

NON-COMPETITION AND NON-SOLICITATION AGREEMENT

THIS NON-COMPETITION AND NON-SOLICITATION AGREEMENT (this “Agreement”) is made and entered into as of and dated as of [●], 2021, by, between and among [●], a [●] (“Seller”), [●], a _____ (“[●]”¹; collectively with Seller, the “Restricted Parties”, and individually a “Restricted Party”), and [●], a Delaware limited liability company (“Purchaser”).

WHEREAS, Seller owns and operates the broadcast stations listed on Schedule A (collectively, the “Stations” and the operation of and business conducted by the Stations, the “Business”) pursuant to certain authorizations issued by the United States Federal Communications Commission to Seller;

WHEREAS, [●] is a principal equityholder of Seller and is actively engaged in the operation and management of the Business, and as a result, he has access to confidential information and trade secrets regarding the Business and the Customers (as defined below) and received specialized training with regard to it;

WHEREAS, Seller desires to convey, transfer, assign and deliver to Purchaser, and Purchaser desires to acquire and assume from Seller the Assets and the Assumed Liabilities of the Stations, on the terms and subject to the conditions set forth that certain Asset Purchase and Contribution Agreement, dated as of [●], 2021 (the “Purchase Agreement”); terms used herein but not defined herein have the respective meanings ascribed thereto in the Purchase Agreement);

WHEREAS, Seller and Purchaser are parties of equal bargaining power and both have been advised by counsel with regard to the obligations contained herein;

WHEREAS, the execution, delivery and performance of this Agreement by the Restricted Parties is a condition precedent to Purchaser’s obligations to close under the Purchase Agreement; and

WHEREAS, the value of the assets and goodwill acquired by Purchaser pursuant to the Purchase Agreement would be materially diminished if either of the Restricted Parties were permitted to compete with the Business as described herein.

NOW, THEREFORE, in consideration of the above premises, the mutual covenants, conditions and agreements set forth herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged and accepted, the parties hereto, intending to be legally bound, hereby agree as follows:

1. Limitation on Competition.

(a) The Restricted Parties recognize that Purchaser’s intention to acquire the Assets is induced in part because of the covenants and assurances made by the Restricted Parties in this Agreement, that the Restricted Parties’ covenants not to compete and not to solicit are necessary to protect the interests of Purchaser in the Business, including, without limitation, goodwill and customer relationships, and that irreparable harm and damage will be done to Purchaser in the event that a Restricted Party competes unfairly with the Business or violates the terms hereof.

¹ NTD: Need to include parties to Non-Compete Agreements as reflected in the APA.

(b) It is specifically agreed that for a period of five (5) years after the date of this Agreement, except as set forth on Schedule B hereto, no Restricted Party shall, directly or indirectly, own, manage, operate, control, advise, be employed by, or participate in, or be involved in any manner with the ownership, management, operation, or control of, any business that broadcasts into or otherwise competes directly or indirectly with the Business anywhere throughout the [●] Designated Market Area(s) (the "Protected Area"); provided, however, that this Agreement shall not limit a Restricted Party's ability to own not more than five percent (5%) of the outstanding stock of any class of a publicly-held corporation whose stock is traded on a national securities exchange or in the over-the-counter market.

2. Non-Solicitation of Customers. It is specifically agreed for a period of five (5) years after the date of this Agreement, except as set forth on Schedule B hereto, no Restricted Party shall, as a participant in a partnership, sole proprietorship, corporation, limited liability company, or other entity, or as an operator, investor, shareholder, partner, director, employee, consultant, manager or advisor of any such entity, or in any other capacity whatsoever, either directly or indirectly: (i) solicit or accept any advertising to be broadcast or otherwise distributed within the Protected Area from any Customer, or (ii) request, encourage, induce, or advise any Customer to withdraw, curtail, or cancel any of Customer's business or other relationships with Purchaser. For purposes of this agreement, "Customer" shall mean any person or entity to which a Restricted Party, during the twelve (12) months prior to the Closing Date, (x) rendered any services or sold anything of value to in connection with the Business, or (y) solicited the business of such person or entity, whether or not any services were rendered or anything of value was sold to such person, in connection with the Business.

3. Non-Solicitation of Personnel. Each Restricted Party expressly agrees and understands that it would cause substantial harm and detriment to Purchaser if any of the Transferred Employees (as such term is used and defined in the Purchase Agreement) were hired or lured away by a Restricted Party. Specifically, the harm and detriment that would be incurred by Purchaser includes, without limitation, loss of office continuity and return on investment made in training employees, additional training and hiring costs for replacement employees, and potential loss of referral sources and customers. Except as set forth on Schedule B hereto, for a period of five (5) years after the date of this Agreement, no Restricted Party shall, directly or indirectly: (i) hire as an employee, officer, director, consultant, or advisor any Transferred Employee, or (ii) induce or encourage or attempt to induce or encourage any Transferred Employee to leave the employ of Purchaser or an Affiliate of Purchaser; provided, however, that general advertisements with respect to a position that are not specifically directed to Transferred Employees will not violate this Section, and provided, further, that any Restricted Party may, at any time with the approval of Purchaser, hire any Transferred Employee who is terminated by Purchaser.

4. Reasonableness of Restrictions. Each Restricted Party has carefully read and considered the provisions of Section 1, Section 2 and Section 3 hereof and, having done so, agrees that the restrictions set forth therein are fair and reasonable and are reasonably required for the protection of the legitimate business interests of Purchaser. Each Restricted Party further agrees and acknowledges that the duration and geographic area of the limitations set forth therein are reasonable under the circumstances considering Purchaser's expenditure of considerable sums to purchase the Assets and agrees that in all likelihood these restrictions would not work an undue hardship on the Restricted Party. Each Restricted Party further agrees that if any portion of Section 1, Section 2 and/or Section 3 hereof is found to be invalid or unenforceable by a court of competent jurisdiction because its duration, territory, or other restrictions are deemed to be invalid or unreasonable in scope, the invalid or unreasonable terms will be replaced by terms that are valid and enforceable and that come closest

to expressing the intention of such invalid or unenforceable terms. Each Restricted Party further acknowledges and agrees that he or it has received good and valuable consideration for the obligation to comply with the restrictive covenants set forth herein by virtue of the Purchase Agreement and the transactions set forth therein.

5. Remedies. Each Restricted Party acknowledges that any Restricted Party's threatened or actual breach of any of the terms hereof will result in immediate and irreparable harm and injury to Purchaser, not adequately compensable by monetary relief. As a result, Purchaser shall have the right to enforce the provisions hereof by injunction, specific performance or other equitable relief, without the necessity of posting bond or other security. The above right to seek injunctive relief is in addition to, and not in lieu of, all other rights and remedies available to Purchaser at law, in equity, or otherwise.

6. Tolling. In the event of a breach by Restricted Party of any of Section 1, Section 2 and/or Section 3 hereof, then the restrictive periods referenced in such Sections shall be tolled and shall begin to run or recommence running only at such time as the breach is alleviated.

7. Notices. Any notice or other communication under this Agreement shall be in writing and shall be considered given when delivered personally or when mailed by registered mail, return receipt requested, or delivered by electronic transmission (such as fax or email), in each case, with automatic delivery receipt requested, between the hours of 9:00 AM and 5:00 PM EST (or EDT as applicable) (any delivery after 5PM EST (or EDT as applicable) will be considered delivered the next day) to the parties at the addresses set forth below (or at such other address as a party may specify by notice to the other):

If to Purchaser:

Big River Television LLC
Attn: Dr. Michael Hogan
610 Peachtree Pkwy. Suite 203
Cumming GA 30041
E-mail: drmichaelhogan@gmail.com

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

Wyrick Robbins Yates & Ponton LLP
4101 Lake Boone Trail Suite 300
Raleigh, NC 27607-7506
Attn: Robert E. Futrell
Facsimile: (919) 781-4865
Email: rfutrell@wyrick.com

if to any Restricted Party:

Facsimile: _____

Email: _____

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

Mark B. Denbo, Esq.
Smithwick & Belendiuk, P.C.
5028 Wisconsin Avenue, N.W., Suite 301
Washington, DC 20016
Facsimile: (202) 363-4266
Email: mdenbo@fccworld.com

8. General Provisions.

(a) Assignment. No party may assign this Agreement or any of its rights, interests or obligations or delegate any of its duties under this Agreement without the consent of the other; provided, however, that, without the consent of any Restricted Party, Purchaser may (i) assign this Agreement, in whole or in part to any direct or indirect wholly-owned subsidiary of Purchaser, (ii) collaterally assign all or any portion of its rights under this Agreement to its lender or lenders, equity sponsor or sponsors or other financing source or sources in connection with obtaining any financing (or any refinancing thereof), and (iii) after the Closing, to any purchaser(s) of all or substantially all of the Assets from Purchaser.

(b) Amendment. This Agreement may not be amended or modified except in a writing signed by all parties hereto.

(c) Waiver. Failure to insist upon strict compliance with any of the terms or conditions of this Agreement at any one time shall not be deemed a waiver of such term or condition at any other time, nor shall any waiver or relinquishment of any right or power granted herein at any time be deemed a waiver or relinquishment of the same or any other right or power at any other time.

(d) Governing Law. This Agreement shall be governed by and construed in accordance with the law of the State of Delaware, without regard to its principles of conflict of law to the extent they would result in the application of the laws of another jurisdiction.

(e) Jurisdiction. The Court of Chancery of the State of Delaware in New Castle County and the United States District Court for the District of Delaware shall have jurisdiction over the parties with respect to any dispute or controversy between them arising under or in connection with this Agreement and, by execution and delivery of this Agreement, each of the parties to this Agreement submits to the jurisdiction of those courts, including, without limitation, the in personam and subject matter jurisdiction of those courts, waives any objection to such jurisdiction on the grounds of venue or forum non conveniens, the absence of in personam or subject matter jurisdiction and any similar grounds, consents to service of process by mail (in accordance with Section 7) or any other manner permitted by law, and irrevocably agrees to be bound by any judgment rendered thereby in connection with this Agreement. These consents to jurisdiction shall not be deemed to confer rights on any Person other than the parties to this Agreement.

(f) Invalid Provision. Any provision of this Agreement which is invalid, illegal or unenforceable in any jurisdiction shall, as to that jurisdiction, be ineffective solely to the extent of such invalidity, illegality or unenforceability, without affecting in any way the remaining provisions hereof

in such jurisdiction or rendering that or any other provision of this Agreement invalid, illegal or unenforceable in any other jurisdiction.

(g) Binding Effect. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective permitted successors and assigns.

(h) Further Assurances. Each party agrees to execute and deliver all such further instruments and do all such further acts as may be reasonably necessary or appropriate to effectuate this Agreement.

(i) Headings. Headings and captions contained in this Agreement are inserted only as a matter of convenience and for reference and in no way define, limit, extend or prescribe the scope of this Agreement or the intent of any provision.

(j) Entire Agreement. This Agreement constitutes the entire agreement of the parties to this Agreement with respect to matters set forth in this Agreement and supersedes any prior understanding or agreement, oral or written, with respect to such matters.

(k) Interpretations. Neither this Agreement nor any uncertainty or ambiguity herein shall be construed or resolved against any party hereto, whether under any rule of construction or otherwise. No party shall be considered the draftsman. On the contrary, this Agreement has been reviewed, negotiated and accepted by all parties and shall be construed and interpreted according to the ordinary meaning of the words used so as to fairly accomplish the purposes and intentions of all parties hereto. The principles of law to be applied to the interpretation of this Agreement are those that generally apply to restrictive covenants given by a seller in connection with the sale of a business.

(l) Execution in Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be an original, and all such counterparts shall constitute one and the same Agreement, binding on all the parties notwithstanding that all the parties are not signatories to the same counterpart. The exchange of copies of this Agreement and of signature pages by facsimile, .pdf or other electronic transmission shall constitute effective execution and delivery of this Agreement as to the parties and may be used in lieu of the original executed Agreement for all purposes. Signatures of the parties transmitted by facsimile, .pdf or other electronic transmission shall be deemed to be their original signatures for any purposes whatsoever.

[THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK;
THE NEXT PAGE IS THE SIGNATURE PAGE]

IN WITNESS WHEREOF, the undersigned have caused this Non-Competition and Non-Solicitation Agreement to be executed under seal as of the date first above written.

PURCHASER:

[Insert Entity Name]

By: _____
_____, its _____

RESTRICTED PARTIES:

[Insert Entity Name]

By: _____
Name: _____
Title: _____

[Insert Individual Name]