

## **LOCAL PROGRAMMING AND MARKETING AGREEMENT**

**THIS LOCAL PROGRAMMING AND MARKETING AGREEMENT** (this “Agreement”) is made and entered into as of January 2, 2018, between **DARBY ADVERTISING, INC.**, a Michigan corporation (“Licensee”) and **45 NORTH MEDIA INC.**, a Michigan corporation (“Programmer”).

### **RECITALS**

**WHEREAS**, Licensee holds the authorizations (the “Station Licenses”) issued by the Federal Communications Commission (the “FCC”) to operate FM radio station WMJZ-FM, 101.5 MHz, Gaylord, Michigan, FCC Facility ID No. 11756 (the “Station”); and

**WHEREAS**, Programmer has available radio programs that it desires to have broadcast on the Station, and therefore desires to purchase airtime from Licensee for the broadcast of such programs; and

**WHEREAS**, Licensee has agreed to make available to Programmer airtime on the Station and accept for broadcast the programs of Programmer on the terms and conditions set forth in this Agreement; and

**NOW, THEREFORE**, taking the foregoing recitals into account, and in consideration of the mutual covenants and agreements contained herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties, intending to be legally bound, agree as follows:

1. **Agreement Term.** The term of this Agreement (the “Term”) begins on January 2, 2018 (the “Commencement Date”), and, unless terminated earlier pursuant to the provisions of this Agreement, shall end on June 30, 2018, provided, however, if the parties enter into a Purchase Agreement for the sale from Licensee to Programmer of the Station Licenses and associated assets prior to June 30, 2018, then this Agreement shall terminate on the earlier of: (a) the Closing Date (as defined in such Purchase Agreement); (b) the date of termination of this Agreement in accordance with Section 13; and (c) ten (10) days following the date of termination of the Purchase Agreement without a Closing, in accordance with its terms, provided, however, at Licensee’s sole option and upon written notice to Programmer, the Term may be extended for one three-month period.

2. **Programmer’s Purchase of Airtime and Provision of Programming.** Beginning on the Commencement Date, Programmer agrees to purchase time on the Station, and Licensee agrees to broadcast, or cause to be broadcast, on the Station, according to the terms hereof, programming designated and provided by Programmer (the “Program” or “Programs”) for broadcast on the Station twenty-four (24) hours per day, seven (7) days per week, excluding the period from 5:00 a.m. to 6:00 a.m. each Sunday morning (the “Broadcasting Period”). Programmer shall transmit, at its own cost, its Programs to the Station’s transmitting facilities.

3. **Broadcasting Obligations.** In return for the payments to be made by Programmer hereunder, during the Term, Licensee shall broadcast the Programs delivered by Programmer during the Broadcasting Period specified in Section 2 above, subject to the provisions of Section 6 below. Notwithstanding anything herein to the contrary, (a) Programmer may (but shall not be obligated to) stream programming furnished hereunder on any of the Station's internet websites, and Programmer shall be entitled to all revenue therefrom, and (b) Licensee shall not include any programming furnished by Programmer hereunder in any internet streaming unless requested to do so by Programmer.

4. **Advertising Sales; Accounts Receivable.** Programmer shall be exclusively responsible for the sale of advertising on the Station and for the collection of accounts receivable arising therefrom, and Programmer shall be entitled to all revenues of the Station during the Term. All contracts for advertising on the Station which may be entered into by Programmer shall terminate upon the termination of this Agreement other than by a Closing on the Purchase Agreement.

5. **Payments.** In consideration of the execution of this Agreement by Licensee, and for the broadcast of the Programs and the other benefits made available to Programmer pursuant to this Agreement, during the Term, Programmer shall pay Licensee: (a) an LMA Monthly Payment as set forth on Schedule A attached hereto; and (b) Reimbursement Payments as set forth on Schedule B attached hereto.

6. **Operation, Ownership and Control of the Station.** Notwithstanding anything to the contrary in this Agreement, as long as Licensee remains the permittee or licensee of the Station, it shall have full authority, power and control over the operation of the Station and over all persons working at the Station during the Term and shall retain control over the policies, programming and operations of the Station. Licensee shall bear the responsibility for the Station's compliance with all applicable provisions of the rules and policies of the FCC and all other applicable laws, including the employment of Licensee employees for the Station, which subject to further clarification by the FCC as to minimum staffing requirements, shall be at least one full-time managerial employee and one full-time other employee (the "Station Employees"). Nothing contained herein shall prevent Licensee from (a) rejecting or refusing programs which Licensee believes to be contrary to the public interest, or (b) substituting programs which Licensee believes to be of greater local or national importance or which are designed to address the problems, needs and interests of the local communities, except that Programmer shall receive a pro-rata credit against the Reimbursement Payments for the time(s) during which programs of Programmer are not aired by Licensee. Licensee reserves the right to refuse to broadcast any Program containing matter which violates any right of any third party or which constitutes a "personal attack" as that term has been defined by the FCC. Licensee also reserves the right to refuse to broadcast any Program which does not meet the requirements of the rules, regulations, and policies of the FCC or the regulations and restrictions set forth in Section 10. Licensee further reserves the right to preempt any Program in the event of a local, state, or national emergency. If Licensee preempts, rejects or otherwise refuses to broadcast any Program, then Licensee shall broadcast substitute programming of equal or greater value. Programmer agrees

to cooperate with Licensee to ensure that Emergency Alert System transmissions are properly performed in accordance with Licensee's instructions. Licensee reserves the right to delete any announcements that do not comply with the requirements of the FCC's sponsorship identification policy. Programmer shall immediately serve Licensee with notice and a copy of any letters of complaint it receives concerning any Program for Licensee review.

7. **Authorizations and Signal; Call Sign.** During the Term, Licensee shall hold all licenses and other permits and authorizations necessary for the operation of the Station as currently operated (including licenses, permits and authorizations issued by the FCC), and such licenses, permits and authorizations shall be in full force and effect for the entire Term hereunder, unimpaired by any acts or omissions of Licensee, its principals, employees or agents. Programmer shall include in the Programs it delivers for broadcast an announcement at the beginning of each hour of such Programs to identify the FCC-designated call sign of the Station, as well as any other announcements required by the rules and regulations of the FCC. Programmer is specifically authorized to use such call sign in its Programs and in any promotional material, in any media, used in connection with the Programs. At Programmer's request and expense, Licensee shall file with the FCC a request for a mutually-agreeable change in the Station's call sign, provided such call sign is available for association with the Station.

8. **47 C.F.R Section 73.3555, Note 2(j)(3) Certifications.**

8.1 **Licensee Control.** Licensee hereby verifies that for the Term of this Agreement it shall maintain ultimate control over the Station's facilities, including specifically control over the Station's finances, personnel and programming, and nothing herein shall be interpreted as depriving Licensee of the power or right of such ultimate control.

8.2 **Compliance with 47 C.F.R. § 73.3555.** Programmer hereby verifies that the execution and performance of this Agreement complies with the Commission's restrictions on ownership set out in 47 C.F.R. Section 73.3555.

9. **Music Licenses.** During the Term, Programmer shall obtain and maintain in full force and effect in its own name all music licenses, including without limitation ASCAP, BMI, SESAC, GMR and SoundExchange ("Music Licenses") as are required for the Programs and as shall be required by the licensor of those Music Licenses. In the event that Licensee is required by the licensor of such Music Licenses to obtain in its name Music Licenses, such Music Licenses fees during the Term shall be reimbursed by Programmer.

10. **Programs.**

10.1 **Production of the Programs.** Licensee acknowledges that it is familiar with the type of programming Programmer produces and has determined that the broadcast of such programming on the Station would serve the public interest. Programmer agrees that the contents of the Programs it transmits to Licensee shall conform to all applicable FCC rules, regulations and published policies. Programmer agrees that it shall consult with Licensee in the selection of the Programs it transmits to Licensee to ensure that the Programs'

content contains matters responsive to issues of public concern in the local communities, as those issues are made known to Programmer by Licensee. Licensee acknowledges that its right to broadcast the Programs is non-exclusive and that ownership of the Programs, and all parts thereof, and the right to authorize their use in any manner and in any media whatsoever, shall be and remain vested in Programmer.

**10.2 Political Time.** Licensee shall oversee and take ultimate responsibility with respect to the provision of equal opportunities, lowest unit charge and reasonable access to political candidates, and compliance with the political broadcast rules of the FCC. During the Term, Programmer shall cooperate with Licensee as Licensee complies with its political broadcast responsibilities, and shall supply such information promptly to Licensee as may be necessary to comply with the political time record keeping and lowest unit charge requirements of federal law. Programmer shall release advertising availabilities to Licensee during the Broadcasting Period as necessary to permit Licensee to comply with the political broadcast rules of the FCC; provided, however, that revenues received by Licensee as a result of any such release of advertising time shall promptly be remitted to Programmer.

**11. Expenses.** During the Term, Programmer shall be responsible for: (a) the salaries, taxes, insurance and related costs for all personnel used in the production of the Programs supplied to Licensee; (b) the costs of delivering the Programs to Licensee; and (c) the costs of maintaining the Station equipment in operating condition. Licensee shall be responsible for paying directly: (i) the salaries, taxes, insurance and related costs for the Station Employees (the "Licensee Employee Expenses"); (ii) the costs of maintaining the Station's access to the Station's transmitter site, including any property taxes, rent and/or utilities at the transmitter site for the Station (the "Transmitter Site Expenses"); (iii) the costs of maintaining the Station's access to the Station's studio site, including any property taxes, rent and/or utilities at the studio site for the Station (the "Studio Site Expenses"); and (iv) expenses reasonably incurred to maintain the Station Licenses ("License Expenses"). Licensee shall be responsible for paying directly all income taxes relating to Licensee's earnings from this arrangement. Excluding those expenses for which Licensee is making direct payments as set forth in this Section 11, during the Term, Programmer shall be responsible for paying all other expenses reasonably and directly related to the continued operation of the Station, subject to the covenants of the parties to this Agreement, and further subject to the ultimate authority, control and power of Licensee.

**12. Subcarrier Rights.** Licensee and Programmer acknowledge and agree that any subsidiary communications services transmitted on a subcarrier within the FM baseband signal of the Station ("Subcarrier"), and any uses of the Subcarrier authorized by the FCC ("Subcarrier Uses"), are subject to the terms and conditions of this Agreement. Licensee hereby agrees: (a) to apply, at Programmer's expense, for any additional authorization from the FCC or any other governmental agency or entity that may be necessary in order to make use of any Subcarrier Uses; and (b) that Programmer has the sole and exclusive right, subject to the terms and conditions hereof, to make use of any Subcarrier Uses and collect the revenues therefrom. Programmer hereby agrees to reimburse Licensee for Licensee's reasonable expenses incurred in

carrying out Licensee's FCC obligations pursuant to this Section 12 in the manner set forth for License Expenses in Schedule B.

### **13. Events of Default; Termination.**

**13.1 Programmer's Events of Default.** The occurrence of any of the following shall be deemed an Event of Default by Programmer under this Agreement:

(a) Programmer fails to make timely payments as provided for in Section 5 of this Agreement; (b) Programmer fails to observe or perform its other obligations contained in this Agreement or the Purchase Agreement in any material respect; or (c) Programmer breaches the representations and warranties made by it under this Agreement or the Purchase Agreement in any material respect.

**13.2 Licensee Events of Default.** The occurrence of the following shall be deemed an Event of Default by Licensee under this Agreement: (a) Licensee fails to observe or perform its obligations contained in this Agreement or the Purchase Agreement in any material respect; (b) Licensee breaches the representations and warranties made by it under this Agreement or the Purchase Agreement in any material respect; or (c) Licensee's actions or inactions lead to the forfeiture or revocation of the Station Licenses, or the suspension of the operation of the Station for more than ten (10) consecutive days, unless due to the act or inaction of Programmer.

**13.3 Cure Period.** Notwithstanding the foregoing, an Event of Default shall not be deemed to have occurred until fifteen (15) days after the non-defaulting party has provided the defaulting party with written notice specifying the Event of Default and such Event of Default remains uncured.

**13.4 Termination in the Event of Default.** Upon the occurrence of an Event of Default, and in the absence of a timely cure pursuant to Section 13.3, the non-defaulting party may terminate this Agreement, effective immediately upon written notice to the defaulting party.

**14. Indemnification.** Programmer shall indemnify and hold Licensee harmless against any and all liability for libel, slander, illegal competition or trade practice, Communications Act or FCC rule violations, infringement of trademarks, trade names, or program titles, violation of rights of privacy, and infringement of copyrights and proprietary rights resulting from the broadcast of the Programs on the Station. Licensee shall indemnify and hold Programmer harmless against any and all liability for libel, slander, illegal competition or trade practice, Communications Act or FCC rule violations, infringement of trademarks, trade names, or program titles, violation of rights of privacy, and infringement of copyrights and proprietary rights resulting from the broadcast of its programming on the Station. The obligations under this Section shall survive any termination of this Agreement for a period of two (2) years.

**15. Authority.** Programmer and Licensee each represent and warrant to the other that: (a) it has the power and authority to enter into this Agreement and to consummate the transactions contemplated hereby; (b) it is in good standing in the jurisdiction of its organization and is qualified to do business in all jurisdictions where the nature of its business requires such qualification; (c) it has duly authorized this Agreement, and this Agreement is binding upon it; and (d) the execution, delivery, and performance by it of this Agreement does not conflict with, result in a breach of, or constitute a default or ground for termination under any agreement to which it is a party or by which it is bound.

**16. Relationship of Parties.** Neither the Programmer nor Licensee shall be deemed to be the agent, partner, or representative of the other party to this Agreement, and neither party is authorized to bind the other to any contract, agreement, or understanding.

**17. Force Majeure.** The failure of either party hereto to comply with its obligations under this Agreement due to acts of God, strikes or threats thereof or a force majeure or due to causes beyond such party's control, shall not constitute an Event of Default under Section 13 of this Agreement and neither party shall be liable to the other party therefor. Programmer and Licensee each agree to exercise their respective best efforts to remedy the conditions described in this Section as soon as practicable.

**18. Subject to Laws.** The obligations of the parties under this Agreement are subject to the rules, regulations and published policies of the FCC and all other applicable laws. The parties agree that Licensee and the Programmer may file a copy of this Agreement with the FCC and place a copy in the Station's and/or Programmer's public inspection file.

**19. Certain Interpretive Matters and Definitions.** Unless the context otherwise requires: (a) all references to Sections, Schedules or Exhibits are to Sections, Schedules or Exhibits of or to this Agreement; (b) each term defined in this Agreement has the meaning assigned to it; (c) each accounting term not otherwise defined in this Agreement has the meaning assigned to it in accordance with generally accepted accounting principles as in effect on the date hereof; (d) "or" is disjunctive but not necessarily exclusive; (e) words in the singular include the plural and vice versa; and (f) all references to "\$" or dollar amounts will be to lawful currency of the United States of America.

**20. Assignability; No Third Party Rights.** This Agreement shall be binding upon and inure to the benefit of the parties hereto, their successors and permitted assigns. Notwithstanding the foregoing, no party may assign its rights or obligations under this Agreement, in whole or in part, without prior written consent of the other party, which such consent shall not be unreasonably withheld, except: (i) Licensee may, without such consent, assign its rights and obligations under this Agreement to a person or entity that the FCC has approved to be the licensee of the Station pursuant to an application on FCC Form 316 (a *pro forma* assignment or transfer of control), provided, however, that such assignment or transfer shall not release Licensee from its liabilities hereunder; and (ii) Programmer may, without such consent, assign its rights and obligations under this Agreement to an entity under common

control with Programmer , *i.e.*, an entity to which Programmer could assign or transfer an FCC radio station authorization using FCC Form 316, provided, however, such assignment shall not release Programmer from its liabilities hereunder. The covenants, conditions and provisions hereof are and shall be for the exclusive benefit of the parties hereto and their permitted assigns, and nothing herein, express or implied, is intended or shall be construed to confer upon or to give any person or entity other than the parties hereto and their permitted assigns any right, remedy or claim, legal or equitable, under or by reason of this Agreement.

**21. Modification and Waiver; Remedies Cumulative.** No modification of any provision of this Agreement shall be effective unless in writing and signed by all parties. No failure or delay on the part of Programmer or Licensee in exercising any right or power under this Agreement shall operate as a waiver of such right or power, nor shall any single or partial exercise of any such right or power or the exercise of any other right or power. Except as otherwise provided in this Agreement, the rights and remedies provided in this Agreement are cumulative and are not exclusive of any other rights or remedies which a party may otherwise have.

**22. Headings.** The headings set forth in this Agreement are for convenience only and will not control or affect the meaning or construction of the provisions of this Agreement.

**23. Governing Law.** The construction and performance of this Agreement shall be governed by the laws of the State of Michigan without giving effect to the choice of law provisions thereof. Any action, suit or proceeding brought by any party to this Agreement relating to or arising out of this Agreement or any other agreement, instrument, certificate or other document delivered pursuant hereto (or the enforcement hereof or thereof) must be brought and prosecuted as to all parties in, and each of the parties hereby consents to service of process, personal jurisdiction and venue in, the state and Federal courts of general jurisdiction located in Michigan.

**24. Notices.** Any notice, demand or request required or permitted to be given under the provisions of this Agreement shall be in writing, including by facsimile, and shall be deemed to have been duly delivered and received on the date of personal delivery, on the third day after deposit in the U.S. mail if mailed by registered or certified mail, postage prepaid and return receipt requested, on the day after delivery to a nationally recognized overnight courier service if sent by an overnight delivery service for next morning delivery or when dispatched by facsimile transmission (with the facsimile transmission confirmation being deemed conclusive evidence of such dispatch) and shall be addressed to the following addresses, or to such other address as any party may request, in the case of Licensee, by notifying Programmer, and in the case of Programmer, by notifying Licensee:

To Licensee:

Darby Advertising, Inc.  
PO Box 1780  
Sault Ste. Marie, MI 49783  
Attention: Kent D. Smith  
Telephone: 906-203-3955  
Facsimile No.: 906-203-3954

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

Marissa G. Repp, Esq.  
Repp Law Firm  
1629 K Street, N.W.  
Suite 300  
Washington, D.C. 20006-1631  
Telephone: 202-656-1619  
Facsimile No.: 202-400-3737

To Programmer:

45 North Media Inc  
PO Box 1766  
Gaylord, MI 49734  
Attention: Bryan D. Hollenbaugh  
Telephone: 989-732-2341  
Facsimile No.: 989-732-6202

**25. Counterparts.** This Agreement may be executed in one or more counterparts, each of which will be deemed an original and all of which together will constitute one and the same instrument. Delivery of an executed counterpart signature page to this Agreement by facsimile or e-mail shall be deemed sufficient to render this Agreement effective.

**26. Severability.** The parties agree that if one or more provisions contained in this Agreement shall be deemed or held to be invalid, illegal or unenforceable in any respect under any applicable law, this Agreement shall be construed with the invalid, illegal or unenforceable provision deleted, and the validity, legality and enforceability of the remaining provisions contained herein shall not be affected or impaired thereby.

**27. Entire Agreement.** This Agreement and the schedules hereto embody the entire agreement and understanding of the parties hereto and supersede any and all prior agreements, arrangements and understandings relating to the matters provided for herein.

[SIGNATURE PAGE FOLLOWS]

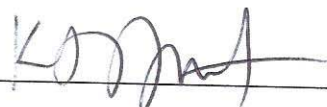


SIGNATURE PAGE TO LOCAL PROGRAMMING AND MARKETING AGREEMENT

IN WITNESS WHEREOF, the parties have duly executed this Agreement as of the date first above written.

LICENSEE:

**DARBY ADVERTISING, INC.**

By:   
Name: Kent D. Smith  
Title: President

PROGRAMMER:

**45 NORTH MEDIA INC**

By: \_\_\_\_\_  
Name: Bryan D. Hollenbaugh  
Title: President and Chief Executive  
Officer

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LICENSEE:

**DARBY ADVERTISING, INC.**

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

Name: Kent D. Smith

Title: President

PROGRAMMER:

**45 NORTH MEDIA INC**

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

Name: Bryan D. Hollenbaugh

Title: President and Chief Executive  
Officer

Schedule A

LMA Monthly Payment

Provided that Programmer is current in making its Reimbursement Payments to Licensee as specified by Schedule B, no additional LMA Monthly Payments shall be due during the Term.

## Schedule B

### Reimbursement Payments

Programmer promptly shall reimburse Licensee the amount of the reasonable Transmitter Site Expenses, Studio Site Expenses and License Expenses (the “Reimbursed Expenses”) as they are incurred by Licensee during the Term. Licensee shall deliver a statement in reasonable detail with back-up documentation for all such Reimbursed Expenses, and Programmer shall pay Licensee such Reimbursed Expenses within ten (10) business days of receipt of such billing. License Expenses shall include, but are not limited to, FCC application fees for call sign changes, license applications, auxiliary and studio-transmitter link applications, renewal applications, and regulatory fees relating to the Station. Reimbursable legal and engineering fees of Licensee shall be only those fees incurred by Licensee for the review and filing of necessary applications, responses to FCC inquiries and submissions to the FCC required by the Communications Act or FCC rules and which are reasonably required and/or customary in FCC practice to obtain and maintain the FCC Licenses for the Station (and not any other stations licensed to Licensee).