

## **LOCAL MARKETING AGREEMENT**

THIS LOCAL MARKETING AGREEMENT (this "Agreement") is effective as of November 30, 2011 by and between Alabama Media, LLC ("Programmer"), and Southeast Alabama Broadcasters, LLC ("Licensee").

### **RECITALS**

A. Licensee owns and operates radio broadcast stations WLDA-FM, Slocomb, AL (FIN 60591); WJRL-FM, Fort Rucker, AL (FIN 63945); WDBT-FM, Headland, AL (FIN 10666); and WESP-FM, Dothan, AL (FIN 6891) (the "Stations") pursuant to Licenses issued by the Federal Communications Commission ("FCC").

B. Programmer has available and is producing radio programs that it desires to have broadcast on the Stations, and therefore desires to purchase airtime from Licensee for the broadcast of such programs.

C. Licensee has agreed to make available to Programmer airtime on the Stations and to accept for broadcast on the Stations the programs of Programmer, on the terms and conditions set forth in this Agreement.

D. Licensee and Programmer are also parties to that certain Asset Purchase Agreement dated the date hereof (as such may be amended, modified or restated, the "Purchase Agreement") providing for the purchase of the Stations by Programmer, subject to the consent of the FCC and the other terms of the Purchase Agreement. Terms used but not defined herein shall have the meanings ascribed to them in the Purchase Agreement.

### **AGREEMENT**

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties, intending to be legally bound, agree as follows:

#### **ARTICLE 1 AGREEMENT TERM**

1.1 The term of this Agreement (the "Term") began as of 11:59 p.m. (Alabama time) on November 30, 2011 (the "Commencement Date") and shall continue until terminated pursuant to Article 9 of this Agreement.

#### **ARTICLE 2**

## **PAYMENTS UNDER LMA**

2.1 Consideration. For the broadcast of programming produced or furnished by or at the direction of Programmer (the "Programming") and the other benefits made available to Programmer pursuant to this Agreement, during the Term of this Agreement Programmer shall reimburse Licensee for all Reimbursable Expenses (as further set forth in Section 5.2 hereof), and pay the LMA Fee as set forth on Schedule 2.1 hereto. Payment of such Reimbursable Expenses and LMA Fee shall constitute the consideration for the rights and benefits provided to Programmer under this Agreement and, except as otherwise specifically provided in this Agreement, no other payment shall be due hereunder from Programmer to Licensee.

### **ARTICLE 3 PROGRAMMER'S RIGHTS AND OBLIGATIONS**

Purchase of Airtime; Provision of Programming; Advertising Sales;  
Performance of Agreements

3.1 Purchase of Airtime. During the Term, for the consideration set forth in Article 2, Programmer shall purchase from Licensee, on the terms specified herein, all airtime on the Stations twenty-four (24) hours per day, seven (7) days per week, except for (a) periods of regularly scheduled or necessary maintenance and (b) the period from 6:00 a.m. to 8:00 a.m. each Sunday for Licensee to air such public service programming as Licensee may desire and produce, at its own expense, to address the problems, needs, and issues relevant to the residents throughout the Stations' listening areas.

#### 3.2 Provision of Programming.

a. Programmer's Programming. The Programming shall consist of entertainment programming of Programmer's selection, together with commercial matter, news, public service announcements, and other suitable program material for broadcast on the Stations in compliance with the terms of this Agreement. The Programming shall comply in all material respects with applicable law, including the Communications Act of 1934, as amended, and the rules and regulations of the FCC.

b. Music Licenses; Copyright Compliance. During the Term, Programmer will be responsible for entering into and/or maintaining, at its expense, all music licenses as are necessary with respect to the Programming, including without limitation all ASCAP, BMI & SESAC music licenses in effect on the Commencement Date; and shall pay all music license fees and copyright royalties required for the Programming.

c. Call Signs; Station Identification Announcements. During the Term, Licensee will retain all rights to the call letters of the Stations or any other call letters which may be assigned by the FCC for use by the Stations, and will ensure that proper station identification announcements are made with such call letters in accordance with FCC rules and regulations. Programmer agrees to

include in the Programming delivered for broadcast an announcement at the beginning of each hour of such programs to identify such call letters, as well as any other announcements required by the rules and regulations of the FCC. Programmer is specifically authorized to use such call letters in its Programming, in any promotional material, and in any media used in connection with its promotion and marketing of the Stations, but shall not state or infer in any way in such material, media or otherwise, that Programmer is the FCC licensee, owner or operator of any or all of the Stations.

d. Delivery of Programming. Programmer shall deliver the Programming to the Stations' transmitter site, at Programmer's expense, via a method of delivery that will ensure that the Programming meets technical and quality standards reasonably acceptable to Licensee. Programmer shall make such studio space and equipment as Licensee owns or leases in connection with the Stations available at no additional cost to Licensee for such purpose beyond the consideration stated in Article 2.

e. Licensee's Broadcast of Programming. During the Term, Licensee shall cause to be broadcast on the Stations the Programming which Programmer supplies to the Stations, subject to the terms and conditions of this Agreement.

3.3 Advertising Sales. Programmer shall be responsible for the sale of all advertising on the Stations after the Commencement Date and for the collection of all accounts receivable arising from advertising broadcast on the Stations after the Commencement Date.

3.4 Performance of Advertising, Programming and Trade Agreements. After the Commencement Date, Programmer shall perform all obligations of Licensee under the following agreements: (i) agreements to air commercial advertising time on the Stations that are in effect as of the Commencement Date (the "Advertising Contracts"), provided that Programmer shall collect and retain the proceeds of all accounts receivable arising from the broadcast of such advertising, (ii) programming contracts relating to the Stations in effect as of the Commencement Date (the "Programming Contracts"), and (iii) agreements in effect as of the Commencement Date under which Licensee has agreed to provide commercial advertising time on the Stations after the Commencement Date in exchange for property or services in lieu of, or in addition to, cash ("Trade Agreements"), provided that Programmer shall be entitled to all goods and services to be provided to the Stations after the Commencement Date under the Trade Agreements. No such performance hereunder will be deemed an acceptance or acknowledgement by Programmer of the validity or enforceability of any such agreement, and no such performance shall constitute or cause an assignment or assumption of any such agreement.

3.5 Programmer's Employees. Subject to the terms and conditions of this Agreement, during the Term of this Agreement, Programmer may employ, at its own cost and expense, its own employees to work at the Stations ("Programmer's Employees").

## **ARTICLE 4**

### **LICENSEE'S RIGHTS AND OBLIGATIONS**

#### Ownership and Control of Stations and Personnel; Maintenance of Facilities

##### 4.1 Licensee's Ownership and Control.

a. Control of Station Operations. Notwithstanding anything to the contrary in this Agreement, as long as Licensee remains the licensee of the Stations it will have full authority, power and control over the operation of the Stations and over Licensee's LMA Employees, as required by FCC rules, regulations and policies; and will bear the responsibility for the Stations' compliance with all applicable provisions of the rules, regulations and policies of the FCC and all other applicable laws.

b. Oversight of Programming. Nothing contained herein shall prevent Licensee from (i) maintaining control over all decisions with respect to its personnel at the Stations; (ii) rejecting or refusing programs which Licensee reasonably and in good faith believes to be contrary to the public interest, or which do not meet the requirements of the rules, regulations, and policies of the FCC, or that violate the rights of third parties or constitutes a personal attack, provided, that Licensee shall use commercially reasonable efforts to inform Programmer of such determination sufficiently in advance of broadcast that Programmer may provide acceptable substitute programs; or (iii) substituting programs which Licensee reasonably and in good faith believes to be of greater local or national importance or to better address the problems, needs and interests of the residents of the Stations' communities of license. Licensee further reserves the right to preempt any program in the event of a local, state, or national emergency. Licensee reserves the right to delete any commercial announcements that do not comply with the requirements of the FCC's sponsorship identification policy.

c. Programmer Public File Cooperation. Programmer agrees to serve Licensee with notice and a copy of any emails or letters of complaint it receives concerning any program broadcast on the Stations for Licensee review and inclusion in the Stations' public inspection files.

4.2 Licensee's Personnel. Licensee shall retain at the Stations at least two full-time employees who shall act at the direction and under the control of Licensee ("Licensee's LMA Employees"), one of whom shall act as Licensee's general manager of the Stations, who will direct the day-to-day operations of the Stations, and the other will provide on-air announcer and administrative services, and each of whom shall report to Licensee and have no employment, consulting or other relationship with Programmer during the Term.

4.3 Maintenance of Facilities; Programmer's Use of Facilities. Subject to the provisions of Section 5.2, Licensee shall use commercially reasonable efforts to maintain the operating power of the Stations in compliance with the parameters of the Station's FCC licenses and the rules and regulations of the FCC throughout the Term, and shall maintain the Stations' towers, transmitter sites, studio, broadcasting and office

equipment in their current condition as of the Commencement Date. Licensee shall provide Programmer, on a non-exclusive basis and not as a lease or sub-lease of either equipment or real property, access to and use of any Stations, studio, equipment and facilities owned by Licensee, or to which Licensee has such rights of use and access, for Programmer to perform under this Agreement; provided that all such activity shall be conducted by Programmer under the full supervision and authority of Licensee's LMA Employees.

## **ARTICLE 5**

### **OPERATING EXPENSES; PROGRAMMER'S EXPENSES; EMPLOYEES**

5.1 Operating Expenses. Licensee shall be responsible for, and shall pay in a timely manner, all ordinary and necessary costs of operating the Stations during the Term, including without limitation those set forth on Schedule 5.1 hereto (the "Operating Expenses"); provided, however, that to the extent permitted by the rules and policies of the FCC, Licensee and Programmer may agree that Licensee shall pay certain Operating Expenses directly.

5.2 Reimbursement of Certain Operating Expenses. Programmer shall reimburse Licensee for the Reimbursable Expenses and all other fees pertaining to the Stations which are incurred during the Term and paid by Licensee. For purposes of this Agreement, the term "Reimbursable Expenses" shall mean those Operating Expenses described in Schedule 5.2 hereto. On or before the fifteenth (15th) day of each month, Licensee shall deliver to Programmer an invoice (the "Reimbursement Invoice") for the Reimbursable Expenses for the previous month, supported by copies of invoices or other reasonable supporting materials. The Reimbursement Invoice shall be paid by Programmer not later than fifteen (15) business days after delivery, provided that if an expense is disputed, Programmer shall pay all undisputed amounts within such period and the parties shall use their respective best efforts to resolve the disputed amount promptly.

5.3 Programmer's Expenses. During the Term, Programmer will be responsible for, and pay in a timely manner all of (a) the expenses it incurs in the production of the programs supplied to Licensee for broadcast on the Stations and the cost of delivering such programs to Licensee, (b) the expenses it incurs in the promotion, marketing, and sale of advertising time on the Stations, (c) the cost of Programmer's Employees, and (d) all other costs of the Stations other than the Operating Expenses.

## **ARTICLE 6**

### **PRORATIONS; ACCOUNTS RECEIVABLE**

6.1 Apportionment of Income. Subject to the terms of the Purchase Agreement, Licensee shall be entitled to all income, including in-kind trade goods or services, attributable to and earned from the operation of the Stations prior to, and until the Commencement Date ("Licensee's Income"). Programmer shall be entitled to all income, including in-kind trade goods or services, attributable to and earned from the

operation of the Stations on and after the Commencement Date ("Programmer's Income"). All overlapping items of income shall be prorated as of the Commencement Date (the "Prorations").

6.2 Apportionment of Expense. Licensee shall be responsible for all expenses, obligations and liabilities arising out of the operation of the Stations prior to, and until the Commencement Date. Licensee shall further be responsible for paying all Operating Expenses, and Programmer shall be responsible for reimbursing Licensee for those Reimbursable Expenses, arising out of the operation of the Stations after the Commencement Date pursuant to Sections 5.1 and 5.2. All overlapping and pre-paid items of expense shall be prorated or reimbursed, as the case may be, as of the Commencement Date, and shall be included in the Prorations. Such prorated pre-paid expenses shall include but not be limited to: (a) such expenses in connection with the contracts and agreements to be performed by Programmer, or conferring benefit on Programmer, under this Agreement, (b) utility charges, including electricity, water and sewer charges, (c) business and license fees, including any retroactive adjustments thereof, (d) programming payments, costs, and charges, (e) property and equipment rentals, (f) applicable copyright or other related fees, (g) sales and service charges, and (h) expenses and obligations for which liability has accrued, but whose payment or satisfaction is not yet due as of the Commencement Date.

## **ARTICLE 7 FCC COMPLIANCE**

7.1 Regulatory Compliance. Licensee shall be responsible for the Stations' compliance with all applicable provisions of the Communications Act of 1934, as amended, the rules and policies of the FCC and all other applicable laws. Licensee shall at all times be solely responsible for meeting all of the Commission's requirements with respect to public service programming, for maintaining the political and public inspection files and the Stations' logs, and for the preparation of issues/programs lists; provided, however, that Programmer shall consult with Licensee in the selection of the Programming to ensure that its content contains matters responsive to issues of public concern in the Stations' respective cities of license, as those issues are made known to Programmer by Licensee. On or before January 7, April 7, July 7 and October 7 of each year during the Term, Programmer shall provide to Licensee a list of each such significant community issue addressed in the Programming, and the specific titles, air dates and times of all Programming that addressed such issues during the immediately-preceding calendar quarter. Programmer shall also provide upon Licensee's reasonable request such other information necessary to enable Licensee to prepare any other records and reports required by the FCC and local, state or other federal governmental authorities.

7.2 Political Time. Licensee shall oversee and take ultimate responsibility with respect to the provision of equal opportunities, lowest unit charge, and reasonable access to political candidates, and compliance with the political broadcast rules of the FCC as they relate to the Stations. During the Term, Programmer shall cooperate with Licensee as Licensee complies with its political broadcast responsibilities, and shall

supply such information promptly to Licensee as may be necessary to comply with the political broadcasting provisions of the FCC's rules, regulations and policies, the Communications Act of 1934, as amended, and federal election laws. Programmer shall release such time over the Station to Licensee as Licensee deems necessary or appropriate to permit Licensee to comply with the political broadcast rules of the FCC.

7.3 Stations' EAS Tests. During all hours when Programmer is delivering the Programming for broadcast over the Stations, Programmer shall utilize Licensee's receivers capable of receiving test messages and alerts over the Emergency Broadcast System ("EAS"), which EAS receivers shall be continuously monitored. If an EAS test or alert is received during the hours when Programmer is delivering the Programming for broadcast over the Stations, Programmer shall cause the appropriate EAS test or alert message to be transmitted over the Stations, and in the event of an actual activation of the Emergency Broadcast System, shall cause all steps to be taken that the Stations are required to take in such an event, and shall be responsible for assuring that the receipt and broadcast of all EAS tests and alerts are properly recorded in the Stations' logs.

7.4 Certification. Pursuant to Paragraph (j)(3) of Note 2 of 47 C.F.R. § 73.3555, Licensee hereby certifies that it maintains ultimate control over the Stations' facilities, including specifically control over the Stations' finances, personnel and programming, and Programmer hereby certifies that this Agreement complies with the provisions of paragraphs (a), (c) and (d) of 47 C.F.R. § 73.3555.

7.5 Regulatory Changes. In the event of any order or decree of an administrative agency or court of competent jurisdiction, including without limitation any material change or clarification in FCC rules, policies, or precedent, that would cause this Agreement to be invalid or violate any applicable law, and such order or decree has become effective and has not been stayed, the parties will use their respective best efforts and negotiate in good faith to modify this Agreement to the minimum extent necessary so as to comply with such order or decree without material economic detriment to either party, and this Agreement, as so modified, shall then continue in full force and effect.

7.6 FCC EEO. Programmer shall be solely responsible for the discharge of all obligations and requirements of the FCC's EEO rules and regulations with regard to Programmer's Employees and recruitment activities.

7.7 Payola. Programmer agrees that neither it nor its employees, agents or consultants will accept any consideration, compensation, gift or gratuity of any kind whatsoever, regardless of its value or form, including, but not limited to, a commission, discount, bonus, material, supplies or other merchandise, services or labor (collectively "Consideration"), whether or not pursuant to written contracts or agreements between Programmer and merchants or advertisers, unless the payer is identified in the program for which Consideration was provided as having paid for or furnished such Consideration, in accordance with the Act and FCC requirements. Programmer agrees

that at any time upon request of Licensee, it and all of its employees and agents who are involved with providing the Programming on the Stations, will execute and provide Licensee with a Payola Affidavit in the form attached hereto as Schedule 7.7.

## **ARTICLE 8 REPRESENTATIONS, WARRANTIES AND COVENANTS**

8.1 Authority. Programmer and Licensee each represent and warrant to the other that (a) it has the power and authority to enter into this Agreement and to consummate the transactions contemplated hereby, (b) it is in good standing in the state of Alabama, (c) this Agreement is binding upon it, and (c) the execution, delivery, and performance by it of this Agreement does not conflict with, result in a breach of, or constitute a default or grounds for termination under any agreement to which it is a party or by which it is bound.

8.2 Contract Performance. On and after the Commencement Date and during the Term of this Agreement, Programmer covenants to use commercially reasonable efforts to perform the obligations of Licensee under, and shall receive all the benefits of, the Advertising Contracts, Programming Contracts and Trade Agreements.

8.3 No New Contracts. On and after the Commencement Date until the end of the Term, Licensee covenants that it will not enter into any Advertising Contracts, Programming Contracts or Trade Agreements under which Programmer shall have any liabilities or obligations.

8.4 Production of Programming. Programmer represents and warrants that it has full authority to broadcast its Programming on the Stations; and that the Programming it transmits to Licensee for broadcast on the Stations shall conform in all material respects to all FCC rules, regulations and policies and all other applicable laws in all material respects, and does not violate the Copyright Act or the rights of any third party with respect to libel, privacy, publicity, copyright or any similar right.

8.5 Licensee. Licensee represents and warrants that it is the valid holder of the FCC licenses and authorizations necessary for the operations of the Stations as currently conducted, and that such licenses and authorizations are in full force and effect without conditions outside the ordinary course.

## **ARTICLE 9 TERMINATION**

9.1 Automatic Termination. This Agreement shall automatically terminate on the first to occur of the following events:

- a. the Closing of the sale of the assets and assignment of the licenses for the Stations to Programmer pursuant to the Purchase Agreement; or



b. the first day of the month following termination of the Purchase Agreement according to its terms.

9.2 Termination by the Parties. In addition to other remedies available at law or equity, 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 default or breach hereof, upon the occurrence of any of the following:

a. this Agreement is declared invalid or illegal in whole or substantial part by a final order or decree of an administrative agency or court of competent jurisdiction, such order or decree has gone into effect and has not been stayed, and the parties are unable, after negotiating in good faith pursuant to Section 7.5 for a period of at least thirty days, to modify this Agreement to comply with applicable law;

b. there is a change in FCC rules, policies or precedent that would cause this Agreement to be in violation thereof and such change is in effect and has not been stayed, and the parties are unable, after negotiating in good faith pursuant to Section 7.5 for at least thirty (30) days (or such lesser period as may be required to comply with FCC rules), to modify this Agreement to comply with the change in FCC rules, policies or precedent.

c. the other party is in breach of its financial obligations hereunder; or is in breach of its material non-financial obligations hereunder and has failed to cure such non-financial breach within ten (10) business days after receipt of written notice thereof from the non-breaching party, provided, however, that if the non-financial breach is one that cannot be cured with reasonable diligence within ten (10) business days, but would reasonably be expected to be cured within an additional fifteen (15) days and the breaching party is diligently attempting to cure the breach, then the non-breaching party may not terminate this Agreement on account of such non-financial breach until such additional fifteen (15) day period has elapsed without a cure; or

d. the mutual consent of both parties.

9.3 Cooperation Upon Termination. If this Agreement is terminated or expires for any reason, Licensee shall be under no further obligation to make available to Programmer any further broadcast time or broadcast transmission facilities, and Programmer shall have no further obligation to make any payments to Licensee hereunder other than for Reimbursable Expenses payments that have accrued but are not yet paid on or prior to such termination or expiration.

## **ARTICLE 10 INDEMNIFICATION**

10.1 Programmer's Indemnity Obligations. Programmer agrees that, absent gross negligence or willful misconduct by Licensee or Licensee's agents, Licensee

and its members, officers, directors, employees and agents shall have no liability whatsoever for any loss, harm, damage or injury to persons or property ("Loss") to Programmer or its members, officers, directors, employees or agents, including direct, indirect, incidental or consequential damages or losses, including without limitation any such Loss resulting from a failure or loss of power, damage to or destruction of the tower, casualty loss, unsatisfactory or imperfect transmission or other operation of Licensee's equipment, restrictions imposed by governmental authority, conditions beyond its control or otherwise. Programmer agrees to indemnify and hold Licensee and its members, officers, directors, employees and agents harmless from and against any and all claims, actions, suits, damages, liabilities, costs, and expenses, including attorneys' fees and expenses, occasioned by, arising out of or resulting from (i) any use made of the Stations or their equipment by Programmer or its members, officers, directors, employees or agents whatsoever and which are not caused by, or are a direct result of the gross negligence or willful misconduct of Licensee or its members, officers, directors, employees or agents; (ii) the broadcast of the Programming on the Stations, including without limitation all liability for indecency, libel, slander, illegal competition or trade practice, infringement of trademarks, trade names, Programming titles, violation of rights of privacy, and infringement of copyrights and proprietary rights, or any other violation of third party rights or of FCC rules, regulations, policies or other applicable law; and (iii) any breach by Programmer of its representations, warranties, covenants or agreements contained in this Agreement. The obligations under this Section 10.1 shall survive any termination of this Agreement and continue in perpetuity or for as long as allowed by law.

10.2 Licensee's Indemnity Obligations. Licensee shall indemnify and hold Programmer and its members, officers, directors, employees and agents harmless against any and all liability arising from (a) the broadcast of Licensee's programming on the Stations, including without limitation all liability for indecency, libel, slander, illegal competition or trade practice, infringement of trademarks, trade names, program titles, violation of rights of privacy, and infringement of copyrights and proprietary rights or any other violation of third party rights or of FCC rules, regulations, policies or other applicable law related to the broadcast of Licensee's programming on the Stations; (b) any breach of any representations, warranties, covenants, agreements or obligations of Licensee contained in this Agreement; and (c) Licensee's operation of the Stations prior to the Commencement Date, except to the extent Programmer has assumed the liability related thereto expressly in this Agreement. The obligations under this Section 10.2 shall survive any termination of this Agreement and continue in perpetuity or for as long as allowed by law.

10.3 Indemnification Procedure. If any claim (or proceeding relating thereto) by a person or entity not a party to this Agreement that is covered by the foregoing agreements to indemnify and hold harmless shall arise, the party who seeks indemnification (the "Indemnified Party") shall give written notice thereof to the other party (or parties) (the "Indemnitor") pursuant to the notice provisions set forth in this Agreement promptly after the Indemnified Party learns of the existence of such claim or

proceeding; *provided, however*, that the Indemnified Party's failure to give the Indemnitor prompt notice shall not bar the Indemnified Party's right to indemnification unless such failure has materially prejudiced the Indemnitor's ability to defend the claim or proceeding. The Indemnitor shall have the right to employ counsel reasonably acceptable to the Indemnified Party to defend against any such claim or proceeding, or to compromise, settle or otherwise dispose of the same, if the Indemnitor deems it advisable to do so, all at the expense of the Indemnitor; provided that the Indemnitor shall not have the right to control the defense of any such claim or proceeding unless it has acknowledged in writing its obligation to indemnify the Indemnified Party fully from all liabilities incurred as a result of such claim or proceeding; *further provided* that (a) the Indemnitor shall not effect any settlement relating to any such claim or proceeding without Indemnified Party's written consent unless such settlement includes an unconditional release of such Indemnified Party from all liability on any claims that are the subject of such claim or proceeding and (b) the Indemnitor may not contractually bind any Indemnified Party without the written consent of the Indemnified Party. The parties will fully cooperate in any such action, and shall make available to each other any books or records useful for the defense of any such claim or proceeding. If the Indemnitor fails to acknowledge in writing its obligation to defend against or settle such claim or proceeding within twenty (20) days after receiving notice thereof from the Indemnified Party (or such shorter time specified in the notice as the circumstances of the matter may dictate), the Indemnified Party shall be free to dispose of the matter, at the expense of the Indemnitor, in any way in which the Indemnified Party deems to be in its best interest.

## **ARTICLE 11 INSURANCE**

11.1 Types; Limits; Other Matters. During the Term, Programmer shall maintain one or more policies of public liability insurance having coverage limits of at least \$1,000,000 per occurrence and \$2,000,000 aggregate for bodily injury and property damage, \$2,000,000 umbrella insurance coverage, and media liability insurance having coverage limits of at least \$1,000,000. Before the Commencement Date, Programmer shall provide Licensee with one or more certificates of insurance demonstrating all such insurance coverage as required hereunder. Programmer agrees, as to each such insurance policy, to (a) have Licensee listed as an additional insured, (b) waive, and Programmer hereby does waive, for itself and its insurer, subrogation in favor of Licensee for each and all insured and non-insured claims and losses and (c) require at least thirty (30) days prior written notice to Licensee of cancellation or material change.

## **ARTICLE 12 MISCELLANEOUS**

12.1 Modification and Waiver; Remedies Cumulative. No modification of any provision of this Agreement will be effective unless in writing and signed by all parties to this Agreement. No failure or delay on the part of Programmer or Licensee in exercising any right or power under this Agreement will operate as a waiver of such right or power,

nor will any single or partial exercise of any such right or power or the exercise of any other right or power operate as a waiver of any right or power herein conferred. Except as otherwise provided in this Agreement, the rights and remedies provided in this Agreement are cumulative and are not exclusive of any other rights or remedies which a party may otherwise have.

12.2 Assignability; No Third Party Rights. The rights and obligations of Licensee and Programmer under this Agreement may not be assigned or delegated without the other party's written consent, such consent not to be unreasonably withheld, conditioned or delayed. 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 reason of this Agreement, except as provided in this Section 11.2.

12.3 Governing Law; Jurisdiction. The obligations of Licensee and Programmer are subject to applicable federal, state and local law, rules and regulations, including, but not limited to, the Communications Laws and the rules and regulations of the FCC. The construction and performance of the Agreement will be governed by the laws of the State of Alabama, except for the choice of law rules used in that jurisdiction.

12.4 Counterpart Signatures; Facsimile or Electronic Signatures. This Agreement may be signed in one or more counterparts, each of which will be deemed a duplicate original and all of which, taken together, shall constitute one and the same Agreement. All counterpart signature pages may be delivered by facsimile or electronic signature and shall have the same force and effect as if an original signature were being delivered.

12.5 Entire Agreement. This Agreement, together with the Purchase Agreement, and their respective exhibits and schedules, embody the entire agreement, and supersede all prior oral or written understandings between the parties with respect to the subject matter of this Agreement.

12.6 Relationship of Parties. Neither the Programmer nor Licensee will be deemed to be the agent, partner, or representative or joint venturer of the other party to this Agreement, and neither party is authorized to bind the other to any contract, agreement, or understanding.

12.7 Subject to Laws; Partial Invalidity. The obligations of the parties under this Agreement are subject to the rules, regulations and policies of the FCC and all other applicable laws. The parties agree that Licensee may file a copy of this Agreement with the FCC and that Licensee shall place a redacted copy of this Agreement in the Station's public inspection file. If any provision in this Agreement is held to be invalid, illegal, or unenforceable, then so long as no party is deprived of the benefits of this Agreement in any material respect, such invalidity, illegality, or unenforceability will not

affect any other provision of this Agreement, and this Agreement will be construed as if it did not contain such invalid, illegal, or unenforceable provision.

12.8 Recitals; Headings. The Recitals set forth above are incorporated herein in their entirety and made a part hereof. The headings of the various provisions of this Agreement are included for convenience only, and no such heading shall in any way affect or alter the meaning of any provision. All references made herein to Articles and Sections are to the Articles and Sections of this Agreement.

12.9 Terms Generally. The defined terms in this Agreement shall apply equally to both the singular and plural forms of the terms defined. Whenever the context may require, any pronoun shall include the corresponding masculine, feminine and neuter forms. The words "include," "includes," and "including" shall be deemed to be followed by the phrase "without limitation." All references herein to Articles, Sections, Exhibits and Schedules shall be deemed references to Articles and Sections of, and Exhibits and Schedules to, this Agreement unless the context shall otherwise require.

12.10 Notice. All notices, demands, requests, or other communications which may be or are required to be given or made by any party to any party pursuant to this Agreement shall be in writing, and shall comply with the notice provisions set forth in the Purchase Agreement.

[Remainder of page intentionally left blank and signature page follows.]

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

PROGRAMMER

ALABAMA MEDIA, LLC

By: *Robt H*  
Name: *ROBERT HUNTER*  
Title: *MANAGER MEMBER*

LICENSEE

SOUTHEAST ALABAMA BROADCASTERS, LLC

By: *Georgia R Edmiston*  
*Georgia R Edmiston*  
*Manager*