

## **ASSET PURCHASE AGREEMENT**

**THIS ASSET PURCHASE AGREEMENT** (this “Agreement”) is made as of December 8, 2016, by and between **Freedom Farm Bible Church, Inc. d/b/a Pittsford Educational Broadcasting Foundation**, a Michigan non-profit corporation (“Seller”) and **NOBCO, Inc.**, an Ohio corporation (“Buyer”).

### **RECITALS**

A. Seller is the permittee of FM translator station W232CM, FCC Facility ID No. 142063 (the “Station”) pursuant to certain authorization(s) issued by the Federal Communications Commission (the “FCC”).

B. The FCC has granted an application to modify the construction permit for the Station, FCC File No. BMPFT-20161122ACR (the “Modified Construction Permit”).

C. Pursuant to the terms and subject to the conditions set forth in this Agreement, Seller desires to sell to Buyer, and Buyer desires to purchase from Seller, the Assets (defined below).

### **AGREEMENT**

**NOW, THEREFORE**, taking the foregoing into account, and in consideration of the mutual covenants and agreements set forth herein, the parties, intending to be legally bound, hereby agree as follows:

#### **ARTICLE 1: PURCHASE OF ASSETS**

**1.1. Assets.** On the terms and subject to the conditions hereof, at Closing (defined below), Seller shall sell, assign, transfer, convey, and deliver to Buyer, and Buyer shall purchase and acquire from Seller, all right, title, and interest of Seller in and to the following assets of Seller (collectively, the “Assets”):

(a) all licenses, permits, and other authorizations issued to Seller by the FCC with respect to the Station and listed on *Schedule 1.1(a)* (the “FCC Licenses”), including any renewals or permitted modifications thereof between the date hereof and Closing;

(b) Seller’s intangible property with respect to the Station as listed on *Schedule 1.1(b)* (the “Intangible Property”); and

(c) the Station records maintained by Seller pursuant to 47 C.F.R. Section 74.1281.

The Assets shall be transferred to Buyer free and clear of liens, claims and encumbrances (“Liens”) except for Assumed Obligations (defined in Section 1.2), liens for taxes not yet due and payable, and liens that will be released at or prior to Closing (collectively, “Permitted Liens”).

**1.2. Assumption of Obligations.** On the Closing Date (defined below), Buyer shall assume the obligations of Seller with respect to the Assets arising during, or attributable to, any period of time on or after the Closing Date (collectively, the “Assumed Obligations”).

**1.3. Purchase Price.** In consideration for the sale of the Assets to Buyer, at Closing Buyer shall pay Seller, by wire transfer of immediately available funds, the sum of THIRTY-TWO THOUSAND DOLLARS (\$32,000.00) (the “Purchase Price”).

**1.4. Deposit.** Seller and Buyer have agreed that Seller’s counsel, Fletcher, Heald & Hildreth, P.L.C. (“Escrow Agent”) will act as the escrow agent for this transaction. Seller acknowledges that Buyer has, prior to or concurrently with the execution of this Agreement, delivered to the Escrow Agent by wire of immediately available funds the sum of FIVE THOUSAND DOLLARS (\$5,000.00) (the “Deposit”) pursuant to an Escrow Agreement entered into by Seller, Buyer, and the Escrow Agent. Interest on the Deposit shall accrue to the benefit of Buyer. At Closing (as defined below), the Deposit shall be released by the Escrow Agent to Seller, and credited towards the Purchase Price. If this Agreement is terminated by Seller pursuant to Section 6.2(c), the Deposit shall be released by the Escrow Agent to Seller as liquidated damages. If this Agreement is terminated for any other reason, the Deposit shall be released by the Escrow Agent to Buyer.

**1.5. Prorations and Adjustments.** All expenses relating to the Assets shall be prorated between Buyer and Seller in accordance with generally accepted accounting principles (“GAAP”) as of 12:01 a.m. on the day of Closing (the “Effective Time”). Such prorations shall include without limitation FCC regulatory fees due for the Station. Prorations and adjustments shall be made no later than sixty (60) calendar days after Closing.

**1.6. Closing.** The consummation of the sale and purchase of the Assets provided for in this Agreement (the “Closing”) shall take place on or before the tenth (10<sup>th</sup>) calendar day after the date the FCC Consent (as defined below) has become a Final Order (as defined below), or on such day after the FCC Consent as Buyer and Seller may mutually agree, subject to the satisfaction or waiver of the conditions set forth in Articles 3 or 4 below. The date on which the Closing is to occur is referred to herein as the “Closing Date.”

**1.7. FCC Consent.**

(a) Within seven (7) business days of the date of this Agreement, Buyer and Seller shall file an application with the FCC (the “FCC Application”) requesting FCC consent to the assignment of the FCC Licenses to Buyer. FCC consent to the FCC Application without any material adverse conditions other than those of general applicability is referred to herein as the “FCC Consent.” Buyer and Seller shall diligently prosecute the FCC Application and otherwise use their commercially reasonable efforts to obtain the FCC Consent and Final Order of the FCC Consent as soon as possible.

(b) Buyer and Seller shall notify each other of all documents filed with or received from any governmental agency with respect to this Agreement or the transactions contemplated hereby. Buyer and Seller shall furnish each other with such information and assistance as the other may reasonably request in connection with their preparation of any governmental filing hereunder.

(c) For purposes of this Agreement, the term “Final Order” means that action shall have been taken by the FCC (including action duly taken by the FCC’s staff, pursuant to delegated authority) which shall not have been reversed, stayed, enjoined, set aside, annulled, or suspended; with respect to which no timely request for stay, petition for rehearing, appeal or certiorari, or *sua sponte* action of the FCC with comparable effect shall be pending; and as to which the time for filing any such request, petition, appeal, certiorari, or for the taking of any such *sua sponte* action by the FCC shall have expired or otherwise terminated.

**1.8. Risk of Loss.** Seller shall bear the risk of any loss of or damage to any of the Assets at all times until the Closing, and Buyer shall bear the risk of any such loss or damage thereafter.

## **ARTICLE 2: REPRESENTATIONS, WARRANTIES AND COVENANTS**

**2.1 Authorization.** Buyer and Seller each represents, warrants, and covenants that: (a) it has the full right and legal authority to enter into and fully perform this Agreement in accordance with the terms and conditions hereof; and (b) the execution, delivery, and performance of this Agreement does not and will not violate or cause a breach of any other agreements or obligations to which it is a party or by which it is bound.

**2.2 FCC Licenses.** Seller represents and warrants that:

(a) Seller is the holder of the FCC Licenses described on *Schedule 1.1(a)*, which are all of the licenses, permits, and authorizations required for the operation of the Station as presently conducted. The FCC Licenses are in full force and effect and have not been revoked, suspended, canceled, rescinded, or terminated, and have not expired. There is not pending, or, to Seller’s knowledge, threatened, any action by or before the FCC to revoke, suspend, cancel, rescind, or materially adversely modify the FCC Licenses (other than proceedings to amend FCC rules of general applicability). There is not issued or outstanding, by or before the FCC, any order to show cause, notice of violation, notice of apparent liability, or order of forfeiture against the Station, or against Seller with respect to the Station that could result in any such action.

(b) All material reports and filings required to be filed with the FCC by Seller with respect to the Station have been timely filed. All such reports and filings are accurate and complete in all material respects. Seller maintains FM Translator station records in material compliance with 47 C.F.R. Section 74.1281.

**2.3 Taxes.** Seller represents and warrants that Seller has, in respect of the Station’s business, filed all foreign, federal, state, county and local income, excise, property, sales, use, franchise, and other tax returns and reports which are required to have been filed by it under applicable law, and has paid all taxes which have become due pursuant to such returns or pursuant to any assessments which have become payable.

**2.4 Ownership of Assets.** Seller represents and warrants that Seller has good and marketable title to the Assets, free and clear of Liens.

**2.5 Compliance with Law.** Seller represents and warrants that Seller has materially complied with all laws, regulations, rules, writs, injunctions, ordinances, franchises, decrees, or orders of any court or of any foreign, federal, state, municipal, or other governmental authority

which are applicable to the Assets. Seller represents and warrants that there is no action, suit, or proceeding pending or, to Seller's knowledge, threatened against Seller in respect of the Assets.

**2.6 Seller's Other Covenants.** Between the date hereof and Closing, except as permitted by this Agreement or with the prior written consent of Buyer, Seller shall not materially adversely modify, and in all material respects maintain in full force and effect, the FCC Licenses. If requested by Buyer, Seller shall use commercially reasonable efforts to file and prosecute a mutually-agreeable application for the minor modification of the Station (a "Minor Modification Application"), provided that Buyer shall pay directly, or reimburse Seller for, the reasonable costs of preparing, filing, and prosecuting any such Minor Modification Application, provided further, that the grant of the Minor Modification Application shall not be a condition precedent to the Closing hereunder.

**2.7 Qualification.** Buyer represents and warrants that Buyer is legally, financially, and otherwise qualified to be the licensee of the Station under the Communications Act of 1934, as amended, and the rules, regulations, and policies of the FCC.

**2.8 Broker.** Seller and Buyer each represents and warrants that, other than Broadcast Properties, LLC, whose fees will be paid by Seller, there is no broker or finder or other person entitled to a commission or brokerage fee or payment in connection with this Agreement as a result of any agreement of, or action taken by either Seller or Buyer.

### **ARTICLE 3: SELLER CLOSING CONDITIONS**

The obligation of Seller 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 Seller):

**3.1. Representations and Covenants.** The representations and warranties of Buyer 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, and the covenants and agreements to be complied with and performed by Buyer at or prior to Closing shall have been complied with or performed in all material respects.

**3.2. Proceedings.** Neither Seller nor Buyer shall be subject to any court or governmental order or injunction restraining or prohibiting the consummation of the transactions contemplated hereby.

**3.3. FCC Authorization.** The FCC Consent pursuant to the FCC's initial order shall have been obtained.

**3.4. Deliveries.** Buyer shall have complied with its obligations set forth in Section 5.2.

### **ARTICLE 4: BUYER CLOSING CONDITIONS**

The obligation of Buyer 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 Buyer):

**4.1. Representations and Covenants.** The representations and warranties of Seller 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, and the covenants and agreements to be complied with and performed by Seller at or prior to Closing shall have been complied with or performed in all material respects.

**4.2. Proceedings.** Neither Seller nor Buyer shall be subject to any court or governmental order or injunction restraining or prohibiting the consummation of the transactions contemplated hereby.

**4.3. FCC Authorizations.** The grants by the FCC of the Modified Construction Permit and the application for a license to cover the Modified Construction Permit shall have become Final Orders.

**4.4. FCC Consent.** The FCC Consent pursuant to a Final Order shall have been obtained.

**4.5. Operations.** The Station shall be operating in material compliance with the Modified Construction Permit, including without limitation, operating with full authorized power, and there shall be no outstanding interference complaints against the Station.

**4.6. Deliveries.** Seller shall have complied with its obligations set forth in Section 5.1.

## **ARTICLE 5: CLOSING DELIVERIES**

**5.1. Seller Documents.** At Closing, Seller shall deliver or cause to be delivered to Buyer:

- (i) an assignment of FCC authorizations assigning the FCC Licenses from Seller to Buyer;
- (ii) a bill of sale conveying the other Assets from Seller to Buyer; and
- (iii) any other instruments of conveyance, assignment and transfer that may be reasonably necessary to convey, transfer, and assign the Assets from Seller to Buyer, free and clear of Liens, except for Permitted Liens.

**5.2. Buyer Documents.** At Closing, Buyer shall deliver or cause to be delivered to Seller the Purchase Price in accordance with Sections 1.3 and 1.4, as well as any other documents reasonably requested by Seller to consummate the transaction as contemplated hereunder.

## **ARTICLE 6: INDEMNIFICATION AND TERMINATION**

### **6.1. Indemnification.**

(a) Seller shall defend, indemnify, and hold harmless Buyer from and against any and all losses, costs, damages, liabilities, and expenses, including reasonable attorneys' fees and expenses incurred by Buyer arising out of or resulting from: (i) any breach by Seller of its representations and warranties made under this Agreement; or (ii) any default by Seller of any covenant or agreement made under this Agreement.

(b) Buyer shall defend, indemnify, and hold harmless Seller from and against any and all losses, costs, damages, liabilities, and expenses, including reasonable attorneys' fees and expenses incurred by Seller arising out of or resulting from: (i) any breach by Buyer of its representations and warranties made under this Agreement; or (ii) any default by Buyer of any covenant or agreement made under this Agreement.

**6.2. Termination.** Subject to Section 6.3, this Agreement may be terminated prior to Closing as follows:

- (a) by mutual written consent of Buyer and Seller;
- (b) by written notice of Buyer to Seller if Seller breaches its representations or warranties or defaults in the performance of its covenants contained in this Agreement; and such breach or default is material in the context of the transactions contemplated hereby, and is not cured within the Cure Period (defined below);
- (c) by written notice of Seller to Buyer if Buyer breaches its representations or warranties or defaults in the performance of its covenants contained in this Agreement; and such breach or default is material in the context of the transactions contemplated hereby, and is not cured within the Cure Period – provided, however, that the Cure Period shall not apply to Buyer's obligations to make the Deposit on the date hereof and to pay the Purchase Price at Closing;
- (d) by written notice of Buyer to Seller if the FCC Licenses for the Station are materially adversely modified, revoked, or otherwise terminated by the FCC; or
- (e) by written notice of Seller to Buyer or Buyer to Seller if Closing does not occur by the date twelve (12) months after the date of this Agreement.

**6.3. Cure Period.** Each party shall give the other party prompt written notice upon learning of any breach or default by the other party under this Agreement. The term "Cure Period" as used herein means a period commencing on the date Buyer or Seller receives from the other written notice of breach or default hereunder and continuing until the earlier of: (i) ten (10) calendar days thereafter; or (ii) the Closing Date determined under Section 1.6.

**6.4. Survival.** Except as provided by Section 6.6, the termination of this Agreement shall not relieve any party of any liability for breach or default under this Agreement prior to the date of termination. Notwithstanding anything contained herein to the contrary, Sections 1.4 (Deposit) (and Section 6.6 with respect to the Deposit) and 7.1 (Expenses) shall survive any termination of this Agreement.

**6.5. Specific Performance.** The parties recognize that if Seller refuses to perform under the provisions of this Agreement or Seller otherwise breaches such that the Closing does not occur, monetary damages alone will not be adequate to compensate Buyer for its injury. Buyer shall therefore be entitled to obtain specific performance of the terms of this Agreement in addition to any other remedies, including but not limited to monetary damages, that may be available to it. If any action is brought by Buyer to enforce this Agreement, Seller shall waive the defense that there is an adequate remedy at law. In the event of a default by Seller which results in the filing of a lawsuit for damages, specific performance, or other remedy, Buyer shall be entitled to reimbursement by Seller of reasonable legal fees and expenses incurred by Buyer.

**6.6. Liquidated Damages.** If Seller terminates this Agreement pursuant to Section 6.2(c), Seller will be entitled to the Deposit, and such sum shall constitute liquidated damages and the sole remedy of Seller under this Agreement. It is understood and agreed that such liquidated damages amount represents Buyer's and Seller's reasonable estimate of actual damages, and does not constitute a penalty. Recovery of liquidated damages shall be the sole and exclusive remedy of Seller against Buyer for failing to consummate this Agreement, and shall be applicable regardless of the actual amount of damages sustained and all other remedies are deemed waived by Seller. Seller and Buyer hereby expressly acknowledge that this Section shall survive the termination of this Agreement.

## **ARTICLE 7: MISCELLANEOUS**

**7.1. Expenses.** Except for the expenses of a Minor Modification Application as specified in Section 2.6, 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 the FCC Consent shall be shared equally by the parties. Seller and Buyer shall each pay any governmental taxes, fees, and charges assessed against such party, applicable to the transfer of the Assets under this Agreement.

**7.2. Further Assurances.** After Closing, 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 of conveyance and assumption and take such other actions as may reasonably be requested in order to more effectively consummate the transactions contemplated hereby.

**7.3. Assignment.** Neither party may assign this Agreement without the prior written consent of the other party hereto, provided, however, that Buyer may assign its rights hereunder to an affiliate of Buyer upon written notice to, but without consent of, Seller, provided that: (i) any such assignment does not delay grant of the FCC Consent or Closing; (ii) any such assignee delivers to Seller a written assumption of this Agreement; and (iii) Buyer shall remain liable for all of its obligations hereunder. The terms of this Agreement shall bind and inure to the benefit of the parties' respective successors and any permitted assigns, and no assignment shall relieve any party of any obligation or liability under this Agreement.

**7.4. Notices.** Any notice pursuant to this Agreement shall be in writing and shall be deemed delivered on the date of personal delivery or confirmed delivery by a nationally recognized overnight courier service, and shall be addressed as follows (or to such other address as any party may request by written notice):

if to Seller: Freedom Farm Bible Church, Inc.  
d/b/a Pittsford Educational Broadcasting Foundation  
9400 East Beecher Road  
Pittsford, MI 49271  
Attention: Dr. Cary Coleman, President

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

Fletcher, Heald & Hildreth, P.L.C.  
1300 North 17<sup>th</sup> Street, 11<sup>th</sup> Floor  
Arlington, VA 22209  
Attention: Matthew H. McCormick, Esq.

if to Buyer: NOBCO, Inc.  
303-1/2 North Defiance Street  
Archbold, OH 43502  
Attention: Max Smith, Jr., President

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

Repp Law Firm  
1629 K Street, NW, Suite 300  
Washington, DC 20006-1631  
Attention: Marissa G. Repp, Esq.

**7.5. Amendments.** No amendment or waiver of compliance with any provision hereof or consent pursuant to this Agreement shall be effective unless evidenced by an instrument in writing signed by the party against whom enforcement of such amendment, waiver, or consent is sought.

**7.6. Entire Agreement.** This Agreement (including the Schedules hereto) constitutes the entire agreement and understanding among the parties hereto with respect to the subject matter hereof, and supersedes all prior agreements and understandings with respect to the subject matter hereof, except any confidentiality agreement among the parties with respect to the Stations, which shall remain in full force and effect. No party makes any representation or warranty with respect to the transactions contemplated by this Agreement except as expressly set forth in this Agreement.

**7.7. Severability.** If any court or governmental authority holds any provision in this Agreement invalid, illegal, or unenforceable under any applicable law, then, so long as no party is deprived of the benefits of this Agreement in any material respect, this Agreement shall be construed with the invalid, illegal, or unenforceable provision deleted and the validity, legality, and enforceability of the remaining provisions contained herein shall not be affected or impaired thereby.

**7.8. No Beneficiaries.** Nothing in this Agreement expressed or implied is intended or shall be construed to give any rights to any person or entity other than the parties hereto and their successors and permitted assigns.



**7.9. Governing Law.** The construction and performance of this Agreement shall be governed by the laws of the State of Ohio without giving effect to the choice of law provisions thereof. Any action, suit, or proceeding brought by any party to this Agreement relating to or arising out of this Agreement or any other agreement, instrument, certificate, or other document delivered pursuant hereto (or the enforcement hereof or thereof) must be brought and prosecuted as to all parties in, and each of the parties hereby consents to service of process, personal jurisdiction and venue in, the state and Federal courts of general jurisdiction located in Ohio.

**7.10. Counterparts.** This Agreement may be executed in separate counterparts, each of which will be deemed an original and all of which together will constitute one and the same agreement. Delivery of an executed counterpart signature page to this Agreement by e-mail shall be deemed sufficient to render this Agreement effective.

[SIGNATURE PAGE FOLLOWS]

**SIGNATURE PAGE TO ASSET PURCHASE AGREEMENT**

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

**SELLER:**

**FREEDOM FARM BIBLE CHURCH, INC.  
D/B/A PITTSFORD EDUCATIONAL BROADCASTING  
FOUNDATION**

By: Cary Coleman

Name: Cary Coleman  
Title: President

**BUYER:**

**NOBCO, INC.**

By: \_\_\_\_\_

Name: Max Smith, Jr.  
Title: President

**SIGNATURE PAGE TO ASSET PURCHASE AGREEMENT**

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

**SELLER:**

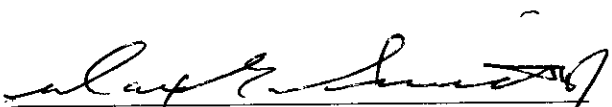
**FREEDOM FARM BIBLE CHURCH, INC.  
D/B/A PITTSFORD EDUCATIONAL BROADCASTING  
FOUNDATION**

By: \_\_\_\_\_

Name: Cary Coleman  
Title: President

**BUYER:**

**NOBCO, INC.**

By:  \_\_\_\_\_

Name: Max Smith, Jr.  
Title: President

**Schedule 1.1(a)**

Federal Communications Commission FM Broadcast Translator Station Construction Permit, as Modified, FCC File No. BMPFT-20161122ACR, Facility ID No. 142063, Call Sign W232CM.

**Schedule 1.1(b)**

Call letters W232CM.