

## LOCAL PROGRAMMING AND MARKETING AGREEMENT

**THIS LOCAL PROGRAMMING AND MARKETING AGREEMENT** (this “Agreement”) is made and entered into as of March 1, 2023 (the “Effective Date”), between **SUNRISE BROADCASTING CORP.**, a Delaware corporation (“Licensee”) and **SUNRISE BROADCASTING OF NEW YORK, INC.**, a New York corporation (“Programmer”).

### RECITALS

**WHEREAS**, Licensee holds the authorizations (the “Stations Licenses”) issued by the Federal Communications Commission (the “FCC”) to operate the following stations (each a “Station,” and collectively, the “Stations”):

Facility ID No.	Call Sign	City	State	Service
63942	WGNY	Newburgh	NY	AM
63943	WJGK	Newburgh	NY	FM
151906	W287CY	Newburgh	NY	FM Translator
155921	W233BM	Beacon	NY	FM Translator

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

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

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

1. **Agreement Term.** The term of this Agreement shall begin at 12:01 a.m. local time on the Effective Date (the “Commencement Date”), and, unless terminated earlier pursuant to the provisions of this Agreement, shall end on the date five (5) years after the Commencement Date (the “Initial Term”). Following the Initial Term, this Agreement shall continue for one additional term of five (5) years (the “Extended Term” and together with the Initial Term, the “Term”), unless either party provides the other party with written notice of its intention not to renew no less than three (3) months prior to the expiration of the Initial Term.

2. **Programmer’s Purchase of Airtime and Provision of Programming.** Beginning on the Commencement Date, Programmer agrees to purchase time on the Stations,



and Licensee agrees to broadcast, or cause to be broadcast, on the Stations, including on each Station's analog broadcast stream as well as on any of the Station's primary digital stream (an HD-1 channel) or secondary digital stream (an HD-2, HD-3 or HD-4 channel) operated by any of the Stations, according to the terms hereof, programming designated and provided by Programmer (the "Program" or "Programs") for broadcast on such Stations twenty-four (24) hours per day, seven (7) days per week, excluding the period from 5:00 a.m. to 6:00 a.m. each Sunday morning (excluding such period, the "Broadcasting Period"). Programmer shall transmit, at its own cost, its Programs to the Stations' transmitting facilities.

**3. Broadcasting Obligations.** In return for the payments to be made by Programmer hereunder, during the Term, Licensee shall broadcast the Programs delivered by Programmer during the Broadcasting Period specified in Section 2 above, subject to the provisions of Section 6 below. Notwithstanding anything herein to the contrary, (a) Programmer may (but shall not be obligated to) stream programming furnished hereunder on any of the Stations' internet websites, and Programmer shall be entitled to all revenue therefrom, and (b) Licensee shall not include any programming furnished by Programmer hereunder in any internet streaming unless requested to do so by Programmer.

**4. Advertising Sales; Accounts Receivable.** During the Term, Programmer shall be exclusively responsible for the sale of advertising on the Stations and for the collection of accounts receivable arising therefrom, and Programmer shall be entitled to all revenues of the Stations during the Term. All contracts for advertising on the Stations which may be entered into by Programmer shall terminate upon the termination of this Agreement, unless expressly assumed by Licensee.

**5. Payments.** In consideration of the execution of this Agreement by Licensee, and for the broadcast of the Programs and the other benefits made available to Programmer pursuant to this Agreement, during the Term, Programmer shall pay Licensee: (a) an "LMA Monthly Payment" as set forth on Schedule A attached hereto; and (b) "Reimbursement Payments" as set forth on Schedule B attached hereto.

**6. Operation, Ownership and Control of the Stations.**

**6.1 Authority; Right to Reject.** Notwithstanding anything to the contrary in this Agreement, as long as Licensee remains the licensee of the Stations, it shall have full authority, power and control over the operation of the Stations and over all persons working at the Stations during the Term and shall retain control over the policies, programming and operations of the Stations. Licensee shall bear the responsibility for the Stations' compliance with all applicable provisions of the Communications Act of 1934, as amended, and the rules and published policies of the FCC promulgated thereunder (collectively, "Communications Laws") and all other applicable laws, including Licensee oversight of the operations of the Stations, which shall be the responsibility of the Licensee's President or other designated officer. Nothing contained herein shall prevent Licensee from (a) rejecting or refusing programs which Licensee believes to be contrary to the public interest, or (b) substituting programs which Licensee believes to be of greater local or national importance or which are designed to address the problems, needs and interests of the local communities, except that Programmer shall receive a



pro-rata credit against the LMA Monthly Payments for the time(s) during which programs of Programmer are not aired by Licensee. Licensee reserves the right to refuse to broadcast any Program containing matter which violates any right of any third party or which constitutes a "personal attack" as that term has been defined by the FCC. Licensee also reserves the right to refuse to broadcast any Program which does not meet the requirements of the Communications Laws or the regulations and restrictions set forth in Section 10. Licensee further reserves the right to preempt any Program in the event of a local, state, or national emergency. If Licensee preempts, rejects or otherwise refuses to broadcast any Program, then Licensee shall broadcast substitute programming of equal or greater value. Programmer agrees to cooperate with Licensee to ensure that Emergency Alert System transmissions are properly performed in accordance with Licensee's instructions. Licensee reserves the right to delete any announcements that do not comply with the requirements of the FCC's sponsorship identification policy. Programmer shall immediately serve Licensee with notice and a copy of any letters of complaint it receives concerning any Program.

**6.2 No Discrimination.** Programmer shall not discriminate in advertising arrangements on the basis of race or ethnicity and all agreements for the sale of advertising shall include the following clause: "[Call Sign of Stations] does not discriminate in the sale of advertising time, and will not accept advertising which is placed with the intent to discriminate on the basis of race or ethnicity. Any provision in any order or agreement for advertising that purports to discriminate, or has the effect of discriminating, on the basis of race or ethnicity, is hereby declared null and void." Programmer shall maintain internal policies for demonstrating compliance with the FCC's nondiscrimination policy and shall exercise due diligence to ensure that all third-party advertising arrangements contain a non-discrimination clause in compliance with the Communications Laws.

**6.3 No Payola/Plugola.** Programmer shall provide to Licensee in advance any information known to Programmer regarding any money or other consideration which has been paid or accepted, or has been promised to be paid or to be accepted, for the inclusion of any matter as a part of any programming or commercial material to be supplied to Licensee by Programmer for broadcast on the Stations, unless the party making or accepting such payment is identified in the program as having paid for or furnished such consideration in accordance with the Communications Laws. Commercial matter or programming with obvious sponsorship identification will not require disclosure beyond the sponsorship identification contained in the commercial copy or announced in connection with the programming. Programmer shall at all times endeavor in good faith to comply with the requirements of Sections 317 and 507 of the Communications Act of 1934, as amended.

**7. Authorizations and Signal; Call Letters.** During the Term, Licensee shall hold all licenses and other permits and authorizations necessary for the operation of the Stations as currently operated (including licenses, permits and authorizations issued by the FCC), and such licenses, permits and authorizations shall be in full force and effect for the entire Term hereunder, unimpaired by any acts or omissions of Licensee, its principals, employees or agents. During the Term, Licensee shall retain all rights to the call letters of the Stations or any other call letters which may be assigned by the FCC for use by the Stations, and shall ensure that



proper station identification announcements are made with such call letters in accordance with the Communications Laws. At Programmer's request and expense, during the Term, Licensee shall request that the FCC assign alternate call letters to any of the Stations, provided such call letters are available. Programmer shall include in the Programs it delivers for broadcast an announcement at the beginning of each hour of such Programs to identify each Station's call letters, as well as any other announcements required by the Communications Laws. Programmer is specifically authorized to use each Station's call letters in its Programs and in any promotional material, in any media, used in connection with the Programs.

## **8. Certifications.**

**8.1 Licensee Control.** Licensee hereby verifies that for the Term of this Agreement it shall maintain ultimate control over the Stations' facilities, including specifically control over the Stations' finances, personnel and programming, and nothing herein shall be interpreted as depriving Licensee of the power or right of such ultimate control.

**8.2 Compliance with 47 C.F.R. § 73.3555.** Programmer hereby verifies that the execution and performance of this Agreement complies with the Commission's restrictions on ownership set out in 47 C.F.R. Section 73.3555.

**8.3 Foreign Government Provided Programming.** Programmer certifies that (i) Programmer does not fall into any of the categories that qualify Programmer as a "foreign governmental entity," which includes a government of a foreign country, a foreign political party, an agent of a foreign principal, or a United States-based foreign media outlet, as defined in 47 C.F.R. Section 73.1212(j) as adopted by the FCC's Report and Order, *In the Matter of Sponsorship Identification Requirements for Foreign Government-Provided Programming*, MB Docket No. 20-299, FCC 21-42 (released Apr. 22, 2021) (the "*Foreign Government-Provided Programming Report and Order*"); (ii) Programmer does not know of anyone involved, or to be involved, directly or indirectly, in the production or distribution of the Programs that will be aired on any Station pursuant to this Agreement, or pursuant to a sub-lease by Programmer, or further back in the chain of producing/distributing the Programs, that qualifies as a foreign governmental entity, as defined in 47 C.F.R. Section 73.1212(j), and which has provided some type of inducement to air the programming on any Station, with "provided by" to include the broadcast of programming in exchange for consideration and/or the furnishing of any political program or any program involving the discussion of a controversial issue for free as an inducement to broadcast the programming; (iii) Programmer shall inform Licensee immediately of any changes in the foregoing certifications; (iv) in the event that the Programs do contain material provided by a foreign governmental entity as defined by 47 C.F.R. Section 73.1212(j), Programmer (x) will ensure that, at the time of broadcast, the material shall include the on-air disclosure required by 47 C.F.R. Section 73.1212(j), and (y) will provide Licensee the documentation required by 47 C.F.R. Sections 73.1212(j)(6) and 73.3526(e)(19) for upload to the applicable Station's online public inspection file folder marked "Foreign Government-Provided Programming Disclosures"; and (v) Programmer will complete, prior to or concurrent with the Execution Date, as well as prior to the renewal, if any, of this Agreement or as requested by Licensee certifications confirming compliance with the *Foreign Government-Provided Programming Report and Order* and the rules adopted thereby in a form reasonably acceptable



to Licensee.

**9. Music Licenses.** During the Term, Programmer shall obtain and maintain in full force and effect in its own name all music licenses, including without limitation ASCAP, BMI, SESAC, GMR and SoundExchange (collectively, "Music Licenses") as are required for the Programs and as shall be required by the licensor of those Music Licenses. In the event that Licensee is required by the licensor of such Music Licenses to obtain in its name Music Licenses, such Music Licenses fees during the Term shall be reimbursed by Programmer.

**10. Programs.**

**10.1 Production of the Programs.** Licensee acknowledges that it is familiar with the type of programming Programmer currently produces and has determined that the broadcast of such programming on the Stations would serve the public interest. Programmer agrees that the contents of the Programs it transmits to Licensee shall conform to all applicable Communications Laws. Programmer agrees that it shall consult with Licensee in the selection of the Programs it transmits to Licensee to ensure that the Programs' content contains matters responsive to issues of public concern in the local communities, as those issues are made known to Programmer by Licensee. Licensee acknowledges that its right to broadcast the Programs is non-exclusive and that ownership of the Programs, and all parts thereof, and the right to authorize their use in any manner and in any media whatsoever, shall be and remain vested in Programmer.

**10.2 Political Time.** Licensee shall oversee and take ultimate responsibility with respect to the provision of equal opportunities, lowest unit charge and reasonable access to political candidates, and compliance with the political broadcast rules of the FCC. During the Term, Programmer shall cooperate with Licensee as Licensee complies with its political broadcast responsibilities, and shall supply such information promptly to Licensee as may be necessary to comply with the political time record keeping and lowest unit charge requirements of federal law. Programmer shall release advertising availabilities to Licensee during the Broadcasting Period as necessary to permit Licensee to comply with the political broadcast rules of the FCC; provided, however, that revenues received by Licensee as a result of any such release of advertising time shall promptly be remitted to Programmer.

**11. Expenses.** During the Term, Programmer shall be responsible for: (a) the salaries, taxes, insurance and related costs for all personnel used in the production of the Programs supplied to the Stations; and (b) the costs of delivering the Programs to the Stations. Licensee shall be responsible for paying directly all other operating expenses, including but not limited to: (i) the salaries, taxes, insurance and related costs for Licensee's personnel ("Employee Expenses"); (ii) tower rent, transmitter site utilities and related transmitter site lease expenses for the Stations ("Transmitter Site Expenses"); (iii) the costs of maintaining the Stations' equipment in operating condition, including any replacements thereof ("Equipment Expenses"); (iv) the costs of maintaining the Stations' access to the Stations' studio site, including any property taxes, rent and/or utilities at the studio site for the Stations ("Studio Site Expenses"); and (v) expenses reasonably incurred to maintain the Stations' Licenses ("License Expenses" and collectively with the Employee Expenses, Transmitter Site Expenses, Equipment



Expenses and Studio Site Expenses, the “Reimbursed Expenses” for the purposes of **Schedule B**). Each party shall be responsible for paying directly all income taxes relating to such party’s earnings from this arrangement.

**12. HD Channel and Subcarrier Rights.** Licensee and Programmer acknowledge and agree that any HD channel transmitted on an in-band on channel operation of the Stations (“HD Channel Uses”) or subsidiary communications services transmitted on a subcarrier within the FM baseband signal of the Stations authorized by the FCC (collectively, “HD/Subcarrier Uses”), are subject to the terms and conditions of this Agreement. Licensee hereby agrees: (a) to apply, at Programmer’s expense, for any additional authorization from the FCC or any other governmental agency or entity that may be necessary in order to make use of any HD/Subcarrier Uses; and (b) that Programmer has the sole and exclusive right, subject to the terms and conditions hereof, to make use of any HD/Subcarrier Uses and collect the revenues therefrom. Programmer hereby agrees to reimburse Licensee for Licensee’s reasonable expenses incurred in carrying out Licensee’s FCC obligations pursuant to this Section 12 in the manner set forth for License Expenses in **Schedule B**.

**13. Events of Default; Termination.**

**13.1 Programmer’s Events of Default.** The occurrence of any of the following shall be deemed an Event of Default by Programmer under this Agreement:

(a) Programmer fails to make timely payments as provided for in Section 5 of this Agreement; (b) Programmer fails to observe or perform its other obligations contained in this Agreement or the Purchase Agreement in any material respect; or (c) Programmer breaches the representations and warranties made by it under this Agreement in any material respect.

**13.2 Licensee Events of Default.** The occurrence of the following shall be deemed an Event of Default by Licensee under this Agreement: (a) Licensee fails to observe or perform its obligations contained in this Agreement or the Purchase Agreement in any material respect; (b) Licensee breaches the representations and warranties made by it under this Agreement in any material respect; or (c) Licensee’s actions or inactions lead to the forfeiture or revocation of any of the Stations Licenses, or the suspension of the operation of any of the Stations for more than ten (10) consecutive days, unless due to the act or inaction of Programmer.

**13.3 Cure Period.** Notwithstanding the foregoing, an Event of Default shall not be deemed to have occurred until thirty (30) days after the non-defaulting party has provided the defaulting party with written notice specifying the Event of Default and such Event of Default remains uncured.

**13.4 Termination in the Event of Default.** Upon the occurrence of an Event of Default, and in the absence of a timely cure pursuant to Section 13.3, the non-defaulting party may terminate this Agreement, effective immediately upon written notice to the defaulting party.



**14. Indemnification.** Programmer shall indemnify and hold Licensee harmless against any and all liability for libel, slander, illegal competition or trade practice, Communications Act or FCC rule violations, infringement of trademarks, trade names, or program titles, violation of rights of privacy, and infringement of copyrights and proprietary rights resulting from the broadcast of the Programs on the Stations. Licensee shall indemnify and hold Programmer harmless against any and all liability for libel, slander, illegal competition or trade practice, Communications Act or FCC rule violations, infringement of trademarks, trade names, or program titles, violation of rights of privacy, and infringement of copyrights and proprietary rights resulting from the broadcast of its programming on the Stations. The obligations under this Section shall survive any termination of this Agreement.

**15. Authority.** Programmer and Licensee each represent and warrant to the other that: (a) it has the power and authority to enter into this Agreement and to consummate the transactions contemplated hereby; (b) it is in good standing in the jurisdiction of its organization and is qualified to do business in all jurisdictions where the nature of its business requires such qualification; (c) it has duly authorized this Agreement, and this Agreement is binding upon it; and (d) the execution, delivery, and performance by it of this Agreement does not conflict with, result in a breach of, or constitute a default or ground for termination under any agreement to which it is a party or by which it is bound.

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

**17. Force Majeure.** The failure of either party hereto to comply with its obligations under this Agreement due to acts of God, strikes or threats thereof or a force majeure or due to causes beyond such party's control, shall not constitute an Event of Default under Section 13 of this Agreement and neither party shall be liable to the other party therefor. Programmer and Licensee each agree to exercise their respective best efforts to remedy the conditions described in this Section as soon as practicable.

**18. Subject to Laws.** The obligations of the parties under this Agreement are subject to the Communications Laws and all other applicable laws. The parties agree that Licensee and the Programmer may file a copy of this Agreement with the FCC and upload a copy to the Stations' and/or Programmer's online public inspection file.

**19. Certain Interpretive Matters and Definitions.** Unless the context otherwise requires: (a) all references to Sections, Schedules or Exhibits are to Sections, Schedules or Exhibits of or to this Agreement; (b) each term defined in this Agreement has the meaning assigned to it; (c) each accounting term not otherwise defined in this Agreement has the meaning assigned to it in accordance with generally accepted accounting principles as in effect on the date hereof; (d) "or" is disjunctive but not necessarily exclusive; (e) words in the singular include the plural and vice versa; and (f) all references to "\$" or dollar amounts will be to lawful currency of the United States of America.



**20. Assignability; No Third-Party Rights.** This Agreement shall be binding upon and inure to the benefit of the parties hereto, their successors and permitted assigns. Notwithstanding the foregoing, no party may assign its rights or obligations under this Agreement, in whole or in part, without prior written consent of the other party, which such consent shall not be unreasonably withheld, except: (i) Licensee may, without such consent, assign its rights and obligations under this Agreement to a person or entity that the FCC has approved to be the licensee of the Stations pursuant to an application on FCC Form 316 (a *pro forma* assignment or transfer of control) provided, however, that such assignment or transfer shall not release Licensee from its liabilities hereunder; and (ii) Programmer may, without such consent, assign its rights and obligations under this Agreement to an entity under common control with Programmer, *i.e.*, an entity to which Programmer could assign or transfer an FCC radio station authorization using FCC Form 316, provided, however, such assignment shall not release Programmer from its liabilities hereunder. The covenants, conditions and provisions hereof are and shall be for the exclusive benefit of the parties hereto and their permitted assigns, and nothing herein, express or implied, is intended or shall be construed to confer upon or to give any person or entity other than the parties hereto and their permitted assigns any right, remedy or claim, legal or equitable, under or by reason of this Agreement.

**21. Modification and Waiver; Remedies Cumulative.** No modification of any provision of this Agreement shall be effective unless in writing and signed by all parties. No failure or delay on the part of Programmer or Licensee in exercising any right or power under this Agreement shall operate as a waiver of such right or power, nor shall any single or partial exercise of any such right or power or the exercise of any other right or power. Except as otherwise provided in this Agreement, the rights and remedies provided in this Agreement are cumulative and are not exclusive of any other rights or remedies which a party may otherwise have.

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

**23. Governing Law; Jurisdiction.** This Agreement shall be interpreted and construed according to the laws of the State of Delaware. Any action, suit or proceeding brought by any party to this Agreement relating to or arising out of this Agreement or any other agreement, instrument, certificate or other document delivered pursuant hereto (or the enforcement hereof or thereof) must be brought and prosecuted as to all parties in, and each of the parties hereby consents to service of process, personal jurisdiction and venue in, the state courts of Delaware.

**24. Notices.** All notices, requests, demands and other communications required or permitted under this Agreement shall be in writing and shall be deemed to have been duly made and received when personally served, or when delivered by Federal Express or a similar overnight courier service, expenses prepaid, addressed as set forth below:



To Licensee:

Sunrise Broadcasting Corp.  
661 Little Britain Road  
New Windsor, NY 12553  
Attention: Joerg Klebe

With a copy (which shall not constitute notice) to:

Marissa G. Repp, Esq.  
Repp Law Firm  
1629 K Street, N.W.  
Suite 300  
Washington, D.C. 20006-1631

To Programmer:

Sunrise Broadcasting of New York, Inc.  
661 Little Britain Road  
New Windsor, NY 12553  
Attention: Joerg Klebe

With a copy (which shall not constitute notice) to:

Marissa G. Repp, Esq.  
Repp Law Firm  
1629 K Street, N.W.  
Suite 300  
Washington, D.C. 20006-1631

**25. Counterparts.** This Agreement may be executed in one or more counterparts, each of which will be deemed an original and all of which together will constitute one and the same instrument. Delivery of an executed counterpart signature page to this Agreement by facsimile or e-mail shall be deemed sufficient to render this Agreement effective.

**26. Severability.** The parties agree that if one or more provisions contained in this Agreement shall be deemed or held to be invalid, illegal or unenforceable in any respect under any applicable law, this Agreement shall be construed with the invalid, illegal or unenforceable provision deleted, and the validity, legality and enforceability of the remaining provisions contained herein shall not be affected or impaired thereby.

**27. Termination of Prior Agreement.** As of the Commencement Date, the parties hereby agree that the Management Agreement between Licensee and Programmer dated November 1, 2004, as thereafter extended, is deemed terminated, provided, however, that any outstanding payments or credits due thereunder shall be resolved as soon as possible, and preferably within sixty (60) days of such termination.



**28. Entire Agreement.** This Agreement and the schedules hereto embody the entire agreement and understanding of the parties hereto and supersede any and all prior agreements, arrangements and understandings relating to the matters provided for herein.

[SIGNATURE PAGE FOLLOWS]




SIGNATURE PAGE TO LOCAL PROGRAMMING AND MARKETING AGREEMENT

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

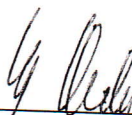
LICENSEE:

**SUNRISE BROADCASTING CORP.**

By:   
Name: Joerg G. Klebe  
Title: President

PROGRAMMER:

**SUNRISE BROADCASTING OF NEW YORK, INC.**

By:   
Name: Joerg G. Klebe  
Title: President