

**TIME BROKERAGE AGREEMENT**

**For**

**WXHB 96.5 FM**

**RICHTON, MS.**

**BY AND BETWEEN**

**RADIO BROADCASTERS, LLC**

**AND**

**BLAKENEY COMMUNICATIONS, INC.**

## TIME BROKERAGE AGREEMENT

SEPTEMBER 10, 2002

TIME BROKERAGE AGREEMENT ("Agreement") dated as of ~~October, First~~ 2002 by and between Radio Broadcasters, LLC. The Licensee of Radio Station "WXHB" Richton, Mississippi ("Licensee"), and Blakeney Communications, Inc. ("Broker").

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WHEREAS, Licensee owns and operate Station "WXHB" ("Station") pursuant to licenses issued by the Federal Communications Commission ("Commission" and/or "FCC").

WHEREAS, Broker is experienced in radio station ownership and operation;

WHEREAS, Licensee wishes to retain Broker to provide programming for the Station that is in conformity with Station policies and procedures, FCC policies for time brokerage arrangements and the provisions hereof,

WHEREAS, Broker agrees to use the Station exclusively to broadcast such programming of it s selection that is in conformity with all rules, regulations and policies of the FCC and subject to Licensee's full authority to control the operation of the Station;

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

WHEREAS, the parties have entered into an Asset Purchase Agreement of even date where by Broker agrees to purchase the Station in accordance with the terms and conditions thereof,

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

WITNESSETH:

1. Facilities. Licensee: agrees to make broadcasting transmission facilities available to Broker and to broadcast on the Station, or cause to be broadcast, Broker's programs which will originate from Broker's studios.

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## 2. Payments

2.1 Monthly Broker Fee. Broker hereby agrees to Licensee for the broadcast of programs hereunder the amounts specified \$4,500.00 non-refundable payment to start Lease Management Agreement on oct.1<sup>st</sup>,2002.

Then \$4,500 per month on or before the 5th. of each month. First monthly payment by nov.5<sup>th</sup> 2002.

2.2 Late Payment Fee. In the event that Broker fails to make a payment in accordance with this paragraph, Broker shall owe to Licensee in addition to the payment of the Monthly Broker Fee, if such payment has not been made on or before the tenth (10th) day after the payment is due, a late fee in the amount of four percent (4%) of the total monthly payment then due and owing under this paragraph ("Late Fee").

## 3. Effective Date and Term.

3.1 Effective Date. This agreement shall be effective on Oct.1st, 2002 (the "Effective Date").

3.2 Term. This Agreement shall commence on the Effective Date and unless earlier terminated pursuant to Sections 11, 12, 13, and 14 of this Agreement, shall expire on the consummation of the Asset Purchase Agreement. However, in any event , this Agreement shall expire Thirty-Six (36 ) months from the date of Oct 1st,2002.

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4. Programs. Broker shall furnish or cause to be furnished the artistic personnel and materials for the programs, which shall be in good taste and in accordance with the rules, regulations and policies of the FCC and the Communications Act of 1934, as amended (the "Act"). Broker shall make available, to Licensee its programming during a sufficient number of hours to enable the Station to meet the minimum hours of operation required under the Commission's Rules. All advertising messages and promotional material or announcements shall comply with all applicable federal, state and local laws, regulations and policies.

5. Station Facilities.

5.1 Operation of Station. Licensee shall be responsible <sup>for</sup> ~~to~~ assuring that the Station operates in accordance with <sup>THE</sup> ~~the~~ authorizations issued to it by the Commission. Throughout the term of this Agreement, Licensee shall make available to Broker the maximum authorized facilities of the Station up to one hundred sixty-eight (168) hours per week, Sunday through Saturday, except for downtime occasioned by routine maintenance. Any maintenance work affecting the operation of the Station at full power shall be scheduled with the approval of Broker, permission shall not be unreasonably withheld, upon at least forty eight (48) hours prior notice to Broker, provided, however, that Licensee may set aside such time on the Station as it may require (up to two (2) hours per broadcast week) during the hours between 7 and 9am on Sundays and at such other times as Licensee and Broker may mutually agree to for the broadcast of Licensee's own regularly scheduled public affairs and other programming and provided further that Licensee reserves the right at any time to preempt the Programming for the broadcast of emergency information and programming of the Licensee's selection which Licensee believes to be in the public interest.

5.2 Interruption of Normal Operations. The failure of either party hereto to comply with its obligations under this Agreement due to acts of God, strikes or threats thereof or force majeure, or due to causes beyond such party's control, such as brief interruptions in service due to technical failures, will not constitute an Event of Default.

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## 6. Expenses, Revenues, and Accounts Receivable.

6.1 Expenses. Broker will be responsible (i) for the salaries, taxes, insurance and related costs for all personnel used in the production of the Programs supplied to Licensee, (ii) for the costs of delivering the programs to Licensee ) or Licensee's transmission facilities) and (iii) costs of telephone used by Broker at Licensee's facilities. Broker will use it's own production facilities or Station's facilities to create the programs and will be responsible for all costs associated with preparing or delivering the programs from those facilities to Licensee. Licensee will pay for those operating costs required to be paid to maintain Station's broadcast operations in accordance with the FCC rules and policies and applicable law. Broker will cover any and all expenses for the total operations of the station.

6.2 Advertising, Programming Revenues and Contracts. Broker will be entitled to all revenue from the sale of commercial advertising or program time on the Station during the hours of airtime purchased by Broker pursuant to this Agreement. All contracts for such advertising or program time, which may be entered into by Broker, shall terminate upon the termination of this Agreement.

6.3 Broker's Accounts Receivable. Broker will be responsible for the collection of it's own accounts receivable arising from it's sale of advertising for the hours during which it is responsible for programming the Station. Broker agrees to cooperate fully with Licensee with respect to clients owing both Licensee and Broker. Broker will not make any solicitations for the payment of receivables in any manner that would indicate that Licensee controls Broker.

6.4 Licensee's Accounts Receivable. Licensee shall retain and collect all accounts receivable due the Licensee as a result of its operation of Station prior to the Effective Date of this Agreement Oct.1st.2002. Licensee agrees to maintain, to the best of its ability, the good will and relationships with the advertisers of the Station whose receivables are retained by Licensee under the terms of this paragraph.

7. Operation of Station. Notwithstanding anything to the contrary in this Agreement, Licensee shall have full authority and power over the operation of the Station during the period of this Agreement.

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8. Additional FCC Obligations. Licensee shall (i) continue to maintain and staff a main studio, as that term is defined by the FCC, within the Station's principal community contour, (ii) prepare and place in the Station's public inspection file in a timely manner all material required by Section 73.3526 of the Commission's rules, including without limitation the Station's quarterly issues and programs list, and (iii) prepare and file with the FCC in a timely manner all reports, applications and other documents required under FCC rules, including but not limited to applications for renewal of license and Annual Ownership Reports.

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9. Indemnification Warranty.

9.1 Broker's Indemnification. Broker shall indemnify and hold harmless Licensee from and against any and all claims, losses, costs, liabilities, damages, expenses (including reasonable legal fees and other expenses incidental thereto) of every kind, nature and description, including but not limited to, slander or defamation or otherwise arising out of Broker's broadcasts and sale of advertising under this Agreement to the extent permitted by law.

9.2 Licensee's Indemnification. Licensee shall indemnify and hold harmless Broker from and against any and all claims, losses, costs, liabilities, damages, expenses (including reasonable legal fees and other expenses incidental thereto) of every kind, nature and description, arising out of broadcasts originated by Licensee pursuant to the Agreement to the extent permitted by law.

9.3 Procedure. Neither Licensee nor Broker shall be entitled to indemnification pursuant to this section unless such claim for indemnification is asserted in writing, delivered to the other party, together with a statement as to the factual basis for the claim and the amount of the claim. The party making the claim (the "Claimant") shall make available to the other party (the "Indemnitor") the information relied upon by the Claimant to substantiate the claim. With respect to any claim by a third party as to which the Claimant is entitled to see indemnification hereunder, the Indemnitor shall have the right at its own expense to participate in or assume control of the defense of the claim, and the Claimant shall cooperate fully with the Indemnitor, subject to reimbursement for actual out of pocket expenses incurred by the Claimant at the request of the Indemnitor. If the Indemnitor does not elect to assume control or participate in the defense of any third party claim, it shall be bound by the results obtained by the Claimant with respect to the claim.

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## 10. Assignment of Certain Agreements and Rights

10.1 Assignment. On the Effective Date, Licensee shall assign to Broker all contracts for the sale of time on the Station (the "Time Sales Agreements") together with contracts leases and other agreements indemnified by Licensee and Broker (collectively, the "Assigned Contracts"), subject in all cases to the receipt of any required consents of third party's where required. True and complete copies, including amendments, of the Assigned Contracts (other than the Time Sales Agreements) have been provided to Broker. Broker will enter into no third party contracts, leases, or agreements, which will bind Licensee in any way except with Licensee's prior written approval.

10.2 Proration. All expenses and income arising under the Assigned Contracts shall be prorated between Licensee and Broker as of the Effective Date in a manner such that the costs and benefits there under through the Effective Date shall be for the account of Licensee and, thereafter, during the term of the time brokerage provisions of this Agreement, for the account of Broker.

10.3 Payment of Station Obligations. Licensee shall promptly pay and satisfy all obligations owing to third parties with respect to the operation of the Station prior to the Effective Date. Broker shall not obligate licensee to any third parties after the termination of this Agreement. Following termination, Broker shall promptly pay and satisfy all obligations owing to third parties with respect to its operation of the Station under this Agreement.

## 11. Events of Default; Cure Periods and Remedies. The following shall after the expiration of the applicable cure periods, constitute Events of Default.

a. Non-Payment. Broker's failure to pay when due the consideration provided for in Paragraph 2 hereof,

b. Default in Covenants or Adverse Legal Action. The default by either party hereto in the material observance or performance of any material covenant, condition or agreement contained herein, or if either party (i) shall make general assignment for the benefit of creditors, (ii) files or has filed against it a petition for bankruptcy, reorganization or an arrangement for the benefit of creditors, or for the property or assets of such party under any federal or state insolvency law, which if filed against such party, has not been dismissed or discharged within sixty (60) days thereof, or

c. Breach of Representation. If any material representation or warranty herein made by either party hereto, or in any certificate or document furnished by either party to the other pursuant to the provisions hereof, shall prove to have been false or misleading in any material respects as of the time made or furnished.

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11.1 Cure Periods. An event of Default shall not be deemed to have occurred until twenty (20) business days after the non-defaulting party has provided the defaulting party with written notice specifying the action necessary to cure the Default within such period, provided that an Event of Default shall be deemed to have occurred five (5) days after written notice from Licensee of a failure by Broker to pay the monthly broker fee when due. This period may be extended for a reasonable period of time, if the defaulting party is acting in good faith to cure the default and such default is not materially adverse to the other party.

11.2 Termination Upon Default. Upon the occurrence of the Event of Default, the non-defaulting party may terminate this agreement provided that it is not also in material default hereunder. If Broker has defaulted in the performance of its obligations, Licensee shall be under no further obligation to make available to Broker any further broadcast time or broadcast transmission facilities and all amounts accrued or payable to Licensee up the date of termination which have not been paid shall immediately become due and payable. If Licensee has defaulted in the performance of its obligations hereunder, Broker may terminate this Agreement. In addition to these remedies, either party has the right to collect monetary damages for failure to perform the obligations under this Agreement, including any balance due by Broker under this Agreement.

11.3 Liabilities Upon Termination. Following termination, Broker shall be responsible for all liabilities, debts and obligations of Broker based upon the purchase of air time and use of Licensee's transmission facilities including, without limitation, accounts payable, barter agreements and unaired advertisements, but not for Licensee's federal, state, and local income and business franchise tax liabilities or taxes levied upon Licensee's real estate or personal property after termination.

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11.4 Specific Performance. In addition to either party's right of termination hereunder (and in addition to any other remedies available to that party), in the event of an uncured Event of Default, either party may seek specific performance of this Agreement, in which case the other party shall waive the defense in any such suit that the other party has an adequate remedy at law and shall interpose no opposition, legal or otherwise, as to the propriety of specific performance as a remedy hereunder.

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12. Termination Upon Order of Government Authority. In the event that a federal, state, or local government authority designates a hearing with respect to the continuation or renewal of any authorization held by Licensee for the operation of the Station or orders to the termination of this Agreement and /or the curtailment in any manner material to the relationship between the parties hereto of the provision of programming by Broker hereunder, Broker, at it's option, may seek administrative or judicial relief from such order(s) (in which event Licensee shall cooperate with Broker, provided that Broker shall be responsible for the legal fees and costs incurred in such proceedings) or Broker shall notify Licensee that it will terminate this Agreement in accordance with such order(s). If the Commission designates the renewal application of the Station for a hearing as a consequence of this Agreement or for any other reason, or initiates any revocation or other proceeding with respect to the authorizations issued to the Licensee for the operation of the Station, and Licensee elects to contest the action, then Licensee and Broker shall each be responsible for one half (1/2) of the expenses incurred as a consequence of the Commission proceeding; provided, however, that Broker shall at its own expense cooperate and comply with any reasonable request of Licensee to assemble and provide to the Commission information relating to Broker's performance under this Agreement. In the event of termination upon any government order(s) Broker shall pay to Licensee any fees due but unpaid as of the date of termination as may be permitted by such order(s), and Licensee shall cooperate reasonably with Broker to the extent permitted to enable Broker to fulfill advertising or other programming contracts then outstanding, in which event Licensee shall receive as a compensation for the carriage of such programming that which otherwise would have been paid to Broker hereunder.

13. Representations and Warranties.

13.1 Mutual Representations and Warranties. Both Licensee and Broker represent that they are legally qualified, empowered and able to enter into this Agreement, and that the execution, delivery and performance hereof shall not constitute a breach or violation of any agreement, contract or other obligation to which either party is subject or by which it is bound. The signatures appearing for Broker and Licensee at the end of this agreement have been affirmed pursuant to such specific authority as, under applicable law, is required to bind them.

13.2 Licensee's Representations, Warranties, and Covenants. Licensee makes the following representation, warranties, and covenants.

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13.2.1 Authorizations. Licensee owns and holds all licenses and other permits and authorizations necessary for the operation of the Station as presently conducted, and such licenses, permits and authorizations will be in full force and effect for the entire term hereof. There is not now pending or, to Licensee's best knowledge, threatened, any action by the Commission or other party to revoke, cancel, suspend, refuse to renew or modify adversely any such licenses, permits or authorizations and, to Licensee's best knowledge, no event has occurred which allows or, after notice or lapse of time or both, would allow, the revocation or termination of such licenses, permits or authorizations or the imposition of any restrictions thereon of such a nature that may limit the operation of the Station as presently conducted. Licensee has no reason to believe that any such license, permit or authorization will not be.

13.2.2 Broker's Representations, Warranties, and Covenants. Broker will have no rights to mortgage any of the assets of Licensee including but not limited to FCC licenses, tower, transmitting equipment.

13.2.3 Insurance. Broker will maintain in full force and effect throughout the term of this Agreement insurance with responsible and reputable insurance companies or associations covering such risks (including fire and other risks insured against by extended coverage, public liability insurance, insurance for claims against personal injury or death or property damage and such other insurance as may be required by law) and in such amounts and on such terms as is conventionally carried by broadcasters operating radio station with facilities comparable to those of the Station. Any insurance proceeds received by Broker in respect of damaged property will be used to repair or replace such property so that the operation of the Station conforms with this Agreement.

14. Notices. All necessary notices, demands and requests permitted or required under this Agreement shall be in writing and shall be deemed given when delivered personally, or mailed by certified mail or overnight courier, postage prepaid, with return receipt requested, and addressed as follows;

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If to Licensee: Kenneth R. Rainey Sr.

Radio Broadcasters, LLC  
P.O.Box-3160  
Meridian, Ms. 39303  
601-934-1033 Home-601-693-4868  
Fax-601-484-6068

If to Buyer: Larry Blakeney

Blakeney Communications, Inc.  
P.O.Box-6408  
Laurel, Ms. 39441  
601-649-0095

15. Modifications and Waiver. No modification of any provisions of this Agreement shall in any event be effective unless the same shall be in writing and then such modification shall be effective only in the specific instance and for the purpose of which given.

16. Construction. This Agreement shall be constructed in accordance with the laws of the State of Mississippi and the obligations of the parties hereof are subject to all federal, state, and local laws and regulations now or hereafter in force and to the rules, regulations and policies of the Commission and all other government entities or authorities or hereafter to be constituted.

17. Headings. The headings contained in this Agreement are included for convenience only and no such heading shall in any way alter the meaning of any provision.

18. Assignability; No Third Party Rights. Broker may freely assign it's rights and obligations under this Agreement, to any third party which is qualified to be an FCC licensee and which has the financial capacity to pay the Monthly fee. Any assignment of rights and benefits under this Agreement shall not relieve the Broker of its duties and obligations under this Agreement. The covenants, conditions and provisions hereof are and shall be for the exclusive benefit of the parties hereto and their permitted assigns, and nothing herein, express or implied, is intended or shall be construed to confer upon or to give any person or entity other than the parties hereto and their permitted assigns any right, remedy or claim, legal or equitable, under or by reasons of this Agreement.

213 KRA

19. Counterpart Signature. This Agreement may be signed in one or more counterparts, each of which shall be deemed a duplicate original, binding on the parties hereto notwithstanding that the parties are not signatory to the original or the same counterpart.

20. Entire Agreement. This Agreement embodies the entire Agreement between the parties and there are no other Agreements, representations, warranties or understanding, oral or written, between them with respect to the subject matter hereof. No alteration, modification or change of this Agreement shall be valid unless by like written instrument executed by an authorized principal.

21. No Partnership or Joint Venture Created. Nothing in this Agreement shall be construed to make Licensee and Broker partners or joint ventures or to afford any rights to any third party other than as expressly provided herein.

22. Invalidity. If any provision of this Agreement or the application thereof to any person or circumstances shall be held invalid or unenforceable to any extent, the parties shall negotiate in good faith and attempt to agree on an amendment to this Agreement that will provide the parties with substantially the same rights and obligations, to the greatest extent possible, as the original Agreement in valid, binding and enforceable form.

23. Sererability. In the event any provision contained in this Agreement is held to be invalid, illegal or unenforceable, such holding shall not affect any other provisions here of and this Agreement shall be construed as if such invalid, illegal, or unenforceable provision had not been contained herein.

24. Certification - FCC Rules. Pursuant to Section 73.3555(a)(3)(ii) of the FCC's rules, the parties certify as follows:

- (i) Licensee certifies that it shall at all times maintain ultimate control of the Station's facilities, including specifically control over station finances, personnel and programming.
- (ii) Broker certifies that this Agreement complies with the provisions of Section 73.3555(a)(l) of the FCC's rules.

25. Confidentiality. Neither party shall disclose the terms of this Agreement to any third party, except when such disclosure is required by law.

26. Attorney's Fees and Expenses. In the event of any dispute arising under this Agreement, the prevailing party shall be entitled to its reasonable attorney's fees incurred in connection therewith and all related costs and expenses.

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27. Arbitration. Any dispute arising from the terms of this Agreement or the transactions contemplated herein after Closing other than dispute specified in Section 16 hereof shall be submitted to Arbitration. Such Arbitration shall take place in meridian, Mississippi, or such other place mutually agreed to by the parties, with each party designating an arbitrator having some background and experience in broadcasting. The arbitrators designated shall mutually select a third arbitrator. The arbitrator so selected shall conduct an expeditious hearing pursuant to the rules and procedures of the American Arbitration Association ("AAA"). The written decision of the arbitrator, who shall be a member of the AAA, shall be final and binding upon Seller and Buyer. All expenses attendant to the Arbitration shall be split equally between buyer and Seller. Each side shall pay it's own attorney's fees.

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

Larry K. Blaw, President  
For Blakeney Communications, Inc.

Kenneth R. Rainey  
RADIO BROADCASTERS, LLC