

## **ASSET PURCHASE AGREEMENT**

by and between

**PINWHEEL INC. d/b/a PINWHEEL COMMUNICATIONS COMPANY**  
**("Seller")**

and

**SEGUIN MEDIA GROUP, LTD.**  
**("Buyer")**

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## **ASSET PURCHASE AGREEMENT**

This ASSET PURCHASE AGREEMENT is made and entered into this \_\_\_\_ day of November, 2001 by and between, PINWHEEL INC. d/b/a PINWHEEL COMMUNICATIONS COMPANY, a Texas corporation ("Seller"); and SEGUIN MEDIA GROUP, LTD., a Texas limited partnership, or its assigns ("Buyer").

### **WITNESSETH:**

**WHEREAS**, Seller is the license of AM radio station KWED (AM), Seguin, Texas (FCC Facility ID No. 52671) and is the owner of and publishes a related advertising flyer ("Advertising Flyer") (hereafter collectively the "Station") and Seller owns and operates the Station pursuant to licenses and authorizations issued by the Federal Communications Commission (hereafter the "Commission" or "FCC");

**WHEREAS**, Buyer and Seller have agreed that, except as described below, the Seller shall assign and transfer and Buyer shall acquire all rights, title and ownership of the Station, including all assets, tangible and intangible, real, personal or mixed, used and/or useful in the operation of the Station, all on the terms and subject to the conditions set forth herein; and

**WHEREAS**, prior consent of the FCC must be obtained for the assignment of the Station's licenses and authorizations from the Seller to the Buyer, and the Seller and Buyer have agreed to seek such consent from the Commission.

**NOW, THEREFORE**, in consideration of the premises and the mutual covenants and agreements herein contained, the parties hereto agree as follows:

### **Section 1 Purchase and Sale of Assets**

On the Closing Date (as hereinafter defined in Section 6.1), Seller shall sell and assign to Buyer, and Buyer shall purchase from Seller all of the assets, tangible and intangible, real, personal or mixed, used and/or useful in the operation of the Station (collectively the "Assets"), free and clear of all debts, liens, leases, security interests, mortgages, trusts, claims, or other liabilities or encumbrances whatsoever save and except those set out in Schedules 7.4 and 7.5, which unless specifically noted otherwise, will be released or satisfied at Closing. Such Assets shall include the following:

1.1 Tangible Assets. All tangible assets and equipment of every kind and description owned or used by Seller in the conduct of the business and the operation of the Assets including but not limited to those listed on Schedule 1.1. Schedule 1.1 shall include all items of tangible assets and equipment of every kind and description, used in the operation of the Assets.

1.2 Real Property. All rights and interests of Seller in and to all of the real property, leaseholds, licenses, rights-of-way and other interests of every kind and description in and to all real property and buildings, structures, improvements and fixtures located thereon, used or held for use in the business and operation of the Assets ("Real Property"), as more fully described on Schedule 1.2.

1.3 Authorizations. All of Seller's rights and interests in and to the Station's FCC permits, licenses and other authorizations and any other permits, applications, permissions, authorities or approvals issued to it by the FCC or any other governmental or quasi-governmental authority used or useful in the conduct of the Station's business or in the operation of the Station (collectively the "Authorizations"), including but not limited to the Authorizations listed on Schedule 1.3.

1.4 Intangible Assets. All of Seller's rights and interests in and to the trade names, service marks, franchises, copyrights, jingles, slogans, telephone numbers, post office boxes, the Station's call letters, privileges, domain names, web sites, and any other similar rights owned or held by it and used in the conduct of the Station's business or in the operation of the Station including but not limited to all such rights and interests listed on Schedule 1.4.

1.5 Contracts. All rights and interests of Seller and Station in and under all contracts, agreements, leases, commitments, understandings and options, written or oral, relating to the conduct of the Station's business or to the operation of the Station listed on Schedule 1.5 (collectively the "Contracts"), to the extent authorized by said Contract.

1.6 Books and Files. All books, files, records and logs relating to the conduct of the Station's business and the operation of the Assets including all filings with the FCC, all original signed copies of all Contracts to be assigned and assumed hereunder, financial records pertaining to the operation of the Station, personnel records of Seller's employees, engineering records, advertising reports, programming studies, consulting reports, computer software, marketing data, and the Station's FCC local public file.

1.7 Accounts Receivable. All accounts receivable for the Station as listed on Schedule 1.7.

1.8 Excluded Assets. The assets to be assigned and transferred do not include:

- (a) cash-on-hand or cash equivalents;
- (b) bank deposits;
- (c) corporate seal, stock or securities of any kind, corporate minute books or other corporate records not relating to the operation of the Assets;
- (d) use of one-half (1/2) of the house on the studio and office real property for a short term lease pursuant to the lease agreement attached as Exhibit 1.8(d) giving the Seller the right to lease one-half (1/2) of the

house for a time period six (6) months subsequent to the Closing Date for payment of 1/2 of the Seller's total cost of utilities for such house, and thereafter on the same terms on a tenancy-at-will basis with either party giving the other sixty (60) days notice of termination;

- (e) the classical music library of the Station;
- (f) the sound recordings on vinyl that are now part of the Station's music library, but shall be leased to the Buyer for no additional consideration for a time period not exceeding twenty-four (24) months;
- (g) accounts Payable accruing prior to the Closing Date which shall be fully paid and satisfied by Seller on the Closing Date; or
- (h) any item listed on Schedule 1.8.

## **Section 2**

### **Purchase Price and Payment**

The total purchase price to be paid by Buyer to Seller for the purchase of the Assets shall be Nine Hundred Forty Thousand Dollars (\$940,000.00) consisting of the following (hereafter the "Purchase Price"):

#### **2.1 Escrow Deposit.**

- (a) On the date this Agreement is executed, Buyer shall deliver to Escrow Agent the sum of TEN THOUSAND DOLLARS (\$10,000.00) ("Initial Escrow Deposit").
- (b) If the Commission has not granted its Consent to the Application, as defined in Section 12.1, within four (4) calendar months from the date the Application is filed, then Buyer shall deliver to Escrow Agent an additional TEN THOUSAND DOLLARS (\$10,000.00) ("Subsequent Escrow Deposit").
- (c) The sum of the Initial Escrow Deposit shall be considered the Escrow Deposit ("Escrow Deposit") until such time as the sum of the Subsequent Escrow Deposit is delivered to the Escrow Agent. Upon delivery of the Subsequent Escrow Deposit, the sum of the Initial Escrow Deposit and the Subsequent Escrow Deposit shall jointly be referred to as the Escrow Deposit.

2.2 Closing Payment. On the Closing Date, Buyer shall deliver to Escrow Agent the balance of the Purchase Price. If FCC Consent to the Application is obtained within 4 months from the filing date of the Application, then the balance owing shall be EIGHT HUNDRED AND FORTY THOUSAND DOLLARS AND NO CENTS (\$840,000.00). If FCC Consent is not obtained within 4 months, then the balance owing shall be EIGHT HUNDRED AND THIRTY THOUSAND DOLLARS AND NO CENTS (\$830,000.00). The balance of the Purchase Price shall be disbursed as provided for in this Agreement and the Escrow Agreement ("Closing Payment").

2.3 Other Consideration.

- (a) Buyer shall grant Seller a credit of FORTY-FIVE THOUSAND DOLLARS (\$45,000), for advertising time on the Station subsequent to Closing. This credit shall expire twenty-four (24) months from the Closing Date with no credit for time not used. Buyer shall grant Seller a guaranteed rate of the lesser of \$25 per 60 second BTA (best time available, as defined by the Station's rate card), or any lower published 60 second BTA rate. Seller may use this advertising time to advertise any business in which the Seller or its principal stockholder has a substantial ownership interest.
- (b) Buyer shall grant to Seller a credit of FORTY-FIVE THOUSAND DOLLARS (\$45,000) for advertising space in the tabloid version of the Advertising Flyer. The credit expires twenty-four (24) months from the commencement of publication. Seller is guaranteed placement on the back page for the first twelve-month time period and on a run of publication basis for the second twelve-month time period. The advertising space may be used by Seller to advertise any business in which Seller, or its principal stockholder, has a substantial ownership interest.
- (c) In the event, other than a force majeure event, that the tabloid version of the Advertising Flyer does not commence publication within six (6) months subsequent to the Closing Date, or subsequently Buyer fails to publish or ceases publication of the Advertising Flyer, Buyer shall pay to Seller the amount of ONE THOUSAND EIGHT HUNDRED SEVENTY-FIVE DOLLARS (\$1,875.00) for each month that the tabloid version of the Advertising Flyer is not published. The aggregate total of this payment shall not exceed FORTY-FIVE THOUSAND DOLLARS (\$45,000.00) less \$1,875.00 (or prorated portion thereof) for each month that the tabloid version of the Advertising Flyer was published.
- (d) Buyer shall pay to Seller the cash value of the Station's and the Advertising Flyer's accounts receivable which are aged ninety (90) days or less as of the Closing Date, provided however that these accounts receivable shall not include any accounts presently with any



collection agency, in bankruptcy proceedings, or in any other legal action for collection, unless any regular payment has been agreed upon prior to Closing.

### **Section 3 Allocations**

Buyer and Seller agree that, pursuant to the requirements of Section 1060 of the Internal Revenue Code of 1986, as amended (the "Code") and for the purposes of IRS Form 8594 and for any other purpose in which an allocation of the values of the various assets as of the Closing Date of this transaction are required or desired to be made by either Seller or Buyer, Buyer and Seller will allocate the Purchase Price as follows: THREE HUNDRED SIXTY THOUSAND DOLLARS (\$360,000.00) to Real Property; FOUR HUNDRED FIFTY THOUSAND DOLLARS (\$450,000.00) to FCC Licenses, and the remainder to tangible assets. Buyer and Seller each further agrees to file its federal income tax returns and its other tax returns reflecting such allocation.

### **Section 4 Assumption of Obligations**

Buyer will assume only the obligations under the contracts, agreements, leases, commitments, understandings and options relating to the conduct of the Station's business or to the operation of the Station listed as noted as being agreed to be assumed by Buyer on Schedule 1.5, subject to any necessary third party consents.

### **Section 5 Escrow**

5.1 Document Escrow. Simultaneously with the execution of this Agreement, Buyer, Seller, and Escrow Agent shall enter into the Escrow Agreement, attached hereto as Exhibit 5.1. Seller and Buyer shall deposit with Escrow Agent the complete and executed closing documents as described in Section 5.2 and 13.5 ("Closing Documents"), effective to deliver to Buyer the Station and all Assets free and clear of all liens. These Closing Documents shall only be subject to being dated and delivered by the Escrow Agreement to the Buyer on the Closing Date.

5.2 Responsibilities of Escrow Agent. The Escrow Agent shall act in accordance with the following:

- (a) Place the Escrow Deposit into an account in which the Buyer shall receive the interest, and hold the Escrow Deposit and the Closing Documents pending receipt of the Closing Payment pursuant to Section 2.2, and notification described in either Section 5.2(b), Section 5.2(c), or Section 5.2(d).

- (b) Upon receipt of a copy of the letter of opinion from Seller addressed to Buyer, (“FCC Opinion Letter”), in form and substance attached hereto as Exhibit 5.2 and as described in Section 5.2(e), and receipt of the Closing Payment pursuant to Section 2.2, Escrow Agent shall deliver the funds as provided for in this Agreement and the Escrow Agreement, affix the Closing Date to the Closing Documents, and release the Closing Documents to Buyer.
- (c) Upon receipt of a document signed by both the Seller and Buyer that the parties have agreed to close the transaction on a date other than that set as the Closing Date but subsequent to receipt of FCC Consent, follow the instructions in such document as to date for closing, and upon receipt of the Closing Payment pursuant to Section 2.2, deliver the funds as provided for in this Agreement and the Escrow Agreement, and affix such date to the Closing Documents and release the Closing Documents to Buyer.
- (d) Notwithstanding the receipt of the Opinion Letter described in Section 5.2(e), the Escrow Agent shall not release the Escrow Deposit or release the Closing Documents if Escrow Agent receives from the Buyer: (i) a notification that the Seller has materially breached its representation, warranties or covenants, and such notification is accompanied by a lawsuit relating to such breach filed in a court of competent jurisdiction, or (ii) a notification that the FCC Consent is not a Final Order. In the first event, the Escrow Agent shall deposit the Escrow Deposit and the Closing Documents with such court. In the second event, the Escrow Agent shall not release the Escrow Deposit or release the Closing Documents until receipt of the Closing Payment pursuant to Section 2.2 and the parties agree that the FCC Consent is a Final Order.
- (e) FCC Opinion Letter. The FCC Opinion Letter to be delivered by the Seller to the Escrow Agent shall state:
  - (i) Seller holds the FCC Authorizations for the Station and such FCC Authorizations are in full force and effect.
  - (ii) Consent has been granted by the FCC to the assignment of the FCC Authorizations to Buyer without imposition of conditions outside the ordinary course. The FCC’s consent is in full force and effect, and the time within which any party in interest other the FCC may seek administrative or judicial reconsideration or review has expired, and no petition for such reconsideration or review was timely filed with the FCC, and the time within which the FCC may review its consent on its own motion has expired, and the FCC has not undertaken such review (“Final Order”).

- (iii) There is not issued, outstanding, pending or, to Seller's knowledge, threatened, any notice of violation, order to show cause, complaint, or investigation by or before the FCC directed against Seller, the Station or the FCC Authorizations, nor is there any proceeding by or before the FCC that is reasonably likely to materially adversely affect the Seller, FCC Authorizations or the Station other than proceedings of general applicability to this segment of the radio broadcasting industry.
- (iv) All conditions precedent to Buyer's obligations to close listed in Section 13 are fully satisfied.
- (f) Escrow Agent shall not release the Escrow Deposit, deliver the Closing Price or release the Closing Documents until all documents enumerated in Section 13.6 have been received by Escrow Agent.

## **Section 6**

### **Date, Time and Place of Closing**

6.1 Date. The Closing of this Agreement shall take place on the 8<sup>th</sup> business day of the calendar month following the calendar month in which the FCC Consent (as described in Section 12.1) is a Final Order (hereafter the date set in accord with this section referred to as "Closing" or "Closing Date").

## **Section 7**

### **Seller's Representations and Warranties**

Seller represents and warrant to Buyer as follows:

7.1 Organization and Standing. Seller is a corporation duly organized, validly existing and in good standing under the laws of the State of Texas. Seller has full power and authority to own and operate the Station and to carry on the business of the Assets as now being conducted.

7.2 Authorization and Binding Obligation. Seller has full power and authority to enter into and perform this Agreement and the transactions contemplated hereby. The execution, delivery and performance of this Agreement by Seller has been duly and validly authorized by all necessary corporate or other action on Seller's part. This Agreement has been duly signed and delivered by Seller and constitutes its valid and binding obligation enforceable in accordance with its terms, except as such enforceability may be limited by bankruptcy, insolvency or other similar laws affecting its enforcement and subject to general principles of equity (regardless of whether such enforceability is considered in a proceeding in equity or at law).

7.3 Absence of Conflicting Agreements or Required Consents. Except as set forth in Section 12.1 hereof with respect to governmental consents, Seller's execution, delivery and performance of this Agreement: does not require the consent of any third party; will not materially violate any applicable law, judgment, order, injunction, decree, rule, regulation or ruling of any governmental authority; will not, either alone or with the giving of notice or the passage of time or both, conflict with, constitute grounds for termination of, or result in a breach of the terms, conditions, or provisions of, or constitute a default under any agreement, instrument, trust instrument or permit individually or in the aggregate material to the transactions contemplated hereby and to which they are now subject; and will not result in the creation of any lien, charge or encumbrance on any of the Assets.

7.4 Litigation. Except as set forth in Schedule 7.4, there is no litigation, proceeding or investigation pending or, to the best of its knowledge, threatened against Seller or the Assets in any federal, state or local court, or before any administrative agency (including, without limitation, any proceeding which seeks the revocation or forfeiture of or opposes or challenges the renewal of any of the Authorizations listed on Schedule 1.3), which might result in any material adverse effect upon the business, property, assets or condition of the Station, or which seeks to enjoin, prohibit, or otherwise questions the validity of any action taken or to be taken pursuant to or in connection with this Agreement.

7.5 Liabilities. To the best of Seller's knowledge, attached as Schedule 7.5 is a complete and accurate listing, including the name of the creditor, the amount owed, and the due date of the obligation, of all liens, encumbrances and other obligations owing by Seller against the Station or any of its Assets. Other than liens or encumbrances listed in Schedule 7.5 that will be released at Closing, to the best of Seller's knowledge there are no liens or encumbrances against the Station or any of its Assets.

7.6 Authorizations. Schedule 1.3 is a true and complete list of the Station's Authorizations, which are all the Authorizations required for the lawful conduct of the business and operations of the Station in the manner and to the full extent it is now conducted. Seller is the authorized legal holder of the Authorizations listed on Schedule 1.3, none of which is subject to any restriction or condition which would limit in any material respect the full operation of the Station as now operated other than restrictions or conditions generally applicable to radio stations. Except as described on Schedule 1.3, the Authorizations listed on Schedule 1.3 are in good standing and are in full force and effect, and the operation of the Station is in accordance therewith in all material respects with FCC rules and regulations. All FCC regulatory fees for the Station, including regulatory fees for any auxiliary broadcast Station associated with the Station, have been timely paid.

7.7 Real Property. Schedule 1.2 contains descriptions of all Real Property, owned or leased, used in the conduct of the business and operation of the Assets and all encumbrances on that Real Property. Seller shall convey fee simple title to the Real Property described in Schedule 1.2 by delivering a Warranty Deed to all Real Property owned by Seller, to Escrow Agent upon execution of this Agreement. Escrow Agent will hold the Deed until instructed as to its release pursuant to Section 5. Seller specifically covenants, represents and warrants that:

- (a) Except as specifically described in Schedules 1.2, 7.4 and 7.5, the Real Property is free and clear of all liens, charges, mortgages, claims, obligations, equities, subject to reservations, restrictions, and encroachments of record, and at Closing will be conveyed to Buyer free and clear of all liens, charges, mortgages, claims, obligations, equities, subject to reservations, restrictions, and encroachments of record as of the date of this Agreement. To Seller's knowledge, since November 1, 1994 there have been no additional reservations, restrictions or encroachments to the Real Property except for a slight encroachment by a neighbor's fence, the circumstances of which have been made known to the Buyer. Seller will not allow any further reservations, restrictions or encroachments to the Real Property between the date of this Agreement and the Closing Date, without the written approval of Buyer.
- (b) No condemnation of any of the Real Property has occurred.
- (c) All transmitting facilities of the Station, including towers, antennas, guy lines, anchors and all other related buildings, structures and appurtenances are located entirely within the confines of the Real Property.
- (d) To the best of Seller's knowledge, the use of improvements on the Real Property and the conduct therein have not materially violated any law, statute, ordinance, rule or regulation of any government, governmental body, agency or authority (federal, state or local) in any respect (including, without limitation, those concerned with environmental or occupational safety standards). In connection with such use and conduct, to the best of Seller's knowledge, there are no problems that would have a materially adverse effect on the Station's operations with respect to adequate water supply, sewage and waste disposal facilities or air, water or land pollution, nor are there any pending or threatened eminent domain proceedings or special assessments with respect to the Real Property.

7.8 Title to and Condition of Personal Property. Schedule 1.1 contains descriptions of all tangible personal property of Seller used in the operation of the Assets. Except as set forth in Schedule 1.1 or Schedule 1.5, Seller owns and has good title to such properties, and as of the date of Closing, none of such property will be subject to any security interest, mortgage, pledge, conditional sales agreement, or other lien or encumbrance. All such tangible personal property and the state of maintenance thereof is in good condition.

7.9 Contracts. Seller has delivered to Buyer true copies of the Contracts listed on Schedule 1.5. Schedule 1.5 lists, but is not limited to, all executory Contracts related to the

operation of the Assets or to the conduct of the Station's business to which Seller is a party or under which the Station has obligations or enjoys benefits. Agreements, arrangements or understandings to which Seller is obligated or under which Seller receives benefits which are oral or unwritten are described in writing on Schedule 1.5. The Contracts listed on Schedule 1.5 are in full force and effect and are valid, binding and enforceable by Seller in accordance with their terms. To the best of Seller's knowledge, no event has occurred which with notice or lapse of time would be a default thereunder, and Seller has received no default notices except as described at Schedule 1.5. Seller has not granted nor has been granted any material waiver or forbearance with respect to any of such Contracts.

7.10 Insurance. Schedule 7.10 is a true and complete list of all policies of insurance owned by Seller or insuring to Seller's benefit which insure any part of the Assets or the Station. All policies of insurance listed on Schedule 7.10 are in full force and effect. To the best of Seller's knowledge, seller is not in material default with respect to any material provisions contained in any such policies or binders, and have not failed to give any notice or present any material claim under such policies or binders in due and timely fashion. There are no outstanding unpaid claims under any such policies or binders, other than the claims which are described in Schedule 7.10.

7.11 Compliance With Laws. Seller has not received any notice asserting any non-compliance in any material respect by it with any applicable statute, rule or regulation, federal, state or local, or any agency thereof, having jurisdiction over it. Seller is not in default with respect to any judgment, order, injunction or decree of any court, administrative agency, or other governmental authority in any respect material to the transactions contemplated hereby. Seller and Seller's operation of the Assets are in compliance in all material respects with all laws, regulations and governmental orders applicable to the conduct of the business and operations of the Station, and its present operation of the Assets does not materially violate any such laws, regulations or orders.

7.12 Reports. All material returns, reports and statements currently required to be filed by Seller with the FCC or with any other governmental agency have been filed, all reporting requirements of the FCC and other governmental authorities having jurisdiction thereof have been complied with in all material respects and an FCC local public file in compliance with 47 C.F.R. Section 73.3526 has been maintained and is complete in all material respects. All of such reports, returns and statements are materially complete and correct as filed.

7.13 Federal, State and Local Taxes. Except as listed and described in Schedule 7.13, all requisite federal income, payroll and excise tax returns and reports and all state and local income, sales, payroll, personal property, real property and franchise tax returns and reports required to date with respect to the operations of the Assets have been duly filed, taxes and assessments (including interest and/or penalties) due and payable have been paid prior to Closing and Seller does not have any notice of any pending audits, assessments, asserted deficiencies, changes in the amount of reported loss, or claims for additional taxes which have not been paid or reserved against and Seller has no knowledge of any such claims, tax actions or proceedings against it.

7.14 Disclosure. No representation or warranty made by Seller in this Agreement and no statement made by or on behalf of Seller in any certificate, document, Exhibit or Schedule delivered or to be delivered in connection with the transactions contemplated by this Agreement contains or will contain any willful untrue statement of a material fact and to the best of Seller's knowledge, there is no omission and there will be no omission of any material fact necessary to make such representation or warranty or any such statement not misleading.

## **Section 8**

### **Buyer's Representations and Warranties**

Buyer represents and warrants to Seller as follows:

8.1 Organization, Authorization and Binding Obligation. Buyer is a limited partnership duly organized, validly existing and in good standing under the laws of the State of Texas. Buyer has full power and authority to enter into this Agreement and the execution, delivery and performance of this Agreement and the transactions contemplated hereby are duly and validly authorized by all necessary corporate action on its part. This Agreement constitutes legal, valid and binding obligations of Buyer in accordance with its terms, except as such enforceability may be limited by bankruptcy, insolvency or other similar laws affecting the enforcement of and subject to general principles of equity (regardless of whether such enforceability is considered in a proceeding in equity or at law).

8.2 Absence of Conflicting Agreements or Required Consents. Except as set forth in Section 8.2 hereof with respect to FCC consent, the execution, delivery and performance of this Agreement by Buyer: do not require the consent of any third party; will not violate any applicable law, judgment, order, injunction, decree, rule, regulation or ruling of any governmental authority; and will not, either alone or with the giving of notice or the passage of time or both, conflict with, constitute grounds for termination of, or result in a breach of the terms, conditions or provisions of, or constitute a default under any agreement, instrument, trust instrument, license, guaranty or permit to which Buyer is subject and which is individually or in the aggregate material to the transactions contemplated hereby.

8.3 Insolvency. No insolvency proceedings of any character affecting Buyer or any of its assets or properties is now or on the Closing Date will be pending or, to the knowledge of Buyer threatened. Buyer shall not have taken any action in contemplation of, or which would constitute the basis for, the institution of any such insolvency proceedings.

8.4 Disclosure. No representation or warranty made by Buyer in this Agreement and no statement made by or on behalf of Buyer in any certificate, document, Exhibit or Schedule delivered or to be delivered in connection with the transactions contemplated by this Agreement contains or will contain any willful untrue statement of a material fact and to the best of Buyer's knowledge, there is no omission and there will be no omission of any material fact necessary to make such representation or warranty or any such statement not misleading.

## **Section 9**

### **Covenants of Seller**

Between the date hereof and the Closing Date, except as contemplated by this Agreement or with the prior written consent of Buyer, Seller shall conduct the business and operations of the Station in accordance with the following:

9.1 Affirmative Covenants. Seller shall:

- (a) conduct the operations of the Station in the ordinary course of business in substantially the same manner as heretofore and in conformity with all applicable laws, rules and regulations and exercise commercially reasonable efforts to preserve present relationships with employees, suppliers, advertisers, customers and others having business relations with it;
- (b) provide Buyer and its agents full access to the Assets with adequate notice to permit Buyer and its agents to conduct a full and complete due diligence of the Assets, including inspection of the technical facilities, a review of all financial records, reports, balance sheets, profit and loss statements, and tax returns specifically relating to the Station, and a review of all contracts, leases, and other agreements relating to the operation of the Station, complete copies of which shall be provided to Buyer;
- (c) maintain all of its property and assets or replacements thereof in their present condition, ordinary wear and tear excepted;
- (d) obtain all necessary consents to the assignment of Contracts described in Section 1.5 prior to Closing to the extent authorized by each Contract; and
- (e) notify Buyer of any litigation or administrative proceeding pending or, to its knowledge, threatened against Seller or the Station or which challenges the transactions contemplated hereby; or any material damage or destruction of any of the Station Assets.
- (f) Retain Hal Widsten in the position of General Manager and Darren Dunn as News Director of the Station. The aforementioned employees shall be continuously employed by Seller between the date of this Agreement and the Closing Date, provided however, that any termination or lapse of employment as a result of the employee's voluntary action or adjudicated violation of any State or Federal law or regulation, excluding traffic misdemeanors, shall not be a breach of this covenant.



- (g) Cooperate in any reasonable way necessary or desired by Buyer in order to place Buyer in the position of owning the assets and operating the Station on the Closing Date.

9.2 Negative Covenants. Seller shall not:

- (a) create, assume or permit to exist, unless Buyer agrees to in writing or specifically described in this Agreement or the Schedules thereto, any mortgage, pledge, lien or other charge or encumbrance affecting any of the Assets;
- (b) sell, assign, lease or otherwise transfer or dispose of any of the Assets;
- (c) waive any material right relating to any of the Assets;
- (d) unless Buyer agrees in writing, enter into, renew or extend any Contracts. Buyer shall not unreasonably withhold such agreement.

## **Section 10 Covenant of Buyer**

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

## **Section 11 Joint Covenants**

Seller and Buyer shall act in accordance with the following:

11.1 Conditions. If any event should occur, either within or without the control of any party hereto, which would prevent fulfillment of the conditions upon the obligations of any party hereto to consummate the transactions contemplated by this Agreement, the parties hereto will use their best efforts to cure the event as expeditiously as possible.

11.2 Confidentiality. Except as may be required under applicable law, regulation or any legal proceeding, or in connection with preparing and filing the FCC Assignment Application, Buyer and Seller each agree that it will use its best efforts to keep confidential all information obtained by it from the other (except for such disclosures to attorneys, bankers, underwriters, investors, etc., as may be appropriate in the furtherance of this transaction and who also agree to keep the same confidential). In the event that the transaction contemplated hereby are not consummated by Buyer and Seller, Buyer and Seller will cause any third parties in receipt of confidential information in accordance herewith to return any such confidential information to the party providing the same, and Buyer and Seller and any such third parties shall not use any such information for any purpose other than for evaluating the

transactions contemplated hereby.

11.3 Cooperation. Each shall cooperate fully with the other in taking any actions, including actions to obtain the required consent of any governmental instrumentality or any third party, necessary or helpful to accomplish the transactions contemplated by this Agreement.

11.4 Governmental Consents. If the consent of any governmental instrumentality contains any condition, the party upon which such condition is imposed shall use its best, diligent and good faith efforts to comply therewith before the Closing Date.

11.5 Inconsistent Acts. Neither party shall take any other action inconsistent with obligations under this Agreement or which could hinder or delay the consummation of the transactions contemplated by this agreement.

11.6 Ensure Closing. Each shall each act and refrain from acting, as the case may be, so that each of Seller's and Buyer's representations and warranties in this Agreement shall be true on and as of the Closing Date, and each shall use its best efforts to ensure that the transactions contemplated hereby shall be consummated.

## **Section 12**

### **Governmental Consents**

12.1 FCC Consent. The assignment of the Station's FCC Authorizations as contemplated by this Agreement is subject to the prior consent and approval of the FCC ("FCC Consent"). No later than ten (10) business days after the date this Agreement is executed by all parties, Buyer and Seller shall file and prosecute an FCC application seeking Commission consent to the assignment of the Authorizations ("Application") from Seller to Buyer with all reasonable diligence and shall otherwise use their best efforts to obtain the grant of such application as expeditiously as practicable. If reconsideration or judicial review is sought with respect to FCC Consent, Seller and Buyer both shall oppose such efforts for reconsideration or judicial review vigorously by filing appropriate pleadings and submissions.

12.2 Other Governmental Consents. Promptly following the execution of this Agreement, the parties will join together in filing with the appropriate governmental authorities any other requests for approval or waiver that are required in connection with the transactions contemplated hereby, and shall jointly, diligently and expeditiously prosecute, and shall cooperate fully with each other in the prosecution of, such requests for approval or waiver and in all proceedings necessary to secure such approvals or waivers.

### **Section 13**

#### **Conditions Precedent to Buyer's Obligations**

The obligation of Buyer to consummate the transactions to be performed by it in connection with the Closing is subject to the satisfaction of each of the following conditions prior to Closing:

13.1     Representations, Warranties and Covenants.

- (a) All representations and warranties of Seller made in this Agreement, or in any Exhibit, Schedule, or certificate delivered pursuant hereto shall be true and correct to the best of Seller's knowledge in all material respects on and as of the Closing Date with the same force and effect as if made on and as of that date, except for changes contemplated by this Agreement.
- (b) All of the terms, covenants and conditions to be complied with and performed by Seller on or prior to the Closing Date shall have been complied with or performed in all material respects.
- (c) Escrow Agent, on the Closing Date, shall have received a Certificate, executed by Seller's President or Vice President, to the effect that the representations and warranties of Seller contained in this Agreement are true and correct in all material respects as of the Closing Date as though made on and as of the Closing Date, except for the changes contemplated by this Agreement, and that Seller has complied with or performed in all material respects all terms, covenants, and conditions to be complied with or performed on or prior to the Closing Date, attached hereto as Exhibit 13.1(c).
- (d) Escrow Agent, on the Closing Date, shall have received a certified copy of the resolutions of the Board of Directors of Seller authorizing the execution, delivery and performance of this Agreement by Seller and the consummation of the transactions provided for herein, if applicable.

13.2     Governmental Consents. The conditions specified in Section 12.1 of this Agreement shall have been satisfied.

13.3     Governmental Authorizations. Seller shall be the holder of the Authorizations listed on Schedule 1.3, and there shall not have been any modification of any of such licenses, permits and other authorizations which has a material adverse effect on the Station or the conduct of its business and operations.

13.4     Adverse Proceedings. No suit, action or governmental proceeding shall have been instituted against, and no order, decree, or judgment of any court, agency, or other governmental authority shall have been rendered against, the parties or any of them which it is

reasonably believed would render it unlawful, as of the Closing Date, to effect the transactions contemplated by this Agreement in accordance with its terms.

13.5 Instruments of Conveyance and Transfer. Seller shall deliver to Escrow Agent, on the date this Agreement is executed by both parties, undated instruments in form and substance reasonably satisfactory to counsel to Buyer, effecting the sale, transfer, assignment and conveyance of Seller's right, title and interest to the ownership of the Station and the Assets to Buyer including, without limitation, the following:

- (a) An assignment of all right, title and interest including a bill of sale to the tangible assets to be assigned pursuant to Section 1.1 of this Agreement, attached hereto as Exhibit 13.5(a);
- (b) Special Warranty Deed(s) giving fee simple title to the Real Property to be transferred pursuant to Section 1.2 of this Agreement, attached hereto as Exhibit 13.5(b);
- (c) An assignment of all right, title and interest to the Authorizations to be assigned pursuant to Section 1.3 of this Agreement, attached hereto as Exhibit 13.5(c);
- (d) An assignment of all right, title and interest to the intangible assets to be assigned pursuant to Section 1.4 of this Agreement, attached hereto as Exhibit 13.5(d);
- (e) Assignments, including consents to such assignments except for those contracts listed on Schedule 1.5 for which it is noted that consent is not required, of all right, interest and benefits in and resulting from all contracts, agreements, leases, commitments, understandings and options to be assigned pursuant to Section 1.5 of this Agreement, attached hereto as Exhibit 13.5(e);
- (f) A certification from Seller that the liens listed in the lien search conducted by the Escrow Agent upon the establishment of the Escrow Account (the "Lien Search") represent all outstanding liens against Seller, the Station and the Assets, attached hereto as Exhibit 13.5(f). Escrow Agent shall perform another lien search immediately prior to Closing;
- (g) A letter from Seller to Escrow Agent authorizing the Escrow Agent to withhold sufficient funds from the Purchase Price to secure the release of all outstanding liens, as listed on the Lien Search, any other liens occurring between the date of the Lien Search and the Closing Date and any accounts payable so designated by Seller (the "Lien Letter"), attached hereto as Exhibit 13.5(g). This Lien Letter shall grant full authority to Escrow Agent to make all necessary

arrangements to secure the release of any liens pertaining to the Station or the Assets, including but not limited to correspondence with any of Seller's lenders or creditors after notice to Seller; and

- (h) All further instruments and documents as Buyer and Seller may agree upon to effect the transactions contemplated under this Agreement

13.6 Employment of Hal Widsten and Darren Dunn. Hal Widsten, in the position of General Manager, and Darren Dunn, in the position of News Director shall have been continuously employed by Seller between the date of this Agreement and the Closing Date, provided however, that any termination or lapse of employment as a result of the employee's voluntary action or adjudicated violation of any State or Federal law or regulation, excluding traffic misdemeanors, shall not be a breach of this condition.

13.7 Other Acts. Seller shall have done any other acts which are necessary to place Buyer in the position of owning and controlling the Assets, operating the Station and owning or leasing the Real Property, as provided for in this Agreement.

## **Section 14**

### **Conditions Precedent to Seller's Obligations**

The obligation of Seller to consummate the transactions to be performed in connection with the closing is subject to the satisfaction of each of the following conditions:

14.1 Payment of Purchase Price. On the Closing Date, Escrow Agent shall deliver the principal of the Escrow Deposit to Seller and all interest accrued thereon to Buyer, and deliver the Closing Payment in accord with this Agreement and the Escrow Agreement.

14.2 Representations, Warranties and Covenants.

- (a) All representations and warranties of Buyer made in this Agreement, or in any Exhibit, Schedule, or certificate delivered pursuant hereto shall be true and complete in all material respects on and as of the Closing Date with the same force and effect as if made on and as of that date.
- (b) All terms, covenants, and conditions to be complied with and performed by Buyer on or prior to the Closing Date shall have been complied with or performed in all material respects.

14.3 Governmental Consents. The conditions specified in Section 12.1 of this Agreement shall have been satisfied.

14.4 Adverse Proceedings. No suit, action or governmental proceeding shall have been instituted against, and no order, decree, or judgment of any court, agency, or other

governmental authority shall have been rendered against, the parties or any of them which it is reasonably believed would render it unlawful, as of the Closing Date, to effect the transactions contemplated by this Agreement in accordance with its terms.

## **Section 15**

### **Closing Costs and Adjustments**

15.1 Closing Costs. The Buyer shall be responsible for the payment of all closing costs, including but not limited to any title company fees for escrow and closing, FCC filing fees, other items specifically attributable to the transaction and the transfer of all property and assets required by this Agreement and out-of-pocket costs paid to third parties necessary for the acquisition of the Station, specifically excluding, any of Seller's attorney fees not attributable to the granting of the license at the FCC.

15.2 Adjustments. The operation of the Assets and the income and expenses attributable thereto up until 11:59 p.m. on the day preceding the Closing Date shall be for the account of Seller and thereafter for the account of Buyer. At Closing, the following shall be adjusted and apportioned between Seller and Buyer:

- (a) Advance payments, prepayments and accrued payments under all Contracts to be assigned and assumed pursuant to Section 1.5 and Section 9.2(c);
- (b) Deposits placed with telephone and utility companies, and any advance rents or deposits with service companies or suppliers; and
- (c) all other taxes, charges, utility bills, and expenses attributable to the operation of the Station prior to Closing.

15.3 Closing Adjustments. In the event Closing adjustments are in favor of Seller, the same shall be paid at Closing by check of Buyer. In the event that Closing adjustments are in favor of Buyer, the same shall be paid by either a deduction from the amount due under Section 2.1 or by check of Seller. In the event it is impractical or impossible to compute the amounts of adjustments at Closing, the amount shall be computed and paid on the date no later than 120 days following the Closing Date. On-going operating expenses of the Assets such as telephone service, electric, water, sewer, other utilities, maintenance and other such expenses will be paid by Buyer after the Closing Date when such amounts become due, and Seller shall reimburse Buyer upon request for such expenses, and Buyer will provide to Seller with appropriate documentation showing such charges and payments. If the amount of real estate taxes is not conclusively determined at the time of delivery of the deed, real estate taxes shall be apportioned on the basis of the real estate taxes assessed for the preceding fiscal year.

## **Section 16**

### **Commissions or Finder's Fee**

Buyer and Seller mutually represent that there are no finders, consultants or brokers involved in this transaction and that neither Seller nor Buyer have agreed to pay any broker's commission or finder's fee in connection with this transaction.

## **Section 17**

### **Risk of Loss**

17.1 Risk of Loss. The risk of any loss, damage or destruction to any of the Station's assets to be transferred hereunder from fire or other casualty or cause shall be borne by Seller at all times prior to 11:59 p.m. on the date preceding the Closing Date. Upon the occurrence of any loss or damage to any material assets to be transferred hereunder as a result of fire, casualty or other causes prior to Closing, Seller shall notify Buyer of same in writing immediately stating with particularity the extent of such loss or damage incurred, the cause thereof if known and the extent to which restoration, replacement and repair of the Station's Assets lost or destroyed will be reimbursed under any insurance policy with respect thereto. In the event the loss or damage is less than or equal to \$10,000, Seller shall within thirty (30) days completely remedy the loss or damage. In the event the loss or damage exceeds Ten Thousand Dollars (\$10,000) and the property cannot be substantially repaired, restored or replaced with property of a comparable quality or utility within thirty (30) days, Buyer shall have the option exercisable within seven (7) days after receipt of such notice from Seller to terminate this Agreement; or elect to consummate the Agreement and accept the property in its "then" condition, in which event Buyer shall have as its initial recourse all rights under any insurance claim covering the loss. If Buyer elects to consummate the Agreement, Seller will have no further liability to Buyer except for the reimbursement to Buyer for any deductible on insurance policies.

17.2 Broadcast Transmission of Station Prior to Closing. If, prior to the Closing Date, any event occurs outside the control of Buyer which prevents the broadcast transmission of Station with substantially full licensed power, antenna height and contours as described in the Authorization, Seller shall give prompt written notice thereof to Buyer. "Substantial" for purposes of this section shall mean 85% of the Station's authorized power, antenna height, or coverage area. If such facilities are not restored so that operation is resumed with substantially full licensed power, antenna height and contours within three (3) days of such event or, in the case of more than one event, the aggregate number of days proceeding such restorations from all such events would be more than five (5) days, Buyer may, at its option exercisable within eight (8) days after receipt of such notice from Seller, terminate this Agreement; or elect to consummate the Agreement and accept the property in its "then" condition, in which event Buyer shall have as recourse all rights under any insurance claim covering the loss. If Buyer elects to consummate the Agreement, Seller will have no further liability to Buyer except for the reimbursement to Buyer for any deductible on insurance policies. If Station is off the air on the Closing Date for reasons not under the control of the Buyer, Buyer has the option to postpone Closing until Station resumes operation.

**Section 18**  
**Specific Performance; Liquidated Damages**

18.1 Buyer's Specific Performance; Damages. In the event of a default by Seller, provided that Buyer is not then in material default, Buyer, in addition to all other legal remedies, shall have the right to either:

- (a) enforce the terms of the Asset Purchase Agreement by a decree of specific performance and Seller shall waive the defense that there is an adequate remedy at law and any requirement for the posting of a bond; or
- (b) collect from Seller all expenses and damages incurred by Buyer, including the costs of attorneys fees, as a result of Seller's default. In such event, Seller shall join with Buyer in executing an appropriate instrument terminating the transaction in all respects and holding each other harmless upon a delivery of an amount representing such expenses and damages.

18.2 Seller's Specific Performance; Liquidated Damages. In the event of a default by Buyer, provided that Seller is not then in material default, Seller, in addition to all other legal remedies, shall have the right to either:

- (a) enforce the terms of the Asset Purchase Agreement by a decree of specific performance and Buyer shall waive the defense that there is an adequate remedy at law and any requirement for the posting of a bond; or
- (b) collect from Buyer the Escrow Deposit as liquidated damages representing an approximation which is otherwise difficult or impossible to establish with any precision of the damages suffered by Seller as a result of Buyer's default, and not as a forfeiture or penalty. In such event, Buyer shall join with Seller in executing an appropriate instrument terminating the transaction in all respects and holding each other harmless upon a delivery of the Escrow Deposit, and giving instructions to the Escrow Agent to deliver the Escrow Deposit to Seller, and any accrued interest to Buyer.



## **Section 19**

### **Termination Rights**

This Agreement may be terminated by mutual written consent of Buyer and Seller, or without prejudice to whatever rights a party may have for seeking damages, indemnification or other relief as follows: In the event that the FCC has not issued an order which has become a Final Order within ten (10) calendar months from the date the FCC Assignment Application is filed with the FCC, either party shall have the right to terminate the Asset Purchase Agreement if such party is not then in breach or default of the Asset Purchase Agreement upon ten (10) days written notice to the other. Upon such termination, the Escrow Deposit with all accrued interest shall immediately be delivered to Buyer. It is contemplated by the parties that all efforts to secure the license transfer will be prosecuted by the Buyer and Buyer's attorneys in good faith as expeditiously as possible.

## **Section 20**

### **Indemnification**

20.1 Seller's Indemnities. Seller shall indemnify, defend and hold harmless Buyer promptly upon demand from and against any and all losses, cost, liability, claims, actions, damage and expense (including reasonable legal and other expenses incident thereto) of every kind, nature or description, upon written notice by Buyer, arising out of or in connection with: Seller's breach of any representation or warranty of Seller set forth in this Agreement (including the Schedules hereto) or in any certificate delivered to Buyer pursuant hereto;

- (a) Seller's breach of any of its covenants or other agreements contained in or arising out of this Agreement or the transactions contemplated hereby;
- (b) the conduct of the business and operations of the Station prior to 11:59 p.m. on the date preceding the Closing Date.

20.2 Buyer's Indemnities. Buyer shall indemnify, defend and hold harmless Seller from and against any and all losses, cost, liability, damage and expense (including reasonable legal and other expenses incident thereto) of every kind, nature or description, upon written notice by Seller, arising out of:

- (a) Buyer's breach of any of its covenants or other agreements contained in or arising out of this Agreement or the transactions contemplated hereby;
- (b) the conduct of the business and the operation of the Station at and subsequent to 11:59 p.m. on the date preceding the Closing Date.

20.3 Notice of Claim. Each of Buyer and Seller, upon discovery of the breach of any of the representations, warranties and covenants of the other under this Agreement, shall give to the other prompt written notice of the discovery of such breach. If any action, suit or proceeding shall be commenced against Buyer or Seller, as the case may be, in respect of which

such party proposes to seek indemnification from the other under this Section 20 (each a “Third-Party Claim”), then such party (hereinafter the “Claimant”) shall promptly notify the party from whom indemnification is sought (hereinafter the “Indemnifying Party”) to that effect. The Indemnifying Party shall have the right, at its own expense, to participate in or assume control of the defense of such Claim, and the Claimant shall cooperate with all reasonable requests of the Indemnifying Party subject to reimbursement for actual out-of-pocket expenses incurred as the result of a request by the Indemnifying Party. If the Indemnifying Party elects to assume control of the defense of a Third-Party Claim, the Claimant shall have the right to participate in the defense of such claim at its own expense. If a Third Party Claim requires immediate action, the parties will make every effort to reach a decision with respect thereto as expeditiously as possible. If the Indemnifying Party does not elect to assume control or otherwise participate in the defense of any Third Party Claim, it shall be bound by the results obtained by the Claimant with respect to such Claim.

## **Section 21**

### **Miscellaneous Provisions**

21.1     Attorney’s Fees and Costs. Should either party default in the performance of any of the terms or conditions of this Agreement, which default results in the filing of a lawsuit or any action, the prevailing party in such lawsuit shall be entitled to reasonable attorneys’ fees and costs as shall be determined by the court.

21.2     Successors and Assigns. Buyer may assign its rights and obligations under this Agreement to a third party at least 51% owned by Buyer or its principals.

21.3     Construction. This Agreement shall be construed and enforced in accordance with the substantive laws of the State of Texas without reference to principles of conflicts of law in effect in such State. If any Section or provision of this Agreement is held to be invalid or unenforceable, all other Sections and provisions shall nevertheless continue in full force and effect.

21.4     No Waiver. Neither the acceptance nor the delivery of Assets hereunder shall constitute a waiver of any covenant, representation, warranty, agreement, obligation, undertaking, or indemnification of Seller or Buyer contained in this Agreement, all of which shall, unless otherwise specifically provided, survive Closing in accordance with the terms of this Agreement.

21.5     Notices. Any notice, consent, waiver or other communication hereunder shall be sent by certified, express or registered mail, return receipt requested, postage prepaid, overnight air courier service or same day delivery service or by hand delivery with a receipt signed by recipient to the address specified below (or at such other address which party shall specify to the other party in accordance herewith):

If to Seller:

Pinwheel, Inc.  
Bennie Bock, Esq.  
838 West Court Street  
Seguin, Texas 78155

Facsimile:

If to Buyer:

Seguin Media Group, Ltd.  
116 North Camp Street  
Seguin, Texas 78155  
Facsimile: 830/ 372-3011

with copy to:

Pepper & Corazzini, LLP  
John F. Garziglia, Esq.  
Joan Stewart, Esq.  
1776 K Street, N.W., Suite 200  
Washington D.C. 20006  
Facsimile: 202/ 296-0600

Notice or other communication shall be deemed to have been given upon delivery.

21.6 Multiple Counterparts. This Agreement may be signed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. In addition, this Agreement may contain more than one counterpart of the signature page and this Agreement may be signed by the affixing of the signature of each party to one of such counterpart signature pages; all of such counterpart signature pages shall be read as though one, and they shall have the same force and effect as though all of the signers had signed a single signature page.

21.7 Entire Agreement. This Agreement represents the entire understanding of the parties hereto, supersedes all other and prior memoranda and agreements between the parties hereto and may not be modified or amended, except by a written instrument signed by each of the parties hereto designating specifically the terms and provisions so modified and amended.

21.8 Publicity. All announcements and press releases concerning this Agreement and the transactions contemplated herein shall be mutually agreed to by Buyer and Seller prior to their releases. Buyer and Seller agree that, except as and to the extent that such is

required by law or by the FCC's Rules and Regulations, there shall be no public announcement or press release issued concerning this Agreement and the transactions contemplated herein until the Closing Date.

21.9 Exclusive Dealings. During the period commencing on the date of the Letter of Intent and terminating at the earlier of: (x) the date following five (5) months from the date the FCC Assignment Application is filed with the FCC; or (y) the termination of the Letter of Intent without an Agreement being signed, Seller agrees that it shall not, nor shall Seller authorize or permit any of its directors, officers, employees, affiliates, agents, or advisors (collectively, the "Representatives") to, offer or seek to offer, or entertain or discuss any offer, to sell the Assets or the corporate stock of Seller to, or deal with any parties with respect to a purchase of the Station, other than the Buyer. If FCC Consent has not been granted on or before five (5) months from the date the FCC Assignment Application is filed, then Seller or its Representatives shall have the right to offer, or seek to offer, or entertain or discuss any offer, to sell the Assets or the corporate stock of Seller to, or deal with any parties with respect to a purchase of the Station, other than the Buyer.

21.10 Section 73.1150 Statement. Both Seller and Buyer agree that Seller has retained no rights of reversion of the FCC licenses for the Station, no right to the reassignment of the FCC licenses for the Station in the future, and have not reserved the right to use the facilities of the Station in the future for any reason whatsoever.

21.11 Captions. The section captions and headings in this Agreement are for convenience and reference purposes only and should not affect in any way the meaning or interpretation of this Agreement.

21.12 Exhibits and Schedules. The Exhibits and Schedules are hereby incorporated by reference into and made a part of this Agreement. The Seller and Buyer agree that the Exhibits and Schedules may be updated by mutual agreement prior to Closing.

IN WITNESS WHEREOF, the parties hereto have signed this Agreement as of the day written above.

**SELLER:**

**PINWHEEL INC. d/b/a PINWHEEL  
COMMUNICATIONS COMPANY**

By \_\_\_\_\_  
Bennie Bock  
President

**BUYER:**

**SEGUIN MEDIA GROUP, LTD.  
BY: STORY MEDIA, L.L.C.**

By: \_\_\_\_\_  
James M. Story  
Its President

### **Schedule 1.1 - Tangible Assets**

**All assets used and useful in the publication of the Advertising Flyer.**

## **Schedule 1.2 - Real Property**

### **Schedule 1.3 – Authorizations**



## **Schedule 1.4 – Intangible Assets**

## **Schedule 1.5 – Contracts**

## **Schedule 1.7 – Accounts Receivable**

## **Schedule 1.8 – Excluded Assets**

## **Schedule 1.8(d)– Lease Agreement**

## **Exhibit 5.1 – Escrow Agreement**

**Exhibit 5.2(e) – FCC Opinion Letter**

## **Schedule 7.4 – Litigation**



## **Schedule 7.5 - Liabilities**

## **Schedule 7.10 – Insurance Policies**

## **Schedule 7.13 – Federal, State and Local Taxes**

**Schedule 13.1 (c)**

**Seller's Certification**

**Exhibit 13.5(a) – Bill of Sale for Tangible Assets**

**Exhibit 13.5(b) – Warranty Deed (s)**

### **Exhibit 13.5(c) – Assignment of Authorizations**

**Exhibit 13.5(d) – Assignment of Intangible Assets**



**Exhibit 13.5(e) - Assignment of Contracts**

## **Exhibit 13.5(f) – Lien Search**

**Exhibit 13.5(g) – Lien Letter**