

## DONATION AGREEMENT

THIS DONATION AGREEMENT (this “Agreement”) is made as of November 12, 2019, between Mount Wilson FM Broadcasters, Inc., a California corporation (“Mount Wilson”) and The Balanced Radio Foundation, a California nonprofit corporation (“BRF”).

### Recitals

A. Mount Wilson owns and operates the following AM radio broadcast stations and associated FM Translator stations (the “Stations”) pursuant to certain authorizations issued by the Federal Communications Commission (the “FCC”):

KIDD(AM), Monterey, California (FCC Facility ID No. 7721) (“KIDD”);  
KNRY(AM), Monterey, California (FCC Facility ID No. 35276) (“KNRY”);  
K294CA, Monterey, California (FCC Facility ID No. 147613) (the “KIDD Translator”); and  
K240EV, Monterey, California (FCC Facility ID No. 200420) (the “KNRY Translator”).

B. Pursuant to the terms and subject to the conditions set forth in this Agreement, the parties desire to provide for the donation of certain assets associated with the Stations.

### 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: DONATION

1.1 Donation. On the terms and subject to the conditions hereof, Mount Wilson will donate the Station Assets (defined below) to BRF as a charitable gift and for no consideration. BRF will provide to Mount Wilson written acknowledgement of receipt of such gift and other necessary information about BRF’s IRS tax-exempt status, but does not provide tax or other advice, which Mount Wilson should obtain from its professional advisors. BRF will complete and execute any required tax forms reasonably requested by Mount Wilson in connection with such gift, including the donee acknowledgment portion of IRS Form 8283. Accordingly, at Closing (defined below), Mount Wilson shall assign, transfer, convey and deliver to BRF, and BRF shall acquire from Mount Wilson, all right, title and interest of Mount Wilson in and to certain assets and properties of Mount Wilson, real and personal, tangible and intangible, that are used or held for use in the operation of the Stations (other than the Excluded Assets, defined below) (the “Station Assets”), including without limitation the following:

(a) all licenses, permits and other authorizations with respect to the Stations (the “FCC Licenses”), including those described on Schedule 1.1(a), including any renewals or modifications thereof between the date hereof and Closing;

(b) Certain of Mount Wilson’s equipment, transmitters, antennas, and

other tangible personal property located in Monterey County used or held for use in the operation of the Stations, including without limitation those listed on Schedule 1.1(b) (the “Tangible Personal Property”);

(c) the contracts, agreements and leases listed on Schedule 1.1(c) (the “Station Contracts”); and

(d) all files, documents and records relating to the Station Assets or required by the FCC to be kept by the Stations, including the Stations’ local and online public files, engineering data and logs, but excluding records included in or related to Excluded Assets (defined below).

The Station Assets shall be transferred to BRF free and clear of liens, claims and encumbrances (“Liens”) except for Assumed Obligations (defined in Section 1.3) and liens for taxes not yet due and payable (“Permitted Liens”).

1.2 Excluded Assets. Notwithstanding anything to the contrary contained herein, the Station Assets shall not include the following assets or any rights, title and interest therein (the “Excluded Assets”):

(a) all cash and cash equivalents of Mount Wilson, including without limitation certificates of deposit, commercial paper, treasury bills, marketable securities, money market accounts and all such similar accounts or investments;

(b) all tangible and intangible personal property of Mount Wilson retired or disposed of between the date of this Agreement and Closing in accordance with Article 4;

(c) all Station Contracts that are terminated or expire prior to Closing in accordance with Article 4;

(d) Mount Wilson’s corporate name, trade names, books and records relating to the organization, existence or ownership of Mount Wilson, and duplicate copies of the records of the Stations;

(e) all contracts of insurance, all coverages and proceeds thereunder and all rights in collection therewith, including without limitation rights arising from any refunds due with respect to insurance premium payments to the extent related to such insurance policies;

(f) all pension, profit sharing plans and trusts and the assets thereof and any other employee benefit plan or arrangement and the assets thereof, if any, maintained by Mount Wilson;

(g) all rights and claims of Mount Wilson against third parties with respect to the Station and the Station Assets, to the extent attributable to any period prior to the Effective Time (defined below);

(h) all deposits and prepaid expenses (and rights arising therefrom or related thereto), except to the extent Mount Wilson receives a credit therefor under Section 1.4; and

(i) all of the Stations’:

(A) call signs, trademarks, service marks, domain names and other intangible property, including KIDD and KNRY,

(B) studio site, studio site lease and studio furniture, fixtures and equipment,

(C) receivables for advertising prior to Closing and agreements for the sale of advertising time,

(D) programs and program contracts, and any other agreements not listed on Schedule 1.1(c), and

(E) facilities used in the operation of the Station located outside Monterey County.

1.3 Assumption of Obligations. On the Closing Date (defined below), BRF shall assume the obligations of Mount Wilson arising after Closing under the Station Contracts, as well as any other liabilities of Mount Wilson to the extent BRF receives a credit for such other liabilities under Section 1.4 (collectively, the “Assumed Obligations”). Except for the Assumed Obligations, BRF does not assume, and will not be deemed by the execution and delivery of this Agreement or the consummation of the transactions contemplated hereby to have assumed, any other liabilities or obligations of Mount Wilson (the “Retained Obligations”).

1.4 Prorations and Adjustments. All prepaid and deferred income and expenses relating to the Station Assets and arising from the operation of the Stations shall be prorated between BRF and Mount Wilson 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, utility expenses, rent and other amounts under Station Contracts and similar prepaid and deferred items. Mount Wilson shall receive in BRF’s acknowledgment of the gift value of the Station’s Assets for all of the Stations’ deposits and prepaid expenses to the extent they inure to BRF’s benefit. Prorations and adjustments shall be made no later than ninety (90) calendar days after Closing.

1.5 Closing. The consummation of the donation of the Station Assets provided for in this Agreement (the “Closing”) shall take place on or before the fifth (5th) business day after the date the FCC Consent (hereinafter defined) has been granted or on such other day after such consent as BRF and Mount Wilson may mutually agree, subject to the satisfaction or waiver of the conditions set forth in Articles 6 and 7 below. Notwithstanding the foregoing, either party may elect to postpone Closing until five (5) Business Days after the FCC Consents shall have become a Final Order (as defined in Section 5.7 below). The date on which the Closing is to occur is referred to herein as the “Closing Date.”

1.6 FCC Consent. Within five (5) business days of the date of this Agreement, BRF and Mount Wilson shall file applications with the FCC (the “FCC Applications”) requesting (i) FCC consent to the assignment of the FCC Licenses to BRF and (ii) conversion of one or both (at BRF’s option) of the Stations to noncommercial educational status as of Closing. FCC consent to the FCC Applications without any material adverse conditions other than those of general applicability is referred to herein as the “FCC Consent”. Prior to Closing the appropriate party shall request FCC consent to change the Stations’ call signs to ones designated by BRF subject to and effective upon Closing.

## ARTICLE 2: MOUNT WILSON REPRESENTATIONS AND WARRANTIES

Mount Wilson makes the following representations and warranties to BRF:

2.1 Organization. Mount Wilson is duly organized, validly existing and in good standing under the laws of the jurisdiction of its organization. Mount Wilson has the requisite power and authority to execute, deliver and perform this Agreement and all of the other agreements and instruments to be made by Mount Wilson pursuant hereto (collectively, the “Mount Wilson Ancillary Agreements”) and to consummate the transactions contemplated hereby.

2.2 Authorization. The execution, delivery and performance of this Agreement and the Mount Wilson Ancillary Agreements by Mount Wilson have been duly authorized and approved by all necessary action of Mount Wilson and do not require any further authorization or consent of Mount Wilson. This Agreement is, and each Mount Wilson Ancillary Agreement when made by Mount Wilson and the other parties thereto will be, a legal, valid and binding agreement of Mount Wilson enforceable in accordance with its terms, except in each case as such enforceability may be limited by bankruptcy, moratorium, insolvency, reorganization or other similar laws affecting or limiting the enforcement of creditors’ rights generally and except as such enforceability is subject to general principles of equity (regardless of whether such enforceability is considered in a proceeding in equity or at law).

2.3 No Conflicts. Except for the FCC Consent and consents to assign certain of the Station Contracts, the execution, delivery and performance by Mount Wilson of this Agreement and the Mount Wilson Ancillary Agreements and the consummation by Mount Wilson of the transactions contemplated hereby does not conflict with any organizational documents of Mount Wilson or any other contract or agreement to which Mount Wilson is a party or by which it is bound, or any law, judgment, order, or decree to which Mount Wilson is subject, or require the consent or approval of, or a filing by Mount Wilson with, any governmental or regulatory authority or any third party.

2.4 FCC Licenses. Mount Wilson 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 present operation of the Stations. 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 Mount Wilson’s knowledge, threatened, any action by or before the FCC to

revoke, suspend, cancel, rescind or modify any of 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 Stations or against Mount Wilson with respect to the Stations that could result in any such action. The Stations are operating in compliance in all material respects with the FCC Licenses, the Communications Act of 1934, as amended (the “Communications Act”), and the rules, regulations and policies of the FCC. All material reports and filings required to be filed with the FCC by Mount Wilson with respect to the Stations have been timely filed and all such reports and filings are accurate and complete in all material respects.

2.5 Taxes. Mount Wilson has, in respect of the Stations’ 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.

2.6 Personal Property. Schedule 1.1(b) contains a list of material items of Tangible Personal Property included in the Station Assets. Mount Wilson has good and marketable title to the Tangible Personal Property free and clear of Liens other than Permitted Liens. The Tangible Personal Property is in “as-is” condition.

2.7 Real Property. Schedule 1.1(c) includes a description of the leases of real property or similar agreements included in the Station Contracts (the “Real Property Leases”). To Mount Wilson’s knowledge, such real property is not subject to any suit for condemnation or other taking by any public authority. There is no owned real property included in the Station Assets.

2.8 Contracts. Schedule 1.1(c) contains a list of all other contracts that are included in the Station Contracts, if any. The Station Contracts requiring the consent of a third party to assignment are identified on Schedule 1.1(c). Each of the Station Contracts (including without limitation the Real Property Leases) is in effect and is binding upon Mount Wilson and, to Mount Wilson’s knowledge, the other parties thereto (subject to bankruptcy, insolvency, reorganization or other similar laws relating to or affecting the enforcement of creditors’ rights generally). Mount Wilson has performed its obligations under each of the Station Contracts in all material respects, and is not in material default thereunder, and to Mount Wilson’s knowledge, no other party to any of the Station Contracts is in default thereunder in any material respect. Mount Wilson has delivered to BRF true and complete copies of each Station Contract (including each Real Property Lease), including all amendments thereto.

2.9 Environmental. No hazardous or toxic substance or waste regulated under any applicable environmental, health or safety law has been generated, stored, transported or released on, in, from or to the Stations’ properties included in the Station Assets except in compliance with applicable laws. Mount Wilson has complied in all material respects with all environmental, health and safety laws applicable to the Station.

2.10 Insurance. Mount Wilson maintains insurance policies with respect to the

Stations and the Station Assets in commercially reasonable amounts and consistent with its practices for other stations, and will maintain such policies until the Effective Time.

2.11 Compliance with Law. Mount Wilson has complied in all material respects with all laws, rules and regulations, including without limitation all FCC and Federal Aviation administration rules and regulations applicable to the operation of the Station, and all decrees and orders of any court or governmental authority which are applicable to the operation of the Station. There are no governmental claims or investigations pending or, to Mount Wilson's knowledge, threatened against Mount Wilson in respect of the Stations except those affecting the industry generally.

2.12 Litigation. There is no action, suit or proceeding pending or, to Mount Wilson's knowledge, threatened against Mount Wilson with respect of the Stations. Mount Wilson is not operating under or subject to any order, writ, injunction or decree relating to the Station or the Station Assets of any court or governmental authority, other than those of general applicability.

2.13 No Undisclosed Liabilities. There are no liabilities or obligations of Mount Wilson with respect to the Stations that will be binding upon BRF after the Effective Time other than the Assumed Obligations and other than pursuant to the prorations under Section 1.4.

2.14 Station Assets. The Station Assets include all assets that are owned or leased by Mount Wilson and used or held for use in the operation of the Stations in all material respects as currently operated, except for the Excluded Assets.

### ARTICLE 3: BRF REPRESENTATIONS AND WARRANTIES

BRF hereby makes the following representations and warranties to Mount Wilson:

3.1 Organization. BRF is duly organized, validly existing and in good standing under the laws of the jurisdiction of its organization as a nonprofit corporation. BRF has the requisite power and authority to execute, deliver and perform this Agreement and all of the other agreements and instruments to be executed and delivered by BRF pursuant hereto (collectively, the "BRF Ancillary Agreements") and to consummate the transactions contemplated hereby.

3.2 Authorization. The execution, delivery and performance of this Agreement and the BRF Ancillary Agreements by BRF have been duly authorized and approved by all necessary action of BRF and do not require any further authorization or consent of BRF. This Agreement is, and each BRF Ancillary Agreement when made by BRF and the other parties thereto will be, a legal, valid and binding agreement of BRF enforceable in accordance with its terms, except in each case as such enforceability may be limited by bankruptcy, moratorium, insolvency, reorganization or other similar laws affecting or limiting the enforcement of creditors' rights generally and except as such enforceability is subject to general principles of equity (regardless of whether such enforceability is considered in a proceeding in equity or at

law).

3.3 No Conflicts. Except for the FCC Consent, the execution, delivery and performance by BRF of this Agreement and the BRF Ancillary Agreements and the consummation by BRF of the transactions contemplated hereby does not conflict with any organizational documents of BRF, any contract or agreement to which BRF is a party or is by which it is bound, or any law, judgment, order or decree to which BRF is subject, or require the consent or approval of, or a filing by BRF with, any governmental or regulatory authority or any third party.

3.4 Litigation. There is no action, suit or proceeding pending or, to BRF's knowledge, threatened against BRF which questions the legality or propriety of the transactions contemplated by this Agreement or could materially adversely affect the ability of BRF to perform its obligations hereunder.

3.5 Qualification. Subject to grant by the FCC of the conversion and waiver described in Section 1.6, BRF is legally, financially and otherwise qualified to be the licensee of, acquire, own and operate the Stations under the Communications Act and the rules, regulations and policies of the FCC. There are no facts that would, under existing law and the existing rules, regulations, policies and procedures of the FCC, disqualify BRF as an assignee of the FCC Licenses or as the owner and operator of the Stations.

3.6 Tax Exempt Status Under Section 501(c)(3) of the Internal Revenue Code. BRF has applied for a determination letter from the Internal Revenue Service that BRF is a qualified charitable organization under Section 501(c)(3) of the Internal Revenue Code eligible to receive tax-deductible contributions in accordance with Section 170 of the Internal Revenue Code. BRF has not received any denials of that application from the IRS, and knows of no reasons why it will not receive a favorable determination from the IRS.

#### ARTICLE 4: MOUNT WILSON COVENANTS

4.1 Mount Wilson's Covenants. Between the date hereof and Closing, except as permitted by this Agreement or with the prior written consent of BRF, Mount Wilson shall:

- (a) operate the Stations in the ordinary course of business and in all material respects in accordance with FCC rules and regulations and with all other applicable laws, regulations, rules and orders;
- (b) not modify, and in all material respects maintain in full force and effect, the FCC Licenses;
- (c) not sell, lease or dispose of or agree to sell, lease or dispose of any of the Station Assets unless replaced with similar items of substantially equal or greater value and utility, or create, assume or permit to exist any Liens upon the Station Assets, except for Permitted Liens, and not dissolve, liquidate, merge or consolidate with any other entity;
- (d) maintain the Tangible Personal Property in the ordinary course of

business;

(e) upon reasonable notice, give BRF and its representatives reasonable access during normal business hours to the Station Assets, and furnish BRF with information relating to the Station Assets that BRF may reasonably request, provided that such access rights shall not be exercised in a manner that interferes with the operation of the Stations; and

(f) not enter into new contract that will be binding upon BRF after Closing or amend or terminate any existing Station Contracts.

## ARTICLE 5: JOINT COVENANTS

BRF and Mount Wilson hereby covenant and agree as follows:

5.1 Confidentiality. Subject to the requirements of applicable law, all non-public information regarding the parties and their business and properties that is disclosed in connection with the negotiation, preparation or performance of this Agreement shall be confidential and shall not be used or disclosed except as reasonably necessary for purposes of consummating the transaction contemplated by this Agreement.

5.2 Announcements. Prior to Closing, no party shall, without the prior written consent of the other, issue any press release or make any other public announcement concerning the transactions contemplated by this Agreement, except to the extent that such party is so obligated by law, and except as necessary to enforce rights under or in connection with this Agreement. Notwithstanding the foregoing, the parties acknowledge that this Agreement and the terms hereof will be filed with the FCC Applications and thereby become public.

5.3 Control. BRF shall not, directly or indirectly, control, supervise or direct the operation of the Stations prior to Closing. Consistent with the Communications Act and the FCC rules and regulations, control, supervision and direction of the operation of the Stations prior to Closing shall remain the responsibility of Mount Wilson as the holder of the FCC Licenses.

5.4 Risk of Loss. Mount Wilson shall bear the risk of any loss of or damage to any of the Station Assets at all times until the Effective Time, and BRF shall bear the risk of any such loss or damage thereafter. If prior to Closing the Station is off the air or operating at a power level that results in a material reduction in coverage (a "Broadcast Interruption"), then Mount Wilson shall use commercially reasonable efforts to return the Stations to the air and restore prior coverage as promptly as possible in the ordinary course of business. Notwithstanding anything herein to the contrary, if prior to Closing there is a Broadcast Interruption in excess of 24 hours, then BRF may postpone Closing until the date five (5) business days after the Stations returns to the air and prior coverage is restored in all material respects, subject to Section 10.1.

5.5 Consents. The parties shall use commercially reasonable efforts to obtain



any third party consents necessary for the assignment of any Station Contract (which shall not require any payment to any such third party). To the extent that any Station Contract may not be assigned without the consent of any third party, and such consent is not obtained prior to Closing, this Agreement and any assignment executed pursuant to this Agreement shall not constitute an assignment of such Station Contract; provided, however, with respect to each such Station Contract, Mount Wilson and BRF shall cooperate to the extent feasible in effecting a lawful and commercially reasonable arrangement under which BRF shall receive the benefits under the Station Contract from and after Closing, and to the extent of the benefits received, BRF shall pay and perform Mount Wilson's obligations arising under the Station Contract from and after Closing in accordance with its terms. For the Real Property Leases, Mount Wilson shall use commercially reasonable efforts to obtain from the landlords Estoppel Certificates in a form reasonably acceptable to BRF.

5.6 Employees. BRF shall have no obligation and does not intend to offer employment to any employee of Mount Wilson or the Stations.

5.7 FCC Compliance. If the Closing occurs prior to the date that the FCC Consent becomes a Final Order (defined below), and prior to that date the FCC Consent is reversed or otherwise set aside, and there is a Final Order of the FCC (or court of competent jurisdiction) requiring the re-assignment of the FCC Licenses to Mount Wilson, then the donation of the Station Assets shall be rescinded. In such event, BRF shall re-convey to Mount Wilson the Station Assets free and clear of Liens other than Permitted Liens, and Mount Wilson shall reassume the Station Contracts. Any such rescission shall be consummated on a mutually agreeable date within thirty days of such Final Order (or, if earlier, within the time required by such order). In connection therewith, BRF and Mount Wilson shall each execute such documents (including execution by BRF of instruments of conveyance of the Station Assets to Mount Wilson and execution by Mount Wilson of instruments of assumption of the Station Contracts) as are necessary to give effect to such rescission. For purposes of this Agreement, the term "Final Order" means action by the FCC which is not reversed, stayed, enjoined, set aside, annulled or suspended, and with respect to which action no timely request for stay, petition for rehearing, appeal or certiorari or *sua sponte* action of the FCC with comparable effect is 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 has expired or otherwise terminated.

## ARTICLE 6: MOUNT WILSON CLOSING CONDITIONS

The obligation of Mount Wilson 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 Mount Wilson):

### 6.1 Representations and Covenants.

(a) The representations and warranties of BRF 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.

(b) The covenants and agreements to be complied with and performed by BRF at or prior to Closing shall have been complied with or performed in all material respects.

(c) Mount Wilson shall have received a certificate dated as of the Closing Date from BRF executed by an authorized officer of BRF to the effect that the conditions set forth in Sections 6.1(a) and (b) have been satisfied.

6.2 Proceedings. Neither Mount Wilson nor BRF shall be subject to any court or governmental order or injunction restraining or prohibiting the consummation of the transactions contemplated hereby.

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

6.4 Deliveries. BRF shall have complied with its obligations set forth in Section 8.2.

#### ARTICLE 7: BRF CLOSING CONDITIONS

The obligation of BRF 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 BRF):

##### 7.1 Representations and Covenants.

(a) The representations and warranties of Mount Wilson 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.

(b) The covenants and agreements to be complied with and performed by Mount Wilson at or prior to Closing shall have been complied with or performed in all material respects.

(c) BRF shall have received a certificate dated as of the Closing Date from Mount Wilson executed by an authorized officer of Mount Wilson to the effect that the conditions set forth in Sections 7.1(a) and (b) have been satisfied.

7.2 Proceedings. Neither Mount Wilson nor BRF shall be subject to any court or governmental order or injunction restraining or prohibiting the consummation of the transactions contemplated hereby.

7.3 FCC Authorization. The FCC Consent pursuant to the FCC's initial order shall have been obtained and shall have become a Final Order.

7.4 Deliveries. Mount Wilson shall have complied with its obligations set forth in Section 8.1.

## ARTICLE 8: CLOSING DELIVERIES

8.1 Mount Wilson Documents. At Closing, Mount Wilson shall deliver or cause to be delivered to BRF:

- (i) the certificate described in Section 7.1(c);
- (ii) an assignment of FCC authorizations assigning the FCC Licenses from Mount Wilson to BRF;
- (iii) an assignment and assumption of contracts assigning the Station Contracts, if any, other than the Real Property Leases, from Mount Wilson to BRF;
- (iv) consents to assignment and estoppel certificates, if any, obtained from the landlords under the Real Property Leases, pursuant to the terms of Section 5.5 above;
- (v) an assignment and assumption of leases assigning the Real Property Leases from Mount Wilson to BRF;
- (vi) a bill of sale conveying the other Station Assets from Mount Wilson to BRF; and
- (vii) any other instruments of conveyance, assignment and transfer that may be reasonably necessary to convey, transfer and assign the Station Assets from Mount Wilson to BRF, free and clear of Liens, except for Permitted Liens.

8.2 BRF Documents. At Closing, BRF shall deliver or cause to be delivered to Mount Wilson:

- (i) the certificate described in Section 6.1(c);
- (ii) an assignment and assumption of contracts assuming the Station Contracts, if any, other than the Real Property Leases;
- (iii) an assignment and assumption of leases assuming the Real Property Leases;
- (iv) BRF's Internal Revenue Service Exemption Determination Letter, if received by BRF before the Closing; and
- (v) such other documents and instruments of assumption that may be necessary to assume the Assumed Obligations.

## ARTICLE 9: SURVIVAL; INDEMNIFICATION

9.1 Survival. The representations and warranties in this Agreement shall survive for a period of twelve (12) months from the Closing Date, whereupon they shall expire and be of no further force or effect, except (i) those under Section 2.5 (Taxes), Section 2.9 (Environmental), and those under Section 2.6 solely with respect to title, all of which shall survive until the expiration of any applicable statute of limitations, and (ii) that if within such applicable period the indemnified party gives the indemnifying party written notice of a claim for breach thereof, then such claim shall survive until the earlier of resolution of such claim or expiration of the applicable statute of limitations. The covenants and agreements in this Agreement shall survive Closing until performed.

### 9.2 Indemnification.

(a) From and after Closing, Mount Wilson shall defend, indemnify and hold BRF harmless from and against any and all losses, costs, damages, liabilities and expenses, including reasonable attorneys' fees and expenses ("Damages") incurred by BRF arising out of or resulting from:

- (i) any breach by Mount Wilson of its representations and warranties made under this Agreement; or
- (ii) any default by Mount Wilson of any covenant or agreement made under this Agreement; or
- (iii) the Retained Obligations; or
- (iv) the business or operation of the Stations before the Effective Time, except for the Assumed Obligations.

(b) From and after Closing, BRF shall defend, indemnify and hold harmless Mount Wilson from and against any and all Damages incurred by Mount Wilson arising out of or resulting from:

- (i) any breach by BRF of its representations and warranties made under this Agreement; or
- (ii) any default by BRF of any covenant or agreement made under this Agreement; or
- (iii) the Assumed Obligations; or
- (iv) the business or operation of the Station after the Effective Time.

### 9.3 Procedures.

(a) The indemnified party shall give prompt written notice to the indemnifying party of any demand, suit, claim or assertion of liability by third parties that is subject to indemnification hereunder (a “Claim”), but a failure to give such notice or delaying such notice shall not affect the indemnified party’s rights or the indemnifying party’s obligations except to the extent the indemnifying party’s ability to remedy, contest, defend or settle with respect to such Claim is thereby prejudiced and provided that such notice is given within the time period described in Section 9.1.

(b) The indemnifying party shall have the right to undertake the defense or opposition to such Claim with counsel selected by it. In the event that the indemnifying party does not undertake such defense or opposition in a timely manner, the indemnified party may undertake the defense, opposition, compromise or settlement of such Claim with counsel selected by it at the indemnifying party’s cost (subject to the right of the indemnifying party to assume defense of or opposition to such Claim at any time prior to settlement, compromise or final determination thereof).

(c) Anything herein to the contrary notwithstanding:

(i) the indemnified party shall have the right, at its own cost and expense, to participate in the defense, opposition, compromise or settlement of the Claim;

(ii) the indemnifying party shall not, without the indemnified party’s written consent, settle or compromise any Claim or consent to entry of any judgment which does not include the giving by the claimant to the indemnified party of a release from all liability in respect of such Claim;

(iii) in the event that the indemnifying party undertakes defense of or opposition to any Claim, the indemnified party, by counsel or other representative of its own choosing and at its sole cost and expense, shall have the right to consult with the indemnifying party and its counsel concerning such Claim and the indemnifying party and the indemnified party and their respective counsel shall cooperate in good faith with respect to such Claim; and

(iv) neither party shall have any liability to the other under any circumstances for special, indirect, consequential, punitive or exemplary damages or lost profits or similar damages of any kind, whether or not foreseeable.

## ARTICLE 10: TERMINATION AND REMEDIES

10.1 Termination. Subject to Section 10.3, this Agreement may be terminated prior to Closing as follows:

(a) by mutual written consent of BRF and Mount Wilson;

(b) by written notice of BRF to Mount Wilson if Mount Wilson 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 Mount Wilson to BRF if BRF 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; or

(d) by written notice of Mount Wilson to BRF or BRF to Mount Wilson if Closing does not occur by the date nine (9) months after the date of this Agreement.

10.2 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 BRF or Mount Wilson receives from the other written notice of breach or default hereunder and continuing until the earlier of (i) twenty (20) calendar days thereafter or (ii) the Closing Date; provided, however, that if the breach or default is non-monetary and cannot reasonably be cured within such period but can be cured before the Closing Date, and if diligent efforts to cure promptly commence, then the Cure Period shall continue as long as such diligent efforts to cure continue, but not beyond the Closing Date.

10.3 Survival. 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 5.1 (Confidentiality) and 11.1 (Expenses) shall survive any termination of this Agreement.

10.4 Specific Performance. In the event of failure or threatened failure by either party to comply with the terms of this Agreement, the other party shall be entitled to an injunction restraining such failure or threatened failure and, subject to obtaining any necessary FCC consent, to enforcement of this Agreement by a decree of specific performance requiring compliance with this Agreement.

## ARTICLE 11: MISCELLANEOUS

11.1 Expenses. 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. Any filing fees associated with the request for the FCC Consent shall be paid one-half by BRF and one-half by Mount Wilson. Each party is responsible for any commission, brokerage fee, advisory fee or other similar payment that arises as a result of any agreement or action of it or any party acting on its behalf in connection with this Agreement or the transactions contemplated hereby. BRF shall be solely responsible for the Twenty-Five Thousand Dollar (\$25,000) brokerage fee due to The Exline Company, as well as the cost, up to Two Thousand Four Hundred Dollars (\$2,400.00), of obtaining written Letters of Opinion valuing the Station Assets.

11.2 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.

11.3 Assignment. Neither party may assign all or part of this Agreement without the prior written consent of the other party hereto. 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.

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

if to Mount Wilson:	Mount Wilson FM Broadcasters, Inc. 1500 Cotner Avenue Los Angeles, CA 90025 Attention: Saul Levine, President Facsimile: (310) 444-3223 Email: 105@mountwilsoninc.com
---------------------	--

with a copy (which shall not constitute notice) to:	Foster Garvey 1000 Potomac Street NW, Suite 200 Washington, DC 20007 Attention: Melodie A. Virtue Facsimile: (202) 965-1729 Email: melodie.virtue@foster.com
--	---

if to BRF:	The Balanced Radio Foundation 20026 Bradley Way Foresthill, CA 95631 Attention: K. Richard Jenkins, Chairman Email: dickjenkinsbiz@gmail.com
------------	--

with a copy (which shall not constitute notice) to:	Fletcher, Heald & Hildreth, P.L.C. 1300 N. 17 <sup>th</sup> Street, Suite 1100 Arlington, VA 22209 Attention: Frank Montero Facsimile: (703) 812-0486 Email: montero@fhhlaw.com
--	--

11.5 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.

11.6 Entire Agreement. This Agreement 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.

11.7 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.

11.8 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.

11.9 Governing Law. The construction and performance of this Agreement shall be governed by the laws of the State of California without giving effect to the choice of law provisions thereof. The prevailing party in a lawsuit brought to enforce the performance or compliance of any provision of this Agreement, including without limitation any action to enforce this Agreement under Section 10.4, may recover reasonable attorneys' fees and costs from the non-prevailing party.

11.10 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.


[SIGNATURE PAGE FOLLOWS]



SIGNATURE PAGE TO DONATION AGREEMENT

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

**THE BALANCED RADIO FOUNDATION**

By:   
Name: K. Richard Jenkins  
Title: Chairman

**MOUNT WILSON FM BROADCASTERS, INC.**

By: \_\_\_\_\_  
Name: Saul Levine  
Title: President

SIGNATURE PAGE TO DONATION AGREEMENT

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

**THE BALANCED RADIO FOUNDATION**

By: \_\_\_\_\_  
Name: K. Richard Jenkins  
Title: Chairman

**MOUNT WILSON FM BROADCASTERS, INC.**

By:  \_\_\_\_\_  
Name: Saul Levine  
Title: President

Schedule 1.1(a)

FCC Licenses

**KIDD(AM), Monterey, California, FCC Facility ID No. 7721**

- FCC AM Broadcast Station License (File No. BL-8218; Special Temporary Authority File No. BESTA-20191009AAJ)
- FCC Renewal Authorization (File No. BR-20130729AQK; Exp. December 1, 2021)

**KNRY(AM), Monterey, California, FCC Facility ID No. 35276**

- FCC AM Broadcast Station License (File No. BML-20130605ACL)
- FCC Renewal Authorization (File No. BR-20130729AKX; Exp. December 1, 2021)

**K294CA, Monterey, California, FCC Facility ID No. 147613**

- FCC FM Translator License (File No. BLFT-20150810ADY; Exp. December 1, 2021)

**K240EV, Monterey, California, FCC Facility ID No. 200420**

- FCC FM Translator License (File No. BLFT-20190523AAU; Exp. December 1, 2021)

Schedule 1.1(b)

Tangible Personal Property

**Cannery Row** (KNRY & KIDD)

Nautel J 1000 KIDD  
Nautel XR 3 KNRY  
Harris SX 1000 KIDD Back up  
Existing KNRY Back-up Transmitter on Site  
Optimod 9200 KNRY  
Optimod 9200 KIDD  
Dummy Load  
RF Switch  
300 FT Transmission Line  
Two ATU's and Diplerer  
Leased 200 FT Tower  
DSL Modem  
Cable Modem  
Sage Digital Endec  
2 Equipment Racks  
KIDD Phasor  
CircuitWerkes Sicon 24 Remote Control  
Brik-Link (or equiv.) to connect Remote Control to ISP  
Comrex Bric- Link EAS Audio to Hidden hills  
Broadcast Tools Audio monitoring and source switching equipment  
Inovonics Demod  
Monitor amp/speaker

**Hidden Hills** (K294CA & K240EV)

Nautel VS 1KW 106.7  
PSA Antenna  
Apx. 350 FT of 3/4" Coax  
GatesAir Flexivca 1KW 95.9  
PSA Antenna  
Apx. 200 FT of RJ11  
Comrex Bric-link EAS Audio  
Sage Digital Endec  
DSL Modem  
1 Equipment Rack  
Stereo Demod and Monitor Speaker/Amp  
Equipment Manuals  
CircuitWerks Sicon 8 Remote

Schedule 1.1(c)

Station Contracts

Cannery Row Tower Lease (KNRY & KIDD)\*

Cannery Row Transmitter Space and Roof Lease (KNRY & KIDD)\*

HH Tower Group Tower Lease (K294CA & K240EV)\*

\* consent to assignment required