

## TIME BROKERAGE AGREEMENT

**THIS TIME BROKERAGE AGREEMENT (this “Agreement”)** is made this 11th day of June, 2020 (the “Effective Date”) by and between Fort Myers Broadcasting Company, a Florida corporation (“Broker”) and Sun Broadcasting, Inc, a Florida Corporation (“Licensee”).

### WITNESSETH:

**WHEREAS**, Licensee is the licensee of AM broadcast station WFSX, Facility ID No. 2882, Fort Myers Florida (“WFSX”) and associated FM translator station W231DC, Facility ID No. 138791, Fort Myers, Florida (“W231DC”), WFSX and W231DC hereinafter referred to collectively as the “Stations”) pursuant to authorizations (collectively, the “FCC Licenses”) issued to Licensee by the Federal Communications Commission (“FCC”);

**WHEREAS**, Broker desires to purchase time on the Stations for the broadcast of programming on the Stations and for the sale of advertising time included in that programming.

**NOW, THEREFORE**, in consideration of the foregoing, and of the mutual promises set forth herein, Licensee and Broker hereby agree as follows:

1. ***Time Sale.*** Subject to the terms of this Agreement, and to applicable rules, regulations, and policies of the FCC, Licensee shall sell and Broker shall purchase no fewer than one hundred sixty-six (166) hours per week on each of the Stations. Licensee shall broadcast the programming, including commercial announcements, supplied by Broker without interruption, deletion, or addition of any kind, subject to the terms of this Agreement and Licensee’s obligations under the Communications Laws. As used herein, “Communications Laws” shall mean the Communications Act of 1934, as amended, and the rules, regulations and policies of the FCC.

2. ***Term.*** The term of this Agreement shall be for one year, commencing on the Effective Date, unless earlier terminated pursuant to Paragraph 15 hereof.

3. ***Hours of Programming.*** Subject to the exceptions set forth in Sections 4 and 5 below, Broker shall supply and Licensee shall transmit programming for all periods of broadcast operations, as long as this Agreement remains in force. Broker shall provide all such programming, produced at its own cost and expense.

4. ***Reservation of Time.*** Licensee specifically reserves for its own use up to two (2) hours per week of programming time (the "Reserved Time") during which it may broadcast programming of its choice. The Reserved Time shall be at a mutually agreeable time between the hours of 7:00 a.m. to 11:00 a.m. Sundays.

5. ***Licensee's Programming Discretion.*** Nothing herein shall be construed as limiting in any way Licensee's rights and obligations as the FCC licensee of the Stations to make the ultimate programming decisions for the Station. Licensee shall be responsible for insuring that the Stations' overall programming is responsive to community needs and in the public interest. Broker's programming shall be broadcast in conformity with the Communications Laws and with the regulations and restrictions set forth in Attachment 1, which are an integral part of this Agreement. Broker agrees to abide by the standards set forth in Attachment 1 in its programming and operations. Licensee has the authority, in its sole discretion, to reject and refuse to transmit any programming produced or proposed by Broker that Licensee in its good faith deems to be contrary to the public interest. Licensee shall notify Broker, unless such notice is impractical or impossible, at least one (1) week in advance of any such preemption of Broker's programming for the purpose of broadcasting programs that Licensee deems necessary to serve the public interest. In the event of any such preemption, Broker shall receive a pro-rated credit for the preempted time against the monthly payment required under Section 7 hereof.

6. ***Broker's Rights in Programming.*** As between Licensee and Broker, all right, title and interest in and to the programming supplied by Broker, and the right to authorize the use of such programming in any manner and in any media whatsoever, shall be and remain vested at all times solely in Broker.

7. ***Compensation.*** In consideration of the broadcast time provided to Broker pursuant to this Agreement, Broker shall pay to Licensee the fees set forth in Attachment 2 hereto. Licensee hereby assigns to Broker all payments previously made to Licensee for the sale of air time for commercial announcements that are required to be broadcast on the Stations on or after the Effective Date, during the term of this Agreement.

8. ***Expenses.***

a. Broker shall employ and be responsible for the salaries, taxes, insurance and all other costs related to all personnel used in the production and delivery of the programming supplied by Broker. As of the Effective Date, Licensee shall terminate all of its employees to which Broker intends to offer employment except for those personnel necessary to fulfill its obligations under the Communication Laws and other applicable laws. On the Effective Date, Broker shall offer employment to each of those employees previously employed by Licensee who are not being retained by Licensee pursuant to Section 12(j) hereof.

b. Broker shall have no authority over and shall not supervise persons in the employ of Licensee after the Effective Date.

c. Licensee shall be responsible for all direct and indirect operating costs of the Stations, including, but not limited to,: (i) rents and utilities at Licensee's studio, tower, and transmitter site facilities; (ii) insurance costs related to Licensee's assets and operations; (iii)

Licensee's telephone, delivery, and postal service; (iv) costs related to the maintenance of Licensee's main studio and all equipment necessary for the operation of the Stations in compliance with the Communications Laws; (v) salaries, payroll taxes, insurance, benefits and related costs of personnel employed by Licensee in connection with the operation of the Stations; and (vi) income, gross receipts, sales, real property, personal property, excise, and/or any other taxes of any nature whatsoever related to Licensee's ownership of its assets or its programming efforts on the Stations.

d. Broker shall be responsible for all direct and indirect costs of the production and delivery of Broker's programming to the Stations, including, but not limited to,: (i) all costs for the power and utilities at Broker's facilities where programming is produced; (ii) insurance costs related to Broker's equipment and assets used in its business operations; (iii) costs related to the maintenance of the studio and equipment necessary for the production and delivery of Broker's programming; (iv) salaries, payroll taxes, insurance, and related costs of all personnel employed by Broker in connection with production and delivery of the programming, promotion of that programming, and the sale of advertising on that programming; (v) income, gross receipts, sales, real property, personal property, excise, or any other taxes of any nature whatsoever related to Broker's ownership of its assets or the programming provided to the Stations; and (vi) all performing rights, licensing fees for music and other material contained in the programming provided by Broker.

9. ***Assignment of Certain Agreements and Rights.***

a. On the Effective Date, Licensee shall assign to Broker all contracts for the sale of time on the Stations (the "Time Sales Agreements") together with those contracts and other agreements identified on Attachment 3 (collectively, the "Contracts") to be provided by Licensee

and accepted by Broker within five (5) days of the date hereof. Broker shall, on and as of the Effective Date, assume and become fully liable and responsible for all liabilities and obligations of Licensee under the Contracts. Licensee has provided Broker with true and complete copies, including amendments, of the Contracts (other than the Time Sales Agreements). The Contracts are freely assignable, or, if consent of the other contracting party to the assignment is required, Licensee shall use its reasonable best efforts to obtain such consent as promptly as practicable. If Licensee is unable to obtain any consent necessary to permit the valid assignment of a Contract, Licensee shall act to the extent permitted by law, as Broker's agent in connection with such Contract and the parties shall cooperate to cause Broker to receive the benefit of the Contract in exchange for performance by Broker of all of Licensee's obligations under such Contract (including, but not limited to, the payment to Licensee of all amounts due under the Contract on or after the Effective Date for services provided by Licensee).

b. All expenses and income arising under the Contracts shall be prorated between Licensee and Broker as of the Effective Date in a manner such that the costs and benefits thereunder through the date before the Effective Date shall be for the account of Licensee and, thereafter, during the term of this Agreement, for the account of Broker. It is further agreed and understood that such proration shall not include an adjustment for any accrued benefits of Licensee's employees hired by Broker, including any sick leave or other similar benefit, and that Broker shall not be responsible for any such accrued benefits obligations incurred on account of such employees. Such prorations shall be completed and any necessary payments on account of such prorations paid within ninety (90) days of the Effective Date. If any disagreement with respect to the proration of such income and expenses cannot be resolved by the parties, Licensee

and Broker shall select a certified public accountant knowledgeable in the broadcast industry to resolve the dispute. The parties will use their best efforts in good faith to cause to occur as expeditiously as possible the appointment of the certified public accountant, and once appointed, the resolution of the dispute. The resolution of such accountant shall be binding on the parties and subject to judicial enforcement. Payment of the cost of the accountant shall be shared equally between Broker and Licensee.

c. All cash accounts receivable for broadcasts on the Stations, which occur prior to the Effective Date (the "Accounts Receivable") shall belong to Licensee and for broadcasts which occur thereafter shall belong to Broker.

d. During the term of this Agreement, Broker shall have the right to use the call letters of the Stations in the programming for the Stations in conformance with the Communications Laws. Broker shall also have the right to use the call letters of the Stations in correspondence and in promotion related to the programming; *provided, however*, that during the term hereof, any use of the call letters as part of letterhead or in any other preprinted form such as, but not limited to, checks, invoices or business cards, shall also include the name of Broker, and shall clearly indicate that Broker provides programming services for the Stations. Broker shall not use any other trademarks, logos, or other intellectual property of Licensee without prior written consent of Licensee. Broker acknowledges that it has no authority to bind Licensee, the Stations or any affiliate thereof to any agreement, contract, obligation or understanding of any nature whatsoever. Broker shall not enter into any agreement, contract, obligation or understanding of any nature whatsoever, whether or not related to the programming, by using the call letters of the Stations, Licensee's name, or any other names or device that might result in Licensee, the Stations

or any affiliate thereof being bound or in any way obligated thereby at any time.

10. ***Use of Facilities.*** During the Term of this Agreement, Broker shall have the non-exclusive right to use the studio equipment and premises of the Stations currently used in the production of programming for the Stations (collectively, the “Studio Facilities”), for producing the programming and related functions (including the sale of advertising).

11. ***Representations, Warranties, and Covenants of Broker.*** Broker represents and warrants to, and covenants with, Licensee that:

a. Broker is a Florida corporation, duly organized and validly existing, and has full power and authority to conduct its business as currently conducted. Broker is qualified to transact business in the State of florida and in all other jurisdictions in which the Stations do business.

b. Execution and delivery of this Agreement by Broker has been authorized by all necessary corporate action of Broker. This Agreement is valid, binding and enforceable against Broker in accordance with its terms. Broker has the legal right, power, and authority to enter into this Agreement and to fully perform its obligations hereunder, and its performance hereunder does not and shall not violate the terms of any other agreements by which it is bound or to which it is a party.

c. Broker’s conduct with respect to the Stations, including, but not limited to, the programming provided by Broker for broadcast on the Stations, shall comply with the Communications Laws and with all programming standards established by Licensee from time to time. The programming shall also meet all industry standards for technical quality.

d. Broker shall obtain, at its own cost and expense, music licenses for the

music in the programs it provides for broadcast. The performing rights to all music contained in its programming shall be licensed by BMI, ASCAP, GMR or SESAC or shall be in the public domain.

e. Broker shall cooperate with Licensee in making time available in programming supplied to the Stations by it for broadcasting proper station identification announcements as required by FCC rules and regulations.

f. Broker shall not cause or permit any liens, encumbrances, foreclosures, contractual defaults, or outstanding balance of any kind or nature whatsoever which would impede or impair Broker's ability to meet its obligations under this Agreement.

g. Broker shall promptly pay any and all expenses or obligations of any kind or nature relating to the provision of programming when such expenses become due.

h. Broker shall air a reasonable amount of programs which address the problems, needs, and interests of the Stations' community and provide Licensee with adequate documentation of those offerings. Specifically, Broker shall provide local news and public affairs programming relevant to the Stations' community and of sufficient quality to assist Licensee in satisfying its obligations to respond to the needs of the community.

i. Broker shall forward to Licensee within twenty-four (24) hours of receipt by Broker, any letter from a member of the general public addressing the Stations' programming or documentation which comes into its custody.

j. No written statement made by Broker to Licensee and no written information provided or to be provided by Broker to Licensee pursuant to this Agreement contains or will contain any untrue statement of material fact.



12. ***Representations, Warranties, and Covenants of Licensee.*** Licensee represents and warrants to, and covenants with, Broker that:

a. Licensee is a Florida corporation , duly organized and validly existing, and have full power and authority to conduct its business as currently conducted.

b. Execution and delivery of this Agreement by Licensee has been authorized by all necessary corporate action of Licensee. This Agreement is valid, binding and enforceable against Licensee in accordance with its terms. Licensee has the right, power, and authority to enter into this Agreement and perform its obligations hereunder and its performance hereunder does not and shall not violate the terms of any other agreement by which Licensee is bound or to which Licensee is a party.

c. Except to the extent any of the Contracts require consent to assignment, no consent, license, approval or authorization of or exemption by, or filing, restriction or declaration with, any governmental authority bureau, agency or regulatory authority, other than the filing of this Agreement with the FCC, is required in connection with the execution, delivery or performance of this Agreement.

d. Licensee holds all licenses, permits, and other authorizations required from governmental and regulatory authorities for the lawful operation of the Stations and the lawful conduct of the business of the Stations in the manner and to the full extent they are or will be conducted, all of those licenses, permits, and other authorizations are in full force and effect, and none of the licenses, permits, and other authorizations is subject to any restriction or condition that would limit the operations of the Stations as they are or will be conducted. To Licensee's knowledge, there is not now pending or threatened, any action by the FCC or by any other person

to revoke, cancel, suspend, refuse to renew, or modify adversely any of those licenses, permits, and other authorizations. With the exception of the political broadcasting consent decree in DA 20-871A1 (Media Bureau, released August 12, 2020), Licensee has complied, in all material respects, with the terms of all licenses, permits, and other authorizations from governmental authorities and with all laws, rules, regulations, and ordinances.

e. Except to the extent any of the Contracts require consent to assignment, neither the execution or delivery of this Agreement nor the consummation of the transactions contemplated hereby will constitute or result in the breach of any term, condition or provision of, or constitute a default under, or result in the creation of any lien, charge or encumbrance upon any property or assets of Licensee pursuant to any agreement or other instrument to which Licensee is a party or by which any part of the Stations' property is bound, or violate any law, regulation, judgment or order binding upon Licensee.

f. No written statement made by Licensee to Broker and no written information provided or to be provided by Licensee to Broker pursuant to this Agreement contains or will contain any untrue statement of material fact.

g. Licensee hold all permits and authorizations necessary for the operation of the Stations as they are currently being conducted, including all FCC permits and authorizations.

h. Licensee shall operate the Stations in compliance with the Communications Laws and subject to Broker's cooperation under Section 11(h) hereof, shall insure that the Stations' overall programming is responsive to community needs and the public interest. Licensee shall prepare the quarterly listings of significant community issues and responsive programming.

i. The Station's facilities and equipment shall and will comply and are and

will be operated in accordance with good engineering standards of the radio broadcast industry, including with all applicable laws and regulations. Licensee is not in material violation of any statute, ordinance, rule, regulation, order or decree of any federal, state, local or foreign governmental agency, court or authority having jurisdiction over it or over any part of its operations or assets, which material default or violation would have an adverse effect on Licensee's ability to perform this Agreement. During the term of this Agreement, Licensee shall maintain the transmission facility and the broadcast output of the Stations with the same quality, normal wear and tear excepted, to broadcast to the same power and height as Licensee is presently authorized by the FCC. Any maintenance work, other than emergency repairs, which prevent the operation of the Stations at their authorized power and facilities, shall not be scheduled without giving at least forty-eight (48) hours notice to Broker, unless Broker waives such notice.

j. At a minimum, Licensee shall retain a single full-time employee, who shall direct the day-to-day operations of the Stations. Licensee shall be responsible for insuring that qualified control operators monitor and control the Stations' transmissions at all times, in full conformity with the Communications Laws.

k. Licensee shall maintain a main studio to the extent required by the rules and regulations of the FCC. Licensee shall maintain an appropriate public inspection file and shall, from time to time, place such documents in that file as may be required by present or future FCC rules and regulations.

13. ***Political Time.*** At least ninety (90) days before the start of any primary or general election campaign and as soon as practicable following commencement of this Agreement, Broker shall clear with Licensee the rates to be charged political candidates for public office to be sure

that the rate is in conformance with applicable law and policy. Broker shall provide Licensee with access to all its books and records regarding the pricing of advertising sold on the Stations in order to confirm that the political rate is correct. With respect to each request for political time on WFSX that is subject to the political recordkeeping requirements of 47 USC Section 315, Broker shall promptly report the request, and its disposition, to Licensee so that appropriate records can be placed in WFSX's public file within one business day of the request. Broker shall cooperate fully with Licensee to ensure (1) that legally qualified candidates for federal offices are provided with reasonable access, (2) that, during required dates, all legally qualified candidates are charged WFSX's lowest unit charges, (3) that all legally qualified candidates are afforded equal opportunities under the Communications Laws, and (4) that all political broadcasting sponsorship identification and related rules and regulations under the Communications Laws are fully complied with.

14. ***Indemnification.***

a. To the extent not covered by Licensee's insurance policies, Broker shall indemnify and hold harmless Licensee from and against any and all claims, losses, costs, liabilities, damages, and expenses (including reasonable attorneys' fees) arising out of (i) programming exclusively provided by Broker, (ii) any breach by Broker of its representations, warranties, covenants, or obligations under this Agreement, and (iii) any other conduct of Broker.

b. To the extent not covered by Broker's insurance policies, Licensee shall indemnify and hold harmless Broker from and against any and all claims, losses, costs, liabilities, damages, and expenses (including reasonable attorney's fees) arising out of (i) programming exclusively provided by Licensee, (ii) any breach by Licensee of its representations, warranties,

covenants, or obligations under this Agreement, and (iii) any other conduct of Licensee.

c. The indemnification obligations of this Section 14 shall survive any termination of this Agreement and shall continue until the expiration of all applicable statutes of limitations and the conclusion and payment of all judgments which may be rendered in all litigation which may be commenced prior to such expiration.

d. The party seeking indemnification under this Section 14 ("Indemnitee") shall give the party from whom it seeks indemnification ("Indemnitor") prompt notice, in accordance with Section 20 hereof, of the assertion of any such claim; *provided, however*, that the failure to give notice of a claim within a reasonable time shall only relieve the Indemnitor of liability to the extent it is materially prejudiced thereby. Promptly after receipt of written notice, as provided herein, of a claim by a person or entity not a party to this Agreement, the Indemnitor shall assume the defense of such claim; *provided, further*, that (i) if the Indemnitor fails, within a reasonable time after receipt of written notice of such claim, to assume the defense, compromise, and settlement of such claim on behalf of and for the account and risk of the Indemnitor, subject to the right of the Indemnitor (upon notifying the Indemnitee of its election to do so) to assume the defense of such claim at any time prior to the settlement, compromise, judgment, or other final determination thereof, or if in the reasonable judgment of the Indemnitee, based on the advice of its counsel, a direct or indirect conflict of interest exists between the Indemnitee and the Indemnitor, the Indemnitee shall (upon notifying the Indemnitor of its election to do so) have the right to undertake the defense, compromise, and settlement of such claim on behalf of and for the account and risk of the Indemnitor (it being understood and agreed that the Indemnitor shall not be entitled to assume the defense of such claim), and (ii) if the Indemnitee in its sole discretion so

elects, it shall (upon notifying the Indemnitor of its election to do so) be entitled to employ separate counsel and to participate in the defense of such claim, but the fees and expenses of counsel so employed shall (except as contemplated by clause (i) above) be borne solely by the Indemnitee. The Indemnitor shall not settle or compromise (x) any claim or consent to the entry of any judgment that does not include as an unconditional term thereof the grant by the claimant or plaintiff to each Indemnitee of a release from any and all liability in respect thereof, or (y) any claim in any manner, or consent to the entry of any judgment, that could reasonably be expected to have a material adverse effect on the Indemnitee. If upon presentation of a claim for indemnity hereunder, the Indemnitor does not agree that all, or part, of such claim is subject to the indemnification obligations imposed upon it pursuant to this Agreement, it shall promptly so notify the Indemnitee. Thereupon, the parties shall attempt to resolve their dispute, including where appropriate, reaching an agreement as to that portion of the claim, if any, which both concede is subject to indemnification. To the extent that the parties are unable to reach some compromise, any party may unilaterally submit the matter for determination by a court of competent jurisdiction.

15. ***Termination; Effect of Termination.***

a. The term of this Agreement is subject to the limitations that:

i. Any of the parties may terminate this Agreement if any other party is in default of any of its material obligations hereunder and such party has not cured such default within thirty (30) days after receipt of written notice of default from a non-defaulting party; *provided*, that such terminating party is not then in default of any of its material obligations hereunder.

ii. This Agreement shall terminate automatically if the Agreement is

declared invalid or illegal in whole or material part by an order or decree of the FCC or any other 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;

iii. Broker shall have the right, at its sole option, to terminate this Agreement upon the occurrence of the following:

(1) Licensee, pursuant to this Agreement, preempts or substitutes other programming for that supplied by Broker during fifteen percent (15%) or more of the total hours of operation of the Stations during any calendar month.

b. In the event of termination hereunder, Licensee shall be under no further obligation to make available to Broker any further broadcast time or broadcast transmission facilities. Upon termination of this Agreement as provided in this Section 15, the consideration provided for hereunder shall be prorated through the effective termination date of this Agreement. Subject to Licensee's prior approval and acceptance (which shall not be unreasonably denied or delayed), all unperformed Contracts for advertising to be aired during Broker's time shall be assigned by Broker to Licensee who shall perform such Contracts for which it shall be entitled to collect and receive the money derived therefrom. Broker shall remit to Licensee any money or consideration it shall have received as pre-payment for such unaired advertising. Broker shall be entitled to all uncollected revenue for advertising already broadcast over the Stations prior to such termination, and Licensee shall pay over to Broker any sums received in respect of same, minus any sales commissions payable to sales personnel of Licensee at the commission rate prevailing at the time of the sale.

c. In the event this Agreement is terminated, all Contracts assigned to Broker

by Licensee in accordance with Section 9 hereof will be assigned back to Licensee by Broker. Licensee shall, on and as of the date of such termination, assume and become fully liable and responsible for all liabilities and obligations of Broker attributable to performance under the Contracts after the termination.

16. ***Intentionally Omitted.***

17. ***Insurance.*** Licensee has provided Broker with a copy of all insurance policies currently in effect with respect to the Stations. Licensee shall maintain in full force and effect throughout the term of this Agreement, such insurance policies or comparable insurance policies covering such risks (including fire and other risks insured against by extended coverage, public liability insurance, insurance for claims against personal injury or death or property damage and such other insurance as may be required by law) and in such amounts and on such terms as it carried on the Effective Date. Broker shall obtain insurance policies covering such risks, in such amounts and on such terms as conventionally carried by broadcast brokers using the facilities of radio stations comparable to those of the Stations and shall make the Licensee co-insured or loss payees under such policies. Any insurance proceeds received by Licensee in respect of damaged property will be used to repair or replace such property so that the operation of the Stations conforms with this Agreement.

18. ***Regulatory Requirements.*** Licensee shall operate the Stations in conformity with the Communications Laws and all other applicable federal, state, and local rules. Notwithstanding anything to the contrary set forth in this Agreement, Licensee shall be solely responsible for the management, operation, and regulatory compliance of the Stations, including, specifically, control over the Station's finances, personnel, and programming. The Licensee



employee specified in Section 12(j), above, shall be accountable to Licensee and shall direct the day-to-day operation of the Stations. Broker shall not exercise any control over the day-to-day operation of the Stations.

19. ***Payola/Plugola.*** Neither Broker nor its agents, employees, consultants, or personnel 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 Broker 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 Communication Laws.

20. ***Notices.*** All notices and other communications permitted or required hereunder shall be in writing and any payment, notice, or other communications shall be deemed given by (a) personal delivery, (b) U. S. certified mail, postage prepaid, with return receipt requested, (c) a nationally recognized overnight carrier, or (d) by facsimile on the date of a confirmed facsimile transmission, in each case addressed as follows:

If to Broker, to:

Fort Myers Broadcasting Company  
2824 Palm Beach Boulevard  
Fort Myers, FL 33916

Facsimile: \_\_\_\_\_

If to Licensee, to:

Sun Broadcasting, Inc.

2824 Palm Beach Boulevard  
Fort Myers, FL 33916

Facsimile: \_\_\_\_\_

or to such other person or address as any of the parties may specify to the others in writing from time to time. Notice shall be deemed to have been given upon actual receipt.

21. **No Agency.** No agency relationship among the parties shall be expressed or implied by the terms of this Agreement, nor shall this Agreement be construed to create a joint venture or partnership among the parties. None of the parties shall hold itself out as an agent, partner, or joint venturer with any of the others. All contracts for the sale of airtime, purchase orders, agreements, sales materials, and similar documents produced or executed by Broker shall be executed in the name of Broker, and not on behalf of the Stations or Licensee, and shall represent that Broker is not the FCC licensee of the Stations.

22. **Entire Agreement.** This Agreement (including all attachments, exhibits and schedules) embody the entire agreement among the parties and there are no other agreements, representations, warranties, or understandings, oral or written, between them with respect to the subject matter hereof. No alteration, modification or change of this Agreement shall be valid unless by like written instrument signed by each party hereto.

23. **Further Assurances.** Each of the parties shall execute and deliver such additional documents and take such further actions as are reasonably necessary for the purposes of carrying out this Agreement.

24. **Intentionally Omitted**

25. **Assignment.** None of the parties shall assign its rights or delegate its duties under

this Agreement without the other parties' prior written consent, which consent shall not be unreasonably withheld, delayed or conditioned. Any such assignment or delegation by any of the parties in contravention of this Section 25 shall be null and void.

26. ***Compliance with Law.*** The parties agree that throughout the term of this Agreement, each party shall comply with all laws and regulations applicable in the conduct of Licensee's business.

27. ***Binding Effect.*** This Agreement shall be binding upon the parties hereto and their successors and permitted assigns.

28. ***No Waiver; Remedies Cumulative.*** No failure or delay on the part of Licensee or Broker in exercising any right or power hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any such right or power, or any abandonment or discontinuance of steps to enforce such a right or power, preclude any other or further exercise thereof or the exercise of any other right or power. The rights and remedies of Licensee and Broker herein provided are cumulative and are not exclusive of any right or remedies which it may otherwise have.

29. ***Force Majeure.*** Any failure or impairment of facilities or any delay or interruption in broadcasting Broker's programs, or failure at any time to furnish facilities, in whole or in part, for broadcasting, due to acts of God, strikes or threats thereof, or force majeure or due to causes beyond the control of Licensee, shall not constitute a breach of this Agreement and Licensee shall not be liable to Broker with respect to facilities that failed or were impaired or not furnished.

30. ***Severability.*** In the event that any of the provisions contained in this Agreement

becomes or is held to be invalid, illegal, or unenforceable, it shall not affect any other provision hereof, and this Agreement shall be construed as if such invalid, illegal, or unenforceable provisions had not been contained herein.

31. **Governing Law.** This Agreement shall be governed by the laws of the State of Florida without regard to its choice of law provisions. Any proceedings to enforce this Agreement shall be commenced in a court of competent jurisdiction in the State of Florida. The parties agree not to assert or interpose any defenses, and do hereby waive the same, to the conferral of personal jurisdiction and venue by such court in any suit, action or proceeding.

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

33. **Amendment.** This Agreement may be modified or amended only in writing and signed by the parties hereto.

34. **Certifications.**

a. Pursuant to 47 CFR Section 73.3555, Note 2(j)(3), Licensee hereby certifies that it maintains ultimate control over the Stations' facilities, including, specifically, control over the Stations' finances, personnel employed by the Licensee, and programming broadcast by the Stations.

b. Pursuant to 47 CFR Section 73.3555, Note 2(j)(3), Broker hereby certifies that this Agreement complies with the provisions of paragraphs (a), (c) and (d) of Section 73.3555 of the FCC's rules.

35. **Counterparts.** This Agreement may be signed in counterpart originals, which collectively shall have the same legal effect as if all signatures had appeared on the same physical

document. This Agreement may be signed and exchanged by facsimile transmission, with the same legal effect as if the signatures had appeared in original handwriting on the same physical document.

**[SIGNATURES BEGIN ON THE FOLLOWING PAGE]**

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

**LICENSEE:**

**Sun Broadcasting, Inc., a Florida Corporation**

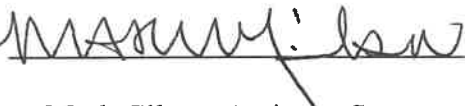
By: \_\_\_\_\_

  
James Schwartzel, President

**BROKER:**

**Fort Myers Broadcasting Company**

By: \_\_\_\_\_

  
Mark Gilson, Assistant Secretary

## REGULATIONS AND RESTRICTIONS

Broker agrees to cooperate with Licensee in the broadcasting of programs of excellence and for this purpose to observe the following regulations in the preparation, writing, and broadcasting of its programs.

1. ***Respectful of Faiths.*** The subject of religion and references to particular faiths, tenets, and customs shall be treated with respect at all times.

2. ***No Denomination Attacks.*** Programs shall not be used as a medium for attack on any faith, denomination, or sect or upon any individual or organization.

3. ***No Plugola or Payola.*** The mention of any business activity or "plug" for any commercial, professional, or other related endeavor, except where contained in an actual commercial message of a sponsor with proper Sponsorship Identification, is prohibited.

4. ***No Lotteries.*** Announcements giving any information about lotteries or games prohibited by federal or state law or regulation are prohibited.

5. ***Election Procedures.*** At least ninety (90) days before the start of any primary or regular election campaign and as soon as practicable following commencement of this Agreement, Broker will clear with Licensee, rates Broker will charge for the time to be sold to candidates for public office and/or their supporters to make certain that the rate charged is in conformance with the applicable law and Stations policy.

6. ***Required Announcements.*** Under Licensee's ultimate supervision, Broker shall broadcast (i) an announcement in a form satisfactory to Licensee at the beginning of each hour to identify the Stations and (ii) any other announcements that may be required by law, regulation, or

Stations policy.

7. ***Commercial Record Keeping.*** Broker shall not receive any consideration in money, goods, services, or otherwise, directly or indirectly (including to relatives) from any persons or company for the presentation of any programming over the Stations without reporting the same to Licensee. No commercial messages ("plugs") or undue references shall be made in programming presented over Stations to any business venture, profit making activity, or other interest (other than noncommercial announcements for *bona fide* charities, church activities, or other public service activities) in which Broker (or anyone else) is directly or indirectly interested without the same having been approved in advance by the Licensee and such broadcast being announced and logged and sponsored.

8. ***No Illegal Announcements.*** No announcements or promotion prohibited by federal or state law or regulation of any lottery or game shall be made over the Stations. Any game, contest, or promotion relating to or to be presented over the Stations must comply with the Communications Laws and all applicable local and state law.

9. ***Licensee Discretion Paramount.*** In accordance with the Licensee's responsibility under the Communication Laws, Licensee reserves the right to reject or terminate any advertising proposed to be presented or being presented over the Stations which is in conflict with the Stations' policy or which in Licensee's sole judgment would not serve the public interest.

10. ***Programming Prohibitions.*** Broker shall not broadcast any of the following programs or announcements.

- a. ***False Claims.*** False or unwarranted claims for any product or service.
- b. ***Unfair Imitation.*** Infringements of another advertiser's rights through



plagiarism or illegal imitation of program copy, or any other unfair competition.

c. ***Obscenity/Indecency/Profanity.*** Any programs or announcements that are slanderous, obscene, profane, indecent, or vulgar, either in theme or in treatment.

Licensee may waive any of the foregoing regulations in specific instances if, in its opinion, good broadcasting in the public interest is served.

In any case where questions of policy or interpretation arise, Broker should submit the same to Licensee for decision before making any commitments in connection therewith.