

## **LOCAL MARKETING AGREEMENT**

This LOCAL MARKETING AGREEMENT (the "Agreement"), entered into as of the 31<sup>st</sup> day of August 2006 (this "Agreement"), by and between SUPERIOR BROADCASTING of DENVER, LLC, an Illinois limited liability company ("Licensee") and NRC BROADCASTING, INC., a Delaware corporation ("Programmer").

### **RECITALS:**

WHEREAS, Licensee owns and is authorized to operate radio station KSKE-FM, (Channel 284, 104.7 MHz) licensed to Vail, Colorado (the "Station"), pursuant to licenses issued by the Federal Communications Commission ("FCC"); and

WHEREAS, Licensee has recently acquired the Station from Programmer, pursuant to an Asset Exchange Agreement between Licensee and Programmer dated December 15, 2005 ("Exchange Agreement"), and Licensee desires that Programmer will continue to provide programming for the Station and sell advertising time on the Station, and Programmer desires to provide such programs and sell the advertising time on the Station as further provided herein;

NOW, THEREFORE, in consideration of the mutual covenants herein contained, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto hereby agree as follows:

1. Sale of Time. Subject to the provisions of this Agreement and the applicable rules, regulations and policies of the FCC, Licensee agrees to make the Station's broadcasting transmission facilities available to Programmer for broadcast of Programmer's programs on the Station (the "Programming"). Programmer will have the right to broadcast on the Station up to twenty-four (24) hours of programming each day during the Term, as defined herein. Notwithstanding the foregoing, Licensee reserves up to two (2) hours of the Station's time per week for its own use for public affairs programming at a mutually agreeable time. Additionally as set forth more fully below, Licensee reserves the right at any time to pre-empt the Programming for the broadcast of emergency information and programming of the Licensee's selection which Licensee believes to be in the public interest.

2. Term. The term of this Agreement shall commence on August 31, 2006 (the "Effective Date") and, unless earlier terminated as provided in this Agreement, shall continue in full force and effect until either party gives notice to the other party that they desire to terminate the LMA, upon at least seven (7) days' written notice to the other party (the "Term"); provided, however, that it is the intention of the parties that this Agreement shall remain in full force and effect until one of the following events has occurred: (i) Programmer has identified another radio station in the Vail market that it desires to acquire and thereafter enters into and consummates such transaction, and (ii) Licensee has received FCC approval for the Modifications (as defined in the Exchange Agreement) or (iii) one year after the Closing Date of

the transaction contemplated by the Exchange Agreement.

3. Consideration. As consideration for the air time made available by Licensee hereunder during the Term, Programmer shall pay Licensee a monthly sum in accordance with Schedule A hereto.

4. Licensee's Responsibility for Expenses. Licensee shall be solely responsible for payment of all the direct and indirect operating costs (except directly related to Programmer's use of the facilities of the Station), including but not limited to:

- (a) salaries, payroll taxes, insurance, benefits and related costs of Licensee's Chief Operator and other personnel employed by Licensee in the operation of the Station as required by FCC rules, regulations and policies;
- (b) insurance costs relating to Licensee's owned assets and operations;
- (c) Licensee's own telephone, delivery and postal service;
- (d) income, gross receipts, sales, real property, personal property, excise and/or any other taxes of any nature whatsoever related to the ownership of Licensee's assets or Licensee's own programming efforts on the Station;
- (e) the costs of Licensee's own programming;
- (f) lease payments, power and other utility bills and maintenance costs for the Station's transmission and tower facilities; and
- (g) costs and expenses (including legal costs and filing fees) incurred in connection with the Station's compliance with FCC rules and regulations.

Licensee shall make all necessary payments in a timely fashion from its own accounts.

5. Licensee's Authority. Notwithstanding anything to the contrary in this Agreement, Licensee shall have full authority and power over the operation of the Station during the Term. Licensee shall be responsible for all programming it furnishes for broadcast on the Station and for the payment of the salaries of all of its employees, all of whom shall report solely to and be accountable solely to the Licensee. Licensee shall retain the right to interrupt or preempt Programmer's programming at any time if Licensee determines the programming is not in the public interest or violates this Agreement, or in case of an emergency or Emergency Alert System ("EAS"), or any successor system's activation, or for the purpose of providing programming which Licensee in its sole discretion determines to be of greater national, regional or local importance; provided, however, that any revenues realized by Licensee as a result of such interruption or preemption shall promptly be remitted to Programmer. In the event

Licensee shall interrupt or preempt Programmer's programming as described above, Programmer may elect to reduce the monthly consideration due pursuant to Section 3 above on a prorated basis. Licensee shall not preempt Programming in an attempt to adversely affect the income or finances of Programmer, and shall not preempt Programming in order to resell that Programming to another time broker or other third party.

6. Advertising and Programming Revenues. Programmer shall retain all revenues from the sale of advertising time on the programming it broadcasts on the Station on and after the Effective Date until termination of this Agreement, and all accounts receivable of Programmer for time periods before the Effective Date shall be for the account of Programmer.

7. Political Advertising. Programmer shall cooperate and consult with Licensee concerning its policies and practices regarding political advertising and otherwise take such steps as may be necessary or appropriate in order to insure Licensee's compliance with its obligations under the Act and the rules, regulations and policies of the FCC, with respect to the carriage of political advertisements and programs (including, without limitation, the rights of candidates and, as appropriate others, to "equal opportunities") and the charges permitted therefor.

8. Licensee's Representations, Warranties and Covenants. Licensee represents, warrants and covenants to Programmer that:

(a) Qualification. Licensee is legally qualified, empowered and able to enter into and carry out this Agreement, and this Agreement constitutes the valid and binding obligation of Licensee.

(b) Authorizations. Licensee now holds all permits and authorizations necessary for the operation of the Station including all FCC permits and authorizations. Licensee will continue to hold such permits and authorizations throughout the Term. There is not now pending or to Licensee's knowledge, threatened, any action by the FCC or other party to revoke, cancel, suspend, refuse to renew, or modify adversely any of the licenses, permits or authorizations necessary to the operation of the Station, and to Licensee's knowledge, no event has occurred that allows or, after notice or lapse of time or both, would allow, the revocation or termination of such licenses, permits or authorizations or the imposition of any restriction thereon of such a nature that may limit the operation of the Station as presently conducted. Licensee is operating the Station in accordance with the Act and the FCC's rules and policies.

(c) No Violation. 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 or its assets or on its ability to perform this Agreement.

(d) Compliance. Licensee shall be responsible for the Station's compliance with all applicable provisions of the Act and the rules, regulations and policies of the FCC and

all other applicable laws.

(e) Transmitting Facilities. The transmitting and tower facilities of the Station are currently, and during the Term shall be, maintained in accordance with good engineering practice and all applicable FCC rules and regulations and shall transmit at full operating parameters in accordance with their FCC licenses. The Station's tower and transmitting facilities are in good repair and structurally sound and possess all necessary lighting and markings to comply with applicable rules of the FCC. The Station currently complies with and shall continue to comply with all engineering requirements as set forth in their FCC licenses, permits and authorizations, and Licensee shall take all steps reasonably necessary to insure continued compliance therewith. Licensee shall consult with Programmer prior to seeking any additional modification to the Station license, and shall take no action to reduce the Station's signal coverage area without the express written consent of Programmer.

(f) Employees. Licensee shall retain, on a full time or part time basis, a General Manager who shall direct the day-to-day operation of the Station, and a Chief Operator, as that term is defined by the rules and regulations of the FCC (who may also hold the position of Chief Engineer), who shall be responsible for insuring compliance by the Station with the technical operating and reporting requirements established by the FCC.

(g) Main Studio. Licensee shall maintain a main studio, as that term is defined by the rules and regulations of the FCC, provided, that Programmer shall provide compliant main studio space to Licensee for no additional charge hereunder. Licensee shall maintain a public inspection file at its main studio.

(h) No Encumbrances. Throughout the Term, there shall be no liens, encumbrances, foreclosures, contractual defaults or outstanding balances of any kind or nature whatsoever which would impede or prevent full and complete access to and use of the facilities of the Station for the transmission of Programmer's material, and the full performance by Licensee and by Programmer of their obligations under this Agreement.

(i) Music Licenses. Licensee maintains, and shall continue to make every effort to maintain, blanket licenses with the principal music licensing agencies, including, without limitation, ASCAP and BMI; provided, however, that Programmer shall be responsible for, and shall pay when due, all music licensing fees in connection with the Programming during the term of this Agreement under Programmer's own license.

(j) No Taxes. As of the date hereof, to the best of Licensee's knowledge (after due investigation), there are no outstanding balances due to tax authorities for employment, personal or real property, income or other taxes or fees of any nature whatsoever and Licensee has received no notice thereof.

(k) Prompt Payment of Expenses. Licensee shall promptly pay when due any and all expenses or obligations of any kind and nature relating to the operation of the Station, except those for which Programmer is specifically responsible hereunder, and shall take all steps necessary to insure the continued uninterrupted use of Station equipment and facilities by Programmer.

9. Programmer's Representations, Warranties and Covenants. Programmer represents, warrants and covenants to Licensee that:

(a) Qualification. Programmer is legally qualified, empowered and able to enter into and carry out this Agreement, and this Agreement constitutes the valid and binding obligation of Programmer.

(b) FCC Compliance. All of the programming, advertising and promotional material Programmer broadcasts on the Station shall be in accordance with the rules, regulations and policies of the FCC and the Act and the reasonable standards established by Licensee. Programmer shall cooperate with Licensee so that Licensee may fulfill its FCC obligations.

(c) Correspondence. Programmer shall promptly forward to Licensee any mail which it may receive from any agency of government or any correspondence from members of the public or other information it may receive relating to the Station or to any of Programmer's programming broadcast on the Station.

(d) Station Identification Announcements/EAS Tests. During all hours when Programmer is delivering the Programming for broadcast over the Station, Programmer shall (i) include in the Programming, at the appropriate times, the hourly station identification announcement required to be broadcast over the Station. Additionally, during all hours when Programmer is delivering the Programming for broadcast over the Station, Programmer shall maintain at the location from which the Programming is being originated a receiver capable of receiving test messages and alerts over the Emergency Broadcast System, which EAS receiver shall be continuously monitored. If an EAS test or alert is received during the hours when Programmer is delivering the Programming for broadcast over the Station, Programmer shall cause the appropriate EAS test or alert message to be transmitted over the Station, shall, in the event of an actual activation of the Emergency Broadcast System, cause all steps that the Station is required to take in such an event to be taken, and shall be responsible for assuring that the receipt and broadcast of all EAS tests and alerts are properly recorded in the station log.

(e) Sponsorship Identification. Programmer shall include in the Programming the sponsorship identification/political advertising announcements with respect advertising and other material included in the Programming as are required by Section 73.1212 of the Commission's rules and the Communications Act of 1934, as amended (the "Act").

(f) Music Licensing. Programmer shall use commercially reasonable efforts to obtain its own blanket licenses with the principal music licensing agencies, including, without

limitation, ASCAP and BMI, and maintain those licenses throughout the term hereof.

10. Right to Use Programs. The right to use Programmer's programs and to authorize their use in any manner and in any media whatsoever shall be, and remain, vested in Programmer.

11. Indemnification.

(a) By Programmer. Programmer shall indemnify, defend, and hold harmless Licensee from and against any and all claims, losses, costs, liabilities, damages, FCC forfeitures, and expenses (including reasonable legal fees and other expenses incidental thereto) of every kind, nature, and description, arising out of (i) the broadcast of the Programming under this Agreement; (ii) any misrepresentation or breach of any warranty of Programmer contained in this Agreement; and (iii) any breach of any covenant, agreement, or obligation of Programmer contained in this Agreement.

(b) By Licensee. Licensee shall indemnify, defend, and hold Programmer harmless from and against any and all claims, losses, costs, liabilities, damages, FCC forfeitures, and expenses (including reasonable legal fees and other expenses incidental thereto) of every kind, nature, and description, arising out of (i) Licensee's broadcasts over the Station; (ii) any misrepresentation or breach of any warranty of Licensee contained in this Agreement; and (iii) any breach of any covenant, agreement or obligation of Licensee contained in this Agreement.

(c) Notice. Neither Licensee nor Programmer shall be entitled to indemnification pursuant to this Section 11 unless such claim for indemnification is asserted in writing delivered to the other party, and, where such claim, loss, cost, liability, damage or defense involves a legal action, the party against whom indemnification is sought has been given written notice sufficiently in advance to permit such party to defend, contest, or compromise such action at its own cost and risk.

(d) Survival. The obligation of Programmer and Licensee to indemnify and hold each other harmless as set forth in this Agreement shall survive any termination of this Agreement and shall continue until the expiration of all applicable statutes of limitations as to the parties hereto and to claims of third parties.

12. Termination.

(a) Grounds. In addition to any other remedies available at law or equity, this Agreement may be terminated as set forth below by either Licensee or Programmer by written notice to the other, if the party seeking to terminate is not then in material default or breach of this Agreement, upon the occurrence of any of the following:

(i) The other party is in material breach of its obligations hereunder and has failed to cure such breach within ten (10) days of written notice from the non-breaching

party; provided, however, that if the breach is one that cannot be cured with reasonable diligence within ten (10) days, but could be cured within an additional thirty (30) days and the breaching party is diligently attempting to cure the breach, then the nonbreaching party may not terminate this Agreement on account of such breach until such additional thirty (30) day period has elapsed without a cure.

(ii) The mutual consent of both parties;

(iii) The other party shall make a general assignment for the benefit of creditors, files or has filed against it a petition for bankruptcy, reorganization or an arrangement for the benefit of creditors, or for the appointment of a receiver, trustee or similar creditors' representative for the property or assets of such party under any federal or state insolvency law, which if filed against such party, has not been dismissed within sixty (60) days thereof;

(iv) This 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;

(v) There has been a change in FCC rules, policies or case law precedent that would cause this Agreement or any provision thereof to be in violation thereof and such change is not the subject of an appeal or further administrative review;

(vi) At Programmer's election, if Licensee preempts more than forty (40) hours in any four (4) week period, or more than two hundred (200) hours in any twelve (12) month period.

(b) Effect of Termination. Upon termination of this Agreement according to the provisions of this Section 12, the consideration provided for hereunder shall be prorated to the effective termination date of this Agreement. Licensee shall cooperate reasonably with the Programmer to the extent permitted to enable Programmer to fulfill advertising or other programming contracts then outstanding, in which event Licensee shall receive as compensation for the carriage of such programming that which otherwise would have been paid to Programmer hereunder.

13. No Release of Liability Through Termination. No termination pursuant to Section 12 shall relieve any party of liability it would otherwise incur for breach of this Agreement.

14. Notices. All necessary notices, demands and requests permitted or required under this Agreement shall be in writing and shall be deemed effectively given or delivered upon personal delivery, or twenty-four (24) hours after delivery to a courier service which guarantees overnight delivery, 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 Programmer:

NRC Broadcasting, Inc.  
1201 Eighteenth Street – Suite 250  
Denver, CO 80202  
Attn: Tim Brown

with a copy to:

David D. Oxenford, Esq.  
Davis Wright Tremaine LLP  
1500 K Street NW, Suite 450  
Washington, DC 20005

If to Licensee:

Superior Broadcasting of Denver, LLC  
980 N. Michigan Avenue, Suite 1880  
Chicago, IL 60611  
Attn: Bruce Buzil

with a copy to:

Robert E. Neiman  
Greenberg Traurig, LLP  
77 West Wacker Drive, Suite 2400  
Chicago, IL 60601

15. Specific Performance. Licensee acknowledges that the Station is a unique asset not readily available on the open market and that damages to Programmer in the event of a material default hereunder by Licensee would be immediate, irreparable and not readily calculated or reducible solely to monetary damages. Therefore, Licensee agrees that, in addition to any other remedy available at law or in equity, Programmer shall have the right to specific performance by Licensee of its obligations hereunder, and Licensee waives any defense that Programmer has an adequate remedy at law or equity other than specific performance by Licensee.

16. Modification And Waiver. No modification of any provision of this Agreement shall in any event be effective unless the same shall be in writing and then such modification shall be effective only in the specific instance and for the purpose for which given.

17. Construction. This Agreement shall be construed in accordance with the internal laws of the State of Colorado. The obligations of the parties hereto are subject to all federal,

state and local laws and regulations now or hereafter in force and the rules, regulations and policies of the FCC and all other government entities or authorities presently or hereafter to be constituted.

18. 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.

19. Counterpart Signature. This Agreement may be signed in one or more counterparts, each of which shall be deemed a duplicate original, binding on the parties hereto notwithstanding that the parties are not signatory to the original or the same counterpart.

20. Entire Agreement. This Agreement supersedes any prior agreements between the parties and contains all of the terms agreed upon with respect to the subject matter hereof. This Agreement may not be altered or amended except by an instrument in writing signed by the party against whom enforcement of any such change is sought.

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

22. Assignment. Neither Programmer nor Licensee may assign this Agreement without the prior written approval of the other party, not to be unreasonably withheld. Notwithstanding the foregoing Programmer may assign this Agreement, without approval or consent of Licensee, to an entity controlled by Programmer upon ten (10) day written notice to Licensee.

23 Certifications.

(a) Licensee's Certification. Licensee hereby certifies that it shall maintain ultimate control over the Station's facilities and operations, including specifically control over the Station's finances, personnel and programming, throughout the term of this Agreement.

(b) Programmer's Certification. Programmer hereby certifies that it complies with the provisions of paragraph (a)(1) of Section 73.3555 of the FCC's rules under this Agreement.

24. Trademarks. Both parties acknowledge that in order to facilitate Programmer's retention of the Station call letters "KSKE-FM" ("Call Letters") after the Term of this Agreement, pursuant to the Exchange Agreement, Licensee shall retain the Call Letters during the Term of this Agreement for use solely with the Station. Licensee shall not grant any requests for derivative uses of the Call Letters and shall not change the Call Letters of the Station during the Term of this Agreement. Upon termination of this Agreement, Licensee shall coordinate with Programmer to release the Call Letters to Programmer and Licensee shall be responsible for acquiring replacement call letters for the Station. Notwithstanding the foregoing, Licensee

acknowledges that Programmer is the sole owner of the trademarks, service marks, patents, trade names, jingles, slogans, logotypes and other intangible rights intellectual property associated with the Call Letters (“Intellectual Property”) and Programmer’s use of the Intellectual Property while programming the station during this Agreement does not implicitly or explicitly grant Licensee a license to use any of the Intellectual Property in conjunction with the Station after this Agreement has been terminated.

*[signature page to follow]*

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

**PROGRAMMER:**

NRC BROADCASTING, INC.

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

**LICENSEE:**

SUPERIOR BROADCASTING of DENVER, LLC

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

Name: \_\_\_\_\_

Title: \_\_\_\_\_