

## LOCAL OPERATING AGREEMENT

THIS LOCAL OPERATING AGREEMENT, made and entered into this 25<sup>th</sup> day of JANUARY, 2023 (the "Operating Agreement") by and between **GEOS COMMUNICATIONS, LLC**, ("Operator") with offices at 54 Wilmar Drive, Tunkhannock, PA 18657, and **J.M.J. Radio, Inc.**, a Pennsylvania not for profit corporation with offices at 1880 Highway 315, Pittston, PA 18640. ("Licensee"), shall be effective under the terms and conditions specified herein.

### WITNESSETH

**WHEREAS**, Licensee is the owner, operator and licensee of AM Station **WQOR**, **Olyphant, PA**, facility ID # 8092 (the "Station"), under authority of Licenses issued by the Federal Communication Commission (the "FCC"); and

**WHEREAS** Operator wishes to operate the Station during the pendency of its license renewal application and an application for FCC consent to the assignment of license from Licensee to Operator, the latter proposed transaction (the "**Transaction**") being subject to the consent by the Federal Communications Commission (the "**FCC**" or the "**Commission**");

**WHEREAS**, during the Term (defined below) of this Operating Agreement, Licensee is prepared to make broadcasting time on the Stations available to Operator under appropriate terms and conditions;

**WHEREAS**, during the Term of this Operating Agreement, Operator is desirous of providing programming to be aired on the Stations under appropriate terms and conditions; and

**WHEREAS**, this Operating Agreement complies with the Communications Laws (as defined herein).

**NOW, THEREFORE**, for good and valuable consideration, the receipt of which is hereby acknowledged, and in light of the mutual promises and covenants contained herein, Licensee and Operator hereby agree, as follows:

1. **Term.** The term of this Operating Agreement (the "**Term**") shall commence on Feb 1, 2023 (the "**Commencement Date**"). The Term shall expire upon the earlier of the date on which the Parties consummate the Transaction or on the date immediately prior to the one year anniversary of the Commencement Date, provided that if a FCC application for consent to the Transaction remains pending before the FCC on the date immediately prior to such one year anniversary, the Term shall automatically extend until the earlier of the date on which the Parties consummate the Transaction or the one-year anniversary date of the submission of the Parties' application for FCC consent to the proposed Transaction.

2. **Provision of Programming.**

a. Commencing on the Commencement Date, Licensee shall, subject to the terms and conditions of this Operating Agreement, make available to Operator the broadcast transmission facilities of the AM Station on a twenty-four (24) hour per day, seven (7) day per week basis (except as otherwise provided in this Operating Agreement) for carriage on the Stations of programs produced and/or selected by Operator and (at Operator's sole option) advertising or donor acknowledgment messages delivered by Operator, provided that any and all programming material proffered by Operator for carriage on the Stations will be in substantial compliance with the Communications Act of 1934, as amended, and the rules and written policies of the FCC (together, the "**Communications Laws**") and all other applicable laws and governmental regulations. Such transmission facilities shall include the AM Station tower and transmitter equipment located at the current transmission site of record at the FCC (the "**Transmission Site**").

b. Licensee shall broadcast the Programming (including any and all commercial announcements and donor acknowledgements) supplied by Operator without interruption, deletion or addition of any kind, subject to Licensee's obligations and discretion under applicable Communications Laws.

c. Operator shall provide all Programming, produced at its own cost and expense (including all music licensing expenses), which Licensee is intended to broadcast, as well as the programming described at Section 2(e) herein, and Operator shall be responsible for the cost of delivering such Programming to Licensee's transmission facilities.

d. Operator may change the programming format of the Stations to another format at any time during the Term, provided that Licensee reserves the right to reject a proposed format

in the event the materials reasonably expected to be broadcast pursuant to the proposed format would contradict or offend the teachings of the Catholic Church. Operator may not change the programming format of the Stations without the advance approval of Licensee, which approval otherwise shall not be unreasonably withheld, conditioned or delayed. Operator shall have no obligation to carry advertising matter on the AM Station pursuant to contracts into which Licensee may have entered; rather, Licensee agrees to work with other parties to such contracts and to negotiate appropriate "make good" efforts utilizing other broadcast stations owned and operated by Licensee.

**3. Licensee's Programming Discretion.** Nothing herein shall be construed as limiting in any way Licensee's rights and obligations as the licensee of the Station(s) to make the ultimate programming decisions for the Stations. Licensee shall be responsible for ensuring that the programming broadcast on the Stations is responsive to community needs and in the public interest. Licensee has the authority, in his sole discretion, to reject and refuse to broadcast any Programming proposed by Operator that (a) Licensee in good faith deems to be contrary to the public interest, (b) Licensee reasonably believes, or which a third party claims, would violate any right of Licensee or of a third party, or (c) does not, in the sole judgment of Licensee, comply with the reasonable programming standards established by Licensee. Licensee shall notify Operator, unless such notice is impractical or impossible, at least one week in advance of any such preemption of Operator's Programming. Licensee shall retain the right and responsibility to air programming it deems reasonably responsive to the needs and interests of the Community and the surrounding service area. Absent the need for a broadcast under the Emergency Alert System ("EAS") or other emergency matters, Licensee will provide Operator with at least seven (7) days prior written notice of the time it requests for the insertion of relevant Public Service Announcements ("PSAs"), local news items, or other public interest material. In the event of any Licensee preemption in which Operator is not able to air commercial announcements, Operator shall receive a pro rata credit for the preempted time at the rate of \$100.00 per hour of time preempted for drive time (Monday through Friday, 6 a.m. to 9 a.m. and 3 p.m. to 6 p.m.); \$10 per hour for 11:00 p.m. to 6:00 a.m., and \$40 per hour for all other time periods. Operator expressly acknowledges that the broadcast of EAS or other emergency announcements, PSAs, political advertisements pursuant to Section 9 of this Operating

Agreement and the programming referenced in Section 2.e. of this Operating Agreement shall not be considered preemptions for the purposes of this Section 3.

**4. Operating Costs**

a. Licensee shall bear the cost of all non-programming costs of operating the AM Station, including the power utility, maintenance of the physical assets, and insurance of the same (all with respect to costs associated with the AM Station), throughout the Term.

b. Operator shall bear the cost of all programming costs of operating the AM Station, including the cost of delivery of the programming for transmission by the Licensee.

**5. Consideration**

a. Throughout Term, Operator shall pay Licensee in advance the sum of \$1,000. per month as a fee (the "Operating Fee"). This Operating Fee shall be paid to Licensee beginning on the 10<sup>th</sup> day of the month of the Commencement Date and continuing throughout the Term hereof, on or before the last business day no later than the 15<sup>th</sup> of each succeeding month.

**6. Studio Space.** Operator shall be responsible for maintaining its own studio space.

**7. Representations, Warranties and Covenants of Operator.** Operator represents and warrants to Licensee, and covenants with Licensee, that:

a. The Recitals set forth above are true and accurate. Operator has the right, power and authority to enter into this Operating Agreement and to perform its obligations hereunder, and Operator's performance hereunder does not and shall not, with the passage of time or provision of notice or both, violate the terms of any other agreements by which it is bound or to which it is a party;

b. The Programming shall comply with Communications Laws and with all reasonable programming standards established by Licensee and communicated to Operator;

c. The Programming shall comply in all material respects with applicable law and shall not violate or infringe upon the rights of any third party. At the earliest juncture in the Term in which Licensee is able to terminate its music licensing contracts so that similar licenses can be obtained consistent with the Stations' new programming format, Operator shall obtain the performing rights to all music contained in the Programming, either by obtaining appropriate licenses from BMI, ASCAP or SESAC (or other similar Performing Rights Organizations as may be

appropriate), or by clearing the music works at the source, or by using only music content that is in the public domain;

d. Operator shall cooperate with Licensee in making time available in Programming for the Stations' identification announcements required by Communications Laws;

e. Operator shall not cause or permit the creation of any material liens, encumbrances, foreclosures, contractual defaults or outstanding balance of any kind or nature that would impede or impair Operator's ability to meet its obligations under this Operating Agreement;

f. Operator shall provide to Licensee documentation on a quarterly basis of the Programming it has broadcast on the Stations that addressed the problems, needs and interests of the Stations' Community and secondary service area, with particular attention to those issues which Licensee has identified as significant. Operator shall provide such reasonable assistance as Licensee may request in providing local news and other programming which Licensee determines is responsive to needs and interests of the Stations' service area, but Licensee shall remain solely responsible for fulfillment of his obligations under the Communications Laws to provide programming responsive to the needs of the service area and for posting such materials in the online Local Public Inspection File required by FCC rules and regulations; and

g. Operator shall promptly forward to Licensee any letter or other communication received from a member of the general public concerning the Stations or its programming, or other documentation which comes into Operator's custody that would reasonably be deemed of importance to Licensee. Operator may comply with this requirement simply by giving such communications and documentation to Licensee's management-level employee.

**8. Representations, Warranties, and Covenants of Licensee.** Licensee represents and warrants to, and covenants with, Operator that:

a. The Recitals set forth above are true and accurate. Licensee has the right, power and authority to enter into this Operating Agreement, and to perform Licensee's obligations hereunder. Licensee's performance hereunder does not and shall not, with the provision of notice or the passage of time or both, violate the terms of any other agreement by which he is bound or to which he is a party;

b. Licensee shall operate the Stations in compliance with applicable law, including the Communications Laws.

c. Licensee shall maintain the transmission facilities and equipment of the AM Station in a condition consistent with good engineering practice and in compliance with the Communications Laws. In the event that Licensee fails to direct the timely performance of repairs and capital improvements to the AM Station's transmission facilities as required to continue the AM Station's operation as it is currently conducted and in compliance with the Communications Laws, Operator shall have the right to make such repairs or capital improvements in order to preserve service to the public. Operator shall notify Licensee of any such repairs or improvements in advance and upon completion thereof, provided, that (i) Operator shall have no liability to Licensee for making such repairs in the absence of Operator's gross negligence or willful misconduct and (ii) Operator shall be entitled to a credit against the monthly Operating Fee or Purchase Price owed to Licensee hereunder for an amount equal to any capital expenditures which Operator makes under this section. Except for periods where reduction of power is required for routine or emergency maintenance activities, Licensee shall, with the assistance of Operator's engineering staff, use reasonable efforts to operate the AM Station at its maximum authorized transmitter power and antenna height.

d. Licensee shall retain, on a full-time basis, such employees as may be required by the Communications Laws, including, as of the Commencement Date, a General Manager who shall direct the day-to-day operations of the AM Station (and who may also be the Chief Operator, as defined in the Communications Laws).

e. With respect to the AM Station, Licensee shall acquire and maintain appropriate liability, fire, general liability and extended coverage insurance in amounts reasonably required to protect the parties hereto from losses from liability for personal injury and other matters typically covered by insurance written for broadcast stations, as well as from loss by theft, fire and other causes to Licensee's equipment used or useful in operating the AM Station.

f. Licensee acknowledges and agrees that all right, title and interest in and to any of Operator's Programming, including the right to authorize the use of Operator's Programming in any manner and in any media, shall be and remain vested at all times solely in Operator.

**9. Political Time.** Licensee will forward to Operator within two (2) business days any and all requests that Licensee receives for the purchase of air time by qualified candidates for public office or requests for equal opportunities by legally qualified candidates. Licensee shall be solely

responsible for the AM Station's compliance with the Communications Laws' requirements with respect to the sale of time for candidates for public office and controversial political programming as defined in the Communications Laws. Operator shall provide such reasonable assistance as Licensee may request in complying with those requirements. Operator shall implement whatever policies and rates Licensee may establish with respect to political rates, disclosure statements and other sales practices relating to political programming. Operator will, upon the request of the Licensee, provide Licensee with such documentation as may be necessary to confirm the amounts collected from political advertising and to confirm that any fees collected from political candidates have conformed with the Communication Laws. Operator shall cooperate with Licensee in the preparation of the political disclosure statement for the AM Station, but Licensee shall have ultimate control over and sole responsibility for the contents of the political disclosure statements. Operator shall provide Licensee with documents and other information required by the Communications Laws with respect to the submission and disposition of any request to purchase or otherwise obtain time on the AM Station on behalf of a candidate for public office or to support or urge defeat of an issue on an election ballot, so that Licensee can place appropriate records in the AM Station's political file. If Operator fails to make adequate time available for advertising by political candidates as may be required under the Communications Laws, particularly candidates for federal elective office, Licensee shall have the right to preempt Operator's Programming to make time available to these political candidates to fulfill Licensee's responsibilities under the Communications Laws (with the understanding that all monies paid to Licensee for the sale of such time shall immediately be paid over to Operator).

#### **10. Indemnification.**

a. By Operator. Operator hereby indemnifies and otherwise holds Licensee harmless from any and all claims, demands, liabilities, obligations, actions, suits, proceedings, losses, damages, costs, expenses, assessments, judgments, recoveries, and deficiencies, including interest, penalties, and reasonable attorneys' fees and expenses, of any kind and description, contingent or otherwise (the foregoing hereinafter collectively referred to as "**Damages**") occasioned by, arising out of, or resulting from any action or failure to act by Operator, including, without limitation, the broadcast by Operator of any defamatory material on the AM Station, engaging in illegal competition or trade practices; infringement of trademarks, trade names, or program titles; and

infringement of copyrights and proprietary rights resulting from the carriage of programming supplied by Operator over the Stations' broadcast transmission facilities, or from any breach by Operator of any representation, warranty, covenant, or other obligation of Operator hereunder.

b. By Licensee. Licensee indemnifies and otherwise holds Operator harmless from any Damages occasioned by, arising out of, or resulting from the operation of the Stations prior to the Commencement Date of this Operating Agreement, Licensee's broadcasts of Licensee's programming during the Term of this Operating Agreement, or any breach by Licensee of any representation, warranty, covenant or other obligation of Licensee hereunder.

c. Notice. As a condition precedent to the indemnity obligation of either party hereto, the party requesting indemnification ("Indemnitee") shall give the other party ("Indemnitor") written notice of any such claim for indemnity within ten days after Indemnitee has knowledge of notice thereof (provided, that any delay in the provision of such notice shall not relieve the Indemnitor of any obligation hereunder except to the extent that such delay has prejudiced Indemnitor). Indemnitee shall cooperate and assist the Indemnitor in the defense of such claim and shall not settle, adjust, compromise, interfere with or otherwise admit or pay such claim without the prior written consent of Indemnitor.

d. Conduct of Third Party Claims. Indemnitor shall have the right to conduct any litigation for which indemnification is requested under this section with counsel of Indemnitor's choosing and at Indemnitor's sole cost (although Indemnitee may, at its cost, participate in such defense). Indemnitor shall not settle any third party claim without Indemnitee's prior written approval, which approval shall not be unreasonably withheld, delayed, or conditioned; provided, that Indemnitee shall be obligated to provide its consent to any settlement that includes a general release of liability for Indemnitee and provides for payment of all monies owed to Indemnitee hereunder.

e. Survival. The obligations of the parties set forth in this Section shall survive the termination of this Operating Agreement and continue to be binding obligations upon the parties hereto through the period of the statute of limitations on any claim asserted hereunder.

11. Pro-rations. Operations of the AM Station shall be pro-rated to the Commencement Date of this Operating Agreement. Licensee shall be responsible for collecting its Accounts Receivable in existence prior to the Commencement Date. Likewise, Licensee shall be responsible



for the payment of its Accounts Payable in existence prior to and as of the Commencement Date of this Operating Agreement.

**12. Control of Stations.** Notwithstanding anything in this Operating Agreement to the contrary, Licensee shall at all times retain, and hereby so certifies that it has, ultimate control over the Station's operation, including without limitation its finances, personnel, and programming. Any keys/access points at the Station's broadcast transmission sites will be retained by Licensee throughout the Term.

**13. Personnel.** Licensee has made no representation to any of the Station's employees concerning employment by Operator after the Effective Date of this Operating Agreement. In no event shall Operator be obligated to employ, hire, or engage any of Licensee's employees or independent contractors. Such employment or engagement, if any, shall be exclusively within the sole discretion of Operator.

**14. Force Majeure.** Licensee shall not be liable to Operator or be deemed to be in breach of this Operating Agreement for any malfunction of the Station's facilities, or for any delay or interruption in the broadcast of programming proffered by Operator, due to acts of God, strikes or threats thereof, or other causes beyond the control of Licensee.

**15. Retention of Broadcast Rights.** Operator shall retain whatever copyrights and other retransmission rights it has to and in any and all programming proffered for carriage on the Station, and no programming supplied to Licensee pursuant to this Operating Agreement shall be rebroadcast, copied, or made available for any other use without the prior written consent of Operator.

**16. Events of Default.**

**a. Definition of Default.** Each of the following shall constitute, after the expiration of any applicable cure period, an Event of Default:

**(i) Non-Payment.** Operator's failure to make any payment to Licensee as required by this Operating Agreement;

**(ii) Breach of Representation.** Any representation or warranty made in this Operating Agreement by any Party, or in any certificate or document furnished pursuant to the provisions hereof, shall prove to have been false or misleading in any material respect as of the time made or furnished.

**(iii) Breach of Covenants.** A Party is in material breach of any obligation or representation assumed or made under this Operating Agreement, including but not limited to, compliance with the Act and FCC rules and policies.

**b. Cure Periods.** With respect to the foregoing Section 16(a)(i), an Event of Default shall exist, without any requirement that one party notify the other, if a payment obligation is late by a period of at least 30 calendar days. With respect to the provisions of Section 16(a)(ii) and 16(a)(iii), an Event of Default shall not be deemed to have occurred until the expiration of ten (10) business days after one Party has provided the other Party with written notice specifying the event or events that, if not cured, would constitute an Event of Default, and the Party in receipt of such notice has not cured the default or otherwise demonstrated that there is no default.

**c. Termination Upon Default.** In the event of the occurrence of an Event of Default, the non-defaulting Party may terminate this Operating Agreement without further liability to the other Party except for amounts accrued but not yet paid to Licensee (unless the liability for such payments is offset by damages incurred by Operator).

**17. Waivers.** No waiver or delay by a Party of any provision of this Operating Agreement shall be considered a waiver of any other provision or any subsequent breach of the same or any other provision, including the time for performance of any such provision. The exercise by a Party of any remedy provided in this Operating Agreement or at law shall not prevent the exercise by that Party of any other remedy provided in this Operating Agreement or at law.

**18. Governing Law.** This Operating Agreement shall be construed in accordance with the laws of the Commonwealth of Pennsylvania.

**19. Headings.** The headings of the provisions of this Operating Agreement are included for convenience only, and no such heading shall in any way affect or alter the meaning of any provision.

**20. Successors and Assigns.** Neither Party may assign this Operating Agreement without the consent of the other Party, which consent shall not be unreasonably withheld. This Operating Agreement shall be binding upon and inure to the benefit of the Parties and their respective permitted successors and assigns.

**21. Counterpart Signatures and Electronic Copies.** This Operating Agreement may be signed in one or more counterparts, all of which shall be deemed to be a single agreement, binding

on the Parties hereto. This Operating Agreement may be signed and exchanged by facsimile transmission or by electronic transmission of PDF documents, with the same legal effect as if the signatures had appeared in original handwriting on the same physical document.

**22. Notice.** Any notice required or allowed under this Operating Agreement shall be in writing and shall be deemed given when delivered personally, mailed by certified mail, return receipt requested (postage prepaid), or sent by an overnight delivery service (charges prepaid), and addressed to the following:

If to Operator:

GEOS Communications  
Attn: Benjamin P. Smith  
PO Box 701  
Tunkhannock, PA 18657

If to Licensee:

Edward C Niewinski  
J.M.J. Radio Inc..  
1880 Highway 315  
Pittston, PA 18640

With copy (which shall not constitute notice) to:

Stuart W. Nolan, Jr., Esq.  
LegalWorks Apostolate, PLLC  
4 Family Life Lane  
Front Royal, VA 22630  
Email: Nolan@LegalWorks.com

or to any other address as the Parties may from time to time designate in writing.

**23. Opportunity for Legal Representation.** Each party either has had the opportunity to consult with independent counsel in connection with the negotiation and preparation of this Agreement. Consequently, each party hereby waives the application of any rule of law to the effect that this Agreement or any provision of this Agreement would otherwise be construed against the party who drafted (or whose counsel drafted) such provision or this Agreement as a whole.

**24. Entire Agreement.** This Operating Agreement embodies the entire understanding between the Parties and supersedes any and all prior and contemporaneous agreements, representations, warranties, or understandings, oral or written, between the Parties with respect to the subject matter hereto. This Operating Agreement may be modified only by a document executed by both Parties.

**25. Severability.** If any provision in this Operating Agreement is held to be invalid, illegal, or unenforceable, this Operating Agreement shall be construed as if such invalid, illegal, or unenforceable provision had not been contained herein, provided that the provision held to be invalid, illegal, or unenforceable is not central to the purpose of the Operating Agreement to afford Operator the right to supply programming to be aired on the Stations for consideration.

IN WITNESS WHEREOF, the parties hereto have duly executed this Local Operating Agreement as of the date first above written.

**J.M.J. RADIO, INC.**

By: 

Ed Niewinski

Title: President

**GEOS COMMUNICATIONS, LLC**

By: 

Benjamin Smith

Title: Managing Member