

## **TIME BROKERAGE AGREEMENT**

**THIS TIME BROKERAGE AGREEMENT** (this “Agreement”) is made this 23rd day of July, 2015 by and between Airwaves, Inc. (“Licensee”) and Serestar Communications Corporation (“SERESTAR”).

**WHEREAS**, Licensee owns certain assets used in connection with the business and operations of each of the following television stations which are assigned to the Salt Lake City, Utah Designated Market Area (the “DMA”) (collectively, the “Stations”):

KULX-CD, Channel 10.1 (i.e., the station’s primary program stream), Odgen, Utah, Facility ID No. 168495 (“KULX”)

KULU-LD, Channel 16, Park City, Utah, Facility ID No. 168492

KQTI-LD, Channel 17, Ogden, Utah, Facility ID No. 130912

K17II, Channel 17, Logan, Utah, Facility ID No. 168494 (provided that the Telemundo programming is delivered to this station);

**WHEREAS**, Licensee holds certain licenses, permits and other authorizations (the “Licenses”) issued by the Federal Communications Commission (“FCC”) in connection with the Stations;

**WHEREAS**, SERESTAR does not own or control a full-power television station in the DMA;

**WHEREAS**, SERESTAR is entering into an Asset Purchase Agreement (the “Purchase Agreement”), pursuant to which Licensee proposes to sell to SERESTAR the FCC Licenses and other specified tangible and intangible assets and properties used or useful in the business and operation of the Stations (except KQTI-LD) as provided in the Purchase Agreement (the “Assets”), and SERESTAR wishes to acquire such Assets;

**WHEREAS**, in connection with the transactions contemplated by the Purchase Agreement, Licensee and SERESTAR desire to enter into this Agreement pursuant to which SERESTAR shall provide programming for the Stations that is in conformity with the Communications Act of 1934, as amended, and the rules, regulations, written policies and other legal requirements promulgated or adopted by the FCC (collectively, “FCC Requirements”), the Stations’ written policies and procedures that have been provided to SERESTAR, and the provisions hereof; and

**WHEREAS**, Licensee maintains, and shall continue to maintain during the term of this Agreement, ultimate control over the Stations’ facilities, including control over the Stations’ finances, personnel, and programming.

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

### **SECTION 1. PROVISION OF AIR TIME ON THE STATIONS**

**SECTION 1.1. Term.** The effective date of this Agreement (the “Effective Date”) shall be July 27, 2015, and this Agreement shall continue in force and effect until the earlier of December 1, 2015, or the close of the transactions contemplated by the Purchase Agreement, unless otherwise extended by the parties or terminated as set forth in Section 5 hereof.

**SECTION 1.2. Scope.** Commencing on the Effective Date, Licensee shall make available to SERESTAR broadcast time on the Stations as set forth in this Agreement. SERESTAR shall utilize Licensee’s transmitter facilities and related equipment at each Station’s transmitter site (the “Transmitter Sites”) to

broadcast SERESTAR's programming. Subject to Licensee's approval as expressly provided for in this Agreement, SERESTAR shall provide programming of SERESTAR's selection complete with commercial matter, public service announcements, and other suitable programming to the Licensee for up to one hundred sixty-eight (168) hours per week. Licensee, in its reasonable good faith discretion, may designate such time as it may require for the commercial-free broadcast of programming necessary for the Stations to broadcast news, public affairs, religious and non-entertainment programming as required by FCC Requirements, all at such times to be agreed upon by Licensee and SERESTAR. All program time not reserved by or designated for Licensee shall be available for use by SERESTAR and no other party.

**SECTION 1.3. Consideration.** As consideration for the air time made available hereunder, SERESTAR shall reimburse Licensee as set forth in Attachment I hereto.

**SECTION 1.4. Licensee Operation of the Stations.**

**SECTION 1.4.a)** Licensee will have full authority, power, and control over the management and operations of the Stations during the term of this Agreement. Licensee shall comply in all material respects with FCC Requirements applicable to the Stations. Licensee shall employ and shall be responsible for paying the salaries, payroll costs, insurance and all other related out-of-pocket expenses for two (2) employees (one (1) of whom shall be a managerial level employee, referred to herein as the "Manager"), as required by FCC Requirements; these employees will report to and be accountable to the Licensee.

**SECTION 1.4.b)** Except as provided herein and Attachment I hereto, Licensee shall pay all of the costs and expenses that are incurred in the operation of the Stations including, but not limited to, the following: the salaries and other employee-related benefit costs of the two (2) employees that Licensee retains to comply with FCC Requirements, all lease or mortgage payments, all music license fees for all programming provided by Licensee, all FCC fees, all real estate and personal property taxes, all insurance costs and expenses, all utility costs and expenses, and expenses directly related to keeping the Licenses current. SERESTAR shall reimburse Licensee for certain costs and expenses as provided for herein and in Attachment I hereto. SERESTAR shall make such capital expenditures as provided for in Attachment I hereto.

**SECTION 1.4.c)** Licensee represents and warrants that it owns and holds all Licenses necessary for the operation of the Stations as currently conducted. Licensee shall maintain such Licenses in full force and effect throughout the term of this Agreement. Licensee is not in material violation of any FCC Requirement or other applicable federal, state, local or other law, ordinance, regulation or statute ("Legal Requirement") that would reasonably be expected to have a material adverse effect upon Licensee, the Stations, the Licenses or upon Licensee's ability to perform this Agreement. Licensee shall (i) comply in all material respects with all FCC Requirements and other Legal Requirements applicable to the functions performed by it in connection with the Stations, and (ii) not take any action, or fail to take any action while having an obligation to act under this Agreement or any applicable Legal Requirement, that would cause the SERESTAR, the Stations, the Licenses or itself in respect of the Stations, to violate in any material respect any applicable Legal Requirement.

**SECTION 1.5. SERESTAR's Responsibility.**

**SECTION 1.5.a)** SERESTAR shall be solely responsible for any expenses incurred in connection with Licensee's contract with Nielsen Media Research for the Stations and any expenses incurred in the production, origination and/or delivery of its programming and commercial messages and for any publicity or promotional expenses incurred by SERESTAR, including ASCAP, BMI and SESAC music license fees for all programming provided by SERESTAR and all expenses incurred by SERESTAR in connection with the sale of advertising time (including sales commissions) on the Stations.

**SECTION 1.5.b)** SERESTAR shall employ and be responsible for the salaries, commissions, taxes, employee benefits, and all other related expenses for all personnel of SERESTAR involved in the production and broadcast of its programs (including air personalities, engineering personnel, sales personnel, traffic personnel, board operators, and other programmers and production staff members) or otherwise engaged in SERESTAR's time brokerage activities hereunder. Whenever on the Stations' premises,

all personnel, whether employed by Licensee or SERESTAR, shall be subject to the overall supervision of the Manager.

**SECTION 1.5.c)** SERESTAR shall (i) comply in all material respects with all FCC Requirements and other Legal Requirements applicable to the functions performed by it in connection with the Stations, (ii) cooperate with Licensee to ensure that the Stations remain in compliance with all FCC and other Legal Requirements in all material respects, and (iii) not take any action, or fail to take any action while having an obligation to act hereunder, that would cause the Licensee, the Stations, or, in respect of the Stations, the SERESTAR to violate in any material respect any applicable Legal Requirement.

**SECTION 1.5.d)** During the term of this Agreement and any renewal hereof, SERESTAR agrees to perform routine monitoring of the performance of the Stations' transmission facilities and tower lighting through Licensee's remote control system, if and when requested by Licensee in writing no later than 24 hours prior to the requested time for monitoring.

**SECTION 1.6. Obligation to the Community of License of the Stations; Licensee Obligations.**

**SECTION 1.6.a)** Licensee Authority. Notwithstanding any other provision of this Agreement, SERESTAR recognizes that Licensee has certain obligations to broadcast programming to meet the needs and interests of viewers in Ogden, Utah, the community of license for KULX. From time to time, Licensee may, in its reasonable good faith judgment, preempt SERESTAR's programming in order to broadcast commercial-free programming to the local community deemed by Licensee to be of greater importance; provided, however, that in no event shall Licensee exercise such right with the intention of interfering with the intent of this Agreement. In all such cases, Licensee will use its best efforts to give SERESTAR reasonable advance notice of its intention to preempt any regularly scheduled programming of SERESTAR. Nothing in this Agreement shall abrogate the unrestricted authority of the Licensee to discharge its obligations to the public and to comply with FCC Requirements.

**SECTION 1.6.b)** Additional Licensee Obligations. Although both parties shall cooperate in the broadcast of emergency information over the Stations, Licensee shall also retain the right to interrupt SERESTAR's programming in case of an emergency or for commercial-free programming which, in the reasonable good faith judgment of Licensee, is of greater local or national public importance; provided, however, that in no event shall Licensee exercise such right with the intention of interfering with the intent of this Agreement. In all such cases, Licensee will use best efforts to give SERESTAR reasonable advance notice of its intention to preempt any regularly scheduled programming of SERESTAR. SERESTAR shall broadcast all required station identification announcements in form and content approved by Licensee with respect to the Stations in material compliance with FCC Requirements and any other announcements required to be aired by the rules, regulations, and policies of the FCC. Licensee shall continue to maintain a main studio, as that term is defined by FCC Requirements; shall maintain the Stations' local and online public inspection files in accordance with FCC Requirements with the reasonable assistance of SERESTAR; and shall prepare and place in such inspection files in a timely manner all material required by FCC Requirements, including the Stations' quarterly issues and program lists, information concerning the broadcast of children's educational and informational programming and documentation of compliance with commercial limits applicable to certain children's television programming with the reasonable assistance of SERESTAR. SERESTAR shall promptly provide Licensee with such information concerning SERESTAR's programs and advertising as is necessary to assist Licensee in the preparation of such information and shall promptly provide Licensee with all documents SERESTAR receives that are required to be placed in the Stations' political or public inspection files. Licensee shall also receive and respond to telephone inquiries, and control and oversee any remote control point for the Stations. SERESTAR will cooperate with and assist Licensee in compiling and preparing all information that is reasonably necessary to enable it to prepare all reports and records, and submit all filings, required by the FCC or other Governmental Authorities.

**SECTION 1.6.c)** Maintenance and Repair. Subject to Licensee's control and direction, SERESTAR shall maintain operations of the Stations as is customary in the television broadcast industry, including maintaining the Transmitter Sites, including their respective antennas, transmitters and transmission lines. SERESTAR shall undertake such repairs or the purchase of replacement equipment as may

be reasonably necessary. SERESTAR shall promptly advise Licensee of the need for any material repairs or replacement of equipment and shall promptly undertake such repairs subject to first receiving Licensee's approval which shall not be unreasonably withheld, conditioned or delayed.

**SECTION 1.6.d)**      Compliance with FCC Technical Rules. Licensee shall designate SERESTAR 's Chief Engineer as the assistant chief operator for the Stations, at no cost or expense to Licensee, who shall be responsible for maintaining the transmission facilities of the Stations and who shall be responsible for ensuring compliance by the Stations with the technical operating and reporting requirements established by the FCC and report to Airwaves, Inc Manager.

**SECTION 1.6.e)**      License to Use Call Signs. During the term of this Agreement, Licensee grants SERESTAR the right to use the Stations' call signs in connection with and during the programming of the SERESTAR.

## **SECTION 2.      PROGRAMMING AND STATIONS PROGRAMMING POLICIES**

**SECTION 2.1.**      Programming Requirements. Licensee acknowledges and agrees that SERESTAR shall enter into new permitted programming agreements and arrangements in its own name (or in the name of an affiliate of SERESTAR) and not in the name of the Licensee or the Stations. SERESTAR's management personnel will meet at least weekly with the Manager to assist Licensee's oversight over SERESTAR's activities in connection with the Stations.

**SECTION 2.2.**      Advertising Spots and Promotional Material. All advertising spots and promotional material or announcements shall comply, in all material respects, with applicable Legal Requirements.

**SECTION 2.3.**      Licensee Control of Programming. The Licensee shall have the full and unrestricted right to reject, delete and not broadcast any material contained in any part of the programming or advertising selected and/or scheduled by SERESTAR which the Licensee in reasonable good faith determines would be contrary to the public interest, FCC Requirements or any other applicable Legal Requirement, or the Policy Statement, and Licensee shall not exercise such right with the intention of interfering with the intent of this Agreement. Licensee shall give SERESTAR as much written advance notice as reasonably possible and the justification therefor concurrently therewith or as soon thereafter as reasonably possible.

**SECTION 2.4.**      SERESTAR Compliance with Law. SERESTAR represents and warrants to Licensee that SERESTAR has full authority to broadcast its programming on the Stations and covenants that SERESTAR shall not broadcast any material in violation of the Copyright Act or any other law, or that violates the rights of any person or entity. All music supplied by SERESTAR shall be (i) licensed by ASCAP, SESAC or BMI, (ii) in the public domain, or (iii) cleared at the source by SERESTAR. Licensee will maintain ASCAP, BMI, and SESAC licenses as necessary. The right to use the programming supplied by SERESTAR and to authorize its use in any manner shall be and remain vested in SERESTAR.

**SECTION 2.5.**      Sales. SERESTAR shall retain all revenues arising from 10.1.the Stations and the conduct of the business of the Stations, including all revenues received from any network, distributor or program supplier with respect to affiliation or use of programming on the Stations, and all revenues (after commissions) from the sale of advertising time within the programming broadcast on Telemundo Utah 10.1 on or after the Effective Date.

**SECTION 2.6.**      Payola. SERESTAR agrees that it and its employees will not, directly or indirectly, accept any consideration, compensation, gift, or gratuity of any kind whatsoever, regardless of its value or form, including a commission, discount, bonus, material, supplies, or other merchandise, services, or labor (collectively "Consideration"), whether or not pursuant to written contracts or agreements between SERESTAR 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 FCC Requirement.

**SECTION 2.7. Sustaining Programming.** SERESTAR and Licensee mutually acknowledge their interest in ensuring that KULX serve the needs and interests of viewers in Salt Lake City, Utah, and the surrounding service area and agree to cooperate to provide such service. SERESTAR, in cooperation with Licensee, will ensure that programming responsive to the needs and interests of the community of license and surrounding area is broadcast, in material compliance with FCC Requirements, and Licensee on request shall assist SERESTAR in the production of Licensee-provided programming. SERESTAR will provide Licensee with a list of the programming that is broadcast in response to those issues in the quarterly issues/programs lists that Licensee will prepare, with the reasonable assistance of SERESTAR, pursuant to Section 1.6(b). SERESTAR shall also provide Licensee, upon reasonable request, such other information necessary to enable Licensee to prepare records and reports required by the FCC or other Governmental Authorities.

**SECTION 2.8. Children's Television Advertising.** SERESTAR will not broadcast commercial matter within the programs that SERESTAR provides that are designed for children aged 12 years and under that would cause the Stations to exceed the amounts permitted under, or otherwise violate, FCC Requirements and will take all steps necessary to pre-screen children's programming broadcast during the hours SERESTAR is providing such programming to establish that commercial matter is not being broadcast in excess of FCC Requirements.

**SECTION 2.9. Children's Programming.** SERESTAR agrees that it will provide all programming necessary, to comply with the children's programming requirements as specified by FCC Requirements. SERESTAR shall be responsible for providing to Licensee information and documentation with respect to the children's programming that SERESTAR broadcasts to assist Licensee in preparing all reports and certifications required to be submitted to the FCC or placed in the Stations' public inspection file. SERESTAR shall provide the Licensee with information regarding the titles of all children's programs of SERESTAR broadcast on the Stations in the previous quarter to which the advertising limits apply, all program segments during which the allowed commercial limits were exceeded, if any, and a separate memo explaining why any excesses occurred in the event that excesses occurred. In carrying out its obligations with respect to children's programming, SERESTAR shall further maintain records with respect to commercial matter in children's programming either in the form of logs of programs reflecting the commercial time, tapes of the programs, lists of commercial minutes aired in identified children's programs, or appropriate certificates from syndicators with respect to compliance with the FCC's requirements on commercial limits. Licensee shall respond to any FCC inquiries concerning children's programming issues with the reasonable assistance of SERESTAR.

**SECTION 2.10. Class A Station.** Licensee shall ensure that KULX remains in material compliance with the FCC Requirements applicable to Class A stations, with the reasonable cooperation of SERESTAR who will broadcast local news at 5 and 10 pm Monday through Friday.

**SECTION 2.11. Licensee's Certification.** Licensee hereby certifies that it shall maintain the ultimate control over the Stations' facilities, including, without limitation, control over the finances with respect to the operation of the Stations, over its personnel operating the Stations and over the programming to be broadcast by the Stations.

**SECTION 2.12. Station's Agreements.** The parties hereto acknowledge and agree that SERESTAR is not assuming any of the Stations' agreements or contracts.

### **SECTION 3. REPRESENTATIONS, WARRANTIES AND COVENANTS**

#### **SECTION 3.1. Licensee Representations, Warranties and Covenants.**

**SECTION 3.1.a)** Licensee represents that it is legally qualified, empowered and able to enter into this Agreement and that the execution, delivery, and performance hereof shall not constitute a breach or violation of any material agreement, contract or other obligation to which it is subject or by which it is bound.

**SECTION 3.1.b)** Licensee shall not take any action or omit to take any action that would have a materially adverse impact upon the Stations or upon either party's ability to perform this Agreement.

**SECTION 3.1.c)** There is not now pending, or to the knowledge of Licensee threatened, any action by the FCC or by any other party to revoke, cancel, suspend, refuse to renew or modify adversely any of the Licenses.

**SECTION 3.1.d)** Licensee is not in material violation of any statute, ordinance, rule, regulation, policy, order or decree of any federal, state or local entity, court or authority having jurisdiction over it or the Stations, that would have a materially adverse effect upon Licensee, the Stations, or Licensee's ability to perform this Agreement.

**SECTION 3.1.e)** All reports and applications required to be filed with the FCC or any other governmental body during the course of the term of this Agreement or any renewal thereof, will be filed in a timely and complete manner.

**SECTION 3.2. SERESTAR Representations, Warranties and Covenants.**

**SECTION 3.1.f)** SERESTAR represents that it is legally qualified, empowered and able to enter into this Agreement and that the execution, delivery, and performance hereof shall not constitute a breach or violation of any material agreement, contract or other obligation to which it is subject or by which it is bound.

**SECTION 3.1.g)** SERESTAR shall not take any action or omit to take any action that would have a materially adverse impact upon the Stations or either party's ability to perform this Agreement.

**SECTION 3.1.h)** SERESTAR is not in material violation of any statute, ordinance, rule, regulation, policy, order or decree of any federal, state or local entity, court or authority having jurisdiction over it, that would have a materially adverse effect upon SERESTAR, the Stations or SERESTAR's ability to perform this Agreement.

**SECTION 3.1.i)** All reports and applications required to be filed with the FCC or any other governmental body during the course of the term of this Agreement or any renewal thereof, will be filed in a timely and complete manner.

**SECTION 4. INDEMNIFICATION**

**SECTION 4.1. SERESTAR's Indemnification.** SERESTAR shall indemnify and hold harmless Licensee and its officers, directors, employees and agents from and against any and all claims, losses, costs, liabilities, damages, FCC forfeitures and expenses (including reasonable legal fees and other expenses incidental thereto) of every kind, nature and description (collectively, "Damages") to the extent arising out of or resulting from (a) SERESTAR's breach of any representation, warranty, covenant or agreement contained in this Agreement or (b) any action taken or gross negligence or willful misconduct by SERESTAR or its employees or agents with respect to the Stations, or any failure by SERESTAR or its employees or agents to take any action with respect to the Stations, including, without limitation, Damages relating to violations of the Act or any of the FCC Rules, slander, defamation, copyright infringement, idea misappropriation, invasion of right of privacy or publicity or any other claims relating to the SERESTAR Programming and SERESTAR's sale and broadcast of advertising time on the Stations.

**SECTION 4.2. Licensee Indemnification.** Licensee shall indemnify and hold harmless SERESTAR and its officers, directors, employees and agents from and against any and all Damages to the extent arising out of or resulting from (a) Licensee's breach of any representation, warranty, covenant or agreement contained in this Agreement or (b) the gross negligence or willful misconduct of Licensee's employees, including those employees used pursuant to this Agreement.

**SECTION 4.3. Limitations on Indemnification.**

**SECTION 4.3.a)** Notwithstanding anything herein to the contrary, SERESTAR shall not be obligated to indemnify Licensee under this Section 4 unless the aggregate of all of the Licensee's Damages exceeds Fifty Thousand Dollars (\$50,000) ("SERESTAR Basket"), in which case Licensee shall be entitled to recover all of Licensee's Damages above that amount, provided, however, that the SERESTAR Basket shall not apply to any SERESTAR indemnification obligation arising out of, relating to or resulting from fraud or intentional misrepresentation by SERESTAR.

**SECTION 4.3.b)** Notwithstanding anything herein to the contrary, Licensee shall not be obligated to indemnify SERESTAR under this Section 4 unless the aggregate of all of SERESTAR's Damages exceeds Fifty Thousand Dollars (\$50,000) ("The Licensee Basket"), in which case SERESTAR shall be entitled to recover all of SERESTAR's Damages above that amount, provided, however, that the Licensee Basket shall not apply to any Licensee indemnification obligation arising out of, relating to or resulting from fraud or intentional misrepresentation by Licensee-

**SECTION 4.4. Procedures for Indemnification.** The procedures for indemnification under this Agreement shall be as follows:

**SECTION 4.4.a)** The party claiming indemnification (the "Claimant") shall promptly give notice to the party from which indemnification is claimed (the "Indemnifying Party") of any claim for which indemnification is sought by Claimant under this Agreement, 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 to Indemnifying Party within five (5) business days after written notice of such action, suit, or proceeding was received by Claimant. Claimant's failure to notify Indemnifying Party of a claim within the period specified in this Section 4.4(a) shall not relieve Indemnifying Party of any indemnification obligation under this Agreement, except to the extent that Indemnifying Party is materially prejudiced by such failure.

**SECTION 4.4.b)** With respect to claims solely between the parties, following receipt of notice from the Claimant of a claim, the Indemnifying Party shall have thirty days to make such investigation of the claim as the Indemnifying Party deems necessary or desirable. For the purposes of such investigation, the Claimant agrees to make available to the Indemnifying Party and/or its authorized representatives the information relied upon by the Claimant to substantiate the claim. If the Claimant and the Indemnifying Party agree at or prior to the expiration of the thirty-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. If the Claimant and the Indemnifying Party do not agree within the thirty-day period (or any mutually agreed upon extension thereof), the Claimant may seek appropriate remedy in accordance with the terms of this Agreement.

**SECTION 4.3.c)** 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 participate in or 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 fully in the defense of such claim at its own expense. If the Indemnifying Party does not elect to assume control or otherwise participate in the defense of any third party claim, it shall be bound by the results obtained by the Claimant with respect to such claim. Notwithstanding anything herein to the contrary, the Indemnifying Party shall not effect any settlement relating to any claim under the indemnification of this Agreement that seeks in whole or in part any non-monetary relief or that could adversely affect the Claimant without the prior written consent of the Claimant.

**SECTION 4.5. Survival.** The indemnification obligations of Licensee and SERESTAR in this Section 4 shall survive the termination of this Agreement.

**SECTION 4.6. Legal Challenge.** If this Agreement is challenged at the FCC, Licensee and SERESTAR shall jointly defend the Agreement and the parties' performance thereunder, with the expenses incurred thereby borne equally by Licensee and SERESTAR. If the FCC determines that all or any portion of this Agreement

is inconsistent with or contrary to the FCC Rules or if subsequent legislative or regulatory action alters the permissibility of this Agreement under the FCC Rules, the parties hereto shall take such commercially reasonable actions, including reforming the Agreement to conform to the FCC Rules or, upon mutual agreement (with the expenses therefor to be borne equally by Licensee and SERESTAR), seek reversal of the FCC's decision through further review by the FCC or a court of law.

## **SECTION 5. TERMINATION AND REMEDIES UPON DEFAULT**

**SECTION 5.1. Termination by Either Party.** In addition to other remedies available at law or equity, Licensee or SERESTAR may terminate this Agreement, in whole or in part, upon written notice to the other party if the party seeking to terminate is not then in material default or breach hereof, upon the occurrence of any of the following:

**SECTION 5.1.a)** Subject to the provisions of Section 4.6 hereof, this Agreement is declared invalid or illegal in whole or substantial part by an order or decree of an administrative agency or court of competent jurisdiction, and such order or decree has become final and no longer subject to further administrative or judicial review;

**SECTION 5.1.b)** The other party is in material breach of its obligations hereunder and has failed to cure such breach within thirty (30) days' written notice from the non-breaching party (other than with respect to any payment obligation for which the cure period shall be fifteen (15) days);

**SECTION 5.1.c)** The mutual consent of the parties, which consent may be withheld in the sole discretion of each such party;

**SECTION 5.1.d)** Subject to the provisions of Section 4.6 hereof, there has been a material change in FCC Rules, policies or precedent that would cause this Agreement to be in violation thereof, and such change is in effect, has not been stayed by the FCC or enjoined by a court of competent jurisdiction and is no longer subject to appeal or further administrative review, and this Agreement cannot be reformed, in a manner acceptable to Licensee and SERESTAR, to remove or eliminate the violation; or

**SECTION 5.1.e)** The consummation or termination of the Purchase Agreement pursuant to its terms.

**SECTION 5.2. Termination by SERESTAR.** SERESTAR may unilaterally terminate this Agreement, with ten days' prior written notice to Licensee, upon the preemption by Licensee of more than twenty (20) hours of SERESTAR's programming in any one week (excluding for this purpose all preemptions made in good faith by Licensee for local, regional or national emergencies or disasters).

### **SECTION 5.3. Effect of Termination.**

**SECTION 5.3.a)** During any period prior to the effective date of any termination of this Agreement, SERESTAR and Licensee agree to cooperate in good faith to ensure that the Stations' operations will continue, to the extent possible, in accordance with the terms of this Agreement and that the termination of this Agreement is effected in a manner that will minimize, to the extent possible, any disruption of the Stations' ongoing operations.

**SECTION 5.3.b)** Within forty-five (45) days of the termination or expiration of this Agreement, the parties shall prepare a final accounting relating to the activities covered by this Agreement. All revenue (including accounts receivable) generated and expenses incurred pursuant to this Agreement shall be prorated through and including the date of termination of this Agreement. Appropriate payments shall be made by the parties to effectuate this accounting. Any disputes between the parties concerning such payments shall be subject to arbitration as set forth in Section 6.11.

**SECTION 5.4. Force Majeure.** Any failure or impairment of the Stations' facilities or any delay or interruption in the broadcast of programs or failure at any time to furnish facilities, in whole or in part, for



broadcast, due to Acts of God, acts of war or terrorism, civil riot, floods and any other cause not reasonably within the control of Licensee, or for power reductions necessitated for maintenance of the Stations or for maintenance of other stations located on the tower(s) from which the Stations will be broadcasting, shall not constitute a breach of this Agreement.

**SECTION 5.5. Remedies Cumulative.** Except as otherwise set forth herein, the remedies provided for in this Agreement shall be cumulative and shall not preclude any party from asserting any other right, or seeking any other remedies, against the other party.

## **SECTION 6. MISCELLANEOUS**

**SECTION 6.1. Assignment; Binding Effect.** This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and permitted assigns. Neither party shall assign or transfer its rights, interests or obligations hereunder without the prior written consent of the other party, which consent may not be unreasonably withheld, provided, however, that either Licensee or SERESTAR may assign this Agreement to an affiliate upon notice to the other party. For purposes of this Agreement, an affiliate is a party controlling, controlled by or under common control with SERESTAR or Licensee as the case may be.

**SECTION 6.2. Other Agreements.** Neither party shall enter into any other agreement with any third party that would conflict with or result in a material breach of this Agreement by that party.

**SECTION 6.3. Counterparts.** This Agreement may be executed in one or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument.

**SECTION 6.4. Entire Agreement.** This Agreement and the Attachments hereto embody the entire agreement and understanding of the parties relating to the subject matter hereof. No amendment, waiver of compliance with any provision or condition hereof, or consent pursuant to this Agreement shall be effective unless evidenced by an instrument in writing signed by the parties.

**SECTION 6.5. Taxes.** Each party shall pay the Taxes (as defined below) levied or assessed against such party. Without limiting the foregoing, SERESTAR shall pay all Taxes, if any, to which the consideration specified in Section 1.3 herein is subject, provided that Licensee shall be responsible for payment of its own income taxes. For purposes of this Agreement, the term "Taxes" means all federal, state, local, foreign and other taxes, franchise, including income, estimated income, gross receipts, employment, license, payroll, excise, stamp, social security, unemployment, real property, personal property, sales, use, transfer and withholding taxes, including interest, penalties and additions in connection therewith, whether disputed or not.

**SECTION 6.7. Headings.** The headings in this Agreement are for convenience only and shall not control or affect the meaning or construction of the provisions of this Agreement.

**SECTION 6.8. Governing Law; Jurisdiction and Venue.** The obligations of Licensee and SERESTAR are subject to applicable federal, state and local law, rules and regulations, including, but not limited to, the Act and the FCC Rules. The construction and performance of this Agreement shall be governed by the laws of the State of Utah. The parties hereby submit to the exclusive jurisdiction of the state and federal courts located in the County of Salt Lake, State of Utah.

**SECTION 6.9. Notices.** All notices, demands and requests required or permitted to be given under the provisions of this Agreement shall be (i) in writing, (ii) sent by personal delivery, by reputable overnight courier service or certified mail, return receipt requested, (iii) deemed to have been given on the date received, and (iv) addressed as follows:

To Licensee:

John Terrill  
Airwaves, Inc.  
453 Simoron Drive  
Ogden, Utah 84404

With a copy, which shall not constitute notice, to:

Michael Couzens  
Attorney At Law  
6536 Telegraph Avenue, Suite B201  
Oakland, CA 94609

To SERESTAR:

Philip Wilkinson  
President & CEO  
SERESTAR Communications Corporation.  
17537 Los Morros  
P.O. Box 2630  
Rancho Santa Fe, CA 92067

or to any such other or additional persons and addresses as the parties hereto may from time to time designate in a writing delivered in accordance with this Section 6.8.

**SECTION 6.10. Severability.** If any provision of this Agreement or the application thereof to any person or circumstances shall be invalid or unenforceable to any extent, the remainder of this Agreement and the application of such provision to other persons or circumstances shall not be affected thereby and shall be enforced to the fullest extent permitted by law. In the event the FCC alters or modifies its rules or policies in a manner that would raise substantial and material question as to the validity of any provision of this Agreement, the parties hereto shall negotiate in good faith to revise any such provision of this Agreement with a view toward assuring compliance with all then existing FCC rules and written policies that may be applicable, while attempting to preserve, as closely as possible, the intent of the parties as embodied in the provision of this Agreement that is to be so modified.

**SECTION 6.11. No Joint Venture.** Nothing in this Agreement shall be deemed to create a joint venture between Licensee and SERESTAR.

**SECTION 6.12. Arbitration of Disputes.** This section concerns the resolution of any controversies or claims between or among the parties hereto arising under this Agreement or any renewals, extensions or modifications thereof. At the request of any party to this Agreement, any such controversies or claims shall be settled by arbitration in Salt Lake City in accordance with the laws of the State of Utah for agreements made in and to be performed in that State and with the provisions of this Section 6.11. This section does not limit the right of either party to: (i) exercise any self-help remedies provided for herein; or (ii) file an action in a court of law, before, during, or after the arbitration proceeding to obtain a provisional or interim remedy, and/or any ancillary, additional or supplementary remedy.

**SECTION 6.12a) Appointment of Arbitrator.** Any controversy between the parties regarding the construction or application of this Agreement, and any claim arising out of this Agreement or its breach, shall be submitted to confidential arbitration before a single arbitrator upon the written request of one party after service of that request on the other party. The parties shall jointly agree on the appointment of a single arbitrator, provided, however, that in the event they are unable to agree on the appointment of a single arbitrator, either party may petition the Supreme Court of the State of Utah to appoint the arbitrator.

**SECTION 6.12b)**      Application of JAMS Arbitration Rules. The arbitration shall be administered by JAMS pursuant to its Streamlined Arbitration Rules and Procedures. Notwithstanding the foregoing, neither party will be entitled to full discovery pursuant to the Federal Rules of Evidence. For purposes of the application of the statute of limitations, the filing of an arbitration pursuant to this paragraph is the equivalent of the filing of a lawsuit, and any claim or controversy which may be arbitrated under this paragraph is subject to any applicable statute of limitations. The arbitrator will have the authority to decide whether any such claim or controversy is barred by the statute of limitations, and, if so, to dismiss the arbitration on that basis. If there is a dispute as to whether an issue is arbitrable, the arbitrator will have the authority to resolve such dispute.

**SECTION 6.12c)**      Enforcement. The decision that results from an arbitration proceeding may be submitted to any authorized court of law to be confirmed and enforced. The judgment upon award of the arbitrator shall be final and binding and may be enforced in any court of competent jurisdiction, and each of the parties hereto unconditionally submits to the jurisdiction of such court for the purpose of any Proceeding seeking such enforcement. Subject to the provisions of applicable law, the procedure described in this Section 6.11 shall be the exclusive means of resolving disputes arising under this Agreement and all other agreements to be executed in accordance herewith.

**SECTION 6.12d)**      No Waiver. The institution and maintenance of an action for judicial relief or pursuit of a provisional or ancillary remedy shall not constitute a waiver of the right of any party, including the suing party, to submit the controversy or claim to arbitration or reference if the other party contests the lawsuit.

**SECTION 6.13. Specific Performance.** In the event that any party is in material breach of this Agreement, any non breaching party in addition to any other remedies available to such non breaching party, may seek specific performance of those aspects of the Agreement that are capable of being specifically performed under FCC Rules as well as damages attributable to such breach.

**IN WITNESS WHEREOF**, the parties hereto have caused their duly authorized officers to execute this Agreement as of the day and year first above written.

AIRWAVES, INC.

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

SERESTAR COMMUNICATIONS CORPORATION

By: \_\_\_\_\_  
Name: Philip C. Wilkinson  
Title: President and Chief Executive Officer

## ATTACHMENT I

### FEES AND COSTS

1. With the exception of expenses for the Licensee's employees as provided below, SERESTAR shall reimburse Licensee (or pay directly to the respective third parties, as SERESTAR and Licensee may agree) for all operating costs and expenses of the Stations during the term of this Agreement, including but not limited to, all utility costs and expenses for electricity used at the Transmitter Sites and the studio space located at 5180 South 300 West #1, Murray, Utah (the "Studio"); payments to lessors for Licensee's obligations under its leases for the Transmitter Sites and the Studio; the salary of two employees employed and designated by Licensee (and who shall not be the Manager) whose time SERESTAR shares during the term of this Agreement; and all expenses directly related to keeping the Licenses for the Stations current.

2. Within ten (10) days after the end of each calendar month during the term of this Agreement, Licensee shall provide to SERESTAR with a schedule (with supporting documentation acceptable to SERESTAR in its reasonable discretion) of reimbursable costs and expenses incurred by Licensee during the term of this Agreement in the ordinary course of business consistent with past practices and not paid directly by SERESTAR, during such prior calendar month in connection with its ownership and operation of the Stations in accordance with the terms and conditions of this Agreement (the "Monthly Costs").

3. SERESTAR shall pay directly to the respective third parties the costs and expenses related to maintaining, repairing and replacing equipment of the Stations subject to Section 1.6(c) of this Agreement subject to Licensee's prior engineering approval.

4. Licensee shall pay without reimbursement, except as noted below in paragraph 10, the salaries of any and all employees employed by Licensee.

5. With respect to the foregoing items, it is understood and agreed that the Monthly Costs shall refer only to such operating expenses as have been actually incurred and paid by Licensee, after applying deposit funds as provided in paragraph 10 of this Attachment.

6. SERESTAR shall pay Licensee the undisputed amount of the Monthly Costs within fifteen (15) days of receipt by SERESTAR of such schedule and supporting documentation to the extent reasonably acceptable to SERESTAR. SERESTAR may withhold payment of the portion (and only the portion) of any item of the Monthly Costs as to which SERESTAR has a good faith, material dispute pending resolution by the parties, provided that any such dispute shall be resolved on an expedited basis. To the extent, if any, that SERESTAR has, prior to payment of the Monthly Costs, advanced funds to the Licensee for any items comprising the Monthly Costs, such funds shall be deducted from any further reimbursement of Monthly Costs.

7. Licensee shall pay SERESTAR within fourteen (14) days of receipt by Licensee all revenues received by Licensee prior to (e.g., from advertisers paying cash in advance) or after the Effective Date from the sale of advertising time within the programming broadcast on the Stations after the Effective Date.

8. SERESTAR understands and agrees that, for the benefit of Telemundo, a barter as between local radio and television was made, creating an obligation to run a certain number of TV spots. SERESTAR agrees to run these spots after the effective date at no charge.

9. Licensee will lease its KQTI-LD Ogden Utah station to SERESTAR for the period of this TBA at the monthly rate noted in paragraph 10 below.

10. SERESTAR shall pay Licensee within 5 business days (5) days of receipt by SERESTAR all revenues received by SERESTAR from the sale of advertising time within the programming broadcast on the Stations prior to the Effective Date.

11. On the first of each month, with three days grace period, SERESTAR will pay to Airwaves, Inc. the sum of \$18,800 as an advance on non-negotiable actual invoice reimbursable direct expenses constituting Monthly Costs (including but not limited to rents and utilities) incurred by Airwaves, Inc. as listed below:

Studio Space Lease Units G,H,I,J at 5180 South 300 West Murray, Utah	\$2,670.00
KSL Transmitter lease, Farnsworth Peak.....	
basic rent not including power and services .....	\$3,164.07
Nielsen Media Research , fixed each month.....	\$4,337.00
All West Transmitter space lease monthly KULU (may increase soon).....	400. 00
Airwaves Tower Company space lease KQTI monthly .....	\$700.00
BMI Music fee...Monthly.....	\$61.50
Comcast Monthly invoice basic.....	\$192.98
Administrative cost accounting.....	874.45
Salary reimbursed Chief Operator \$750 per week average 4 weeks.....	\$3,000.00
Salary reimbursed traffic manager \$475 per week average 4 weeks.....	\$1,900.00
Overall monthly rental fee .....	\$1,500.00
One fourth of the above is due for the remainder of July, 2015, on signing.	

12. Airwaves, inc. Revenue. Notwithstanding any other provision of this agreement, SERESTAR acknowledges that all revenue due to Airwaves, Inc for advertising, or services on KULX 10.1 prior to the Effective Date the property of Airwaves, Inc and will be forwarded to Airwaves, Inc. on a weekly basis with full accounting. In no case will SERESTAR deposit Airwaves revenue into a SERESTAR account. Fixed monthly revenue for the calendar month July will be split pro rate with SERESTAR providing billing services and remitting 75% of revenue to Licensee.

13 SERESTAR will pay a 25% sales commission to Licensee's employees for sales booked prior to the Effective date and broadcast after the Effective Date.

14. All provisions above, including revenue, apply only to Telemundo Utah 10.1 operations, as 10.2 and 10.3 have different affiliation agreements which do not allow third party participation and are retained by Airwaves, Inc, until such time as station license is transferred and SERESTAR makes its own affiliation agreements.

#### CAPITAL EXPENDITURES

15. All equipment is "as is" and with the approval of Licensee SERESTAR shall undertake such repairs or the purchase of replacement equipment as provided for in Section 1.6(c) of this Agreement. In the event that closing does not occur under the Purchase Agreement or this Agreement is terminated (other than in accordance with Section 5.1(e)), SERESTAR shall not be entitled to retain any equipment, part or other capital improvement made during the term of this Agreement to the extent such capital expenditure was necessitated by SERESTAR's negligence or willful misconduct and title to such capital improvements shall be transferred to Licensee. As to any capital improvement made during the term of the Agreement that was not necessitated by SERESTAR's negligence

or willful misconduct, either SERESTAR may remove such equipment, part or other capital improvement (provided that SERESTAR shall cause no damage to physical facilities from which the capital improvement is removed, and that SERESTAR does not need to replace any removed capital improvement) and retain title thereto or, at Licensee's option, Licensee may purchase such equipment from SERESTAR by reimbursing SERESTAR for its costs related to such capital improvement.

16. In the event of any conflict of language between the TBA and this Attachment I, then this Attachment I shall control.

Understood and Agreed:

Initialed: \_\_\_\_\_ for Airwaves, Inc.

\_\_\_\_\_ for SERESTAR