

Cumulus Licensing Corp.
WHLZ(FM), Manning, South Carolina
FCC Form 314, SectionII, Item 3
Exhibit 4

ASSET PURCHASE AGREEMENT

THIS ASSET PURCHASE AGREEMENT (this "Agreement") is made as of July __, 2001, among the company or companies designated as Cumulus on the signature page hereto (collectively, "Cumulus"), and Apex Broadcasting, Inc., a Mississippi corporation ("Buyer").

Recitals

A. Cumulus owns and operates radio broadcast station WHLZ (FM), Manning, South Carolina (the "Station") pursuant to certain authorizations issued by the Federal Communications Commission (the "FCC").

B. Subject to the terms and conditions set forth herein, Cumulus desires to sell the Station Assets (defined below) to Buyer for cash in the amount of Three Million Dollars (\$3,000,000), and Buyer desires to so acquire the Station Assets.

Agreement

NOW, THEREFORE, taking the foregoing into account, and in consideration of the mutual covenants and agreements set forth herein, the parties, intending to be legally bound, hereby agree as follows:

ARTICLE 1: SALE OF ASSETS

1.1 Station Assets. On the terms and subject to the conditions hereof, on the Closing Date (defined below), Cumulus shall assign, transfer, convey and deliver to Buyer and Buyer shall acquire from Cumulus, all of the right, title and interest of Cumulus in and to all of the assets, properties, interests and rights of Cumulus of whatsoever kind and nature, real and personal, tangible and intangible, which are used exclusively in the operation of the Station, including without limitation those specifically described in this Section 1.1, but excluding the Excluded Assets as hereafter defined (the "Station Assets"):

(a) all licenses, permits and other authorizations which are issued to Cumulus by the FCC with respect to the Station (the "FCC Licenses"), including without limitation those described on Schedule 1.1(a), including any renewals or modifications thereof between the date hereof and Closing;

(b) all equipment, electrical devices, antennae, cables, tools, hardware, office furniture and fixtures, office materials and supplies, inventory, motor vehicles, spare parts and other tangible personal property of every kind and description which are used exclusively in the operation of the Station, including without limitation those listed on Schedule 1.1(b), except any retirements or dispositions thereof made between the date hereof and Closing in the ordinary

course of business and consistent with past practices of Cumulus (the “Tangible Personal Property”);

(c) all Time Sales Agreements and Trade Agreements (both defined in Section 2.1), Real Property Leases (defined in Section 6.7), and other contracts, agreements, and leases which are used exclusively in the operation of the Station, including without limitation those listed on Schedule 1.1(c), together with all contracts, agreements, and leases made between the date hereof and Closing in the ordinary course of business that are used exclusively in the operation of the Station (the “Station Contracts”);

(d) all of Cumulus’s rights in and to the Station’s call letters and Cumulus’s rights in and to the other intangible property which are used exclusively in the operation of the Station, including without limitation that listed on Schedule 1.1(d) (the “Intangible Property”);

(e) Cumulus’s rights in and to all the files, documents, records, and books of account (or copies thereof) relating exclusively to the operation of the Station, including the Station’s local public files, programming information and studies, blueprints, technical information and engineering data, advertising studies, marketing and demographic data, sales correspondence, lists of advertisers, credit and sales reports, and logs, but excluding records relating to the Excluded Assets (defined below);

(f) any real property which is used exclusively in the operation of the Station (including any of Cumulus’s appurtenant easements and improvements located thereon) , including without limitation those described on Schedule 1.1(f) (the “Real Property”);

(g) any and all claims and rights against third parties if and to the extent that they relate to the Station Assets, including, without limitation, all rights under manufacturers’ and vendors’ warranties;

(h) all deposits, reserves and prepaid expenses relating to the Station and prepaid taxes relating to the Station or the Station Assets; and

(i) all of Cumulus’s goodwill in, and going concern value of, the Station.

The Station Assets shall be transferred to Buyer free and clear of liens, claims and encumbrances (“Liens”) except for (i) Assumed Obligations (defined below), (ii) liens for taxes not yet due and payable and for which Buyer receives a credit pursuant to Section 3.1, (iii) such liens, easements, rights of way, building and use restrictions, exceptions, reservations and limitations that do not in any material respect detract from the value of the property subject thereto or impair the use thereof in the ordinary course of the business of the Station, and (iv) any items listed on Schedule 1.1(b) or Schedule 1.1(f) (collectively, “Permitted Liens”).

1.2 Excluded Assets. Notwithstanding anything to the contrary contained herein, the Station Assets shall not include the following assets along with all rights, title and interest therein (the “Excluded Assets”):

(a) all cash and cash equivalents of Cumulus, including without limitation certificates of deposit, commercial paper, treasury bills, marketable securities, asset or money market accounts and all such similar accounts or investments;

(b) all accounts receivable or notes receivable arising in the operation of the Station prior to Closing;

(c) all tangible and intangible personal property of Cumulus disposed of or consumed in the ordinary course of business of Cumulus between the date of this Agreement and Closing;

(d) all Station Contracts that terminate or expire prior to Closing in the ordinary course of business of Cumulus;

(e) Cumulus's name, corporate minute books, charter documents, corporate stock record books and such other books and records as pertain to the organization, existence or share capitalization of Cumulus, duplicate copies of the records of the Station, and all records not relating exclusively to the operation of the Station;

(f) contracts of insurance, and all insurance proceeds or claims made thereunder;

(g) all pension, profit sharing or cash or deferred (Section 401(k)) plans and trusts and the assets thereof and any other employee benefit plan or arrangement and the assets thereof, if any, maintained by Cumulus; and

(h) all rights, properties and assets described on Schedule 1.2(h), and all rights, properties and assets not specifically described in Section 1.1.

1.3 Purchase Price.

(a) Purchase Price. The purchase price to be paid for the Station Assets will be Three Million Dollars (\$3,000,000) in cash as adjusted pursuant to Section 3.1 hereof (the "Purchase Price").

(b) Method of Payment. Upon Closing, the Purchase Price shall be paid by Buyer by wire transfer of immediately available funds pursuant to written instructions of Cumulus to be delivered by Cumulus to Buyer prior to Closing.

ARTICLE 2: ASSUMPTION OF OBLIGATIONS

2.1 Assumed Obligations. On the Closing Date, Buyer shall assume the obligations of Cumulus (the "Assumed Obligations") arising after Closing under the Station Contracts, including without limitation all agreements for the sale of advertising time on the Station for cash in the ordinary course of business ("Time Sales Agreements") and all agreements for the sale of advertising time on the Station for non-cash consideration ("Trade Agreements"). Seller retains and shall hereafter pay, satisfy, discharge, perform and fulfill all obligations and liabilities not expressly assumed by Buyer hereunder as they become due, without any charge or cost to Buyer, and Seller agrees to indemnify and hold Buyer and its successors and assigns harmless from and against any and all such liabilities in accordance with the terms of Article 15.

2.2 Retained Obligations. Buyer does not assume or agree to discharge or perform and will not be deemed by reason of the execution and delivery of this Agreement or any agreement, instrument or document delivered pursuant to or in connection with this Agreement

or otherwise by reason of the consummation of the transactions contemplated hereby, to have assumed or to have agreed to discharge or perform, any liabilities, obligations or commitments of Cumulus of any nature whatsoever whether accrued, absolute, contingent or otherwise and whether or not disclosed to Buyer, other than the Assumed Obligations (the “Retained Obligations”).

ARTICLE 3: ADJUSTMENTS, ETC.

3.1 Prorations and Adjustments.

(a) Except as otherwise provided herein, and consistent with the terms of the Local Marketing Agreement contemplated by Section 10.4, reserves and prepaid and deferred income and expenses arising from the conduct of the business and operations of the Station shall be prorated in accordance with generally accepted accounting principles as of 11:59 p.m. on the date immediately preceding the Closing Date. Such prorations shall include, without limitation, all ad valorem, real estate and other property taxes, business and license fees, music and other license fees (including any retroactive adjustments thereof), utility expenses, amounts due or to become due under contracts, rents, lease payments and similar prepaid and deferred items. Real estate taxes shall be apportioned on the basis of taxes assessed for the preceding year, with a reapportionment, if any, as soon as the new tax rate and valuation can be ascertained. The prorations and adjustments contemplated by this Section 3.1 shall be made within ninety (90) calendar days of the Closing Date. In the event of any disputes between the parties as to such adjustments, the amounts not in dispute shall nonetheless be paid at the time provided herein and such disputes shall be resolved by an independent certified public accountant mutually acceptable to the parties, the determination of which shall be final and binding on the parties, and the fees and expenses of such accountant shall be paid one-half by Cumulus and one-half by Buyer. Promptly following agreement or final determination regarding the prorations contemplated by this Section 3.1(a), a cash payment in respect of such prorations shall be made by Cumulus to Buyer or by Buyer to Cumulus, as the case may be.

(b) With respect to Trade Agreements assumed by Buyer pursuant to Section 2.1, if any, if there exists on the date of assumption an aggregate negative barter balance (i.e., the amount by which the value of air time (based upon the Station’s then prevailing rates) to be provided exceeds the fair market value of goods or services to be received therefor), then such excess will be treated as prepaid time sales and adjusted for as a proration in Buyer’s favor. If, however, there exists on such date an aggregate positive barter balance (i.e., the amount by which the value of airtime (based upon the Station’s then prevailing rates) to be provided is less than the fair market value of goods or services to be received therefor) with respect to Trade Agreements assumed by Buyer, there shall be no proration in Cumulus’s favor.

3.2 Allocations.

The values of the assets comprising the Station Assets shall be determined by agreement between the parties or if the parties are unable to so agree, by an appraisal (the “Appraisal”) prepared by Bond & Pecaro (whose fees shall be paid one-half by Cumulus and one-half by Buyer).

ARTICLE 4: CLOSING

4.1 Closing.

The consummation of the sale of assets under this Agreement (the “Closing”) shall occur on a date (the “Closing Date”) within ten (10) business days after the grant of FCC Consent (as such term is defined below), which date shall be mutually agreed upon by the parties and at a time and place mutually agreed upon by the parties, subject to satisfaction or waiver of the conditions to Closing contained herein (other than those to be satisfied at Closing).

ARTICLE 5: GOVERNMENTAL CONSENTS

Closing is subject to and conditioned upon prior FCC consent (the “FCC Consent”) to the assignment of the FCC Licenses to Buyer

5.1 FCC. Within ten business days of the date of this Agreement, Cumulus and Buyer shall file an application with the FCC (the “FCC Application”) requesting the FCC Consent. Cumulus and Buyer shall diligently prosecute the FCC Application and otherwise use their best efforts to obtain the FCC Consent as soon as possible.

5.2 General. Cumulus and Buyer shall notify each other of all documents filed with or received from any governmental agency (including the FCC) with respect to this Agreement or the transactions contemplated hereby. Cumulus and Buyer shall furnish each other with such information and assistance as such the other may reasonably request in connection with their preparation of any governmental filing hereunder. Without limiting the foregoing, Cumulus and Buyer shall cooperate with the FCC in connection with obtaining the FCC Consent, and shall promptly provide all information and documents requested by the FCC in connection therewith. If either Cumulus or Buyer becomes aware of any fact relating to it which would prevent or delay the FCC Consent, such party shall promptly notify the other party thereof and the parties shall use commercially reasonable efforts to remove such impediment.

ARTICLE 6: REPRESENTATIONS AND WARRANTIES OF CUMULUS

Cumulus makes the following representations and warranties to Buyer:

6.1 Organization. Cumulus is duly organized, validly existing and in good standing under the laws of the jurisdiction of its organization, and is qualified to do business in each jurisdiction in which the Station Assets are located. Cumulus has the requisite power and authority to execute and deliver this Agreement and all of the other agreements and instruments to be executed and delivered by Cumulus pursuant hereto (collectively, the “Cumulus Ancillary Agreements”), to consummate the transactions contemplated hereby and thereby and to comply with the terms, conditions and provisions hereof and thereof.

6.2 Authorization. The execution, delivery and performance of this Agreement and the Cumulus Ancillary Agreements by Cumulus have been duly authorized and approved by all necessary action of Cumulus and do not require any further authorization or consent of Cumulus. This Agreement is, and each Cumulus Ancillary Agreement when executed and delivered by Cumulus and the other parties thereto will be, a legal, valid and binding agreement of Cumulus enforceable in accordance with its respective terms, except in each case as such enforceability may be limited by bankruptcy, moratorium, insolvency, reorganization or other similar laws affecting or limiting the enforcement of creditors’ rights generally and except as such

enforceability is subject to general principles of equity (regardless of whether such enforceability is considered in a proceeding in equity or at law).

6.3 No Conflicts. Neither the execution and delivery by Cumulus of this Agreement and the Cumulus Ancillary Agreements or the consummation by Cumulus of any of the transactions contemplated hereby or thereby nor compliance by Cumulus with or fulfillment by Cumulus of the terms, conditions and provisions hereof or thereof will: (i) conflict with any organizational documents of Cumulus or any law, judgment, order, or decree to which Cumulus is subject or, except as set forth on Schedule 1.1(c), any Station Contract; or (ii) require the approval, consent, authorization or act of, or the making by Cumulus of any declaration, filing or registration with, any third party or any foreign, federal, state or local court, governmental or regulatory authority or body, except the FCC Consent.

6.4 FCC Licenses. Cumulus (or one of the companies comprising Cumulus) is the holder of the FCC Licenses described on Schedule 1.1(a). Such licenses constitute all of the licenses, authorizations and approvals required under the Communications Act of 1934, as amended (the "Communications Act"), or the rules, regulations and policies of the FCC for, and used in the operation of, the Station. The FCC Licenses are in full force and effect and have not been revoked, suspended, canceled, rescinded or terminated and have not expired. There is not pending any action by or before the FCC to revoke, suspend, cancel, rescind or materially adversely modify any of the FCC Licenses (other than proceedings to amend FCC rules of general applicability), and there is not now issued or outstanding, by or before the FCC, any order to show cause, notice of violation, notice of apparent liability, or notice of forfeiture against Cumulus with respect to the Station. The Station is operating in compliance in all material respects with the FCC Licenses, the Communications Act of 1934, as amended (the "Communications Act"), and the rules, regulations and policies of the FCC.

6.5 Taxes. Cumulus has, in respect of the Station's business, filed all foreign, federal, state, county and local income, excise, property, sales, use, franchise and other tax returns and reports which are required to have been filed by it under applicable law and has paid all taxes which have become due pursuant to such returns or pursuant to any assessments which have become payable.

6.6 Personal Property. Schedule 1.1(b) contains a list of all material items of Tangible Personal Property included in the Station Assets. Cumulus has title to the Tangible Personal Property free and clear of Liens other than Permitted Liens. All items of Tangible Personal Property, including without limitation equipment and electrical devices, are in good operating condition and repair (reasonable wear and tear in ordinary usage excepted), are free from material defect or damage, are functioning in the manner and for the purposes for which it was intended, have been maintained in accordance with industry standards in all material respects, and do not require any repairs or replacement other than normal routine maintenance to maintain them in good condition and repair (reasonable wear and use excepted).

6.7 Real Property. Schedule 1.1(f) contains a description of all Real Property included in the Station Assets. Cumulus has fee simple title to the owned Real Property ("Owned Real Property") free and clear of Liens other than Permitted Liens. Schedule 1.1(f) includes a description of each real property lease or similar agreement included in the Station Assets (the "Real Property Leases"). The Owned Real Property includes, and the Real Property

Leases provide, access to the Station's facilities. To Cumulus's knowledge, the Real Property is not subject to any suit for condemnation or other taking by any public authority. The Owned Property includes sufficient access to the Station's facilities without need to obtain any other access rights. The Real Property and all heating and air conditioning equipment, plumbing, electrical and other mechanical facilities, and the roof, walls and other structural components of the Real Property which are part of, or located in, the buildings, towers, transmitters, antennae, fixtures or improvements located hereon, (i) are in good operating condition and repair (reasonable wear and tear excepted), (ii) comply in all material respects with applicable zoning laws and the building, health, fire and environmental protection codes of all applicable governmental jurisdictions, (iii) have no material structural defects, (iv) are adequate and suitable for the purposes for which they are presently being used and (v) and do not require any material repairs other than normal routine maintenance to maintain them in good condition and repair, reasonable wear and use excepted. Seller shall deliver to Buyer copies of all title insurance policies in favor of Seller or any mortgagee of Seller applicable to the Real Property. Buyer may obtain, at Buyer's expense, commitments from a title company to issue to Buyer at ALTA extended coverage owner's and leasehold title insurance policies with respect to the Owned and leased Real Property (the "Title Commitments") and UCC, judgment and state and federal tax lien search reports necessary to assure that no Liens are filed or recorded against the Station Assets in the public records of the jurisdiction where the Station Assets are located (the "Lien Search Reports"). Buyer, at Buyer's expense, may also obtain a survey prepared pursuant to a current on the ground stated survey performed by a registered public surveyor or engineer (the "Survey").

6.8 Contracts. Each of the Station Contracts (including without limitation each of the Real Property Leases) is in effect and is binding upon Cumulus and, to Cumulus's knowledge, the other parties thereto (subject to bankruptcy, insolvency, reorganization or other similar laws relating to or affecting the enforcement of creditors' rights generally). Cumulus has performed its obligations under each of the Station Contracts in all material respects, and is not in material default thereunder, and to Cumulus's knowledge, no other party to any of the Station Contracts is in default thereunder in any material respect.

6.9 Environmental. Except as set forth on Schedule 1.1(f), to Cumulus's knowledge, no hazardous or toxic substance or waste regulated under any applicable environmental, health or safety law has been generated, stored, transported or released on, in, from or to the Real Property included in the Station Assets. Except as set forth on Schedule 1.1(f), to Cumulus's knowledge, Cumulus has complied in all material respects with all environmental, health and safety laws applicable to the Station. Except as disclosed on Schedule 6.9, there are no underground storage tanks, whether in use or closed, on or under the Real Property. Cumulus is in compliance in all material respects with all environmental, health and safety laws, and all FCC requirements pertaining to RF radiation and has obtained all environmental, health and safety permits necessary for the operation of the Station, all such permits are in full force and effect, and Cumulus is in compliance in all material respects with the terms and conditions of all such permits. Cumulus has not received any notice, nor does Cumulus have any knowledge of any administrative or judicial investigations, proceedings or actions with respect to violations, alleged, or proved, of any environmental, health and safety laws involving the Real Property.

6.10 Intangible Property. Schedule 1.1(d) contains a description of the material Intangible Property included in the Station Assets. Except as set forth on Schedule 1.1(d),

Cumulus has received no notice of any claim that its use of the Intangible Property infringes upon any third party rights. Except as set forth on Schedule 1.1(d), Cumulus owns or has the right to use the Intangible Property free and clear of Liens other than Permitted Liens.

6.11 Compliance with Law. Except as set forth on Schedule 6.11, Cumulus has complied in all material respects with all laws, regulations, rules, writs, injunctions, ordinances, franchises, decrees or orders of any court or of any foreign, federal, state, municipal or other governmental authority which are applicable to the operation of the Station. There is no action, suit or proceeding pending or threatened against Cumulus in respect of the Station that will subject Buyer to liability or which questions the legality or propriety of the transactions contemplated by this Agreement. To Cumulus's knowledge, there are no governmental claims or investigations pending or threatened against Cumulus in respect of the Station (except those affecting the industry generally).

6.12 No Finder. No broker, finder or other person (other than any such person the fees and commissions of which Cumulus shall be solely responsible for) is entitled to a commission, brokerage fee or other similar payment in connection with this Agreement or the transactions contemplated hereby as a result of any agreement or action of Cumulus or any party acting on Cumulus's behalf.

6.13 Financial Statements. Attached as Schedule 6.13 hereto are copies of (i) the unaudited balance sheets of the Station as of December 31, 1999, and December 31, 2000, and (ii) the unaudited statements of income of the Station for the calendar years ended December 31, 1999, and December 31, 2000 (the "Financial Statements"). The Financial Statements are complete and correct in all material respects, have been prepared from the books and records regularly maintained by Cumulus, and present fairly, and in all material respects, the financial position of the Station as of the dates thereof and the results of the Station's operations for the periods indicated thereby, in accordance with generally accepted accounting principles.

6.14 Litigation. Except as set forth on Schedule 6.14, there are no suits, arbitrations, administrative charges or other legal proceedings, claims or governmental investigations pending against, or, to Cumulus' knowledge, threatened against, the Station or Cumulus relating to or affecting the Station nor, to the best of the knowledge of Cumulus, is there any basis for any such suit, arbitration, administrative charge or other legal proceeding, claim or governmental investigation. Cumulus has not been operating the Station under or subject to, or in default with respect to, any judgment, order, writ, injunction or decree of any court or federal, state, municipal or other governmental department, commission, board, agency or instrumentality, foreign or domestic.

6.15 Disclosure. No provision or information contained in this Agreement relating to Cumulus, the Station or the Station Assets, or in any Schedule or Exhibit hereto, contains or will contain any untrue statement of a material fact or omits or will omit to state a material fact required to be stated in order to make the statement, in light of the circumstances in which it is made, not misleading. Except for facts affecting the radio industry generally, there is no adverse fact now known to Cumulus relating to the Station or the Station Assets which would have a material adverse impact on the Station Assets or the operation of the Station after the Closing which has not been disclosed to Buyer.

6.16 Insurance. Seller maintains insurance policies relating to the Stations and the Station Assets of types and in amounts customary in the radio broadcast industry. All of such policies are in full force and effect and Seller is not in default of any material provision thereof. Seller has not received notice from any such policies of its intention to cancel, terminate or refuse to renew any policy issued by it.

ARTICLE 7: REPRESENTATIONS AND WARRANTIES OF BUYER

Buyer makes the following representations and warranties to Cumulus:

7.1 Organization. Buyer is duly organized, validly existing and in good standing under the laws of the jurisdiction of its organization, and is qualified to do business in each jurisdiction in which the Station Assets are located. Buyer has the requisite power and authority to execute and deliver this Agreement and all of the other agreements and instruments to be executed and delivered by Buyer pursuant hereto (collectively, the “Buyer Ancillary Agreements”), to consummate the transactions contemplated hereby and thereby and to comply with the terms, conditions and provisions hereof and thereof.

7.2 Authorization. The execution, delivery and performance of this Agreement and the Buyer Ancillary Agreements by Buyer have been duly authorized and approved by all necessary action of Buyer and do not require any further authorization or consent of Buyer. This Agreement is, and each Buyer Ancillary Agreement when executed and delivered by Buyer and the other parties thereto will be, a legal, valid and binding agreement of Buyer enforceable in accordance with its respective terms, except in each case as such enforceability may be limited by bankruptcy, moratorium, insolvency, reorganization or other similar laws affecting or limiting the enforcement of creditors’ rights generally and except as such enforceability is subject to general principles of equity (regardless of whether such enforceability is considered in a proceeding in equity or at law).

7.3 No Conflicts. Neither the execution and delivery by Buyer of this Agreement and the Buyer Ancillary Agreements or the consummation by Buyer of any of the transactions contemplated hereby or thereby nor compliance by Buyer with or fulfillment by Buyer of the terms, conditions and provisions hereof or thereof will: (i) conflict with any organizational documents of Buyer or any law, judgment, order, or decree to which Buyer is subject or, (ii) require the approval, consent, authorization or act of, or the making by Buyer of any declaration, filing or registration with, any third party or any foreign, federal, state or local court, governmental or regulatory authority or body, except the FCC Consent.

7.4 No Finder. No broker, finder or other person (other than any such person the fees and commissions of which Buyer shall be solely responsible for) is entitled to a commission, brokerage fee or other similar payment in connection with this Agreement or the transactions contemplated hereby as a result of any agreement or action of Buyer or any party acting on Buyer’s behalf.

7.5 Qualification. Buyer is legally, financially and otherwise qualified to be the licensee of, acquire, own and operate the Station under the Communications Act and the rules, regulations and policies of the FCC. There are no facts that would, under existing law and the existing rules, regulations, policies and procedures of the FCC, disqualify Buyer as an assignee

of the FCC Licenses or as the owner and operator of the Buyer Station. No request by Buyer for waiver of any FCC rule or policy is necessary for the FCC Consent to be obtained. There is no action, suit or proceeding pending or threatened against Buyer which could materially adversely affect Buyer's ability to perform its obligations hereunder

7.6 Litigation. There are no suits, arbitrations, administrative charges or other legal proceedings, claims or governmental investigations pending against, or, to Buyer's knowledge, threatened against, Buyer relating to or affecting this Agreement or the transactions contemplated hereby, nor, to the best of the knowledge of Buyer, is there any basis for any such suit, arbitration, administrative charge or other legal proceeding, claim or governmental investigation.

ARTICLE 8: [INTENTIONALLY DELETED]

ARTICLE 9: COVENANTS

9.1 Cumulus's Covenants. Cumulus covenants and agrees with respect to the Station that between the date hereof and Closing, except as permitted by this Agreement or with the prior written consent of Buyer, which shall not be unreasonably withheld, Cumulus shall:

(a) operate the Station in the ordinary course of business consistent with past practice and in all material respects in accordance with FCC rules and regulations and with all other applicable laws, regulations, rules and orders;

(b) not, other than in the ordinary course of business in accordance with past practice, sell, lease or dispose of or agree to sell, lease or dispose of any of the Station Assets, or create, assume or permit to exist any Liens upon the Station Assets, except for Permitted Liens; and,

(c) furnish Buyer with such information relating to the Station Assets as Buyer may reasonably request, at Buyer's expense and provided such request does not interfere unreasonably with the business of the Station; and

(d) keep all Tangible Personal Property and Real Property in good operating condition (ordinary wear and tear excepted) and repair and maintain adequate and usual supplies of inventory, office supplies, spare parts and other materials as have been customarily maintained in the past. Seller shall preserve intact in all material respects the Station Assets and maintain in effect its current casualty and liability insurance on the Station Assets.

9.2 Consents to Assignment. Cumulus shall use commercially reasonable efforts to obtain any third party consents necessary for the assignment of any Station Contract (which shall not require any payment to any such third party). To the extent that any such contract may not be assigned without the consent of any third party, and such consent is not obtained prior to Closing, this Agreement and any assignment executed pursuant hereto shall not constitute an assignment thereof, but to the extent permitted by law shall constitute an equitable assignment and assumption of rights and obligations thereunder, with the conveying party making available

to the acquiring party the benefits thereof and the acquiring party performing the obligations thereunder on the conveying party's behalf.

ARTICLE 10: JOINT COVENANTS

Cumulus and Buyer hereby covenant and agree that between the date hereof and Closing:

10.1 Cooperation. Subject to express limitations contained elsewhere herein, each party (i) shall cooperate fully with one another in taking any commercially reasonable actions (including without limitation, reasonable actions to obtain the required consent of any governmental instrumentality or any third party) necessary or helpful to accomplish the transactions contemplated by this Agreement, including but not limited to the prompt satisfaction of any condition to Closing set forth herein, and (ii) shall not take any action that conflicts with its obligations hereunder or that causes its representations and warranties to become untrue in any material respect.

10.2 Control of Station. Buyer shall not, directly or indirectly, control, supervise or direct the operations of the Station prior to Closing. Such operations, including complete control and supervision of all programs, employees and policies, shall be the sole responsibility of Cumulus until Closing.

10.3 Employee Matters. Prior to Closing, Cumulus shall deliver to Buyer a list of employees of the Station that it does not intend to retain after Closing. Buyer may interview and elect to hire such listed employees, but not any other employees of the Station. Buyer is obligated to hire only those employees that are under employment contracts (and assume the obligations and liabilities under such employment contracts) which are included in the Station Contracts. With respect to employees potentially to be hired by Buyer, to the extent permitted by law Cumulus shall provide access to its personnel records and such other information as may be reasonably requested prior to Closing. With respect to employees hired by the Buyer ("Transferred Employees"), Cumulus shall be responsible for the payment of all compensation and accrued employee benefits payable by it until Closing and thereafter Buyer shall be responsible for all such obligations payable by it. Buyer shall cause all Transferred Employees to be eligible to participate in its "employee welfare benefit plans" and "employee pension benefit plans" (as defined in Sections 3(1) and 3(2) of ERISA, respectively) in which Cumulus similarly-situated employees are generally eligible to participate; provided, however, that all Transferred Employees and their spouses and dependents shall be eligible for coverage immediately after Closing (and shall not be excluded from coverage under any employee welfare benefit plan that is a group health plan on account of any pre-existing condition) to the extent provided under such employee welfare benefit plans. For purposes of any length of service requirements, waiting periods, vesting periods or differential benefits based on length of service in any such employee welfare benefit plans for which Transferred Employees may be eligible after Closing, Buyer shall ensure, to the extent permitted by applicable law (including, without limitation, ERISA and the Code), that service with Cumulus shall be deemed to have been service with the Buyer. No such service credit must be granted with respect to participation or eligibility in any employee pension benefit plan. In addition, Buyer shall ensure, to the extent permitted by applicable law (including, without limitation, ERISA and the Code), that Transferred Employees receive credit under any welfare benefit plan of Buyer for any deductibles or co-payments paid by Transferred Employees and their spouses and dependents for

the current plan year under a plan maintained by Cumulus. Notwithstanding any other provision contained herein, Buyer shall grant credit for all unused sick leave accrued by Transferred Employees on the basis of their service during the current calendar year as employees of Cumulus. Notwithstanding any other provision contained herein, Buyer shall assume and discharge Cumulus's liabilities for the payment of all unused vacation leave accrued by Transferred Employees on the basis of their service during the current calendar year as employees of Cumulus.

10.4 Other Agreement. At Closing the parties will enter into a Local Marketing Agreement in form and substance customary in the broadcast industry, and with a term of at least one year, pursuant to which Cumulus will provide programming and marketing services to the Station in return for a fee of \$12,500 per month and reimbursement of customary expenses of the Station.

ARTICLE 11: CONDITIONS OF CLOSING BY CUMULUS

The obligations of Cumulus hereunder are, at its option, subject to satisfaction, at or prior to Closing, of each of the following conditions:

11.1 Representations, Warranties and Covenants. The representations and warranties of Buyer made in this Agreement shall be true and correct in all material respects as of the Closing Date except for changes permitted or contemplated by the terms of this Agreement, and the covenants and agreements to be complied with and performed by Buyer at or prior to Closing shall have been complied with or performed in all material respects. Cumulus shall have received a certificate dated as of the Closing Date from Buyer, executed by an authorized officer of Buyer to the effect that the conditions set forth in this Section have been satisfied.

11.2 Governmental Consents. The FCC Consent shall have been obtained, and no court or governmental order prohibiting Closing shall be in effect.

ARTICLE 12: CONDITIONS OF CLOSING BY BUYER

The obligations of Buyer hereunder are, at its option, subject to satisfaction, at or prior to Closing, of each of the following conditions:

12.1 Representations, Warranties and Covenants. The representations and warranties of Cumulus made in this Agreement shall be true and correct in all material respects as of the Closing Date except for changes permitted or contemplated by the terms of this Agreement, and the covenants and agreements to be complied with and performed by Cumulus at or prior to Closing shall have been complied with or performed in all material respects. Buyer shall have received a certificate dated as of the Closing Date from Cumulus, executed by an authorized officer of Cumulus, to the effect that the conditions set forth in this Section have been satisfied.

12.2 Governmental Consents. The FCC Consent shall have been obtained, and no court or governmental order prohibiting Closing shall be in effect.

12.3 Title Commitments, Etc. Buyer shall have received the Title Commitments, Lien Search Reports and Surveys, provided that Buyer shall have ordered the same within 10 business

days after the date of this Agreement and shall have used its diligent efforts to cause the same to be delivered as soon as practicable thereafter.

ARTICLE 13: EXPENSES

13.1 Expenses. Each party shall be solely responsible for all costs and expenses incurred by it in connection with the negotiation, preparation and performance of and compliance with the terms of this Agreement, except that all FCC filing fees shall be paid equally by Cumulus and Buyer.

ARTICLE 14: DOCUMENTS TO BE DELIVERED AT CLOSING

14.1 Cumulus's Documents. At Closing, Cumulus shall deliver or cause to be delivered to Buyer:

- (i) certified copies of resolutions authorizing its execution, delivery and performance of this Agreement, including the consummation of the transactions contemplated hereby;
- (ii) the certificate described in Section 12.1; and
- (iii) such bills of sale, assignments, special warranty deeds, documents of title and other instruments of conveyance, assignment and transfer as reasonably may be necessary to convey, transfer and assign the Station Assets to Buyer, free and clear of Liens, except for Permitted Liens.

14.2 Buyer's Documents. At Closing, Buyer deliver or cause to be delivered to Cumulus:

- (i) the certified copies of resolutions authorizing its execution, delivery and performance of this Agreement, including the consummation of the transactions contemplated hereby;
- (ii) the certificate described in Section 11.1; and
- (iii) such documents and instruments of assumption as reasonably may be necessary to assume the Assumed Obligations.

ARTICLE 15: SURVIVAL; INDEMNIFICATION.

15.1 Survival. The covenants, agreements, representations and warranties in this Agreement shall survive Closing for a period of twelve (12) months from the Closing Date whereupon they shall expire and be of no further force or effect, except those under (i) this Article 15 that relate to Damages (defined below) for which written notice is given by the indemnified party to the indemnifying party prior to the expiration, which shall survive until resolved and (ii) the following provisions (the "Expense Provisions"): Sections 2.1 (Assumed Obligations), 3.2 (Allocation), 8.1 (Accounts Receivable) and 13.1 (Expenses), and indemnification obligations with respect to such provisions, which shall survive until performed.

15.2 Indemnification.

(a) From and after the Closing, Cumulus shall defend, indemnify and hold harmless Buyer from and against any and all losses, costs, damages, liabilities and expenses, including reasonable attorneys' fees and expenses ("Damages") incurred by Buyer arising out of or resulting from: (i) any breach or default by Cumulus under this Agreement; and (ii) the Retained Obligations or the business or operation of the Station before Closing; provided, however, that, except for the Expense Provisions (which shall not be subject to such limitations), (x) Cumulus shall have no liability to Buyer hereunder until, and only to the extent that, Buyer's aggregate Damages exceed \$20,000 and (y) the maximum liability of Cumulus hereunder shall be \$1,000,000.

(b) From and after the Closing, Buyer shall defend, indemnify and hold harmless Cumulus from and against any and all Damages incurred by Cumulus arising out of or resulting from: (i) any breach or default by Buyer under this Agreement; and (ii) the Assumed Obligations or the business or operation of the Station after Closing; provided, however, that, except for the Expense Provisions (which shall not be subject to such limitations) (x) Buyer shall have no liability to Cumulus hereunder until, and only to the extent that, Cumulus's aggregate Damages exceed \$20,000 and (y) the maximum liability of Buyer hereunder shall be \$1,000,000.

15.3 Procedures. The indemnified party shall give prompt written notice to the indemnifying party 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 the indemnifying party (a "Claim"), but a failure to give such notice or delaying such notice shall not affect the indemnified party's right to indemnification and the indemnifying party's obligation to indemnify as set forth in this Agreement, except to the extent the indemnifying party's ability to remedy, contest, defend or settle with respect to such Claim is thereby prejudiced. The obligations and liabilities of the parties with respect to any Claim shall be subject to the following additional terms and conditions:

(a) The indemnifying party shall have the right to undertake, by counsel or other representatives of its own choosing, the defense or opposition to such Claim.

(b) In the event that the indemnifying party shall elect not to undertake such defense or opposition, or, within twenty (20) days after written notice (which shall include sufficient description of background information explaining the basis for such Claim) of any such Claim from the indemnified party, the indemnifying party shall fail to undertake to defend or oppose, the indemnified party (upon further written notice to the indemnifying party) shall have the right to undertake the defense, opposition, compromise or settlement of such Claim, by counsel or other representatives of its own choosing, on behalf of and for the account and risk of the indemnifying party (subject to the right of the indemnifying party to assume defense of or opposition to such Claim at any time prior to settlement, compromise or final determination thereof).

(c) Anything herein to the contrary notwithstanding: (i) the indemnified party shall have the right, at its own cost and expense, to participate in the defense, opposition, compromise or settlement of the Claim; (ii) the indemnifying party shall not, without the indemnified party's written consent, settle or compromise any Claim or consent to entry of any

judgment which does not include as an unconditional term thereof the giving by the claimant or the plaintiff to the indemnified party of a release from all liability in respect of such Claim; and (iii) in the event that the indemnifying party undertakes defense of or opposition to any Claim, the indemnified party, by counsel or other representative of its own choosing and at its sole cost and expense, shall have the right to consult with the indemnifying party and its counsel or other representatives concerning such Claim and the indemnifying party and the indemnified party and their respective counsel or other representatives shall cooperate in good faith with respect to such Claim.

(d) All claims not disputed shall be paid by the indemnifying party within thirty (30) days after receiving notice of the Claim. "Disputed Claims" shall mean claims for Damages by an indemnified party which the indemnifying party objects to in writing within thirty (30) days after receiving notice of the Claim. In the event there is a Disputed Claim with respect to any Damages, the indemnifying party shall be required to pay the indemnified party the amount of such Damages for which the indemnifying party has, pursuant to a final determination, been found liable within ten (10) days after there is a final determination with respect to such Disputed Claim. A final determination of a Disputed Claim shall be (i) a judgment of any court determining the validity of a Disputed Claim, if no appeal is pending from such judgment and if the time to appeal therefrom has elapsed; (ii) an award of any arbitration determining the validity of such disputed claim, if there is not pending any motion to set aside such award and if the time within which to move to set aside such award has elapsed; (iii) a written termination of the dispute with respect to such claim signed by the parties thereto or their attorneys; (iv) a written acknowledgment of the indemnifying party that it no longer disputes the validity of such claim; or (v) such other evidence of final determination of a disputed claim as shall be acceptable to the parties. No undertaking of defense or opposition to a Claim shall be construed as an acknowledgment by such party that it is liable to the party claiming indemnification with respect to the Claim at issue or other similar Claims.

ARTICLE 16: TERMINATION

16.1 Termination. This Agreement may be terminated at any time prior to Closing as follows:

(a) by mutual written consent of Cumulus and Buyer;

(b) by written notice of Cumulus to Buyer if Buyer breaches in any material respect any of its representations or warranties or defaults in any material respect in the performance of any of its covenants or agreements herein contained and such breach or default is not cured within the Cure Period (defined below);

(c) by written notice of Buyer to Cumulus if Cumulus breaches in any material respect any of its representations or warranties or defaults in any material respect in the performance of any of its covenants or agreements herein contained and such breach or default is not cured within the Cure Period (defined below);

(d) by written notice of either party to the other if the FCC denies the FCC Application by Final Order;

(e) by written notice of Cumulus to Buyer, or Buyer to Cumulus, if the Closing shall not have been consummated on or before the first anniversary of the date of this Agreement; or

(f) pursuant to Section 17.16

The term "Cure Period" as used herein means a period commencing the date a party receives from the other written notice of breach or default hereunder and continuing for thirty (30) days thereafter; provided, however, that no Cure Period shall apply to a failure by Buyer to pay the Purchase Price at Closing. Except as set forth below, the termination of this Agreement shall not relieve any party of any liability for breach or default under this Agreement prior to the date of termination. Notwithstanding anything contained herein to the contrary, Section 13.1 shall survive any termination of this Agreement.

ARTICLE 17: MISCELLANEOUS PROVISIONS

17.1 Further Assurances. After the Closing, each party shall from time to time, at the request of and without further cost or expense to the other, execute and deliver such other instruments and take such other actions as may reasonably be requested in order to more effectively consummate the transactions contemplated hereby.

17.2 Assignment. Neither party may assign this Agreement without the prior written consent of the other party hereto, which consent shall not be unreasonably withheld or delayed.

17.3 Amendments. No amendment, waiver of compliance with any provision or condition hereof or consent pursuant to this Agreement shall be effective unless evidenced by an instrument in writing signed by the party against whom enforcement of any waiver, amendment, change, extension or discharge is sought.

17.4 Headings. The headings set forth in this Agreement are for convenience only and will not control or affect the meaning or construction of the provisions of this Agreement.

17.5 Governing Law. The construction and performance of this Agreement shall be governed by the laws of the State of South Carolina without giving effect to the choice of law provisions thereof.

17.6 Notices. Any notice, demand or request required or permitted to be given under the provisions of this Agreement shall be in writing, including by facsimile, and shall be deemed to have been received on the date of personal delivery, on the third day after deposit in the U.S. mail if mailed by registered or certified mail, postage prepaid and return receipt requested, on the day after delivery to a nationally recognized overnight courier service if sent by an overnight delivery service for next morning delivery or when delivered by facsimile transmission, and shall be addressed as follows (or to such other address as any party may request by written notice):

if to Cumulus:

Cumulus Broadcasting, Inc.
3535 Piedmont Rd.
Building 14-14th Floor
Atlanta, GA 30305
Attention: Lewis W. Dickey, Jr.

Facsimile: 404-949-0740

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

Paul, Hastings, Janofsky & Walker LLP
1299 Pennsylvania Avenue, N.W.
10th Floor
Washington, D.C. 20004
Attention: David D. Burns, Esq.
Facsimile: (202) 508-9700

if to Buyer:

Apex Broadcasting, Inc.
4307 Highway 39N
Meridian, MS 39301
Attention: G. Dean Pearce
Facsimile: 601-485-2972

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

Verner, Liipfert, Bernhard, McPherson & Hand Chartered
901 15th Street, N.W.
Suite 700
Washington, D.C. 20005
Attn: Erwin G. Krasnow, Esq.
Facsimile: 202-371-6279

17.7 Counterparts. This Agreement may be executed in one or more counterparts, each of which will be deemed an original and all of which together will constitute one and the same instrument.

17.8 No Third Party Beneficiaries. Nothing herein expressed or implied is intended or shall be construed to confer upon or give to any person or entity other than the parties hereto and their successors or permitted assigns, any rights or remedies under or by reason of this Agreement.

17.9 Severability. The parties agree that if one or more provisions contained in this Agreement shall be deemed or held to be invalid, illegal or unenforceable in any respect under any applicable law, this Agreement shall be construed with the invalid, illegal or unenforceable provision deleted, and the validity, legality and enforceability of the remaining provisions contained herein shall not be affected or impaired thereby.

17.10 Entire Agreement. This Agreement embodies the entire agreement and understanding of the parties hereto and supersedes any and all prior agreements, arrangements and understandings relating to the matters provided for herein.

17.11 Sale of Station to Third Party. On March 30, 2000, Cumulus filed with the FCC a Petition for Rulemaking proposing that the Station's community of license be changed from Manning, South Carolina to Moncks Corner, South Carolina (the "Rulemaking Petition"). If the Rulemaking Petition is denied by the FCC by Final Order, or a Final Order granting the Rulemaking Petition is not issued by September 1, 2003, Buyer may sell the Station Assets at a private or public sale and, provided that Buyer shall have given Cumulus reasonable notice of such sale and a reasonable opportunity to bid against any third party offers for the Station Assets in such sale, and provided further that such sale is commenced within 3 months of such denial

and is pursued by Buyer with reasonable diligence, Cumulus agrees that to the extent the Station Assets are sold at such sale for a net purchase price paid to Buyer of less than the Purchase Price under this Agreement, Cumulus will pay Buyer the difference between such net purchase price and the Purchase Price, which payment shall be made immediately after consummation of such sale.

17.12 Specific Performance. The parties acknowledge that the Station is of a special, unique and extraordinary character, and that damages alone are an inadequate remedy for a breach of this Agreement. In the event of a breach or threatened breach by Seller of any representation, warranty, covenant or agreement under this Agreement, at Buyer's election, in addition to any other remedy available to it, Buyer shall be entitled to an injunction restraining any such breach or threatened breach and, subject to obtaining any requisite approval of the FCC, to enforcement of this Agreement by a decree of specific performance requiring Seller to fulfill its obligations under this Agreement, in each case without the necessity of showing economic loss or other actual damage and without any bond or other security being required. Such right of specific performance or injunctive relief shall be in addition to, and not in lieu of, Seller's and Buyer's right to recover damages and to pursue any other remedies available for breach. In any action by Seller or Buyer to specifically enforce the breaching party's obligation to close the transactions contemplated by this Agreement, the breaching party shall waive the defense that there is an adequate remedy at law or in equity and agrees that the other party shall be entitled to obtain specific performance of the breaching party's obligation to close without being required to prove actual damages.

17.13 Risk of Loss. The risk of loss, damage or destruction to any of the Station Assets not caused by Buyer shall be borne by Seller at all times up to 12:01 a.m. local time on the Closing Date, and it shall be the responsibility of Seller to repair or cause to be repaired and to restore the property to its condition prior to any such loss, damage, or destruction. In the event of any such loss, damage, or destruction, the proceeds of any claim for any loss, payable under any insurance policy with respect thereto, shall be used to repair, replace, or restore any such property to its former condition, subject to the conditions stated below. In the event of any loss or damage to any of the Station Assets not caused by Buyer, Seller shall notify Buyer thereof in writing immediately. Such notice shall specify with particularity the loss or damage incurred, the cause thereof (if known or reasonably ascertainable), and the insurance coverage. In the event that the subject property is not completely repaired, replaced or restored on or before the scheduled Closing Date, Buyer, at its option, may: (a) elect to postpone Closing until such time as the property has been completely repaired, replaced or restored (and, if necessary, Seller shall join Buyer in requesting from the FCC any extensions of time in which to consummate the Closing that may be required in order to complete such repairs); or (b) elect to consummate the Closing and accept the subject property in its then-current condition, in which event Seller shall pay to Buyer all proceeds of insurance and assign to Buyer the right to any unpaid proceeds; or (c) if the subject property has not been completely repaired, replaced or restored within 30 days after the scheduled Closing Date, Buyer may terminate this Agreement.

17.14 Bulk Sales. Buyer and Seller agree to waive compliance with the bulk sales laws of the State of South Carolina.

17.15 Time of the Essence. Time is of the essence in the performance of the obligations of the parties under this Agreement.

17.16 Schedules. This Agreement is being executed and delivered prior to delivery of the Schedules hereto, and is subject to and contingent upon delivery of all of Seller's Schedules in form and substance reasonably satisfactory to Buyer, such delivery to be made within thirty (30) business days of the date of this Agreement. If Seller's Schedules are not delivered within such period, or are not reasonably satisfactory to Buyer, then Buyer may terminate this Agreement by notice to Seller made within ten (10) business days after the expiration of such thirty (30) business day period.

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

BUYER:

APEX BROADCASTING, INC.

By: _____
G. Dean Pearce
President

CUMULUS:

CUMULUS BROADCASTING, INC.

By: _____
Lewis W. Dickey, Jr.
President

CUMULUS LICENSING CORP.

By: _____
Lewis W. Dickey, Jr.
President

Cumulus Schedules

- 1.1(a) - FCC Licenses
- 1.1(b) - Tangible Personal Property
- 1.1(c) - Station Contracts
- 1.1(d) - Intangible Property
- 1.1(f) - Real Property
- 1.2(h) - Excluded Assets
- 6.11 - Compliance with Law
- 6.13 - Financial Statements
- 6.14 - Litigation