CHANNEL LEASING AGREEMENT

This Channel Leasing Agreement (this "Agreement") is made as of [   ], 2021, between SIRIUS XM RADIO INC., a Delaware corporation (together with its subsidiaries, "SIRIUS XM"), and _____[name]_____, a ___[state and type of entity]___, ("Programmer"). Each of SIRIUS XM and Programmer may be referred to in this Agreement individually as a "Party" and collectively as the "Parties."

RECITALS

WHEREAS, SIRIUS XM operates two SDAR Services (as defined hereinafter) – namely the Sirius System (as defined hereinafter) and the XM System (as defined hereinafter) – that broadcast multichannel entertainment and data services;

WHEREAS, SIRIUS XM operates one or more websites and apps from which SIRIUS XM offers streaming channels of entertainment;

WHEREAS, pursuant to the Federal Communications Commission's (the "FCC") Memorandum Opinion and Order and Report and Order dated August 5, 2008, 23 FCC Rcd 12348, as amended by the Memorandum Opinion and Order dated October 18, 2010, 25 FCC - Rcd 14779 (collectively, the "FCC Orders"), SIRIUS XM voluntarily committed to enter into leases or other agreements to provide a Qualified Entity or Entities (as defined hereinafter) rights to an aggregate of four percent of the full-time audio channels on the Sirius System and on the XM System, respectively;

WHEREAS, pursuant to the FCC Orders, SIRIUS XM issued a "Request for Proposals for Satellite Radio Programming Services Pursuant to FCC Qualified Entity Set Aside" on January 15, 2015, to which Programmer responded by submitting a proposal to SIRIUS XM (both the Request for Proposal and the submission by Programmer, as well as supplemental materials provided by the Programmer, are incorporated herein by reference);

WHEREAS, Programmer wishes to enter into this Agreement to produce and distribute the Programming (as defined hereinafter); and

WHEREAS, pursuant to the FCC Orders and subject to the terms and conditions of this Agreement, Programmer desires to transmit the Programming on the SIRIUS XM Service and the Sirius XM Website (as hereinafter defined), and SIRIUS XM desires to transmit the Programming on the SIRIUS XM Service and the SIRIUS XM Website on behalf of Programmer.

NOW, THEREFORE, the Parties, in consideration of the mutual promises contained herein, agree as follows:

ARTICLE I

Definitions

SECTION 1.01 <u>Defined Terms</u>. Capitalized terms used and not otherwise defined herein shall have the meaning assigned below:

"<u>Affiliate</u>" means, with respect to either SIRIUS XM or Programmer, any person or entity that, directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with that Party. For purposes of this definition only, each of the terms "control" and the correlative terms "controlled by" and "under common control with" mean the possession, directly or indirectly, of the power to direct the management or policies of a person or entity, whether through the ownership of voting securities, by contract relating to voting rights, beneficial interest, corporate governance, or otherwise.

"<u>Agreement</u>" means this Channel Leasing Agreement, as amended, supplemented or otherwise modified from time to time in accordance with the terms hereof.

"<u>Business Day</u>" means a day other than a Saturday, Sunday or other day on which commercial banks in New York City are authorized or required by law to close.

"<u>Change of Control</u>" shall have the same meaning as a "transfer of control" for purposes of Section 310(d) of the Communications Act of 1934, as amended, 47 U.S.C. § 310(d).

"<u>Confidential Information</u>" has the meaning assigned to such term in Section 8.01.

"<u>Digital Programming</u>" has the meaning assigned to such term in Section 2.01(b).

"<u>Direct Costs</u>" has the meaning assigned to such term in Section 4.01(b).

"<u>Disclosing Party</u>" has the meaning assigned to such term in Section 8.01.

"<u>E&O Insurance Policy</u>" has the meaning assigned to such term in Section 9.03(a)(ii).

"<u>FCC</u>" has the meaning assigned to such term in the recitals to this Agreement.

"<u>FCC Orders</u>" has the meaning assigned to such term in the recitals to this Agreement.

"<u>Force Majeure</u>" has the meaning assigned to such term in Section 10.14.

"<u>General Liability Insurance Policy</u>" has the meaning assigned to such term in Section 9.03(a)(i).

"<u>Indemnified Parties</u>" has the meaning assigned to such term in Section 9.01(a).

"<u>Insurance Policies</u>" means, together, the E&O Insurance Policy and the General Liability Insurance Policy.

"<u>License</u>" has the meaning assigned to such term in Section 2.02.

"Ownership Documents" has the meaning assigned to such term in Section 7.02(f).

"Programmer" has the meaning assigned to such term in the introductory paragraph hereof.

"Programmer Marks" has the meaning assigned to such term in Section 2.03.

"Programming" has the meaning assigned to such term in Section 2.01(c).

"Qualified Entity" means an entity that is (a) not directly or indirectly owned, in whole or in part by SIRIUS XM or any affiliate of SIRIUS XM; (b) does not share any common officers, directors or employees with SIRIUS XM or any affiliate of SIRIUS XM; and (c) did not have for two years prior to January 15, 2015, any relationships with SIRIUS XM for the supply of programming.

"Receiving Party" has the meaning assigned to such term in Section 8.01.

"SDAR Services" means satellite digital audio radio services, as licensed in the United States by the FCC under Section 25.144 of the FCC's rules, and as may be licensed in other jurisdictions of the SDARS Territory as required under applicable laws, rules and/or regulations.

"SDARS Programming" has the meaning assigned to such term in Section 2.01(a).

"SDARS Territory" means the United States, its territories and possessions, Canada, Mexico, and any other locations where Sirius XM or an authorized entity thereof, such as Sirius XM Canada Holdings Inc., provides or in the future may provide SDAR Services.

"Sirius System" means the digital broadcast systems originally operated by Sirius Satellite Radio Inc.

"Sirius XM Website" means, as the context may require, (a) the "SiriusXM" branded internet site which offers streaming, time-shifted and/or "on-demand" audio entertainment services offered by Sirius XM and data services, located at www.siriusxm.com; (b) any successor internet site or sites which offer streaming, time-shifted and/or "on demand" audio entertainment services offered by Sirius XM, on the internet (including streaming and downloads) (c) digital applications accessible via computers, mobile devices and tablets, home devices and other connected devices and platforms; and (d) distribution by any means or carrier to computers, mobile and cellular devices, smart phones, Apple Inc. devices, PDA devices and other connected devices capable of receiving SIRIUS XM's internet transmission of the Programming.

"SIRIUS XM" has the meaning assigned to such term in the introductory paragraph hereof.

"SIRIUS XM Service" means a satellite digital service providing music, talk, sports, and other entertainment content, exclusive of video traffic, weather and other data services, distributed through the Sirius System on a "Sirius" or "SiriusXM" branded platform; and/or (iii) any successor platform or platforms as SIRIUS XM may designate in its sole discretion.

"SIRIUS XM Subscribers" means any person or entity in the Territory authorized to receive the SIRIUS XM Service or access the Sirius XM Website, as applicable.

"Term" has the meaning assigned to such term in Section 5.01.

"Third Party Claim" has the meaning assigned to such term in Section 9.01(b).

"Territory" means, in the case of SIRIUS XM's SDAR Services, the SDARS Territory; and, in the case of the Internet, worldwide.

"XM System" means the digital broadcast systems originally operated by XM.

SECTION 1.02 Other Definitional Matters. Definitions in this Agreement apply equally to the singular and plural forms of the defined terms. The words "include" and "including" are deemed to be followed by the phrase "without limitation" when such phrase does not otherwise appear. The terms "herein," "hereof" and "hereunder" and other words of similar import refer to this Agreement as a whole and not to any particular article, section, paragraph or subdivision. All article, section, paragraph, clause, exhibit or schedule references not attributed to a particular document are references to such parts of this Agreement.

ARTICLE II

Programming

SECTION 2.01 Programming. (a) Programmer shall provide one channel of Programmer-branded 24 hour, seven day a week, audio services for distribution by SIRIUS XM on a linear basis via the Sirius System (the "SDARS Programming") as specified below. The SDARS Programming shall consist of programming and the programming schedule identified and described in Exhibit A to this Agreement or as otherwise agreed by the Parties. The SDARS Programming shall also include up to thirty-six (36) characters of alphanumeric data provided by Programmer solely describing the SDARS Programming running on the applicable channel. The schedule for the SDARS Programming shall be determined by Programmer.

(c) Programmer shall provide to SIRIUS XM the SDARS Programming for distribution, including on a non-linear basis via the SIRIUS XM Website (the "Digital Programming").

(d) Subject to the terms of this Agreement, Programmer shall have sole editorial control over the SDARS Programming and the Digital Programming (the SDARS Programming and the Digital Programming, together with any material inserted pursuant to Section 2.06, collectively, the "Programming"). Except as set forth in Sections 2.06(c) and 3.02, SIRIUS XM shall not edit, add to, delete from, or otherwise modify the Programming, or authorize any third parties to do so, without the prior written consent of Programmer. SIRIUS XM may insert material before, during or after the Digital Programming stream, including as a station identification, an introduction or gateway when users of the SIRIUS XM Website access the Digital Programming. SIRIUS XM may also insert advertising, promotions, banners or other material within or immediately adjacent to the Digital Programming, the Programmer Marks, or the audio player and app through which users of the SIRIUS XM Website access the Digital

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Programming. SIRIUS XM shall have the right to retain all revenue derived from material it inserts pursuant to this Section. SIRIUS XM may insert advertising, promotions, banners or other material within or immediately adjacent to the Programmer Marks in any electronic programming guide which includes the Programming. All of the audio, visual, textual and alphanumeric informational material within the audio player through which users of the SIRIUS XM Website access the Digital Programming, shall be provided by SIRIUS XM, in its discretion.

(e)   Programmer shall be solely responsible for acquiring, aggregating and delivering, as prescribed in Article III, the Programming in accordance herewith, and shall bear all costs and expenses related thereto. Programmer shall not sell, assign, transfer, barter, sublet or otherwise enter into any agreement or arrangement, whether written or oral, including pursuant to any local marketing agreement, time brokerage agreement or similar arrangement, to transfer to any person any time within the Programming or the right to provide all or any portion of the Programming without the prior written consent of SIRIUS XM.

SECTION 2.02 Programming License. Subject to the terms and conditions of this Agreement, Programmer hereby grants SIRIUS XM a non-exclusive royalty-free, unrestricted (except as otherwise provided herein) license to copy, transmit, re-transmit, distribute, redistribute and perform the Programming on a linear and/or a non-linear basis, in the SDARS Territory, (i) the SDARS Programming on via the SIRIUS XM Service including transmissions through non-satellite infrastructure to enhance signal delivery where satellite signal is limited or unavailable), and (ii) the Digital Programming on the SIRIUS XM Website (the "License"). The License shall include the right for subscribers, recipients and users of the SIRIUS XM Service and the SIRIUS XM Website to publicly perform the Programming on and about their premises. The License may be sublicensed by SIRIUS XM to SIRIUS XM's Affiliates. SIRIUS XM shall have the right to transmit the Programming in Mexico and Canada but shall have no obligation, to transmit the Programming in Mexico and Canada (including each of their respective territories and possessions).

SECTION 2.03 Trademark License. Programmer hereby grants SIRIUS XM a limited, non-exclusive, royalty-free license to use, on a worldwide basis, the names, trademarks and service marks listed in Exhibit B hereto (collectively, the "Programmer Marks"), in print, broadcasting and/or online materials, to communicate, in a manner that is truthful, accurate, and representative of the relationship between the Parties, the availability of the Programming on the SIRIUS XM Service and the SIRIUS XM Website. SIRIUS XM acknowledges that the goodwill pertaining to the Programmer Marks belongs exclusively to Programmer, and that any right or interest in or to the Programmer Marks arising out of the use of the Programmer Marks by SIRIUS XM shall inure to the benefit of Programmer. SIRIUS XM shall not at any time represent that it owns the Programmer Marks, and shall not knowingly use the Programmer Marks in such a manner as to disparage Programmer or to cause confusion about the ownership of the Programmer Marks or the source of the Programming.

SECTION 2.04 Ownership of Intellectual Property. Programmer acknowledges and agrees that it does not own any copyrights, trademarks or other intellectual property rights relating to the SIRIUS XM Service, the SIRIUS XM Website or any other rights belonging to SIRIUS XM, and that nothing in this Agreement shall be construed as transferring any such rights to Programmer, other than as is expressly set forth herein. SIRIUS XM acknowledges and

agrees that it does not own any copyrights, trademarks or other intellectual property rights relating to the Programming or the Programmer Marks, and that nothing in this Agreement shall be construed as transferring any such rights to SIRIUS XM, other than as is expressly set forth herein.

SECTION 2.05 Acknowledgment of Programming. (a) Subject to Section 2.03, SIRIUS XM shall promote the availability of the Programming on the SIRIUS XM Service and the SIRIUS XM Website, as it determines appropriate. The creative direction and copy of any such promotion will be at SIRIUS XM's discretion; provided that use of Programmer's Marks shall be subject to the terms of Section 2.03. SIRIUS XM shall make reasonable efforts to refer press inquiries it receives regarding Programmer to the appropriate representative designated by Programmer in writing. SIRIUS XM shall not make any statements or representations on behalf of Programmer.

(b) Programmer shall promote the launch of the Programming and the availability of the Programming on the SIRIUS XM Service and the SIRIUS XM Website as set forth in its proposal and reflected in Exhibit C and otherwise as it deems appropriate. Programmer shall not use or display the name of SIRIUS XM or any logo or trademark of SIRIUS XM without, in each case, the prior written consent of SIRIUS XM. Any on-air promotions on the Programming shall be fairly separated within the Programming and otherwise consistent with the placement of promotions on other channels on the SIRIUS XM Service. The creative direction and copy of any such acknowledgments will be at Programmer's discretion. Programmer shall make reasonable efforts to refer press inquiries it receives regarding SIRIUS XM to the appropriate representative designated by SIRIUS XM. Neither Programmer nor any on-air talent on the Programming shall make any statements or representations on behalf of SIRIUS XM.

SECTION 2.06 Commercial Time; Sponsorships; On-Air Solicitations. (a) Programmer shall have the right to insert commercials within the Programming up to a limit of 15 minutes per hour and shall be entitled to retain all proceeds from the sale of such advertising. Programmer shall insert within any unsold commercial time public service announcements or other promotional spots that are acceptable to SIRIUS XM.

(b) Programmer shall also have the right to include underwriting or sponsorship announcements in the Programming. All rights to underwriting or sponsorship of the Programming shall be reserved to Programmer and all amounts, whether in cash or property, received by Programmer from underwriting or sponsorship of the Programming, shall be the property of Programmer.

(c) Programmer shall ensure that all commercials, sponsorships and underwritings contained within the Programming adhere to SIRIUS XM's standards and practices in effect from time to time. SIRIUS XM reserves the right to require Programmer either to revise or to remove (at Programmer's option) any commercials, underwriting or sponsorship material from the Programming that SIRIUS XM, in its discretion, determines to be (i) in violation of any federal, state or local law or regulation, any industry standard, or the rights of any third party, or (ii) inconsistent with SIRIUS XM's applicable terms for commercials, underwriting or sponsorships. Programmer shall not enter into any agreement or arrangement with a third party agent to sell any commercials, sponsorships or underwritings contained within the Programming

with an entity that is not a Qualified Entity. Any agreement or arrangement with a third party agent to sell any commercials, sponsorships or underwritings contained within the Programming shall be included on Exhibit A or otherwise subject to the written approval of SIRIUS XM.

Programmer shall permit SIRIUS XM to use up to two (2) thirty (30) second periods per hour in the SDARS Programming and the Digital Programming, if any, for insertion of public service and promotional announcements selected by SIRIUS XM at no cost to SIRIUS XM. Any such promotional announcements shall be subject to the approval of Programmer. Programmer shall insert cueing into the Programming to permit SIRIUS XM to insert such public service and promotional announcements within the Programming.

(b)   SECTION 2.07. <u>SIRIUS XM Distribution</u>. (a) Sirius XM shall distribute the SDARS Programming on the [Sirius System], on the basic tier of service as well as all other classes or tiers of service selected by SIRIUS XM, consistent with the FCC Orders to the extent technically feasible. The Programming shall be distributed on the Sirius System on a channel selected by SIRIUS XM from time to time in its sole discretion and dedicated on a full time basis to the Programming. The name of the channel shall be mutually agreed to by Programmer and SIRIUS XM. SIRIUS XM shall have the right from time to time, upon notice to Programmer, to change the channel number of the Programming and the location of the channel on the SIRIUS XM Service in the ordinary course of business. Programmer understands that any channel label may not accompany a channel change and may be made at such time as SIRIUS XM selects in its sole discretion.

(c)   SIRIUS XM may transmit the Digital Programming, if any, as a non-downloadable stream via the SIRIUS XM Website. Sampling of the Digital Programming shall mean that individuals may register for a trial use of SIRIUS XM's Internet services, including the Digital Programming.

ARTICLE III

Delivery; Transmission

SECTION 3.01 <u>Delivery</u>. Programmer shall deliver the Programming to SIRIUS XM during the Term via two simultaneous and redundant delivery paths; one of which shall be via satellite transmission or a T-1 digital circuit and the second shall be via satellite transmission, a T-1 digital circuit or Internet IP/ISDN delivery in accordance with the standards set forth in Exhibit D, or such other means or method as required by SIRIUS XM. Programmer shall deliver the Programming to a signal collection point of SIRIUS XM's choosing, at Programmer's sole cost and expense. Within thirty (30) days of the launch of the Programming, Programmer shall provide SIRIUS XM with at least 48 hours of "evergreen" Programming for transmission by SIRIUS XM in the event of disruption of delivery of the signal to SIRIUS XM or any other event that requires SIRIUS XM to broadcast in disaster recovery mode.

SECTION 3.02 <u>Transmission</u>. Except as expressly set forth herein, SIRIUS XM shall transmit the Programming "as is"; <u>provided</u> that SIRIUS XM shall have the right, without notice to Programmer: (a) to remove from the Programming any material that, in SIRIUS XM's opinion, violates any Federal or state law, rule or regulation, violates any rights of any third

parties, is obscene, or violates the policies or standards of SIRIUS XM as consistently applied; (b) to interrupt and insert within the Programming any material, notices and announcements that, in SIRIUS XM's opinion, may be required by law, rule or regulation, such as emergency alerts or tests of the emergency alert system; (c) to insert substitute programming if Programmer fails to deliver the Programming, delivers a signal without any Programming contained therein or delivers a signal that is unusable or not suitable, from a technical perspective, for broadcast; and (d) to interrupt and insert within the Programming material, notices and announcements that, in SIRIUS XM's opinion, are of national importance or interest.

SECTION 3.03 <u>Third Party Rights That Must Be Obtained by Programmer</u>. Except as expressly set forth in Section 3.04(a), Programmer shall obtain all necessary rights from third parties to create the Programming, to deliver it to SIRIUS XM as required pursuant to Section 3.01, and to permit SIRIUS XM to broadcast and publicly perform the Programming on the SIRIUS XM Service in the SDARS Territory and from the Sirius XM Website, and to permit SIRIUS XM to make server copies of the Programming as it may deem useful to facilitate such broadcasts and public performances, all of sufficient scope to permit SIRIUS XM to use the Programming as set forth in Section 2.02. Without limiting the foregoing, the rights that Programmer shall obtain include: (a) any music and sound recording reproduction, distribution and public performance licenses that may be necessary to permit Programmer to create the Programming and deliver it to SIRIUS XM; (b) all public performance licenses for any musical compositions not included in the ASCAP, BMI, Global Music Rights or SESAC repertories; and (c) all necessary licenses related to third-party copyrighted works included in the Programming other than musical compositions and sound recordings.

SECTION 3.04 <u>Third Party Rights that Need Not be Obtained by Programmer, and Programmer's Obligations with Respect to Such Rights</u>. (a) Programmer shall not be obligated to obtain the following rights:

(i) public performance licenses for performances made by SIRIUS XM of musical compositions in the ASCAP, BMI, Global Music Rights or SESAC repertories or the right for SIRIUS XM to make server copies of such compositions to facilitate such performances; or

(ii) sound recording public performance licenses or the right for SIRIUS XM to make server copies of sound recordings to facilitate such performances, it being understood that SIRIUS XM intends to maintain the statutory licenses available under sections 112 and 114 of the Copyright Act.

(b) Programmer shall be responsible to pay SIRIUS XM an amount equal to all incremental costs attributable to the Programming that are incurred by SIRIUS XM under SIRIUS XM's ASCAP, BMI, and SESAC licenses and under SIRIUS XM's sound recording statutory licenses available under section 112 and 114 of the Copyright Act ("<u>Blanket Licenses</u>"). These costs shall be payable as Direct Costs pursuant to Section 4.01. Without limiting the foregoing, Programmer is hereby notified that the sound recording performance and ephemeral recording license for Internet transmissions under which SIRIUS XM operates requires payments of license fees 0.24 cent per listener per song in 2015, that such license fees are subject to change, and that such license fees that result from the streaming of the Programming are

incremental costs to SIRIUS XM that shall be payable by Programmer. Notwithstanding the foregoing, with respect to the linear distribution of the Programming on SDARS, Programmer is not currently responsible for any incremental cost resulting from the application of a percentage of revenue formula to any increased revenues earned by SIRIUS XM that is directly or indirectly attributable to the Programming. If the Blanket Licenses are amended during the Term and such amendment or other agreement results in any cost under the Blanket Licenses to SIRIUS XM for the carriage of the Programming on either SDARS or the Internet, such increased costs shall be payable by Programmer as Direct Costs.

(c) Programmer acknowledges that the sound recording statutory licenses under which SIRIUS XM operates are subject to certain express conditions set forth in section 114(d)(2) of the Copyright Act. Programmer shall ensure that the Programming, and its conduct with respect to the Programming, comply with all such conditions, including the prohibitions on: (i) the publication of advance program schedules identifying specific sound recordings or artists; (ii) the advanced announcement of specific sound recordings or artists; and (iii) the number of recordings from a particular album or by a particular artist that may be played in within specified periods of time.

(d) Programmer shall transmit to SIRIUS XM with the Programming the information identifying sound recording, artist and phonorecord required by the sound recording statutory licenses, in form and content reasonably requested by SIRIUS XM.

SECTION 3.05 Reports. With respect to any program included in the Programming that features any musical performance of any length whatsoever or that includes any non-featured musical performances of more than 30 seconds in length (e.g., as background), Programmer shall provide to SIRIUS XM, daily reports of such musical performances in such Programming in a format and delivery method to be determined by SIRIUS XM. Programmer shall include in such report a chronological list of such performances that includes the following information, if available, with respect to each performed composition: (i) the title of the composition; (ii) the record label, if any; (iii) the name of the featured recording artist/band; (iv) the composer and author of each composition; (v) the album title; (vi) the ISRC for the recording; and (vii) such other information as SIRIUS XM shall reasonably request. In addition, Programmer shall include in its report a chronological list of all public service announcements, promotional announcements, and advertisements contained in the Programming that include musical compositions, which includes the following information: (i) the name of the promoted product or service; and (ii) the name of the advertising agency.

ARTICLE IV

Financial Matters

SECTION 4.01 SIRIUS XM Costs and Expenses. (a) Programmer shall not pay SIRIUS XM any fees for the transmission of the Programming.

(b) Notwithstanding the foregoing, and subject to the terms and conditions hereof, Programmer shall pay SIRIUS XM an amount equal to all incremental costs that are directly related to making the capacity used for the Programming available to Programmer, such as the

costs of any equipment necessary to receive the signals of Programmer at SIRIUS XM's chosen signal collection point. Such costs (the "Direct Costs") include the cost of transmitting the signal to the uplink facility and uplinking the signal to the satellite and any amounts due pursuant to Section 3.04(b).

(c)   During the Term, the Direct Costs shall be due and payable by Programmer to SIRIUS XM in arrears in quarterly installments within forty-five (45) days following receipt of an invoice from SIRIUS XM after the last day of each calendar quarter (i.e., within forty-five (45) days of March 31, June 30, September 30, and December 31). The Direct Costs with respect the first quarter and last quarter of the Term shall be pro rated.

ARTICLE V

Term; Exclusivity

SECTION 5.01 Term. The term of this Agreement shall commence on   , 2021 and shall continue until   , 2026, unless terminated earlier in accordance with the terms of this Agreement (the "Term"). This Agreement does not contain any renewal options and the Programmer understands that no expectation of renewal is contained in this Agreement or implicit in the execution and delivery of this Agreement.

ARTICLE VI

Termination

SECTION 6.01 Termination for Convenience. Programmer (but not SIRIUS XM) may terminate this Agreement for any reason or no reason, without incurring any liability to SIRIUS XM, upon no less than 180 days' prior written notice.

SECTION 6.02 Termination for Breach. SIRIUS XM shall have the right to terminate this Agreement immediately by written notice of termination to Programmer if:

(a) Programmer shall fail to assume the defense of any action, claim or proceeding relating to, arising out of, or in connection with the Programming within three days of receipt of written request by SIRIUS XM;

(b) (i) a Change of Control of Programmer shall occur; or (ii) Programmer shall assign, convey or otherwise transfer (including by operation of law or otherwise) any interest in this Agreement to any third party;

(c) the Programming shall cease to comply with the description of the Programming contained in Exhibit A to this Agreement;

(d) Programmer fails, for any reason whatsoever, to deliver the Programming (either entirely or unusably) to SIRIUS XM for two consecutive days; or the Programming suffers five or more outage incidents, totaling 30 seconds or more, in any calendar month;

(e) Programmer breaches or fails to perform any other material term, covenant or obligation hereunder, or if any representation, warranty or covenant of Programmer in this Agreement ceases to be true, correct and non-misleading in any material respect;

(f) Programmer ceases to have all necessary rights from third parties to provide the Programming pursuant to this Agreement, including all rights required under Section 3.03;

(g) Programmer terminates or suspends its business operations for a period of more than thirty (30) days, which need not be consecutive, during the Term;

(h) Programmer becomes insolvent or unable to pay its debts when due;

(i) Programmer commences, seeks relief under, consents to, or acquiesces in any bankruptcy or other proceeding, under any law in any jurisdiction, for any arrangement, reorganization, composition, liquidation, rehabilitation or similar relief regarding the insolvency or other relief of debtors;

(j) Programmer makes an assignment in bankruptcy or other assignment or general arrangement for the benefit of creditors;

(k) Programmer is subject to any attachment, seizure or other legal process against a substantial part of its assets or against any right, title or interest in this Agreement;

(l) Programmer seeks or is subject to the appointment of any receiver, custodian, trustee in bankruptcy, liquidator or similar functionary with respect to all or a substantial portion of its business, property or assets;

(m) Programmer is the subject of the filing of any involuntary petition or proceeding under bankruptcy or insolvency laws instituted against it that is not dismissed within thirty (30) days of such filing;

(n) Programmer adopts a resolution for, or undertakes to effect, a discontinuance of its business or dissolution;

(o) Programmer commits any material breach of its obligations hereunder in respect of confidential information;

(p) Programmer or the Programming disparages or casts in an unfavorable light SIRIUS XM, its officers, directors, employees, agents, contractors (including contracted talent), automotive or retail distributors, content providers, programming, products or services or takes any other action whatsoever that, in the judgment of SIRIUS XM, is detrimental to the business, affairs or prospects of SIRIUS XM;

(q) any judgment or decree for the payment of money which, when taken together with all other judgments or decrees for the payment of money, causes the

aggregate amount of such judgments or decrees entered against Programmer to exceed $250,000 (net of any amounts with respect to which a reputable and creditworthy insurance company has acknowledged liability in writing), remains outstanding for a period of 30 consecutive days following such judgment and is not discharged, waived or stayed; or

(r) the FCC Orders are invalidated, in whole or part, as a result of agency reconsideration or review, judicial appeal, executive order, or other final action by any governmental body having jurisdiction.

ARTICLE VII

Representations and Warranties

SECTION 7.01 Representations and Warranties of SIRIUS XM and Programmer. Each of SIRIUS XM and Programmer hereby represents and warrants to the other Party that:

(a)   It is an entity duly organized, validly existing and in good standing under the laws of its jurisdiction of organization. It has the power and authority and all governmental licenses, authorizations, consents and approvals to own its assets, carry on its business and to execute, deliver and perform its obligations under this Agreement.

(b)   Its execution, delivery and performance of this Agreement has been duly authorized by all necessary action, and does not and will not contravene the terms of its organizational or governing documents, conflict with, or result in any breach or contravention of, any contractual obligation to which it is a party or any order, injunction, writ or decree of any governmental authority to which it or its property is subject.

(c)   This Agreement constitutes its legal, valid and binding obligation, enforceable against it in accordance with its terms, except as enforceability may be limited by applicable bankruptcy, insolvency, or similar laws affecting the enforcement of creditors' rights generally or by equitable principles relating to enforceability.

SECTION 7.02 Representations and Warranties of Programmer. Programmer hereby represents and warrants to SIRIUS XM that:

(a)   The Programming, when delivered to SIRIUS XM, will be of an audio quality that meets or exceeds the then current quality standards for talk or music channels, as the case may be, on the SIRIUS XM Service as in effect. Exhibit D hereto shows current quality standards for carriage on the SIRIUS XM Service.

(b)   Programmer shall not deliver to SIRIUS XM any Programming or Programmer Marks for which it does not have all requisite intellectual property and other rights, power and authority to license to SIRIUS XM for use as contemplated in this Agreement.

(c)   Programmer has obtained all necessary rights from third parties to provide the Programming pursuant to this Agreement, including all rights required by Section 3.03.

(d)   In all agreements with providers of third party content included in the Programming, Programmer shall obtain the rights necessary for Sirius XM to use, distribute, transmit, perform and promote the Programming on the SIRIUS XM Service throughout the SDARS Territory in accordance with this Agreement or as is otherwise necessary for Sirius XM to exercise its rights pursuant to this Agreement.

(e)   In all agreements with providers of third party content included in the Digital Programming, if any, Programmer shall obtain the rights necessary for transmission of the Digital Programming on the SIRIUS XM Website in accordance with this Agreement.

(f)   Programmer is, and at all times during the Term shall be, a Qualified Entity and is otherwise qualified to operate channels in accordance with the FCC Orders. The current ownership structure of Programmer is set forth on Exhibit E hereto, and Programmer has provided SIRIUS XM with a stock ledger, any shareholder or similar agreements implicating the voting or other control of Programmer and such other agreements, documents and materials as requested by SIRIUS XM in order to enable it to verify the ownership structure and actual control of Programmer (collectively, the "Ownership Documents"). In the event such ownership structure changes in any manner or the Ownership Documents are revised or any new Ownership Documents are entered into, Programmer will promptly notify SIRIUS XM and provide an updated Exhibit E setting forth the ownership structure following such changes, as well as any revised or new Ownership Documents entered into in connection with such change in the ownership structure or otherwise.

(g)   Programmer and the Programming shall comply at all times with all applicable Federal and state laws, rules and regulations and shall not infringe any rights of SIRIUS XM or any third party.

(h)   During the Term, the Programming shall be hosted and produced at all times by individuals who are managed and supervised by individuals who are experienced in television, radio and similar media, are professional and have been adequately trained in the rules and regulations regarding broadcasting.

(i)   Programmer has the ability to meet all of its financial and other obligations under this Agreement and understands that there is no assurance that it will realize a profit or any level of revenue as a result of the distribution of the Programming pursuant to this Agreement and is prepared to bear the costs associated with this Agreement during the Term.

SECTION 7.03 No Other Representations and Warranties. EXCEPT AS EXPRESSLY SET FORTH HEREIN, SIRIUS XM DOES NOT MAKE ANY REPRESENTATIONS OR WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, EITHER IN FACT OR BY OPERATION OF LAW, BY STATUTE OR OTHERWISE, WHETHER WRITTEN OR ORAL, OR ARISING FROM COURSE OF PERFORMANCE, COURSE OF DEALING OR USAGE OF TRADE, INCLUDING ANY REPRESENTATIONS OR WARRANTIES WITH RESPECT TO NONINFRINGEMENT, VALIDITY, VALUE, ADEQUACY, FREEDOM FROM FAULT, QUALITY, EFFICIENCY, SUITABILITY, CHARACTERISTICS, USEFULNESS, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, WITH RESPECT TO ANY SERVICE OR PRODUCT PROVIDED UNDER THIS AGREEMENT, EACH OF

WHICH REPRESENTATIONS AND WARRANTIES ARE HEREBY EXPRESSLY DISCLAIMED.

ARTICLE VIII

Confidential Information

SECTION 8.01 Confidential Information. SIRIUS XM and Programmer hereby agree, with respect to all confidential or proprietary information furnished or disclosed by or on behalf of a Party (the "Disclosing Party") to another Party (the "Receiving Party") in connection with this Agreement, including confidential or proprietary information relating to the Disclosing Party's organization, personnel, business activities, customers, policies, assets, finances, costs, sales, revenues, technology, intellectual property, rights, obligations, liabilities and strategies or the subject matter of this Agreement (collectively, "Confidential Information"), that (a) such Confidential Information is confidential or proprietary to the Disclosing Party and is entitled to and shall receive treatment as such by the Receiving Party; (b) the Receiving Party will hold in confidence and not disclose or use any such Confidential Information except for the purposes of the exercise of such Party's rights, licenses or privileges, or the performance of such Party's obligations, pursuant to this Agreement, treating such Confidential Information with at least the same degree of care and confidentiality as it treats its own confidential or proprietary information; provided that the Receiving Party may disclose Confidential Information to the extent that such Confidential Information (i) is required by a court of competent jurisdiction, by a governmental or regulatory body or otherwise by applicable law, regulation, rule, order, subpoena or other process or by regulatory or professional standards, to be disclosed by the Receiving Party after, to the extent reasonably practicable, notice has been given to the Disclosing Party and the Disclosing Party has had an opportunity to oppose such disclosure, (ii) is disclosed to personnel, independent contractors, agents, auditors, attorneys and other consultants and advisors of the Receiving Party who have need of such access in order to undertake the permitted acts or fulfill the obligations of the Receiving Party pursuant to this Agreement; provided that such Receiving Party shall inform each such person of the confidential nature of such Confidential Information and obtain such person's binding agreement to comply with this Section 8.01, (iii) is disclosed with the written consent of the Disclosing Party, or (iv) is disclosed, pursuant to a sufficiently protective confidentiality agreement and/or protective order, by the Receiving Party in connection with any judicial or other proceeding involving the Disclosing Party and the Receiving Party (or any personnel of the Receiving Party) relating to this Agreement or any subject matter hereof; and (c) all such Confidential Information furnished to the Receiving Party, unless otherwise specified in writing by the Disclosing Party, shall remain the sole and exclusive property of the Disclosing Party. The Disclosing Party grants no license, right or interest to the Receiving Party under any copyrights, patents, trademarks, trade secrets or other Intellectual Property or proprietary rights of the Disclosing Party by reason of the furnishing or disclosure of Confidential Information.

SECTION 8.02 Unauthorized Use of Confidential Information: The Receiving Party will maintain policies and procedures sufficient to maintain the confidentiality and security of all Confidential Information of the Disclosing Party, including but not limited to so as to preclude unauthorized access to the SIRIUS XM Service. Should the Receiving Party become aware of any unauthorized use or disclosure of the Disclosing Party's Confidential Information or any

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noncompliance with the confidentiality or use restrictions of this Agreement, the Receiving Party shall promptly notify the Disclosing Party and provide the Disclosing Party reasonable assistance in recovering such information and protecting against further unauthorized use or disclosure. The Receiving Party shall be subject to enforcement by specific performance and provisional and permanent injunctive relief, and to the Disclosing Party's recovery of its court costs, expenses and reasonable attorneys' fees, as remedies for any breach or threatened breach by the Receiving Party of this Article VIII.

SECTION 8.03 Exclusions. Confidential Information shall not include any information which (a) now is or subsequently becomes available to the public, including, without limitation, any information filed with any governmental agency or regulatory body and available to the public, other than as the result of a disclosure by or resulting from a Receiving Party's breach of this Agreement, (b) becomes available to the Receiving Party on a non-confidential basis from a source other than the Disclosing Party, which source the Receiving Party reasonably believes is not prohibited from disclosing such information to the Receiving Party by obligation to the Disclosing Party or otherwise, or (c) is developed by the Receiving Party independently of, or was known by the Receiving Party prior to, any disclosures made by the Disclosing Party to the Receiving Party, of such information.

SECTION 8.04 Rights upon Termination. All Confidential Information furnished or disclosed to the Receiving Party under this Agreement (together with any and all copies, expressions and embodiments of such Confidential Information) shall be returned to the Disclosing Party or destroyed, if requested by the Disclosing Party, upon termination of this Agreement, and each Receiving Party shall confirm in writing to any Disclosing Party compliance with any such request. Notwithstanding the foregoing, the Parties shall each have the right to retain one copy of the Confidential Information with respect to which it is the Receiving Party and any summaries, analyses, notes or extracts prepared by such Party that are based on or contain portions of such Confidential Information solely for archival purposes and only to the extent required by law, regulation, rule, professional standards or reasonable business practice.

SECTION 8.05 Publicity and Publications. Except as required by applicable law, neither Party will issue any press release or make any public statement with respect to this Agreement or the transactions contemplated hereby without the prior written consent of the other Party.

SECTION 8.06 Survival. This Article VIII shall survive the termination of this Agreement.

ARTICLE IX

Indemnification; Limitation of Liability; Insurance

SECTION 9.01 Indemnification. (a) Programmer shall defend, indemnify and hold harmless SIRIUS XM, its subsidiaries and Affiliates, and its and their employees, officers and directors (the "Indemnified Parties") from and against any loss, liability, damage, expense or

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claim, including penalties, interest and reasonable attorney's fees and expenses, arising from or out of: (i) the transmission, distribution, promotion or performance of the Programming on the SIRIUS XM Service and the SIRIUS XM Website as contemplated in this Agreement; (ii) any breach, or alleged breach, of any of Programmer's representations, warranties or obligations under this Agreement; (iii) any claim that Programmer does not have all requisite rights to license the Programming or the Programmer Marks to SIRIUS XM for use as contemplated in this Agreement; (iv) any claim by any third party that the Programming or the Programmer Marks violates or infringes any third party's copyright, trademark, right of publicity or any other intellectual property right, is defamatory, libelous or slanderous, or infringes any other right of any third party, or that Programmer, the Programming or the Programmer Marks violates or has violated any other law, regulation, ordinance, judgment or ruling; (v) any claim that Programmer has not obtained all rights, waivers, permissions and clearances necessary for SIRIUS XM to distribute, transmit and/or perform the Programming as contemplated in this Agreement; and (vi) any act or omission of Programmer, its officers, directors or employees.

(b)   In the event of any claim against any Indemnified Party by any third party subject to indemnification by Programmer under Section 9.01(a), the Indemnified Party shall endeavor to notify Programmer promptly, but the failure to promptly give such notice shall not relieve Programmer from any obligations under this Agreement. Upon receipt of notice from the Indemnified Party of a claim by a third party (a "Third Party Claim"), Programmer may elect to assume the defense of such Third Party Claim by providing counsel (such counsel subject to the approval of the Indemnified Parties) to defend the Indemnified Parties against the matter from which the Third Party Claim arose, at Programmer's sole cost, risk and expense. The Indemnified Parties may, but shall not be obligated to, cooperate, at Programmer's sole cost, risk and expense, with Programmer in the investigation, trial, defense and any appeal arising from the matter from which the Third Party Claim arose; provided that the Indemnified Parties may (but shall not be obligated to) participate in any such investigation, trial, defense and any appeal arising in connection with the Third Party Claim at its sole cost, risk and expense. If any of the Indemnified Parties elect to so participate, Programmer shall cooperate with the Indemnified Parties, and Programmer shall deliver to the Indemnified Parties or its counsel copies of all pleadings and other information within Programmer's knowledge or possession reasonably requested by the Indemnified Parties or its counsel that is relevant to the defense of such Third Party Claim and that will not prejudice Programmer's position, claims or defenses. Programmer shall have the right to elect to settle any Third Party Claim for monetary damages without the Indemnified Parties' consent only if the settlement includes a complete release of the Indemnified Parties without any admission of wrongdoing by the Indemnified Parties and without any restrictions on any future actions of the Indemnified Parties. Any other settlement will be subject to the consent of the Indemnified Parties, which shall not be unreasonably withheld or delayed. Programmer may not admit any liability of the Indemnified Parties or waive any of their rights without their prior consent. If the subject of any Third Party Claim results in a judgment or settlement consistent with the terms of this Section 9.01(b) for which Programmer is liable hereunder, Programmer shall promptly pay such judgment or settlement.

(c)   If Programmer elects not to assume the defense of any Third Party Claim in accordance with the terms of Section 9.01(b), or if Programmer fails diligently to prosecute such defense, or if Programmer has, in the Indemnified Parties' reasonable judgment, a conflict of interest which prevents representation as provided in Section 9.01(b), or if Programmer has, in

the Indemnified Parties' reasonable judgment, insufficient resources with which to conduct an adequate defense, the Indemnified Parties may defend against the subject of the Third Party Claim, at Programmer's sole cost, risk and expense (but limited to all fees, costs and expenses of one separate counsel and appropriate local counsel for the Indemnified Parties), in such manner and on such terms as the Indemnified Parties reasonably deem appropriate, including settling the subject of the Third Party Claim with the consent of Programmer, which consent shall not be unreasonably withheld or delayed. Programmer shall not be liable for any settlement effected without its prior consent, which shall not be unreasonably withheld or delayed. If the Indemnified Parties defend the subject of a Third Party Claim in accordance with this Section 9.01(c), Programmer shall cooperate with the Indemnified Parties and their counsel, at Programmer's sole cost, risk and expense, in all reasonable respects, and shall deliver to the Indemnified Parties or their counsel copies of all pleadings and other information within Programmer's knowledge or possession reasonably requested by the Indemnified Parties or their counsel that are relevant to the defense of the subject of any such Third Party Claim and that will not prejudice Programmer's position, claims or defenses. The Indemnified Parties shall maintain confidentiality with respect to all such information consistent with the conduct of a defense hereunder.

(d)   Programmer shall provide the Indemnified Parties reasonable assistance, information and authority, at the Indemnified Parties' expense, necessary for the Indemnified Parties to defend any claim relating to the Programming that is not subject to indemnification by Programmer.

(e)   This Section 9.01 shall survive the expiration or earlier termination of this Agreement.

SECTION 9.02 <u>Limitation of Liability</u>. Except as set forth in Sections 8.01 and 9.01:

(a)   IN NO EVENT WILL SIRIUS XM BE LIABLE FOR (I) ANY INJURY TO OR LOSS OF USE, DATA, GOODWILL, REPUTATION, BUSINESS, REVENUES OR PROFITS (IRRESPECTIVE OF WHETHER ANY SUCH INJURY OR LOSS IS DEEMED TO CONSTITUTE ANY GENERAL, DIRECT, SPECIAL, INDIRECT, PUNITIVE, EXEMPLARY, ENHANCED, TREBLED, INCIDENTAL OR CONSEQUENTIAL DAMAGES WHATSOEVER), OR (II) ANY SPECIAL, INDIRECT, PUNITIVE, EXEMPLARY, ENHANCED, TREBLED, INCIDENTAL OR CONSEQUENTIAL DAMAGES WHATSOEVER, ARISING OUT OF OR IN CONNECTION IN ANY WAY WITH THIS AGREEMENT OR ANY SUBJECT MATTER HEREOF, UNLESS SUCH INJURY OR LOSS IS THE RESULT OF SIRIUS XM'S DEFAULT UNDER THIS AGREEMENT, NEGLIGENCE OR DELIBERATE MALFEASANCE.

(b)   This Section 9.02 shall survive the expiration or earlier termination of this Agreement.

SECTION 9.03 <u>Insurance</u>. Programmer shall secure and maintain in full force and effect, at all times during the Term, policies of insurance that that are the same or similar to those outlined in <u>Exhibit F</u> hereto.

ARTICLE X

Miscellaneous

SECTION 10.01 Notices. All notices and other communications in connection with or relating to this Agreement or the subject matter hereof shall be in writing, shall be delivered personally, via facsimile, or by reputable international courier and shall be deemed given when delivered personally, five business days after being delivered to a reputable international courier or when telecopied (with confirmation of the transmission received by the sender) to the Parties at the following addresses (or at such other address for a Party as shall be specified by like notice in accordance with this Section):

      If to SIRIUS XM, to:

          Sirius XM Radio Inc.
          1221 Avenue of the Americas, 35th Floor
          New York, New York 10020
          Facsimile No.: (212) 584-5353
          Attention: General Counsel

          with a copy to

          Sirius XM Radio Inc.
          1221 Avenue of the Americas, 35th Floor
          New York, New York 10020
          Facsimile No.: (212) 584-5353
          Attention: FCC Compliance Officer

      If to Programmer, to:

Notices by email or any method not expressly contemplated by this Section shall be null and void and have no force and effect for purposes of this Agreement.

SECTION 10.02 Entire Agreement. This Agreement embodies the Parties' entire understanding related to its subject matter and supersedes any prior or contemporaneous agreements or understandings, whether written or oral, between the Parties related to its subject matter.

SECTION 10.03 Non Solicitation. Until the expiration of at least eighteen (18) months following expiration or earlier termination of this Agreement, neither of SIRIUS XM nor Programmer nor any of their respective Affiliates shall solicit for employment, employ or hire the employees or consultants of the other Party without that Party's written consent. Notwithstanding the foregoing or any other provisions hereof, neither Party nor any of its Affiliates shall be prohibited from placing help wanted advertisements in its own internal publications, its website or any media of general circulation, from posting position openings at its places of business, or from hiring an employee or consultant of the other Party who answers

any general advertisement or who otherwise voluntarily applies for hire without having been personally solicited or recruited by the hiring Party.

SECTION 10.04 Law, Jurisdiction and Mandatory Forum Selection. This Agreement will be governed and construed in accordance with the laws of the State of New York without regard to principles of choice or conflicts of law that would require the application of the laws of another jurisdiction. The Parties hereby irrevocably and unconditionally submit to the exclusive jurisdiction of and waive all objections to the laying of venue in the courts of the State of New York and of the United States of America situated in the State and County of New York with respect to all actions, suits or proceedings arising out of or relating to this Agreement or its subject matter or the dealings between the Parties during the Term (including, without limitation, any and all common law or statutory claims), and further agree that service of any process, summons, notice or document by U.S. registered or certified mail, return receipt requested, to the Party's specified address shall be effective service therein. Each Party hereby unconditionally and irrevocably waives its right to a jury trial in any such suit, action or proceeding.

SECTION 10.05 Relationship of Parties. Each Party is an independent contractor in performing its obligations described hereunder and the relationship of the Parties shall in no way be deemed to be that of principal and agent, employer and employee, franchiser and franchisee, partners or joint ventures. No Party (nor any of its officers, directors, agents or employees) shall act or hold itself out as an agent of the other Party hereto. The Parties do not intend this Agreement or the relationship hereunder to constitute a joint venture partnership.

SECTION 10.06 No Third Party Beneficiary. This Agreement is made solely for the benefit of the Parties hereto and their successors and permitted assigns, and no other person, or entity has, or is entitled to enforce, any rights, benefits or obligations hereunder.

SECTION 10.07 Headings. The headings contained herein are for convenience of reference only and do not constitute a part of this Agreement.

SECTION 10.08 Merger Clause; Entire Agreement. This Agreement constitutes the entire agreement and supersedes all prior agreements and understanding, both written and oral, among the Parties with respect to the subject matter hereof.

SECTION 10.09 Severability. If any term or other provision of this Agreement is invalid, illegal or incapable of being enforced by any rule of law or public policy, all other terms, conditions and provisions of this Agreement shall nevertheless remain in full force and effect.

SECTION 10.10 Amendment. Neither this Agreement nor any of the terms hereof may be amended, supplemented, waived or modified except by an instrument in writing signed by the Party against which the enforcement of such amendment, supplement, waiver or modification shall be sought.

SECTION 10.11 Counterparts. This Agreement may be executed in counterparts, all of which shall be considered one and the same agreement, and shall become effective when one or more counterparts have been signed by each of the Parties and delivered to the other Party. Delivery of an executed counterpart by facsimile shall be as effective as delivery of a physical signature page.

SECTION 10.12 Assignment; Change of Control. Neither this Agreement nor any of the rights, interests or obligations hereunder shall be assigned or transferred (including through any lease of time, programming rights agreement or similar arrangement, whether denominated as a local marketing agreement, time brokerage agreement or other device) by Programmer (whether by operation of law or otherwise) without the prior written consent of Sirius XM, and any purported assignment without such consent shall be null and void. This Agreement, and any of the rights, interests or obligations hereunder, may be freely assigned or transferred by SIRIUS XM. This Agreement shall be binding upon and inure to the benefit of the Parties and SIRIUS XM's successors and assigns. No Change of Control of Programmer shall occur without the express prior written consent of SIRIUS XM.

SECTION 10.13 No Waiver. No single or partial exercise of any right, power or privilege hereunder shall preclude any other or further exercise thereof or the exercise of any other right, power or privilege hereunder. No notice to or demand on any Party in any case shall entitle such Party to any other or further notice or demand in similar or other circumstances or constitute a waiver of the rights of any Party to any other or further action in any circumstances without notice or demand. No failure or delay on the part of any Party hereto in exercising any right, power or privilege hereunder and no course of dealing between or among the Parties hereto shall operate as a waiver of any right, power or privilege hereunder.

SECTION 10.14 Force Majeure. SIRIUS XM shall not be liable for any loss, damage, cost, delay or failure to perform in whole or in part resulting from causes beyond its reasonable control, including fires, strikes, insurrections, pandemic, wars, riots or requirements of any governmental authority ("Force Majeure"). In the event of a Force Majeure, SIRIUS XM party shall notify Programmer and shall make reasonable efforts to resume performance promptly. If a Force Majeure continues for a period of ninety (90) days or more, Programmer may, during the period of Force Majeure, terminate this Agreement by written notice to SIRIUS XM.

SECTION 10.15 FCC Orders. This Agreement is entered into pursuant to the FCC Orders and the Parties' conduct and performance hereunder is subject to the limitations and requirements of the FCC Orders.

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

SIRIUS XM RADIO INC.

By:_____
    Scott A. Greenstein
    President and Chief Content Officer

 _[name of Programmer]__

By:_____
    ____[name]_____
    ____[title]_____

PROGRAMMING

EXHIBIT C

MARKETING COMMITMENTS

<center>EXHIBIT D</center>

<center>QUALITY STANDARDS</center>

The acceptable digital audio data rates are 64kbps for mono content and 192kbps for stereo content using MPEG 1 layer 2 as the typical audio compression algorithm employed. Other acceptable data compression algorithms are AAC and MPEG 4 HE.

Internet IP audio based delivery is acceptable only as a backup to the primary delivery methods listed in Section 3.01 and can use Mp3 at 192kbps for mono content and 320kbps for stereo content . Other acceptable data compression algorithms are AAC and MPEG 4 HE.

The minimum acceptable frequency response of the uncompressed baseband audio signal must be 100Hz to 10kHz for mono and 50Hz to 15kHz for stereo content.

EXHIBIT E

PROGRAMMER OWNERSHIP STRUCTURE

EXHIBIT F

MINIMUM REQUIRED POLICIES OF INSURANCE

General Liability Coverage

Bodily Injury and Property Damage Limit	$5,000,000
Personal Injury and Advertising Injury	$5,000,000
Products & Completed Operations Aggregate Limit	$5,000,000
General Aggregate Limit	$5,000,000
Employee Benefits Liability Limit, per person	$1,000,000
Employee Benefits Liability Aggregate Limit	$2,000,000
Abuse and Molestation	$1,000,000
Abuse and Molestation Aggregate Limit	$1,000,000
Medical Payments Limit	$5,000
Fire Damage Limit	Included
General Liability Deductible	$0

EXCESS LIABILITY COVERAGE

Aggregate Limit Aggregate	$10,000,000
Retention	$10,000

Excess liability applies over and above the following underlying lines of coverage:
-General Liability
-Auto Liability
-Abuse and Molestation

Media Liability Coverage

1. $5,000,000 limit per claim and in the aggregate, inclusive of defense costs, with $5,000,000 of excess flow coverage layer.
2. $10,000 per claim retention (deductible)
3. Additional Insured Endorsement – Sirius XM and its Affiliates
4. Definition of Covered Media: All broadcasts produced or disseminated by Programmer; all media content disseminated by Programmer via websites owned or controlled by Programmer.
5. Overview
   a. Liability contract – pays claims Insured is legally obligated to pay
   b. Claims-made and Reported form ("as soon as practicable")
   c. Contains a retroactive date (prior acts exclusion) effective at the inception of coverage and backdated on future renewals
   d. Expense costs are paid from within the limit
   e. Punitive and exemplary damages are covered where insurable by law (not insurable in Florida by law)
   f. No settlement cap/hammer clause

6. Coverage applies to "Media Activities" that arise from "Covered Media" or "Advertising", which includes but is not limited to:
   a. copyright infringement, trademark infringement, trademark dilution, trade dress infringement, publicity rights violations, cybersquatting violations, moral rights violations, any act of passing-off, or any misappropriation of content, formats, characters, trade names, character names, titles, plots, compositions, voices, slogans, graphic material or artwork;
   b. breach of a license Programmer have acquired to use a third party's trademark and/or copyrighted material, but only to the extent Programmer's use inadvertently exceeds limitations expressly set forth in the license regarding the territory, duration, or media in which the material may be used and only if such breach is asserted in conjunction with and based on the same factual allegations as a claim under 6a.
   c. plagiarism, piracy, or breach of an implied-in-fact or implied-in-law contract based on Programmer's use of a third party's creative idea;
   d. defamation, including but not limited to libel, slander, trade libel, product disparagement, and injurious falsehood;
   e. infliction of emotional distress or outrage;
   f. breach of any duty of confidentiality, invasion of privacy or violation of any other legal protections for personal information, including but not limited to false light, intrusion upon a person's seclusion, public disclosure of a person's private information, misappropriation of a person's picture, name, voice or identity for commercial gain, or unauthorized interception or recording of sound or data in violation of a civil anti-wiretap statute;
   g. promissory estoppel or breach of contract brought by Programmer's newsgathering source, but only to the extent such claim(s) directly stem from Programmer's promise to protect the anonymity of that source;
   h. failure to give credit or attribution of authorship in accordance with any agreement to which Programmer is a bound signatory;
   i. unfair competition, deceptive business practices, or false designation of origin, but only when asserted in conjunction with and based on the same factual allegations as a claim under 6a. through 6e. above;
   j. trespass, false arrest, wrongful entry, unlawful detention, false imprisonment, wrongful eviction, eavesdropping, or malicious prosecution;
   k. disclosure of a trade secret, but only where the disclosure alleged was to the public in a newsworthy publication included within covered media;
   l. negligent supervision of an employee, but only when asserted in conjunction with and based on the same factual allegations as a claim under the first five bullet points above; and/or
   m. any form of negligence (including any negligent act, negligent error, negligent omission, negligent misrepresentation, negligent misstatement, including negligent transmission of a computer virus) but only where arising from media content disseminated in covered media or advertising.
7. "Media activities" means:
   a. the gathering, acquisition, investigation, collection, researching, creation and compilation of media content;

b. any broadcast, transmission, dissemination, telecast, cablecast, syndication, serialization, podcast, streaming, or production of media content;

c. any publication, republication, or dissemination of media content including any special editions or supplements to such media content;

d. any digital, online, or electronic dissemination of media content;

e. the release, distribution, licensing, sale, lease, or exhibition of media content;

8. Covered Media means:

a. all broadcasts produced or disseminated by Programmer;

b. all media content disseminated by Programmer via websites owned or controlled by Programmer.

9. Advertising means: advertising, publicity, or promotion in or of covered media regardless of the nature or form of such "advertising" including "advertising" via any social media platforms (including but not limited to Facebook, Twitter, LinkedIn or MySpace).

10. What is Excluded

a. any infringement or use of a patent;

b. any misappropriation, use, or disclosure of a trade secret; provided, however, that this exclusion will not apply to any covered portion(s) of any claim under 6k.;

c. any fraudulent or dishonest conduct or willful violation of law, whether committed by Programmer or by another whose actions Programmer have ratified or condoned; provided, however, that this exclusion will not apply: (i) until such conduct or violation has been established by final decision in a judicial, administrative or alternative dispute resolution proceeding, or by Programmer's own admission in such a proceeding or otherwise (or by the admission in such a proceeding or otherwise of the person whose actions Programmer has ratified or condoned), at which time Programmer shall reimburse insurer for all payments made by us in connection with any claim arising from such conduct or violation of the law and our obligations under this policy with respect to such claim shall cease; or (ii) at all if such conduct or violation occurred in connection with Programmer's media activities for covered media, the conduct or violation was approved in advance by Programmer's legal counsel on the basis of a good faith belief that it would be protected from liability by the First Amendment to the U.S. Constitution, and the claim based on the conduct or violation falls under 6d., e., f., g., j., or k..

d. any unfair competition; deceptive trade practices; restraint of trade or violation of any antitrust or consumer fraud statute, legislation or regulation; however, this exclusion will not apply to any covered portion of any claim for unfair competition, deceptive trade practices, or false designation of origin under 6i..

e. any enforcement of any state or federal regulation, including but not limited to any regulation promulgated by the Federal Trade Commission, Federal Communications Commission, Federal Election Commission or the Securities and Exchange Commission;

f. any liability or breach of any duty or obligation owed by Programmer due to any statement, representation (express or implied), or omission in respect of

Programmer's financial reports or filings, or directly or indirectly arising from any fiduciary duty owed by Programmer or financial advice given by Programmer;

g. any liability or breach of any duty or obligation owed by Programmer as an employer, including but not limited to any allegation of discrimination, harassment, wrongful termination, or arising from any duty or obligation owed by Programmer in connection with the administration of any health, pension, or other form of employee benefit plan;

h. any disputes with any of Programmer's present or former directors, officers, trustees, partners in Programmer, joint venturers, employees, agents, or independent contractors concerning ownership of or the exercise of rights relating to media content, material, or services supplied to Programmer by any of them;

i. any disputes with any of Programmer's present or former directors, officers, trustees, partners in Programmer, joint venturers, employees, agents, or independent contractors concerning Programmer's disclosure of their personally identifiable information;

j. Programmer's provision of any sweepstakes, gambling activities or lotteries or from any over redemption or under redemption of coupons, discounts, awards or prizes from advertisements, promotions, contests or other games of chance; provided however, that this exclusion does not apply to the extent that a claim falls under 6a., b., c., d., or f..

k. any pollution, contamination, or toxic exposure;

l. any bodily injury, including but not limited to death and emotional injury; however, this exclusion will not apply to any portion of a covered claim seeking (i) damages for emotional anguish or distress; or (ii) bodily injury arising out of the media content of Programmer's covered media or advertising;

m. any damage to, or destruction or loss of use of any tangible property; however, this exclusion will not apply to (i) any covered claim for trespass, or (ii) property damage arising out of the media content of Programmer's covered media or advertising.

n. any intentionally false, fraudulent, deceptive, or misleading advertising with respect to Programmer's own goods or services; and this exclusion shall apply separately from and not be subject to any of the limitations set forth in 10c.

o. any breach of any written, oral, express or implied contract or warranty; provided, however, that this exclusion will not apply to any covered liability assumed under agreement; to any covered portion(s) of a claim under 6b., c., g., h., or i., or to any legal obligation to Programmer would otherwise owe in the absence of such contract or warranty;

p. any unauthorized use of or access to Programmer's computer network or computer code; however, this exclusion will not apply to: (i) any covered portion(s) of a negligence claim brought against Programmer that is based on Programmer's negligent transmission of any malicious code but only where arising from Programmer's media content disseminated in covered media or advertising; (ii) any computer virus, worm, logic bomb, or Trojan horse that

was solely and specifically targeted at Programmer's computer network; (iii) any unauthorized access to or posting of any online content to Programmer's web site that results in a covered claim for defamation, intellectual property infringement, breach of privacy, outrage, infliction of emotional distress, or negligent publication;

q. any violation of: (i) the CAN-SPAM Act of 2003 or any subsequent amendments to that Act; (ii) the Telephone Consumer Protection Act (TCPA) of 1991 or any subsequent amendments to that Act; or (ii) any other law, regulation or statute relating to unsolicited communication, distribution, sending or transmitting of any communication via telephone or any other electronic or telecommunications device; or

r. any claim that has been or properly could have been the subject of notice to any insurance carrier prior to the policy period.