

## LOCAL MARKETING AGREEMENT

(KCRO(AM), Omaha, Nebraska; K293CJ, Omaha, Nebraska)  
(KOTK(AM), Omaha, Nebraska; K233CO, Omaha, Nebraska)

This LOCAL MARKETING AGREEMENT (this "Agreement") is dated as of October 31, 2018 (the "Effective Date") by and between Hickory Radio, LLC, a Nebraska limited liability company ("Owner"), and Walnut Radio, LLC, a Nebraska limited liability company ("Operator").

## RECITALS

A. Contemporaneously on the Effective Date, Owner has closed under that certain Asset Purchase Agreement, dated as of July 23, 2018, by and among Salem Media of Illinois, LLC ("SMT"), Salem Communications Holding Corporation ("SCHC"), and Salem Radio Properties, Inc. ("SRP") (SMT, SCHC, and SRP collectively the "Seller", Owner, and CENT Real Estate, LLC ("CENT") (Owner and CENT, collectively, the "Buyer"), as amended by that certain First Amendment to the Asset Purchase Agreement, dated August 3, 2018, and that certain Second Amendment to the Asset Purchase Agreement, dated September 25, 2018 (as amended, the "Asset Purchase Agreement"), pursuant to which Owner has acquired certain assets used or useful in the operation of the radio station KCRO(AM), FCC Facility No. 54902 licensed to Omaha, Nebraska ("KCRO(AM)") and FM Translator K293CJ, FCC Facility No. 156454 licensed to Omaha, Nebraska ("K293CJ") (its primary station is KCRO(AM)) and radio station KOTK(AM), FCC Facility No. 50307 licensed to Omaha, Nebraska ("KOTK(AM)") and FM Translator K233CO, FCC Facility No. 156454 ("K233CO") (its primary station is KOTK(AM)) (each a "Station" and collectively the "Stations"), pursuant to licenses issued by the Federal Communications Commission ("FCC");

B. Operator has entered into that certain Local Marketing Agreement, dated as of August 3, 2018, by and among SMT, SCHC, and Operator (the "Initial LMA"), pursuant to which Operator operated the Stations during the period prior to closing of the Asset Purchase Agreement;

C. Operator has entered into (1) that certain Assignment and Assumption of Programming and Advertising Contracts, dated as of August 8, 2018, by and among SMT, SCHC, and Operator; and (2) that certain Assignment and Assumption of Lease Agreement (KCRO Tower), dated as of October 31, 2018, by and among SMT and Operator; (3) that certain Assignment and Assumption of M.U.D. Lease Agreement, dated as of October 31, 2018, by and among SMT and Operator; (4) that certain Assignment and Assumption of Station Agreements, dated as of October 31, 2018, by and among SMT and Operator; and (5) that certain Assignment and Assumption of Tower License Agreement, dated as of October 31, 2018, by and among SMT and Operator (the contracts assigned and assumed pursuant to the foregoing agreements, collectively the "Assumed Contracts");

D. Operator has entered into that certain Property Lease Agreement, of even date herewith, by and among Owner and Operator, regarding lease of certain real estate used as the



transmitter site for KCRO(AM), located at 6420 Hartman Street, Omaha, Nebraska and certain real estate used as the transmitter site for KOTK(AM), located at 5700 South 36th Street, Council Bluffs, Iowa;

E. Operator has entered into that certain Sublease Agreement, of even date herewith, by and among Operator and SMI, regarding lease of certain real estate used as the studio for the Stations, located at 11717 Burt Street, Suite 202, Omaha, Nebraska;

F. Owner desires to obtain a regular source of programming and income which will sustain the operation of the Stations;

G. Operator desires to provide substantially all of each Station's broadcast time for the broadcast of programming on such Station and for the sale of advertising time included in that programming; and

H. The parties are aware of and have considered carefully the FCC's policies on time brokerage and intend that this Agreement comply fully with all such policies;

NOW, THEREFORE, in consideration of the foregoing, and of the mutual promises set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Owner and Operator hereby agree as follows:

**Section 1. Term.** The term of this Agreement shall commence on the Effective Date and shall continue in full force and effect until the fifth (5th) anniversary of the Effective Date, unless earlier terminated pursuant to Section 15 hereof (as extended pursuant to this Section 1, the "Term"). Subject to an adjustment of Monthly Fee pursuant to Section 8, either party may extend the Term for successive five (5) year terms by providing a notice of extension at least thirty (30) days prior to the expiration of the then-current term. "Cut-Off Time" shall mean 11:59 p.m., Station local time, on the Effective Date.

**Section 2. Broadcast of Programming.** Subject to the terms of this Agreement, and to the Communications Act of 1934, as amended, and the published rules, regulations and policies of the FCC (collectively, the "Communications Laws"), Owner shall broadcast the programming, including commercial announcements, provided by Operator without interruption, deletion or addition of any kind, subject to Owner's exercise, as set forth in Section 6, of its right to refuse to transmit any of the programming which Owner, in its sole discretion, deems appropriate.

**Section 3. Use of Each Station's Facilities and Records.** Subject to the terms of this Agreement and of the Communications Laws, Owner shall permit Operator to occupy and use each Station's offices, studios, equipment and transmission system facilities to allow Operator to carry out its objectives under this Agreement, subject to the unrestricted rights of Owner to control such equipment and facilities and to supervise such use by Operator. Operator shall, under the supervision of Owner, have reasonable access to Owner's sales records, files and other information relating to the Stations, all of which shall be held in confidence by Operator



and shall not be disclosed to any person, except in the performance of Operator duties hereunder or as required by law.

#### **Section 4. Programming.**

(a) Subject to the exceptions set forth in Sections 5 and 6 hereof, Owner shall make available on each Station broadcast time for the broadcast of Operator's programs for 168 hours per week, and Operator shall supply, and Owner shall transmit, programming for all periods of broadcast operations during the Term. Operator shall provide all such programming produced at its own cost and expense.

(b) Operator will make its programs available to Owner during a number of hours per week sufficient to enable each Station to meet its minimum hours of operation required under the FCC's rules, provided that Owner may broadcast up to two hours per week pursuant to Section 5 hereof. The remaining 166 hours of each Station's air time per week, except for downtime occasioned by routine maintenance, will be made available by Owner to Operator for program transmission; provided, however, that the parties expressly understand and agree that no provision in this Agreement will be considered to reduce or interfere with Owner's absolute responsibility under the Communications Laws to supervise and control the Stations.

**Section 5. Reservation of Time.** Owner specifically reserves for its own use up to 2 hours per week of programming time per Station (the "Reserved Time") during which it may broadcast programming designed to address the concerns, needs and issues of such Station's listeners ("Owner's Public Service Programming") at its own cost and expense. Owner's Public Service Programming shall be broadcast according to a schedule to be mutually established by Operator and Owner or at such other times as Owner reasonably deems necessary to meet the needs of Owner's listeners.

**Section 6. Owner's Programming Discretion.** Nothing herein shall be construed as limiting in any way either Owner's rights and obligations to reject and refuse to transmit any programming produced or proposed by Operator. Owner shall notify Operator, unless notice is impossible or impractical, at least three days in advance of any preemption of Operator's programming for the purpose of broadcasting programs, at Owner's own cost and expense, that Owner deems appropriate to serve the public interest.

**Section 7. Revenue.** Operator shall be entitled to retain all revenues received resulting from the sale of advertising time on each Station during the Term, including, without limitation, all revenue from the sale of advertising time during Owner's Public Service Programming pursuant to Section 5 hereof or programming provided by Owner pursuant to Section 6 hereof.

**Section 8. Compensation.** In consideration of the broadcast time provided to Operator pursuant to this Agreement, Operator shall pay Owner a monthly fee (the "Monthly



"Fee") for the broadcast of Operator's programming in the amount of [REDACTED] In the event that the Effective Date occurs on a day other than the first day of a month and/or in the event that the last day of the Term occurs on a day other than the last day of a month, the affected monthly payment shall be prorated accordingly. In the event the Term is extended, the parties shall negotiate in good faith to determine the Monthly Fee for such extended Term.

**Section 9. Provisions.** Except as otherwise provided herein, all revenue and expenses arising from the operation of the Stations (including under the Assumed Contracts), obligations to prorate or allocate such amounts to Seller under the Initial LMA. Nothing in this Agreement impacts or modifies Owner or Operator's obligations with respect to revenues and expenses as set forth in the Initial LMA and the Purchase Agreement, as applicable).

**Section 10. Expenses.** During the Term, Operator shall be responsible for all costs of operating, maintaining, and programming the Stations including, without limitation: (i) rents and utilities at the Stations' studio, tower and transmitter site facilities and backup-transmitter site facilities; (ii) costs related to the maintenance of the Stations' studio and all equipment necessary for the operation of the Stations in compliance with the Communications Laws; (iii) power and utilities at Operator's facilities where programming is produced; (iv) insurance costs related to the equipment and assets used in the Stations' operations; (v) costs related to the maintenance of any studio and equipment necessary for the production, acquisition and delivery of Operator's programming to the Stations; (vi) salaries, payroll taxes, insurance, health benefits and related costs of all personnel employed in connection with production, acquisition and delivery of programming, promotion of that programming and the sale of advertising in that programming; (vii) income, gross receipts, sales, real property, personal property, excise or any other taxes of any nature whatsoever related to ownership of the assets, operation of the Stations, programming provided to the Stations, or the sale of time on the Stations; and (viii) all performing rights licensing fees for music and other material contained in the programming.

**Section 11. Representations, Warranties and Covenants of Operator.** Operator represents and warrants to, and covenants with, Owner that:

(a) **Organization.** Operator is a limited liability company duly organized, validly existing and in good standing under the laws of the State of Nebraska.

(b) **Authorization.** The execution, delivery and performance of this Agreement by Operator have been duly authorized by all necessary limited liability company action on its part. This Agreement has been duly executed by Operator, delivered to Owner and constitutes a legally valid and binding obligation of Operator, enforceable against Operator in accordance with its terms, except as limited by bankruptcy and laws affecting the enforcement of creditors' rights generally and equitable principles.

(c) **No Consent.** No consent of any other party and 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 by Operator or will affect the validity or performance of this Agreement.

(d) **No Breach.** Neither (i) the execution, delivery and performance of this Agreement by Operator nor (ii) Operator's compliance with the terms and conditions hereof will, with or without the giving of notice or the lapse of time or both, conflict with, breach the terms and conditions of, constitute a default under, or violate the articles of organization or operating agreement of Operator, any judgment, decree, order, injunction, agreement, lease or other instrument to which Operator is a party or by which Operator is legally bound, or any law, rule or regulation applicable to Operator, except where such conflict, breach or failure to comply would not have a material adverse effect on the validity, binding effect or enforceability of this Agreement or the ability of Operator to perform its obligations under this Agreement.

(e) **Actions or Proceedings.** No proceeding is pending against Operator or, to the knowledge of Operator, threatened before any court or governmental agency to enjoin or prohibit, or which otherwise questions the validity of any action taken or to be taken in connection with this Agreement.

(f) **Compliance With Communications Laws.** During the Term hereof, Operator shall program each Station in compliance with the Communications Laws.

(g) **Contracts.** Each of the Assumed Contracts is valid, binding and enforceable by Operator in accordance with its respective terms. Operator has complied in all material respects with all Assumed Contracts to the extent required as of the execution date of this Agreement and is not in material default under any of the Assumed Contracts. Operator has not granted or been granted any material waiver or material forbearance with respect to any of the Assumed Contracts and no other contracting party is in default under any of the Assumed Contracts. On and after the Effective Date, Operator shall continue to perform all obligations under the Assumed Contracts.

(h) **Format.** During the Term, Operator shall have the right to change the format of the programming which it delivers to each Station with the prior written consent of Owner, which consent shall not be unreasonably withheld or delayed. The programming provided by Operator shall include (i) public service announcements (including, at Owner's request from time to time, a reasonable number of public service announcements of local interest), (ii) an announcement satisfactory to Owner in form sufficient to meet the station identification requirements of the FCC at the beginning of each hour, (iii) an announcement at the beginning and end of each broadcast day to indicate that program time has been purchased by Operator and (iv) subject to Owner's oversight and control, any other announcement that may be required by any applicable law or regulation (including, without limitation, Emergency Alert System ("EAS") tests). Operator shall maintain and deliver to Owner copies of all operating and programming information necessary for Owner to maintain each Station's FCC public file (including, without limitation, information concerning portions of the programming that are



responsive to issues of public importance identified to Operator by Owner, EAS announcements and station operation logs) and all other records required to be kept by the Communications Laws. All announcements shall be in a form reasonably acceptable to Owner, except that Owner shall be responsible for compliance with the FCC's EAS regulations and policies.

(i) **Programming Standards.** The programming provided by Operator for broadcast on each Station shall comply with the Communications Laws and with all programming standards established by Owner as set forth in Schedule 1 hereto, which Schedule shall be a material part of this Agreement. The programming shall also meet all customary industry standards for technical broadcast quality.

(j) **Music Licenses.** Operator 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 or SESAC or shall be in the public domain.

(k) **Liens.** Operator shall not cause or permit any liens, encumbrances, foreclosures, contractual defaults or outstanding balances of any kind or nature whatsoever in respect of Owner's or either Station's assets, except for (i) liens existing on the Effective Date, (ii) statutory liens that were created in the ordinary course of business that do not materially affect the current use and enjoyment of either Station's assets, (iii) liens of materialmen, mechanics, workmen and repairmen for amounts not yet due and payable which are imposed by law and created in the ordinary course of business and (iv) licenses of trademarks or other intellectual property rights granted by Operator in the ordinary course of business and not interfering in any material respect with the operation of the Stations.

(l) **Expenses.** Operator shall timely pay any and all expenses or obligations of any kind or nature (i) as provided in Section 10 hereof; (ii) relating to the provision of its programming when such payments become due; (iii) relating to the operation of the Station after the Cut-Off Time; and (iv) provided pursuant to Section 9 herein.

(m) **Documentation.** Subject to Section 5 hereof, Operator shall provide to Owner monthly documentation of the programs it has broadcast which address the problems, needs and interests of the Station's community of license (the "Community"), as determined by Owner. In an amount and at times to be mutually agreed upon, Operator shall provide local news and public affairs programming relevant to the Community of sufficient quality to assist Owner in satisfying its obligations to respond to the needs of the Community. The documentation provided to Owner pursuant to this subsection shall enable Owner to compile the required quarterly issues-programs listing for the Station's public files, the maintenance and oversight of which shall be Owner's sole responsibility during the Term hereof.

(n) **Mail.** Operator shall receive and, in consultation with Owner, respond to all mail, cables, telegraphs or telephone calls in connection with the programming



provided by Operator; provided, however, that all mail or other correspondence to either Station from the FCC shall be delivered to Owner and Owner will be solely responsible for responding thereto. Operator agrees to cooperate with Owner in connection with such response. Operator shall promptly advise Owner of any public or FCC complaint or inquiry known to Operator concerning such programming, and shall provide Owner with copies of any letters to Operator from the public, including complaints concerning such programming. All other communications received by Operator for Owner shall promptly be remitted to Owner.

(o) **Insurance.** Operator shall acquire and maintain appropriate business interruption insurance in an amount reasonably required to protect the parties hereto from the interruption of the business of operating the Stations resulting from Operator's programming operations.

**Section 12. Representations, Warranties and Covenants of Owner.** Owner represents and warrants to, and covenants with, Operator that:

(a) **Organization.** Owner is a limited liability company duly organized, validly existing and in good standing under the laws of the State of Nebraska.

(b) **Authorization.** The execution, delivery and performance of this Agreement by Owner has been duly authorized by all necessary corporate action. This Agreement has been duly executed by Owner and delivered to Operator and constitutes a legally valid and binding obligation of Owner, enforceable against it in accordance with its terms, except as limited by bankruptcy and laws affecting the enforcement of creditors' rights generally or equitable principles.

(c) **No Consent.** No consent of any party and 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 by Owner or will affect the validity or performance of this Agreement.

(d) **No Breach.** Neither (i) the execution, delivery and performance of this Agreement by Owner nor (ii) Owner's compliance with the terms and conditions hereof, with or without the giving of notice or the lapse of time or both, conflict with, breach the terms and conditions of, constitute a default under, or violate the organizational documents of Owner, any material judgment, decree, order, injunction, agreement, lease or other instrument to which Owner is a party or by which Owner is legally bound, or any law, rule or regulation applicable to Owner, except where such conflict, breach or failure to comply would not have a material adverse effect on the validity, binding effect or enforceability of this Agreement or the ability of Owner to perform their obligations under this Agreement.



(e) **Actions or Proceedings.** No proceeding is pending against Owner or threatened before any court or governmental agency to enjoin or prohibit, or which otherwise questions the validity of any action taken or to be taken in connection with this Agreement.

(f) **Compliance With Communications Laws.** During the Term hereof, Owner shall maintain and operate each Station in compliance with the Communications Laws.

(g) **Transmitter Power.** Except for periods where reduction of power is required for routine maintenance (which maintenance shall be performed to the extent possible during the hours of 12:00 a.m. and 6:00 a.m.) or emergency maintenance activities, Owner shall use all reasonable efforts to operate each Station at maximum authorized transmitter power, with an antenna center of radiation at its full-authorized height above ground and above average terrain. During all hours when programming is being broadcast over a Station, Owner shall maintain at the location from which the programming is being originated a receiver capable of receiving test messages and alerts over the FAS.

(h) **Public Inspection File.** Owner shall maintain an appropriate public inspection file in compliance with Section 73.3526(b) of the FCC's rules and shall place such documents in that file as may be required by the Communications Laws. Owner represents that its public inspection file is current and in compliance with the Communications Laws as of the Commencement Date. Subject to Operator's programming rights and responsibilities, Owner shall operate and maintain each Station public inspection file consistent with past practices and procedures.

(i) **Political Time.** At least 55 days before the start of any primary and 70 days before the start of any general election campaign, Operator shall confirm in writing with Owner the rates to be charged to political candidates for public office to be sure that the rates are in conformance with applicable laws. Operator shall provide Owner with access to all books and records regarding the pricing of advertising sold on each Station in order to confirm that the political rates are consistent with applicable law and regulation. With respect to Operator's programming, Operator shall maintain and promptly deliver to Owner all records and information required by the FCC to be placed in the public inspection file of the respective Station pertaining to the broadcast of political programming, and advertisements, in accordance with the provisions of Section 73.1940 and 73.3526 of the FCC's rules, and agrees to identify the sponsor(s) of sponsored programming addressing political issues or controversial subjects of public importance, in accordance with the provisions of Section 73.1212 of the FCC's rules. Operator shall consult with Owner and comply with the Communications Laws, as announced from time to time, with respect to the carriage of political advertisements and programming (including, without limitation, the rights of candidates and, as appropriate, others, to "equal opportunities" and the carriage of contrasting points of view as mandated by any "fairness" rule with respect to such "issue-oriented" advertising or programming as may be broadcast) and the charges permitted therefor. In the event that



Operator fails to provide adequate broadcast time for the broadcast of programming or advertising by political candidates, Owner shall have the right to preempt Operator's programming to make time available to political candidates. Operator shall provide to Owner documentation relating to such programming as Owner shall reasonably request and shall indemnify Owner for any claim, cost or expense (including reasonable attorneys' fees) arising from the broadcast of any material by Operator on either Station during the Term.

(j) **Operator License.** As of the Effective Date, Owner hereby grants Operator a nonexclusive license to access and use the Stations' studio spaces in the production and broadcast of the programming and in conducting Operator's business hereunder. Owner shall not license the use of the Stations' technical facilities or studio spaces to any third party during the Term hereof without Operator's prior written consent.

(k) **Intellectual Property License.** As of the Effective Date, Owner hereby grants Operator a license to use (i) THE WORD, an unregistered trademark, and (ii) THE ANSWER a registered trademark (serial number 86302877), and (iii) the two logos related thereto (the "Licensed IP"), all subject to the rights and restrictions of Owner under the Purchase Agreement.

### Section 13. Indemnification.

(a) Operator shall indemnify and hold harmless Owner from and against any and all claims, losses, costs, liabilities, damages and expenses (including reasonable attorneys' fees, court costs, appeal costs and other similar trial and appellate expenses) arising out of (i) programming provided by Operator, (ii) airtime sold by Operator, (iii) any breach by Operator of its representations, warranties, covenants or obligations under this Agreement and (iv) the conduct of Operator, its employees, contractors or agents subsequent to the Effective Date.

(b) Owner shall indemnify and hold harmless Operator from and against any and all claims, losses, costs, liabilities, damages and expenses (including reasonable attorneys' fees, court costs, appeal costs and other similar trial and appellate expenses) arising out of (i) programming provided by Owner, (ii) any breach by Owner of its representations, warranties, covenants or obligations under this Agreement and (iii) the conduct of Owner, its employees, contractors or agents on or prior to the Effective Date.

(c) The indemnification obligations of this Section 13 shall survive any termination of this Agreement and shall continue for a period of two years.

(d) Owner or Operator shall not be entitled to indemnification pursuant to this Section 13 unless such claim for indemnification is asserted in writing and delivered to the other party within two years of the date of termination of this Agreement; then, as to matters specified in such notice, the indemnification obligations shall continue.



(e) Without limiting the generality of the foregoing, each party will indemnify and hold harmless the other party, and its partners, directors, officers, employees, agents and affiliates, from and against any and all liability for libel, slander, infringement of trademarks, trade names or program titles, violation of rights of privacy, and infringement of copyrights and proprietary rights resulting from the programming produced or furnished by it hereunder.

The indemnities contained in this Section 13 shall not be interpreted or construed to prevent or inhibit Operator from exercising any other indemnities or remedies contained herein. The rights and remedies of the parties to this Agreement are cumulative and are not exclusive of any right or remedies which either may otherwise have.

**Section 14. Limitation of Liability.** Neither Owner nor Operator shall, under any circumstances, be liable for any special, exemplary, punitive, incidental, or consequential damages regardless of the cause. In no event will either party be liable to the other for an amount greater than \$250,000.

#### **Section 15. Termination; Effect of Termination.**

(a) This Agreement shall only terminate upon the occurrence of any of the following:

(i) this Agreement is declared invalid or illegal in whole or in 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; or

(ii) an Event of Default (as defined in Section 16 hereof) by any party hereto; or

(iii) mutual written agreement of the parties to terminate this Agreement.

(b) Upon the termination of this Agreement, Owner shall not be under any further obligation to make available to Operator any further broadcast time or broadcast transmission facilities and all amounts accrued or payable to Owner up to the date of termination which have not been paid shall immediately become due and payable by Operator.

(c) The termination of this Agreement shall not terminate the obligation of any party to indemnify the other for claims of third parties under Section 13 hereof, subject to the two-year limitation provided in Section 13(c), or limit or impair any party's right to receive payments due and owing hereunder on or before the date of such termination.



(d) Upon the termination of this Agreement above, Owner and Operator shall have the following obligations:

(i) Operator shall return all confidential information with respect to Owner and each Station to Owner.

(ii) All revenues and expenses shall be prorated between Owner and Operator as of the date this Agreement is terminated. Such proration shall be based upon the principle that Operator shall receive all revenues and shall be responsible for all expenses and liabilities incurred or accruing in connection with the operation of the Stations from the Effective Date through such termination, and Owner shall receive all revenues and shall be responsible for all expenses and liabilities incurred or accruing after the date of any termination of this Agreement.

(iii) Operator shall be entitled to all uncollected accounts receivable for the sales of advertising time that has been broadcast by either Station during the Term and for the sale of other goods and services that have been provided by either Station during the Term. As of the termination, Operator shall designate Owner as its agent solely for the purpose of collecting such accounts receivable and shall deliver to Owner a list of all such accounts receivable (the "Pre-Termination Accounts Receivable"). Owner agrees to use commercially reasonable efforts in the ordinary course of business (but without responsibility to institute legal or collection proceedings) to collect the Pre-Termination Accounts Receivable during the 90-day period following the termination date (the "Collection Period"). Any amounts collected for Operator's benefit shall be deposited within five business days following the end of the Collection Period into a bank account designated in writing by Operator. Upon the end of the Collection Period, Owner shall immediately return to Operator all Pre-Termination Accounts Receivable that have not been collected and Owner shall promptly furnish Operator with an accounting of the amounts collected during the Term hereof with respect to the Pre-Termination Accounts Receivable. Thereafter, Owner shall have no further responsibility or liability hereunder with respect to the Pre-Termination Accounts Receivable.

**Section 16. Events of Default.** The following, after the expiration of the applicable cure periods specified below, shall constitute events of default (each an "Event of Default") under this Agreement:

(a) Operator's failure to pay when due the Monthly Fee, as such may be adjusted from time to time pursuant to this Agreement;

(b) Operator's or Owner's material default in the observance or performance of any covenant, condition or agreement contained herein; or

(c) Operator's or Owner's material breach of any representation or warranty made by it herein, or in any certificate or document furnished pursuant to the provisions



hereof, which shall prove to have been false or misleading in any material respect as of the time made or furnished.

An Event of Default shall not be deemed to have occurred until 30 business days (or in the event of Payment Default (hereinafter defined) 10 business days) after the defaulting party has received from the nondefaulting party written notice specifying the event or events that, if not cured would constitute an Event of Default, and such Event of Default has not been cured. This period may be extended (in writing only, and only by the nondefaulting party in its sole discretion) for a reasonable period of time if the defaulting party is acting in good faith to cure and such delay is not materially adverse to the other party. "Payment Default" means failure to make payment as may be required herein by the required date.

Any failure or impairment of facilities or any delay or interruption in broadcasting the programing due to fires, labor unrest, embargoes, civil commotion, rationing or other orders or requirements, acts of civil or military authorities, acts of God, strikes or threats thereof, other contingencies, including equipment failures, beyond the reasonable control of the parties, shall not constitute a breach of or event of default under this Agreement.

**Section 17. Regulatory Requirements.** Notwithstanding anything to the contrary set forth in this Agreement, Owner shall maintain ultimate control over each Station's facilities, including, specifically, control over each Station's finances, personnel and programming, and shall be solely responsible for the management, operation and regulatory compliance of each Station, and Operator shall not exercise any control over the day-to-day operations of either Station.

**Section 18. Payola/Plugola.** Neither Operator nor its employees, agents, consultants or personnel shall accept any consideration, compensation, gift or gratuity of any kind whatsoever, regardless of its value or form, including, without limitation, a commission, discount, bonus, material, supplies or other merchandise, services or labor (collectively, "Consideration"), whether or not pursuant to written contracts or agreements between Operator and merchants or advertisers, unless the payor is identified in the program for which Consideration was provided as having paid for or furnished such Consideration, in accordance with the Communications Laws.

**Section 19. Termination for Change in FCC Rules or Policies.** The parties believe that the terms of this Agreement and the performance contemplated thereunder meet all the requirements of current FCC policy for time Brokerage agreements and agree that they shall negotiate in good faith to meet any FCC concern with respect to it if they are deemed to be incorrectly interpreting current FCC policy.

**Section 20. Notices.** All notices, requests, demands and other communications pertaining to this Agreement shall be in writing and shall be given by hand delivery, by prepaid registered or certified mail with return receipt requested, by an established national overnight courier providing proof of delivery for next business day delivery, or by facsimile, addressed as follows:



If to Owner:

Hickory Radio, LLC  
8712 West Dodge Road  
Suite 220  
Omaha, NE 68114  
Attention: Steve Seline

If to Operator:

Walnut Radio, LLC  
8712 West Dodge Road  
Suite 220  
Omaha, NE 68114  
Attention: Steve Seline

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

Fraser Stryker PC LLO  
500 Energy Plaza  
409 South 17th Street  
Omaha, NE 68102  
Attention: Nicole R. Konen

The date of any such notice and service thereof shall be deemed to be (a) the date of delivery if hand-delivered or delivered by overnight courier, (b) the date of delivery as indicated on the return receipt if dispatched by mail or (c) the date of facsimile transmission as indicated on the facsimile transmission report, provided that any facsimile transmission shall not be effective unless a paper copy is sent by overnight courier on the date of the facsimile transmission. Any party may change its address for notices by notice to the others given pursuant to the requirements of this Section.

**Section 21. No Agency.** No agency relationship between the parties shall be expressed or implied by the terms of this Agreement, nor shall this Agreement be construed to create a partnership between the parties. Owner shall not hold itself out as an agent or partner with Operator, and Operator shall not hold itself out as an agent or partner with the Owner. All contracts for the sale of airtime, purchase orders, agreements, sales materials and similar documents produced or executed by Operator shall be executed in the name of Operator, and not on behalf of Owner or the relevant Station, and Operator shall not represent that it is the licensee of either Station.

**Section 22. No Joint Venture.** The parties agree that nothing herein shall constitute a joint venture or partnership between Owner and Operator. The parties acknowledge that call letters, trademarks and other intellectual property shall at all times remain in the property of the respective parties and that no party shall obtain any ownership interest in any other party's intellectual property by virtue of this Agreement.

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



**Section 24. Assignment.** Neither party may assign this Agreement without the prior written consent of the other party hereto.

**Section 25. Binding Effect.** This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns.

**Section 26. Entire Agreement.** This Agreement and the Schedules hereto and documents referenced herein constitute the entire agreement and understanding of the parties hereto and supersede any and all prior agreements, arrangements and understandings related to the matters provided for herein.

**Section 27. Amendment.** This Agreement may be modified or amended only in a writing signed by the parties hereto.

**Section 28. Waiver.** No waiver by any party hereto of a breach by another party hereto of any provision of this Agreement shall be deemed to constitute a waiver of any proceeding or subsequent breach of the same provision or any other provision.

**Section 29. Headings.** The headings set forth in this Agreement are for convenience only and shall not control or affect the meaning or construction of the provisions of this Agreement.

**Section 30. Governing Law.** The construction and performance of this Agreement shall be governed by the Communications Laws and the laws of the State of Nebraska, without regard to its conflict of law principles.

**Section 31. Certifications.**

(a) Owner hereby certifies that it maintains ultimate control over the Station's facilities, including, specifically, control over the Station's finances, personnel and programming.

(b) Operator hereby certifies that this Agreement complies with the provisions of paragraph (a) of Section 73.3555 of the FCC's rules and regulations.

**Section 32. 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.

[Remainder of page intentionally left blank]



IN WITNESS WHEREOF, each of the parties has caused this Agreement to be executed by a duly authorized officer as of the date first written above.

OWNER:

HICKORY RADIO, LLC, a  
Nebraska limited liability company

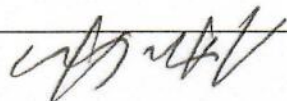
By 

Name Steven Selina

Its Manager

OPERATOR:

WALNUT RADIO, LLC, a  
Nebraska limited liability company

By 

Name Steven Selina

Its Manager

1937013.01



## SCHEDULE I

### PROGRAMMING STANDARDS

Operator agrees to cooperate with Owner in the broadcasting of programs in a manner consistent with the standards of Owner, as set forth below:

1. **Political Programming and Procedures.** At least 90 days before the start of any primary or regular election campaign, Operator will coordinate with Owner's management employee the rates Operator will charge for time to be sold to candidates for public office and/or their supporters to make certain that the rates charged conform to all applicable laws and the Station's policy. Throughout a campaign, Operator will comply with all applicable laws and rules concerning political broadcasts and will promptly notify Owner's management employee of any disputes concerning either the treatment of or rate charged a candidate or supporter.

2. **Required Announcements.** Operator shall broadcast an announcement in a form satisfactory to Owner at the beginning of each hour to identify the relevant Station, and any other announcement that may be required by law, regulation, or the Station's policy.

3. **Commercial Record Keeping.** Operator shall maintain such records of the receipt of, and provide such disclosure to Owner of, any consideration, whether in money, goods, services, or otherwise, which is paid or promised to be paid, either directly or indirectly, by any person or company for the presentation of any programming over the Stations as are required by Sections 317 and 507 of the Communications Act and the rules and regulations of the FCC.

4. **No Illegal Announcements.** No announcements or promotion prohibited by federal or state law or regulation of any lottery, game or contest shall be made over the Stations. Owner reserves the right to reject any game, contest or promotion which, in its reasonable judgment, it deems in violation of any applicable FCC rule or federal, state or local law or regulation.

5. **Indecency, Hoaxes.** No programming in violation of applicable laws and rules concerning indecency or hoaxes will be broadcast over the Station.

6. **Controversial Issues.** Any broadcast over the Stations concerning controversial issues of public importance shall comply with FCC rules and policies.

7. **Owner's Discretion Paramount.** In accordance with Owner's responsibility under the Communications Act of 1934, as amended, and the rules and regulations of the FCC, Owner reserves the right to reject or terminate any advertising proposed to be presented or being presented over a Station which is in conflict with the Station's policy or which, in the good faith, reasonable judgment of Owner or its management employee would be contrary to the Act or the Rules. Owner may waive any of the foregoing regulations in specific instances if, in its reasonable opinion, good broadcasting in the public interest will be served thereby.