

TIME BROKERAGE AGREEMENT

for

**RADIO STATION WGFB(FM)
Plattsburgh, New York**

By and Between

PLATTSBURGH BROADCASTING CORP.

and

BURLINGTON BROADCASTERS, INC.

TIME BROKERAGE AGREEMENT

TIME BROKERAGE AGREEMENT ("Agreement") dated as of May 5 1996, by and between Plattsburgh Broadcasting Corp., the licensee of Radio Station WGFB(FM), Plattsburgh, New York ("Licensee"), and Burlington Broadcasters, Inc. ("Broker").

WHEREAS, Licensee owns and operates Station WGFB ("Station") pursuant to licenses issued by the Federal Communications Commission ("Commission" and/or "FCC");

WHEREAS, Broker is experienced in radio station ownership and operation and is the licensee of Station WIZN(FM), Vergennes, Vermont;

WHEREAS, Licensee wishes to retain Broker to provide programming for the Station that is in conformity with Station policies and procedures, FCC policies for time brokerage arrangements, and the provisions hereof;

WHEREAS, Broker agrees to use the Station exclusively to broadcast such programming of its selection that is in conformity with all rules, regulations and policies of the FCC and subject to Licensee's full authority to control the operation of the Station; and

WHEREAS, Broker and Licensee agree to cooperate to make this Time Brokerage Agreement work to the benefit of the public and both parties and as contemplated in this Agreement;

NOW, THEREFORE, for and in consideration of the mutual covenants herein contained, the parties, intending to be legally bound, agree as follows:

WITNESSETH:

1. **Facilities.** Licensee agrees to make broadcasting transmission facilities available to Broker and to broadcast on the Station, or cause to be broadcast, Broker's programs which will originate from Broker's studios.

2. Payments

2.1. **Monthly Broker Fee.** Broker hereby agrees to pay Licensee for the broadcast of programs hereunder the amounts specified in Schedule 2.1.

2.2. CPI Adjustment. During the each term of this Agreement, the Monthly Broker Fee shall be adjusted annually for inflation based on the Consumer Price Index for all Urban Consumers in the U.S. (1982-4 = 100), as published monthly by the Bureau of Labor Statistics of the U.S. Department of Labor (the "CPI"). The amount by which the Monthly Broker Fee is to be adjusted shall be determined by multiplying the Monthly Broker Fee by 50% of the percentage difference between the CPI as published on the Effective Date and the CPI as published on the month immediately preceding the annual anniversary of the Effective Date, and similarly for each succeeding year (for example, if the renewal date is October 1, and the CPI for September of the prior year is 151 and the CPI for September of the current year is 156, then the change is the Monthly Broker Fee would be 50% times 3.3%, the percentage difference in the two CPIs). In the event the CPI ceases to be published at any time, the parties shall identify a mutually acceptable index which tracks inflation in the U.S. and shall substitute such index for the CPI for purposes of this Section 2.

2.3. Late Payment Fee. In the event that Broker fails to make a payment in accordance with this paragraph, Broker shall owe to Licensee in addition to the payment of the Monthly Broker Fee, if such payment has not been made on or before the fifth (5th) day after the payment is due, a late fee in the amount of five percent (5%) of the total monthly payment then due and owing under this paragraph ("Late Fee").

3. Effective Date and Term.

3.1. Effective Date. This Agreement shall be effective on July 28, 1996, or earlier at Broker's option (the "Effective Date").

3.2. Term. The term of this Agreement shall be for one (1) five- (5) year period followed by one (1) renewal period of five (5) years from the Effective Date of this Agreement. Broker shall have the right to terminate this Agreement by providing written notice to the Licensee at least six (6) months prior to the conclusion of the first term. Licensee and Broker shall have the option of extending this Agreement for additional terms of three (3) years on the same terms as set forth herein upon mutual agreement of the parties.

4. Programs. Broker shall furnish or cause to be furnished the artistic personnel and materials for the programs which shall be in good taste and in accordance with the rules, regulations and policies of the FCC and the Communications Act of 1934, as amended (the "Act"). Broker shall make available, to Licensee its programming during a sufficient number of hours to enable the Station to meet the minimum hours of operation required under the Commission's Rules. All advertising messages and

promotional material or announcements shall comply with all applicable federal, state and local laws, regulations and policies.

5. **Station Facilities.**

5.1. **Operation of Station.** Licensee shall be responsible for assuring that the Station operates in accordance with the authorizations issued to it by the Commission. Throughout the term of this Agreement, Licensee shall make available to Broker the maximum authorized facilities of the Station up to one-hundred sixty-eight (168) hours per week, Sunday through Saturday, except for downtime occasioned by routine maintenance. Any maintenance work affecting the operation of the Station at full power shall be scheduled with the approval of Broker, which shall not be unreasonably withheld, upon at least forty-eight (48) hours prior notice to Broker. Licensee also shall make available, for uses related to the operation of Station, to Broker two (2) of the three (3) subcarrier channels of the Station, as well as all auxiliary licenses. Licensee shall retain exclusive rights to the use and revenue of one (1) subcarrier channel. For any additional subcarrier channels that may become available, Licensee and Broker shall share on a fifty/fifty (50/50) basis their use and revenue.

5.2. **Interruption of Normal Operations.** The failure of either party hereto to comply with its obligations under this Agreement due to acts of God, strikes or threats thereof or force majeure, or due to causes beyond such party's control, such as brief interruptions in service due to technical failures, will not constitute an Event of Default under Section 11 of this Agreement and neither party will be liable to the other party therefor, except that any resulting failure of Licensee to broadcast the programs beyond a brief (not to exceed twenty-four (24) hours) interruption in service shall entitle Broker to pro rata reduction in the payment required under this Agreement with respect to periods during which Licensee's facilities failed or were impaired. Broker and Licensee each agree to exercise its best efforts to remedy any conditions adversely affecting its own facilities as soon as practicable.

6. **Expenses, Revenues and Accounts Receivable.**

6.1. **Expenses.** Broker will be responsible (i) for the salaries, taxes, insurance and related costs for all personnel used in the production of the Programs supplied to Licensee, (ii) for the costs of delivering the programs to Licensee (or Licensee's transmission facilities) and (iii) costs of telephones used by Broker at Licensee's facilities. Broker will use its own production facilities or Station's facilities to create the programs and will be responsible for all costs associated with preparing or delivering the programs from those facilities to Licensee at Licensee's transmitting facility. Licensee will pay for those operating costs required to be paid to maintain Station's broadcast operations in accordance with the FCC rules and policies and

applicable law. Licensee will also pay for all utilities to its transmitter site. Subject to reimbursement by Broker, Licensee will provide all personnel necessary for the broadcast transmission of the programs (once received at its transmitter site) (including, without limitation, the Station Manager and one other designated full-time employee, both of whom shall report to and be accountable solely to Licensee) and will be responsible for the salaries, taxes, insurance and related costs for all such personnel. Licensee shall be responsible for maintenance of its facilities, the transmitting equipment, and for all capital costs (such as replacement of transmitting equipment) necessary to carry out the intent of this Agreement. Licensee agrees to allow Broker to move the Station's studio equipment to a site selected by Broker; Broker shall return such equipment at the end of its useful life to Licensee. Broker shall be responsible for the proper operation of Licensee's equipment and shall hold Licensee harmless from improper operation and shall reimburse Licensee for all loss, cost or damage caused by Broker, its employees agents and invitees while on Licensee's premises or while utilizing or using Licensee's equipment. Broker shall reimburse Licensee for its ordinary and customary expenses incurred in the operation and maintenance of the Station, including but not limited to maintenance of the towers, transmitter and studio equipment, contract engineer, insurance and utilities at the Station's transmitter site, (the "Licensee Expenses"). Schedule 6.1 contains a listing of those Licensee Expenses which Broker agrees to reimburse Licensee. Licensee shall bill Broker for such expenses as they are incurred by delivery of a statement of reasonable detail with back-up invoices, payment for which shall be due within thirty (30) days of such billing.

6.2. Advertising Programming Revenues and Contracts. Broker will be entitled to all revenue from the sale of commercial advertising or programs time on the Station during the hours of airtime purchased by Broker pursuant to this Agreement. All contracts for such advertising or program time which may be entered into by Broker shall terminate upon the termination of this Agreement.

6.3. Broker's Accounts Receivable. Broker will be responsible for the collection of its own accounts receivable arising from its sale of advertising for the hours during which it is responsible for programming the Station. Broker agrees to cooperate fully with Licensee with respect to clients owing both Licensee and Broker. Broker will not make any solicitations for the payment of receivables in any manner which would indicate that Broker controls Licensee. Licensee will not make any solicitations for the payment of receivables in any manner which would indicate that Licensee controls Broker.

6.4. Licensee's Accounts Receivable. Licensee shall retain and collect all accounts receivable due the Licensee as a result of its operation of Station prior to the effective Date of this Agreement. Licensee agrees to maintain, to the best of its

ability, the good will and relationships with the advertisers of the Station whose receivables are retained by Licensee under the terms of this paragraph.

7. **Operation of Station.** Notwithstanding anything to the contrary in this Agreement, Licensee shall have full authority and power over the operation of the Station during the period of this Agreement. Licensee's Station Manager shall direct the day-to-day operation of the Station. Licensee shall retain control (said control to be reasonably exercised) over the policies, programming and operations of the Station, including, without limitation, the right to decide whether to accept or reject any programming or advertisements, the right to preempt any programs not in the public interest or in order to broadcast a program deemed by Licensee to be of greater national, regional or local interest, and the right to take any other actions necessary for compliance with federal, state and local laws, the Act and the rules, regulations and policies of the Commission (including the prohibition on unauthorized transfers of control) and the rules, regulations and policies of other federal government entities, including the Federal Trade Commission and the Department of Justice. Although both parties shall cooperate in the broadcast of emergency information over the Station, Licensee shall also retain the right to interrupt Broker's programming in case of an emergency or for programming, which, in the good faith judgement of Licensee, is of greater local or national importance. In all such cases, Licensee will use its best efforts to give Broker reasonable notice of its intent to preempt Broker's programs and in the event of such preemption, Broker shall receive a pro rata payment credit for any advertisements preempted which cannot be rescheduled.

8. **Additional FCC Obligations.** Licensee shall (i) continue to maintain and staff a main studio, as that term is defined by the FCC, within the Station's principal community contour, (ii) maintain its local public inspection file within Plattsburgh, New York, (iii) prepare and place in such public inspection file in a timely manner all material required by Section 73.3526 of the Commission's rules, including without limitation the Station's quarterly issues and programs list, and (iv) prepare and file with the FCC in a timely manner all reports, applications and other documents required under FCC rules, including but not limited to applications for renewal of license, Annual Ownership Reports and Annual Employment Reports. Licensee shall coordinate with Broker the Station's hourly station identification and any other announcements required to be aired by FCC rules. Licensee shall oversee and take ultimate responsibility for complying with the FCC's rules and requirements governing uses of the Station's facilities by legally qualified candidates for public office. Broker shall cooperate with Licensee in ensuring such compliance and shall provide Licensee with copies of any information that may be necessary to comply with the recording and lowest unit charge requirements of political law. Broker agrees that it will not accept any consideration, compensation or gift or gratuity of any kind whatsoever, regardless of its value or form, including, but not limited to, a commission, discount, bonus, material, supplies or other merchandise,

services or labor (collectively "Consideration"), whether or not pursuant to written contracts or agreements between Broker and merchants or advertiser, unless the payer is identified in the program for which Consideration was provided as having paid for or furnished such Consideration, in accordance with the Act and FCC requirements. Broker agrees to annually, or more frequently at the request of the Licensee, execute and provide Licensee with an appropriate affidavit or other documentation.

9. Indemnification Warranty

9.1. Broker's Indemnification. Broker shall indemnify and hold harmless Licensee from and against any and all claims, losses, costs, liabilities, damages, expenses (including reasonable legal fees and other expenses incidental thereto) of every kind, nature and description, including but not limited to, slander or defamation or otherwise arising out of Broker's broadcasts and sale of advertising under this Agreement to the extent permitted by law.

9.2. Licensee's Indemnification. Licensee shall indemnify and hold harmless Broker from any and against any and all claims losses, costs, liabilities, damages, expenses (including reasonable legal fees and other expenses incidental thereto) of every kind, nature and description, arising out of broadcasts originated by Licensee pursuant to the Agreement to the extend permitted by law.

9.3. Procedure. Neither Licensee nor Broker shall be entitled to indemnification pursuant to this section unless such claim for indemnification is asserted in writing, delivered to the other party, together with a statement as to the factual basis for the claim and the amount of the claim. The party making the claim (the "Claimant") shall make available to the other party (the "Indemnitor") the information relied upon by the Claimant to substantiate the claim. With respect to any claim by a third party as to which the Claimant is entitled to seek indemnification hereunder, the Indemnitor shall have the right at its own expense to participate in or assume control of the defense of the claim, and the Claimant shall cooperate fully with the Indemnitor, subject to reimbursement for actual out-of-pocket expenses incurred by the Claimant at the request of the Indemnitor. If the Indemnitor does not elect to assume control or participate in the defense of any third party claim, it shall be bound by the results obtained by the Claimant with respect to the claim.

10. Assignment of Certain Agreements and Rights

10.1. Assignment. On the Effective Date, Licensee shall assign to Broker all contracts for the sale of time on the Station (the "Time Sales Agreements") together with those contracts, leases and other agreements identified on Schedule 10.1 (collectively, the "Assigned Contracts"), subject in all cases to the receipt of any required

consents of third parties where required. True and complete copies, including amendments, of the Assigned Contracts (other than the Time Sales Agreements) have been provided to Broker. Broker shall accept the assignment of those Time Sales Agreements that provide for consideration other than cash ("Trade Agreements") as described on Schedule 10.1 only to the extent that there is no Net Negative Trade Balance (as defined below). "Net Negative Trade Balance" means the extent, if any, to which the value (at current rates for time on the Stations as of the Effective Date) of unfulfilled obligations of the Station under the Trade Agreements, in the aggregate, exceeds the reasonable fair market value of any consideration yet to be received by the Stations pursuant to such Trade Agreements. Broker will enter into no third-party contracts, leases, or agreements, which will bind Licensee in any way except with Licensee's prior written approval.

10.2. Proration. All expenses and income arising under the Assigned Contracts shall be prorated between Licensee and Broker as of the Effective Date in a manner such that the costs and benefits thereunder through the Effective Date shall be for the account of Licensee and, thereafter, during the term of the time brokerage provisions of this Agreement, for the account of Broker.

10.3. Payment of Station Obligations. Licensee shall promptly pay and satisfy all obligations owing to third parties with respect to the operation of the Station prior to the Effective Date. Broker shall not obligate Licensee to any third parties after the termination of this Agreement. Following termination, Broker shall promptly pay and satisfy all obligations owing to third parties with respect to its operation of the Station under this Agreement.

11. Events of Default; Cure Periods and Remedies. The following shall, after the expiration of the applicable cure periods, constitute Events of Default:

- a. Non-Payment. Broker's failure to pay when due the consideration provided for in Paragraph 2 hereof;
- b. Default in Covenants or Adverse Legal Action. The default by either party hereto in the material observance or performance of any material covenant, condition or agreement contained herein, or if either party (i) shall make general assignment for the benefit of creditors, (ii) files or has filed against it a petition for bankruptcy, reorganization or an arrangement for the benefit of creditors, or for the appointment of a receiver, trustee or creditor representative for the property or assets of such party under any federal or state insolvency law, which, if filed against such party, has not been dismissed or discharged within sixty (60) days thereof; or

- c. Breach of Representation. If any material representation or warranty herein made by either party hereto, or in any certificate or document furnished by either party to the other pursuant to the provisions hereof, shall prove to have been false or misleading in any material respects as of the time made or furnished.

11.1. Cure Periods. An Event of Default shall not be deemed to have occurred until twenty (20) business days after the nondefaulting party has provided the defaulting party with written notice specifying the event or events that if not cured would constitute an Event of Default and specifying the action necessary to cure the Default within such period. This period may be extended for a reasonable period of time, if the defaulting party is acting in good faith to cure the default and such default is not materially adverse to the other party.

11.2. Termination Upon Default. Upon the occurrence of an Event of Default, the nondefaulting party may terminate this agreement provided that it is not also in material default hereunder. If Broker has defaulted in the performance of its obligations, Licensee shall be under no further obligation to make available to Broker any further broadcast time or broadcast transmission facilities and all amounts accrued or payable to Licensee up to the date of termination which have not been paid shall immediately become due and payable. If Licensee has defaulted in the performance of its obligations hereunder, Broker may terminate this Agreement. In addition to these remedies, either party has the right to collect monetary damages for failure to perform the obligations under this Agreement, including any balance due by Broker under this Agreement.

11.3. Liabilities Upon Termination. Following termination, Broker shall be responsible for all liabilities, debts and obligations of Broker based upon the purchase of air time and use of Licensee's transmission facilities including, without limitation, accounts payable, barter agreements and unaired advertisements, but not for Licensee's federal, state and local income and business franchise tax liabilities or taxes levied upon Licensee's real estate or personal property after termination.

11.4. Specific Performance. In addition to either party's right of termination hereunder (and in addition to any other remedies available to that party), in the event of an uncured Event of Default, either party may seek specific performance of this Agreement, in which case the other party shall waive the defense in any such suit that the other party has an adequate remedy at law and shall interpose no opposition, legal or otherwise, as to the propriety of specific performance as a remedy hereunder.

12. Broker Termination Options. Broker may elect to terminate this Agreement at any time during the term hereof in the event that Licensee preempts or

substitutes other programming for that supplied by the Broker during five percent (5%) or more of the total hours of operation of the Station during any calendar week. In the event Broker elects to terminate this Agreement pursuant to this provision, it shall give Licensee notice of such election at least ninety (90) days prior to the termination date. Upon termination, all sums owing the Licensee shall be paid and neither party shall have any further liability to the other except as may be provided by Paragraphs 11 and 25 of this Agreement. In addition, in the event of termination by Broker pursuant to this paragraph, Licensee agrees that it shall not enter into a time brokerage agreement or similar arrangement with a third party for a period of one (1) year.

13. **Licensee Termination Option.** Licensee shall have the right, at its option, to terminate the Agreement if it provides Broker with at least ninety (90) days' written notice and simultaneously provides Broker with a payment to Broker equal to twenty-four (24) times the monthly compensation due for the month preceding the notice of termination by Licensee. Upon termination, all sums owing to Licensee shall be paid and neither party shall have any further liability to the other except as may be provided by Paragraphs 11 and 25 of this Agreement. In addition, upon termination, Licensee agrees that it shall not enter into a time brokerage agreement or similar arrangement with a third party for a period of one (1) year.

14. **Call Sign Change(s).** At one or more times during the term of this Agreement, Broker may request that Licensee change the assigned call sign of the Station. Licensee will honor such request(s) and promptly seek FCC assignment to the Station of the call sign(s) specified by Broker provided that (i) Licensee determines in its sole discretion that the call sign(s) requested by Broker is/are consistent with Licensee's obligations under the Communications Act, the rules of the FCC and all other applicable laws, and (ii) Broker agrees to reimburse Licensee for its reasonable expenses incurred in connection with requesting and obtaining the change(s). If Broker terminates this Agreement at the end of the first term and the call sign of the Station has been changed at the request of Broker, Broker shall pay Licensee Twelve Thousand Five Hundred Dollars (\$12,500.00).

15. **Termination Upon Order of Governmental Authority.** In the event that a federal, state or local government authority designates a hearing with respect to the continuation or renewal of any authorization held by Licensee for the operation of the Station or orders the termination of this Agreement and/or the curtailment in any manner material to the relationship between the parties hereto of the provision of programming by Broker hereunder, Broker, at its option, may seek administrative or judicial relief from such order(s) (in which event Licensee shall cooperate with Broker, provided that Broker shall be responsible for the legal fees and costs incurred in such proceedings) or Broker shall notify Licensee that it will terminate this Agreement in accordance with such order(s). If the Commission designates the renewal application of

the Station for a hearing as a consequence of this Agreement or for any other reason, or initiates any revocation or other proceeding with respect to the authorizations issued to the Licensee for the operation of the Station, and Licensee elects to contest the action, then Licensee and Broker shall each be responsible for one half (1/2) of the expenses incurred as a consequence of the Commission proceeding; provided, however, that Broker shall at its own expense cooperate and comply with any reasonable request of Licensee to assemble and provide to the Commission information relating to Broker's performance under this Agreement. In the event of termination upon any government order(s), Broker shall pay to Licensee any fees due but unpaid as of the date of termination as may be permitted by such order(s), and Licensee shall cooperate reasonably with Broker to the extent permitted to enable Broker to fulfill advertising or other programming contracts then outstanding, in which event Licensee shall receive as compensation for the carriage of such programming that which otherwise would have been paid to Broker hereunder. Thereafter, neither party shall have any liability to the other as may be provided pursuant to Paragraphs 11 and 25 of this Agreement.

16. Representations and Warranties.

16.1. Mutual Representations and Warranties. Both Licensee and Broker represent that they are legally qualified, empowered and able to enter into this Agreement, and that the execution, delivery and performance hereof shall not constitute a breach or violation of any agreement, contract or other obligation to which either party is subject or by which it is bound. The signatures appearing for Broker and Licensee at the end of this Agreement have been affirmed pursuant to such specific authority as, under applicable law, is required to bind them.

16.2. Licensee's Representations, Warranties and Covenants. Licensee makes the following further representations, warranties and covenants:

16.2.1. Authorizations. Licensee owns and holds all licenses and other permits and authorizations necessary for the operation of the Station as presently conducted, and such licenses, permits and authorizations will be in full force and effect for the entire term hereof. There is not now pending or, to Licensee's best knowledge, threatened, any action by the Commission or other party to revoke, cancel, suspend, refuse to renew or modify adversely any of such licenses, permits or authorizations and, to Licensee's best knowledge, no event has occurred which allows or, after notice or lapse of time or both, would allow, the revocation or termination of such licenses, permits or authorizations or the imposition of any restrictions thereon of such a nature that may limit the operation of the Station as presently conducted. Licensee has no reason to believe that any such license, permit or authorization will not be renewed during the term of the Agreement in its ordinary course. Licensee is not in any material violation of any statute, ordinance, rule, regulation, policy, order or decree of any

federal, state, local or foreign government entity, court or authority having jurisdiction over it or over any part of its operations or assets, which default or violation would have an adverse effect on Licensee or its assets or on its ability to perform this Agreement.

16.3. Filings. All reports and applications required to be filed with the Commission (including ownership reports and renewal applications) or any other government entity, department or body in respect of the Station have been, and in the future will be, filed in a timely manner and are and will be true and complete and accurately present the information contained and required thereby. All such reports and documents, to the extent required to be kept in the public inspection files of the Station, are and will be kept in such files.

16.4. Facilities. Subject to the reimbursement of expenses provided in Paragraph 6.1, the Station's facilities will be maintained at the expense of Licensee and comply in all material respects with the maximum facilities permitted by the Commission's authorizations and will be operated in all material respects in accordance with good engineering standards necessary to deliver a high quality technical signal to the area served by the Station and with all applicable laws and regulations (including the requirements of the Act and the rules, regulations, policies and procedures of the Commission promulgated thereunder). Licensee shall not file an application with the FCC requesting a new tower site for the Station without first obtaining the consent of Broker whose consent will not be unreasonably withheld. All capital expenditures reasonably required to maintain the quality of the Station's signal shall be made promptly at the expense of Broker, who shall lease such equipment to Licensee on such terms and conditions as are mutually acceptable. Further, Licensee will take whatever actions are necessary to improve the technical facilities of the Station, including, but not limited to, increasing the Station's power or tower height, subject to FCC approval where necessary. Licensee and Broker agree that the facilities of Station WEAV(AM), Plattsburgh, New York, including its property, operations and equipment, are expressly excluded from the terms of this Agreement.

16.5. Title to Properties. Licensee has, and will throughout the term hereof, maintain good and marketable title to all of the assets and properties used in the operation of the Station, free and clear of any liens, claims, claims or security interests. Licensee will not dispose of, transfer, assign or pledge any such asset, except with the prior written consent of Broker, if such action would affect adversely Licensee's performance hereunder or the business and operation of Broker permitted hereby. The tangible personal property of the Station is itemized in Schedule 16.5.

16.6. Insurance. Licensee will maintain in full force and effect throughout the term of this Agreement insurance with responsible and reputable insurance companies or associations covering such risks (including fire and other risks insured

against by extended coverage, public liability insurance, insurance for claims against personal injury or death or property damage and such other insurance as may be required by law) and in such amounts and on such terms as is conventionally carried by broadcasters operating radio stations with facilities comparable to those of the Station. Any insurance proceeds received by Licensee in respect of damaged property will be used to repair or replace such property so that the operation of the Station conforms with this Agreement.

17. **Lease of Tower Space.** Broker and Licensee shall share on a fifty/fifty (50/50) basis all revenue derived from the lease of space to third (3rd) parties on the FM tower. All costs of installation and maintenance of such equipment shall be borne by the tenant(s). Broker shall have the right to use space on Licensee's broadcast transmission tower for uses related to the operation of Station or any other licensee owned or programmed by Broker.

18. **Notices.** All necessary notices, demands and requests permitted or required under this Agreement shall be in writing and shall be deemed given when delivered personally, or mailed by certified mail or overnight courier, postage prepaid, with return receipt requested, and addressed as follows:

If to Licensee: Judith A. Bissell
Plattsburgh Broadcasting Corp.
3206 Lakeshore
Peru, New York 12972

If to Broker: Robin B. Martin
Burlington Broadcasters, Inc.
888 16th Street, N.W., Suite 700
Washington, D.C. 20006

19. **Modification and Waiver.** No modification of any provision of this Agreement shall in any event be effective unless the same shall be in writing and then such modification shall be effective only in the specific instance and for the purpose for which given.

20. **Construction.** This Agreement shall be construed in accordance with the laws of the State of New York and the obligations of the parties hereof are subject to all federal, state and local laws and regulations now or hereafter in force and to the rules, regulations and policies of the Commission and all other government entities or authorities presently or hereafter to be constituted.

21. **Headings.** The headings contained in this Agreement are included for convenience only and no such heading shall in any way alter the meaning of any provision.

22. **Broker and Finders.** Broker represents to Licensee that it has retained, and shall pay the fees of Blackburn & Company, Incorporated, in connection with this transaction. The parties agree to indemnify and hold each other harmless against any claims from any other broker or finder based upon any agreement, arrangement, or understanding alleged to have been made by the indemnifying party.

23. **Assignability; No Third Party Rights.** The rights and obligations of Broker under this Agreement may not be assigned without the prior written consent of Licensee to such assignment, which consent shall not be unreasonably withheld, so long as Broker assigns this Agreement to the new licensee of Station WIZN(FM), Vergennes, Vermont. In the event that Broker proposes to assign its rights and obligations under this Agreement to a party who will not be the licensee of Station WIZN(FM), consent to the assignment of this Agreement shall be at the absolute discretion of Licensee. The covenants, conditions and provisions hereof are and shall be for the exclusive benefit of the parties hereto and their permitted assigns, and nothing herein, express or implied, is intended or shall be construed to confer upon or to give any person or entity other than the parties hereto and their permitted assigns any right, remedy or claim, legal or equitable, under or by reasons of this Agreement.

24. **Exclusive Dealings.** For so long as this Agreement remains in effect neither Licensee nor any party acting as Licensee's agent shall directly or indirectly solicit or initiate any offer from, or conduct any negotiations with, or provide any information to any person (other than Broker) concerning the acquisition of the Station, provided, however, that this restriction shall not apply during the period of time in which Broker provides Licensee with written notice pursuant to Paragraph 3.2 of its intention to terminate this Agreement.

25. **Right of First Refusal.** Licensee may not sell Station during the "Exclusive Dealings" period specified in Paragraph 24. At the end of the Exclusive Dealings period, Licensee shall offer Station for sale ("Sale Period"). In the event Licensee proposes to sell the Station based on a bona fide offer, Broker shall have a right of first refusal to purchase the Station. Prior to effecting such proposed sale, Licensee shall give Broker written notice of such proposed sale (the "Sale Notice"), specifying the terms and conditions of such proposed sale. At any time during a period of thirty (30) days following Broker's receipt of the Sale Notice, Broker may elect to purchase the Station on the terms and conditions specified in the Sale Notice by giving to Licensee written notice of such election. This Broker's right of first refusal provision shall also be in effect during the time that Broker provides notice to Licensee of its intention to

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terminate this Agreement, or during the time that Licensee provides notice to Broker of its intention to terminate this Agreement under Paragraph 13 or Broker provides notice to Licensee of its intention to terminate this Agreement under Paragraph 12 or if this Agreement is terminated upon order of governmental authority and Licensee is permitted to sell the Station and for an additional period of twelve (12) months. The parties agree that the Monthly Broker Fees paid by Broker under this Agreement shall be applied to the payment of the purchase price. Following the end of the renewal period of this Agreement, and until Licensee has entered into an agreement to sell the Station, and either the Licensee has entered into a time brokerage agreement with the buyer or the sale transaction has closed, whichever is sooner, this Time Brokerage Agreement shall be extended and remain in full force and effect at the option of the Licensee.

26. **Counterpart Signature.** This Agreement may be signed in one or more counterparts, each of which shall be deemed a duplicate original, binding on the parties hereto notwithstanding that the parties are not signatory to the original or the same counterpart.

27. **Entire Agreement.** This Agreement embodies the entire agreement between the parties and there are no other agreements, representations, warranties or understanding, oral or written, between them with respect to the subject matter hereof. No alteration, modification or change of this Agreement shall be valid unless by like written instrument executed by an authorized principal.

28. **No Partnership or Joint Venture Created.** Nothing in this Agreement shall be construed to make Licensee and Broker partners or joint ventures or to afford any rights to any third party other than as expressly provided herein.

29. **Invalidity.** If any provision of this Agreement or the application thereof to any person or circumstances shall be held invalid or unenforceable to any extent, the parties shall negotiate in good faith and attempt to agree on an amendment to this Agreement that will provide the parties with substantially the same rights and obligations, to the greatest extent possible, as the original Agreement in valid, binding and enforceable form.

30. **Severability.** In the event any provision contained in this Agreement is held to be invalid, illegal or unenforceable, such holding shall not affect any other provision hereof and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had not been contained herein.

31. **Certification -- FCC Rules.** Pursuant to Section 73.3555(a)(3)(ii) of the FCC's rules, the parties certify as follows:

- (i) Licensee certifies that it shall at all times maintain ultimate control of the Station's facilities, including specifically control over station finances, personnel and programming.
- (ii) Broker certifies that this Agreement complies with the provisions of Section 73.3555(a)(1) of the FCC's rules.

32. **Confidentiality.** Neither party shall disclose the terms of this Agreement to any third party, except when such disclosure is required by law.

33. **Attorney's Fees and Expenses.** In the event of any dispute arising under this Agreement, the prevailing party shall be entitled to its reasonable attorney's fees incurred in connection therewith and all related costs and expenses.

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

PLATTSBURGH BROADCASTING CORP.

By Judith A. Bissell
Judith A. Bissell, President

BURLINGTON BROADCASTERS, INC.

By Robin B. Martin
Robin B. Martin, President