

## ASSET PURCHASE AGREEMENT

THIS ASSET PURCHASE AGREEMENT (the “**Agreement**”) is entered into as of this 30<sup>th</sup> day of January 2024 (the “**Effective Date**”), by and among the **Estate of Stephen A. Marks** (the “**Estate**”), **Custer County Community Broadcasting Corporation**, a Montana corporation (“**CCCB**”), **Dickinson Belfield Broadcasting Corp.**, a North Dakota corporation (“**DBB**”), **Glendive Broadcasting Corporation**, a Montana corporation (“**GBC**”), **Magic Air Communications Company**, a Montana corporation (“**MACC**”), **Miles City, Forsyth Broadcasting, Inc.**, a Montana corporation (“**MCFB**”), **Sidney Community Broadcasting, Inc.**, a Montana corporation (“**SCB**”), **Williston Community Broadcasting Corporation**, a North Dakota corporation (“**WCBC**”), **SAMCO Realty Corporation**, a Michigan corporation (“**SAMCO**”) (the Estate, CCCB, DBB, GBC, MACC, MCFB, SCB, WCBC, and SAMCO, collectively, “**Seller**”) and **P & A Media, LLC**, a Montana limited liability company (“**Buyer**”) (each a “**Party**” and, collectively, the “**Parties**”). The Parties acknowledge that the Estate shall only be deemed a Seller for purposes of transferring those parcels of Owned Real Property identified on **Schedule 1.1(f)** for which it is the fee owner.

### RECITALS

WHEREAS, CCCB, DBB, GBC, MACC, MCFB, SCB, and WCBC (collectively, the “**Seller Licensees**”) are the licensees of the broadcast stations listed in **Schedule 1.1(a)** hereto (collectively, the “**Stations**”) pursuant to certain authorizations issued by the Federal Communications Commission (the “**FCC**”), and own other assets used and useful in connection with the operation of the Stations;

WHEREAS, SAMCO and the Estate are the owners of certain real property identified on **Schedule 1.1(f)** hereto;

WHEREAS, on the terms and conditions described herein, Seller desires to sell and Buyer desires to purchase substantially all of the assets owned by Seller and used in connection with the operation of the Stations; and

WHEREAS, the consummation of this Agreement is subject to the prior approval of the FCC.

### AGREEMENTS

NOW, THEREFORE, taking the foregoing into account, and in consideration of the mutual covenants and agreements set forth herein, the Parties, intending to be legally bound, hereby agree to the following terms and conditions:

#### ARTICLE 1: SALE AND PURCHASE

**1.1 Assets.** Subject to the terms and conditions contained herein, Seller shall grant, convey, sell, assign, transfer, and deliver to Buyer on the Closing Date (defined below) certain assets, properties, interest, and rights of Seller used or useful in connection with the operation of

the Stations (collectively, the “**Assets**”), as follows:

(a) **Licenses and Authorizations.** All licenses, authorizations, permits, and approvals issued to the Seller Licensees with respect to the Stations by the FCC (and any pending applications before the FCC), including, without limitation, those described on **Schedule 1.1(a)** hereto, and any pending applications, construction permits, renewals, or modifications thereof (collectively, the “**FCC Licenses**”).

(b) **Tangible Personal Property.** All machinery and equipment, transmitters, furniture, fixtures, computers, cables, spare parts, office equipment, and other tangible personal property owned by Seller and primarily used or useful in connection with the operation of the Stations, including but not limited to those items listed in **Schedule 1.1(b)** hereto (collectively, the “**Tangible Personal Property**”).

(c) **Contracts.** The contracts, agreements, and leases related to the business of the Stations, including all income producing leases and including all orders and agreements for the purchase and sale of underwriting and sponsorship announcements and program time on the Stations as of the date hereof and entered into between the date hereof and the Closing Date in the ordinary course of business, to the extent the foregoing have not been performed as of the Closing, including, , those expressly listed in **Schedule 1.1(c)** hereto (collectively, the “**Assumed Contracts**”).

(d) **Real Property Leases.** All rights of Seller under the leases for real property used in the operation of certain Stations also expressly listed in **Schedule 1.1(c)** hereto (collectively, the “**Real Property Leases**”).

(e) **Intangible Property.** Seller’s rights in any trademarks, trade names, and service marks related to the Station, the Station’s call letters (subject the continued use of the KYUS and KXGN call letters by KYUS-TV and KXGN-TV), telephone numbers, Internet domain names and associated websites, copyrights, programs, and programming material (including program rights), jingles, slogans, logos, music libraries, computer programs, and other intangible property owned or held by Seller and used or held for use in the operation of the Stations and all goodwill associated with the foregoing, including, without limitation, the items listed in **Schedule 1.1(e)** hereto (collectively, the “**Intangible Property**”).

(f) **Owned Real Property.** Seller’s fee simple interest in the real property set forth in **Schedule 1.1(f)** hereto (collectively, the “**Owned Real Property**”), including the building and other improvements located thereon.

(g) **Files and Records.** Each Station’s public inspection file, filings with the FCC relating to the Stations, and such other program logs, technical information, engineering data, books, and records that relate to the Stations and Assets being conveyed hereunder.

(h) **Claims.** Any and all claims and rights against third parties if and to the extent that they relate to Assets, including, without limitation, all rights under manufacturers’ and vendors’ warranties.

(i) **Prepaid Items.** All deposits, reserves, and prepaid expenses relating to the

Assets and prepaid taxes relating to the Assets, pro-rated as of Closing.

**1.2 Excluded Assets.** The following shall be excluded from Assets and retained by Seller (collectively, the “**Excluded Assets**”):

(a) **Cash.** All cash, cash equivalents, or similar investments such as certificates of deposit, treasury bills, and other marketable securities on hand and/or in banks and deposits of Seller.

(b) **Insurance.** Any insurance policies, intercompany accounts, promissory notes, amounts due from employees, or other similar items, any cash surrender value in regard thereto of Seller, and any proceeds from insurance claims made by Seller relating to property or equipment included in Assets that has been repaired, replaced, or restored by Seller prior to the Closing Date.

(c) **Benefit Plans.** Any pension, profit-sharing, or cash or deferred (Section 401(k)) plans and trusts and assets thereof, or any other employee benefit plan or arrangement, and the assets thereof.

(d) **Tax Refunds.** Any interest in and to any refunds of federal, state, or local franchise, income, or other taxes of Seller for taxes incurred and actually paid by Seller prior to the Closing.

(e) **Books and Records.** Except as provided in **Section 1.1(g)** hereof, all the financial records, account books, and general ledgers, and all corporate records (including organizational documents) of Seller, including tax returns and transfer books.

(f) **Contracts.** Any contracts, leases, or agreements that are not Assumed Contracts.

(g) **Accounts Receivable.** All accounts receivable of Seller arising from the operation of the Stations before the Closing which are outstanding and uncollected as of the Closing.

(h) **Real Property.** Any real property owned or leased by Seller other than the Owned Real Property.

(i) **Additional Excluded Assets.** All items listed on **Schedule 1.2(g)** hereto.

**1.3 Liabilities.** Assets shall be transferred by Seller to Buyer free and clear of all perfected and/or recorded liens security interests, mortgages, tax liens, pledges, and other material encumbrances of every kind and nature (“**Liens**”), other than Permitted Liens. “**Permitted Liens**” means, collectively and without duplication: (a) Liens for taxes not yet due and payable; (b) Liens that will be discharged prior to Closing; (c) Buyer’s obligations to perform on and after the Closing Date the obligations arising under the Assumed Contracts and the other Assets; and (d) with respect to the Owned Real Property, such easements, rights of way, building and use restrictions, and other exceptions now of record that do not materially impair the use or value of the Owned Real Property, in the ordinary course of business. Buyer shall assume and undertake to pay, discharge,

and perform all obligations and liabilities relating to the Assumed Contracts and other Assets arising or occurring after the Closing. Buyer shall not assume: a) any obligations or liabilities under the Assumed Contracts or the other Assets relating to the period prior to the Closing; (b) any obligations or liabilities of Seller which are unrelated to the Assets being sold hereunder; (c) any obligations or liabilities relating to employees of Seller; (d) any obligations or liabilities relating to the Excluded Assets; (e) any federal, state, or local franchise, income, or other taxes of Seller; or (f) any other obligations or liabilities of Seller.

**1.4 Escrow Deposit.** Upon the execution of this Agreement, Buyer shall deposit with Sciarrino & Shubert, PLLC (the “**Escrow Agent**”) the sum of **One Hundred Thousand Dollars (\$100,000.00)** (the “**Escrow Deposit**”) by wire transfer of immediately available funds. The Escrow Deposit shall be held by the Escrow Agent in accordance with the terms of an earnest money escrow agreement dated the date of this Agreement. At the Closing, upon receipt of joint written instructions from the Estate and Buyer, Escrow Agent shall deliver the Escrow Deposit to the Estate as a dollar-for-dollar credit against the Purchase Price. If the Closing does not take place in accordance with the terms of this Agreement, then the Escrow Deposit will be delivered to the Estate or the Buyer in accordance with the terms and conditions set forth in **Section 11.3** below.

**1.5 Purchase Price, Terms of Payment.** The purchase price for Assets (the “**Purchase Price**”), as the same may be adjusted pursuant to this Agreement, shall be a total of **Eight Hundred and Fifty Thousand Dollars (\$850,000.00)** to be paid to Seller (or its designees), at the Closing as follows:

(a) Payment of the sum of Seven Hundred and Fifty Thousand Dollars (\$750,000.00) by wire transfer of immediately available funds; and

(b) The Escrow Deposit shall be delivered to Seller (or its designee) from the Escrow Agent by wire transfer of immediately available funds.

**1.6 Prorations.** The Parties agree to prorate all expenses arising out of the operation of the Stations which are incurred, accrued, or payable, as of 11:59 p.m. local time of the day preceding the Closing. The prorated items shall include, but not be limited to, power and utilities charges, FCC regulatory fees, if any (based on the most recent publicly available information about the cost of such regulatory fees for the Stations), real and personal property taxes upon the basis of the most recent tax bills and information available, security deposits, and similar prepaid and deferred items. The prorations shall, insofar as feasible, be determined and paid on the Closing Date, with final settlement and payment to be made within forty-five (45) days after the Closing Date.

**1.7 Allocation of Purchase Price.** The Parties shall negotiate in good faith an allocation of the Purchase Price to the assets acquired hereunder in a manner which complies with Section 1060 of the Internal Revenue Code of 1986, as amended to the date hereof, prior to Closing, and each Party shall after Closing file returns with the Internal Revenue Service consistent therewith.

**1.8 Studio Occupancy.** Upon Closing (defined below), Seller agrees to allow Buyer a limited term of continued occupancy at both the Glendive and Miles City studio sites in accordance with the terms set forth on Schedule 1.8 hereto.

## **ARTICLE 2: FCC CONSENT; CLOSING**

**2.1 FCC Consent; Assignment Applications.** Not later than five (5) business days after the Effective Date, Buyer and the Seller Licensees shall prepare, execute, and file applications to the FCC (the “**Assignment Applications**”) requesting the FCC’s consent (the “**FCC Consent**”) to the assignment of the FCC Licenses from the Seller Licensees to Buyer. Buyer and the Seller Licensees shall prosecute the Assignment Applications and cooperate with each other and with the FCC in order to secure such FCC Consent without delay and to promptly consummate the transaction contemplated hereby. At the Closing, Buyer shall reimburse the Seller Licensees for the one-half (½) of the FCC filing fee, if any, paid by the Seller Licensees in connection with each of the Assignment Applications. Buyer and the Seller Licensees shall each be responsible for all of its other costs with respect to the preparation, filing, and prosecution of the Assignment Applications, including attorneys’ fees.

**2.2 Closing Date; Closing Place.** The closing (the “**Closing**”) of the transaction contemplated in this Agreement shall occur on a date (the “**Closing Date**”) that is no more than ten (10) business days following the date on which the FCC Consent shall have been granted by initial order and the other conditions to closing set forth in Section 6 and Section 7 have either been waived or satisfied; provided, however, in the event any petition to deny or informal objection is filed against any Assignment Application, then the Buyer shall have the right to delay Closing until a date which is five (5) days following the date when the FCC Consent becomes a Final Order and the other conditions to closing set forth in Section 6 and Section 7 have either been waived or satisfied. For purposes of this Agreement, the term “**Final Order**” means an action by the FCC as to which: (a) no request for stay by the FCC is pending, no such stay is in effect, and any deadline for filing a request for any such stay has passed; (b) no appeal, petition for rehearing or reconsideration, or application for review is pending before the FCC and the deadline for filing any such appeal, petition, or application has passed; (c) the FCC has not initiated reconsideration or review on its own motion and the time in which such reconsideration or review is permitted has passed; and (d) no appeal to a court, or request for stay by a court, of the FCC’s action is pending or in effect, and the deadline for filing any such appeal or request has passed. The Closing shall take place remotely by email, or in such other manner and at such other place as the Parties may agree.

## **ARTICLE 3: REPRESENTATIONS AND WARRANTIES OF SELLER**

Seller makes the following representations and warranties to Buyer:

**3.1 Authorization and Binding Obligation.** The execution, delivery, and performance of this Agreement by Seller have been duly authorized by all necessary actions on the part of Seller. This Agreement constitutes the legal, valid, and binding obligation of Seller, enforceable against Seller in accordance with its terms, except as the enforceability of this Agreement may be affected or limited by bankruptcy, insolvency, or similar laws affecting or limiting creditors’ rights generally and by judicial discretion in the enforcement of equitable remedies.



**3.2 No Defaults.** The execution, delivery, and performance of this Agreement by Seller will not (a) result in a default (or give rise to any right of termination, cancellation, or acceleration) under, or conflict with, any of the terms, conditions, or provisions of any obligation relating to the business of the Stations, (b) violate any law, statute, regulation, order, injunction, or decree of any federal, state, or local governmental authority or agency applicable to Seller or any of the Assets, (c) result in the creation or imposition of any Lien on the Assets, other than Permitted Liens, or (d) require the consent or approval of any governmental authority or other third party other than the FCC Consent, except where the assignment of any Assumed Contract may require the other contracting parties' consent.

**3.3 Assets.** Seller has good and marketable title to all Assets. At the Closing, Seller will: (a) convey the Assets to Buyer in "AS-IS, WHERE-IS" condition, and except as expressly set forth in this Section 3, Seller makes no warranty whatsoever with regard to the condition of said Assets, including their fitness for a particular purpose; and (b) deliver the Assets to Buyer free and clear of any Liens other than Permitted Liens.

**3.4 FCC Licenses. Schedule 1.1(a)** hereto contains a true and complete list of the FCC Licenses. The FCC Licenses constitute all of the licenses and authorizations required under the Communications Act of 1934, as amended ("*Communications Act*") and the rules, regulations and policies of the FCC ("*FCC Rules*") for, and used in the operation of, the Stations. The FCC Authorizations are in full force and effect and have not been revoked, suspended, cancelled, rescinded, or terminated and have not expired. To Seller's actual knowledge, there is not now pending or threatened, any action by or before the FCC or any other body to revoke, cancel, rescind, modify or refuse to renew any of the FCC Authorizations or other permits, and Seller has not received any notice of any pending, issued or outstanding order by or before the FCC or any other body, or of any investigation, order to show cause, notice of violation, notice of apparent liability, notice of forfeiture, or material complaint against any of the Stations or Seller.

**3.5 Title Documents.** Seller has and will deliver to Buyer at the Closing, good and marketable title to the Assets.

**3.6 Brokers.** Larry Patrick of Patrick Communications, LLC is Seller's broker and Seller shall be responsible for any commission or a brokerage fee in connection with this Agreement or the transaction contemplated hereby.

**3.7 Litigation; Compliance with Law.** Seller is not subject to any order, writ, injunction, judgment, arbitration, decision, or decree having a binding effect and affecting the business of the Stations or Assets or which restrains or enjoins, or purports to restrain or enjoin, or could reasonably be expected to restrain or enjoin, the transaction contemplated hereby. There is no material litigation pending by or against, or, to Seller's knowledge, threatened against, Seller which relates to any of the Stations or which could materially and adversely affect any of the Assets.

**3.8 Taxes.** To Seller's knowledge, Seller has duly, timely, and in the required manner filed all federal, state, and local income, franchise, sales, use, property, excise, payroll, and other tax returns and forms required to be filed, and has paid in full or discharged all taxes, assessments, excises, interest, penalties, deficiencies, and losses required to be paid. No event has occurred

which could impose upon Buyer any liability for any taxes, penalties, or interest due or to become due from Seller from any taxing authority.

**3.9 Owned Real Property.** The Owned Real Property listed in **Schedule 1.1(f)** hereto: (a) is owned by the Seller listed in **Schedule 1.1(f)**; and (b) will be conveyed to Buyer at the Closing in “as-is, where-is” condition and without any further representation or warranty with respect thereto.

#### **ARTICLE 4: REPRESENTATIONS AND WARRANTIES OF BUYER**

Buyer makes the following representations and warranties to Seller:

**4.1 Organization and Authorization.** Buyer is a limited liability company duly organized, validly existing, and in good standing under the laws of the State of Montana. The execution, delivery, and performance of this Agreement by Buyer have been duly authorized by all necessary actions on the part of Buyer. This Agreement constitutes the legal, valid, and binding obligation of Buyer, enforceable against Buyer in accordance with its terms, except as the enforceability of this Agreement may be affected by bankruptcy, insolvency, or similar laws affecting creditors’ rights generally and by judicial discretion in the enforcement of equitable remedies.

**4.2 No Defaults.** Subject to obtaining the FCC Consent, the execution, delivery, and performance by Buyer of this Agreement will not require the consent or approval of any governmental or regulatory authority or third party and will not conflict with: (a) any law, judgment, order, or ruling of any court or governmental authority applicable to Buyer; or (b) the terms of any agreement, instrument, license, or permit to which Buyer is a party or by which Buyer may be bound.

**4.3 Buyer’s Qualification.** Buyer is, and as of the Closing will be, legally, financially, and otherwise qualified under FCC rules, regulations, and policies to acquire and hold the FCC Licenses and to perform its obligations under this Agreement. Buyer has readily available funds and/or a binding loan commitment from a federal or state regulated financial institution in amounts which is sufficient to pay the Purchase Price when due.

**4.4 Litigation.** Buyer is not subject to any order, writ, injunction, judgment, arbitration, decision, or decree having a binding effect and affecting the business of Buyer or which restrains or enjoins, or purports to restrain or enjoin, or could reasonably be expected to restrain or enjoin, the transaction contemplated hereby, and no such proceeding is pending. There is no material litigation pending by or against, or, to the knowledge of Buyer, or threatened against Buyer, that would prevent or materially impede the consummation by Buyer of the transaction contemplated by this Agreement.

**4.5 Due Diligence.** Buyer’s owners have extensive knowledge regarding the operations of the Stations and the Assets and acknowledge that subject to Seller’s commitments in this Agreement, the Assets are in satisfactory condition and suitable for Buyer’s purposes.

**4.6 Brokers.** No broker, finder, or other person is entitled to a commission, brokerage fee, or other similar payment in connection with this Agreement or the transactions contemplated

hereby as a result of any agreement or action of Buyer.

## **ARTICLE 5: COVENANTS OF SELLER**

The following terms of this **Section 5** shall apply from the Effective Date until the completion of the Closing (except as otherwise specified).

**5.1 Assets.** The Assets shall be maintained by Seller in the usual and ordinary manner in which they are currently maintained.

**5.2 FCC Compliance.** Seller shall file such applications and reports as are required by the FCC Licenses to be in material compliance with all applicable laws and FCC regulations and published policies which are material to the operation of the Stations.

**5.3 Disposition of the Assets.** Prior to the Closing Date, Seller shall not, without the prior written consent of Buyer, sell, lease, or transfer, or agree to sell, lease, or transfer, any of the Assets without replacement thereof with an asset of equivalent kind, condition, and value that satisfies industry standards for such assets, nor create any new Lien on Assets other than Permitted Liens and Liens arising pursuant to, and in accordance with the terms of, this Agreement.

**5.4 Consummation of Agreement.** Seller shall use commercially reasonable efforts to fulfill and perform all conditions and obligations on its part to be fulfilled and performed under this Agreement, and to consummate the transaction contemplated hereby.

## **ARTICLE 6: COVENANTS OF BUYER**

Buyer covenants and agrees that from the date hereof until the completion of the Closing, Buyer shall use commercially reasonable efforts to fulfill and perform all conditions and obligations on its part to be fulfilled and performed under this Agreement, and to consummate the transaction contemplated hereby. The principals of Buyer shall continue in their current employment roles at the Stations and shall ensure that the Stations continue to operate in their current fashion, will pay all bills when due and collect all accounts in the normal course, will make such payments and distributions to the shareholders of the Seller as are done in the normal course, shall not allow any obligations to go unpaid without the consent of the Seller, shall cause the Stations to operate in compliance with all FCC rules, regulations and policies, and shall otherwise operate in the normal course consistent with all laws and regulations, and under the supervision, direction, and control of the Sellers.

## **ARTICLE 7: CONDITIONS TO THE OBLIGATIONS OF SELLER**

The obligations of Seller under this Agreement are subject to the fulfillment of the following conditions prior to or on the Closing Date.

### **7.1 Representations, Warranties, and Covenants.**

(a) Each of the representations and warranties of Buyer contained in this Agreement was true and correct as of the date when made and is deemed to be made again on and as of the Closing Date and is then true and correct.



(b) Buyer shall have performed and complied with each and every covenant and agreement required by this Agreement to be performed or complied with by it prior to or on the Closing Date.

**7.2 Proceedings.** Neither Seller nor Buyer is subject to any restraining order or injunction (or similar action) which would restrain or prohibit the consummation of the transaction contemplated hereby.

**7.3 FCC Consent.** The FCC Consent has been issued by the FCC.

**7.4 Consents.** Seller shall use commercially reasonable efforts to obtain any third-party consents necessary to assign the Assumed Contracts to Buyer, and an estoppel certificate from the lessor of each Real Property Lease; provided, however, delivery of any such estoppel certificate shall not be a condition to Closing.,.

**7.5 Deliveries.** Buyer has complied with each and every one of its obligations set forth in **Section 9.2** hereof.

## **ARTICLE 8: CONDITIONS TO THE OBLIGATIONS OF BUYER**

The obligations of Buyer under this Agreement are subject to the fulfillment of the following conditions prior to or on the Closing Date.

### **8.1 Representations, Warranties, and Covenants.**

(a) Each of the representations and warranties of Seller contained in this Agreement was true and correct as of the date when made and is deemed to be made again on and as of the Closing Date and is then true and correct.

(b) Seller shall have performed and complied with each and every covenant and agreement required by this Agreement to be performed or complied with by it prior to or on the Closing Date.

**8.2 Proceedings.** Neither Seller nor Buyer is subject to any restraining order or injunction (or similar action) which would restrain or prohibit the consummation of the transaction contemplated hereby.

**8.3 FCC Consent.** The FCC Consent has been issued, and if required pursuant to **Section 2.2** hereof, shall have become a Final Order.

**8.4 Deliveries.** Seller has complied with each and every one of the obligations set forth in **Section 9.1** hereof.

## **ARTICLE 9: ITEMS TO BE DELIVERED AT THE CLOSING**

**9.1 Deliveries by Seller.** At the Closing, Seller shall deliver to Buyer, duly executed by Seller or such other signatory as may be required by the nature of the document:

(a) a bill of sale sufficient to sell, convey, transfer and assign the Tangible Personal Property and any other assets included in Assets (other than the FCC Licenses, the Owned Real Property, the Intangible Property and the Assumed Contracts including the Real Property Leases, which are each being assigned by other instruments) to Buyer free and clear of any Liens other than Permitted Liens;

(b) an assignment and assumption agreement sufficient to sell, convey, transfer and assign the Assumed Contracts (including the Real Property Leases) to Buyer free and clear of any Liens other than Permitted Liens (the “**Assumed Contracts Assignment and Assumption**”);

(c) an assignment instrument sufficient to assign the FCC Licenses to Buyer (the “**FCC Licenses Assignment and Assumption**”);

(d) an assignment instrument sufficient to assign the Intangible Property (the “**Intangible Property Assignment and Assumption**”);

(e) joint instruction with Buyer to the Escrow Agent instructing the Escrow Agent to deliver the Escrow Deposit to the Seller (the “**Joint Escrow Instructions**”);

(f) executed releases, in suitable form for filing and otherwise in form and substance reasonably satisfactory to Buyer, of any security interests or other Liens granted in Assets other than Permitted Liens;

(g) a Bringdown Certificate certifying that the representations and warranties of Seller made in this Agreement are true and correct in all material respects as of Closing and Seller has performed the obligations to be performed by it under this Agreement at or prior to Closing;

(h) a special warranty deed conveying the Owned Real Property;

(i) Seller shall have obtained any third-party consents required for the assignment of any Assumed Contracts from Seller to Buyer; and

(j) any other documents and instruments of conveyance, assignment, and transfer that may be reasonably necessary to convey, transfer, and assign Assets to Buyer, free and clear of all Liens, except for Permitted Liens.

**9.2 Deliveries by Buyer.** At the Closing, Buyer shall deliver to Seller, duly executed by Buyer or such other signatory as may be required by the nature of the document:

(a) the payment of the cash portion of the Purchase Price in accordance with **Section 1.5** hereof, including all adjustments thereto as provided in **Sections 1.5** and **1.6** hereof;

(b) the Assumed Contracts Assignment and Assumption;

(c) the FCC Licenses Assignment and Assumption;

(d) the Intangible Property Assignment and Assumption;

(e) the Joint Escrow Instructions;

(f) A Bringdown Certificate certifying that the representations and warranties of Buyer made in this Agreement are true and correct in all material respects as of Closing and Buyer has performed the obligations to be performed by it under this Agreement at or prior to Closing; and

(g) Any other documents and instruments of conveyance, assignment, and transfer that may be reasonably requested by Seller to ensure Assets are transferred to Buyer, free and clear of Liens, except for Permitted Liens.

## ARTICLE 10: SURVIVAL AND INDEMNITY

**10.1 Seller's Indemnity Obligation.** Seller hereby agrees to indemnify, defend, save, and hold Buyer harmless with respect to any and all claims, losses, obligations, liabilities, costs and expenses, including reasonable counsel fees, threatened, suffered, incurred, or sustained by Buyer ("**Buyer Damages**") by reason of (a) the breach by Seller of any of its representations or warranties made hereunder; and (b) any and all claims, liabilities and obligations of any nature, absolute or contingent, relating to the ownership of the Assets and/or the operation of the Stations prior to the Closing. The Buyer acknowledges that Andrew Sturlaugson and Paul Sturlaugson are longtime employees of the Stations, and such have extensive knowledge regarding the condition of the Assets and the operation of the Stations and in no event shall the Seller have any liability to the Buyer with respect to a breach of representation, warranty or covenant under this Agreement to the extent that the Buyer's principals knew of such breach as of the Closing Date.

**10.2 Buyer's Indemnity Obligation.** Buyer hereby agrees to indemnify, defend, save, and hold Seller harmless with respect to any and all claims, losses, obligations, liabilities, costs, and expenses, including reasonable counsel fees, threatened, suffered, incurred, or sustained by Seller ("**Seller Damages**") by reason of (a) the breach by Buyer of any of its covenants, representations or warranties made hereunder; and (b) any and all claims, liabilities and obligations of any nature, absolute or contingent, relating to the ownership of the Assets and/or the operation of the Stations from and after the Closing.

**Limitation on Indemnity Obligations.** Notwithstanding anything to the contrary contained herein, neither Seller nor Buyer shall have any liability to the other under this **Section 10** until, and only to the extent that, such Party's aggregate claims under this **Section 10** exceed Thirty Thousand Dollars (\$30,000.00) and provided further, that absent fraud, Seller's maximum liability under this **Section 10** shall not exceed twenty percent (20%) of the Purchase Price. In addition, Buyer acknowledges that in no event shall the Estate have any liability to Buyer for any claims under this **Section 10** except for claims directly related to those parcels of Owned Real Property identified on **Schedule 1.1(f)** for which the Estate is the fee owner.

**10.3 Survival.** The warranties, representations, and covenants made by the Parties in this Agreement will survive the Closing for a period of one (1) year. The Parties acknowledge and agree that the foregoing indemnification provisions in this **Section 10** shall, except in the case of (i) fraud, or (ii) the breach of any covenant or condition of this Agreement to be performed after Closing, be the exclusive remedy of the Parties with respect to Buyer Damages or Seller Damages

after Closing relating to the transactions contemplated by this Agreement.

## ARTICLE 11: TERMINATION

**11.1 Termination.** This Agreement may be terminated at any time prior to Closing:

- (a) by the mutual written consent of Seller and Buyer;
- (b) by written notice of Seller to Buyer if Buyer defaults in any material respect in the performance of any of Buyer's covenants or agreements under this Agreement; and in any of which events such default is not cured within the Cure Period (as defined in **Section 11.2** hereof), if applicable;
- (c) by written notice of Buyer to Seller if Seller defaults in any material respect in the performance of any of Seller's covenants or agreements under this Agreement; and in any of which events such default is not cured within the Cure Period, if applicable;
- (d) by written notice of Seller to Buyer, or Buyer to Seller if the Closing has not occurred within twelve (12) months of the Effective Date; or
- (e) by written notice given by Seller to Buyer, if, due to a weather-related cause, force majeure, or other cause beyond the control of Seller, a material portion of the Assets are damaged or destroyed and Seller elects not to repair or replace such damaged or destroyed Assets prior to Closing Date.

**11.2 Cure Period.** The term "**Cure Period**" as used herein means a period commencing with the date that Buyer or Seller receives from the other Party written notice of breach or default hereunder and continuing until ten (10) days thereafter.

**11.3 Liability.** If this Agreement is terminated pursuant to **Section 11.1(b)** hereof and Seller is not in material default of its obligations hereunder, the Escrow Deposit shall be paid by the Escrow Agent to Seller as liquidated damages and as the exclusive remedy of Seller against Buyer. Seller acknowledges that its damages in the event of termination of this Agreement under the provisions of **Section 11.1(b)** hereof would be difficult to determine and that the Escrow Deposit is a reasonable and satisfactory substitution for the amount such damages. If this Agreement is terminated pursuant to **Sections 11.1(a), (c), (d), or (e)** hereof and Buyer is not in material default of its obligations hereunder, the Escrow Deposit shall be returned by the Escrow Agent to Buyer, and neither Party will have any further liability or obligation to the other Party.

**11.4 Specific Performance.** Seller acknowledges that Assets are unique assets not readily obtainable on the open market and money damages alone will not be adequate to compensate Buyer for its injury if Seller breaches its obligations under this Agreement, unless Buyer has breached any of its obligations under this Agreement, in which case specific performance shall not apply. If Seller fails to perform its obligation to consummate the transaction following satisfaction of, and in accordance with, the terms and conditions herein, and Buyer has complied with all of its representations, warranties, and covenants under this Agreement, in lieu of terminating this Agreement under the terms of **Section 11.1** hereof, Buyer may seek specific performance, and in such proceeding, Buyer shall waive the defense that there is an adequate

remedy at law.

## ARTICLE 12: MISCELLANEOUS

**12.1 Governing Law.** This Agreement shall be governed by the laws of the State of Montana (exclusive of those relating to conflicts of laws).

**12.2 Entire Agreement; Amendments; No Waiver.** This Agreement, including the schedules and exhibits hereto, contain the entire agreement and understanding by and between the Parties, and no other representations, promises, agreements, or understanding, written or oral, not contained herein shall be of any force or effect. No oral agreement shall have any effect. No failure or delay in exercising any right hereunder shall be deemed or construed to be a waiver of such right, either prospectively or in the particular instance. No amendment to, or waiver of compliance with, any provision or condition hereof or consent pursuant to this Agreement shall be effective unless evidenced by an instrument in writing signed by the Party against whom enforcement of any waiver or amendment is sought.

**12.3 Risk of Loss.** The risk of loss to any of the Assets on or prior to the Closing Date shall be upon Seller.

**12.4 Successors and Assigns.** This Agreement shall be binding upon and inure to the benefit of the Parties hereto, and their respective representatives, successors, and assigns. Neither Buyer nor Seller may assign this Agreement or any part hereof without the prior written consent of the other Party, which consent shall not be unreasonably withheld; provided, however, any such assignment by Buyer must be to an entity that is legally qualified to hold the FCC Licenses under the Communications Act and FCC Rules and can demonstrate that it has sufficient cash on hand or committed funds to timely perform Buyer's obligations hereunder.

**12.5 Severability.** If one or more provisions contained in this Agreement shall be deemed or held to be invalid, illegal, or unenforceable in any respect under any applicable law, this Agreement shall be construed with the invalid, illegal or unenforceable provision deleted, and the validity, legality, and enforceability of the remaining provisions contained herein shall not be affected or impaired thereby, unless such construction would alter the fundamental purposes of this Agreement.

**12.6 Notices.** All notices, requests, demands, and other communications required or permitted under this Agreement shall be in writing (which shall include notice by electronic transmission) and shall be deemed to have been duly made and received when personally served, or when delivered by Federal Express or a similar overnight courier service, expenses prepaid, or, if sent by electronic communications equipment, delivered by such equipment, addressed as set forth below:

**If to Seller:** Estate of Stephen A. Marks  
1235 Harbor Glen Court  
Arnold, MD 21012-2268  
Attn: Mary Marks, Estate Representative

*with a copy (which may not constitute notice) to:*



Wilkinson Barker Knauer, LLP  
1800 M Street, NW, Suite 800N  
Washington, DC 20036  
Attn: Paige K. Fronabarger, Esq.

**If to Buyer:**

P & A Media, LLC  
P.O. Box 170  
Glendive, MT 59330  
Attn: Andrew Sturlaugson, Managing Member

*with a copy (which may not constitute notice) to:*

Sciarrino & Shubert, PLLC  
330 Franklin Road  
Suite 135A-133  
Brentwood, TN 27027  
Attn: Dawn M. Sciarrino, Esq.

**12.7 Further Assurances.** Each Party hereto will execute all such instruments and take all such actions as any other Party shall reasonably request, without payment of further consideration, in connection with carrying out and effectuating the intent and purpose of this Agreement and the transactions contemplated hereby.

**12.8 Attorneys' Fees.** In the event of a dispute relating to this Agreement involving the interpretation or enforcement of the terms of this Agreement, resulting in litigation brought by either Party, the prevailing Party in such litigation shall be entitled, in addition to other relief ordered by the Court, to reasonable attorneys' fees and costs.

**12.9 Expenses.** Each Party hereto shall bear its own expenses incurred in connection with the negotiation of this Agreement and consummation of the transactions contemplated by this Agreement; provided, however, Buyer shall bear all transfer taxes, recording fees, and documentary stamp costs arising from the sale of the Assets to Buyer.

**12.10 Schedules.** Not less than (5) business days before the Closing Date, Seller (with Buyer's assistance) shall prepare and agree upon revised disclosure schedules to this Agreement to the extent required to reflect any contract amendments or other matters which are either missing on the date here or which arise after the date hereof that, if existing or occurring on the date of this Agreement, would have been required to be set forth or described in such schedules ("Revised Schedules"). At Closing, the Parties will execute an amendment to this Agreement to replace the existing schedules included on the date hereof with the Revised Schedules.

**12.11 Counterparts.** This Agreement may be executed by manual or digital signature and such signature may be delivered by electronic transmission and in counterparts, each of which shall constitute an original but together will constitute a single document.

**SIGNATURE PAGE TO ASSET PURCHASE AGREEMENT**

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

**SELLER: ESTATE OF STEPHEN A. MARKS**



By: \_\_\_\_\_

Name: Mary Marks

Title: Estate Representative

**CUSTER COUNTY COMMUNITY BROADCASTING CORPORATION  
DICKINSON BELFIELD BROADCASTING CORP.  
GLEN DIVE BROADCASTING CORPORATION  
MAGIC AIR COMMUNICATIONS COMPANY  
MILES CITY, FORSTYH BROADCASTING, INC.  
SIDNEY COMMUNITY BROADCASTING, INC.  
WILLISTON COMMUNITY BROADCASTING CORPORATION  
SAMCO REALTY CORPORATION**



By: \_\_\_\_\_

Name: Mary Marks

Title: President

**BUYER: P & A MEDIA, LLC**



By: \_\_\_\_\_

Name: Andrew Sturlaugson

Title: Managing Member

**List of Exhibits and Schedules to Asset Purchase Agreement**

<b><u>Schedule 1.1(a)</u></b>	<b>FCC Licenses</b>
<b><u>Schedule 1.1(b)</u></b>	<b>Tangible Personal Property</b>
<b><u>Schedule 1.1(c)</u></b>	<b>Assumed Contracts (including Real Property Leases)</b>
<b><u>Schedule 1.1(e)</u></b>	<b>Intangible Property</b>
<b><u>Schedule 1.1(f)</u></b>	<b>Owned Real Property</b>
<b><u>Schedule 1.2(g)</u></b>	<b>Other Excluded Assets</b>