

FM TRANSLATOR REBROADCAST AGREEMENT

THIS FM TRANSLATOR REBROADCAST AGREEMENT (this “Agreement”) is made and entered into as of this 16 day of November, 2023 by and between CHRISTIAN HERITAGE BROADCASTING, INC., a Minnesota non-profit corporation (“Licensee”), and PRAIRIE WINDS BROADCASTING, INC., a South Dakota corporation (“PWB”).

Recitals

WHEREAS, Licensee owns and operates FM translator station K253AB, Aberdeen, South Dakota (Facility ID No. 72908) (the “Station”) pursuant to certain licenses and authorizations issued by the Federal Communications Commission (the “FCC”) (the “FCC Authorizations”);

WHEREAS, the parties have entered into an Asset Purchase Agreement as of August 4, 2023 (the “APA”) regarding the sale and assignment of substantially all of the assets used and useful in the operation of the Station, subject to the prior consent of the FCC; and

WHEREAS, Licensee desires to have the signal of station KGIM(AM), Aberdeen, South Dakota (Facility ID No. 1172), which is owned and operated by PWB (“KGIM” or “Primary Station”), rebroadcast over the Station pending FCC approval of the assignment of the Station’s FCC Authorizations from Licensee to PWB, pursuant to the terms and conditions specified herein.

NOW, THEREFORE, in consideration of the premises and agreements herein contained, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties, intending to be legally bound, agree as follows:

Agreement

1. **REBROADCASTING AGREEMENT.** Licensee hereby agrees to rebroadcast the signal of the Primary Station, pursuant to the following terms and conditions:

a. **Term.** The term of this Agreement shall commence as of the date hereof and continue until the date of the consummation of the transactions contemplated by the APA (the “Closing Date”) (the “Term”), or as extended as provided in the APA, or as otherwise agreed to by the parties in writing unless earlier terminated pursuant to the provisions hereof. This Agreement may be terminated at any time by either party upon thirty (30) days prior written notice.

b. **Consideration and Payment.** During the Term, PWB shall be responsible for reimbursement to Licensee of the operating expenses solely attributable to the Station including utilities, maintenance, relevant lease payments, insurance, and any other expenses which must remain under Licensee’s control (collectively, the “Reimbursable Expenses”) in accordance with, and as required under, the Communications Act of 1934, as amended (the “Act”), and the rules, regulations, and policies of the FCC (the “FCC Rules”). PWB shall be entitled to retain all revenues, direct or indirect, generated in any way from the programming that originates on the Primary Station, and Licensee shall have no right or claim, whatsoever, to such revenues.

c. Operation of Station. In accepting the Primary Station's signal, Licensee agrees not to modify or change the signal without the prior written consent of PWB, subject to Licensee's obligation to broadcast over the Station in the public interest, convenience and necessity, and except for the insertion of local station identification, Emergency Alert System announcements, and other similar announcements that may be permitted or required to comply with the FCC Authorizations, the Act, and the FCC Rules.

d. Termination of Agreement. This Agreement shall terminate as follows:

i. Upon Expiration of Term. This Agreement shall terminate automatically upon the consummation of the transactions set forth in the APA or on the first day of the first full month following termination of the underlying APA.

ii. FCC Denial. This Agreement shall terminate on the first day of the first full month following the date on which an order of the FCC denying its consent to the assignment of the Station's FCC Authorizations to PWB becomes a Final Order, as that term is defined in the APA.

iii. Technical Feed Problems. This Agreement shall terminate upon thirty (30) days prior written notice by one party to the other in the event that the parties have jointly determined that the Station is unable to receive an adequate desired signal from the Primary Station in compliance with the rules and regulations of the FCC and all technical options to provide an adequate signal to the Station.

iv. Non-Payment of the Reimbursable Expenses. The Agreement shall terminate automatically in the event that PWB fails to timely pay Licensee the Reimbursable Expenses and such non-payment is not cured by PWB within ten (10) business days after PWB receives notice of such non-payment from Licensee.

v. Upon Default by a Party. The Agreement shall terminate automatically in the event that a party breaches in any material respect any of its representations or warranties or defaults in any material respect in the performance of any of its covenants or agreements contained in the Agreement and such breach or default is not cured within thirty (30) days ("Cure Period") after the defaulting party receives notice of such breach or default from the non-defaulting party.

vi. By Mutual Consent of Both Parties. The Rebroadcast Agreement shall terminate upon mutual written consent by both parties.

2. TERMINATION OF LMA. The Local Marketing Agreement previously entered into between the parties, dated August 10, 2023, concerning programming to be broadcast on the Station provided by PWB and originating from the Primary Station, is hereby terminated.

3. EXCLUSIVITY AND CONFIDENTIALITY. The parties agree that from the date hereof until the expiration of the Term, neither party will seek to transfer or sell to, or entertain any offers to buy from, third parties, respectively, the Station or the Primary Station. Further, the parties agree to keep confidential the terms of this Agreement, except with respect to any disclosure required by law or the rules and regulations of the FCC.

4. CERTAIN MUTUAL REPRESENTATIONS. Each party represents to the other that:

a. It is legally qualified, empowered and able to enter into this Agreement, and that the execution, delivery and performance hereof shall not constitute a breach or violation of any agreement, contract or other obligation of any kind to which either party is subject or by which it is bound.

b. It has taken all necessary corporate or other necessary action to make this Agreement legally binding on such party, and that the individual signing this Agreement on behalf of such party has been fully authorized and empowered to execute this Agreement on behalf of such party.

c. No consent of any other party and no consent, license, approval or authorization of, or exemption by, or filing, restriction or declaration with, any governmental authority, bureau, agency or regulatory authority is required in connection with the execution, delivery, validity or enforceability of this Agreement, aside from the consent of the FCC.

d. Neither the execution or delivery of this Agreement nor the fulfillment of the obligations contemplated herein will constitute or result in (i) the breach of any term, condition or provision of their respective articles of incorporation or by-laws, or any agreement or other instrument to which either is a party; or (ii) a default under or the creation of a lien, charge or encumbrance upon any property or assets of the parties hereto, or by which any part of their respective property is bound; or (iii) violate any law, regulation, judgment or order binding upon them.

5. NOTICE. Any notice pursuant to this Agreement shall be in writing and shall be deemed delivered on the date of personal delivery or confirmed facsimile transmission or confirmed delivery by a nationally recognized overnight courier service, or on the third day after prepaid mailing by certified U.S. mail, return receipt requested, and shall be addressed as follows (or to such other address as either party may request by written notice):

If to Licensee:

Christian Heritage Broadcasting, Inc.
1300 N. 17th Street
Suite 1100
Arlington, VA 22209
Attn: David McIver
Tel: (703) 812-0415
Email: david@praiselive.org

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

Fletcher, Heald & Hildreth, PLC
Sara Hinkle
1300 North 17th Street
Suite 1100
Arlington, VA 22209
Email: hinkle@fhhlaw.com

Phone: 703-812-0415

If to PWB:

Prairie Winds Broadcasting, Inc.
3302 South Highway 281
Aberdeen, South Dakota 57401
Attn: Brian Lundquist
Tel: 605-229-3632
Email: brian@hubcityradio.com

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

Sciarrino & Shubert, PLLC
330 Franklin Road
Ste. 135A-133
Brentwood, TN 37027-3280
Attn: Dawn M. Sciarrino, Esq.
Tel: (202) 256-9551
Email: dawn@sciarrinolaw.com

6. ENTIRE AGREEMENT. This Agreement represents the entire agreement of the parties with respect to the subject matter hereof and supersedes any prior agreement with respect thereto whether it is in writing or otherwise. This Agreement may be amended only in writing by an instrument duly executed by both parties.
7. ASSIGNMENT. This Agreement may not be assigned by one party without the written consent of the other party, such consent not to be unreasonably withheld. This Agreement and the terms and conditions contained herein shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.
8. GOVERNING LAW, VENUE. This Agreement shall be construed in accordance with the laws of the state of South Dakota. In the event either party commences a legal action regarding this Agreement, such action shall only be brought in the court of appropriate jurisdiction in Brown County, South Dakota, and both parties consent to personal jurisdiction by such court and agree that venue shall properly lie there. In any such action, the party most prevailing shall be entitled to recover its costs of suit and reasonable attorneys' fees, including costs and reasonable attorneys' fees on appeal.
9. COUNTERPART SIGNATURES. This Agreement (and each amendment, modification, and waiver in respect of it) may be executed in any number of counterparts, and each such counterpart shall be deemed to be an original instrument, but all such counterparts together shall constitute but one instrument. Delivery of an executed counterpart of a signature page of this Agreement (and each amendment, modification, and waiver in respect of it) by facsimile or other electronic transmission shall be effective as delivery of a manually executed original counterpart of each such instrument.

[SIGNATURE PAGE TO FOLLOW]

WHEREFORE, the parties whose names and addresses appear below have caused this Agreement to be executed by them as of the date first above written.

CHRISTIAN HERITAGE BROADCASTING, INC.

By: 

David McIver
Executive Director

PRAIRIE WINDS BROADCASTING, INC.

By: _____
Brian Lundquist
President

WHEREFORE, the parties whose names and addresses appear below have caused this Agreement to be executed by them as of the date first above written.

CHRISTIAN HERITAGE BROADCASTING, INC.

By: _____
David McIver
Executive Director

PRAIRIE WINDS BROADCASTING, INC.

By: _____ 
Brian Lundquist
President