

**ASSET PURCHASE AGREEMENT**

ASSET PURCHASE AGREEMENT dated as of June 6, 2001 (this "Agreement"), by and between Cumulus Broadcasting, Inc. and Cumulus Licensing Corp. (collectively, "Seller") and Triad Broadcasting Company, LLC ("Buyer").

WITNESSETH:

WHEREAS, Seller holds all licenses, permits and authorizations and certain other assets necessary and useful to operate radio station WWLD-FM, Tallahassee, Florida (the "Station").

WHEREAS, Seller desires to sell to Buyer, and Buyer desires to purchase from Seller, substantially all of the assets held by Seller and used in connection with the operation of the Station, all on the terms and subject to the conditions set forth herein.

NOW, THEREFORE, in consideration of the foregoing and the mutual covenants and agreements hereinafter set forth, the parties hereto agree as follows:

**ARTICLE I  
PURCHASE OF ASSETS**

Section 1.1 Transfer of Assets. On the Closing Date (as hereinafter defined), subject to the satisfaction of the conditions contained herein, Seller shall sell, assign, transfer and convey to Buyer, and Buyer shall purchase from Seller, the following (collectively, the "Assets"):

- A. all of the Federal Communication Commission ("FCC") licenses (including auxiliary licenses) (the "Authorizations") used in the operation of the Station, as specified on Schedule 1.1(A) hereto;
- B. the real estate lease for the Station's transmitter site real property (the "Real Property") specified on Schedule 1.1(B) hereto (the "Lease"); and
- C. personal property consisting of the Station's antenna, transmitter, transmission line, STL unit, Optimod, processor, and any other related equipment at the Station's transmitter site as specified on Schedule 1.1(C) hereto ("Personal Property").

The Assets shall be transferred to Buyer free and clear of all liens, encumbrances, debts, security interests, mortgages, trusts, claims, pledges, charges, covenants, conditions or restrictions of any kind ("Liens"), except for such encumbrances and other restrictions with respect to the Real Property as do not adversely affect the use by the Station of the Real Property, and liens for taxes not yet due and payable ("Permitted Liens"). The Assets shall not include any of the assets specifically identified in Section 1.2.

Section 1.2 Excluded Assets. The Assets shall not include any asset not listed in Section 1.1 and shall specifically exclude the following:

- A. any books and records pertaining to the corporate organization of Seller;
- B. any cash, cash equivalents or similar type investments of Seller, such as certificates of deposit, Treasury bills, or other marketable securities on hand and/or in banks, deposits or prepaid expenses (unless subject to proration hereunder);
- C. any accounts or notes receivable or payable arising out of the operation of the Station for services performed or provided prior to the Closing Date;
- D. any pension, profit sharing or cash or deferred (Section 401(k)) plans or trusts or the assets thereof or any other employee benefit plan or arrangement or the assets thereof;
- E. any employment agreements or collective bargaining agreements or any obligation or liability of any nature regarding the employment of any individual by Seller;
- F. any studio, studio equipment or studio site used or held for use in connection with the operation of the Station, other than studio equipment acquired in connection with Seller's purchase of WSLE-FM; and
- G. the programming agreements, trademarks, slogans, or other intellectual property used in connection with Station operations.

## **ARTICLE II ASSUMPTION OF OBLIGATIONS**

Section 2.1 No Assumption of Liabilities and Obligations. Except as otherwise specifically provided herein, Buyer shall not assume any obligations or liabilities of Seller other than the Lease.

## **ARTICLE III CONSIDERATION**

Section 3.1 Purchase Price. In consideration for the transfer of the Assets, Buyer shall pay to Seller at Closing the sum of One Million Seven Hundred Twenty-Five Thousand Dollars (\$1,725,000.00) (the "Purchase Price").

Section 3.2 Allocation of Purchase Price. The Purchase Price shall be allocated among the Assets pursuant to a mutually-acceptable schedule to be prepared in a manner which complies with Section 1060 of the Internal Revenue Code. The allocation shall be consistently reported by Buyer and Seller on Form 8594. The proposed allocation schedule shall be provided to Buyer by Seller not later than fifteen (15) days prior to the Closing Date. In the event that the parties cannot agree on the allocation by the Closing Date, the allocation shall be in accordance with an appraisal of the Assets to be prepared by a mutually-acceptable nationally-recognized broadcasting industry appraisal firm, the expenses of which firm shall be shared by the parties.

Section 3.3 Proration of Income and Expenses. All income and expenses arising from the conduct of the business and operation of the Station shall be prorated between Buyer and Seller as of the Closing Date in accordance with generally accepted accounting principles, consistently applied. Such prorations shall be based upon the principle that Seller shall be entitled to all income earned and shall be responsible for all liabilities and obligations accruing in connection with the operation of the Station up to the Closing Date, and Buyer shall be entitled to all income earned and (subject to Section 2.1 above) all liabilities and obligations accruing thereafter in connection with the operation of the Station. Such prorations shall include all *ad valorem* and other property taxes (but excluding taxes arising by reason of the transfer of the Assets as contemplated hereby, which shall be paid as set forth in Section 11.1 of this Agreement), deposits, utility expenses, FCC regulatory fees, rents and similar prepaid and deferred items and all other expenses attributable to the ownership and operation of the Station. To the extent that FCC regulatory fees for the current year have not been announced by the FCC prior to Closing, the parties shall prorate such fees in accordance with the FCC regulatory fees assessed for the preceding year.

#### ARTICLE IV GOVERNMENTAL CONSENTS

Section 4.1 FCC Consent. It is specifically understood and agreed by Buyer and Seller that consummation of the transactions hereby is expressly conditioned on and is subject to the prior consent and approval of the FCC ("FCC Consent") without the imposition of any conditions that might be expected to have a material adverse effect on the results of operations of Buyer.

Section 4.2 FCC Application. Within five (5) business days after execution of this Agreement, the parties shall file with the FCC an application ("FCC Application") for assignment of the Authorizations from Seller to Buyer. The parties shall thereafter use all reasonable efforts to obtain the grant of the FCC Application as expeditiously as practicable (but no party shall have any obligation to satisfy complainants or the FCC by taking any steps which would have a material adverse effect on the result of operations of a party or any affiliated entity). If the FCC Consent imposes any condition on a party hereto, such party shall use reasonable efforts to comply with such condition; *provided, however*, that no party shall be required hereunder to comply with any condition that would have a material adverse effect on the results of operations of such party or any affiliated entity. If reconsideration or judicial review is sought with respect to the FCC Consent, the party affected shall vigorously oppose such efforts for reconsideration or judicial review; *provided, however*, such party shall not be required to take any action which would have a material adverse effect on the results of operations of such party or any affiliated entity. Nothing in this Section 4.2 shall be construed to limit a party's right to terminate this Agreement pursuant to Article 13 hereof. The parties shall each pay one-half of all FCC required filing fees for the FCC Application.

#### ARTICLE V CLOSING

Section 5.1 Closing. Except as otherwise mutually agreed upon by Seller and Buyer, the consummation of the transactions contemplated herein (the "Closing") shall take place upon

the latest to occur of (i) the satisfaction of all conditions precedent and (ii) within ten (10) business days after the public notice of the grant of FCC Consent; *provided, however*, that if any petition or objection opposing grant of the FCC Consent shall have been filed with the FCC prior to the date of such grant, Buyer may delay the Closing until within ten (10) business days after the FCC Consent shall have become a Final Order (as hereinafter defined) (the “Closing Date”). As used herein, the term “Final Order” means a written action or order issued by the FCC setting forth the FCC Consent (a) which has not been reversed, stayed, enjoined, set aside, annulled or suspended, and (b) with respect to which (i) no requests have been filed for administrative or judicial review, reconsideration, appeal or stay, and the time for filing any such requests and for the FCC to set aside the action on its own motion (whether upon reconsideration or otherwise) has expired, or (ii) in the event of review, reconsideration or appeal, the time for further review, reconsideration or appeal has expired. Any actions taken at the Closing will be considered as having been taken simultaneously and no such actions will be considered to be completed until all such actions have been completed. Any Closing shall be held at such place as the parties hereto may agree.

## **ARTICLE VI REPRESENTATIONS AND WARRANTIES OF SELLER**

Seller represents and warrants to Buyer as follows:

Section 6.1     Organization, Standing, and Authority. Seller has all requisite power and authority to execute and deliver this Agreement and the documents contemplated hereby, and to perform and comply with all of the terms, covenants, and conditions to be performed and complied with by it hereunder and thereunder. Seller is not a participant in any joint venture or partnership with any other person or entity with respect to any part of the business or operation of the Station or any of the Assets.

Section 6.2     Authorization and Binding Obligation. The execution, delivery, and performance of this Agreement, and the execution, delivery and performance of any other documents to be delivered or executed in connection with this Agreement and the transaction contemplated by this Agreement, by Seller have been (or will prior to Closing be) duly authorized by all necessary actions on the part of Seller. This Agreement and all other documents have been duly executed and delivered by Seller and constitutes the legal, valid, and binding obligation of Seller, enforceable in accordance with their terms except as the enforceability of this Agreement may be affected by bankruptcy, insolvency, or similar laws affecting creditors’ rights generally, and by judicial discretion in the enforcement of equitable remedies.

Section 6.3     Absence of Conflicting Agreements or Required Consents. Except as set forth in Article IV with respect to the FCC Consent or as otherwise disclosed herein or in Schedule 6.3, the execution, delivery and performance of this Agreement by Seller: (a) do not and will not require the consent or approval of or any filing with any third party or governmental authority; (b) do not and will not violate any applicable law, judgment, order, injunction, decree, rule, regulation or ruling of any governmental authority; (c) do not and will not, either alone or with the giving of notice or the passage of time, or both, conflict with, constitute grounds for termination or acceleration of, or result in a breach of the terms, conditions or provisions of, or

constitute a default under any agreement, lease, instrument, license or permit to which Seller is subject; and (d) do not and will not result in the creation of any Lien on any of the Assets.

Section 6.4 Litigation. There are no claims, actions, suits, litigation, labor disputes, arbitrations, proceedings or investigations pending or, to the best knowledge of Seller, threatened against or affecting Seller, the Assets or the transactions contemplated by this Agreement. Seller is not subject to any order, judgment, writ, injunction or decree of any court or governmental agency or entity which would adversely affect the Assets or the transaction contemplated by this Agreement.

Section 6.5 Lease. The Lease disclosed on Schedule 1.1(B) is a valid and binding agreement, fully enforceable according to its terms. A true and complete copy of the Lease and any associated agreements have been provided to Buyer. Seller is not, and to the best of Seller's knowledge no other party to the Lease is, in default under the Lease, nor has Seller, or to the best of Seller's knowledge any other party to the Lease, violated any material terms of the Lease. The property to which Seller obtains use pursuant to the Lease is adequate for the operation of the Station in the manner contemplated by the parties. There are no other users of the transmitter site who are operating facilities which create any interference to the operation of the Station and, to the knowledge of the Seller, there are no plans for the use of that site by any party which could cause such interference. To the best of Seller's knowledge, the lessor under such lease has full rights and powers to enter into the Lease.

Section 6.6 Authorizations.

A. To Seller's knowledge, Schedule 1.1(A) contains a true and complete list of the Authorizations. There are no other licenses, permits or other authorizations from the FCC or any other governmental or regulatory authorities required for the lawful operation of the Station in the manner now operated. The Authorizations are in full force and effect, were validly issued and are validly held by Seller. To Seller's knowledge, all required FCC regulatory fees have been paid with respect to the Station. The Authorizations have been issued for the full terms customarily issued to radio broadcast stations, and, to Seller's knowledge, the Authorizations are not subject to any condition except for conditions shown on the face of the Authorizations and conditions applicable to radio broadcast licenses generally for radio stations of the same class and type as the Station. Seller has no reason to believe that the FCC will not renew the Authorizations in the ordinary course.

B. Except as set forth in Schedule 6.6, there are no applications, petitions, complaints, proceedings, judgments or other actions pending or, to Seller's knowledge, threatened before the FCC relating to the Station, other than proceedings affecting the radio broadcasting industry generally to which neither Seller nor the Station is a party.

C. The Station is now being, and to Seller's knowledge has been at all times since Seller's acquisition of the Station, operated in all material respects in accordance with the terms and conditions of the FCC Licenses, the Act and FCC Regulations.

D. Except as set forth in Schedule 6.6, and except for any matters which relate specifically to the Buyer. Seller has no reason to believe that the FCC Application might be challenged or might not be granted by the FCC in the ordinary course.

Section 6.7 Title to and Condition of Personal Property. Seller has good and marketable title to or a valid leasehold interest (as indicated on Schedule 1.1(B) or Schedule 1.1(C)) in the Personal Property, free and clear of all Liens. Except as described on Schedule 1.1(C), the Personal Property is in good operating condition and repair, ordinary wear and use excepted, and is in compliance in all material respects with FCC Regulations and all other applicable federal, state and local statutes, ordinances, rules and regulations. Except as set forth in Section 1.2, the personal property listed on Schedule 1.1(C) constitutes all items of Personal Property used or held for use by Seller in the operation of the Station.

Section 6.8 Disclosure. The representations and warranties of Seller herein or in any document, exhibit, statement, certificate or schedule furnished by or on behalf of Seller to Buyer as required by this Agreement do not contain nor will contain any untrue statement of a material fact or omits or will omit to state any material fact necessary in order to make the statements herein or therein, in light of the circumstances under which they were made, not misleading. There is no fact known to Seller and not disclosed in this Agreement which adversely affects, or may in the future adversely affect, the Station, its business or operations.

Section 6.9 Environmental Matters. To Seller's knowledge: (a) there has been no release, nor is there a threat of a release, of any Hazardous Substance or Hazardous Waste at or from the Real Property, which release constitutes, or would constitute, a violation of Environmental Law; (b) no Hazardous Substance or Hazardous Waste is present on such Real Property in violation of Environmental Law; (c) there are no underground storage tanks on or under the Real Property; (d) neither the Real Property, equipment or installations on the Real Property nor any of the Personal Property contain PCBs or asbestos; in violation of Environmental Law; and (e) the Real Property and all operations on the Real Property are in compliance with all Environmental Laws. The terms "Hazardous Substance" and "Hazardous Waste" shall have the meanings set forth in the Resource Conservation and Recovery Act, as amended from time to time, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended from time to time, or any other applicable Environmental Law. The term "PCB" shall mean polychlorinated biphenyl. The term "Environmental Laws" shall mean all applicable local, state and federal statutes and regulations relating to the protection of human health or the environment including the FCC's Regulations concerning radio frequency radiation. Seller holds all environmental, health and safety permits necessary for the operation of the Station, all such permits are in full force and effect, and Seller is in compliance with the terms and conditions of all such permits. Seller has not received any notice, nor does Seller have any knowledge of any administrative or judicial investigations, proceedings or actions with respect to violations, alleged, or proved, of any Environmental Law involving the Real Property.

Section 6.10 Reports. All material disclosures, returns, reports, and statements which Seller and the Station are required to file with the FCC or with any other governmental agency have been filed, and all reporting requirements of the FCC and other governmental authorities having jurisdiction over Seller and the Station have been complied with in all material respects.

All of such returns, reports, and statements are materially complete and correct as filed. Seller has timely paid to the FCC all annual regulatory fees payable with respect to the Authorizations.

## ARTICLE VII REPRESENTATIONS AND WARRANTIES OF BUYER

Buyer represents and warrants to Seller as follows:

Section 7.1 Organization, Standing, and Authority. Buyer has all requisite power and authority to execute and deliver this Agreement and the documents contemplated hereby, and to perform and comply with all of the terms, covenants, and conditions to be performed and complied with by it hereunder and thereunder. Buyer is legally qualified to purchase the Assets, and complete this transaction as contemplated.

Section 7.2 Authorization and Binding Obligation. The execution, delivery, and performance of this Agreement, and the execution, delivery and performance of any other documents to be delivered or executed in connection with this Agreement and the transaction contemplated by this Agreement, by Buyer have been (or will prior to Closing be) duly authorized by all necessary actions on the part of Buyer. This Agreement and all other documents have been duly executed and delivered by Buyer and constitutes the legal, valid, and binding obligation of Buyer, enforceable in accordance with their terms except as the enforceability of this Agreement may be affected by bankruptcy, insolvency, or similar laws affecting creditors' rights generally, and by judicial discretion in the enforcement of equitable remedies.

Section 7.3 Absence of Conflicting Agreements or Required Consents. Except as set forth in Article IV with respect to the FCC Consent or as otherwise disclosed herein, the execution, delivery and performance of this Agreement by Buyer: (a) do not and will not require the consent or approval of or any filing with any third party or governmental authority; (b) do not and will not violate any applicable law, judgment, order, injunction, decree, rule, regulation or ruling of any governmental authority; and (c) do not and will not, either alone or with the giving of notice or the passage of time, or both, conflict with, constitute grounds for termination or acceleration of, or result in a breach of the terms, conditions or provisions of, or constitute a default under any agreement, lease, instrument, license or permit to which Buyer is subject.

Section 7.4 Litigation. There are no claims, actions, suits, litigation, labor disputes, arbitrations, proceedings or investigations pending or, to the best knowledge of Buyer, threatened against Buyer relating to the transaction contemplated by this Agreement.

Section 7.5 Qualification and Financing. Buyer is fully qualified under the Communications Act of 1934, as amended, and the rules, regulations and policies of the FCC, to hold the Authorizations, and has adequate funds, or commitments from financing sources, adequate to enable Buyer to pay the Purchase Price at closing.

Section 7.6 Disclosure. The representations and warranties of Buyer herein or in any document, exhibit, statement, certificate furnished by or on behalf of Buyer to Seller as required by this Agreement do not contain nor will contain any untrue statement of a material fact or

omits or will omit to state any material fact necessary in order to make the statements herein or therein, in light of the circumstances under which they were made, not misleading.

## ARTICLE VIII COVENANTS

Section 8.1     Operation of Business. Between the date of this Agreement and the Closing Date:

- A.     Seller shall maintain and preserve Seller's rights under the Authorizations;
- B.     Seller shall operate the Station in material compliance with all FCC and other governmental rules, regulations and policies; and shall operate and maintain the Station's equipment in good repair, ordinary wear and tear excepted, in accordance with accepted industry standards; and
- C.     Seller shall not, without the prior written consent of Buyer, which shall not be unreasonably withheld:
  - (1)     Enter into any agreement, contract, lease or commitment with respect to the Station or the Assets, other than agreements cancelable without penalty prior to the Closing Date or other agreements that will not be binding on Buyer or in any way affect the Assets after Closing;
  - (2)     Place or allow to be placed on any of the assets or properties relating to the Station any Lien other than Permitted Liens;
  - (3)     Sell, assign, transfer or otherwise dispose of any of the Assets other than immaterial Assets disposed of in the ordinary course of the Station's business and replaced with Assets of like value;
  - (4)     Violate any law, statute, rule, governmental regulation or order of any court or governmental or regulatory authority (whether Federal, State or local) in any material respect;
  - (5)     Cause or permit by any act, or failure to act, any of the Authorizations to expire, be surrendered, adversely modified, or otherwise terminated, or the FCC to institute any proceedings for the suspension, revocation or adverse modification of any of the Authorizations or fail to prosecute with due diligence any pending applications to the FCC; and
  - (6)     Fail to timely make all payments required to be made under the Lease when due and otherwise pay all liabilities and satisfy all obligations when such liabilities and obligations become due or to cause or permit by any act, or failure to act, the Lease to expire, be adversely modified, or to otherwise terminate.



Section 8.2 Confidentiality. Buyer and Seller shall each keep confidential all information obtained by it with respect to the other in connection with this Agreement, except where such information is known or available through other lawful sources or where its disclosure is required in accordance with applicable law. Neither party shall issue any press release or otherwise make any public disclosure concerning the transaction except as required by law or approved by the other party.

## **ARTICLE IX CONDITIONS**

Section 9.1 Conditions Precedent to Obligations of Buyer. The obligations of Buyer to consummate the transactions contemplated by this Agreement are subject to the fulfillment, prior to or at the Closing, of each of the following conditions, except to the extent Buyer shall have waived in writing satisfaction of such condition:

A. The representations and warranties made by Seller in this Agreement, or in any other agreements between the parties hereto, shall be true and correct in all material respects as of the date of this Agreement and on the Closing Date as though such representations and warranties were made on such date.

B. Seller shall have performed and complied in all material respects with all covenants, agreements, representations, warranties and undertakings required by this Agreement to be performed or complied with prior to the Closing.

C. Seller shall have made to Buyer all of the deliveries required by Section 10.1 hereof.

D. All third-party consents that may be necessary for Buyer to consummate the transaction contemplated hereby shall have been received by it.

E. The FCC shall have given public notice of the grant of the FCC Consent, or, if requested by Buyer pursuant to Section 5.1 hereof, the FCC Consent shall have become a Final Order.

Section 9.2 Conditions Precedent to Obligations of Seller. The obligations of Seller to consummate the transactions contemplated by this Agreement are subject to the fulfillment, prior to or at the Closing, of each of the following conditions, except to the extent Seller shall have waived in writing satisfaction of such condition:

A. The representations and warranties made by Buyer in this Agreement shall be true and correct in all material respects as of the date of this Agreement and on the Closing Date as though such representations and warranties were made on such date.

B. Buyer shall have performed and complied in all material respects with all covenants, agreements, representations, warranties and undertakings required by this Agreement to be performed or complied with by it prior to Closing.

C. Buyer shall have made to Seller all of the deliveries required by Section 10.2 hereof.

## ARTICLE X CLOSING DELIVERIES

Section 10.1 Seller's Deliveries. At the Closing, Seller shall deliver or cause to be delivered to Buyer the following:

- A. Bill of Sale for Seller's tangible personal property.
- B. An Assignment of Authorizations.
- C. An Assignment of the Lease, including the consent of the lessor.
- D. Lien searches of the records of the State of Florida and the County of Leon, Florida, in the name of "Cumulus" and "WWLD", showing the absence of any and all security interests and tax and judgment Liens with respect to the Assets.
- E. A certificate of Seller that the representations and warranties contained herein are true and correct in all material respects as of the Closing Date.
- F. An Opinion of Counsel, substantially in the form attached as Schedule 10.1(F) hereto.

Section 10.2 Buyer's Deliveries. At the Closing, Buyer shall deliver or cause to be delivered to Seller the following:

- A. The payment of the Purchase Price.
- B. A certificate of Buyer that the representations and warranties contained herein are true and correct in all material respects as of the Closing Date.

## ARTICLE XI FEES AND EXPENSES

Section 11.1 Expenses. Seller shall pay all transfer taxes, recordation taxes, sales taxes, document stamps, or other charges levied by any governmental entity on account of the transfer of the Assets from Seller to Buyer. Except as otherwise provided in this Agreement, each party shall pay its own expenses incurred in connection with the authorization, preparation, execution, and performance of this Agreement, including all fees and expenses of counsel, accountants, agents, and representatives.

Section 11.2 Fees. Buyer and Seller will share equally all FCC filing fees and will each be responsible for paying their respective legal and other costs.

Section 11.3 Brokers. Each party represents and warrants to the other that there is no party to which a brokerage or finders fee is due in connection with the transactions contemplated hereby.

## **ARTICLE XII INDEMNIFICATION**

Section 12.1 Indemnification by Seller. Notwithstanding the Closing, and regardless of any investigation made at any time by or on behalf of Buyer or any information Buyer may have, Seller hereby agrees to indemnify and hold Buyer harmless against and with respect to, and shall reimburse Buyer for any and all losses, liabilities, obligations or damages resulting from or relating to any untrue representation, breach of warranty, or nonfulfillment of any covenant by Seller contained in this Agreement or in any certificate, document, or instrument delivered to Buyer under this Agreement. Buyer shall not be entitled to make a claim against Seller pursuant to this Article XII unless and until the aggregate amount of claims which may be asserted by Buyer pursuant to this Article XII exceeds an amount equal to ten thousand dollars (\$10,000); *provided, however*, that, upon the passing of such threshold, all claims (and not just the excess over such threshold) shall be recoverable by Buyer.

Section 12.2 Indemnification by Buyer. Notwithstanding the Closing, and regardless of any investigation made at any time by or on behalf of Seller or any information Seller may have, Buyer hereby agrees to indemnify and hold Seller harmless against and with respect to, and shall reimburse Seller for any and all losses, liabilities, or damages resulting from or relating to any untrue representation, breach of warranty, or nonfulfillment of any covenant by Buyer contained in this Agreement or in any certificate, document, or instrument delivered to Seller under this Agreement. Seller shall not be entitled to make a claim against Buyer pursuant to this Article XII unless and until the aggregate amount of claims which may be asserted by Seller pursuant to this Article XII exceeds an amount equal to ten thousand dollars (\$10,000); *provided, however*, that, upon the passing of such threshold, all claims (and not just the excess over such threshold) shall be recoverable by Seller.

Section 12.3 Survival; Exclusive Remedy. Representations and warranties survive for two years, except that tax and environmental representations and warranties shall survive until the expiration of the applicable statute of limitations. After the Closing, indemnification under this Article XII (including attorneys' fees as set forth in Section 12.4 below) shall be the sole remedy of any party for any breach or nonfulfillment of any representation, warranty or covenant contained in this Agreement.

Section 12.4 Attorneys' Fees. In the event of a default by either party which results in a lawsuit or other proceeding for any remedy available under this Agreement, the prevailing party shall be entitled to reimbursement from the other party of its reasonable legal fees and expenses.

**ARTICLE XIII**  
**TERMINATION RIGHTS**

Section 13.1 Termination by Seller. This Agreement may be terminated by Seller and the purchase and sale of the Assets abandoned, if Seller is not then in material breach, upon written notice to Buyer, upon the occurrence of any of the following:

A. Material Breach. If Buyer shall be in material breach of any representation, warranty or covenant contained in this Agreement, or any other agreement between the parties hereto, Seller has notified Buyer of such breach, and the breach has continued without cure for a period of 30 days after the notice of breach.

B. Judgments. If there shall be in effect on the date that would otherwise be the Closing Date any judgment, decree, or order that would prevent or make unlawful the Closing.

C. Upset Date. This Agreement may be terminated by Seller without penalty or liability (except in event of breach by such party) if the Closing has not occurred within 24 months after the date of release by the FCC of public notice that the FCC Form 314 assignment applications for the applicable transaction have been accepted for filing (the "Upset Date").

Section 13.2 Termination by Buyer. This Agreement may be terminated by Buyer and the purchase and sale of the Assets abandoned, if Buyer is not then in material breach, upon written notice to Seller, upon the occurrence of any of the following:

A. Material Breach. If Seller shall be in material breach of any representation, warranty or covenant contained in this Agreement, or in any other agreement between the parties hereto, Buyer has notified Seller of such breach, and the breach has continued without cure for a period of 30 days after the notice of breach.

B. Judgments. If there shall be in effect on the date that would otherwise be the Closing Date any judgment, decree, or order that would prevent or make unlawful the Closing.

C. Upset Date. This Agreement may be terminated by Buyer without penalty or liability (except in event of breach by such party) if the Closing has not occurred within 24 months after the date of release by the FCC of public notice that the FCC Form 314 assignment applications for the applicable transaction have been accepted for filing.

D. Phase I Reports. Buyer, at its expense, may cause Phase I environmental assessments of all real property leased by Seller to be completed within forty-five days of the date of the execution of this Agreement. The results of such assessments shall be delivered promptly to Seller if any such assessments are not satisfactory to Buyer. If the results disclose conditions that constitute material violations of Environmental Law, Buyer may, in its sole discretion, terminate this Agreement; *provided, however*, that if any such environmental condition described in such report may be remediated to the reasonable satisfaction of Buyer without delaying the Closing Date past the Upset Date, and Seller agrees, within ten days of

notice from Buyer, to undertake promptly and pay for such remediation, Buyer shall have no right to terminate this Agreement.

Section 13.3 Rights on Termination. If this Agreement is terminated pursuant to Section 13.1 or Section 13.2 and neither party is in material breach of any provision of this Agreement, the parties hereto shall not have any further liability to each other with respect to the purchase and sale of the Assets. If this Agreement is terminated due to a material breach of this Agreement by Buyer, Seller shall be entitled to receive liquidated damages from Buyer in the amount of Eighty-Seven Thousand Dollars (\$87,000), as its sole and exclusive remedy, which the parties acknowledge is a fair and adequate estimate of the loss suffered by Seller. Should Seller breach this Agreement, Seller acknowledges that the Assets to be sold hereunder are unique, and that its failure to perform its obligations hereunder would cause Buyer irreparable injury which cannot be remedied by monetary damages. Thus, Seller agrees that specific performance is a proper remedy, and waives any claim that there would be an adequate remedy at law for such breach.

#### ARTICLE XIV MISCELLANEOUS PROVISIONS

Section 14.1 Further Assurances. The parties shall take any actions and execute any other documents that may be necessary or desirable to the implementation and consummation of this Agreement, including, in the case of Seller, any additional transfer documents that, in the reasonable opinion of Buyer, may be necessary to ensure, complete, and evidence the full and effective transfer of the Assets to Buyer pursuant to this Agreement.

Section 14.2 Risk of Loss. The risk of loss or damage to any of the Assets prior to the Closing Date shall be upon Seller. In consultation with Buyer, Seller shall repair, replace and restore any such damaged or lost Asset to its prior condition as soon as possible and in no event later than the Closing Date.

Section 14.3 Benefit and Assignment. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and permitted assigns. No party may assign its interest under the Agreement without the prior written consent of the other parties, which consent shall not be unreasonably withheld; *provided, however*, Buyer may assign its rights hereunder, or a portion of its rights to any entity under the control of Buyer or its principals, upon written notice to Seller, without the consent of Seller.

Section 14.4 Governing Law. This Agreement shall be governed, construed, and enforced in accordance with the laws of the State of Florida without regard to any choice of law or conflict of law provisions that would cause the application of laws of any jurisdiction other than the State of Florida.

Section 14.5 Amendment. This Agreement may not be amended except by an instrument in writing signed on behalf of each of the parties hereto.

Section 14.6 Severability. In the event that any one or more of the provisions contained in this Agreement or in any other instrument referred to herein, shall, for any reason, be held to be invalid, illegal or unenforceable in any respect, then to the maximum extent permitted by law,

such invalidity, illegality or unenforceability shall not affect any other provision of this Agreement or any other such instrument.

Section 14.7 Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument.

Section 14.8 Notices. All notices, demands, and requests required or permitted to be given under the provisions of this Agreement shall be in writing and shall be deemed given upon personal delivery, four days after being mailed by registered or certified mail, return receipt requested, or twenty-four (24) hours after delivery to a courier service which guarantees overnight delivery, addressed as follows:

Section 14.9 Legal Fees. In the event of any dispute between the parties to this Agreement, Seller or Buyer, as the case may be, shall reimburse the prevailing party for its reasonable legal fees and other costs incurred in enforcing its rights or exercising its remedies under this Agreement. Such right of reimbursement shall be in addition to any other right or remedy that the prevailing party may have under this Agreement.

If to Seller:	Lewis W. Dickey, Jr. Cumulus Broadcasting, Inc. Cumulus Licensing Corp. 3535 Piedmont Rd. Bldg. 14-14th Floor Atlanta, GA 30305
with copy to:	David Burns, Esq. Paul Hastings Janofsky & Waller LLP 1299 Pennsylvania Ave., N.W. 10 <sup>th</sup> Floor Washington, D.C. 20004-2400
If to Buyer:	David J. Benjamin, III Triad Broadcasting Company, LLC 2511 Garden Road Building A, Suite 104 Monterey, CA 93940
with copy to :	David D. Oxenford, Esq. Shaw Pittman 2300 N Street, N.W. Washington, D.C. 20037-1128

or to any other or additional persons and addresses as the parties may from time to time designate in a writing delivered in accordance with this Section.

Section 14.10 Waivers. No waiver of any of the provisions of this Agreement shall be deemed or shall constitute a waiver of any other provision hereof, nor shall such waiver constitute a continuing waiver. No waiver shall be binding unless executed in writing by the party making the waiver.

Section 14.11 Entire Agreement. This Agreement and the Schedules attached hereto and the ancillary documents provided for herein, constitute the entire Agreement and understanding of the parties hereto relating to the matters provided for herein and supersede any and all prior agreements, arrangements, negotiations, discussions and understandings relating to the matters provided for herein.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date and year first above written.

TRIAD BROADCASTING COMPANY, LLC

By: \_\_\_\_\_  
Name:  
Title:

CUMULUS BROADCASTING, INC.

By: \_\_\_\_\_  
Name:  
Title:

CUMULUS LICENSING CORP.

By: \_\_\_\_\_  
Name:  
Title: