

## **ASSET PURCHASE AGREEMENT**

**THIS ASSET PURCHASE AGREEMENT** (this “Agreement”) is entered into as of this 18th day of May 2022 (the “Effective Date”), by and between Newcomb Broadcasting Corporation, a Virginia corporation (“Seller”), and Costa Media Boston LLC, a Massachusetts limited liability company (“Buyer”) (each a “Party” and, collectively, the “Parties”).

### **RECITALS**

**WHEREAS**, Seller is the licensee and operator of radio broadcast station WFAX(AM), Falls Church, Virginia (FCC Facility ID No. 48732) and FM translator W264DB, Falls Church, Virginia (FCC Facility ID No. 158365) (together, the “Stations”), pursuant to authorizations issued by the Federal Communications Commission (the “FCC”) and Seller owns other assets used in connection with the operation of the Stations;

**WHEREAS**, prior to the Closing (as defined herein), Buyer will program time on the Station and sell advertising time in connection therewith, pursuant to a separate Local Marketing Agreement (the “LMA”) that Seller and Buyer are executing and delivering contemporaneously with this Agreement; and

**WHEREAS**, on the terms and conditions described herein, Seller desires to sell and Buyer desires to purchase the authorizations and certain assets owned by Seller and used in connection with the operation of the Stations.

**NOW, THEREFORE**, taking the foregoing into account, and in consideration of the mutual covenants and agreements set forth herein, the Parties, intending to be legally bound, hereby agree to the following terms and conditions:

### **ARTICLE 1: SALE AND PURCHASE**

1.1 **Assets**. Subject to the terms and conditions contained herein, Seller shall grant, convey, sell, assign, transfer, and deliver to Buyer on the Closing Date (defined below) certain assets, properties, interests, and rights of Seller used or useful in connection with the operation of the Stations (collectively, the “Assets”), but excluding the Excluded Assets (defined below). The Assets consist of the following:

(a) **Licenses and Authorizations**. All licenses, authorizations, permits, and approvals issued to Seller with respect to the Stations by the FCC described on Schedule 1.1(a) attached hereto, and any pending applications, construction permits, renewals or modifications thereof, if any (collectively, the “FCC Licenses”).

(b) **Tangible Personal Property**. All broadcast and studio equipment, tangible personal property, computers, fixtures, furniture, and customer lists relating to, or used or useful in connection with, the Stations, described in Schedule 1.1(b) (the “Tangible Personal Property”).

(c) **Tower Rights**. The right to use the tower, currently used by Seller for the operation of the Stations and which Seller is retaining, pursuant to the terms and conditions of a

Tower Lease in the form attached hereto as Exhibit A (the “Tower Lease”), which will be executed and delivered by the Parties at the Closing.

(d) **Studio Space Rights.** The right to use the studio/office space, currently used by Seller for the operation of the Stations located in a building which Seller is retaining, pursuant to the terms of a Studio Lease in the form attached hereto as Exhibit B (the “Studio Lease”), to be executed and delivered by the Parties on the Commencement Date as defined in the LMA.

(e) **Files and Records.** The filings with the FCC relating to the Stations, and such other program logs, technical information, engineering data and records that relate to the Assets being conveyed hereunder.

(f) **Intellectual Property.** All intellectual property, including, without limitation, all call letters, trademarks, trade names, service marks, franchises, copyrights (including registrations and applications for registration of any of them), jingles and logos relating to the Stations.

1.2 **Excluded Assets.** The following shall be excluded from the Assets and retained by Seller (collectively, the “Excluded Assets”):

(a) **Cash and Accounts Receivables.** All cash, cash equivalents or similar investments such as certificates of deposit, treasury bills, and other marketable securities on hand and/or in banks and deposits of Seller, along with all accounts receivable of Seller for advertising time run on the Stations prior to the Commencement Date as defined in the LMA (the “Accounts Receivable”).

(b) **Tower and Studio Building.** The tower structure used by Seller for the operation of the Stations and used by other tenants of Seller, and the building containing the Stations’ studios and offices.

(c) **Insurance.** Any insurance policies or other similar items, any cash surrender value in regard thereto of Seller, and any proceeds from insurance claims made by Seller relating to property or equipment included in the Assets that has been repaired, replaced, or restored by Seller prior to the Closing Date.

(d) **Benefit Plans.** Any pension, profit-sharing or cash or deferred (Section 401(k)) plans and trusts and assets thereof, or any other employee benefit plan or arrangement, and the assets thereof.

(e) **Tax Refunds.** Any interest in and to any refunds of federal, state, or local franchise, income, or other taxes of Seller for taxes incurred and actually paid by Seller prior to the Closing.

(f) **Corporate Books and Accounting Records.** All Seller’s financial records, account books and general ledgers, and all corporate records (including organizational documents) of Seller, including tax returns and transfer books.

(g) **C-Band Dish Payments/Reimbursements.** Any payments arising out of the Commission's *Expanding Flexible Use of the 3.7 to 4.2 GHz Band*, Report and Order and Proposed Modification, 35 FCC Rcd. 2343 (2020) ("3.7 GHz Report and Order") and any subsequent document or proceeding related to the 3.7 GHz Report and Order, relating to Seller's receive-only earth station dish with a callsign of E100058.

1.3 **Liabilities.** The Assets shall be transferred by Seller to Buyer free and clear of all debts, security interests, mortgages, trusts, claims, pledges, conditional sales agreements, and other liens, liabilities, and encumbrances of every kind and nature ("Liens"), other than for taxes not yet due and payable ("Permitted Liens"). Except as required under the LMA regarding reimbursement by Buyer to Seller of certain operating expenses after the Commencement Date as defined in the LMA, Buyer shall not assume (i) any obligations or liabilities of Seller relating to the period prior to the Closing; (ii) any obligations or liabilities of Seller which are unrelated to the Assets being sold hereunder, (iii) any obligations or liabilities relating to employees of Seller, (iv) any obligations or liabilities relating to the Excluded Assets, or (v) any federal, state or local franchise, income, or other taxes of Seller.

1.4 **Deposit.** Within two (2) business days after the execution of this Agreement, Buyer shall deliver to Eddie Esserman (the "Escrow Agent"), the sum of Forty Thousand Dollars (\$40,000.00) (the "Deposit"). The Escrow Agent shall hold the Deposit pursuant to a mutually acceptable Escrow Agreement among Seller, Buyer and the Escrow Agent. At the Closing (defined below), the Deposit shall be credited against the Purchase Price and delivered by the Escrow Agent to Seller. If the Closing does not take place in accordance with the terms of this Agreement, the Deposit will be disbursed to Seller or returned to Buyer in accordance with the terms and conditions set forth in Section 13.3 below.

1.5 **Purchase Price.** The purchase price to be paid for the Assets will be Eight Hundred Thousand Dollars (\$800,000.00) (the "Purchase Price"), subject to credit for the Deposit described above in Section 1.4 and adjustments and prorations described below in Section 1.6, and shall be paid by Buyer on the Closing Date as follows: a wire transfer of immediately available funds in the amount of Two Hundred Ten Thousand Dollars (\$210,000.00), and delivery by Buyer to Seller of a secured promissory note with a principal amount of Five Hundred Fifty Thousand Dollars (\$550,000) in the form set forth in Exhibit C, attached hereto (the "Note"). Collateral for the Note shall be the Assets (excluding, however, the actual FCC Licenses) as provided in a Security Agreement to be delivered by Buyer to Seller at the Closing in the form set forth in Exhibit D, attached hereto (the "Security Agreement").

1.6 **Prorations/Closing Costs.** The Parties agree to prorate all expenses arising out of the operation of the Stations which are incurred, accrued, or payable, as of 11:59 p.m. local time of the day preceding the Closing. The prorated items shall include, but not be limited to, power and utilities charges, FCC regulatory fees (based on the most recent publicly available information about the amount of such regulatory fees for the Stations), property taxes assessed against the Assets (if any, based upon the basis of the most recent tax bills and information available), and similar prepaid and deferred items. The prorations shall, insofar as feasible, be determined and paid on the Closing Date, with final settlement and payment to be made within forty-five (45) days after the Closing Date.

1.7 **Allocation of Purchase Price.** Before the Closing, Buyer and Seller shall agree to an allocation of the Purchase Price for the Assets in a manner which complies with Section 1060 of the Internal Revenue Code of 1986, as amended to the date hereof (the “Code”), and each Party shall file returns with the Internal Revenue Service consistent therewith.

## **ARTICLE 2: FCC CONSENT; CLOSING**

2.1 **FCC Consent; Assignment Application.** Not later than ten (10) business days after the Effective Date, Buyer and Seller shall prepare, execute, and file an application to the FCC (the “Assignment Application”) requesting the FCC’s consent (the “FCC Consent”) to the assignment of the FCC Licenses from Seller to Buyer. Buyer and Seller shall prosecute the Assignment Application and cooperate with each other and with the FCC in order to secure such FCC Consent without delay and to promptly consummate the transaction contemplated hereby. At the Closing, Buyer shall reimburse Seller for the one-half of the FCC filing fee paid by Seller in connection with the Assignment Application. Each Party shall be responsible for all of its other costs with respect to the preparation, filing and prosecution of the Assignment Application, including attorneys’ fees.

2.2 **Closing Date; Closing Place.** Provided that the other conditions to the Closing set forth in Articles 8 and 9 hereof shall have either been waived or satisfied, the closing (the “Closing”) of the transaction contemplated in this Agreement shall occur on a date (the “Closing Date”) that is ten (10) business days after the day on which the FCC Consent shall have been granted, provided, however, Buyer may elect to delay the Closing until the FCC Consent shall have become a Final Order. For purposes of this Agreement, the term “Final Order” means action by the FCC consenting to the Assignment Application, and such consent shall not have been reversed, stayed, enjoined, set aside, annulled, or suspended, and with respect to which action no timely request for stay, petition for rehearing, petition for reconsideration, application for review, or notice of appeal is pending, and as to which the times for filing any such request, petition, application, notice, or appeal, or for reconsideration or review by the FCC on its own motion, shall have expired. The Closing shall be by exchange of documents via email, or as Seller and Buyer may agree.

## **ARTICLE 3: REPRESENTATIONS AND WARRANTIES OF SELLER**

Seller makes the following representations and warranties to Buyer:

3.1 **Organization and Authorization.** Seller is a corporation duly organized, validly existing, and in good standing under the laws of the Commonwealth of Virginia. Seller has the power and authority to execute and deliver this Agreement and to consummate the transaction contemplated hereby. Seller’s execution and delivery of this Agreement and consummation of the transaction contemplated hereby, have been duly and validly authorized, and no other actions on the part of Seller are necessary to authorize the execution and delivery of, or the performance of Seller’s obligations under this Agreement or to consummate the transaction contemplated hereby. This Agreement constitutes the legal, valid, and binding obligation of Seller enforceable in accordance with its terms, except as may be limited by bankruptcy, insolvency, or other laws affecting generally the enforcement of creditors’ rights or the application of principles of equity.



3.2 **No Defaults.** The execution, delivery, and performance of this Agreement by Seller will not (i) constitute a violation of, or conflict with, Seller's articles of incorporation or bylaws, (ii) result in a default (or give rise to any right of termination, cancellation, or acceleration) under, or conflict with, any of the terms, conditions, or provisions of any obligation relating to the business of the Stations, (iii) violate any law, statute, regulation, order, injunction, or decree of any federal, state, or local governmental authority or agency applicable to Seller or any of the Assets, (iv) result in the creation or imposition of any Lien on the Assets, other than Permitted Liens, or (v) require the consent or approval of any governmental authority, lending institution, or other third party other than the FCC Consent.

3.3 **Tangible Personal Property.** Seller owns and has, and will have on the Closing Date, good and marketable title to the Tangible Personal Property. Each item of Tangible Personal Property will be conveyed to Buyer at the Closing in good operating condition, ordinary wear and tear excepted.

3.4 **FCC Licenses and Other Licenses.** Schedule 1.1(a) hereto contains a true and complete list of the FCC Licenses (including pending applications, if any) and all other licenses, permits, or other authorizations from governmental or regulatory authorities that are required for the lawful conduct of the business and operations of the Stations in the manner and to the full extent that the Stations are presently operated. The FCC Licenses and other licenses are in full force and effect, unimpaired by any act or omission of Seller. The FCC Licenses have been renewed for the full term with no conditions, and there are no pending construction permits, requests for special temporary authority, or consent decree's related to the FCC Licenses. Seller lawfully holds each of the FCC Licenses and any other licenses, permits, and authorizations listed on Schedule 1.1(a). Seller is operating the Stations in compliance with the FCC Licenses, the Communications Act of 1934, as amended, and all applicable regulations and published policies of the FCC (the "Communications Laws"). There is not now pending or, to the knowledge of Seller, threatened any action by or before the FCC to revoke, cancel, rescind, modify, or refuse to renew any of such FCC Licenses, and Seller has not received any notice of, and has no knowledge of, any pending, issued, or outstanding order by or before the FCC, or of any investigation, order to show cause, notice of violation, notice of apparent liability, notice of forfeiture, or material complaint against the Stations or Seller.

3.5 **Title.** Seller has and will deliver to Buyer at Closing, good and marketable title to the Assets, free and clear of all Liens other than Permitted Liens.

3.6 **Brokers.** Other than Eddie Esserman, for which Seller shall be responsible to pay a brokerage commission, there is no broker or finder or other person who would have a valid claim for a commission or a brokerage fee as a result of any agreement with Seller, in connection with this Agreement or the transaction contemplated hereby.

3.7 **Litigation; Compliance with Law.** Seller has operated the Stations in material compliance with all laws, regulations, orders, or decrees. Seller is not subject to any order, writ, injunction, judgment, arbitration, decision, or decree having a binding effect and affecting the business of the Stations or the Assets or which restrains or enjoins, or purports to restrain or enjoin, or could reasonably be expected to restrain or enjoin, the transaction contemplated hereby, and to Seller's knowledge no such proceeding is pending. There is no material litigation

pending by or against, or, to Seller's knowledge, threatened against, Seller which relates to the Stations or which could materially and adversely affect any of the Assets.

3.8 **Environmental Matters.** Seller is not aware of the generation, use, transportation, treatment, storage, release or disposal of any substance classified as hazardous under applicable laws in connection with the conduct of Seller's business which has created or might reasonably be expected to create any material liability under any applicable environmental law or which would require reporting to or notification of any governmental entity. To Seller's knowledge, Seller and the Stations are in compliance in all material respects with all environmental, health, and safety laws applicable to them.

3.9 **Taxes.** Seller has duly, timely, and in the required manner filed all federal, state, and local income, franchise, sales, use, property, excise, payroll, and other tax returns and forms required to be filed, and has paid in full or discharged all taxes, assessments, excises, interest, penalties, deficiencies, and losses required to be paid. No event has occurred which could impose upon Buyer any liability for any taxes, penalties, or interest due or to become due from Seller from any taxing authority.

#### **ARTICLE 4: REPRESENTATIONS AND WARRANTIES OF BUYER**

Buyer makes the following representations and warranties to Seller:

4.1 **Organization and Standing.** Buyer is a limited liability company duly organized, validly existing, and in good standing under the laws of [the Commonwealth of Massachusetts].

4.2 **Authorization.** Buyer has the power and authority to execute and deliver this Agreement, and to consummate the transaction contemplated hereby. The execution and delivery of this Agreement and the consummation of the transaction contemplated hereby have been duly and validly authorized by Buyer, and no other proceedings on the part of Buyer are necessary to authorize the execution and delivery of, or the performance of Buyer's obligations under this Agreement, or to consummate the transaction contemplated hereby. This Agreement constitutes the legal, valid, and binding agreement of Buyer enforceable in accordance with its terms, except as may be limited by bankruptcy, insolvency, or other laws affecting generally the enforcement of creditors' rights or the application of principles of equity.

4.3 **No Defaults.** The execution, delivery, and performance of this Agreement by Buyer will not (i) conflict with or result in any breach of any provision of the articles of organization/formation or operating agreement of Buyer, or (ii) result in a default (or give rise to any right of termination, cancellation, or acceleration) under, or conflict with, any of the terms, conditions, or provisions of any note, bond, mortgage, indenture, agreement, lease, or other instrument or obligation relating to Buyer or its business, except for such defaults (or rights of termination, cancellation, or acceleration) or conflicts as to which requisite waivers or consents have been obtained and delivered to Seller, (iii) violate any statute, regulation, order, injunction, or decree of any federal, state, or local governmental authority or agency which is applicable to Buyer, or (iv) require the consent or approval of any governmental authority, lending institution, or other third party other than the FCC Consent.

4.4 **Buyer's Qualification.** Buyer is legally and financially qualified to acquire and to become the FCC licensee of the Stations and to perform its obligations under this Agreement.

4.5 **Litigation.** Buyer is not subject to any order, writ, injunction, judgment, arbitration, decision, or decree having a binding effect and affecting the business of Buyer or which restrains or enjoins, or purports to restrain or enjoin, or could reasonably be expected to restrain or enjoin, the transaction contemplated hereby, and no such proceeding is pending. There is no material litigation pending by or against, or, to the knowledge of Buyer, or threatened against Buyer, that would prevent or materially impede the consummation by Buyer of the transaction contemplated by this Agreement.

4.6 **Brokers.** There is no broker or finder or other person who would have a valid claim for a commission or a brokerage fee as a result of any agreement with Buyer, in connection with this Agreement or the transaction contemplated hereby.

## **ARTICLE 5: COVENANTS OF SELLER**

The following terms of this Article 5 shall apply from the Effective Date until the completion of the Closing (except as otherwise specified).

5.1 **FCC Compliance.** Seller shall continue to operate and maintain the Stations in accordance with the terms of the FCC Licenses and in compliance with all applicable laws and FCC regulations and published policies. Seller will not file any application with the FCC requesting authority to modify the Stations' facilities without Buyer's prior written consent and Seller shall take all actions necessary to keep the FCC Licenses, including all material permits and applications pending before the FCC, valid and in full force and effect.

5.2 **Operation of Stations in Ordinary Course.** Except as provided in the LMA, Seller shall operate the Stations in the ordinary course of business and in accordance with past practice and shall pay and perform all of its obligations with respect to the Stations in the ordinary course as such obligations become due. Seller shall maintain the Tangible Personal Property in normal operating condition and in conformity in all material respects with all applicable FCC technical regulations, ordinary wear and tear excepted.

5.3 **Disposition of Assets.** Prior to the Closing Date, Seller shall not, without the prior written consent of Buyer, sell, lease, or transfer, or agree to sell, lease, or transfer, any of the Assets without replacement thereof with an asset of equivalent kind, condition, and value that satisfies industry standards for such assets, nor create any new Lien on the Assets other than Permitted Liens and Liens arising pursuant to, and in accordance with the terms of, this Agreement.

5.4 **Compliance with Law.** Seller shall comply in all material respects with all federal, state, and local laws, rules, and regulations in connection with the operation of the Stations.

5.5 **Consummation of Agreement.** Seller shall use commercially reasonable efforts to fulfill and perform all conditions and obligations on its part to be fulfilled and performed under this Agreement, and to consummate the transaction contemplated hereby.

## **ARTICLE 6: COVENANTS OF BUYER**

Buyer covenants and agrees that from the date hereof until the completion of the Closing, Buyer shall use commercially reasonable efforts to fulfill and perform all conditions and obligations on its part to be fulfilled and performed under this Agreement, and to consummate the transaction contemplated hereby.

## **ARTICLE 7: ENVIRONMENTAL PHASE I SURVEY**

Not later than sixty (60) days after the Effective Date of this Agreement, Buyer may obtain a Phase I environmental assessment (the "**Phase I Study**") of the Seller's real property used in the operation of the Stations, by an environmental engineer selected by Buyer and at Buyer's sole expense. Within fifteen (15) days after Buyer's receipt of the Phase I Study, if the Phase I indicates environmental conditions may exist on, under or affect such real property and Buyer reasonably concludes that such environmental conditions would constitute a material violation or breach of Seller's representations and warranties contained in Section 3.8 of this Agreement and the cost of removal, correction or remedy of the environmental conditions exceeds Fifty Thousand Dollars (\$50,000.00) in order to make Seller's representation in Section 3.8 materially true and accurate, then notwithstanding any other provisions of this Agreement to the contrary, Seller and Buyer may mutually agree either to (i) proceed with the Closing, with a reduction in the Purchase Price equivalent to the full cost of the remediation of the environmental conditions, or (ii) terminate this Agreement. Notwithstanding anything else provided in this Agreement, in the event that Seller elects to proceed with the Closing pursuant to the immediately preceding sentence, then Buyer shall not have the right to seek indemnification under Section 12.1 of this Agreement for any breach of Section 3.8 of this Agreement.

## **ARTICLE 8: CONDITIONS TO THE OBLIGATIONS OF SELLER**

The obligations of Seller under this Agreement are subject to the fulfillment of the following conditions prior to or on the Closing Date.

### **8.1 Representations, Warranties and Covenants.**

(a) Each of the representations and warranties of Buyer contained in this Agreement was true and correct as of the date when made and is deemed to be made again on and as of the Closing Date and is then true and correct.

(b) Buyer shall have performed and complied with each and every covenant and agreement required by this Agreement to be performed or complied with by it prior to or on the Closing Date.

8.2 **Proceedings.** Neither Seller nor Buyer is subject to any restraining order or injunction (or similar action) which would restrain or prohibit the consummation of the transaction contemplated hereby.

8.3 **FCC Consent.** The FCC Consent has been issued by the FCC.

8.4 **Deliveries.** Buyer has complied with each and every one of its obligations set forth in Section 10.2.

## **ARTICLE 9: CONDITIONS TO THE OBLIGATIONS OF BUYER**

The obligations of Buyer under this Agreement are subject to the fulfillment of the following conditions prior to or on the Closing Date.

### **9.1 Representations, Warranties and Covenants.**

(a) Each of the representations and warranties of Seller contained in this Agreement was true and correct as of the date when made and is deemed to be made again on and as of the Closing Date and is then true and correct.

(b) Seller shall have performed and complied with each and every covenant and agreement required by this Agreement to be performed or complied with by it prior to or on the Closing Date.

9.2 **Proceedings.** Neither Seller nor Buyer is subject to any restraining order or injunction (or similar action) which would restrain or prohibit the consummation of the transaction contemplated hereby.

9.3 **FCC Consent.** The FCC Consent has been issued by the FCC, provided, however, Buyer may elect to delay the Closing until the FCC Consent shall have become a Final Order.

9.4 **Deliveries.** Seller has complied with each and every one of the obligations set forth in Section 10.1.

## **ARTICLE 10: ITEMS TO BE DELIVERED AT CLOSING**

10.1 **Deliveries by Seller.** At Closing, Seller shall deliver to Buyer, duly executed by Seller or such other signatory as may be required by the nature of the document:

(a) a bill of sale sufficient to sell, convey, transfer, and assign the Tangible Personal Property and any other assets included in the Assets (other than the FCC Licenses) to Buyer free and clear of any Liens (the "Bill of Sale");

(b) an Assignment sufficient to assign the FCC Licenses (including the Stations' call letters) to Buyer (the "FCC Licenses Assignment");



(c) the Tower Lease, in the form set forth in Exhibit A, attached hereto, and the Studio Lease, in the form set forth in Exhibit B, attached hereto;

(d) joint instructions to the Escrow Agent authorizing release of the Deposit to Seller; and

(e) a countersigned Security Agreement, in the form set forth in Exhibit D, attached hereto.

10.2 **Deliveries by Buyer.** At the Closing, Buyer shall deliver to Seller, duly executed by Buyer or such other signatory as may be required by the nature of the document:

(a) payment of the Purchase Price in accordance with Section 1.5 and taking into account all adjustments thereto as provided in Section 1.6, including the Note, in the form set forth in Exhibit C, attached hereto, and the Security Agreement, in the form set forth in Exhibit D, attached hereto;

(b) the Tower Lease, in the form set forth in Exhibit A, attached hereto, and the Studio Lease, in the form set forth in Exhibit B, attached hereto; and

(c) joint instructions to the Escrow Agent authorizing release of the Deposit to Seller.

## ARTICLE 11: ACCOUNTS RECEIVABLE COLLECTION

Seller will collect the Accounts Receivable after the Commencement Date of the LMA, which relate to the operation of the Stations prior to the Commencement Date (as defined in the LMA). To the extent that any third party remits payment to Buyer after the Commencement Date for an Accounts Receivable that belongs to Seller, Buyer shall promptly forward such amount to Seller.

## ARTICLE 12: SURVIVAL AND INDEMNITY

12.1 **Seller's Indemnity Obligation.** Seller hereby agrees to indemnify, defend, save, and hold Buyer harmless with respect to any and all claims, losses, obligations, liabilities, costs and expenses, including reasonable counsel fees, threatened, suffered, incurred, or sustained by Buyer by reason of any misrepresentations by Seller or any breach by Seller of this Agreement or of any of Seller's warranties, covenants, or representations contained in this Agreement, or arising from or by reason of Seller's ownership of the Assets or operation of the Stations prior to the Closing Date hereunder. For any amounts that Seller concedes it owes to Buyer pursuant to this Section, Buyer may elect to have such amount offset against the payments required to be paid by Buyer to Seller under the Note. This Section 12.1 shall survive Closing for two (2) years.

12.2 **Buyer's Indemnity Obligation.** Buyer hereby agrees to indemnify, defend, save, and hold Seller harmless with respect to any and all claims, losses, obligations, liabilities, costs, and expenses, including reasonable counsel fees, threatened, suffered, incurred, or sustained by Seller by reason of any misrepresentations by Buyer or any breach by Buyer of this Agreement

or of any of Buyer's warranties, covenants, or representations contained in this Agreement or arising from or by reason of Buyer's ownership of the Assets or operation of the Stations subsequent to the Closing Date hereunder. This Section 12.2 shall survive Closing for two (2) years.

### **ARTICLE 13: TERMINATION**

13.1 **Termination**. This Agreement may be terminated at any time prior to Closing:

- (a) by the mutual written consent of Seller and Buyer;
- (b) by written notice of Seller to Buyer if Buyer defaults in any material respect in the performance of any of Buyer's covenants or agreements under this Agreement or the LMA; and in any of which events such default is not cured within the Cure Period (as defined below), if applicable;
- (c) by written notice of Buyer to Seller if Seller defaults in any material respect in the performance of any of Seller's covenants or agreements under this Agreement or the LMA; and in any of which events such default is not cured within the Cure Period (as defined below), if applicable; or
- (d) by written notice of Seller to Buyer, or Buyer to Seller if the Closing has not been consummated within twelve (12) months of the Effective Date.

13.2 **Cure Period**. The term "Cure Period" as used herein means a period commencing with the date that Buyer or Seller receives from the other Party written notice of breach or default hereunder and continuing until ten (10) days thereafter; provided, however, that Buyer and Seller shall have additional time as may be required beyond such ten (10) day period if the nature of the cure is such that it reasonably requires more than ten (10) days and the breaching party commences the cure within the ten (10) day period and thereafter continuously pursues the cure to completion.

13.3 **Liability**. If this Agreement is terminated pursuant to Section 13.1(b) above and Seller is not in material default of its obligations hereunder, the Deposit shall be disbursed by the Escrow Agent to Seller. Disbursement of the Deposit to Seller in the event of termination of this Agreement pursuant to Section 13.1(b), shall be liquidated damages and the exclusive remedy of Seller against Buyer. Seller acknowledges that its damages in the event of termination of this Agreement under the provisions of Section 13.1(b) above would be difficult to determine and that the Deposit is a reasonable and satisfactory substitution for the amount such damages. Upon termination of this Agreement under Sections 13.1(c) or (d), or by Seller under Article 7 hereto, the Deposit shall be returned by the Escrow Agent to Buyer.

13.4 **Specific Performance**. Seller acknowledges that the Assets are unique assets not readily obtainable on the open market and money damages alone will not be adequate to compensate Buyer for its injury if Seller breaches its obligations under this Agreement. Therefore, Seller agrees and acknowledges that in the event of Seller's failure to perform its obligation to consummate the transaction following satisfaction of, and in accordance with, the

terms and conditions herein, as an alternative to terminating this Agreement Buyer shall be entitled to seek specific performance of only such obligations to consummate the transaction by Seller, and in such proceeding Seller shall waive the defense that there is an adequate remedy at law. Any such specific performance right of Buyer shall be subject to prior FCC approval of the assignment of the Stations' licenses to Buyer.

#### ARTICLE 14: MISCELLANEOUS

14.1 **Governing Law.** This Agreement shall be governed by the laws of the Commonwealth of Virginia (exclusive of those relating to conflicts of laws).

14.2 **Entire Agreement; Amendment; No Waiver.** This Agreement, including the schedules and exhibits hereto, contain the entire agreement and understanding by and between the Parties, and no other representations, promises, agreements, or understanding, written or oral, not contained herein shall be of any force or effect. No oral agreement shall have any effect. No failure or delay in exercising any right hereunder shall be deemed or construed to be a waiver of such right, either prospectively or in the particular instance.

14.3 **Risk of Loss.** The risk of loss to any of the Assets on or prior to the Closing Date shall be upon Seller.

14.4 **Effect of LMA on this Agreement.** Notwithstanding anything in this Agreement to the contrary, neither Seller nor Buyer shall be deemed to have breached any representation, warranty, covenant, or other agreement contained herein, or have failed to satisfy any condition precedent to the other Party's obligations to perform under this Agreement, in each case to the extent that the inaccuracy of any representation, or the breach of any warranty, covenant or agreement, or the inability to satisfy any condition to performance is caused by (i) any action or omission of the other Party under the LMA, or (ii) the failure of the other Party to perform any of its obligations under the LMA, as required under the terms of the LMA. Breach of any of the terms or conditions of the LMA by either Party shall be deemed to be a breach of this Agreement by such Party.

14.5 **Successors and Assigns.** This Agreement shall be binding upon and inure to the benefit of the Parties hereto, and their respective representatives, successors, and assigns. Neither Buyer nor Seller may assign this Agreement or any part hereof without the prior written consent of the other Party, which consent shall not be unreasonably withheld or delayed.

14.6 **Notices.** All notices, requests, demands, and other communications required or permitted under this Agreement shall be in writing (which shall include notice by facsimile and email transmission) and shall be deemed to have been duly made and received when personally served, or when delivered by Federal Express or a similar overnight courier service, expenses prepaid, or, if sent by facsimile communications equipment or email, delivered by such equipment, addressed as set forth below:

If to **Seller**, then to:

Newcomb Broadcasting Corporation  
304 Berry Street SE  
Vienna, VA 22180  
Attention: Doris Newcomb, President  
Email (before Closing): [dnewcomb@wfax.com](mailto:dnewcomb@wfax.com)  
Email (after Closing): [newcombdoris@gmail.com](mailto:newcombdoris@gmail.com)

with a copy, given in the manner prescribed above, to:

Shainis & Peltzman, Chartered  
1850 M Street, NW, Suite 240  
Washington, DC 20036  
Attn.: Susan Marshall, Esq.  
Email: [susan@s-plaw.com](mailto:susan@s-plaw.com)

If to **Buyer**, then to:

Costa Media Boston LLC  
1870 North Benson Road  
Fairfield, CT 06824  
Attention: José M. Villafañe  
Email: [jose@mmnaa.com](mailto:jose@mmnaa.com)

with a copy, given in the manner prescribed above, to:

Fletcher, Heald & Hildreth, PLC  
1300 N. 17th Street, Suite 1100  
Arlington, VA 22209  
Attention: Francisco R. Montero, Esq.  
Email: [montero@fhhlaw.com](mailto:montero@fhhlaw.com)

Each party shall promptly notify the other of any changes to the above information.

14.7 **Further Assurances**. Each Party hereto will execute all such instruments and take all such actions as any other party shall reasonably request, without payment of further consideration, in connection with carrying out and effectuating the intent and purpose of this Agreement and the transactions contemplated hereby.

14.8 **Counterparts**. This Agreement may be executed by facsimile or email transmission and in counterparts, each of which shall constitute an original but together will constitute a single document.

**[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]**

SIGNATURE PAGE TO ASSET PURCHASE AGREEMENT

IN WITNESS WHEREOF, the Parties have duly executed this Agreement as of the date first above written.

**SELLER:**

**NEWCOMB BROADCASTING CORPORATION**

By:   
Name: Doris N. Newcomb  
Title: President

**BUYER:**

**COSTA MEDIA BOSTON LLC**

By: \_\_\_\_\_  
Name: José M. Villafañe  
Title: Managing Member



SIGNATURE PAGE TO ASSET PURCHASE AGREEMENT

**IN WITNESS WHEREOF**, the Parties have duly executed this Agreement as of the date first above written.

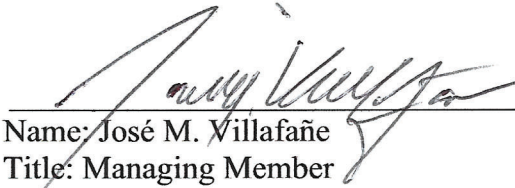
**SELLER:**

**NEWCOMB BROADCASTING CORPORATION**

By: \_\_\_\_\_  
Name: Doris N. Newcomb  
Title: President

**BUYER:**

**COSTA MEDIA BOSTON LLC**

By:  \_\_\_\_\_ 05/18/22  
Name: José M. Villafañe  
Title: Managing Member

## **List of Schedules/Exhibits to Asset Purchase Agreement**

### **Schedules:**

- |        |                            |
|--------|----------------------------|
| 1.1(a) | FCC Licenses               |
| 1.1(b) | Tangible Personal Property |

### **Exhibits:**

- |   |                                 |
|---|---------------------------------|
| A | Form of Tower Lease             |
| B | Form of Studio Lease            |
| C | Form of Secured Promissory Note |
| D | Form of Security Agreement      |

**Schedule 1.1(a)**  
**FCC Licenses**

WFAX(AM), Falls Church, Virginia (Fac. ID No. 48732)  
Frequency: 1220 kHz  
Most recent license renewal file number: 0000073639  
License expiration date: 10/1/2027

W264DB, Falls Church, Virginia (Fac. ID No. 158365)  
Frequency: 100.7 MHz  
Most recent license renewal file number: 0000073640  
License expiration date: 10/1/2027

**Schedule 1.1(b)**  
**Tangible Personal Property**

<b>Equipment Name</b>	<b>Model</b>	<b>Serial Number</b>	<b>Notes</b>
Viewsonic monitor	VS14415	SWR143280484	
Viewsonic monitor	VS15882	U4Z164240272	
Viewsonic monitor VX2235wm	VS11349	QA5064909934	
Viewsonic monitor VA2259- SMH	VS16393	UKX172400913	
Viewsonic VX2250wm-LED	VS13239	RWS103207983	
Viewsonic VA2232WM	VS12910	RMB100402260	
Viewsonic VA2855SMH	VS15180	U2W184460499	
Acer monitor	V276HL	MMT43AA001701 003138511	
Wide Orbit central server		1048689	
Wide Orbit workstation		1103932	
Wide Orbit workstation		11D2401	
Wide Orbit workstation		1082190	
HP workstation	Compaq Elite 8300	2UA3020S1J	
HP Z210 CMT workstation		2UA1371PTO	
HP workstation	Compaq	2UA3020S1K	
HP Z210 workstation	Z210 CMT	2UA1371PVB	
HP Z230 workstation		2UA4511SK5	dual hard drives
HP workstation	Compaq Elite 8300	C9H27UT#ABA	
HP Z210 computer	VA769UT#ABA	24A1371PTL	
Ploycom phone		0004F24BA622	
Ploycom phone		004F24BA871	
Ploycom phone		004F24BA813	
Ploycom phone		0004F24BA574	
Polycom phone		004F24BA7F3	
Polycom phone		004F24BA630	
Polycom phone		004F24BA7EE	
PBX Polycom	Jetway CPU D525 NIC x5		
telephone, Radio Shack	ET-182 43-471/472	21516	
Ingenico credit card reader	1CT220-11T2371A	1CT220-USPHX04A	
Seagate external hard drive backup plus	SRD 00F1	NA9F41MM	
blue love seat/pull out bed			
bookcase- two			
office chairs-13			
Fellowes shredder	P-4SC		
secretarial desks, two			

office desks, three			
Haworth Very office chair	Very	ORA816321R69F5 6	
tables-two			
Kendall Howard work station	Performance Series 24 inch		
Kendall Howard work station	Performance Series 48 inch		with 2 tier shelves
2 drawer lateral file cabinets- two			
HP Color LaserJet printer CM2320n MFP	CC434A	CNB886PB17	needs repair
HP Laserjet Pro M402n		PHBHB48526	
HP Laserjet P205dn printer	CE459A	CNBJ521260	
APC Back-UPS 1200	BE75DG	4B1522P68592	
APC Back-UPS Pro 1500S	BRa500MS	3B1827X26333	
APC Back-UPS 1200			
APC Back-UPS XS1500		8B0747R1864	
APC Back-UPS XS1500		8B0750R1957	
APC Back-UPS XS1500		8B0750R1979	
APC Back-UPS XS1500			
APC Back-UPS XS1500			
APC Back-UPS XS1000			
APC Back-UPS XS1500			
APC Back-UPS 1100			
APC Back-UPS 1100			
APC Back-UPS XS1000	BX1000G	3B1134X08891	
APC Back-UPS XS1000			
APC Back-UPS XS1500			
APC Back-UPS NS1080			
APC Back-UPS XS1500			
Logitech computer speakers		1714GX106988	
Creative Inspire speakers	T10		
computer speakers	88033		
Logitech wireless keyboard/mouse	P/N: 820-002546	C/N 06100	
Dell wireless keyboard/mouse	KM 632	5524A-KG1089	
Telos switch console		310DW2102	
Fostex monitor	6301B2EAV	0229633 C5	
pneumatic stool	37101	Q055794	
Avocent Switchview DVI		0909000975J811R	
USB Dual Pro Dual Channel	Project Series Art		



Pre-Amp			
Buffalo Link Station	LS 220D0202	4.01949E+13	
Henry Engineering Matchbox II - two			
HP 1810-24G switch	J9803A	CN36FRT4RS	
Cisco 8 port switch	SF302-D8MP		
Netgear wireless router		1459COD18586	
Sabrent	USB-SND8	4.02385E+13	music on hold for phone system
HP Procurve Switch 1800-24G	J9028B	CN723ZPORU	
Cisco router			
Buffalo Link Station	LS220D0202	8.01948E+13	
Buffalo Link Station	LS-W2.TGL/R1	4.58229E+13	
Synology external hard drive	DS718		for Acronis computer system backup
Camel love seat			
Wide Orbit software	version 3.8.35		on four workstations
Radio Spider II software	version 2.0.19		
AMR-100 User Interface software	version 1.33.1		
FileZilla Pro software	version 3.50.0		
Natural Log 8 software	version 8.0.282	03313-02665-2D2481-3478-001	
Ipswitch WS_FTP 12 software	version 12.7	2RMNRB6SCYPYJ8 D Perpetual	
dBpoweramp software	release 17		
Adobe Audition software	version 5.0.2 Build 7		
QuickBooks Pro 2012 software	782-078	9344-0058-0817-653	
AutoPilot software	version 2.10.65.6303		
edcast software	3.37.2011.1214 built 12142011		for station audio streaming
Pira CZ Silence Detector software			for monitoring edcast software
Logitek Supervisor 3.6 software			
Logitek Command Builder 3.6 software			
Norton Antivirus software			all workstations
Logitech speakers	Z130	P/N: 880-000146	
Logitech wireless keyboard/mouse		1835SY0440W8	
file cabinets, 4 drawer,			

metal-three			
file cabinet, 5 drawer, metal-one			
Kenmore half size office refrigerator			
water cooler			in storage
Imagerie stool		8977	
Tascam reel to reel rack			
Otari reel to reel recorder	MX5050 BII2	1880065 K	
table top boom mic stands - four			
Sennheiser mic - two	MD-421-U-5	25178 and 07211	
Electrovoice RE20 mic - one			
Electrovoice RE 10 mic - two		3451 and 8451	
universal mic shock mounts - two			
Logitech wireless keyboard/mouse		1442SY03PZY8	
Technics Quartz direct drive turntable	SL-1200 MK2		
studio equipment furniture - two			
QSC power amp	GX3	Go22000X5	
QSC power amp - two	1100		
Telos 1x6		472011 and 950411	two unit set with switch console
Artcessories turntable pro amp			
headphones - four			
Sennheiser mic isolator			
Logiteck Mosaic 12 channel boards - two			
Calcomp equipment rack - one			
Logitek Router -three	AE-32	948; 939; 943	
Marantz CD Recorder	CDR 510/U1B	A1030645004418	
Tacam CD player	CD-01U pro	320631	
Denon Cassette Deck	DN-780R	61011504739	
Denon Cassette Deck	DN-780R	8031505178	
Tascam casssette deck	112MkII	51106	
Tascam CD player	CD-01U pro	320561	
Tascam CD player	CD-01U pro	320634	
Denon Cassette Deck	DN-780R	2101501070	
Trendnet fiber convertor	TFC-1000MSC	C21010OC1683	
AudioScience Bob 1024			

Breakout Box			
Logitek MPQP-mic preamp		123	
Logitek Mosaic PSU			board power supply
EV Sentry 100A Studio Monitor - four	MLX-410		
Logitech wireless keyboard/mouse	K350	C/N 10116 - P/N: 82002546	
Netgear Prosafe 5 port G switch	GS105	2N11163A03562	
Trendnet fiber convertor			
Logitek MPQR mic pre amp		122	
Samson Power Amp	Sevo120a	S12K000358	
AudioScience Bob 1024 Breakout Box			
Logitek Mosaic PSU			power supply for board
desktop mic stand			
Electrovoice isolation mount - two			
Fluke 77 Series II Multimeter		57850439	
Tenma Frequency Counter	72-375	57850439	
Tektronix Oscilloscope	T922	9100233	
Patriot 3 meter satellite dish w/snow cover			
Potomac Instruments Audio Generator	AG-51	115	
Potomac Instruments Audio Analyzier	AA-51	114	
Logitech wireless keyboard/mouse		1852SY06GPB8	
Seagate external hard drive backup plus	SRD00F1	NA768ZTW	
Western Digital My Passport external HD		WXD1A671KLPZ	
Kohler Power Systems	Transfer Switch		automatic
Kohler Power Systems Diesel Generator	60R0ZJ61	287366	
Creative speaker	SBS20	K394	
Joslyn Electronic Systems Surgitron	P/N 1455-85	1441	AC Power Arrestor, 3 phase
workbench - two			
storage cabinets - two			
fire extinguishers - five			
Kintronic Labs	DL-5-78CC	073008-001	AM transmitter dummy load
Mid Atlantic 19 inch equipment racks - four			

Kintronic Labs	Custom LTU WFAX		w/built in Delta Electronics Common Point Bridge
Harris AM transmitter	DAX-6	PRD0043966	
Wegner	iPump 6420	374176	satellitte receiver
Dawn co	Power Supply		Splitter, amplifier, and LNB power supply
Amb-OS	AMR-100	200173	satellite receiver
Broadcast Tools	SRC16 Plus		
Barix Exstreamer	500		
Linksys	SE3008	13R1DC89601268	internet switch
Avocent rack monitor/keyboard		32002309	
Avocent Switchview DVI	1000 KVM 8 port switch	321145395	
Salem Pico Digital	XDS-PRO1R	XDSP-0461995	internet receiver
Moody Radio	XDS-PRO04Q	XDSP-0210591	satellitte receiver
serial fiber optic converters - two	B & B Electronics		
AudioScience Bob 1024 Breakout Box			
Logitek Remote Source Selector	Route - XY	60	
Digital Alert Systems	DASDEC-II/DASRADR	7483	EAS monitor
Optimod-AM	9100A	875829	audio processor for backup AM transmitter
Belar AM Modulation Monitor		141002	Modulation monitor for backup AM transmitter
Nautel AM transmitter		112	backup AM transmitter
Fostex monitor	6301B	0278937P1	
Burke Technology	VRC2500		
Gentner -two	GSC 3000 wiring interface	000322 and 000319	
Gentner -two	VRC Command Relay Unit		
Gentner	Silence Sensor		
US Robotics	56K modum		
Nautel VS300	5500N	5500N-2102	FM translator transmitter
Belar The Wizard AM Digital Modulation Analyzer	AMMA-2	510402	
Orban 9200 Optimod AM Digital Modulation	9200DE/U	312244-003A	
Eventide Broadcast Delay			retired
QSC power amp	1100		old

**EXHIBIT A**  
**Form of Tower Lease**

[Starts on next page.]



## LEASE AGREEMENT

**THIS LEASE AGREEMENT** (this “Lease”) is made and effective as of this \_\_\_\_ day of \_\_\_\_\_, 2022 (the “Effective Date”), between **Newcomb Broadcasting Corp.**, a Virginia corporation (“Lessor”), and **Costa Media Boston LLC**, a Massachusetts limited liability company (“Lessee”).

### **RECITALS:**

A. Lessor owns a broadcast transmission tower structure (the “Tower”) located on certain real property more particularly described on **Exhibit A** (the “Property”), attached hereto and incorporated herein;

B. Concurrently with the execution of this Lease, Lessee is closing on the acquisition of from Lessor certain assets relating to the operation of (i) broadcast radio station WFAX(AM), Falls Church, Virginia (FCC Facility ID No. 48732), and (ii) FM translator W264DB, Falls Church, Virginia (FCC Facility ID No. 158365) (together, the “Stations”), pursuant to an Asset Purchase Agreement, dated May 18, 2022, by and between Lessor and Lessee (the “APA”).

C. Under the terms of the APA, the Tower and the Property were excluded from the sale of assets to Lessee, but Lessor agreed to lease to Lessee, and Lessee agreed to lease from Lessor, space on the Tower and certain space within, on, over, and throughout the Property more particularly described in **Exhibit B** of this Lease, attached hereto and incorporated herein, for the continued operation of the Stations after the closing, under the following terms and conditions.

**NOW, THEREFORE**, in consideration of the foregoing, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. **Recitals.** The recitals set forth here and above are true and correct in all respects and are incorporated herein by reference.

2. **Premises.** Lessor hereby leases to Lessee the following, all of which shall be collectively referred to herein as the “Premises”:

(a) space on the Tower for the FM translator’s antenna and transmission line as described in Exhibit B (the “Antenna Space”);

(b) the right to connect to the tower for the purpose of operating WFAX(AM), as currently operated on the Effective Date of this Lease;

(c) a nonexclusive right of access to the Tower and the Premises as provided in this Lease; and

(d) the right, in common with others, to maintain such power, telephone and utility lines within, on , over, under, and throughout the Property as may be necessary for the operation of Lessee’s Equipment.

3. **Lessee's Equipment.** The term "Lessee's Equipment" shall mean Lessee's antennas, coax cables and other associated equipment acquired by Lessee from Lessor under the APA, and any replacement or additions thereof and thereto of a similar nature permitted by this Lease.

4. **Term.** The initial term of this Lease shall be ten (10) years, commencing on the Effective Date, and shall end and terminate, subject to any early termination as specifically provided in this Lease, at midnight, on the tenth (10th) anniversary of the Effective Date ("Initial Term"). So long as Lessee is not in material default under the terms of this Lease, Lessee shall have the right to extend the Term for two (2) successive five (5) year periods (each, a "Renewal Term" and collectively the "Renewal Terms") on the same terms and conditions as set forth herein. This Lease shall automatically be renewed for each Renewal Term unless Lessee notifies Lessor of Lessee's intention not to renew this Lease at least six (6) months prior to the expiration of the Initial Term or the Renewal Term, as applicable. Lessee shall hold the Premises during the Renewal Terms upon the same terms, covenants and conditions herein contained. Collectively, the Initial Term and Renewal Terms are sometimes referred to hereinafter as the "Term".

5. **Fees.**

(a) There shall be an abatement of the Base Fee (defined below) during the initial two (2)-year period after the Effective Date, which shall not occur prior to the Closing of the sale of the Stations, pursuant to the APA (i.e. Lessee is not required to pay the monthly Base Fee to Lessor for the first two (2) years of the Term of this Lease).

(b) The base monthly fee payable to Lessor commencing two years after the Effective Date shall be Two Thousand Two Hundred Dollars (\$2,200.00) (the "Base Fee"), which shall be payable in advance on the first day of every month.

(c) Effective on the third (3<sup>rd</sup>) anniversary of the Commencement Date of this Lease and thereafter on each anniversary of the Initial Term and any Renewal Term(s), the then current Base Fee payable by Lessee to Lessor shall be increased by an amount equal to two percent (2%) over the total Base Fee payable by Lessee for the preceding twelve (12) month period.

(d) Notwithstanding the provisions of subsection (d) above, the Base Fee shall be adjusted upward at the end of every five (5) years during the terms in accordance with the percentage increase which occurred in the Consumer Price Index ("CPI"), as defined below, over such 5-year period. The term CPI as used herein shall mean the Consumer Price Index published by the Bureau of Labor Statistics of the United States Department of Labor, All Urban Consumers, All Items (1982-84=100), or the nearest equivalent successor official index then in effect. In the event that the Bureau of Labor Statistics changes the form or basis for computation of the CPI, a reliable governmental or other non-partisan publication of Lessor's choice evaluating substantially the same information previously used in determining the CPI shall be used. No adjustments or recomputations, retroactive or projective, shall be made because of any revision which may later be made in the first published figure of the CPI.

(e) Lessee agrees that payment of the monthly Base Fee shall be due and paid without the necessity of a demand or invoice from the Lessor. Any additional fees or other payments set forth herein, including any sales or use taxes or other taxes or fees imposed as a result of Lessee's

use of the Leased Premises, shall be payable upon Lessee's receipt of an invoice from Lessor. Lessee shall pay an additional charge of five (5.0%) percent of the applicable fee for each payment made more than ten (10) days after its due date.

(e) All sums payable hereunder by Lessee, including, but not limited to, the monthly Base Fee payable pursuant to this Section 3, shall be made payable to Lessor, **Newcomb Broadcasting Corporation, 304 Berry Street SE, Vienna, VA 22180.**

6. **Inspection of Premises.** The Premises are provided by Lessor in the same condition as when it was inspected by Lessee. Lessee has visited and inspected the Premises and accepts the physical condition thereto and acknowledges that no representations or warranties have been made to Lessee by Lessor as to the condition of the Premises, including the Tower, and/or the storage facilities, or as to any engineering data regarding the Tower. Lessee is responsible for determining all aspects as to the acceptability, accuracy and adequacy of the Premises for Lessee's use. Lessor shall have no obligation to obtain licenses for Lessee, but shall reasonably cooperate with Lessee if Lessee requires information or assistance from Lessor in obtaining any licenses or other governmental approvals. Lessor shall have no obligation to maintain, insure, operate or safeguard Lessee's Equipment, but shall ensure that the Premises is adequately locked and otherwise secured.

7. **Installation, Maintenance and Operating Procedures.**

(a) Lessee shall maintain and operate Lessee's Equipment during the Term of this Lease in compliance with all present and future rules and regulations of any local or State, or Federal authority having jurisdiction with respect thereto (including, without limitation, the rules and regulations of the Federal Communications Commission ("FCC"), the Federal Aviation Administration ("FAA") and the Occupational Safety and Health Administration ("OSHA")). Prior to any modification or changes to the Lessee's Equipment, if any (but excluding replacement with similar equipment), Lessee shall comply with the following:

(i) Lessee shall submit in writing to **Newcomb Broadcasting Corporation, 304 Berry Street SE, Vienna, VA 22180** all plans for such installations, modifications or changes for Lessor's written approval, such approval not to be unreasonably withheld or delayed.

(ii) All work performed at the Premises in connection with the installation, maintenance, operation, modification, repair and removal of Lessee's Equipment shall be performed at Lessee's sole cost and expense. Lessee shall only allow fully trained technicians and authorized personnel to work on Lessee's Equipment located at the Premises who will effectuate such work only in a good and workmanlike manner, without causing damage to or the weakening of any of Lessor's structures at the Property, and only in compliance with applicable FCC, OSHA and other applicable governmental laws, rules and regulations, including all laws, rules and regulations involving radiofrequency (RF) radiation emissions and/or safety and work standards for work performed on or near communications towers and antenna sites. At Lessor's request, Lessee shall provide written evidence to Lessor of certifications, licenses and/or permits of its employees and/or contractors. Lessee shall require all contractors, as a condition to their engagement, to agree to be bound by provisions materially similar to those included in this Lease, specifically those relating to the indemnification of Lessor and insurance requirements. The

engagement of a contractor by Lessee shall not relieve Lessee of any of its obligations under this Lease. Lessee shall only use for installing purposes clamps or other similar means to prevent damage to or weakening of any nature to the use and occupancy of the Tower and any of Lessor's buildings. No drilling or welding will be permitted on any part of the Tower without Lessor's prior consent.

(iii) No work performed by Lessee, its contractors, subcontractors or materialmen pursuant to this Lease, whether in the nature of construction, installation, alteration or repair to the Premises or to Lessee's Equipment, will be deemed to be for the immediate use and benefit of Lessor so that no mechanics' or other liens will be allowed against the property and estate of Lessor by reason of any consent given by Lessor to Lessee to improve the Premises. If any mechanics' or other liens will at any time be filed against the Premises or the property of which the Premises is a part, by reason of work, labor, services, or materials performed or furnished, or alleged to have been performed or furnished, to Lessee or to anyone using the Premises through or under Lessee, Lessee will forthwith cause the same to be discharged of record or bonded to the satisfaction of Lessor. If Lessee fails to cause such lien to be discharged or bonded within thirty (30) days after it has actual notice of the filing thereto, then, upon written notice from Lessor to Lessee, in addition to any other right or remedy of Lessor, Lessor may bond or discharge the same by paying the amount claimed to be due, and the amount so paid by Lessor, including reasonable attorneys' fees incurred by Lessor either in defending against such lien or in procuring the bonding or discharge of such lien, together with interest thereon at the then prevailing statutory rate, will be due and payable by Lessee to Lessor as an additional fee hereunder.

(iv) All of Lessee's Equipment shall be clearly marked to show Lessee's name, address, telephone number and the name of the person to contact in case of emergency, FCC call sign, frequency and location. All coaxial cable relating to the Equipment shall be identified in the same manner at the bottom and top of the line.

(v) No alterations, additions or improvements of any kind (excluding replacements of Lessee's Equipment with similar equipment) shall be made to the Tower or other structures at the Premises without the prior written consent of Lessor. All such alterations, additions or improvements shall become the property of Lessor and shall remain at the Premises upon the termination of this Lease, unless otherwise provided with Lessor's consent.

(b) In the event Lessee requires an electric power supply and/or utility usage different from that current at the Premises, Lessee shall, at its sole cost and expense, obtain such power or other utility supply. Any work performed in connection with this Paragraph 7(b) shall comply with the provisions of Paragraph 7(a) hereof. Lessee hereby agrees that any lines or cables installed by Lessee shall not be placed outside the current easements of Lessor without the prior written consent of Lessor.

(c) Subject to Paragraph 7(a)(ii) above and 7(d) below, Lessor agrees that, during the Term of this Lease, Lessee's employees and contractors shall have access twenty-four (24) hours per day, seven (7) days per week to the Premises to enable Lessee to maintain and repair Lessee's Equipment. Lessor shall provide Lessee with a key and/or combination to the lock(s) at the Premises in order to facilitate such access. However, neither Lessee nor any of Lessee's agents,

employees or independent contractors are permitted to climb Lessor's tower at the Premises at any time without the prior consent of Lessor, such consent not to be unreasonably withheld or delayed. In the event Lessee should require Lessor's assistance to gain access to the Tower at the Premises, Lessor shall reasonably and expeditiously cooperate with Lessee to provide Lessee with such access. All access to the Premises shall be subject to the continuing control of, as well as the reasonable security and safety procedures established from time to time by, Lessor. Lessor shall have the right to enter the Premises at any time.

(d) Notwithstanding anything in this Lease to the contrary, Lessee agrees that, at Lessor's request, it will turn off its transmitter for maintenance work and cooperate with Lessor and Lessor's other tenants at any time that Lessor or Lessor's other tenants require access to the Premises for the installation, repair, maintenance or removal of equipment at the Premises, or for maintenance of the Premises itself. Lessor will use reasonable efforts to schedule such Premises visits for nonpeak hours, provided, however, that Lessor shall have the right to immediately shut down Lessee's Equipment without prior notice to Lessee for emergencies, for installation, repair, replacement, or maintenance of other tenant's equipment at the Premises, or Lessor's maintenance of the Tower.

(e) Lessor shall maintain the Property and Tower in accordance with all applicable local and federal laws, including federal marking, painting, and lighting obligations.

#### 8. **Interference.**

(a) Notwithstanding anything in this Lease to the contrary, it is expressly understood and agreed that if the installation or operation of Lessee's Equipment shall interfere (such interference being measurable in accordance with then-existing industry standards):

(i) with other existing radio communications systems and equipment installed on the Property as of the Effective Date of this Lease, Lessee shall, upon the written request of Lessor, immediately take all commercially reasonable steps, including to suspend its operations or remove the specific equipment causing the interference (except for intermittent testing), and do whatever Lessee deems necessary, to eliminate or remedy such interference. If it is determined by Lessee that such interference cannot be rectified, then Lessee may, at its option, terminate this Lease upon written notice to Lessor, whereupon Lessee shall remove the Equipment at its sole cost and expense and in accordance with Section 10 herein. If Lessee fails to eliminate the interference or has otherwise failed to take the action required by this subsection to eliminate such interference, Lessor shall have the right to seek an injunction and may terminate this Lease notwithstanding any provision herein to the contrary.

(ii) with any other radio communications systems and equipment installed at the Premises after the Effective Date of this Lease, Lessee shall cooperate fully with Lessor and any future tenant or licensee injured by Lessee's interference ("Future Party") to remedy the interference. Lessee shall do whatever Lessor deems reasonably necessary to cure such interference, provided, however, that all costs related to remedying such interference shall be the responsibility of the Future Party, unless such interference is due to failures, defects or deficiencies in Lessee's system, equipment or installation.



(b) Lessee hereby acknowledges that Lessor has licensed and/or leased, and will continue to license and/or lease, space at and upon the Tower and Property to third parties for the installation and operation of radio communication facilities. Lessee accepts this Lease with this knowledge and waives any and all claims against Lessor arising from or attributable to interference caused by present or future equipment, facilities or operations employed by Lessor on the Tower or in its business at the Property. Lessee also waives any and all claims against Lessor arising from interference resulting to Lessee by virtue of equipment, facilities or operations employed by any other tenant of Lessor in its business upon the Premises. In the event that any such interference occurs that materially interferes with Lessee's utilization of the Premises, Lessee, as its sole remedy, in lieu of any and all other remedies at law, or in equity, may terminate this Lease at any time thereafter by giving Lessor thirty (30) days prior written notice to that effect, and such termination shall be effective at the end of such thirty day period; provided, however, that such termination will not be effective if Lessor eliminates such interference within thirty (30) days of Lessee's termination notice. Lessee shall pay Lessor any fees due for the period up to the termination of this Lease. Any advance payments for periods after the termination of this Lease will be reimbursed to Lessee.

(c) Lessor agrees to include provisions which are substantially similar to Paragraph 8(a) in all future licenses, leases or other agreements relating to the use of the Tower or Property for telecommunications or broadcast purposes.

(d) Lessor reserves the right to require Lessee to relocate one or more of its antenna(s) or other Lessee's Equipment and Lessee agrees to relocate said antenna(s) or other Lessee's Equipment at Lessor's expense, provided that said relocation does not substantially change the operation of the Lessee's Equipment.

(e) In connection with installation and/or subsequent additions or modifications to Lessee's Equipment, Lessee shall conduct and pay for any study or studies necessary to determine the acceptability of such Equipment changes at the Premises, including but not limited to, any study or proof of performance required to verify the proper operation of Lessor's broadcast transmission equipment or needed to determine the capability of the Tower to support Lessee's Equipment. The need for such a study or studies shall be determined by Lessor, with reasonable discretion, and in accordance with FCC rules and regulations. At Lessee's own expense, Lessee shall be solely responsible for the proper execution of such study or studies and Lessor shall have no liability to Lessee or any other party for any claims, demands, suits or judgments arising out of or in connection with such study or studies. Lessee shall also be responsible, at its own expense, for providing additional engineering services required to restore Lessor's transmission system to proper operation, if in Lessor's determination, the results of such study or studies reflect that additional engineering services are necessary.

(f) Lessee agrees that all "down-time" requirements during installation or maintenance of Lessee's Equipment should be coordinated in advance and scheduled with and approved by Lessor.

9. **Structural Modifications and Repairs.** If construction or repairs to any of Lessor's structures or the Tower at the Premises are necessary due to damage caused by the maintenance or operation of Lessee's Equipment, Lessee shall, at its sole cost and expense, make all such noticed repairs within ten (10) days of written notice from Lessor and in accordance with

Section 5 hereof, unless such repairs require more than ten (10) days to complete, in which Lessee shall commence making such repairs within ten (10) days of written notice from Lessor and thereafter continue to make such repairs until complete; provided, however, that in the event of an emergency, Lessor shall have the right to make such modifications or repairs at Lessee's expense, upon notice to Lessee, and such sum shall be immediately due upon the rendering of an invoice to Lessee as an additional fee hereunder.

10. **Removal of Lessee's Equipment.** Provided that Lessee is not in default in the performance of its obligations hereunder, at the expiration of this Lease or earlier termination thereof, Lessee shall remove any and all of the Lessee's Equipment and the Premises shall be restored to a condition reasonably matching the condition existing prior to the Effective Date of this Lease, normal wear and tear excepted. Such removal and restoration shall be performed pursuant to the guidelines set forth in Section 7 of this Lease, without any interference, damage or destruction to any other equipment, structures or operations at the Premises or any equipment of other licensees or tenants thereon. Any and all interference or damage caused to the Premises or equipment of other licensees or tenants by such removal shall be immediately repaired or eliminated by Lessee. If Lessee fails to make such repairs, at Lessee's sole cost and expense, within ten (10) days after the occurrence of such damage, injury or interference, provided however, if such repairs require more than ten (10) days to complete, Lessee shall commence making such repairs within ten (10) days after the occurrence and thereafter continue to make such repairs until complete, Lessor may, upon written notice to Lessee and upon agreement between Lessor and Lessee, perform all the necessary repairs at Lessee's cost and expense and such sum shall be immediately due upon the rendering of an invoice as an additional fee hereunder. If Lessee fails to remove Lessee's Equipment within sixty (60) days following any termination of this Lease, Lessor may remove and store Lessee's Equipment at Lessee's sole cost and expense, without Lessor being liable for any damage therefor.

11. **Indemnification.**

(a) Lessee shall indemnify and hold Lessor and its respective agents and employees harmless from (i) all costs of any damage done to Lessor's or other licensees' or tenants' facilities or equipment located at the Premises, that occur as a result of the installation, operation or maintenance of Lessee's Equipment or other improvements by Lessee, its employees, agents or independent contractors; and (ii) any claims, demands, or causes of action for personal injury, including reasonable attorneys' fees and any payments made under any workers' compensation law or any plan of employees' disability and death benefits, arising out of Lessee's occupancy of the Premises or the installation, maintenance and operation or removal of Lessee's Equipment by Lessee, its employees, agents or independent contractors, except only if such damages, costs, claims, causes of action or demands are caused solely by the negligence or willful misconduct of Lessor.

(b) Neither Party shall not be responsible or liable to the other for any loss, damage or expense that may be occasioned by, through, or in connection with any acts or omissions of other licensees or tenants occupying the Premises. Lessee hereby assumes the risk of the inability to operate as a result of any structural or power failures at the Premises or failure of Lessee's Equipment, and agrees that Lessor shall not, under any circumstance, be liable for any incidental

or consequential damages, or for any lost profits due to business interruption, suffered or incurred by Lessee for any reason.

12. **Damage or Destruction.** Lessee hereby agrees that Lessor shall in no way be liable for loss of use or other damage of any nature arising from the loss, destruction or damage to the Premises, to Lessor's structures and tower thereon, or to Lessee's Equipment located thereon, by fire, explosion, windstorms, water or any other casualty or acts of third parties. In the event the Premises or any part thereof is damaged or destroyed by such elements or by any other casualty or cause, or acts of third parties, Lessor may elect to repair, rebuild, or restore the Premises or any part thereof, to the same condition as it was immediately prior to such casualty. In such event, the payments required herein shall cease as of the date of such casualty until the Premises, in Lessor's opinion, is restored to a usable condition for Lessee's operation. If Lessor chooses not to repair, restore or rebuild the Premises, Lessor shall send to Lessee a written notice of cancellation of this Lease within thirty (30) days of such casualty. If Lessor chooses to repair, restore or rebuild the Premises and such repairs or restoration are not completed within 180 days from the date of the casualty, Lessee shall have the right, in its sole discretion, to cancel this Lease by providing written notice of cancellation to Lessor, and shall have no further liability or obligation to Lessor. If this Lease is canceled, the payments required herein shall terminate as of the date of such casualty.

13. **Insurance.**

(a) Lessee shall keep in full force and effect during the Term of this Lease a comprehensive general liability insurance policy, including blanket contractual and completed operations coverage, with the limits of liability of at least Four Million (\$4,000,000.00) Dollars in respect to bodily injury, including death, arising from any one occurrence, and Four Million (\$4,000,000.00) Dollars in respect to damage to property arising from any one occurrence. Said insurance policy shall be endorsed to include Lessor as an additional insured and shall provide that Lessor will receive at least thirty (30) days' prior written notice of any cancellation or material change in such insurance policy. Lessee shall furnish to Lessor current certificates of insurance confirming that the insurance coverage as specified herein is in full force and effect.

(b) Notwithstanding the foregoing insurance requirements, the insolvency, bankruptcy, or failure of any insurance company carrying insurance for Lessee, or the failure of any such insurance company to pay claims accruing, shall not be held to waive any of the provisions of this Lease or relieve Lessee from any obligations under this Lease.

14. **Taxes.** Lessee hereby acknowledges that the existence of Lessee's Equipment and other improvements at the Premises may be separately assessed in valuation of the Premises for property tax purposes. Lessee agrees to reimburse Lessor upon receipt of documentation showing that Lessee's Equipment or other improvements increase the assessed value of the Premises, for Lessee's proportionate share of any in the real estate taxes payable by Lessor as a consequence of the assessed valuation. In the event any sales, use or other tax shall be payable by Lessor in connection with this Lease, Lessee shall reimburse Lessor on demand for such payments or shall furnish necessary documentation to the appropriate government authorities to show that fee payments hereunder shall be exempt from such sales, use or other tax.



15. **Notices.** All notices, demands, requests, or other communications which are required to be given, served or sent by one party to the other pursuant to this Lease shall be in writing, and shall be mailed or delivered, postage prepaid, by certified mail or by reliable overnight courier service with written delivery verification, to the following address or at such other address as may be designated in writing by either party:

If to Lessor: Newcomb Broadcasting Corporation  
ATTN: Doris N. Newcomb  
304 Berry Street SE  
Vienna, VA 22180

If to Lessee: Costa Media Boston LLC  
1870 North Benson Road  
Fairfield, CT 06824  
Attn: José M. Villafañe, Managing Member

Notice given by certified mail or by reliable overnight courier shall be deemed delivered on the date of receipt (or on the date receipt is refused) as shown on the written certification of receipt or on the records or manifest of the U.S. Postal Service or such courier service.

16. **Default.**

(a) Any one or more of the following events shall constitute a default ("Default") by Lessee under this Lease.

(i) the failure of payment of the Base Fee or any other fees (or payments set forth herein and such failure continues for ten (10) days after Lessor gives written notice of such failure to Lessee;

(ii) abandonment of either the Lessee's Equipment and/or the Premises upon which the Lessee's Equipment was located and that abandonment continues for a period of thirty (30) days;

(iii) prosecution of any case, proceeding, or other action under any existing or future law of any jurisdiction, domestic or foreign, relating to bankruptcy, insolvency, reorganization or relief with respect to Lessee, or seeking reorganization, management, adjustment, winding-up liquidation, dissolution, composition or other relief with respect to Lessee or Lessee's debts;

(iv) the making by Lessee of an assignment or any other arrangement for the general benefit of creditors under any state statute;

(v) Lessee's failure to perform any other of its obligations under this Lease and such failure continues for thirty (30) days after Lessor gives written notice thereof to Lessee;

(vi) Lessee's failure to comply with Section 8 hereof (which shall constitute an immediate default under this Lease); or

(vii) This Lease is assigned, transferred, mortgaged or encumbered except in accordance with Section 15 herein below.

(b) In the event of a Default, this Lease shall automatically terminate and Lessor may, at its option, disconnect, remove and store the Equipment at Lessee's sole cost and expense, without Lessor being liable for any damage therefor. In the event that Lessor should, as a result of the Default in the performance by Lessee of its obligations hereunder, incur any costs or expenses on behalf of Lessee or in connection with Lessee's obligations hereunder, such sums shall be immediately due to Lessor upon rendering of an invoice to Lessee as an additional fee hereunder.

(c) At any time or from time to time after the removal of the Equipment from the Premises pursuant to Paragraph 16(b) above, whether or not the Term of this Lease shall have been terminated, Lessor may (but shall be under no obligation to) re-lease Lessee's former space at the Premises, or any part thereof, for the account of the Lessor, for such term or terms (which may be greater than or less than the period which would otherwise have constituted the balance of the Term hereunder) and on such conditions (which may include concessions or free rent) and for such uses as Lessor, in Lessor's absolute discretion, may determine and may collect and receive payments therefrom. Lessor shall not be responsible or liable for any failures to release Lessee's former space at the Premises or any part thereof or for any failure to collect any payments due upon any such re-leasing.

(d) No Default pursuant to this Section 16, by operation of law or otherwise (except as expressly provided herein), no removal of Lessee's Equipment from the Premises pursuant to the terms of this Lease, and/or no re-leasing of the Premises shall relieve Lessee of Lessee's obligations or liabilities hereunder, all of which shall survive such Default, removal and/or re-leasing. Without limiting the foregoing, upon removal of the Equipment from the Premises pursuant to Section 16, Lessee shall nonetheless remain liable for all monthly fees and other payments hereunder for the remainder of the Term.

(e) All of the rights, powers, and remedies of Lessor provided for in this Lease or now or hereafter exhibiting at law or in equity, or by statute or otherwise, shall be deemed to be separate, distinct, cumulative, and concurrent. No one or more of such rights, powers, or remedies, nor any mention or reference to any one or more of them in this Lease, shall be deemed to be in the exclusion of, or a waiver of, any other rights, powers, or remedies provided for in this Lease, or now or hereafter existing at law or in equity, or by statute or otherwise. The exercise or enforcement by Lessor of any one or more of such rights, powers, or remedies shall not preclude the simultaneous or later exercise or enforcement by Lessor of any or all of Lessor's other rights, powers, or remedies.

#### 17. **Assignment.**

(a) Lessor reserves the right to assign, transfer, mortgage or otherwise encumber the Premises and/or its interest in this Lease. In the event of any sale of the Premises, Lessor shall be freed and relieved of all liability under any and all of its covenants and obligations contained and derived from this Lease arising out of any act, occurrence or omission occurring after the

consummation of such sale, provided however that any successors or assigns shall be bound by Lessor's obligations under this Lease. It is understood and agreed that this Lease is secondary and subordinate to any mortgages, deeds of trust or other means which now cover, or may in the future cover, the Premises. For any mortgages, deeds of trust or other means which may in the future cover the Premises, as a condition precedent to Lessee being required to subordinate its interest in this Lease, at Lessee's request Lessor shall obtain for Lessee's benefit a non-disturbance agreement in a form reasonably satisfactory to Lessee, and shall recognize Lessee's right to remain in occupancy of and have access to the Premises as long as Lessee is not in default of this Lease beyond applicable notice and cure periods. If Lessor obtains such non-disturbance agreement, Lessee will, upon request of Lessor, promptly execute or cause to be executed such writing, as may be necessary or requisite to evidence the fact that any rights given Lessee under this Lease are subordinate to any such mortgages, or deeds of trust, or other liens. Nothing provided herein shall be construed to give Lessee any rights in the Premises or the Premises other than the limited right to use the Premises as expressly provided in this Lease.

(b) Lessor agrees that Lessee may assign its rights and/or delegate its obligations under this Lease, upon prior written notice to Lessor but without Lessor's consent, to Lessee's parent, subsidiary, affiliate or any other entity controlled by or under common control with Lessee and ultimately controlled by the current controlling principals of Lessee. Notwithstanding the foregoing, this Lease is personal to Lessee and may not be assigned or transferred by mortgage, pledge, instrument or assignment or any other manner without the prior written consent of Lessor, which consent shall not be unreasonably denied or delayed and the withholding of such consent, if it occurs, to be premised upon the reasonable determination by Lessor that Lessee's assignee or transferee lacks creditworthiness or other similar business characteristics. Any assignment of this Lease shall require the assignee to assume and perform all of the obligations of Lessee under the Lease. however, any consent by Lessor hereunder shall not relieve Lessee from liability for payments of amounts due hereunder and/or performance or observance of any of the terms and conditions of this Lease unless Lessor, in writing, grants such relief to Lessee, the granting of such relief not to be unreasonably withheld. In no event shall Lessee have the right to sublet all or any portion of the Leased Premises.

18. **RF Emissions Compliance.** Lessee is aware of its obligation to comply with all applicable rules and regulations of the FCC pertaining to RF emissions standards, as well as all applicable rules and/or regulations of any other federal or state agency (including but not limited to OSHA) having jurisdiction over the installation, operations, maintenance and/or working conditions involving RF emissions and/or safety and work standards performed on or near communication towers and antenna Sites. Lessee agrees to be solely responsible for compliance with all applicable FCC and other governmental requirements with respect to installation, operation and maintenance of its Equipment and for repairs to its Equipment at the Premises. Lessee will immediately remedy its operations to comply with such laws, rules and regulations as they apply to its operations and/or the operations of all tenants and Lessees taken in the aggregate at the Premises. Lessee shall take any and all steps (including but not limited to the development of and compliance with a joint agreement with Lessor and other tenants at the Site) required to comply individually and in the aggregate with all applicable FCC and other governmental RF emissions standards.

19. **Holding Over.** Any holding over after the expiration of the Term with the consent of Lessor shall be at the same amount as the Base Fee in effect during the last portion of the Term, and otherwise upon the same terms and conditions specified herein, as far as applicable, and Lessor may at its option terminate this Lease at will.

20. **Eminent Domain.** If any part of the Leased Premises is taken or condemned for public or quasi-public use, this Lease shall, at the option of Lessee, terminate. In such event, no further payment of Base Fees is due, except for that which may have been due and payable at the time of such taking. If all of the Leased Premises shall be taken or condemned for public or quasi-public use, this Lease shall, at the option of Lessor, terminate. Lessee may on its own behalf make a claim in any proceeding involving the Premises for losses related to its Equipment, conduits, and fixtures, its relocation costs, and its damages and losses (but not for its loss of leasehold interest).

21. **Force Majeure.** Neither party shall be deemed in default hereunder if prevented from fulfilling any or all of its obligations because of Force Majeure, including civil commotion, riot, flood, earthquake, pandemics, or other Acts of God.

22. **Miscellaneous.**

(a) This Lease shall not be modified, extended or terminated (other than as set forth herein) except by an instrument duly signed by Lessor and Lessee. Waiver of a breach of any provision hereof under any circumstances will not constitute a waiver of any subsequent breach of such provision, or of a breach of any other provision of this Lease.

(b) No modification, termination or surrender of this Lease or surrender of Lessee's Leased Premises or any part thereof or of any interest therein by Lessee (except as set forth herein) shall be valid or effective unless agreed to and accepted in writing by Lessor, and no act by any representative or agency of Lessor, other than such a written agreement and acceptance, shall constitute an acceptance thereof.

(c) This Lease embodies the entire agreement between the parties. If any provision herein is invalid, it shall be considered deleted from this Lease and shall not invalidate the remaining provisions of this Lease.

(d) This Lease may be executed in counterpart copies, each of which shall be deemed an original, but which together shall constitute a single instrument. All section headings and captions used herein are for the convenience of the parties only and shall not be considered a substantive part of the Lease.

(e) This Lease shall be governed by and construed in accordance with the laws of the Commonwealth of Virginia, without regard to Virginia conflict of laws principles.

(f) Lessor has all requisite corporate power to execute, deliver and perform its obligations under the provisions of this Lease and agrees to furnish to Lessee appropriate corporate resolutions approving this Lease and Lessor's obligations hereunder.

(g) This Lease, or a memorandum hereof, may be recorded in the appropriate land records of the Commonwealth of Virginia.

(h) This Lease shall be binding upon the parties hereto, their heirs, personal representatives, successors and assigns

(i) Lessor covenants that Lessee, on paying rent and performing its obligations herein, shall peaceably and quietly have, hold and enjoy the Premises.

**IN WITNESS WHEREOF**, the undersigned have executed this Lease as of the date first written above.

**Lessor: NEWCOMB BROADCASTING CORPORATION**

By: \_\_\_\_\_  
Doris N. Newcomb, President

**Lessee: COSTA MEDIA BOSTON LLC**

By: \_\_\_\_\_  
José M. Villafañe, Managing Member

**EXHIBIT B**  
**Form of Studio Lease**

[Starts on next page.]

**TOWER SQUARE  
SHOPPING CENTER LEASE**

THIS COMMERCIAL DEED OF LEASE ("Lease"), dated May \_\_\_\_, 2022, is entered into by and between NEWCOMB BROADCASTING CORPORATION, a Virginia corporation ("Landlord") and COSTA MEDIA BOSTON, LLC, a limited liability company organized in the state of Massachusetts and authorized to do business in Virginia (SCC Registration # \_\_\_\_\_) ("Tenant").

Landlord and Tenant hereby promise, covenant, and agree as follows:

**ARTICLE 1  
BASIC LEASE INFORMATION AND DEFINITIONS**

In addition to the terms which are defined elsewhere in this Lease, the following defined terms are used in the Lease:

- (a) LEASE COMMENCEMENT DATE:** July 1, 2022.
- (b) TENANT:** Costa Media Boston LLC, 18700 North Benson Road, Fairfield, CT 06824.
- (c) TENANT'S TRADE NAME:** Costa Media Boston LLC d/b/a WFAX
- (d) TENANT'S ADDRESS:** 1870 North Benson Road, Fairfield, CT 06824.
- (e) LANDLORD:** Newcomb Broadcasting Corporation, a Virginia Corporation.
- (f) LANDLORD'S ADDRESS:** 304 Berry St. SE, Vienna, VA 22180.
- (g) SHOPPING CENTER ADDRESS:** Tower Square Shopping Center, Hillwood Avenue, Falls Church, Virginia 22046.
- (h) RENT COMMENCEMENT DATE:**
  - 1. The rent commencement date will be the date of the sale of WFAX radio station.
  - 2. While the radio station sale is pending and the Federal Communications Commission (FCC) is in the process of approving Tenant's application as new owner of the station, Tenant shall allow Landlord and/or Landlord's employees to have access to the radio station office, studio, and to a computer in order to conduct business during the License Management Agreement period of radio station operation.
- (i) EXPIRATION DATE:** The term of the Lease shall begin on the Lease Commencement Date and end ten (10) Lease Years after, unless sooner terminated pursuant to



this Lease. The term "Lease Year" used herein shall mean a period of twelve (12) consecutive full calendar months. The first Lease Year shall begin on the first day following the Lease Commencement Date (or on the first day of the calendar month following the Lease Commencement Date if said date is other than the first day of the month), and each succeeding Lease Year shall commence upon the anniversary of the beginning of the first Lease Year.

**(j) FIRST MONTH'S MONTHLY BASE RENT:** Tenant shall pay the first month's base rent on the Rent Commencement Date.

**(k) MONTHLY BASE RENT:** The monthly Base Rent payable during the Term shall be as follows:

1. Two Thousand Dollars (\$2,000.00) each month for the first Lease Year.
2. Twenty-Nine Hundred Dollars (\$2,900.00) each month for the second Lease Year.
3. Commencing on the annual anniversary of the Rent Commencement Date in the third Lease Year, and on each annual anniversary thereafter during the term, the total annual rent shall increase by an amount equal to three percent (3%) of the annual rent due for the immediately preceding Lease Year, to be paid in monthly installments.

**(l) LEASABLE AREA OF THE PREMISES:** Approximately 1,760 square feet.

**(m) USE PERMITTED:** Tenant shall use the Premises as a radio station office and studio and for no other purposes.

**(n) ADDITIONAL RENT:** Additional rent shall be any amounts, including without limitation operating expenses and real estate taxes that the Lease requires Tenant to pay in addition to Monthly Base Rent.

**(o) LAND:** The land on which the Shopping Center is located and which is more particularly described on Exhibit A to this Lease.

**(p) PREMISES:** The Premises shown on Exhibit A to this Lease and known as 161-B Hillwood Avenue, Falls Church, Virginia located in the Tower Square Shopping Center. The area of the Premises and the Shopping Center will be determined by Landlord and will be conclusive in the absence of fraud or manifest error. The Premises do not include, and Landlord reserves, the exterior walls and roof of the Premises and the land beneath the Premises.

**(q) SHOPPING CENTER:** The Shopping Center consisting of the Land and all improvements built on the Land, including without limitation, the walkways, landscaping and parking areas. The Landlord covenants that the customers, employees and suppliers of the Tenant may have the right to use portions of the parking area for the parking of their automobiles while transacting business with the Tenant, subject to reasonable restrictions established solely by the discretion of the Landlord.



**(r) RENT:** The Monthly Base Rent and Additional Rent.

**(s) EXHIBITS TO LEASE:** These exhibits are attached to this Lease and are made parts of this Lease:

EXHIBIT A—The Land and Premises

EXHIBIT B – Rules and Regulations

## **ARTICLE 2 AGREEMENT**

Landlord leases the Premises to the Tenant, and Tenant leases the Premises from Landlord, according to the Lease. If more than one Tenant signs this Lease all persons and/or entities signing as Tenant(s) shall be jointly and severally liable for all obligations of Tenant set forth in this Lease.

## **ARTICLE 3 TERM**

3.1 Term. The Term of the Lease shall begin on Lease Commencement Date.

3.2 Condition of the Premises. Landlord will deliver the Premises in “as is” condition.

## **ARTICLE 4 MONTHLY BASE RENT**

4.1 Rent. Monthly Base Rent shall be payable according to the schedule outlined in Section 1(k) in monthly installments payable on the first of each month, in advance, without demand, offset, deduction, or counterclaim.

4.2 Landlord's Agent. All rental payments hereunder shall be made to Newcomb Broadcasting Corporation, 304 Berry St. SE, Vienna, VA 22180 or to such other place as the Landlord shall designate in writing.

4.3 Late Fee Shall Be Considered Additional Rent. If Tenant shall fail to pay any installment of Rent within five (5) days beyond the date on which it is due and payable, Tenant shall pay as Additional Rent a late fee in the amount of ten percent (10%) of the Monthly Base Rent for each monthly rental payment that is late. All late fees shall be considered and treated as Additional Rent. Acceptance of Rent by the Landlord at any time between the first and fifth day of the month is not a waiver of the due date for Rent. All monies received by Landlord shall be applied to any outstanding Rent, late fees and other applicable fees, charges, and Additional Rent due from previous months before being applied to Rent for the month in which the rental

payment is made.

## **ARTICLE 5 COMMON AREA OPERATING EXPENSES**

5.1 General. Starting at the beginning of the third Lease Year, in addition to Monthly Base Rent, Tenant shall pay Tenant's pro rata share of the operating expenses, real estate taxes and insurance premiums paid, payable, or incurred by Landlord in each calendar year or partial calendar year during the term. As used in this Lease, the term "operating expenses" means:

(a) all costs of management, operation, and maintenance of the Shopping Center (any of which may be furnished by an affiliate of Landlord), including without limitation: cleaning, window washing, landscaping, lighting, accounting fees, insurance, City/County business license tax, management fees, security costs, maintaining, and replacing (except to the extent proceeds of insurance or condemnation awards are available) any common areas: maintaining, repairing, replacing, cleaning, lighting, removing snow and ice, painting and landscaping, of all vehicle parking areas and their outdoor common areas, resealing and restriping parking lot, and any electricity, and real property taxes (and any tax levied in whole or in part in lieu of real property taxes).

5.2 Payment of Operating Expenses and Real Estate Taxes. Tenant's proportionate share of operating expenses, real estate taxes and insurance premiums shall be payable in advance, in monthly installments on or before the first day of each calendar month during the Term, subject to periodic adjustment. Tenant's proportionate share of operating expenses, real estate taxes and insurance premiums shall be based upon Landlord's estimate of such costs for the year and shall be adjusted by Landlord after the end of each calendar year. The monthly installments paid by Tenant shall be adjusted based upon the most recent estimate by Landlord. If the total amount paid by Tenant under this Paragraph for any such calendar year shall be less than the actual amount due from Tenant for such calendar year as shown on such statement, then Tenant shall pay to Landlord the difference between the amount paid by Tenant and the actual amount due, such deficiency to be paid within 30 days after the furnishing of each such statement. If the total amount paid by Tenant under this Paragraph for any such calendar year shall be more than the actual amount due from Tenant for such calendar year as shown on the aforementioned statement, Landlord will remit the difference to Tenant within 10 days of receipt of the amount paid by Tenant.

5.3 Additional Rent. Amounts payable by Tenant according to this Article 5 will be payable as Rent, without deduction or offset. If Tenant fails to pay any amounts due according to this Article 5, Landlord will have all the rights and remedies available to it on account of Tenant's failure to pay Rent.

## **ARTICLE 6 INSURANCE**

6.1 Tenant's Insurance. From and after the date of delivery of the Premises from

Landlord to Tenant and continuing throughout the term of this Lease, Tenant shall carry and maintain, at its sole cost and expense, the following types of insurance, in the amounts specified and in the form hereinafter provided for:

(a) Commercial General Liability Insurance covering the Premises and Tenant's use thereof against claims for bodily injury or death, personal injury and property damage occurring upon, in or about the Premises regardless of when such claims may be made. Such insurance may include any umbrella or excess liability insurance which may be carried by the Tenant and shall have limits of not less than \$2,000,000.00 per occurrence with an aggregate limit of \$4,000,000.00, or other commercially reasonable limits of insurance which may, from time to time, be requested by Landlord.

(b) Worker's Compensation Insurance to comply with the applicable laws of the Commonwealth of Virginia and Employer's Liability Insurance with limits of not less than \$500,000.00 for bodily injury by accident or disease.

(c) Physical Damage Insurance subject to a Special Causes Loss Form covering Tenant's trade fixtures, merchandise and personal property from time to time in, on or about the Premises and all leasehold improvements to the Premises specifically including any heating and cooling facilities serving the Premises. Additionally, a boiler and machinery or energy equipment policy shall be obtained to cover direct damage to the heating and cooling system. Such insurance (i) shall be written on a replacement cost basis in an amount at least equal to eighty percent (80%) of the replacement cost of the insured property; and (ii) shall provide protection against perils that are covered under standard insurance industry practices including, but not limited to loss or damage from fire, lightning, windstorm, hail, explosion, riot, civil commotion, aircraft, vehicles, smoke, domestic water damage, collapse, sprinkler leakage, vandalism and malicious mischief. Tenant's obligation to provide insurance pursuant to this subparagraph shall apply to all improvement and fixtures notwithstanding that some or all of such improvements and fixtures may have been installed and may be maintained by Tenant, Landlord, a prior Tenant or any other party at any time before or after the delivery of the Premises to Tenant.

(d) Tenant shall carry and keep in full force and effect at all times during the term, at its sole cost and expense, a replacement cost plate glass policy insuring all glass in the doors, show windows and all exterior store front glass surfaces of the Premises. Tenant may have a \$1,000.00 deductible on any such plate glass policy. Such insurance shall contain waiver of subrogation provisions in favor of Landlord.

6.2 Requirements of Tenant's Insurance Policies. All policies of insurance provided for shall be issued by insurance companies which are reasonably acceptable to Landlord. Each and every such policy:

(a) Shall be issued in the name of Tenant and include the Landlord as an additional insured;

(b) Shall be delivered (or a certificate form thereof) to Landlord not later than the date of delivery of possession of the Premises to Tenant and thereafter at least thirty (30) days prior to the expiration of each policy, and, as often as any such policy shall expire or terminate, renewal or additional policies shall be procured and maintained by Tenant in like manner and to like extent, and each certificate shall indicate specifically the form on which the policy is written



(occurrence or claims made), the policy deductible and limit of insurance and that the insurer has waived any rights of subrogation it would otherwise have against Landlord. Tenant's failure to timely deliver a copy of said insurance policy to Landlord shall be considered a default under the terms of this Lease;

(c) Shall contain a provision that any misrepresentation or breach of the policy conditions by one insured shall not invalidate coverage for any other insured;

(d) Shall contain a provision that the insured will give to Landlord and such other parties in interest at least thirty (30) days notice in advance of the insurer's intention to cancel, refuse to renew or materially alter any terms or conditions of the policy;

(e) Shall be written as a primary policy which does not contribute to and is not in excess of coverage which Landlord may carry, notwithstanding the requirement that Landlord be named as an additional insured and regardless of any other insurance that Landlord may elect to obtain;

(f) Any insurance required to be provided by Tenant pursuant to this Lease may be provided by blanket insurance covering the Premises and other locations of Tenant provided such blanket coverage complies with all other requirements of this Lease with respect to the insurance involved; and

(g) Shall be issued and maintained with an insurance company or companies licensed and admitted to do business in Virginia and which have an A-XII rating or better in the most current publication of A.M. Best's Key Rating Guide.

6.3.1. Adequacy of Coverage. Landlord, its agents and employees make no representation that the limits of liability specified to be carried by Tenant pursuant to this Lease are adequate to protect Tenant. If Tenant believes that any of such insurance coverage is inadequate, Tenant shall obtain, at Tenant's sole expense, such additional insurance coverage as Tenant deems adequate.

## **ARTICLE 7 UTILITIES**

Tenant shall be responsible for all utilities available at the Premises such as electricity, water, and sewer charges. Tenant shall promptly pay for all such utilities used in connection with the Premises, including but not limited to gas and electricity. Tenant shall be responsible for reimbursing the Landlord for Tenant's actual water use and electricity unless provisions are made for the Tenant to be billed directly. Landlord will bill Tenant quarterly and payment by Tenant shall be within 30 days of receiving Landlord's bill.

## **ARTICLE 8 USE, OPERATION OF BUSINESS, FINANCIAL STATEMENTS**

8.1 General. The Premises will be used for purposes described in article 1(o) and for no other purpose. Tenant shall not: do or permit to be done in or about the Premises, nor bring to, keep, or permit to be brought or kept in the Premises, anything that is prohibited by or will in any way conflict with any law, statute, ordinance, or governmental rule or regulation that is now

in force or that may be enacted or promulgated after the Lease Date; do or permit anything to be done in or about the Premises that will in any way obstruct or interfere with the rights of other Tenants of the Shopping Center, or injure or annoy them; use or allow the Premises to be used for any unlawful purpose; cause, maintain, or permit any nuisance in, on, or about the Premises. Landlord has not promised Tenant that Tenant will have the exclusive right in the Shopping Center to the use Tenant is allowed in Article 1 (o).

8.2 Manner of Conducting Business. Tenant's business in the Premises will be conducted only under the trade name specified in Article 1(c), or to be specified prior to opening business. Tenant will not use or permit the Premises to be used under any other trade name without Landlord's prior written consent, not to be unreasonably withheld. Tenant shall keep and maintain the Premises in a neat and clean condition. Tenant acknowledges that the identity of Tenant, the specific character of Tenant's business, the anticipated use of the Premises, and the relationship between such use and other uses within the Shopping Center have been material considerations to Landlord's entry into this Lease. Any material change in the character of Tenant's business or use will constitute a default under this Lease.

Tenant will not, without the consent of Landlord, use the name of the Shopping Center for any purpose other than as the address of the business to be conducted by Tenant in the Premises, nor will Tenant do or permit the doing of anything in connection with Tenant's business or advertising that in the reasonable judgment of Landlord may reflect unfavorably on Landlord or the Shopping Center or confuse or mislead the public as to any relationship between Landlord and Tenant.

## **ARTICLE 9 REQUIREMENTS OF LAW, FIRE INSURANCE**

9.1 General. Tenant, at its expense, will comply with all applicable governmental laws, orders and regulations, and with any direction of any public officer or officers, according to law, that will impose any violation, order or duty upon Landlord or Tenant with respect to the Premises or their use or occupancy.

9.2 Toxic Materials. With the exception of reasonable amounts of office supplies and cleaning supplies consistent with Tenant's operation, Tenant will not store, use, or dispose of any hazardous, toxic, corrosive, explosive, reactive, or radioactive matter in, on, or about the Premises or the Shopping Center.

9.3 Certain Insurance Risks. Tenant will not do or permit to be done any act or thing upon the Premises which would (a) jeopardize or be in conflict with fire insurance policies covering the Shopping Center and fixtures and property in the Shopping Center; or (b) increase the rate of fire insurance applicable to the Shopping Center to an amount higher than it otherwise would be for the general use as a shopping center; or (c) subject Landlord to any liability or responsibility for injury to any person or persons or to property by reason of any business or



operation being carried on upon the Premises; however, this Section 9.3 will not prevent Tenant's use of the Premises for the purposes stated in Article 8.

9.4 Tenant's Insurance Payments. If, as a result of any act or omission or violation of this Lease by Tenant, the rate of fire insurance applicable to the Shopping Center or any other insurance carried by Landlord is increased to an amount higher than it otherwise would have been, Tenant will reimburse Landlord for the increased cost of Landlord's insurance premiums. Such reimbursement will be Rent payable within fifteen (15) days following Landlord's delivery to Tenant of a statement showing payment by Landlord for such increased insurance premiums or the first day of the next month, whichever is later, upon the first day of the month following Landlord's delivery to Tenant of a statement showing payment by Landlord for such increased insurance premiums. In any action or proceeding in which Landlord and Tenant are parties, a schedule or "make up" of rates for the Shopping Center or Premises issued by the body making fire insurance rates for the Premises will be presumptive evidence of the facts stated and of the several items and charges in the fire insurance rate then applicable to the Premises.

## **ARTICLE 10 ASSIGNMENT AND SUBLETTING**

10.1 General. Tenant, for itself, its heirs, distributees, executors, administrators, legal representatives, successors, and assigns, covenants that it will not assign, mortgage, or encumber this Lease, nor sublease, nor permit the Premises or any part of the Premises to be used or occupied by others, without the prior written consent of Landlord in each instance, which consent may be withheld by Landlord for any reason. The transfer of control or of a majority of the issued and outstanding capital stock of any corporate Tenant or subtenant of this Lease or a majority interest in any partnership Tenant or subtenant, however accomplished, and whether in a single transaction or in a series of transactions, will be an assignment of this Lease or of such sublease requiring Landlord's prior written consent in each instance. The transfer of outstanding capital stock of any corporate Tenant, for purposes of this Article 10, will not include any sale of such stock by persons other than those deemed "insiders" within the meaning of the Securities Exchange Act of 1934, as amended, so long as such sale is effected through the "over-the-counter-market" or through any recognized stock exchange.

Any assignment or sublease in violation of this Section 10.1 will be void. If this Lease is assigned, or if the Premises or any part of the Premises are subleased or occupied by anyone other than Tenant, Landlord may, after default by Tenant, collect rent from the assignee, subtenant, or occupant, and apply the net amount collected to rent. No assignment, sublease, occupancy, or collection will be deemed (a) a waiver of the provisions of this Section 10.1; (b) the acceptance of the assignee, subtenant, or occupant as Tenant; or (c) release Tenant from the further performance by Tenant of covenants on the part of Tenant contained in this Lease. The consent by Landlord to an assignment or sublease will not be construed to relieve Tenant from obtaining Landlord's prior written consent in writing to any further assignment or sublease. No permitted subtenant shall assign or encumber its sublease or further sublease all or any portion of its subleased space, or otherwise permit the subleased space or any part of its subleased space to

be used or occupied by others, without Landlord's prior written consent in each instance.

10.2 Limitation on Remedies. Tenant will not be entitled to make, nor will Tenant make, any claim, and Tenant by this Section 10.2 waives any claim, for money damages (nor will Tenant claim any money damages by way of set-off, counterclaim, or defense) based upon any claim or assertion by Tenant that Landlord has unreasonably withheld or unreasonably delayed its consent or approval to a proposed assignment or subletting as provided for in this Article 10.

## **ARTICLE 11 COMMON AREAS**

As used in this Lease, the term "common areas" means, without limitation, any hallways, entryways, stairs, elevators, driveways, walkways, parking areas, terraces, docks, loading areas, trash facilities, and all other areas and facilities in the Shopping Center that are provided and designated from time to time by Landlord for the general nonexclusive use and convenience of Tenant with other Tenants of the Shopping Center and their respective employees, customers, invitees, licensees, or other visitors. Landlord grants Tenant, its employees, invitees, licensees, and other visitors a nonexclusive license for the term to use the common areas in common with others entitled to use the common areas including, without limitation, Landlord and other Tenants of the Shopping Center, and their respective employees, customers, invitees, licensees, or other visitors. Without advance notice to Tenant, except with respect to matters covered by subsection (a) below, and without any liability to Tenant, Landlord will have the right to:

- (a) establish and enforce rules and regulations governing the maintenance, management, use and operation of the common areas;
- (b) close off any of the common areas to whatever extent required in the opinion of Landlord and its counsel to prevent a dedication of any of the common areas or the accrual of any rights by any person or the public to the common areas, provided such closure does not deprive Tenant of the substantial benefit and enjoyment of the Premises;
- (c) temporarily close any of the common areas for maintenance, alteration, or improvement purposes;
- (d) select, appoint, or contract with any person for the purpose of operating and maintaining the common areas, subject to such terms and at such rates as Landlord deems reasonable and proper;
- (e) change the size, use, shape, or nature of any such common areas;
- (f) sell, convey or change the arrangement or location of, or both, or to regulate or eliminate the use of, any concourse, parking spaces, garage, or any elevators, stairs, toilets, or other public conveniences in the Shopping Center, provided Tenant's use of the Premises is not obstructed and the permitted use is not interfered with, without incurring any liability to Tenant or entitling Tenant to any abatement of Rent, and such action will not constitute an actual or constructive eviction of Tenant; and
- (g) erect one or more additional buildings on the common areas, expand the existing Shopping Center to cover a portion of the common areas, convert common areas to a portion of



the Shopping Center, or convert any portion of the Shopping Center to common areas not to interfere with permitted use of the Premises by Tenant or to obstruct use thereof. Upon erection or change of location of the buildings, the portion of the Shopping Center upon which buildings or structures have been erected will no longer be deemed to be a part of the common areas. In the event of any such changes in the size or use of the Shopping Center, Landlord will make an appropriate adjustment in the leasable area of the Shopping Center and in Tenant's pro rata share payable pursuant to Article 5 of this lease. Except in the event of condemnation of conveyance of common areas under threat of condemnation, any changes in the common areas will not reduce the parking ratio below that required by applicable law.

## **ARTICLE 12 LANDLORD SERVICES**

The Landlord shall maintain the exterior building structure and the roof thereof, and shall make all the necessary repairs thereto not caused by negligence of the Tenant. Landlord shall keep the foundation, the four outer walls and roof of the Premises in good repair, except that Landlord shall not be called on to make such repairs occasioned by the act or negligence of the Tenant, its agents or employees. Landlord agrees to provide and maintain the necessary mains and conduits in order that water, gas, electricity, telephone and sewage facilities may be furnished to the Premises, subject to the obligation of the Tenant to pay the charges for such utility services. Landlord shall maintain the parking facilities. All costs of such maintenance pursuant to this Article may be passed through to Tenant as a Common Area Operating Expense pursuant to Article 5 of this Lease.

## **ARTICLE 13 TENANT'S MAINTENANCE AND REPAIRS**

The Tenant shall make all necessary repairs to the Premises, including the windows, doors, door opening and closing mechanisms, the plumbing and electrical fixtures and equipment and any related exterior equipment and shall keep the same in good condition and repair at all times during the term of this Lease. The Tenant shall replace, at its expense, any and all windows, doors, door opening and closing mechanisms and plate glass of the Premises broken or damaged during the term of the Lease, regardless of how the same shall become broken or damaged. Said replacements shall occur within seven (7) days of being broken or damaged. Tenant shall reimburse Landlord for Landlord's maintenance contract on the heating and cooling systems serving the Premises, and will reimburse Landlord for any associated repair costs. Tenant shall purchase and maintain a maintenance contract on the emergency generator and shall provide Landlord with a copy of the maintenance contract covering the emergency generator. Tenant shall pay directly to the repair contractor the costs of any repairs to the emergency generator. Tenant shall reimburse Landlord for the cost of removing Tenant's trash from the premises. Such trash removal costs will be reimbursed by Tenant within 30 days of when Landlord bills Tenant.



## **ARTICLE 14 ALTERATIONS**

Tenant shall not make or cause to be made any alterations, additions to or of the Premises or any part of the Premises, or attach any fixture or equipment to the Premises, without first obtaining Landlord's written consent. However, Tenant shall not be required to obtain Landlord's prior written consent for non-structural alterations that costs less than \$10,000.00. Any alterations, additions, or improvements to the Premises will be made by Tenant at Tenant's sole cost and expense according to plans and specifications approved by Landlord in writing, and any contractor or person selected by Tenant to make them must first be approved by Landlord. In all cases where the cost of alterations will exceed \$25,000.00, Landlord may require, at its option, that Tenant provide Landlord at Tenant's sole cost and expense a lien and completion bond, or payment and performance bond, in an amount equal to twice the estimated contemplated alterations, fixtures, and improvements, to insure Landlord against any liability for mechanics' or materialmen's liens and to ensure the completion of such work. All alterations, additions, improvements, whether temporary or permanent in character, made in or upon the Premises either by Tenant or Landlord (other than furnishings, trade fixtures, and equipment installed by Tenant), will be Landlord's property and, at the end of the term of this Lease, will remain on the Premises without compensation to Tenant. If Landlord requests, Tenant will remove all such alterations, fixtures, and improvements from the Premises and return the Premises to the condition in which they were delivered to Tenant. Upon such removal Tenant will immediately and fully repair any damage to the Premises occasioned by the removal.

## **ARTICLE 15 MECHANIC'S LIENS**

Tenant will pay or cause to be paid all costs and charges for work done by it or caused to be done by it in or to the Premises and for all materials furnished for or in connection with such work. The Tenant shall have no right or authority to make any contract for the improvement of the Premises which would impose a lien upon any property of the Landlord described in this Lease. Tenant will indemnify Landlord against, and hold Landlord, the Premises, and the Shopping Center free, clear, and harmless of and from, all mechanics' liens and claims of liens, and all other liabilities, liens, claims, and demands, on account of such work. If any such lien, at any time, is filed against the Premises or any part of the Shopping Center, Tenant will cause such lien to be discharged of record within twenty (20) days after the filing of such lien, except that if Tenant desires to contest such lien, it will bond over said lien or furnish Landlord, within such twenty (20) day period, security reasonably satisfactory to Landlord of at least one hundred fifty percent (150%) of the amount of the claim, plus estimated costs and interest. If a final judgment establishing the validity or existence of a lien for any amount is entered, Tenant will pay and satisfy the same at once. If Tenant fails to pay any charge for which a mechanics' lien has been filed, and has not given Landlord security as described above, Landlord may, at its option, pay such charge and related costs and interest, and the amount so paid, together with reasonable attorneys' fees incurred in connection with such lien, will be immediately due from Tenant to

Landlord. Nothing contained in this Lease will be deemed the consent or agreement of Landlord to subject Landlord's interest in the Shopping Center to liability under any mechanics' or other lien law. If Tenant receives notice that a lien has been or is about to be filed against the Premises or the Shopping Center, or that any action affecting title to the shopping center has been commenced on account of work done by or for or materials furnished to or for Tenant, Tenant will immediately give Landlord written notice of such notice. At least fifteen (15) days prior to the commencement of any work (including, but not limited to, any maintenance, repairs, alterations, additions, improvements, or installations) in or to the Premises, by or for Tenant, Tenant will give Landlord written notice of the proposed work and the names and addresses of the persons supplying labor and materials for the proposed work. Landlord will have the right to post notices of nonresponsibility or similar notices on the Premises in order to protect the Premises against any such liens.

## **ARTICLE 16 END OF TERM**

At the end of this Lease, Tenant will promptly quit and surrender the Premises in good order, condition, and repair, ordinary wear and tear excepted. If Tenant is not then in default, Tenant may remove from the Premises any trade fixtures, equipment, and movable furniture placed in the Premises by Tenant, whether or not such trade fixtures or equipment are fastened to the Shopping Center; Tenant will not remove any trade fixtures or equipment without Landlord's written consent if such fixtures or equipment are used in the operation of the Shopping Center or improvements or if the removal of such fixtures or equipment will result in impairing the structural strength of the Shopping Center or improvements. Whether or not Tenant is in default, Tenant will remove such alternations, additions, improvements, trade fixtures, equipment, and furniture as Landlord has requested in accordance with Article 14. Tenant will fully repair any damage occasioned by the removal of any trade fixtures, equipment, furniture, alternations, additions, and improvements. Prior to the End of the Term and Tenant vacating the Premises, Tenant shall remove, at its sole cost and expense, all abandoned cable and communications wires (collectively, "Cable"), as that term is defined in the 2002 National Electric Code, Section 800.52, currently existing in horizontal and vertical spaces in the Premises, the plenum areas above the raised ceiling and under and raised floor, and all other riser and communication areas. All trade fixtures, equipment furniture, inventory, effects, alterations, additions, and improvements not so removed will be deemed conclusively to have been abandoned and may be appropriated, sold, stored, destroyed, or otherwise disposed of by Landlord without notice to Tenant or any other person and without obligation to account for them; and Tenant will pay Landlord for all expenses incurred in connection with such property, including but not limited to the cost of repairing any damage to the Shopping Center or Premises caused by the removal of such property. Tenant's obligation to observe and perform this covenant will survive the expiration or other termination of this Lease.

## **ARTICLE 17 EMINENT DOMAIN**

It is covenanted and agreed that, if the Premises or any part thereof shall be sold under



threat of any kind of condemnation or taking by the United States of America or by the Commonwealth of Virginia or any agency or subdivision of either of them or any body or private or public corporation having the power of condemnation, or be taken by any of the same, then the Tenant shall have a right to pursue an action against the condemning body for the taking of his leasehold interest. In the event of such a sale or taking of the whole of the Premises this Lease shall terminate as of the date of taking, and Tenant shall have no further obligation to Landlord under this Lease, including payment of Rent, Additional Rent, or Common Area Operating Expenses. In the event of such a sale or taking of a portion of the said Premises, then the rent herein set forth shall be abated in proportion to the amount of said Premises so sold or taken. However, if more than forty (40%) of the said Premises is sold or acquired the Tenant may terminate the lease in writing with thirty (30) days of the date title is transferred to the condemning authority.

## **ARTICLE 18 DAMAGE AND DESTRUCTION**

In the event of the partial or total destruction of the Premises or common areas by fire, tornado, public enemies, or other cause so as to render the Premises wholly unfit for occupancy, then in that event, this Lease shall thereupon cease and terminate and the Tenant shall pay to the Landlord only such proportionate part of the Rent as has accrued to the date of such termination. It is specifically understood and agreed that the Landlord shall be under no obligation to repair or rebuild the said Premises; however, if the said Landlord shall elect to rebuild or repair the said Premises to its present condition, then this Lease shall not terminate and remain in full force and effect from the date of completion of the rebuilding or restoring of the said Premises, provided however that such repairs are completed within 180 days from the occurrence and provided that rent shall be abated during the time of rebuilding or restoration. Failure to rebuild or repair shall entitle the Tenant to terminate the lease in writing within thirty (30) days of any such failure to rebuild within the above stated time period. In the event of the partial or total destruction of the Premises, the Landlord shall be obligated to rebuild in the event the casualty is insured and insurance proceeds for the full replacement cost are received by Landlord.

## **ARTICLE 19 SUBORDINATION**

19.1 General. This Lease and Tenant's rights under this Lease are subject and subordinate to any ground or underlying lease, first mortgage, indenture, first deed of trust, or other first lien encumbrance, together with any renewals, extensions, modifications, consolidations, and replacements of such first lien encumbrance, now or after the Lease Date, affecting or placed, charged, or enforced against the Land or all or any portion of the Shopping Center or any interest of Landlord in them or Landlord's interest in this Lease and the leasehold estate created by this Lease (except to the extent any such instrument expressly provides that this Lease is superior to such instrument). As a condition precedent to Tenant being required to subordinate its interest in this Lease, Landlord shall obtain for Tenant's benefit a non-disturbance

agreement in a form reasonably satisfactory to Tenant, and shall recognize Tenant's right to remain in occupancy of and have access to the Premises as long as Tenant is not in default of this Lease beyond applicable notice and cure periods. If Landlord obtains such non-disturbance agreement, Tenant will execute, acknowledge and deliver to Landlord, at any time and from time to time, upon demand by Landlord, such documents as may be requested by Landlord, any ground or underlying lessor, or any mortgagee, to confirm or effect any such subordination. If Tenant fails or refuses to execute, acknowledge, and deliver any such document within twenty (20) days after written demand, Landlord, its successors, and assigns will be entitled to execute, acknowledge, and deliver any and all such documents for and on behalf of Tenant as attorney-in-fact for Tenant. Tenant by this Section 19.1 constitutes and irrevocably appoints Landlord, its successors, and assigns as Tenant's attorney-in-fact to execute, acknowledge, and deliver any and all documents described in this Section 19.1 for and on behalf of Tenant, as provided in this Section 19.1.

19.2 Attornment. Tenant agrees that if any holder of any ground or underlying lease, mortgage, deed of trust, or other encumbrance encumbering any part of the Shopping Center succeeds to Landlord's interest in the Premises, Tenant will pay to such holder all rents subsequently payable under this Lease. Further, Tenant agrees that in the event of the enforcement by the trustee or the beneficiary under or holder or owner of any such mortgage, deed of trust, or land or ground lease of the remedies provided for by law or by such mortgage, deed of trust, or land or ground lease, Tenant will, upon request of any person or party succeeding to the interest of Landlord as a result of such enforcement, automatically become the Tenant of and attorn to such successor in interest without change in the terms or provisions of this Lease. Such successor in interest will not be bound by (a) any payment of Monthly Base Rent or Rent for more than one month in advance, except prepayments in the nature of security for the performance by Tenant of its obligations under this Lease, or (b) any amendment or modification of this Lease made without the written consent of such trustee, beneficiary, holder, owner, or such successor in interest. Upon request by such successor in interest and without cost to Landlord or such successor in interest, Tenant will execute, acknowledge, and deliver an instrument or instruments confirming the attornment. If Tenant fails or refuses to execute, acknowledge, and deliver any such document within twenty (20) days after written demand, such successor in interest will be entitled to execute, acknowledge, and deliver any and all such documents for and on behalf of Tenant as attorney-in-fact for Tenant. Tenant by this Section 19.2 constitutes and irrevocably appoints such successor in interest as Tenant's attorney-in-fact to execute, acknowledge, and deliver any and all documents described in this Section 19.2 for and on behalf of Tenant, as provided in this Section 19.2.

## **ARTICLE 20**

### **ENTRY BY LANDLORD**

Landlord, its agents, employees, and contractors may enter the Premises at any time without notice in response to an emergency, and with reasonable advance notice, or at reasonable hours upon at least twenty-four (24) hours advance notice to (a) inspect the same, (b) exhibit the



same to prospective purchasers, lenders, or Tenants 120 days prior to end of the lease term, (c) determine whether Tenant is complying with all its obligations in this Lease, (d) supply any service that this Lease obligates Landlord to provide to Tenant, (e) post notices of nonresponsibility or similar notices, or (f) make repairs required of Landlord under the terms of this Lease or make repairs to any adjoining space or utility services or make repairs, alterations, or improvements to any other portion of the Shopping Center; however, all such work will be done as promptly as reasonably possible and so as to cause as little interference to Tenant as reasonably possible. Tenant by this Article 20 waives any claim against Landlord, its agents, employees, or contractors for damages for any injury or inconvenience to or interference with Tenant's business, any loss of occupancy or quiet enjoyment of the Premises, or any other loss occasioned by such entry except if caused by Landlord's negligence or willful misconduct. Landlord will at all times have and retain a key with which to unlock all of the doors in, on, or about the Premises (excluding Tenant's vaults, safes, and similar areas designated in writing by Tenant in advance). Landlord will have the right to use any and all means Landlord may deem proper to open doors in and to the Premises in an emergency in order to obtain entry to the Premises. Any entry to the Premises obtained by Landlord by any means permitted under this article will not under any circumstances be construed or deemed to be a forcible or unlawful entry into or a detainer of the Premises or an eviction, actual or constructive, of Tenant from the Premises or any portion of the Premises, nor will any such entry entitle Tenant to damages or an abatement of Monthly Base Rent, Additional Rent or other charges that this Lease requires Tenant to pay.

## **ARTICLE 21 INDEMNIFICATION, WAIVER AND RELEASE**

21.1 Indemnification. Tenant will neither hold or attempt to hold Landlord or its employees or agents liable for, and Tenant will indemnify and hold harmless Landlord, its employees, and agents from and against, any and all demands, claims, causes of action, fines, penalties, damages (including consequential damages), liabilities, judgments, and expenses (including without limitation attorneys' fees) incurred in connection with or arising from:

- (a) the use or occupancy or manner of use or occupancy of the Premises by Tenant or any person claiming under Tenant;
- (b) any activity, work, or thing done, permitted, or suffered by Tenant in or about the Premises or the Shopping Center;
- (c) any acts, omissions, or negligence of Tenant or any person claiming under Tenant or the contractors, agents, employees, invitees, or visitors of Tenant or any such person;
- (d) any breach, violation, or nonperformance by Tenant or any person claiming under Tenant or the employees, agents, contractors, invitees, or visitors of Tenant or any such person of any term, covenant, or provision of this Lease or any law, ordinance, or governmental requirement of any kind;
- (e) except for loss of use of all or any portion of the Premises or Tenant's property located within the Premises that is proximately caused by or results from the negligence or willful misconduct of Landlord, any injury or damage to the person, property, or business of

Tenant or its employees, agents, contractors, invitees, visitors, or any other person entering upon the Premises or the Shopping Center under the express or implied invitation of Tenant.

The foregoing indemnification in Section 21.1(a) – (e) from Tenant will not apply to any and all demands, claims, causes of action, fines, penalties, damages (including consequential damages), liabilities, judgments, and expenses (including without limitation attorneys' fees) that are caused by or result from the negligence or willful misconduct of Landlord.

If any action or proceeding is brought against Landlord or its employees by reason of any such claim, Tenant, upon notice from Landlord, will defend the same at Tenant's expense.

21.2 Waiver and Release. Tenant, as a material part of the consideration to Landlord for this Lease, by this Section 21.2 waives and releases all claims against Landlord, its employees, and agents with respect to all matters for which Landlord has disclaimed liability pursuant to the provisions of this Lease. Tenant agrees that Landlord, its agents, and its employees will not be liable for any loss, injury, death, or damage (including consequential damages) to persons, property, or Tenant's business occasioned by theft; act of God; public enemy; injunction; riot; strike; insurrection; war; terrorist act; court order; requisition; order of governmental body or authority; fire; explosion; falling objects; steam, water, rain or snow; leak or flow of water, rain or snow from or into part of the Shopping Center or from the roof, street, subsurface, or from any other place, or by dampness, or from the breakage, leakage, obstruction, or other defects of the pipes, sprinklers, wires, appliances, plumbing, air conditioning, or lighting fixtures of the Shopping Center; or from construction, repair, or alteration of any other premises in the Shopping Center or the Premises; or from any acts or omissions of any other Tenant, occupant, or visitor of the Shopping Center; or from any cause beyond Landlord's control.

## **ARTICLE 22 SECURITY DEPOSIT**

None required.

## **ARTICLE 23 QUIET ENJOYMENT**

Landlord covenants and agrees with Tenant that so long as Tenant pays the Rent and observes and performs all the terms, covenants, and conditions of this Lease on Tenant's part to be observed and performed, Tenant may peaceably and quietly enjoy the Premises subject, nevertheless, to the terms and conditions of this Lease, and Tenant's possession will not be disturbed by anyone claiming by, through, or under Landlord.

## **ARTICLE 24 EFFECT OF SALE**

A sale, conveyance, or assignment of the Shopping Center will operate to release



Landlord from liability from and after the effective date of such sale, conveyance, or assignment upon all of the covenants, terms, and conditions of this Lease, express or implied, except those which arose prior to such effective date, and, after the effective date of such sale, conveyance, or assignment, Tenant will look solely to Landlord's successor in interest in and to this Lease, provided that any successors or assigns shall be bound by Lessor's obligations under this Lease. This Lease will not be affected by any such sale, conveyance, or assignment, and Tenant will attorn to Landlord's successor in interest to this Lease, provided that Landlord's successors successor in interest shall be bound by Lessor's obligations under this Lease.

## **ARTICLE 25**

### **DEFAULT**

25.1 Events of Default. The following events are referred to collectively as "events of default" or individually as an "event of default":

(a) Tenant defaults in the punctual payment of Rent or any other monetary obligation under this Lease and Tenant fails to pay such monetary obligation within five days of its due date.

(b) Tenant vacates or abandons the Premises;

(c) This Lease or the Premises or any part of the Premises are taken upon execution or by other process of law directed against Tenant, or are taken upon or subject to any attachment at the instance of any creditor or claimant against Tenant, and the attachment is not discharged or disposed of within thirty (30) days after its levy;

(d) Tenant files a petition in bankruptcy or insolvency or for reorganization or arrangement under the bankruptcy laws of the United States or under any insolvency act of any state, or admits the material allegations of any such petition by answer or otherwise, or is dissolved or makes an assignment for the benefit of creditors;

(e) Involuntary proceedings under any such bankruptcy law or insolvency act or for the dissolution of Tenant are instituted against Tenant, or a receiver or trustee is appointed for all or substantially all of the property of Tenant, and such proceeding is not dismissed or such receivership or trusteeship vacated within sixty (60) days after such institution or appointment;

(f) Tenant fails to take possession of the Premises on the Commencement Date of the term or as provided in the lease; or

(g) Tenant breaches any of the other agreements, terms, covenants, or conditions that this Lease requires Tenant to perform, and such breach continues for a period of thirty (30) days after written notice from Landlord to Tenant; or if such breach cannot be cured reasonably within such thirty (30) day period and Tenant fails to commence and proceed diligently to cure such breach within a reasonable time period.

25.2 Landlord's Remedies. If any one or more events of default set forth in Section 25.1 occurs then Landlord has the right, at its election:

(a) to give Tenant written notice of Landlord's intention to terminate this Lease on the earliest date permitted by law or on any later date specified in such notice, in which case Tenant's right to possession of the Premises will cease and this Lease will be terminated, except as to

Tenant's liability, as if the expiration of the term fixed in such notice were the end of the term; or

(b) without further demand or notice, to reenter and take possession of the Premises or any part of the Premises, repossess the same, expel Tenant and those claiming through or under Tenant, and remove the effects of both or either, using such force for such purposes as may be necessary, without being liable for prosecution, without being deemed guilty of any manner of trespass, and without prejudice to any remedies for arrears of Monthly Base Rent or other amounts payable under this Lease or as a result of any preceding breach of covenants or conditions; or

(c) without further demand or notice, to cure any event of default and to charge Tenant for the cost of effecting such cure, including without limitation attorneys' fees and interest on the amount so advanced provided that Landlord will have no obligation to cure any such event of default of Tenant.

Should Landlord elect to reenter as provided in subsection (b), or should Landlord take possession pursuant to legal proceedings or pursuant to any notice provided by law, Landlord may, from time to time, without terminating this Lease, relet the premises or any part of the premises in Landlord's or Tenant's name, but for the account of Tenant, for such term or terms (which may be greater or less than the period which would otherwise have constituted the balance of the term) and on such conditions and upon such other terms (which may include concessions of free rent and alteration and repair of the Premises) as Landlord, in its sole discretion, may determine, and Landlord may collect and receive the rent. Landlord will in no way be responsible or liable for any failure to relet the Premises or any part of the Premises, or for any failure to collect any rent due upon such reletting. No such reentry or taking possession of the Premises by Landlord will be construed as an election on Landlord's part to terminate this Lease unless a written notice of such intention is given to Tenant. No notice from Landlord under this Section or under a forcible or unlawful entry and detainer statute or similar law will constitute an election by Landlord to terminate this Lease unless such notice specifically so states. Landlord reserves the right following any such reentry or reletting to exercise its right to terminate this Lease by giving Tenant such written notice, in which event this Lease will terminate as specified in such notice.

25.3 Certain Damages. If Landlord does not elect to terminate this Lease as permitted in subsection (a) of Section 25.2, but on the contrary elects to take possession as provided in subsection (b) of Section 25.2, Tenant will pay to Landlord: Monthly Base Rent and other sums as provided in this Lease that would be payable under this Lease if such repossession had not occurred, less the net proceeds, if any, of any reletting of the Premises after deducting all Landlord's expenses in connection with such reletting, including without limitation all repossession costs, brokerage commissions, attorneys' fees, expenses of employees, alteration and repair costs, and expenses of preparation for such reletting. If, in connection with any reletting, the new lease term extends beyond the existing term a fair apportionment of the rent received from such reletting and the expenses incurred in connection with such reletting as provided in this Section will be made in determining the net proceeds from such reletting, and any rent concessions will be equally apportioned over the term of the new lease. Tenant will pay



such rent and other sums to Landlord monthly on the day on which the Monthly Base Rent would have been payable under this Lease if possession had not been retaken, and Landlord will be entitled to receive such Rent and other sums from Tenant on each such day.

25.4 Continuing Liability After Termination. If this Lease is terminated on account of the occurrence of an event of default, Tenant will remain liable to Landlord for damages in an amount equal to Monthly Base Rent and other amounts that would have been owed by Tenant for the balance of the term, not to exceed Tenant's financial obligations under this Lease for a period of twelve months, had this Lease not been terminated, less the net proceeds, if any, of any reletting of the Premises by Landlord subsequent to such termination, after deducting all Landlord's expenses in connection with such reletting, including without limitation the expenses enumerated in Section 25.3. Landlord will be entitled to collect such damages from Tenant monthly on the day on which Monthly Base Rent and other amounts would have been payable under this Lease if this Lease had not been terminated, and Landlord will be entitled to receive such Monthly Base Rent and other amounts from Tenant on each such day. Alternatively, at the option of Landlord, in the event this Lease is so terminated, Landlord will be entitled to recover against Tenant, as damages for loss of the bargain and not as a penalty, an aggregate rent that, at the time of such termination of this Lease, represents the excess of the aggregate of Monthly Base Rent and all other rent payable by Tenant that would have accrued for the balance of the term over the aggregate rental value of the premises (such rental value to be computed on the basis of the a Tenant paying not only a Rent to Landlord for the use and occupation of the Premises, but also such other charges as are required to be paid by Tenant under the terms of this Lease) for the balance of such term, both discounted to present value at the lesser of eight percent (8%) or the discount rate of the New York Federal Reserve Bank on the date of the event of default.

25.5 Cumulative Remedies. Any suit or suits for the recovery of the amounts and damages set forth in Section 25.3 and 25.4 may be brought by Landlord, from time to time, at Landlord's election, and nothing in this Lease will be deemed to require Landlord to await the date upon which this Lease or the term would have expired had there occurred no event of default. Each right and remedy provided for in this Lease is cumulative and is in addition to every other right or remedy provided for in this Lease or now or after the Lease Date existing at law or in equity or by statute or otherwise, and the exercise or beginning of the exercise by Landlord of any one or more of the rights or remedies provided for in this Lease or now or after the Lease Date existing at law or in equity or by statute or otherwise will not preclude the simultaneous or later exercise by Landlord of any or all other rights or remedies provided for in this Lease or now or after the lease date existing at law or in equity or by statute or otherwise. All costs incurred by Landlord in collecting any amounts and damages owing by Tenant pursuant to the provisions of this Lease or to enforce any provision of this Lease, including reasonable attorneys' fees from the date any such matter is turned over to an attorney, whether or not one or more actions are commenced by Landlord, will also be recoverable by Landlord from Tenant.

## **ARTICLE 26 RULES AND REGULATIONS**

26.1 General. Tenant and its employees, agents, licensees, and visitors will at all times comply with the rules and regulations established by Landlord. Landlord may from time to time amend, delete, or modify existing rules and regulations, or adopt new rules and regulations, for the use, safety, cleanliness, and care of the Premises and the Shopping Center and the comfort, quiet, and convenience of occupants of the Shopping Center. Modifications or additions to the rules and regulations will be effective upon Landlord's written notice to Tenant. In the event of any breach of any rules or regulations or any amendments or additions to such rules and regulations, Landlord will have all remedies that this Lease provides for default by Tenant, and will, in addition, have any remedies available at law or in equity, including the right to enjoin any breach of such rules and regulations by any other Tenant, its employees, agents, visitors, licensees, or any other person. In the event of any conflict between the provisions of this Lease and the rules and regulations, the provisions of this Lease will govern. A list of Landlord's current rules and regulations is attached hereto as Exhibit B.

26.2 Keeping Premises free of debris and snow and ice. The Tenant shall keep the Premises reasonably free from trash and dirt accumulations, shall keep and furnish proper and adequate receptacles for trash and garbage, shall cause the removal of trash and debris from the Premises and shall remove the snow and ice from the sidewalk along the front of the Premises.

## **ARTICLE 27 SIGNS**

Without the prior written consent of Landlord, Tenant will not place or permit to be placed any sign, advertising material, or lettering upon the exterior of the Premises or any sign, advertising material, or lettering upon the exterior or interior surface of any door or show window or at any point inside the Premises from which it may be visible from outside the Premises. All signs erected by Tenant shall be at Tenant's own expense and shall be approved by Landlord in writing, which shall not be unreasonably denied or delayed, and shall comply with the applicable rules, regulations and ordinances of the applicable governmental boards and bureaus having jurisdiction thereof and the erection thereof shall be such as not to cause any structural damage to the Shopping Center. Tenant may, at Tenant's expense, install one exterior sign that conforms to applicable zoning ordinances. Prior to installation, Tenant's Sign will be approved by Landlord, which approval shall not be unreasonably denied or delayed. Tenant shall be responsible for the sole cost of all signage.

## **ARTICLE 28 MISCELLANEOUS**

28.1 Permits. Tenant shall, at its own expense, but with reasonable assistance from Landlord, if applicable, obtain any and all necessary permits and licenses which may be required



by any governmental agency having jurisdiction over its properties and activities for operation of its business. Landlord will obtain all required permits for Landlord's work. Tenant and Landlord agree to conduct their respective business on the Premises and at the Shopping Center, in full compliance with all laws, statutes, ordinances (zoning or otherwise), judgments, decrees, injunctions, rules, regulations, permits, licenses or authorizations of all city, state and federal authorities, courts, departments, agencies, officials, and officers thereof, foreseen or unforeseen, ordinary or extraordinary, now in effect or hereinafter enacted or applicable. Landlord shall be and remain in full compliance with all laws, statutes, ordinances (zoning or otherwise), judgments, decrees, injunctions, rules, regulations, permits, licenses or authorizations of all city, state and federal authorities, courts, departments, agencies, officials, and officers thereof, foreseen or unforeseen, ordinary or extraordinary, now in effect or hereinafter enacted or applicable with respect to the Land and Shopping Center.

28.2 Severability Clause. If for any reason any provision in this Lease is determined to be invalid, only such provision shall be void, and all other provisions in this Lease shall remain in full force and effect.

28.3 Virginia Law. This Lease shall be governed by and construed according to the laws of the Commonwealth of Virginia.

28.4 Binding on Heirs. It is understood and agreed that this Lease shall bind and inure to the benefit of the parties hereto and their respective heirs, administrators, executors, personal representatives, successors and assigns for the full term of this Lease and any extension hereof.

28.5 Bad Checks. Tenant agrees to pay as Additional Rent a charge of Fifty and No/100 Dollars (\$50.00) for each check returned by the bank for any reason. This charge will be in addition to any late fee which may also be due. If two (2) or more of Tenant's checks are returned for insufficient funds, Landlord will have the option of requiring that all further payments by Tenant be made by money order, cashier's check and/or certified check.

28.6 Attorneys; Fees and Severability. The Tenant shall pay all costs, expenses, fees, and charges incurred by the Landlord in enforcing, by legal action or otherwise, any of the provisions of this Lease, including the payment of reasonable attorneys' fees.

28.7 No Oral Agreements. The agreements contained in the Lease set forth the entire understanding of the parties as regards the lease provisions of this Lease and shall not be changed or terminated orally. This Lease may be changed only by an agreement in writing which is signed by both the Landlord and Tenant.

28.8 Paragraph Headings. The paragraph headings appearing in this Lease have been inserted for the purpose of convenience and reference only. They do not purport to and shall not be deemed to define, limit or extend the scope or intent of the paragraphs, articles and/or sections to which they pertain.

28.9 Future Law Changes. Should any provision of this Lease conflict with new laws and be found to be invalid or unenforceable, those provisions are severable. The remainder of this Lease shall not be effected thereby and each term and provision herein shall be valid and remain in force to the fullest extent permitted by law.

28.10 Tenant's Waiver of Homestead Exemption. [Not Applicable].

28.11 Notice. Any Notice provided for or permitted by this Lease to be given by one party or the other shall be deemed given for all purposes if mailed as certified United States mail, return receipt requested, addressed to the party to be notified or delivered personally and shall be deemed to have been given on the date of such mailing or personal delivery. All notices from the Tenant to the Landlord shall be in writing and delivered to the location where rent is to be paid. All notices from the Landlord to the Tenant shall be in writing and delivered to the Tenant at the following address: 1870 North Benson Road, Fairfield, CT 06824. Either party may designate a substitute address, from time to time, by notice in writing sent in accordance with the provisions of this Article 28.11.

28.12 Waiver. Failure of Landlord to complain of any act or omission on the part of Tenant, no matter how long the same may continue, shall not be deemed to be a waiver by Landlord of any of its rights hereunder. No waiver by Landlord at anytime, express or implied, of any breach or any provision of this Lease shall be deemed a waiver of a breach of any other provision of this Lease or a consent to any subsequent breach of the same or any other provision. If any action by Tenant shall require Landlord's consent or approval, Landlord's consent or approval of such action on any one occasion shall not be deemed a consent to or approval of any other action on the same or any subsequent occasion. Acceptance by Landlord of a check for a lesser amount with an endorsement or statement thereon or upon a letter accompanying such check that such lesser amount is payment in full shall not be deemed an accord and satisfaction, and Landlord may accept such check without prejudice to recover the balance due or pursue any other remedy. Any and all rights and remedies which Landlord or Tenant may have under this lease or by operation of law, either at law or in equity, upon any breach shall be distinct, separate and cumulative and shall not be deemed inconsistent with each other, and no one of them, whether exercised by Landlord or Tenant or not, shall be deemed to be in exclusion of other, any two or more or all of such rights and remedies being exercisable at the same time.

28.13 Waiver of Trial by Jury. Tenant and Landlord each hereby waives all right to trial by jury in any claim, action, proceeding or counterclaim by either Landlord or Tenant against the other on any matters arising out of or in any way connected with this Lease, the relationship of Landlord and Tenant and/or Tenant's use or occupancy of the Demised Premises.

28.14 No Construction Against Drafting Party. Landlord and Tenant acknowledge that each of them and their counsel have had an opportunity to review this lease and that this lease will not be construed against Landlord merely because Landlord's counsel has prepared it.



28.15 Limitation of Recourse. Tenant specifically agrees to look solely to Landlord's interest in the Shopping Center for recovery of any judgments from Landlord, it being agreed that Landlord (and its shareholders, venturers, and partners, and their shareholders, venturers and partners, and all of their officers, directors, and employees) will never be personally liable for any such judgments. The provisions contained in the preceding sentence is not intended to and will not limit any rights that Tenant might otherwise have to obtain injunctive relief against Landlord or to pursue any suit or action in connection with enforcement or collection of amounts that may become owing or payable under or an account of insurance maintained by Landlord.

28.16 Estoppel Certificates. At any time and from time to time but within ten (10) days after written request by either party, the other party will execute, acknowledge, and deliver to the requesting party a certificate certifying (a) that this Lease is unmodified and in full force and effect or, if there have been modifications, that this Lease is in full force and effect, as modified, and stating the date and nature of each modification; (b) the date, if any, to which rent and other sums payable under this Lease have been paid; (c) that no notice has been received by Tenant or Landlord of any default which has not been cured, except as to default specified in the certificate; and (d) such other matters as may be reasonably requested by Landlord or Tenant. Any such certificate may be relied upon by any prospective assignee, purchaser or existing or prospective mortgagee or beneficiary under any deed of trust of the Shopping Center or any part of the Shopping Center.

28.17 No Merger. The voluntary or other surrender of this Lease by Tenant or the cancellation of this lease by mutual agreement of Tenant and Landlord or the termination of this Lease on account of Tenant or Landlord's default will not work a merger, and will, at Landlord's option, (a) terminate all or any subleases and subtenancies, or (b) operate as an assignment to Landlord of all or any subleases or subtenancies. Landlord's option under this Section 28.17 will be exercised by notice to Tenant and all known sublessees or subtenants in the Premises or any part of the Premises.

28.18 Holding Over. Tenant will have no right to remain in possession of all or any part of the Premises after the expiration of the term. If Tenant remains in possession of all or any part of the Premises after the expiration of the term, with the express or implied consent of Landlord: (a) such tenancy will be deemed to be a periodic tenancy from month-to-month only; (b) such tenancy will not constitute a renewal or extension of this Lease for any further term; and (c) such tenancy may be terminated by Landlord upon thirty (30) days' prior written notice to Tenant. In such event, Monthly Base Rent will be increased to an amount equal to one hundred fifty percent (150%) of the monthly base rent payable during the last month of term, and any other sums due under this Lease will be payable in the amount of and at the times specified in this Lease. Such month-to-month tenancy will be subject to every other term, condition, and covenant contained in this Lease.

28.19 Relocation of the Premises. Landlord reserves the right to relocate the Premises to substantially comparable space within the Shopping Center. Landlord will give Tenant a

written notice of its intention to relocate the Premise, and Tenant will complete such relocation with one hundred twenty (120) days after receipt of such written notice. If the furnishing of the space to which Landlord proposes to relocate Tenant are not substantially the same as those of the Premises, or if the monthly base rent of the new space is not substantially the same as the prior monthly base rent, Tenant may so notify Landlord, and if Landlord fails to offer space satisfactory to Tenant, Tenant may terminate this Lease at any time and at its sole discretion, effective as of the thirtieth (30th) day after Landlord's initial notice, upon no further obligation to Landlord, including the payment of Rent or Common Area Operating Expenses. If Tenant does relocate within the Shopping Center, then effective on the date of such relocation this Lease will be amended by deleting the description of the original Premises and substituting for it a description of such comparable space. Landlord agrees to reimburse Tenant for its actual moving costs to such other space within the Shopping Center.

28.20. Merchant Associations. Landlord represents that at the time of entering into this Lease, the Shopping Center does not have a Merchant Association.

**THIS IS A BINDING LEGAL DOCUMENT. BY SIGNING BELOW ALL PARTIES CERTIFY THAT THEY HAVE CAREFULLY READ THE ENTIRE LEASE, AND ANY ADDENDA ATTACHED HERETO, BEFORE SIGNING BELOW.**

WITNESS the following signatures and seals the day and year first above written.

LANDLORD:

TENANT:

NEWCOMB BROADCASTING CORP.

COSTA MEDIA BOSTON LLC

BY: \_\_\_\_\_  
DORIS NEWCOMB, President

BY: \_\_\_\_\_  
José M. Villafañe, Managing Member

**EXHIBIT A**

**DESCRIPTION OF LAND AND PREMISES**



## **EXHIBIT B**

### **TOWER SQUARE SHOPPING CENTER** **RULES AND REGULATIONS**

#### **Purpose**

The purpose of these Rules and Regulations is to summarize the Tenant's responsibilities in the day-to-day operation and maintenance of the Center. Experience has proven that these Rules and Regulations are beneficial to both Landlord and the Tenants, and that they result in an attractive and successful Center.

#### **Common Area Use**

To ensure a pleasing and safe environment in the common areas (parking lots and sidewalks) of the center, each Tenant shall:

1. Not place any objects in the common areas of the center nor use the common area trashcans for trash disposal.
2. Not solicit business in the common areas; i.e., no signs or displays unless approved by Landlord.
3. Not mount or string anything on the outside walls of the premises without permission from the Landlord.

#### **Storefronts and Signs**

To ensure a consistent appearance throughout the Center:

1. Each Tenant shall keep the storefront glass and glass door of the premises in good repair and clean condition.
2. Any temporary sign used by a Tenant in his door or window must be professionally made and shall not cover more than twenty percent (20%) of the total door or window area.
3. Any lighted window sign must be approved by Landlord.

#### **Tenant Advertising**

1. Tenant shall not utilize any advertising medium within the Center which can be seen, heard, or experienced outside of the Premises, including, but not limited to, flashing lights, searchlights, loudspeakers, phonographs, radios or televisions.
2. Tenant will not display, paint, place or cause to be displayed, painted, or placed, any handbills, bumper stickers, sandwich boards or other advertising devices in any Common Area.
3. Tenant will not distribute, or cause to be distributed, in the Center, any handbills or other advertising devices; and will not conduct or permit any activities that might constitute a nuisance.

### **Loading and Unloading**

All shipping, receiving, loading or unloading of Tenant's merchandise, supplies or other property shall take place only in the area and entrance designated therefor by Landlord. Tenant shall not permit any trucks, trailers, or other vehicles or equipment engaged in such activities to interfere with the use of any Common Area or any pedestrian or vehicular use or good center practice.

### **Noise**

No Tenant shall permit any noise to be made inside of the premises which can be heard outside of the premises or which violates any applicable laws.

### **Odors**

Each Tenant is required to prevent the unreasonable emission of odors from his premises that are objectionable to his neighbors.

### **Refuse**

To ensure a clean and equitable refuse handling system, each Tenant shall keep his refuse in proper containers in the rear of his premises.

### **Pest Exterminator Services**

Each Tenant shall contract with a professional exterminator for quarterly inspections and treatments as necessary to ensure that infestations by insects and rodents do not occur on the premises.

## **Roofs**

To minimize the chance of roof leaks:

1. A Tenant or his contractor can go onto the roof only to service the Tenant's heating and cooling equipment.
2. Each Tenant is responsible for any damage to the roofs from the service of his equipment.

## **Store Plans and Permits**

1. The plans and contractors for doing any work in the store which requires a permit must be submitted to the Landlord for approval. This includes but is not limited to work which requires: a building, or a mechanical, or an electrical, or a plumbing permit.
2. Each Tenant must obtain an Occupancy Permit before opening for business, and must give a copy of the Occupancy Permit to the Landlord within ten (10) days after obtaining the Occupancy Permit.

## **Employee Parking**

To ensure that adequate and convenient parking is available to customers of the Center:

1. The Landlord may designate areas for employee parking.
2. Each Tenant must require his employees to park only in the areas designated for employee parking. No employee or Tenant parking is allowed in the parking spaces immediately adjacent to the shopping center.
3. If Tenant or any of its employees shall park outside of the "Employee Parking Areas", and such violation shall continue after written notice is given by Landlord to Tenant, Tenant shall pay, as additional rent within ten (10) days after demand, an amount equal to \$15.00 per day per violating vehicle, calculated from and including the day on which Landlord's notice is given, to and including the day that all violations by Tenant and its employees cease. No notice from Landlord shall be required for subsequent violations, and in such event, said \$15.00 per day fine shall commence against Tenant immediately. In addition, if Tenant or any of its employees shall park outside of the "Employee Parking Areas," Landlord, at any time after the violation occurs, may have the violating vehicle towed and Tenant shall pay, as

additional rent, the cost of towing and storing the vehicle, within ten (10) days after demand.

4. Tenant, at Landlord's request, shall provide Landlord with a list of Tenant's employees' license plate numbers and shall keep this list current.

### **Emergencies**

A Tenant must notify the Landlord, as soon as possible, of any emergency situation, injury, fire or disorder that occurs in the Tenant's premises or any common area of the Center. Tenant will provide the Landlord with a key to enter the premises in the event of an emergency.

### **Outside Promotional Activities**

To avoid undesired disturbances of Tenants and customers of the Center, outside promotional activities:

1. Are allowed only with the Landlord's written approval.
2. Will be considered for approval by the Landlord if:
  - a. Ninety percent (90%) of the Tenants in the Center indicate in writing that they will participate in the activity, and
  - b. The activity is professionally planned.
  - c. Each Tenant must provide evidence of liability insurance covering the event, which names the Landlord as an additional insured with limits of liability of \$1,000,000 per occurrence.

**EXHIBIT C**  
**Form of Secured Promissory Note**

**SECURED PROMISSORY NOTE**

\$550,000.00

\_\_\_\_\_, 2022  
Falls Church, Virginia

FOR VALUE RECEIVED, the undersigned Costa Media Boston LLC (“Maker”), hereby irrevocably and unconditionally promises to pay to Newcomb Broadcasting Corporation (“Payee”), in immediately available funds, the principal amount of Five Hundred Fifty Thousand Dollars (\$550,000.00) with interest accrued at 6.75% per annum, in installment payments to be made as follows:

1. \$4,867.00 per month for Sixty (60) months, commencing on \_\_\_\_\_, 2022, and thereafter on the first (1<sup>st</sup>) day of each month; and
2. A final payment of \$423,865.85 (the “Final Payment”) on \_\_\_\_\_, 2027.

Maker may prepay this Note in whole or in part, without premium or penalty. Any partial prepayments of this Note shall be applied to principal due on the Note at the time payment is made.

This Note evidences the partial payment of the Purchase Price for certain assets purchased pursuant to that certain Asset Purchase Agreement between Maker and the Payee, dated May 18, 2022. Maker's obligations under this Note are secured by a security agreement between the Maker and the Payee, dated on even date herewith.

Any one or more of the following events shall constitute default under this Note, whereupon Payee, upon written notice to Maker, may elect to exercise any or all other remedies permitted by law, including, without limitation, the right to accelerate the maturity of this Note and declare all amounts owing in respect to this Note to be due and payable in full:

- (a) if Maker shall fail to pay an owed amount within thirty (30) days after the payment's due date; or
- (b) if Maker shall become insolvent, make an assignment for the benefit of creditors, or any case or proceeding under any laws relating to bankruptcy, insolvency, readjustment of debt, dissolution or liquidation shall be commenced with respect to Maker, provided, however, in any case or proceeding under an laws relating to bankruptcy, insolvency, readjustment of debt, dissolution, or liquidation commenced against Maker, Maker shall not be in default if said case or proceeding is dismissed within ninety (90) days.

Should Payee elect in writing not to declare this Note in default after an event referenced above, Maker shall continue to be liable on the Note. No delay or omission on the part of Payee



in exercising any right hereunder shall operate as a waiver of such right or of any other right of Payee, nor shall any delay, omission or waiver on any one or more occasions be deemed a bar to or waiver of the same or any other right on any future occasion.

If Payee under this Note retains an attorney in connection with any such default or to collect, enforce or defend this Note, or if Maker sues Payee in connection with this Note and does not prevail, then Maker agrees to pay Payee, in addition to principal and interest, all reasonable costs and expenses incurred by such holder in attempting to collect this Note, including reasonable attorneys' fees.

This Note shall be construed and enforced under the laws of the Commonwealth of Virginia.

After maturity of this Note, (whether by acceleration or otherwise), Maker hereby authorizes any attorney designated by Payee, or any clerk of any court of record to appear for Maker in any court of record and confess judgment against Maker without prior hearing, in favor of Payee in the amount of the unpaid balance of the principal then outstanding plus interest accrued and unpaid thereon, together with costs of suit and attorneys' fees of Payee.

The Maker hereby declares, represents, and warrants that the indebtedness evidenced by this Note is made in a commercial transaction for business purposes.

This Note may not be assigned, sold or transferred by Payee to a third-party holder.

IN WITNESS WHEREOF, Maker, intending to be bound hereby, has caused its duly authorized representative to execute this Note on behalf of Maker on the date and year first above written.

**COSTA MEDIA BOSTON, LLC**

\_\_\_\_\_(seal)  
José M. Villafañe, Managing Member

Witnesses:

\_\_\_\_\_

\_\_\_\_\_

**EXHIBIT D**  
**Form of Security Agreement**

**SECURITY AGREEMENT**

THIS AGREEMENT is made on this \_\_\_\_\_ day of \_\_\_\_\_, 2022, by and between Costa Media Boston LLC, a Massachusetts limited liability company ("Debtor") and Newcomb Broadcasting Corporation, a Virginia corporation ("Secured Party").

WHEREAS, Secured Party has sold to Debtor the assets described in that certain Asset Purchase Agreement, dated May 18, 2022 (the "Purchase Agreement") by and between Debtor and Secured Party;

WHEREAS, pursuant to the Purchase Agreement, a portion of the purchase price due thereunder shall be paid by delivery of a Promissory Note to Secured Party at the Closing in the aggregate principal amount of Five Hundred Fifty Thousand Dollars (\$ 550,000.00) (the "Note"); and

WHEREAS, in order to secure payment of the Note, the interest, and any other amounts due and owing to Secured Party thereunder (the "Obligations"), Debtor has agreed to grant a security interest to Secured Party in certain assets of Debtor described below.

NOW, THEREFORE, for valuable consideration, and to secure the payment and performance when due of the Obligations of Debtor to Secured Party, Debtor and Secured Party hereby agree as follows:

1. GRANT OF SECURITY INTEREST:

Debtor hereby grants and conveys to Secured Party a first priority continuing security interest in and lien on the Collateral (as defined below), together with all rights, remedies and privileges pertaining thereto, and all substitutions, replacements and proceeds thereof. The "Collateral" means:

(a) all furniture, fixtures, equipment, inventory, books and records, programming, music libraries, computer hardware and software, auxiliary and translator facilities, transmitting towers, transmitters, antennas, antenna line and other electronic equipment and parts, supplies, machinery, and vehicles, and other tangible and intangible personal property of Debtor relating to radio broadcast station WFAX(AM), Falls Church, Virginia (FCC Facility ID No. 48732) and FM translator W264DB, Falls Church, Virginia (FCC Facility ID No. 158365) (the "Stations");

(b) to the extent permitted by law, any and all construction permits, licenses, and authorizations, including those for the Stations (including successor variants of its call sign), issued or granted to Debtor by the Federal Communications Commission ("FCC") or any other governmental entity or otherwise in connection with the operation of the Stations and any auxiliary broadcast or other facility associated with the Stations. The parties recognize that as of the date of this Agreement, the Communications Act of 1934, as amended, and the rules and



regulations of the FCC, do not permit a security interest to extend to a Stations' FCC construction permits, licenses, and authorizations. The parties recognize, however, that courts have held that security interests are permitted to extend to the proceeds of the sale, transfer, or other disposition of such FCC construction permits, licenses, and authorizations. The parties agree, therefore, that since a security interest is not permitted to Debtor's FCC construction permits, licenses, and authorizations, that the security interest shall instead extend to the proceeds of the sale, transfer, or other disposition of such FCC construction permits, licenses, and authorizations. If the law in this regard is subsequently changed, in whole or in part, then all of the right, title, and interest of Debtor in and to any FCC construction permits, licenses, and authorizations, whether now held or hereafter acquired, shall automatically and immediately become subject to the Secured Party's security interest to the maximum extent permitted by law as then in force and effect; and

(c) all accounts of Debtor relating to the Stations, as the term "accounts" is defined in Article 9 of the Uniform Commercial Code, now existing or hereafter arising, including, without limitation, all present and future rights to payment for goods sold or services rendered by Debtor that are not otherwise evidenced by instruments or chattel paper, whether or not such rights have been earned by performance.

## 2. WARRANTIES AND COVENANTS:

Debtor warrants, covenants and agrees as follows:

(a) Payment. To pay and perform all of the Obligations secured by this Agreement in accordance with their respective terms;

(b) Defend. To defend the title to the Collateral against all persons and all claims and demands whatsoever. Debtor agrees not to transfer legal or equitable title to the Collateral to any other party without Secured Party's prior written consent;

(c) Assurance of Perfection. On demand of Secured Party, to do the following: furnish further assurance of title; execute any written agreement or do any other acts necessary to effectuate the purposes and provisions of this Agreement; execute any instrument or statement required by law or otherwise in order to perfect the security interests granted to Secured Party herein; and continue or renew the security interest of Secured Party in the Collateral;

(d) Possession. To retain possession of the Collateral during the existence of the Obligations and not to sell, exchange, assign, deliver, mortgage or otherwise dispose of same without the prior written consent of Secured Party, which shall not be unreasonably withheld or delayed;

(e) Liens. To keep the Collateral free and clear of all liens, charges, encumbrances, taxes and assessments;

(f) Taxes etc. To pay, when due, all taxes, assessments and license fees and premiums relating to the Collateral;

(g) Name, State of Incorporation, Notice of Changes. Debtor's name as shown above is accurate and complete, Debtor is a limited liability company organized under the laws of the [Commonwealth of Massachusetts], and Debtor shall obtain the prior written consent of Secured Party before any change in the name or corporate structure of Debtor, such consent not to be unreasonably withheld or delayed;

(h) No Commingling. Unless waived by Secured Party, all proceeds from any disposition of the Collateral shall be held in trust for Secured Party; provided however, this requirement shall not constitute consent by Secured Party to any sale or other disposition; and

(i) Full Performance. To perform and comply in all material respects with all obligations in respect of the accounts and under all other contracts and agreements to which Debtor is a party or by which it is bound relating to the Collateral where failure to so comply would result in a material adverse effect on the Collateral, unless the validity thereof is being contested in good faith by appropriate proceedings and such proceedings do not involve the material danger of the sale, forfeiture, or loss of the Collateral which is the subject of such proceedings or the priority of the lien in favor of Secured Party thereon.

### 3. GENERAL PROVISIONS:

(a) Financing Statement Filing. Debtor hereby authorizes Secured Party to file, without a signature of Debtor, a financing statement with any governmental authority, to perfect or continue the security interest granted by Debtor to Secured Party under this Agreement, or to file a photographic or other reproduction of this Agreement for use as a financing statement.

(b) Non-Waiver. Waiver of or acquiescence in any default by the Debtor, or failure of the Secured Party to insist upon strict performance by the Debtor of any warranties or agreements in this Agreement, shall not constitute a waiver of any subsequent or other default or failure.

(c) Notices. Notices to any party shall be in writing and shall be delivered personally or by mail, postage prepaid, addressed to the party at the address set forth below or otherwise designated in writing:

If to Secured Party , then to:  
Newcomb Broadcasting Corporation  
304 Berry Street SE  
Vienna, VA 22180  
Attention: Doris Newcomb, President

with a copy, given in the manner prescribed above, to:  
Shainis & Peltzman, Chartered  
1850 M Street, NW, Suite 240  
Washington, DC 20036  
Attn.: Susan Marshall, Esq.

If to Debtor, then to:  
Costa Media Boston LLC  
1870 North Benson Road  
Fairfield, CT 06824  
Attention: José M. Villafañe

with a copy, given in the manner prescribed above, to:  
Fletcher, Heald & Hildreth, PLC  
1300 N. 17th Street, Suite 1100  
Arlington, VA 22209  
Attention: Francisco R. Montero, Esq.

(d) Law Applicable. The laws of the Commonwealth of Virginia shall govern the rights, duties and remedies of the parties and enforcement of this Agreement. Any provisions herein declared invalid under any law shall not invalidate any other provision of this Agreement.

(e) Default. The following shall constitute an Event of Default by Debtor:

- (i) Non-Payment. Failure of Debtor to make any payment when due and payable under the Obligations;
- (ii) Violation. Failure of Debtor, within ten (10) days after receipt from Secured Party of notice of non-compliance, to comply with or perform any provision of this Agreement or any other documents evidencing the Obligations, other than the payment of money; provided that Debtor shall have additional time as may be required beyond such ten (10) day period if the nature of the performance or compliance is such that it reasonably requires more than ten (10) days and Debtor commences the performance within the ten (10) day period and thereafter continuously pursues the performance to completion;
- (iii) Misrepresentation. False or misleading representations or warranties made or given by Debtor in connection with this Agreement;
- (iv) Levy. Subjection of the Collateral to levy of execution or other judicial process;
- (v) Insolvency. Commencement of any insolvency proceeding by or against Debtor;
- (vi) Termination of Business Activities. The cessation by Debtor of its business activities; or

(vii) Impairment of Security. Any waiver made by Debtor that materially impairs the collectability of an account.

(f) Remedies on Default. Upon the happening of any Event of Default, at the sole option of Secured Party, Secured Party shall have all the rights, remedies and privileges with respect to repossession, retention and sale of the Collateral and disposition of the proceeds as are accorded to a secured party by the applicable sections of the Uniform Commercial Code respecting "Default" in effect in the Commonwealth of Virginia as of the date of this Agreement.

(g) Attorneys' Fees Etc. Secured Party's reasonable attorneys' fees, costs of collection and the legal and other expenses for pursuing, searching for, receiving, taking, and selling the Collateral shall become a part of the Obligations secured hereby and shall be immediately chargeable to Debtor.

(h) Deficiency. Debtor shall remain liable for any deficiency resulting from a sale of the Collateral for less than the value of the Obligations and shall pay any such deficiency forthwith to Secured Party upon demand.

(i) Possession of Collateral. Upon the happening of any Event of Default, the Secured Party, in its sole discretion, may: (1) enter upon Debtor's premises peaceably, by the Secured Party's own means or with legal process, and take possession of the Collateral, or dispose of the Collateral on Debtor's premises and Debtor agrees not to resist or interfere; or (2) require Debtor to assemble the Collateral and make it available to Secured Party at a place to be designated by Secured Party reasonably convenient to both parties (Debtor agrees that Secured Party's address as set forth herein is a place reasonably convenient for such assembling). Unless the Collateral is likely to decline speedily in value or is of a type customarily sold on a recognized market, Secured Party will give Debtor reasonable notice of the time and place of any public sale thereof or of the time after which any private sale or any other intended disposition thereof is to be made. The requirements of reasonable notice will be met if such notice is mailed, postage prepaid, to the address of Debtor shown herein, at least fourteen (14) days before the time of sale or disposition.

(j) Indemnity. Debtor shall indemnify and hold harmless Secured Party, and its directors, officers, employees, and affiliates, from and against any and all liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses, and disbursements of any kind or nature whatsoever including, without limitation, reasonable attorneys' fees and settlements costs, which may be imposed on, incurred by, or asserted against Secured Party, or its directors, officers, employees, or affiliates, in connection with any investigative, administrative, or judicial proceeding (whether Secured Party is or is not designated as a party thereto) directly or indirectly relating to or arising out of this Agreement or the Obligations, or any actual or proposed use of proceeds thereunder, except that neither Secured Party, nor any of its directors, officers, employees, or affiliates, shall have the right to be indemnified hereunder for its own gross negligence or willful misconduct.

(k) Assignment. Secured Party may assign this Agreement to any person to whom the Obligations are validly assigned, and if assigned the assignee shall be entitled, upon notifying



Debtor and providing Debtor with a copy of the executed assignment agreement whereby the assignee agrees to be bound by Secured Party's obligations, to all of the rights and remedies of Secured Party hereunder.

(l) Captions. The captions are inserted only as a matter of convenience and for reference and in no way define, limit or describe the scope of this Agreement nor the intent of any provision thereof.

(m) Collection of Receivables. If at any time Secured Party shall elect upon the happening of an Event of Default under this Agreement, Secured Party shall be entitled, in its own name or in the name of Debtor, to collect, demand, receive, sue for or compromise any and all of the Collateral and to give good and sufficient releases therefor, to endorse any checks, drafts or other orders for the payment of monies payable to Debtor in payment thereof, and to file any claims or take any action or proceeding, either in its own name or in the name of Debtor, which Secured Party may deem necessary or advisable. It is expressly understood and agreed, however, that Secured Party shall not be required or obligated in any manner to make any inquiries as to the nature or sufficiency of any payment received by it or to present or file any claims or take any other action to collect or enforce a payment of any amounts which may have been assigned to it or to which it may be entitled to hereunder at any time or times.

(n) Successors and Assigns. The terms, warranties and agreements herein contained shall be jointly and severally binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns.

(o) Gender and Number. The gender and number used in this Agreement are used as a reference term only and shall apply with the same effect whether the parties are of the masculine or feminine gender, corporate or other form, and the singular shall likewise include the plural.

(p) No Oral Change. This Agreement may not be changed orally.

(q) FCC Compliance. Notwithstanding any other provisions of this Agreement, any foreclosure on, sale, transfer or other disposition of, or the exercise of any right to vote or consent with respect to, any of the Collateral as provided herein or any other action taken or proposed to be taken hereunder which would affect the control of any license issued by the FCC with regard to the Stations, shall be made in accordance with the Communications Act of 1934, as amended, the terms of such license, and any applicable rules and regulations of the FCC, including, to the extent applicable under the rules and regulations of the FCC in effect at the time of an Event of Default.

[The remainder of this page is intentionally blank.]

[Signature page to Security Agreement.]

IN WITNESS WHEREOF, the parties hereto have respectively signed and sealed these presents, all on the day and year first above written.

DEBTOR:  
**COSTA MEDIA BOSTON LLC**

By: \_\_\_\_\_ (SEAL)  
Name: José M. Villafañe  
Title: Managing Member

SECURED PARTY:  
**NEWCOMB BROADCASTING CORPORATION**

By: \_\_\_\_\_  
Name: Doris N. Newcomb  
Title: President