

**MEMBERSHIP INTEREST PURCHASE AGREEMENT**

**between**

**COLOMA BROADCASTING, LLC**

**and**

**POINT BROADCASTING COMPANY**

**for the Membership Interests of**

**COLOMA MOJAVE, LLC**

April 18, 2011

## **MEMBERSHIP INTEREST PURCHASE AGREEMENT**

This Membership Interest Purchase Agreement (this "Agreement") is dated as of April 18, 2011 and is between Coloma Broadcasting, LLC ("Seller"), a Nevada limited liability company, and Point Broadcasting Company ("Buyer"), a California corporation.

### **Recitals:**

WHEREAS, Seller owns all of the membership interests (the "Membership Interest") of Coloma Mojave, LLC ("Coloma Mojave"), a Nevada limited liability company, which owns or holds assets (the "Station Assets") used or useful in the operation of radio station KCEL (FM) in Mojave, California (the "Station"); and

WHEREAS, Seller and Buyer are parties to that certain Option Agreement dated as of February 9, 2006, which provides Buyer with an option to acquire the Membership Interest; and

WHEREAS, in consideration for the option to purchase the Membership Interest provided by the Option Agreement, Buyer has made certain payments to Seller which Seller has used for debt service in conjunction with a loan (the "Loan") from Bank of the West and for other financial obligations pursuant to that certain Credit Agreement dated February 9, 2006, or any refinancing thereof (in either case, the "Credit Agreement"); and

WHEREAS, Buyer is now desirous of acquiring the Membership Interest, and Seller is prepared to sell the Membership Interest to Buyer, all in accordance with the terms and conditions of this Agreement; and

WHEREAS, the purchase price to be paid by Buyer for the Membership Interest shall be determined in accordance with the formula set forth in this Agreement; WHEREAS, Seller and Buyer are parties to that certain Local Marketing Agreement (the "LMA"), dated as of November 7, 2008, which will be terminated upon the consummation of the sale of the Membership Interest to Buyer in accordance with the terms and conditions of this Agreement;

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

### **ARTICLE 1.   Exchange of Consideration.**

**1.1.   Consideration Conveyed by Seller.** Subject to the terms and conditions of this Agreement, Seller shall, to the fullest extent permitted by law, assign, convey, transfer and deliver to Buyer at Closing, and Buyer shall, to the fullest extent permitted by law, acquire from Seller at Closing, free and clear of all debts, liens, claims, options, warrants, financing leases, security interests, and encumbrances (collectively, "Liens") of any kind whatsoever, except as permitted herein, the Membership Interest.

## **1.2. Consideration Conveyed by Buyer.**

**1.2.1. Payment of Purchase Price.** At the Closing, as defined herein, Buyer shall pay Seller the purchase price (the “Purchase Price”) by wire transfer of immediately available federal funds pursuant to instructions from Seller (which shall be provided to Buyer at least three (3) business days prior to Closing). The Purchase Price shall be (a) the appraised fair market value of the Station (“Fair Market Value”) as of a date which is no more than thirty (30) days prior to the Closing, as determined in accordance with the procedures set forth in subsection 1.2.2; (b) less the outstanding principal under the Loan to Seller and the amount of any other financial obligations of Coloma Mojave not paid prior to Closing; and (c) multiplied by five percent (5%).

**1.2.2. Appraisal.** The Fair Market Value shall be determined by an appraisal obtained in accordance with the following provisions:

(a) The Fair Market Value shall equal the appraised value of the Station Assets on a going concern basis.

(b) The appraisal shall be conducted in conformity with standard appraisal techniques for the broadcast industry in use at the time of the appraisal.

(c) Within ten (10) business days after the execution of this Agreement, the parties shall jointly select a qualified appraiser with experience in the radio broadcasting industry to conduct the appraisal of the Fair Market Value of the Station. If the parties cannot reach a written agreement on the selection of the appraiser within that time frame, the appraiser shall be Media Venture Partners, Ltd.

(d) The appraised Fair Market Value derived by the appraiser shall, absent manifest error, be conclusive and binding on the parties.

## **1.3. Closing.**

**1.3.1. Date and Location.** The consummation of the transaction contemplated by this Agreement (the “Closing”) shall be held at the offices of Dickstein Shapiro LLP, 1825 Eye Street, NW, Washington, D.C. 20006, or at such other place mutually agreed to by the parties, commencing at 10:00 a.m. on a date (the “Closing Date”) selected by Buyer which shall be within ten (10) days after the date on which the FCC order (the “Order”) granting the Application, as defined herein, becomes a “Final Order” (which, for purposes of this Agreement, means that the Order has not been stayed, is not subject to reconsideration or review by the FCC or a court of competent jurisdiction, and the time to institute such administrative or judicial review under applicable law and government regulation has expired): provided, that the parties shall not be obligated to proceed to Closing if (1) the Order includes conditions materially adverse to Buyer or Seller or (2) the other conditions precedent to Closing have not been satisfied or waived; and provided further, that Buyer shall have the unilateral right to waive the

condition that Closing not occur until after the Order has become a Final Order and, if Buyer does waive that condition, the Closing shall occur within ten (10) business days after Buyer provides Seller with notice of such waiver.

**1.3.2. Exchange of Documents.** At the Closing, each party shall execute and deliver to the other party or parties the other items specified herein as well as any additional document(s) reasonably necessary for the consummation of the transactions contemplated herein. Such additional documents shall be reasonably satisfactory to the other party as to both form and substance.

**1.3.3. Adjustments to Purchase Price.**

(a) **Prorations.** At the Closing, the parties shall make whatever adjustments are necessary to the Purchase Price to account for any monies owed to Seller or Buyer, as the case may be, under the LMA. To the extent that any of the adjustments cannot be determined as of the Closing Date, Buyer and Seller shall conduct a final accounting and make any further payments, as required, on a date mutually agreed upon within sixty (60) days after the Closing Date.

(b) **Settlement of Disputes.** In the event of any disputes between the parties as to any adjustments under this Section, the amounts not in dispute shall be paid at the time provided herein and the dispute shall be resolved by an independent certified public accountant or independent broadcast analyst (in either case, the “CPA”) who shall be jointly selected by the parties within thirty (30) days after the Closing or after the final settlement on prorations, as the case may be. The decision of the CPA shall be binding on each of the parties and enforceable by a court of competent jurisdiction. The fees and expenses of the CPA shall be paid one-half by Seller and one-half by Buyer.

**1.4. Timing.** Time is of the essence to implementation of this Agreement. It is the intention of the parties that, except as otherwise provided in Article 10, the Closing of the transaction contemplated herein occur not later than twelve (12) months after the date hereof.

**ARTICLE 2. Representations and Warranties of Seller.**

Seller represents and warrants to Buyer that the following matters are true and correct as of the date of this Agreement:

**2.1. Status.** Seller is a limited liability company duly organized, validly existing, and in good standing in the State of Nevada.

**2.2. Company Action.** All actions and proceedings necessary to be taken by or on the part of Seller in connection with the transaction contemplated by this Agreement and necessary to make the Agreement effective have been duly and validly taken. This Agreement has been duly and validly authorized, executed, and delivered by Seller and constitutes the valid and binding agreement of Seller, enforceable in accordance with and subject to its terms, except as enforceability may be limited by laws affecting the enforcement of

creditors' rights or equitable principles generally. At the Closing, Seller shall deliver to Buyer a copy of the resolution adapted by Seller's Member authorizing the execution of this Agreement and the consummation of the transaction contemplated hereby.

**2.3. FCC Licenses.** Coloma Mojave is the holder of the licenses and other authorizations (the "FCC Licenses") issued by the Federal Communications Commission (the "FCC") for the Station, copies of which are included in Schedule 1 to this Agreement. All the FCC Licenses are in full force and effect. The FCC Licenses constitute all of the licenses required under the Communications Act of 1934, as amended (the "Act"), and the published rules and policies of the FCC for the operation of the Station as currently conducted. The FCC Licenses authorize the operation of the Station for a term expiring on December 1, 2013. Since its acquisition of the FCC Licenses, Seller has timely filed with the FCC all material applications, reports and other documents required by the Act and the published rules and policies of the FCC. Other than proceedings of general applicability to the radio industry, there is not now pending or, to Seller's knowledge, threatened, any petition, complaint, objection (whether formal or informal), investigation, order to show cause, notice of violation, notice of apparent liability, or notice of forfeiture or other proceeding by or before the FCC, any other government authority, or any court against Seller with respect to Station. The Station is operating in material compliance with the FCC Licenses as well as the Act and the published rules and policies of the FCC.

**2.4. Condition of Tangible Personal Property.** Annexed hereto as Schedule 2 is a list of the personal property (the "Tangible Personal Property") included within the Station Assets. Coloma Mojave will be the owner of the Tangible Personal Property at Closing except for those non-material items consumed or disposed of in the ordinary course of business.

**2.5. Financial Obligations.** Other than the Credit Agreement, the Contracts and Real Estate Leases, Coloma Mojave has no debt or financial obligations except for obligations which will be extinguished at or prior to the Closing: provided, that in no event shall Coloma Mojave enter in agreement for any refinancing of the Credit Agreement without the prior written approval of Buyer.

**2.6. Title.** On the Closing Date, the Station Assets will be in each case free and clear of all Liens except for (1) Liens for current taxes not yet due and payable, (2) Liens expressly identified in the Credit Agreement, the Contracts and Real Estate Leases, each as defined herein, and (3) Liens otherwise expressly permitted under this Agreement (the "Permitted Encumbrances").

**2.7. Intangible Property.** Coloma Mojave owns or has the right to use the Marketing Items, the Programming Items, and the Internet Items (each as defined herein and collectively referred to herewith as the "Intangible Property") within the service areas of the Station. Neither Seller nor Coloma Mojave has received or has knowledge of any threatened notice from any third party or governmental authority alleging or concerning any infringement

by Seller or Coloma Mojave on the rights of third parties caused by Seller's or Coloma Mojave's use of the Intangible Property.

**2.8. Employees.** Coloma Mojave is not a party to any pending or, to Seller's knowledge, threatened labor dispute affecting the Station. Seller and Coloma Mojave (1) have complied in all material respects with all applicable federal, state, and local laws, ordinances, rules and government regulations relating to employment or labor, including but not limited to provisions relative to wages, hours, collective bargaining, pension, profit-sharing and savings plans and trusts including, without limitation, 401-K plans ("Trusts") and payment of Social Security, unemployment and withholding taxes and (2) are not liable for any arrears of wages or Trusts or benefit payments or any taxes or penalties for failure to comply with any of the foregoing. There are no collective bargaining agreements, or negotiations for the same, in existence which affect any of the Station's employees. Except for any agreement approved by Buyer, no employee of Coloma Mojave is a party to a written employment agreement, or, subject to applicable law, is otherwise not an at-will employee whose employment can be terminated by Buyer at Closing.

**2.9. Taxes.** Seller and Coloma Mojave have each duly and timely filed all required federal, state and local tax returns and paid all taxes, interest and penalties due with respect to the Membership Interest and the Station Assets or (1) have sought and obtained extensions of time to file such and pay same within the time provided therefore or (2) are challenging such taxes in good faith in accordance with applicable procedures.

**2.10. Contracts.** Annexed hereto as Schedule 3 is a list which identifies all material written contracts and describes the material terms of all material oral contracts (collectively, the "Contracts") to which Coloma Mojave is a party as of the date of this Agreement and which will be in effect at Closing. For purposes of this Section, a "material" Contract is one with liabilities or a value over the life of the Contract in excess of \$10,000. Seller has delivered to Buyer true and complete copies of all Contracts listed in Schedule 3. Those Contracts requiring a third party's consent as a condition to Buyer's acquisition of the Membership Interest are identified by an asterisk in Schedule 3. Coloma Mojave has complied in all material respects with all Contracts and is not in default in any material respect beyond any applicable grace periods under any of such Contracts. To Seller's knowledge, (1) no other contracting party is in material default under any of the Contracts and (2) all Contracts are in full force and effect and are valid, binding and enforceable in accordance with their respective terms, except as enforceability may be limited by laws affecting creditor rights or equitable principles generally.

**2.11. Real Estate Leases.** Annexed hereto as Schedule 4 is a list of all the leases (the "Real Estate Leases") included in the Station Assets. All of the Real Estate Leases have been complied with in all material respects by Coloma Mojave, and there has been no material breach or default by Coloma Mojave with respect to any covenants or obligations required to be performed by Coloma Mojave. All the Real Estate Leases are in full force and effect, and Coloma Mojave has a valid leasehold interest in the Real Estate Leases in accordance with their respective terms. To Seller's knowledge, (1) no other party to any of the Real Estate

Leases is in default thereunder and (2) all the Real Estate Leases are in full force and effect and are valid, binding and enforceable in accordance with their respective terms, except as enforceability may be limited by laws affecting the enforcement of creditor rights or equitable principles generally.

**2.12. Litigation.** Neither Seller nor Coloma Mojave has been operating under, and neither is subject to, or in default with respect to, any order, judgment, writ, injunction, or decree of any court or any federal, state, municipal, or other governmental entity, foreign or domestic, which has had or could reasonably be expected to have a material adverse effect on the Membership Interest. Except for proceedings of general applicability to the radio industry, there is no litigation pending by or against, or, to Seller's knowledge, threatened against Seller or Coloma Mojave which relates to, affects, materially interferes with, or could reasonably be expected to materially interfere with (1) Seller's right, title to, or interest in the Membership Interest or (2) Seller's ability to transfer the Membership Interest to Buyer free of such litigation.

**2.13. No Defaults.** Neither the execution and delivery by Seller of this Agreement nor the consummation by Seller of the transaction contemplated herein are events that, by themselves or with the giving of notice or the passage of time or both, constitute a material violation of or will conflict with or result in any material breach of or any default under (1) the terms, conditions, or provisions of (a) any arbitration award, (b) any judgment, order, decree or writ of any court, or (c) any government regulation to which Seller or Coloma Mojave is subject, (2) Seller's or Coloma Mojave's articles of organization or operating agreement, or (3) any agreement or instrument to which Seller or Coloma Mojave is a party or by which Seller or Coloma Mojave is bound, or result in the creation of imposition of any Lien on the Membership Interest.

**2.14. Brokers.** There is no broker or finder or other person who would, as a result of any agreement of or action taken by Seller or Coloma Mojave, have any valid claim against any of the parties to this Agreement for a commission or brokerage fee in connection with this Agreement or the transaction contemplated herein.

**2.15. Insolvency.** No insolvency proceedings of any character, including, without limitation, bankruptcy, receivership, reorganization, composition or arrangement with creditors, voluntary or involuntary, affecting Seller or Coloma Mojave is pending or, to Seller's knowledge, threatened, and neither Seller nor Coloma Mojave has made any assignment for the benefit of creditors, nor taken any actions with a view to, or which would constitute the basis for, the institution of any such insolvency proceedings.

**2.16. Approvals.** No approval of any third party, governmental entity or court is required to be obtained by Seller with regard to the assignment of the Membership Interests except the approval by the FCC and the approval of certain parties to Contracts, all as provided herein.

**2.17. Capitalization.** The Membership Interest constitutes one hundred percent (100%) of the equity ownership in Coloma Mojave. Except for the Option Agreement

referenced herein, there are no options, warrants, membership interests or other securities (certificated or otherwise) issued by Coloma Mojave or Seller now outstanding relating to any existing or future ownership interest in Coloma Mojave. The Membership Interest is not subject to any Lien (other than Permitted Encumbrances) and has not been pledged as security for any loan or financing made available to Seller or Coloma Mojave that will not be released or paid in full at Closing. The Membership Interest has not been registered under the Securities Act of 1933, as amended (the "Securities Act"), or the securities laws of any State. The Membership Interest may not be directly or indirectly sold, assigned, transferred, encumbered or otherwise disposed of except pursuant to (1) a registration statement that is effective under the Securities Act or the applicable State securities law or (2) an exemption from registration under the Securities Act or the applicable State securities law.

### **ARTICLE 3.   Representations and Warranties of Buyer.**

Buyer represents and warrants to Seller as to the truth of the following matters as of the date of this Agreement:

**3.1.   Status.** Buyer is a corporation duly organized, validly existing, and in good standing in the State of California, and has the power to enter into and consummate the transaction contemplated by this Agreement.

**3.2.   Company Action.** All actions and proceedings necessary to be taken by or on the part of Buyer in connection with the transaction contemplated by this Agreement and necessary to make the Agreement effective have been duly and validly taken. This Agreement has been duly and validly authorized, executed, and delivered by Buyer and constitutes the valid and binding agreement of Buyer, enforceable in accordance with and subject to its terms, except as enforceability may be limited by laws affecting the enforcement of creditors' rights or equitable principles generally. At the Closing, Buyer shall deliver to Seller copies of the separate resolutions of Buyer's stockholders and directors authorizing the execution of this Agreement and the consummation of the transaction contemplated hereby.

**3.3.   Brokers.** There is no broker or finder or other person who would, as a result of any agreement of or action taken by Buyer, have any valid claim against any of the parties to this Agreement for a commission or brokerage fee in connection with this Agreement or the transactions contemplated herein.

**3.4.   Litigation.** There is no litigation, proceeding, or investigation of any nature pending or, to Buyer's knowledge, threatened against or affecting Buyer that would affect Buyer's ability to carry out the transactions contemplated herein.

**3.5.   Qualification as a Broadcast Owner.** Buyer is qualified (without any waiver) under the Act and the published rules and policies of the FCC to be the assignee of the Membership Interest and the transferee of control of the FCC Licenses.



**3.6. Financial Resources.** Buyer has on hand or access to sufficient monies to fulfill its financial obligations under this Agreement.

#### **ARTICLE 4. FCC Application.**

Within ten (10) days after execution of this Agreement, Seller and Buyer shall prepare and file an appropriate application (the "Application") with the FCC requesting its written consent to the assignment of the Membership Interest from Seller to Buyer and, with such assignment, the transfer of control of the Station. Each party shall diligently take, or cooperate in the taking of, all steps reasonably necessary and appropriate to prosecute the Application to a favorable conclusion. Each party shall promptly provide the other party with a copy of any pleading, order, or other communication to or from the FCC with respect to the Application. Each party shall use commercially reasonable efforts and otherwise cooperate with the other party in responding to any information requested by the FCC related to the Application, in preparing any amendment to the Application requested by the FCC which does not adversely affect such party in a material manner, and in defending against any petition, complaint, or objection which may be filed against the Application. The FCC filing fees for the Application shall be split equally between Seller and Buyer.

#### **ARTICLE 5. Covenants of Seller Pending Closing.**

Seller covenants and agrees that, from the date of this Agreement to and including the Closing Date, subject to the provisions of this Agreement, it will take, or, as the case may be, refrain from taking, the following actions:

**5.1. Representations and Warranties.** Seller shall give notice to Buyer promptly upon the occurrence of, or upon becoming aware of the impending or threatened occurrence of, any event that would cause or constitute a material breach of any of Seller's representations or warranties in this Agreement.

**5.2. Notice of Proceedings.** Seller will promptly (and in any event within five (5) business days) notify Buyer upon becoming aware of any actual or threatened claim, dispute, arbitration, litigation, complaint, judgment, order, decree, action or proceeding relating to Seller, Coloma Mojave, the Station, or the consummation of this Agreement.

**5.3. Confidential Information.** Seller shall not disclose to third parties any information received from Buyer or its agents in the course of investigating, negotiating, and consummating the transaction contemplated by this Agreement (all of which will be deemed confidential information): provided, that no information shall be deemed to be confidential that (1) becomes publicly known or available other than through disclosure by Seller; (2) is rightfully received by Seller from a third party who does not breach any obligation to Buyer; or (3) is independently developed by Seller. In the event this Agreement is terminated without any Closing, all originals of all material provided to Seller by Buyer or its agents shall be returned to Buyer and all copies thereof shall be destroyed.

**5.4. Consummation of Agreement.** Seller shall fulfill and perform all conditions and obligations to be fulfilled and performed by Seller under this Agreement and use commercially reasonable efforts to cause the transaction contemplated by this Agreement to be fully carried out.

**5.5. Compliance with Law.** Seller will comply in all material respects with all applicable federal, state and local laws, ordinances and government regulations, including but not limited to the Act and the published rules and policies of the FCC.

**5.6. Preservation of Station Assets.** Seller shall use commercially reasonable efforts to preserve the Station Assets intact without adverse modification (except for those non-material Station Assets disposed of or consumed in the ordinary course of business) and, to that end, shall not (1) enter into any contract to be included in the Station Assets without Buyer's prior written consent except for those contracts which are non-material (meaning those with a value over the life of the contract under \$5,000) or those contracts that can be terminated by Buyer after Closing without penalty, (2) subject to the LMA, preserve the Station's relations with vendors, advertisers and other parties doing business with the Station, and (3) not enter into any employment or collective bargaining agreement or provide any increases in compensation to its employees except in the ordinary course of business.

**5.7. Preservation of Membership Interest.** Seller shall not enter into any agreement or otherwise execute any document that would provide any third party with any existing or future ownership interest in the Membership Interest.

## **ARTICLE 6. Covenants of Buyer Pending the Closing.**

Buyer covenants and agrees that, from the date of this Agreement to and including the Closing Date, it will take, or as the case may be, refrain from taking, the following actions:

**6.1. Representation and Warranties.** Buyer shall give written notice to Seller promptly (and in any event within five (5) business days) upon the occurrence of, or upon becoming aware of the impending or threatened occurrence of, any event that would cause or constitute a material breach of any of the representations and warranties of Buyer in this Agreement.

**6.2. Confidential Information.** Buyer shall not disclose to third parties any information received from Seller or its agents in the course of investigating, negotiating, and consummating the transaction contemplated by this Agreement (all of which will be deemed confidential information): provided, that no information shall be deemed to be confidential that (1) becomes publicly known or available other than through disclosure by Buyer; (2) is rightfully received by Buyer from a third party who does not breach any obligation to Seller; or (3) is independently developed by Buyer. In the event this Agreement is terminated without any Closing, all originals of material provided by Seller to Buyer or its agents shall be returned to Seller and all copies thereof destroyed.

**6.3. Consummation of Agreement.** Buyer shall fulfill and perform in all material respects all conditions and obligations to be fulfilled and performed by Buyer under this Agreement and make every reasonable effort to cause the transaction contemplated by this Agreement to be fully carried out and, to that end, shall not take any action that would adversely affect Buyer's qualifications under FCC rules and policies to be the transferee of the FCC Licenses.

**6.4. Notice of Proceedings.** Buyer will promptly (and in any event within five (5) business days) notify Seller upon becoming aware of any actual or threatened claim, dispute, arbitration, litigation, complaint, judgment, order, decree, action or proceeding relating to Buyer or the consummation of this Agreement.

## **ARTICLE 7. Conditions Precedent to Obligations of Seller to Close.**

The obligation of Seller to consummate the transaction contemplated by this Agreement is subject to the fulfillment of the following conditions prior to or at the Closing:

### **7.1. Buyer's Representations, Warranties, and Covenants.**

**7.1.1. Buyer's Representations and Warranties.** Each of the representations and warranties of Buyer contained in this Agreement shall have been true and accurate in all material respects as of the date when made and as of the Closing Date;

**7.1.2. Buyer's Performance Under Agreement.** Buyer shall have performed and complied in all material respects with each and every covenant and agreement required by this Agreement to be performed or complied with by Buyer prior to or at the Closing, other than the delivery by Buyer of the consideration described in Section 1.2.; and

**7.1.3. Buyer's Deliveries.** Buyer shall have delivered to Seller (a) a certificate executed by an officer of Buyer, dated the Closing Date, certifying to the fulfillment of the conditions set forth in Sections 6.1.1. and 6.1.2 and (b) the resolutions referenced in Section 3.2.

### **7.2. Proceedings.**

**7.2.1. Absence of Litigation.** No action or proceeding shall be pending or have been instituted before any court or governmental body to restrain or prohibit, or to obtain substantial damages in respect of, the consummation of this Agreement that, in the reasonable opinion of Seller, may be expected to result in the issuance of a preliminary or permanent injunction against such consummation or otherwise result in a decision materially adverse to Seller.

**7.2.2. Absence of Investigation.** Neither of the parties to this Agreement shall have received written notice from any governmental body of (1) its intention to

institute any action or proceeding to restrain or enjoin or nullify this Agreement or the transaction contemplated hereby or to commence any investigation into the consummation of this Agreement or (2) the actual commencement of such an investigation.

**7.3. FCC Approval.** The FCC Order shall have been obtained without any conditions materially adverse to Seller.

## **ARTICLE 8. Conditions Precedent to Obligations of Buyer to Close.**

The obligation of Buyer to consummate the transaction contemplated by this Agreement is subject to the fulfillment of the following conditions prior to or at the Closing:

### **8.1. Seller's Representations, Warranties, and Covenants.**

**8.1.1. Seller's Representations and Warranties.** Each of the representations and warranties of Seller contained in this Agreement shall have been true and accurate in all material respects as of the date when made and as of the Closing Date;

**8.1.2. Seller's Performance Under Agreement.** Seller shall have performed and complied in all material respects with each and every covenant and agreement required by this Agreement to be performed or complied with by it prior to or at the Closing; and

**8.1.3. Seller's Deliveries.** Seller shall have delivered to Buyer (a) a certificate executed by Seller's Managing Member, dated the Closing Date, certifying to the fulfillment of the conditions set forth in Sections 7.1.1 and 7.1.2, (b) documents executed by Seller sufficient to convey the Membership Interest to Buyer upon Buyer's provision of the consideration to Seller under Section 1.2 of this Agreement, and (c) the resolution referenced in Section 2.2.

### **8.2. Proceedings.**

**8.2.1. Absence of Litigation.** No action or proceeding shall be pending or have been instituted before any court or governmental body to restrain or prohibit, or to obtain substantial damages in respect of, the consummation of this Agreement that, in the reasonable opinion of Buyer, may be expected to result in the issuance of a preliminary or permanent injunction against such consummation or otherwise result in a decision materially adverse to Buyer.

**8.2.2. Absence of Investigation.** Neither of the parties to this Agreement shall have received written notice from any governmental body of (1) its intention to institute any action or proceeding to restrain or enjoin or nullify this Agreement or the transactions contemplated hereby or to commence any investigation into the consummation of this Agreement or (2) the actual commencement of such an investigation.

**8.3. FCC Approval.** The FCC Order contemplated by this Agreement shall have been obtained without any conditions materially adverse to Buyer and shall have become a Final Order: provided, that Buyer shall have the unilateral right to waive the requirement that the Order become a Final Order.

## **ARTICLE 9. Indemnification.**

**9.1. Survival.** The several representations, warranties, covenants, and agreements of Seller and Buyer contained in or made pursuant to this Agreement shall be deemed to have been made on and as of the Closing, shall survive the Closing, and shall remain operative and in full force and effect for a period of twelve (12) months after the Closing: provided, that there shall be no limitation on the discharge of liabilities which Seller and Buyer, as the case may be, retain or assume in accordance with the provisions of this Agreement.

**9.2. Indemnification of Buyer.** Seller shall indemnify, defend, and hold Buyer and its stockholders, directors, officers, and agents (who, for purposes of this Article, are included in the definition of “Buyer”) harmless from and against any and all damages, claims, losses, expenses, costs, obligations, and liabilities including, without limiting the generality of the foregoing, reasonable attorneys’ fees (collectively “Loss and Expense”), suffered, directly or indirectly, by Buyer after the Closing Date by reason of, or arising out of, (1) any breach of a representation or warranty made by Seller pursuant to this Agreement, (2) any failure by Seller to perform or fulfill any of its covenants or agreements set forth in this Agreement, or (3) any failure of Seller to discharge any liability retained by Seller hereunder.

**9.3. Indemnification of Seller.** Buyer shall indemnify, defend and hold Seller and its members, officers, and agents (who, for purposes of this Article, are included in the definition of “Seller”) harmless from and against any and all Loss and Expense suffered, directly or indirectly, by Seller after the Closing Date by reason of, or arising out of, (1) any breach of a representation or warranty made by Buyer pursuant to this Agreement, (2) any failure by Buyer to perform or fulfill any of its covenants or agreements set forth in this Agreement, or (3) any liability relating to the ownership of the Membership Interest or the Station Assets after Closing.

**9.4. Notice of Claim.** If Seller or Buyer believes that any Loss and Expense has been suffered or incurred, such party shall notify the other promptly in writing describing such Loss and Expense, the amount thereof, if known, and the method of computation of such Loss and Expense, all with reasonable particularity and containing a reference to the provisions of this Agreement in respect of which such Loss and Expense shall have occurred. If any action at law or suit in equity is instituted by a third party with respect to which any of the parties intends to claim any liability or expense as Loss and Expense under this Article, such party shall promptly notify the indemnifying party of such action or suit. In no event, however, may the indemnifying party avoid or limit its obligations under this Article by reason of delay unless such delay has materially prejudiced the indemnifying party, and then the indemnifying party’s obligations shall be reduced only to the extent of such prejudice.

**9.5. Defense of Third Party Claims.** The indemnifying party under this Article shall have the right to conduct and control, through counsel of that party's own choosing, any third party claim, action, or suit at the indemnifying party's sole cost and expense, but the indemnified party may, at that latter party's election, participate in the defense of any such claim, action, or suit at that party's sole cost and expense: provided, that if the indemnifying party shall fail to defend any such claim, action, or suit, then the indemnified party may defend, through counsel of that party's own choosing, such claim, action, or suit and settle such claim, action, or suit, and recover from the indemnifying party the amount of such settlement or of any judgment and the costs and expenses of such defense; and provided further, that the indemnifying party shall be given at least (15) days prior notice of the terms of any proposed settlement thereof so that the indemnifying party may then undertake and/or resume the defense against the claim. The indemnifying party shall not compromise or settle any third party claim, action, or suit without the prior written consent of the indemnified party, which consent shall not be unreasonably withheld or delayed: provided, that any such compromise or settlement shall include a release for the Indemnified Party of all liability with respect to the matter being compromised or settled.

**9.6. Limitations.** No party shall be required to indemnify any other party under this Article unless written notice of a claim was received by the party within the pertinent survival period specified in Section 9.1.

## **ARTICLE 10. Termination.**

**10.1. Circumstances for Termination.** This Agreement may be terminated immediately on or prior to the Closing under one or more of the following circumstances:

**10.1.1.** by the mutual consent of the parties hereto;

**10.1.2.** by Seller, so long as Seller is not in material breach of any representation, warranty, covenant or obligation hereunder, if any of the conditions provided in Article 7 hereof have not been met by the time required and have not been waived;

**10.1.3.** by Buyer, so long as Buyer is not in material breach of any representation, warranty, covenant or obligation hereunder, if any of the conditions provided in Article 8 hereof have not been met by the time required and have not been waived;

**10.1.4.** by either party, if the FCC has failed to grant the Application in an Order within the time specified in Section 1.4 of this Agreement or, if the Order has been released within that time frame, become a Final Order within eighteen (18) months after the date of this Agreement (unless Buyer has waived the requirement that the Order became a Final Order); or

**10.1.5.** by any party hereto, if the FCC denies the Application or designates the Application for hearing in an Order which has become a Final Order.

**10.2. Liabilities Upon Termination.**

**10.2.1. Seller's Remedies.** If the parties shall fail to consummate the transaction contemplated by this Agreement due to Buyer's material breach of any representation, warranty, covenant or obligation hereunder, and Seller is not at that time in material breach of any representation, warranty, covenant or obligation hereunder, then Seller would suffer direct and substantial damages that cannot be determined with reasonable certainty. In view of the expense and loss which would be incurred by Seller, Seller shall be entitled to specific performance of the terms of this Agreement and of Buyer's obligation to consummate the transaction contemplated hereby, the parties recognizing that the financial parameters of the agreements between Seller and Buyer (including the Option Agreement) constitute a unique arrangement and that Buyer's failure to consummate the transaction contemplated hereunder would cause irreparable damages to Seller. If any action is brought by Seller to enforce this Agreement by specific performance, Buyer shall waive the defense that Seller has an adequate remedy at law.

**10.2.2. Buyer's Remedies.** If the parties shall fail to consummate this Agreement due to Seller's material breach of any representation, warranty, covenant or obligation hereunder, and Buyer is not at that time in material breach of any representation, warranty, covenant or obligation hereunder, then Buyer shall be entitled to specific performance of the terms of this Agreement and of Seller's obligation to consummate the transaction contemplated hereby, the parties recognizing that the Membership Interest and the Station Assets constitute unique assets and that any inability of Buyer to acquire the Membership Interest could cause irreparable damages to Buyer. If any action is brought by Buyer to enforce this Agreement by specific performance, Seller shall waive the defense that Buyer has an adequate remedy at law.

**10.3. Notice of Breach.** In the event that any party to this Agreement believes that the other party is in material breach of its representations, warranties, covenants, or obligations hereunder, such party shall give prompt written notice thereof, detailing the nature of the breach and the steps necessary to cure such breach. For purposes of this Agreement, no breach shall be deemed to have occurred hereunder unless the party alleged to be in breach has been afforded a cure period of at least thirty (30) business days following such notice within which to cure such breach.

**10.4. Survival of Confidentiality Obligations.** Notwithstanding any other provision of this Agreement, the provisions of Sections 5.3 and 6.2 shall survive any termination of this Agreement.

## **ARTICLE 11. Miscellaneous.**

**11.1. Expenses.** Except as otherwise provided herein, each party shall be solely responsible for all fees and expenses each party incurs in connection with the transaction contemplated by this Agreement, including, without limitation, legal fees incurred in connection herewith: provided, that FCC filing fees shall be shared equally by Seller and Buyer.

**11.2. Assignment.** Neither party may assign its rights or obligations under this Agreement without the prior written consent of the other party: provided, that Buyer may assign its rights and obligations under this Agreement without the prior written consent of Seller to any party which (1) is controlled by Buyer, or (2) is controlled by the same parties who control Buyer: and, provided further, that no such assignment shall relieve Buyer of its obligations hereunder.

**11.3. Further Assurances.** From time to time prior to, at and after the Closing, each party shall execute all such instruments and take all such actions the other party shall reasonably request in connection with effectuating the intent and purpose of this Agreement and the transaction contemplated by this Agreement, including, without limitation, the execution and delivery of any and all confirmatory and other instruments in addition to those to be delivered at the Closing.

**11.4. Notices.** All notices and other communications authorized or required by this Agreement shall be in writing, shall be delivered by hand, or by overnight delivery service (charges prepaid), and shall be deemed to have been given or made when delivered or (in the case of overnight delivery) when delivery is attempted at the party's address. Notices shall be delivered to each party at the following addresses or facsimile number (or at such other address or facsimile number as either party may designate in writing to the other):

If to Seller –

Scott Donohue, Managing Member  
Coloma Broadcasting, LLC  
601 Belvedere Street  
San Francisco, California 94117

With copy to:

Lewis J. Paper, Esq.  
Dickstein Shapiro, LLP  
1825 Eye Street, NW  
Washington, DC 20006-5403

To Buyer:

Point Broadcasting Company  
Suite 320  
715 Broadway  
Santa Monica, CA 90401  
Attention: John Hearne, President



With copy to:

David D. Oxenford, Jr., Esq.  
Davis Wright Tremaine LLP  
1919 Pennsylvania Ave., NW  
Suite 800  
Washington, DC 20006-3401

**11.5. Law Governing.** This Agreement shall be governed by the laws of the State of California without regard to conflict of laws provisions.

**11.6. Waiver of Provisions.** The terms, covenants, representations, warranties, and conditions of this Agreement may be waived only by a written instrument executed by the party waiving compliance. The failure of any party at any time or times to require performance of any provision of this Agreement shall not affect the exercise of a party's rights at a later date. No waiver by any party of any condition or the breach of any provision, term, covenant, representation, or warranty contained in this Agreement in any one instance shall be deemed to be or construed as a further or continuing waiver of any such condition or of the breach of any other provision, term, covenant, representation, or warranty of this Agreement in any other instance.

**11.7. Counterparts.** This Agreement may be executed in counterparts, and all counterparts shall collectively constitute one agreement, binding on the parties, notwithstanding that all the parties are not signatory to the same counterpart.

**11.8. Reimbursement of Legal Expenses.** If a formal legal proceeding is instituted by a party to enforce that party's rights under this Agreement, the party prevailing in the proceeding shall be reimbursed by the other party for all reasonable costs incurred thereby, including but not limited to reasonable attorneys' fees.

**11.9. Publicity.** Except as required by applicable law or with the other party's express written consent, which shall not be unreasonably withheld, no party to this Agreement nor any affiliate of any party shall issue any press release or make any public statement (oral or written) regarding the transactions contemplated by this Agreement.

**11.10 Entire Agreement.** This Agreement constitutes the entire agreement among the parties, supersedes and cancels any and all prior or contemporaneous agreements and understandings between them, and may not be amended except in a writing signed by the parties.

## **ARTICLE 12. Rules of Construction.**

**12.1. Defined Terms.** As used in this Agreement, the following terms shall have the following meanings:

12.1.1. “Closing” and “Closing Date” shall have the meanings ascribed in Section 1.3.1 hereof.

12.1.2. “FCC” means the Federal Communications Commission.

12.1.3. “Internet Items” means all Internet Domain leases and Domain names of the Station, the unrestricted right to the use of HTML content located and publicly accessible from those Domain names, and the “visitor” email data base for those sites.

12.1.4. “Marketing Items” means all trademarks, call signs, service marks, franchises, patents, trade names, jingles, fictitious names, slogans, and logotypes owned and used by Seller in connection with the operation of the Stations.

12.1.5. “Membership Interest” shall have the meaning ascribed in Recital 1 hereof.

12.1.6. “Programming Items” means all programs and programming materials and elements of whatever form or nature owned or licensed for use by Seller and used or useful in the operation of the Stations, whether recorded on tape or any other medium or intended for live performance, and whether completed or in production, and all related common law and statutory copyrights owned or licensed for use by Seller and used or useful in the operation of the Station.

12.1.7. “Purchase Price” shall have the meaning ascribed in Section 1.2.1 hereof.

12.1.8. “Station” shall have the meaning ascribed in Recital 1 hereof.


**12.2. Other Definitions.** Other capitalized terms used in this Agreement shall have the meanings ascribed to them herein.

**12.3. Number and Gender.** Whenever the context so requires, words used in the singular shall be construed to mean or include the plural and vice versa, and pronouns of any gender shall be construed to mean or include any other gender or genders.


**12.4. Headings and Cross-references.** Section headings have been included for convenience of reference only and shall in no way limit or affect the meaning or interpretation of the specific provisions of this Agreement. All cross-references to sections herein shall mean the section of this Agreement unless otherwise stated or clearly required by the context. Words such as “herein” and “hereof” shall be deemed to refer to this Agreement as a whole and not to any particular provision of this Agreement unless otherwise stated or clearly required by the context. The term “including” means “including without limitation.”

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the day and year written above.

COLOMA BROADCASTING, LLC

By:   
Name: Scott Donohue  
Title: Managing Director

POINT BROADCASTING COMPANY

By:   
Name: JOHN HEARNE  
Title: PRESIDENT

## Schedule 1

### FCC Licenses



United States of America  
**FEDERAL COMMUNICATIONS COMMISSION**  
**FM BROADCAST STATION LICENSE**

Official Mailing Address:

COLOMA MOJAVE, LLC  
601 BELVEDERE STREET  
SAN FRANCISCO CA 94117

Authorizing Official:

*Penelope A Dade*

Penelope A. Dade  
Supervisory Analyst  
Audio Division  
Media Bureau

Facility Id: 164156

Call Sign: KCEL

License File Number: BMLH-20101130API

Grant Date: DEC 14 2010

This license expires 3:00 a.m.  
local time, December 01, 2013.

This license modifies license no.: BLH-20081124AHR Dated 12/18/2008

Subject to the provisions of the Communications Act of 1934, subsequent acts and treaties, and all regulations heretofore or hereafter made by this Commission, and further subject to the conditions set forth in this license, the licensee is hereby authorized to use and operate the radio transmitting apparatus herein described.

This license is issued on the licensee's representation that the statements contained in licensee's application are true and that the undertakings therein contained so far as they are consistent herewith, will be carried out in good faith. The licensee shall, during the term of this license, render such broadcasting service as will serve the public interest, convenience, or necessity to the full extent of the privileges herein conferred.

This license shall not vest in the licensee any right to operate the station nor any right in the use of the frequency designated in the license beyond the term hereof, nor in any other manner than authorized herein. Neither the license nor the right granted hereunder shall be assigned or otherwise transferred in violation of the Communications Act of 1934. This license is subject to the right of use or control by the Government of the United States conferred by Section 606 of the Communications Act of 1934.

Call sign: KCEL

License No.: BMLH-20101130API

Name of Licensee: COLOMA MOJAVE, LLC

Station Location: CA-MOJAVE

Frequency (MHz): 96.1

Channel: 241

Class: A

Hours of Operation: Unlimited

Transmitter: Type Accepted. See Sections 73.1660, 73.1665 and 73.1670 of the Commission's Rules.

Transmitter output power: .52 kW

Antenna type: Non-Directional

Description: ERI LPX-4C-HW

Antenna Coordinates: North Latitude: 35 deg 05 min 38 sec

West Longitude: 118 deg 16 min 00 sec

	Horizontally Polarized Antenna	Vertically Polarized Antenna
Effective radiated power in the Horizontal Plane (kW):	.63	.63
Height of radiation center above ground (Meters):	39	39
Height of radiation center above mean sea level (Meters):	1466	1466
Height of radiation center above average terrain (Meters):	251	251

Antenna structure registration number: Not Required

Overall height of antenna structure above ground: 44 Meters

Obstruction marking and lighting specifications for antenna structure:

It is to be expressly understood that the issuance of these specifications is in no way to be considered as precluding additional or modified marking or lighting as may hereafter be required under the provisions of Section 303(q) of the Communications Act of 1934, as amended.

None Required

Special operating conditions or restrictions:

- 1 The permittee/licensee in coordination with other users of the site must reduce power or cease operation as necessary to protect persons having access to the site, tower or antenna from radiofrequency electromagnetic fields in excess of FCC guidelines.

Callsign: KCEL

License No.: BMLH-20101130API

Special operating conditions or restrictions:

2 \*\*\*\*\* This is a Section 73.215 contour protection grant \*\*\*\*\*  
\*\*\*\*\* as requested by this applicant \*\*\*\*\*

3 The licensee has demonstrated compliance with the FCC radiofrequency electromagnetic field exposure guidelines based upon the usage of the antenna specified herein. If the licensee makes any changes in facilities via modification of license application in accordance with 47 CFR section 73.1690(c), the subsequent Form 302-FM, application for license, must include a revised RF field showing to demonstrate continued compliance with the FCC guidelines.

\*\*\* END OF AUTHORIZATION \*\*\*