

## RETRANSMISSION AGREEMENT

**THIS RETRANSMISSION AGREEMENT (this “Agreement”)** is made this 3 day of January, 2022 (the “Effective Date”) by and between Fort Myers Broadcasting Company, a Florida corporation (“Programmer”) and Sun Broadcasting, Inc, a Florida Corporation (“Licensee”).

### WITNESSETH:

**WHEREAS**, Licensee is the licensee of FM translator station W231DC, Facility ID No. 138791, Fort Myers, Florida (the “Translator”) pursuant to authorizations (collectively, the “FCC Licenses”) issued to Licensee by the Federal Communications Commission (“FCC”);

**WHEREAS**, Licensee and Programmer have entered into an agreement whereby Licensee will sell the Translator Licenses to Programmer, subject to prior application to and approval by the FCC.

**WHEREAS**, pending sale of the Translator Licenses, Programmer desires that Translator rebroadcast the HD2 digital signal of Programmer’s FM Station WTLQ-FM Facility ID No. 28901, Punta Rassa, Florida (the “Primary Station”)

**WHEREAS**, Licensee is willing to rebroadcast the signal of the Primary Station, subject to the terms and conditions of this Agreement..

**NOW, THEREFORE**, in consideration of the foregoing, and of the mutual promises set forth herein, Licensee and Programmer hereby agree as follows:

1. **Rebroadcast.** Subject to the terms of this Agreement, and to applicable rules, regulations, and policies of the FCC, Licensee shall rebroadcast up to one hundred sixty-eight (168) hours per week of the Primary Station’s programming over the facilities of the Translator. Programmer grants Licensee retransmission consent for the purpose of rebroadcasting the

Primary's Station's programming on the Translator. The parties' performance of this Agreement shall be subject to their respective obligations under the Communications Laws. As used herein, "Communications Laws" shall mean the Communications Act of 1934, as amended, and the rules, regulations and policies of the FCC.

2. ***Term.*** The term of this Agreement shall be for one year, commencing on the Effective Date, unless earlier terminated pursuant to Paragraph 15 hereof.

3. ***Hours of Programming.*** Programmer shall supply and Licensee shall retransmit Primary Station's programming for all periods of broadcast operations, as long as this Agreement remains in force. Programmer shall provide Primary Station's programming, all produced at its own cost and expense.

4. ***[Intentionally Omitted]***

5. ***Primary Station's Programming.*** The Primary Station's programming shall be broadcast in conformity with the Communications Laws and with the regulations and restrictions set forth in Attachment 1, which are an integral part of this Agreement. Programmer agrees to abide by the standards set forth in Attachment 1 in the Primary Station's programming and operations

6. ***Programmer's Rights in Programming.*** As between Licensee and Programmer, all right, title and interest in and to the programming supplied by Programmer, and the right to authorize the use of such programming in any manner and in any media whatsoever, shall be and remain vested at all times solely in Programmer.

7. ***Compensation.*** In consideration of the retransmission services provided to Programmer pursuant to this Agreement, Programmer shall pay to Licensee the fees set forth in

Attachment 2 hereto.

8. ***Expenses.***

a. Programmer shall employ and be responsible for the salaries, taxes, insurance and all other costs related to all personnel used in the production and delivery of the Primary Station's programming to the Translator.

b. Programmer shall have no authority over and shall not supervise persons in the employ of Licensee after the Effective Date.

c. Licensee shall be responsible for all direct and indirect operating costs of the Translator, including, but not limited to,: (i) rents and utilities at Licensee's studio, tower, and transmitter site facilities; (ii) insurance costs related to Licensee's assets and operations; (iii) Licensee's telephone, delivery, and postal service; (iv) costs related to the equipment necessary for the operation of the Translator in compliance with the Communications Laws; (v) salaries, payroll taxes, insurance, benefits and related costs of personnel employed by Licensee in connection with the operation of the Translator; and (vi) income, gross receipts, sales, real property, personal property, excise, and/or any other taxes of any nature whatsoever related to Licensee's ownership of the Translator.

d. Programmer shall be responsible for all direct and indirect costs of the production and delivery of the Primary Station's programming to the Translator, including, but not limited to,: (i) all costs for the power and utilities at Programmer's facilities where programming is produced; (ii) insurance costs related to Programmer's equipment and assets used in its business operations; (iii) costs related to the maintenance of the studio and equipment necessary for the production and delivery of Programmer's programming; (iv) 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 on that programming; (v) 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 or the programming provided to the Translator; and (vi) all performing rights, licensing fees for music and other material contained in the programming provided by Programmer.

9. [Intentionally Omitted]

10. **[Intentionally Omitted]**

11. ***Representations, Warranties, and Covenants of Programmer.*** Programmer represents and warrants to, and covenants with, Licensee that:

a. Programmer is a Florida corporation, duly organized and validly existing, and has full power and authority to conduct its business as currently conducted. Programmer is qualified to transact business in the State of Florida and in all other jurisdictions in which the Translator do business.

b. Execution and delivery of this Agreement by Programmer has been authorized by all necessary corporate action of Programmer. This Agreement is valid, binding and enforceable against Programmer in accordance with its terms. Programmer has the legal right, power, and authority to enter into this Agreement and to fully perform its obligations hereunder, and its performance hereunder does not and shall not violate the terms of any other agreements by which it is bound or to which it is a party.

c. Programmer's conduct with respect to the Translator, including, but not limited to, the programming provided by Programmer for retransmission on the Translator, shall

comply with the Communications Laws and with all programming standards established by Licensee from time to time. The programming shall also meet all industry standards for technical quality.

d. Programmer shall obtain, at its own cost and expense, music licenses for the music in the programs it provides for retransmission. The performing rights to all music contained in its programming shall be licensed by BMI, ASCAP, GMR or SESAC or shall be in the public domain.

e. Programmer shall cooperate with Licensee in making time available in programming supplied to the Translator by it for broadcasting any announcements required by FCC rules and regulations, including without limitation, station identification.

f. Programmer shall not cause or permit any liens, encumbrances, foreclosures, contractual defaults, or outstanding balance of any kind or nature whatsoever which would impede or impair Programmer's ability to meet its obligations under this Agreement.

g. Programmer shall promptly pay any and all expenses or obligations of any kind or nature relating to the provision of programming when such expenses become due.

h. Programmer shall forward to Licensee within twenty-four (24) hours of receipt by Programmer, any letter from a member of the general public addressing the Translator's programming or operations which comes into its custody.

12. ***Representations, Warranties, and Covenants of Licensee.*** Licensee represents and warrants to, and covenants with, Programmer that:

a. Licensee is a Florida corporation, duly organized and validly existing, and have full power and authority to conduct its business as currently conducted.

b. Execution and delivery of this Agreement by Licensee has been authorized by all necessary corporate action of Licensee. This Agreement is valid, binding and enforceable against Licensee in accordance with its terms. Licensee has the right, power, and authority to enter into this Agreement and perform its obligations hereunder and its performance hereunder does not and shall not violate the terms of any other agreement by which Licensee is bound or to which Licensee is a party.

c. No approval or authorization of or exemption by, or filing, restriction or declaration with, any governmental authority bureau, agency or regulatory authority, other than the filing of this Agreement with the FCC, is required in connection with the execution, delivery or performance of this Agreement.

d. Licensee holds all licenses, permits, and other authorizations required from governmental and regulatory authorities for the lawful operation of the Translator and the lawful conduct of the business of the Translator in the manner and to the full extent they are or will be conducted, all of those licenses, permits, and other authorizations are in full force and effect, and none of the licenses, permits, and other authorizations is subject to any restriction or condition that would limit the operations of the Translator as they are or will be conducted. To Licensee's knowledge, there is not now pending or threatened, any action by the FCC or by any other person to revoke, cancel, suspend, refuse to renew, or modify adversely any of those licenses, permits, and other authorizations. With the exception of the political broadcasting consent decree in DA 20-871A1 (Media Bureau, released August 12, 2020), Licensee has complied, in all material respects, with the terms of all licenses, permits, and other authorizations from governmental authorities and with all laws, rules, regulations, and ordinances.

e. Neither the execution or delivery of this Agreement nor the consummation of the transactions contemplated hereby will constitute or result in the breach of any term, condition or provision of, or constitute a default under, or result in the creation of any lien, charge or encumbrance upon any property or assets of Licensee pursuant to any agreement or other instrument to which Licensee is a party or by which any part of the Translator's property is bound, or violate any law, regulation, judgment or order binding upon Licensee.

f. Licensee hold all permits and authorizations necessary for the operation of the Translator as they are currently being conducted, including all FCC permits and authorizations.

g. Licensee shall operate the Translator in compliance with the Communications Laws.

h. The Translator's facilities and equipment shall and will comply and are and will be operated in accordance with good engineering standards of the radio broadcast industry, including with all applicable laws and regulations. Licensee is not in material violation of any statute, ordinance, rule, regulation, order or decree of any federal, state, local or foreign governmental agency, court or authority having jurisdiction over it or over any part of its operations or assets, which material default or violation would have an adverse effect on Licensee's ability to perform this Agreement. During the term of this Agreement, Licensee shall maintain the transmission facility and the broadcast output of the Translator with the same quality, normal wear and tear excepted, to broadcast to the same power and height as Licensee is presently authorized by the FCC. Any maintenance work, other than emergency repairs, which prevent the operation of the Translator at its authorized power and facilities, shall not be scheduled without giving at least forty-eight (48) hours notice to Programmer, unless Programmer waives such notice.

13. *[Intentionally Omitted]*

14. *Indemnification.*

a. To the extent not covered by Licensee's insurance policies, Programmer shall indemnify and hold harmless Licensee from and against any and all claims, losses, costs, liabilities, damages, and expenses (including reasonable attorneys' fees) arising out of (i) programming provided by Programmer for retransmission on the Translator, and (ii) any breach by Programmer of its representations, warranties, covenants, or obligations under this Agreement.

b. To the extent not covered by Programmer's insurance policies, Licensee shall indemnify and hold harmless Programmer from and against any and all claims, losses, costs, liabilities, damages, and expenses (including reasonable attorney's fees) arising out of any breach by Licensee of its representations, warranties, covenants, or obligations under this Agreement.

c. The indemnification obligations of this Section 14 shall survive any termination of this Agreement and shall continue until the expiration of all applicable statutes of limitations and the conclusion and payment of all judgments which may be rendered in all litigation which may be commenced prior to such expiration.

d. The party seeking indemnification under this Section 14 ("Indemnitee") shall give the party from whom it seeks indemnification ("Indemnitor") prompt notice, in accordance with Section 20 hereof, of the assertion of any such claim; *provided, however*, that the failure to give notice of a claim within a reasonable time shall only relieve the Indemnitor of liability to the extent it is materially prejudiced thereby. Promptly after receipt of written notice, as provided herein, of a claim by a person or entity not a party to this Agreement, the Indemnitor shall assume the defense of such claim; *provided, further*, that (i) if the Indemnitor fails, within a

reasonable time after receipt of written notice of such claim, to assume the defense, compromise, and settlement of such claim on behalf of and for the account and risk of the Indemnitor, subject to the right of the Indemnitor (upon notifying the Indemnitee of its election to do so) to assume the defense of such claim at any time prior to the settlement, compromise, judgment, or other final determination thereof, or if in the reasonable judgment of the Indemnitee, based on the advice of its counsel, a direct or indirect conflict of interest exists between the Indemnitee and the Indemnitor, the Indemnitee shall (upon notifying the Indemnitor of its election to do so) have the right to undertake the defense, compromise, and settlement of such claim on behalf of and for the account and risk of the Indemnitor (it being understood and agreed that the Indemnitor shall not be entitled to assume the defense of such claim), and (ii) if the Indemnitee in its sole discretion so elects, it shall (upon notifying the Indemnitor of its election to do so) be entitled to employ separate counsel and to participate in the defense of such claim, but the fees and expenses of counsel so employed shall (except as contemplated by clause (i) above) be borne solely by the Indemnitee. The Indemnitor shall not settle or compromise (x) any claim or consent to the entry of any judgment that does not include as an unconditional term thereof the grant by the claimant or plaintiff to each Indemnitee of a release from any and all liability in respect thereof, or (y) any claim in any manner, or consent to the entry of any judgment, that could reasonably be expected to have a material adverse effect on the Indemnitee. If upon presentation of a claim for indemnity hereunder, the Indemnitor does not agree that all, or part, of such claim is subject to the indemnification obligations imposed upon it pursuant to this Agreement, it shall promptly so notify the Indemnitee. Thereupon, the parties shall attempt to resolve their dispute, including where appropriate, reaching an agreement as to that portion of the claim, if any, which both concede is

subject to indemnification. To the extent that the parties are unable to reach some compromise, any party may unilaterally submit the matter for determination by a court of competent jurisdiction.

15. ***Termination; Effect of Termination.***

a. The term of this Agreement is subject to the limitations that:

i. Any of the parties may terminate this Agreement if any other party is in default of any of its material obligations hereunder and such party has not cured such default within thirty (30) days after receipt of written notice of default from a non-defaulting party; *provided*, that such terminating party is not then in default of any of its material obligations hereunder.

ii. This Agreement shall terminate automatically if the Agreement is declared invalid or illegal in whole or material 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;

iii. This Agreement shall terminate automatically if the parties' agreement for the purchase and sale of the Translator Licenses is consummated or if the parties' agreement for the purchase and sale of the Translator Licenses terminates.

b. In the event of termination hereunder, Licensee shall be under no further obligation to retransmit the Primary Station's programming over the Translator. Upon termination of this Agreement as provided in this Section 15, the consideration provided for hereunder shall be prorated through the effective termination date of this Agreement.

16. ***Intentionally Omitted.***

17. ***Insurance.*** Licensee has provided Programmer with a copy of all insurance

policies currently in effect with respect to the Translator. Licensee shall maintain in full force and effect throughout the term of this Agreement, such insurance policies or comparable insurance policies covering such risks (including fire and other risks insured against by extended coverage, public liability insurance, insurance for claims against personal injury or death or property damage and such other insurance as may be required by law) and in such amounts and on such terms as it carried on the Effective Date. Programmer shall obtain insurance policies covering such risks, in such amounts and on such terms as conventionally carried by broadcast Programmers using the facilities of FM translator stations comparable to those of the Translator and shall make the Licensee co-insured or loss payees under such policies. Any insurance proceeds received by Licensee in respect of damaged property will be used to repair or replace such property so that the operation of the Translator conforms with this Agreement.

18. ***Regulatory Requirements.*** Licensee shall operate the Translator in conformity with the Communications Laws and all other applicable federal, state, and local rules. Notwithstanding anything to the contrary set forth in this Agreement, Licensee shall be solely responsible for the management, operation, and regulatory compliance of the Translator, including, specifically, control over the Translator's finances, personnel, and programming. Programmer shall not exercise any control over the day-to-day operation of the Translator.

19. ***Payola/Plugola.*** Neither Programmer nor its agents, employees, consultants, or personnel shall be promised or paid 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"), whether or not pursuant to written contracts or agreements between Programmer and merchants or

advertisers, unless the payer is identified in the program for which Consideration was provided as having paid for or furnished such Consideration, in accordance with the Communication Laws.

20. *Notices.* All notices and other communications permitted or required hereunder shall be in writing and any payment, notice, or other communications shall be deemed given by (a) personal delivery, (b) U. S. certified mail, postage prepaid, with return receipt requested, (c) a nationally recognized overnight carrier, or (d) by facsimile on the date of a confirmed facsimile transmission, in each case addressed as follows:

If to Programmer, to:

Fort Myers Broadcasting Company  
2824 Palm Beach Boulevard  
Fort Myers, FL 33916

Facsimile: \_\_\_\_\_

If to Licensee, to:

Sun Broadcasting, Inc.  
2824 Palm Beach Boulevard  
Fort Myers, FL 33916

Facsimile: \_\_\_\_\_

or to such other person or address as any of the parties may specify to the others in writing from time to time. Notice shall be deemed to have been given upon actual receipt.

21. *No Agency.* No agency relationship among the parties shall be expressed or implied by the terms of this Agreement, nor shall this Agreement be construed to create a joint venture or partnership among the parties. None of the parties shall hold itself out as an agent, partner, or joint venturer with any of the others. All contracts for the sale of airtime, purchase

orders, agreements, sales materials, and similar documents produced or executed by Programmer shall be executed in the name of Programmer, and not on behalf of the Translator or Licensee, and shall represent that Programmer is not the FCC licensee of the Translator.

22. ***Entire Agreement.*** This Agreement (including all attachments, exhibits and schedules) embody the entire agreement among 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 signed by each party hereto.

23. ***Further Assurances.*** Each of the parties shall execute and deliver such additional documents and take such further actions as are reasonably necessary for the purposes of carrying out this Agreement.

24. ***Intentionally Omitted***

25. ***Assignment.*** None of the parties shall assign its rights or delegate its duties under this Agreement without the other parties' prior written consent, which consent shall not be unreasonably withheld, delayed or conditioned. Any such assignment or delegation by any of the parties in contravention of this Section 25 shall be null and void.

26. ***Compliance with Law.*** The parties agree that throughout the term of this Agreement, each party shall comply with all laws and regulations applicable in the conduct of Licensee's business.

27. ***Binding Effect.*** This Agreement shall be binding upon the parties hereto and their successors and permitted assigns.

28. ***No Waiver; Remedies Cumulative.*** No failure or delay on the part of Licensee or

Programmer in exercising any right or power hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any such right or power, or any abandonment or discontinuance of steps to enforce such a right or power, preclude any other or further exercise thereof or the exercise of any other right or power. The rights and remedies of Licensee and Programmer herein provided are cumulative and are not exclusive of any right or remedies which it may otherwise have.

29. ***Force Majeure.*** Any failure or impairment of facilities or any delay or interruption in retransmitting Programmer's programs, or failure at any time to furnish facilities, in whole or in part, for broadcasting, due to acts of God, strikes or threats thereof, or force majeure or due to causes beyond the control of Licensee, shall not constitute a breach of this Agreement and Licensee shall not be liable to Programmer with respect to facilities that failed or were impaired or not furnished.

30. ***Severability.*** In the event that any of the provisions contained in this Agreement becomes or is held to be invalid, illegal, or unenforceable, it shall not affect any other provision hereof, and this Agreement shall be construed as if such invalid, illegal, or unenforceable provisions had not been contained herein.

31. ***Governing Law.*** This Agreement shall be governed by the laws of the State of Florida without regard to its choice of law provisions. Any proceedings to enforce this Agreement shall be commenced in a court of competent jurisdiction in the State of Florida. The parties agree not to assert or interpose any defenses, and do hereby waive the same, to the conferral of personal jurisdiction and venue by such court in any suit, action or proceeding.

32. **Headings.** The headings contained in this Agreement are included for convenience only and no such heading shall in any way alter the meaning of any provision.

33. **Amendment.** This Agreement may be modified or amended only in writing and signed by the parties hereto.

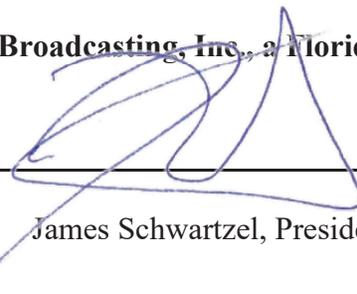
34. **Counterparts.** This Agreement may be signed in counterpart originals, which collectively shall have the same legal effect as if all signatures had appeared on the same physical document. This Agreement may be signed and exchanged by facsimile transmission, with the same legal effect as if the signatures had appeared in original handwriting on the same physical document.

**[SIGNATURES BEGIN ON THE FOLLOWING PAGE]**

IN WITNESS WHEREOF, the parties hereto have executed this Retransmission Agreement as of the date and year first above written.

**LICENSEE:**

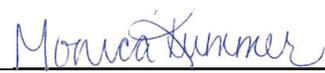
**Sun Broadcasting, Inc., a Florida Corporation**

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

James Schwartzel, President

**PROGRAMMER:**

**Fort Myers Broadcasting Company**

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

Monica Kummer, Assistant Treasurer