



BROADWATER COUNTY TV DISTRICT BOARD MEETING

515 Broadway, Townsend

Meetings are held at the Flynn Building on 416 Broadway St.

Current and previously recorded meetings, official agenda, and minutes may be viewed on the website at <https://www.broadwatercountymt.com>.

Per Montana Code Annotated (MCA) 2-3-202, agenda must include an item allowing public comment on any public matter that is not on the agenda of the meeting and that is within the jurisdiction of the agency conducting the meeting. Public comments will be taken either in writing before the meeting or in person at the beginning of the meeting. Mail and items for discussion and/or signature may occur as time allows during the meeting. Issues and times are subject to change. Working meetings will be posted on the agenda and will not be recorded.

OFFICIAL agendas are posted in the Courthouse (1st floor bulletin board), on our website at www.broadwatercountymt.com, in the window of the Flynn Building at least 48 hours in advance of the meeting, and in the local MT43 Newspaper

Monday, January 22, 2024

**8:30 AM Discussion/Decision, Election of Officers
Discussion, Financial Report
Discussion/Decision, First Amendment to the Retro TV Affiliation Agreement
Discussion/Decision, First Amendment to the Rev'n Affiliation Agreement
Discussion/Decision, First Amendment to the Action Channel Affiliation Agreement**

Debi Randolph, Chairman

(406) 266-9270 or (406) 980-2050

Darrel Folkvord, Vice Chairman

(406) 266-9272 or (406) 980-1213

Lindsey Richtmyer

(406) 266-9271 or (406) 521-0834

**FIRST AMENDMENT TO THE
RETRO TV
AFFILIATION AGREEMENT**

THIS FIRST AMENDMENT TO THE RETRO TV AFFILIATION AGREEMENT (“First Amendment”) is effective as of January 12, 2024, by and between **RETRO TV**, a subsidiary of Luken Communications, LLC, (herein “**Retro TV**”), with offices at PO Box 11409, Chattanooga, TN 37401, and Townsend TV District, (herein “**Broadcaster**”), with offices located at 515 Broadway, Townsend, MT 59644.

WHEREAS, pursuant to the Retro TV Affiliation Agreement executed February 15, 2021, 2021, the broadcaster agreed to broadcast Retro TV’s programming on station K04QX-D within the Butte, MT market for a three-year Term expiring on February 14, 2024.

NOW, THEREFORE, for good and valuable consideration, the receipt of which is hereby acknowledged, Retro TV and Broadcaster hereby agree to amend the Agreement as follows:

1. The Term shall be extended for an additional three-year period from February 15, 2024, through February 14, 2027.
2. All other Terms and conditions in the Retro TV Affiliation Agreement remain the same.

IN WITNESS WHEREOF, the parties hereto have caused the foregoing Amendment to be executed by a duly authorized agent of each party.

LUKEN COMMUNICATIONS, LLC

TOWNSEND TV DISTRICT

Emily Bronze

Name: _____

Vice President of Corporate Affairs

Title: _____

Date: _____

Date: _____

**FIRST AMENDMENT TO THE
REV'N AFFILIATION
AGREEMENT**

THIS FIRST AMENDMENT TO THE REV'N AFFILIATION AGREEMENT ("First Amendment") is effective as of January 12, 2024, by and between **REV'N**, a subsidiary of Luken Communications, LLC, (herein "**Rev'n**"), with offices at PO BOX 11409, Chattanooga, TN 37401, and Townsend TV District, (herein "**Broadcaster**"), with offices located at 515 Broadway, Townsend, MT. 59644.

WHEREAS, pursuant to the Rev'n Affiliation Agreement executed February 15, 2021, 2021, the broadcaster agreed to broadcast Rev'n's programming on station K04QX-D within the Butte, MT market for a three-year Term expiring on February 14, 2024.

NOW, THEREFORE, for good and valuable consideration, the receipt of which is hereby acknowledged, Rev'n and Broadcaster hereby agree to amend the Agreement as follows:

1. The Term shall be extended for an additional three-year period from February 15, 2024, through February 14, 2027.
2. All other Terms and conditions in the Rev'n Affiliation Agreement remain the same.

IN WITNESS WHEREOF, the parties hereto have caused the foregoing Amendment to be executed by a duly authorized agent of each party.

LUKEN COMMUNICATIONS, LLC

TOWNSEND TV DISTRICT

Emily Bronze

Name: _____

Vice President of Corporate Affairs

Title: _____

Date: _____

Date: _____

**FIRST AMENDMENT TO
THE ACTION CHANNEL
AFFILIATION AGREEMENT**

THIS FIRST AMENDMENT TO THE ACTION CHANNEL AFFILIATION AGREEMENT ("First Amendment") is effective as of January 12, 2024, by and between **THE ACTION CHANNEL**, a subsidiary of Luken Communications, LLC, (herein "**Action**"), with offices at PO Box 11409 Chattanooga, TN 37401, and Townsend TV District, (herein "**Broadcaster**"), with offices located at 515 Broadway, Townsend, MT. 59644.

WHEREAS, pursuant to the Action Affiliation Agreement executed February 15, 2021, 2021, the broadcaster agreed to broadcast Action's programming on station K04QX-D within the Butte, MT market for a three-year Term expiring on February 14, 2024.

NOW, THEREFORE, for good and valuable consideration, the receipt of which is hereby acknowledged, Action and Broadcaster hereby agree to amend the Agreement as follows:

1. The Term shall be extended for an additional three-year period from February 15, 2024, through February 14, 2027.
2. All other Terms and conditions in the Action Affiliation Agreement remain the same.

IN WITNESS WHEREOF, the parties hereto have caused the foregoing Amendment to be executed by a duly authorized agent of each party.

LUKEN COMMUNICATIONS, LLC

TOWNSEND TV DISTRICT

Emily Bronze

Name: _____

Vice President of Corporate Affairs

Title: _____

Date: _____

Date: _____



AFFILIATION AGREEMENT

THIS AGREEMENT (the "Agreement") is made as of the 2nd day of November, 2021 (the "Effective Date"), by and between **LUKEN COMMUNICATIONS, LLC** (herein "Action") with its corporate office located at 225 E. 8th Street, Suite 500, Chattanooga, TN 37402 and **TOWNSEND TV DISTRICT** (herein "Broadcaster"), with offices located at 515 Broadway, Townsend, MT 59644. For purposes of this Agreement, Action and Broadcaster each may be referred to individually as a "Party", and together as the "Parties".

This Agreement concerns the following television station(s), of which Broadcaster is the Federal Communications Commission (the "FCC") licensee (the "Station"):

<u>Call Sign</u>	<u>Channel</u>	<u>Facility ID</u>	<u>Community</u>	<u>Nielsen DMA</u>	<u>Launch Date</u>
K04QX-D	12.3 8.3 <i>TOLE</i>	181055	Townsend, MT	Butte	On-Air

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1. **TERM AND RENEWAL.** The term of this Agreement shall be a period of twenty-six (26) months commencing effective at 12:00 a.m. local time of Station on October 29, 2021 and expiring at 11:59 p.m. local time of Station on February 14, 2024 (the "Term"), unless terminated earlier in accordance with this Agreement.

2. **PROGRAMS.**

a. **National Feed.** Action shall provide programming (each individual program comprising such programming, a "Program" and together with other programs, the "Programs") on a national twenty-four (24) hour per day, seven (7) days per week basis, via satellite or terrestrial delivery method, which Programs shall be available to Broadcaster for airing on the Station(s) and specific Channel(s) set forth in the preamble of this Agreement and pursuant to the terms and conditions set forth in this Agreement. The national schedule may be changed by Action from time to time, at Action's sole discretion, provided Action does not change the essence of its primary programming (i.e. sports, lifestyle, drama, reality, talk, specials, and movies).

b. **[Reserved.]**

3. **COMMITMENT TO BROADCAST AND LIMITATIONS ON USE.** It is of the essence of this Agreement that:

a. **Exclusivity.** Broadcaster shall be the exclusive affiliate of Action in the designated market area (DMA) to which the Station is assigned as of the date of this Agreement, to the full extent allowed by the Communications Act of 1934, as amended (the "Act"), and the rules, regulations, and published policies of the FCC (the "FCC Rules", and together with the Act, the "Communications Laws"). Broadcaster, by the terms of this Agreement, shall be entitled to invoke the protection against duplication of programming imported under applicable copyright laws, including the Compulsory Copyright License, as provided in the FCC's network non-duplication and syndicated exclusivity rules, to the maximum extent permitted by the Communications Laws. Action confirms that it has obtained written clearance for the Programs to air in the above-referenced DMA and that the airing of these Programs by Broadcaster will under no circumstance trigger or otherwise infringe upon any syndicated or network exclusivity rights claimed to be held by other parties operating stations in the above-referenced DMA.

b. **Broadcast in Entirety.** Except for specific provisions made by Action in the Programs for the insertion of local material, any pre-approved network changes, or as otherwise provided in this Agreement, every Program that is broadcast by the Station shall be broadcast in its entirety, including, but not limited to, all advertising and sponsorship identification content, without interruption, deletion, alteration or addition of any kind, including but not limited to any use of time altering or time compression technology.

c. **Broadcast Only at Fixed Time.** Broadcaster shall broadcast the Programs on the Station only on the days and at the times indicated by Action in the schedule delivered to Station, and shall not delay any such broadcast, in each case except as otherwise set forth in this Agreement or with the prior written consent of Action.

d. **Only Certain Station and Certain Programs.** Broadcaster's right to exhibit the Programs shall be limited to the Station and Channel(s) specified in the preamble to this Agreement. Broadcaster shall not authorize, cause, permit, or otherwise enable any other station or distribution medium (electronic, written, or otherwise) to carry or otherwise use all or any part or any of the content of any Program or material distributed by Action (even if such material is delivered via Action's interconnection facilities to Station). Notwithstanding the foregoing, Broadcaster, upon written notice to Action, may authorize any television translator, booster, relay facility, or another station that is rebroadcasting the Station's signal, to rebroadcast, and any cable television system, direct broadcast satellite system, or other multichannel video programming distributor ("MVPD") to retransmit, the portion of the Station's DTV signal that includes the Programs within the Station's DMA without Action's prior written consent, as long as such translator rebroadcasts or MVPD retransmits the Programs in their entirety. Broadcaster shall not authorize a public exhibition of any Program (which for purposes of clarity and avoidance of doubt shall not include the transmission of Action's Programs by Broadcaster pursuant to this Agreement); Action acknowledges that Broadcaster cannot control the actions of third parties

and that Broadcaster shall have no liability to Action or to any other person or entity for the conduct of third parties acting without Broadcaster's express written consent. Broadcaster may not distribute any Program via the Internet except as expressly provided in writing by Action.

4. **ADVERTISING MATERIAL.** Subject to the terms and conditions of this Agreement, the Station shall broadcast all advertising material within the Programs provided by Action. Broadcaster shall be allotted 2.5 minutes of commercial availability during each regularly scheduled half-hour time slot (excluding overnight paid programming) for locally inserted advertising, promotional announcements, and public service announcements. Local advertising, if any, shall be sold and produced by Broadcaster, with all proceeds retained by Broadcaster and all associated costs and expenses borne by Broadcaster. All local spot breaks shall be scheduled by Action and such schedule shall be provided to Broadcaster in a timely fashion. Action shall retain the remainder of the commercial availabilities within Programs, as well as the exclusive rights to sell all overnight paid programming advertisements as provided in the programming schedule. Except as provided in this Agreement, Broadcaster shall not have the right to preempt Action's advertisements or paid programming for any reason. Action advertising shall be sold and produced by Action, with all proceeds retained by Action and all associated costs and expenses borne by Action. Action represents, warrants and covenants to Broadcaster that all commercial availability windows included in any children's programming provided by Action, and all commercial matter and promotional announcements included in such programming, shall fully comply with all Communications Laws and other laws applicable to such programming. Action shall make available to Broadcaster a quarterly certification attesting to the fact that Action complied with the commercial limits during all children's programming provided to Station during the preceding quarter. All material inserted in local advertising and Action advertising shall be in good taste, shall not be deceptive or misleading, and shall comply with all applicable laws.

5. **SUBSTITUTION OF PROGRAMS BY BROADCASTER; RESERVED TIME.**

a. **Preemptions and Substitutions.** At all times during the Term of this Agreement, Broadcaster shall have the right to reject or refuse to broadcast any Program or program material that is unsatisfactory, unsuitable or contrary to the public interest and to substitute a program that has greater local or national importance, consistent with Section 73.658(e) of the FCC Rules. In addition, Broadcaster may preempt up to 20 hours per month any Program other than Paid Programming ("At Will Preemption") and substitute coverage of local sporting or community events that Broadcaster reasonably believes to have greater local interest, based on, but not limited to, program performance, ratings, advertiser reaction and profitability. During each occurrence of At Will Preemption, Broadcaster shall provide at least one 30 second promotion of Action's programming. Broadcaster shall notify Action at least seventy-two (72) hours in advance of any substitution, or, if the decision to substitute is made within 72 hours of airtime, as soon as possible after the decision is made.

b. **Local Reserved Time.** The program schedule shall provide a three-hour time slot on Sunday mornings from 7:00 a.m. to 10:00 a.m. during which Broadcaster may broadcast on

the Station programming of its choosing (collectively, the "Reserved Programming Time"). Broadcaster shall be responsible for all costs associated with the production, acquisition and broadcast of material during Reserved Programming Time.

6. DELIVERY OF PROGRAMS, EQUIPMENT REQUIREMENTS, AND ADDITIONAL SERVICES.

a. Action shall provide to Broadcaster a satellite feed of the Programs for broadcast on the Station. Broadcaster shall bear the cost of obtaining, installing, and maintaining a suitable earth station dish to receive the Programs via satellite. Broadcaster shall also provide a suitable internet connection to Action provided equipment for remote management via the Internet. During the Term of this Agreement, Broadcaster shall provide a satellite receiver necessary to receive the Programs. Broadcaster shall operate and maintain with reasonable care, at Broadcaster's expense, the equipment provided by Action. All equipment provided by Action to Broadcaster shall remain the property of Action. No security interest shall be granted to Broadcaster and Broadcaster shall not grant, whether expressed or implied, any security interest in Action's equipment to any third party. Broadcaster shall be responsible, at its sole cost, for all other equipment necessary or required to broadcast the Programs and to comply with all applicable Communications Laws. Upon execution and delivery of this Agreement, Broadcaster shall complete and deliver to Action a contact and technical information form for each Station. Broadcaster shall promptly notify Action of any changes to the contact and technical information and shall provide any such additional information as reasonably may be required upon request by Action.

b. [Reserved.]

7. PROOF OF PERFORMANCE AND CARRIAGE. Broadcaster agrees to begin broadcasting Action Programs under this Agreement effective on the Launch Date reflected in the preamble of this Agreement. Broadcaster agrees to complete and furnish to Action monthly affidavits of performance and carriage reports in the form specified by Action as reflected in Schedule B, and as may be amended by Action from time to time. Broadcaster shall return completed reports to Action within twenty (20) calendar days after the end of each calendar month during which Station broadcasts any Program.

8. PROMOTION. Broadcaster shall use good faith efforts to expand the Action viewing audience with on-air cross promotions, recognition on the Station website, and similar means. In addition to providing promotional announcements, Action shall make available to Broadcaster such other promotional and sales materials as Broadcaster and Action may mutually consider appropriate, including but not limited to regular use of Action's applicable URL or web address, at Action's discretion. Broadcaster shall not delete any copyright, trademark, logo or other notice, or any credit, included in any materials delivered pursuant to this Section 8. During the Term of this Agreement, Action shall list Broadcaster's station identification information and its website on the Action website.

9. **RIGHTS, FEES, AND LICENSES.**

a. **Music Performance Licenses.** Broadcaster shall be responsible for obtaining and paying the cost of licenses from all music licensing entities, including but not limited to SESAC, ASCP and BMI, covering music performance rights for any material broadcast by the Station, including music included in the Programs.

b. **Publicity and Use of Marks.** Broadcaster acknowledges and agrees that all trademarks, trade names, service marks, systems, software, knowhow, operation methods, logos, call signs, trade dress, business names, Internet domain names, and all registrations, applications and renewals thereof, all published and unpublished works of authorship and copyrights therein and thereto, and other right in and to material furnished by Action or included in the Programs owned or licensed by Action, its subsidiaries, parent or sister companies, are and shall remain the sole and exclusive intellectual property of Action or the party from which Action obtained the right to use the mark or right (such rights, the "**Action Intellectual Property Rights**"). Subject to the terms and conditions of this Agreement, and in consideration of the performance by Broadcaster of its obligations under this Agreement, Action hereby grants to Broadcaster and its Affiliates a fully paid-up, non-royalty bearing, non-exclusive, revocable license to use the Action Intellectual Property Rights during the Term and solely for the purpose of reasonably publicizing Broadcaster's affiliation with Action, and airing the Programs provided by Action, pursuant to the terms of this Agreement. No other use or appropriation of Action's Intellectual Property Rights is authorized without prior written consent of Action. Action acknowledges and agrees that all trademarks, trade names, service marks, logos, call signs, trade dress, business names, Internet domain names, and all registrations, applications and renewals thereof, and all published and unpublished works of authorship and copyrights therein and thereto, owned or licensed by Broadcaster, the Station or any of their respective direct and indirect affiliates, are and shall remain the sole and exclusive intellectual property of Broadcaster and/or its applicable affiliates (collectively, the "**Broadcaster Intellectual Property Rights**"). Subject to the terms and conditions of this Agreement, and in consideration of the performance by Action of its obligations under this Agreement, Broadcaster hereby grants to Action a fully paid-up, non-royalty bearing, non-exclusive, revocable, license to use the Broadcaster Intellectual Property Rights during the Term and solely for the purpose of reasonably publicizing Action's affiliation with the Station. No other use or appropriation of Broadcaster's Intellectual Property Rights is authorized without prior written consent of Broadcaster. Notwithstanding anything set forth herein, each Party shall have the full right and ability to pursue all available recourse upon the discovery of any abuse, infringement, violation, alteration or unauthorized use by the other Party of any of their respective intellectual property rights.

10. **CABLE CARRIAGE.** Broadcaster shall use commercially reasonable efforts to maximize the distribution of the Station's channel on which Station broadcasts the Programs by MVPDs serving the Station's DMA. Where permitted, the channel identification on an MVPD's electronic program guide shall include the Action logo and name. However, if Broadcaster is unable, for any reason, to reach agreement for seventy percent (70%) cable carriage of the Station within one hundred

fifty (150) calendar days from the start of this Agreement, Action has the right, at its sole discretion, to terminate this Agreement without further obligation.

11. **STATION FACILITIES.** The authorized effective radiated power, antenna height, and transmitter coordinates of the Station are identified in the Station's FCC authorizations. Broadcaster shall provide Action with prompt notice of any change in the Station's transmitter location, power, frequency, hours of operation, and/or program format, and at any time when the Station is broadcasting its DTV signal with less than seventy percent (70%) of its authorized power and/or antenna height. If Station is not using at least seventy percent (70%) of its authorized power and/or antenna height, except during short term maintenance or emergency scenarios, then Action may at its sole discretion terminate this Agreement without further obligation.

12. **FCC COMPLIANCE.** Action hereby warrants, represents and covenants to Broadcaster that at all times during the Term of this Agreement, the Programs (including Action advertising) shall comply in all respects with applicable law, including, but not limited to, the Communications Laws. Such rules and regulations shall include, without limitation, all requirements related to closed captioning, children's programming, political advertising, political broadcasting, and sponsorship identification. Without limiting the generality of the foregoing, Action shall (a) determine when sponsorship identification announcements are required and ensure that all such announcements are accurate; (b) ensure that no material broadcast during programming intended for children shall include host selling or any other sales practices prohibited by applicable laws and regulations; (c) provide that not less than three (3) hours of qualified children's programming per broadcast week (or such greater amount of time if so required by the Communications Laws); and (d) promptly notify Broadcaster if any candidate for public office will appear on Action's programming and provide Broadcaster an explanation if such appearance is exempt from the equal opportunities requirements of Section 315 of the Act. Broadcaster may reject any such program without penalty if Action does not agree to provide equal opportunities as permitted by law. Any requirement imposed by the Communications Laws with respect to the Programs or advertising supplied by Action shall be the sole responsibility of Action.

13. **TERMINATION.**

a. **Termination Events.** This Agreement may be terminated by the Parties as follows:

(i) **By Mutual Agreement.** This Agreement may be terminated at any time by mutual agreement of the Parties in writing.

(ii) **Event of Default.** Except to the extent otherwise set forth in Section 16 (Force Majeure) below, this Agreement may be terminated by either Party upon written notice to the other Party following the occurrence of an Event of Default that remains uncured for a period of thirty (30) Business Days following the date upon which the defaulting Party is given written notice (a "**Default Notice**") of such Event of Default (such 30-day period, the "**Cure Period**"). Any

such Default Notice shall specify the event, condition or circumstance which, if not rectified during the Cure Period, shall constitute an Event of Default and indicating what actions must be taken by the defaulting Party in order to cure the Event of Default within the Cure Period. If after receiving such Default Notice the receiving Party fails to cure the specified Event(s) of Default to the reasonable satisfaction of the non-defaulting Party during the Cure Period, then this Agreement shall terminate automatically, without any further action on the part of either Party, effective as of 11:59 p.m. local time of Station the last business day of the Cure Period. For purposes of this Agreement, the term "Event of Default" shall mean (i) any failure by a Party to perform or observe a material covenant, condition, obligation or agreement contained in this Agreement, (ii) any event or circumstance in which a material representation or warranty herein made by a Party to the other is found by a Party to have been false or misleading as of the time made, or (iii) if a Party (A) makes a general assignment for the benefit of its creditors, (B) files a voluntary petition in bankruptcy, (C) files a petition or answer seeking for itself any reorganization, arrangement, composition, readjustment, dissolution, liquidation, or similar relief under any bankruptcy or debtor relief law, (D) files an answer or other pleading admitting or failing to contest the material allegations of a petition filed against it in any bankruptcy insolvency proceeding brought against it, (E) seeks, consents to, or acquiesces in the appointment of a trustee, receiver, or liquidator in respect of all or any substantial portion of its properties; or (F) voluntarily dissolves, liquidates, or winds up its affairs, other than by reason of a merger, the surviving entity of which assumes all of such Party's obligations hereunder.

(iii) **Misconduct; Illegality.** This Agreement may be terminated by either Party, effective immediately upon written notice to the other Party, upon the occurrence of (i) any act of gross negligence, willful misconduct or fraud by a Party in respect of its obligations hereunder, or (ii) any event, condition or circumstance under which the actions of a Party, or any of the terms of this Agreement, are or become prohibited by applicable law, including the Communications Laws.

b. **Effects of Expiration or Termination.** Upon the expiration or earlier termination of this Agreement, all rights and obligations of the Parties under this Agreement shall immediately cease, including, but not limited to, all licenses granted by the Parties pursuant to Section 9 above provided, however, that (i) the indemnification obligations of the Parties set forth in Section 14 (Indemnification) shall continue indefinitely, subject to any applicable statutes of limitation, (ii) no termination of all or any part of this Agreement will release either Party from liability for prior breaches of any provision of this Agreement, and (iii) the terms and provisions of this Agreement that can only be given proper effect if they survive the termination of this Agreement will survive and remain enforceable notwithstanding the termination, rescission, or expiration of this Agreement; and (iv) notwithstanding any provision of this Agreement to the contrary, any termination of this Agreement by a Party: (x) shall not constitute an election of remedies with regard to such default or such termination; and (y) shall not affect, or limit, the ability of the non-defaulting Party to avail itself of any and all rights, claims and remedies which otherwise would have been available to it, at law or in equity or otherwise. Broadcaster, at its expense, shall return

to Action all equipment provided by Action upon expiration or earlier termination of this Agreement.

14. INDEMNIFICATION.

a. **By Action.** Action shall indemnify and hold Broadcaster, its Affiliates and each of their respective officers, directors, members, managers, investors, partners, agents, and employees and their respective heirs, executors, successors and assigns, harmless from and against any and all claims, liabilities (whether asserted or unasserted, absolute or contingent), actions, suits, losses, damages, penalties, fines, judgments, (whether at law or in equity), damages (including amounts paid in settlement and costs (including costs and expenses of investigation and reasonable attorneys' fees and expenses) (collectively, "Losses"), arising from, relating to, or in connection with (i) any breach by Action of any of its representations, warranties, covenants or obligations under this Agreement, (ii) the Station's broadcast of any Program or advertising material supplied by Action, including, but not limited, any Programs, advertisements and other material supplied by Action that (x) violate the Communications Laws, (y) infringe upon the intellectual property rights of any other person or entity, including music performance rights; or (z) give rise to claims of slander, defamation, invasion of privacy, and other rights of third parties arising under applicable law.

b. **By Broadcaster.** Broadcaster shall indemnify and hold Action, its Affiliates and each of their respective officers, directors, members, managers, investors, partners, agents, and employees and their respective heirs, executors, successors and assigns, harmless from and against any Losses arising from, relating to, or in connection with (i) any breach by Broadcaster of any of its representations, warranties, covenants or obligations under this Agreement, (ii) the alteration of the Programs by Broadcaster, or (iii) the broadcast of Programs for which Action, prior to such broadcast, has specifically notified Broadcaster in writing that Station could not broadcast.

c. In the event of any claim for indemnification, the claiming Party shall promptly notify the indemnifying Party of the basis for and amount of the claim, including the name of any third party involved. With the exception of proceedings before the FCC (for which no right of assumption or compromise shall exist), the indemnifying Party shall have the right, to be exercised within thirty (30) days of notice, if liability to a third party is involved, to defend or compromise such matter at the sole cost and expense of the indemnifying Party, and the indemnified Party shall cooperate fully in such defense. The indemnified Party shall not settle or compromise any claim by a third party for which it is entitled to indemnification without the prior consent of the indemnifying Party, unless suit has been instituted and the indemnifying Party has not assumed control of the suit. The indemnifying Party shall not settle or compromise any claim by a third party unless the settlement involves no monetary payment or other obligation on the part of the indemnified Party and includes a release in favor of the indemnified Party. The provisions of this Section 14 shall survive termination of this Agreement until the expiration of the applicable statute of limitations for the claim for which indemnification is sought.

15. **DISPUTE RESOLUTION.** Any dispute arising out of or related to this Agreement that Broadcaster and Action are unable to resolve by themselves, or by mediation with a mediator agreed to by the Parties, shall be settled at the sole election of Action by (a) arbitration before the American Arbitration Association in Chattanooga, Tennessee, or (b) by litigation in the State of Tennessee, County of Hamilton. In no event shall either Action or Broadcaster be liable, in either judicial or arbitration proceedings, for any special, incidental or punitive damages, arising out of or relating to any breach of this Agreement; provided, however, that this provision shall not prevent the imposition of interest on late satisfaction of any judgment or arbitration award.

16. **FORCE MAJEURE.** Neither Party shall incur any liability to the other under this Agreement if the performance of that Party is prevented, interfered with or precluded because of an Act of God, failure of facilities, fire, lockout, strike, action by a government authority, riot or any similar or different cause beyond the reasonable control of the Party so failing to perform. This Section 16 shall not require Action to pay compensation to Broadcaster for programs not broadcast by the Stations or to prevent either Party from terminating this Agreement under Section 13 after sixty (60) days, regardless of *force majeure*.

17. **LIABILITY INSURANCE.** Both Parties shall secure and maintain in force during the Term hereof a policy of broadcaster's liability insurance for standard Errors and Omissions Insurance, applicable to its acts and omissions including, without limitation, the negligence or willful misconduct of the Party, its employees, agents, representatives and/or contractors in an amount reasonably sufficient to cover any claims arising under this Agreement. Such policies shall be secured at each Party's own cost and expense. The procuring of the insurance described herein, or delivery of the certificates of insurance described herein, shall not be construed as a limitation upon the liability of either Party, or as full performance of a Party's indemnification obligations hereunder.

18. **NO JOINT VENTURE OR PARTNERSHIP.** Nothing contained in this Agreement is intended to be, nor shall be construed, as forming or creating, or promising to form or create, any sort of partnership, association, joint venture, fiduciary or agency relationship between Broadcaster and Action. Except as otherwise specifically set forth herein, neither Broadcaster nor Action shall be authorized or empowered to act as an agent or representative of, or to make any representation or commitment, or to perform any act, which shall be binding on the other, nor shall either Party hold itself out as having any such authority.

19. **RESERVED RIGHTS.** All rights not expressly granted to Broadcaster herein are reserved to Action, including without limitation, but not limited to, the right during the Term to exploit any Action programming by any and all means outside of the Station's DMA, including pay-per-view, video-on-demand, subscription video-on-demand, via the internet, wireless telecommunications and/or home video, the right to include product integration and virtual integration in the Programming, and the right to authorize the exhibition of any Programming in any language other than English, by any and all means, now or hereafter known.

20. **CHANGE IN Action OPERATIONS AND/OR TERMS OF DOING BUSINESS.** Notwithstanding anything to the contrary in this Agreement, commencing seven (7) calendar days from each request by Action to Broadcaster for such negotiation, Broadcaster and Action will negotiate in good faith for a period of not less than sixty (60) calendar days in connection with a revision of this Agreement (other than with respect to Section 12 above) to make changes in its operations and/or terms of doing business that conflict with (or do not conform to) the terms of this Agreement and that will be applicable to Action affiliates generally.

21. **MISCELLANEOUS PROVISIONS.**

a. **Headings.** Headings in this Agreement are for the convenience of the Parties only and shall not control or affect the meaning or construction of any provision hereof.

b. **Complete Agreement; Amendment.** This Agreement, including Schedules A and B which are hereby incorporated, contain the sole and complete understanding, and supersedes all previous understandings or agreements, of the Parties with respect to the subject matter hereof. This Agreement may be amended only in writing by both Parties.

c. **Waiver; Forbearance.** No waiver by a Party of any breach or requirement, or forbearance from enforcing any requirement or provision, shall constitute or require a waiver of any other, or future instance of the same, breach or requirement or require any future forbearance.

d. **Notices.** Except for Action schedules, performance reports, editorial and technical advisories, and other routine communications, any notice, consent, approval or request required under this Agreement must be in writing and shall be given by fax and certified mail, return receipt requested, or use of an established overnight delivery service, including but not limited to UPS or Federal Express, addressed to the General Manager of Station or the President of Action, as applicable, at the address specified in the preamble to this Agreement or as otherwise notified by either Party from time to time, and shall be deemed given only when delivery is made or unsuccessfully attempted by the delivery service.

e. **Successors.** This Agreement shall be binding on the Parties hereto and to their respective heirs, successors, and assigns.

f. **No Third Party Beneficiaries.** This Agreement shall not confer any right on any person or entity not a Party hereto except as explicitly set forth herein.

g. **Counterparts.** This Agreement may be executed in counterparts, each of which shall be deemed an original and all of which shall be deemed one and the same Agreement. Any executed copy of this Agreement, whether by facsimile or other electronic transmission, shall have the same force and effect as signed originals.

h. **Confidentiality.** Other than as may be required by any applicable law, governmental order or regulation or by order or decree of any court of competent jurisdiction, neither Party, nor its employees, officers, agents and directors, shall publicly divulge or announce, or in any manner disclose to any third party, any of the specific terms and conditions set forth herein, provided that either Party may disclose this Agreement and/or the terms and conditions of set forth herein to any of its investors, lenders, financial and legal advisors, outside accountants, and any other person or entity that the disclosing Party reasonably believes after due inquiry has a fiduciary or contractual obligation to retain such information as confidential.

i. **Laws, Rules, and Regulations.** This Agreement is subject to all applicable laws, including the Communications Laws. Except where the foregoing applies, this Agreement shall be interpreted pursuant to the laws of the State of Tennessee applicable to transactions conducted entirely within that state.

j. **Severability.** If any provision of this Agreement is declared unlawful, invalid, or unenforceable by any competent legal authority, the remainder of this Agreement shall remain in effect and shall be interpreted to give effect to the maximum extent to the intent of the Parties, provided, however, that neither Party shall be required to accept alteration of their fundamental economic relationship hereunder.

k. **Authority of Signatory.** The individual executing this Agreement for each Party warrants that he or she is authorized and intends to execute this Agreement and to bind the Party on whose behalf he or she has signed.

l. **Assignment.** This Agreement shall not be assigned by Broadcaster without the prior written consent of Action; provided however that this Agreement may be assigned to a Party that acquires all or substantially all of the assets or stock of Broadcaster or Station.

[SIGNATURES ON THE FOLLOWING PAGE]

IN WITNESS HEREOF, the Parties have executed this Agreement as of the Effective Date.

BROADCASTER

LUKEN COMMUNICATIONS, LLC

Co. Name: TOWNSEND T.V. DISTRICT

By: BROADWATER COUNTY

Name: Michael D. DeLeon

Title: County Commissioner

Date: 11-16-21

By: Emily Bronze

Name: Emily Bronze

Title: Vice President of Corporate Affairs

Date: 11/17/2021

Schedule A

Proof of Performance and Carriage

I, DARREZ FOLKVORD, in my capacity as BOARD MEMBER for TOWNSEND TV DISTRICT, do hereby certify that for the period from 9-1-21 through 11-15-21:

1. The Programs as defined in the Action Affiliation Agreement ran as scheduled on over the air channel 8.3 reaching 926 over the air TV households;
2. Unless attached as Exhibit A, all of the Programs and Action commercials aired as scheduled;
3. Unless attached as Exhibit B, the Station's contact and technical information form is correct; and
4. Cable/ADS carriage for Station includes:

Cable/ADS Operator	Community Served	Channel Position	Basic Cable Subs	Digital Cable Subs	Launch Date on Cable System
TOWNSEND TV DISTRICT	TOWNSEND MT.	8.3		926	9-1-21

Certified by me this 16 day of NOVEMBER, 2021.

Darrez Folkvord

Name

COUNTY COMMISSIONER

Title