

## **NETWORK AFFILIATION AGREEMENT**

**THIS NETWORK AFFILIATION AGREEMENT** ("Agreement") is executed as of this 9<sup>th</sup> day of November, 2017 ("Effective Date") by and between **EMPIRE BROADCASTING CORPORATION**, a New York corporation ("Licensee"), and **EDUCATIONAL MEDIA FOUNDATION**, a California non-profit religious corporation ("EMF").

### **WITNESSETH:**

**WHEREAS**, Licensee is the licensee of radio station WJKE(FM), Stillwater, New York (Channel 267A; 101.3 MHz; FIN# 20467 (the "Station") pursuant to authorizations (the "FCC Authorizations") issued by the Federal Communications Commission (the "FCC"); and

**WHEREAS**, EMF operates a programming network which broadcasts a unique blend of contemporary Christian-based, family-oriented programming known as the "K-LOVE" radio format; and

**WHEREAS**, Licensee and EMF are contemporaneously entering into an Asset Purchase Agreement (the "Purchase Agreement") pursuant to which EMF will acquire certain assets used in connection with the operation of the Station; and

**WHEREAS**, EMF desires to obtain programming time on the Station in order to rebroadcast K-LOVE's programming from the facilities of the Station, and Licensee desires to provide this time to EMF; and

**WHEREAS**, EMF wishes to authorize Licensee to rebroadcast K-LOVE programming from the facilities of the Station, pursuant to Section 325(a) of the Communications Act of 1934, as amended (the "Communications Act"), and applicable FCC rules, regulations and policies (together, with the Communications Act, "Communications Laws") in accordance with the terms and conditions hereinafter contained.

**NOW, THEREFORE**, in consideration of the foregoing and other good and valuable consideration received by each party, the receipt, adequacy and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. Programming. Subject to the terms of this Agreement, EMF agrees to provide and authorizes Licensee to broadcast EMF's programming comprised of the K-LOVE radio format over the Station's facilities. Simultaneously upon receipt of EMF's programming, Licensee agrees to broadcast the K-LOVE programming on the facilities of the Station without interruption, deletion, or addition of any kind, except as otherwise expressly permitted herein.

2. Term. The term of this Agreement shall commence at 12:01 AM Eastern on November 15, 2017 (the "Commencement Date") and, unless earlier terminated as provided in this Agreement, shall continue until the first to occur or (i) the Closing Date under the Purchase Agreement or (ii) termination of the Purchase Agreement by the parties ("Term").

3. Hours of Programming. EMF will supply the K-LOVE programming during all hours of the Station's operations as long as this Agreement remains in force, and Licensee will transmit all programming supplied by EMF, except as otherwise provided in Sections 4 and 5 below and subject to the provisions set forth in Section 14 below with respect to force majeure. EMF will provide all such programming, produced and delivered to the Station at its own cost and expense.

4. Reservation of Time. Licensee specifically reserves, at its option, for its own use two (2) hours per week of programming time (the "Reserved Time") during which it may broadcast programming of its own choice on the Station. Unless otherwise mutually agreed upon by the parties, the Reserved Time shall be on Sunday mornings between the hours of 6:00 AM to 8:00 AM Eastern Time.

5. Licensee's Regulatory Obligations.

(a) Nothing herein shall be construed as limiting in any way Licensee's rights and obligations as an FCC licensee to make the ultimate programming decisions for the Station and to exercise ultimate control and responsibility with respect to the operations of the Station. Licensee will be responsible for ensuring that the Station's overall programming is responsive to community needs and in the public interest. Licensee has the authority, in its sole discretion, to:

(i) reject and refuse to transmit any programming produced or proposed by EMF that Licensee in its good faith deems to be unsatisfactory, unsuitable, or contrary to the public interest, as determined by Licensee in its sole discretion;

(ii) originate or rebroadcast from any source any programming which Licensee, in its sole, good faith discretion, deems to be of greater local or national importance than the programming supplied by EMF or which Licensee believes will better serve the needs and interests of any the Station's service areas;

(iii) interrupt EMF's programming in case of an emergency.

(iv) insert any station identification, sponsorship, and/or Emergency Alert System ("EAS") announcements or tests that EMF fails to transmit as required.

(b) In the event that Licensee rejects any of EMF's programming pursuant to subparagraph (a)(i) above, Licensee shall, insofar as practicable, give EMF reasonable prior notice of its objection to EMF's proposed programs, including the basis for such objection, and shall use all reasonable efforts to give EMF a reasonable opportunity to substitute acceptable programming.

(c) Licensee, solely for the purpose of ensuring EMF's compliance with applicable law, including without limitation the Communications Laws and Station's policies, shall be entitled to review on a confidential basis any programming material relating to K-LOVE

broadcasts as it may reasonably request. EMF shall provide Licensee, at Licensee's request, with copies of all correspondence relating to K-LOVE's broadcasts on the Station and all complaints received from the public that pertain to the Station.

(d) EMF shall cooperate with Licensee to assist Licensee in complying with the provisions of the Communications Laws regarding political advertising for federal candidates. EMF shall publish a political air time policy and supply such information promptly to Licensee as may be necessary to comply with the equal opportunity and reasonable access requirements of the Communications Laws.

6. Operation of the Station.

(a) Licensee shall employ at its expense such employees to direct the day-to-day operations of the Station as may be necessary to comply with the provisions of the Communications Laws regarding main studio staffing and such additional personnel as shall be necessary to enable Licensee to perform its obligations under this Agreement. All such employees will report to and be accountable solely to Licensee.

(b) Licensee shall be solely responsible for and shall pay in a timely manner all operating costs of the Station, including costs of maintaining and repairing the studio facilities, the Station's transmitters and antennae, the cost of electricity and other utilities, rental payments, music licensing fees necessary to broadcast the programming contained in the Reserved Time, taxes and the salaries, taxes, insurance and related costs for all personnel employed by Licensee at the Station. EMF personnel shall be allowed reasonable access to the Station to make any necessary repairs to the Station and/or its facilities if Licensee is unable or unwilling to do so and EMF shall be entitled to apply a credit against the Monthly Fee to account for such repair costs.

(c) At its own expense, and in compliance with the Communications Laws, EMF may provide and install any equipment on the premises of the Station or its studio or other facilities it deems necessary or useful to supply its programming to the Station, under the supervision of Licensee. Upon termination of this Agreement, such property will remain the sole property of EMF and EMF shall promptly remove all such equipment from the premises of the Station.

(d) EMF shall comply with all station identification and other announcements as required by the FCC's rules and regulations.

(f) EMF shall insert in its programming any EAS messages or tests that the Station is required to transmit under the FCC's rules and regulations.

7. Noncommercial Nature of EMF Broadcasts. EMF is a non-profit corporation which broadcasts the K-LOVE programming on a noncommercial basis with revenues generated through contributions and donations received from contributors and donors residing within communities receiving K-LOVE's broadcast programming. Licensee acknowledges that all donations received from listeners within the Station's service area as a result of the rebroadcasting of K-LOVE's

program signal shall be the sole property of EMF. Licensee shall promptly forward any donations it receives to EMF at the address specified for notices herein, along with an accounting specifying the name and address of each such donor, and the date on which the donations were received. EMF shall comply with all applicable laws and regulations of the states reached by the Station's signal with regard to solicitation of donations.

8. Consideration.

(a) In consideration for the air time made available by Licensee to EMF under this Agreement, during the Term hereof, EMF will pay Licensee \$ \_\_\_\_\_ ("Monthly Fee") per month. The Monthly Fee will be paid to Licensee on or before the fifth (5th) day of each month.

(b) Licensee shall bear full responsibility to pay all operating and capital expenses related to the Station, including, but not limited to rent, utilities, main studio expenses, personnel, engineering, taxes, and maintenance costs ("Operating Costs").

(c) EMF shall be solely responsible for any expenses incurred in the origination and/or delivery of programming provided by EMF under this Agreement, including all music licensing fees with respect to the programming.

9. Limited Grant. Nothing herein contained shall be construed as an assignment or grant to Licensee of any right, title or interest in or to any titles, names, logos, slogans, jingles, trademarks, copyrights, ideas, formulas, general program content and/or other literary, musical, artistic or creative material broadcast by or associated with K-LOVE or EMF beyond the grant of a limited rebroadcast consent on the terms herein specified. All rights not specifically granted to Licensee hereunder in and to K-LOVE's programming and signal and the content thereof are reserved to EMF for its sole and exclusive use, disposition and exploitation. Moreover, the parties hereto understand and agree that third persons may hold copyrights or other legal rights in and to certain programs broadcast on K-LOVE and that the right to rebroadcast K-LOVE's signal granted hereunder shall not be deemed in any way to cover, convey or transfer such rights of third persons.

10. Representations, Warranties and Covenants of Licensee. Licensee hereby makes the following representations, warranties and covenants to EMF:

(a) This Agreement constitutes the legal, valid and binding obligation of Licensee, enforceable in accordance with its terms.

(b) The execution and performance of this Agreement will not violate any order, rule, judgment or decree to which Licensee is subject or constitute a breach of or default under any contract, agreement, or other commitment to which Licensee is a party or may be bound.

(c) Subject to the fact that Licensee will broadcast EMF's programming, Licensee shall operate the Station and shall maintain the Station's facilities in material compliance with the

Communications Laws, including but not limited to the FCC's sponsorship identification rules. Licensee shall maintain the Station's facilities in good working order and shall repair and update Station equipment as reasonably necessary. The Station is and will continue to be authorized to operate as a commercial radio broadcast station by the FCC during the Term.

(d) Licensee shall retain, on a full-time, part-time, or contract basis, a qualified engineer who shall be responsible for maintaining the transmission facilities of the Station. Licensee shall employ a chief operator, as that term is defined by the rules and regulations of the FCC (who may also hold the position of engineer), who shall be responsible for maintaining compliance by the Station with the technical operating and reporting requirements established by the FCC, and Licensee shall be responsible for ensuring that qualified control operators monitor and control the Station's transmissions in material conformity with FCC requirements.

(e) Licensee shall maintain a main studio and staff in material conformity with FCC requirements at all times during the term hereto, and Licensee shall maintain an appropriate public inspection file, and shall maintain that file as may be required by present or future FCC rules and regulations.

(f) Licensee shall maintain at its expense all music licensing fees with respect to programs provided and broadcast by the Licensee.

11. Representations, Warranties and Covenants of EMF. EMF hereby makes the following representations, warranties and covenants to Licensee:

(a) The execution, delivery and performance of this Agreement has been duly authorized by all necessary corporate action on the part of EMF, and this Agreement constitutes the legal, valid and binding obligation of EMF, enforceable in accordance with its terms.

(b) The execution and performance of this Agreement will not violate any order, rule, judgment or decree to which EMF is subject or constitute a breach or default under its charter, bylaws or any contract, agreement, or other commitment to which EMF is a party or may be bound.

(c) The programming supplied by EMF for broadcast on the Station will comply with all applicable laws, including without limitation, the Communications Laws and the laws and regulations of the states reached by the Station's signal.

(d) EMF will immediately send to Licensee copies of any letters or complaints concerning the programming supplied by EMF or the operation of the Station received by EMF.

(e) The provision of programming by EMF pursuant to this Agreement will comply with the provisions of Section 73.3555 of the FCC's rules (including the notes thereto) concerning multiple ownership.

(f) Not later than the seventh day of the first month of each calendar quarter, EMF will provide Licensee with information regarding its non-entertainment programming and community issues addressed by such programming in the calendar quarter just ended, in a format that Licensee may use for the issues-programs list it must place in its public inspection file.

(g) EMF shall not accept any consideration, compensation or 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”), unless the payer is identified in the program for which Consideration was provided as having paid or furnished such Consideration, in accordance with the Communications Laws.

(h) EMF possesses and will maintain all rights necessary to broadcast the programming supplied hereunder, including such rights as may be necessary to permit Licensee to rebroadcast the programming supplied hereunder.

12. Termination. This Agreement may be terminated upon an “Event of Default,” as defined as follows:

(a) EMF’s Events of Default. The occurrence and continuation of any of the following will be deemed an “Event of Default” by EMF under this Agreement:

- (i) EMF fails to pay any Monthly Fee on a timely basis;
- (ii) EMF fails to observe or perform any other material covenant, condition or agreement contained in this Agreement; or
- (iii) EMF breaches or violates any material representation or warranty made by it under this Agreement.

(b) Licensee's Events of Default. The occurrence and continuation of any of the following will be deemed an “Event of Default” by Licensee under this Agreement:

- (i) Licensee fails to observe or perform any material covenant, condition or agreement contained in this Agreement; or
- (ii) Licensee breaches or violates any material representation or warranty made by it under this Agreement.

(c) Cure Period. EMF shall have five (5) days from the date that Licensee has provided EMF with written notice that EMF is in default in its obligation to make the Monthly Fee to cure such Event of Default. In the case of all other Events of Default, the defaulting party shall have thirty (30) days from the date on which EMF has provided Licensee or Licensee has provided EMF, as the case may be, with written notice specifying the Event(s) of Default to cure any such Event(s) of Default. If the Event of Default cannot be cured by the defaulting party within the specified time

period but commercially reasonable efforts are being made to effect a cure or otherwise secure or protect the interests of the non-defaulting party (in which case, if successful, the Event of Default shall be deemed cured), then the defaulting party shall have an additional period not to exceed thirty (30) days to effect a cure or a deemed cure. Notwithstanding these cure periods, nothing shall preclude or prohibit Licensee from immediately pre-empting any Programming that it reasonably believes is unlawful or may put its FCC license in jeopardy. Notice of an Event of Default shall be deemed provided to the defaulting party as set forth in Section 17 below.

(d) Termination for Uncured Event of Default. If an Event of Default by EMF has not been cured or deemed cured within the period set forth in Section 12(c) above, then Licensee may terminate this Agreement immediately upon written notice to EMF, and shall be entitled to pursue any remedies available at law or equity. If an Event of Default by Licensee has not been cured or deemed cured within the periods set forth in Section 12(c) above, then EMF may terminate this Agreement immediately upon written notice to Licensee, and shall be entitled to pursue any remedies available at law or equity. It is understood, however, that the remedy of specific performance is not available to compel a broadcast licensee to transmit programming that it chooses not to transmit.

(e) This Agreement may be terminated by either Licensee or EMF by written notice to the other in the event this Agreement is declared invalid or illegal in whole or substantial part by an order or decree of an administrative agency or court of competent jurisdiction and such order or decree has become final.

(f) In the event of termination, all rights and privileges granted to Licensee hereunder shall forthwith cease and terminate and revert to EMF for EMF's sole and exclusive use and disposition, and Licensee shall cease any further use of K-LOVE's programming and signal and the content thereof, including without limitation any titles, names, logos, slogans, jingles, trademarks, copyrights, ideas, formulas, general program content and/or other literary, musical, artistic or creative material broadcast by or associated with K-LOVE.

### 13. Indemnification.

(a) EMF shall indemnify, defend and hold harmless Licensee from and against any and all claims, losses, costs, liabilities, damages, expenses, fines, and forfeitures (including reasonable legal fees and other expenses incidental thereto) of every kind, nature, and description (hereinafter referred to as "Loss and Expense"), arising out of: (i) the content of programming furnished by EMF under this Agreement; (ii) any misrepresentation or breach of any warranty or covenant of EMF contained in this Agreement; and (iii) the actions of EMF's employees and agents on the Station premises maintained by Licensee.

(b) Licensee shall indemnify, defend and hold harmless EMF from and against all Loss and Expense arising out of: (i) any misrepresentation or breach of any representation, warranty or covenant of Licensee contained in this Agreement and (ii) the actions of Licensee's employees and agents on the Station premises.

14. Force Majeure. Licensee shall not be liable for any failure of performance hereunder due to causes beyond its commercially reasonable control, including without limitation, acts of God, equipment malfunction or commercial power failure or reduction. In the event of the occurrence of any such event, Licensee agrees to use commercially reasonable efforts to resume performance as promptly as practicable.

15. Assignment. This Agreement shall be binding upon each party's permitted successors and assigns. No party may voluntarily or involuntarily assign its interest or delegate its duties under this Agreement without the prior written consent of the other party.

16. No Joint Venture. Nothing contained herein shall be deemed to create any joint venture, partnership, or principal-agent relationship between EMF and Licensee, and neither shall hold itself out in any manner which indicates any such relationship with the other.

17. Notices. All notices and other communications permitted or required under this Agreement shall be in writing and shall be deemed effectively given or delivered upon personal delivery, on the first business day of attempted delivery by a courier service, or five (5) business days after deposit with the U.S. Post Office, by registered or certified mail, postage prepaid and, in the case of courier or mail delivery, addressed as follows (or at such other address for a party as shall be specified by like notice):

If to Licensee, to:

Empire Broadcasting Corporation  
100 Saratoga Village Blvd, Suite 21  
Malta, New York 12020  
Attn: Joseph A. Reilly

with a copy (which shall not constitute notice) to:

Lawrence M. Miller, Esq.  
Garvey Schubert Barer  
1000 Potomac Street, N.W. – Suite 200  
Washington, DC 20007-3501

If to EMF, to:

Educational Media Foundation  
5700 West Oaks Boulevard  
Rocklin, CA 95765  
Attn: Mike Novak, CEO



with a copy (which shall not constitute notice) to:

Paige Fronabarger, Esq.  
Wilkinson Barker Knauer, LLP  
1800 M Street, N.W. Suite 800N  
Washington, D.C. 20036

18. Headings. The headings and captions in this Agreement are for only the convenience of the parties and may not be deemed to affect the substantive terms of this Agreement.

19. Governing Law. This Agreement shall be governed by, construed and enforced in accordance with, the laws of the State of New York without giving effect to the State's choice or conflicts of law provisions.

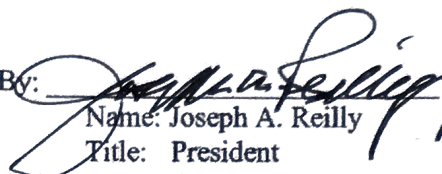
20. Counterparts. This Agreement may be executed in counterparts, each of which will be deemed to be an original but both of which together will constitute one and the same instrument. This Agreement may be executed and exchanged by facsimile or other electronic transmission, with the same legal effect as if the signatures had appeared in original handwriting on the same physical document. At the request of any party hereto or to any such agreement or instrument, each other party hereto or thereto shall re-execute original forms thereof and deliver them to all other parties. No party hereto or to any such agreement or instrument shall raise the use of a facsimile machine or Portable Document Format (pdf) to deliver a signature or the fact that any signature or agreement or instrument was transmitted or communicated through the use of a facsimile machine or other electronic means as a defense to the formation of a contract and each such party forever waives any such defense.

21. Entire Agreement. This Agreement supersedes all prior agreements and understandings between the parties with respect to the subject matter hereof, other than the Purchase Agreement, and may not be changed or terminated orally, and no attempted change, amendment, or waiver of any of the provisions hereof shall be binding unless in writing and signed by both parties. In the event of a conflict between this Agreement and the Purchase Agreement, the Purchase Agreement shall prevail.

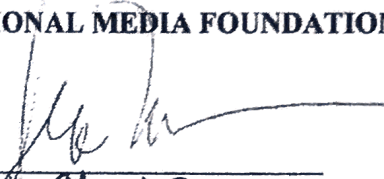
*[THE NEXT PAGE IS THE SIGNATURE PAGE]*

IN WITNESS WHEREOF, the parties hereto have executed this Network Affiliation Agreement as of the day and year first above written.

**EMPIRE BROADCASTING CORPORATION**

By:   
Name: Joseph A. Reilly  
Title: President  
11/8/17

**EDUCATIONAL MEDIA FOUNDATION**

By:   
Name: Alan Mason  
Title: President  
Date: 11/4/17