

## EXECUTION COPY

### ASSET PURCHASE AGREEMENT

THIS ASSET PURCHASE AGREEMENT (this “*Agreement*”) is made as of this 15th day of October, 2019, by and between The Mainstay Station Trust LLC, a Delaware limited liability company, in its capacity as trustee (“*Trustee*”) of the Cumulus Reorganization Divestiture Trust (“*Seller*”), and Pretoria Fields Collective Media, LLC, a Georgia limited liability company (“*Buyer*”).

### RECITALS

WHEREAS, pursuant to the Cumulus Reorganization Divestiture Trust Agreement (the “*Trust Agreement*”) dated June 4, 2018, Seller holds certain assets (the “*Station Assets*”), including licenses and other authorizations issued by the FCC, used exclusively in the operation of radio station WNUQ(FM), Sylvester, Georgia (FCC Facility ID No. 66942) (the “*Station*”); and

WHEREAS, to the fullest extent permitted by law, Seller desires to sell, assign, and transfer to Buyer, the Station Assets held by Seller; and to the fullest extent permitted by law, Buyer desires to acquire the Station Assets, all under the terms described herein.

### AGREEMENT

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

#### ARTICLE 1: PURCHASE OF ASSETS

**1.1 Station Assets.** On the terms and subject to the conditions hereof, at Closing (defined below), except as set forth in Sections 1.2 and 1.3, Seller shall sell, assign, transfer, convey and deliver to Buyer, and Buyer shall purchase and acquire from Seller, all right, title and interest of Seller in and to the assets and properties of Seller, real and personal, tangible and intangible, that are used exclusively in the operation of the Station, as follows:

(a) The licenses, permits and other authorizations issued to Seller by the FCC with respect to the Station (the “*FCC Licenses*”) and listed on *Schedule 1.1(a)*, including any modifications thereof between the date hereof and Closing;

(b) the equipment, transmitters, antennas, cables, towers, vehicles, furniture, fixtures, spare parts and other tangible personal property that are used exclusively in the operation of the Station, including those listed on *Schedule 1.1(b)*, except for any retirements or dispositions thereof made between the date hereof and Closing in the ordinary course of business (the “*Tangible Personal Property*”);

(c) the lease for real property (the “*Real Property Lease*”) listed on *Schedule 1.1(c)*, together with all contracts, agreements and leases made between the date hereof and Closing in accordance with Article 4, but excluding the Excluded Contracts (defined below) (collectively, the “*Station Contracts*”);

(d) all of Seller's rights in and to the Station's call letters and Seller's rights in and to the trademarks, trade names, service marks, internet domain names, copyrights, programs and programming material, jingles, slogans, logos, and other intangible property which are used exclusively in the operation of the Station and are listed on *Schedule 1.1(d)* (the "**Intangible Property**"); provided, that any Intangible Property used in the operation of the Station that is used in whole or in part in the operation of any other station, including without limitation any stations owned or operated by Cumulus Broadcasting LLC ("**CBL**") or its affiliates, the Station Assets include only the right to use such items in the manner used by Seller in its operation of the Station on a basis exclusive to the Albany, Georgia Nielsen radio metro, but non-exclusive in that no right is granted with respect to any other market (some of which may overlap), and such right (i) is limited to the extent of Seller's transferable rights, (ii) may not be assigned by Buyer except to a transferee of the Station who assumes Buyer's obligations in respect thereof (and any such assignment shall not relieve Buyer of any obligation or liability), (iii) may be used by Buyer only in a manner that does not diminish the quality of such items, and only without violating any applicable law or any third party rights (and Buyer shall be solely responsible for such use and the related services), and (iv) shall terminate immediately upon noncompliance or non-use, but otherwise shall be coterminous with Seller's rights. At Closing, the parties shall enter into a separate license agreement that provides such rights in accordance with this Agreement; and

(e) Seller'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 Stations' online public files, programming information and studies, engineering data, advertising studies, marketing and demographic data, sales correspondence, lists of advertisers, credit and sales reports, and logs, but excluding records relating to Excluded Assets (defined below).

**1.2 Excluded Assets.** Notwithstanding anything to the contrary contained herein, the Station Assets shall not include the following assets or any rights, title and interest therein (the "**Excluded Assets**");

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

(b) all tangible and intangible personal property of Seller or CBL retired or disposed of between the date of this Agreement and Closing in accordance with Article 4;

(c) all Station Contracts that are terminated or expire prior to Closing in accordance with Article 4;

(d) CBL's corporate and trade names unrelated to the operation of the Station (including the name "Cumulus"), charter documents, and books and records relating to the organization, existence or ownership of CBL, duplicate copies of the records of the Station, and all records not relating to the operation of the Station;

(e) all contracts of insurance, all coverages and proceeds thereunder and all rights in connection therewith, including without limitation rights arising from any refunds due with respect to insurance premium payments to the extent related to such insurance policies;

(f) all pension, profit sharing plans and trusts and the assets thereof and any other employee benefit plan or arrangement and the assets thereof, if any, maintained by Seller or CBL;

(g) the Station's accounts receivable and any other rights to payment of cash consideration for goods or services sold or provided prior to the Effective Time (defined below) or otherwise arising during or attributable to any period prior to the Effective Time (the "***Accounts Receivable***");

(h) any non-transferable shrinkwrapped computer software and any other non-transferable computer licenses that are not material to the operation of the Station;

(i) all rights and claims of Seller, whether mature, contingent or otherwise, against third parties with respect to the Station and the Station Assets, to the extent arising during or attributable to any period prior to the Effective Time;

(j) all deposits and prepaid expenses (and rights arising therefrom or related thereto), except to the extent Seller receives a credit therefor under Section 1.8;

(k) computers and other similar assets located anywhere other than at the Stations' studios, and any other operating systems and related assets that are used in the operation of multiple stations or other business units;

(l) the studio and office facilities of the Station and all contracts relating to such office or studio space or equipment located therein, except as specifically set forth on ***Schedule 1.1(b)***;

(m) certain contracts or portions thereof as provided by ***Schedule 1.1(c)***; and

(n) the assets listed on ***Schedule 1.2*** (if any).

**1.3** The Station Assets shall be transferred to Buyer free and clear of liens, claims and encumbrances ("***Liens***") except for Permitted Liens. "***Permitted Liens***" means the following: (i) statutory landlord's liens and liens for current taxes not yet due and payable (or being contested in good faith); (ii) zoning laws and ordinances and similar laws; (iii) rights reserved to any governmental authority to regulate the affected property; (iv) any easements, rights-of-way, servitudes, permits, restrictions and minor imperfections or irregularities in title that are reflected in the public records and that do not individually or in the aggregate materially interfere with the right or ability to own, use, lease or operate any real property used in the operation of the Station as presently utilized; (v) the Assumed Obligations (defined below), (vi) the rights of any lessor or grantor under any applicable lease agreement or easement, respectively (including any Liens held thereunder); (vii) inchoate materialmens, mechanics', workmen's, repairmen's or other Liens arising in the ordinary course of business, and (viii) any Liens set forth in ***Schedule 1.3***.

**1.4** **Assumption of Obligations.** On the Closing Date (defined below), Buyer shall enter into any new contracts required by ***Schedule 1.1(c)*** or otherwise required by this Agreement and shall assume the obligations of Seller arising during, or attributable to, any period of time on or after the Closing Date under the Station Contracts, the obligations described in Section 5.7 and any other liabilities of Seller to the extent Buyer receives a credit therefor

under Section 1.7 (collectively, the “*Assumed Obligations*”). Except for the Assumed Obligations, Buyer does not assume, and will not be deemed by the execution and delivery of this Agreement or the consummation of the transactions contemplated hereby to have assumed, any other liabilities or obligations of Seller (the “*Retained Obligations*”).

**1.5 Purchase Price.** In consideration for the sale of the Station Assets to Buyer, at Closing Buyer shall pay Seller, by wire transfer of immediately available funds, the sum of Ninety Thousand Dollars (\$90,000), subject to adjustment pursuant to Section 1.7 (the “*Purchase Price*”).

**1.6 Intentionally Omitted.**

**1.7 Prorations and Adjustments.** All prepaid and deferred income and expenses relating to the Station Assets and arising from the operation of the Stations shall be prorated between Buyer and Seller in accordance with generally accepted accounting principles (“*GAAP*”) as of 12:01 a.m. on the day of Closing (the “*Effective Time*”). Such prorations shall include without limitation all ad valorem, real estate and other property taxes (except transfer taxes as provided by Section 11.1), music and other license fees, utility expenses, rent and other amounts under Station Contracts and similar prepaid and deferred items. Seller shall receive a credit for all of the Station’s deposits and prepaid expenses. Sales commissions related to the sale of advertisements broadcast on the Station prior to Closing shall be the responsibility of Seller, and sales commissions related to the sale of advertisements broadcast on the Station after Closing shall be the responsibility of Buyer. Prorations and adjustments shall be made no later than ninety (90) calendar days after Closing. There shall be no proration or adjustment for any imbalance in the value of rights and obligations under trade, barter or similar agreements for the sale of time for goods or services. Except as may be provided by *Schedule 5.7*, there shall be no proration or adjustment for employee leave accrued in the calendar year in which Closing occurs, but the prorations shall include an adjustment for employee leave (if any) accrued in a prior calendar year.

**1.8 Allocation.** The values of the assets sold under this Agreement shall be determined by each Party in accordance with the Internal Revenue Code (the “*Code*”).

**1.9 Closing.** The consummation of the sale and purchase of the Station Assets provided for in this Agreement (the “*Closing*”) shall take place on or before the tenth (10th) business day after the date the FCC Consent pursuant to the FCC’s initial order, or on such later day after such consent as Buyer and Seller may mutually agree; provided, that in the absence of an agreement, the Closing shall be on the fifth (5th) business day after the date on which the FCC Consent (defined below) becomes a Final Order (defined below), assuming the satisfaction or waiver of the other conditions set forth in Articles 6 and 7 below. The date on which the Closing is to occur is referred to herein as the “*Closing Date*.” For purposes of this Agreement, a “*Final Order*” means a decision by the FCC or a court of competent jurisdiction, as modified or supplemented upon reconsideration or review by the FCC or a court of competent jurisdiction, that is no longer subject to reconsideration or review by the FCC or a court of competent jurisdiction because the time periods for seeking such reconsideration or review under applicable law and government regulation have expired without any such request for reconsideration or review having been filed.

### **1.10 Governmental Consents.**

(a) Within five (5) business days of the date of this Agreement, Buyer and Seller shall file an application with the FCC (the “***FCC Application***”) requesting FCC consent to assign the FCC Licenses to Buyer. FCC consent to the FCC Application without any material adverse conditions other than those of general applicability is referred to herein as the “***FCC Consent***.” Buyer and Seller shall diligently prosecute the FCC Application and otherwise use their commercially reasonable efforts to obtain the FCC Consent as soon as possible.

(b) Each party shall diligently take, or cooperate in the taking of, all steps necessary and appropriate to expedite the preparation of the FCC Application and prosecute it to a favorable conclusion at the earliest practicable time. Each party will promptly provide the other party with a copy of any and every pleading, order, or other material communication (including e-mails) received or sent which relates to the FCC Application (other than communications between or among a party and such party’s lawyers and advisors). The parties will use commercially reasonable efforts and otherwise cooperate with each other in responding to any information requested by the FCC related to the Applications, in preparing any amendment to this Agreement requested by the FCC which does not adversely affect such party in a material manner, and in defending against any petition, informal objection, application for review, complaint, or other objection which may be filed against the FCC Application.

## **ARTICLE 2: SELLER REPRESENTATIONS AND WARRANTIES**

Seller makes the following representations and warranties to Buyer:

**2.1 Organization.** Seller is duly organized, validly existing and in good standing under the laws of the State of Delaware, and is qualified to do business in each jurisdiction in which the Station Assets are located. Seller has the requisite power and authority to execute, deliver and perform this Agreement and all of the other agreements and instruments to be made by Seller pursuant hereto (collectively, the “***Seller Ancillary Agreements***”) and to consummate the transactions contemplated hereby.

**2.2 Authorization.** The execution, delivery and performance of this Agreement and the Seller Ancillary Agreements by Seller have been duly authorized and approved by all necessary action of Seller and do not require any further authorization or consent of Seller. This Agreement is, and each Seller Ancillary Agreement when made by Seller and the other parties thereto will be, a legal, valid and binding agreement of Seller enforceable in accordance with its 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).

**2.3 No Conflicts.** Except as set forth on ***Schedule 2.3*** and except for the FCC Consent and consents to assign certain of the Station Contracts, the execution, delivery and performance by Seller of this Agreement and the Seller Ancillary Agreements and the consummation by Seller of any of the transactions contemplated hereby does not conflict with any organizational documents of Seller, any contract or agreement to which Seller is a party or by which it is bound, or any law, judgment, order, or decree to which Seller is subject, or require

the consent or approval of, or a filing by Seller with, any governmental or regulatory authority or any third party.

**2.4 FCC Licenses.** Except as set forth on *Schedule 1.1(a)*, Seller is the holder of the FCC Licenses described on *Schedule 1.1(a)*, which are all of the licenses, permits and authorizations required for the present 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 or, to Seller's knowledge, threatened, 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). There is not issued or outstanding, by or before the FCC, any order to show cause, notice of violation, notice of apparent liability, or order of forfeiture against the Station or against Seller with respect to the Stations that could result in any such action. 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 FCC's published rules and policies (the "*FCC Rules*"). All material reports and filings required to be filed with the FCC by Seller with respect to the Station have been timely filed. All such reports and filings are accurate and complete in all material respects. The Station's online public file is in compliance in all material respects with the Communications Act and the FCC Rules.

**2.5 Taxes.** Seller 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.

**2.6 Personal Property.** *Schedule 1.1(b)* contains a list of material items of Tangible Personal Property included in the Station Assets. Except as set forth on *Schedule 1.1(b)*, Seller has good and marketable title to the Tangible Personal Property free and clear of Liens other than Permitted Liens. Except as set forth on *Schedule 1.1(b)*, all material items of Tangible Personal Property are in operating condition and repair, ordinary wear and tear excepted.

**2.7 Contracts.** *Schedule 1.1(c)* contains a list of all contracts, leases (including the Real Property Lease) and agreements that are exclusively used in the operation of the Station, but excluding agreements for the sale of advertising time entered into in the ordinary course of business. The Station Contracts requiring the consent of a third party to assignment are identified with an asterisk on *Schedule 1.1(c)*. Each of the Station Contracts (including without limitation the Real Property Lease) is in effect and is binding upon Seller and, to Seller'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). Seller has performed its obligations under each of the Station Contracts in all material respects, and is not in material default thereunder, and to Seller's knowledge, no other party to any of the Station Contracts is in default thereunder in any material respect.

**2.8 Environmental.** Except as set forth on *Schedule 1.1(c)*, 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(c)*, Seller has complied in all material respects with all environmental, health and safety laws applicable to the Stations.

**2.9 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)*, Seller's use of the Intangible Property does not infringe upon any third party rights in any material respect, (ii) no material Intangible Property is the subject of any pending, or, to Seller's knowledge, threatened legal proceedings claiming infringement or unauthorized use, and (iii) Seller has not received any written notice that its use of any material Intangible Property is unauthorized or infringes upon the rights of any other person. Except as set forth on *Schedule 1.1(d)*, to Seller's knowledge, Seller owns or has the right to use the Intangible Property free and clear of Liens other than Permitted Liens.

**2.10 [Intentionally Omitted]**

**2.11 Insurance.** Seller maintains insurance policies or other arrangements with respect to the Station and the Station Assets consistent with its practices for other stations, and will maintain such policies or arrangements until the Effective Time.

**2.12 Compliance with Law.** Except as set forth on *Schedule 2.12*, (i) Seller has complied in all material respects with all laws, rules and regulations, including without limitation the Communications Act, all FCC Rules and Federal Aviation Administration rules and regulations applicable to the operation of the Station, and all decrees and orders of any court or governmental authority which are applicable to the operation of the Station, and (ii) to Seller's knowledge, there are no governmental claims or investigations pending or threatened against Seller in respect of the Station except those affecting the industry generally.

**2.13 Litigation.** Except as set forth on *Schedule 2.13*, there is no action, suit or proceeding pending or, to Seller's knowledge, threatened against Seller in respect of the Station that will subject Buyer to liability or which will affect Seller's ability to perform its obligations under this Agreement. Seller is not operating under or subject to any order, writ, injunction or decree relating to the Station or the Station Assets of any court or governmental authority which would have a material adverse effect on the condition of the Station or any of the Station Assets or on the ability of Seller to enter into this Agreement or consummate the transactions contemplated hereby, other than those of general applicability.

**2.14 No Undisclosed Liabilities.** There are no liabilities or obligations of Seller with respect to the Station that will be binding upon Buyer after the Effective Time other than the Assumed Obligations and other than pursuant to the prorations under Section 1.7.

**2.15 Station Assets.** The Station Assets include all assets that are owned or held by Seller and used or held for use exclusively in the operation of the Station in all material respects as currently operated, except for the Excluded Assets.

**ARTICLE 3: BUYER REPRESENTATIONS AND WARRANTIES**

Buyer hereby makes the following representations and warranties to Seller:

**3.1 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, deliver and perform this Agreement and all of the other agreements and instruments

to be executed and delivered by Buyer pursuant hereto (collectively, the “*Buyer Ancillary Agreements*”) and to consummate the transactions contemplated hereby.

**3.2 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 made by Buyer and the other parties thereto will be, a legal, valid and binding agreement of Buyer enforceable in accordance with its 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).

**3.3 No Conflicts.** Except for the FCC Consent, the execution, delivery and performance by Buyer of this Agreement and the Buyer Ancillary Agreements and the consummation by Buyer of any of the transactions contemplated hereby does not conflict with any organizational documents of Buyer, any contract or agreement to which Buyer is a party or is by which it is bound, or any law, judgment, order or decree to which Buyer is subject, or require the consent or approval of, or a filing by Buyer with, any governmental or regulatory authority or any third party.

**3.4 Litigation.** There is no action, suit or proceeding pending or, to Buyer’s knowledge, threatened against Buyer which questions the legality or propriety of the transactions contemplated by this Agreement or could materially adversely affect the ability of Buyer to perform its obligations hereunder.

**3.5 Qualification.** Buyer is legally, financially and otherwise qualified to be the licensee of, acquire, own and operate the Station under the Communications Act and FCC Rules. There are no facts that would, under existing law and FCC Rules, disqualify Buyer as an assignee of the FCC Licenses or as the owner and operator of the Station. No waiver of or exemption from any FCC Rule is necessary for the FCC Consent to be obtained. There are no matters which might reasonably be expected to result in the FCC’s denial or delay of approval of the FCC Application.

**3.6 Financing.** As of the Closing Date, Buyer will have sufficient cash, available lines of credit or other sources of immediately available funds to enable it to make payment of the Purchase Price and any other amounts to be paid by it in accordance with the terms of this Agreement.

#### **ARTICLE 4: SELLER COVENANTS**

**4.1 Covenants.** Between the date hereof and Closing, except as contemplated or required by the Trust Agreement and except as permitted by this Agreement or with the prior written consent of Buyer, which shall not be unreasonably withheld, delayed or conditioned, Seller shall:



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

(b) not materially adversely modify, and in all material respects maintain in full force and effect, the FCC Licenses;

(c) not other than in the ordinary course of business, sell, lease or dispose of or agree to sell, lease or dispose of any of the Station Assets unless replaced with similar items of substantially equal or greater value and utility, or create, assume or permit to exist any Liens upon the Station Assets, except for Permitted Liens, and not dissolve, liquidate, merge or consolidate with any other entity;

(d) maintain the Tangible Personal Property in the ordinary course of business;

(e) upon reasonable notice, give Buyer and its representatives reasonable access during normal business hours to the Station Assets, and furnish Buyer with information relating to the Station Assets that Buyer may reasonably request, provided that such access rights shall not be exercised in a manner that interferes with the operation of the Station;

(f) except in the ordinary course of business and as otherwise required by law, not (i) enter into any employment, labor, or union agreement or plan (or amendments of any such existing agreements or plan) that will be binding upon Buyer after Closing or (ii) increase the compensation payable to any employee of the Station, except for bonuses and other compensation payable by Seller in connection with the consummation of the transactions contemplated by this Agreement (if any);

(g) not enter into new Station Contracts that will be binding upon Buyer after Closing or amend any existing Station Contracts; and

(h) in the event the Real Property Lease is in the name of CBL or an affiliated entity, Seller will cause CBL to assign the Real Property Lease to Buyer at Closing.

## **ARTICLE 5: JOINT COVENANTS**

Buyer and Seller hereby covenant and agree as follows:

**5.1 Confidentiality.** Seller or an affiliate of Seller and Buyer or an affiliate of Buyer are parties to a nondisclosure agreement (the “**NDA**”) with respect to Seller and the Stations. To the extent not already a direct party thereto, Buyer and Seller hereby assume the NDA and agree to be bound by the provisions thereof. Without limiting the terms of the NDA, subject to the requirements of applicable law, all non-public information regarding the parties and their business and properties that is disclosed in connection with the negotiation, preparation or performance of this Agreement (including without limitation all financial information provided by Seller to Buyer) shall be confidential and shall not be disclosed to any other person or entity, except the parties’ representatives and lenders for the purpose of consummating the transaction contemplated by this Agreement.

**5.2 Announcements.** Prior to Closing, no party shall, without the prior written consent of the other, issue any press release or make any other public announcement concerning the transactions contemplated by this Agreement, except to the extent that such party is so obligated by law, in which case such party shall give advance notice to the other, and except that the parties shall cooperate to make a mutually agreeable announcement.

**5.3 Control.** Buyer shall not, directly or indirectly, control, supervise or direct the operation of the Station prior to Closing. Consistent with the Communications Act and FCC Rules, control, supervision and direction of the operation of the Station prior to Closing shall remain the responsibility of Seller as the holder of the FCC Licenses.

**5.4 Risk of Loss.**

(a) Seller shall bear the risk of any loss of or damage to any of the Station Assets at all times until the Effective Time, and Buyer shall bear the risk of any such loss or damage thereafter.

(b) If prior to the Effective Time any item of Tangible Personal Property is damaged or destroyed or otherwise not in the condition described in Section 2.6 in any material respect, then:

(i) Seller shall use commercially reasonable efforts to repair or replace such item in all material respects in the ordinary course of business; and

(ii) if such repair or replacement is not completed prior to Closing, the parties shall proceed to Closing (with Seller's representations and warranties deemed modified to take into account any such condition) and Seller shall promptly repair or replace such item in all material respects after Closing (and Buyer will provide Seller access and any other reasonable assistance requested by Seller with respect to such obligation), except that if such damage or destruction materially disrupts Station operations, Buyer may postpone Closing until the date five (5) business days after operations are restored in all material respects, subject to Section 10.1.

(c) If prior to Closing the Station is off the air or operating at a power level that results in a material reduction in coverage (a "**Broadcast Interruption**"), Seller shall use commercially reasonable efforts to return the Station to the air and restore prior coverage as promptly as possible in the ordinary course of business. Notwithstanding anything herein to the contrary, if prior to Closing there is a Broadcast Interruption in excess of 24 hours, Buyer may postpone Closing until the date five (5) business days after the Station returns to the air and prior coverage is restored in all material respects, subject to Section 10.1. For the avoidance of doubt, an event of loss prior to Closing shall not constitute a breach of this Agreement.

**5.5 Environmental.**

(a) With respect to any owned real property or ground lease included in the Station Assets, Buyer may at its expense conduct an assessment (each a "**Phase I**") prior to Closing, provided that such assessments are conducted during normal business hours upon reasonable prior notice (and subject to landlord consent if necessary), but completion of such assessments (or the results thereof) is not a condition to Closing.

(b) If any Phase I or any item set forth on *Schedule 1.1(c)* or any environmental report provided by Seller to Buyer prior to the date of this Agreement identifies a condition requiring remediation under applicable environmental law, then:

(i) except as set forth below, Seller shall use commercially reasonable efforts to remediate such condition in all material respects in the ordinary course of business; and

(ii) if such remediation is not completed prior to Closing, the parties shall proceed to Closing (with Seller's representations and warranties deemed modified to take into account any such condition) and Seller shall remediate such item in all material respects after Closing (and Buyer will provide Seller access and any other reasonable assistance requested by Seller with respect to such obligation).

(c) Notwithstanding anything herein to the contrary, if at any time any such condition exists and the reasonably estimated cost to remedy all such conditions in the aggregate exceeds \$50,000, Buyer and Seller shall have the right to terminate this Agreement upon written notice to the other party.

#### **5.6 Consents.**

(a) The parties shall use commercially reasonable efforts to obtain (i) any third party consents necessary for the assignment of any Station Contract (which shall not require any payment to any third party), and (ii) execution of reasonable estoppel certificates by lessors under the Real Property Lease requiring consent to assignment (if any), but no such consents or estoppel certificates are conditions to Closing except for the Required Consents. Receipt of consent to assign to Buyer the Station's tower leases designated with an asterisk on *Schedule 1.1(c)* (if any) is a condition precedent to Buyer's obligation to close under this Agreement (the "*Required Consents*").

(b) To the extent that any Station 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 to this Agreement shall not constitute an assignment of such Station Contract; provided, that with respect to each such Station Contract, Seller and Buyer shall cooperate to the extent feasible in effecting a lawful and commercially reasonable arrangement pursuant to which Buyer shall receive the benefits under the Station Contract from and after Closing, and to the extent of the benefits received, Buyer shall pay and perform Seller's obligations arising under the Station Contract from and after Closing in accordance with its terms.

#### **5.7 [Intentionally Omitted]**

**5.8 Accounts Receivable.** At Seller's request, for a period of 60 days after Closing (the "*Collection Period*"), Buyer shall, without charge to Seller, use commercially reasonable efforts to collect the Accounts Receivable in the ordinary course of business and shall apply all amounts collected from the Station's account debtors to the oldest account first, unless the advertiser disputes in good faith in writing an older account and designates the payment to a newer account. Any amounts relating to the Accounts Receivable that are paid directly to Seller shall be retained by Seller. Buyer shall not discount, adjust or otherwise compromise any Accounts Receivable and Buyer shall refer any disputed Accounts Receivable to Seller. On or

before the tenth (10th) calendar day of each month, Buyer shall deliver to Seller a report showing Accounts Receivable collections for the prior month and Buyer shall make a payment, without offset, to Seller equal to the amount of all such collections. At the end of the Collection Period, any remaining Accounts Receivable shall be returned to Seller for collection.

**5.9 [Intentionally Omitted]**

**5.10 Actions.** After Closing, Buyer shall cooperate with Seller in the investigation, defense or prosecution of any action which is pending or threatened against Seller or its affiliates with respect to the Stations, whether or not any party has notified the other of a claim for indemnification with respect to such matter. Without limiting the generality of the foregoing, Buyer shall make available its employees to give depositions or testimony and shall furnish all documentary or other evidence that Seller may reasonably request.

**5.11 FCC Compliance.** If after Closing the FCC Consent is reversed or otherwise set aside, and there is a Final Order of the FCC (or court of competent jurisdiction) requiring the re-assignment of the FCC Licenses to Seller, the purchase and sale of the Station Assets shall be rescinded. In such event, Buyer shall reconvey to Seller the Station Assets free and clear of Liens other than Permitted Liens, and Seller shall repay to Buyer the Purchase Price and reassume the Station Contracts. Any such rescission shall be consummated on a mutually agreeable date within thirty days of such Final Order (or, if earlier, within the time required by such Order). In connection therewith, Buyer and Seller shall each execute such documents (including execution by Buyer of instruments of conveyance of the Station Assets to Seller and execution by Seller of instruments of assumption of the Station Contracts) and make such payments (including repayment by Seller to Buyer of the Purchase Price) as are necessary to give effect to such rescission.

**ARTICLE 6: SELLER CLOSING CONDITIONS**

The obligation of Seller to consummate the Closing hereunder is subject to satisfaction, at or prior to Closing, of each of the following conditions (unless waived in writing by Seller):

**6.1 Representations and Covenants.**

(a) 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.

(b) 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.

(c) Seller 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 Sections 6.1(a) and (b) have been satisfied.

**6.2 Proceedings.** Neither Seller nor Buyer shall be subject to any court or governmental order or injunction restraining or prohibiting the consummation of the transactions contemplated hereby.

**6.3 FCC Authorization.** The FCC Consent pursuant to the FCC's initial order shall have been obtained.

**6.4 Deliveries.** Buyer shall have complied with its obligations set forth in Section 8.2.

#### **ARTICLE 7: BUYER CLOSING CONDITIONS**

The obligation of Buyer to consummate the Closing hereunder is subject to satisfaction, at or prior to Closing, of each of the following conditions (unless waived in writing by Buyer):

**7.1 Representations and Covenants.**

(a) The representations and warranties of Seller 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.

(b) The covenants and agreements to be complied with and performed by Seller at or prior to Closing shall have been complied with or performed in all material respects.

(c) Buyer shall have received a certificate dated as of the Closing Date from Seller executed by an authorized officer of Seller to the effect that the conditions set forth in Sections 7.1(a) and (b) have been satisfied.

**7.2 Proceedings.** Neither Seller nor Buyer shall be subject to any court or governmental order or injunction restraining or prohibiting the consummation of the transactions contemplated hereby.

**7.3 FCC Authorization.** The FCC Consent shall have been obtained.

**7.4 Deliveries.** Seller shall have complied with its obligations set forth in Section 8.1.

**7.5 Consents.** The Required Consents (if any) shall have been obtained.

#### **ARTICLE 8: CLOSING DELIVERIES**

**8.1 Seller Documents.** At Closing, Seller shall deliver or cause to be delivered to Buyer:

(i) good standing certificates issued by the Secretary of State of Seller's jurisdiction of formation;

(ii) a certificate executed by Seller's sole member authorizing the execution, delivery and performance of this Agreement, including the consummation of the transactions contemplated hereby;

(iii) the certificate described in Section 7.1(c);

(iv) an assignment and assumption of FCC authorizations assigning the FCC Licenses from Seller to Buyer;

(v) an assignment and assumption of contracts assigning the Station Contracts from Seller to Buyer;

(vi) an assignment and assumption of leases assigning the Real Property Lease from Seller to Buyer;

(vii) an assignment of the marks assigning the Station's registered marks listed on *Schedule 1.1(d)* (if any) from Seller to Buyer;

(viii) domain name transfers assigning the Station's domain names listed on *Schedule 1.1(d)* (if any) from Seller to Buyer following customary procedures of the domain name administrator;

(ix) endorsed vehicle titles conveying the vehicles included in the Tangible Personal Property (if any) from Seller to Buyer;

(x) a bill of sale conveying the other Station Assets from Seller to Buyer; and

(xi) any other instruments of conveyance, assignment and transfer that may be reasonably necessary to convey, transfer and assign the Station Assets from Seller to Buyer, free and clear of Liens, except for Permitted Liens.

**8.2 Buyer Documents.** At Closing, Buyer shall deliver or cause to be delivered to Seller:

(i) the Purchase Price in accordance with Section 1.5 hereof;

(ii) good standing certificates issued by the Secretary of State of Buyer's jurisdiction of formation;

(iii) certified copies of resolutions authorizing the execution, delivery and performance of this Agreement, including the consummation of the transactions contemplated hereby;

(iv) the certificate described in Section 6.1(c);

(v) an assignment and assumption of FCC authorizations assigning the FCC Licenses from Seller to Buyer;

(vi) an assignment and assumption of contracts assuming the Station Contracts;

(vii) an assignment and assumption of leases assuming the Real Property Leases (if any);

(viii) domain name transfers assuming the Station's domain names listed on *Schedule 1.1(d)* (if any) following customary procedures of the domain name administrator;

(ix) any new agreements required by *Schedule 1.1(c)* or otherwise required by this Agreement; and

(x) such other documents and instruments of assumption that may be necessary to assume the Assumed Obligations.

## **ARTICLE 9: SURVIVAL; INDEMNIFICATION**

**9.1 Survival.** The representations and warranties in this Agreement shall survive the 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 that if within such twelve (12) month period the indemnified party gives the indemnifying party written notice of a claim for breach thereof describing in reasonable detail the nature and basis of such claim, such claim shall survive until the earlier of resolution of such claim or expiration of the applicable statute of limitations. The covenants and agreements in this Agreement shall survive Closing until performed.

### **9.2 Indemnification.**

(a) Subject to Section 9.2(c), from and after Closing, Seller 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 by Seller of its representations and warranties made under this Agreement; or

(ii) any default by Seller of any covenant or agreement made under this Agreement; or

(iii) the Retained Obligations; or

(iv) the business or operation of the Station before the Effective Time, except for the Assumed Obligations.

(b) Subject to Section 9.2(c), from and after Closing, Buyer shall defend, indemnify and hold harmless Seller from and against any and all Damages incurred by Seller arising out of or resulting from:

(i) any breach by Buyer of its representations and warranties made under this Agreement; or

(ii) any default by Buyer of any covenant or agreement made under this Agreement; or

(iii) the Assumed Obligations; or

(iv) the business or operation of the Station after the Effective Time.

(c) Notwithstanding the foregoing or anything else herein to the contrary, after Closing, (i) neither party will have any liability to the other under this Article until the indemnified party's aggregate Damages exceed \$10,000, after which such threshold amount shall be included, not excluded, from any calculation of Damages, and (ii) the maximum aggregate liability of the indemnifying party under this Article shall be an amount equal to the Purchase Price.

### **9.3 Procedures.**

(a) The indemnified party shall give prompt written notice to the indemnifying party of any demand, suit, claim or assertion of liability by third parties that is subject to indemnification hereunder (a "***Claim***"), but a failure to give such notice or delaying such notice shall not affect the indemnified party's rights or the indemnifying party's obligations except to the extent the indemnifying party's ability to remedy, contest, defend or settle with respect to such Claim is thereby prejudiced and provided that such notice is given within the time period described in Section 9.1.

(b) The indemnifying party shall have the right to undertake the defense or opposition to such Claim with counsel selected by it. In the event that the indemnifying party does not undertake such defense or opposition in a timely manner, the indemnified party may undertake the defense, opposition, compromise or settlement of such Claim with counsel selected by it at the indemnifying party's cost (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 the giving by the claimant to the indemnified party of a release from all liability in respect of such Claim;

(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 concerning such Claim and the indemnifying party and the indemnified party and their respective counsel shall cooperate in good faith with respect to such Claim; and

(iv) neither party shall have any liability to the other under any circumstances for special, indirect, consequential, punitive or exemplary damages or lost profits or similar damages of any kind, whether or not foreseeable.

## **ARTICLE 10: TERMINATION AND REMEDIES**

**10.1 Termination.** Subject to Section 10.3, this Agreement may be terminated prior to Closing as follows:



- (a) by mutual written consent of Buyer and Seller;
- (b) by written notice of Buyer to Seller if Seller breaches its representations or warranties or defaults in the performance of its covenants contained in this Agreement and such breach or default is material in the context of the transactions contemplated hereby and is not cured within the Cure Period (defined below); provided, that Buyer may not terminate pursuant to this Section 10.1(b) if it is then in material breach of or default under this Agreement;
- (c) by written notice of Seller to Buyer if Buyer breaches its representations or warranties or defaults in the performance of its covenants contained in this Agreement and such breach or default is material in the context of the transactions contemplated hereby and is not cured within the Cure Period; provided, that the Cure Period shall not apply to Buyer's obligations to pay the Purchase Price at Closing; provided further, that Seller may not terminate pursuant to this Section 10.1(c) if it is then in material breach of or default under this Agreement;
- (d) by written notice of Seller to Buyer or Buyer to Seller if Closing does not occur by the date twelve (12) months after the date of this Agreement; or
- (e) as provided by Section 5.5(c).

**10.2 Cure Period.** Each party shall give the other party prompt written notice upon learning of any breach or default by the other party under this Agreement. The term "Cure Period" as used herein means a period commencing on the date Buyer or Seller receives from the other written notice of breach or default hereunder and shall continue until the earlier of (i) twenty (20) calendar days thereafter or (ii) the Closing Date determined under Section 1.10; provided, that if the breach or default is non-monetary and cannot reasonably be cured within such 20-day period but can be cured before the Closing Date determined under Section 1.10, and if diligent efforts to cure promptly commence, the Cure Period shall continue as long as such diligent efforts to cure continue, but not beyond the Closing Date as determined under Section 1.10.

**10.3 Survival.** Except as provided by Section 10.5, the termination of this Agreement shall not relieve either party of any liability for breach or default under this Agreement prior to the date of termination. Notwithstanding anything contained herein to the contrary, Sections 5.1 (Confidentiality) and 11.1 (Expenses) shall survive any termination of this Agreement.

**10.4 Specific Performance.** In the event of failure or threatened failure by either party to comply with the terms of this Agreement, the other party shall be entitled to an injunction restraining such failure or threatened failure and, subject to obtaining any necessary FCC consent, to enforcement of this Agreement by a decree of specific performance requiring compliance with this Agreement.

## **ARTICLE 11: MISCELLANEOUS**

**11.1 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. The filing fee for the FCC Consent shall be divided equally between Buyer and Seller. All other governmental fees and charges applicable to any requests for governmental consents shall be paid by the party upon whom the applicable governmental

authority imposes the fee or charge (or shall be shared equally if not imposed upon either party). Buyer shall be solely responsible for all governmental taxes, fees and charges applicable to the transfer of the Station Assets under this Agreement. Each party is responsible for any commission, brokerage fee, advisory fee or other similar payment that arises as a result of any agreement or action of it or any party acting on its behalf in connection with this Agreement or the transactions contemplated hereby.

**11.2 Further Assurances.** After 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 of conveyance and assumption and take such other actions as may reasonably be requested in order to more effectively consummate the transactions contemplated hereby.

**11.3 Assignment.** Neither party may assign this Agreement without the prior written consent of the other party hereto, provided, that Buyer may assign its rights hereunder to an affiliate of Buyer upon written notice to, but without consent of, Seller, provided further that (i) any such assignment does not delay processing of the FCC Application, grant of the FCC Consent or Closing, (ii) any such assignee delivers to Seller a written assumption of this Agreement, and (iii) Buyer shall remain liable for all of its obligations hereunder, and Seller may assign its rights hereunder to an affiliate of Seller. The terms of this Agreement shall bind and inure to the benefit of the parties' respective successors and any permitted assigns, and no assignment shall relieve any party of any obligation or liability under this Agreement.

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

If to Buyer:	Pretoria Fields Collective Media, LLC c/o Law Offices of Michael M. Custer, P.C. P.O. Box 2023 Albany, GA 31702 Attn.: Michael M. Custer
--------------	--

with a copy (which shall not constitute notice) to:	Edinger Associates PLLC 1725 I Street, NW, Suite 300 Washington, DC 20006 Attn.: Ladd Johnson
---	--

If to Seller:

The Mainstay Station Trust LLC, as Trustee  
c/o MVP Capital, LLC  
255 California Street  
Suite 850  
San Francisco, CA 94111  
Attn: Mr. Elliot B. Evers  
Tele: (415) 391-4877  
Email: eevers@mvpcapital.com

Lerman Senter PLLC  
2001 L Street, NW  
Suite 400  
Washington, DC 20036  
Attn: Nancy A. Ory, Esq.  
Tele: (202) 416-6791  
Email: nory@lermansenter.com

**11.5 Amendments.** No amendment or waiver of compliance with any provision 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 such amendment, waiver, or consent is sought.

**11.6 Waiver of Provisions.** The terms, covenants, representations, warranties, and conditions of this Agreement may be waived only by a written instrument executed by the party waiving compliance. The failure of either party at any time or times to require performance of any provision of this Agreement shall not affect the exercise of a party's rights at a later date. No waiver granted in any one circumstance shall be deemed a waiver in any other instance, no matter how similar. No practice of the parties shall, by itself, be deemed a waiver of any right hereunder.

**11.7 Entire Agreement.** This Agreement (including the Schedules hereto) constitutes the entire agreement and understanding between the parties hereto with respect to the subject matter hereof, and supersedes all prior agreements and understandings with respect to the subject matter hereof, except any confidentiality agreement between the parties with respect to the Station, which shall remain in full force and effect. Neither party makes any representation or warranty with respect to the transactions contemplated by this Agreement except as expressly set forth in this Agreement. Without limiting the generality of the foregoing, Seller makes no representation or warranty to Buyer with respect to any projections, budgets or other estimates of the Station's revenues, expenses or results of operations, or, except as expressly set forth in Article 2, any other financial or other information made available to Buyer with respect to the Station.

**11.8 Severability.** If any court or governmental authority of competent jurisdiction holds any provision in this Agreement invalid, illegal or unenforceable under any applicable law, so long as neither party is deprived of the benefits of this Agreement in any material respect, 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.

**11.9 No Beneficiaries.** Nothing in this Agreement expressed or implied is intended or shall be construed to give any rights to any person or entity other than the parties hereto and their successors and permitted assigns.

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

**11.11 Counterparts.** This Agreement may be executed in separate counterparts, each of which will be deemed an original and both of which together will constitute one and the same agreement.

## **ARTICLE 12: DEFINITIONS**

The following is a list of terms used in this Agreement and a reference to the section hereof in which such term is defined:

<b><u>Term</u></b>	<b><u>Section Reference</u></b>
Accounts Receivable	1.2(g)
Assumed Obligations	1.4
Broadcast Interruption	5.4(c)
Buyer	Preamble
Buyer Ancillary Agreements	3.1
Claim	9.3(a)
Closing	1.9
Closing Date	1.9
CBL	1.1(d)
Code	1.8
Collection Period	5.8
Communications Act	2.5
Comparable Employment	5.7(a)
Damages	9.2(a)
Effective Time	1.7
Escrow Agent	1.6
Escrow Agreement	1.6
Excluded Assets	1.2
FCC	Recitals
FCC Application	1.10
FCC Consent	1.10
FCC Licenses	1.1(a)
FCC Rules	2.4
Final Order	1.9
GAAP	1.7
Intangible Property	1.1(d)
Liens	1.3
NDA	5.1
Permitted Liens	1.3
Phase I	5.5(a)

Purchase Price	1.5
Real Property Lease	1.1(c)
Required Consents	5.6(a)
Retained Obligations	1.4
Seller	Preamble
Seller Ancillary Agreements	2.1
Station	Recitals
Station Assets	Recitals
Station Contracts	1.1(c)
Tangible Personal Property	1.1(b)
Transferred Employees	5.7(c)
Trust Agreement	Recitals
Trustee	Preamble
WARN Act	5.7(b)

[Signatures on following page]

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

THE MAINSTAY STATION TRUST LLC,  
AS TRUSTEE

By:   
Elliot B. Evers, Sole Member

PRETORIA FIELDS COLLECTIVE MEDIA, LLC


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

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

THE MAINSTAY STATION TRUST LLC,  
AS TRUSTEE

By: \_\_\_\_\_  
Elliot B. Evers, Sole Member

PRETORIA FIELDS COLLECTIVE MEDIA, LLC

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

### **List of Schedules**

- 1.1(a) - FCC Licenses
- 1.1(b) - Tangible Personal Property
- 1.1(c) - Station Contracts, including Real Property Lease
- 1.1(d) - Intangible Property
- 1.2 - Excluded Assets
- 1.3 - Permitted Liens
- 2.3 - Conflicts/Consents
- 2.12 - Compliance with Law
- 2.13 - Litigation