

**LOCAL PROGRAMMING AND MARKETING AGREEMENT**

THIS LOCAL PROGRAMMING AND MARKETING AGREEMENT (this "Agreement") is made as of April 3, 2012 among Plum TV, Inc., Aspen Television, LLC, Sun Valley Television, LLC, and Telluride Television, LLC (collectively and individually "Licensees"), and Plum Media LLC ("Programmer").

**RECITALS**

A. Each Licensee owns and operates the stations corresponding to each Licensee as identified on *Schedule A* (collectively, the "Stations"), which operate pursuant to licenses (the "Licenses") issued by the Federal Communications Commission ("FCC").

B. The FCC has licensed the Stations to provide different types of services as follows: three (3) of the Stations provide low power television broadcast services (the "LPTV Stations"), which are regulated under Parts 73 and 74 of the rules and regulations of the FCC (the "FCC Rules"), and seven (7) of the Stations provide fixed microwave services (the "Microwave Licenses"), which are regulated under Part 101 of the FCC Rules. In addition, LPTV Station KSVX-CD, Hailey, Idaho (the "Class A Station"), is subject to additional FCC regulation arising from its Class A license status.

C. Licensees filed, pursuant to Chapter 11 of the Bankruptcy Code ("Chapter 11"), a bankruptcy proceeding on January 3, 2012, jointly administered under Case No. 12-10017 (MG), pending the United States Bankruptcy Court for the Southern District of New York (the "Bankruptcy Court").

D. Licensees, pursuant to the Bankruptcy Court's February 2, 2012 order approving bidding procedures, offered the Stations for sale at auction on March 5, 2012, at which Programmer was the highest bidder, and following a March 7, 2012 hearing, the Bankruptcy Court approved the agreement between Licensees (as Seller) and Programmer (as Buyer) whereby Licensees will sell the Stations and other assets used in the operation thereof to the Programmer, effective upon the grant of FCC Consent (the "Purchase Agreement").

E. Licensees desire to obtain programming for the Stations, and Programmer desires to provide programming for broadcast on the Stations on the terms set forth in this Agreement.

**AGREEMENT**

NOW, THEREFORE, taking the foregoing recitals into account, and in consideration of the mutual covenants and agreements contained herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties, intending to be legally bound, hereby agree as follows:

1. *Term.* The term of this Agreement (the "Term") will commence as of the date hereof and will continue until the Expiration Date (as hereinafter defined), unless earlier terminated in accordance with the terms of this Agreement.

2. *Programming.* During the Term, Licensees shall make available to Programmer airtime on the LPTV Stations under the terms of this Agreement, and Programmer shall transmit to Licensees such programming as designated and provided by Programmer (the "Programs") for broadcast, as appropriate and subject to Section 6(b) of this Agreement, on the LPTV Stations twenty-four (24) hours per day, seven (7) days per week. Programmer will transmit the Programs to the LPTV Stations' transmitting facilities in a manner that ensures that the Programs meet technical and quality standards at least equal to those of the LPTV Stations' broadcasts prior to commencement of the Term. Notwithstanding anything herein to the contrary, the LPTV Stations shall continue to broadcast any programming required to be aired under the terms of the Assumed Contracts (as defined in the Purchase Agreement) existing on the date of this Agreement and relating to the broadcast of programming to the LPTV Stations (the "Station Contracts").
3. *Broadcasting.* Licensees shall broadcast the Programs, subject to the provisions of Section 6 below. To the extent reasonably necessary to perform this Agreement, during the Term, Licensees shall provide Programmer with the benefits of any Station Contracts and Programmer shall perform the obligations of Licensees thereunder.
4. *Advertising.* During the Term, Programmer will be exclusively responsible for the sale of advertising and paid programming on the LPTV Stations and for the collection of accounts receivable arising therefrom (including without limitation in respect of the Broadcasting Period), and Programmer shall be entitled to all such accounts receivables.
5. *Payments.* The right of Programmer to broadcast the Programs on the LPTV Stations and the other benefits made available to Programmer pursuant to this Agreement during the Term shall be in consideration for Programmer's execution and delivery of the Purchase Agreement, and its performance thereunder, and Programmer's agreement and obligation to make the payments to Licensees as set forth on *Schedule B* attached hereto.
6. *Control.*
  - (a) Notwithstanding anything to the contrary in this Agreement, Licensees shall have full authority, power and control over the operation of the Stations and over all persons working at the Stations during the Term. Without limiting the generality of the foregoing, Licensees will: (i) employ a manager for the Class A Station (as such term is defined in *Schedule A*), who will report to Licensees and will direct the day-to-day operations of the Class A Station, and who shall have no employment, consulting, or other relationship with Programmer, (ii) employ a second employee for the Class A Station, who will report and be solely accountable to the manager, and (iii) retain control over the policies, programming and operations over each of the Stations.
  - (b) Nothing contained herein shall prevent Licensees, in their sole discretion, from (i) broadcasting such additional programming, either produced or purchased by Licensees, as they determine appropriate to respond to the ascertained issues of community concern ("Licensee Programming"); (ii) deleting or preempting any

Programs in order to transmit Licensee Programming; (iii) rejecting or refusing Programs which Licensees believe to be contrary to the public interest; or (iv) substituting programs which Licensees believe to be of greater local or national importance or which are designed to address the problems, needs and interests of the local communities.

- (c) Licensees reserve the right to (i) refuse to broadcast any Program containing matter which violates any right of any third party, which constitutes a "personal attack" as that term has been defined by the FCC, or which does not meet the requirements of the rules, regulations, and policies of the FCC, (ii) preempt any Program in the event of a local, state, or national emergency, or (iii) delete any commercial announcements that do not comply with the requirements of the FCC's sponsorship identification policy.
- (d) Programmer shall cooperate with Licensees to ensure that EAS transmissions are properly performed in accordance with Licensees' instructions.
- (e) Each party shall deliver to the other a copy of any letters of complaint it receives with respect to the Stations, and, with respect to the Class A Station, Licensees and Programmer shall ensure that any such complaints are placed in the public inspection file of the Class A Station. If any employee is shared by Licensees and Programmer, then when performing services for Licensees, such employee will report to and be supervised and directed solely by Licensees, and when performing services for Programmer, such employee will report to and be supervised and directed solely by Programmer, and Licensees and Programmer shall instruct such employee accordingly.

## 7. *Programs.*

- (a) Programmer shall ensure that the contents of the Programs shall conform to all FCC rules, regulations and policies. Programmer shall consult with Licensees in the selection of the Programs to ensure that the Programs' content contains matters responsive to issues of public concern in the local communities, as those issues are made known to Programmer by Licensees. With respect to the Class A Station, on or before January 7, April 7, July 7, and October 7 of every year during the Term, as applicable, Programmer shall provide Licensees a list of significant community issues addressed in the Programming broadcast on the Class A Station during the preceding quarter and the specific Programming that addressed such issues.
- (b) Licensees shall oversee and take ultimate responsibility with respect to the provision of equal opportunities, lowest unit charge, and reasonable access to political candidates, and compliance with the political broadcast rules of the FCC. During the Term, Programmer shall cooperate with Licensees as Licensees comply with their political broadcast responsibilities, and shall supply such information promptly to Licensees as may be necessary to comply with the political time record keeping and lowest unit charge requirements of federal law.

Programmer shall release advertising availabilities to Licensees during the Broadcasting Period as necessary to permit Licensees to comply with the political broadcast rules of the FCC; provided, however, that revenues received by Licensees as a result of any such release of advertising time shall promptly be remitted to Programmer.

- (c) During the Term, subject to Section 5, Licensees will maintain music licenses with respect to the LPTV Stations and the Programs, as appropriate.
8. *Expenses.* During the Term, Programmer will be responsible for (i) the salaries, taxes, insurance and other costs for all personnel used in the production of the Programs supplied to Licensees, and (ii) the costs of delivering the Programs to Licensees. Subject to Section 5, Licensees will pay for their employees contemplated by Section 6, maintenance of all studio(s) and transmitter equipment and all other operating costs required to be paid to maintain the Stations' operations in accordance with FCC rules and policies and applicable law. Subject to Section 5, Licensees will also pay for all utilities supplied to their main studio(s) and transmitter sites. Subject to Section 5, Licensees will provide all personnel necessary for the broadcast transmission of the Programs (once received at their transmitter sites) and will be responsible for the salaries, taxes, insurance and related costs for all such personnel.
9. *Call Signs.* During the Term, Licensees will retain all rights to the call letters of the Stations or any other call letters which may be assigned by the FCC for use by the Stations, and will ensure that proper station identification announcements are made with such call letters in accordance with FCC rules and regulations. Programmer shall include in the Programs an announcement at the beginning of each hour of such Programs to identify such call letters, as well as any other announcements required by the rules and regulations of the FCC.
10. *Facilities.*
- (a) During the Term, Licensees shall maintain the operating power of the Stations and shall repair and maintain Licensees' studio and transmission facilities consistent with their past practice.
  - (b) During the Term, Programmer shall provide Licensees access to and the use of studio and transmission facilities located in each Station's market as are reasonably necessary for Licensees to comply with their obligations under applicable FCC Rules and this Agreement (which may be extended as provided by the Purchase Agreement). When on Programmer's premises, Licensees shall not act contrary to the terms of any lease for such premises or the policies with respect thereto established by Programmer.
  - (c) During the Term, Licensees shall provide Programmer with all reasonable access to and the use of that certain tangible personal property and equipment comprising the Regulated Assets as may be reasonably necessary in connection with the

performance of Programmer's obligations and exercise of its rights under this Agreement.

- (d) Programmer and Licensees ratify and confirm, and hereby fully incorporate by reference and make a part hereof Licensees' obligations set forth in Section 9.1(q) of the Purchase Agreement, which obligations shall be deemed, for the avoidance of doubt, to continue during the Term of this Agreement; *provided, however*, that notwithstanding anything contained in Section 9.1(q) of the Purchase Agreement to the contrary, upon written notice to Licensees, Programmer shall cease to have any obligation to reimburse Licensees with respect to expenses relating to prosecution of the CP Applications (as defined in the Purchase Agreement) that arise following the delivery of such notice, and thereupon Licensees shall cease to have any obligation to prosecute such CP Applications.

11. *Representations.* Programmer and each Licensee each represents and warrants to the other that (a) it has the power and authority to enter into this Agreement and to consummate the transactions contemplated hereby, (b) it is in good standing in the jurisdiction of its organization and is qualified to do business in all jurisdictions where the nature of its business requires such qualification, (c) it has duly authorized this Agreement, and this Agreement is binding upon it, and (d) the execution, delivery, and performance by it of this Agreement does not conflict with, result in a breach of, or constitute a default or ground for termination under any agreement to which it is a party or by which it is bound.

12. *Termination.*

- (a) This Agreement shall terminate automatically upon grant of the FCC Consent. This Agreement may be terminated by either party in the event of any expiration or termination of the Purchase Agreement with respect to the remaining assets of the Stations. The "Expatriation Date" shall be deemed to be the earlier of (i) the effective date of termination under this Section 12(a) and (ii) the second anniversary of the date hereof.
- (b) Licensees may terminate this Agreement upon written notice to Programmer if: (i) Programmer fails to make timely payments as provided for in Section 5 of this Agreement or Programmer otherwise fails to observe or perform its other obligations contained in this Agreement in any material respect, which is not cured within the Cure Period (defined below); or (ii) Programmer breaches the representations and warranties made by it under this Agreement in any material respect, which is not cured with the Cure Period.
- (c) Programmer may terminate this Agreement upon written notice to Licensees if: (i) Licensees fail to observe or perform their obligations contained in this Agreement in any material respect (other than a failure to broadcast the Programs due to facility maintenance, repair or modification or due to any reason out of Licensees' reasonable control), which is not cured within the Cure Period; or

(ii) Licensees breach the representations and warranties made by them under this Agreement in any material respect, which is not cured with the Cure Period.

- (d) The term "Cure Period" means a period commencing on the date Licensees or Programmer receives written notice from the other of a breach or default hereunder and continuing until the sixty (60) calendar days thereafter. If this Agreement is terminated for any reason other than at closing under the Purchase Agreement, the parties agree to cooperate with one another and to take all actions necessary to rescind this Agreement and return the parties to the status quo ante.

13. *Indemnification.* Programmer shall indemnify and hold Licensees harmless against any and all liability for indecency, libel, slander, illegal competition or trade practice, infringement of trademarks, trade names, or program titles, violation of rights of privacy, and infringement of copyrights and proprietary rights or any other violation of third party rights, the FCC's rules or applicable law resulting from the broadcast of the Programs on the LPTV Stations or Programmer's use of the Microwave Stations. Licensees shall indemnify and hold Programmer harmless against any and all liability for indecency, libel, slander, illegal competition or trade practice, infringement of trademarks, trade names, or program titles, violation of rights of privacy, and infringement of copyrights and proprietary rights or any other violation of third party rights, the FCC's rules or applicable law resulting from the broadcast of Licensee Programming on the LPTV Stations or Licensees' use of the Microwave Stations. The obligations under this Section shall survive any termination of this Agreement.

14. *Assignment.*

- (a) Neither party may assign 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. 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.
- (b) This Agreement is and shall be specifically performable and enforceable against and binding upon, and not subject to rejection or avoidance by, the Licensees, their respective successors and permitted assigns, including, without limitation, any Chapter 11 trustee hereinafter appointed for the Licensees' debtor-estates or any trustee appointed in a Chapter 7 case if one or more of the Licensees' Bankruptcy Cases (as defined in the Purchase Agreement) is converted from Chapter 11, any successors and assigns under any Chapter 11 plan of the Licensees, and any trustee, party, entity or fiduciary that may be appointed in connection with the Licensees' Bankruptcy Cases or any other or further cases involving the Licensees, whether under Chapter 7 or Chapter 11 of the Bankruptcy Code (collectively and individually, other than the Licensees, the "Assigns"). Subject to Section 20 hereof, in the event that the Regulated Assets, or any portion thereof, are assigned to any Assign, Licensees shall take all actions

necessary to cause this Agreement to be assigned to such Assign and to ensure the cooperation of such Assign with Programmer to prepare and file such new, or amendments of existing, Assignment Applications as are necessary to obtain FCC Consent.

15. *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. The obligations of the parties under this Agreement are subject to the rules, regulations and policies of the FCC and all other applicable laws. The parties agree that Licensees may file a copy of this Agreement with the FCC and that Licensees shall place a copy of this Agreement in the public inspection file of the Class A Station.
16. *Miscellaneous.* 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. Any notices under this Agreement shall be given at the addresses and in the manner set forth in the Purchase Agreement. 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. This Agreement is not intended to be, and shall not be construed as, an agreement to form a partnership, agency relationship, or joint venture between the parties. Neither party shall be authorized to act as an agent of or otherwise to represent the other party. The construction and performance of this Agreement shall be governed by the laws of the State of New York without giving effect to the choice of law provisions thereof. 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. Capitalized terms not defined herein shall have the same meaning assigned to them in the Purchase Agreement.
17. *Certifications.* Licensees certify that they maintain ultimate control over the Stations' facilities, including, specifically, control over the LPTV Stations' finances, personnel and programming. Programmer certifies that this Agreement complies with the provisions of 47 C.F.R. §§ 73.3555(a) and (c).
18. *Nondiscrimination.* In accordance with Paragraphs 49 and 50 of the United States Federal Communications Commission Report and Order No. FCC 07-217, Programmer shall not discriminate in any contract for advertising on the LPTV Stations on the basis of race or gender. Programmer shall include a clause to such effect in all contracts for advertising on the LPTV Stations and, if requested, shall provide written confirmation of compliance with such requirement.
19. *Shared Use of Microwave Stations.* Subject to Part 101 of the FCC's Rules, during the Term, Licensees shall share use of the Microwave Stations (as such term is defined in

*Schedule A*) with Programmer; *provided*, that at all times during the Term, Licensees shall maintain rights of access and control over the Microwave Stations.

20. *Bankruptcy Matters.* Without limiting the application of Section 14 hereof, Licensees hereby covenant and agree to not petition the Bankruptcy Court or otherwise support an entity or third party seeking to convert any of the Bankruptcy Cases to cases under Section 1121 of the Bankruptcy Code ("Chapter 7").



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

PLUM MEDIA LLC

By: 

Name:

JOSEPH VARLET

Title:

MANAGER

PLUM TV, INC

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

Thomas Scott, Authorized Signatory

ASPEN TELEVISION, LLC

BY PLUM TV, INC., Its Sole Member

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

Thomas Scott, Authorized Signatory

SUN VALLEY TELEVISION, LLC

BY PLUM TV, INC., Its Sole Member

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

Thomas Scott, Authorized Signatory

TELLURIDE TELEVISION, LLC

BY PLUM TV, INC., Its Sole Member

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

Thomas Scott, Authorized Signatory

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

PLUM MEDIA LLC

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

PLUM TV, INC

By: \_\_\_\_\_  
Thomas Scott, Authorized Signatory

ASPEN TELEVISION, LLC  
BY PLUM TV, INC., Its Sole Member

By: \_\_\_\_\_  
Thomas Scott, Authorized Signatory

SUN VALLEY TELEVISION, LLC  
BY PLUM TV, INC., Its Sole Member

By: \_\_\_\_\_  
Thomas Scott, Authorized Signatory

TELLURIDE TELEVISION, LLC  
BY PLUM TV, INC., Its Sole Member

By: \_\_\_\_\_  
Thomas Scott, Authorized Signatory