

## TIME BROKERAGE AGREEMENT

This is a TIME BROKERAGE AGREEMENT ("Agreement") dated this 24<sup>th</sup> day of October, 2016, by and between KNAB Inc., a Colorado Corporation ("the Licensee"), licensee of Radio Broadcasting Station KNAB (AM), Burlington, Colorado, FCC Facility ID Number 35206 and KNAB-FM, Burlington, Colorado, FCC Facility ID Number 35205 (referred to herein as "the Stations"); and Burlington Radio LLC, a prospective purchaser of the Station ("Broker").

### RECITALS:

WHEREAS, the Licensee is contemplating entering into a Purchase and Sale Agreement for the sale of the assets of Licensee to Broker, and the parties would thereafter file one or more applications with the Federal Communications Commission (the "FCC" or "Commission") seeking the approval of an assignment of license of the Station; and

WHEREAS, once FCC approval is secured for the assignment of license of the Stations to the Broker and that FCC approval becomes final, the parties wish to terminate this Agreement; and

WHEREAS, Broker desires to produce radio programs in conformity with this Agreement and all rules, regulations and policies of the FCC and to air those programs on the Station; and

WHEREAS, the Licensee has broadcast time available on the Station for use by Broker; and

WHEREAS, Broker desires to avail itself of such broadcast time and provide certain programs for broadcast on the Station in conformity with the terms of this Agreement; and

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

**1. LICENSEE'S TRANSMISSION FACILITIES.** Licensee agrees to make its broadcast transmission facilities available to Broker and to broadcast over the Station certain Programs of Broker which are to originate from the Station or from other appropriate facilities. Any costs attendant to transmitting programming to the Licensee's studios for broadcast will be that of Broker and as set forth herein. The Programs are described in **Appendix 1**, which is attached to and made a part of this Agreement. Any changes in the schedule of regular Programs must be provided by Broker to the Licensee at least twenty-four (24) hours in advance.

### **2. TIMES AND RATES.**

(a) The times and charges for the airtime for the Programs to be broadcast are fully set forth in **Appendix 2**, attached to this Agreement, and are subject to change by mutual consent of the parties. Broker agrees to pay Licensee for the broadcast of the Programs certain reimbursement for expenses in the amounts specified in **Appendix 2** on a monthly basis. The Payments are due and payable in full on the first day of each broadcast month. The failure of the Licensee to demand or insist upon prompt payment in accordance with this Agreement will not constitute a waiver of its right to do so.

(b) Broker shall be entitled to a credit against or partial refund of payments made to the Licensee pursuant to this Agreement under the conditions set forth and described in **Appendix 2**.

**3. TERM.** The term of this Agreement shall commence October 1, 2016, and, unless sooner terminated in accordance with the terms hereof, shall continue for an initial term of twelve (12) months. This Agreement is subject to renewal thereafter by mutual agreement of the parties.

#### **4. PROGRAMMING AND PROGRAMMING STANDARDS.**

(a) Broker will furnish the artistic personnel and all materials for the Programs provided for by this Agreement. All Programs will be delivered to or prepared at Station's studios or other studios as Licensee and Broker may agree, suitable for broadcast in a manner satisfactory to the Licensee. Upon licensee's request, at least twenty-four (24) hours before the broadcast of such Programs, Broker will provide the Licensee with complete copies of the commercial, informational, or public service continuity and the script or type of musical selections to be performed during the following twenty-four (24) hours.

(b) All Programs supplied by Broker shall be prepared, written and broadcast in conformity with the regulations and restrictions set forth in **Appendix 3 ("Regulations and Restrictions")** attached to this Agreement. Broker acknowledges **Appendix 3** to be an integral part of this Agreement, and agrees to abide by the standards set forth in that Appendix in its programming and operations. The Licensee reserves the right to refuse to broadcast, suspend or cancel any Programs which do not, in the Licensee's sole discretion, determined in good faith, maintain a quality consistent with its public interest obligation, and its policies and standards. If, in addition, the continuity, script or musical selections furnished by Broker fail to conform to the regulations and restrictions set forth in **Appendix 3**, the Licensee shall have the right, without prejudice to any other rights it may also have, to (1) furnish or substitute continuity, script or musical selections prepared by the Licensee, or (2) edit the continuity, script or musical selections as furnished or (3) refuse to furnish transmission facilities to Broker. In all such cases, however, the Licensee will use its best efforts and due diligence to notify Broker of any changes or substitutions in advance of the broadcast.

(c) In order for the Licensee to remain in compliance with the Rules and regulations of the FCC, there shall be no restrictions placed upon the Licensee's editorial discretion to present controversial community issue-oriented programming, special events programming, or emergency programming. As a courtesy to Broker, the Licensee will use its best efforts and due diligence to notify Broker of any controversial, special or emergency programming that Broker may deem incompatible with Broker's entertainment programming format. However, Broker has no right to place any present or future restrictions upon Licensee's discretion to broadcast such programming.

#### **5. RIGHTS TO SELL AND TO RETAIN REVENUES.**

Subject to the Licensee's right to review, reject, and/or preempt Broker's programming, Broker shall have the exclusive right to sell advertising time for the program time purchased from the Licensee pursuant to this Agreement. Broker shall be entitled to keep as its sole and exclusive property all monies, revenues (including, but not limited to, advertising revenues), profits, royalties, fees, trades and other consideration arising from the broadcast time that Broker purchases.

## **6. OPERATION OF STATION.**

### **(a) Management Authority and Control.**

Notwithstanding anything to the contrary in this Agreement, the Licensee shall have full authority and power over the operation of the Station during the period of this Agreement. The Licensee shall provide and pay for the General Manager for the Station, who shall report solely to and be accountable solely to the Licensee, and who shall direct the day-to-day operation of the Station. The Licensee shall retain control, said control to be reasonably exercised, over the policies, programming and operations of Station, including, without limitation, the right to decide whether to accept or reject any programming or advertisements, the right to preempt any Program in order to broadcast a program deemed by the Licensee to be of greater national, regional, or local interest, and the right to take any other actions necessary for compliance with the laws of the United States, the State of Colorado, and the rules, regulations, and policies of the Federal Communications Commission ("FCC"), including Section 310(d) of the Communications Act of 1934, as amended. The parties mutually agree that this Agreement will, at all times, be subject to the rules, regulations and policies of the FCC and that neither will take any action which would be inconsistent with such rules, regulations and policies. If any provision of this Agreement, or any Appendix or attachment to it, is deemed to be in violation of any present or future FCC rules, regulations and policies, the parties agree to mutually cooperate in modifying this Agreement in such manner as is necessary to effect compliance.

### **(b) Coordination of Technical Operation.**

(i) Broker will advise the Licensee of the name, telephone number and address of the representative(s) of Broker who will be responsible for the day-to-day activities of Broker at the Broadcast Facilities, and who will be available to discuss with the General Manager of the Licensee all matters pertaining to the physical condition of, and technical matters concerning, the Broadcast.

(ii) Broker will give the Licensee immediate telephone Notice, followed by written confirmation, of any operating deficiency regarding the Station as soon as practical after Broker has actual knowledge thereof. Likewise, the Licensee will give Broker immediate telephone notice, followed by written confirmation, of any operating deficiency regarding the Station after the Licensee has actual knowledge thereof.

**(c) Handling of Mail.** The Licensee shall not be required to receive or handle mail, cables, telegraph or telephone calls in connection with the Programs broadcast under the terms of this Agreement. The receiving and handling will be at the sole risk and responsibility of Broker. If any of the Programs are used to solicit listeners to order merchandise, and if any person so solicited complains to the Licensee concerning the quality or failure to receive merchandise ordered pursuant to solicitation on the Programs covered, Broker will, within ten (10) days after notification from the Licensee, refund to such person the purchase price of such merchandise whether or not Broker or Broker's agent has a record of actually having received an order from such person. Upon failure of Broker or Broker's agent to make such refund, the Licensee may make such refund and Broker will reimburse the Licensee within ten (10) days.

## **7. PROGRAMMING RESPONSIBILITIES OF THE LICENSEE.**

**(a) Community Issue Programming.** It is understood and agreed that the Licensee has certain public interest obligations and responsibilities to broadcast programming which covers issues of public importance to the local community. The Licensee will ascertain local issues to

be addressed on the Station and will prepare the periodic listings of local needs and issues required by the FCC, and to the extent necessary, Broker will cooperate with and assist the Licensee in preparing and/or airing the responsive programs. The parties intend that the Licensee will use a substantial portion of the air time so reserved to it to satisfy its programming obligations. From time to time, the Licensee shall air specific programming on issues of importance to the local community. Further, the Licensee will prepare a list of the local community issues which will be covered by the Station in each calendar quarter during the term of the Agreement. The Licensee will also prepare an Issues/Programming Report listing the local issues that were addressed by the Station during each calendar quarter together with other detailed information regarding the same, and will file the Issues/Programming Report in the Station's respective Public files on a timely basis. Nothing in this Agreement shall abrogate the unrestricted authority of the Licensee to discharge its obligations to the public and to comply with the law, and rules and policies of the FCC.

**(b) Station Identification and Public Service Announcements.** The Licensee shall coordinate with Broker the Station's hourly station identification announcements to be aired in accord with FCC rules. Broker agrees to broadcast an appropriate number of public service announcements (PSA's) per week. Broker and the Licensee shall consult as necessary as to the selection and broadcast of such PSA'S, subject to the final authority of the Licensee.

**(c) Special Events Programming.** The Licensee reserves the right in its discretion, and without liability, to preempt one or more of the Programs referred to, and to such part of the time contracted for in this Agreement by Broker, as the Licensee, in its sole discretion, deems necessary for the broadcast of special events of local, regional or national importance. In all such cases, the Licensee will use its best efforts to give Broker reasonable notice of its intention to preempt such broadcast or broadcasts, and, in the event of such preemption, Broker shall receive a payment credit for the broadcast or broadcasts so omitted, as provided in **Appendix 2**, unless made at some substituted time which is mutually satisfactory to the parties. Should the Licensee determine, in its sole discretion, that a specific program should be broadcast by the Station, or any of them, during the hours made available to Broker on a regularly scheduled basis, the Licensee will have the right to do so upon giving reasonable Notice to Broker.

**(d) Emergency Programming.** The Licensee also retains the right to interrupt Broker's programming at any time, in case of an emergency, although both parties shall cooperate in the broadcast of emergency information over the Station. Broker agrees that the Licensee, in its discretion, may preempt broadcast time purchased by Broker and cause the Station to air certain programs in advancing the Station's public interest responsibilities, and may require Broker's reasonable assistance in the production of those programs. Broker agrees to provide all reasonable assistance in both the production and broadcast of such programs.

## **8. RESPONSIBILITY FOR EMPLOYEES AND EXPENSES.**

**(i) Program Production Costs, Licenses and Fees.** Broker shall be solely responsible for the salaries, payroll taxes, insurance, and related costs for all personnel used by Broker in the production of its programming and advertising sales, and for any publicity or promotional expenses incurred by Broker. Broker will bear the cost of telephone charges associated with program production and listener response, for all fees to ASCAP, BMI, SESAC, and for any other copyright fees attributable to programming broadcast on the station pursuant to this Agreement, including fees charged by any programming provider, network or syndicator.

**(ii) Program Transmission Costs.** Broker shall be solely responsible for any expenses incurred in the origination and/or delivery of programming from any remote location and the Main Studio(s) of the Station. However, Licensee shall be responsible for electric power at the Station's transmitter site(s), routine maintenance of the Station's transmitter and antenna, including replacement tubes and spare parts.

**(iii) Taxes Attributable to Broker's Operations.** Broker covenants, warrants and agrees that all taxes (of whatever nature, including but not limited to, federal and local, income, excise, sales, use or withholding taxes) which heretofore have been or hereafter may be imposed upon any sales solicited on the broadcasts shall be paid by Broker and Broker shall at all times indemnify and hold the Licensee harmless from and against any or all claims arising out of any failure of Broker or Broker's agent to pay such taxes. For the purposes of this agreement, any advertiser or entity which is solicited by Broker or representative of Broker for any Program, or participation in any Program, shall be deemed to be Broker's agent.

**(iv) Other Business and Incidental Expenses.** Licensee covenants, warrants and agrees that all rent and other expenses for the Station's transmitter site, all casualty and general liability insurance with respect to the Station's transmitter site, shall be its responsibility.

**(v) Other Management and Operating Costs.** The Licensee will provide, and be responsible for, at least the minimum Station personnel necessary to supervise the operation of the Station in accordance with FCC rules, and shall be responsible for the salaries, taxes, and related costs for such Station's personnel. Whenever on the Station's premises, all personnel, whether that of the Licensee or of Broker, will be subject to the supervision of the Licensee.

**(vi) Main Studio and Public Inspection File.** The Licensee shall continue, at its expense, to maintain its Main Studios within the Station's principal community contour, and also maintain its local Public Inspection File at that site, or such other location permitted by FCC Rules.

**9. FORCE MAJEURE.** Any failure or impairment of facilities or any delay or interruption in Broadcasting Programs, or failure at any time to furnish facilities, in whole or in part, for broadcasting, due to acts of God, strikes or threats thereof or force majeure, or due to causes beyond the control of the Licensee, shall not constitute a breach of this Agreement and the Licensee will not be liable to Broker, except to the extent of allowing in each such case a pro rata payment credit for such time or broadcasts at the rates indicated in **Appendix 2**.

**10. COMPLIANCE WITH LAW.** Broker agrees that, throughout the term of this Agreement, Broker will comply with all laws and regulations applicable in the conduct of the Licensee's business and Broker acknowledges that the Licensee has not urged, counseled, or advised the use of any unfair business practice.

**11. THE LICENSEE'S RIGHT TO MONITOR AND INSPECT THE OPERATIONS AND RECORDS OF BROKER.** The Licensee shall have, under this Agreement, at all reasonable times, and upon twenty-four (24) hours advance request to Broker:

(a) The right to inspect any remote broadcast studios and related facilities used by Broker to prepare, produce, originate and transmit its programming to the Main Studio(s) and broadcast transmitter(s) of Station;

(b) The right to monitor and to review, prior to broadcast all commercial continuity, scripts, informational and other non-entertainment programming originating with, or under the aegis and control of, Broker;

(c) The right to inspect the rate cards, promotional materials, books of accounts, both receivable and payable, and all other financial records and statements of Broker pertaining to Broker's use of the broadcast time and facilities of Station, and Broker's resale of time on Station;

(d) The right to inspect and review all contracts or requests for broadcast time for political advertising, issue-oriented advertising, or other sponsored non-entertainment programming. Except as may be required, under FCC, or other federal, state or local laws and regulations to disclose such information, the Licensee, its employees and agents, shall keep all information provided by Broker to it in confidence, and shall not reveal nor disclose such information to any other person, except as may be required by law, or under any Licensee Agreement with a network, program syndicator, or music licensing organization.

## **12. INDEMNIFICATION.**

**(a) By Broker.** Broker will indemnify and hold and save the Licensee harmless against all liability for libel, slander, illegal competition or trade practice, infringement of trade marks, trade names, or program titles, violation of rights or privacy, infringement of copyrights and proprietary rights, FCC forfeitures, or from any liability (including reasonable legal fees and other expenses incidental thereto) resulting from the programming furnished by Broker which is actually aired on the Station, or any of them. Further, Broker warrants that the broadcast of the Programs will not violate any rights of others, and Broker agrees to hold harmless the Licensee, the Station, and their officers, directors, agents, stockholders, employees and assigns, from any and all claims, damages, liability, costs and expenses, including counsel fees (at trial and on appeal), arising, directly or indirectly, from the production and broadcast of the Programs. The Licensee reserves the right to refuse to broadcast any Program containing matter which is, or in the reasonable opinion of the Licensee may be, or which a third party claims to be, violative of any right of theirs or which may constitute a personal attack as the term is defined by the FCC. Broker's obligation to hold the Licensee harmless against the liabilities specified above shall survive any termination of this Agreement.

**(b) By the Licensee.** The Licensee shall indemnify and hold and save harmless Broker, its officers, directors, agents, stockholders, employees and assigns, from and against any and all claims, losses, costs, liabilities, damages, FCC forfeitures and expenses (including reasonable legal fees and other expenses incidental thereto, at trial and on appeal) of every kind, nature and description, arising out of Licensee's broadcasts, or the operation of the Station, and each of them, by Licensee prior to or after the term of this Agreement, and arising out of the operation of the Station during the term of this Agreement, other than as otherwise specified herein, to the fullest extent permitted by law. Licensee's obligation to hold the Broker harmless against the liabilities specified above shall survive any termination of this Agreement.

(c) As a condition precedent to the indemnity obligation of any party hereto, the party requesting indemnification ("Indemnitee") shall give the other party ("Indemnitor") notice of any such claim for indemnity within ten (10) days after Indemnitee has knowledge or notice thereof, and the Indemnitee must cooperate and assist the Indemnitor in the defense of such claim and shall not settle, adjust, compromise, interfere with or otherwise admit or pay such claim without the prior written consent of the Indemnitor.

(d) The obligations of the parties set forth in this Paragraph shall survive the termination of the term of this Agreement and continue to be binding obligations upon the parties hereto.

**13. EVENTS OF DEFAULT.** The following shall, after the expiration of the applicable cure period, constitute Events of Default under this Agreement:

(a) **Non-Payment.** Broker's failure to timely pay the consideration due to the Licensee provided for by this Agreement, as and when due and payable; or

(b) **Default in Covenants.** Broker's default in the material observance or performance of any material covenant, condition, or agreement contained in this Agreement; or

(c) **Violation of the Licensee's Programming Standards.** If Broker's failure to conform its programming substantially in compliance with the regulations and restrictions of the Licensee, as set forth in **Appendix 3** attached hereto, or of the Rules, Regulations and Policies of the FCC; or

(d) **Breach of Warranties and Representations.** If any material representation or warranty made by Broker in this Agreement, or in any certificate or document furnished to the Licensee pursuant to its provisions, shall prove to have been false or misleading in any material respect as of the time made or furnished; or

(e) **Insolvency, Bankruptcy, Liquidation.** If Broker shall become insolvent or unable to pay for its debts as they mature, or shall file a voluntary petition in bankruptcy or a voluntary petition seeking reorganization or to effect a plan or other arrangement with creditors, or shall file an Answer admitting to the jurisdiction of any Bankruptcy Court or other sovereign, and the material allegations of an involuntary petition, pursuant to any act of Congress relating the bankruptcy or any act purporting to be amendatory thereof, or shall be adjudicated bankrupt, or shall make an assignment for the benefit of creditors or to an agent authorized to liquidate any substantial amount of its assets, or shall apply for or consent to or suffer the appointment of any receiver or trustee for it or a substantial part of its property or assets; then, subject to the cure rights of Broker set forth immediately below, the Licensee shall have the right to terminate the term of this Agreement upon notice thereof to Broker and in such event, (i) the Licensee shall be under no further obligation to make available to Broker any further broadcast time or facilities, and (ii) all amounts due and payable to the Licensee (which have not been paid) shall be paid.

**14. CURE PERIODS.** Notwithstanding anything apparently to the contrary herein, before Broker is in default of Paragraph 13(a) of this Agreement and before the Licensee shall have the right to terminate the term of this Agreement:

(a) Broker shall have ten (10) business days from its receipt of Notice of delinquent payment from the Licensee (which Notice shall state the amounts due and payable under this Agreement that are past due and delinquent) to cure such non-payment and pay the amounts set forth in the Notice before the Licensee declares Broker in default and terminates the term of the Agreement; and/or

(b) If a default occurs under the provisions of Paragraph 13(b) of this Agreement, Broker shall have thirty (30) days after Notice of such default by the Licensee. If a default occurs under Paragraphs 13(b) or 13(d) above, and Broker uses good faith and due diligence to cure such default but because of reasons beyond its reasonable control Broker cannot cure such default within thirty (30) days, the Licensee shall not terminate the term of the Agreement, and Broker shall have a reasonable period of time to cure such default provided Broker continues in good faith and due diligence to cure such default.

**15. TERMINATION UPON DEFAULT.** In the event of the occurrence of an Event of Default, (i) the Licensee shall be under no further obligation to make available to Broker any further broadcast time or broadcast transmission facilities, and (ii) all amounts accrued or payable to the Licensee up to the date of termination which have not been paid shall immediately become due and payable.

**16. TERMINATION OF AGREEMENT OTHER THAN BY DEFAULT.** This Agreement may be terminated by either party, after ten (10) days written Notice to the other, upon the occurrence of one or more of the following events or conditions:

(a) As provided in Paragraph 6(a) herein, or if the Federal Communications Commission otherwise adopts a final Rule or Order which has the effect of rendering the substantial operating provisions of this Agreement contrary to the public interest, convenience and necessity pursuant to such Rule or Order; or

(b) The Station ceases regular broadcast operations and remains off the air for a period exceeding fourteen (14) days, provided, that the party giving Notice of Termination is without fault in connection with such suspension of broadcast operations, or otherwise in breach of this Agreement; and provided further, that Station operations are not resumed within such ten (10) day Notice period; or

(c) A court of competent jurisdiction in the State of Colorado declares this Agreement to be null and void, and of no further effect; or

(d) The Application for assignment of the Station License to Broker by Licensee is subject to challenge and/or is designated for hearing by the FCC or is denied or dismissed; or if the FCC institutes a License revocation proceeding against the Licensee and Station; or

(e) There is a closing on the acquisition of the Station by Broker pursuant to FCC authority in accordance with an Asset Purchase Agreement contemplated by the parties hereto; or

(f) Upon termination of any Asset Purchase Agreement entered into by the parties hereto providing for the acquisition of the Station by the Broker.

**17. LIABILITIES UPON TERMINATION OF THIS AGREEMENT.** Upon the termination of this Agreement, whether by operation of default, expiration, or otherwise:

(a) Broker shall be responsible for all liabilities, debts and obligations of Broker accrued from the purchase of air time and transmission facilities including, without limitation, accounts payable, barter agreements, and unaired advertisements; but not the Licensee's Federal, State and local tax liabilities associated with Broker's payment to the Licensee as provided for by this



Agreement. With respect to Broker's obligations for consideration in the form of air time for which Broker has received prepayment, Broker may propose compensation to the Licensee for meeting these obligations, but the Licensee shall be under no duty to accept such compensation or to perform such obligations.

(b) Any unfulfilled obligations of Broker to provide time or advertising on a trade or barter basis shall remain Broker's responsibility unless the Licensee shall assume the same pursuant to separate agreements between Broker and the Licensee. Broker shall, in any event, indemnify and hold the Licensee harmless of and from all of Broker's liabilities not assumed by the Licensee as provided above, including any and all of the aforementioned contracts that Broker terminates which are not expressly assumed in writing by the Licensee. The obligation of Broker to indemnify the Licensee pursuant to the preceding sentence shall survive the termination of the term of this Agreement and continue to be the legally binding obligation of Broker.

(c) Upon termination of this Agreement either upon default or upon occurrence of allowed condition as provided herein, Broker shall promptly provide the Licensee with a list of all contracts, accounts, barter arrangements, and other obligations of Broker to provide air time on Station for the promotion or benefit of a sponsor or other third party (the "Unperformed Obligations"). The Licensee shall, within ten (10) business days thereafter, advise Broker which of the Unperformed Obligations the Licensee will assume. Broker shall be entitled to a commission of twenty percent (20%), payable upon collection by the Licensee, for each account or contract of the Unperformed Obligations agreed to be assumed and performed by the Licensee, to the extent that such assumed Unperformed Obligations have not been prepaid.

**18. AUTHORITY AND CAPACITY.** Both the Licensee and Broker represent that they are legally qualified, empowered, and able to enter into this Agreement, and, to the extent necessary, have full authorization from their governing boards.

**19. ASSIGNMENT.** Neither party may assign its rights or obligations to a third party without the express written consent of the other party, except that, notwithstanding the foregoing, Broker has the right to assign as collateral its rights and obligations under this Agreement to an institutional lender or other party providing credit or financing to such party. The party making such an assignment shall provide Notice of same as provided in Paragraph 28, herein.

**20. STOCK PURCHASE AGREEMENT.** Notwithstanding any other provision hereinabove, during the term of this Agreement the parties may enter into a Purchase and Sale Agreement proposing assignment of the license and sale of the stock of the Station from Licensee to Broker. The parties recognize that any such assignment is subject to the prior approval of the FCC. If a Purchase and Sale Agreement is entered into by the parties during the term of this Agreement, that document shall determine when to file the formal FCC application seeking consent to such transfer of control .

**21. ANCILLARY BROADCAST RIGHTS.** In the event the Licensee obtains any digital or other ancillary broadcasting rights as a result of its ownership of the Station, Broker will be entitled (at no additional charge) to take advantage of all revenue potential and technical improvements associated with such rights. During the term of this Agreement, the Broker shall maintain the exclusive right to utilize and sell the Station's subcarrier frequencies, and the Broker shall be entitled to keep as its sole and exclusive property all monies, revenues, profits, royalties, fees, trades or other consideration arising from the Station's subcarrier frequency operations.

**22. NO WAIVER; REMEDIES CUMULATIVE.** No failure or delay on the part of the Licensee or Broker in exercising any right or power under this Agreement will operate as a waiver of that right or power; nor shall any single or partial exercise of any such right of 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 of power. The rights and remedies of the Licensee and Broker provided in this Agreement are cumulative and are not exclusive of any right or remedies which either may otherwise have.

**23. INTERPRETATION.** This Agreement shall be construed in accordance with the laws of the State of Colorado, and the obligations of the Licensee under this Agreement are subject to the terms of the licenses held by the Licensee and to all federal, state or municipal laws or regulations now or hereafter in force and to the regulations of the FCC and all other Commissions, governmental bodies or authorities presently existing or later constituted.

**24. APPENDICES.** All appendices and attachments referred to in this Agreement are deemed part of this Agreement and equally binding on the parties.

**25. HEADINGS.** The headings of the provisions for this Agreement are included for convenience only, and no such heading shall in any way alter the meaning of any provision.

**26. SUCCESSORS AND ASSIGNS.** This Agreement shall be binding upon and inure to the benefit of the Licensee, Broker, and their respective successors and assigns.

**27. COUNTERPART SIGNATURES.** This Agreement may be signed in one or more counterparts, each of which will be deemed a duplicate original but all of which, together will constitute one and the same instrument and binding on the parties, notwithstanding that the parties are not signatory to the original or the same counterpart. This Agreement will be effective as of the date on which the executed counterparts are exchanged by the parties.

**28. NOTICES.** (a) Any notice required under this Agreement shall be in writing and any payment, notice or other communications shall be deemed given when delivered personally, by overnight delivery service or mailed by certified mail, postage prepaid, with return receipt requested, and addressed as follows:

If to the Licensee:     KNAB Inc.  
                              PO Box 516  
                              Burlington, CO 80807  
                              Attention: Dan Slinger, General Manager

If to Broker to:        Burlington Radio LLC  
                              P.O. Box 917  
                              Fort Morgan, CO 80701  
                              Attention: Alec Creighton, Managing Member

With a copy to:        \_\_\_\_\_

(b) Notice, as provided by this Paragraph, shall be given to any other person or party, as any present party may in the future designate in writing, upon due notice to the other. The postal receipt for deposit with the U.S. Mail or Overnight Courier service specified shall establish the

date of such notification or communication; provided, however, that Notice may also be provided by E-Mail, facsimile or telecopier where receipt of the same is verified by immediate telephone voice confirmation. If any notification, communication or action is required or permitted to be given or taken within a certain period of time and the last date for doing so falls on a Saturday, Sunday, a federal legal holiday or legal holiday by law in the State of Colorado, the last day for such notification, communication or action shall be extended to the first (1st) date thereafter which is not a Saturday, Sunday or legal holiday.

**29. ENTIRE AGREEMENT.** This Agreement embodies the entire understanding between the parties and there are no other agreements, representations, warranties, or understandings, oral or written, between them with respect to the subject matter of this Agreement. No alteration, modification or change of this Agreement shall be valid unless by like instrument.

**30. SEVERABILITY.** If any provision contained in this Agreement is held to be invalid, illegal or unenforceable, this shall not affect any other provision, and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had not been contained in this Agreement.

**31. FCC PREEMPTION.** The term of this Agreement shall terminate if the FCC adopts and enacts any rule or regulation, or issues any final order, decision or decree, which dictates that the transactions contemplated by this Agreement constitute a violation under applicable Federal statutes, or the rules and regulations of the FCC.

**32. COMPLIANCE COSTS.** If any suit be instituted to compel compliance with the provisions of this Agreement and/or to recover damages for the breach thereof, the prevailing party shall be entitled, in addition to any other remedies, to reimbursement of all reasonable litigation expenses, including reasonable attorneys' fees.

**[SIGNATURE PAGE FOLLOWS]**

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

**KNAB Inc. "Licensee"**

By:   
Dan Slinger, General Manager

**Burlington Radio, LLC. "Broker"**

By:   
Alec Creighton, Managing Member

## **Appendix 1**

### **DESCRIPTION OF PROGRAMS**

1. The Broker will provide music programming and non-entertainment programming in accordance with the format previously established by Licensee.
2. In addition, subject to the Licensee's review and approval, Broker will provide programming dealing with local, regional and national news, promotions (which include on-air giveaways) and contests.
3. Broker will have the right to change the Programs by giving the Licensee at least 24 hours' written notice, before such change and to change its format by also providing such Notice so long as the format is consistent with the practices and policies established by the Licensee.

## **Appendix 2**

### **BROADCAST TIMES AND CHARGES**

**1. Broadcast Time Made Available to Broker by the Licensee on Radio Stations KNAB (AM) and KNAB-FM:** Daily, 24 hours, commencing October 1, 2016, except during maintenance, emergency or during times of special interest (as set forth in the Time Brokerage Agreement), except as follows:

(a) Such time as is required to broadcast an appropriate number of public service announcements ("PSA's) per week, to be determined by Broker.

(b) Emergency broadcasts or other preempted programming deemed by the Licensee in its good faith discretion, to be in the public interest.

(c) Preempted or substituted programming, where, in the judgment of the Licensee, such programming would be more suitable and consistent with the programming rules, regulations and policies of the Station and/or the FCC.

(d) Programming supplied by the Licensee, as otherwise provided by the Time Brokerage Agreement.

**2. Fees, and Assumed and Reimbursed Costs:**

(a) Reimbursement of actual, reasonable and prudent expenses in station operation, each month during the term of this Agreement, payable in full within thirty (30) days after receipt by Broker of documentation of actual expenses for each broadcast month, to be prorated on a daily basis in the event of termination of this Agreement prior to the end of any month, or pro rata refunds for lost or preempted programming time, as set forth herein.

(b) **Renewal of Agreement.** After the initial term of this Agreement, this Time Brokerage Agreement is subject to renewal by mutual agreement of the parties, at a rate to be determined during renewal negotiations.

(d) Broker will maintain casualty and liability insurance, including broadcast errors and omissions insurance, in amounts comparable to standard industry practice, and naming the Licensee as an additional loss payee.

(e) Broker will be responsible for all programming and production costs, including program suppliers fees, music licensing fees, salaries, payroll and unemployment taxes for Broker's employees, merchandise, supplies, draws and commissions.

(f) Other costs or reimbursements as provided in the Time Brokerage Agreement.

### **3. Refunds and Payments Credits.**

(a) Provided Broker is not in breach of this Agreement, Broker shall be entitled to a credit against the next month's regular reimbursement payment due to the Licensee, or, in the event of termination as provided for in the Agreement, a partial, pro rata refund of the past month's regular expense reimbursement payment, for all broadcast time utilized by the Licensee, or otherwise not made available to Broker, as follows:

(i) Where the Licensee preempts the programming for Emergency Broadcasts, as provided for in the Agreement; or

(ii) Where the Licensee substitutes its own programming for Broker's scheduled programming, where, in the judgment of the Licensee, such programming would be more suitable and consistent with the programming rules, regulations and policies of the Station and/or the FCC.

(iii) Where, due to unscheduled maintenance, Acts of God or other force majeure, the Station has suspended normal broadcast operations, during times when Broker otherwise has a right, under this Agreement, to use of the Licensee's broadcast time.

(b) No payment credit or refund shall be due to Broker:

(i) For broadcast time reserved by the Licensee to meet its community service programming obligations, as set forth above; or

(ii) For time made available to broadcast public service announcements (PSA's); or

(iii) For time made available to broadcast any and all announcements and programs required to be broadcast under FCC Rules, Regulations and Policies, including, but not limited to, Station Identification, Sponsorship Identification, Responses to Station Political Editorials, Responses to Personal Attacks, and equal broadcast opportunities under the Commission's political broadcast rules and the Communications Act; or

(iv) For time not made available to Broker, after the Licensee has provided Broker with a Notice of Termination or Default, as provided in the Agreement.



### **Appendix 3**

#### **Regulations & Restrictions**

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Broker agrees to cooperate with the Licensee in the broadcasting of programs of the highest possible standard of excellence and for this purpose to observe the following regulations in the preparation, writing and broadcasting of its programs.

**I. CONTROVERSIAL ISSUES.** Any discussion of controversial issues of public importance shall be reasonably balanced with the presentation of contrasting viewpoints in the course of overall programming; no attacks on the honesty, integrity, or like personal qualities of any person or group or persons shall be made during the discussion of controversial issues or public importance; and during the course of political campaigns, programs are not to be used as a forum for editorializing about individual candidates. If such events occur, the Licensee may require that responsive programming be aired.

**II. NO PLUGOLA OR PAYOLA.** The following business activities or "plugs", relating to the payment, acceptance of payment, agreement to pay or agreement to accept payment of money or other consideration is prohibited: (a) taking money, gifts or other compensation from any person for the purpose of playing any record or records on the air; (b) taking money, gifts or other compensation from any person for the purpose of refraining from playing any record or records on the air; (c) taking money, gifts or other compensation from any person for the purpose of promoting any business, charity or other venture without first informing the Station's General Manager, and (d) promoting any business venture which is unconnected with Radio Station KSIK on the air without first informing the General Manager.

**III. ELECTION PROCEDURES.** At least ninety (90) days before the start of any primary or regular election campaign, Broker will clear with the Station's General Manager the rate Broker will charge for the time to be sold to candidates for the public office and/or their supporters to make certain that the rate charged is in conformance with the applicable law and station policy.

**IV. PROGRAMMING PROHIBITIONS.** Broker shall not broadcast any of the following programs or announcements:

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

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

C. **Commercial Disparagement.** Any disparagement of competitors or competitive goods.

D. **Indecency.** Any programs or announcements that are slanderous, obscene, profane, vulgar, repulsive or offensive, either in theme or in treatment.

E. **Price Disclosures.** Any price mentions except as permitted by the Licensee's policies current at the time.

F. **Unauthenticated Testimonials.** Any testimonials which cannot be authenticated.

G. **Descriptions of Bodily Functions.** Any continuity which describes, in a patently offensive manner, internal bodily functions or symptomatic results of internal disturbances, or reference to matters which are not considered acceptable topics in social groups.

H. **Conflict Advertising.** Any advertising matter or announcement which may, in the opinion of the Licensee, be injurious or prejudicial to the interests of the public, the Station, or honest advertising and reputable business in general.

V. **No Lotteries.** Announcements giving any information about lotteries or games prohibited by federal or state law or regulation are prohibited. This prohibition includes announcements with respect to bingo parties and the like which are to be held by a local church, unless expressly permitted by State law.

VI. **No "DREAM BOOKS."** References to "dream books," the "straight line", or other direct or indirect descriptions or solicitations relative to the illegal numbers lottery, "numbers game," or the "policy game," or any other form of gambling are prohibited.

VII. **NO NUMBERS GAMES.** References to chapter and verse numbers, paragraph numbers, or song numbers which involve three digits should be avoided and, when used, must be related to the overall theme of the program.

VIII. **NO CASINO GAMBLING.** The broadcast of information which promotes the patronizing of gambling casinos is prohibited unless permitted by State and Federal law.

IX. **NO INDIAN BANKING CARD GAMES.** The mention of Indian banking card games such as baccarat, chemin de fer, and blackjack, as well as electronic or electro-mechanical facsimiles of any game of chance or slot

machines, casino gambling, craps, roulette and betting parlors is prohibited unless permitted by State and Federal law.

**X. NO OFF-RESERVATION INDIAN RAFFLES.** The mention of any Indian gaming, such as rate, conducted off Indian lands, is prohibited unless permitted by State and Federal law.

**XI. COMMERCIAL LIMITATIONS.** With respect to any given segment of air time leased hereunder, the amount of commercial matter shall not exceed 20 minutes during any sixty-minute segment. Broker will provide, for attachment to the station logs, a list of all commercial announcements for its programming.

**XII. REQUIRED ANNOUNCEMENTS.** Broker shall broadcast (i) announcements in a form satisfactory to the Licensee at the beginning of each hour to identify each of the Station; (ii) an announcement at least twice a day, or at the beginning and end of each of Broker's programming days if such programming day does not extend for a continuous 24-hour period, to indicate that program time has been purchased by Broker, and (iii) any other announcements that may be required by law, regulation, or Station policy.

**XIII. RELIGIOUS PROGRAMMING RESTRICTIONS.** Any programming broadcast by the Broker is subject to the following restrictions:

**A. Respectful of Faiths.** The subject of religion and references to particular faiths, tenets, and customs shall be treated with respect at all times.

**B. No Denominational Attacks.** Programs shall not be used as a medium for attack on any faith, denomination, or sect or upon any individual or organization.

**C. Donation Solicitation.** Requests for donations in the form of a specific amount (for example, \$1.00 or \$5.00), shall not be made if there is any suggestion that such donation will result in miracles, cures or prosperity. However, statements generally requesting donations to support the broadcast or the church are permitted.

**D. Treatment of parapsychology.** The advertising or promotion of fortunetelling, occultism, astrology, phrenology, palm reading, or numerology, mind-reading character readings, or subjects of the like nature is not permitted.

**E. No Ministerial Solicitations.** No invitations by the minister or other individual appearing on the program to have listeners come and visit him or her for consultation or the like shall be made if such invitation implies that the listeners will receive consideration, monetary gain, or cures for illness.

**F. No Miracle Solicitation.** Any invitations to listeners to meet at places other than a church and/or to attend other than regular services of a church is prohibited if the invitation, meeting, or service contains any claim that miracles, cures, or prosperity will result.

**XIV. CREDIT TERMS ADVERTISING.** Pursuant to rules of the Federal Trade Commission, no advertising of credit terms shall be made over the Station beyond mention of the fact that if desired, credit terms are available.

**XV. COMMERCIAL RECORD KEEPING.** Broker shall not receive any consideration in money, goods, services, or otherwise, directly or indirectly (including to relatives) from any persons or company for the presentation of any programming over the Station without reporting the same in advance to and receiving the prior written consent of the Licensee's General Manager. No commercial messages ("plugs") or undo references shall be made in programming presented over station to any business venture, profit making activity, or other interest (other than noncommercial announcements for bona fide charities, church activities, or other public service activities) in which Broker (or anyone else) is directly or indirectly interest without the same having been approved in advance by the Licensee's General Manager/Chief Engineer and such broadcast being announced and logged and sponsored.

**XVI. NO ILLEGAL ANNOUNCEMENTS.** No announcements or promotion prohibited by federal or state law, or regulation of any lottery or game, shall be made over the Station. Any game, contest, or promotion relating to or to be presented over the Station must be fully stated and explained in advance to the Licensee, which reserves the right in its sole discretion to reject any game, contest, promotion.

**XVII. LICENSEE DISCRETION PARAMOUNT.** In accordance with the Licensee's responsibility under the Communications Act of 1934, as amended, and the Rules and Regulations of the Federal Commissions, the Licensee reserves the right to reject or terminate any programming or advertising proposed to be presented or being presented over the station which is in conflict with Station policy or which in the Licensee or its General Manager/Chief Engineer's sole judgment would not serve the public interest.

**XVIII. ECONOMIC PROGRAMMING.** Broker shall advise the general manager of the Station with respect to any economic programming; Broker shall not advertise such recordings as available for sale except for one or two announcements in passing during each half hour, which announcements shall clearly identify Broker's financial interest.

**XIX. FOREIGN LANGUAGE PROGRAMS.** The foreign language broadcast of any programs, commercials, announcements, PSA's or other content,

where the English translation thereof would violate any restriction contained herein, is prohibited.

**XX. MISCELLANEOUS.**

A. **Waiver.** The Licensee may waive any of the foregoing regulations in specific instances if, in its opinion, good broadcasting in the public interest is served.

B. **Prior Consent.** In any case where questions of policy or interpretation arise, Broker should submit the same to the Licensee for decision before making any commitments in connection therewith.

**RADIO STATION (KNAB AM & FM)**

**Anti-Payola / Plugola Affidavit**

I, Alec Creighton, an employee of Burlington Radio LLC, do hereby state and affirm the following:

(a) That I have read the notices posted at Radio Station KNAB AM & FM (the "Stations"), and have received copies of Section 73.1212 of the Federal Communications Commission's Rules and Regulations;

(b) That I have been fully informed and advised that it is a policy of the Station to fully comply with the above Rules of the Federal Communications Commission and the laws of the United States;

(c) That neither I nor any member of my immediate family have any present direct or indirect ownership interest in (other than an investment in a corporation whose stock is publicly held), serve as an officer or director or, whether with or without compensation, or serve as an employee of, any person, firm or corporation engaged in:

- 1) The publishing of music;
- 2) The production, distribution (including wholesale and retail sales outlets), manufacture or exploitation of music, film, tapes, recordings or electrical transcriptions of any program material intended for radio broadcast use;
- 3) The exploitation, promotion or management of persons rendering artistic, production and/or other services in the entertainment field;
- 4) The ownership or operation of one or more radio or television Station;
- 5) The wholesale or retail sale of records intended for public purchase;
- 6) Advertising on Station, or any other station owned by its licensee (excluding nominal stockholdings in publicly owned companies).

(d) That I have not and will not:

- 1) take or receive any money, gift or other remuneration from any person, company or other entity for the purpose of playing any record or records on the air;
- 2) take or receive any money, gift or other remuneration from any person, company or other entity for the purpose of refraining from playing any record or records on the air;
- 3) take or receive any money, gift or other remuneration from any person, company or other entity for the purpose of promoting any business, charity or venture on the air without first informing the Station's General Manager;

4) promote any personal business venture which is unconnected with the station without first informing the Station's General Manager.

(e) That I have been advised and understand that failure to comply with the above rules and requirements will be grounds for my immediate dismissal without prior notice.

  
Alec Creighton