

## **LOCAL MARKETING AGREEMENT**

This Local Marketing Agreement ("Agreement") is made and entered into as of May 9, 2003, by and among Nassau Broadcasting I, LLC, a Delaware limited liability company ("Nassau I"), Nassau Broadcasting, II, LLC, a Delaware limited liability company ("Nassau II"), Nassau Broadcasting Partners, L.P., a Delaware limited partnership ("Nassau LP") which collectively with Nassau I, Nassau II, shall be defined to mean "Licensee", and Millennium Shore Asset Holdco, LLC, a Delaware limited liability company ("Broker").

### **WITNESSETH**

**WHEREAS**, Nassau II holds the authorizations for radio station WCHR-FM, Manahawkin, New Jersey (the "Station") issued by the Federal Communications Commission (the "Commission" and/or "FCC") and is wholly-owned by Nassau I;

**WHEREAS**, Nassau I owns any and all assets associated with radio station WCHR-FM other than such authorizations and Nassau II is in turn wholly owned by Nassau LP;

**WHEREAS**, Licensee has agreed to sell the Station, and Broker has agreed to purchase the Station, pursuant to that certain Asset Purchase Agreement, dated as of even date herewith, among Licensee and Broker (the "Purchase Agreement"; capitalized terms used but not otherwise defined herein shall have the meanings ascribed to such terms in the Purchase Agreement);

**WHEREAS**, during the term of this Agreement, Licensee wishes to retain Broker to provide programming and related services for the Station and Broker desires to present its programming on the Station on and subject to the terms and conditions set forth herein; and

**WHEREAS**, Broker has experience in radio programming.

**NOW, THEREFORE**, for and in consideration of the mutual covenants herein contained, the parties hereto have agreed and do agree as follows:

1. **Term**. The term of this Agreement (the "Term") (i) shall commence at 12:01 A.M. local time on such date (the "Commencement Date") as shall be specified in a written notice to be delivered by Broker to Licensee; provided, that in no event shall the Commencement Date specified in such notice be less than ten (10) days following the date such notice is delivered by Broker and provided, further, that the Commencement Date shall not be earlier than the sixtieth (60<sup>th</sup>) day after the date hereof, and (ii) shall terminate as provided in Section 9 hereof.

2. **Consideration**.

### **3. Station Facilities.**

#### **3.1 Program Time.**

(a) Throughout the Term, Licensee shall make available to Broker the broadcast transmission facilities of the Station and shall cause to be broadcast using such facilities the programming provided to Licensee by Broker. Licensee's broadcast transmission facilities shall be made available exclusively to Broker by Licensee twenty four (24) hours per day, Sunday through Saturday, except for downtime occasioned by routine maintenance and public affairs program time as set forth in this section. Broker may at any time, upon prior notice to Licensee, modify (in whole or in part) the programming format of the Station. In any event, Broker shall make available to Licensee its programming during a sufficient number of hours to enable the Station to meet the minimum hours of operation required under the Rules of the FCC. Licensee may reserve the hours between 6:00 a.m. and 8:00 a.m. on Sunday mornings to broadcast public affairs programming produced or acquired by Licensee. Licensee shall use its best efforts to provide at least seven (7) days' notice to Broker in advance of the desired date of such broadcast.

(b) Broker, at its sole election, may assume from Licensee, the rights, obligations and commitments made by Licensee prior to the Commencement Date for programming and commercial advertising time to be aired on or after the Commencement Date (collectively, "Licensee Contracts"), and Broker shall be entitled to any revenue stemming from its performance of such assumed Licensee Contracts. Licensee shall provide Broker with a list of all Licensee Contracts at least three (3) business days prior to the Commencement Date. In the event that such commercial advertising time to be run after the commencement of the Term was prepaid (in cash) to Licensee under any assumed Licensee Contract, Broker shall be entitled to reimbursement for the value of such commercial advertising time. Broker shall have no obligation to assume any Licensee Contract nor air any programming or advertising under any Licensee Contract unless such Licensee Contract is specifically assumed by Broker in writing prior to or on the Commencement Date. Licensee shall be liable for all costs, expenses, termination fees or penalties for all Licensee Contracts not assumed by Broker. Licensee

represents and warrants that as of the Commencement Date there will be no obligations or commitments of Licensee to be assumed by Broker arising or to be performed after the Commencement Date under any agreements for the sale of time on the Station in exchange for goods or services.

**3.2 Use of Station Facilities.** To facilitate delivery of programming by Broker to Licensee hereunder, Licensee hereby grants to Broker the exclusive right for the Term of this Agreement to (i) use the Assets (as such term is defined in the Purchase Agreement), including without limitation, the equipment in the studio located at 46 Clayton Road, Howell, New Jersey (the “WCHR-FM Studio”) for broadcasting programs on the Station pursuant to this Agreement and (ii) enter and use the premises on which the WCHR-FM Studio is located for purposes of producing its programming hereunder; provided, in each case, that Licensee expressly reserves such rights as may be necessary for it to perform its obligations and responsibilities under this Agreement and as required by applicable law. Subject to Section 16 hereof, such license shall apply only to the Station and may not be assigned by Broker to any other person or entity without prior consent of Licensee. Broker agrees that during the Term, it shall ensure that no liens, claims or encumbrances of any third party attach to the Assets as a result of its use thereof. Alternatively, Broker may originate its programs for broadcast on the Station from Broker’s own studio, in which case Broker shall be responsible, at its sole expense, for the delivery of such programming to the Station.

**3.3 Maintenance; Interruption of Normal Operations.** Licensee shall use its best efforts to provide at least forty-eight (48) hours’ prior notice to Broker in advance of any maintenance work affecting the operation of the Station, which shall be undertaken at such hours and on such terms as to cause the least disruption to Broker’s operations. If the Station suffers any loss or damage of any nature to its transmission facilities which results in the interruption of service or the inability of the Station to operate with its maximum authorized facilities, Licensee shall notify Broker as soon as possible and shall, as soon as possible, undertake such repairs as are necessary to restore full-time operation of the Station with its maximum authorized facilities, after the occurrence of any such loss or damage. If Licensee is unable to complete such repairs within a reasonable time, Broker may cooperate with Licensee by undertaking such repairs, subject to Licensee’s supervision.

**3.4 Force Majeure.** Subject to Section 2 and Section 9.2(c) hereof, any failure or impairment of facilities or any delay or interruption in the broadcast of programs, or failure at any time to furnish facilities, in whole or in part, for broadcast, due to a cause beyond the control (direct or indirect) of Licensee, shall not constitute a breach of this Agreement. Broker and Licensee shall exercise commercially reasonable efforts to remedy any such conditions affecting compliance with their obligations under this Agreement.

### **3.5 Marketron.**

Licensee shall authorize Marketron to create and make available to Broker, at least 7 days prior to the Commencement Date and updated as of the Commencement Date, at Broker’s expense, a customized database that isolates the Station from all other Nassau radio stations included in Marketron’s global database, and which shall include all open and future traffic and billing information but exclude historical traffic and billing information.

#### **4. Station Programming Policies.**

**4.1 Broadcast Station Programming; Policy Statement.** Licensee has adopted a Broadcast Station Programming Policy Statement (the "Policy Statement"), a copy of which appears as Attachment I hereto and which may be amended in a reasonable manner from time to time by Licensee upon notice to Broker. Broker agrees and covenants that all programming, advertising spots, promotional material and announcements that it provides for broadcast on the Station shall comply in all material respects with: (i) the Policy Statement; (ii) all applicable federal, state and local laws and regulations, including the rules and regulations of the Commission and the Federal Trade Commission ("FTC"), and the Communications Act of 1934, as amended ("Act"); and (iii) all subsequent changes to the Policy Statement, such rules and regulations and the Act. Broker acknowledges that Licensee has not urged, counseled or advised the use of any unfair business practice. If Licensee determines in good faith that a program supplied by Broker does not comply in all material respects with the Policy Statement or applicable law or is contrary to the public interest, it may, upon prior written notice to Broker (to the extent time permits such notice), suspend or cancel such program without liability to Broker; provided, that any revenues realized by Licensee as a result of such interruption or preemption shall promptly be remitted to Broker; and provided, further, that Licensee shall not exercise such authority for economic benefit or for the purpose of interfering with Broker's economic benefits to be derived from the performance of this Agreement. Licensee will use reasonable efforts to provide such written notice to Broker prior to the suspension or cancellation of such program.

**4.2 Broker Compliance with Copyright Act.** Broker represents and warrants to Licensee that Broker has full authority to broadcast its programming on the Station, and that Broker shall not broadcast any material in violation of the Copyright Act. All music supplied by Broker shall be: (i) licensed by ASCAP, SESAC or BMI; (ii) in the public domain, or (iii) cleared at the source by Broker. The right to use the programming and to authorize its use in any manner shall be and remain vested in Broker. Licensee will maintain ASCAP, BMI and SESAC licenses for any programming that it produces for the Station pursuant to Section 3.1 above, as may be necessary.

**4.3 Sales.** During the Term, Broker shall have the exclusive right to sell program length and spot advertising broadcast on the Station and shall retain all revenues accrued after the commencement of the Term from the operation of the Station, including without limitation, all revenues from (i) the sale of advertising time, (ii) the Station's network compensation revenues, if any, (iii) any revenues received from any network or program supplier with respect to affiliation with such network or the broadcast of any particular program and (iv) revenues on account of the granting by Broker of Broker's consent to the retransmission by any other medium of distribution of the programming). Broker may sell advertising on the Station in combination with any other broadcast stations of Broker's choosing. Broker shall be responsible for payment of the commissions due to any national sales representative engaged by it for the purpose of selling national advertising which is carried during the programming it provides to Licensee.

**4.4 Collection of Accounts Receivable.** All cash accounts receivable in connection with the operation of the Station, including but not limited to accounts receivable for

broadcast time, on or prior to the Commencement Date shall belong to the Licensee. For accounts where the debtor is indebted to both Licensee and Broker, Broker may use all lawful means of effecting collection and shall have the right to settle its accounts with such debtors without notice to or consent of Licensee; provided; however, that Broker shall not settle any of Licensee's accounts for less than the total due without the consent of Licensee, which settlement shall be binding on the Licensee.

**4.5 Payola.** Broker agrees that it will not accept any consideration, compensation, gift or gratuity of any kind whatsoever, regardless of its value or form, including, but not limited to, a commission, discount, bonus, material, supplies or other merchandise, services or labor (collectively "Consideration") for the inclusion of any matter as part of the programming or commercial matter supplied by Broker to Licensee for broadcast on the Station, whether or not pursuant to written contracts or agreements between Broker and merchants or advertisers, unless the party making or accepting such Consideration is identified in the program for which Consideration was provided as having paid for or furnished such Consideration, in accordance with the Act and FCC requirements. Broker agrees that every six (6) months, or more frequently at the reasonable request of Licensee, it will execute and provide Licensee with a Payola Affidavit from each of its employees with programming or promotions responsibilities for the Station substantially in the form attached hereto as Attachment II.

**4.6 Cooperation on Programming.** Broker, in cooperation with Licensee, will endeavor to ensure that programming is broadcast which includes such amounts and types of programming as are necessary to meet the requirements of the FCC and the Act. Broker shall, upon reasonable request, provide Licensee with information concerning such of Broker's programs as are responsive to community issues so as to assist Licensee in the satisfaction of its public service programming obligations. Broker shall also provide Licensee such other information necessary to enable Licensee to prepare records and reports required by the Commission or other local, state or federal government entities, including the quarterly issues/programs lists required by the FCC. Broker shall promptly provide Licensee with any complaint or comments received regarding any programming broadcast on the Station.

**4.7 Station Identification and EAS.** Broker shall cooperate with Licensee to ensure compliance with Commission's rules regarding the broadcast of hourly station identification announcements and required Emergency Alert System ("EAS") tests.

**4.8 Political Advertising.** Any qualified political candidate for federal office shall have access to the Station under this Agreement in accordance with the rules and regulations of the FCC. In addition, Broker shall cooperate with Licensee to assist Licensee in complying with all other rules of the FCC regarding political broadcasting. Licensee shall promptly supply to Broker upon request, and Broker shall promptly supply to Licensee upon request, such information, including all inquiries concerning the broadcast of political advertising, as may be necessary to comply with FCC rules and policies, including the lowest unit rate, equal opportunities, reasonable access, political file and related requirements of federal law. Licensee, in consultation with Broker, shall develop a statement which discloses its political broadcasting policies to political candidates, and Broker shall follow those policies and rates in the sale of political programming and advertising to be broadcast on the Station. In the event that Broker fails to satisfy the political broadcasting requirements under the Act and the

rules and regulations of the FCC and such failure inhibits Licensee in its compliance with the political broadcasting requirements of the FCC, then to the extent reasonably necessary to assure such compliance, Broker shall either provide rebates to political advertisers or release broadcast time and/or advertising availabilities to Licensee at no cost to Licensee.

**4.9 Licensee Control of Programming.** Licensee shall maintain such rights to suspend or preempt programming as provided in Sections 4.1 and 6.1 herein.

**4.10 Intellectual Property.** Licensee hereby grants to Broker a license to utilize the call signs, slogans and other intellectual property of the Station identified in Section 1.1(f) and 1.1(g) of the Purchase Agreement during the Term.

## **5. Responsibility for Employees and Expenses.**

### **5.1 Employees.**

(a) Licensee shall at all times during the Term employ the Station's "general manager" and its "chief operator" (as such terms are defined by the FCC), and such other personnel as shall be necessary to comply with FCC requirements (collectively, the "Required Employees"), and shall be responsible for, and will pay when due, the salaries, taxes, benefits, insurance and related costs for all such employees. Licensee shall be solely responsible for the costs of terminating any of its existing employees in connection with the implementation of this Agreement, including any insurance or other benefits due or accrued vacation time.

(b) Broker shall employ and be responsible for the salaries, commissions, taxes, insurance and all other related costs of all personnel involved in the production and broadcast of Broker's programming, including air personalities, salespersons, traffic personnel, board operators, technical staff and other programming staff members. Whenever on the Station's premises, Broker's personnel shall be subject to the supervision and the direction of Licensee.

### **5.2 Expenses and Liabilities.**

(a) Licensee shall be responsible for payment of, and will pay when due, the costs associated with the day-to-day operation of the Station, including maintenance, repair and replacement expenses to the Assets, including without limitation, the Station's transmission facilities, tower and the WCHR-FM Studio; mortgage payments, taxes and insurance relating to any real property owned by Licensee; any federal, state and local taxes levied upon the Station and Licensee's own payroll; electric and other utility payments; casualty and liability insurance for all Station facilities; and any tower lease payments.

(b) Broker shall be responsible for all liabilities, debts and obligations of Broker based upon the purchase of air time on the Station under this Agreement and use of Licensee's transmission facilities including, without limitation, accounts payable, barter agreements and unaired advertisements. Broker shall pay for all telephone calls associated with program production and listener responses, for the fees to ASCAP, BMI and SESAC related to Broker's programming, and for any other copyright fees attributable to its programming broadcast on the Station pursuant to this Agreement. Broker shall make any arrangements

necessary and be solely responsible for the cost of delivering Broker's programming to the Station from any location other than the WCHR-FM Studio.

### **5.3 Expense Reimbursement; Reimbursement Procedure.**

(a) Notwithstanding anything to the contrary contained in Sections 5.1 and 5.2 hereof, Buyer shall reimburse Licensee in the manner provided in Section 5.3(b) below for the reasonable out-of-pocket expenditures incurred by Licensee for (the "Reimbursable Expenses") (i) the salaries, federal, state and local taxes, benefits, insurance and related costs of the Station's Required Employees; provided, that in no event may the aggregate value of such salaries, taxes, benefits, insurance and related costs exceed \_\_\_\_\_ for any month, (b) the Station's utilities (including electric); and (c) any tower lease payments. Broker shall not be obligated to reimburse Licensee for any expenses other than the Reimbursable Expenses.

(b) Within ten (10) days of the end of each month during the Term, Licensee shall present to Broker a written invoice listing all Reimbursable Expenses incurred by Licensee in connection with Licensee's operation of the Station in the preceding month (which shall be prorated during the first and final months of this Agreement, as necessary). Broker shall reimburse Licensee for such expenses within ten (10) days of presentation to Broker of the invoice showing amounts due. Licensee shall, while this Agreement is in force, keep, maintain and preserve complete and accurate records and accounts, including all invoices, correspondence, ledgers, financial and other records pertaining to the Station's expenses, and such records and accounts shall be available for inspection and audit at any time or times during the term of this Agreement and for ninety (90) days thereafter, during reasonable business hours, by Broker or its agents. The exercise, in whole or in part, of the right to audit records or accounts or of any rights herein granted, or the acceptance by Broker of any statement or remittance tendered by or on behalf of Licensee, shall be without prejudice to any rights or remedies of Broker and shall not preclude Broker from thereafter disputing the accuracy of such statement or payment.

**6. Operation of Station.** Notwithstanding any other provision of this Agreement, Licensee shall have full authority and power over the operation of the Station during the period of this Agreement.

**6.1 Licensee Control of Station Operations.** Licensee shall retain control over the policies, personnel, finances, programming and operations of the Station; including, without limitation: (i) the right to decide whether to accept or reject any programming or advertisements pursuant to Section 4.1 herein, (ii) the right to preempt any programs not in the public interest or in order to broadcast a program deemed by Licensee to be of greater national, regional or local interest, and (iii) the right to take any other actions necessary for compliance with federal, state and local laws, the Act and the rules, regulations and policies of other federal government entities, including the FTC and the United States Department of Justice. Licensee will use its best efforts to give Broker reasonable notice in writing of its intention to preempt Broker's programs. Licensee also shall retain the right to break into Broker's programming without prior notice in case of an emergency.

**6.2 Licensee Responsibility For FCC Compliance.** Licensee represents to Broker that it currently meets, and agrees that it shall at all times during the Term be solely responsible for meeting, all of the Commission's requirements with respect to (i) public service programming, (ii) maintaining the political and public inspection files and the Station logs, (iii) preparing issues/programs lists, (iv) maintaining an appropriate EAS receiver, tone generators and such other equipment as may be required to execute EAS procedures and (v) maintaining a "main studio" (as such term is defined by the FCC), in each case to ensure compliance with the Commission's rules and regulations governing the technical operation of the Station. Broker shall maintain all necessary records to permit Licensee to meet its obligations under this paragraph. Except as required to comply with Commission rules and policies, including those regarding the maintenance of the public inspection file (which shall at all times remain the responsibility of Licensee), Licensee shall not be required to receive or handle mail, cables, or telegraph messages in connection with programs broadcast on the Station.

**6.3 Depiction of Licensee.** Broker agrees that, during the term of this Agreement, it shall not represent itself to be the FCC licensee of the Station to any party.

## **7. Indemnification.**

**7.1** Broker shall indemnify and hold Licensee and its officers, directors, agents, employees, members, shareholders and partners harmless against any and all claims, damages, liabilities, costs, and expenses (including by way of example and without limitation, reasonable attorneys' fees) (individually or collectively "Damages") arising out of: (a) libel, slander, illegal competition or trade practice, infringement of trademarks, trade names, or program titles, violation of rights of privacy, and infringement of copyrights or proprietary rights and any other violations of the rights of any third party, resulting from the broadcast of Broker's programs on the Station; or (b) any action taken by Broker or its employees or agents with respect to the Station, or any failure by Broker or its employees or agents to take any action with respect to the Station, including but not limited to Broker's payment and performance of obligations and liabilities, unless resulting from a failure by Licensee to perform hereunder; or (c) Broker's breach of any of its representations, warranties or covenants set forth in this Agreement. Without limitation upon the foregoing, should Broker or any of its agents or employees cause any damages to any of Licensee's facilities, Broker shall promptly pay or reimburse Licensee for any such damages. Broker's obligation to hold Licensee harmless under this Section shall survive a termination of this Agreement until the expiration of all applicable statutes of limitations.

**7.2** Licensee shall indemnify and hold Broker and its officers, directors, shareholders, members, partners, agents and employees harmless against any and all Damages arising out of: (a) libel, slander, illegal competition or trade practice, infringement of trademarks, trade names, or program titles, violation of rights of privacy, and infringement of copyrights or proprietary rights and any other violations of the rights of any third party, resulting from Licensee's broadcast of programs other than Broker's programs; or (b) any activities of Licensee or its employees or agents with respect to the Station, or any failure by Licensee or its employees or agents to take any action with respect to the Station, including but not limited to Licensee's payment and performance obligations and liabilities, unless resulting from a failure by Broker to perform hereunder; or (c) Licensee's breach of any of its representations, warranties



or covenants set forth in this Agreement. Licensee's obligation to hold Broker harmless under this Agreement shall survive any termination of this Agreement until the expiration of all applicable statutes of limitations.

## **8. Default.**

**8.1 Events of Default.** The following shall constitute Events of Default under this Agreement:

- (a) the default by either party hereto in the material observance or performance of any material covenant, condition or agreement contained herein unless such breach is cured within thirty (30) days after written notice of such default;
- (b) if either party (i) shall make general assignment for the benefit of creditors, or (ii) files or has filed against it a petition for bankruptcy, reorganization or an arrangement for the benefit of creditors, or for the appointment of a receiver, trustee or creditor representative for the property or assets of such party under any federal or state insolvency law, which, if filed against such party, has not been dismissed or discharged within sixty (60) days; or
- (c) if any material representation or warranty herein made by either party hereto, or in any certificate or document furnished by either party to the other pursuant to the provisions hereof, shall prove to have been false or misleading in any material respect as of the time made or furnished.

## **9. Termination.**

**9.1 Grounds.** This Agreement shall automatically and immediately terminate (i) upon the occurrence of the Closing under the Purchase Agreement, (ii) in the event the Purchase Agreement is validly terminated for any reason and (iii) subject to Section 9.3 hereof, in the event this Agreement is declared invalid or illegal in whole or in part by an order or decree of the FCC or any other administrative agency or court of competent jurisdiction and such order or decree has become final and no longer subject to further administrative or judicial review. In addition this agreement may be terminated:

- (a) upon the mutual consent of the parties;
- (b) by either party upon the occurrence of an Event of Default with respect to the other party; provided that no Event of Default with respect to the party seeking termination then exists; and
- (c) by Broker upon written notice to Licensee in the event a force majeure period continues for a period of three (3) consecutive months.

**9.2 No Release of Liability Through Termination.** No termination pursuant to this Section 9 shall relieve any party of the liability it would otherwise have for breach of this Agreement.

**9.3 Renegotiation Upon FCC Action.** If this Agreement is challenged at the FCC, counsel for Licensee and counsel for Broker shall jointly defend the Agreement and the parties' performance thereunder throughout all FCC proceedings. If portions of this Agreement do not receive the approval of the FCC staff, then the parties shall reform the Agreement as necessary to satisfy the FCC staff's concerns. In the event that the Commission or another government authority designates a hearing with respect to the continuation, renewal or revocation of any authorization held by Licensee for the operation of the Station or initiates any revocation or other proceeding with respect to the authorizations issued to Licensee for the operation of the Station, and Licensee elects to contest the action, then Broker shall cooperate and comply with any reasonable request of Licensee to assemble and provide to the Commission information relating to Broker's performance under this Agreement.

**9.4 Cooperation Upon Termination.** If this Agreement is terminated, for whatever reason other than closing upon Broker's purchase of the Station under the Purchase Agreement, the parties agree to reasonably cooperate with one another to restore the status quo ante. Without limiting the foregoing:

(a) Broker shall return to Licensee all Assets in substantially the same condition as such equipment was on the Commencement Date, ordinary wear and tear excepted. Any other equipment owned by Broker and used in connection with its performance of this Agreement shall remain the property of Broker.

(b) Licensee shall cooperate reasonably with Broker to the extent permitted to enable Broker to fulfill advertising or other programming contracts then outstanding, in which event Licensee shall receive as compensation for the carriage of such programming that which otherwise would have been paid to Broker hereunder.

**10. Mutual Representations, Warranties and Covenants.** Both Licensee and Broker represent that they are legally qualified, empowered and able to enter into this Agreement, and that the execution, delivery and performance hereof shall not constitute a breach or violation of any agreement, contract or other obligation to which either party is subject or by which it is bound. Without limiting the foregoing:

(a) Broker certifies that this Agreement complies with the Commission's multiple ownership rules, 47 C.F.R. § 73.3555; and

(b) Licensee certifies that it maintains ultimate control of the Station's facilities, including control over Station finances, personnel and programming.

**11. Notices.** All notices and other communications hereunder shall be in writing and be deemed to have been duly given if delivered personally or by overnight courier or sent by telecopy (and confirmed by regular mail) or mailed by registered mail, postage prepaid, addressed as follows:

If to Licensee:

Nassau Broadcasting II, L.L.C.  
619 Alexander Road, 3<sup>rd</sup> Floor  
Princeton, New Jersey 08540  
Attention: Louis F. Mercatanti, Jr.  
Facsimile: (609) 452-6017

With copy to:

Timothy R. Smith, Esq.  
619 Alexander Road, 3<sup>rd</sup> Floor  
Princeton, New Jersey 08540  
Facsimile: (609) 452-6017

If to Broker:

Millennium Shore Asset Holdco, LLC  
c/o Millennium Radio Group, LLC  
220 Northpointe Parkway, Suite D  
Amherst, NY 14228  
Attn: Charles W. Banta, Chairman  
Facsimile: (716) 639-8782

With copy to:

Kaye Scholer LLP  
425 Park Avenue  
New York, New York 10022  
Attention: William E. Wallace, Esq.  
Facsimile: (212) 836-7152

or such other addresses with respect to either party as such party may from time to time notify (as provided above) the other party hereto. Any such notice, demand or communication shall be deemed to have been given (i) if mailed, as of the close of the third (3<sup>rd</sup>) business day following the day so mailed, and (ii) if personally delivered or otherwise sent as provided above, on the date delivered or sent if sent by telecopy and on the next business day after the date sent in all other cases.

**12. Amendments.** No amendment, waiver of compliance with any provision or condition 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 any waiver, amendment, change, extension or discharge is sought.

**13. Construction.** This Agreement shall be governed by, construed (both as to validity and performance) and enforced in accordance with the laws of the State of New Jersey applicable to agreements made and to be performed wholly within such jurisdiction.

**14. Section Heading.** The headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement.

**15. Assignment.** This Agreement shall be binding upon and inure to the benefit of the parties hereto, and their respective successors and permitted assigns. This Agreement shall not be assigned (by contract, operation of law or otherwise) without the prior written consent of the other party hereto, which shall not be unreasonably withheld; provided, however, that Broker may assign and delegate its rights hereunder to an affiliate of Broker.

**16. Counterpart Signatures.** This Agreement may be signed in one or more counterparts, each of which shall be deemed a duplicate original, binding on the parties hereto notwithstanding that the parties are not signatory to the original or the same counterpart. This Agreement shall be effective as of the date first above written.

**17. Entire Agreement.** This Agreement, read together with the Purchase Agreement, the License Agreement between the parties of even date herewith and the Stipulation of Settlement and Order of Dismissal between the parties dated April 29, 2003, constitutes the entire agreement between the parties, and there are no other agreements, representations, warranties or understandings, oral or written, between them with respect to the subject matter hereof. No alteration, modification or change of this Agreement shall be valid unless by like written instrument executed by an authorized principal.

**18. No Partnership or Joint Venture Created.** Nothing in this Agreement shall be construed to make Licensee and Broker partners or joint venturers or to afford any rights to any third party other than as expressly provided herein.

**19. Severability.** Any provision of this Agreement which is unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such unenforceability without invalidating the remaining provisions hereof, and any such unenforceability in any jurisdiction shall not invalidate or render unenforceable such provisions in any other jurisdiction. To the extent permitted by applicable law, the parties hereto hereby waive any provision of law now or hereafter in effect which renders any provision hereof unenforceable in any respect.


**20. Attorneys' Fees and Costs.** In the event of commencement of suit by either party to enforce the provisions of this Agreement, the prevailing party shall be entitled to receive such attorneys' fees and costs as may be adjudged reasonable in addition to any other relief granted.

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

**MILLENNIUM SHORE ASSET HOLDCO,  
LLC**

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

  
Name: Charles W. Banta  
Title: Chairman

**NASSAU BROADCASTING PARTNERS,  
L.P.**

By: Nassau Broadcasting Partners, Inc.,  
its General Partner

\_\_\_\_\_  
Name: Louis F. Mercatanti, Jr.  
Title: President

**NASSAU BROADCASTING I, LLC**

By: Nassau Broadcasting Partners, L.P.,  
as sole member

By: Nassau Broadcasting Partners, Inc.,  
its corporate general partner

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

\_\_\_\_\_  
Name: Louis F. Mercatanti, Jr.  
Title: President

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

**MILLENNIUM SHORE ASSET HOLDCO,  
LLC**

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

Name: Charles W. Banta  
Title: Chairman

**NASSAU BROADCASTING PARTNERS,  
L.P.**

By: Nassau Broadcasting Partners, Inc.,  
its General Partner

\_\_\_\_\_  
Name: Louis F. Mercatanti, Jr.  
Title: President

**NASSAU BROADCASTING I, LLC**

By: Nassau Broadcasting Partners, L.P.,  
as sole member

Nassau Broadcasting Partners, Inc.,  
its corporate general partner

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

Name: Louis F. Mercatanti, Jr.  
Title: President

**NASSAU BROADCASTING II, LLC**

**By: Nassau Broadcasting I, LLC,  
as sole member**

**By: Nassau Broadcasting Partners, L.P.,  
as sole member**

**By: Nassau Broadcasting Partners, Inc.,  
its corporate general partner**

By: 

Name: Louis F. Mercatanti, Jr.

Title: President

## **ATTACHMENT I**

### **Broadcast Station Programming Policy Statement**

The following sets forth the policies generally applicable to the presentation of programming and advertising over Radio Station WCHR-FM, Manahawkin, New Jersey (the "Station"). All programming and advertising broadcast by the Station must conform in all material respects to these policies and to the provisions of the Communications Act of 1934, as amended (the "Act"), and the Rules and Regulations of the Federal Communications Commission ("FCC").

#### **Station Identification**

The Station must broadcast a station identification announcement once an hour as close to the hour as feasible in a natural break in the programming. The announcement must include (1) the Station's call letters (currently, WCHR-FM); followed immediately by (2) the Station's community of license (Manahawkin, New Jersey).

#### **Broadcast of Telephone Conversations**

Before recording a telephone conversation for broadcast or broadcasting such a conversation simultaneously with its occurrence, any party to the call must be informed that the call will be broadcast or will be recorded for later broadcast, and the party's consent to such broadcast must be obtained. This requirement does not apply to calls initiated by the other party which are made in a context in which it is customary for the Station to broadcast telephone calls.

#### **Sponsorship Identification**

When money, service, or other valuable consideration is either directly or indirectly paid or promised as part of an arrangement to transmit any programming, the Station at the time of broadcast shall announce (1) that the matter is sponsored, either in whole or in part; and (2) by whom or on whose behalf the matter is sponsored. Products or services furnished to the Station in consideration for an identification of any person, product, service, trademark or brand name shall be identified in this manner.

In the case of any political or controversial issue broadcast for which any material or service is furnished as an inducement for its transmission, an announcement shall be made at the beginning and conclusion of the broadcast stating (1) the material or service that has been furnished; and (2) the person(s) or association(s) on whose behalf the programming is transmitted. However, if the broadcast is 5 minutes duration or less, the required announcement need only be made either at its beginning or end.

#### **Payola/Plugola**

The Station, its personnel, or its programmers shall not accept or agree to accept from any person any money, service, or other valuable consideration for the broadcast of any matter unless such fact is disclosed to the Station so that all required station identification announcements can be made. All persons responsible for Station programming must, from time



to time, execute such documents as may be required by Station management to confirm their understanding of and compliance with the FCC's sponsorship identification requirements.

### **Rebroadcasts**

The Station shall not rebroadcast the signal of any other broadcast station without first obtaining such station's prior written consent to such rebroadcast.

### **Political Broadcasting**

All "uses" of the Station by legally qualified candidates for elective office shall be in accordance with the Act and the FCC's Rules and policies, including without limitation, equal opportunities requirements, reasonable access requirements, lowest unit charge requirements and similar rules and regulations, if any.

### **Obscenity and Indecency**

The Station shall not broadcast any obscene material. Material is deemed to be obscene if the average person, applying contemporary community standards in the local community, would find that the material, taken as a whole, appeals to the prurient interest; depicts or describes in a patently offensive way sexual conduct specifically defined by applicable state law; and taken as a whole, lacks serious literary artistic, political or scientific value.

The Station shall not broadcast any indecent material outside of the periods of time prescribed by the Commission. Material is deemed to be indecent if it includes language or material that, in context, depicts or describes, in terms patently offensive as measured by contemporary community standards for the broadcast medium, sexual or excretory activities or organs.

### **Billing**

No entity which sells advertising for airing on the Station shall knowingly issue any bill, invoice or other document which contains false information concerning the amount charged or the broadcast of advertising which is the subject of the bill or invoice. No entity which sells advertising for airing on the Station shall misrepresent the nature or content of aired advertising, nor the quantity, time of day, or day on which such advertising was broadcast.

### **Contests**

Any contests conducted on the Station shall be conducted substantially as announced or advertised. Advertisements or announcements concerning such contests shall fully and accurately disclose the contest's material terms. No contest description shall be false, misleading or deceptive with respect to any material term.

### **Hoaxes**

The Station shall not knowingly broadcast false information concerning a crime or catastrophe.

### **Lottery**

The Station shall not advertise or broadcast any information concerning any lottery not permitted by law.

### **Advertising**

The Station shall comply with all federal, state and local laws concerning advertising, including without limitation, all laws concerning misleading advertising, and the advertising of alcoholic beverages.

### **Programming Prohibitions**

Knowing broadcast of the following types of programs and announcements is prohibited:

**False Claims.** False or unwarranted claims for any product or service.

**Unfair Imitation.** Infringements of another advertiser's rights through plagiarism or unfair imitation of either program idea or copy, or any other unfair competition.

**Commercial Disparagement.** Any unfair disparagement of competitors or competitive goods.

**Obscenity.** Any programs or announcements that are obscene, as evaluated by Station management.

**Violence.** Any programs which are excessively violent.

**Unauthenticated Testimonials.** Any testimonials which cannot be authenticated.

**ATTACHMENT II**

**Form of Payola Affidavit**

City of \_\_\_\_\_

County of \_\_\_\_\_

SS:

State of \_\_\_\_\_

**ANTI-PAYOLA/PLUGOLA AFFIDAVIT**

\_\_\_\_\_, being first duly sworn, depose and say as follows:

- 1 I am \_\_\_\_\_ for WCHR-FM.  
Position \_\_\_\_\_
- 2 I have acted in the above capacity since \_\_\_\_\_
- 3 No matter has been broadcast by Station WCHR-FM for which service, money or other valuable consideration has been directly or indirectly paid, or promised to, or charged, or accepted, by me from any person, which matter at the time so broadcast has not been announced or otherwise indicated as paid for or furnished by such person.
- 4 So far as I am aware, no matter has been broadcast by Station WCHR-FM for which service, money, or other valuable consideration has been directly or indirectly paid, or promised to, or charged, or accepted by Station WCHR-FM or by any independent contractor engaged by Station WCHR-FM in furnishing programs, from any person, which matter at the time so broadcast has not been announced or otherwise indicated as paid for or furnished by such person.
- 5 In the future, I will not pay, promise to pay, request, or receive any service, money, or any other valuable consideration, direct or indirect, from a third party, in exchange for the influencing of, or the attempt to influence, the preparation or presentation of broadcast matter on Station WCHR-FM.
  - a. Nothing contained herein is intended to, or shall prohibit receipt or acceptance of anything with the expressed knowledge and approval of my employer, but henceforth any such approval must be given in writing by someone expressly authorized to give such approval.
- 6 The facts and circumstances relating to such interest are none \_\_\_ as follows \_\_\_:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Affiant**

Subscribed and sworn to before me this  
\_\_\_\_\_ day of \_\_\_\_\_, 2003.

\_\_\_\_\_  
**Notary Public**

**My Commission expires:** \_\_\_\_\_