

DONATION AGREEMENT

This **DONATION AGREEMENT** ("Agreement") is made as of August 13, 2018 by and between **MEDIA ONE GROUP II, LLC**, an Ohio limited liability company ("Donor"), and **EDUCATIONAL MEDIA FOUNDATION**, a California non-profit religious corporation ("Donee").

RECITALS

WHEREAS, Cross County Communications, LLC ("Cross Country") is the FCC licensee of FM radio station WLKW-FM, Celoron, New York (FCC Facility Id. 189508) (the "Station") pursuant to licenses issued by the Federal Communications Commission ("FCC");

WHEREAS, Donor has entered into an asset purchase agreement with Cross Country to ("Cross Purchase Agreement") acquire the Station as well as radio station WKZA Lakewood, New York (FCC Facility Id. 48736) ("WKZA"); and

WHEREAS, upon completion of the Cross Purchase Agreement, Donor desires to donate the Station Assets (as defined below) to Donee, and Donee desires to accept the Station Assets as a charitable donation from Donor.

NOW THEREFORE, in consideration of the mutual promises and covenants contained herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. **Defined Terms.** Unless otherwise stated in this Agreement, the following terms used herein shall have the following meanings:
 - (a) "Assignment Application" shall mean the application that Cross Country and Donee will join in and file with the FCC requesting FCC consent to the assignment of the FCC Licenses for the Station by from Cross Country to to Donee.
 - (b) "Business Day" shall mean any day on which the FCC is open for business in the ordinary course.
 - (c) "Closing" shall mean the actions of Donor and Donee taken to consummate the donation contemplated herein.
 - (d) "Closing Date" shall mean the date specified in Section 13(b) hereof on which the last of the actions necessary to consummate the donation contemplated herein occurs.
 - (e) "FCC Licenses" shall mean the licenses issued by the FCC which authorize the operation of the Station and any associated auxiliary broadcast facilities and listed on Schedule 2(a) hereto, plus any additional such licenses issued by the FCC to Donor for the Station on or before the Closing Date.

- (f) “Final Order” shall mean an order of the FCC granting its consent and approval of the Assignment Application, and with respect to which no appeal, no petition for re-hearing, reconsideration or stay, and no other administrative or judicial action contesting such consent or approval is pending, and as to which the time for filing any such appeal, petition or other action has expired, or if filed, has been denied, dismissed or withdrawn, and the time for instituting any further legal proceeding has expired.
 - (g) “Tangible Property” shall have the meaning set forth in Section 2(b).
 - (h) “Tower Lease Agreement” shall have the meaning set forth in Section 2(c).
2. Donated Assets. On the Closing Date, subject to the terms and conditions of this Agreement, Donor shall donate, transfer, assign and deliver to Donee, and Donee shall assume and accept from Donor, all of the following assets (the “Station Assets”):
- (a) The FCC Licenses, as listed on Schedule 2(a) hereto subject to the approval of the FCC as hereinafter provided;
 - (b) The tangible personal property used or useful in the operation of the Station which is listed on Schedule 2(b) hereto (“Tangible Personal Property”); which shall be transferred to Donee in AS-IS, WHERE-IS condition;
 - (c) At Closing, Donor shall cause Cross Country to assign, and Donee shall assume, from Cross Country, the lease agreement for the broadcast tower and tower site currently used by the Station which is described on Schedule 2(c) hereto (the “Tower Lease Agreement”);
 - (d) To the extent transferable to Donee, any and all other permits, licenses or authorizations issued by any governmental or regulatory agency which are used or useful in the operation of the Station, as listed on Schedule 2(d); and
 - (e) The Station’s call letters and all items in Donor’s possession contained in the Station FCC Public Inspection File, as described in 47 C.F.R. §73.3527, and all business, engineering and governmental records relating to the operation of the Station, but excluding IRS filings, minute books and other such records relating to Donor’s corporate affairs.
3. Excluded Assets. Notwithstanding the foregoing Section 2, the Station Assets shall not include any of the following items (the “Excluded Assets”):
- (a) All Accounts Receivable, Notes Receivable, cash and cash equivalents, including, without limitation, any marketable securities or money market instruments, savings deposits or unprocessed checks; and
 - (b) All assets used by any other owned or operated Donor station, including WKZA.

4. Donation Value. If desired by Donor or Donee, the value of the Station and the Station Assets transferred pursuant to this Agreement shall be established prior to the Closing by means of an appraisal performed by a mutually agreed upon appraiser, which value shall be set forth in the closing documents. The cost of such appraisal shall be paid for by Donor. On the Closing Date, Donor shall donate the Station Assets to Donee, and Donee shall provide appropriate documentation to Donor evidencing its receipt and acceptance of the donated Station Assets.
5. Donor's Representations and Warranties.
 - (a) Organization. Donor is now and will be at Closing a limited liability validly existing and in good standing under the laws of the State of Ohio.
 - (b) Authorization. The execution, delivery and performance of this Agreement by Donor has been duly authorized and approved by all necessary actions of Donor, and does not or will not require any further authorization or consent of Donor or its members. This Agreement is a legal, valid and binding agreement of Donor enforceable in accordance with its respective terms.
 - (c) No Conflicts. Neither the execution and delivery by Donor of this Agreement, nor the consummation by Donor of any of the transactions contemplated hereby or thereby, nor compliance by Donor with or fulfillment by Donor of the terms, conditions and provisions hereof or thereof will: (i) conflict with any organizational document of Donor or any law, judgment, order, or decree or contract to which Donor is subject; or (ii) except for the FCC, require the approval, consent, authorization or act of, or the making by Donor of any declaration, filing or registration with, any third party or any foreign, federal, state or local court, governmental or regulatory authority or body.
 - (d) FCC Licenses. The FCC Licenses are valid and in full force and effect and there are no orders, or to Donor's knowledge, complaints, proceedings or investigations pending or threatened, which could result in the revocation, suspension or limitation of the FCC License. To Donor's knowledge, the FCC Licenses are not subject to any restrictions or conditions which would limit the technical operation of the Station as it presently operates, other than the conditions specified thereon. To Donor's knowledge, the operation of the Station is in all material respects in accordance with the FCC Licenses, the Communications Act of 1934, as amended, and rules and regulations of the FCC covering operation of the Station.
 - (e) Title. At Closing, Donor will have and will transfer to Donee, valid title to the Station Assets, free and clear of any liens, charges, claims, or other encumbrances.

- (f) Pre-Closing Expenses. Donor will be solely responsible for, and shall either pay or make other provision satisfactory to Donee, for all debts, charges and other obligations of any kind whatsoever imposed or arising by reason of Donor's operation of the Station before the Closing Date, and Donor shall indemnify and hold Donee harmless from any and all such debts, charges and obligations.
6. Donee's Representations and Warranties. Donee makes the following representations and warranties to Donor, each of which shall be deemed a separate covenant:
- (a) Organization. Donee is a 501(c)(3) non-profit religious corporation duly organized, validly existing and in good standing under the laws of the State of California.
 - (b) Authorization. The execution, delivery and performance of this Agreement by Donee has been duly authorized and approved by all necessary actions of Donee, and does not or will not require any further authorization or consent of Donee. This Agreement is a legal, valid and binding agreement of Donee enforceable in accordance with its respective terms.
 - (c) No Conflicts. Neither the execution and delivery by Donee of this Agreement, nor the consummation by Donee of any of the transactions contemplated hereby or thereby, nor compliance by Donee with or fulfillment by Donee of the terms, conditions and provisions hereof or thereof will: (i) conflict with any organizational document of Donee or any law, judgment, order, or decree or contract to which Donee is subject; or (ii) except for the FCC, require the approval, consent, authorization or act of, or the making by Donee of any declaration, filing or registration with, any third party or any foreign, federal, state or local court, governmental or regulatory authority or body.
 - (d) Post-Closing Charges. Donee will be solely responsible for, and shall either pay or make other provision satisfactory to Donor, for all debts, charges and other obligations of any kind whatsoever imposed or arising by reason of Donee's operation of the Station after the Closing Date, and Donee shall indemnify and hold Donor harmless from any and all such debts, charges and obligations.
 - (e) Qualification. Donee is legally, financially and otherwise qualified to be the licensee of, acquire, own and operate the Station under the Communications Act of 1934, as amended (the "Communications Act") and the rules, regulations and policies of the FCC.
7. Survival of Representations and Warranties. The warranties and representations contained in this Agreement shall be deemed to be material and relied upon by the party to which they are made, and, unless otherwise specified, shall survive the execution, delivery and performance of this Agreement, and the consummation of the transactions contemplated herein, for a period of six (6) months after such consummation, or until the

final settlement or adjudication of any alleged breach of this Agreement for which written notification is given within the same six (6) month period.

8. Conditions to Donor's Obligations. The obligation of Donor to consummate the transactions contemplated herein shall be subject to the satisfaction or waiver, in the sole discretion of Donor, to each of the following conditions:
 - (a) Donor shall have completed its acquisition of the Station pursuant to the Cross Purchase Agreement;
 - (b) Donee shall have delivered, or caused to be delivered, to Donor all documents required by Section 16(b) of this Agreement;
 - (c) The FCC shall have granted its consent to the Assignment Application, which shall have become a Final Order;
 - (d) Donee shall have executed, performed and complied, in all material respects, with all obligations and conditions required by this Agreement to be executed, performed or complied with by Donee prior to, or as of, the Closing Date;
 - (e) There shall be no ongoing or pending litigation or proceeding to restrain or prevent the performances of Donor or Donee as required by this Agreement, or to invalidate the transactions contemplated herein; and
 - (f) The representations and warranties of Donee shall be true and correct in all material respects at and as of the Closing Date as though such representations and warranties had been made at and as of the Closing Date.
9. Conditions to Donee's Obligations. The obligation of Donee to consummate the transactions contemplated herein shall be subject to the satisfaction or waiver, in the sole discretion of Donee, to each of the following conditions:
 - (a) Donor shall have delivered, or caused to be delivered, to Donee all of the documents described in Section 16 of this Agreement; and
 - (b) The FCC shall have granted its consent to the Assignment Application which shall have become a Final Order; and
 - (c) Donor shall have executed, performed and complied, in all material respects, with all obligations and conditions required by this Agreement to be executed, performed or complied with by Donor prior to, or as of, the Closing Date; and
 - (d) There shall be no ongoing or pending litigation or proceeding to restrain or prevent the performances of Donor or Donee as required by this Agreement, or to invalidate the transactions contemplated herein, and

(e) the FCC shall have granted Donee's request to convert to a non-commercial station, provided that Donee seeks such conversion in connection with the filing of the Assignment Application, and that pendency of any such request does not extend the Closing Date.

10. Due Diligence. Prior to Closing and subject to prior approval by Cross Country, Donor will use its commercially reasonable efforts to provide Donee, including its representatives, agents, experts, counsel and accountants, with reasonable access to the equipment and property of the Station.

11. Confidentiality. Neither Donee nor Donor, nor their respective officers, agents or other representatives, will make any public disclosures regarding the transactions contemplated in this Agreement, except as may be required by law or court order or with the advance written consent of the other party. All information obtained by Donee related to the Station and Donor shall be kept strictly confidential by Donee, including its officers, agents and other representatives, and shall be accorded the same treatment given to Donee's own information of like importance; provided, however, that in no event will Donee take less than reasonable precautions to protect the confidentiality of such information. Notwithstanding the foregoing, (i) the parties acknowledge that this Agreement must be filed with the FCC as an exhibit to the Assignment Application and (ii) Donee may disclose such of the information as may be reasonably necessary to its officers, agents or other representatives; provided, however that Donee shall require all such persons to hold the information in the same confidence as is required of Donee, and Donee hereby acknowledges and agrees that it will be held responsible for any failure of such parties to do so. The covenants of the parties under this Section 11 shall survive the Closing Date. If this Agreement is terminated without the consummation of the transactions contemplated herein, Donee shall promptly return to Donor any and all documents, materials and confidential information provided by Donor to Donee pursuant to the Agreement.

12. Indemnification.

(a) Donee hereby agrees to indemnify and hold harmless Donor from and against any and all claims, costs, losses, damages, expenses (including reasonable attorney's fees) and liabilities of any kind (each a "Claim") arising after the Closing Date from or relating to liabilities (i) of the Station, to the extent assumed by Donee under this Agreement; (ii) arising under facts or circumstances occurring on or after the Closing Date with respect to the ownership or operation of the Station; or (iii) resulting from any breach of Donee's representations and warranties as set forth in Section 6 of this Agreement or any breach of Donee's confidentiality obligations as set forth in Section 11 of this Agreement.

(b) In the event that any Claim is asserted against Donor by a third party, which Claim, if established, would require indemnification under this Section 12, then Donor shall promptly give written notice of the Claim ("Claim Notice") to Donee.

Within ten (10) days of receiving the Claim Notice, Donee shall notify Donor whether or not it will defend against the asserted Claim. If Donee elects not to defend against the Claim, or fails to notify Donor of its intent with ten (10) days of receiving the Claim Notice, then Donor may elect to defend against the Claim and, if it so elects, Donor shall be entitled to recover its reasonable attorney's fees in accordance with the provisions of this Section 12. Each of the parties agrees to provide such reasonable assistance as may be requested by the other party in defending against the Claim, including providing reasonable access to any records and information necessary or useful for such defense.

- (c) Donor hereby agrees to indemnify and hold harmless Donee from and against any and all Claim arising before the Closing Date from or relating to liabilities (i) of the Station; (ii) arising under facts or circumstances occurring on or before the Closing Date with respect to the ownership or operation of the Station; or (iii) resulting from any breach of Donor's representations and warranties as set forth in Section 5 of this Agreement or any breach of Donor's confidentiality obligations as set forth in Section 11 of this Agreement.
- (d) In the event that any Claim is asserted against Donee by a third party, which Claim, if established, would require indemnification under this Section 12, then Donee shall promptly provide a Claim Notice to Donor. Within ten (10) days of receiving the Claim Notice, Donor shall notify Donee whether or not it will defend against the asserted Claim. If Donor elects not to defend against the Claim, or fails to notify Donee of its intent with ten (10) days of receiving the Claim Notice, then Donee may elect to defend against the Claim and, if it so elects, Donee shall be entitled to recover its reasonable attorney's fees in accordance with the provisions of this Section 12. Each of the parties agrees to provide such reasonable assistance as may be requested by the other party in defending against the Claim, including providing reasonable access to any records and information necessary or useful for such defense.

13. Application for FCC Approval; Closing Date.

- (a) Donor and Donee shall each use their best efforts and shall diligently cooperate to take all steps necessary to prepare, or cause the preparation of, the Assignment Application, complete in all material respects, and the filing of the same with the FCC. The Assignment Application shall be filed within five (5) Business Days after the execution of this Agreement. After the filing of the Assignment Application, Donor and Donee will take all steps reasonably necessary to expedite its prosecution to a favorable decision, including the timely filing of any amendments and/or the provision of any other information reasonably requested by the FCC; provided, however, that neither party will seek to voluntarily amend the Assignment Application without the prior written consent of the other party unless such amendment is requested by the FCC or otherwise required by FCC rules or regulations. In the event either party files any such amendments or

provides any such information, whether or not requested by the FCC, it will promptly notify the other party of the action taken.

- (b) Provided that all other closing conditions have been met, the Closing of the contemplated donation and related transactions shall take place no later than five (5) Business Days after the FCC's approval of the Assignment Application becomes a Final Order, unless mutually waived by the parties hereto (the "Closing Date"). The Closing shall be held by mail, facsimile or electronic mail, with all documents that are to be delivered by Donor and Donee at the Closing to be delivered to the other party's respective counsel prior to such time, and held in escrow by such counsel until the Closing is affected.
- (c) Each party to the Assignment Application will bear its own expenses in connection with the preparation of the applicable portions of the Assignment Application, and of the prosecution of same. Donor will timely publish notice in the newspaper and will timely make the broadcast notice with respect to the Assignment Application, as required by FCC rules and regulations pursuant to 47 C.F.R. § 73.3580.

14. Termination.

- (a) This Agreement may be terminated as follows at any time on or prior to the Closing Date:
 - (i) by written agreement of the Donee and Donor;
 - (ii) by either of Donor or Donee at any time following the denial of the Assignment Application, or the revocation of its consent to the Assignment Application, by the FCC.
- (b) This Agreement may be terminated as follows by Donor:
 - (i) at any time on or prior to the Closing Date, if Donee shall materially breach any representation, warranty or agreement contained herein and shall fail to remedy that breach within thirty (30) days after receiving written notice of the breach;
 - (ii) at any time after the Closing Date, if Donee shall fail to consummate the transactions contemplated hereby; provided, however, that Donor is not then in material breach of any agreement contained herein; or
 - (iii) in the event the Cross Purchase Agreement is terminated without a closing thereunder.
- (c) This Agreement may be terminated as follows by Donee:

- (i) at any time on or prior to the Closing Date, if Donor shall materially breach any representation, warranty or agreement contained herein and shall fail to remedy that breach within thirty (30) days after receiving written notice of the breach; or
 - (ii) at any time after the Closing Date, if Donor shall fail to consummate the transactions contemplated hereby; provided, however, that Donee is not then in material breach of any representation, warranty, or agreement contained herein.
 - (d) Notwithstanding any provision in this Agreement to the contrary, the obligations of Donor and Donee to consummate the transactions contemplated hereby shall terminate in the event the FCC has not approved the Assignment Application on or prior to one (1) year following the execution date of this Agreement.
15. Brokers. Each of Donor and Donee warrants that it has not incurred or become liable for any broker's commission or finder's fee relating to the transactions contemplated under this Agreement. Each of Donor and Donee agrees to indemnify and hold the other harmless from any claims or causes of action for broker's or finders' fees.
16. Instruments of Conveyance; Transfer and Execution.
- (a) On the Closing Date, Donor shall deliver to Donee the following:
 - (i) An executed Bill of Sale for the Tangible Personal Property;
 - (ii) An executed instrument of assignment and assumption for the FCC License;
 - (iii) An executed instrument of assignment and assumption for the Tower Lease Agreement signed by Cross Country;
 - (iv) Consent of the lessor of the Tower Lease Agreement to assign the Tower Lease Agreement from Cross Country to Donee;
 - (v) Executed copies of such other instruments of sale and assignment as are necessary to convey and transfer the Station Assets to Donee.
 - (b) On the Closing Date, Donee shall deliver to Donor the following:
 - (i) An executed instrument of assignment and assumption for the FCC License;
 - (ii) An executed instrument of assignment and assumption for the Tower Lease Agreement;

- (iii) Executed copies of such other instruments of sale and assignment as are necessary to convey and transfer the Station Assets to Donee.

17. Assignment. This Agreement shall be binding upon, inure to the benefit of, and be enforceable by the parties hereto and their respective heirs, executors, administrators, successors and assigns. Notwithstanding the foregoing, this Agreement may not be assigned by either party without the prior written consent of the other party.

18. Notices. All notices, demands and requests required or permitted by this Agreement shall be deemed duly given if sent via:

- (a) registered U.S. Mail, postage prepaid, return receipt requested; or

- (b) a nationally recognized overnight courier service

and addressed as follows:

If to Donor:

James T. Embrescia
Media One Group II, LLC
2000 Auburn Drive, Ste 200
Beachwood, OH 44122

With a copy to:

Brian Johnson
General Counsel
Media One Group II, LLC
3029 Prospect Avenue
Cleveland, OH 44115

If to Donee:

Educational Media Foundation
5700 West Oaks Blvd
Rocklin, CA 95765
Attn. General Counsel

With a copy to:

Paige K. Fronabarger
Wilkinson Barker Knauer LLP
1800 M Street, NW, Suite 800 (North)
Washington, DC 20036

19. Miscellaneous.

- (a) Entire Agreement; Waiver. This Agreement contains the entire agreement of the parties with respect to the transactions contemplated herein, and supersedes all prior negotiations between the parties concerning the subject matter contained herein. No change, modification or waiver of any provision hereof shall be valid unless in writing and signed by the each of the parties. No delay or failure on the part of either party in exercising its rights hereunder, and no partial or single exercise thereof, shall constitute a waiver of such rights or of any other rights hereunder.
- (b) Third Parties. Nothing in this Agreement shall be construed as giving to any person, firm, corporation or other entity other than the parties hereto, their respective heirs, executors, administrators, successors and assigns, any right, remedy or claim under or in respect of this Agreement or any provision hereof.
- (c) Governing Law; Jurisdiction; Venue. This Agreement shall be construed and interpreted in accordance with the laws of Ohio, without regard for conflicts of law principles that might require the application of any other law. Each of the parties hereby submits to the exclusive jurisdiction of the courts of the State of Ohio in respect of any action arising out of this Agreement.
- (d) Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same document.
- (e) Construction. Captions, titles and headings used in this Agreement are inserted for convenience of reference only and shall not affect the construction or interpretation of this Agreement. The parties acknowledge that they have been represented by, or have had the opportunity to consult with, competent counsel of their choice in the negotiation of this Agreement, and that, accordingly, no provision of this Agreement will be construed against any party regardless of which party was responsible for the drafting thereof.
- (f) Severability. If any provision of this Agreement shall be found invalid, illegal or unenforceable by a court or arbitral body of competent jurisdiction, such provision shall be deemed null and void, but the remainder of this Agreement shall remain in full force and effect between the parties so long as the invalidation of that provision does not frustrate the fundamental business purpose of the Agreement.

[SIGNATURE PAGE FOLLOWS]

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

DONOR

MEDIA ONE GROUP II, LLC

Name:

Title:

DONEE

EDUCATIONAL MEDIA FOUNDATION

Name:

Title:

INDEX OF SCHEDULES

Schedule 2(a)	-	FCC Licenses
Schedule 2(b)	-	Tangible Personal Property
Schedule 2(c)	-	Tower Lease Agreement
Schedule 2(d)	-	Other Permits and Licenses

Schedule 2(a)
FCC Licenses

Call Sign: WLKW-FM
Facility Id: 189508
Community of License: CELORON, NY
Service: FM
Fac Type: FM STATION
Status: LICENSED
Status Date: 01/06/2012
Frequency: 95.3
Channel: 237
Lic Expir: 06/01/2022
Licensee: CROSS COUNTRY COMMUNICATIONS, LLC
Address: 106 WEST 3RD STREET, SUITE 106
City: JAMESTOWN
State: NY
Zip Code: 14701

Call Sign: WLKW-FM
Facility Id: 189508
FRN: 0004072427
Applicant Name: CROSS COUNTRY COMMUNICATIONS,
LLC
Frequency: 95.3
Channel: 237
Community of License: CELORON, NY
Application Type: LICENSE TO COVER AUXILIARY
PERMIT
Status: GRANTED
Status Date: 03/06/2012
Application Service: FS

Schedule 2(b)
Tangible Personal Property

Tower structure and Satellite Dish on the roof of the Hotel Jamestown

All broadcast cables leading from the two items on the roof to the transmitter

All cables from the transmitter room to the engineering room (at the Hotel Jamestown studios)

At the Hotel Jameson site, the following components of the transmitter:

(2) PTEK GAMMA 1kW
PTEK GAMMA 2.5kW
INOVONICS 261 PROCESSOR
SINE SYSTEMS RP-8 RELAY

Schedule 2(c)
Tower Lease Agreement

Hotel Jamestown Lease dated August 4, 2000 between Jamestown Housing Authority (successor to B&S Management) and Cross Country Communications, LLC

Schedule 2(d)
Other Permits and Licenses

None