or reject any Programming if Licensee, in its reasonable judgment, concludes that the Programming is contrary to the public interest, but Licensee shall comply with the CPB Statement of Principles of Editorial Integrity in Public Broadcasting.

(b) Delivery of Programming. Manager shall deliver the Programming to the Stations at Manager's cost and expense. Manager will be responsible for all routine operational costs and expenses incurred in connection with equipment for receiving Programming at the Stations, including appropriate equipment for satellite reception, EAS compliance, transmitter remote control and confidence monitoring. Licensee will be responsible for all capital expenditures, non-routine maintenance costs and replacement costs of any equipment used or held for use in the operation of the Stations ("Cap Ex"); provided, however, that if Licensee elects not to spend Cap Ex, then (i) Manager may, in its sole discretion, spend Cap Ex for the Stations or (ii) Licensee may take the affected Station off the air or reduce its operations. Manager shall at all times retain title to any equipment purchased by it for the Stations (including following any termination of this Agreement or the Purchase Agreement).

(c) Expenses. During the term of this Agreement, Manager shall, in the manner consistent with FCC policies, pay Licensee the sum of \$1,317 per month, each payment due in

arrears on the last day of each calendar month during the term of this Agreement, as reimbursement for the Stations' operating expenses reasonably incurred by Licensee in the ordinary course of business consistent with industry custom (taking into account this Agreement and the services provided by Manager to the Stations hereunder), including, but not limited to, utility charges and expenses related to the maintenance and repair of the transmission facilities. Fees for any partial month shall be prorated. Upon the first to occur of (i) Closing under the Purchase Agreement or (ii) the date six (6) months after the date of this Agreement, Manager and Licensee shall true up the difference between Licensee's actual operating expenses incurred for the Stations and the amounts paid by Manager to Licensee pursuant to this Section, and the appropriate party shall make a prompt payment to the other in the amount of any such difference. In accordance with such true up, Licensee shall promptly provide Manager with reasonable supporting documentation for its expenses incurred. Notwithstanding anything in this Agreement to the contrary, Licensee shall bear full responsibility for the hiring, firing and compensation (without reimbursement by Manager) of the Stations' employees on Licensee's payroll, including staffing and other requirements necessary to satisfy the FCC's main studio rules and capital expenditures as provided by Section 1(b). Licensee shall remain ultimately responsible for the finances of the Stations, as required by FCC rules and policies.

(d) Manager acknowledges that Manager will provide the services as a contractor to an agency and instrumentality of the State of New Jersey. In providing such services to the Stations during the term of this Agreement, Manager shall comply with all applicable provisions of federal law and New Jersey law and regulations, including without limitation, New Jersey Public Broadcasting Authority Act of 1968 (L. 1968, c. 405), the New Jersey Public Broadcasting System Transfer Act (L. 2010, c. 104) (the "Transfer Act"), and the State of New Jersey, New Jersey Public Broadcasting System, New Jersey Network, Standard Terms and Conditions for Contractors (as summarized in Schedule 1(d) hereto) as amended or supplemented from time to time (if such amendments or supplements are promptly provided to Manager).

2. TERM OF AGREEMENT

Unless sooner terminated in accordance with the provisions of this Agreement, the term of this Agreement shall commence on July 1, 2011 and shall continue in full force and effect until and shall end on the earliest of: (a) the Closing Date (as defined in the Purchase Agreement); (b) the date of termination of this Agreement in accordance with Section 3; or (c) ten (10) days following the date of termination of the Purchase Agreement according to its terms.

3. TERMINATION

(a) Licensee may terminate this Agreement by written notice to Manager: (i) if, in the reasonable good faith discretion of Licensee as disclosed in writing to Manager, the Stations are operated by Manager in a manner contrary to the public interest, FCC rules and regulations or the Communications Act of 1934, as amended, and Manager fails to cure such operational matter within ten (10) days of written notice from Licensee, provided, however that Licensee hereby acknowledges that it is in the public interest for Manager to exercise its editorial discretion in its news and other similar Programming, or (ii) if Manager breaches its obligations or its

representations under this Agreement in any material respect, and Manager fails to cure such breach within thirty (30) days of written notice from Licensee.

(b) Manager may terminate this Agreement by written notice to Licensee: (i) if, in the reasonable good faith discretion of Manager as disclosed in writing to Licensee, Licensee unreasonably frustrates or impedes the effective management and programming of the Stations by Manager in a material respect, and Licensee fails to cure such frustration or impediment within ten (10) days of written notice from Manager, or (ii) if Licensee breaches its obligations or its representations under this Agreement in any material respect, and Licensee fails to cure such breach within thirty (30) days of written notice from Manager.

(c) Upon termination of this Agreement (other than at Closing under the Purchase Agreement), Licensee shall assume complete operational responsibility for the Stations, and Manager shall be relieved of all obligations under this Agreement, except for: obligations incurred prior to the effective date of the termination and the obligation to reasonably cooperate with Licensee to wind up Manager's operation of the Stations in an orderly fashion. In the event of any termination of this Agreement (other than at Closing under the Purchase Agreement), either party may, but is not obligated to, terminate the Purchase Agreement upon written notice to the other. If this Agreement is terminated pursuant to Section 3(a)(i) or 3(b) and the Purchase Agreement is then terminated, Buyer shall be entitled to the Deposit under the Purchase Agreement and Licensee shall promptly return the Deposit to Buyer in full.

4. GRANTS/FUNDRAISING/MARKETING

(a) Grants. Manager may, but is not obligated to, apply for grants, awards, contributions, donations, bequests, devises, legacies or other property or monies (hereinafter collectively referred to as "grants") regardless of nomenclature, for the use or benefit of the Stations, including, but not limited to Corporation for Public Broadcasting ("CPB") grants, Public Telecommunications Facilities Program ("PTFP") grants, and any other grants applied for or received in the name of Licensee and intended for the use and benefit of the Stations, and Licensee shall cooperate with Manager in any such applications; provided that (1) Manager shall provide Licensee with drafts for Licensee's review and approval of all applications or other documentation required by such grants; (2) Manager agrees to the terms and conditions of, and serves as fiscal agent for, such grants; and (3) Manager covers all administrative costs, such as audits or financial reports, required by such grants.

(b) Underwriting. During the term of this Agreement, Manager will be exclusively responsible for the sale of all underwriting on the Stations and for the collection of accounts receivable arising therefrom. Manager shall be entitled to all underwriting revenues of the Stations from any source, which revenues shall be dedicated for the use and benefit of the Stations during the term of this Agreement.

(c) Fundraising. Manager may, but is not obligated to, conduct fundraising activities for the benefit of the Stations, including but not limited to membership drives. Manager shall conduct any fundraising so as to comply with the rules and policies of the FCC applicable to

noncommercial educational broadcast stations, including (with specificity) Section 73.503(d) of the FCC rules, and with IRS requirements for documenting charitable contributions.

(d) If requested by Licensee no more than once per quarter during the term of this Agreement, Manager shall reasonably account to Licensee for all grants, underwriting and fundraising activities conducted over or for the benefit of the Stations.

5. LICENSE MAINTENANCE

Licensee, as FCC licensee, has the ultimate responsibility with respect to all activities in connection with FCC license renewals and such other filings and reports as may be required by the FCC. Manager agrees to reasonably assist Licensee in such activities and to prepare all necessary documents, filings and reports for the timely review and approval by Licensee in consultation with Licensee's own legal counsel.

6. RESPONSIBILITY OF FCC LICENSEE

Licensee shall operate the Stations in compliance with all laws, rules, policies and regulations of the FCC, which is the ultimate responsibility of Licensee, as licensee. Nothing in this Agreement shall be construed as limiting, transferring, assigning or relieving Licensee of such responsibility. Licensee and Manager acknowledge that their relationship requires a commitment on both parties' parts to the mission of the Stations. To the extent necessary to perform this Agreement and subject to Manager's reimbursement obligations hereunder, during the term of this Agreement, Licensee shall provide Manager with the benefits of any of the Stations' contracts and agreements (including without limitation access to and use of facilities covered by the Real Property Leases) and Manager shall perform the obligations of Licensee thereunder, to the extent of benefits received, in accordance with their terms with respect to the Stations.

7. STANDARDS OF OPERATION

Manager agrees that it will program the Stations during the term of this Agreement consistent with industry standards for noncommercial educational broadcasting. During the term of this Agreement, Manager will use commercially reasonable efforts to provide a quality news and public information program service that includes New Jersey-centric programming to the public on the Stations, and shall comply with all applicable legal requirements. Manager further agrees to use commercially reasonable efforts to manage and program the Stations, to the extent reasonably possible, in such a manner allowing the production and acquisition of radio programming of community value, and to combine these programs into a nonprofit radio service of high quality for broadcast to New Jersey.

8. INSTITUTIONAL COOPERATION AND MEDIA PROMOTION

(a) Identification of Licensee. During the term of this Agreement, Manager will air station identifications that comply with the FCC's rules at the beginning and end of each time of operation and on the hour while each Station is on the air. During the term of this Agreement, Manager will identify Licensee as the Stations' licensee during each on-air identification, and, as

feasible, in marketing or promotional materials that refer to the Stations. Notwithstanding the foregoing, Licensee is responsible for ensuring that proper station identifications are made in accordance with FCC rules and regulations. Manager is authorized to use the Stations' call letters in its Programming and in any marketing or promotional material in any media.

(b) On-Air Announcements About Licensee. During the term of this Agreement, Manager may, but is not obligated to, air announcements over the Stations that will provide information on Licensee and its programs and opportunities, it being understood that Licensee wishes to share in the goodwill generated from the operation of the Stations. All such announcements shall comply with FCC requirements and Manager's internal underwriting guidelines and the requirements of Schedule 2.1(b) of the Purchase Agreement. Any such announcements provided by Licensee during the term of this Agreement shall be credited toward Manager's obligations after Closing set forth on Schedule 2.1(b) of the Purchase Agreement.

9. REPRESENTATIONS AND WARRANTIES

Manager represents and warrants that it will maintain its organization and operate in accordance with all laws and regulations applicable to nonprofit organizations in its state of incorporation. Each of Manager and Licensee represents and warrants to the other that: (a) it will perform its obligations under this Agreement in compliance with all applicable laws, rules and policies, including intellectual property and FCC law; (b) to its knowledge, there exists no event or circumstance within its control which precludes or prohibits it from performing its obligations under this Agreement; (c) no consent, approval, order, or authorization of, or registration, qualification, designation, declaration, or filing with, any governmental authority on its part is required in connection with the execution, delivery, and performance of this Agreement, except that Licensee shall file this Agreement with the FCC and in the Stations' public files; (d) the execution, delivery and performance of this Agreement by it have been duly authorized by all necessary actions on its part; and (e) this Agreement constitutes a valid and binding obligation of it, enforceable against it in accordance with its terms except as the enforceability of this Agreement may be affected by bankruptcy, insolvency, or similar laws affecting creditors' rights generally and by judicial discretion in the enforcement of equitable remedies.

10. INSURANCE

(a) During the term of this Agreement and any extensions or renewals thereof, Manager shall maintain insurance with respect to the Stations in compliance with the State of New Jersey, New Jersey Broadcasting System, New Jersey Network, Standard Terms and Conditions for Contractors (as summarized in Schedule 1(d) hereto).

(b) During the term of this Agreement and any extensions or renewals thereof, Licensee shall either self-insure or obtain insurance policies that insure Licensee's employees, agents and representatives with respect to the Stations. Coverage shall include, but not be limited to, media liability insurance covering liability arising out of any programming provided by Licensee; comprehensive general liability insurance; workers compensation insurance

covering Licensee employees and agents who may visit the Stations premises as needed; and property insurance covering damage to or risk of loss of Stations' equipment.

11. CONSIDERATION

The parties acknowledge that their respective undertakings and commitments herein, designed to ensure the provision of high quality news and information public radio programming that includes New Jersey-centric programming on the Stations, constitute sufficient consideration for this Agreement.

12. RECORDS

Licensee shall be responsible for ascertaining the programming needs of the Stations' communities of license and maintaining each Station's public inspection file in compliance with FCC requirements, provided, however, that during the term of this Agreement Manager shall provide reasonable assistance with respect to the ascertainment of programming needs and shall provide Licensee with all relevant documents and information in its possession required to be placed in the Stations' public inspection files. During the term of this Agreement, Manager shall keep adequate financial and accounting records of the Stations' activities and, upon Licensee's reasonable request, shall make such records available for inspection by representatives of Licensee upon reasonable prior written notice. During the term of this Agreement, within ten (10) business days after the end of each quarter or after reasonable request by Licensee in conjunction with periodic state accounting (including fiscal year end accounting), Manager shall provide to Licensee a financial report that reasonably accounts for all revenues and expenses attributable to the Stations during such period. Manager shall also reasonably cooperate with Licensee's auditor as part of Licensee's periodic audit, as may be reasonably requested by Licensee and its auditor, including permitting ordinary audit procedures to be followed involving the books and records of Manager, with any out-of-pocket expenses incurred to be promptly paid by Licensee.

13. RELATIONSHIP

Manager is hereby authorized to enter into contracts related to the Stations in order to perform its obligations under this Agreement. Manager shall be responsible for all such contracts and financial obligations that it has entered into as necessary to perform its obligations under this Agreement and Licensee shall have no obligation to assume any such contracts in the event of a termination of this Agreement. Manager shall serve as an independent contractor in rendering the services set forth herein and its employees shall not be employees of Licensee. This Agreement is not intended to be, and shall not be construed as, an agreement to form a partnership, agency relationship or joint venture between the parties. Neither party shall be authorized to act as an agent of or otherwise to represent the other party.

14. OVERSIGHT AND CONTROL

Notwithstanding anything in this Agreement to the contrary, Licensee shall retain and exercise oversight and control of the activities and operations of the Stations. Without limiting

the foregoing, Licensee (through its governing board or the board's designated representative(s)) shall have the right: (a) to promulgate basic policies regarding personnel (but only to the extent such personnel are working on matters relating to the Stations), finances and programming; (b) to direct the day-to-day activities of Manager's employees working on Licensee's premises or using Licensee's Station equipment (but only to the extent required by the FCC), but Licensee may not interfere with Manager's business and operations or its relationships with Manager's employees; (c) to inspect the Stations' facilities at any time during operation; (d) to consult with Stations' management, review FCC-required operating and maintenance records and procedures, and investigate operational complaints; and (e) to require reasonable written reports, no more often than once a quarter, with respect to a reasonable summary of each Station's programming service, and personnel actions (including EEO compliance) during such period. For purposes of clarity, Licensee shall not have oversight or control of Manager's employees generally, but only to the extent that those employees are working on matters relating to the Stations within the scope of this Agreement.

Licensee shall bear responsibility for the Stations' compliance with the rules, regulations and policies of the FCC and all other applicable laws. Without limiting the foregoing, Licensee shall employ a manager for the Stations who will report to Licensee and direct the day-to-day operation of the Stations (and who will have no employment, consulting or other relationship with Manager) and employ a second employee for the Stations, who will report to and be solely accountable to Licensee's manager.

15. NOTICES

All notices, demands, requests, waivers or other communications required or permitted under the provisions of this Agreement shall be (i) in writing; (ii) delivered by personal delivery, facsimile transmission (with automatic machine confirmation) or sent by commercial delivery service or certified U.S. mail, return receipt requested; (iii) deemed to have been given on the date of personal delivery, facsimile transmission (with automatic machine confirmation) or the date of delivery set forth in the records of the commercial delivery service or on the return receipt; and (iv) addressed to the recipient at the address specified below, or with respect to any party, to any other address that such party may from time to time designate in a writing delivered in accordance with this Section 15.

If to Licensee:

New Jersey Public Broadcasting
Authority
25 South Stockton Street
P.O. Box 777
Trenton, New Jersey 08625
jblair@njin.org
Attn: John Blair
Telephone: (609) 777-5255
Fax: (609) 633-0254

And:

David A. Ridolfino
Director, Division of Administration
N.J. Dept. of the Treasury
50 West State Street, 8th Floor
P.O. Box 211
Trenton, N.J. 08625
phone: 609-633-2825
fax: 609-633-9090

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

Office of the Attorney General
Richard J. Hughes Justice Complex
25 Market Street
6th Fl., P.O. Box 106
Trenton, NJ 08625
kavin.mistry@dol.lps.state.nj.us
Attn: Kavin K. Mistry, Assistant Chief,
Deputy Attorney General
Telephone: (609) 292-8564
Fax: (609) 777-3515

Dow Lohnes PLLC
1200 New Hampshire Avenue, N.W.
Suite 800
Washington, DC 20036
Attention: Margaret L. Miller, Esq.
Telecopy: 202-776-2222
Telephone: 202-776-2000

If to Manager:

New York Public Radio
160 Varick St.
New York, NY 10013
Attn: Laura Walker
Phone: (646) 829-4445

Fax: (646) 829-4568

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

Wiley Rein LLP
1776 K Street, NW
Washington, DC 20006
Attn: Richard Bodorff
Jessica Rosenthal
Telephone: (202) 719-7000
Fax: (202) 719-7049

16. INDEMNIFICATION

(a) No Indemnification by Licensee. Manager recognizes and acknowledges that Licensee is an instrumentality of the State of New Jersey and without legal authority to enter into an indemnity arrangement for the benefit of Manager. The parties acknowledge and agree that any claim by Manager against Licensee related to this Agreement or the transactions contemplated hereby shall be governed by the New Jersey Contractual Liability Act. (L. 1974, c. 45, N.J.S.A. 59:13-1 et seq.) and the New Jersey Tort Claims Act. (L.1972, c. 45, N.J.S.A. 59:1-1 et seq.) and further agree that there shall be no recovery by Manager under this Agreement and the FUA (in the aggregate) with respect thereto in excess of the Cash Purchase Price.

(b) Indemnification by Manager. Manager shall indemnify and hold harmless Licensee and all officers, directors, employees, partners, members and agents of Licensee, (individually, a "Licensee Indemnatee") from and against any and all Losses arising from any and all Claims arising out of Manager's gross negligence or willful misconduct in connection with the performance of the services under this Agreement, or Manager's breach of this Agreement; provided that neither Manager nor any of its Affiliates shall be deemed a Licensee Indemnatee under this Section 16(b). Notwithstanding the foregoing or anything else herein to the contrary, the maximum aggregate liability of Manager under this Agreement and the FUA (in the aggregate) shall be an amount equal to the Cash Purchase Price.

(c) Other Rights and Remedies Not Affected. The indemnification rights of the parties under this Section 16 are independent of, and in addition to, such rights and remedies as the parties may have at law or in equity or otherwise for any intentional or knowing misrepresentation, breach of warranty or failure to fulfill any agreement or covenant hereunder on the part of any party hereto, including the right to seek specific performance, rescission or restitution, none of which rights or remedies shall be affected or diminished thereby.

17. SEVERABILITY

If any provision of this Agreement shall be prohibited by or invalid under applicable law, then so long as no party is deprived of the benefits of this Agreement in any material respect, such provision shall be ineffective only to the extent of such prohibition or invalidity without invalidating the remainder of such provision or any remaining provisions of this Agreement,

provided that such remaining portions or provisions can be construed in substance to constitute the agreement that the parties intended to enter into in the first instance.

18. BINDING ON SUCCESSORS

This Agreement may not be assigned by either party without the other party's consent, which may be given or withheld in its sole discretion. Any attempted assignment without such consent shall be cause for immediate termination of the Agreement by the other party. This Agreement shall bind and inure to the benefits of the parties' respective successors and permitted assigns. No assignment shall relieve a party of any obligation under this Agreement.

19. COMPLETE AGREEMENT

This Agreement (including the Schedules and Attachment hereto), together with the FUA, contains the entire agreement of the parties with respect to the management and programming of the Stations during the term hereof, and, except as specifically referred to herein, all prior obligations, proposals and agreements relating to the subject matter hereof have been merged herein. This Agreement shall not be modified or amended except by agreement in writing duly executed by the parties hereto.

20. GOVERNING LAW

This Agreement and any and all litigation arising therefrom or related thereto shall be governed by the applicable laws, regulations and rules of evidence of the State of New Jersey without reference to conflict of laws principles and shall be filed in the appropriate Division of the New Jersey Superior Court. Seller does not consent to federal court jurisdiction.

21. COUNTERPARTS; FACSIMILE SIGNATURES

This Agreement may be signed in counterparts, each of which shall be deemed to be an original but which, when taken together, shall constitute one and the same instrument. Facsimile signature pages of this Agreement shall be valid and binding as original signatures and when the same are delivered by each party to the other party, such delivery shall be considered an agreement of the respective parties to fully execute and deliver to one another originally signed copies of this Agreement.

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13304254

IN WITNESS WHEREOF, the parties to this Agreement have duly executed this Agreement as of the first date set forth above.

LICENSEE:

NEW JERSEY PUBLIC BROADCASTING AUTHORITY

By: _____

Title: _____

MANAGER:

NEW YORK PUBLIC RADIO

By: _____

Title: _____

Management and Programming Agreement
Schedule 1(d)

State of New Jersey, New Jersey Broadcasting System, New Jersey Network,
Standard Terms and Conditions For Contractors

**State of New Jersey
New Jersey Public Broadcasting System
New Jersey Network
Standard Terms and Conditions**

1. STANDARD TERMS AND CONDITIONS APPLICABLE TO THE CONTRACT:

Unless the bidder is specifically instructed otherwise in the Request for Proposals (RFP), the following terms and conditions shall apply to the Contract between the Contractor and the New Jersey Public Broadcasting System ("NJPBA" or the "State"). These terms are in addition to the terms and conditions set forth in the RFP and should be read in conjunction with same unless the RFP specifically indicates otherwise. In the event the Contractor has presented terms and conditions which conflict with the State's, the State's terms and conditions shall prevail, unless the Contractor is notified in writing of the State's specific acceptance of some or all of the Contractor's terms and conditions.

2. STATE LAW REQUIRING MANDATORY COMPLIANCE BY ALL CONTRACTORS:

The statutes, laws or codes cited herein are available for review at the New Jersey State Library, 185 West State Street, Trenton, New Jersey 08625.

2.1 BUSINESS REGISTRATION:

As a condition to entering into a State Contract, pursuant to N.J.S.A. 52:32-44, the State is prohibited from entering into a Contract with an entity unless the bidder and each subcontractor named in the bid proposal has a valid Business Registration Certificate on file with the Division of Revenue.

The Contractor and any subcontractor providing goods or performing services under the Contract, and each of their affiliates, shall, during the term of the Contract, collect and remit to the Director of the Division of Taxation in the Department of the Treasury the use tax due pursuant to the Sales and Use Tax Act, P.L. 1966, c. 30

(N.J.S.A. 54:32B-1 et seq.) on all their sales of tangible personal property delivered into the State. Any questions in this regard can be directed to the Division of Revenue at (609) 292-1730. Form NJ-REG can be filed online at <http://www.state.nj.us/treasury/revenue/busregcert.htm>.

2.2 ANTI-DISCRIMINATION:

All parties to any Contract with the State agree not to discriminate in employment and agree to abide by all anti-discrimination laws including those contained within N.J.S.A. 10:2-1 through N.J.S.A. 10:2-4, N.J.S.A.10:51 et seq. and N.J.S.A.10:5-31 through 10:5-38, and all rules and regulations issued thereunder are hereby incorporated by reference.

2.3 PREVAILING WAGE ACT:

The New Jersey Prevailing Wage Act, N.J.S.A. 34:11-56.26 et seq. is hereby made part of every Contract entered into on behalf of the State of New Jersey except those Contracts which are not

within the contemplation of the New Jersey Prevailing Wage Act. The bidder's signature on this proposal is his guarantee that neither he nor any subcontractors he might employ to perform the work covered by this proposal has been suspended or debarred by the Commissioner, Department of Labor for violation of the provisions of the Prevailing Wage Act and/or the Public Works Contractor Registration Acts; the bidder's signature on the proposal is also his guarantee that he and any subcontractors he might employ to perform the work covered by this proposal shall comply with the provisions of the Prevailing Wage and Public Works Contractor Registration Acts, where required.

2.4 AMERICANS WITH DISABILITIES ACT:

The Contractor must comply with all provisions of the Americans with Disabilities Act (ADA), P.L. 101-336, in accordance with 42 U.S.C. 12101, et seq.

2.5 MACBRIDE PRINCIPLES:

The bidder must certify pursuant to N.J.S.A. 52:34-12.2 that it either has no ongoing business activities in Northern Ireland and does not maintain a physical presence therein or that it will take lawful steps in good faith to conduct any business operations it has in Northern Ireland in accordance with the MacBride principles of nondiscrimination in employment as set forth in N.J.S.A. 52:18A-89.5 and in conformance with the United Kingdom's Fair Employment (Northern Ireland) Act of 1989, and permit independent monitoring of their compliance with those principles.

2.6 PAY TO PLAY PROHIBITIONS:

a. **Definitions** - For the purpose of this section, the following shall be defined as follows:

1) Contribution B means a contribution reportable as a recipient under The New Jersey Campaign Contributions and Expenditures Reporting Act, P.L. 1973, c83 (N.J.S.A. 19:44A-1 et seq.), and implementing regulations set forth at N.J.A.C. 19:25-7 and N.J.A.C. 19:25-10.1 et seq. Contributions in excess of \$300 during a reporting period are deemed "reportable" under these laws.

2) Business Entity B means any natural or legal person, business corporation, professional services corporation, Limited Liability Company, partnership, limited partnership, business trust, association or any other legal commercial entity organized under the laws of New Jersey or any other state or foreign jurisdiction, but does not include non profit or not for profit corporations. The definition of a business entity includes:

A. all principals who own or control more than 10 percent of the profits or assets of a business entity or 10 percent of the stock in the case of a business entity that is a corporation for profit, as appropriate and for a for profit entity, the following:

- (i) in the case of a corporation: the corporation, any officer of the corporation, and any person or business entity that owns or controls 10% or more of the stock of the corporation;
- (ii) in the case of a general partnership: the partnership and any partner;
- (iii) in the case of a limited partnership: the limited partnership and any partner;
- (iv) in the case of a professional corporation: the professional corporation and any shareholder or officer;
- (v) in the case of a limited liability company: the limited liability company and any member;
- (vi) in the case of a limited liability partnership: the limited liability partnership and any partner;
- (vii) in the case of a sole proprietorship: the proprietor; and
- (viii) in the case of any other form of entity organized under the laws of this State or any other state or foreign jurisdiction: the entity and any principal, officer, or partner thereof;

B. any subsidiaries directly or indirectly controlled by the business entity;

C. any political organization organized under section 527 of the Internal Revenue Code that is directly or indirectly controlled by the business entity, other than a candidate committee, election fund, or political party committee; and

D. if a business entity is a natural person, that person's spouse or civil union partner, or child residing in the same household provided, however, that, unless a contribution made by such spouse, civil union partner, or child is to a candidate for whom the contributor is entitled to vote or to a political party committee within whose jurisdiction the contributor resides unless such contribution is in violation of section 9 of Chapter 51.

b. Breach of Terms of Chapter 51 or EO 117 is a Breach of Retention Agreement -It shall be a breach of the terms of the Retention Agreement for the Business Entity to do any of the following:

- 1) make or solicit a contribution in violation of the Chapter 51 or EO 117;
- 2) knowingly conceal or misrepresent a contribution given or received;
- 3) make or solicit contributions through intermediaries for the purpose of concealing or misrepresenting the source of the contribution;
- 4) make or solicit any contribution on the condition or with the agreement that it will be contributed to a campaign committee or any candidate or holder of the public office of Governor, or of Lieutenant Governor, or to any State, county or municipal party committee, or any legislative leadership committee;
- 5) engage or employ a lobbyist or consultant with the intent or understanding that such lobbyist or consultant would make or solicit any contribution, which if made or solicited by the business entity itself, would subject that entity to the restrictions of Chapter 51 or EO 117;
- 6) fund contributions made by third parties, including consultants, attorneys, family members, and employees;
- 7) engage in any exchange of contributions to circumvent the intent of the Chapter 51 or EO 117; or
- 8) directly or indirectly through or by any other person or means, do any act which would subject that entity to the restrictions of the Chapter 51 or EO 117.

2.10 SERVICE PERFORMANCE WITHIN U.S:

Pursuant to N.J.S.A. 52:34-13.2, all Contracts primarily for services shall be performed within the United States, except when the Treasurer certifies in writing a finding that a required service cannot be provided by a Contractor or subcontractor within the United States and the certification is approved by the State Treasurer.

A shift to performance of services outside the United States during the term of the Contract shall be deemed a breach of Contract. If, during the term of the Contract, the Contractor or subcontractor, proceeds to shift the performance of any of the services outside the United States, the Contractor shall be deemed to be in breach of its Contract, which Contract shall be subject to termination for cause pursuant to Section 3.3(b)(1) of the Standard Terms and Conditions, unless previously approved by the Treasurer.

2.11 COMPLIANCE – LAWS:

The Contractor must comply with all local, state and federal laws, rules and regulations applicable to this Contract and to the services performed hereunder.

3. INDEMNIFICATION AND INSURANCE

3.1 INDEMNIFICATION FOR THIRD PARTY CLAIMS -The Contractor shall indemnify and hold harmless the State of New Jersey, the NJPBA, and its employees, agents and affiliates from and against any and all damages, losses, liabilities and expenses including, without limitation, reasonable attorneys' fees, arising out of or resulting from:

- a. any act or omission, event or occurrence that was or shall be caused by the Contractor, its employees, agents or affiliates relating to the business and operations of the Contractor of the NJPBA;
- b. any libel, slander, illegal competition or trade practice, infringement of trademarks, trade names, or program titles, violation of rights of privacy, and infringement of copyrights and proprietary rights, including intellectual property rights, resulting from or relating to any programming produced or furnished by the Contractor; and
- c. any breach by the Contractor of any of its obligations, representations, warranties, covenants or other agreements made by the Contractor in the Contract.

The Contractor's indemnification and liability under this section is not limited by, but is in addition to the insurance obligations contained in Section 3.2 of these Terms and Conditions.

- 3.2 INSURANCE** -The Contractor shall secure and maintain in force for the term of the Contract insurance as provided herein. All required insurance shall be provided by insurance companies with an A-VIII or better rating by A.M. Best & Company. The Contractor shall provide the State with current certificates of insurance for all coverages and renewals thereof, naming the State as an Additional Insured and shall contain the provision that the insurance provided in the certificate shall not be canceled for any reason except after sixty (60) days written notice to the Treasurer of the State of New Jersey.

The insurance to be provided by the Contractor shall be as follows:

- a. Comprehensive General Liability Insurance or its equivalent: The minimum limit of liability shall be \$1,000,000 per occurrence as a combined single limit for bodily injury and property damage. The above required Comprehensive General Liability Insurance policy or its equivalent shall name the State, its officers, and employees as Additional Insureds. The coverage to be provided under these policies shall be at least as broad as that provided by the standard basic, unamended, and unendorsed Comprehensive General Liability Insurance occurrence coverage forms or its equivalent currently in use in the State of New Jersey, which shall not be circumscribed by any endorsement limiting the breadth of coverage.
- b. Automobile liability insurance which shall be written to cover any automobile used by the insured. Limits of liability for bodily injury and property damage shall not be less than \$1 million per occurrence as a combined single limit. State of New Jersey, its officers and employees shall be named Additional Insureds. Physical damage insurance covering automobiles shall name the State of New Jersey Loss Payee to any State owned vehicles.
- c. Worker's Compensation Insurance applicable to the laws of the State of New Jersey and Employers Liability Insurance with limits not less than:
 - \$2,000,000 BODILY INJURY, EACH OCCURRENCE
 - \$2,000,000 DISEASE EACH EMPLOYEE
 - \$2,000,000 DISEASE AGGREGATE LIMIT
- d. Broadcast libel and errors/omissions insurance of at least \$5,000,000. The State of New Jersey shall be named Additional Insured by endorsement to this policy. The policy must be endorsed to cover Cyber Risk Multimedia/Technology Errors and Omissions. Any exclusion of coverage for actions by a governmental authority must be amended to exclude the State of New Jersey in their capacity as owner.
- e. All Risk property insurance covering real and personal property of the State, including property in vehicles and while in transit, for the replacement cost of the property. State shall be named loss payee under the property insurance.
- f. Umbrella Liability Insurance in an amount not less than \$10 million per occurrence and in the aggregate naming the State of New Jersey as Additional Insured.

4. TERMS GOVERNING OPERATING CONTRACT(S)

4.1 CONTRACTOR IS INDEPENDENT CONTRACTOR:

The Contractor's status shall be that of any independent Contractor and not as an employee of the State.

4.2 TERMINATION OF CONTRACT

a. For Cause

The NJPBA may terminate the Contract (i) immediately by giving written notice if, in the reasonable good faith discretion of the NJPBA, the Station is operated by the Contractor in a manner contrary to the best interests of NJPBA, the public interest, convenience and necessity, FCC rules and regulations, the Communications Act of 1934, as amended, or other applicable law; or (ii) if Contractor otherwise breaches its obligations under the Contract and the Contractor fails to cure such breach within thirty (30) days of written notice from the PBA.

b. Upon termination of the Contract, NJPBA shall assume complete operational responsibility for the Station, and the Contractor shall be relieved of all obligations under the Contract except for: obligations incurred prior to the effective date of the termination; the obligation to provide a final accounting pursuant to the Contract and the obligation to cooperate with NJPBA to wind up Contractor's operation of the Station in an orderly fashion.

c. In the event of termination under this section, the Contractor shall be compensated for work performed in accordance with the Contract, up to the date of termination. Such compensation may be subject to adjustments.

4.3 SUBCONTRACTING OR ASSIGNMENT:

The Contractor may not subcontract other than as identified in the Contractor's proposal or assigns its responsibilities under the Contract, in whole or in part, without the prior written consent of the NJPBA. Such consent, if granted, shall not relieve the Contractor of any of his responsibilities under the Contract.

4.4 NO CONTRACTUAL RELATIONSHIP BETWEEN SUBCONTRACTORS AND STATE:

Nothing contained in any of the Contract documents, including the RFP and vendor's bid or proposal shall be construed as creating any Contractual relationship between any subcontractor and the State.

4.5 MERGERS, ACQUISITIONS:

If, during the term of this Contract, the Contractor shall merge with or be acquired by another firm, the Contractor shall give notice to the NJPBA as soon as practicable and in no event longer than 30 days after said merger or acquisition. The Contractor shall provide such documents as may be requested by the NJPBA which may include but need not be limited to the following:

- a. Corporate resolutions prepared by the awarded Contractor and new entity ratifying acceptance of the original Contract, terms, conditions and prices.
- b. State of New Jersey Bidders Application reflecting all updated information including ownership disclosure, pursuant to provision 1.5.
- c. Vendor Federal Employer Identification Number.

The documents must be submitted within 30 days of the request. Failure to do so may result in termination of the Contract for cause.

If, at any time during the term of the Contract, the Contractor's partnership, limited liability company, limited liability partnership, professional corporation, or corporation shall dissolve, the NJPBA must be so notified. All responsible parties of the dissolved business entity must submit to the NJPBA in writing, the names of the parties proposed to perform the Contract, and the names of the parties to whom payment should be made. No payment shall be made until all parties to the

dissolved business entity submit the required documents to the NJPBA.

4.6 APPLICABLE LAW AND JURISDICTION:

This Contract and any and all litigation arising therefrom or related thereto shall be governed by the applicable laws, regulations and rules of evidence of the State of New Jersey without reference to conflict of laws principles and shall be filed in the appropriate Division of the New Jersey Superior Court. The State does not consent to federal court jurisdiction.

4.7. CONTRACT AMENDMENT:

The Contract may only be amended by written agreement of the State and the Contractor.

4.8 MAINTENANCE OF RECORDS:

The Contractor shall maintain records for products and/or services delivered against the Contract for a period of three (3) years from the date of final payment unless otherwise specified in the RFP. Such records shall be made available to the State upon request.

4.9 AVAILABILITY OF FUNDS: The State's obligation to make any payment under the Contract is contingent upon the availability of appropriated funds and receipt of revenues from which payment for Contract purposes can be made. No legal liability on the part of the State for payment of any money shall arise unless and until funds are appropriated each fiscal year to the using agency by the State Legislature and made available through receipt of revenues.

Management and Programming Agreement
Attachment 1
FORM OF STATEMENT FOR EACH STATION

**STATEMENT OF STATION POLICIES OF
LICENSEE**

Licensee ("Licensee"), Licensee of Radio Station _____
(the "Station"), hereby establishes the following standards, practices, policies and regulations to govern the broadcast of all programming aired over the Station. The following standards, practices and policies are to be adhered to in the preparation, writing, production and broadcasting of all advertisements and programs aired over the Station:

I. No Payola Or "Plugola". The mention of any business activity or "plug" for any commercial, professional or other related endeavor on the Station is prohibited, except where contained in an underwriting message that complies with the requirements of Section 399B of the Communications Act and Section 73.503 of the rules of the Federal Communications Commission ("FCC") and such message contains a sponsorship identification announcement which meets the requirements of Section 317 of the Communications Act and Section 73.1212 of the FCC's rules.

II. No Lotteries. Except as expressly permitted under Section 73.1211 of the FCC's rules, no announcements, messages or programs may be broadcast over the Station (without the express prior written approval of the Licensee) which give any information about or which promote any lotteries or games of chance, including any bingo games and the like, which are to be held by a local church or other non-profit institution or organization. A lottery, for these purposes, is a game or promotion in which a prize is awarded and where the

selection of the winner or the amount or nature of the prize is determined in whole or in part on the basis of chance, and where contestants enter the promotion by paying or promising any form of consideration (e.g., money, substantial time, or substantial energy).

III. Station Identification Announcements Required. A Station identification announcement must be broadcast each time the Station goes on the air and when it signs off the air. A Station identification announcement must also be broadcast each hour, as close to the top of the hour as feasible, at a natural break in programming, and shall comply with the requirements of Section 73.1201 of the FCC's rules.

IV. Contests and Promotions. In the event that the Programming contains information about any contest that the Manager conducts, the Manager shall comply with Section 73.1216 of the FCC's rules by fully and accurately disclosing the material terms of the contest and by conducting the contest "substantially as announced." No contest description shall be broadcast on the Station where the Manager knows that such description is false, misleading or deceptive with respect to any material term.

V. Obscenity and Indecency Prohibited. No obscene material may be broadcast over the facilities of the Station. No indecent material may be broadcast on the Station during any time when the airing of such programming would be contrary to law or FCC regulations or policies. For these purposes, "indecent" material is defined as language or material that describes sexual or excretory activities or organs in a patently offensive manner, as measured by contemporary community standards for the broadcast medium. Material will be considered obscene if (a) the average person, applying contemporary community standards, would find that the material appeals to the prurient interest, (b) it describes or depicts, in a patently offensive manner, sexual conduct as defined by

applicable state law, and (c) taken as a whole, it lacks serious literary, artistic, political or scientific value.

VI. Advertising. No advertisements as defined by Section 399B of the Communications Act and Section 73.503 of the FCC's rules, shall be broadcast on the Station.

VII. Defamatory Statements Prohibited. No statements known to be libelous or defamatory may be broadcast on the Station. Libel is a false statement of fact about a person, which tends to injure that person's reputation or otherwise cause injury or damages to that person.

VIII. "Equal Time" For Political Candidates. If a legally qualified candidate for public office is allowed to "use" (as defined in Section 73.1941(b) of the FCC's rules) the Station during his/her campaign, his/her legally qualified opponents must be afforded equal opportunities to appear on the Station.

IX. Sponsorship Identification Announcements. All sponsored programs must (a) contain an announcement stating the fact that the matter broadcast was sponsored, paid for, furnished by, or in support of the Station, and must disclose the true identity of the person or entity on whose behalf payment was made or promised for the broadcast, or (b) otherwise comply with Section 317 of the Communications Act and Section 73.1212 of the FCC's rules. Whenever such a sponsorship identification announcement is required, the announcement must be made both at the beginning and conclusion of each program of over five minutes in length. If a sponsored broadcast is five minutes or less in duration, only one such announcement is required, and it may be made either at the beginning or the conclusion of the broadcast or announcement.

Schedule 2.2(b): Form of Temporary Facilities Use Agreement

See attached.

FACILITIES USE AGREEMENT

This FACILITIES USE AGREEMENT (this "Agreement") is entered into this ____ day of _____ 2011 by and between among New Jersey Public Broadcasting Authority, an independent instrumentality of the State of New Jersey allocated in, but not of, the Department of the Treasury of the State of New Jersey ("NJPBA") and New York Public Radio ("NYPR").

RECITALS

- A. NJPBA is the Federal Communications Commission ("FCC") licensee of noncommercial educational radio stations WNJT-FM, Trenton, NJ, WNJY(FM), Netcong, NJ, WNJP(FM), Sussex, NJ and WNJO(FM), Toms River, NJ (the "Stations");
- B. NJPBA and NYPR propose to enter into a Management and Programming Agreement (the "MPA") under which NYPR shall provide certain programming and services to NJPBA related to the Stations;
- C. NJPBA and NYPR desire to memorialize certain agreements regarding NYPR's use of certain of the facilities used or useful in connection with the Stations, all such property and facilities more particularly described in Exhibit A attached to this Agreement (collectively, the "Facilities"), in connection with NYPR's performance of its obligations under the MPA;
- D. NJPBA and NYPR have entered into an Asset Purchase Agreement of even date herewith (the "Purchase Agreement"), pursuant to which NJPBA has agreed to sell to NYPR, and NYPR has agreed to purchase from NJPBA, the Stations and associated assets as described therein under the terms and conditions set forth in the Purchase Agreement; and
- E. Capitalized terms used herein but not defined herein have the meaning ascribed to them in the Purchase Agreement.

NOW, THEREFORE, in consideration of the terms and conditions set forth in this Agreement, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

WITNESSETH

1. Grant of License. NJPBA hereby grants to NYPR, during the term of this Agreement, the right to access and use the Facilities for the sole purpose to meet its obligations under the MPA and to facilitate the transfer of the assets from NJPBA to NYPR in accordance with the terms of the Purchase Agreement. NYPR accepts the use of the Facilities pursuant to this Agreement (but not under the Purchase Agreement) in "As Is, Where Is" condition. NYPR's use of the Facilities pursuant to this Agreement shall be rent-free.
2. Term. NYPR shall have the right to use the Facilities from the date hereof until the earliest of: (A) the consummation of the transaction contemplated by the Purchase

Agreement; (B) the termination of the Purchase Agreement in accordance with its terms; or (C) the termination of the MSA in accordance with its terms (the "Term").

3. Obligations of NYPR.

- (a) NYPR shall not make any physical alterations to the Facilities without the prior written approval of the NJPBA, and shall pay, within 30 days of receipt of an invoice therefor, for repair of any alterations or damages resulting from NYPR's use of the Facilities, including any unusual cleaning charges. NYPR shall be responsible for all other out-of-pocket sums, costs and expenses that are incurred by NJPBA that arise from NYPR's use of the Facilities.
- (b) NYPR shall not have the right to assign this Agreement or any rights hereunder nor to sublet said facilities or equipment. NJPBA shall not have the right to assign this Agreement.
- (c) NYPR shall use and occupy the Facilities and the equipment located at the Facilities in a safe and careful manner and shall comply in all material respects with all applicable laws, rules, regulations and ordinances of the federal law and New Jersey law and regulations, including without limitation, New Jersey Public Broadcasting Authority Act of 1968 (L. 1968, c. 405), the New Jersey Public Broadcasting System Transfer Act (L. 2010, c. 104) (the "Transfer Act"), and the State of New Jersey, New Jersey Broadcasting System, New Jersey Network, Standard Terms and Conditions for Contractors (as summarized in Schedule 3(c) hereto) as amended or supplemented from time to time, and any other state or government authority controlling or governing the Facilities or equipment or operation therein.
- (d) NYPR shall not unreasonably interfere with NJPBA's use of the Facilities. NJPBA shall not unreasonably interfere with NYPR's use of the Facilities.

4. Default.

(a) If NYPR is in breach in any material respect of any term of this Agreement and does not cure such breach within thirty (30) days following receipt of written notice from NJPBA, NJPBA shall have the right to terminate this Agreement immediately. Such termination shall not release NYPR from any liability for any amount due under this Agreement. All rights and remedies available to NJPBA by law or in this Agreement shall be cumulative and concurrent.

(b) If NJPBA is in breach in any material respect of any term of this Agreement and does not cure such breach within thirty (30) days following receipt of written notice from NYPR, NYPR shall have the right to terminate this Agreement immediately. Such termination shall not release NJBPA from any liability for any amount due under this Agreement. All rights and remedies available to NYPR by law or in this Agreement shall be cumulative and concurrent.

(c) If this Agreement is terminated in accordance with its terms for any reason (other than at Closing under the Purchase Agreement), then the MPA shall automatically terminate concurrent therewith.

5. Indemnity. NYPR shall indemnify and hold harmless NJPBA and all officers, directors, employees, partners, members and agents of NJPBA, (individually, a "NJPBA Indemnitee") from and against any and all Losses arising from any and all Claims arising out of NYPR's gross negligence or willful misconduct in connection with this Agreement, or NYPR's breach of this Agreement; provided that neither NYPR nor any of its Affiliates shall be deemed an NJPBA Indemnitee under this Section 5. The provisions of this Section 5 shall survive the expiration or earlier termination of this Agreement.

6. Exemption of NJPBA From Indemnification. NYPR recognizes and acknowledges that NJPBA is an instrumentality of the State of New Jersey and without legal authority to enter into an indemnity arrangement for the benefit of NYPR. The parties acknowledge and agree that any claim by NYPR against Manager related to this Agreement or the transactions contemplated hereby shall be governed by the New Jersey Contractual Liability Act. (L. 1974, c. 45, N.J.S.A. 59:13-1 et seq.) and the New Jersey Tort Claims Act. (L.1972, c. 45, N.J.S.A. 59:1-1 et seq.). The provisions of this Section 6 shall survive the expiration or earlier termination of this Agreement.

7. Liens. NYPR shall not subject, or through its actions or inaction allow, the Facilities to become subject to any mechanic's lien, mortgage, or any lien of any kind whatsoever.

8. Environmental Matters. NYPR represents and warrants that it shall not permit the handling, transportation, storage, treatment or usage of hazardous or toxic substances on or about the Facilities except in de minimis amounts in compliance with applicable law. NJPBA represents and warrants that it shall not permit the handling, transportation, storage, treatment or usage of hazardous or toxic substances on or about the Facilities except in de minimis amounts in compliance with applicable law.

9. Miscellaneous.

- (a) If any provision of this Agreement shall be prohibited by or invalid under applicable law, then so long as no party is deprived of the benefits of this Agreement in any material respect, such provision shall be ineffective only to the extent of such prohibition or invalidity without invalidating the remainder of such provision or any remaining provisions of this Agreement, provided that such remaining portions or provisions can be construed in substance to constitute the agreement that the parties intended to enter into in the first instance.
- (b) This Agreement, together with the MPA, contains the entire agreement of the parties with respect to the subject matter hereof during the term hereof, and, except as specifically referred to herein, all prior obligations, proposals and agreements relating to the subject matter hereof have been merged herein. This

Agreement shall not be modified or amended except by agreement in writing duly executed by the parties hereto.

- (c) This Agreement and any and all litigation arising therefrom or related thereto shall be governed by the applicable laws, regulations and rules of evidence of the State of New Jersey without reference to conflict of laws principles and shall be filed in the appropriate Division of the New Jersey Superior Court. NJPBA does not consent to federal court jurisdiction.
- (d) This Agreement may be signed in counterparts, each of which shall be deemed to be an original but which, when taken together, shall constitute one and the same instrument. Facsimile signature pages of this Agreement shall be valid and binding as original signatures and when the same are delivered by each party to the other party, such delivery shall be considered an agreement of the respective parties to fully execute and deliver to one another originally signed copies of this Agreement. Any notices under this Agreement shall be delivered in the manner and to the addresses set forth for the parties in the MPA.

IN WITNESS WHEREOF, the parties hereto, intending to be legally bound hereby, have executed this Agreement as of the date first written above.

NJPBA:

NYPR:

**NEW JERSEY PUBLIC
BROADCASTING AUTHORITY**

NEW YORK PUBLIC RADIO

By: _____

Name: _____

Title: _____

By: _____

Name: _____

Title: _____

EXHIBIT A

Facilities

Trenton, NJ facilities and New Brunswick relay site

Schedule 5(a): Form of Sharing Agreement

See attached.

SHARING AGREEMENT

THIS SHARING AGREEMENT (this "Agreement") is made this ____ day of ____, 2011, by and between New Jersey Public Broadcasting Authority, an independent instrumentality of the State of New Jersey allocated in, but not of, the Department of the Treasury of the State of New Jersey ("NJPBA") and New York Public Radio ("NYPR").

RECITALS

WHEREAS, NJBPA is the owner and FCC licensee of the broadcast auxiliary and microwave interconnection system (the "Microwave System") described in Attachment A;

WHEREAS, concurrently herewith, NYPR is acquiring from NYPR pursuant to an Asset Purchase Agreement dated June ____, 2011 (the "Purchase Agreement") certain radio stations that currently use the Microwave System for distribution of radio programming (the "Facilities"); and

WHEREAS, NJPBA and NYPR are willing to share the use of the Facilities of the Microwave System under the terms hereunder;

NOW THEREFORE, be it agreed as follows:

1. During the term of this Agreement, NJPBA shall provide NYPR with access to and use of the Microwave System, in substantially the same manner as provided to the radio stations during NJPBA's ownership thereof. Such sharing arrangement covers all components of the Microwave System described in Attachment A.
2. Each of NJBPA and NYPR shall operate the Facilities in compliance with the applicable provisions of the rules of the Federal Communications Commission ("FCC") and any other applicable laws. NJPBA shall bear responsibility for the Microwave Systems' compliance with FCC rules, shall maintain such FCC licenses in full force and effect without modification and shall maintain all equipment at the Facilities in adequate operating condition and in accordance with reasonable engineering standards.
3. At all times during the term of this Agreement, all Facilities operated pursuant to this Agreement shall be subject to absolute control by NJPBA. It is understood that NJPBA, as FCC licensee, is responsible for assuring that the Facilities are used only by persons and for purposes consistent with the Microwave System licenses and the FCC's rules. NYPR shall not make any physical alterations to or connections with the Facilities without the prior written approval of the NJPBA, and shall pay, within 30 days of receipt of an invoice therefor, for repair of any damages resulting from NYPR's alterations, connection to or use of the Facilities.
4. A copy of this Agreement shall be kept as part of the Microwave System's records.
5. This Agreement shall commence on the date hereof and shall terminate by written notice of a party to the other: (a) if NJPBA ceases to own or operate the Microwave System; (b) if NJPBA ceases to be the FCC licensee of the Microwave System; or (c) if NYPR no longer

requires use the Facilities. If a party fails to perform its obligations under this Agreement in any material respect and such failure continues for a period of ten (10) business days after the non-defaulting party has provided the defaulting party with written notice thereof, then the non-defaulting party may terminate this Agreement by giving written notice to the defaulting party.

6. NYPR shall be responsible for a pro rata share of applicable out-of-pocket costs reasonably incurred by NJBPA in the operation and maintenance of the Facilities and the Microwave System during the term hereof. NJPBA shall provide invoices to NYPR for such costs (along with reasonable supporting documentation). No additional fee shall be due under this Agreement.

7. This Agreement constitutes the entire agreement and understanding between the parties hereto with respect to the subject matter hereof and supersedes all prior or contemporaneous, express or implied, written or oral, agreements, representations and conditions between the parties. This Agreement may be executed in any number of counterparts and by different parties hereto in separate counterparts, each of which when executed and delivered shall be deemed to be an original and all of which taken together shall constitute one and the same agreement. This Agreement is not intended to be, and shall not be construed as, an agreement to form a partnership, agency relationship, or joint venture between the parties. Neither party shall be authorized to act as an agent of or otherwise to represent the other party. Neither party may assign this Agreement without the prior written consent of the other. This Agreement shall be binding upon and inure to the benefit of the parties and their respective successors and permitted assigns. Any notices under this Agreement shall be given pursuant to the notice provision of the Purchase Agreement.

8. The parties acknowledge and agree that NJPBA shall not provide indemnification and that any claim by NYPR against NJPBA related to this Agreement or the transactions contemplated hereby shall be governed by the New Jersey Contractual Liability Act. (L. 1974, c. 45, N.J.S.A. 59:13-1 et seq.) and the New Jersey Tort Claims Act (L.1972, c. 45, N.J.S.A. 59:1-1 et seq.). NYPR shall indemnify and hold harmless NJPBA and all officers, directors, employees, partners, members and agents of Licensee, from and against any and all liabilities, obligations, losses, damages, costs, expenses, claims, penalties, lawsuits, proceedings, actions, judgments, disbursements of any kind or nature whatsoever, interest, fines, settlements and reasonable attorneys' fees and expenses of such claimant arising from any and all claims arising out of NYPR's breach of this Agreement.

9. This Agreement and any and all litigation arising therefrom or related thereto shall be governed by the applicable laws, regulations and rules of evidence of the State of New Jersey without reference to conflict of laws principles and shall be filed in the appropriate Division of the New Jersey Superior Court. NJPBA does not consent to federal court jurisdiction.

13303043

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties hereto have caused this Sharing Agreement to be executed the day and year first above written.

NEW JERSEY PUBLIC BROADCASTING AUTHORITY

By: _____
Name: _____
Title: _____

NEW YORK PUBLIC RADIO

By: _____
Name: _____
Title: _____

Attachment A

[Insert description of microwave system]

Schedule 5(b): Form of Lease Agreements

See attached.



TOWER ACCESS AND LICENSE AGREEMENT

THIS TOWER ACCESS AND LICENSE AGREEMENT (the "Agreement") is made as of the ____ day of _____, 20__ (the "Commencement Date") between NEW JERSEY PUBLIC BROADCASTING AUTHORITY, an instrumentality of the State of New Jersey, having an office at 25 South Stockton Street, PO Box 777, Trenton, New Jersey, 08625 (herein after alternatively called "Licensor", "NJN", and "NJPBA") and NEW YORK PUBLIC RADIO, having an office at 160 Varick St., New York, New York 10013 (herein after called "Licensee").

NOW, THEREFORE, the parties, for the exchange of consideration as described and set forth herein, covenant and agree as follows:

Section 1. LICENSE

Licensor hereby grants to Licensee, the non-exclusive right to install, operate, use, occupy and maintain radio broadcast equipment (including already installed equipment) more specifically described in sub-section A of this section at the premises described in Section 2 of this Agreement, together with the non-exclusive right of ingress and egress thereto, for the term set forth in Section 3 of this Agreement in exchange of the consideration set forth in Section 4 of this Agreement and subject to all other terms and conditions of this Agreement set forth herein (the "License").

A. Equipment. The right to install and maintain radio broadcast equipment as indicated in Exhibit A (including already installed equipment), provided by Licensee and located at the site (or

to be located at the site in a location to be approved by NJPBA), subject to any changes to such equipment made in accordance with this Agreement.

Section 2. LICENSED PREMISES

Licensors are the tenants under a ground lease with _____ (the "Master Lease") with respect to a tower sited on property located at the street address of _____. The tower and its site are hereafter referred to as the "Licensed Premises". Licensee shall have the non-exclusive right to access the Licensed Premises during the term of this Agreement.

Licensors shall use commercially reasonable efforts to keep the Master Lease in full force and effect, shall comply with the Master Lease in all material respects and shall not take any action or omit to take any action that would constitute a breach or default thereunder. Licensors shall promptly provide Licensee with copies of all written notices it receives from the landlord under the Master Lease.

Section 3. TERM

The initial term of this Agreement shall be for five-years, beginning on the date of this Agreement (the "Commencement Date").

At the conclusion of the five-year term, this Agreement shall automatically renew for up to four additional five (5) year terms unless, at least sixty (60) days before the expiration of the then-current five-year term, Licensee notifies Licensors in writing of its intent not to renew this Agreement. Such renewal shall be on the same terms and conditions in effect during the initial term, with the exception of the amount of the fee for use of the Licensed Premises.

Section 4. LICENSE FEE

During the first two years after the Commencement Date, no fee shall be due from Licensee to Licensor under this Agreement. During the remaining years of the initial term and all subsequent terms, the License fee shall be as set forth in the attached Schedule 4.

LICENSE FEE CALCULATION CRITERIA

NJPBA utilizes the following criteria in determining tower site License rates. The installation of an antenna (typical 450 MHz 10 dB gain) including brackets and not more than four feet out from the leg of the tower, and fed with a transmission line having a diameter of not more than 7/8" installed not higher than the 500 ft. level of the tower, or less, shall be considered as a reference installation in terms of rental fees. Such installation results in 41 square feet of two dimensional wind surface area. Rent of such an installation will be \$ 605.00 per month in 2010. Deviation from the reference installation will result in a modification of the rental cost. Examples of such deviations are:

1. Installation of antenna located more than +/- 20 ft. vertically from any guy pull-off elevation.
2. Antennas different from that of the reference antenna.
3. Transmission lines other than 7/8" diameter.
4. More than one transmitter/receiver diplexed combination.
5. More than one standard rack space for equipment or use of a self-contained prefabricated shelter or pad.
6. In the event that a substantial change from the reference installation is requested, it may be necessary that a computer analysis be made by Stainless, Inc., and the cost of this study shall be borne by the Licensee.

Section 5. INSTALLATION

1. Licensee shall install only the antenna and transmission line on the tower that has been approved by Licensors. Licensee shall have the right to install, remove, operate, repair and maintain its equipment located at the Licensed Premises and shall have the right to make such alterations to its equipment as its operations reasonably require; provided, however, that any non-routine material changes shall be first approved by Licensors (which approval may be by email). Licensors shall promptly respond to any requests by Licensee to alter its equipment at the Licensed Premises, and shall not unreasonably withhold, delay or condition its consent. Licensee shall be responsible for any damage to the Licensed Premises caused by alterations to its equipment. It is understood and agreed that Licensee's ability to use the Licensed Premises is contingent upon it obtaining all of the certificates, permits, and other approvals that may be required by any federal, state or local authorities which will permit Licensee's use of the Licensed Premises as set forth above, such approval to be obtained at the Licensee's sole cost and expense.
2. Licensee and Licensors shall each be responsible for taking such steps as may be reasonably necessary to prevent any interference or spurious radiation with the broadcasting facilities of the other or others presently on the tower caused by its transmission or other activities on the Licensed Premises. If such interference or spurious radiation cannot be reduced to levels reasonably acceptable to the non-interfering party, the non-interfering party may elect to terminate this Agreement by giving the interfering party written notice.

Licensors hereby confirms to Licensee that there is no interference or spurious

radiation with the broadcasting facilities of Licensor or others presently on the tower as of the date of this Agreement.

3. If applicable, Licensee shall provide NJPBA if requested with a copy of any frequency study that must be made to prove that its proposed frequencies will not cause interference to other installations on the tower.
4. If applicable, Licensee shall provide Licensor with a copy of the engineering section of its FCC construction permit for modifications to its facilities on the tower.
5. The installation of the material equipment must be approved by the Engineering Department of the NJPBA within a reasonable time. The Licensee agrees that the installation will be done in a neat workmanship manner. The Licensee shall be responsible for all installation costs.
6. **THE FOLLOWING PROVISIONS ARE MATERIAL TERMS OF THE LICENSE:**
 - A. Antenna brackets must be approved by NJPBA.
 - B. If required by NJPBA, each separate party will install, for his own use only, a 1/2" aluminum conduit to be fastened at least every 8' in exactly the space designated. This transmission line will be wrap-locked to this conduit. Those parties having more than one installation must use this conduit for the additional transmission line cables. This conduit is not required for rigid transmission lines, circular rigid waveguide, or semi-flexible transmission lines larger than 1-1/2" diameter.

- C. Only non-rustable hardware will be used.
- D. No painting of any hardware or brackets will be allowed.
- E. No drilling or welding to any part of the tower will be allowed.
- F. All rustable material must be hot-dipped galvanized after fabrication including bolts, nuts and washers.
- G. No electronics will be installed on the tower.
- H. Base equipment must be in weatherproof outdoor cabinets.
- I. Base cabinets must be identified with a weatherproof label on which the Licensee's name, address, telephone number as well as the call letters will be inscribed. Typed cards under plastic are not suitable.
- J. Each Licensee will be given a key to unlock the gate for maintenance purposes. If this key is lost, the Licensee will bear the expense of retooling four locks and providing twenty-four (24) new keys. Such keys and locks will be provided by NJPBA and billed to the Licensee.
- K. Antenna must be identified by a metal tag fastened securely to its bracket on the tower at the antenna level so that maintenance men will know the ownership of each antenna system.
- L. NJPBA reserves the right to have the Licensee construct a building to house Licensee's electronic equipment near the base of the tower (cost of which shall be borne entirely by Licensee) in the event that Licensee's space requirements become excessive. This building cannot be subleased, but if extra space is available, the building's

cost can be prorated to other NJPBA licensees. In the event of termination or non-renewal of this Agreement, the building will remain the property of NJPBA. Radiotelephone installations shall be made so that the electronic equipment will be installed in a weatherproof cabinet under the protective ice shield between the rear of the building and the base of the tower. Each such installation shall occupy not more than 1/4 of the available bay space. If necessary, power will be provided by the Licensor to a weatherproof circuit breaker box near the base of the tower, at a one-time cost of \$150.00. A key will be provided to all Licensees that will open the padlock on the sliding gate for maintenance personnel.

M.

(1) A. Antenna: Make _____ Model _____

Size of Dia. _____ Ht. Above Grd. _____ feet

Dia. Of Main Pole _____ Windloading _____

Pounds at 100 miles/hr.

Ant. Brackets Make _____ Model _____

B. Transmission Line:

Qty: _____ Type _____

Rigid _____ Flexible _____

C. Transmitter:

Make: _____ Model _____

Rated Output _____ watts Output Pwr This Use _____ watts

Input Power (AC), _____ Watts

D. Frequency:

Transmit _____ MHz Receive _____ MHz

AM _____ FM _____ Other _____

(2) Insurance Certificate supplied to NJPBA _____

(3) Copy of FCC CP or License supplied to NJPBA _____

(4) Installation Details (inc. ant. Bracket) supplied to NJPBA _____

(5) Frequency conflict study supplied to NJPBA _____

All installations and operations in connection with this Agreement by Licensee shall meet with all applicable rules and regulations of the Federal Communications Commission, Federal Aviation Administration and all applicable codes and regulations of the municipality, county and State concerned. Under this Agreement, the Licenser assumes no responsibility for the licensing, operation and/or maintenance of Licensee's radio broadcast equipment.

Licenser represents and warrants to Licensee that the equipment located as of the date hereof at the Licensed Premises complies in all material respects with the requirements of Section 5.

Section 6. MAINTENANCE

Licensee, at its own expense, shall maintain Licensee's property in accordance with reasonable engineering standards to assure that at all times Licensee's property and its operation at the Licensed Premises is in conformance in all material respects with the requirements of the Federal Communications Commission and all other public authorities with jurisdiction over Licensee.

Licenser, at its own expense, shall maintain the tower, transmitter building and Licensed Premises in adequate operating condition, in accordance with reasonable engineering standards consistent with Licenser's past practice and in conformance in all material respects with the requirements of the Federal Communications Commission and all other public authorities with

jurisdiction over Licensor.

Section 7. UTILITIES

Electricity costs are included in the rent paid by Licensee to Licensor under this Agreement. Notwithstanding anything to the contrary in this Agreement, neither the Licensor nor any of its assignees shall be responsible for any electrical outages that result from circumstances beyond the control of the Licensor or its assignees. Licensee shall be solely responsible for any actual or consequential costs or damages as a result of electrical outages caused by it.

Section 8. REAL ESTATE TAXES

If real estate taxes are assessed with respect to the site because of the Licensee's facilities and equipment, the Licensee shall be solely responsible for the payment of the taxes attributed to its improvements and Licensee shall pay any such real estate taxes as additional rent to the Licensor.

Section 9. INSURANCE

A. The Licensee shall procure and maintain at its sole cost and expense, before commencing any installation and/or maintenance on the tower, a policy or policies of insurance covering workman's compensation and general liability issued by an insurer licensed to do business in the State of New Jersey and rated at least A- by A.M. Best reasonably acceptable to the Licensor, and said insurance shall provide for the payment of compensation in accordance with the laws of the State of New Jersey for all workmen employed, and employees of the Licensee, and its Contractors and sub-contractors, and, further, insuring the State of New Jersey, New Jersey Public Broadcasting Authority, NJN and their agents and employees against any and all liability for personal injury or death of such workmen, and employees. None of the requirements contained herein as to types or limits on Licensor's approval of insurance coverage to be maintained by Licensee are intended to and shall not in any manner limit, qualify or quantify the liabilities and obligations assumed by

Licensee under this License or otherwise provided by law. The policy of general liability shall include a single limit of not less than Ten Million Dollars (\$10,000,000.00), naming each of the State of New Jersey and New Jersey Public Broadcasting Authority as an additional insured, and Licensee shall furnish Licensors with a certificate evidencing such insurance and stating that such coverage shall not be canceled or changed until Licensors shall be given thirty (30) days notice in writing. The insurance must be carried throughout the term of this Agreement and any renewals hereunder. A Certificate of Insurance in accordance with the requirements of this Section 9 shall be provided to the Licensors prior to the commencement by Licensee of any installation and/or maintenance provided for in this Agreement.

B. Licensee shall have all companies performing work on the tower in connection with this License, complete a Statement provided by Licensors or provide evidence of insurance coverage as specified herein. These statements or insurance certificates should be mailed to Licensors C/O Director of Engineering at the Licensors's address.

Section 10. INDEMNIFICATION.

The Licensee hereby assumes all risk of and responsibility for, and agrees to indemnify and save harmless the State of New Jersey, New Jersey Public Broadcasting Authority, NJN and their agents and employees from and against any and all claims, demands, suits, actions, recoveries, judgments, and costs and expenses in connection therewith (including attorneys fees), made, brought or obtained on account of the loss of life, property or injury or damage to the person or property of any person or persons whomsoever, whether such person or persons be the Licensors, its agents or employees, or the Licensee, its agents or employees, any contractors, or sub-contractors, employed by the Licensee, their agents or employees, or any third parties, which loss of life or property, or injury or damage to persons or property, shall be due to or arise out of or result from

Licensee's activities under this Agreement. Licensee hereby agrees the liability of the Licensor with respect to the transactions contemplated hereby shall be governed by the New Jersey Contractual Liability Act. (L. 1974, c. 45, s. 59:13-1) and the New Jersey Tort Claims Act (L.1972, c. 45, s. 59:1-1).

Section 11. ASSIGNMENT

Licensee shall not assign or transfer this Agreement without prior written consent of Licensor, which shall not be unreasonably withheld, delayed or conditioned. Nothing herein shall preclude the assignment by Licensor of the Master Lease, which includes the Licensed Premises, provided that this Agreement shall be binding upon and inure to the benefit of Licensor's successors and/or assigns who shall assume this Agreement. This Agreement shall be binding and inure to the benefit of the parties and their respective successors and permitted assigns.

Section 12. REMOVAL OF LICENSEE'S EQUIPMENT UPON TERMINATION

Licensee agrees to remove its antenna and equipment, at its expense, within thirty (30) days after termination of this Agreement. Failure to remove within thirty (30) days will automatically transfer title of equipment to NJPBA, in which case Licensee waives all right and title therein, and Licensor retains all rights, in law and equity, to pursue action against Licensee for any and all costs related to Licensor's removal of Licensee's equipment (including attorneys fees). Licensee shall repair any loss or damage to the Licensed Premises or any part thereof caused or resulting from the removal of its equipment (whether removed by or at the direction of Licensor or Licensee).

Section 13. DEFAULT AND TERMINATION

If Licensee defaults in payment of the License fee provided in Section 4 or under any other provision of this Agreement and such default is not cured within thirty (30) days after receipt of written notice of such default from Licensor, Licensor may terminate this Agreement upon thirty

(30) days written notice, except that in the case of two or more defaults involving a material term contained in Section 5, Licensors may terminate this Agreement upon thirty (30) days written notice whether or not the default was subsequently cured. Upon termination of this Agreement pursuant herewith, Licensors shall have the right to remove Licensee or any person occupying the Licensed Premises and the antenna and other equipment belonging to the same at Licensee's expense without prejudice to any other remedies which might be otherwise available to Licensors.

Licensee shall make payment to the Licensors for all related and associated costs of removal within thirty (30) days of receipt of Licensors' invoice.

If Licensors default under any provision of this Agreement and such default is not cured within thirty (30) days after receipt of written notice of such default from Licensee, Licensee may terminate this License Agreement upon thirty (30) days written notice.

Section 14. LIENS

Licensee shall have no interest in the Licensed Premises pursuant to this Agreement other than a leasehold interest. In the event any mechanic's, laborer's, materialmen's or any other lien shall at any time be filed against the Licensed Premises or the tower as a result of Licensee's occupancy or construction thereon, Licensee shall, within thirty (30) days after such lien is made or filed cause the same to be discharged of record by payment, order of a court of competent jurisdiction, or otherwise. Notice is hereby given that the Licensors shall not be liable for any labor or materials furnished to the Licensee and no mechanic's or other lien shall attach to or affect the estate or interest of Licensors in and to the property licensed herein.

Section 15. PROCEDURE FOR ENERGIZING NEWLY INSTALLED SYSTEMS

After installation of a new system has been completed (including power conduit to the circuit breaker box), the Engineering Office shall be notified. Telephone: 609-777-5165. An NJPBA

engineer may inspect the installation and, if satisfactory, will permit the circuit breaker to be connected. Licensee's installation person(s) must be present for such inspections which will take place only during normal working hours, Monday through Friday.

Licensee will provide pictures showing (1) antenna, (2) a photograph of the base cabinet or structure installation showing outside label. These photographs will be given to the NJPBA engineer.

Section 16. STATE INSTRUMENTALITY

Notwithstanding any other provision to the contrary, it is understood that Licensor is an instrumentality of the State of New Jersey and can only exercise those powers expressly granted to it by the pertinent laws of the State of New Jersey or those that are necessarily implied from the powers that are expressly granted. Licensor's obligations hereunder are made subject to appropriations, from time to time, from the Legislature for purposes hereof. In the event Licensor is temporarily or permanently prevented, restricted, or delayed in the performance of any or all of the duties and obligation imposed upon or assumed by it under the terms and provisions of this Agreement, Licensor, its officers, directors, agents or employees shall be liable only to the extent permitted by the laws of the State of New Jersey, including, but not limited to the New Jersey Contractual Liability Act, N.J.S.A. 59:13-1, et seq., and the New Jersey Tort Claims Act, N.J.S.A. 59:1-1, et seq., for any costs, losses, damages, injuries, or liabilities caused or suffered or incurred by Licensee or any other legal entity in connection with, or as a result of, or growing out of such prevention, restriction, or delay with respect to this Agreement, and any claims by Licensee against Licensor with respect to this Agreement shall be governed by such acts.

Section 17. DAMAGE OR DESTRUCTION

- a. In the event damage to the Licensed Premises is caused by either Licensor or Licensee,

its contractors, agents, servants, employees or invitees, the party causing the damage shall, at its sole cost and expense, promptly repair the damage after written demands therefor by the other party and within the time period reasonably prescribed by such party in said written notice.

b. If the party causing the damage fails to so repair the damage within thirty (30) days after receipt of written notice from the other party or within such other reasonable time period as may be set by such party in said written demand, such party may, at its option, elect to make said repairs and the party causing the damage shall pay or reimburse the reasonable costs thereof to the other party within thirty (30) days after demand therefor and/or declare this License null and void and seek from the party causing the damage the costs for repairs.

c. In the event the tower at the Licensed Premises is fully or partially destroyed by fire, lightning, collapse, vandalism or other casualty so as to be unfit for Licensee's intended use hereunder and the tower cannot be rebuilt by Licensor within 180 days from the date of such casualty event, then Licensee may terminate this Agreement by written notice to Licensor. Licensee shall have no obligation to pay rent during any period in which the Licensed Premises are unfit for Licensee's normal operations and shall be entitled to a pro rata refund from Licensor of any prepaid rent.

Section 18. HOLDOVER

Should Licensee hold over after the termination of this Agreement, with or without the express consent of Licensor, and whether or not such consent is in writing, the resulting tenancy shall be construed to be a month-to-month tenancy at a monthly rent equal to the monthly rent payable under the terms hereof for the month immediately preceding such termination, but otherwise on the terms and conditions provided in this Agreement.

Section 19. GOVERNING LAW

This Agreement shall be governed and construed under the laws of the State of New Jersey, without regard to principles of conflicts of laws. The courts of New Jersey shall have exclusive jurisdiction. Exclusive venue shall be in the Superior Court of the county in which the Licensed Premises are located.

Section 20. NOTICES

All notices under this Agreement must be in writing and shall be deemed validly given if sent by overnight or regular certified mail, return receipt requested, effective when received. Notices should be addressed as follows (or to any other address a party may request by written notice):

NJPBA:	New Jersey Public Broadcasting Authority
If by <u>US mail</u>	PO Box 777
	Trenton, NJ 08625
	Attention: Executive Director

NJPBA:	New Jersey Public Broadcasting Authority
If by <u>courier</u>	25 South Stockton Street
	Trenton, NJ 08608
	Attention: Executive Director

With copy to:	New Jersey Public Broadcasting Authority
	PO Box 777
	Trenton, NJ 08625
	Attention: Director of Engineering

Licensee:	New York Public Radio
	160 Varick St.
	New York, NY 10013
	Attn: Laura Walker
	Fax: (646) 829-4568

Section 21. AUTHORITY

Licensors and Licensees each represent and warrant to the other that it has the power and authority to enter into this Agreement, it is in good standing in the jurisdiction of its organization and, with respect to the Licensee only it is qualified to do business in the State of New Jersey, it

has duly authorized this Agreement, and this Agreement is binding upon it, and the execution, delivery, and performance by it of this Agreement does not conflict with any other agreement to which it is a party.

Section 22. MISCELLANEOUS

This Agreement contains the entire agreement between the parties with respect to the subject matter hereof, and may not be modified or amended (and the terms hereof may not be waived) except in writing signed by the party against whom enforcement is sought. This Agreement may be executed in separate counterparts.

[SIGNATURE PAGE FOLLOWS]

13304466

SIGNATURE PAGE TOWER ACCESS AND LICENSE AGREEMENT

IN WITNESS WHEREOF, the parties hereto have hereunto caused this instrument to be executed by their duly authorized officers, under seal, as of the date first above written.

NEW JERSEY PUBLIC BROADCASTING AUTHORITY

By _____
Name:
Title: Executive Director

Dated: _____

NEW YORK PUBLIC RADIO

By: _____
Name:
Title:

Dated: _____

EXHIBIT A

Equipment:

SCHEDULE 4
License Fee

In consideration of the granting of said license, after the rent-free period set forth in Section 4, Licensee shall pay Licensor a fee in the amount of \$_____ per year, payable each year on or before the anniversary of the Commencement Date; or alternatively payable in equal monthly installments of \$_____ on the 1st of each month beginning the month following the anniversary of the Commencement Date. After the rent-free period set forth in Section 4, the license fee shall increase [____ percent)] over the previous year's license fee. The license fee for any partial year shall be prorated.

Schedule 5(c): Lease Rents

See attached.

Northern Radio Deal

Five Year Forecast for Expense Purposes

			Ops Agr	NYPR Owns Stations			
	NJN Use	Site Owner	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016
Sussex	WNJP-FM	NJPBA on DEP Land					
		Tower (incl STL and Antenna)	0	0	6,000	6,090	6,181
		Building Space	0	0	1,200	1,218	1,236
		Electric	1,500	1,500	1,500	1,500	1,500
Netcong	WNJY-FM	State Police					
		Tower (incl STL and Antenna)	0	0	6,000	6,090	6,181
		Building Space	0	0	2,000	2,030	2,060
		Electric	1,500	1,500	1,500	1,500	1,500
Trenton	WNJT-FM	NJPBA on DEP Land					
		Tower (incl STL and Antenna)	0	0	9,000	9,135	9,272
		Building Space	0	0	3,000	3,045	3,091
		Electric	900	900	900	900	900
Toms River	WNJO-FM	Boro of Seaside Park					
		Tower (incl STL and Antenna)	8,600	8,858	9,124	9,397	9,679
		Building Space	0	0	0	0	0
		Electric	4,000	4,000	4,000	4,000	4,000
Warren	STL Hub	900mHz STL to Sussex & Netcong	0	0	4,800	4,872	4,945
		7gHz microwave relay to Trenton	0	0	2,400	2,436	2,473
Totals			16,500	16,758	51,424	52,213	53,019

1.50%

Amounts payable to NJPBA 34,400 34,916 35,440

NJPBA amounts increment by 1.5% per year.

Schedule 6.1(c): Proceedings Affecting FCC Authorizations

None.

Schedule 6.1(e): Seller Consents

See items marked with an asterisk on Schedule 1.1(d).

Schedule 6.1(h): Claims

Communications Workers of America, AFL-CIO v. State of New Jersey (Juvenile Justice Commission, Motor Vehicle Commission and New Jersey Network), Docket No. L-1187-11, and the grievance claim by Communications Workers of America, filed on Oct 15, 2010, which collectively assert claims that the State of New Jersey has not complied with certain procedural requirements in connection with the transactions contemplated hereby. Such claims and proceedings are Excluded Liabilities and are not Assumed Liabilities.

Schedule 6.2(e): New Jersey Public Broadcasting System
Standard Terms and Conditions

State of New Jersey
New Jersey Public Broadcasting System
New Jersey Network
Standard Terms and Conditions

1. STANDARD TERMS AND CONDITIONS APPLICABLE TO THE CONTRACT:

Unless the bidder is specifically instructed otherwise in the Request for Proposals (RFP), the following terms and conditions shall apply to the Contract between the Contractor and the New Jersey Public Broadcasting System ("NJPBA" or the "State"). These terms are in addition to the terms and conditions set forth in the RFP and should be read in conjunction with same unless the RFP specifically indicates otherwise. In the event the Contractor has presented terms and conditions which conflict with the State's, the State's terms and conditions shall prevail, unless the Contractor is notified in writing of the State's specific acceptance of some or all of the Contractor's terms and conditions.

2. STATE LAW REQUIRING MANDATORY COMPLIANCE BY ALL CONTRACTORS:

The statutes, laws or codes cited herein are available for review at the New Jersey State Library, 185 West State Street, Trenton, New Jersey 08625.

2.1 BUSINESS REGISTRATION:

As a condition to entering into a State Contract, pursuant to N.J.S.A. 52:32-44, the State is prohibited from entering into a Contract with an entity unless the bidder and each subcontractor named in the bid proposal has a valid Business Registration Certificate on file with the Division of Revenue.

The Contractor and any subcontractor providing goods or performing services under the Contract, and each of their affiliates, shall, during the term of the Contract, collect and remit to the Director of the Division of Taxation in the Department of the Treasury the use tax due pursuant to the Sales and Use Tax Act, P.L. 1966, c. 30

(N.J.S.A. 54:32B-1 et seq.) on all their sales of tangible personal property delivered into the State. Any questions in this regard can be directed to the Division of Revenue at (609) 292-1730. Form NJ-REG can be filed online at <http://www.state.nj.us/treasury/revenue/busregcert.htm>.

2.2 ANTI-DISCRIMINATION:

All parties to any Contract with the State agree not to discriminate in employment and agree to abide by all anti-discrimination laws including those contained within N.J.S.A. 10:2-1 through N.J.S.A. 10:2-4, N.J.S.A.10:51 et seq. and N.J.S.A.10:5-31 through 10:5-38, and all rules and regulations issued thereunder are hereby incorporated by reference.

2.3 PREVAILING WAGE ACT:

The New Jersey Prevailing Wage Act, N.J.S.A. 34:11-56.26 et seq. is hereby made part of every Contract entered into on behalf of the State of New Jersey except those Contracts which are not within the contemplation of the New Jersey Prevailing Wage Act. The bidder's signature on this proposal is his guarantee that neither he nor any subcontractors he might employ to perform the work covered by this proposal has been suspended or debarred by the Commissioner, Department of Labor for violation of the provisions of the Prevailing Wage Act and/or the Public Works Contractor Registration Acts; the bidder's signature on the proposal is also his guarantee that he

and any subcontractors he might employ to perform the work covered by this proposal shall comply with the provisions of the Prevailing Wage and Public Works Contractor Registration Acts, where required.

2.4 AMERICANS WITH DISABILITIES ACT:

The Contractor must comply with all provisions of the Americans with Disabilities Act (ADA), P.L. 101-336, in accordance with 42 U.S.C. 12101, et seq.

2.5 MACBRIDE PRINCIPLES:

The bidder must certify pursuant to N.J.S.A. 52:34-12.2 that it either has no ongoing business activities in Northern Ireland and does not maintain a physical presence therein or that it will take lawful steps in good faith to conduct any business operations it has in Northern Ireland in accordance with the MacBride principles of nondiscrimination in employment as set forth in N.J.S.A. 52:18A-89.5 and in conformance with the United Kingdom's Fair Employment (Northern Ireland) Act of 1989, and permit independent monitoring of their compliance with those principles.

2.6 PAY TO PLAY PROHIBITIONS:

a. **Definitions** - For the purpose of this section, the following shall be defined as follows:

1) Contribution B means a contribution reportable as a recipient under The New Jersey Campaign Contributions and Expenditures Reporting Act., P.L. 1973, c83 (N.J.S.A. 19:44A-1 et seq.), and implementing regulations set forth at N.J.A.C. 19:25-7 and N.J.A.C. 19:25-10.1 et seq. Contributions in excess of \$300 during a reporting period are deemed "reportable" under these laws.

2) Business Entity B means any natural or legal person, business corporation, professional services corporation, Limited Liability Company, partnership, limited partnership, business trust, association or any other legal commercial entity organized under the laws of New Jersey or any other state or foreign jurisdiction, but does not include non profit or not for profit corporations. The definition of a business entity includes:

A. all principals who own or control more than 10 percent of the profits or assets of a business entity or 10 percent of the stock in the case of a business entity that is a corporation for profit, as appropriate and for a for profit entity, the following:

- (i) in the case of a corporation: the corporation, any officer of the corporation, and any person or business entity that owns or controls 10% or more of the stock of the corporation;
- (ii) in the case of a general partnership: the partnership and any partner;
- (iii) in the case of a limited partnership: the limited partnership and any partner;
- (iv) in the case of a professional corporation: the professional corporation and any shareholder or officer;
- (v) in the case of a limited liability company: the limited liability company and any member;
- (vi) in the case of a limited liability partnership: the limited liability partnership and any partner;
- (vii) in the case of a sole proprietorship: the proprietor; and
- (viii) in the case of any other form of entity organized under the laws of this State or any other state or foreign jurisdiction: the entity and any principal, officer, or partner thereof;

B. any subsidiaries directly or indirectly controlled by the business entity;

C. any political organization organized under section 527 of the Internal Revenue Code that is directly or indirectly controlled by the business entity, other than a candidate committee, election fund, or political party committee; and

D. if a business entity is a natural person, that person's spouse or civil union partner, or child residing in the same household provided, however, that, unless a contribution made by such spouse, civil union partner, or child is to a candidate for whom the contributor is entitled to vote or to a political party committee within whose jurisdiction the contributor resides unless such contribution is in violation of section 9 of Chapter 51.

b. **Breach of Terms of Chapter 51 or EO 117 is a Breach of Retention Agreement** -It shall be a breach of the terms of the Retention Agreement for the Business Entity to do any of the following:

- 1) make or solicit a contribution in violation of the Chapter 51 or EO 117;
- 2) knowingly conceal or misrepresent a contribution given or received;
- 3) make or solicit contributions through intermediaries for the purpose of concealing or misrepresenting the source of the contribution;
- 4) make or solicit any contribution on the condition or with the agreement that it will be contributed to a campaign committee or any candidate or holder of the public office of Governor, or of Lieutenant Governor, or to any State, county or municipal party committee, or any legislative leadership committee;
- 5) engage or employ a lobbyist or consultant with the intent or understanding that such lobbyist or consultant would make or solicit any contribution, which if made or solicited by the business entity itself, would subject that entity to the restrictions of Chapter 51 or EO117;
- 6) fund contributions made by third parties, including consultants, attorneys, family members, and employees;
- 7) engage in any exchange of contributions to circumvent the intent of the Chapter 51 or EO 117; or
- 8) directly or indirectly through or by any other person or means, do any act which would subject that entity to the restrictions of the Chapter 51 or EO 117.

2.10 SERVICE PERFORMANCE WITHIN U.S.:

Pursuant to N.J.S.A. 52:34-13.2, all Contracts primarily for services shall be performed within the United States, except when the Treasurer certifies in writing a finding that a required service cannot be provided by a Contractor or subcontractor within the United States and the certification is approved by the State Treasurer.

A shift to performance of services outside the United States during the term of the Contract shall be deemed a breach of Contract. If, during the term of the Contract, the Contractor or subcontractor, proceeds to shift the performance of any of the services outside the United States, the Contractor shall be deemed to be in breach of its Contract, which Contract shall be subject to termination for cause pursuant to Section 3.3(b)(1) of the Standard Terms and Conditions, unless previously approved by the Treasurer.

2.11 COMPLIANCE – LAWS:

The Contractor must comply with all local, state and federal laws, rules and regulations applicable to this Contract and to the services performed hereunder.

3. INDEMNIFICATION AND INSURANCE

3.1 INDEMNIFICATION FOR THIRD PARTY CLAIMS -The Contractor shall indemnify and hold harmless the State of New Jersey, the NJPBA, and its employees, agents and affiliates from and against any and all damages, losses, liabilities and expenses including,, without limitation, reasonable attorneys' fees, arising out of or resulting from:

- a. any act or omission, event or occurrence that was or shall be caused by the Contractor, its employees, agents or affiliates relating to the business and operations of the Contractor of the NJPBA;

b. any libel, slander, illegal competition or trade practice, infringement of trademarks, trade names, or program titles, violation of rights of privacy, and infringement of copyrights and proprietary rights, including intellectual property rights, resulting from or relating to any programming produced or furnished by the Contractor; and

c. any breach by the Contractor of any of its obligations, representations, warranties, covenants or other agreements made by the Contractor in the Contract.

The Contractor's indemnification and liability under this section is not limited by, but is in addition to the insurance obligations contained in Section 3.2 of these Terms and Conditions.

3.2 INSURANCE -The Contractor shall secure and maintain in force for the term of the Contract insurance as provided herein. All required insurance shall be provided by insurance companies with an A-VIII or better rating by A.M. Best & Company. The Contractor shall provide the State with current certificates of insurance for all coverages and renewals thereof, naming the State as an Additional Insured and shall contain the provision that the insurance provided in the certificate shall not be canceled for any reason except after sixty (60) days written notice to the Treasurer of the State of New Jersey.

The insurance to be provided by the Contractor shall be as follows:

- a. Comprehensive General Liability Insurance or its equivalent: The minimum limit of liability shall be \$1,000,000 per occurrence as a combined single limit for bodily injury and property damage. The above required Comprehensive General Liability Insurance policy or its equivalent shall name the State, its officers, and employees as Additional Insureds. The coverage to be provided under these policies shall be at least as broad as that provided by the standard basic, unamended, and unendorsed Comprehensive General Liability Insurance occurrence coverage forms or its equivalent currently in use in the State of New Jersey, which shall not be circumscribed by any endorsement limiting the breadth of coverage.
- b. Automobile liability insurance which shall be written to cover any automobile used by the insured. Limits of liability for bodily injury and property damage shall not be less than \$1 million per occurrence as a combined single limit. State of New Jersey, its officers and employees shall be named Additional Insureds. Physical damage insurance covering automobiles shall name the State of New Jersey Loss Payee to any State owned vehicles.
- c. Worker's Compensation Insurance applicable to the laws of the State of New Jersey and Employers Liability Insurance with limits not less than:

\$2,000,000 BODILY INJURY, EACH OCCURRENCE
\$2,000,000 DISEASE EACH EMPLOYEE
\$2,000,000 DISEASE AGGREGATE LIMIT
- d. Broadcast libel and errors/omissions insurance of at least \$5,000,000. The State of New Jersey shall be named Additional Insured by endorsement to this policy. The policy must be endorsed to cover Cyber Risk Multimedia/Technology Errors and Omissions. Any exclusion of coverage for actions by a governmental authority must be amended to exclude the State of New Jersey in their capacity as owner.
- e. All Risk property insurance covering real and personal property of the State, including property in vehicles and while in transit, for the replacement cost of the property. State shall be named loss payee under the property insurance.
- f. Umbrella Liability Insurance in an amount not less than \$10 million per occurrence and in the aggregate naming the State of New Jersey as Additional Insured.

4. TERMS GOVERNING OPERATING CONTRACT(S)

4.1 CONTRACTOR IS INDEPENDENT CONTRACTOR:

The Contractor's status shall be that of any independent Contractor and not as an employee of the State.

4.2 TERMINATION OF CONTRACT

a. For Cause

The NJPBA may terminate the Contract (i) immediately by giving written notice if, in the reasonable good faith discretion of the NJPBA, the Station is operated by the Contractor in a manner contrary to the best interests of NJPBA, the public interest, convenience and necessity, FCC rules and regulations, the Communications Act of 1934, as amended, or other applicable law; or (ii) if Contractor otherwise breaches its obligations under the Contract and the Contractor fails to cure such breach within thirty (30) days of written notice from the PBA.

b. Upon termination of the Contract, NJPBA shall assume complete operational responsibility for the Station, and the Contractor shall be relieved of all obligations under the Contract except for: obligations incurred prior to the effective date of the termination; the obligation to provide a final accounting pursuant to the Contract and the obligation to cooperate with NJPBA to wind up Contractor's operation of the Station in an orderly fashion.

c. In the event of termination under this section, the Contractor shall be compensated for work performed in accordance with the Contract, up to the date of termination. Such compensation may be subject to adjustments.

4.3 SUBCONTRACTING OR ASSIGNMENT:

The Contractor may not subcontract other than as identified in the Contractor's proposal or assigns its responsibilities under the Contract, in whole or in part, without the prior written consent of the NJPBA. Such consent, if granted, shall not relieve the Contractor of any of his responsibilities under the Contract.

4.4 NO CONTRACTUAL RELATIONSHIP BETWEEN SUBCONTRACTORS AND STATE:

Nothing contained in any of the Contract documents, including the RFP and vendor's bid or proposal shall be construed as creating any Contractual relationship between any subcontractor and the State.

4.5 MERGERS, ACQUISITIONS:

If, during the term of this Contract, the Contractor shall merge with or be acquired by another firm, the Contractor shall give notice to the NJPBA as soon as practicable and in no event longer than 30 days after said merger or acquisition. The Contractor shall provide such documents as may be requested by the NJPBA which may include but need not be limited to the following:

- a. Corporate resolutions prepared by the awarded Contractor and new entity ratifying acceptance of the original Contract, terms, conditions and prices.
- b. State of New Jersey Bidders Application reflecting all updated information including ownership disclosure, pursuant to provision 1.5.
- c. Vendor Federal Employer Identification Number.

The documents must be submitted within 30 days of the request. Failure to do so may result in termination of the Contract for cause.

If, at any time during the term of the Contract, the Contractor's partnership, limited liability company, limited liability partnership, professional corporation, or corporation shall dissolve, the NJPBA must be so notified. All responsible parties of the dissolved business entity must submit to the NJPBA in writing, the names of the parties proposed to perform the Contract, and the names of the parties to whom payment should be made. No payment shall be made until all parties to the dissolved business entity submit the required documents to the NJPBA.

4.6 APPLICABLE LAW AND JURISDICTION:

This Contract and any and all litigation arising therefrom or related thereto shall be governed by the applicable laws, regulations and rules of evidence of the State of New Jersey without reference to conflict of laws principles and shall be filed in the appropriate Division of the New Jersey Superior Court. The State does not consent to federal court jurisdiction.

4.7. CONTRACT AMENDMENT:

The Contract may only be amended by written agreement of the State and the Contractor.

4.8 MAINTENANCE OF RECORDS:

The Contractor shall maintain records for products and/or services delivered against the Contract for a period of three (3) years from the date of final payment unless otherwise specified in the RFP. Such records shall be made available to the State upon request.

4.9 AVAILABILITY OF FUNDS: The State's obligation to make any payment under the Contract is contingent upon the availability of appropriated funds and receipt of revenues from which payment for Contract purposes can be made. No legal liability on the part of the State for payment of any money shall arise unless and until funds are appropriated each fiscal year to the using agency by the State Legislature and made available through receipt of revenues.



State of New Jersey
OFFICE OF THE STATE TREASURER
PO Box 002
TRENTON NJ 08625-0002

CHRIS CHRISTIE
Governor

KIM GUADAGNO
Lt. Governor

ANDREW P. SIDAMON - ERISTOFF
State Treasurer

June 13, 2011

Hon. Stephen M. Sweeney, President of the New Jersey Senate
Hon. Sheila Oliver, Speaker of the New Jersey General Assembly

Dear President Sweeney and Speaker Oliver:

As State Treasurer, pursuant to Section 5(g) of the New Jersey Public Broadcasting System Transfer Act, L. 2010, c. 104 (the "Transfer Act"), I am submitting a negotiated asset purchase agreement (the "Negotiated Sales Contract") to be entered into with the New Jersey Public Broadcasting Authority ("NJPBA") and New York Public Radio ("NYPR"). The Negotiated Sales Contract provides for the sale of certain stations of the NJPBA's Radio Broadcast Network. These stations are: WNJT-FM Trenton, WNJY(FM) Netcong, WNJP(FM) Sussex and WNJO(FM) Toms River. Because the sale of these stations will require approval by the Federal Communications Commission ("FCC"), it is also necessary that the NJPBA and NYPR enter into a short-term management and programming agreement for these stations (the "Negotiated Management Agreement") so that NYPR can begin managing and programming the stations on July 1, 2011 until such time as the FCC approves the sale of the station licenses. The Negotiated Sales Contract and the Negotiated Management Agreement shall be collectively referred to herein as the "Negotiated Contracts". Kindly cause the date of the submission of these Negotiated Contracts to be recorded upon the Senate Journal and the Minutes of the General Assembly, respectively.

NYPR's board has approved the entering into by NYPR of these Negotiated Contracts and an authorized officer of NYPR has executed the Negotiated Contracts. In accordance with Section 5(g)(2) of the Transfer Act, unless a concurrent resolution is adopted by the State Senate and the General Assembly disapproving the Negotiated Contracts, within fifteen (15) days of this submission, the Negotiated Contracts shall be deemed approved by the State Legislature. Once the Negotiated Contracts have been deemed approved and the NJPBA has given its approval, the Negotiated Contracts will be executed by the State Treasurer, as Chairman of the NJPBA. The effective date of the Negotiated Contracts is July 1, 2011.

NYPR was selected pursuant to a competitive procurement process. The State Treasurer issued a Request for Proposals for Sale of the New Jersey Network (NJN) Radio Broadcast Network on February 7, 2011. Proposals were received from three

bidders by the submission deadline of March 11, 2011. The proposals were reviewed by the State Treasurer's financial advisor, Public Radio Capital, Boulder, Colorado and by special counsel on Federal Communications Commission ("FCC") matters, Dow Lohnes PLLC, Washington, D.C. The proposals were then evaluated by the State Advisory Committee consisting of Gregg Edwards, Director of Policy, Office of the Governor, Steven Petrecca, Assistant State Treasurer and Michael Jonas, Operations Manager, Department of the Treasury. On March 28, 2011, the State Advisory Committee recommended that two bidders, WHYY and New York Public Radio, be invited to interviews to discuss their proposals and to subsequently submit best and final offers. These interviews took place and each entity submitted their best and final offers by the April 15, 2011 deadline. The best and final offers were evaluated by Public Radio Capital and Dow Lohnes. The best and final offers were then evaluated by the State Advisory Committee, which recommended to the State Treasurer that the offer of NYPR with respect to the stations listed above be selected. Negotiations with NYPR on the Negotiated Contracts commenced and were concluded on June 3, 2011.

The FCC regulates broadcasting stations and NJPBA, as license holder for the radio broadcasting licenses, remains ultimately responsible to the FCC for the radio stations and their programming and operation, during the term of the Negotiated Management Agreement. During the term of the Negotiated Management Agreement, the NJPBA, as FCC license holder, will still have control of the radio stations under FCC rules. As such, NJPBA will remain as an operating State authority, with the necessary amount of employees to satisfy FCC requirements provided by the Department of the Treasury ("Treasury") to the NJPBA pursuant to a memorandum of understanding to be entered into between Treasury and NJPBA. Once the sale of the radio station licenses from NJPBA to NYPR is approved by the FCC and the radio sales consummated, the radio licenses for the stations listed above will be conveyed to NYPR and the Negotiated Management Agreement will terminate. After these radio stations are conveyed to NYPR, NJPBA will no longer have any FCC obligations in connection with these stations.

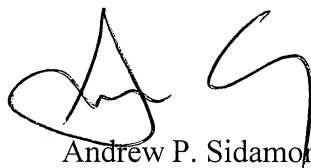
Funding for NJPBA going forward will be incorporated into the State budget. It is estimated that for Fiscal Year 2012, that amount will be approximately \$2 million. Additionally, the proceeds received from the sale of the NJPBA's radio broadcasting licenses and stations will be deposited pursuant to the Transfer Act in the Trust Fund for the Support of Public Broadcasting ("Trust Fund"). The Transfer Act requires that monies in the Trust Fund be dedicated for the support of a public broadcasting system serving the State. In furtherance of that purpose, monies in the Trust Fund will be used for capital improvements and repairs in order to maintain and preserve the State's remaining broadcasting assets, including its tower assets. Such assets are not being alienated from the State.

Enclosed is a copy of the Negotiated Sales Contract and the Negotiated Management Agreement. Also included is a summary of the material terms of the Negotiated Contracts and a summary of the procurement process which was used to arrive at the winning bidder for the Negotiated Contracts. By separate cover, we will also

deliver copies of all documents relevant to this proposed transaction for your consideration.

Finally, these Negotiated Contracts with NYPR fulfill the goals outlined by Governor Christie last year of transitioning NJN to independence and sustainability, ending both the taxpayer subsidy of and the State's role in public radio broadcasting, while preserving a New Jersey-centric coverage and programming mission. The Negotiated Contracts with NYPR will result in a stronger overall programming schedule that draws upon the full range of NYPR offerings and increased and expanded New Jersey-centric public affairs programming through an expansion of staff assigned to the creation of New Jersey-centric programming and the creation of a "New Jersey News Cooperative." With these Negotiated Contracts with NYPR, New Jerseyans can be confident that public broadcasting in New Jersey will not only continue, but also has a bright and dynamic future with a strong plan by NYPR to expand its New Jersey-centric programming.

Sincerely,

A handwritten signature in black ink, appearing to read 'Andrew P. Sidamon-Eristoff', with a stylized, flowing script.

Andrew P. Sidamon-Eristoff
Treasurer, State of New Jersey

Attachments: Negotiated Sales Contract
Negotiated Management Agreement
Summary of Material Terms

SUMMARY OF RADIO STATION SALE TO NEW YORK PUBLIC RADIO

A. Overview

- New Jersey Public Broadcasting Authority ("NJPBA") proposes to enter into the agreements described below to sell the specified NJPBA-owned radio stations to New York Public Radio, a New York nonprofit corporation ("NYPR"), and to arrange the short-term management of those radio stations by NYPR prior to FCC approval of the assignment of the underlying FCC licenses to NYPR.

B. The Stations

- WNJT-FM, Trenton, New Jersey, WNJY(FM), Netcong, New Jersey, WNJP(FM), Sussex, New Jersey, WNJO(FM), Toms River, New Jersey (together, collectively, the "Stations").

C. Asset Purchase Agreement

- Pursuant to the Asset Purchase Agreement (the "APA"), NJPBA will sell to NYPR the licenses issued by the Federal Communications Commission ("FCC") for each of the Stations, along with certain of NJPBA's assets used or useful in the operation of the Stations, in exchange for \$1,000,000 in cash and certain non-cash consideration valued at \$1,802,690. Non-cash consideration consists of broadcast of PSAs on WQXR-FM and distribution of such PSAs on the WQXY website, the creation of New Jersey-centric radio content, certain media internships and a post-Closing contingent payment if the assets are sold within 5 years after the consummation of the transactions contemplated by the APA.
- The APA contains representations, warranties and covenants that are typical of noncommercial broadcast radio transactions of this type.
- Closing is conditioned upon FCC approval of the assignment of the Stations' license to NYPR, as well as NJPBA obtaining third-party consents necessary to assign or sublease certain tower site property leases to NYPR.

D. Management and Programming Agreement

- Pending FCC approval of the APA, NYPR will assume the management and programming of the Stations pursuant to a Management and Programming Agreement (the "MPA") between NJPBA and NYPR.
- During the term of the MPA, which would terminate following the consummation or termination of the APA, NYPR's operation and management of the Stations would be subject to NJPBA's ultimate control as the FCC licensee of the Stations.
- In exchange for the right to provide programming to the Stations during the term if the MPA, NYPR would reimburse NJPBA for certain expenses incurred by NJPBA in connection with the operation of the Stations.

E. Facilities Use Agreement

- During the term of the MPA, NYPR is permitted access to certain NJPBA facilities.

F. Lease Agreements

- At the closing of the transaction contemplated by the APA, NJPBA and NYPR will enter into Lease Agreements to provide NYPR with subleases/sublicenses necessary to permit access to certain facilities.

G. Sharing Agreement

- Certain of the equipment used in connection with the operation of the Stations is being retained by NJPBA (1) for use in the operation of the NJPBA television stations or (2) because such equipment is shared with third parties and, thus, is not freely assignable by NJPBA (such equipment described in (1) and (2), the "Shared Equipment"). Following the closing of the APA, NYPR will need to use certain of the Shared Equipment in connection with the operation of certain of the Stations. To that end, at the closing of the transaction contemplated by the APA, NJPBA and NYPR will enter into a Sharing Agreement to permit NYPR to use the Shared Equipment. The parties will share (pro rata) the costs

of operating and maintaining the Shared Equipment.

MANAGEMENT AND PROGRAMMING AGREEMENT

THIS MANAGEMENT AND PROGRAMMING AGREEMENT (this "Agreement") is made this ____ day of June, 2011, by and between New Jersey Public Broadcasting Authority, an independent instrumentality of the State of New Jersey allocated in, but not of, the Department of the Treasury of the State of New Jersey ("Licensee") and New York Public Radio ("Manager").

RECITALS:

WHEREAS, Licensee is the Federal Communications Commission ("FCC") licensee of noncommercial educational radio stations WNJT-FM, Trenton, NJ, WNJY(FM), Netcong, NJ, WNJP(FM), Sussex, NJ and WNJO(FM), Toms River, NJ (the "Stations");

WHEREAS, Manager is an experienced noncommercial station broadcaster and the licensee of multiple noncommercial educational FM radio stations, pursuant to authorization of the FCC;

WHEREAS, Licensee and Manager desire that Manager undertake the management and programming of the Stations for, and under the supervision of, Licensee;

WHEREAS, Licensee expects that management by Manager will promote quality public radio programming, including New Jersey-centric news and information programming, over the facilities of the Stations;

WHEREAS, Manager and Licensee are entering into this Agreement under the authority of and subject in all respects to all applicable provisions of the New Jersey Public Broadcasting System Transfer Act (L. 2010, c. 104) (the "Transfer Act");

WHEREAS, Licensee and Manager have entered into an Asset Purchase Agreement of even date herewith (the "Purchase Agreement"), pursuant to which Licensee has agreed to sell to Manager, and Manager has agreed to purchase from Licensee, the Stations and associated assets as described therein under the terms and conditions set forth in the Purchase Agreement;

WHEREAS, concurrently herewith Licensee and Manager are entering into a Facilities Use Agreement (the "FUA") with respect to Manager's use of certain Licensee facilities during the term of this Agreement; and

WHEREAS, capitalized terms used herein but not defined herein have the meaning ascribed to them in the Purchase Agreement.

NOW, THEREFORE, in consideration of the above recitals and mutual promises and other good consideration, the parties agree as follows:

1. MANAGEMENT

Manager hereby agrees to manage and program the Stations during the term of this Agreement (as described in Section 2) under the supervision and control of Licensee (including as described in Section 6). As FCC licensee, Licensee shall at all times retain ultimate responsibility for the Stations' essential functions, including programming, finances and personnel of the Stations employed by Licensee. Subject to the foregoing limitations, the services to be provided by Manager pursuant to this Agreement shall include without limitation the production and acquisition of programming, engineering maintenance and support for Stations' facilities, accounting services and routine engineering services.

(a) Programming. During the term of this Agreement, Manager will provide programming for the Stations for 24 hours per day, seven days per week (the "Programming") with a public radio station news and information format. Licensee shall broadcast the Programming on the Stations, subject to the last sentence of this Section 1(a). The Programming shall endeavor to serve the needs and interests of the communities of Trenton, New Jersey, Netcong, New Jersey, Sussex, New Jersey and Toms River, New Jersey and further Licensee's educational objectives. Manager will not change the format of the Stations without the prior consent of Licensee. The Programming will comply with Licensee's program standards, set forth in Attachment 1 (which is in a form that Licensee has adopted for each Station), the Communications Act of 1934, as amended, the FCC's rules and all applicable content-related law for broadcast programming. Manager will be responsible for obtaining or maintaining any and all intellectual property rights, including copyright licenses, necessary for the broadcast of the Programming it provides or licenses over the Stations, and Licensee will be responsible for maintaining any and all intellectual property rights, including copyright licenses, necessary for the broadcast of any programming it licenses for use on the Stations. Licensee acknowledges that its right to broadcast the Programming is non-exclusive and that ownership or license rights in the Programming shall be and remain vested in Manager. Each of Manager and Licensee shall promptly report any listener complaints or FCC inquiry concerning the Programming or the Stations to the other. Licensee shall have the right to preempt or reject any Programming if Licensee, in its reasonable judgment, concludes that the Programming is contrary to the public interest, but Licensee shall comply with the CPB Statement of Principles of Editorial Integrity in Public Broadcasting.

(b) Delivery of Programming. Manager shall deliver the Programming to the Stations at Manager's cost and expense. Manager will be responsible for all routine operational costs and expenses incurred in connection with equipment for receiving Programming at the Stations, including appropriate equipment for satellite reception, EAS compliance, transmitter remote control and confidence monitoring. Licensee will be responsible for all capital expenditures, non-routine maintenance costs and replacement costs of any equipment used or held for use in the operation of the Stations ("Cap Ex"); provided, however, that if Licensee elects not to spend Cap Ex, then (i) Manager may, in its sole discretion, spend Cap Ex for the Stations or (ii) Licensee may take the affected Station off the air or reduce its operations. Manager shall at all times retain title to any equipment purchased by it for the Stations (including following any termination of this Agreement or the Purchase Agreement).

(c) Expenses. During the term of this Agreement, Manager shall, in the manner consistent with FCC policies, pay Licensee the sum of \$1,317 per month, each payment due in

arrears on the last day of each calendar month during the term of this Agreement, as reimbursement for the Stations' operating expenses reasonably incurred by Licensee in the ordinary course of business consistent with industry custom (taking into account this Agreement and the services provided by Manager to the Stations hereunder), including, but not limited to, utility charges and expenses related to the maintenance and repair of the transmission facilities. Fees for any partial month shall be prorated. Upon the first to occur of (i) Closing under the Purchase Agreement or (ii) the date six (6) months after the date of this Agreement, Manager and Licensee shall true up the difference between Licensee's actual operating expenses incurred for the Stations and the amounts paid by Manager to Licensee pursuant to this Section, and the appropriate party shall make a prompt payment to the other in the amount of any such difference. In accordance with such true up, Licensee shall promptly provide Manager with reasonable supporting documentation for its expenses incurred. Notwithstanding anything in this Agreement to the contrary, Licensee shall bear full responsibility for the hiring, firing and compensation (without reimbursement by Manager) of the Stations' employees on Licensee's payroll, including staffing and other requirements necessary to satisfy the FCC's main studio rules and capital expenditures as provided by Section 1(b). Licensee shall remain ultimately responsible for the finances of the Stations, as required by FCC rules and policies.

(d) Manager acknowledges that Manager will provide the services as a contractor to an agency and instrumentality of the State of New Jersey. In providing such services to the Stations during the term of this Agreement, Manager shall comply with all applicable provisions of federal law and New Jersey law and regulations, including without limitation, New Jersey Public Broadcasting Authority Act of 1968 (L. 1968, c. 405), the New Jersey Public Broadcasting System Transfer Act (L. 2010, c. 104) (the "Transfer Act"), and the State of New Jersey, New Jersey Public Broadcasting System, New Jersey Network, Standard Terms and Conditions for Contractors (as summarized in Schedule 1(d) hereto) as amended or supplemented from time to time (if such amendments or supplements are promptly provided to Manager).

2. TERM OF AGREEMENT

Unless sooner terminated in accordance with the provisions of this Agreement, the term of this Agreement shall commence on July 1, 2011 and shall continue in full force and effect until and shall end on the earliest of: (a) the Closing Date (as defined in the Purchase Agreement); (b) the date of termination of this Agreement in accordance with Section 3; or (c) ten (10) days following the date of termination of the Purchase Agreement according to its terms.

3. TERMINATION

(a) Licensee may terminate this Agreement by written notice to Manager: (i) if, in the reasonable good faith discretion of Licensee as disclosed in writing to Manager, the Stations are operated by Manager in a manner contrary to the public interest, FCC rules and regulations or the Communications Act of 1934, as amended, and Manager fails to cure such operational matter within ten (10) days of written notice from Licensee, provided, however that Licensee hereby acknowledges that it is in the public interest for Manager to exercise its editorial discretion in its news and other similar Programming, or (ii) if Manager breaches its obligations or its

representations under this Agreement in any material respect, and Manager fails to cure such breach within thirty (30) days of written notice from Licensee.

(b) Manager may terminate this Agreement by written notice to Licensee: (i) if, in the reasonable good faith discretion of Manager as disclosed in writing to Licensee, Licensee unreasonably frustrates or impedes the effective management and programming of the Stations by Manager in a material respect, and Licensee fails to cure such frustration or impediment within ten (10) days of written notice from Manager, or (ii) if Licensee breaches its obligations or its representations under this Agreement in any material respect, and Licensee fails to cure such breach within thirty (30) days of written notice from Manager.

(c) Upon termination of this Agreement (other than at Closing under the Purchase Agreement), Licensee shall assume complete operational responsibility for the Stations, and Manager shall be relieved of all obligations under this Agreement, except for: obligations incurred prior to the effective date of the termination and the obligation to reasonably cooperate with Licensee to wind up Manager's operation of the Stations in an orderly fashion. In the event of any termination of this Agreement (other than at Closing under the Purchase Agreement), either party may, but is not obligated to, terminate the Purchase Agreement upon written notice to the other. If this Agreement is terminated pursuant to Section 3(a)(i) or 3(b) and the Purchase Agreement is then terminated, Buyer shall be entitled to the Deposit under the Purchase Agreement and Licensee shall promptly return the Deposit to Buyer in full.

4. GRANTS/FUNDRAISING/MARKETING

(a) Grants. Manager may, but is not obligated to, apply for grants, awards, contributions, donations, bequests, devises, legacies or other property or monies (hereinafter collectively referred to as "grants") regardless of nomenclature, for the use or benefit of the Stations, including, but not limited to Corporation for Public Broadcasting ("CPB") grants, Public Telecommunications Facilities Program ("PTFP") grants, and any other grants applied for or received in the name of Licensee and intended for the use and benefit of the Stations, and Licensee shall cooperate with Manager in any such applications; provided that (1) Manager shall provide Licensee with drafts for Licensee's review and approval of all applications or other documentation required by such grants; (2) Manager agrees to the terms and conditions of, and serves as fiscal agent for, such grants; and (3) Manager covers all administrative costs, such as audits or financial reports, required by such grants.

(b) Underwriting. During the term of this Agreement, Manager will be exclusively responsible for the sale of all underwriting on the Stations and for the collection of accounts receivable arising therefrom. Manager shall be entitled to all underwriting revenues of the Stations from any source, which revenues shall be dedicated for the use and benefit of the Stations during the term of this Agreement.

(c) Fundraising. Manager may, but is not obligated to, conduct fundraising activities for the benefit of the Stations, including but not limited to membership drives. Manager shall conduct any fundraising so as to comply with the rules and policies of the FCC applicable to

noncommercial educational broadcast stations, including (with specificity) Section 73.503(d) of the FCC rules, and with IRS requirements for documenting charitable contributions.

(d) If requested by Licensee no more than once per quarter during the term of this Agreement, Manager shall reasonably account to Licensee for all grants, underwriting and fundraising activities conducted over or for the benefit of the Stations.

5. LICENSE MAINTENANCE

Licensee, as FCC licensee, has the ultimate responsibility with respect to all activities in connection with FCC license renewals and such other filings and reports as may be required by the FCC. Manager agrees to reasonably assist Licensee in such activities and to prepare all necessary documents, filings and reports for the timely review and approval by Licensee in consultation with Licensee's own legal counsel.

6. RESPONSIBILITY OF FCC LICENSEE

Licensee shall operate the Stations in compliance with all laws, rules, policies and regulations of the FCC, which is the ultimate responsibility of Licensee, as licensee. Nothing in this Agreement shall be construed as limiting, transferring, assigning or relieving Licensee of such responsibility. Licensee and Manager acknowledge that their relationship requires a commitment on both parties' parts to the mission of the Stations. To the extent necessary to perform this Agreement and subject to Manager's reimbursement obligations hereunder, during the term of this Agreement, Licensee shall provide Manager with the benefits of any of the Stations' contracts and agreements (including without limitation access to and use of facilities covered by the Real Property Leases) and Manager shall perform the obligations of Licensee thereunder, to the extent of benefits received, in accordance with their terms with respect to the Stations.

7. STANDARDS OF OPERATION

Manager agrees that it will program the Stations during the term of this Agreement consistent with industry standards for noncommercial educational broadcasting. During the term of this Agreement, Manager will use commercially reasonable efforts to provide a quality news and public information program service that includes New Jersey-centric programming to the public on the Stations, and shall comply with all applicable legal requirements. Manager further agrees to use commercially reasonable efforts to manage and program the Stations, to the extent reasonably possible, in such a manner allowing the production and acquisition of radio programming of community value, and to combine these programs into a nonprofit radio service of high quality for broadcast to New Jersey.

8. INSTITUTIONAL COOPERATION AND MEDIA PROMOTION

(a) Identification of Licensee. During the term of this Agreement, Manager will air station identifications that comply with the FCC's rules at the beginning and end of each time of operation and on the hour while each Station is on the air. During the term of this Agreement, Manager will identify Licensee as the Stations' licensee during each on-air identification, and, as

feasible, in marketing or promotional materials that refer to the Stations. Notwithstanding the foregoing, Licensee is responsible for ensuring that proper station identifications are made in accordance with FCC rules and regulations. Manager is authorized to use the Stations' call letters in its Programming and in any marketing or promotional material in any media.

(b) On-Air Announcements About Licensee. During the term of this Agreement, Manager may, but is not obligated to, air announcements over the Stations that will provide information on Licensee and its programs and opportunities, it being understood that Licensee wishes to share in the goodwill generated from the operation of the Stations. All such announcements shall comply with FCC requirements and Manager's internal underwriting guidelines and the requirements of Schedule 2.1(b) of the Purchase Agreement. Any such announcements provided by Licensee during the term of this Agreement shall be credited toward Manager's obligations after Closing set forth on Schedule 2.1(b) of the Purchase Agreement.

9. REPRESENTATIONS AND WARRANTIES

Manager represents and warrants that it will maintain its organization and operate in accordance with all laws and regulations applicable to nonprofit organizations in its state of incorporation. Each of Manager and Licensee represents and warrants to the other that: (a) it will perform its obligations under this Agreement in compliance with all applicable laws, rules and policies, including intellectual property and FCC law; (b) to its knowledge, there exists no event or circumstance within its control which precludes or prohibits it from performing its obligations under this Agreement; (c) no consent, approval, order, or authorization of, or registration, qualification, designation, declaration, or filing with, any governmental authority on its part is required in connection with the execution, delivery, and performance of this Agreement, except that Licensee shall file this Agreement with the FCC and in the Stations' public files; (d) the execution, delivery and performance of this Agreement by it have been duly authorized by all necessary actions on its part; and (e) this Agreement constitutes a valid and binding obligation of it, enforceable against it in accordance with its terms except as the enforceability of this Agreement may be affected by bankruptcy, insolvency, or similar laws affecting creditors' rights generally and by judicial discretion in the enforcement of equitable remedies.

10. INSURANCE

(a) During the term of this Agreement and any extensions or renewals thereof, Manager shall maintain insurance with respect to the Stations in compliance with the State of New Jersey, New Jersey Broadcasting System, New Jersey Network, Standard Terms and Conditions for Contractors (as summarized in Schedule 1(d) hereto).

(b) During the term of this Agreement and any extensions or renewals thereof, Licensee shall either self-insure or obtain insurance policies that insure Licensee's employees, agents and representatives with respect to the Stations. Coverage shall include, but not be limited to, media liability insurance covering liability arising out of any programming provided by Licensee; comprehensive general liability insurance; workers compensation insurance

covering Licensee employees and agents who may visit the Stations premises as needed; and property insurance covering damage to or risk of loss of Stations' equipment.

11. CONSIDERATION

The parties acknowledge that their respective undertakings and commitments herein, designed to ensure the provision of high quality news and information public radio programming that includes New Jersey-centric programming on the Stations, constitute sufficient consideration for this Agreement.

12. RECORDS

Licensee shall be responsible for ascertaining the programming needs of the Stations' communities of license and maintaining each Station's public inspection file in compliance with FCC requirements, provided, however, that during the term of this Agreement Manager shall provide reasonable assistance with respect to the ascertainment of programming needs and shall provide Licensee with all relevant documents and information in its possession required to be placed in the Stations' public inspection files. During the term of this Agreement, Manager shall keep adequate financial and accounting records of the Stations' activities and, upon Licensee's reasonable request, shall make such records available for inspection by representatives of Licensee upon reasonable prior written notice. During the term of this Agreement, within ten (10) business days after the end of each quarter or after reasonable request by Licensee in conjunction with periodic state accounting (including fiscal year end accounting), Manager shall provide to Licensee a financial report that reasonably accounts for all revenues and expenses attributable to the Stations during such period. Manager shall also reasonably cooperate with Licensee's auditor as part of Licensee's periodic audit, as may be reasonably requested by Licensee and its auditor, including permitting ordinary audit procedures to be followed involving the books and records of Manager, with any out-of-pocket expenses incurred to be promptly paid by Licensee.

13. RELATIONSHIP

Manager is hereby authorized to enter into contracts related to the Stations in order to perform its obligations under this Agreement. Manager shall be responsible for all such contracts and financial obligations that it has entered into as necessary to perform its obligations under this Agreement and Licensee shall have no obligation to assume any such contracts in the event of a termination of this Agreement. Manager shall serve as an independent contractor in rendering the services set forth herein and its employees shall not be employees of Licensee. This Agreement is not intended to be, and shall not be construed as, an agreement to form a partnership, agency relationship or joint venture between the parties. Neither party shall be authorized to act as an agent of or otherwise to represent the other party.

14. OVERSIGHT AND CONTROL

Notwithstanding anything in this Agreement to the contrary, Licensee shall retain and exercise oversight and control of the activities and operations of the Stations. Without limiting

the foregoing, Licensee (through its governing board or the board's designated representative(s)) shall have the right: (a) to promulgate basic policies regarding personnel (but only to the extent such personnel are working on matters relating to the Stations), finances and programming; (b) to direct the day-to-day activities of Manager's employees working on Licensee's premises or using Licensee's Station equipment (but only to the extent required by the FCC), but Licensee may not interfere with Manager's business and operations or its relationships with Manager's employees; (c) to inspect the Stations' facilities at any time during operation; (d) to consult with Stations' management, review FCC-required operating and maintenance records and procedures, and investigate operational complaints; and (e) to require reasonable written reports, no more often than once a quarter, with respect to a reasonable summary of each Station's programming service, and personnel actions (including EEO compliance) during such period. For purposes of clarity, Licensee shall not have oversight or control of Manager's employees generally, but only to the extent that those employees are working on matters relating to the Stations within the scope of this Agreement.

Licensee shall bear responsibility for the Stations' compliance with the rules, regulations and policies of the FCC and all other applicable laws. Without limiting the foregoing, Licensee shall employ a manager for the Stations who will report to Licensee and direct the day-to-day operation of the Stations (and who will have no employment, consulting or other relationship with Manager) and employ a second employee for the Stations, who will report to and be solely accountable to Licensee's manager.

15. NOTICES

All notices, demands, requests, waivers or other communications required or permitted under the provisions of this Agreement shall be (i) in writing; (ii) delivered by personal delivery, facsimile transmission (with automatic machine confirmation) or sent by commercial delivery service or certified U.S. mail, return receipt requested; (iii) deemed to have been given on the date of personal delivery, facsimile transmission (with automatic machine confirmation) or the date of delivery set forth in the records of the commercial delivery service or on the return receipt; and (iv) addressed to the recipient at the address specified below, or with respect to any party, to any other address that such party may from time to time designate in a writing delivered in accordance with this Section 15.

If to Licensee:

New Jersey Public Broadcasting
Authority
25 South Stockton Street
P.O. Box 777
Trenton, New Jersey 08625
jblair@njin.org
Attn: John Blair
Telephone: (609) 777-5255
Fax: (609) 633-0254

And:

David A. Ridolfino
Director, Division of Administration
N.J. Dept. of the Treasury
50 West State Street, 8th Floor
P.O. Box 211
Trenton, N.J. 08625
phone: 609-633-2825
fax: 609-633-9090

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

Office of the Attorney General
Richard J. Hughes Justice Complex
25 Market Street
6th Fl., P.O. Box 106
Trenton, NJ 08625
kavin.mistry@dol.lps.state.nj.us
Attn: Kavin K. Mistry, Assistant Chief,
Deputy Attorney General
Telephone: (609) 292-8564
Fax: (609) 777-3515

Dow Lohnes PLLC
1200 New Hampshire Avenue, N.W.
Suite 800
Washington, DC 20036
Attention: Margaret L. Miller, Esq.
Telecopy: 202-776-2222
Telephone: 202-776-2000

If to Manager:

New York Public Radio
160 Varick St.
New York, NY 10013
Attn: Laura Walker
Phone: (646) 829-4445

Fax: (646) 829-4568

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

Wiley Rein LLP
1776 K Street, NW
Washington, DC 20006
Attn: Richard Bodorff
Jessica Rosenthal
Telephone: (202) 719-7000
Fax: (202) 719-7049

16. INDEMNIFICATION

(a) No Indemnification by Licensee. Manager recognizes and acknowledges that Licensee is an instrumentality of the State of New Jersey and without legal authority to enter into an indemnity arrangement for the benefit of Manager. The parties acknowledge and agree that any claim by Manager against Licensee related to this Agreement or the transactions contemplated hereby shall be governed by the New Jersey Contractual Liability Act. (L. 1974, c. 45, N.J.S.A. 59:13-1 et seq.) and the New Jersey Tort Claims Act. (L.1972, c. 45, N.J.S.A. 59:1-1 et seq.) and further agree that there shall be no recovery by Manager under this Agreement and the FUA (in the aggregate) with respect thereto in excess of the Cash Purchase Price.

(b) Indemnification by Manager. Manager shall indemnify and hold harmless Licensee and all officers, directors, employees, partners, members and agents of Licensee, (individually, a "Licensee Indemnitee") from and against any and all Losses arising from any and all Claims arising out of Manager's gross negligence or willful misconduct in connection with the performance of the services under this Agreement, or Manager's breach of this Agreement; provided that neither Manager nor any of its Affiliates shall be deemed a Licensee Indemnitee under this Section 16(b). Notwithstanding the foregoing or anything else herein to the contrary, the maximum aggregate liability of Manager under this Agreement and the FUA (in the aggregate) shall be an amount equal to the Cash Purchase Price.

(c) Other Rights and Remedies Not Affected. The indemnification rights of the parties under this Section 16 are independent of, and in addition to, such rights and remedies as the parties may have at law or in equity or otherwise for any intentional or knowing misrepresentation, breach of warranty or failure to fulfill any agreement or covenant hereunder on the part of any party hereto, including the right to seek specific performance, rescission or restitution, none of which rights or remedies shall be affected or diminished thereby.

17. SEVERABILITY

If any provision of this Agreement shall be prohibited by or invalid under applicable law, then so long as no party is deprived of the benefits of this Agreement in any material respect, such provision shall be ineffective only to the extent of such prohibition or invalidity without invalidating the remainder of such provision or any remaining provisions of this Agreement,

provided that such remaining portions or provisions can be construed in substance to constitute the agreement that the parties intended to enter into in the first instance.

18. BINDING ON SUCCESSORS

This Agreement may not be assigned by either party without the other party's consent, which may be given or withheld in its sole discretion. Any attempted assignment without such consent shall be cause for immediate termination of the Agreement by the other party. This Agreement shall bind and inure to the benefits of the parties' respective successors and permitted assigns. No assignment shall relieve a party of any obligation under this Agreement.

19. COMPLETE AGREEMENT

This Agreement (including the Schedules and Attachment hereto), together with the FUA, contains the entire agreement of the parties with respect to the management and programming of the Stations during the term hereof, and, except as specifically referred to herein, all prior obligations, proposals and agreements relating to the subject matter hereof have been merged herein. This Agreement shall not be modified or amended except by agreement in writing duly executed by the parties hereto.

20. GOVERNING LAW

This Agreement and any and all litigation arising therefrom or related thereto shall be governed by the applicable laws, regulations and rules of evidence of the State of New Jersey without reference to conflict of laws principles and shall be filed in the appropriate Division of the New Jersey Superior Court. Seller does not consent to federal court jurisdiction.

21. COUNTERPARTS; FACSIMILE SIGNATURES

This Agreement may be signed in counterparts, each of which shall be deemed to be an original but which, when taken together, shall constitute one and the same instrument. Facsimile signature pages of this Agreement shall be valid and binding as original signatures and when the same are delivered by each party to the other party, such delivery shall be considered an agreement of the respective parties to fully execute and deliver to one another originally signed copies of this Agreement.

[THE REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the parties to this Agreement have duly executed this Agreement as of the first date set forth above.

LICENSEE:

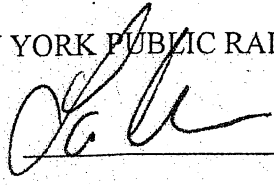
NEW JERSEY PUBLIC BROADCASTING AUTHORITY

By: _____

Title: _____

MANAGER:

NEW YORK PUBLIC RADIO

By:  _____

Title: _____

Management and Programming Agreement
Schedule 1(d)

State of New Jersey, New Jersey Broadcasting System, New Jersey Network,
Standard Terms and Conditions For Contractors

**State of New Jersey
New Jersey Public Broadcasting System
New Jersey Network
Standard Terms and Conditions**

1. STANDARD TERMS AND CONDITIONS APPLICABLE TO THE CONTRACT:

Unless the bidder is specifically instructed otherwise in the Request for Proposals (RFP), the following terms and conditions shall apply to the Contract between the Contractor and the New Jersey Public Broadcasting System ("NJPBS" or the "State"). These terms are in addition to the terms and conditions set forth in the RFP and should be read in conjunction with same unless the RFP specifically indicates otherwise. In the event the Contractor has presented terms and conditions which conflict with the State's, the State's terms and conditions shall prevail, unless the Contractor is notified in writing of the State's specific acceptance of some or all of the Contractor's terms and conditions.

2. STATE LAW REQUIRING MANDATORY COMPLIANCE BY ALL CONTRACTORS:

The statutes, laws or codes cited herein are available for review at the New Jersey State Library, 185 West State Street, Trenton, New Jersey 08625.

2.1 BUSINESS REGISTRATION:

As a condition to entering into a State Contract, pursuant to N.J.S.A. 52:32-44, the State is prohibited from entering into a Contract with an entity unless the bidder and each subcontractor named in the bid proposal has a valid Business Registration Certificate on file with the Division of Revenue.

The Contractor and any subcontractor providing goods or performing services under the Contract, and each of their affiliates, shall, during the term of the Contract, collect and remit to the Director of the Division of Taxation in the Department of the Treasury the use tax due pursuant to the Sales and Use Tax Act, P.L. 1966, c. 30 (N.J.S.A. 54:32B-1 et seq.) on all their sales of tangible personal property delivered into the State. Any questions in this regard can be directed to the Division of Revenue at (609) 292-1730. Form NJ-REG can be filed online at <http://www.state.nj.us/treasury/revenue/busregcert.htm>.

2.2 ANTI-DISCRIMINATION:

All parties to any Contract with the State agree not to discriminate in employment and agree to abide by all anti-discrimination laws including those contained within N.J.S.A. 10:2-1 through N.J.S.A. 10:2-4, N.J.S.A.10:51 et seq. and N.J.S.A.10:5-31 through 10:5-38, and all rules and regulations issued thereunder are hereby incorporated by reference.

2.3 PREVAILING WAGE ACT:

The New Jersey Prevailing Wage Act, N.J.S.A. 34:11-56.26 et seq. is hereby made part of every Contract entered into on behalf of the State of New Jersey except those Contracts which are not

within the contemplation of the New Jersey Prevailing Wage Act. The bidder's signature on this proposal is his guarantee that neither he nor any subcontractors he might employ to perform the work covered by this proposal has been suspended or debarred by the Commissioner, Department of Labor for violation of the provisions of the Prevailing Wage Act and/or the Public Works Contractor Registration Acts; the bidder's signature on the proposal is also his guarantee that he and any subcontractors he might employ to perform the work covered by this proposal shall comply with the provisions of the Prevailing Wage and Public Works Contractor Registration Acts, where required.

2.4 AMERICANS WITH DISABILITIES ACT:

The Contractor must comply with all provisions of the Americans with Disabilities Act (ADA), P.L. 101-336, in accordance with 42 U.S.C. 12101, et seq.

2.5 MACBRIDE PRINCIPLES:

The bidder must certify pursuant to N.J.S.A. 52:34-12.2 that it either has no ongoing business activities in Northern Ireland and does not maintain a physical presence therein or that it will take lawful steps in good faith to conduct any business operations it has in Northern Ireland in accordance with the MacBride principles of nondiscrimination in employment as set forth in N.J.S.A. 52:18A-89.5 and in conformance with the United Kingdom's Fair Employment (Northern Ireland) Act of 1989, and permit independent monitoring of their compliance with those principles.

2.6 PAY TO PLAY PROHIBITIONS:

a. **Definitions** - For the purpose of this section, the following shall be defined as follows:

1) Contribution B means a contribution reportable as a recipient under The New Jersey Campaign Contributions and Expenditures Reporting Act., P.L. 1973, c83 (N.J.S.A. 19:44A-1 et seq.), and implementing regulations set forth at N.J.A.C. 19:25-7 and N.J.A.C. 19:25-10.1 et seq. Contributions in excess of \$300 during a reporting period are deemed "reportable" under these laws.

2) Business Entity B means any natural or legal person, business corporation, professional services corporation, Limited Liability Company, partnership, limited partnership, business trust, association or any other legal commercial entity organized under the laws of New Jersey or any other state or foreign jurisdiction, but does not include non profit or not for profit corporations. The definition of a business entity includes:

A. all principals who own or control more than 10 percent of the profits or assets of a business entity or 10 percent of the stock in the case of a business entity that is a corporation for profit, as appropriate and for a for profit entity, the following:

- (i) in the case of a corporation: the corporation, any officer of the corporation, and any person or business entity that owns or controls 10% or more of the stock of the corporation;
- (ii) in the case of a general partnership: the partnership and any partner;
- (iii) in the case of a limited partnership: the limited partnership and any partner;
- (iv) in the case of a professional corporation: the professional corporation and any shareholder or officer;
- (v) in the case of a limited liability company: the limited liability company and any member;
- (vi) in the case of a limited liability partnership: the limited liability partnership and any partner;
- (vii) in the case of a sole proprietorship: the proprietor; and
- (viii) in the case of any other form of entity organized under the laws of this State or any other state or foreign jurisdiction: the entity and any principal, officer, or partner thereof;

B. any subsidiaries directly or indirectly controlled by the business entity;

C. any political organization organized under section 527 of the Internal Revenue Code that is directly or indirectly controlled by the business entity, other than a candidate committee, election fund, or political party committee; and

D. if a business entity is a natural person, that person's spouse or civil union partner, or child residing in the same household provided, however, that, unless a contribution made by such spouse, civil union partner, or child is to a candidate for whom the contributor is entitled to vote or to a political party committee within whose jurisdiction the contributor resides unless such contribution is in violation of section 9 of Chapter 51.

b. Breach of Terms of Chapter 51 or EO 117 is a Breach of Retention Agreement -It shall be a breach of the terms of the Retention Agreement for the Business Entity to do any of the following:

- 1) make or solicit a contribution in violation of the Chapter 51 or EO 117;
- 2) knowingly conceal or misrepresent a contribution given or received;
- 3) make or solicit contributions through intermediaries for the purpose of concealing or misrepresenting the source of the contribution;
- 4) make or solicit any contribution on the condition or with the agreement that it will be contributed to a campaign committee or any candidate of holder of the public office of Governor, or of Lieutenant Governor, or to any State, county or municipal party committee, or any legislative leadership committee;
- 5) engage or employ a lobbyist or consultant with the intent or understanding that such lobbyist or consultant would make or solicit any contribution, which if made or solicited by the business entity itself, would subject that entity to the restrictions of Chapter 51 or EO 117;
- 6) fund contributions made by third parties, including consultants, attorneys, family members, and employees;
- 7) engage in any exchange of contributions to circumvent the intent of the Chapter 51 or EO 117; or
- 8) directly or indirectly through or by any other person or means, do any act which would subject that entity to the restrictions of the Chapter 51 or EO 117.

2.10 SERVICE PERFORMANCE WITHIN U.S:

Pursuant to N.J.S.A. 52:34-13.2, all Contracts primarily for services shall be performed within the United States, except when the Treasurer certifies in writing a finding that a required service cannot be provided by a Contractor or subcontractor within the United States and the certification is approved by the State Treasurer.

A shift to performance of services outside the United States during the term of the Contract shall be deemed a breach of Contract. If, during the term of the Contract, the Contractor or subcontractor, proceeds to shift the performance of any of the services outside the United States, the Contractor shall be deemed to be in breach of its Contract, which Contract shall be subject to termination for cause pursuant to Section 3.3(b)(1) of the Standard Terms and Conditions, unless previously approved by the Treasurer.

2.11 COMPLIANCE – LAWS:

The Contractor must comply with all local, state and federal laws, rules and regulations applicable to this Contract and to the services performed hereunder.

3. INDEMNIFICATION AND INSURANCE

3.1 INDEMNIFICATION FOR THIRD PARTY CLAIMS -The Contractor shall indemnify and hold harmless the State of New Jersey, the NJPBA, and its employees, agents and affiliates from and against any and all damages, losses, liabilities and expenses including, without limitation, reasonable attorneys' fees, arising out of or resulting from:

- a. any act or omission, event or occurrence that was or shall be caused by the Contractor, its employees, agents or affiliates relating to the business and operations of the Contractor of the NJPBA;
- b. any libel, slander, illegal competition or trade practice, infringement of trademarks, trade names, or program titles, violation of rights of privacy, and infringement of copyrights and proprietary rights, including intellectual property rights, resulting from or relating to any programming produced or furnished by the Contractor; and
- c. any breach by the Contractor of any of its obligations, representations, warranties, covenants or other agreements made by the Contractor in the Contract.

The Contractor's indemnification and liability under this section is not limited by, but is in addition to the insurance obligations contained in Section 3.2 of these Terms and Conditions.

3.2 INSURANCE -The Contractor shall secure and maintain in force for the term of the Contract insurance as provided herein. All required insurance shall be provided by insurance companies with an A-VIII or better rating by A.M. Best & Company. The Contractor shall provide the State with current certificates of insurance for all coverages and renewals thereof, naming the State as an Additional Insured and shall contain the provision that the insurance provided in the certificate shall not be canceled for any reason except after sixty (60) days written notice to the Treasurer of the State of New Jersey.

The insurance to be provided by the Contractor shall be as follows:

- a. Comprehensive General Liability Insurance or its equivalent. The minimum limit of liability shall be \$1,000,000 per occurrence as a combined single limit for bodily injury and property damage. The above required Comprehensive General Liability Insurance policy or its equivalent shall name the State, its officers, and employees as Additional Insureds. The coverage to be provided under these policies shall be at least as broad as that provided by the standard basic, unamended, and unendorsed Comprehensive General Liability Insurance occurrence coverage forms or its equivalent currently in use in the State of New Jersey, which shall not be circumscribed by any endorsement limiting the breadth of coverage.
- b. Automobile liability insurance which shall be written to cover any automobile used by the insured. Limits of liability for bodily injury and property damage shall not be less than \$1 million per occurrence as a combined single limit. State of New Jersey, its officers and employees shall be named Additional Insureds. Physical damage insurance covering automobiles shall name the State of New Jersey Loss Payee to any State owned vehicles.
- c. Worker's Compensation Insurance applicable to the laws of the State of New Jersey and Employers Liability Insurance with limits not less than:
 - \$2,000,000 BODILY INJURY, EACH OCCURRENCE
 - \$2,000,000 DISEASE EACH EMPLOYEE
 - \$2,000,000 DISEASE AGGREGATE LIMIT
- d. Broadcast libel and errors/omissions insurance of at least \$5,000,000. The State of New Jersey shall be named Additional Insured by endorsement to this policy. The policy must be endorsed to cover Cyber Risk Multimedia/Technology Errors and Omissions. Any exclusion of coverage for actions by a governmental authority must be amended to exclude the State of New Jersey in their capacity as owner.
- e. All Risk property insurance covering real and personal property of the State, including property in vehicles and while in transit, for the replacement cost of the property. State shall be named loss payee under the property insurance.
- f. Umbrella Liability Insurance in an amount not less than \$10 million per occurrence and in the aggregate naming the State of New Jersey as Additional Insured.

4. TERMS GOVERNING OPERATING CONTRACT(S)

4.1 CONTRACTOR IS INDEPENDENT CONTRACTOR:

The Contractor's status shall be that of any independent Contractor and not as an employee of the State.

4.2 TERMINATION OF CONTRACT

a. For Cause

The NJPBA may terminate the Contract (i) immediately by giving written notice if, in the reasonable good faith discretion of the NJPBA, the Station is operated by the Contractor in a manner contrary to the best interests of NJPBA, the public interest, convenience and necessity, FCC rules and regulations, the Communications Act of 1934, as amended, or other applicable law; or (ii) if Contractor otherwise breaches its obligations under the Contract and the Contractor fails to cure such breach within thirty (30) days of written notice from the PBA.

- b. Upon termination of the Contract, NJPBA shall assume complete operational responsibility for the Station, and the Contractor shall be relieved of all obligations under the Contract except for: obligations incurred prior to the effective date of the termination; the obligation to provide a final accounting pursuant to the Contract and the obligation to cooperate with NJPBA to wind up Contractor's operation of the Station in an orderly fashion.
- c. In the event of termination under this section, the Contractor shall be compensated for work performed in accordance with the Contract, up to the date of termination. Such compensation may be subject to adjustments.

4.3 SUBCONTRACTING OR ASSIGNMENT:

The Contractor may not subcontract other than as identified in the Contractor's proposal or assigns its responsibilities under the Contract, in whole or in part, without the prior written consent of the NJPBA. Such consent, if granted, shall not relieve the Contractor of any of his responsibilities under the Contract.

4.4 NO CONTRACTUAL RELATIONSHIP BETWEEN SUBCONTRACTORS AND STATE:

Nothing contained in any of the Contract documents, including the RFP and vendor's bid or proposal shall be construed as creating any Contractual relationship between any subcontractor and the State.

4.5 MERGERS, ACQUISITIONS:

If, during the term of this Contract, the Contractor shall merge with or be acquired by another firm, the Contractor shall give notice to the NJPBA as soon as practicable and in no event longer than 30 days after said merger or acquisition. The Contractor shall provide such documents as may be requested by the NJPBA which may include but need not be limited to the following:

- a. Corporate resolutions prepared by the awarded Contractor and new entity ratifying acceptance of the original Contract, terms, conditions and prices.
- b. State of New Jersey Bidders Application reflecting all updated information including ownership disclosure, pursuant to provision 1.5.
- c. Vendor Federal Employer Identification Number.

The documents must be submitted within 30 days of the request. Failure to do so may result in termination of the Contract for cause.

If, at any time during the term of the Contract, the Contractor's partnership, limited liability company, limited liability partnership, professional corporation, or corporation shall dissolve, the NJPBA must be so notified. All responsible parties of the dissolved business entity must submit to the NJPBA in writing, the names of the parties proposed to perform the Contract, and the names of the parties to whom payment should be made. No payment shall be made until all parties to the

dissolved business entity submit the required documents to the NJPBA.

4.6 APPLICABLE LAW AND JURISDICTION:

This Contract and any and all litigation arising therefrom or related thereto shall be governed by the applicable laws, regulations and rules of evidence of the State of New Jersey without reference to conflict of laws principles and shall be filed in the appropriate Division of the New Jersey Superior Court. The State does not consent to federal court jurisdiction.

4.7. CONTRACT AMENDMENT:

The Contract may only be amended by written agreement of the State and the Contractor.

4.8 MAINTENANCE OF RECORDS:

The Contractor shall maintain records for products and/or services delivered against the Contract for a period of three (3) years from the date of final payment unless otherwise specified in the RFP. Such records shall be made available to the State upon request.

4.9 AVAILABILITY OF FUNDS: The State's obligation to make any payment under the Contract is contingent upon the availability of appropriated funds and receipt of revenues from which payment for Contract purposes can be made. No legal liability on the part of the State for payment of any money shall arise unless and until funds are appropriated each fiscal year to the using agency by the State Legislature and made available through receipt of revenues.

Management and Programming Agreement
Attachment 1
FORM OF STATEMENT FOR EACH STATION

**STATEMENT OF STATION POLICIES OF
LICENSEE**

Licensee ("Licensee"), Licensee of Radio Station _____
(the "Station"), hereby establishes the following standards, practices, policies and regulations to govern the broadcast of all programming aired over the Station. The following standards, practices and policies are to be adhered to in the preparation, writing, production and broadcasting of all advertisements and programs aired over the Station:

I. No Payola Or "Plugola". The mention of any business activity or "plug" for any commercial, professional or other related endeavor on the Station is prohibited, except where contained in an underwriting message that complies with the requirements of Section 399B of the Communications Act and Section 73.503 of the rules of the Federal Communications Commission ("FCC") and such message contains a sponsorship identification announcement which meets the requirements of Section 317 of the Communications Act and Section 73.1212 of the FCC's rules.

II. No Lotteries. Except as expressly permitted under Section 73.1211 of the FCC's rules, no announcements, messages or programs may be broadcast over the Station (without the express prior written approval of the Licensee) which give any information about or which promote any lotteries or games of chance, including any bingo games and the like, which are to be held by a local church or other non-profit institution or organization. A lottery, for these purposes, is a game or promotion in which a prize is awarded and where the

selection of the winner or the amount or nature of the prize is determined in whole or in part on the basis of chance, and where contestants enter the promotion by paying or promising any form of consideration (e.g., money, substantial time, or substantial energy).

III. Station Identification Announcements Required. A Station identification announcement must be broadcast each time the Station goes on the air and when it signs off the air. A Station identification announcement must also be broadcast each hour, as close to the top of the hour as feasible, at a natural break in programming, and shall comply with the requirements of Section 73.1201 of the FCC's rules.

IV. Contests and Promotions. In the event that the Programming contains information about any contest that the Manager conducts, the Manager shall comply with Section 73.1216 of the FCC's rules by fully and accurately disclosing the material terms of the contest and by conducting the contest "substantially as announced." No contest description shall be broadcast on the Station where the Manager knows that such description is false, misleading or deceptive with respect to any material term.

V. Obscenity and Indecency Prohibited. No obscene material may be broadcast over the facilities of the Station. No indecent material may be broadcast on the Station during any time when the airing of such programming would be contrary to law or FCC regulations or policies. For these purposes, "indecent" material is defined as language or material that describes sexual or excretory activities or organs in a patently offensive manner, as measured by contemporary community standards for the broadcast medium. Material will be considered obscene if (a) the average person, applying contemporary community standards, would find that the material appeals to the prurient interest, (b) it describes or depicts, in a patently offensive manner, sexual conduct as defined by

applicable state law, and (c) taken as a whole, it lacks serious literary, artistic, political or scientific value.

VI. Advertising. No advertisements as defined by Section 399B of the Communications Act and Section 73.503 of the FCC's rules, shall be broadcast on the Station.

VII. Defamatory Statements Prohibited. No statements known to be libelous or defamatory may be broadcast on the Station. Libel is a false statement of fact about a person, which tends to injure that person's reputation or otherwise cause injury or damages to that person.

VIII. "Equal Time" For Political Candidates. If a legally qualified candidate for public office is allowed to "use" (as defined in Section 73.1941(b) of the FCC's rules) the Station during his/her campaign, his/her legally qualified opponents must be afforded equal opportunities to appear on the Station.

IX. Sponsorship Identification Announcements. All sponsored programs must (a) contain an announcement stating the fact that the matter broadcast was sponsored, paid for, furnished by, or in support of the Station, and must disclose the true identity of the person or entity on whose behalf payment was made or promised for the broadcast, or (b) otherwise comply with Section 317 of the Communications Act and Section 73.1212 of the FCC's rules. Whenever such a sponsorship identification announcement is required, the announcement must be made both at the beginning and conclusion of each program of over five minutes in length. If a sponsored broadcast is five minutes or less in duration, only one such announcement is required, and it may be made either at the beginning or the conclusion of the broadcast or announcement.

FACILITIES USE AGREEMENT

This FACILITIES USE AGREEMENT (this "Agreement") is entered into this ____ day of _____ 2011 by and between among New Jersey Public Broadcasting Authority, an independent instrumentality of the State of New Jersey allocated in, but not of, the Department of the Treasury of the State of New Jersey ("NJPBA") and New York Public Radio ("NYPR").

RECITALS

A. NJPBA is the Federal Communications Commission ("FCC") licensee of noncommercial educational radio stations WNJT-FM, Trenton, NJ, WNJY(FM), Netcong, NJ, WNJP(FM), Sussex, NJ and WNJO(FM), Toms River, NJ (the "Stations");

B. NJPBA and NYPR propose to enter into a Management and Programming Agreement (the "MPA") under which NYPR shall provide certain programming and services to NJPBA related to the Stations;

C. NJPBA and NYPR desire to memorialize certain agreements regarding NYPR's use of certain of the facilities used or useful in connection with the Stations, all such property and facilities more particularly described in Exhibit A attached to this Agreement (collectively, the "Facilities"), in connection with NYPR's performance of its obligations under the MPA;

D. NJPBA and NYPR have entered into an Asset Purchase Agreement of even date herewith (the "Purchase Agreement"), pursuant to which NJPBA has agreed to sell to NYPR, and NYPR has agreed to purchase from NJPBA, the Stations and associated assets as described therein under the terms and conditions set forth in the Purchase Agreement; and

E. Capitalized terms used herein but not defined herein have the meaning ascribed to them in the Purchase Agreement.

NOW, THEREFORE, in consideration of the terms and conditions set forth in this Agreement, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

WITNESSETH

1. Grant of License. NJPBA hereby grants to NYPR, during the term of this Agreement, the right to access and use the Facilities for the sole purpose to meet its obligations under the MPA and to facilitate the transfer of the assets from NJPBA to NYPR in accordance with the terms of the Purchase Agreement. NYPR accepts the use of the Facilities pursuant to this Agreement (but not under the Purchase Agreement) in "As Is, Where Is" condition. NYPR's use of the Facilities pursuant to this Agreement shall be rent-free.

2. Term. NYPR shall have the right to use the Facilities from the date hereof until the earliest of: (A) the consummation of the transaction contemplated by the Purchase

Agreement; (B) the termination of the Purchase Agreement in accordance with its terms; or (C) the termination of the MSA in accordance with its terms (the "Term").

3. Obligations of NYPR.

- (a) NYPR shall not make any physical alterations to the Facilities without the prior written approval of the NJPBA, and shall pay, within 30 days of receipt of an invoice therefor, for repair of any alterations or damages resulting from NYPR's use of the Facilities, including any unusual cleaning charges. NYPR shall be responsible for all other out-of-pocket sums, costs and expenses that are incurred by NJPBA that arise from NYPR's use of the Facilities.
- (b) NYPR shall not have the right to assign this Agreement or any rights hereunder nor to sublet said facilities or equipment. NJPBA shall not have the right to assign this Agreement.
- (c) NYPR shall use and occupy the Facilities and the equipment located at the Facilities in a safe and careful manner and shall comply in all material respects with all applicable laws, rules, regulations and ordinances of the federal law and New Jersey law and regulations, including without limitation, New Jersey Public Broadcasting Authority Act of 1968 (L. 1968, c. 405), the New Jersey Public Broadcasting System Transfer Act (L. 2010, c. 104) (the "Transfer Act"), and the State of New Jersey, New Jersey Broadcasting System, New Jersey Network, Standard Terms and Conditions for Contractors (as summarized in Schedule 3(c) hereto) as amended or supplemented from time to time, and any other state or government authority controlling or governing the Facilities or equipment or operation therein.
- (d) NYPR shall not unreasonably interfere with NJPBA's use of the Facilities. NJPBA shall not unreasonably interfere with NYPR's use of the Facilities.

4. Default.

(a) If NYPR is in breach in any material respect of any term of this Agreement and does not cure such breach within thirty (30) days following receipt of written notice from NJPBA, NJPBA shall have the right to terminate this Agreement immediately. Such termination shall not release NYPR from any liability for any amount due under this Agreement. All rights and remedies available to NJPBA by law or in this Agreement shall be cumulative and concurrent.

(b) If NJPBA is in breach in any material respect of any term of this Agreement and does not cure such breach within thirty (30) days following receipt of written notice from NYPR, NYPR shall have the right to terminate this Agreement immediately. Such termination shall not release NJBPA from any liability for any amount due under this Agreement. All rights and remedies available to NYPR by law or in this Agreement shall be cumulative and concurrent.

(c) If this Agreement is terminated in accordance with its terms for any reason (other than at Closing under the Purchase Agreement), then the MPA shall automatically terminate concurrent therewith.

5. Indemnity. NYPR shall indemnify and hold harmless NJPBA and all officers, directors, employees, partners, members and agents of NJPBA, (individually, a "NJPBA Indemnatee") from and against any and all Losses arising from any and all Claims arising out of NYPR's gross negligence or willful misconduct in connection with this Agreement, or NYPR's breach of this Agreement; provided that neither NYPR nor any of its Affiliates shall be deemed an NJPBA Indemnatee under this Section 5. The provisions of this Section 5 shall survive the expiration or earlier termination of this Agreement.

6. Exemption of NJPBA From Indemnification. NYPR recognizes and acknowledges that NJPBA is an instrumentality of the State of New Jersey and without legal authority to enter into an indemnity arrangement for the benefit of NYPR. The parties acknowledge and agree that any claim by NYPR against Manager related to this Agreement or the transactions contemplated hereby shall be governed by the New Jersey Contractual Liability Act. (L. 1974, c. 45, N.J.S.A. 59:13-1 et seq.) and the New Jersey Tort Claims Act. (L.1972, c. 45, N.J.S.A. 59:1-1 et seq.). The provisions of this Section 6 shall survive the expiration or earlier termination of this Agreement.

7. Liens. NYPR shall not subject, or through its actions or inaction allow, the Facilities to become subject to any mechanic's lien, mortgage, or any lien of any kind whatsoever.

8. Environmental Matters. NYPR represents and warrants that it shall not permit the handling, transportation, storage, treatment or usage of hazardous or toxic substances on or about the Facilities except in de minimis amounts in compliance with applicable law. NJPBA represents and warrants that it shall not permit the handling, transportation, storage, treatment or usage of hazardous or toxic substances on or about the Facilities except in de minimis amounts in compliance with applicable law.

9. Miscellaneous.

- (a) If any provision of this Agreement shall be prohibited by or invalid under applicable law, then so long as no party is deprived of the benefits of this Agreement in any material respect, such provision shall be ineffective only to the extent of such prohibition or invalidity without invalidating the remainder of such provision or any remaining provisions of this Agreement, provided that such remaining portions or provisions can be construed in substance to constitute the agreement that the parties intended to enter into in the first instance.
- (b) This Agreement, together with the MPA, contains the entire agreement of the parties with respect to the subject matter hereof during the term hereof, and, except as specifically referred to herein, all prior obligations, proposals and agreements relating to the subject matter hereof have been merged herein. This

Agreement shall not be modified or amended except by agreement in writing duly executed by the parties hereto.

- (c) This Agreement and any and all litigation arising therefrom or related thereto shall be governed by the applicable laws, regulations and rules of evidence of the State of New Jersey without reference to conflict of laws principles and shall be filed in the appropriate Division of the New Jersey Superior Court. NJPBA does not consent to federal court jurisdiction.
- (d) This Agreement may be signed in counterparts, each of which shall be deemed to be an original but which, when taken together, shall constitute one and the same instrument. Facsimile signature pages of this Agreement shall be valid and binding as original signatures and when the same are delivered by each party to the other party, such delivery shall be considered an agreement of the respective parties to fully execute and deliver to one another originally signed copies of this Agreement. Any notices under this Agreement shall be delivered in the manner and to the addresses set forth for the parties in the MPA.

IN WITNESS WHEREOF, the parties hereto, intending to be legally bound hereby, have executed this Agreement as of the date first written above.

NJPBA:

NYPR:

**NEW JERSEY PUBLIC
BROADCASTING AUTHORITY**

NEW YORK PUBLIC RADIO

By: _____
Name: _____
Title: _____


By:  _____
Name: Laura Walker
Title: President + CEO

EXHIBIT A

Facilities

Trenton, NJ facilities and New Brunswick relay site