

ASSET PURCHASE AGREEMENT

This **ASSET PURCHASE AGREEMENT** (this "*Agreement*") is dated February 1, 2016 by and between **Charles Williamson** ("*Seller*") and **The Berkshire Broadcasting Corporation**, a Connecticut Corporation ("*Buyer*").

WITNESSETH:

WHEREAS, Seller is the licensee of FM translator stations, W286CJ (Facility #156274) and W290CK (Facility #156264) in Milford, Pennsylvania (the "*Stations*"), pursuant to authorizations issued by the Federal Communications Commission (the "*FCC*") (the "*FCC Authorizations*"); and

WHEREAS, Seller desires to sell, transfer, assign, convey and deliver to Buyer, and Buyer desires to acquire from Seller the FCC Authorizations; and

WHEREAS, FCC Authorizations may be assigned only with the prior consent of the FCC;

NOW, THEREFORE, in consideration of the foregoing premises and the mutual covenants and agreements hereinafter set forth, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto, intending to be legally bound, hereby agree as follows:

1. **Sale of Assets.** On the Closing Date as defined in Section 4, Seller agrees to sell, transfer, assign, convey and deliver to Buyer all of the right, title and interest of Seller in and to all FCC licenses, permits and authorizations to operate the Stations (the "*FCC Authorization*") and used or useful solely in connection with the operations of the Stations (the "*Assets*") together with all licenses, permits and authorizations issued by any other governmental authority in connection with the operation of the Stations.

2. **Purchase Price.** In consideration of the sale, transfer, assignment, conveyance and delivery of the Assets to the buyer, Buyer shall pay the Seller a total cash sum of **Two Hundred Fifteen Thousand Dollars (\$215,000)** payable as follows:

(a) **Twenty-One Thousand Five Hundred Dollars (\$21,500)** upon the execution of this agreement as an earnest deposit (the "*Deposit*");

(b) Balance in full in cash or wire transfer at the Closing.

3. **FCC Consent: Assignment Application.**

(a) It is specifically understood and agreed by Seller and Buyer that the assignment of the FCC Authorizations is subject to the prior written consent of the FCC ("*FCC Consent*"). Within three (3) business days of the mutual execution of this Agreement, Seller and Buyer shall jointly file with the FCC an application for assignment of the FCC Authorizations (the "*Assignment Application*") from Seller to Buyer. Seller and Buyer shall thereafter prosecute the

Assignment Application with all reasonable due diligence and otherwise use their best efforts to obtain the grant of the Assignment Application as expeditiously as practicable.

(b) On January 29, 2016, Seller made application to the FCC to relocate W286CJ to the Danbury, CT Nielsen market to rebroadcast WAXB-AM in Ridgefield, Connecticut. Seller shall also subsequently apply to the FCC to relocate W290CK to the Danbury, CT Nielsen market to rebroadcast WLAD-AM as soon as permissible under FCC regulations. As part of the consideration in this transaction, Seller agrees to bear the costs of the engineering and application work **solely** in connection with the filing and approval of these two (2) applications to the FCC, including but not limited to, any modifications to these original applications required to obtain FCC Consent. Granting of these applications shall not be a condition precedent to the Closing.

4. **Closing Date.** The Closing (the "Closing") of the transaction contemplated by this Agreement shall occur on a date mutually agreed upon by Buyer and Seller not more than seven (7) days following the date on which the FCC Consent has been granted, all appeal periods have expired and satisfaction of the conditions specified in Section 8 herein.

5. **Seller's Representations, Warranties and Other Obligations.** Seller represents and warrants that:

(a) Seller is fully licensed to conduct business in the States of New York and Pennsylvania and under all FCC rules and regulations. The execution and performance of this Agreement does not constitute a violation, breach or default under any law, regulation, agreement or other obligation to which Seller is or will become subject.

(b) At Closing, Seller will be the authorized legal holder of the FCC Authorizations.

(c) The FCC Authorizations are in full force and effect and has not been modified, revoked, canceled or rescinded.

(d) At Closing, Buyer shall receive clear and unencumbered title to the Assets.

6. **Buyer's Representations and Warranties.** Buyer represents and warrants that:

(a) Buyer is a Corporation, formed in the State of Connecticut and has the right, power and authority, and has taken all necessary action, to enter into this Agreement and to fully perform all of its obligations under this Agreement.

(b) The execution and performance of this Agreement does not constitute a violation breach or default under any law, regulation, agreement or other obligation to which Buyer is or will become subject.

(c) Buyer is legally, financially and otherwise qualified under the Communications Act of 1934, as amended, and the rules, regulations and policies of the FCC, to become the licensee of the Stations and to consummate the transactions contemplated herein. There are no proceedings, complaints, notices of forfeiture, claims and investigations pending, or to the

knowledge of Buyer, threatened against any or in respect of any of the broadcast stations licensed to Buyer that would materially impair the qualifications of Buyer to become licensee of the Stations.

7. **Further Assurances.** Each party shall, from time to time at the request of, and without further cost or expense to the other, execute and deliver such other instruments and take such other actions as may be reasonably be requested in order to more effectively consummate the transaction contemplated hereby.

8. **Conditions Precedent to Obligation to Close.**

(a) The performance of the obligations of Seller hereunder is subject to the satisfaction of each of the following express conditions precedent:

(i) Buyer shall have performed and complied in all material respects with all of the agreements, obligations and covenants required by this Agreement to be performed or complied with by Buyer prior to or as of the Closing Date.

(ii) The representations and warranties of Buyer set forth in this Agreement shall be true and correct in all material respects on and as of the Closing Date with the same effect as if made on the Closing Date.

(iii) The FCC Consent shall have been issued without any condition that would have a material adverse effect upon Seller.

(iv) Buyer shall have delivered to Seller on Closing Date the balance of the Purchase Price as provided for in Section 2.

(b) The performance of the obligations of Buyer hereunder is subject to the satisfaction of each of the following express conditions precedent.

(i) Seller shall have performed and complied in all material respects with all the agreements, obligations and covenants required by this Agreement to be performed or complied with by Seller prior to the Closing Date.

(ii) The representations and warranties of Seller set forth in this Agreement shall be true and correct in all material respects on and as of the Closing Date with the same effect as if made on and as of the Closing Date.

(iii) The FCC Consent shall have been issued without any condition that would have a material adverse effect upon Buyer.

9. **Closing Deliveries.**

(a) At the Closing, shall deliver to Buyer such documents, instruments and agreements as Buyer shall request and as shall be reasonable necessary to consummate the transactions contemplated by this Agreement, each in form and substance reasonably satisfaction to Buyer or Buyer's representative, including, but not limited to an Assignment of FCC Authorization.

(b) At the Closing, Buyer shall deliver to Seller such documents, instruments and agreements as Seller shall request and as shall be reasonably necessary to consummate the transaction contemplated by this Agreement, each in form and substance reasonably satisfactory to Seller or Seller's representative.

10. **Termination.** This Agreement may be terminated prior to Closing (a) by mutual written consent of Buyer and Seller; or (b) in the event either party is in default of this Agreement, by the non-defaulting party.

11. **Seller's Remedies.** In the event Buyer fails to consummate this Agreement, and such failure is by reason of a default of Buyer in material breach of Buyer's obligation under this Agreement, the Deposit shall be retained by Seller as liquidated damages and Seller shall not seek any further restitution from Buyer.

12. **Buyer's Remedies.** The parties mutually understand and agree that the Assets to be transferred pursuant to this Agreement are unique and cannot be readily purchased on the open market. For that reason, in the event Seller fails to consummate this Agreement, and such failure is by reason of a default by Seller in material breach of Seller's obligations under this Agreement, in lieu of an action for damages, the rights of Buyer under this Agreement, as well as the obligation of Seller, shall be enforceable by a decree of specific performance, subject to FCC consent. Provided however, if Buyer seeks damages in any court due to Seller's failure to consummate this Agreement by reason of a default of Seller in material breach of Seller's obligations under this Agreement, such damages shall be limited to an amount not greater than the amount of the Deposit.

13. **Miscellaneous.**

(a) 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, provided however that neither party hereto may voluntarily assign this Agreement without the express written consent of the other party.

(b) Nothing herein expressed or implied is intended or shall be construed to confer upon or give to any person or entity other than the parties hereto and their successors or permitted assigns, any right or remedies under or by reason of this Agreement.

(c) The construction and performance of this Agreement shall be governed by the laws of the State of Connecticut, without regard to conflicts of law principles, and with venue for any court action in the courts with jurisdiction in Danbury, Connecticut.

(d) This Agreement embodies the entire agreement and understanding of the parties hereto relating to the matter provided for herein, and supersedes any and all prior agreements, arrangements and understandings relating to the matters herein.

(e) No amendment, waiver of compliance with any provision or condition hereof or consent pursuant to this Agreement shall be effective unless evidenced by an instrument in writing signed by the party against who enforcement of any waiver amendment, change, extension or discharge is sought.

(f) Except as otherwise provided for in this Agreement, each party shall be solely responsible for all costs and expenses incurred by it in connection with the negotiation, preparation and performance of and compliance with the terms of this Agreement. All fees and charges applicable to any requests for FCC Consent shall be equally shared between the parties and settled at the Closing.

(h) This Agreement has been negotiated in good faith and prepared jointly by Seller and Buyer. Each party has had the opportunity to obtain the advice of counsel with respect to this Agreement. No provision shall herein be construed against either party on the grounds that it was drafted by that party.

14. **Notices.** All notices and other communications permitted or required under this Agreement shall be in writing and shall be deemed effectively given or delivered upon personal delivery or twenty-four (24) hours after delivery to a courier service which guarantees overnight delivery or five (5) days after deposit with the U.S. Postal Service, by registered or certified mail, postage prepaid, and, in the case of courier or mail delivery, addressed as follows (or at such other address for a party as shall be specified by like notice):

If to Seller:

Charles Williamson
c/o Digital Radio Engineering Inc.
15 Neversink Drive
Port Jervis, NY 12771

If to Buyer:

Irv Goldstein
The Berkshire Broadcasting Corporation
98 Mill Plain Road
Danbury, CT 06811

15. **Counterparts.** This Agreement may be signed in counterpart originals, which collectively shall have the same legal effect as if all signatures had appeared on the same physical document. This Agreement may be signed and exchanged by facsimile transmission or other generally accepted electronic means (including PDF) with the same legal effect as if the signatures had appeared in original handwriting on the same physical document.

16. **Responsibilities of the Parties.**

(a) Seller shall be responsible for any and all claims, liabilities and obligations of any nature, absolute or contingent, of third parties relating to the ownership of the FCC Authorizations and/or Stations by Seller prior to Closing. Seller shall indemnify and hold Buyer harmless from any and all claims arising out of or related to Seller's ownership of the FCC Authorizations and/or Stations prior to closing.


(b) Buyer shall be responsible for any and all claims, liabilities and obligations of any nature, absolute or contingent, of third parties relating to the ownership of the FCC Authorizations by Buyer post-closing.

17. **No broker.** No broker, finder or other person is entitled to a commission, brokerage fee or other similar payment in connection with this Agreement.

(The next page following include the signatures of the parties.)

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

CHARLES WILLIAMSON



THE BERKSHIRE BROADCASTING CORPORATION

By: _____

Name: Irv Goldstein

Title: Chief Executive Officer

