

DONATION AGREEMENT

Sacy **THIS DONATION AGREEMENT** (this "Agreement") is made on this 19 day of April, 2022, by and between Good News Radio, Inc., a New York nonprofit corporation (hereinafter referred to as "Licensee"), and Mars Hill Broadcasting Co., Inc., a New York nonprofit corporation (hereinafter referred to as "Donee"). Licensee and Donee are sometimes individually referred to in this Agreement as a "Party" and collectively as the "Parties."

WITNESSETH

WHEREAS, Licensee desires to convey all rights, title, and interest in and to substantially all of the assets of FM Translator W290AN, Ogdensburg, NY (FCC Facility ID No. 24614) and FM Translator W250AD, Long Lake, NY (FCC Facility ID No. 24615) (the "Translators"), subject to the terms and conditions stated herein; and

WHEREAS, Donee desires to receive and own the Translators and their respective assets under the terms and conditions stated herein; and

WHEREAS, the consummation of this Agreement is subject to the prior approval of the Federal Communications Commission (the "FCC").

NOW, THEREFORE, in consideration of the mutual covenants and conditions herein contained, it is hereby agreed as follows:

1. **ASSETS.** Subject to the prior approval of the FCC, Licensee agrees to transfer, assign, convey, and deliver to Donee, and Donee agrees to receive and accept, free and clear of all liabilities, debts, liens, charges, assessments and encumbrances of any kind, the following:
 - (a) all licenses, construction permits, authorizations or other rights of any kind issued or granted by the FCC to Licensee with respect to the Translators (collectively, the "FCC Licenses") listed in Schedule 1(a);
 - (b) all of the broadcast equipment of the Translators (the "Equipment") listed in Schedule 1(b);
 - (c) all intangible property of the Translators ("Intangible Property") listed in Schedule 1(c);
 - (d) all FCC files and records pertaining to the Translators and their past operation ("FCC Records"); and
 - (e) Donee's interest in the real estate upon which W290AN is located ("Real Estate") as described in Schedule 1(d).

The schedules as identified in the foregoing are attached hereto and made a part hereof. The FCC Licenses, Equipment, Intangible Property, FCC Records, Real Estate, and goodwill are sometimes collectively referred to in this Agreement as the "Donated Assets." Donee assumes no liabilities, debts, or obligations, including without limitation, for the Translators' personnel or

employment contracts, retirement obligations, or any contracts, obligations, or leases of Licensee. Donee assumes no liability for periods on or before the Closing Date (as defined below) under any lease or contract or for any other liability, debt or obligation of Licensee, including without limitation, any which may have accumulated or accrued on any contracts, leases, or agreements on or before the Closing Date.

2. GIFT. Subject to the prior approval and consent of the FCC, Licensee agrees to convey the Donated Assets to Donee as a gift and, as such, will not require any form of payment from Donee in exchange for that gift, provided that Donee shall perform the covenants and obligations contained herein.

3. LICENSEE'S COVENANTS, REPRESENTATIONS AND WARRANTIES.
Licensee hereby covenants, represents and warrants to Donee as follows:

- (a) The FCC Licenses are in full force and effect, and the Translators operate in material compliance with the FCC Licenses, the rules and regulations of the FCC, and applicable laws of the State of New York and federal laws;
- (b) Licensee is aware of no litigation, proceeding, or investigation whatsoever pending or threatened against or relating to Licensee, its business, or the Donated Assets to be transferred hereunder, and knows of no reason why the FCC Licenses would not be renewed in the ordinary course;
- (c) Licensee has good marketable title to all owned Donated Assets;
- (d) Licensee will convey said Donated Assets to Donee in "as is" condition on the Closing Date and, except as expressly set forth in this Agreement, makes no warranty whatsoever with regard to the condition of said Donated Assets;
- (e) Licensee will deliver the Donated Assets at Closing free and clear of all liabilities, debts, liens, claims, charges, assessments or other encumbrances of any kind;
- (f) Licensee has full power and authority to enter into and perform this Agreement, and this Agreement constitutes a valid and binding Agreement of Licensee enforceable in accordance with its terms;
- (g) Licensee is responsible for all liabilities and other obligations to all current employees of the Translators and any employees hired by Licensee up to the Closing Date. It is understood and agreed by the parties hereto that, after the Closing Date, Donee assumes no liabilities or obligations whatsoever for the Translators' current employees, and is under no obligation to hire any such employees;
- (h) As of the Closing Date, Licensee will have paid all tangible and intangible taxes and assessments, rent, water, sewer, and other utility charges or assessments relating to the Donated Assets, if any; and

- (i) The warranties, representations, and covenants contained in this Section 3 shall survive Closing for a period of one (1) year.

4. DONEE'S COVENANTS, REPRESENTATIONS AND WARRANTIES. Donee hereby covenants, represents and warrants to Licensee as follows:

- (a) Donee has full power and authority to enter into and perform this Agreement, and this Agreement constitutes a valid and binding Agreement of Donee enforceable in accordance with its terms;
- (b) Donee is now, and will be at Closing, a New York nonstock corporation that qualifies and is treated as a Section 501(c)(3) entity under the Internal Revenue Code (the "Code");
- (c) Donee knows of no reason why it should not be approved to become a holder of the FCC Licenses;
- (d) Prior to Closing, Donee will have inspected the Donated Assets to be conveyed pursuant to the terms of this Agreement and found each item to be in satisfactory condition and suitable for Donee's purposes;
- (e) In the event that within five (5) years after the Closing Date Donee decides to transfer the Donated Assets to another entity, Donee will provide written notice to Licensee of such a decision and, subject to FCC approval, will sell and assign the Donated Assets, including its FCC Licenses, to another non-profit corporation or other entity which is qualified as a Section 501(c)(3) entity under the Code. Any transferee entity will be one which qualifies as a Section 501(c)(3) entity under the Code; and
- (f) The warranties, covenants, and representations contained in this Section 4 shall survive the Closing Date for a period of one (1) year, with the exception of Subsection 4(e), which survive for five (5) years.

5. FCC ASSIGNMENT APPLICATION. Both parties hereto agree to file an application with the FCC for consent to the assignment of the FCC Licenses to Donee within five (5) business days after executing this Agreement and to cooperate fully and diligently in seeking FCC's consent to assignment of the FCC Licenses from Licensee to Donee.

6. CONDITIONS TO CLOSING.

- (a) The obligation of Donee to consummate the Closing hereunder is subject to satisfaction, at or prior to Closing, of each of the following conditions (unless waived in writing by Donee):
 - (i) The representations and warranties of Licensee made in this Agreement, shall be true and correct in all material respects as of the Closing Date except for changes permitted or contemplated by

the terms of this Agreement;

- (ii) The covenants and agreements to be complied with and performed by Licensee at or prior to Closing shall have been complied with or performed in all material respects;
 - (iii) Donee shall have received a certificate dated as of the Closing Date from Licensee executed by an authorized officer of Licensee to the effect that the conditions set forth in Sections 6.1(a)(i) and (ii) have been satisfied;
 - (iv) Neither Donee nor Licensee shall be subject to any court or governmental order or injunction restraining or prohibiting the consummation of the transactions contemplated hereby;
 - (v) The FCC consent to the assignment of the FCC Licenses to Donee pursuant to the FCC's initial order shall have been obtained; and
 - (vi) Licensee shall have complied with its obligations set forth in Section 11 of this Agreement.
- (b) The obligation of Licensee to consummate the Closing hereunder is subject to satisfaction, at or prior to Closing, of each of the following conditions (unless waived in writing by Licensee):
- (i) The representations and warranties of Donee made in this Agreement, shall be true and correct in all material respects as of the Closing Date except for changes permitted or contemplated by the terms of this Agreement;
 - (ii) The covenants and agreements to be complied with and performed by Donee at or prior to Closing shall have been complied with or performed in all material respects;
 - (iii) Licensee shall have received a certificate dated as of the Closing Date from Donee executed by an authorized officer of Donee to the effect that the conditions set forth in Sections 6.1(b)(i) and (ii) have been satisfied;
 - (iv) Neither Donee nor Licensee shall be subject to any court or governmental order or injunction restraining or prohibiting the consummation of the transactions contemplated hereby;
 - (v) The FCC consent to the assignment of the FCC Licenses to Donee pursuant to the FCC's initial order shall have been obtained; and
 - (vi) Donee shall have complied with its obligations set forth in Section 11 of this Agreement.

7. CLOSING DATE. Subject to satisfaction or waiver of the conditions set forth in Section 6 above, the closing (the "Closing" or "Closing Date") shall take place at a place and time mutually acceptable to Donee and Licensee, but in no event earlier than the date of the grant of FCC consent to the assignment of the FCC Licenses to Donee.

8. TERMINATION. In the event that prior to Closing the Donated Assets are damaged or destroyed such that the Translators are rendered inoperable for a period of thirty (30) days or more, or if condemnation proceedings are commenced against the Donated Assets, either Party shall have the right to terminate this Agreement, exercisable by giving written notice of such decision to the other Party within ten (10) days after receiving written notice of such damage, destruction, or condemnation proceedings. Either Party shall have the right to terminate this Agreement if the Closing has not occurred within nine (9) months after the date of this Agreement, provided, however, that the purportedly terminating Party is not then in default of its obligations under this Agreement. Upon a Party's exercise of its right to terminate this Agreement in accordance with the provisions of this Section 8, neither Party shall have any further rights, duties, obligations, or liabilities under this Agreement to the other Party.

9. CONTROL OF TRANSLATORS. Prior to Closing, Licensee shall have complete control over the Donated Assets and operation of the Translators. Donee shall have the right to reasonable access to the Translators' logs and other records as to the operation of the Translators prior to Closing and to inspect the Donated Assets. Upon Closing and the transfer and assignment of the Donated Assets, as contemplated herein, the Donee shall have complete control over the Donated Assets and operation of Translators.

10. INDEMNIFICATION.

- (a) Licensee hereby agrees to indemnify, defend, save, and hold Donee harmless with respect to any and all claims, losses, obligations, liabilities, costs and expenses, including reasonable counsel fees, threatened, suffered, incurred, or sustained by Donee by reason of any misrepresentations by Licensee or any breach by Licensee of this Agreement or of any of Licensee's warranties, covenants, or representations contained in this Agreement, or arising from or by reason of Licensee's ownership of the Donated Assets or operation of the Translators prior to the Closing Date. This Section 10(a) shall survive Closing for two (2) years.
- (b) Donee hereby agrees to indemnify, defend, save, and hold Licensee harmless with respect to any and all claims, losses, obligations, liabilities, costs, and expenses, including reasonable counsel fees, threatened, suffered, incurred, or sustained by Licensee by reason of any misrepresentations by Donee or any breach by Donee of this Agreement or of any of Donee's warranties, covenants, or representations contained in this Agreement or arising from or by reason of Donee's ownership of the Donated Assets or operation of the Translators subsequent to the Closing Date. This Section 10(b) shall survive Closing for two (2) years.

11. **CLOSING DOCUMENTS.** Licensee and Donee will at Closing execute and deliver to each other customary assignments, instruments, and other documents sufficient to grant to Donee title to the Donated Assets, free and clear of liabilities, debts, claims, assessments, liens and other encumbrances of any kind, and for Donee to assume such title to the Donated Assets. At closing, Licensee shall deliver or cause to be delivered to Donee a Warranty Deed conveying the Real Estate from Licensee to Donee.

12. **NOTICES.** All notices required or permitted to be given under the provisions of this Agreement shall be in writing, delivered by personal delivery, or sent by commercial delivery service or certified mail, return-receipt requested. Properly made notices shall be deemed to have been given on the date of personal delivery, or the date set forth in the records of the delivery service or on the return-receipt. Notices shall be addressed as follows:

If to Donee: Mars Hill Broadcasting Co., Inc.
4044 Makyes Rd.
Syracuse, NY 13215
Attention: Wayne Taylor, General Manager

With a copy to: Fletcher, Heald & Hildreth, PLC
1300 17th Street N, #1100
Arlington, VA 20191
Attention: Matthew McCormick

If to Licensee: Good News Radio, Inc.
527 County Route 28
Ogdensburg, NY 13669
Attention: Tom Getman

13. **STRICT COMPLIANCE.** No failure of a Party to exercise any right or to insist upon strict compliance by the other Party with any obligations and no custom or practice of the Parties at variance with this Agreement shall constitute a waiver of the right of a Party to demand strict and exact compliance. Waiver by one Party of any particular default by the other Party shall not affect or impair a Party's rights with respect to a subsequent default of the same or of a different nature, nor shall any delay or omission of a Party to exercise any rights arising from such default affect or impair the rights of that Party as to such default or any subsequent default.

14. **ASSIGNMENT.** Except as provided in this Section 14 and in Section 15 of this Agreement, neither Party shall assign any right under this Agreement nor delegate any duty under this Agreement unless the other Party has consented to such assignment or delegation in writing. This document shall be binding on the heirs, successors, and assigns of the Parties hereto.

15. **SEVERABILITY AND INDEPENDENT COVENANTS.** If any covenant or other provision of this Agreement is invalid, illegal, or incapable of being enforced by reason of

any law, administrative order, judicial decision, or public policy, all other conditions and provisions shall remain in full force and effect. No covenant shall be deemed dependent upon any other covenant or provision unless so expressed in this Agreement.

16. FURTHER ASSURANCES. The Parties shall take any actions and execute any other documents that may be necessary or desirable to the implementation and consummation of this Agreement.

17. GOVERNING LAW. This Agreement shall be governed, construed and enforced in accordance with the laws of the State of New York, without regard to the choice of law provisions thereof, which may direct the application of the laws of another jurisdiction.

18. ENTIRE AGREEMENT. This Agreement, the Schedules hereto, and all documents, certificates, and other documents to be delivered by the Parties pursuant hereto collectively represent the entire understanding and agreement between Licensee and Donee with respect to the subject matter of this Agreement. This Agreement supersedes all prior negotiations among the Parties and cannot be amended, supplemented, or changed except by an agreement in writing that makes specific reference to this Agreement and that is signed by the Party against which enforcement of any such amendment, supplement, or modification is sought.

19. WAIVER OF COMPLIANCE: CONSENTS. Except as otherwise provided in this Agreement, any failure of either of the Parties 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 of 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 set forth in this Section 19.

20. COUNTERPARTS. This Agreement may be signed in counterparts with the same effect as if the signature on each counterpart were upon the same instrument.

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SIGNATURES APPEAR ON FOLLOWING PAGE.]

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

LICENSEE:

GOOD NEWS RADIO, INC.

By:


Tom Getman
Its President

DONEE:

MARS HILL BROADCASTING CO., INC.

By:


Wayne Taylor
Its General Manager

Table of Schedules

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Schedule 1(a)

FCC Licenses

| Translator Call Sign | FCC Facility ID No. | Community of License |
|----------------------|---------------------|----------------------|
| W290AN | 24614 | Ogdensburg, NY |
| W250AD | 24615 | Long Lake, NY |

Schedule 1.1(b)

Inventory of Equipment

W290AN

1. One Shed, 2 x 4 construction 8 ft. by 8 ft.
2. One Tower, guyed steel, 90 ft.
3. One Transmitter: Armstrong LCD, 100 W
4. One Receiver: Inovonics 631
5. One Receiving Antenna: 2 element Shively
6. One Transmission Antenna: Shively 6812-2 Bay

W250AD

1. One Transmitter: Armstrong LCD, 30 W
2. One Receiver: Dayton AF 210 FM
3. One Receiving Antenna: 2 element Shively
4. One Transmission Antenna: Shively 6812-2 Bay

Schedule 1(c)

Intangible Property

Call Sign: W290AN

Call Sign: W250AD

Schedule 1(d)

Real Estate

| | |
|-----------------|--|
| Property Owner: | Good News Radio, Inc. |
| Parcel ID: | 86.001-3-16.2 |
| Parcel Address: | Mt. Alone Rd. Oswegatchie, NY 13654 |
| County: | St. Lawrence, NY |

