

**FORM OF  
TRUST AGREEMENT**

**by and among**

**CUMULUS BROADCASTING LLC**

**CUMULUS LICENSING LLC**

**and**

**THE MAINSTAY STATION TRUST LLC**

\_\_\_\_\_, 2018

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## **TRUST AGREEMENT**

THIS TRUST AGREEMENT (this “Agreement”), dated as of \_\_\_\_\_, 2018, is by and among Cumulus Broadcasting LLC, a Nevada limited liability company (“Operator”), Cumulus Licensing LLC, a Nevada limited liability company (“Licensee,” and together with Operator, the “Beneficiaries”), and The Mainstay Station Trust LLC, a Delaware limited liability company (the “Trustee”).

### **Recitals**

WHEREAS, on November 29, 2017, Cumulus Media Inc. (“CMI”), the ultimate parent entity of Operator, and certain of its direct and indirect wholly-owned subsidiaries (collectively, the “Debtors”), filed a series of voluntary petitions for bankruptcy with the United States Bankruptcy Court for the Southern District of New York (“Bankruptcy Court”) seeking relief under the provisions of Chapter 11 of the United States Bankruptcy Code to effectuate a restructuring of the debt obligations of the Debtors. On December 1, 2017, Licensee as well as each of CMI’s other license subsidiaries filed a series of *pro forma* applications with the FCC seeking consent to transfer control of the FCC authorizations held by the respective license subsidiaries; and

WHEREAS, the FCC granted the *pro forma* applications on December 21, 2017 and they were consummated shortly thereafter. Contemporaneously herewith, each of CMI’s license subsidiaries, including Licensee, is filing a long-form transfer of control application with the FCC seeking FCC consent to transfer control of CMI, which currently is operating as a debtor-in-possession, and will become a reorganized entity (“Reorganized Cumulus”) upon its emergence from bankruptcy; and

WHEREAS, the Debtors filed a First Amended Joint Plan of Reorganization (the “Reorganization Plan”) with the Bankruptcy Court on February 22, 2018; and

WHEREAS, upon consummation of the transactions contemplated by the Reorganization Plan, CMI will hold an attributable interest in more radio stations in certain radio markets than is permitted under the FCC’s local radio ownership rule because CMI will lose its grandfathered status in the following four (4) radio markets: Albany, GA, Columbia, MO, Green Bay, WI, and Toledo, OH (collectively, the “Metros”); and

WHEREAS, upon consummation of the transactions contemplated by the Reorganization Plan, Beneficiaries desire to place radio stations WNUQ(FM), Sylvester, Georgia (Facility ID 66942); KJMO(FM), Linn, Missouri (Facility ID 162262); WPCCK(FM), Denmark, Wisconsin (Facility ID 119); and WTOD(FM), Delta, Ohio (Facility ID 67275) (collectively, the “Stations”) in an insulated divestiture trust to bring Beneficiaries into compliance with Section 73.3555(a)(1) of the FCC’s rules in the Metros; and

WHEREAS, Beneficiaries desire to engage Trustee to serve as a trustee pursuant to a trust agreement that will conform with applicable FCC rules and policies (the “FCC Rules”); and

WHEREAS, Trustee has agreed to serve as a trustee for the purpose of selling the Stations to a third party or third parties and operating the Stations pending the consummation of such sale(s); and

WHEREAS, Elliot B. Evers (the “Member”) is the sole member of Trustee.

NOW, THEREFORE, in view of the foregoing and the mutual promises and covenants contained herein, the parties hereby agree as follows:

**1. Creation and Purpose of Cumulus Reorganization Divestiture Trust.**

(a) Subject to the terms and conditions hereof, a trust, the “Cumulus Reorganization Divestiture Trust” (hereinafter, the “Trust”), in respect of the Station Assets (as defined below) is hereby created and established, and Trustee hereby agrees to serve as trustee hereunder.

(b) The purpose of the Trust is to vest legal title and control of the Station Assets in Trustee for the purpose of facilitating a sale of the Station Assets by Trustee, and the provisions of this Agreement shall be interpreted to effectuate such purpose.

(c) The term of this Agreement (the “Term”) shall commence on the date hereof and shall expire upon the later of (i) the date on which all of the Station Assets held by the Trust have been assigned to a third party or to Beneficiaries in accordance with the terms and conditions of this Agreement, or (ii) the date all expenses and other liabilities incurred by Trustee in fulfilling its obligations under this Agreement have been paid to Trustee by Beneficiaries. The Trust shall be irrevocable until:

(i) such time as (x) Trustee causes the Station Assets to be sold to a third party buyer or buyers pursuant to separate written agreements and with the prior approval by the FCC; or (y) Beneficiaries divest themselves of sufficient attributable interests in radio stations in the Metros, or there is a change in the FCC Rules to permit Beneficiaries or any subsidiary of CMI to hold the FCC Licenses for the Stations under the FCC Rules (and, if either contingency in (y) occurs, Trustee, upon request of Beneficiaries and upon FCC approval, may, in Trustee’s discretion, reassign the FCC Licenses and Station Assets to Beneficiaries); and

(ii) all obligations of Trustee under this Agreement and under any agreement to sell the Station Assets to third party buyers have been fully performed or waived.

**2. Assignment and Management of Station Assets.**

(a) On the Closing Date (as defined in Section 3(a) herein), Beneficiaries shall convey, transfer, assign, and deliver to Trustee, and Trustee shall acquire and assume from Beneficiaries all of the respective assignor’s right, title, interest and obligations in and to the Station Assets, which include the following:

(i) all licenses and other authorizations issued by the FCC (the “FCC Licenses”) used solely in the operation of the Stations, including the respective call letters of the Stations, along with any applications pending before the FCC for the renewal or modification thereof in effect as of the Closing Date (as defined herein);

(ii) all equipment, furniture, fixtures and other items of tangible personal property used solely in the operation of the Stations (the “Personal Property”);

(iii) except as otherwise expressly set forth herein, all documents in the Stations’ public inspection files, all logs, and all other records pertaining exclusively to the Stations;

(iv) all technical information and engineering data, news and advertising studies, consulting reports, and marketing and demographic data in the possession of Beneficiaries and used exclusively in the operation of the Stations;

(v) all owned computer software and programs used solely in the operation of the Stations along with all licenses for any computer software and programs used solely in the operation of the Stations;

(vi) all of Beneficiaries’ rights and obligations in contracts, agreements, leases, licenses, commitments and understandings, written or oral, related solely to the operation of the Stations (collectively, the “Assumed Contracts”) (but with the understanding that this Agreement shall not be an Assumed Contract);

(vii) all of Beneficiaries’ right, title and interest in and to all transferable municipal, state and federal permits, licenses, waivers and authorizations used solely in the operation of the Stations (other than FCC Licenses), along with any pending applications for the renewal or modification thereof, used exclusively in the operation of the Stations;

(viii) all prepaid expenses and deposits of Beneficiaries relating solely to the operation of the Stations;

(ix) all of Beneficiaries’ rights under manufacturers’ and vendors’ warranties relating to items included in the Station Assets and all similar rights against third parties relating to items included in the Station Assets to the extent contractually assignable; and

(x) the intellectual property of Beneficiaries’ used solely in the operation of the Stations (the “Station IP”).

(b) Notwithstanding Section 2(a) hereof, Beneficiaries shall not convey, transfer, assign, and deliver, and Trustee shall not acquire and assume, any right, title or interest

to, in and under, the following assets (the “Excluded Assets”), all of which shall be retained by Beneficiaries:

(i) any and all assets used or useful in the operation of other radio stations owned by Beneficiaries or their affiliates in the Metros or elsewhere, and all assets of Beneficiaries other than those assets of Beneficiaries that are used solely in the operation of the Stations;

(ii) all real property owned or leased by Beneficiaries and used solely in the operation of the Stations (the “Real Property”);

(iii) books and records that pertain to the organization, existence or capitalization of Beneficiaries or Beneficiaries’ operation of the Stations, except as expressly included in Section 2(a) of this Agreement;

(iv) duplicate copies of all books and records of the Stations which are expressly included in Section 2(a), but only to the extent necessary to enable Beneficiaries to file tax returns and reports;

(v) all claims, rights and interests of Beneficiaries in and to any refunds for taxes paid in respect of the Stations for periods ending on or prior to the Closing Date;

(vi) all pension, profit sharing or cash or deferred (Section 401(k)) plans and trusts and any other employee benefit plan or arrangement;

(vii) all Beneficiaries’ rights and obligations under or interest in contracts, agreements, leases, licenses, commitments and understandings, written or oral, except for the Assumed Contracts;

(viii) all causes of action arising prior to the Closing Date;

(ix) except as expressly set forth herein, insurance policies relating to the Stations and the rights to proceeds thereunder;

(x) all of Beneficiaries’ intellectual property other than the Station IP;  
and

(xi) cash, cash equivalents, cash items of any kind whatsoever, certificates of deposit, money market instruments, bank balances and rights in and to bank accounts, Treasury bills and marketable securities and other securities existing as of the Closing Date;

(xii) all deposits or prepaid charges of Beneficiaries, and expenses paid in connection with or relating to any Excluded Assets;

(xiii) any claim, right or interest of Beneficiaries in or to any refund, rebate, abatement or other recovery for taxes, together with any interest due thereon or penalty rebate arising therefrom, for any tax period (or portion thereof)

ending on or before the Closing Date, promissory notes, amounts due from employees, bonds, letters of credit or other similar items and any cash surrender value in regard thereto;

(xiv) any rights, claims or causes of action of Beneficiaries against third parties relating to assets, properties, business or operations of Beneficiaries arising out of events occurring on or prior to the Closing Date;

(xv) contracts of insurance and insurance plans, the rights to proceeds thereunder and the assets thereof;

(xvi) any rights of Beneficiaries as of the Closing Date to payment for the sale of advertising time and other goods and services by the Stations prior to the Closing Date; and

(xvii) such other assets as Beneficiaries and Trustee may agree.

(c) To the extent that any of the Excluded Assets are also used or useful in and necessary to the conduct of the business and operation of the Stations as of the Closing Date (the “Shared Assets”), Beneficiaries shall make such arrangements on or before the Closing as are reasonably necessary to provide for Trustee’s continued use of the Shared Assets by the Stations during the Term of this Agreement without any cost to Trustee.

(d) Subject to the provisions of Section 6(d) hereof, Trustee shall be solely responsible for the payment, performance and discharge of all of Beneficiaries’ liabilities, obligations, and duties under or in respect of the FCC Licenses, the Assumed Contracts, and the other Station Assets after the Closing (the “Station Liabilities”). Except as expressly provided in this Agreement, Trustee shall not be liable for and shall not assume any liabilities, obligations, or duties of Beneficiaries (whether known or unknown, matured or unmatured, or fixed or contingent), including any liabilities for claims that relate to the operation of the Stations or the holding of the Station Assets prior to Closing (regardless of whether any claim is asserted before or after Closing).

### **3. Closing.**

(a) The consummation of the assignment of the Station Assets to, and the assumption of the Station Liabilities by, Trustee (the “Closing”) shall occur on a date (the “Closing Date”) that is the same date as the Effective Date under Reorganization Plan.

(b) The obligations of Beneficiaries and Trustee to consummate the assignment of the Station Assets to Trustee shall be subject to the prior satisfaction of the following conditions:

(i) there shall not be in effect any statute, government regulation, or order by a court or governmental authority of competent jurisdiction which restrains or prohibits the transactions contemplated hereby;

(ii) there shall not be in existence any lawsuit, action or investigation, or other proceeding before any court or governmental authority of competent jurisdiction to prohibit the transactions contemplated by this Agreement;

(iii) the FCC shall have granted its consent to the application for consent to the assignment of the FCC Licenses from Licensee to Trustee without imposing any condition materially adverse to Trustee, Beneficiaries or to the operation of the Stations;

(iv) Beneficiaries shall have obtained all material third party consents required by the Assumed Contracts to enable Trustee to enjoy all of the rights and privileges, and be bound by all of the obligations, under such Assumed Contracts; provided, that if any required third party consent has not been obtained, this condition shall be satisfied if Beneficiaries make other arrangements that would enable Trustee to obtain the benefits of such Assumed Contract; and

(v) the transactions contemplated by the Reorganization Plan shall be consummated contemporaneously with the assignment of the FCC Licenses to Trustee as contemplated by this Agreement.

#### **4. Disposition of Station Assets by Trustee.**

(a) Except as otherwise expressly set forth in this Agreement, Trustee shall have the power, authority and obligation to consummate sales of the Station Assets as soon as reasonably practicable pursuant to the conditions contained herein and at prices that render to Beneficiaries the maximum consideration reasonably attainable for the Station Assets subject to such sales, payable in its entirety at the closing of each such sale in cash.

(b) Trustee shall have the power and authority to hire any attorneys or other agents reasonably necessary in Trustee's sole discretion to assist in the sale of the Station Assets, including MVP Capital, LLC ("Broker"), notwithstanding that Trustee is an affiliate of Broker; provided, that notwithstanding any statement in this subsection to the contrary, Beneficiaries may direct Trustee to retain a particular broker to market the sale of the Station Assets for one or more of the Stations; and, provided further, that notwithstanding any direction from the Beneficiaries to retain a particular broker, Trustee shall at all times retain exclusive control over such broker in the marketing and sale of any such Station Assets. Such professionals or agents shall be accountable to Trustee. Trustee is authorized to pay Broker the fee set forth on Schedule 4(b) here upon consummation of any Sale Agreement (defined below). Beneficiaries acknowledge that (x) Member is a Managing Director of Broker, which will have a separate listing agreement ("Listing Agreement") with Trustee to market the Station Assets for sale, and (y) except in the event of Trustee's gross negligence, intentional wrongful action, or material breach of this Agreement, a breach or default by Broker in the performance of its obligations under the Listing Agreement shall in no event be deemed to be a material breach of Trustee's fiduciary duties hereunder.

(c) If the Stations are not subject to an Existing Sale Agreement, Trustee shall use its good faith and commercially reasonable efforts to enter into binding agreement(s) for the sale of the Station Assets (each, a "Sale Agreement") with the understanding that such Sale

Agreement shall (i) be in a form consistent with standard industry practices for the purchase and sale of commercial radio stations, (ii) include customary representations, warranties, indemnifications, and limitations on liability, and (iii) provide that the Station Assets are to be assigned and otherwise conveyed free and clear of all liens, security interests, and encumbrances (collectively, “Liens”) of any kind or nature, except those expressly permitted by the Sale Agreement. Trustee may request Beneficiaries to provide such consents, information, representations, warranties and indemnifications regarding the Station Assets as may be necessary or appropriate to effectuate a sale, and Beneficiaries shall provide such consents, information, representations, warranties and indemnifications to the extent commercially reasonable.

**(d)** Notwithstanding any other provision to the contrary in this Agreement:

**(i)** Beneficiaries shall have the right to (x) establish a minimum purchase price for the sale of the Stations as set forth in a written notice to Trustee, which shall be paid by wire transfer of immediately available federal funds at the closing of the sale of the Station Assets, (y) require that each third party buyer assume all of the liabilities of the Station Assets associated with the Stations which accrue after consummation of such sale, and (z) establish a date by which any sale must be consummated; and

**(ii)** If, prior to the execution of any Sale Agreement, there has been a change in circumstances which, in view of Trustee, would entitle Beneficiaries to a re-assignment of the Station Assets consistent with FCC Rules, including the FCC Licenses, Trustee may, in its discretion, file an application requesting FCC consent to assign the FCC Licenses to Beneficiaries (or such CMI subsidiary as may be appropriate) and upon obtaining such FCC consent, assign and convey to Beneficiaries (or another subsidiary, as the case may be) the FCC Licenses and other Station Assets to Beneficiaries.

**(e)** Trustee shall submit and diligently prosecute appropriate applications to such governmental authorities as any such Sale Agreement requires, including to the FCC requesting consent to assign the FCC Licenses.

**(f)** In the event that Beneficiaries have entered into an agreement to sell the Station Assets to an unaffiliated third party (an “Existing Sale Agreement”), but such sale has not been consummated prior to the Closing, Beneficiaries shall assign their rights under such Existing Sale Agreement to Trustee at the Closing and Trustee shall thereafter assume the obligations of Beneficiaries thereunder. Trustee acknowledges that it may be requested to enter into a local marketing or time brokerage agreement with the third party buyer under an Existing Sale Agreement, and will enter into and perform its obligations under such an agreement; provided, that such agreement is in form and substance reasonably satisfactory to Trustee.

**(g)** Trustee shall maintain complete records of all efforts undertaken to sell the Station Assets until it consummates the sale(s) of the Station Assets. Trustee shall provide Beneficiaries with periodic reports setting forth Trustee’s efforts to sell the Station Assets as contemplated by this Agreement. Such reports shall be designated confidential, shall include the name, address and telephone number of each person who, during the preceding period, made an offer to acquire, expressed an interest in acquiring, entered into negotiations to acquire, or was

contacted or made an inquiry about acquiring, any interest in the Station Assets, and shall describe in detail each contact with any such person during that period. If Trustee does not consummate a Sale Agreement for all of the Stations within six (6) months from the Closing Date, Trustee shall promptly provide Beneficiaries with a confidential report setting forth in reasonable detail (i) any supplement to the prior reports concerning Trustee's efforts to sell the Station Assets; (ii) the reasons, in Trustee's judgment, why the required sale(s) has not been consummated; and (iii) Trustee's recommendations for consummating the required sale without further delay. Without limitation of the foregoing, Trustee shall use commercially reasonable efforts, and shall cooperate with Beneficiaries, to comply with any reporting obligations imposed by the FCC in connection with the divestiture of the Station Assets.

(h) At least twenty (20) business days prior to the execution of a Sale Agreement, Trustee shall deliver to Beneficiaries a copy of such agreement, together with all attachments thereto, for review and comment by Beneficiaries. Trustee shall notify Beneficiaries immediately of the parties' execution of each Sale Agreement and shall, within two (2) business days after its execution, provide a copy of the executed Sale Agreement and all related agreements (such as an escrow agreement), along with all schedules, exhibits, and other attachments thereto.

## **5. Management and Other Actions by Trustee.**

(a) During the Term of this Agreement, the right to manage the business of the Stations shall be vested solely in Trustee, subject to the following conditions:

(i) Trustee shall have absolute and complete control over the operations of the Stations pending the sale of the Station Assets or other termination of this Agreement in accordance with its terms, and no person other than Trustee or managers designated by Trustee shall have any authority with respect to the management of the Stations or the Station Assets for so long as this Agreement is in effect; provided, that Trustee shall have no beneficial interest in the Station Assets.

(ii) Trustee shall operate the Stations as separate, independent, ongoing, economically viable and active competitors to Beneficiaries, and Trustee shall ensure that the management of the Stations is kept separate and apart from, and not influenced by, Beneficiaries. Trustee shall use commercially reasonable efforts to maintain and increase sales of advertising time and to maintain promotional advertising, sales, marketing and merchandising support of the Stations at levels equal to or greater than those existing during the period prior to Closing.

(iii) Trustee shall conduct the operations of the Stations in material compliance with the Communications Act of 1934, as amended (the "Act"), and FCC Rules. Within fifteen (15) days after the end of each calendar month during the Term of this Agreement, Trustee shall provide Beneficiaries with monthly financial reports consisting of unaudited balance sheets of the Stations' operations and related statements of operations and cash flows for the month and the three-month period then ended and any other financial information reasonably

requested by Beneficiaries so that Beneficiaries can meet their financial reporting requirements to accountants, lenders, the Securities and Exchange Commission and any other governmental authorities of competent jurisdiction.

(iv) Any employee hired by Trustee who is not employed at the Stations as of the Closing Date shall not be a shareholder, member, partner, director, officer, or employee of Beneficiaries or any of its affiliates, and may not have any business and familial relationship (as defined in FCC Rules) with Beneficiaries or with any member, shareholder, partner, director, officer, or employee of Beneficiaries or its affiliates.

(v) Trustee shall cause any employee hired by it (including any individual previously employed by Beneficiaries whom Trustee elects to retain) to execute and deliver to Trustee an agreement, in form and substance acceptable to Trustee, pursuant to which such employee agrees to (x) comply with FCC Rules, including without limitation those governing communications regarding the Stations' operations among such employee and Beneficiaries or their members, shareholders, partners, officers, directors, employees, and affiliates, and (y) to preserve the confidentiality of all information such employee may acquire regarding the management and operation of the Stations during the Term of this Agreement.

(b) After the Closing, Trustee will be entitled to (i) hire those individuals employed exclusively by the Stations (the "Station Employees") on the same terms and conditions as such employees were employed by Beneficiaries, or (ii) request that Beneficiaries make available some of its employees to Trustee for its operation of the Stations during the Term of this Agreement; provided, that in no event shall Trustee be required to provide such employees with any medical, pension, insurance or other employee medical plans, programs or arrangements. To the extent that Beneficiaries provide the Station Employees with group medical, group insurance and/or pension plan benefits on or after the Closing Date through plans maintained by Beneficiaries for their employees, Trustee shall, within such reasonable time as deemed necessary or appropriate by Beneficiaries, provide to Beneficiaries such reports, data or other information as Beneficiaries shall require for purposes of administering such plans or satisfying any reporting or other requirements as may be required by law or any governmental agency. In no event shall Trustee or the Trust be responsible for any liabilities or obligations relating to or arising under any of Beneficiaries' employee benefit plans programs or arrangements, whether such liabilities or obligations arise, or relate to a period, prior or subsequent to the Closing Date of this Agreement. All liabilities or obligations that relate to or arise under any of Beneficiaries' employee benefit plans, programs or arrangement shall remain the sole responsibility of Beneficiaries and shall be subject to the indemnification provided herein or in Section 6(d) of this Agreement. Trustee shall terminate the employment of any and all Station Employees upon the termination of this Agreement; provided that Beneficiaries shall indemnify Trustee for any and all expenses and other liabilities incurred thereby, including severance payments, COBRA obligations, and accrued vacations (with payments for such indemnification to be made within thirty (30) days of any request therefor).

(c) Trustee shall not offer employment to or hire any of the employees of Beneficiaries whose employment relates in whole or in part to the business and operations of other stations owned and operated by Beneficiaries or their affiliates in the Metros (the “Cluster Employees”). To the extent that any of the Cluster Employees provide services reasonably necessary for the conduct of the business and operation of the Stations as of the date of this Agreement (the “Shared Employee Services”), Beneficiaries shall make such Shared Employee Services available to Trustee in conjunction with Trustee’s operation of the Stations during the Term of this Agreement. With respect to those Cluster Employees who perform Shared Employee Services, (i) when performing services for the Stations, such employees shall report to and be supervised solely by Trustee, (ii) when performing services for other radio stations owned by Beneficiaries, such employees shall report to and be supervised solely by Beneficiaries, and (iii) such employees shall be given instructions by the respective parties to conduct themselves accordingly. Nothing herein creates an employment relationship between Trustee and any Cluster Employee, regardless of whether such employee is providing Shared Employee Services.

(d) Except as expressly provided in this Agreement, Trustee shall not, in its capacity as trustee of the Trust, (i) incur any debt or guaranty obligation in favor of any other person; (ii) engage in any business other than as necessary in Trustee’s reasonable opinion to meet its fiduciary duties with respect to the operation of the Stations; or (iii) enter into any agreement to do so, or enter into any merger, consolidation, or similar transaction or engage in any reclassification or similar transaction with respect to the Trust.

(e) Trustee shall have exclusive control over the management and operation of the Stations, shall conduct the operations of the Stations in the ordinary course of business consistent with past practice, and with a view to maximizing the value to be received by Beneficiaries consistent with Trustee’s obligations under the Act, FCC Rules, and as a fiduciary of Beneficiaries. Without limiting the generality of the foregoing, during the Term hereof, except as contemplated by this Agreement, Trustee shall not:

(i) fail to use all commercially reasonable efforts to preserve intact the present business organization of the Stations and the Stations’ relationships with their respective customers, suppliers and others having business dealings with them;

(ii) fail to use commercially reasonable efforts to maintain the Station Assets in their current condition, ordinary wear and tear excepted;

(iii) except for amendments to employment agreements in the ordinary course of business consistent with past practices of the Stations, materially amend any material contract or default in any material respect (or take or omit to take any action that, with or without the giving of notice or passage of time, would constitute a material default) under any material contract or, except in the ordinary course of business consistent with past practices of the Stations, enter into any new material contract;

(iv) sell (whether by merger, restructuring, consolidation, or the sale of an equity interest or assets), lease, or dispose of the Station Assets except

pursuant to a Sale Agreement (including an Existing Sale Agreement) permitted under this Agreement;

(v) voluntarily allow the imposition of any Liens of any kind or nature on the Station Assets other than liens of Beneficiaries' lender, which will be removed by Beneficiaries' lender upon the closing of a Sale Agreement or Existing Sale Agreement;

(vi) enter into, or enter into negotiations or discussions with any person other than a purchaser under a Sale Agreement or an Existing Sale Agreement with respect to any local marketing agreement, time brokerage agreement, joint sales agreement, or any other similar agreement;

(vii) fail to use commercially reasonable efforts to maintain the ability of the Stations to operate at maximum power and full coverage at all times;

(viii) agree to or make any commitment, orally or in writing, to do any of the foregoing or to take any actions prohibited by this Agreement; or

(ix) change the format of any of the Stations, unless Trustee reasonable determines in good faith that a change in format is necessary to effectuate a sale of the Station Assets.

(f) Trustee shall have any and all such further powers and shall take such further actions (including, but not limited to, taking legal action) as may be necessary to fulfill Trustee's obligations under this Agreement.

## **6. Financial Matters.**

(a) Trustee shall be entitled to receive the fee set forth in Schedule 6(a) annexed hereto (the "Trustee Fee") on the first (1st) business day of each calendar month during the Term of this Agreement for services performed in the prior calendar month, with the understanding that the Trustee Fee shall be prorated for partial months.

(b) To the extent that the Stations generate cash accumulations in excess of the Stations' actual and projected expenses as determined by Trustee in its sole discretion ("Excess Cash Flow"), such Excess Cash Flow shall first be applied to repay any amount drawn down under the line of credit provided for in Section 6(c) of this Agreement and thereafter shall be remitted to Beneficiaries from time to time as Trustee shall determine.

(c) To the extent Trustee determines in its sole discretion that the operation of the Stations, consistent with past practice, or that payment of charges and other expenses under this Agreement, requires funds in excess of the actual or expected cash flow of the Stations (as diminished by any prior remittances of Excess Cash Flow pursuant to Section 6(b)), Beneficiaries shall provide to Trustee a line of credit in an amount reasonably sufficient to cover all such expenses and shall be repayable only from Excess Cash Flow. Beneficiaries shall not communicate directly or indirectly with Trustee about, nor participate with Trustee in making, any decision to draw on the line of credit or as to when or how the funds will be used. Trustee

may draw on the line of credit by making a written draft for a specific amount of funds or may make a request for checks to cover expenses incurred with respect to the operation of the Stations. Beneficiaries shall, within ten (10) business days of receipt of such draft or request, provide such funds or checks to Trustee in the amounts requested.

(d) Beneficiaries shall reimburse and indemnify Trustee against all claims, costs of defense of claims (including reasonable attorneys' fees) and disbursements and taxes related to the Trust, the operation of the Stations, or the Station Assets, and all expenses and liabilities incurred by Trustee, in connection with the performance of its duties and the enforcement of its rights under this Agreement, except those incurred as a result of Trustee's gross negligence, intentional wrongful action, or material breach of this Agreement. Trustee shall give prompt written notice to Beneficiaries of any demand, suit, claim or assertion of liability by third parties or other circumstances that could give rise to an indemnification obligation hereunder against Trustee, but a failure to give or a delay in giving such notice shall not affect Trustee's right to indemnification and Beneficiaries' obligation to indemnify as set forth in this Agreement, except to the extent Beneficiaries' ability to remedy, contest, defend or settle with respect to such claim is thereby prejudiced. Beneficiaries shall have the right to undertake, by counsel or other representatives of their own choosing, the defense or opposition to any such claim. Trustee shall not settle or compromise any such claim or consent to entry of any judgment without Beneficiaries' written consent. Payments to Trustee pursuant to this Section 6(d) shall be made within thirty (30) days of receipt of an invoice or bill from Trustee together with appropriate supporting documentation. The obligations of Beneficiaries to Trustee under this Section 6(d) shall survive the resignation, incapacity, dissolution or insolvency of Trustee, the death or incapacity of its Member, and the termination of this Agreement.

(e) Prior to the Closing Date, Beneficiaries shall obtain policies of insurance, or procure the amendment of or riders to existing policies of insurance, to provide insurance coverage related to the Station Assets under the umbrella policies currently held by Beneficiaries. All such policies shall name Trustee as an additional insured and shall not be cancelled or amended without thirty (30) days prior written notice to Trustee. Trustee is hereby authorized to make payment of all premiums, and pay all deductibles and excesses, related such policies of insurance in the same manner as any other expense in the ordinary course of business of the Stations.

**7. Limitations on Beneficiaries.** Beneficiaries shall not take any action to jeopardize Trustee's sale of the Station Assets but shall use commercially reasonable efforts to assist Trustee in accomplishing the required sales, including their full cooperation in obtaining all regulatory approvals. Trustee and Beneficiaries shall permit prospective purchasers of the Station Assets to have access to personnel of the Stations, to make such inspection of the Stations' physical facilities as may be reasonable, and to inspect any and all financial, operational and other documents and information as may be customary and relevant to the sales of the Station Assets. To facilitate the sales of the Station Assets, Trustee may request in writing from Beneficiaries such reasonable and customary representations and warranties, consents, information, covenants and indemnities (which may be provided by Beneficiaries directly to a prospective buyer, as negotiated and determined by Trustee) regarding such sales, and such requests shall not be unreasonably withheld, conditioned or delayed.

## **8. Trustee Responsibilities.**

(a) Trustee shall devote such time to the operation of the Stations and the Trust as is necessary, appropriate, or advisable in the fulfillment of its obligations and the exercise of its fiduciary duties hereunder.

(b) Trustee is expressly authorized to incur and pay from the Station Assets held in trust all reasonable expenses, disbursements, and advances incurred or made by Trustee in the performance of its duties hereunder (including reasonable fees, expenses and disbursements of its counsel), which the Trustee in good faith deems necessary, proper, or advisable in the performance of its duties under this Agreement.

(c) Trustee shall be entitled to rely in good faith upon any order, judgment, certification, demand, notice, instrument or other writing delivered to it hereunder without being required to determine the authenticity or the correctness of any fact stated therein or the propriety or validity or the service thereof. Trustee may act in reliance upon any instrument or signature it believes in good faith to be genuine, and may assume that any person purporting to give receipt or advice or make any statement or execute any document in connection with the provisions hereof has been duly authorized to do so. Trustee may act pursuant to the advice of counsel with respect to any matter relating to this Agreement and shall not be liable for any action taken or omitted in good faith in accordance with such advice. Trustee's counsel and advisors shall be independent of, and have no relationship with, Beneficiaries.

(d) Neither Trustee nor its Member nor any successor trustee designated pursuant to Section 9 hereof shall be a stockholder, member, partner, officer, employee, or director of Beneficiaries or their respective affiliates, or have any business or familial relationship (as defined in FCC Rules) with any officer, employee, director, member, stockholder, partner or affiliate of Beneficiaries. Neither Trustee nor its Member shall serve as an officer, employee or director of Beneficiaries, their affiliates, or their successor companies.

## **9. Replacement of Trustee.**

(a) The rights and duties of Trustee hereunder shall terminate upon Trustee's dissolution, incapacity or insolvency or upon the death, incapacity or insolvency of its Member, and no interest in a Sale Agreement or the Station Assets directly or indirectly held by Trustee nor any of the rights and duties of a dissolved, incapacitated or insolvent Trustee or a deceased, incapacitated or insolvent Member may be transferred by will, devise, succession or in any manner except as provided in this Agreement. Notwithstanding the foregoing, the heirs, administrators, executors or other representatives of a deceased, incapacitated or insolvent Member of Trustee shall have the obligation to assign Trustee's rights and obligations under a Sale Agreement or any Existing Sale Agreement to one or more successor trustees designated by Beneficiaries pursuant to this Section 9.

(b) Trustee may resign by giving not less than sixty (60) days prior written notice of resignation to Beneficiaries; provided, that no such resignation shall become effective unless and until a successor trustee has been appointed, such appointment has received all necessary approval from the FCC, and any order granting such approval has become a "Final Order" (meaning the order is no longer subject to reconsideration or review by the FCC or a

court of competent jurisdiction because the time periods for seeking such review under applicable law and FCC Rules have expired without any such request for reconsideration or review having been requested or initiated). Beneficiaries shall cooperate fully in the prompt appointment of a successor trustee and shall not unreasonably interfere with or delay the effectiveness of such resignation.

(c) In the event of Trustee's resignation or upon the death or incapacity of its Member, Trustee shall be succeeded, subject to such prior approval of the FCC as may be required, by a successor trustee chosen by Beneficiaries. Any successor trustee shall succeed to all of the rights and obligations of Trustee replaced hereunder and shall be deemed Trustee for purposes of this Agreement upon execution by such successor Trustee of a counterpart of this Agreement (with such modifications as are necessary to effect such succession).

#### **10. Termination and Distribution of Proceeds from Sale of Station Assets.**

(a) This Agreement and the Trust created hereby shall terminate automatically, and be of no further force and effect, upon the consummation of the sale(s) of the Station Assets to a third party and/or assignment of the Station Assets to Beneficiaries or an affiliate thereof, in each case as contemplated by this Agreement.

(b) Upon consummation of the sale of the Station Assets, Trustee shall (i) use the proceeds thereof to pay all remaining and unpaid expenses or liabilities incurred pursuant to this Agreement (and, as the case may be, set aside such portion of the proceeds as may be necessary to pay expenses and liabilities which have not yet been billed) and to pay off any debt underlying any Lien on the Station Assets (except to the extent that Beneficiaries obtain from their lenders a partial release with respect to such Lien), and (ii) promptly distribute the remainder of such proceeds to Beneficiaries (including an assignment of any uncollected accounts receivable).

#### **11. Communications.**

(a) Except as otherwise expressly provided in this Agreement, during the Term of this Agreement, neither Beneficiaries nor any of its officers, directors, employees, cognizable stockholders, members, partners or affiliates shall communicate with Trustee regarding the operation or management of the Stations.

(b) Beneficiaries and Trustee may communicate with each other (i) concerning the mechanics of implementing any sale of Station Assets (but not concerning the management and operation of the Stations), and (ii) to provide reports to Beneficiaries concerning the implementation of the Trust.

(c) Any communications permitted by this section shall be evidenced in writing.

(d) All notices and other communications required or permitted hereunder shall be in writing and shall be deemed to have been duly given (i) if transmitted by facsimile (with written confirmation of receipt), (ii) if personally delivered, upon delivery or refusal of delivery, or (iii) if sent by overnight courier, upon delivery or refusal of delivery. All notices or

other communications required or permitted hereunder shall be addressed to the respective party to whom such notice, consent, waiver, or other communication relates at the following addresses:

If to Beneficiaries: Cumulus Broadcasting LLC  
Cumulus Licensing LLC  
3280 Peachtree Road, NW  
Suite 2200  
Atlanta, GA 30305  
Attn: Richard S. Denning  
Senior Vice President and General Counsel  
Facsimile: (404) 949-0740

With a copy (which shall not constitute notice) to: Pillsbury Winthrop Shaw Pittman LLP  
1200 17<sup>th</sup> Street, NW  
Washington, DC 20036  
Attn: David D. Burns, Esq.  
Facsimile: (202) 663-8007

If to Trustee: The Mainstay Station Trust LLC  
c/o MVP Capital, LLC  
255 California Street  
Suite 850  
San Francisco, CA 94111  
Attn: Elliot B. Evers  
Chief Executive Officer  
Facsimile: (415) 549-0515

With a copy (which shall not constitute notice) to: Lerman Senter PLLC  
2001 L Street, N.W.  
Suite 400  
Washington, DC 20036  
Attn: Nancy A. Ory, Esq.  
Facsimile: (202) 293-7783

Either party may change the address or the persons to whom notices or copies thereof shall be directed by written notice to the other party in accordance with this section.

## **12. Miscellaneous.**

(a) This Agreement (which term shall be deemed to include the annexes, exhibits, and schedules hereto and the other certificates, documents, and instruments delivered hereunder), constitutes the entire agreement among the parties hereto and supersedes any and all prior and contemporaneous agreements, or understandings with respect to the subject matter hereof. This Agreement may not be amended except by an instrument in writing executed by each of the parties hereto.

**(b)** This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective permitted successors and permitted assigns, and nothing in this Agreement, express or implied, is intended to confer upon any other person any rights or remedies of any nature whatsoever under or by reason of this Agreement. Except as otherwise expressly permitted herein, no party may assign its rights or obligations hereunder without the prior written consent of the other party.

**(c)** If any term or provision of this Agreement is held to be invalid, illegal, or unenforceable by any court or governmental authority of competent jurisdiction, all other provisions of this Agreement shall nevertheless remain in full force and effect so long as the economic or legal substance of the transactions contemplated herein are not affected in any manner materially adverse to any other party. Upon such determination that any term or provision is invalid, illegal, or unenforceable, the parties shall negotiate in good faith to modify this Agreement to effect the original intent of the parties as closely as possible in a mutually acceptable manner in order that the transactions contemplated herein are consummated as originally contemplated to the fullest extent possible.

**(d)** The section headings contained in this Agreement are solely for convenience of reference and shall not affect the construction or interpretation of this Agreement. Unless otherwise stated, references in this Agreement to sections, subsections, annexes, exhibits, schedules, and other subdivisions refer to the corresponding sections, subsections, annexes, exhibits, schedules, and other subdivisions of this Agreement. The words “this Agreement,” “herein,” “hereby,” “hereunder,” “hereof,” and words of similar import, refer to this Agreement as a whole and not to any particular subdivision unless expressly so limited. The word “or” is not exclusive, and the word “including” (in its various forms) means “including without limitation.” Pronouns in the masculine, feminine, or neuter genders shall be construed to state and include any other gender.

**(e)** This Agreement, the rights and obligations of the parties hereto, and any claims and disputes relating thereto, shall be governed by and construed in accordance with the laws of the State of Delaware without regard to the conflicts of law principles. The exclusive forum for the resolution of any disputes arising hereunder shall be the state and federal courts of Delaware, and each party irrevocably waives the reference of an inconvenient forum to the maintenance of any such action or proceeding. TRUSTEE AND BENEFICIARIES HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVE TRIAL BY JURY IN ANY LEGAL ACTION OR PROCEEDING RELATING IN ANY WAY TO THIS AGREEMENT, INCLUDING ANY COUNTERCLAIM MADE IN SUCH ACTION OR PROCEEDING, AND AGREE THAT ANY SUCH ACTION OR PROCEEDING SHALL BE DECIDED SOLELY BY A JUDGE.

**(f)** This Agreement may be executed in counterparts, each of which shall be deemed an original and both of which together shall constitute one and the same instrument. Delivery of an executed signature page of this Agreement by e-mail or facsimile shall be deemed an original for all intents and purposes.

**(g)** The Trust shall be a “grantor trust” pursuant to Sections 671 through 678 of the United States Internal Revenue Code. The parties hereto acknowledge and agree that:

(i) the assets held by the Trust shall be included as assets of Beneficiaries for federal, state and local tax purposes and accounting purposes; and

(ii) income and losses of the Trust will be treated as income and losses of Beneficiaries for federal, state and local tax purposes and accounting purposes.

(h) Trustee hereby represents and warrants to Beneficiaries that it is and shall continue to be during the Term of this Agreement legally qualified under applicable law, including the Act and FCC Rules, to hold the FCC Licenses and to own or hold the Station Assets.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date first written above.

THE MAINSTAY STATION TRUST LLC

By: \_\_\_\_\_  
Elliot B. Evers  
Chief Executive Officer

CUMULUS BROADCASTING LLC

By: \_\_\_\_\_  
Richard S. Denning  
Senior Vice President & General Counsel

CUMULUS LICENSING LLC

By: \_\_\_\_\_  
Richard S. Denning  
Senior Vice President & General Counsel

**SCHEDULES:**

Schedule 4(b): Brokerage Fee

Schedule 6(a): Trustee Fee