

**LOCAL MARKETING AND OPTION AGREEMENT**

**by and among**

**SRQ RADIO, LLC**

**RINGLING CENTER, LLC**

**and**

**FLORIDA TALK RADIO, LLC**

**for**

**Stations WSRQ(AM) and W295BH, Sarasota, Florida**

**August 10, 2011**

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## LOCAL MARKETING AND OPTION AGREEMENT

**THIS LOCAL MARKETING AND OPTION AGREEMENT** (the "Agreement"), dated as of this 10<sup>th</sup> day of August, 2011, is by and among SRQ Radio, LLC, a Florida limited liability company ("Licensee"), Ringling Center, LLC, ("RCL") and Florida Talk Radio, LLC, a Florida limited liability company ("Programmer").

WHEREAS, Licensee owns all of the assets used or useful in the ownership and operation of radio station WSRQ(AM), Sarasota, Florida (FCC Facility ID No. 27663 (the "Station");

WHEREAS, RCL is the licensee of FM translator station W295BH, Sarasota, Florida, which rebroadcasts the signal of the Station;

WHEREAS, Licensee and Programmer desire to enter into this Agreement to enable Programmer to provide programming for broadcast on the Station in accordance with the terms and conditions of this Agreement;

WHEREAS, Licensee and RCL (collectively, "Optionors") have agreed to grant to Programmer the right and option to purchase substantially all of the assets owned or leased by Optionors and used in connection with the operation of the Station and W295BH; and

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

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

### **Section 1. Sale of Station Air Time.**

**1.1. Term.** The term of this Agreement (the "Term") commenced at 12:01 a.m. on July 11, 2011 (the "Effective Date"), and shall continue in force for a period of one year, subject to automatic renewal for two additional one year terms after the Effective Date unless Licensee gives notice of its intention not to renew the Term, or the Agreement is otherwise terminated as set forth below or by the mutual agreement of Licensee, RCL and Programmer.

**1.2. Scope.** On the Effective Date, Licensee shall make the Station's facilities available to Programmer for the broadcast of programming (including advertising) for broadcast on the Station 168 hours per week: provided, that, notwithstanding the foregoing, Licensee shall be entitled to broadcast programming (a) necessary to serve the needs and interests of the Station's service areas and (b) as may be required by applicable law, including but not limited to the Communications Act of 1934, as amended (the "Act"), and FCC rules and policies ("FCC Rules").

**1.3. Consideration.** Programmer shall be entitled to retain any and all revenue generated from the sale of advertising time in conjunction with programming broadcast on the Station.

#### **1.4. Licensee Responsibilities.**

Licensee will have ultimate control over the management and operations of the Station during the Term of this Agreement. Except as otherwise expressly provided in this Agreement, Licensee shall (a) have sole responsibility for the Station's compliance with all applicable provisions of the Act, the FCC Rules, and all other applicable laws and government regulations; (b) have sole responsibility for the timely payment of all operating costs of the Station (except those for which a good faith dispute has been raised with the vendor or taxing authority), including but not limited to maintenance of the studios and transmission facilities, (c) employ at its expense (i) a general manager who will direct the day-to-day operations of the Station, (ii) at least one non-management level employee, as required by the FCC, and (iii) such other personnel as may be necessary for the broadcast of Licensee's programs, and (d) subject to Section 1.5(b) below, be responsible for the payment of all salaries, taxes, insurance and other related costs and expenses for all Station personnel employed by Licensee. Whenever on the Station's premises, all personnel, including Programmer's employees and agents, shall be subject to the overall supervision of Licensee's general manager.

#### **1.5. Programmer Responsibilities.**

(a) **Programmer Expenses.** Programmer shall be solely responsible for any expenses incurred in the origination and/or delivery of programming provided by Programmer under this Agreement. Programmer shall employ and be solely responsible for the salaries, commissions, taxes, insurance and all other related costs and expenses for all personnel involved in the production and broadcast of its programs (including but not limited to on-air personalities, engineering personnel, sales personnel, traffic personnel, board operators and other programmers and production staff members).

(b) **Monthly Payment and Reimbursement of Licensee Expenses.** As consideration for Licensee's continuing performance under this Agreement, Programmer shall provide Licensee with monthly payments as set forth in Attachment I annexed hereto. In addition to the payments required under subsection (a) of this section, Programmer shall reimburse Licensee for all reasonable expenses incurred by Licensee in the operation of the Station. Such reimbursement shall be made in accordance with the schedule in Attachment I annexed hereto. Such reimbursement shall be made during the Term within five (5) business days after Programmer's receipt of invoices and other documentation reflecting the expenses incurred by Licensee. To the extent there is any dispute as to whether an expense should be reimbursed by Programmer under this subsection, the parties shall engage in good faith discussions to resolve such dispute. If such dispute cannot be resolved within 30 days after Licensee's presentation of an invoice for reimbursement, the parties shall refer the matter to a mutually agreeable third party (such as a certified public accountant or a broadcast consultant) whose decision shall be final and binding. A dispute over any particular item or items shall not relieve Programmer of its obligation under this subsection to make a timely payment to Licensee of those items which are not in dispute. Any payments required to be made by Programmer under this subsection that are not paid when due shall bear interest at the rate of 10 percent per annum from the date due until paid in full.

**1.6. Contracts.** Programmer has no authority to, and shall not, enter into any third-party contract, lease or agreement that will bind Licensee in any way. During the Term, Licensee shall make available to Programmer the rights and benefits under certain programming agreements. Programmer shall reimburse Licensee for its costs with respect to such programming contract and shall perform Licensee's obligations thereunder.

## **Section 2. Operation of the Station.**

**2.1. Licensee Authority.** Notwithstanding any other provision of this Agreement, Licensee shall retain ultimate responsibility to broadcast programming to meet the needs and interests the Station's service areas. Licensee therefore retains the right to broadcast specific programming on issues of importance to the service area and shall, to that end, cooperate with Programmer in scheduling such programming. 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, regional or national public importance. Licensee shall coordinate with Programmer the hourly identification for the Station and any other announcements required to be aired by the Act and FCC Rules. Licensee shall continue to maintain a main studio, as that term is defined by the FCC, within the Station's principal community contour, shall maintain the Station's local public inspection file in accordance with FCC Rules, and shall prepare and place in such inspection files all material required by 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 material. Licensee shall also maintain the Station's logs, receive and respond to telephone inquiries, and control and oversee any remote control point which may be established for the Station.

**2.2. Programmer Obligations.** Programmer shall ensure that its actions under this Agreement, including all programs and advertising material broadcast on the Station, shall comply in all material respects with the Licensee's program policies, the Act and FCC Rules, and all other applicable federal, state and local laws and government regulations. If Licensee determines, in the exercise of Licensee's sole discretion, that any material supplied by Programmer for broadcast on any Station is for any reason contrary to those requirements or otherwise unsatisfactory, unsuitable or contrary to the public interest, Licensee may, upon prior written notice to Programmer (to the extent time permits such notice), suspend or cancel the broadcast of such material without incurring liability to Programmer. Programmer shall use reasonable efforts to notify Licensee 24 hours in advance of material changes in the programming provided by Programmer for broadcast on the Station. Programmer will not discriminate in the sale of advertising time, and will accept no advertising which is placed with an intent to discriminate on the basis of race or ethnicity. Programmer's agreements with its advertisers contain a clause whereby the advertiser agrees that it is not buying broadcasting air time under Programmer's advertising sales contracts for a discriminatory purpose, including but not limited to decisions not to place advertising on particular stations on the basis of race, national origin, or ancestry. This requirement is a material term of Programmer's advertising contracts with its advertisers.

**2.3. Licensee Obligations.** Licensee will bear all responsibility for the Station's compliance with all applicable provisions of the Communications Act and all other applicable laws. During the term of this Agreement, Licensee will hold all licenses and other permits and authorizations necessary for the construction and operation of the Station, and maintain such licenses, permits and authorizations in full force and effect throughout the term of this Agreement. Licensee will file in a timely and complete manner all reports and applications required to be filed with the FCC or any other governmental body and shall pay (subject to Programmer's obligation to reimburse Licensee) all fees and costs, including without limitation, Licensee's attorney's fees, associated with said reports, applications and filings in accordance with Attachment I. Licensee shall maintain, at its expense, the facilities and equipment of the Station in a condition consistent with good engineering practices and in substantial compliance with the rules, regulations, and technical standards of the FCC, or shall operate the Station pursuant to FCC-issued or timely requested special temporary authority. All operating expenses reasonably required to maintain the technical quality of the Station's signal shall be made in a timely fashion at the expense of Licensee and shall be reimbursed by Programmer. In the event the Station is off the air, Programmer shall be entitled to a proration of the fee paid for any such time.

**2.4. Public Service Programming.** Programmer shall cooperate as reasonably directed by Licensee to help Licensee ensure the broadcast of programming responsive to the needs and interests of the Station's service areas in compliance with the Act and FCC Rules. Upon reasonable request from Licensee, Programmer shall also provide Licensee other information to enable Licensee to prepare records and reports required by the Act and FCC Rules as well as other federal, state and local laws and government regulations.

**2.5. 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. The right to use programming supplied by Programmer and to authorize its use in any manner shall be and remain vested in Programmer.

**2.6. Sale Expenses.** Programmer shall be responsible for payment of all expenses attributable to Programmer's sale of advertising time on the Station, including, but not limited to 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.

**2.7. Payola.** Neither Programmer nor its employees shall 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 as required by the Act and FCC Rules in the program for which Consideration was provided as having paid for or furnished such Consideration. On each anniversary date of this Agreement, or more frequently at the request of the Licensee, Programmer shall provide Licensee with a Payola Affidavit executed by Programmer and separate Payola Affidavits executed by each of its employees involved with the Station, with each Payola Affidavit to be in the form attached hereto as Attachment II.

**2.8. Control of the Station.** Programmer shall not, directly or indirectly, control, supervise, direct, or attempt to control, supervise, or direct, the operations of the Station. Such operations, including complete control and supervision of all of the programs, employees, and policies of the Station, shall be the sole responsibility of Licensee. To ensure that Licensee shall have the unfettered ability to control and supervise all programs, employees and policies of the Station, Licensee shall be permitted unrestricted access to and the right to use at all times the Station's transmitters and studio facilities. In performing its responsibilities hereunder, Licensee shall use commercially reasonable efforts to avoid interfering with Programmer's operations.

**2.9. Accounts Receivable.** All cash accounts receivable in connection with the operation of the Station, including but not limited to accounts receivable for broadcast time, on or prior to the Effective Date as defined in Section 1.1 of this Agreement ("LMA Effective Date") belong to Licensee. On the LMA Effective Date, Licensee shall assign to Programmer, as collection agent for the Licensee, for the purposes of collection only, all collectible accounts receivable arising out of the conduct of the business and the operation of the Station prior to or on the LMA Effective Date. Licensee shall deliver to Programmer within 10 business days of the LMA Effective Date a complete statement of such accounts receivable, showing the name, age and amount of each account receivable, removing first any accounts that Licensee believes to be uncollectible. Licensee, for the duration of this Agreement, will not make any attempt to collect such accounts receivable. Programmer shall collect such accounts receivable, without commission or compensation, for the duration of this Agreement in the normal course of business without any obligation to institute any litigation, or to employ counsel or a collection agency or use any other extraordinary means of collection. Programmer shall apply all such amounts collected to the debtor's oldest account receivable first. Where there is a dispute between Programmer and debtor over the validity of an account, Programmer shall immediately notify Licensee upon learning of such dispute from the debtor and turn such account back to Licensee and shall have no further obligation whatsoever to such account. For accounts where the debtor is indebted to both Licensee and Programmer, Programmer may use all lawful means of effecting collection, and may settle with such debtors for less than the total due only with the consent of Licensee, which settlement shall be binding on the Licensee, and the monies collected will be applied to the Licensee's account and to the Programmer's account in a pro-rata manner based upon the amounts owing to each of them from the debtor, after the deduction of any costs of collection. On or before the tenth (10th) day following the end of each broadcast month for the duration of this Agreement, Programmer shall furnish Licensee with a collection report by advertiser, and pay over to Licensee the amounts collected during the preceding broadcast month with respect to such accounts receivable. Upon the termination of this Agreement, Programmer shall furnish Licensee with a list of, and assign without recourse to Licensee, all accounts receivable which remain uncollected, together with all files concerning the collection or attempts to collect such accounts. Thereafter, Programmer shall have no further obligation to collect Licensee's accounts receivable except that Programmer shall immediately pay over to Licensee any amounts subsequently paid to it with respect to any such reassigned account receivable.

### **Section 3. Indemnification.**

**3.1. Programmer's Indemnification.** Programmer shall indemnify and hold Licensee harmless 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 (a) Programmer's



breach of any representation, warranty, covenant or agreement contained in this Agreement, (b) Programmer's negligence or willful misconduct or the negligence or willful misconduct of its employees or agents, and (c) violations of the Copyright Act, the Act or FCC Rules, and laws (including case law) concerning slander, defamation or other third-party claims relating to programming (including advertisements) provided by Programmer.

**3.2. Licensee's Indemnification.** Licensee shall indemnify and hold Programmer harmless from and against any and all Damages resulting from (a) Licensee's breach of any representation, warranty, covenant or agreement contained in this Agreement, (b) Licensee's negligence or willful misconduct or the negligence or willful misconduct of its employees or agents, and (c) violations of the Copyright Act, the Act or FCC Rules, and laws (including case law) concerning slander, defamation or other third-party claims relating to programming provided by Licensee.

**3.3. Limitation.** Neither Licensee nor Programmer shall be entitled to indemnification pursuant to this section unless such claim for indemnification is asserted in writing and delivered to the other party within the timeframe set forth in Section 3.6.

**3.4. Procedure for Indemnification.** The procedure for indemnification shall be as follows:

(a) **Notice.** The party claiming indemnification (the "Claimant") shall promptly give written notice to the party from which indemnification is sought (the "Indemnifying Party") of any claim, whether between the parties or brought by a third party, specifying in reasonable detail the factual basis for the claim. If the claim relates to an action, suit, or proceeding filed by a third party against Claimant, such notice shall be given by Claimant no later than ten (10) business days after written notice of such action, suit, or proceeding was given to Claimant; provided, that the failure to timely give notice shall extinguish the Claimant's right to indemnification only to the extent that such failure materially adversely affects the Indemnifying Party's rights.

(b) **Investigation.** With respect to claims solely between the parties, following receipt of notice from the Claimant of a claim, the Indemnifying Party shall have thirty (30) days to make such investigation of the claim as the Indemnifying Party deems necessary or desirable. For purposes of such investigation, the Claimant shall make available to the Indemnifying Party or its authorized representatives the information relied upon by the Claimant to substantiate the claim. If the Claimant and the Indemnifying Party agree in writing at or prior to the expiration of the 30-day period (or any mutually agreed upon extension thereof) to the validity and amount of such claim, the Indemnifying Party shall immediately pay to the Claimant the full amount of the claim or such amount as agreed to by the parties. If the Claimant and the Indemnifying Party do not agree within the 30-day period (or any mutually agreed upon extension thereof), the Claimant may seek any remedy available to it at law or equity.

(c) **Third Party Claims.** With respect to any claim by a third party as to which the Claimant is entitled to indemnification under this Agreement, the Indemnifying Party shall have the right, at its own expense, to assume control of the defense of such claim, and the Claimant shall cooperate fully with the Indemnifying Party, subject to reimbursement for actual

out-of-pocket expenses incurred by the Claimant as the result of a request by the Indemnifying Party. If the Indemnifying Party elects to assume control of the defense of any third-party claim, the Claimant shall have the right to participate in the defense of such claim at its own expense. If the Indemnifying Party does not assume control, it shall be bound by the results obtained by the Claimant with respect to such claim: provided, that the Claimant shall not settle any third party claim without first giving the Indemnifying Party ten (10) business days' prior notice of the terms of such settlement and provide the Indemnifying Party with an opportunity to continue or, as the case may be, resume the defense of the Claim.

(d) **Expedition.** If a claim, whether between the parties or by a third party, requires immediate action, the parties will use commercially reasonable efforts to reach a decision with respect thereto as expeditiously as possible.

(e) **Scope.** The indemnification rights provided herein constitute the parties' exclusive remedy against each other for any party subject to indemnification and shall extend to the partners, members, shareholders, directors, officers, employees, representatives and successors and permitted assigns of any Claimant: provided, that all indemnification claims by such parties shall be made by and through the Claimant.

**3.5. Challenge to Agreement.** Subject to the terms of Section 7.8, if this Agreement is challenged by or before the FCC, whether or not in connection with any Station's license renewal application, Licensee and Programmer shall jointly defend this Agreement and the parties' performance hereunder throughout all FCC proceedings. Each party shall bear any and all expenses incurred by it for such defense, including counsel fees. If the parties cannot reform this Agreement as necessary to satisfy any adverse FCC decision, the parties shall seek reversal of the FCC's decision.

**3.6. Survival Period.** The representations and warranties of the parties under this Agreement shall survive for a period of two years after termination of this Agreement in accordance with its terms. Any claim for indemnification under this section must be made on or before expiration of that two-year period.

#### **Section 4. Access to Programmer Materials and Correspondence.**

**4.1. Confidential Review.** 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. Nothing in this section shall entitle Licensee to review the internal company or financial records of Programmer.

**4.2. Political Advertising.** Programmer shall assist Licensee in complying with provisions of the Act and FCC Rules 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 applicable law, including provisions in the Act and FCC Rules relating to the lowest unit rate, equal opportunities, reasonable access, and the Station's political files. Licensee, in

consultation with Programmer, shall develop a statement which discloses its political broadcasting rates and policies to political candidates, and Programmer shall follow those rates and policies in the sale of political programming and advertising. In the event that Programmer fails to satisfy the political broadcasting requirements under applicable law, including the Act and FCC Rules, then, to the extent reasonably necessary to assure compliance with such requirements, Programmer shall either provide rebates to political advertisers or release broadcast time and/or advertising availabilities to Licensee at no cost to Licensee for use by the affected political candidates.

## **Section 5. Termination and Remedies Upon Default.**

**5.1. Basis for Termination.** This Agreement may be terminated by either Licensee or Programmer by written notice to the other, if the party seeking to terminate is not then in material breach hereof, upon the occurrence of any of the following:

(a) subject to the provisions of Section 7.8, this Agreement is declared invalid or illegal in whole or material 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 reconsideration or review;

(b) by Licensee, (i) if Programmer fails to pay the Monthly Payment within 5 days of the first of each month during the Term hereof; (ii) if Licensee gives notice of termination within 30 days of the end of any annual Term; or (iii) if Programmer is in material breach of its obligations under this Agreement and has failed to cure such breach within thirty (30) days of notice from Licensee;

(c) by Programmer, if Licensee is in material breach of its obligations under this Agreement and has failed to cure such breach within thirty (30) days of notice from Programmer;

(d) the mutual consent of both parties;

(e) a material change in the Act or FCC Rules that would cause this Agreement to be in violation thereof, and (x) such change has become final and is no longer subject to further administrative or judicial reconsideration or review and (y) this Agreement cannot be reformed, in a manner reasonably acceptable to Programmer and Licensee, to remove and/or eliminate the violation: provided, that, in the event the Agreement is terminated pursuant to this paragraph, Licensee shall use commercially reasonable efforts (which shall not include the institution of litigation) to collect Programmer's accounts receivables for a period of one hundred twenty (120) days after the date of termination and shall remit payments to Programmer of at least once a month of any accounts receivable collected; or

(f) upon consummation of the option set forth in Section 8 hereof and the assignment of the FCC licenses of the Station and W295BH to Programmer.

**5.2. Remedies.** In the event that any party breaches or threatens to breach any provision of this Agreement, the other party shall be entitled to seek any remedy available at law or equity, including, if appropriate, specific performance. If Licensee does seek specific

performance for Programmer's actual or threatened breach of Section 2.1 or 2.7, Programmer shall waive the defense that Licensee has an adequate remedy at law.

## **Section 6. Representations and Warranties.**

**6.1. By Licensee.** Licensee represents and warrants to Programmer that (a) it has all requisite power and authority to execute and deliver this Agreement and the documents contemplated hereby and to perform and comply with all of the terms, covenants, and conditions to be performed and complied with by Licensee hereunder, (b) the execution, delivery, and performance by Licensee of this Agreement and the documents contemplated hereby have been duly authorized by all necessary limited liability company actions on the part of Licensee, (c) this Agreement has been duly executed and delivered by Licensee and constitutes the legal, valid, and binding obligation of Licensee, enforceable against Licensee in accordance with its terms, except as the enforceability of this Agreement may be affected by bankruptcy, insolvency, or similar laws affecting creditors' rights generally and by judicial discretion in the enforcement of equitable remedies, (d) the execution, delivery, and performance by Licensee of this Agreement and the documents contemplated hereby (with or without the giving of notice, the lapse of time, or both): (i) do not require the consent of any third party, (ii) will not conflict with any provision of the certificate of formation, operating agreement or other organizational documents of Licensee; and (iii) will not conflict with, constitute grounds for termination of, result in a breach of, or constitute a default under, any material agreement, instrument, license, or permit to which Licensee is a party or by which Licensee is bound.

**6.2. By Programmer.** Programmer represents and warrants to Licensee that (a) it has all requisite power and authority to execute and deliver this Agreement and the documents contemplated hereby and to perform and comply with all of the terms, covenants, and conditions to be performed and complied with by Programmer hereunder, (b) the execution, delivery, and performance by Programmer of this Agreement and the documents contemplated hereby have been duly authorized by all necessary limited liability company actions on the part of Programmer, (c) this Agreement has been duly executed and delivered by Programmer and constitutes the legal, valid, and binding obligation of Programmer, enforceable against Programmer in accordance with its terms, except as the enforceability of this Agreement may be affected by bankruptcy, insolvency, or similar laws affecting creditors' rights generally and by judicial discretion in the enforcement of equitable remedies, (d) Programmer has full authority to broadcast its programming on the Station without violating the Copyright Act or the rights of third parties, and (e) the execution, delivery, and performance by Programmer of this Agreement and the documents contemplated hereby (with or without the giving of notice, the lapse of time, or both): (i) do not require the consent of any third party, (ii) will not conflict with any provision of the certificate of formation, operating agreement or other organizational documents of Programmer; and (iii) will not conflict with, constitute grounds for termination of, result in a breach of, or constitute a default under, any material agreement, instrument, license, or permit to which Programmer is a party or by which it is bound.

## **Section 7. Option to Purchase.**

**7.1. Grant of Option.** In consideration of the payment of TWENTY FIVE THOUSAND DOLLARS (US\$25,000.00) ("Option Consideration") and other good and valuable consideration,

Optionors hereby grant Programmer the option and the right to purchase all of the assets used or useful in the operation of the Stations WSRQ(AM) and W295BH, Sarasota, Florida (the "Stations"). The Option Consideration shall consist of the sum of \$25,000.00 payable on the Effective Date.

**7.2. Term of Option.** This Option shall expire one year from the Effective Date unless extended as provided herein.

**7.3. Purchase Price.** The Purchase Price for all of the assets used or useful in the operation of the Stations ("Station Assets") shall be THREE HUNDRED THOUSAND DOLLARS (\$300,000.00). The Purchase Price shall be apportioned TWO HUNDRED FIFTY THOUSAND DOLLARS (\$250,000.00) for WSRQ, payable to Licensee; and FIFTY THOUSAND DOLLARS (\$50,000.00) for W295BH, payable to RCL. The Purchase Price to be paid by Programmer to Optionors shall be payable on the Closing Date as follows:

(a) On the Closing Date, the Option Consideration of \$25,000.00 shall be credited against the Purchase Price.

(b) \$1,500.00 of each of the Monthly Payments paid by Programmer as specified in Attachment I shall be credited against the Purchase Price.

(c) Programmer shall execute and deliver to Licensee and to RCL two negotiable Secured Promissory Notes (the "Notes") in form and substance satisfactory to Optionors and their counsel, in the form attached to Attachment I in the face amount of the unpaid portion of the Purchase Price (and in proportion to the allocation of the Purchase Price between WSRQ and W295BH) with terms and conditions including but not limited to the following:

(i) The Notes shall have a term of three (3) years and shall be paid in 36 equal monthly installments of principal and interest, each installment due on the first of each month during the term of the Note;

(ii) The Notes shall bear interest at a rate of four percent (4%) per annum on the unpaid balance;

(iii) The Notes shall be secured by a Security Agreement creating a first lien security interest in the Stations Assets, including a first lien security interest in the proceeds from any future sale of either of the Stations, a first lien pledge of the membership interests in Programmer, the personal guarantees of the members (or any other persons holding an ownership interest) of Programmer and all necessary UCC filings with the Florida Secretary of State and any other authorities necessary to perfect Optionors' first lien security interest in the Stations Assets (the Security Agreement, Pledge Agreement and Guarantee Agreement shall be in form and substance satisfactory to Optionors and their counsel and in the form attached to Attachment III. The Security Agreement, Pledge Agreement and Guarantee Agreement shall include a provision or provisions whereby Optionors, in the event of Programmer's default, may apply to any federal or state court to appoint a receiver to take charge of the Stations Assets and licenses, and Programmer shall not contest any action or actions by Optionors to seek such relief;

(iv) There shall be no pre-payment for early retirement of the Notes and the Notes shall not be assignable by Optionor without the prior written consent of Programmer; and

(v) In the event of a sale of either of the Stations by Programmer prior to the full payment of the Notes, the remaining balances of the Notes and any accrued and unpaid interest and/or penalties shall be paid from the proceeds of such sale (the "Due On Sale Clause")

**7.4. Authority and Other Matters.** Optionors hereby represent to Programmer that (a) they have all necessary power and authority, including receipt of all necessary approvals, to execute, deliver and perform this Option; (b) the execution, delivery and performance of Optionors does not conflict with any agreement or instrument to which Optionors are a party or any law, rule or regulation to which they may be subject; and (c) this Option constitutes the legal, valid and binding obligation of Optionors enforceable in accordance with its terms.

**7.5. Specific Performance.** Optionors and Programmer acknowledge that the Station Assets are unique and that in addition to any other remedy at law or in equity which may be available, Programmer shall be entitled to compel specific performance. The parties acknowledge and agree that Programmer would be damaged irreparably in the event Optionors fail to fully comply with the terms of this Agreement, or fails to enter into the Asset Purchase Agreement and convey the Station Assets to Programmer upon exercise of the Option and satisfaction of the conditions to be set forth in the Asset Purchase Agreement. Accordingly, Optionors agree that Programmer shall be entitled to seek an order to compel specific performance, without bond, to enforce the terms and conditions of this Agreement so as to assure satisfaction of the terms, conditions and obligations of Optionors set forth herein.

**7.6. Cooperation.** Optionors and Programmer shall cooperate fully and shall take such actions as are reasonably necessary to execute and deliver such documents as may be requested by the other party in order to carry out the provisions, intent and purposes of this Option.

**7.7. Notice of Exercise.** Programmer may deliver to Optionors written notice of the exercise of the Option ("Option Notice") by giving notice to Optionors in accordance with Section 9.7 below. Upon receipt of the Option Notice, Programmer will execute and deliver to Optionors an Asset Purchase Agreement (which shall contain the form of the Notes, Security Agreement, Pledge Agreement and Guarantee Agreement to be executed at the Closing) in the form of Attachment III hereto, which contains representations, warranties and covenants of Licensee and Optionors which are customary in the radio industry for the purchase of assets.

Programmer and Optionors will, within 5 business days of execution of this Agreement, electronically file with the FCC applications ("FCC Applications") on FCC Form 314 and Form 345 for consent to assignment of the licenses of the Stations to Programmer, and shall vigorously prosecute such applications and timely consummate the transactions. In order to expedite processing of the FCC applications, the parties may file the FCC Applications supported by a copy of this Agreement and amend the FCC Applications with copies of the Asset Purchase Agreement within 15 days following the date of filing of the FCC Applications. The Asset Purchase Agreement shall be executed within 15 days after the FCC Applications are filed, or the Option will expire.

## **Section 8. Construction of Tower**

**8.1. Construction Plans.** Written 30 days of execution of this Agreement, Programmer shall deliver construction plans (the "Plans") to Licensee, specifying in reasonable detail the equipment, supplies and materials necessary or appropriate for the construction and installation of the facilities for the Station authorized in the FCC construction permit BP-20060720AAL (the "Permit").

**8.2. Licensee's Approval.** Licensee shall promptly review the Plans submitted by Programmer and, within ten (10) days after receipt of same, either provide written approval (not to be unreasonably withheld or delayed), or specification of the precise element(s) of the Plans for which approval is being withheld by Licensee.

**8.3. Construction.** Upon approval by Licensee of the Plans, Programmer shall commence construction of the facilities authorized by the Permit. Programmer shall oversee the completion of the work described in the Plans and shall be responsible for all construction means, methods, techniques, sequences and procedures and for coordinating all portions of the work under this Agreement. Programmer shall provide, at Programmer's sole cost, all labor, materials, equipment, tools, construction, equipment and machinery, water, heat, utilities, transportation and other facilities and services necessary for proper construction. Programmer shall make commercially reasonable efforts to complete construction of the facilities in sufficient time to enable Licensee to file with the FCC an application for license a FCC Form 302-AM prior to the December 16, 2011 deadline for construction of said facilities.

**8.4. Title to Constructed Facilities.** Title to all property of any kind (real, tangible or intangible) acquired or created in the construction of the Permit shall remain solely in the name of Programmer. Programmer shall lease to Licensee, at no charge to Licensee, that portion of the equipment and other material used to construct the tower which is necessary for the operation of the Station (the "Station Equipment"). Such lease shall terminate on the date when this Agreement terminates. If this Agreement terminates for a reason other than the closing of the purchase of the FCC Authorizations by Programmer pursuant to the terms of this Agreement, title to the tower shall remain in the name of the Programmer.

**8.5. Fruitville Application.** Nothing herein shall prevent Licensee from filing an application with the FCC for a construction permit to change the community of license of Station from Sarasota to Fruitville, Florida, and propose non-directional daytime only operation using one tower. Licensee shall request that the Fruitville application be processed separately from the Permit so that, should construction of the Permit be completed within the period remaining on the Permit, the Fruitville permit can be canceled. Licensee shall continue to request STA or extensions of its STA to continue to operate Station as it is now being operated.

## **Section 9. Miscellaneous.**

### **9.1. Assignment.**

(a) **Successors and Assigns.** This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and permitted assigns.

(b) **Assignment to Unrelated Third Parties.** Neither party may assign its rights and obligations under this Agreement without the prior written consent of the other party.

**9.2. Counterparts.** This Agreement may be executed in counterparts, each of which will be deemed an original but both of which together will constitute one and the same instrument.

**9.3. Entire Agreement.** This Agreement (including the Attachments hereto) embodies the entire agreement and understanding of the parties relating to the operation of the

Stations and supersedes any and all prior and contemporaneous agreements and understandings of the parties with respect to the same subject matter, including, without limitation, the Local Marketing Agreement and Option signed in error on July 14, 2011. No amendment to this Agreement will be effective unless evidenced by an instrument in writing signed by the parties.

**9.4. 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.

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

**9.6. 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 FCC Rules. The construction and performance of the Agreement will be governed by the laws of the State of Florida without regard to conflict of law principles.

**9.7 Notices.** All notices and other communications required or permitted under the provisions of this Agreement shall be (a) in writing, (b) delivered by personal delivery, by commercial overnight delivery service, or by facsimile (with written confirmation of receipt), (c) 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 written confirmation, and (d) addressed as follows:

To Programmer: Florida Talk Radio, LLC  
Attn: Lauren Rudd, CEO  
5561 Siesta Estates Court  
Sarasota, FL 34242

With copy to: Erwin G. Krasnow, Esq.  
Garvey Schubert Barer  
1000 Potomac Street, NW  
Washington, DC 20007

To Licensee: SRQ Radio, LLC  
Ringling Center, LLC  
Attn: Donald E. Murphy  
2127 Ringling Boulevard  
Sarasota, FL 34237

With copy to: Gary S. Smithwick, Esq.  
Smithwick & Belendiuk, PC  
5028 Wisconsin Avenue, N.W., Suite 301  
Washington, DC 20016



**9.8. Severability.** If any provision of this Agreement or the application thereof to any person or circumstances shall be held invalid or unenforceable to any extent by any court or governmental authority of competent jurisdiction, 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 raises a 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 the Act and FCC Rules while attempting to preserve, as closely as practical, the intent of the parties as embodied in the provision of this Agreement which is to be so modified.

**9.9. No Joint Venture.** Nothing in this Agreement shall be deemed to create a joint venture between Licensee and Programmer.

**9.10. Waiver.** No waiver of any provision of this Agreement shall be effective unless contained in a writing signed by the party charged with the waiver. A waiver in any one instance shall not constitute a waiver of any other action or omission in any other instance, regardless of how similar to the action or omission covered by the waiver. No delay in any party's enforcement of any right hereunder shall, in and of itself, be deemed to be a waiver.

**9.11. Post-Termination Operation.** Upon occurrence of any action or event that is likely to result in a termination of this Agreement in accordance with its terms, Programmer and Licensee shall cooperate in good faith to ensure that Station's operations will continue, to the extent feasible, without disruption after the date of such termination.

**9.12. Force Majeure.** Any delay or interruption in the broadcast of Programmer's programs, or Licensee's failure at any time to make the Station's facilities available to Programmer, in whole or in part, for broadcast such programs, 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, shall not constitute a breach of this Agreement, and such action shall not affect Programmer's obligation to reimburse Licensee for its expenses as provided herein (but will result in a pro rata diminution in the Monthly Fee to be paid by Programmer based on the number of days in any month when Licensee is unable to broadcast Programmer's programming).

**9.13. Other Agreements.** During the Term of this Agreement, neither Licensee nor Programmer will enter into any other agreement with any third party that would conflict with or result in breach of this Agreement by Licensee or Programmer.

**9.14. Certifications.**

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


(b) **Programmer Certification.** Programmer hereby certifies that this Agreement complies with the provisions of paragraphs (a) through (d) of Section 73.3555 of the FCC's Rules.

**9.15. Duty to Consult.** Each party agrees that it will use its best efforts not to take any action that will unreasonably interfere, threaten or frustrate the other party's purposes or business activities, and that it will keep the other party informed of, and coordinate with the other party regarding, any of its activities that may have a material effect on such party.

*[Remainder of the Page Intentionally Left Blank]*

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year written above.

**SRQ RADIO, LLC**

By:   
Donald E. Murphy, Member

**RINGLING CENTER, LLC**

By:   
Donald E. Murphy, Member

**FLORIDA TALK RADIO, LLC**

By:   
Lauren Rudd, Member

**ATTACHMENT I**  
**MONTHLY PAYMENT AND STATION EXPENSES**

Programmer hereby agrees to pay Licensee for the broadcast of programs hereunder the sum of TWO THOUSAND FIVE HUNDRED DOLLARS (\$2,500.00) per month ("Monthly Broker Fee"). The Monthly Fee is due and payable in full on the last business day following the end of the proceeding broadcast calendar month. The failure of Licensee to demand or insist upon prompt payment in accordance with this Agreement shall not constitute a waiver of its right to do so. The Monthly Broker Fee amount relating to a month in which this Agreement is in effect for only part of the month shall be prorated.

Programmer shall reimburse Licensee within five business days following Programmer's receipt of invoices or other documentation from the Licensee and RCL for the following expenses incurred in the ordinary course of business for the Station:

- (1) Payments under the studio and tower leases of Station and W295BH
- (2) Property Insurance and Taxes
- (3) Fees Payable to Governmental Authorities
- (4) Administrative Expenses and Office Supplies
- (5) Equipment Maintenance and Repair
- (6) Utilities (Telephone, Electric, etc.)

## **ATTACHMENT II**

### **Payola Statement**

FORM OF PAYOLA AFFIDAVIT

City of \_\_\_\_\_ )  
County of \_\_\_\_\_ ) SS:  
State of \_\_\_\_\_ )

ANTI-PAYOLA/PLUGOLA AFFIDAVIT

\_\_\_\_\_ ("Employee"), being first duly sworn, deposes and says as follows:

1. Employee is \_\_\_\_\_ for \_\_\_\_\_.  
Position
2. Employee has acted in the above capacity since \_\_\_\_\_.
3. No matter has been broadcast by [CALL SIGN] (the "Station") for which service, money or other valuable consideration has been directly or indirectly paid, or promised to, or charged, or accepted, by Employee from any person, which matter at the time so broadcast has not been announced or otherwise indicated as paid for or furnished by such person.
4. In future, Employee will not pay, promise to pay, request, or receive any service, money, or any other valuable consideration, direct or indirect, from a third party, in exchange for the influencing of, or the attempt to influence, the preparation of presentation of broadcast matter on the Station.
6. Nothing contained herein is intended to, or shall prohibit receipt or acceptance of anything with the expressed knowledge and approval of my employer, but henceforth any such approval must be given in writing by someone expressly authorized to give such approval.
7. Employee, Employee's spouse and members of Employee's immediate family do \_\_\_ / do not \_\_\_ 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 of, whether with or without compensation, or serve as an employee of, any person, firm or corporation engaged in:
  - a. The publishing of music;
  - b. The production, distribution (including wholesale and retail sales outlets), manufacture or exploitation of music, films, tapes, recordings or electrical transcriptions of any program material intended for radio broadcast use;
  - c. The exploitation, promotion, or management or persons rendering artistic, production and/or other services in the entertainment field;

- d. The wholesale or retail sale of records intended for public purchase;
- e. Advertising on the Station, or any other station owned by its Licensee (excluding nominal stockholdings in publicly owned companies).

8. The facts and circumstances relating to such interest are none \_\_\_\_ / as follows \_\_\_\_ :

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
[NAME]

Subscribed and sworn to before me  
This \_\_\_\_ day of \_\_\_\_\_, 2\_\_\_\_.

\_\_\_\_\_  
Notary Public

My Commission expires: \_\_\_\_\_.

## **ATTACHMENT III**

### **FORM OF ASSET PURCHASE AGREEMENT**

**(WITH ATTACHED NOTES AND SECURITY DOCUMENTS)**