

LOCAL PROGRAMMING AND MARKETING AGREEMENT

THIS LOCAL PROGRAMMING AND MARKETING AGREEMENT (this "Agreement") is made and entered into as of April 10, 2017 by and between Tejas Broadcasting, LLP, Ltd. a Texas limited liability partnership (the "Licensee") and Viva Media, LLC a Texas limited liability company (the "Programmer").

Recitals

A. Licensee owns and operates the following radio stations (collectively, the "Stations"), among others, pursuant to licenses issued by the Federal Communications Commission (the "FCC"):

KQFX (FM), Facility ID: 61033, licensed to Borger, Texas

B. Licensee desires 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.

C. Licensee, Programmer and an affiliate of Programmer are parties to an Asset Purchase Agreement (the "Purchase Agreement") of even date herewith with respect to the Stations.

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 begin on April 15, 2017 (the "Commencement Date") and will continue until the closing date under the Purchase Agreement, unless earlier terminated in accordance with the terms of this Agreement (or extended by mutual written agreement).

2. **Programming.** During the Term, Licensee shall make available to Programmer all of the airtime on the Stations (including the primary and all secondary program streams and ancillary uses) for programming provided by Programmer (the "Programs") for broadcast twenty-four (24) hours per day, seven (7) days per week, excluding at Licensee's option the period from 6:00 a.m. to 8:00 a.m. each Sunday morning during which Licensee may broadcast its own news, public affairs, and non-entertainment programming (the "Broadcasting Period"). During the Term, Programmer will transmit the Programs to the Stations' transmitting facilities and Licensee shall broadcast the Programs on the Stations, subject to the provisions of Section 5 below. Programmer shall provide programming to meet the Stations' obligation to serve the needs and interests of the communities they serve. Any Programs transmitted by Programmer to Licensee's transmitting facilities via a mode of transmission (e.g., satellite facilities, microwave facilities and/or telephone lines) shall be accomplished in such a manner so that the Programs

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meet technical and quality standards substantially comparable to those broadcast on the Stations prior to the Commencement Date.

3. **Advertising.** During the Term, Programmer will be exclusively responsible for the sale of advertising on the Stations and for the collection of accounts receivable arising therefrom, and Programmer shall be entitled to all revenue of the Stations (including without limitation from the Stations' websites, tower income and ancillary revenue); provided, however, Licensee shall retain and be entitled to all revenue attributable to periods prior to the Commencement Date. During the Term, Licensee shall not sell any advertising on the Stations, except as provided by Section 6(b).

4. **Payments.** For the broadcast of the Programs and the other benefits made available to Programmer pursuant to this Agreement, during the Term, Programmer will pay Licensee as set forth on *Schedule A* attached hereto. To the extent reasonably necessary to perform this Agreement, during the Term, Licensee shall provide Programmer with the benefits of any of the Stations' contracts and agreements and Programmer shall perform the obligations of Licensee thereunder, to the extent of the benefits received.

5. **Control.**

(a) Notwithstanding anything to the contrary in this Agreement, Licensee shall have full authority, power and control over the operation of the Stations and over all persons working at the Stations during the Term. Licensee shall bear responsibility for the Stations' compliance with the rules, regulations and policies of the FCC and all other applicable laws. Without limiting the generality of the foregoing, Licensee will: (1) employ a manager for the Stations, who will report to Licensee and will direct the day-to-day operations of the Stations, and who shall have no employment, consulting, or other relationship with Programmer, (2) employ a second employee for the Stations, who will report and be solely accountable to the manager, and (3) retain control over the policies, programming and operations of the Stations. Licensee shall designate the two employees described in this Section (or any replacements thereof during the Term), who shall be reasonably acceptable to Programmer.

(b) Nothing contained herein shall prevent Licensee from (i) rejecting or refusing programs which Licensee believes to be contrary to the public interest, or (ii) substituting programs which Licensee believes to be of greater local or national importance or which are designed to address the problems, needs and interests of the local communities. Licensee reserves the right to (i) refuse to broadcast any Program containing matter which violates any right of any third party, which constitutes a personal attack, 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. If Licensee preempts, rejects or otherwise refuses to broadcast any Program, then Licensee shall broadcast substitute programming of equal or greater value to Programmer.

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(c) Programmer shall cooperate with Licensee to ensure that EAS transmissions are properly performed in accordance with Licensee's instructions. Each party shall deliver to the other a copy of any letters of complaint it receives with respect to the Stations and Licensee shall include such letters in the Stations' public inspection files as appropriate.

6. Programs.

(a) In return for the payments to be made by Programmer hereunder, Licensee shall make all of the Stations' facilities and studios available to Programmer and shall broadcast the Programs delivered and produced by Programmer during the Term, but at all times subject to the right of Licensee to reject any Program or Programs in accordance with Section 5(b). Programmer shall ensure that the contents of the Programs conform to all FCC rules, regulations and policies in all material respects. Programmer shall consult with Licensee 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 Licensee. Licensee acknowledges that its right to broadcast the Programs is non-exclusive and that ownership of or license rights in the Programs shall be and remain vested in Programmer.

(b) Licensee 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 Licensee as Licensee complies with its political broadcast responsibilities, and shall supply such information promptly to Licensee as may be necessary to comply with the political broadcasting provisions of the FCC's rules, the Communications Act of 1934, as amended, and federal election laws. Programmer shall release advertising availabilities to Licensee during the Broadcasting Period as necessary to permit Licensee to comply with the political broadcast rules of the FCC; provided, however, that revenue received by Licensee as a result of any such release of advertising time shall promptly be remitted to Programmer.

(c) During the Term, Licensee and Programmer will maintain music licenses with respect to the Stations and the Programs, as appropriate.

7. Expenses.

(a) Other than costs and expenses expressly to be paid by Programmer hereunder, subject to Section 4, Licensee shall pay all direct and indirect operating costs of the Stations (including for Licensee's employees contemplated by Section 5, maintenance of all studio and transmitter equipment and all other operating costs required to be paid to maintain the Stations' broadcast operations in accordance with FCC rules and policies and applicable law, and all utilities supplied to its main studio and transmitter sites). Subject to Section 4, Licensee will provide all personnel necessary for the broadcast transmission of the Programs (once received at its transmitter site) and will be responsible for the salaries, taxes, insurance and related costs for all such personnel.

(b) Programmer shall pay all direct and indirect costs of the production and delivery of Programmer's programming, including but not limited to: (i) insurance costs related

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to Programmer's equipment and assets used in its business operations; (ii) salaries, payroll taxes, insurance and related costs of all personnel employed by Programmer in connection with production and delivery of the programming, promotion of that programming and the sale of advertising in that programming; (iii) income, gross receipts, sales, real property, personal property, excise or any other taxes of any nature whatsoever related to Programmer's ownership of its assets; and (iv) all performing rights, licensing fees for music and other material contained in the programming provided by Programmer, and in furtherance whereof, Programmer shall obtain and maintain in full force and effect at all times during the Term an "LMA license" with ASCAP, BMI and SESAC.

8. **Call Signs.** During the Term, Licensee 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. Programmer is authorized to use such call letters in its Programs and in any promotional material in any media used in connection with the Programs.

9. **Maintenance.** During the Term, Licensee shall maintain the operating power of the Stations at the maximum level authorized by the FCC for the Stations and shall repair and maintain the Stations' towers and transmitter sites and equipment in good operating condition (reasonable wear and tear excepted).

10. **Facilities.** During the Term, if requested by Programmer, Licensee shall provide Programmer access to and use of Licensee's studio and transmission facilities located in the Stations' market for purposes of performing this Agreement. When on Licensee's premises, Programmer shall not act contrary to the terms of any lease for such premises or interfere with the business and operation of Licensee's use of such premises.

11. **Representations.** Programmer and Licensee each represent and warrant to the other that (i) it has the power and authority to enter into this Agreement and to consummate the transactions contemplated hereby, (ii) it is in good standing in the jurisdiction of its organization and is qualified to do business in the State of Louisiana, (iii) it has duly authorized this Agreement, and this Agreement is binding upon it, and (iv) 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. **Purchase Agreement.** This Agreement shall terminate automatically upon closing under the Purchase Agreement. This Agreement may be terminated by either party by written notice to the other in the event of any expiration or termination of the Purchase Agreement.

13. **Events of Default.**

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(a) The occurrence of any of the following will be deemed an Event of Default by Programmer under this Agreement: (i) Programmer fails to observe or perform any obligation contained in this Agreement in any material respect; or (ii) Programmer breaches any representation or warranty made by it under this Agreement in any material respect.

(b) The occurrence of the following will be deemed an Event of Default by Licensee under this Agreement: (i) Licensee fails to observe or perform any obligation contained in this Agreement in any material respect; or (ii) Licensee breaches any representation or warranty made by it under this Agreement in any material respect.

(c) Notwithstanding the foregoing, an Event of Default will not be deemed to have occurred until fifteen (15) calendar days after the non-defaulting party has provided the defaulting party with written notice specifying the Event of Default and such Event of Default remains uncured. Upon the occurrence of an Event of Default, and in the absence of a timely cure pursuant to this Section, the non-defaulting party may terminate this Agreement, effective immediately upon written notice to the defaulting party.

14. **Indemnification.** Programmer shall indemnify and hold Licensee harmless against any and all liability arising from (i) the broadcast of the Programs on the Stations, including without limitation 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 or FCC rules or other applicable law, (ii) any misrepresentation or breach of warranty or covenant of Programmer contained in this Agreement, (iii) the actions of Programmer's employees or agents on any premises maintained by Licensee, and (iv) any advertising placed on the Station by or on behalf of Programmer. Licensee shall indemnify and hold Programmer harmless against any and all liability arising from the broadcast of Licensee's programming on the Stations, including without limitation 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 or FCC rules or other applicable law. The obligations under this Section shall survive any termination of this Agreement.

15. **Assignment.** 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.

16. **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.

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16. **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 Licensee may file a copy of this Agreement with the FCC, and that Licensee shall place a copy of this Agreement in the Stations' public inspection files.

17. **Notices.** Any notice pursuant to this Agreement shall be in writing and shall be deemed delivered on the date of personal delivery or electronic mail transmission or confirmed delivery by a nationally recognized overnight courier service, or on the third (3rd) day after prepaid mailing by certified U.S. mail, return receipt requested, and shall be addressed as follows (or to such other address as any party may request by written notice):

if to Licensee, then to:

Tejas Broadcasting, LLP, Ltd.
1227 W. Magnolia Avenue, Suite 300
Fort Worth, TX 76104
Attention: Jim Anderson, CEO
E-mail: janderson@mocappartners.com

if to Programmer, then to:

Viva Media, LLC

Attention: Maria Cenicerros, CEO
E-mail: _____

18. **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. 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 Delaware without giving effect to the choice of law provisions thereof. This Agreement (including the Schedule 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.

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20. **Regulatory Changes.** If the FCC determines that this Agreement is contrary to FCC policies, rules and regulations, or if regulatory or legislative action subsequent to the date hereof alters the permissibility of this Agreement under the FCC's rules or the Communications Act of 1934, as amended, the parties shall renegotiate this Agreement in good faith and recast this Agreement in terms that are likely to cure such defects and return a balance of benefits to both parties comparable to the balance of benefits provided by the Agreement in its current terms. If, after such negotiations, either party determines in good faith and on reasonable grounds that recasting this Agreement to resolve such defects is impossible, either party may terminate the renegotiation contemplated herein by giving 30 days' prior written notice to the other. If termination of negotiations shall occur pursuant to this Section, such termination shall extinguish and cancel this Agreement.

21. **FCC Matters.** Should a change in FCC policy or rules make it necessary to obtain the FCC's consent to the implementation, continuation, or further effectuation of any element of this Agreement, Licensee and Programmer shall use their commercially reasonable efforts to diligently prepare, file, and prosecute before the FCC all petitions, waivers requests, applications, amendments, rule making comments, and other documents necessary to secure and/or retain the FCC's approval of all aspects of this Agreement. Licensee and Programmer shall share equally the cost of preparing any such filings. Notwithstanding anything in this Agreement to the contrary, no joint filing shall be made with the FCC by Licensee and Programmer with respect to this Agreement, unless both parties hereto shall have reviewed said filing and shall have consented to its submission to the FCC; and neither Licensee nor Programmer shall make any unilateral filing with the FCC with respect to this Agreement, unless the party intending to make such filing shall first have consulted with the other party concerning such filing.

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SIGNATURE PAGE TO LOCAL PROGRAMMING AND MARKETING AGREEMENT

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

LICENSEE:

TEJAS BROADCASTING, LLP, Ltd.

By:



JAMES L. ANDERSON
Chief Executive Officer

PROGRAMMER:

VIVA MEDIA, LLC

By:



Maria Cenicer0s, CEO

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SCHEDULE A TO LMA

Expense Reimbursement:

During the Term, Programmer shall reimburse Licensee on a monthly basis, within thirty (30) days after invoice, for all reasonable operating expenses of the Stations incurred by Licensee in the ordinary course of business and consistent with industry custom (taking into account this Agreement, the services provided hereunder, and the Stations' expenses paid directly by Programmer in performing this Agreement) for which Licensee has submitted to Programmer a written reimbursement request supported by appropriate documentation of expenses.

Monthly Payments:

In addition to the reimbursement of expenses described above, Programmer shall pay Licensee a fee in the amount of Five Thousand Dollars (\$5,000) per month, in advance, on or before the first day of each month during the Term (with any partial period prorated).

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