

LOCAL MARKETING AGREEMENT

by and between

6 JOHNSON ROAD LICENSES, INC.

PAMAL BROADCASTING, LTD.

and

CUMULUS BROADCASTING LLC

for

WXBM-FM and WMEZ(FM)

MAY 4, 2012

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## LOCAL MARKETING AGREEMENT

THIS LOCAL MARKETING AGREEMENT (the “Agreement”), is made this 4th day of May, 2012, by and between 6 Johnson Road Licenses, Inc., a New York corporation (“JRL”), and Pamal Broadcasting, Ltd., a New York corporation (“PBL” and, with JRL, sometimes referred to hereinafter collectively as “Licensee”), on the one hand, and Cumulus Broadcasting LLC, a Nevada limited liability company (“Programmer”), on the other hand.

WHEREAS, JRL holds licenses and other authorizations (collectively, the “FCC Licenses”) from the Federal Communications Commission (the “FCC”) for radio stations WXBW-FM, Milton, Florida (FCC Facility ID No. 32946), and WMEZ(FM), Pensacola, Florida (FCC Facility ID No. 73256) (each a “Station” and collectively, the “Stations”); and

WHEREAS, in addition to the FCC Licenses, Licensee owns, leases or holds other assets used or useful in the operation of the Stations; and

WHEREAS, Licensee and Programmer are parties to an Asset Purchase Agreement (the “Purchase Agreement”) being executed this same day whereby Programmer and its wholly-owned subsidiary, Cumulus Licensing LLC (“CLL”), will acquire substantially all of the assets used or useful in the operation of the Stations; and

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

WHEREAS, as contemplated by the Purchase Agreement, CLL has filed an application, FCC File No. BPH-20120131AJS (the “Modification Application”), with the FCC to modify the license for WYOK(FM), Atmore, Alabama (FCC Facility ID No. 8680), and the implementation of the changes requested by the Modification Application are a condition precedent to Programmer’s ability to commence the provision of programming on the Stations under this Agreement;

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

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

**1.1. Term.** Subject to Section 2.12 of the Purchase Agreement, the term of this Agreement (the “Term”) shall commence at 12:01 a.m. on a date (the “Commencement Date”) on which Programmer files a Form 302-FM license application to cover the construction permit issued by the FCC upon the FCC’s grant of the Modification Application, and shall continue in force until terminated in accordance with Section 5 of this Agreement.

**1.2. Scope.** On the Commencement Date, Licensee shall make the Stations’ facilities available to Programmer for the broadcast of programming (including advertising) for broadcast on the Stations 168 hours per week; provided, that, notwithstanding the foregoing, Licensee

shall be entitled to broadcast programming (a) necessary to serve the needs and interests of the Stations' respective service areas between 6 a.m. and 8 a.m. on Sundays and (b) at such other times as may be required by applicable law, including but not limited to the Communications Act of 1934, as amended (the "Act"), and FCC rules and policies (the "FCC Rules," and, with the Act, sometimes collectively referred to hereinafter as the "Communications Laws").

### **1.3. Consideration.**

(a) Programmer shall be entitled to retain any and all revenue generated from the sale of advertising time in conjunction with programming broadcast on the Stations.

(b) Programmer shall (i) pay a monthly fee to Licensee on the first business day of each calendar month during the Term in accordance with Attachment I annexed hereto and (ii) reimburse Licensee for the salaries of two employees in accordance with Attachment II annexed hereto. Programmer shall have no obligation to reimburse Licensee for any other expenses incurred in the operation of the Stations or to pay any other fees for the right to broadcast programming on the Stations.

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

Licensee will have ultimate control over the management and operations of the Stations during the Term of this Agreement. Except as otherwise expressly provided in this Agreement, Licensee shall (a) have sole responsibility for the Stations' compliance with all applicable provisions of the Act, FCC Rules, and all other applicable laws and government regulations, (b) have sole responsibility for the maintenance of the Stations' studio and transmission facilities, (c) have sole responsibility for payment of all expenses and capital expenditures required for the operation and maintenance of the Stations' facilities, (d) employ at its expense (i) a general manager who will direct the day-to-day operations of the Stations, (ii) at least one non-management level employee, as required by FCC Rules, and (iii) such other personnel as Licensee deems appropriate or necessary for operation of the Stations and its compliance with this Agreement, and (e) except as otherwise expressly set forth in this Agreement, be responsible for the payment of all salaries, taxes, insurance and other related costs and expenses for all Station personnel employed by Licensee. Whenever on the Stations' premises, all personnel, including Programmer's employees and agents, shall be subject to supervision by Licensee's general manager.

**1.5. Programmer Responsibilities.** Programmer shall be solely responsible for any expenses incurred in the origination and/or delivery of programming provided by Programmer under this Agreement, including (a) the salaries, commissions, taxes, insurance and all other related costs and expenses for all personnel involved in the production and broadcast of its programs (including but not limited to on-air personalities, engineering personnel, sales personnel, traffic personnel, board operators and other programmers and production staff members), and (b) all expenses attributable to Programmer's sale of advertising time on the Stations, including, but not limited to, commissions due to any national sales representative engaged by it for the purpose of selling national advertising which is carried during the programming it provides to Licensee.

**1.6. Contracts.** Programmer will not enter into any third-party contract, lease or agreement that will bind Licensee in any way.

## **Section 2. Programming Policies.**

**2.1. Licensee Authority.** Notwithstanding any other provision of this Agreement, Licensee shall retain ultimate responsibility to broadcast programming to meet the needs and interests of the Stations' respective service areas. Licensee therefore retains the right to broadcast specific programming on issues of importance to the service areas. Licensee shall also retain the right to interrupt Programmer's programming in case of an emergency or for programming which, in the good faith judgment of Licensee, is of greater local, regional or national public importance. Licensee shall (a) coordinate with Programmer the Stations' hourly Station identification and any other announcements required to be aired by FCC Rules, (b) continue to maintain a main studio, as that term is defined by the FCC Rules, within the Stations' respective principal community contours, (c) maintain its local public inspection file in accordance with FCC Rules, and prepare and place in such inspection file in a timely manner all material required by of the FCC Rules, including without limitation the Stations' quarterly issues and program lists, (d) maintain the Stations' logs, (e) receive and respond to telephone inquiries, and (f) control and oversee any remote control points which may be established for the Stations.

**2.2. Programmer Compliance with FCC Rules and Policies.** Programmer shall comply in all material respects with the Communications Laws. Programmer shall furnish or cause to be furnished the artistic personnel and material for the programs as provided by this Agreement and all programs shall be prepared and presented in conformity with FCC Rules. All advertising spots and promotional material or announcements shall comply with applicable federal, state and local regulations and policies and shall be produced in accordance with quality standards established by Programmer. If Licensee determines, in the exercise of Licensee's sole discretion, that any broadcast material supplied by Programmer is for any reason unsatisfactory, unsuitable or contrary to the public interest, Licensee may, upon prior written notice to Programmer (to the extent time permits such notice), suspend or cancel the broadcast of such material without incurring liability to Programmer. Licensee will use reasonable efforts to provide such written notice to Programmer prior to the suspension or cancellation of such material. Programmer shall use reasonable efforts to notify Licensee 24 hours in advance of material changes in the programming provided by Programmer for broadcast on the Stations.

**2.3. Public Service Programming.** Programmer shall cooperate as reasonably requested by Licensee to help Licensee ensure the broadcast of programming responsive to the needs and interests of the Stations' respective service areas in compliance with FCC Rules. Programmer shall also provide Licensee with information in Programmer's possession to enable Licensee to prepare records and reports required by FCC Rules.

**2.4. Programmer Compliance with Copyright Act.** Programmer represents and warrants to Licensee that Programmer shall not broadcast any material in violation of the Copyright Act, 17 U.S.C. §101 et seq. The right to use programming supplied by Programmer and to authorize its use in any manner shall be and remain vested in Programmer.

**2.5. Payola.** Neither Programmer nor its employees shall accept any consideration, compensation, gift or gratuity of any kind whatsoever, regardless of its value or form, including, but not limited to, a commission, discount, bonus, material, supplies or other merchandise, services or labor (collectively, “Consideration”), whether or not pursuant to written contracts or agreements between Programmer and merchants or advertisers, unless the payer is identified as required by the Communications Laws in the program for which Consideration was provided as having paid for or furnished such Consideration. On each anniversary date of this Agreement, or more frequently at the reasonable request of the Licensee, Programmer shall provide Licensee with a Payola Affidavit executed by Programmer and separate Payola Affidavits executed by each of its employees involved with the Stations, with each Payola Affidavit to be substantially in the form attached hereto as Attachment III.

**2.6. Political Advertising.** Licensee shall have sole responsibility for the Stations’ compliance with all provisions of the Communications Laws with respect to political access and advertising. Programmer shall assist Licensee in complying with those provisions of the Communications Laws regarding political broadcasting. Licensee shall promptly supply to Programmer, and Programmer shall promptly supply to Licensee, such information, including all inquiries concerning the broadcast of political advertising, as may be necessary to comply with Communications Laws, including the lowest unit rate, equal opportunities, reasonable access, and political file and related requirements. Licensee shall, in consultation with Programmer, develop a statement which discloses its political broadcasting rates and policies to political candidates, and Programmer shall follow those rates and policies in the sale of political programming and advertising. In the event that Programmer fails to satisfy the political broadcasting requirements under the Communications Laws, then, to the extent reasonably necessary to assure compliance with such requirements, Programmer shall either provide rebates to political advertisers or release broadcast time and/or advertising availabilities to Licensee at no cost to Licensee for use by the affected political candidates.

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

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

**3.1. Programmer’s Indemnification.** Programmer shall indemnify and hold Licensee harmless from and against any and all claims, losses, costs, liabilities, damages, forfeitures and expenses (including reasonable legal fees and expenses) of every kind, nature and description (collectively, “Damages”) resulting from (a) Programmer’s breach of any representation, warranty, covenant or agreement contained in this Agreement, (b) Programmer’s negligence or willful misconduct or the negligence or willful misconduct of its employees or agents, and (c) Programmer’s violation of the Copyright Act, the Communications Laws,

forfeitures imposed by the FCC with respect to Programmer's broadcast operations, slander, defamation or other third-party claims relating to programming provided by Programmer, and Programmer's broadcast and sale of advertising time on the Stations.

**3.2. Licensee's Indemnification.** Licensee shall indemnify and hold Programmer harmless from and against any and all Damages resulting from (a) Seller's breach of any representation, warranty, covenant or agreement contained in this Agreement, (b) Seller's negligence or willful misconduct or the negligence or willful misconduct of its employees or agents, and (c) Licensee's violation of the Copyright Act or the Communications Laws, forfeitures imposed by the FCC with respect to Licensee's broadcast operations, slander, defamation or other third-party claims relating to programming provided by Licensee, and Licensee's broadcast and sale of advertising time on the Stations.

**3.3. Limitation.** Neither Licensee nor Programmer shall be entitled to indemnification pursuant to this section unless such claim for indemnification is asserted in writing delivered to the other party within the time frame set forth in Section 3.5.

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

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

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

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



Indemnifying Party elects to assume control of the defense of any third-party claim, the Claimant shall have the right to participate in the defense of such claim at its own expense. If the Indemnifying Party does not assume control, it shall be bound by the results obtained by the Claimant with respect to such claim; provided, that the Claimant shall not settle any third party claim without first giving the Indemnifying Party ten (10) business days' prior notice of the terms of such settlement.

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

(e) The indemnification rights provided herein shall extend to the partners, members, shareholders, directors, officers, employees, representatives and successors and permitted assigns of any Claimant; provided, that, for the purpose of the procedures set forth in this Section 3.4, any indemnification claims by such parties shall be made by and through the Claimant.

**3.5. Survival Period.** The representations and warranties of the parties under this Agreement shall survive for a period of one (1) year after termination of this Agreement in accordance with its terms. Any claim for indemnification under this section must be made on or before expiration of that one-year period.

**Section 4. Access to Programmer Materials and Correspondence.** Licensee shall be entitled to review at its discretion from time to time on a confidential basis any of Programmer's programming material it may reasonably request. Programmer shall promptly provide Licensee with copies of all correspondence and complaints received from the public (including any telephone logs of complaints called in) and copies of all program logs and promotional materials. Nothing in this section shall entitle Licensee to review the internal company or financial records of Programmer.

## **Section 5. Termination and Consequences.**

### **5.1. Bases for Termination.**

(a) This Agreement shall be terminated upon the occurrence of any of the following circumstances (with the understanding that, in the case of clauses (ii) and (iii), the party seeking to terminate the Agreement is not then in material breach of any representation, warranty, or obligation hereunder):

(i) subject to the provisions of Section 7.9, by either party if this Agreement is declared invalid or illegal in whole or material part by an order or decision of a governmental authority or court of competent jurisdiction and such order or decision has not been stayed or has become final (meaning that it is no longer subject to further administrative or judicial reconsideration or review and the time periods for requesting or initiating such review under applicable law or government regulation have expired without such request having been made);

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

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

(iv) the mutual written consent of both parties;

(v) by Licensee or Programmer, if there is a material change in FCC Rules that would cause this Agreement to be in violation thereof, and (x) such change has become final and is no longer subject to further administrative or judicial reconsideration or review and (y) this Agreement cannot be reformed within , in a manner reasonably acceptable to Programmer and Licensee, to remove and/or eliminate the violation; or

(vi) automatically, upon consummation of the Purchase Agreement or sixty (60) days from the date of termination of the Purchase Agreement in accordance with its terms.

(b) During any period prior to the effective date of any termination of this Agreement, Programmer and Licensee shall cooperate in good faith to ensure that Stations' operations will continue, to the extent feasible, in accordance with the terms of this Agreement and in a manner that will minimize, to the extent feasible, the resulting disruption of the Stations' ongoing operations.

(c) Upon termination of this Agreement, Programmer will be responsible for collecting accounts receivable generated from the sale of time by Programmer during the Term of the Agreement; provided, that Licensee shall (i) provide Programmer with such information as Programmer may reasonably request to facilitate those collection efforts and (ii) promptly remit to Programmer with ten (10) business days of receipt any and all monies paid to or received by Licensee for such accounts receivable of Programmer.

**5.2. 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, strikes, lockouts, material or labor restrictions by any governmental authority, 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 communications facilities located on the tower from which either Station is broadcasting, shall not constitute a breach of this Agreement, and Licensee will not be liable to Programmer for reimbursement or reduction of the consideration owed to Licensee.

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

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

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

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

## **Section 7. Miscellaneous.**

### **7.1. Assignment.**

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

(b) Neither party may assign its rights and obligations under this Agreement without the prior written consent of the other party; provided, that Programmer may assign its

rights and obligations under this Agreement at any time to any subsidiary of Programmer or to any other party controlled by or under common control with Programmer.

**7.2. Counterparts.** This Agreement may be executed in counterparts, each of which will be deemed an original but all of which together will constitute one and the same instrument. Signatures delivered by facsimile or electronically shall be treated as original signatures and sufficient to make this Agreement effective.

**7.3. Entire Agreement.** This Agreement (including the Attachments hereto) embodies the entire agreement and understanding of the parties relating to the subject matter hereof and supersedes any and all prior and contemporaneous agreements and understandings of the parties. No amendment to this Agreement will be effective unless evidenced by an instrument in writing signed by the parties.

**7.4. Taxes.** Licensee and Programmer shall each pay its own ad valorem taxes, if any, which may be assessed on such party's respective personal property for the periods that such items are owned by such party.

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

**7.6. Governing Law.** The construction and performance of the Agreement will be governed by the laws of the State of Florida without regard to conflict of law principles.

**7.7. Notices.** All notices, demands and requests required or permitted to be given under the provisions of this Agreement shall be (a) in writing, (b) delivered by personal delivery or by commercial overnight delivery service, (c) deemed to have been given on the date of personal delivery or the date set forth in the records of the delivery service, and (d) addressed as follows (or as such information may be changed in accordance with this section):

To Programmer:

Cumulus Broadcasting LLC  
Suite 2300  
3280 Peachtree Road NW  
Atlanta, GA 30305  
Tel. No.: (404) 260-6677  
Attention: Richard S. Denning, Vice President

With copy to:

Pillsbury Winthrop Shaw Pittman LLP  
2300 Street NW  
Washington, DC 20037  
Attention: Lewis J. Paper  
Tel. No.: (202) 663-8184

and

Jones Day  
1420 Peachtree Street NE, Suite 800  
Atlanta, Georgia 30309  
Attention: William B. Rowland  
Tel. No. (404) 581-8961

To Licensee:

6 Johnson Road Licenses, Inc.  
6 Johnson Road  
Latham, NY 12110  
Attention: Michael Dufort  
Tel. No.: (518) 786-6600

With copy to:

Schwartz, Woods & Miller  
Suite 610, The Lion Building  
1233 20<sup>th</sup> Street, NW  
Washington, DC 20036-7322  
Attention: Lawrence M. Miller  
Tel No.: (202) 833-1700  
and

Martin, Shudt, Wallace, DiLorenzo & Johnson  
[258 Hoosick Street](#)  
[Troy, New York 12180](#)  
Attention: Robert L. Adams  
Tel: [\(518\) 272-6565](#)

## **7.8. Severability.**

(a) It is the parties' intention that this Agreement comply with the Communications Laws.

(b) If this Agreement is challenged by or before the FCC, whether or not in connection with either Station's license renewal application, Licensee and Programmer shall jointly defend this Agreement and the parties' performance hereunder throughout all FCC proceedings. Each party shall bear any and all expenses incurred by it for such defense,

including counsel fees. If the parties cannot reform this Agreement as necessary to satisfy any adverse FCC decision, the parties shall seek reversal of the FCC's decision.

(c) If any provision of this Agreement or the application thereof to any person or circumstances shall be held invalid or unenforceable to any extent by any court or governmental authority of competent jurisdiction, the remainder of this Agreement and the application of such provision to other persons or circumstances shall not be affected thereby and shall be enforced to the greatest extent permitted by law. In the event that the FCC raises a substantial and material question as to the validity of any provision of this Agreement, the parties shall promptly negotiate in good faith to revise any such provision of this Agreement with a view toward assuring compliance with the Communications Laws while attempting to preserve, as closely as practical, the intent of the parties as embodied in the provision of this Agreement which is to be so modified.

**7.9. No Joint Venture.** Nothing in this Agreement shall be deemed to create a joint venture, partnership, or agency relationship between Licensee and Programmer.

**7.10. Remedies.** In the event that any party breaches or threatens to breach any provision of this Agreement, the other party shall be entitled to seek any remedy available at law or equity, including, if appropriate, specific performance. If any party does seek specific performance for an actual or threatened breach of its obligations (other than payment of money required hereunder), the other party or parties shall waive the defense that the moving party has an adequate remedy at law. If any party institutes litigation to enforce its rights under this Agreement, the prevailing party shall be reimbursed by the other party for all reasonable expenses incurred thereby, including reasonable attorneys' fees.

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

**7.12. Assignment and Collection of Accounts Receivable.** On the Commencement Date, Licensee shall assign to Programmer all accounts receivable arising from the operations of the Stations prior to the Commencement Date (the "Accounts Receivable"). During the Term of this Agreement, Licensee shall use commercially reasonable efforts to collect the Accounts Receivable on Programmer's behalf; provided, that Licensee shall not be required to institute any complaint in any court of competent jurisdiction for collection; and provided further, that Licensee shall be responsible for paying any and all commissions relating to any collections made by Licensee. All Account Receivables collected by Licensee pursuant to this section shall be paid to Programmer on the fifteenth (15th) and thirtieth (30th) (or as the case may be, the last) day of each calendar month during the Term for all collections received in the second half or, as the case may be, the first half of the prior calendar month during the Term; provided, that, if the Term of this Agreement does not expire on the last day of a calendar month, the last payment to Programmer under this section shall be made within fifteen (15) days after the date on which the Term expires; and provided further, that, notwithstanding any statement in this section to the contrary, Licensee shall be entitled to retain fifty percent (50%) of all Accounts

Receivable collected but only until the aggregate amount so retained by Licensee equals One Hundred Fifty-Six Thousand Dollars (\$156,000). Each payment from Licensee to Programmer hereunder shall be accompanied by a document which identifies the monies collected for each Account Receivable during the relevant time period. Licensee shall not compromise, settle or adjust the amount of any assigned Account Receivable without the prior written consent of Programmer.

**7.13. Certifications.**

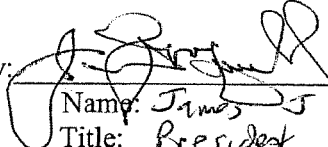
(a) In accordance with Note 2 of Section 73.3555 of FCC Rules, Licensee hereby certifies that it maintains ultimate control over the Stations' facilities, including specifically control over Station finances, personnel and programming.

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

*[Remainder of the Page Intentionally Left Blank]*

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

PAMAL BROADCASTING, LTD.  
6 JOHNSON ROAD LICENSES, INC.

By:   
Name: James S. Manell  
Title: President

CUMULUS BROADCASTING LLC

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



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

PAMAL BROADCASTING, LTD.  
6 JOHNSON ROAD LICENSES, INC.

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

CUMULUS BROADCASTING LLC

By: Richard S. Denny  
Name: Richard S. Denny  
Title: SVP

## **ATTACHMENT III**

### **Payola Statement**

## FORM OF PAYOLA AFFIDAVIT

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

## ANTI-PAYOLA/PLUGOLA AFFIDAVIT

\_\_\_\_\_, being first duly sworn, hereby states as follows:  
Print Name

1. I am \_\_\_\_\_ for \_\_\_\_\_.  
Position Employer
2. I have acted in the above capacity since \_\_\_\_\_, \_\_\_\_\_.  
month year
3. To my knowledge, no matter has been broadcast by [CALL SIGN] in [COMMUNITY OF LICENSE, STATE] (the "Station") for which money, service or other valuable consideration has been directly or indirectly paid, promised to, charged, or accepted by or from any third party, including, without limitation, any individual, general or limited partnership, corporation, firm, limited liability company or partnership, association or any other legal entity (collectively, "Person"), which matter at the time of broadcast was not announced or otherwise indicated as paid for or furnished by such Person.
4. To my knowledge, no matter has been broadcast by the Station for which money, service or other valuable consideration has been directly or indirectly paid, promised to, charged, or accepted by the Station or by any independent contractor engaged by the Station in furnishing programs, from any Person, which matter at the time of broadcast was not announced or otherwise indicated as paid for or furnished by such Person.
5. I will not pay, promise to pay, request, or receive any money, service or any other valuable consideration, direct or indirect, from any Person in exchange for purposes of influencing, or attempting to influence, the production or preparation of any matter broadcast on the Station.
6. Except as set forth in the Appendix to this affidavit, neither I nor my immediate family (which includes any spouse and children) have any present direct or indirect ownership interest in (other than less than 5% of the voting stock in a corporation whose stock is

publicly traded), serve as an officer or director of (whether with or without compensation), or serve as an employee of, any Person engaged in any of the following:

- a. the publishing of music;
- b. the production, distribution (including wholesale and retail sales outlets), manufacture or exploitation of music, films, tapes, recordings or electronic transcriptions of any program material intended for radio or television broadcast use;
- c. the exploitation, promotion, or management of individuals rendering artistic, production and/or other services in the entertainment industry;
- d. the ownership or operation of radio or television stations;
- e. the wholesale or retail sale of records or CDs made available for purchase by the public; or
- f. advertising on the Station.

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Signature

Subscribed and sworn to before me

This \_\_\_\_ day of \_\_\_\_\_, 20 \_\_.

---

Notary Public

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