

## **TIME BROKERAGE AGREEMENT**

This TIME BROKERAGE AGREEMENT ("*Agreement*") is made and entered into on July \_\_, 2009, by **MISSION NEBRASKA, INC.**, a Nebraska non-profit corporation, ("*Programmer*") and **CHAPIN ENTERPRISES, L.L.C.** ("*Licensee*").

WHEREAS, Licensee owns and operates broadcast station KRKR (FM), whose specified community of license is Valley, Nebraska (FCC Facility Id. No. 54707) (the "*Station*"), pursuant to licenses issued by the Federal Communications Commission (the "*FCC*" or the "*Commission*"); and

WHEREAS, the Station is currently operating as a Lincoln, Nebraska station, pursuant to an implied Special Temporary Authority, with the facilities specified in FCC license BL-19880609KA (the "*Lincoln Facilities*"); and

WHEREAS, Programmer is involved in radio station ownership and operation; and

WHEREAS, Licensee and Programmer have entered into an Asset Purchase Agreement (the "*Purchase Agreement*") relating to the Station; and

WHEREAS, Licensee now wishes to retain Programmer to provide programming for the Station at the Lincoln Facilities that is in conformity with the Station's policies and procedures, FCC policies for time brokerage arrangements, and the provisions hereof; and

WHEREAS, Programmer agrees (i) to use the Station to broadcast such programming of its selection that is in conformity with all rules, regulations and policies of the FCC, subject to Licensee's full authority to manage and control the operation of the Station, (ii) to pay all expenses incurred by it as set forth in this Agreement; and (iii) to reimburse Licensee for certain expenses incurred by Licensee in connection with the ownership and operation of the Station as set forth in this Agreement; and

WHEREAS, Programmer and Licensee agree to cooperate to make this Time Brokerage Agreement work to the benefit of the public and both parties and as contemplated in this Agreement.

NOW, THEREFORE, in consideration of the above recitals and mutual promises and covenants contained herein, the parties, intending to be legally bound, agree as follows:

### **SECTION 1. LEASE OF STATION AIR TIME**

1.1 Representations. Both Licensee and Programmer represent that they are legally qualified, empowered and able to enter into this Agreement and that the execution, delivery, and performance hereof shall not constitute a breach or violation of any material agreement, contract or other obligation to which either party is subject or by which it is bound.

1.2 Term. Programmer's programming rights and obligations hereunder shall begin on August 3, 2009 (the "*Effective Date*") or earlier depending on coordination set up by mutual agreement. This Agreement shall continue in force until (i) the Closing Date, (ii) termination of the Purchase Agreement, or (iii) termination pursuant to Section 6 hereof. The terms "*Closing Date*" and "*Closing*" as used herein shall have the same definitions given them in the Purchase Agreement.

1.3 Scope. During the term of this Agreement, Licensee shall make available to Programmer broadcast time upon the Station as set forth in this Agreement. Programmer shall deliver such programming, at its expense, to the Station's transmitter facilities or other authorized remote control points as reasonably designated by Licensee. Subject to Licensee's reasonable approval, as set forth in this Agreement, Programmer shall provide programming of Programmer's selection complete with commercial matter, news, public service announcements and other suitable programming to the Station. Notwithstanding the foregoing, the Licensee may designate such time as it may require for the broadcast of programming necessary for the Station to broadcast news, public affairs, religious and non-entertainment programming as required by the FCC, or as otherwise reasonably determined by the Licensee to be in the public interest. All revenue from advertising on the Station during the term of this Agreement, whether during Programmer's programming or time reserved by Licensee, shall be for the benefit of Programmer. All program time not reserved by or designated for Licensee shall be available for use by Programmer and no other party.

1.4 Consideration. As consideration for the air time made available hereunder Programmer shall pay to Licensee the compensation set forth in Schedule A hereto.

1.5 Licensee Operation of Station. Licensee will have full authority, power and control over the management and operations of the Station during the term of this Agreement and during any renewal of such term. Licensee will bear ultimate responsibility for the Station's compliance with all applicable provisions of the Communications Act of 1934, as amended (the "*Act*"), the rules, regulations and policies of the FCC and all other applicable laws. During the term of this Agreement, Licensee shall maintain insurance satisfactory to Programmer covering the Station's transmission facilities. During the term of this Agreement, Programmer agrees to perform, without charge, routine monitoring of the Station's transmitter performance and tower lighting by remote control, if and when reasonably requested by Licensee, provided that Licensee shall still be responsible for compliance with Licensee's obligations under the Act and the rules and regulations of the FCC.

1.6 Licensee Representations, Warranties and Covenants. Licensee represents, warrants and covenants as follows: Licensee owns and holds or will hold all licenses and other permits and authorizations necessary for the operation of the Station, and such licenses, permits and authorizations are and will be in full force and effect throughout the term of this Agreement. There is not now pending or, to Licensee's best knowledge, threatened any action by the FCC or by any other party to revoke, cancel, suspend, refuse to renew or modify adversely any of such licenses, permits or authorizations. Licensee is not in violation of any statute, ordinance, rule, regulation, policy, order or decree of any federal, state or local entity, court or authority having jurisdiction over it or the Station, which would have a material adverse effect upon the

Programmer, Licensee, the Station or upon Licensee's ability to perform this Agreement. Licensee shall not take any action or omit to take any action that would have a material adverse impact upon the Programmer, Licensee, the Station or upon Licensee's ability to perform this Agreement. All reports and applications required to be filed with the FCC or any other governmental body have been, and during the term of this Agreement will be, filed in a timely and complete manner.

1.7 Programmer Responsibility. During the term of this Agreement, Programmer shall pay, in a timely fashion, all of its expenses incurred in providing programming to the Station including salaries and benefits of its employees, lease payments, utilities, taxes, insurance, contractual obligations, the cost of telephone and internet services at the offices and studio facilities specified in Section 1.10(a) hereof and programming expenses (except those for which a good faith dispute has been raised with the vendor or taxing authority). Programmer shall not assume Licensee's obligations under any contracts applicable to Licensee or the Station. Programmer shall be solely responsible for any expenses incurred in the origination and/or delivery of programming from any remote location and for any publicity or promotional expenses incurred by Programmer, including, without limitation, ASCAP, SESAC and BMI music license fees for all programming provided by Programmer.

1.8 Contracts. Programmer will not enter into any third-party contracts, leases or agreements without Licensee's prior written approval, except for such contracts, leases or agreements that may be terminated upon not more than 30 days notice. Licensee will not enter into any third-party contracts, leases or agreements that would conflict with this Agreement or result in a material breach of this Agreement by Licensee.

1.9 Station Operation. Licensee shall not without Programmer's prior written permission: (i) enter into any material contractual obligations for which reimbursement will be sought from Programmer; or (ii) purchase or lease equipment with value in excess of \$5,000.00.

1.10 Use of Station's Equipment.

(a) As of the Effective Date, Programmer will have the right to use the Station's (i) studio equipment, offices and studio facilities located at 3800 Cornhusker Hwy., Lincoln, Nebraska, including space to place computer equipment, Orban process, remote control unit, Mosely STL, and (ii) tower, antenna, transmitter, building, and Mosely STL at the Station's tower site located at 17118 North 14<sup>th</sup> Street, Raymond, Nebraska, for purposes of creating and broadcasting its programming in accordance with this Agreement, all subject to Licensee's supervision and control. Programmer will be responsible for maintaining the Station's transmission and studio equipment to enable Programmer to broadcast its programming on the Station as contemplated by this Agreement, except for major repairs to the transmission and studio equipment, which shall be the responsibility of Licensee as written in Schedule A.

(b) In the event Programmer decides to replace any station equipment existing as of the date of this Agreement, all replacement equipment that is purchased by Programmer ("*Programmer's Equipment*") shall remain the property of Programmer. At the end of this Agreement, absent a purchase of the Station's assets by Programmer, Licensee may at its sole

option purchase Programmer's Equipment from Programmer in exchange for reimbursement of Programmer's documented out-of-pocket costs.

1.11 Reimbursement of Licensee's Expenses. Programmer shall reimburse Licensee for those expenses incurred by Licensee in operation of the Station during the term of this Agreement as set forth on Schedule A hereto.

1.12 Proration of Income and Expenses.

(a) All income and expenses arising from the operations of the Station shall be prorated between Programmer and Licensee in accordance with generally accepted accounting principles as of 11:59 p.m., local time, on the date immediately preceding the Effective Date. Licensee shall be responsible for all liabilities and obligations incurred or accrued in connection with the operation of the Station through 11:59 p.m., local time, of the date immediately preceding the Effective Date, and Programmer shall be responsible for all such liabilities and obligations incurred or accruing thereafter. Such prorations shall include, without limitation, music and other license fees (including any retroactive adjustments thereof), wages and salaries of employees (including accruals up to the Effective Date for bonuses, commissions, vacation pay and related payroll taxes), liabilities and obligations under all Agreements to be assigned under the Purchase Agreement, time sales agreements, and all other income and expenses, including prepaid expenses, attributable to the ownership and operation of the Station.

(b) Within thirty (30) days after the Effective Date, Licensee shall prepare and deliver to Programmer a statement of income and expense (the "*Preliminary Proration Statement*"), setting forth the prorated income and expenses as of the Effective Date, determined in accordance with this Section 1.12. The Preliminary Proration Statement shall be prepared in a form which sets forth the amounts due to or from Programmer or Licensee, as the case may be. Upon receipt of the Preliminary Proration Statement, Programmer and its accountants shall have the right to examine, at Programmer's expense, the Preliminary Proration Statement and all work papers, schedules, and other books and records used in the preparation of such Preliminary Proration Statement, and to make reasonable inquiry of Licensee and its accountants. Programmer shall be entitled to object to the Preliminary Proration Statement (the "Objection") if such Objection, specifying with particularity the basis therefor, is delivered to Licensee within fifteen (15) days' of receipt of the Preliminary Proration Statement by Programmer. If Programmer fails to deliver the Objection within the specified fifteen (15) day period, it shall be deemed to have accepted the Preliminary Proration Statement. If Programmer objects to the Preliminary Proration Statement, then Programmer shall so advise Licensee, and Licensee and Programmer shall each use their best efforts to resolve their differences concerning the Preliminary Proration Statement as soon as possible but, in any event within sixty (60) days after the Effective Date. If Licensee and Programmer are unable to resolve the matter, they shall jointly appoint an independent certified public accounting firm (the "*Accountant*") to resolve the dispute. The fees and expenses of the Accountant shall be paid by Programmer if the resolution of the dispute by the Accountant is in favor of Licensee or by Licensee if the resolution of the dispute by the Accountant is in favor of the Programmer. Licensee and Programmer shall cooperate fully with such independent accounting firm. Such independent accounting firm's resolution of the dispute shall be final and binding upon the parties. The parties shall use their

best efforts to cause the accounting firm to resolve such dispute, if any, concerning the Preliminary Proration Statement as soon as possible, but in any event prior to the Closing Date. All amounts owed pursuant to this Section 1.12 shall be paid within ten (10) days of acceptance, failure to object or, if there is a dispute, resolution of the amount due. If such amount is not paid within such ten (10) day period, interest on such amount shall accrue until paid at 12%.

1.13 Accounts Receivable. Accounts receivable in connection with the operation of the Station, including but not limited to accounts receivable for advertising revenues, for programs and commercials performed prior to the Effective Date and other broadcast revenues for services performed prior to the Effective Date ("*Licensee's Accounts*") shall remain the property of Licensee. Programmer shall acquire no beneficial right or interest therein or responsibility therefor. The collection of the Licensee's Accounts shall be the sole responsibility of Licensee. In the event any check or other form of payment with respect to any of the Licensee's Accounts is received by Programmer, Programmer shall immediately deliver such check or other form of payment to Licensee. On or before the 20th day of each month following each calendar month occurring during the ninety (90) day period after the Effective Date, Programmer shall deliver to Licensee a statement showing all collections effected with respect to Licensee's Accounts since the last previous report.

## **SECTION 2. STATION OBLIGATIONS TO ITS COMMUNITY OF LICENSE**

2.1 Licensee Authority. Notwithstanding any other provision of this Agreement, Programmer recognizes that Licensee has certain obligations to broadcast programming to meet the needs and interests of listeners in the Station's service areas. Each week the Licensee shall be entitled to air specific programming on public affairs issues of importance to the local community. Nothing in this Agreement shall abrogate the unrestricted authority of the Licensee to discharge its obligations to the public and to comply with the Act and the rules and policies of the FCC.

2.2 Additional Licensee Obligations. Although both parties shall cooperate in the broadcast of emergency information over the Station, Licensee shall also retain the right to interrupt Programmer's programming in case of an emergency or for programming which, in the good faith judgment of Licensee, is of greater local or national public importance. Licensee shall also coordinate with Programmer the Station's hourly station identifications, Emergency Alert System announcements and any other announcements required to be aired by FCC rules. Licensee shall continue to staff a main studio, as that term is defined by the FCC, within the Station's principal community contours, which shall be the studios of the Station used by Programmer pursuant to this Agreement, shall maintain its local public inspection file in accordance with FCC rules, regulations and policies, and shall prepare and place in such inspection file or files in a timely manner all material required by Section 73.3526 of the FCC's Rules, including without limitation the Station's quarterly issues and program lists. Programmer shall, upon request by Licensee, provide Licensee with such information concerning Programmer's programs and advertising as is necessary to assist Licensee in the preparation of such information. Licensee shall also maintain the Station's logs, receive and respond to telephone inquiries and correspondence (including but not limited to inquiries and

correspondence from the FCC), and control and oversee any remote control point which may be established for the Station.

2.3 Employees, Wages and Benefits. Contemporaneous with the Effective Date, Programmer may offer to hire any employees of the Licensee as of the Effective Date except those employees that Licensee shall identify to Programmer prior to the Effective Date. With respect to any employees of Licensee hired by Programmer ("*Continuing Employees*"), Programmer shall be responsible for the payment of salaries, taxes, insurance and all other costs related to all such personnel upon the terms, conditions, wages and benefits to be determined by Programmer. Upon commencement of employment with Programmer, any full-time Continuing Employees will be covered under benefit plans of Programmer, if any. Programmer shall pay and be liable for any obligation or liability that may arise from the termination of the employment of any Continuing Employee by Programmer after the Effective Date; provided, that Licensee is and shall remain responsible for any severance obligations which have accrued for Continuing Employees, if such obligations arose prior to the Effective Date.

### **SECTION 3. STATION PROGRAMMING POLICIES**

3.1 Broadcast Station Programming Policy Statement. Licensee has adopted and will enforce a Broadcast Station Programming Policy Statement (the "*Policy Statement*"), a copy of which appears as Attachment I hereto and which may be amended in a reasonable manner from time to time by Licensee upon notice to Programmer. Programmer agrees and covenants to comply in all material respects with the Policy Statement, to all rules and regulations of the FCC, and to all changes subsequently made by Licensee or the FCC. Programmer shall furnish or cause to be furnished the artistic personnel and material for the programs as provided by this Agreement and all programs shall be prepared and presented in conformity with the rules, regulations and policies of the FCC and with the Policy Statement set forth in Attachment I hereto. All advertising spots and promotional material or announcements shall comply with applicable federal, state and local regulations and policies and shall be produced in accordance with quality standards established by Programmer. If Licensee determines that a program supplied by Programmer is for any reason, within Licensee's sole discretion, unsatisfactory or unsuitable or contrary to the public interest, or does not comply with the Policy Statement it may, upon prior written notice to Programmer (to the extent time permits such notice), suspend or cancel such program without liability to Programmer. Licensee will use reasonable efforts to provide such written notice to Programmer prior to the suspension or cancellation of such program.

3.2 Licensee Control of Programming. Programmer recognizes that the Licensee has full authority to control the operation of the Station. The parties agree that Licensee's authority includes but is not limited to the right to reject or refuse such portions of the Programmer's programming which Licensee believes to be unsatisfactory, unsuitable or contrary to the public interest. Programmer shall have the right to change the programming supplied to Licensee and shall give Licensee at least twenty-four (24) hours notice of substantial and material changes in such programming.

3.3 Programmer Compliance with Copyright Act. Programmer represents and warrants to Licensee that Programmer has full authority to broadcast its programming on the Station, and that Programmer shall not broadcast any material in violation of the Copyright Act. All music supplied by Programmer shall be: (i) licensed by ASCAP, SESAC or BMI, and paid for by Programmer; (ii) in the public domain; or (iii) cleared at the source by Programmer. Licensee will maintain and pay for its own ASCAP, BMI and SESAC licenses as are necessary. The right to use the programming and to authorize its use in any manner shall be and remain vested in Programmer.

3.4 Sales. All revenues from the sale of advertising time or program time within the programming Programmer provides to the Licensee and all promotion-related revenues for the Station shall be included in the cash flow of the Station. Programmer shall be responsible for payment of the commissions due to any national sales representative engaged by it for the purpose of selling national advertising which is carried during the programming it provides to Licensee. Unless otherwise agreed between the parties or as otherwise provided herein, Licensee shall not air advertising on the Station during the hours each week in which the Licensee airs its own programming pursuant to Section 1.3 hereof.

3.5 Payola. Programmer agrees that it will not accept any consideration, compensation, gift or gratuity of any kind whatsoever, regardless of its value or form, including, but not limited to, a commission, discount, bonus, material, supplies or other - merchandise, services or labor (collectively "*Consideration*"), whether or not pursuant to written contracts or agreements between Programmer and merchants or advertisers, unless the payer is identified in the program for which Consideration was provided as having paid for or furnished such Consideration, in accordance with the Act and FCC requirements.

3.6 Cooperation on Programming. Programmer and Licensee mutually acknowledge their interest in ensuring that the Station serve the needs and interests of listeners in their communities of service and agree to cooperate to provide such service. Licensee shall, on a regular basis, assess the issues of concern to residents of the communities of service and address those issues in its public service programming. Programmer, in cooperation with Licensee, will endeavor to ensure that programming responsive to the needs and interests of the community of license and surrounding area is broadcast, in compliance with applicable FCC requirements. Licensee will describe those issues and the programming that is broadcast in response to those issues and place issues/programs lists in the Station's public inspection file as required by FCC rules. Further, Licensee may request, and Programmer shall provide, information concerning such of Programmer's programs as are responsive to community issues so as to assist Licensee in the satisfaction of its public service programming obligations. Programmer shall also provide Licensee upon request such other information necessary to enable Licensee to prepare records and reports required by the Commission or other local, state or federal government entities.

3.7 Staffing Requirements. Licensee will be in full compliance with the main studio staff requirements as specified by the FCC.

## **SECTION 4. INDEMNIFICATION**

4.1 Programmer's Indemnification. Programmer shall indemnify and hold harmless Licensee from and against any and all claims, losses, costs, liabilities, damages, forfeitures and expenses (including reasonable legal fees and other expenses incidental thereto) of every kind, nature - and description (collectively, "*Damages*") resulting from (i) Programmer's breach of any representation, warranty, covenant or agreement contained in this Agreement, and (ii) any action by Programmer or its employees and agents with respect to the Station, or any failure by Programmer or its employees and agents to take any action with respect to the Station, including, without limitation, Damages relating to violations of the Act or any rule, regulation or policy of the FCC, slander, defamation or other claims relating to programming provided by Programmer and Programmer's broadcast and sale of advertising time on the Station.

4.2 Licensee's Indemnification. Licensee shall indemnify and hold harmless Programmer from and against any and all Damages resulting from (i) Licensee's breach of any representation, warranty, covenant or agreement contained in this Agreement, and (ii) Licensee's operations and broadcasts to the extent permitted by law and any action taken by Licensee or its employees and agents with respect to the Station, or any failure by Licensee or its employees and agents to take any action with respect to the Station, including, without limitation, Damages relating to violations of the Act or any rule, regulation or policy of the FCC, slander, defamation or other claims relating to programming aired by Licensee on the Station.

4.3 Limitation. Neither Licensee nor Programmer shall be entitled to indemnification pursuant to this section unless such claim for indemnification is asserted in writing delivered to the other party.

4.4 Time Brokerage Challenge. If this Agreement or the Purchase Agreement is challenged at the FCC, whether or not in connection with the Station's license renewal applications, counsel for the Licensee and counsel for Programmer shall jointly defend the agreement(s) and the parties' performance thereunder throughout all FCC proceedings. Each party shall be responsible for its own attorneys' fees and all other expenses incurred by it hereunder. If portions of this Agreement do not receive the approval of the FCC staff, then the parties shall reform the Agreement as necessary to satisfy the FCC staff's concerns or seek reversal of the staffs decision and approval from the full Commission or a court of law.

## **SECTION 5. ACCESS TO PROGRAMMER AND PROGRAMMER'S MATERIALS AND CORRESPONDENCE**

5.1 Confidential Review. Prior to the commencement of any programming by Programmer under this Agreement, Programmer shall acquaint Licensee with the nature and type of the programming to be provided. Licensee shall be entitled to review at its discretion from time to time on a confidential basis any of Programmer's programming material it may reasonably request. Programmer shall promptly provide Licensee with copies of all correspondence and complaints received from the public (including any telephone logs of complaints called in), and copies of all program logs and promotional materials. However,



nothing in this section shall entitle Licensee to review the internal corporate or financial records of the Programmer.

5.2 [Intentionally Omitted.]

5.3 Political Advertising. Programmer shall cooperate with Licensee to assist Licensee in complying with all rules of the FCC regarding political broadcasting. Licensee shall promptly supply to Programmer, and Programmer shall promptly supply to Licensee, such information, including all inquiries concerning the broadcast of political advertising, as may be necessary to comply with FCC rules and policies, including the lowest unit rate, equal opportunities, reasonable access, political file and related requirements of federal law. Licensee, in consultation with Programmer, shall develop a statement which discloses its political broadcasting policies to political candidates, and Programmer shall follow those policies and rates in the sale of political programming and advertising. In the event that Programmer fails to satisfy the political broadcasting requirements under the Act and the rules and regulations of the FCC and such failure inhibits Licensee in its compliance with the political broadcasting requirements of the FCC, then to the extent reasonably necessary to assure such compliance, Programmer shall either provide rebates to political advertisers or release broadcast time and/or advertising availabilities to Licensee at no cost to Licensee.

5.4 Programmer's Availability to Licensee. Programmer shall make executive-level officials of Programmer available to designated representatives of Licensee for at least one hour per week for discussion of operations of the Station.

## **SECTION 6. TERMINATION**

6.1 In General. This Agreement may be terminated by either Programmer or Licensee at any time, provided the terminating party provides the other party with three (3) months' prior written notice of the termination.

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

(a) subject to the provisions of Sections 4.4 and 7.9, this Agreement is declared invalid or illegal in whole or substantial part by an order or decree of an 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;

(b) the other party is in material breach of its obligations hereunder and has failed to cure such breach within fifteen (15) days after receipt of written notice of such breach from the non-breaching party.

(c) the mutual consent of both parties;

(d) subject to the provisions of Sections 4.4 and 7.9, there has been a material change in FCC rules, policies or precedent that would cause this Agreement to be in violation thereof and such change is in effect and not the subject of an appeal or further administrative review and this Agreement cannot be reformed, in a manner acceptable to Programmer and Licensee, to remove and/or eliminate the violation;

(e) Programmer has closed the purchase of the assets of the Station from Licensee pursuant to the Purchase Agreement (which termination shall be deemed automatic upon Closing); or

(f) by either party in the event the Purchase Agreement is otherwise terminated.

### 6.3 Certain Matters Upon Termination.

(a) Upon any termination of this Agreement (such date, the “*Termination Date*”), Licensee shall have no further obligation to provide to Programmer any broadcast time or broadcast transmission facilities and Programmer shall have no further obligations to make any payments to Licensee under Section 1.4 of this Agreement except with respect to the following obligations which accrued prior to the Termination Date. Programmer shall be responsible for all debts and obligations of Programmer to third parties based upon the purchase of air time and use of Licensee’s transmission facilities during the term of this Agreement, including, without limitation, accounts payable, barter agreements and unaired advertisements, but not for Licensee’s federal, state and local income and business franchise tax liabilities or taxes levied upon Licensee’s personal property. Notwithstanding anything herein to the contrary, to the extent that any invoice, bill or statement submitted to Licensee after the Termination Date or any payment made by Programmer prior to the Termination Date relates to ordinary and necessary expenses incurred in operating the Station, for periods both before and after the Termination Date, such expenses shall be prorated between Licensee and Programmer in accordance with the principle that Programmer shall be responsible for expenses allocable to the period on and before the Termination Date. Such proration shall include an adjustment for Programmer’s Trade Agreements and Level Billing Agreements computed based on the fair market value of the property or services to be received under those agreements. Each party agrees to reimburse the other party for expenses paid by the other party to the extent appropriate to implement the proration of expenses pursuant to the preceding sentence.

(b) Upon any termination or expiration of this Agreement, Programmer shall be responsible for all contracts in existence on the date of such termination or expiration which were entered into by Programmer in the ordinary course of business. Licensee shall have no liability or obligation for such contracts, including but not limited to the obligation to discharge Programmer’s prepaid advertising contracts.

(c) Notwithstanding anything in this Section to the contrary, no expiration or termination of this Agreement or of the Purchase Agreement shall terminate the obligation of each party to indemnify the other for claims under Section 4 hereof or limit or

impair any party's rights to receive payments which have accrued hereunder on or before the date of such termination.

(d) Upon any termination of this Agreement other than upon the Closing of the purchase of the assets of the Station pursuant to the Purchase Agreement, Licensee shall have the right in its sole discretion to reemploy all of the employees of the Station who were not otherwise employed by Programmer prior to the Effective Date.

6.4 Remedies. In the event of a material breach of this Agreement by Programmer, Licensee shall, in addition to all other remedies available at law or in equity, be entitled to seek specific performance of this Agreement. In the event Licensee elects to seek specific performance of this Agreement and is awarded specific performance, Programmer shall also be obligated to pay Licensee's reasonable fees and expenses, including attorney's fees, incurred in enforcing this Agreement. In any such action, time shall be deemed of the essence.

## **SECTION 7. MISCELLANEOUS**

7.1 Benefit and Assignment. Licensee acknowledges that Programmer may assign this Agreement, after the date hereof but prior to Closing, to a subsidiary or affiliated entity that will ultimately own and operate the Station. Licensee consents to the assignment by Programmer of Programmer's rights and its obligations under this Agreement to said subsidiary or affiliated entity. Licensee and Programmer may not otherwise assign this Agreement without the prior written consent of the other party. This Agreement shall be binding upon and inure to the benefit of the parties and their respective successors and permitted assigns.

7.2 Call Letters. Upon request of Programmer, subject to the consent of the Licensee, which consent shall not be unreasonably withheld, Licensee shall apply to the FCC for authority to change the call letters of the Station (with the consent of the FCC) to such call letters that Programmer shall request. Licensee must coordinate with Programmer any proposed changes to the call letters of the Station before taking any action to change such letters.

7.3 Counterparts. This Agreement may be executed in one or more counterparts, each of which will be deemed an original but all of which together will constitute one and the same instrument. Copies of this Agreement that are signed and transmitted via facsimile or electronic mail shall be binding as originals.

7.4 Entire Agreement. This Agreement and the Attachment hereto, together with the Purchase Agreement between the parties dated as of the date first set forth above, embody the entire agreement and understanding of the parties relating to the operation of the Station. No amendment, waiver of compliance with any provision or condition hereof, or consent pursuant to this Agreement will be effective unless evidenced by an instrument in writing signed by the parties.

7.5 Taxes. Licensee and Programmer shall each pay its own ad valorem taxes, if any, which may be assessed on such party's respective personal property for the periods that such items are owned by such party.

7.6 Headings. The headings are for convenience only and will not control or affect the meaning or construction of the provisions of this Agreement.

7.7 Governing Law. The obligations of Licensee and Programmer are subject to applicable federal, state and local law, rules and regulations, including, but not limited to, the Act and the Rules and Regulations of the FCC. The construction and performance of the Agreement will be governed by the laws of the state of Nebraska without regard to its provisions governing conflicts of laws.

7.8 Notices. All notices, demands, and requests required or permitted to be given under the provisions of this Agreement shall be in writing, may be delivered by personal delivery, sent by commercial delivery service or certified mail, return receipt requested, or sent by e-mail (with, if available under e-mail options, a “delivery receipt” and a “read receipt” being requested), shall be deemed to have been given on the date of personal delivery, or the date set forth in the records of the delivery service, or on the return receipt, or on the date of the sender’s receipt of a “read receipt” from recipient, or sender’s confirmation by phone of recipient’s receipt. Any such notice, demand or request shall be addressed as follows:

(a) If to Licensee, to:

Chapin Enterprises, L.L.C.  
1248 O Street, Suite 751  
Lincoln, NE 68508  
Attn: Richard W. Chapin, Manager  
Telephone: 402-475-5285  
E-mail: dchapin@inetnebr.com

(with copies to)

Sparks Willson Borges Brandt & Johnson, P.C.  
24 South Weber Street, Suite 400  
Colorado Springs, CO 80903  
Attention: David Steigerwald  
Telephone: 719-634-5700  
E-mail: dps@sparkswillson.com

(b) If to Seller to:

Mission Nebraska, Inc.  
P.O. Box 30345  
Lincoln, NE 68503  
Attention: Stanley A. Parker  
Telephone: 402-770-4616  
E-mail: email@missionnebraska.org

(with copies to)

Shainis & Peltzman, Chartered  
1850 M Street, N.W., Suite 240  
Washington, DC 20036  
Attention: Lee Peltzman  
Telephone: 202-293-0011 ext. 102  
E-mail: lee@s-plaw.com

or to any other or additional persons and addresses as the parties may from time to time designate in a writing delivered in accordance with this Section 7.8.

7.9 Severability. If any provision of this Agreement or the application thereof to any person or circumstances shall be invalid or unenforceable to any extent, the remainder of this Agreement and the application of such provision to other persons or circumstances shall not be affected thereby and shall be enforced to the greatest extent permitted by law. In the event that the FCC alters or modifies its rules or policies in a fashion which would raise substantial and material question as to the validity of any provision of this Agreement, the parties hereto shall negotiate in good faith to revise any such provision of this Agreement with a view toward assuring compliance with all then existing FCC rules and policies which may be applicable, while attempting to preserve, as closely as possible, the intent of the parties as embodied in the provision of this Agreement which is to be so modified.

7.10 Force Majeure. Any failure or impairment of the Station's facilities or any delay or interruption in the broadcast of programs, or failure at any time to furnish facilities, in whole or in part, for broadcast, due to Acts of God, strikes, lockouts, material or labor restrictions by any governmental authority, civil riot, floods and any other cause not reasonably within the control of Licensee, or for power reductions necessitated for maintenance of the Station or for maintenance of other stations located on the tower from which the Station will be broadcasting, shall not constitute a breach of this Agreement and Licensee will not be liable to Programmer for reimbursement or reduction of the consideration owed to Licensee.

7.11 Certifications.

(a) Licensee hereby certifies that it maintains ultimate control over the Station's facilities, including specifically control over station finances, personnel and programming.

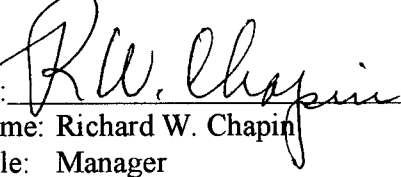
(b) Programmer hereby certifies that this Agreement complies with the provisions of 47 C.F.R. §73.3555.

[REST OF PAGE INTENTIONALLY LEFT BLANK – SIGNATURE PAGE FOLLOWS.]

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement as of the day and year first set forth above.

**“LICENSEE”**

CHAPIN ENTERPRISES, L.L.C.

By: \_\_\_\_\_  
Name: Richard W. Chapin  
Title: Manager

**“PROGRAMMER”**

MISSION NEBRASKA, INC.

By: \_\_\_\_\_  
Name: Stanley A. Parker  
Title: Co-Director

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement as of the day and year first set forth above.

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CHAPIN ENTERPRISES, L.L.C.

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

Name: Richard W. Chapin

Title: Manager

**"PROGRAMMER"**

MISSION NEBRASKA, INC.

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

Name: Stanley A. Parker

Title: Co-Director

## **SCHEDULE A**

During the term of this Agreement, Programmer shall pay the Licensee \$3,000 per month, or a *pro rata* amount for any partial month, payable in arrears no later than the 10th day of each month (the "Monthly Fee"). In addition to the Monthly Fee, Programmer shall pay or reimburse Licensee the following operating expenses incurred with respect to the operation of the Station under this Agreement: the cost of maintenance and minor repairs to transmission and studio equipment where said maintenance and repairs are equal to or less than \$500.00 per incident and where repair costs do not exceed the total amount of \$5,000.00 over the lifetime of this Agreement, with the exception of the replacement of transmitter tubes, which shall be paid by the Programmer. The cost of the replacement of the transmitter tubes shall not count toward the per incident and per lifetime totals. The Programmer may use the engineer of its choice. If Programmer requests the services of the Licensee's engineer, Programmer shall reimburse the Licensee at the rate of \$150/hour for engineer's services. Programmer shall not reimburse the Licensee for the services of Licensee's engineer that are requested by the Licensee. Licensee shall be responsible for the cost of equipment repairs that are over the amount stated previously and replacement of equipment if needed due to equipment failure, with the exception of the replacement of transmitter tubes, which is Programmer's responsibility. Replacement or repair of equipment which results from Programmer's negligence, or extraordinary wear and tear outside the ordinary course, shall also be Programmer's responsibility. As stated in this Agreement, Programmer shall also pay music license fees for its programming and telephone service and internet service at the Licensee's offices and studio facilities.



## ATTACHMENT I

### BROADCAST STATION PROGRAMMING POLICY STATEMENT

The following sets forth the policies generally applicable to the presentation of programming and advertising. All programming and advertising broadcast by each station must conform to these policies and to the provisions of the Communications Act of 1934, as amended (the “Act”), and the Rules and Regulations of the Federal Communications Commission (“FCC”).

#### Station Identification

The station must broadcast a station identification announcement once an hour as close to the hour as feasible in a natural break in the programming. The announcement must include (1) the station’s call letters, followed immediately by (2) the station’s city of license.

#### Broadcast of Telephone Conversations

Before recording a telephone conversation for broadcast or broadcasting such a conversation simultaneously with its occurrence, any party to the call must be informed that the call will be broadcast or will be recorded for later broadcast, and the party’s consent to such broadcast must be obtained. This requirement does not apply to calls initiated by the other party which are made in a context in which it is customary for the station to broadcast telephone calls.

#### Sponsorship Identification

When money, service, or other valuable consideration is either directly or indirectly paid or promised as part of an arrangement to transmit any programming, the station at the time of broadcast shall announce (1) that the matter is sponsored, either whole or in part; and (2) by whom or on whose behalf the matter is sponsored. Products or services furnished to the station in consideration for an identification of any person, product, service, trademark or brand name shall be identified in this manner.

In the case of any political or controversial issue broadcast for which any material or service is furnished as an inducement for its transmission, an announcement shall be made at the beginning and conclusion of the broadcast stating (1) the material or service that has been furnished; and (2) the person(s) or association(s) on whose behalf the programming is transmitted. However, if

the broadcast is 5 minutes duration or less, the required announcement need only be made either at its beginning or end.

Prior to any sponsored broadcast involving political matters or controversial issues, the station shall obtain a list of the chief executive officers, members of the executive committee or board of directors of the sponsoring organization and shall place this list in the station's public inspection file.

#### Payola/Plugola

The station, its personnel, or its programmers shall not accept or agree to accept from any person any money, service, or other valuable consideration for the broadcast of any matter unless such fact is disclosed to the station so that all required station identification announcements can be made. All persons responsible for station programming must, from time to time, execute such documents as may be required by station management to confirm their understanding of and compliance with the FCC's sponsorship identification requirements.

#### Rebroadcasts

The station shall not rebroadcast the signal of any other broadcast station without first obtaining such station's prior written consent to such rebroadcast.

#### Fairness

The station shall seek to afford coverage to contrasting viewpoints concerning controversial issues of public importance.

#### Personal Attacks

The station shall not air attacks upon the honesty, character, integrity or like personal qualities of any identified person or group. If such an attack should nonetheless occur during the presentation of views on a controversial issue of public importance, those responsible for programming shall submit a tape or transcript of the broadcast to station management and to the person attacked within 48 hours, and shall offer the person attacked a reasonable opportunity to respond.

#### Political Editorials

Unless specifically authorized by station management, the station shall not air any editorial which either endorses or opposes a legally qualified candidate for public office.

### Political Broadcasting

All “uses” of the station by legally qualified candidates for elective office shall be in accordance with the Act and the FCC’s Rules and policies, including without limitation, equal opportunities requirements, reasonable access requirements, lowest unit charge requirements and similar rules and regulations.

### Obscenity and Indecency

The station shall not broadcast any obscene material. Material is deemed to be obscene if the average person, applying contemporary community standards in the local community, would find that the material, taken as a whole, appeals to the prurient interest; depicts or describes in a patently offensive way sexual conduct specifically defined by applicable state law; and taken as a whole, lacks serious literary artistic, political or scientific value.

The station shall not broadcast any indecent material outside of the periods of time prescribed by the Commission. Material is deemed to be indecent if it includes language or material that, in context, depicts or describes, in terms patently offensive as measured by contemporary community standards for the broadcast medium, sexual or excretory activities or organs.

### Billing

No entity which sells advertising for airing on the station shall knowingly issue any bill, invoice or other document which contains false information concerning the amount charged or the broadcast of advertising which is the subject of the bill or invoice. No entity which sells advertising for airing on the station shall misrepresent the nature or content of aired advertising, or the quantity, time of day, or day on which such advertising was broadcast.

### Contests

Any contests conducted on the station shall be conducted substantially as announced or advertised. Advertisements or announcements concerning such contests shall fully and accurately disclose the contest’s material terms. No contest description shall be false, misleading or deceptive with respect to any material term.

### Hoaxes

The station shall not knowingly broadcast false information concerning a crime or catastrophe.

### Emergency Information

Any emergency information which is broadcast by the station shall be transmitted both aurally and visually or only visually.

### Advertising

Station shall comply with all federal, state and local laws concerning advertising, including without limitation, all laws concerning misleading advertising, and the advertising of alcoholic beverages.

### Programming Prohibitions.

Knowing broadcast of the following types of programs and announcements is prohibited:

False Claims. False or unwarranted claims for any product or service.

Unfair Limitation. Infringements of another advertiser's rights through plagiarism or unfair imitation of either program idea or copy, or any other unfair competition.

Commercial Disparagement. Any unfair disparagement of competitors or competitive goods.

Profanity. Any programs or announcements that are slanderous, obscene, profane, vulgar, repulsive or offensive, as evaluated by station management.

Violence. Any programs which are excessively violent.

Unauthenticated Testimonials. Any testimonials which cannot be authenticated.