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Before the  
Federal Communications Commission  
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

DOCKET #

In re Applications of	)	MM Docket No. 88-487
	)	
GOODLETTSVILLE BROADCASTING	)	File No. BPH-861215MI
COMPANY, INC.	)	
	)	
BLEDSON COMMUNICATIONS, LTD.	)	File No. BPH-861216MD
	)	
HEIDELBERG-STONE BROADCASTING	)	File No. BPH-861217MA
COMPANY	)	
	)	
WILLIAM E. BENNS, III	)	File No. BPH-861217MQ
	)	
For Construction Permit for a	)	
New FM Station, Channel 246C2,	)	
Goodlettsville, Tennessee	)	

To: Office of General Counsel

**JOINT REQUEST FOR APPROVAL OF AGREEMENT**

Pursuant to Section 73.3525 of the Commission's rules, Heidelberg-Stone Broadcasting Company ("HSB"), William E. Benns, III ("Benns"), Bledsoe Communications, Ltd. ("Bledsoe") and Goodlettsville Broadcasting Company, Inc. ("GBC"), hereby jointly request Commission approval of their Merger Agreement ("Agreement")<sup>1</sup> attached as Exhibit 1. Such approval will end

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<sup>1</sup>Benns, Bledsoe and GBC submitted a joint request for approval of a merger of their three applications on April 14, 1999, and supplemented it on April 16 and 28, and May 7 and 11, 1999. That request was withdrawn on June 7, 1999.

this 13-year proceeding and facilitate the establishment of a new radio station at Goodlettsville, Tennessee. In support thereof, the following is stated:

1. This case involves four mutually exclusive applications, each for a construction permit for a new FM broadcast station to operate on Channel 246C2 at Goodlettsville, Tennessee. Of the 28 applications filed in 1986, all have been dismissed except for those of Benns, Bledsoe, GBC and HSB.

2. Hearings were conducted before an ALJ, and an initial decision and supplemental initial decision were issued. Review Board and Commission decisions followed. However, appeals were taken to the U.S. Court of Appeals for the D.C. Circuit, which ultimately remanded the case to the Commission for further proceedings in light of that court's decision in Bechtel v. FCC, 10 F.3d 875 (D.C. Cir 1993).

3. All of the remaining applicants have joined in the Agreement, the purpose of which is to resolve the proceeding through a "global" settlement. Under the terms of the Agreement, the parties are entering into a *bona fide* merger and forming a new limited liability company, Mid-TN Broadcasters, LLC ("Mid-TN"), in which each will have a 25% equity interest. Through an amendment to be filed separately, Mid-TN will be substituted for HSB as the proposed permittee. An unrelated company, DBBC, L.L.C. ("DBBC"), will have options to purchase the equity interests owned by Mid-TN's principals once the permit is awarded. DBBC also will enter into a Construction Agreement and a Time Brokerage Agreement with Mid-TN pursuant to which assistance will be provided to Mid-TN in constructing and programming the new station. In the interest of full disclosure, copies of the options, construction and time brokerage agreements are attached as Exhibits 2, 3 and 4, respectively.

4. Settlement at this stage is permitted if not encouraged. In enacting the Balanced Budget Act of 1997, Congress added a new subsection to the Communications Act, subsection 309(j)(6)(E), which reads as follows:

(6) Rules of Construction - Nothing in this subsection, or in the use of competitive bidding, shall - -

(E) be construed to relieve the Commission of the obligation in the public interest to continue to use engineering solutions, negotiation, threshold qualifications, service regulations, and other means in order to avoid mutual exclusivity in application and license proceedings;

Thus, the Congress made it clear that where an auction can be avoided, the Commission should approve settlements consistent with its rules. Accord, First Report and Order, MM Docket No. 97-234, 13 FCC Rcd 15, 920, 15, 948 (1998) (paragraph 75).

5. The option arrangement with DBBC, which helps facilitate the merger, does not run afoul of the Commission's rules or policies. DBBC is not a "white knight" whose presence is barred under Section 309(l)(2) of the Act. While that provision only bars non-applicants from participating in an auction, here the proposed merger will make an auction unnecessary. Further, third-party options have been routinely approved in the context of universal settlements. See, e.g., Frank Digesu, Sr., 9 FCC Rcd 7866 (Rev. Bd. 1994); Lamar Communications, Inc., 6 FCC Rcd 7022 (OGC 1991); David A. Davila, Nicasio O. Flores and Maria Norma Flores, 5 FCC Rcd 5222 (MM Bur. 1990), rev. denied, 6 FCC Rcd 2897 (1991); The Old Time Religion Hour, Inc., ("OTRH"), FCC 87I-097 (OGC 1987) (unpublished).<sup>2</sup> Relatedly, the Commission has repealed its long-standing

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<sup>2</sup>In OTRH, the proposed permittee had a "put" option under which it could require the third-party option holder to buy the station at the pre-established option price. Mid-TN's principals have no such right; indeed, as noted below, they have negotiated "reciprocal" options permitting them to buy out DBBC and let Mid-TN proceed with the Station on its own.

ban on the sale of “bare” construction permits, 1998 Biennial Regulatory Review – Streamlining of Mass Media Applications, Rules and Processes, 13 FCC Rcd 23,056 (1998) (paragraph 26 *et seq.*).

This moots previous concerns about the sale of unbuilt stations or premature transfer of control of stations put on the air with money provided by optionees who would later later acquire the facility at a pre-determined price. Indeed, it no longer makes a difference whether -- or when -- a third-party buyer obtains its right to purchase if, as the rules now allow, the permittee itself has no obligation to put the station on the air. Under the new rules, Mid-TN could sell its Goodlettsville permit to DBBC for any price the day the permit is granted, with or without an option.

6. The DBBC options are just that: DBBC has no obligation to buy Mid-TN’s equity, and it may choose not to do so. The Mid-TN operating agreement includes a Section VIII directed to this very possibility. And, as was the case in Digesu and Lamar, *supra*, the options granted to DBBC by the Goodlettsville applicants are reciprocal. Those applicants (Mid-TN’s owners) may buy back the options and own the Station if it proves beneficial for them to do so. See Exhibit 2 (addenda to option agreements). Moreover, because the FCC must, at a later time, separately approve the sale of Mid-TN’s permit to DBBC, the Commission will have ample opportunity to deal with any perceived abuse of the options and related arrangements.

7. The parties to the Agreement have been negotiating over a period of many months to resolve the conflicts among their applications. After 13 years of litigation, they have reached a settlement. Approval of the resulting Agreement will serve the public interest by resolving the proceeding, consistent with Section 309(j)(6)(E) of the Act, and by facilitating the establishment of Goodlettsville, Tennessee’s first local broadcast service.

8. Section 73.3525(a) of the Commission's rules requires the submission of affidavits or declarations certifying to certain matters specified in the rule. Such certificates are included in paragraph 8 of the Agreement.

WHEREFORE, the premises considered, it is respectfully requested that the Agreement be approved, that Benns' application, as amended to specify Mid-TN as the applicant, be granted and this proceeding be terminated.

Respectfully submitted,

HEIDELBERG-STONE BROADCASTING  
COMPANY

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July 21, 1999

GOODLETTSVILLE BROADCASTING  
COMPANY, INC.

By:   
Harry C. Martin  
Its Attorney

BLEDSON COMMUNICATIONS, LTD.

By:   
C. Michael Norton  
Its Attorney

EXHIBIT 1

**MERGER AGREEMENT**

## Merger Agreement

This Merger Agreement is entered into as of this 16<sup>th</sup> day of July, 1999, by and among Goodlettsville Broadcasting Company, Inc., a Tennessee corporation ("GBC"), Bledsoe Communications, Ltd., a Tennessee limited partnership ("Bledsoe"), William E. Bennis, III, an individual and resident of the Commonwealth of Virginia ("Bennis"), and Heidelberg-Stone Broadcasting Company, a General Partnership ("HSBC"), all of whom are also referred to individually as an "Applicant" and collectively as the "Applicants."

### Recitals

A. Each Applicant is an applicant to the Federal Communications Commission ("FCC") in Docket No. 88-487, for a construction permit for a new FM broadcast station to operate on Channel 246C2 at Goodlettsville, Tennessee (the "Station"), as follows:

GBC	File No. BPH-861215MI
Bledsoe	File No. BPH-861216MD
HSBC	File No. BPH-861217MA
Bennis	File No. BPH-861217MQ

B. Because all of the applications are mutually exclusive, absent a settlement the FCC will conduct an auction among the Applicants to select a permittee for the Station.

C. The Applicants have agreed to settle the matter prior to an auction by merging their interests into a newly-formed entity, Mid-TN Broadcasters, LLC, a Delaware limited liability company ("Mid-TN"), which will be owned as provided in the Operating Agreement in equal proportions by the Applicants or their successors and which will hold the construction permit for the Station.

### Agreements

In consideration of the foregoing and of the mutual covenants hereinafter set forth, the Applicants agree as follows:

1. Merger. No later than five (5) days after the date of the FCC's approval of this Agreement, the Applicants will enter into an Operating Agreement for Mid-TN in the form attached as Exhibit A and execute all documentation required for each Applicant to hold a one-fourth equity interest and a one-fourth voting interest in Mid-TN, provided that (a) HSBC's partners may exchange their partnership interests in HSBC for a one-fourth interest in Mid-TN, such one-fourth interest to be divided between HSBC's partners in proportion to each such partner's relative interest in HSBC; (b) Eleanor T. Mead and D. Whitson Adamson, GBC's shareholders, may each exchange their 200 shares of stock in

GBC for a one-eighth interest in Mid-TN, and Mid-TN will, at the time of such exchange, assume GBC's debts to such shareholders in the amount of Sixty Thousand Dollars (\$60,000) or less; and (c) Bledsoe's partners may exchange their partnership interests in Bledsoe for a one-fourth interest in Mid-TN, such one-fourth interest to be divided amongst Bledsoe's partners in proportion to each such partner's relative interest in Bledsoe. The Mid-TN Operating Agreement will not be modified while Mid-TN is the permittee or licensee of the Station without the unanimous consent of the owners of Mid-TN.

2. Joint Request and Amendments. Within five days of the date of this Agreement, the Applicants will file a joint request with the FCC, asking the FCC to (a) approve this Agreement, (b) dismiss the applications of GBC, Bledsoe and Bennis, (c) amend the application of HSBC to substitute Mid-TN as the applicant in place of HSBC, and (d) amend the application of HSBC with the engineering amendment attached as Exhibit B. Each Applicant will do all things reasonably necessary and/or appropriate to obtain a final order of the FCC approving this Agreement and granting the application of Mid-TN.

3. Expenses. Each of the Applicants will bear its own expenses in connection with the preparation and performance of this Agreement.

4. Termination. This Agreement shall be terminated, the joint request and amendments described in Section 2 shall be withdrawn, and each Applicant and its respective application shall be restored to the status quo ante in the event the FCC denies the joint request by a final order or in the event this Agreement is not approved by the FCC within one year from the date of execution for any reason other than a breach of this Agreement by one or more of the Applicants.

5. Authority, No Conflict. Each Applicant represents and warrants that it has the full power and authority to execute this Agreement and perform its obligations hereunder, and that the performance of such obligations will not conflict with any other obligations of such party. Each Applicant further represents and warrants that this Agreement constitutes the legal, valid and binding obligation of such Applicant. Each Applicant represents and warrants that it owns its respective application free and clear of all claims, liens and encumbrances (excluding the \$60,000 debt for GBC's application which is being assumed).

6. Specific Performance. Each Applicant acknowledges that the construction permit for the Station is a unique asset not readily available on the open market. Accordingly, the parties hereto will not have an adequate remedy at law in the event that any party breaches its obligations hereunder. Therefore, in the event of a breach by any party of its obligations under this Agreement, each party shall be entitled to specific performance of this Agreement, in addition to any other rights which any party may have

at law or in equity. In the event that litigation is required to enforce the respective rights of the parties hereunder, the prevailing party shall be entitled to be reimbursed for its reasonable expenses incurred in such litigation, including reasonable attorneys' fees and expenses.

7. Indemnity. Each of the Applicants agrees to indemnify and hold harmless each of the other Applicants and their respective principals from and against any and all claims, losses, costs, liabilities, damages, fines, forfeitures and expenses (including reasonable legal fees and other expenses incidental thereto) of every kind, nature and description, that may be asserted against Mid-TN or any of its principals, which arise out of any acts or omissions of such indemnifying Applicant or its principals, whether such acts or omissions took place prior or subsequent to the date of this Agreement.

8. Certification. Each of the Applicants hereby certifies under penalty of perjury that: (a) this Agreement will serve the public interest by expediting the inauguration of a new radio service in Goodlettsville, Tennessee; (b) its application was not filed for the purpose of reaching or carrying out this Agreement or any other settlement; and (c) except as set forth herein, there is no consideration to be paid or provided to the Applicant in connection with this Agreement and no other consideration, direct or indirect, has been paid or promised to the Applicant or its principals for the mutual promises made herein.

9. Choice of Laws. Except with respect to matters within the jurisdiction of the FCC and the federal courts having appellate review over FCC decisions, this Agreement shall be governed and construed in accordance with the laws of the State of Tennessee without giving effect to the provisions governing conflicts of laws in such state.

10. Counterparts. This Agreement may be executed in counterparts, each of which, when all are executed, shall have the same effect as if the parties had executed a single instrument.

IN WITNESS WHEREOF, the parties hereto have caused this Merger Agreement to be executed as of the date set forth above.

Goodlettsville Broadcasting Company, Inc.

By *D. Whitson*

Bledsoe Communications, Ltd.

By \_\_\_\_\_

Heidelberg-Stone Broadcasting Company

By \_\_\_\_\_

WAS1 #542147 v3

\_\_\_\_\_  
William E. Bennis (individually)

IN WITNESS WHEREOF, the parties hereto have caused this Merger Agreement to be executed as of the date set forth above.

Goodlettsville Broadcasting Company, Inc.

By \_\_\_\_\_

Bledsoe Communications, Ltd.

By *Ronald J. Bledsoe*

Heidelberg-Stone Broadcasting Company

By \_\_\_\_\_

WAS1 #542147 v3

\_\_\_\_\_  
William E. Bennis (individually)

IN WITNESS WHEREOF, the parties hereto have caused this Merger Agreement to be executed as of the date set forth above.

Goodlettsville Broadcasting Company, Inc.

By \_\_\_\_\_

Bledsoe Communications, Ltd.

By 

Heidelberg-Stone Broadcasting Company

By \_\_\_\_\_

WAS1 #542147 v3

\_\_\_\_\_  
William E. Bennis (individually)

IN WITNESS WHEREOF, the parties hereto have caused this Merger Agreement to be executed as of the date set forth above.

Goodlettsville Broadcasting Company, Inc.

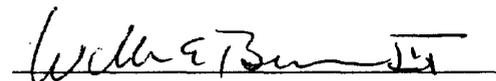
By \_\_\_\_\_

Bledsoe Communications, Ltd.

By \_\_\_\_\_

Heidelberg-Stone Broadcasting Company

By \_\_\_\_\_



William E. Bennis (individually)

WAS1 #542147 v3

MERGER AGREEMENT  
EXHIBIT A

**Mid-TN Limited Liability Company**  
**Operating Agreement**  
(to be entered into within five (5) days of  
FCC approval of Merger Agreement)

**Mid-TN Broadcasters Limited Liability Company  
Operating Agreement**

This Operating Agreement (this "Agreement") is entered into this \_\_\_ day of \_\_\_\_\_ 1999, by and among William E. Benns, III, of Virginia; Eleanor T. Mead and Whit Adamson of Tennessee; Ronald T. Bledsoe of Florida; C. Michael Norton and Charles W. Bone of Tennessee; Katherine Stone of Arkansas; and John Heidelberg of Tennessee.

**Explanatory Statement**

The parties have agreed to organize and operate or to join a limited liability company in accordance with the terms of, and subject to the conditions set forth in, this Agreement.

NOW, THEREFORE, for good and valuable consideration, the parties, intending legally to be bound, agree as follows:

**Section I**

**Defined Terms**

The following capitalized terms shall have the meanings specified in this Section I. Other terms are defined in the text of this Agreement; and, throughout this Agreement, those terms shall have the meanings respectively ascribed to them.

"Act" means the Delaware Limited Liability Company Act, as amended from time to time.

"Agreement" means this Agreement, as amended from time to time.

"Company" means the limited liability company organized in accordance with this Agreement.

"Construction Permit" means the authorization for which the Members have applied to the Federal Communications Commission for authority to construct and operate an FM radio station on Channel 246C2 at Goodlettsville, Tennessee.

"Interest" means a Person's share of the Profits and Losses of, and the right to receive distributions from, the Company.

"Interest Holder" means any Person who holds an Interest, whether as a Member or as an unadmitted assignee of a Member.

"Involuntary Withdrawal" means, with respect to any Member, the occurrence of any of the

following events:

- (i) the Member makes an assignment for the benefit of creditors;
- (ii) the Member files a voluntary petition of bankruptcy;
- (iii) the Member is adjudged bankrupt or insolvent or there is entered against the Member an order for relief in any bankruptcy or insolvency proceeding;
- (iv) the Member files a petition seeking for the Member any reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief under any statute, law, or regulation;
- (v) the Member seeks, consents to, or acquiesces in the appointment of a trustee for, receiver for, or liquidation of the Member or of all or any substantial part of the Member's properties;
- (vi) the Member files an answer or other pleading admitting or failing to contest the material allegations of a petition filed against the Member in any proceeding described in Subsections (i) through (v);
- (vii) any proceeding against the Member seeking reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief under any statute, law, or regulation, continues for one hundred twenty (120) days after the commencement thereof, or the appointment of a trustee, receiver, or liquidator for the Member or all or any substantial part of the Member's properties without the Member's agreement or acquiescence, which appointment is not vacated or stayed for one hundred twenty (120) days or, if the appointment is stayed, for one hundred twenty (120) days after the expiration of the stay during which period the appointment is not vacated;
- (viii) if the Member is an individual, the Member's death or adjudication by a court of competent jurisdiction as incompetent to manage the Member's person or property;
- (ix) if the Member is acting as a Member by virtue of being a trustee of a trust, the termination of the trust;
- (x) if the Member is a partnership or limited liability company, the dissolution and commencement of winding up of the partnership or limited liability company;
- (xi) if the Member is a corporation, the dissolution of the corporation or the revocation of its charter; or

(xii) if the Member is an estate, the distribution by the fiduciary of the estate's entire interest in the Company.

"Member" means each Person signing this Agreement and any Person who subsequently is admitted as a member of the Company.

"Membership Rights" means all of the rights of a Member in the Company, including a Member's: (i) Interest; (ii) right to inspect the Company's books and records; and (iii) right to participate in the management of and vote on matters coming before the Company. Unless this Agreement is amended to provide to the contrary, only a general manager or assistant general manager shall have the right to act on behalf of the Company.

"Percentage" means, as to a Member, the percentage set forth after the Member's name on Exhibit A, as amended from time to time, and as to an Interest Holder who is not a Member, the Percentage of the Member whose Interest has been acquired by such Interest Holder, to the extent the Interest Holder has succeeded to that Member's Interest.

"Person" means and includes an individual, corporation, partnership, association, limited liability company, trust, estate, or other entity.

"DDOC" means the Delaware Division of Corporations.

"Station" means the FM radio station to operate on Channel 246C2 at Goodlettsville, Tennessee, for which the Members have applied to the Federal Communications Commission for authority to construct and operate.

"Transfer" means, when used as a noun, any voluntary sale, hypothecation, pledge, assignment, attachment, or other transfer, and, when used as a verb, means voluntarily to sell, hypothecate, pledge, assign, or otherwise transfer.

"Voluntary Withdrawal" means a Member's dissociation with the Company by means other than a Transfer or an Involuntary Withdrawal.

## Section II

### Formation and Name; Office; Purpose; Term

2.1. Organization. The parties have organized a limited liability company pursuant to the Act and the provisions of this Agreement and, for that purpose, have caused a Certificate of Formation to be prepared, executed and filed with DDOC on April 30, 1999. Various Members have been admitted subsequently.

2.2. **Name of the Company.** The name of the Company shall be "Mid-TN Broadcasters, LLC". The Company may do business under that name and under any other name or names upon which the Members agree. If the Company does business under a name other than that set forth in its Certificate of Formation, then the Company shall file a trade name certificate as required by law.

2.3. **Purpose.** Company is organized to engage in the business of radio and television broadcasting and to do any and all things necessary, convenient, or incidental to that purpose.

2.4. **Term.** The term of the Company began upon the acceptance of the Certificate of Formation by DDOC and shall continue in existence until April 28, 2050, unless its existence is sooner terminated pursuant to Section VI of this Agreement.

2.5. **Principal Office.** The principal office of the Company in the State of Delaware shall be located at 1209 Orange Street, Wilmington, Delaware (19801). The principal office of the Company in Tennessee shall be at 511 Union Street, Suite 1500, Nashville, Tennessee (37219). The registered agent in Tennessee shall be C. Michael Norton at the preceding address.

2.6. **Resident Agent.** The name and address of the Company's resident agent in the State of Delaware shall be CT Corp., 1209 Orange Street, Wilmington, Delaware (19801).

2.7. **Members.** The name, present mailing address, taxpayer identification number and Percentage of each Member are set forth on Exhibit A.

### **Section III**

#### **Members; Capital**

3.1. **Initial Capital Contributions.** Upon the execution of this Agreement, the Members shall contribute to the Company consideration described in Exhibit A.

3.2. **No Other Capital Contributions Required.** No Member shall be required to contribute any additional capital to the Company, and except as set forth in the Act, no Member shall have any personal liability for any obligations of the Company.

3.3. **No Interest on Capital Contributions.** Interest Holders shall not be paid interest on their Capital Contributions.

3.4. **Return of Capital Contributions.** Except as otherwise provided in this Agreement, no Interest Holder shall have the right to receive the return of any Capital Contribution.

3.5. **Form of Return of Capital.** If an Interest Holder is entitled to receive a return of a Capital Contribution, the Company shall distribute cash, notes, property, stock (to an Interest Holder

whose Initial Capital contribution is in the form of stock), or a combination thereof to the Interest Holder, except that an Interest Holder which has contributed stock shall receive such stock in return of the Capital Contribution.

3.6. Capital Accounts. A separate Capital Account shall be maintained for each Interest Holder.

3.7. Loans. Any Member may, at any time, make or cause a loan to be made to the Company in any amount and on those terms upon which the Company and the Member agree.

## Section IV

### Management: Rights, Powers, and Duties

4.1. Management. The Company shall be managed by the Members. Except as otherwise provided in this Agreement, each Member shall have the right to act for and bind the Company in the ordinary course of its business. Initially, William E. Bennis, III, shall be general manager of the Company, and Eleanor Mead, Ronald Bledsoe, John Heidelberg and Katherine Stone shall be assistant general managers, each such person to serve until he or she resigns or is replaced by a vote of the members holding 51% or more of the percentages then held by members in the Company.

In the event the Members have not sold their Interests to an affiliated or unaffiliated third party and distributed the proceeds in accordance with Section VIII, hereof, within one (1) year from the date of issuance of a Construction Permit by the Federal Communications Commission, the parties will engage a professional media broker, e.g., Blackburn & Co., or The Connelly Company, to sell all of their interests to a third party at the best possible price.

#### 4.2. Meetings of and Voting by Members.

4.2.1. A meeting of the Members may be called at any time by any Member. Meetings of Members shall be held at the Company's principal place of business in Tennessee or at any other place in Nashville, Tennessee, designated by the Member calling the meeting. Not less than ten (10) nor more than ninety (90) days before each meeting, the Member calling the meeting shall give written notice of the meeting to each Member. The notice shall state the time, place, and purpose of the meeting. Notwithstanding the foregoing provisions, each Member waives notice if before or after the meeting the Member signs a waiver of the notice which is filed with the records of Members' meetings, or is present at the meeting in person or by proxy. Unless this Agreement provides otherwise, at a meeting of Members, the presence in person or by proxy of Members holding not less than fifty-one percent (51%) of the Percentages then held by Members constitutes a quorum. A Member may vote either in person or by written proxy signed by the Member or by the Member's duly authorized attorney in fact.

4.2.2. Except as otherwise provided in this Agreement, the affirmative vote of the

Members holding fifty-one percent (51%) or more of the Percentages then held by Members shall be required to approve any matter coming before the Members.

4.2.3. In lieu of holding a meeting, the Members may vote or otherwise take action by a written instrument indicating the consent to take an action without a meeting of Members holding seventy-six percent (76%) or more of the voting Percentages then held by Members.

4.2.4. Except as otherwise provided in this Agreement, wherever the Act requires unanimous consent to approve or take any action, that consent shall be given in writing and, in all cases, shall mean, rather than the consent of all Members, the consent of the Members holding 76 percent (76%) or more of the Percentages of voting interests then held by Members.

4.3. Personal Services. No Member shall be required to perform services for the Company solely by virtue of being a Member. Unless approved by the Members, no Member shall be entitled to compensation for services performed for the Company. However, upon substantiation of the amount and purpose thereof, the Members shall be entitled to reimbursement for expenses reasonably incurred in connection with the activities of the Company.

#### 4.4. Duties of Parties.

4.4.1. Each Member shall devote such time to the business and affairs of the Company as is necessary to carry out the Member's duties set forth in this Agreement.

4.4.2. Except as otherwise expressly provided in Section 4.4.3., nothing in this Agreement shall be deemed to restrict in any way the rights of any Member, or of any Affiliate of any Member, to conduct any other business or activity whatsoever, and no Member shall be accountable to the Company or to any other Member with respect to that business or activity even if the business or activity competes with the Company's business. The organization of the Company shall be without prejudice to the Members' respective rights (or the rights of their respective Affiliates) to maintain, expand, or diversify such other interests and activities and to receive and enjoy profits or compensation therefrom.

4.4.3. Each Member understands and acknowledges that the conduct of the Company's business may involve business dealings and undertakings with Members and their Affiliates. In any of those cases, those dealings and undertakings shall be at arm's length and on commercially reasonable terms.

#### 4.5. Liability and Indemnification.

4.5.1. A Member shall not be liable, responsible, or accountable, in damages or otherwise, to any other Member or to the Company for any act performed by the Member with respect to Company matters, except for fraud, gross negligence, or an intentional breach of this Agreement.

4.5.2. The Company shall indemnify each Member for any act performed by the Member with respect to Company matters, except for fraud, gross negligence, or an intentional breach of this Agreement.

## Section V

### Transfer of Interests and Withdrawals of Members

5.1. Transfers. No Member may Transfer all, or any portion of, or any interest or rights in, the Membership Rights owned by the Member, and no Interest Holder may Transfer all, or any portion of, or any interest or rights in, any Interest without the consent of all of the non-transferring Members. Each Member hereby acknowledges the reasonableness of this prohibition in view of the purposes of the Company and the relationship of the Members. The Transfer of any Membership Rights or Interests in violation of the prohibition contained in this Section 5.1 shall be deemed invalid, null and void, and of no force or effect. Any Person to whom Membership Rights are attempted to be transferred in violation of this Section 5.1 shall not be entitled to vote on matters coming before the Members, participate in the management of the Company, act as an agent of the Company, receive distributions from the Company, or have any other rights in or with respect to the Membership Rights. The Members hereby consent to the transfer of all, but not less than all, Membership Interests to DBBC pursuant to the options entered into between DBBC and the individual Members contemporaneously hereto.

5.2. Voluntary Withdrawal. No Member shall have the right or power to Voluntarily Withdraw from the Company.

5.3. Involuntary Withdrawal. Immediately upon the occurrence of an Involuntary Withdrawal, the successor of the Withdrawn Member shall thereupon become an Interest Holder but shall not become a Member. The successor Interest Holder shall have all the rights of an Interest Holder but shall not be entitled to receive in liquidation of the Interest, the fair market value of the Member's Interest as of the date the Member involuntarily withdrew from the Company. Instead of liquidation, the successor Interest Holder shall receive the same assets which he would have received if he was a Member, pursuant to Section 6.2, infra.

## Section VI

### Dissolution, Liquidation, and Termination of the Company

6.1. Events of Dissolution. The Company shall be dissolved upon the happening of any of the following events:

6.1.1. when the period fixed for its duration in Section 2.4 has expired;

6.1.2. upon the unanimous written agreement of the Members; provided that the provisions of Section 4.2.4 shall not apply with respect to any agreement regarding dissolution.

6.2. Procedure for Winding Up and Dissolution. If the Company is dissolved, the remaining Members shall wind up its affairs. On winding up of the Company, the assets of the Company shall be distributed, first, to creditors of the Company, including Interest Holders who are creditors, in satisfaction of the liabilities of the Company, and then to the Members and Interest Holders.

6.3. Filing of Articles of Cancellation. If the Company is dissolved, the Members shall promptly file Articles of Cancellation with DDOC. If there are no remaining Members, the Articles shall be filed by the last Person to be a Member; if there are no remaining Members, or a Person who last was a Member, the Articles shall be filed by the legal or personal representatives of the Person who last was a Member.

## Section VII

### Books, Records, Accounting, and Tax Elections

7.1. Bank Accounts. All funds of the Company shall be deposited in a bank account or accounts opened in the Company's name. The Members shall determine the institution or institutions at which the accounts will be opened and maintained, the types of accounts, and the Persons who will have authority with respect to the accounts and the funds therein.

7.2. Books and Records. The Members shall keep or cause to be kept complete and accurate books and records of the Company and supporting documentation of the transactions with respect to the conduct of the Company's business. The books and records shall be maintained in accordance with sound accounting principles and practices and shall be available at the Company's principal office for examination by any Member or the Member's duly authorized representative at any and all reasonable times during normal business hours.

7.3. Annual Accounting Period. The annual accounting period of the Company shall be its taxable year. The Company's taxable year shall be selected by the Members, subject to the requirements and limitations of the Internal Revenue Code.

7.4. Reports. Within seventy-five (75) days after the end of each taxable year of the Company, the Members shall cause to be sent to each Person who was a Member at any time during the taxable year then ended a complete accounting of the affairs of the Company for the taxable year then ended. In addition, within seventy five (75) days after the end of each taxable year of the Company, the Members shall cause to be sent to each Person who was an Interest Holder at any time during the taxable year then ended, that tax information concerning the Company which is necessary for preparing the Interest Holder's income tax returns for that year. At the request of any Member, and at the Member's expense, the Members shall cause an audit of the Company's books and records

to be prepared by independent accountants for the period requested by the Member.

### Section VIII

#### Special Provisions Concerning the Members Stone and Heidelberg

All of the Members have entered into an Agreement or Agreements with DBBC, L.L.C., which confer upon DBBC options to purchase the Members' interests at an agreed price. All Members hereby consent to the transfer of the Membership Interests to DBBC of all other Members pursuant to the DBBC options, if exercised. In the event that DBBC fails to exercise its options and/or defaults and fails to purchase the Membership Interests, then for a period of 60 days following the expiration of DBBC's option or its failure to timely close the purchase of said Membership Interests, John Heidelberg shall have the option to give notice of his intent to acquire the interests of all remaining Members for the following consideration, which will be payable in cash at closing, following FCC approval:

Katherine Stone:	\$1,000,000.00
William Benns:	1,750,000.00
Eleanor Mead:	875,000.00
Whit Adamson:	875,000.00
Ronald Bledsoe:	1,312,500.00
Michael Norton:	218,750.00
Charles Bone:	218,750.00

If John Heidelberg fails to exercise his option to purchase the Membership Interests of all of the other Members, they in turn will have the option for a period of 60 days from the expiration of Heidelberg's option to acquire his interest for the sum of \$4,750,000.00 in cash, payable at closing. If neither option is exercised, station will be sold and proceeds divided according to the following percentages:

Katherine Stone:	09.64%
John Heidelberg:	40.65%
William Benns:	16.57%
Eleanor Mead:	08.286%
Whit Adamson:	08.286%
Ronald Bledsoe:	12.4275%
Michael Norton:	02.07125%
Charles Bone:	02.07125%

In the event that the parties elect to purchase Heidelberg's interest in the company, the remaining Members shall divide the proceeds of any subsequent sale in proportion to their interests as set forth above, adjusted to reflect the division of Heidelberg's interest amongst the Members, in proportion

to the interest held by each such Member prior to the purchase of the Heidelberg interest. All income gain and loss from operations, however, shall be allocated and distributions of such shall be made in accordance with the Percentage as set forth on Schedule A.

## **Section IX**

### **General Provisions**

9.1. Assurances. Each Member shall execute all such certificates and other documents and shall do all such filing, recording, publishing, and other acts as the Members deem appropriate to comply with the requirements of law for the formation and operation of the Company and to comply with any laws, rules, and regulations relating to the acquisition, operation, or holding of the property of the Company.

9.2. Notifications. Any notice, demand, consent, election, offer, approval, request, or other communication (collectively, a "notice") required or permitted under this Agreement must be in writing and either delivered personally or sent by certified or registered mail, postage prepaid, return receipt requested. A notice must be addressed to an Interest Holder at the Interest Holder's last known address on the records of the Company. A notice to the Company must be addressed to the Company's principal offices in Delaware and Tennessee. A notice delivered personally will be deemed given only when acknowledged in writing by the person to whom it is delivered. A notice that is sent by mail will be deemed given three (3) business days after it is mailed. Any party may designate, by notice to all of the others, substitute addresses or addressees for notices; and, thereafter, notices are to be directed to those substitute addresses or addressees.

9.3. Specific Performance. The parties recognize that irreparable injury will result from a breach of any provision of this Agreement and that money damages will be inadequate to fully remedy the injury. Accordingly, in the event of a breach or threatened breach of one or more of the provisions of this Agreement, any party who may be injured (in addition to any other remedies which may be available to that party) shall be entitled to one or more preliminary or permanent orders (i) restraining and enjoining any act which would constitute a breach or (ii) compelling the performance of any obligation which, if not performed, would constitute a breach.

9.4. Complete Agreement. This Agreement constitutes the complete and exclusive statement of the agreement among the Members. It supersedes all prior written and oral statements, including any prior representation, statement, condition, or warranty. Except as expressly provided otherwise herein, this Agreement may not be amended without the written consent of all of the Members.

9.5. Applicable Law. All questions concerning the construction, validity, and interpretation of this Agreement and the performance of the obligations imposed by this Agreement shall be governed by the internal law, not the law of conflicts, of the State of Delaware.

9.6. Section Titles. The headings herein are inserted as a matter of convenience only, and

do not define, limit, or describe the scope of this Agreement or the intent of the provisions hereof.

9.7. Binding Provisions. This Agreement is binding upon, and inures to the benefit of, the parties hereto and their respective heirs, executors, administrators, personal and legal representatives, successors, and permitted assigns.

9.8. Jurisdiction and Venue. Any suit involving any dispute or matter arising under this Agreement may only be brought in the United States District Court for the Middle District of Tennessee or any Tennessee State Court having jurisdiction over the subject matter of the dispute or matter. All Members hereby consent to the exercise of personal jurisdiction by any such court with respect to any such proceeding.

9.9. Terms. Common nouns and pronouns shall be deemed to refer to the masculine, feminine, neuter, singular and plural, as the identity of the Person may in the context require.

9.10. Separability of Provisions. Each provision of this Agreement shall be considered separable; and if, for any reason, any provision or provisions herein are determined to be invalid and contrary to any existing or future law, such invalidity shall not impair the operation of or affect those portions of this Agreement which are valid.

9.11. Counterparts. This Agreement may be executed simultaneously in two or more counterparts each of which shall be deemed an original, and all of which, when taken together, constitute one and the same document. The signature of any party to any counterpart shall be deemed a signature to, and may be appended to, any other counterpart.

IN WITNESS WHEREOF, the parties have executed, or caused this Agreement to be executed, under seal, as of the date set forth here-inabove.

WITNESS OR ATTEST:

MEMBERS:

WILLIAM E. BENNS, III

\_\_\_\_\_

\_\_\_\_\_ (SEAL)

ELEANOR T. MEAD

\_\_\_\_\_

\_\_\_\_\_ (SEAL)

D. WHIT ADAMSON

\_\_\_\_\_(SEAL)

C. MICHAEL NORTON

\_\_\_\_\_(SEAL)

CHARLES W. BONE

\_\_\_\_\_(SEAL)

RONALD T. BLEDSOE

\_\_\_\_\_(SEAL)

JOHN HEIDELBERG

\_\_\_\_\_(SEAL)

KATHERINE STONE

\_\_\_\_\_(SEAL)

Mid-TN Broadcasters Limited Liability Company  
Operating Agreement

Exhibit A

List of Members, Capital, and Percentages

Name, Address, and Taxpayer I.D. Number	Initial Capital Contribution	Percentages
William E. Benms, III 1403 Hickman Road Virginia Beach, VA 23452 I.D. #: 411-72-0210	\$ <u>  *</u>	<u>25%</u>
Eleanor T. Mead 354 Hogan Branch Road Goodlettsville, TN 37072 I.D. #: 305-38-2285	\$ <u>  **</u>	<u>12.5%</u>
D. Whit Adamson 553 Westport Drive Old Hickory, TN 37138 I.D. #: 410-78-2813	\$ <u>  **</u>	<u>12.5%</u>
Ronald T. Bledsoe 223 Van Buren Place Sarasota, FL 34236 I.D. #: 414-48-4451	\$ <u>  ***</u>	<u>18.75%</u>
Charles W. Bone 1500 Nashville City Nashville, TN 37219 I.D. #: 408-72-7323	\$ <u>  ***</u>	<u>3.125%</u>

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C. Michael Norton 1500 Nashville City Center Nashville, TN 37219 I.D. #: 413-78-7847	\$ <u>***</u>	<u>3.125%</u>
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Katherine Stone 265 Ashley Road Hamburg, AR 71646 I.D.#:	\$ <u>****</u>	<u>12.5%</u>
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John Heidelberg 110 Harris Street Apt. K-4 Goodlettsville, TN 37072 I.D. #:	\$ <u>****</u>	<u>12.5%</u>
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\*The member's investment in a certain application (File No. BPH-861217MQ) to the FCC for a construction permit for a new FM broadcast station at Goodlettsville, Tennessee.

\*\*200 shares each of the common stock of Goodlettsville Broadcasting Company, Inc., a Tennessee corporation, \$1.00 per share stated value.

\*\*\* The member's interest in a certain limited partnership known as Bledsoe Communications, Ltd.

\*\*\*\*The member's interest in a certain partnership known as Heidelberg-Stone Broadcasting Company.

If the DBBC option is not exercised or if DBBC fails to purchase the Membership Interests, then Section VIII hereof shall control the amounts and percentages received by Members for their interests, rather than their Percentage as set forth on this Exhibit A.

EXHIBIT 2

**OPTION AGREEMENTS WITH:**

1. John Heidelberg (HSB)
2. Katherine Stone (HSB)
3. William E. Bennis
4. Eleanor T. Mead and D. Whitson Adamson (GBC)
5. Ronald T. Bledsoe, Charles W. Bone and  
C. Michael Norton (BLEDSOE)

(Schedules and Exhibits omitted from FCC filing copies)