

EXHIBIT B
FORM OF
TRANSITION SERVICES AGREEMENT

This TRANSITION SERVICES AGREEMENT (this “Agreement”), made as of the [Closing Date] (the “Effective Date”), is by and between Red Apple Media, Inc., a New York corporation (“Red Apple”), and NY Radio Assets, LLC, a Delaware limited liability company (“Cumulus”). Each of Cumulus and Red Apple is sometimes referred to herein as a “Party” and collectively, as the “Parties.” Capitalized terms used in this Agreement or in Exhibit A hereto, but not defined herein shall have the meanings given to them in the Purchase Agreement (as defined below).

RECITALS

WHEREAS, Cumulus, Red Apple and a certain affiliate of Cumulus are parties to an Asset Purchase Agreement dated as of June __, 2019 (the “Purchase Agreement”), pursuant to which Cumulus has agreed to sell to Red Apple, and Red Apple has agreed to purchase from Cumulus, radio broadcast station WABC(AM), 770 MHz, New York, New York (FCC Facility ID No. 70658) (the “Station”).

WHEREAS, Cumulus has agreed to provide certain transition services to Red Apple as set forth herein.

NOW, THEREFORE, Red Apple and Cumulus hereby agree as follows:

1. Transition Services. Upon the terms and subject to the conditions set forth in this Agreement, during the applicable Transition Period (as defined below), Cumulus shall provide, or cause to be provided, to Red Apple the services described in Exhibit A attached hereto (the “Transition Services”).
2. Term and Transition Period. Unless earlier terminated in accordance with Section 6, this Agreement shall commence on the Effective Date and continue until the applicable dates set forth on Exhibit A (the “Transition Period”). Upon mutual agreement, the Parties may extend any Transition Period upon the same terms and conditions set forth herein. Red Apple, at its expense, shall be solely responsible for assuring that, at the expiration or sooner termination of the Transition Period, replacement systems or services, as applicable, are in place and functioning satisfactorily.
3. Billing and Payment. Red Apple shall pay for the Transition Services according to the description of fees specified in Exhibit A. The Base Fee and Pass-Through Costs (each as defined in Exhibit A) shall be paid within fifteen (15) days of the end of each month during the Transition Period. The fees payable pursuant to this Section 3 shall be the full compensation for the Transition Services and no further payment shall be due to Cumulus for the Transition Services.

4. Covenants.

(a) Cumulus shall provide, or cause to be provided, to Red Apple the Transition Services in a reasonably prompt and professional manner. Cumulus further agrees to take commercially reasonable efforts to provide (i) the Transition Services in substantially the same manner as such services have historically been provided to the Station, including without limitation, by using or providing access to the systems, records and personnel of the corporate parent or third-party vendor historically responsible for the provision of the Transition Services for the benefit of the Station (and as may be modified to the extent such modifications apply to other Cumulus radio stations), and (ii) data, information and instructions in the manner that Cumulus has historically made available to the Station in the provision of such Transition Services. With respect to receipt of Transition Services, Red Apple shall take commercially reasonable effort to use the Transferred Employees historically responsible for the use of such Transition Services for the benefit of the Station, and (y) provide the appropriate data, information and instructions and take other appropriate actions and comply with applicable policies and procedures in the manner that the Station has historically taken, provided that the provision of such data, information instructions and the taking of such actions comply with such policies and procedures.

(b) Cumulus and Red Apple shall use commercially reasonable efforts and shall cooperate with each other in good faith in the performance of their duties and responsibilities hereunder. Each Party shall use its commercially reasonable efforts to resolve in a timely manner any disputes and/or claims that may arise in connection with the Transition Services.

(c) Cumulus shall indemnify, defend and hold harmless Red Apple and its employees, representatives, agents, directors, officers, affiliates or permitted assigns from and against any and all Damages (defined below) that arise out of or relate to the provision, receipt or use of the Transition Services and are caused by or result from (i) the gross negligence or willful misconduct of Cumulus, its employees, affiliates or agents or (ii) Cumulus' material breach of its obligations under this Agreement. Red Apple shall indemnify, defend and hold harmless Cumulus and its employees, representatives, agents, directors, officers, affiliates or permitted assigns from and against any and all Damages that arise out of or relate to (i) the gross negligence or willful misconduct of Red Apple, its employees, affiliates or agents, or (ii) Red Apple's material breach of its obligations under this Agreement. As used in this Section 4, "Damages" means any and all claims, actions, suits, proceedings, liabilities, obligations, losses and damages, amounts paid in settlement, interest, costs and expenses (including reasonable attorneys' fees, court costs and other out-of-pocket expenses incurred in investigating, preparing or defending any of the foregoing).

(d) The provisions of Section 11.3 of the Purchase Agreement shall apply with respect to matters covered by this Section 4 as if the indemnifying party under this Agreement were the indemnifying party under such Section 11.3, and as if the indemnified party under this Agreement were the indemnified party under such Section 11.3, and as if such matters covered hereby were covered by such Section 11.3.

5. Termination.

(a) Upon no less than thirty (30) days' prior written notice to Cumulus, Red Apple may terminate this Agreement with respect to any or all of the Transition Services. In the event Red Apple terminates this Agreement with respect to any but not all of the Transition Services, the parties shall work together in good faith to negotiate a reduction of the Base Fee to reflect the remaining Transition Services to be provided hereunder.

(b) Upon written notice to Red Apple, Cumulus may terminate this Agreement if Red Apple fails to pay any due and payable amounts owed to Cumulus pursuant to this Agreement within ten (10) days after Red Apple's receipt of written notice of such failure.

(c) If a Party materially breaches any of its obligations under this Agreement (other than the failure to pay any due and payable amounts, which is covered by Section 5(b) above), and does not cure such default within thirty (30) days after receiving written notice thereof from the non-breaching Party, then the non-breaching Party may, at its option, terminate any Transition Service affected by such breach or this Agreement in its entirety by providing written notice of termination to the other Party, which termination shall be effective immediately.

(d) In the event that a Party hereto shall (i) file a petition for bankruptcy, (ii) become or be declared insolvent, or become the subject of any proceedings related to its liquidation, insolvency or the appointment of a receiver, (iii) make an assignment on behalf of all or substantially all of its creditors, or (iv) take any corporate action for its winding up or dissolution, then the other Party shall have the right to terminate this Agreement by providing written notice.

(e) This Agreement terminates when all the Transition Services have expired or been terminated in accordance with the terms of this Agreement; provided, however, that the following Sections shall survive any such termination: Sections 4(c) and (d); this Section 5(e); and Section 6. No termination shall relieve a Party of any liability for breach or default occurring prior to termination.

6. Miscellaneous.

(a) Force Majeure. Neither of the Parties hereto or their respective employees, affiliates or agents shall be liable for any damages or delay or be deemed to be in breach or default of this Agreement if and to the extent that any of the following events prevents or makes impracticable the performance of any of their non-monetary obligations under this Agreement: war, riot, fire, explosion, terrorism, flood, hurricane, earthquake, electrical power outage, sabotage, compliance with Laws, national defense requirements, labor strike, lockout or injunction. The Party whose performance hereunder is impacted by such events (the “Affected Party”) shall promptly give the other Party hereto written notice thereof and use commercially reasonable efforts to identify the impediment and remove or otherwise address the impediment to action as soon as possible, or if practical, implement an alternative method for the continued provision of any affected Transition Service. Subject to the Affected Party’s compliance with the terms of the immediately preceding sentence, such Affected Party shall not be liable for the nonperformance or delay in performance of its applicable non-monetary obligation(s) under this Agreement when such failure is due to such a force majeure event.

(b) Relationship. The relationship between Red Apple on the one hand and Cumulus on the other hand is that of independent contractors. Neither Red Apple on the one hand nor Cumulus on the other hand is authorized to undertake or assume any obligation of any kind, express or implied, or make any warranty, representation, commitment, guarantee or agreement on behalf of the other or assume or incur any liability or indebtedness on the other’s behalf or bind the other under any obligations whatsoever. This Agreement shall not be deemed to create a partnership, joint venture or other similar relationship between the Parties. Furthermore, in no event shall any employee of either Party be deemed to be an employee of the other Party. Notwithstanding any other provision hereof, neither Party shall be authorized, nor shall either Party have any responsibility, to manage the affairs or any business of the other Party. This Agreement is not a local marketing agreement, programming agreement or joint sales agreement. Each Party shall be responsible for the programming and sale of commercial time on its respective radio stations.

(c) Confidentiality. Each Party hereto shall, and shall ensure that its affiliates shall, maintain the confidentiality of all non-public data, information, reports, studies, suggestions and other non-public materials regarding the other Party hereto and its affiliates, with the same level of care, but no less than commercially reasonable care, and in accordance with the same procedures such Party uses with respect to its own such data, information, reports, studies, suggestions and other similar materials, except as the disclosure of same may be required by any governmental, quasi-governmental, judicial or regulatory authority under applicable law or regulation or by a stock exchange or association on which the securities of the applicable Party’s parent company are listed (provided that each Party will work with the other to limit disclosure to the greatest extent possible consistent with its legal obligations, including by obtaining a protective order or other appropriate remedy, if practicable, at the sole cost and expense of the owner of the non-public information). Upon demand by a Party, or upon expiration or termination of this Agreement with respect to any Transition Service, the other Party shall promptly return or destroy, at the Party’s option, all such data, information, reports, studies, suggestions and other materials. Each Party agrees that the other may suffer irreparable

harm for which monetary damages would not be an adequate remedy if there were a breach by such Party of the obligations under this Section 6(c). Accordingly, each Party agrees that equitable relief, including injunctive relief, may be appropriate to protect the non-breaching Party's rights in the event of a breach of this Section, and the non-breaching Party may be entitled to seek an entry of an order for immediate injunctive relief.

(d) Successors and Assigns. This Agreement shall be binding upon and shall inure to the benefit of the Parties hereto and their respective successors and assigns. Neither party may assign its rights under this Agreement without the other Party's prior written consent (such consent not to be unreasonably withheld, conditioned or delayed), except for any such assignment to an affiliate of the assigning Party, which, for the avoidance of doubt, shall not require the prior written consent of the non-assigning Party.

(e) No Third-Party Beneficiaries. This Agreement is for the sole benefit of the Parties hereto and their successors and permitted assigns and nothing herein, express or implied, is intended to or shall confer upon any other person or entity any legal or equitable right, benefit or remedy of any nature whatsoever under or by reason of this Agreement.

(f) Notices. Any notice pursuant to this Agreement shall be in writing and shall be deemed delivered on the date of personal delivery or confirmed facsimile transmission or confirmed delivery by a nationally recognized overnight courier service, and shall be addressed as follows (or to such other address as any Party may request by written notice in accordance with this Section 6(f)):

if to Red Apple:

Red Apple Media Group, LLC
800 Third Avenue, 5th floor
New York, NY 10022
Attention: John Castimatidis, Chairman and CEO
Email: jacny@aol.com

with a copy (which shall not constitute notice) to:

Red Apple Media Group, LLC
800 Third Avenue, 5th floor
New York, NY 10022
Attention: Nicholas C. Katsoris, General Counsel
Email: nkatsoris@ragny.com

and to (which shall not constitute notice):

Wiley Rein LLP
1776 K Street, N.W.
Washington, D.C. 20006
Attention: Kathleen A. Kirby
Email: kkirby@wileyrein.com

if to Cumulus:

NY Radio Assets, LLC
3280 Peachtree Street, NW, Suite 2200
Atlanta, GA 30305
Attention: Richard S. Denning

Email: Richard.denning@cumulus.com

with a copy (which shall not constitute notice) to:

Jones Day
1420 Peachtree Street, NE
Atlanta, GA 30305
Attention: William Rowland
Email: wbrowland@jonesday.com

(g) Governing Law; Waiver of Jury Trial. The construction and performance of this Agreement shall be governed by the laws of the State of New York without giving effect to the choice of law provisions thereof. RED APPLE AND CUMULUS 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. Red Apple and Cumulus hereby acknowledge that they have each been represented by counsel in the negotiation, execution and delivery of this Agreement and that their lawyers have fully explained the meaning of the Agreement, including in particular the jury-trial waiver.

(h) Entire Agreement. This Agreement (including Exhibit A) constitutes the entire agreement of the Parties hereto with respect to the subject matter hereof and supersedes all prior agreements and undertakings, both written and oral, between Cumulus and Red Apple with respect to the subject matter hereof, except as otherwise expressly provided herein.

(i) Amendments and Waivers. This Agreement may not be amended or modified except by an instrument in writing signed by Cumulus and Red Apple. No failure or delay by either Party in exercising any right, power or privilege hereunder shall operate as a waiver thereof nor shall any single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any other right, power or privilege.

(j) Headings; No Presumption. The headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement. This Agreement shall be construed without regard to any presumption or rule requiring construction or interpretation against the Party drafting or causing any instrument to be drafted.

(k) Counterparts. This Agreement may be executed in one or more counterparts, each of which when executed shall be deemed to be an original but all of which taken together shall constitute one and the same agreement. Delivery of an executed counterpart of a signature page to this Agreement by facsimile or a .pdf shall be effective as delivery of a manually executed counterpart of this Agreement.

[SIGNATURE PAGE FOLLOWS]

SIGNATURE PAGE TO TRANSITION SERVICES AGREEMENT

IN WITNESS WHEREOF, the Parties have executed this Transition Services Agreement as of the date first set forth above.

CUMULUS: NY RADIO ASSETS, LLC

By: _____
Name:
Title:

RED APPLE: RED APPLE MEDIA GROUP, LLC

By: _____
Name:
Title:

Exhibit A
Services**

<u>Description of Service</u>	<u>Transition Period</u>	<u>Fee Payable by Red Apple</u>
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<u>Description of Service</u>	<u>Transition Period</u>	<u>Fee Payable by Red Apple</u>
<p><u>Payroll Services.</u></p> <p>Cumulus to provide payroll services for all Transferred Employees as follows:</p> <ul style="list-style-type: none"> • No less than fifteen (15) days prior to the applicable Cumulus payroll distribution date, Red Apple shall (i) provide directions to Cumulus that set forth the gross amount payable to each Transferred Employee on the payroll distribution date, (ii) advance to Cumulus the total gross amounts payable to the Transferred Employees on the payroll distribution date plus an estimate of any employer-paid withholding taxes (the “Advanced Payments”), and (iii) provide any additional information reasonably requested by Cumulus to implement the payroll services (including, without limitation, Transferred Employee addresses, account numbers, health insurance coverage premiums, other employee-paid benefits costs, etc.). • Cumulus will deduct from the gross amount payable to each Transferred Employee (and, as required, remit to the appropriate tax authorities) all applicable deductions consistent with past practice and in accordance with applicable law, including any withholding taxes, health insurance premiums or other employee-paid benefits costs. • Cumulus will process through its payroll and pay to each Transferred Employee on the applicable payroll distribution date the net amount payable to each Transferred Employee (i.e., the gross amount directed by Red Apple, less the applicable deductions and withheld taxes), and Cumulus will remit to the appropriate tax authorities any employer-paid withholding taxes. • Cumulus will provide to Red Apple a schedule of all actual net payments made to Transferred Employees, applicable deductions and withholdings on account of such Transferred Employees, and employer-paid withholding taxes within fifteen (15) days following the applicable Cumulus payroll distribution date (the “Total Payments”). The parties will true up the difference between the Total Payments and the Advanced Payments, within fifteen (15) days following receipt of the schedule. 	120 days	Included in Base Fee

<u>Description of Service</u>	<u>Transition Period</u>	<u>Fee Payable by Red Apple</u>
<p><u>Access to Systems and Records for A/R Collection.</u></p> <p>Cumulus to provide Red Apple with access to the systems, including the Wide Orbit system, and records necessary to account for and reconcile the A/R belonging to Cumulus that Red Apple is collecting and reconciling on behalf of Cumulus pursuant to Section 7.2 of the Purchase Agreement. Red Apple may use, but shall not be required to use, the systems made available hereunder by Cumulus in connection with any accounts receivable that are not A/R belonging to Cumulus.</p>	120 days	Included in Base Fee
<p><u>Controller Services.</u></p> <p>Cumulus will make available its Controller and corporate accounting team, including the necessary systems, consistent with past practice, to account for the monthly financials of Station, if requested by Red Apple.</p>	120 days	Included in Base Fee
<p><u>Email Forwarding.</u></p> <p>Cumulus to forward e-mails addressed to the Cumulus email address (e.g., EMPLOYEENAME@cumulus.com) of each Transferred Employee to the new e-mail addresses established by Red Apple, provided that Red Apple has provided Cumulus with a list of the Transferred Employees and their new e-mail addresses.</p>	120 days	Included in Base Fee
<p><u>Email Records.</u></p> <p>No later than five (5) days after the Closing Date, Cumulus will terminate access to all data that resides on Cumulus's exchange servers (e.g., e-mails, electronic calendar items, Outlook contacts). Cumulus to cooperate with Red Apple to migrate this data to personal storage (.pst) folders on personal computers at the Station.</p>	120 days	Included in Base Fee

<u>Description of Service</u>	<u>Transition Period</u>	<u>Fee Payable by Red Apple</u>
<u>Website Forwarding.</u> Upon request by Red Apple to facilitate the transfer of the hosting of the Station's websites, Cumulus to redirect web traffic from appropriate Cumulus-controlled URLs to web addresses as specified by Red Apple. Streaming URL: upon request by Red Apple, redirect streaming traffic for the Station to web addresses as specified by Red Apple.	120 days	Included in Base Fee
<u>App/Skill Management.</u> Upon request by Red Apple, Cumulus will facilitate the transfer of existing applications and Alexa skills to a host/service specified by Red Apple.	120 days	Included in Base Fee

** The parties shall negotiate in good faith to update this Exhibit A, including the Base Fee, between the date the parties execute the Purchase Agreement and the Closing Date if Red Apple determines in its reasonable discretion that Red Apple will require additional transition services from Cumulus. Further, if Red Apple makes a good faith determination between the date the parties execute the Purchase Agreement and the Closing Date that any such services set forth on this Exhibit A are not needed, the parties shall update this Exhibit A, including the Base Fee, accordingly.

In consideration for the foregoing Transition Services, Red Apple shall pay to Cumulus a monthly fee of \$25,000.00 (the "Base Fee"), payable within fifteen (15) days following the end of each month (such amount to be pro-rated daily, as needed). Red Apple will further be responsible for any pass-through costs related to Assumed Contracts (to the extent not assumed as of the Closing Date) or any other services/costs incurred by Cumulus as a result of Cumulus's provision of the Transition Services (the "Pass-Through Costs") with such costs to be specifically identified by Cumulus on a monthly basis.