

KLEE KOTM-FM TIME BROKERAGE AGREEMENT

This Time Brokerage Agreement ("Agreement"), dated as of the 24th day of December 2013, by and between FMC BROADCASTING, INC. ("Licensee") licensee of radio Stations KLEE(AM) FCC Facility ID No. 21915 and KOTM-FM FCC Facility ID No. 21916 Ottumwa, IA ("Stations") and O-TOWN COMMUNICATIONS, INC. ("Broker").

WHEREAS, Licensee and Broker have executed that certain Asset Purchase Agreement dated December 24, 2013, and pursuant to the terms of which Licensee proposes to convey and Broker proposes to acquire certain assets related to Stations ("Asset Purchase Agreement"); and

WHEREAS, Licensee has available broadcasting time, and is engaged in the business of radio broadcasting on Stations; and

WHEREAS, Licensee desires to make programming time available to Broker;

WHEREAS, Broker desires to provide programming, marketing and other services to Stations and Licensee;

NOW THEREFORE, for and in consideration of the mutual covenants herein contained, the parties hereto have agreed and do agree as follows:

WITNESSETH:

- 1. Programming** Subject to the preemption provisions contained in Section 6, Licensee agrees to make up to twenty-four (24) hours per day of its programming time on the Stations available to air certain programming and advertising provided to it by Broker. Licensee will neither air nor sell nor barter any other programming time during the term of the Agreement, except as provided otherwise in Section 6 of this Agreement.
- 2. Consideration** The compensation to be paid by Broker and other considerations involved in this Agreement are specified in Exhibit A hereto.
- 3. Term** The term of this Agreement shall commence as of the Effective Date and shall end upon the earlier of: (i) the Closing defined in the Asset Purchase Agreement; (ii) termination of the Asset Purchase Agreement pursuant to the terms thereof; or, (iii) termination pursuant to Section 9 hereof. The period from the Effective Date to the termination of this Agreement is the "Term."
- 4. Effective Date** For purposes of this Agreement, the "Effective Date" shall be _____.
- 5. Broker's rights and obligations** Broker shall retain 100% of any revenue it may collect pursuant to the sale of any advertising sold by Broker or under its direction and which airs over Stations during the Term. All advertising programming provided for broadcast over Stations

shall be in good taste compatible with Stations' format and in accordance with good broadcast standards. All entertainment and non-entertainment programming, as well as advertising spots and advertiser promotional announcements supplied by Broker shall comply with all applicable federal, state and local regulations and policies and shall be produced at the direction of Broker. During the term of this Agreement, the Broker shall be responsible for, and shall maintain and deliver to the Licensee, such records and information in its possession which may be required by the Federal Communications Commission ("Commission") to be placed in the public inspection files of the Stations pertaining to the broadcast of political programming and advertisements which Broker has sold, in accordance with the provisions of Sections 73.1940 and 73.3526 of the Commission's rules, and to the broadcast of sponsored programming addressing political issues or controversial subjects of public importance, in accordance with the provisions of Section 73.1212 of the Commission's rules. The Broker shall also consult with the Licensee and adhere strictly to the rules, regulations and policies of the Commission, as announced from time to time, with respect to the carriage of political advertisements and programming (including, without limitation, the rights of candidates and, as appropriate, others to "equal opportunities", and the carriage of contrasting points of view with respect to such "issue-oriented" advertising as may be broadcast) and the charges permitted therefor. Broker will provide to the Licensee such documentation relating to such programming immediately after its broadcast. Broker indemnifies and holds the Licensee harmless for any claim, demand, cost or expense (including reasonable attorneys' fees) arising from the broadcast of any such material which Broker has sold or provided the Stations during the Term. Licensee shall indemnify Broker for any claim, demand, cost or expense (including reasonable attorney's fees) arising from the broadcast of any such material broadcast by Licensee before the Effective Date and/or during the term of this Agreement. **Subject to the reimbursement provisions included in Exhibit A**, Broker shall be responsible (1) for the salaries, taxes, insurance and related costs for all of its personnel utilized in the production of programming supplied to Stations as well as in the sale of all advertising included with that programming; and (2) for all costs incurred in program and commercial production done by Broker. Music license fees shall be paid by the Broker, and Broker indemnifies and holds Licensee harmless with respect to liability for such fees that are attributable to Broker's programming.

6. Licensee's rights and obligations. Notwithstanding anything herein to the contrary, Licensee shall maintain complete control over Stations' programming in compliance with all of the rules and regulations of the Commission and, shall be solely responsible for meeting all of the Commission's requirements with respect to Licensee's local service obligations, including, but not limited to, Licensee's right in its absolute discretion to preempt Broker's programming, broadcast programming of interest to the listeners in the Stations' service contours, covering local community issues for Licensee's issues/programs lists and maintaining the public inspection file. Licensee shall be responsible for insuring that qualified control operators monitor and control the Stations' transmissions at all times. All equipment necessary for broadcasting by the Stations shall be maintained by Licensee in a condition consistent with good broadcast engineering practices and in compliance in all material respects with the applicable rules and regulations of the Commission. All capital expenditures reasonably required to maintain the quality of the Stations' signal shall be made at the expense of Licensee in a timely fashion. Licensee shall be responsible for the salaries, taxes, insurance and related costs for all personnel

utilized in the management and Licensee's operation of the Stations. Licensee shall also be responsible for all expenses related to its studios and broadcast transmissions, including, but not limited to, tower and studio rent, maintenance, utilities, telephone, insurance on its facilities, automobile expense, property taxes and income taxes relating to Licensee's earnings from this arrangement. Notwithstanding anything to the contrary in this Agreement, Licensee shall have full authority and power over the operation of the Stations during the term of this Agreement. Licensee's managerial employee(s) shall report solely to, and be accountable solely to, Licensee and shall supervise the day-to-day operation of the Stations. Licensee shall retain control in its absolute discretion over the financial operations of the Stations, including, without limitation, the right to reject or preempt any advertisements or other programming supplied by Broker. In the event Licensee should preempt or replace any programming or advertising supplied by Broker for broadcast over Stations, the amounts due in Exhibit A shall be adjusted pro rated based upon the length of time of the alternative programming or advertising supplied by Licensee. Licensee shall also have the right to take any other actions necessary for compliance with the laws of the United States, the State of Iowa, and rules, regulations, and policies of the FCC.

7. License to use studio Facilities. Broker is hereby granted limited license to utilize the building housing the Station's studio facilities located at 601 W. Second Street, Ottumwa, Iowa (the "Premises") during the Term, subject to Licensee's continuing control over the Premises as provided elsewhere hereunder. The Premises shall be limited to Broker's employees and the employees of Licensee described in this Agreement. Broker shall make no material physical improvements or changes to the Premises without the prior written consent of the Licensee, provided, however, that Broker may, subject to Licensee's approval, provide, install and maintain, at its own cost, any additional equipment necessary for the receipt and transmission of its Programming by the Stations, including, but not limited to, satellite receivers, network terminal, control and monitoring and server equipment. Title to any equipment installed on the Premises by Broker shall remain with Broker. Broker does not assume, and shall not be deemed to assume, under this Agreement or otherwise by reasons of the transactions contemplated by this Agreement, any liabilities, obligations or commitments of the Licensee of any nature whatsoever, regardless of whether they arise from or relate to the ownership, operations or business of the Stations. This Agreement shall not constitute an assignment of any contract or lease to which the Licensee is a party, including, without limitation, any studio or tower leases. Consistent with this Agreement, Licensee shall continue to perform all of its obligations under all contracts, lease and other agreements in a timely manner and otherwise keep all such contracts and leases in full force and effect. In the event that the Station's studio equipment is moved by Broker to Broker's facilities in Ottumwa, Licensee shall promptly notify the FCC of the change of the Station's "main studios" location to such new location.

8. Licensee's Employees. Subject to the reimbursement provisions included in Exhibit A, Licensee shall employ and be responsible for the payment of salaries, taxes, insurance, and all other costs related to at least one management-level employee to oversee operations of the Station. Broker shall have no authority over and shall not supervise persons in the employ of Licensee. No later than three (3) business days prior to the Effective Date, Licensee and Broker will meet with Licensee's employees, at which time those of Licensee's employees who Broker wishes to hire, and who wish to be hired by Broker (the "Broker Employees"), will be notified of

the opportunity for such employment, and all other Licensee employees (the “Discharged Employees”) will be discharged as of 11:59 p.m. on the day prior to the Effective Date. Licensee will expeditiously accommodate its then-existing obligations to the Discharged Employees with respect to salary, benefits (including COBRA benefits), accrued vacation and the like. Broker indemnifies and holds Licensee harmless with respect to any and all claims of the Broker Employees for salary, vacation time, benefits (excluding COBRA benefits) relating to any Broker Employee’s period of employment by Licensee prior to the Commencement Date. Licensee similarly indemnifies and holds Broker harmless with respect to any and all employment-related claims made by the Discharged Employees.

9. **Accounts Receivable.** Title to the Stations’ accounts receivables shall at all times rest with Seller. The foregoing notwithstanding, Broker shall passively collect the Stations’ accounts receivables for a period of ninety (90) days from the Effective Date, or if sooner, until Closing under the Asset Purchase Agreement, and shall remit the proceeds of such collections to Licensee no later than the fifth (5th) day of each calendar month of the Term, or on the Closing Date should Closing occur prior to the fifth (5th) day of a partial month of the Term. Any account remaining uncollected on the earlier of the close of the 60-day period, or Closing under the Asset Purchase Agreement, shall be returned to Licensee for collection. Broker will not, without the prior written consent of Licensee, compromise or settle for less than full value any of any accounts receivable. Where Licensee and Broker each have outstanding accounts with the same advertiser, incoming funds received from such advertiser will be attributed to Licensee’s account until it is paid in full unless the advertiser directs otherwise. Broker covenants that it will not encourage any advertiser to direct an allocation of its account payments that favors Broker and will immediately notify Licensee should Broker receive such a direction. This provision will survive Closing under the Asset Purchase Agreement.

10. **Trade Accounts.** Schedule 10 is a list of the Stations’ contracts for trades of advertising time for goods and services (the “Trades”), including the name of the advertiser, the Station(s) on which the advertising is being or will be broadcast, the amount of advertising committed under each Trade, the time commitments for each Trade that Licensee estimates will not have been discharged as of the Effective Date, and a description of the consideration received or to be received by the Stations in return for such advertising time. Broker agrees to meet the advertising time commitments reflected in these Trades according to the terms thereof, and in return, to the extent such benefits have not been realized as of the Effective Date, will receive the benefits of such Trades.

11. **Damage to Stations; Insurance.** In the event of damage or destruction to the Stations (other than damage or destruction caused by Broker, its employees or agents), Section 6.5 (Risk of Loss) of the Asset Purchase Agreement shall apply. In the event of damage or destruction caused by Broker, its employees or agents, all necessary repairs, restoration or replacement shall be at the sole costs of the Broker, and shall be completed as promptly as is commercially reasonable. During the Term, Broker will maintain policies of insurance covering general liability, personal injury, property damage and workmen’s compensation of a type and in amounts customary in the broadcast industry in the Ottumwa radio market and will obtain endorsements to such policies (except with respect to its workmen’s compensation insurance policy) naming Licensee an

additional insured. On or before the Effective Date, Broker will provide Licensee a certificate of insurance evidencing such policies and endorsements.

12. **Default** Should Stations be off air, operate in any other manner not generally considered technically appropriate for a period of ten (10) or more consecutive hours due to Licensee's negligence, Licensee shall be considered to be in default of its obligations under this Agreement; provided, however, that any failure or impairment of facilities or any delay or interruption in 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 will not be considered in default nor will it be liable to Broker, except to the extent of allowing any appropriate payment credit for time not provided based upon a pro rata adjustment to amounts due as specified in Exhibit A based upon the length of time during which the failure or impairment exists. If such default as described in this paragraph is not cured within thirty (30) days of written notification by Broker of such default, Broker shall have the immediate right to terminate this Agreement without penalty. The following shall, after the expiration of the applicable cure periods, constitute Events of Default under this Agreement: (i) Broker's failure to timely pay the consideration provided for in Exhibit A hereof; (ii) Licensee or Broker shall default in the material observance or performance of any material covenant, condition, or agreement contained herein; (iii) any material representation or warranty herein made by Broker or Licensee to the other or in any certificate or document furnished by Broker or Licensee to the other pursuant to the provisions hereof, shall prove to be false or misleading in any material respect as of the time made or furnished; or (iv) the Asset Purchase Agreement is terminated under its terms Unless otherwise provided herein, an Event of Default shall not be deemed to have occurred until thirty (30) days after the non-defaulting party has provided the defaulting party with written notice specifying the event or events that if not cured would constitute an Event of Default. This period may be extended for a reasonable period of time if the defaulting party is acting in good faith to cure and such delay is not materially adverse to the non-defaulting party. Notwithstanding the foregoing, it is agreed that the 30-day notice and cure provision set forth above shall not apply to a default by Broker in meeting its payment obligations as set forth in Exhibit A.

13. **Termination** In the event of the occurrence of an Event of Default, the nondefaulting party may terminate this Agreement provided said party is not then also in default. In the event that a dispute arises under this provision and litigation ensues, the prevailing party in said litigation shall be entitled to recover reasonable attorney's fees and the parties agree that Iowa law shall govern in any such dispute with the matter to be decided by the courts in the State of Iowa. This Agreement shall terminate in the event that Licensee's broadcast license to operate the Stations is not renewed or is revoked by a final order of the Commission. For purposes of this Agreement, a "final order" shall mean an order of the Commission which has not been reversed or stayed, and as to which no administrative or judicial appeal, reconsideration, or review is pending or has been requested, and with respect to which the time for the institution of any further appellate proceedings has expired.

14. **Warranties** Both Licensee and Broker materially represent and warrant that they are legally qualified, empowered, and able to enter into this Agreement. Licensee warrants that Stations are now transmitting as specified by their FCC licenses, and will be operated in such a fashion so as

to transmit (except at such time where reduction of power is required for routine or emergency maintenance activities), at their maximum authorized powers and heights set forth in their FCC licenses. The Stations' respective main studios are and will remain in full compliance with the Commission's main studio policies and rules during the term of this Agreement. Licensee certifies that it maintains ultimate control over Stations facilities, including finances, personnel and programming. Broker certifies that this time brokerage agreement complies with the provisions of Section 73.3555 of the Commission's rules.

15. **Modification and Waiver** No modification or waiver of any provision of this Agreement shall in any event be effective unless the same shall be in writing, and then such waiver and consent shall be effective only for the purpose or purposes given. No failure or delay on the part of either party 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 Broker herein provided are cumulative and are not exclusive of any right or remedies which it may otherwise have.

16. **Jurisdiction** This Agreement shall be construed in accordance with the laws of the State of Iowa, and the obligations of the parties hereto are subject to all federal, state or municipal laws or regulation now or hereafter in force and to the regulations of the Commission and all other governmental bodies or authorities presently or hereafter to be constituted.

17. **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.

18. **Assignment** This Agreement may not be assigned without the express written consent of both parties.

19. **Counterpart signatures** 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. **Notices** Any notice required shall be in writing and any payment, notice or other communications shall be deemed given when delivered personally, by Federal Express, or mailed by certified mail, postage prepaid, with return receipt requested, and addressed as follows:

If to Broker: Greg List, President
O-Town Communications, Inc.
416 E. Main Street
Ottumwa, IL 52501

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

John Neely, Esq.
Miller and Neely, PC
Suite 203
3750 University Blvd., West
Kensington, MD 20815
Telephone: 301-933-6304
Fax 301-933-6306
johnsneely@yahoo.com

If to Licensee: Thomas Palen
FMC Broadcasting, Inc.
601 W. Second Street
Ottumwa, IA 52501

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

Harry Martin, Esq.
Fletcher Heald et. al.
1300 N. 17th Street, 11th Floor
Arlington, VA 22209
703.812.0400
martin@fhhlaw.com

21. **Integration** 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 alteration, modification or change of this Agreement shall be valid unless by like written instrument executed by both parties.

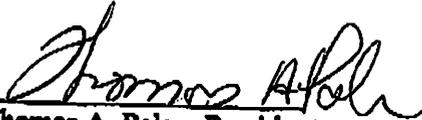
22. **Validity** In the event that any of the provisions contained in this Agreement is held to be invalid, illegal or unenforceable such shall not affect any other provision hereof, and this Agreement shall be construed as if such invalid, illegal or unenforceable provisions had not been contained herein.

22. **No Party Deemed Drafter**. No party shall be deemed the drafter of this Agreement, and this Agreement shall not be construed against either party as the drafter of the Agreement.

23. **Certifications**. Licensee hereby certifies that it shall maintain ultimate control over the Station's facilities, including, specifically, control over the Station's finances, personnel and programming. Broker hereby certifies that this Agreement complies with Section 73.3555 (a) and (c) of the FCC's rules.

LICENSEE
FMC BROADCASTING, INC.

BROKER
O-TOWN COMMUNICATIONS, INC

By 
Thomas A. Palen, President

By _____
Gregory H. List

**LICENSEE
FMC BROADCASTING, INC.**

By _____
Thomas A. Palen, President

**BROKER
O-TOWN COMMUNICATIONS, INC**

By 

Gregory H. List