

MANAGEMENT AGREEMENT

THIS MANAGEMENT AGREEMENT (the "Agreement") is made as of this 11th day of April, 2017, by and between the **ANNISTON SEVENTH-DAY ADVENTIST CHURCH** ("Permittee"), and **ELIJAH RADIO, INC.** ("Manager").

WHEREAS, Permittee holds a construction permit (the "Permit") issued by the Federal Communications Commission ("FCC") to construct and operate noncommercial FM station WRHP, Anniston, Alabama (FCC Facility ID #184996) ("WRHP" or the "Station"); and

WHEREAS, Permittee desires that Manager assist in the construction of the Station; and

WHEREAS, Permittee desires to make time available to Manager for Manager's programming on the Station when operational; and

WHEREAS, Manager desires to provide an over-the-air radio program service to the Anniston radio market using the facilities of the Station (the "Programming"); and

WHEREAS, both Permittee and Manager desire that Manager will operate the Station in such a manner so as to broadcast programming supportive of and consistent with the teachings of the Seventh-day Adventist Church; and

WHEREAS, the parties have entered into a Memorandum of Understanding dated March 18, 2017 concerning the construction and future operation of WRHP (the "MOU");

NOW THEREFORE, in consideration of the foregoing, and of the mutual promises set forth herein, Permittee and Manager, intending to be legally bound, hereby agree as follows:

1. **Effective Date.** This Agreement shall become effective as of the date of the signature of the last party to execute this Agreement.

2. **Term.** The term of this Agreement (the "Term") shall commence on the Effective Date, and, unless earlier terminated, shall expire on the fifth anniversary of the date on which the FCC issues the license to cover the facilities authorized in the Construction Permit (or the corresponding modified facilities if the Construction Permit is modified).

3. **Facilities Construction.** Acting as consultant to Permittee and under Permittee's supervision and control, Manager shall undertake to construct the station's transmission and studio facilities as authorized in the Station's construction permit in FCC File No. BNPED-20100226ABT, or as authorized in any modification thereof (the "Construction Permit"). All funds that have been contributed to Permittee to support the

construction and/or operation of the Station shall be expended on reasonable costs related to construction of the Station. To the extent necessary, Manager shall provide additional funds to complete the construction of the Station. The parties shall cooperate with each other so as to construct facilities fully compliant with all rules, regulations and policies of the FCC (the "FCC Rules") and all other government agencies that may have jurisdiction over the construction and/or operation of the Station. Permittee shall approve construction budgets and disburse funds to third-party vendors and suppliers. The tangible personal property acquired and installed in the course of constructing the Station shall be owned or leased by Permittee. The Station's transmitter site and facilities shall be under Permittee's control. The parties acknowledge and understand that the Construction Permit expires on July 6, 2018 and they agree to cooperate with each other to complete construction of the Station so as to enable Permittee to file a license application with the FCC on or before that date (or such later day as may be established through the extension or tolling of the Construction Permit).

4. Programming.

A. **Air Time.** When the Station becomes operational, Permittee agrees to make available to Manager all of the air time on the Station to broadcast or cause to be broadcast in accordance with this Agreement, Manager's Programming 24 hours per day, seven days per week, except as otherwise provided herein. All Programming shall comply in all respects with all laws and regulations applicable to noncommercial radio stations licensed by the FCC and operating in the state of Alabama.

B. **Right to Use the Programming.** The right to use the Programming to be furnished by Manager and to authorize its use in any manner and in any media whatsoever shall be, and remain, vested in Manager, subject, however, to the rights of others (including, without limitation, copyright, trademark and service mark and other intellectual property rights) in and to the Programming. Manager is responsible for all payment of all royalties and music licensing fees that may be required. All right, title and interest to the Programming, and the right to authorize use of the Programming in any manner and in any media whatsoever, shall be and remain vested at all times solely in Manager.

C. **Third Party Rights.** Manager warrants that its Programming will not defame, slander, libel any person, nor will it violate the privacy, publicity or intellectual property rights of any person.

5. **Consideration.** Manager hereby agrees to pay Permittee for the use of Permittee's broadcast time and its broadcast facilities monthly fees (the "Monthly Fee") as specified in Attachment A hereto. All payments shall be made payable to Permittee and delivered in advance by the first business day of the month at the address of Permittee set forth in Section 23, or such other address as Permittee may specify by written notice to Manager. The Monthly Fee shall not exceed Permittee's reasonable and prudent costs.

6. **Transmission Facilities.** Permittee shall be responsible for the operation, maintenance and monitoring of the Station's transmission facilities in full compliance with the FCC Rules and shall employ or contract with technically qualified personnel for this purpose (subject to reimbursement by Manager in accord with Attachment A). Permittee represents and warrants that the Station's transmitting equipment will, when operational, operate throughout the Term of this Agreement at or above 90% of the power authorized in the station's FCC authorization and at the authorized transmitter location or as required pursuant to the FCC Rules, including any pending applications and notifications made with the FCC. Permittee shall operate and maintain in good working condition the Station's transmission facilities throughout the Term, at Permittee's cost and expense (subject to reimbursement by Manager in accord with Attachment A).

7. **Main Studio.** Permittee shall at all times maintain a studio facility for the Station compliant with the FCC's Main Studio Rule (Section 73.1125 of the FCC's rules and interpreting caselaw), at Permittee's cost and expense (subject to reimbursement by Manager in accord with Attachment A). The parties understand that the Main Studio Rule requires Permittee to maintain a full-time management and staff presence at the main studio. Upon Permittee's request for assistance, Manager shall recruit and train the personnel needed to meet Permittee's staffing requirements for the Station's main studio. Such personnel shall be Permittee's employees (if paid) and, whether paid or volunteer, shall be subject to Permittee's hiring, firing, supervision and control. Both parties shall comply with the FCC's Rules in their hiring and employment practices.

8. **Preemptions.** Manager acknowledges that Permittee retains ultimate authority over the Station's programming. Permittee shall have the right to interrupt or preempt the Programming in case of an emergency or for programming which, in the good faith judgment of Permittee, is of greater local or national public importance. Permittee represents and warrants that preemption pursuant to this Section shall only occur to the extent Permittee deems necessary to carry out its obligations as an FCC Permittee and expressly agrees that its right of preemption shall not be exercised for the commercial or organizational advantage of Permittee or others.

9. **Station Records.** Manager shall prepare and provide to Permittee all documents necessary for inclusion in the Station's Public Inspection File, including the Station Log. Permittee shall be responsible for holding the Public Inspection File and making it available to the public. Manager shall maintain records of the name and time of broadcast of each of its programs and the identity of its sponsors, if any, and shall make such records available for inspection by Permittee on request.

10. **Required Announcements.** Permittee shall coordinate with Manager concerning the Station's hourly station identification obligations, Emergency Alert System (EAS) messages, any required EAS tests, and any other announcements required to be aired by the FCC Rules (which Manager shall include in the Programming as directed by Permittee). Permittee may interrupt the Programming for EAS transmitted

tests and any emergency messages on the schedule required by the FCC and any other federal, state, or local governmental authority.

11. **Responsibility for Manager's Employees, Expenses, and Program Delivery.** Manager shall employ and be solely responsible for salaries, commissions, taxes, insurance and all other related costs for all personnel of Manager involved in the production, broadcast and underwriting of its programs including, but not limited to, air personalities, salespersons, traffic and administrative personnel, and equipment for the production and delivery of the Programming to the Station's transmitter site or main studio. Manager shall also be responsible for all its promotional expenses in connection with the Programming. Manager shall be responsible for all miscellaneous expenses relating to its programming including but not limited to all music and program licenses, a copy of which shall be furnished to Permittee on request

12. **Revenues.** Manager shall be entitled to retain all revenues received by either party during the Term from listener contributions (unless designated otherwise by the contributor), program underwriting, time sales, grants and any other sources derived from or associated with the operation of the Station.

13. **Relations with the Public and the FCC.** Permittee and Manager will share with and promptly forward to each other all mail, e-mails, faxes or telephone calls expressing complaints or objections to the Programming. Permittee and Manager will cooperate with each other in responding to any complaints in a responsible manner satisfactory to Permittee. Permittee retains the right to respond to any communication from the public concerning the Programming at its sole discretion. Manager will promptly advise Permittee of any complaint or inquiry from the FCC or a member of the public concerning the Programming or any other aspect of the Station's operations.

14. **Compliance with Law.** Permittee will at all times retain ultimate control over the management and operations of the Station, and will operate the Station in compliance with all applicable provisions of the Communications Act of 1934, as amended, the FCC Rules, and all other applicable laws and governmental regulations. Each party agrees that, throughout the Term of this Agreement, it will comply with all laws, rules, regulations and policies applicable to each party's respective obligations hereunder.

15. **Regulatory Challenge.** If any aspect of this Agreement is challenged by or before the FCC, Permittee and Manager will jointly or separately (as each party elects) defend the Agreement and the parties' performance hereunder throughout all FCC proceedings, with each party bearing its own expenses (except that upon Permittee's request, Permittee's reasonable expenses shall be reimbursed by Manager). Permittee shall not be required to defend if Manager does not defend. If the FCC determines that all or any portion of this Agreement is inconsistent with or contrary to the FCC Rules or if subsequent legislative or regulatory action alters the permissibility of this Agreement under the FCC Rules, the parties hereto shall take such commercially reasonable actions, including reforming the Agreement to conform to the FCC Rules or, at either party's

option, seeking reversal of the FCC's decision through further review by the FCC or a court of law. If after exercising such commercially reasonable efforts, either party determines in good faith that the Agreement cannot be reformed to correct the defects determined by the FCC without materially adversely changing the balance of the benefits for both parties provided by the Agreement under its current terms, either party may terminate this Agreement upon ten days prior written notice without further liability of either party to the other except for the indemnification obligations under Section 18 of this Agreement.

16. **Insurance.** Permittee shall maintain and pay the cost of insurance with a reputable carrier licensed to write policies in the State of Alabama against loss or damage to the Station's transmission plant to the extent agreed to in its contract for its authorized tower location (subject to reimbursement by Manager pursuant to Attachment A). Manager shall maintain and pay the cost of insurance with a reputable carrier licensed to write policies in the State of Alabama for general liability, including the content of the Programming and all of Manager's indemnification obligations under this Agreement. Permittee shall be named as an additional insured under such policy, and the policy shall not be cancelable without at least ten days prior written notice to Permittee. Manager shall provide Permittee with documentary proof of such insurance within thirty (30) days after the date of this Agreement.

17. **Force Majeure.** Any failure or impairment of facilities or any delay or interruption in the broadcast of programs, or failure at any time to furnish facilities for broadcast, in whole or in part, due to causes beyond Permittee's control, shall not constitute a breach of this Agreement, and Permittee will not be liable to Manager in such event. In the event that the Station remains off the Air for a period of more than thirty (30) consecutive days due to causes beyond Permittee's control, Manager shall have the right, upon five (5) days prior written notice to Permittee, to terminate this Agreement, provided that no Event of Default then exists as a result of a breach by Manager of its obligations under this Agreement.

18. **Indemnification.**

A. Manager shall indemnify and hold Permittee harmless against any and all liability for libel, slander, unfair competition or trade practices, infringement of trademarks, service marks, trade names or program titles, violation of rights of privacy and infringement of copyrights and other proprietary rights resulting from, or caused by, the actions or inactions of Manager, and from and against any and all other claims, damages and causes of action resulting from the Programming. Manager's obligation to hold Permittee harmless against the liabilities specified above shall survive any termination of this Agreement until the expiration of all applicable statutes of limitation.

B. Permittee shall indemnify and hold Manager harmless against any and all liability for libel, slander, unfair competition or trade practices, infringement of trademarks, service marks, trade names or program titles, violation of rights of privacy and infringement of copyrights and to the proprietary rights resulting from or caused by

any alteration of the Programming by Permittee and from and against any and all other claims, damages and causes of action resulting from the broadcast on the Station of programming furnished by Permittee. Permittee's obligation to hold Manager harmless against the liabilities specified above shall survive any termination of this Agreement until the expiration of all applicable statutes of limitation.

C. Neither Permittee nor Manager shall be entitled to indemnification pursuant to this Section unless such claim for indemnification is asserted in writing delivered to the other party in a sufficiently timely manner to avoid any prejudice to the indemnifying party as a result of delay. The indemnifying party shall assume all costs and activities required for the defense of any claim by a third party, including, but not limited, to legal expenses and costs. If the indemnifying party does not promptly defend against a third-party claim, the indemnified party may undertake the defense at the expense of the indemnifying party. The indemnified party may use separate legal counsel if it so chooses, but the indemnifying party shall be responsible for the cost of such separate counsel only if a conflict makes representation of both parties by common counsel inappropriate. The indemnifying party may not settle a third-party claim without the consent of the indemnified party unless the settlement includes a release in favor of the indemnified party and requires no payment or performance of any obligation by the indemnified party.

19. **Default.**

A. **Events of Default, Cure Periods and Remedies.** The following shall, after the expiration of the applicable cure period, constitute Events of Default:

i. **Non-Payment.** Manager's failure to timely pay to Permittee the consideration provided for in Section 5 and Attachment A, hereof. Payment shall be due and payable in advance on or before the first business day of each month, and shall be deemed past due if not received by Permittee by the tenth calendar day of such month, or by the first business day thereafter if the tenth calendar day is not a business day.

ii. **Default in Covenants or Adverse Legal Action.** The breach by either party in the material observance or performance of any material covenant, condition, or agreement contained herein, or if any party shall file or have filed against it any petition for bankruptcy relief or reorganization or any other action under the United States Bankruptcy Code, as now or hereafter amended, or any other state or federal insolvency law (which petition or action has not dismissed within 60 days of commencement).

iii. **Breach of Representation.** 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;

iv. **Improper Programming.** The failure of Manager's Programming (a) to comply in a substantial and material manner with the FCC Rules, or (b) to comply in a substantial and material manner with any other provision of this Agreement.

v. **Station Operations.** Permittee's failure for reasons other than force majeure permitted pursuant to Section 17 to operate the Station's transmission facilities pursuant to Section 6 for 15 or more consecutive days or for more than 60 days in any period of six consecutive calendar months.

B. **Cure Periods.** An Event of Default shall not be deemed to have occurred until fifteen days after the nondefaulting party has provided the defaulting party with notice specifying the event or events which would constitute an Event of Default and specifying the action necessary to cure the default within such period, and such default shall have remained uncured. This period may be extended for a reasonable period of time, if the nondefaulting party deems that the defaulting party is acting in good faith to cure the default and such delay is not materially adverse to the other party. The foregoing notwithstanding, Permittee shall have the right immediately and without waiting for the passage of the cure period to preempt any of Manager's Programming for any reason consistent with the provisions of this Agreement.

C. **Effect of Default.** Upon the occurrence of an Event of Default, the nondefaulting party may terminate this Agreement by written notice to the other party provided that the terminating party is not also in material breach of its obligations hereunder. Upon termination by either party:

i. Permittee shall have no further obligation to make available to Manager any broadcast time or access to Permittee's broadcast transmission facilities and unless such termination is due to a breach by Permittee, all amounts accrued and payable to Permittee up to the date of termination which have not been paid shall immediately become due and payable.

ii. If termination is caused solely due to Manager's material Default, Manager shall be responsible for all liabilities, debts and obligations of Manager based upon the purchase of air time and use of Permittee's transmission facilities.

20. **Termination.** Upon ten days' advance written notice to the other party, a party not then in default may terminate this Agreement on any of the grounds stated below. The parties shall then resume their status quo ante and shall have no further obligation to each other hereunder except with respect the distribution of revenues pursuant to Section 21(B) and provisions for indemnification pursuant to Section 18 hereof. Termination shall be without prejudice to whatever remedies a party may have in law or equity for damages it has suffered because of the other party's default.

A. **Mutual Agreement.** This Agreement may be terminated by the mutual agreement of the parties.

B. **Termination Upon Default.** A nondefaulting party may terminate this Agreement on account of an uncured event of default pursuant to Section 19 hereof.

C. **Silent Station.** Manager may terminate this Agreement pursuant Section 17 hereof if the Station is silent for more than thirty consecutive days due to force majeure.

D. **Regulatory Challenge.** Either party may terminate this Agreement pursuant to Section 15 hereof upon a regulatory challenge to this Agreement for which there is deemed to be not commercially feasible reform.

E. **Expiration or Revocation of FCC Authorization.** This Agreement shall automatically terminate in the event the Station's FCC authorization (including the Construction Permit and/or a subsequent license) expires or is revoked and there is no request for renewal, extension or reinstatement of that authorization pending upon which there has not yet been a final FCC action to deny or dismiss it. A final action is one for which the time for filing requests for administrative or judicial review has expired and no such request is pending.

F. **Manager's Purchase of Station.** This Agreement shall terminate upon consummation of the assignment of the Station to Manager pursuant the terms of the Option described in Section 22.

21. **Effect of Termination.**

A. **Disposition of Tangible Personal Property.** In the event of the termination of this Agreement for any cause other than Manager's default pursuant Section 20(B) or Manager's Purchase of the Station pursuant to Section 22, or in the event of expiration of the Agreement without Manager's Purchase of the Station and Manager is not then in default under this Agreement, Permittee shall transfer ownership of all of the broadcast equipment and other tangible personal property used in connection with the construction and/or operation of the Station to Manager.

B. **Distribution of Revenues.** Manager shall be entitled to any and all revenues generated from Manager's Programming that has already been broadcast on the Station and, to the extent Permittee collects or receives any such revenues, such monies shall forthwith be paid or delivered to Manager, unless the termination is due to a breach by Manager, in which case Permittee may retain such receivables to the extent there remains any amount due to Permittee by Manager.

22. **Manager's Right to Purchase.** Permittee hereby grants to Manager an option to purchase the Station, subject to FCC approval (the "Option"). The Option shall be exercisable by Manager at any time during the Term hereof after Permittee has fulfilled its obligations to operate the Station on the air for four years pursuant to the "Holding Period" requirements of Section 73.7005 of the FCC's Rules. Manager shall exercise the Option by providing written notice to Permittee pursuant to Section 23. Thereupon, the parties shall cooperate with each other to file an assignment application with the FCC within ten days requesting its consent to the assignment of the Station to Manager (the "Assignment Application"). The purchase price shall be One Hundred

Dollars (\$100.00) for all of the assets associated with the Station, including FCC authorizations, tangible personal property used in the operation of the Station and related intellectual property. The parties shall promptly and diligently prosecute the Assignment Application to the extent commercially reasonable (at Permittee's expense). Upon grant by the FCC of the Assignment Application, the parties shall consummate the assignment as soon as is practical, but in no event later than ten days after the FCC's action has become final, i.e., no longer subject to review, reconsideration or appeal. The parties agree that the Station's FCC authorization is a unique asset, for which a replacement is not readily available on the open market. Manager shall therefore be entitled to the remedy of specific performance with respect to Permittee's failure to perform its obligations with respect to the Option and/or the Assignment Application.

23. **Notices.** All notices or other communications required or permitted under this Agreement shall be in writing and shall be deemed to have been made if delivered in person, when delivered to the address hereafter set forth, or if sent by prepaid certified U.S. mail or by Federal Express or another recognized overnight courier, on the first date of documented attempted delivery by the carrier, addressed as follows:

To Permittee: Anniston Seventh-day Adventist Church
 PO Box 1774
 Anniston, AL 36202
 Attn: Karl Doerner

To Manager: Elijah Radio, Inc.
 1435 Woodland Ridge Rd
 Odenville, AL 35120
 Attn: Luke Rogers

24. **Limitation of Liability.** To the maximum extent permitted by law, in no event will either party be liable to the other party for any incidental damages, consequential damages, exemplary damages of any kind, lost goodwill, lost profits, lost business and/or any indirect economic damages whatsoever regardless of whether such damages arise from claims based upon contract, negligence, tort (including strict liability or other legal theory), a breach of any warranty or term of this agreement, and regardless of whether a party was advised or had reason to know of the possibility of incurring such damages in advance.

25. **Control of Station.** Notwithstanding anything to the contrary in this Agreement, Permittee and Manager each hereby certifies that Permittee shall have full authority, power and control over the operation of the Station at all times during the term of this Agreement, including, without limitation, control over Station finances, personnel and programming.

26. **Miscellaneous Provisions**

A. **Choice of Law.** To the extent not governed by federal law, this Agreement shall be construed in accordance with the laws of the State of Alabama without regard to that state's rules concerning choice of law.

B. **Headings.** The headings contained in this Agreement are for convenience only and shall not be construed to affect the substantive provisions of this Agreement.

C. **Attachments and Exhibits.** All attachments and exhibits associated with this Agreement are considered integral elements hereof and shall be binding upon the parties.

D. **Assignment and Beneficiaries.** This Agreement shall be binding on the parties hereto and their respective heirs, successors, and permitted assigns. Neither party may assign any of its rights or obligations under this Agreement without the prior written consent of the other party.

E. **Relationship of the Parties.** Nothing herein shall establish any partnership, joint venture, or other relationship between the parties other than as arms-length independent contractors.

F. **Construction.** The parties have jointly negotiated and drafted this Agreement. No ambiguous term or provision hereof shall be construed against a party by virtue of it having been drafted by such party.

G. **Entire Agreement; Modification and Waiver.** The MOU is incorporated herein by reference. To the extent that there is a conflict between the MOU and this Agreement, this Agreement shall govern. This Agreement embodies 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 modification or waiver of any provision of this Agreement shall be effective unless the same is put in writing and signed by the party adversely affected by the waiver or modification, and then such waiver or modification shall be effective only in the specific instance and for the purpose for which given.

H. **No Waiver; Remedies Cumulative.** No failure or delay on the part of Permittee or Manager 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 Permittee and Manager herein provided are cumulative and are not exclusive of any right or remedy which a party may otherwise have.

I. **Severability.** If any term of this Agreement is illegal or unenforceable at law or in equity, the validity, legality and enforceability of the remaining provisions contained herein shall not in any way be affected or impaired thereby. Any illegal or unenforceable term shall be deemed to be void and of no force and effect only to the minimum extent necessary to bring such term within the provisions of applicable law; and such term, as so modified, and the balance of this Agreement shall then be fully enforceable. Notwithstanding this Section, Manager may terminate this Agreement if Manager is not able to provide Programming for substantially all of the air time on the Station consistent with Section 4(A) hereof; and Permittee may terminate this Agreement if it is not able to receive substantially all of the consideration as set forth in Section 5.

J. **Counterparts.** This Agreement may be executed in any number of counterparts with the same effect as if the signature to each counterpart were on the same instrument, and all such counterparts will be deemed one and the same Agreement. This Agreement shall be effective upon the exchange of signatures by facsimile.

[THE REMAINDER OF THIS PAGE IS INTENTIONALLY BLANK.]

IN WITNESS WHEREOF, the Parties have executed this Time Brokerage Agreement as of the date first written above.

For PERMITTEE:

ANNISTON SEVENTH-DAY ADVENTIST CHURCH

Karl Doerner
Signature

KARL DOERNER
Name (printed)

ELDER
Title

4-11-17
Date

For MANAGER:

ELIJAH RADIO, INC.

Luke Rogers
Signature

Luke Rogers
Name (printed)

President
Title

11-Apr-2017
Date

ATTACHMENT A

MONTHLY FEES

The Monthly Fees shall be adequate to reimburse Permittee for the categories of expenses listed below. Where the amount is constant or can be readily estimated with reasonable accuracy, the monthly amount due shall be paid by the due date at the beginning of the same month for which the fee is calculated. For one-time or incidental costs, Permittee shall bill Manager and Manager shall include such amounts in its next monthly payment to Permittee. In cases where the amounts paid are less than or more than the actual amounts that are eventually incurred by Permittee, accounts shall be credited and reconciled as of the next month, or as soon as is reasonably feasible. This list is intended to be comprehensive, but may not necessarily be exhaustive. Additional line items may be added if necessary.

Categories of Expenses

Rent for the antenna site.

Utilities for the antenna site.

Maintenance of the transmission equipment.

Compensation for Permittee's station staff.

Compensation for Permittee's engineer.

Legal fees for FCC activities.

Copyright fees.