

SETTLEMENT AGREEMENT
[Group No. 23]

THIS SETTLEMENT AGREEMENT is entered into this 26 day of June, 2022 by and between Desert Soul Media, Inc. ("DSM"), and Cheyenne Broadcasting Foundation, Inc. ("CBF"), collectively referred to as the Parties.

WITNESSETH:

WHEREAS, DSM has pending before the Federal Communications Commission ("FCC" or the "Commission") an application for a new noncommercial FM station to operate on Channel 220C2, at Wickenburg, Arizona (File: No. 000166533, Facility ID 764089); and

WHEREAS, CBF has pending before the Commission an application for a new noncommercial FM station to operate on Channel 220C2 at Wilhoit, Arizona (File No. 000167326, Facility ID 766518); and

WHEREAS, the Applications are mutually exclusive with one another and cannot all be granted by the FCC as they now stand; and

WHEREAS, the Parties believe that settlement upon the terms set forth in this Agreement will serve the public interest because it will simplify this pending proceeding before the Commission and thereby accelerate the inauguration of new noncommercial FM service to the public.

NOW THEREFORE, in consideration of the mutual covenants, conditions, representations and warranties contained herein, the Parties hereby agree as follows:

- 1. Agreement to Dismiss the DSM Petition to Deny. Agreement to Dismiss the CBF Application; Payment by DSM; Escrow.** On May 24 DSM submitted a petition to deny the application of CBF referenced here. DSM agrees that it will dismiss the petition, prior to any Commission action thereon, as part of the exchange in this settlement. CBF agrees that it will voluntarily dismiss its application, after FCC approval of this agreement, in exchange for the reimbursement paid by DSM of \$3,000 of its expenses reasonably and prudently incurred in preparing, submitting and prosecuting its application. Within ten days of the submittal of the joint request, DSM shall deposit the \$3,000 into a trust account or escrow account reasonably satisfactory to CBF.
- 2. Extension of Time to Settle.** On May 24, 2022, the parties sought and then were granted an extension of time to work out and submit the papers for this settlement, by no later than June 26, 2022.
- 3. Request for FCC Consent.** As soon as possible, but in no event later than June 26, 2022, the Parties shall file a Joint Request for Approval of Settlement Agreement as required by Section 73.3525 of the Commission's rules, requesting that the FCC issue an order or orders: (a) granting the Joint Request; (b) approving this Settlement Agreement; (c) dismissing the DSM petition to deny; and (d) dismissing the CBF application;
- 4. Final Action.** The obligations of the Parties under this Agreement are expressly conditioned upon the FCC taking "Final Action" approving this Agreement in its entirety, and disposing of the petition and the application, as indicated in Section 3 hereof, without materially adverse conditions. For purposes of this Agreement, such an action shall be deemed a "Final Action" when the time for filing any requests for administrative or judicial review of such action, or for the FCC to reconsider such action on its own motion, has lapsed without any action having been taken by the FCC or any request for such other review having been filed. Monies held for the benefit of CBF hereunder shall be remitted within three business days of the Final Action, and earned interest (if any) shall be remitted to DSM.
- 5. Authorization and Binding Obligation.** The Parties hereto represent to each other that they each have the

power and authority to enter into and carry out this Agreement and that this Agreement constitutes a valid and binding obligation of each of them in accordance with its terms.

6. Further Assurances. The Parties covenant to cooperate with each other and with the FCC to accomplish the objectives of this Agreement, including the submission of amendments or additional filings as may be requested by the Commission, or as may be reasonably necessary to effectuate this Agreement, and to refrain from opposing or taking any adverse action with respect to each other's application hereunder. If any provision of this Agreement, or the application of such provision to any person or circumstance, shall be held invalid by the FCC or a court of competent jurisdiction, the remainder of this Agreement shall not be affected thereby, and the Parties shall use their best efforts to reform the Agreement in a manner which reflects as closely as possible the intention of the Parties.

7. Notice. All notices, requests, demands and other communications relating to this Agreement shall be in writing and shall be sent by first class, certified or registered mail, return receipt requested, postage prepaid and, pending the designation of another address, addressed as follows:

If to DSM:

Kaja Brown, President
Desert Soul Media
P.O. Box 63963
Phoenix, AZ 85082

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

Michael Couzens, Esq.
Attorney at Law
6536 Telegraph Avenue, Suite B201
Oakland, CA 94609

If to CBF

Kristopher Michael
7311 Christiansen Road
Cheyenne, WY 82009

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

Aubrey Fitch, III
Gammon & Grange OC
6139 Franklin Park Road
McClean, VA 22101

8. Entire Agreement. Except as otherwise set forth herein, this Agreement constitutes the entire understanding of the Parties, and no other consideration, action or forbearance is contemplated or relied upon by them. This Agreement may not be amended or modified except by a writing signed by both Parties.

9. Enforcement. The Parties recognize that this Agreement confers unique benefits, the loss of which cannot be compensated for through monetary damages. Thus, in the event of a breach of this Agreement, the Parties acknowledge that specific performance or other equitable relief would be an appropriate remedy, and agree to waive any defense that there is an adequate remedy at law for breach of this Agreement.

10. **Assignment and Binding Effect.** This Agreement shall inure to the benefit of, and shall be binding upon, the Parties hereto and their heirs, successors, executors, legal representatives and assigns.

11. **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of California without application of conflicts of laws principles adopted by that jurisdiction.

12. **Headings.** The headings herein are included for ease of reference only and shall not control or affect the meaning or construction of the provisions of this Agreement.

13. **Counterparts.** This Agreement may be executed in one or more counterparts and shall be binding when it has been executed by each of the Parties.

IN WITNESS WHEREOF, and intending to be legally bound, the Parties have executed this Agreement or have caused this Agreement to be executed on their behalf to be effective as of the date first set forth above.

DESERT SOUL MEDIA, INC.

By: Kaja Brown 
President
Title

Date: 6/25/2022

CHEYENNE BROADCASTING FOUNDATION, INC.

By: _____

Title

Date: _____

compensated for through monetary damages. Thus, in the event of a breach of this Agreement, the Parties acknowledge that specific performance or other equitable relief would be an appropriate remedy, and agree to waive any defense that there is an adequate remedy at law for breach of this Agreement.

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DESERT SOUL MEDIA, INC.

By: _____

Date: _____

Title

CHEYENNE BROADCASTING FOUNDATION, INC.

By: *[Signature]*

Date: 6 - 21 - 22

President / Director
Title