

## **ASSET PURCHASE AGREEMENT**

ASSET PURCHASE AGREEMENT (this "Agreement") is made and entered into this 22 day of December, 2010, by and between Willow Farm, Inc., a Massachusetts corporation ("Seller"), and Costa-Eagle Radio Ventures Limited Partnership, a Massachusetts limited partnership ("Buyer").

### **Recitals**

A. Seller owns and operates AM radio broadcast Station WNSH, 1570 kHz, Beverly, MA (the "Station") pursuant to certain authorizations issued by the Federal Communications Commission (the "FCC" or "Commission");

B. Pursuant to the terms and subject to the conditions set forth in this Agreement, Seller desires to sell to Buyer, and Buyer desires to purchase from Seller, the Station Assets (as defined below).

C. On the date hereof, Buyer (as Broker) is entering into a Time Brokerage Agreement (the "TBA") with Seller (as Licensee) whereby Seller agrees to broadcast programming (including commercial messages) provided by Buyer during substantially all of the Station's hours of operation.

NOW, THEREFORE, in consideration of the recitals and the mutual covenants, representations, warranties, conditions and agreements hereinafter set forth, the parties agree as follows:

### **ARTICLE I – DEFINITIONS**

As used in this Agreement, the terms set forth in this Article I shall have the meanings defined below. Capitalized terms not defined in this Article I, but defined elsewhere in this Agreement, including the preamble and recitals above, shall have the meanings specified in those other places in this Agreement and in the context in which they are used.

1.1 "Assignment Application" refers to the application that Seller and Buyer will join in and file with the Commission requesting its written consent to the assignment of the FCC Licenses from Seller to Buyer.

1.2 "Closing Date" means a date designated by Buyer within ten (10) business days following the date that the FCC Consent (as defined below) has become a Final Order (as defined below), or such later date as the parties mutually may agree to in writing, subject to the satisfaction or waiver of the conditions set forth in Article VI.

1.3 [RESERVED.]

1.4 “Contracts” shall mean any and all of the contracts, agreements, leases, commitments and understandings, options, rights and interests, written or oral, of Seller or to which Seller is a party, relating to the conduct of the business and operations of the Station.

1.5 “Environmental Law” shall mean any statute, ordinance, code, law, rule or regulation or any other requirement enacted or adopted by any governmental authority relating to pollution or protection of public health, safety or welfare or the environment, including without limitation (i) those relating to emissions, discharges, releases or threatened releases of Hazardous Substances into the environment (including ambient air, surface water, ground water or land), or otherwise relating to the manufacture, processing, distribution, use, treatment, storage, disposal, transport or handling of Hazardous Substances; (ii) the Comprehensive Environmental Response, Compensation and Liability Act and any state law counterparts; and (iii) the FCC’s regulations concerning radio frequency radiation.

1.6 “FCC Licenses” shall mean the licenses and other authorizations issued by the FCC for the operation of the Station.

1.7 “FCC Consent” shall mean the prior written consent of the FCC to the Assignment Application.

1.8 “Final Order” means action by the Commission granting the FCC Consent, which action is not vacated, reversed, stayed, enjoined, annulled, suspended or set aside, and with respect to which no timely requests for stay, reconsideration, review, rehearing or a notice of appeal is pending, and as to which the time for filing any such request, petition or notice of appeal or for review by the FCC on its motion has expired.

1.9 “Hazardous Substances” shall mean (i) any material, substance or waste that is defined as “hazardous” or “toxic” under applicable Environmental Laws, (ii) asbestos, (iii) polychlorinated biphenyls, and (iv) any petroleum product in quantities or concentrations the storage or disposal of which is regulated by any Environmental Law.

## **ARTICLE II - PURCHASE AND SALE OF ASSETS**

2.1 Assets to be Conveyed. Subject to the terms and conditions contained in this Agreement, on the Closing Date as of the Effective Time (as defined in Section 2.5 herein), Seller shall sell, assign, convey, transfer and deliver to Buyer, and Buyer shall purchase and accept from Seller, all right, title and interest of Seller in and to all of the following assets and properties of Seller, real, personal and mixed, tangible and intangible, (the “Station Assets”):

- (a) all the FCC Licenses listed in Schedule 2.1(a) attached hereto;
- (b) all of the fixed and tangible personal property, physical assets and equipment, music libraries and program production materials and related assets

listed in Schedule 2.1(b), attached hereto, together with any replacements thereof or additions thereto made between the date hereof and the Closing Date (“Personal Tangible Assets”):

(c) all Contracts, except for Excluded Assets, listed in Schedule 2.1(c) attached hereto, which are in effect on the Closing Date, including any renewals, extensions, amendments or modifications thereof, together with all Contracts entered into or acquired by Seller between the date of this Agreement and the Closing Date in accordance with the terms of this Agreement (collectively, the “Assumed Contracts”);

(d) all music formats, programs and other intangible property listed in Schedule 2.1(d) attached hereto;

(e) all business records and other documents, discs, tapes and other records of the Station, including the FCC public file, all sales data, customer lists and records, accounts, bids, supplier records, drawings, designs, specifications, process information, performance data, software, programs, and other information or data related to operation of the Station, but exclusive of the Excluded Assets;

(f) all of Seller’s goodwill, and going concern value, of the Station; and

(g) any assets of the type described above that are acquired between the date hereof and the Closing Date in accordance with this Agreement.

The Station Assets shall be delivered free and clear of all liens, mortgages, pledges, covenants, security interests, charges, claims or encumbrances of any kind whatsoever (“Liens”), except for Permitted Liens. “Permitted Liens” shall consist only of (i) Liens for taxes, assessments, license fees, and all other fees, special assessments and charges assessed or imposed by a public body upon the Station Assets or any part thereof, provided such fees assessments or taxes are not yet due and payable or are being contested in good faith in an appropriate proceeding; (ii) rights reserved to any governmental authority to regulate the affected property; and (iii) any Liens that do not in any material respect detract from the value of the property subject thereto or impair the use thereof in the ordinary course of the business of the Station.

2.2 Excluded Assets. Notwithstanding anything to the contrary contained in this Agreement, the Station Assets shall not include the following assets or any rights, title or interest therein (the “Excluded Assets”): (a) all cash, cash equivalents, including certificates of deposit, commercial paper, treasury bills, marketable securities, money market accounts and all other similar accounts or investments; (b) all accounts receivables and any other rights to payment of cash consideration for goods and services sold or provided prior to the Effective Time; (c) Contracts of insurance, all coverage and proceeds thereunder and all rights in connection therewith, including rights arising from any refunds due with respect to insurance premium payments; (d) Contracts that have terminated or have expired prior to the Effective Time in the ordinary course of

business and as permitted under the terms hereof; (e) any claims, rights and interest in and to any refunds of federal, state or local franchise, income or other taxes or fees of any nature whatsoever for any period prior to the Effective Time; (f) any rights and claims of Seller, whether mature, contingent or otherwise, against third parties with respect to the Station or the Station Assets, to the extent rising during or attributable to the period prior to the Effective Time.

### 2.3 Assignment and Assumption of Liabilities and Obligations

(a) Seller shall assign and Buyer shall assume and undertake to pay, satisfy or discharge (i) the liabilities, obligations and commitments of Seller arising and/or accruing after the Effective Time under the Assumed Contracts; (ii) the liabilities, obligations and commitments of Seller arising out of Buyer's ownership of the Station Assets or operation of the Station after the Effective Time; and (iii) any other liabilities of Seller to the extent Buyer receives credit therefore under Section 2.5.

(b) Except as set forth in Section 2.3(a), Buyer expressly does not and shall not assume or be deemed to assume, under this Agreement or otherwise by reason of the transaction contemplated hereby, any liabilities, obligations or commitments of Seller of any nature whatsoever.

2.4 Purchase Price. The purchase price for the Station Assets (the "Purchase Price") shall be Four Hundred Thousand Dollars (\$400,000.00), which shall be paid by Buyer to Seller as follows:

(a) Concurrently with the execution of this Agreement, Buyer has deposited the sum of Fifty Thousand Dollars (\$50,000.00) (the "Escrow Amount") with RadioStationsForSale.net ("Escrow Agent"), which sum shall be held in accordance with an escrow agreement executed by Seller, Buyer and Escrow Agent as of the date hereof.

(b) On the Closing Date, the Escrow Amount shall be paid to Seller by Escrow Agent pursuant to joint written instructions of Seller and Buyer and balance of Three Hundred Fifty Thousand Dollars (\$350,000.00) shall be paid by the Seller to Buyer by wire transfer, less the amount of any applicable Expense Payments (as defined under the TBA) paid prior to April 1, 2010 under the terms of the TBA.

2.5 Prorations. All prepaid and deferred income and expenses relating to the Station Assets and arising from the operation of the Station shall be prorated between Buyer and Seller in accordance with generally accepted accounting principals as of 12:01 a.m. on the Closing Date (the "Effective Time"). Such prepaid and deferred income and expenses shall include without limitation power and utilities charges; all ad valorem, real estate and other property taxes upon the basis of the most recent assessment available; frequency discounts; business license and music fees; rents and similar prepaid and deferred items. Seller shall receive credit for all of the Station's deposits and prepaid expenses accruing to the benefit of Buyer. Prorations and adjustments pursuant to

this Section 2.5 shall be estimated (such estimate to be provided to Buyer by Seller in writing five (5) days prior to the Closing Date) and paid, insofar as feasible, on the Closing Date, with a final settlement sixty (60) days after the Closing Date.

2.6 Allocation. The Purchase Price shall be allocated to the individual assets or class of Assets (within the meaning of Section 1060 of the Internal Revenue Code) as set forth in Schedule 2.6. Buyer and Seller shall file all tax returns and related filings made with respect to the transactions contemplated hereby (including those returns and forms required by Section 1060 of the Internal Revenue Code) consistent with such allocation. In any proceeding related to the determination of any tax, neither Buyer nor Seller shall contend or represent that such allocation is not a correct allocation.

### **ARTICLE III - REPRESENTATIONS AND WARRANTIES OF SELLER**

Seller represents and warrants to Buyer that:

3.1 Organization and Standing. Seller is a corporation duly organized, validly existing and in good standing under the laws of the State of Massachusetts. Seller has all necessary corporate power and authority to own, lease and operate the Station Assets, and to carry on the business of the Station as now being conducted, and as proposed to be conducted by it between the date hereof and the Closing Date.

3.2 Authorization. Seller has all necessary power and authority to enter into and perform this Agreement and to consummate the transactions contemplated by this Agreement. All necessary action to duly approve the execution, delivery and performance of this Agreement and the consummation of the transactions contemplated hereby has been taken by Seller. This Agreement has been duly executed and delivered by Seller and constitutes the valid and binding obligation of Seller enforceable against it in accordance with its terms, except as limited by laws affecting the enforcement of creditors' rights or equitable principles generally.

3.3 FCC Licenses. (a) Seller is the holder of the FCC Licenses, (b) the FCC Licenses constitute all of the licenses and authorizations required for and/or used in the operation of the Station as now operated, and the FCC Licenses are in full force and effect and not materially impaired by any act or omission of Seller, or its employees or agents, (c) there is not now pending, or to the knowledge of Seller threatened, any action by or before the Commission to revoke, cancel, rescind, modify or refuse to renew in the ordinary course any of the FCC Licenses, or any investigation, order to show cause, notice of violation, notice of apparent liability or of forfeiture or material complaint against the Station or Seller, (d) all material reports, forms, and statements required to be filed by Seller with the FCC with respect to the Station have been filed and are complete and accurate in all material respects as of the date of their filing, and (e) the Station is operating in all material respects in accordance with the FCC Licenses, and in compliance with the Communications Act of 1934, as amended, and the rules and regulations of the Commission (collectively, the "Communications Laws").

3.4 Personal Tangible Assets. Schedule 2.1(b) contains a list of the material items of Personal Tangible Assets included in the Station Assets. Seller has good and marketable title to the Personal Tangible Assets free and clear of all Liens, except for Permitted Liens. All material items of equipment or fixed assets listed as Personal Tangible Assets are in good operating condition, ordinary wear and tear accepted. All items of Personal Tangible Assets that are subject to regulation by the FCC are operating, in all material respects, in conformity with the Communications Laws and the FCC Licenses.

3.5 Insurance. All of the Station Assets that are of an insurable character are insured by Seller against loss or damage to the extent and in the manner customary and prudent for companies engaged in similar businesses or required by any of the FCC Licenses, rules and regulations of the Commission or applicable statutes, ordinances, rules and regulations, federal, state or local. Valid policies therefor are now outstanding and duly in force and effect, and the premiums therefor will be paid for the period to the Closing Date.

3.6 Litigation. No litigation, action, suit, judgment, proceeding or investigation is pending or outstanding before any forum, court, or governmental body, department or agency of any kind, or to the knowledge of Seller threatened, to which Seller, or the Station, is a party, (i) that might reasonably result in a material adverse change in the business, prospects or condition of the Station or the Station Assets; (ii) that has the stated purpose or the probable effect of enjoining or preventing the consummation of this Agreement or the transactions contemplated hereby or to recover damages by reason thereof; (iii) that questions the validity of any action taken or to be taken pursuant to or in connection with this Agreement; or (iv) that would have a material adverse effect upon Seller's ability to prosecute the Assignment Application or obtain the FCC Consent.

3.7 Assumed Contracts. Schedule 2.1(c) contains a list of all material Assumed Contracts as of the date of this Agreement other than contracts for the sale of advertising time entered into in the ordinary course of business. Seller has no knowledge of a material breach of, and is not in default in any material respect under the terms of any of the Assumed Contracts. Seller has not granted, and has not been granted, any material waiver or forbearance with respect to any of the Assumed Contracts. No event has occurred that, but for the passing of time or the giving of notice or both, would or might constitute a material default under any of the Assumed Contracts by Seller, and there is no outstanding notice of material default or termination under any Assumed Contract. To Seller's knowledge, no other party is in default under any of the Assumed Contracts in any material respect. Except as set forth on Schedule 2.1(c), including with respect to any requirement of third party consent, Seller has full legal authority to assign its rights under the Assumed Contracts to Buyer in accordance with this Agreement.

3.8 Insolvency. No insolvency proceedings of any character including without limitation, bankruptcy, receivership, reorganization, composition or arrangement

with creditors, voluntary or involuntary, affecting Seller or any of the Station Assets are pending or, to the knowledge of Seller, threatened. Seller has not made any assignment for the benefit of creditors or has not taken any action in contemplation of, or which would constitute the basis for, the institution of any such insolvency proceedings.

3.9 Taxes and Reports. Seller has duly filed all federal, state and local tax returns and state franchise returns that are required to be filed or, if not filed, might result in a material adverse effect on, or the imposition of a Lien on, any Station Asset; and has paid all taxes, interest, penalties, assessments and deficiencies that could become a Lien on the Station Assets, excepting Permitted Liens. All taxes, levies and other assessments that Seller is required by law to withhold or to collect relating to the Station have been duly withheld and collected, and have been paid over to the proper governmental authorities or held by Seller for such payment. Seller has not waived any statute of limitations in respect of taxes or agreed to an extension of time with respect to a tax assessment or deficiency.

3.10 Absence of Restrictions. Except for the FCC Consent, the execution, delivery and performance of this Agreement and the transactions contemplated hereby by Seller: (a) do not and on the Closing Date will not require the consent of any third party (except with respect to Assumed Contracts as disclosed in Schedule 2.1(c)); (b) do not and on the Closing Date will not violate any provisions of Seller's articles of incorporation or bylaws; (c) do not and on the Closing Date will not violate any applicable law, judgment, order, injunction, decree, rule, regulation or ruling of any governmental authority to which Seller is a party or by which it or the Station Assets are bound; (d) do not and on the Closing Date will not, either alone or with the giving of notice or the passage of time, or both, conflict with, constitute grounds for termination of or result in a breach of the terms, conditions or provisions of, or constitute a default under any Assumed Contract; and (e) do not and on the Closing Date will not result in the creation of any Lien on any of the Station Assets.

3.11 Environmental. To Seller's knowledge, no Hazardous Substance regulated under any applicable Environmental Law has been generated, stored, transported or released on, in, from or to any real property used in the operation of the Station in violation of any Environmental Law. To Seller's knowledge, Seller has complied in all material respects with all Environmental Laws.

3.12 Compliance with Applicable Laws. Seller has operated and is operating the Station in compliance in all material respects with all applicable laws, ordinances, regulations, rules and orders, including all FCC and Federal Aviation Administration rules and regulations, applicable to the operation of the Station. To Seller's knowledge, there are no governmental claims or investigations pending or threatened against Seller in respect of the Station except those affecting the industry generally.

#### **ARTICLE IV - BUYER'S REPRESENTATIONS AND WARRANTIES**

Buyer represents and warrants to Seller that:

4.1 Organization and Standing. Buyer is a limited partnership duly organized, validly existing and in good standing under the laws of the State of Massachusetts.

4.2 Authorization. Buyer has all necessary limited partnership power and authority to enter into and perform this Agreement and to consummate the transactions contemplated by this Agreement. All necessary limited partnership action to duly approve the execution, delivery and performance of this Agreement and the consummation of the transactions contemplated hereby has been taken by Buyer. This Agreement has been duly executed and delivered by Buyer and constitutes a valid and binding agreement of Buyer enforceable in accordance with its terms, except as limited by laws affecting the enforcement of creditors' rights or equitable principles generally.

4.3 Absence of Restrictions. Except for the FCC Consent, the delivery and performance of this Agreement and the transactions contemplated hereby by Buyer (a) do not and on the Closing Date will not require the consent of any third party; (b) do not and on the Closing Date will not violate any provisions of Buyer's organizational documents; and (c) do not and on the Closing Date will not violate any applicable law, judgment, order, injunction, decree, rule, regulation or ruling of any governmental authority to which Buyer is a party or by which Buyer is bound.

4.4 Absence of Litigation. There is no claim, litigation, proceeding or investigation pending or, to Buyer's knowledge, threatened against Buyer that seeks to enjoin or prohibit, or that otherwise questions the validity of, any action taken or to be taken in connection with this Agreement or that could materially adversely affect the ability of Buyer to perform its obligations hereunder.

4.5 Qualifications. Buyer is legally, financially and otherwise qualified to be the licensee of, acquire, own and operate the Station under the Communications Laws. Buyer, after reasonable and actual investigation, has no knowledge of any facts that would, under existing law or the existing rules, regulations, policies or procedures of the FCC, disqualify Buyer as an assignee of the FCC Licenses or as the owner and operator of the Station.

4.6 Insolvency. No insolvency proceedings of any character including without limitation, bankruptcy, receivership, reorganization, composition or arrangement with creditors, voluntary or involuntary, affecting Buyer or any of its assets are pending or, to the knowledge of Buyer, threatened. Buyer has not made any assignment for the benefit of creditors or has not taken any action in contemplation of, or which would constitute the basis for, the institution of any such insolvency proceedings.

## **ARTICLE V – COVENANTS**

5.1 Affirmative Covenants of Seller. Between the date hereof and the Closing Date, except as contemplated by this Agreement and subject to the terms of the



TBA, or with the prior written consent of Buyer, which shall not be unreasonably withheld or delayed, Seller shall:

- (a) operate the Station: (i) in the usual and ordinary course of business consistent with past practices; (ii) in conformity with the FCC Licenses and the Communications Laws; and (iii) in conformity with all other applicable laws, ordinances, regulations, rules and orders;
- (b) provide Buyer, and representatives of Buyer, with reasonable access during normal business hours to the Station, properties, contracts, books, files, logs, records and furnish such information concerning the Station as Buyer may from time to time reasonably request, provided that Buyer shall not be entitled to take any action that would unreasonably interfere with the conduct of the Station's business by Seller;
- (c) maintain all of the Station Assets in their present good operating condition, repair and order (as applicable), reasonable wear and tear in normal usage excepted;
- (d) timely make or provide for all payments, services or other considerations due under the Assumed Contracts, and otherwise pay all liabilities and satisfy and perform all obligations in accordance with past practice; and
- (e) maintain in full force and effect, or renew when required, all licenses, permits and authorizations necessary for the operation of the Station.

5.2 Negative Covenants of Seller. Between the date hereof and the Closing Date, except as contemplated by this Agreement, Seller will not, without the prior written consent of Buyer, which shall not be unreasonably withheld or delayed:

- (a) create, assume or permit to exist any Liens on any of the Station Assets, except for Permitted Liens;
- (b) sell, assign, lease or otherwise transfer or dispose of any of the Station Assets whether now owned or hereafter acquired, except for retirements in the normal and usual course of business in connection with the acquisition of similar property or assets of equal or greater value;
- (c) change the Station's call letters (except at Buyer's request), modify the Station's format or programming, adversely modify the facilities, or apply for any construction permits with the Commission;
- (d) enter into any new Assumed Contracts for the Station, or renew, renegotiate, modify, amend or terminate any existing Assumed Contract, except in the ordinary course of business consistent with past practices; provided, however, that the liability under such Assumed Contracts, whether amended, modified, renewed or new, shall not exceed \$500 individually or \$5,000 in the aggregate;

(e) take any action inconsistent with its obligations under this Agreement or that would result in a material breach or default under this Agreement;

(f) change its articles of incorporation or bylaws in any way that would adversely affect its power or authority to enter into and perform its obligations under this Agreement, or that would otherwise adversely affect its performance of this Agreement; or

(g) do, or omit to do, any act that will cause a material breach of, or default under, or termination of, any Assumed Contract.

5.3 Buyer's Covenants. Between the date hereof and the Closing Date, except as contemplated by this Agreement, Buyer shall:

(a) notify Seller of any material litigation, arbitration or administrative proceeding pending or, to its knowledge, threatened against Buyer that challenges the transactions contemplated hereby, including any challenges to the Assignment Application, and use commercially reasonable efforts to remove any such impediment to the transactions contemplated by this Agreement; and

(b) not take any action (i) materially inconsistent with its obligations under this Agreement (ii) that would result in a material breach or default under this Agreement or (iii) that would adversely affect Buyer's qualification to be the licensee of, acquire, own and operate the Station under the Communications Laws or disqualify Buyer as an assignee of the FCC Licenses or as the owner and operator of the Station.

5.4 Conditions. If any event should occur between the date hereof and the Closing Date, either within or without the control of any party hereto, which would prevent fulfillment of the conditions upon the obligations of any party to consummate the transactions contemplated by this Agreement, the parties shall use their commercially reasonable efforts to cure the event as expeditiously as possible; provided that nothing in this Section 5.4 alone shall (i) relieve any party of any obligation under any other provision of this Agreement or (ii) require the payment of any money by, or incurrence of any additional material expense by, a party.

5.5 RESERVED.

5.6 Confidentiality. Buyer and Seller shall each keep confidential all information obtained by it with respect to the other in connection with this Agreement, and if the transactions contemplated hereby are not consummated for any reason, each shall return to the other upon request, without retaining a copy thereof, any schedules, documents or other written information, including all financial information, obtained from the other in connection with this Agreement and the transactions contemplated hereby, except where such information is known or available through other lawful sources or where such party is advised by counsel that its disclosure is required in accordance with

applicable law after giving reasonable prior notice to the other party affording them an opportunity to object to such disclosure (if possible).

5.7 Control of the Station. This Agreement shall not be consummated until after the Commission has given its written consent and approval to the Assignment Application. Between the date of this Agreement and the Closing Date, except to the limited extent expressly permitted under the TBA, Buyer, its employees or agents, shall not directly or indirectly control, supervise or direct or attempt to control, supervise or direct the operation of the Station, and such operation shall be the sole responsibility of and in the complete discretion of Seller.

5.8 Application for Commission Consent and Approval. Seller and Buyer shall join in and file the Assignment Application with the Commission as soon as practicable, but in no event later than ten (10) days after the date hereof. Seller and Buyer shall thereafter prosecute the Assignment Application with all reasonable diligence and otherwise use their commercially reasonable efforts to obtain the FCC Consent as expeditiously as practicable; provided, however, that neither Seller nor Buyer shall have any obligation to satisfy any complainant or an inquiry by the FCC by taking any steps that would have a material adverse effect upon Seller or Buyer or upon any affiliated entity, but neither the expense nor inconvenience to a party of defending against a complainant or an inquiry by the FCC shall be considered a material adverse effect on such party. If the FCC Consent imposes any condition on any party hereto, such party shall use its commercially reasonable efforts to comply with such condition; provided, however, that no party shall be required to comply with any condition that would have a material adverse effect upon it or any affiliated entity. If reconsideration or judicial review is sought with respect to the FCC Consent, the party affected shall vigorously oppose such efforts for reconsideration or judicial review; provided, however, that nothing herein shall be construed to limit either party's right to terminate this Agreement pursuant to Section 8.1 hereof. Seller and Buyer shall pay their own respective expenses in connection with the preparation of the applicable sections of the Assignment Application and in connection with the prosecution thereof. Any FCC filing fee for the Assignment Application shall be paid by Buyer.

5.9 Risk of Loss. Seller shall bear the risk of any loss or damage to any of the Station Assets at all times until the Effective Time, and Buyer shall bear the risk of any such loss or damage thereafter. If prior to the Effective Time any item of Tangible Personal Property is damaged or destroyed, Buyer may: (a) postpone the Closing until such time as the property has been completely repaired, replaced or restored, and, if necessary, the parties shall join in an application or applications requesting the Commission to extend the effective period of the FCC Consent; (b) consummate the Closing and accept the property in its then condition (with Seller's representations and warranties deemed modified to take into account any such condition), in which event Seller shall pay or assign to Buyer all proceeds of insurance covering the property involved; or (c) rescind this Agreement and declare it of no further force and effect, if such repairs, replacements or restorations are not completed within thirty (30) days after the original Closing Date specified in Section 1.2.

#### 5.10 Consents.

(a) The parties shall use commercially reasonable efforts to obtain any third party consents necessary for the assignment of any Assumed Contract (which shall not require any payment to any such third party), but no such consents are conditions to Closing except for the Required Consents. Receipt of consent to assign to Buyer the Station's main tower lease (designated with a diamond on Schedule 2.1(c)) is a condition precedent to Buyer's obligation to close under this Agreement (the "Required Consent").

(b) To the extent that any Assumed Contract may not be assigned without the consent of any third party, and such consent is not obtained prior to Closing, this Agreement and any assignment executed pursuant to this Agreement shall not constitute an assignment of such Assumed Contract; provided, however, with respect to each such Assumed Contract, Seller and Buyer shall cooperate to the extent feasible in effecting a lawful and commercially reasonable arrangement under which Buyer shall receive the benefits under the Assumed Contract from and after Closing, and to the extent of the benefits received, Buyer shall pay and perform Seller's obligations arising under the Assumed Contract from and after Closing in accordance with its terms.

### **ARTICLE VI - CONDITIONS TO CLOSING**

6.1 Conditions Precedent to Buyer's Obligations. The obligation of Buyer to consummate the transactions contemplated hereby is subject to the fulfillment prior to or on the Closing Date of each of the following conditions (unless waived in writing by Buyer):

- (a) the FCC shall have issued the FCC Consent ;
- (b) the representations and warranties of Seller contained in this Agreement shall be true and correct in all material respects as of the Closing Date, except for changes permitted or contemplated by this Agreement;
- (c) Seller shall have performed and complied in all material respects with all covenants, agreements and conditions required by this Agreement to be performed or complied with by it prior to and at the Closing Date;
- (d) no proceedings shall be pending or threatened that may result in the revocation, cancellation, suspension or modification of any FCC Licenses or the imposition of any FCC forfeiture or penalty with respect to the FCC Licenses or Station;
- (e) neither Seller nor Buyer shall be subject to any court or governmental order or injunction restraining or prohibiting the consummation of the transactions contemplated hereby;

(f) all Required Consents shall have been obtained and delivered to Buyer in form and substance reasonably satisfactory to Buyer; and

(g) Seller shall have made or stand willing to make all the deliveries required under Section 7.1.

6.2 Conditions Precedent to Seller's Obligations. The obligation of Seller to consummate the transactions contemplated hereby is subject to the fulfillment prior to and at the Closing Date of each of the following conditions (unless waived in writing by Seller):

(a) the FCC shall have issued the FCC Consent;

(b) the representations and warranties of Buyer contained in this Agreement shall be true and correct in all material respects as of the Closing Date, except for changes permitted or contemplated by this Agreement;

(c) Buyer shall have performed and complied in all material respects with all covenants, agreements and conditions required by this Agreement to be performed or complied with by it prior to and at the Closing Date;

(d) neither Seller nor buyer shall be subject to any court or governmental order or injunction restraining or prohibiting the consummation of the transactions contemplated hereby;

(e) Escrow Agent shall have paid or stand ready to pay the Escrow Amounts to Seller; and

(f) Buyer shall have made or stand willing to make all the deliveries required under Section 7.2.

## **ARTICLE VII – CLOSING**

7.1 Seller's Performance at Closing. At the Closing, Seller shall deliver or cause to be delivered to Buyer:

(a) a bill of sale conveying to Buyer all of the Personal Tangible Assets to be acquired by Buyer hereunder;

(b) an assignment assigning to Buyer, and an assumption by Buyer of, the Assumed Contracts together with consents to assignment thereof that have been obtained by Seller and the originals, if available, or copies of said Assumed Contracts and all amendments thereto;

(c) the public file, files and records referred to in Section 2.1(e) hereof;

(d) a certificate of an officer of Seller, dated as of the Closing Date, certifying to the fulfillment of the conditions set forth in Sections 6.1(b) and (c);

(e) an assignment of the FCC Licenses from Seller to Buyer;

(f) joint written instructions to the Escrow Agent directing payment of the Escrow Amount to Seller; and

(g) such other assignments instruments, documents and certificates as reasonably may be requested by Buyer to consummate this Agreement and the transactions contemplated hereby.

7.2 Buyer's Performance at Closing. At the Closing, Buyer shall deliver to Seller:

(a) the Purchase Price as set forth in Section 2.4;

(b) certificate of Buyer, dated as of the Closing Date, certifying to the fulfillment of the conditions set forth in Sections 6.2(b) and (c);

(c) joint written instructions to the Escrow Agent directing payment of the Escrow Amount to Seller; and

(d) execute and deliver to Seller such other instruments, documents and certificates as reasonably may be requested by Seller to consummate this Agreement and the transactions contemplated hereby.

## **ARTICLE VIII – TERMINATION**

8.1 Termination Rights. Subject to Section 8.2, this Agreement may be terminated prior to the Closing as follows:

(a) by mutual written consent of Buyer and Seller;

(b) by written notice of Buyer to Seller or Seller to Buyer if the other party defaults in any material respect in the observance or in the due and timely performance of any of its covenants or agreements contained herein and such default, if curable, has not been cured within ten (10) days from receipt of written notice from the non-defaulting party;

(c) by written notice of Buyer to Seller or Seller to Buyer if the FCC denies the Assignment Application or any part thereof or designates any part of it for a trial-type hearing;

(d) by written notice of Buyer to Seller or Seller to Buyer if there shall be in effect any judgment, final decree or order that would prevent or make unlawful the Closing;

(e) by written notice of Buyer to Seller or Seller to Buyer if the grant of the Assignment Application by the FCC has not become a Final Order within eight (8) months after the Assignment Application is accepted for filing with the FCC.

(f) by written notice of Buyer to Seller if the broadcast transmission of the Station from its main broadcasting antenna at full authorized power is interrupted and is not commenced on a temporary basis within five (5) days or such facilities are not restored so that normal and usual transmission are resumed by the earlier of fifteen (15) days after such event or the Closing Date.

8.2 Liability. The termination of this Agreement under Section 8.1 hereof shall not relieve any party of any liability for breach of this Agreement prior to the date of termination. If this Agreement is terminated pursuant to Section 8.1 without fault of either party or breach of this Agreement, each party shall be released from all liability under this Agreement and each party shall pay all legal and other costs and expenses incurred by it in connection with this Agreement and the transactions contemplated hereby.

## **ARTICLE IX – INDEMNIFICATION**

9.1 Indemnification of Buyer. From and after the Closing, Seller hereby agrees to indemnify, defend and hold harmless Buyer, from and against any and all losses, costs, damages, liabilities and expenses, including reasonable attorneys' fees and expenses (collectively, "Damages") incurred by Buyer arising out of or resulting from:

- (a) any material breach by Seller of any of its representations and warranties made under this Agreement;
- (b) any default by Seller of any covenant or agreement made under this Agreement; and
- (c) the operation of the Station before the Effective Time.

Notwithstanding the foregoing or anything else herein to the contrary, the maximum aggregate liability of Seller under this Section 9.1 shall be an amount equal to 50% of the Purchase Price.

9.2 Indemnification of Seller. From and after the Closing, Buyer shall indemnify, defend, and hold harmless Seller from and against any and all Damages incurred by Seller arising out of or resulting from:

- (a) any material breach by Buyer of any of its representations and warranties made under this Agreement;

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

(c) the Assumed Contracts after the Effective Time; and

(d) the operation of the Station after the Effective Time.

Notwithstanding the foregoing or anything else herein to the contrary, the maximum aggregate liability of Buyer under this Section 9.2 shall be an amount equal to 50% of the Purchase Price.

9.3 Claims. In the event of claims between the parties or third party claims, each party ("Indemnified Party") shall notify the other party ("Indemnifying Party") in writing as soon as practicable, but in no event later than fifteen (15) days after notice of such claims was given to the party. The Indemnified Party's failure to do so shall not preclude it from seeking indemnification hereunder unless such failure has materially prejudiced the Indemnifying Party's ability to defend such claim. The Indemnifying Party shall promptly defend such claim by counsel of its own choosing and the Indemnified Party shall cooperate with the Indemnifying Party in the defense of such claim, including the settlement of the matter on the basis stipulated by the Indemnifying Party, subject to clause (c) below, (with the Indemnifying Party being responsible for all costs and expenses of such settlement). If the Indemnifying Party within a reasonable time after notice of a claim fails to defend the Indemnified Party, the Indemnified Party shall be entitled to undertake the defense, compromise or settlement of such claim at the expense of, and for the account and risk of, the Indemnifying Party. Upon the assumption of the defense of such claim, the Indemnifying Party may settle, compromise or defend as it sees fit, provided, however, that anything in this Section to the contrary notwithstanding:

(a) if there is a reasonable probability that a claim may materially and adversely affect the Indemnified Party, the Indemnified Party shall have the right, at its own cost and expense, to defend, compromise or settle such claim against it;

(b) if the facts giving rise to indemnification hereunder shall involve a possible claim by the Indemnified Party against a third party, the Indemnified Party shall have the right, at its own cost and expense, to undertake the prosecution, compromise and settlement of such claim; and

(c) the Indemnifying Party will not, without the Indemnified Party's written consent, settle or compromise any claim or consent to any entry of judgment that does not include as an unconditional term thereof the giving by the claimant or the plaintiff to the Indemnified Party of a release from all liability in respect to such claim.

## **ARTICLE X – MISCELLANEOUS**

10.1 Broker's Fee. Each of Buyer and Seller represents to the other that except for Escrow Agent, the fees of which shall be sole responsibility of Seller, no



broker, finder, consultant or other person is entitled to any brokerage fee or other commission in connection with the transactions contemplated by this Agreement.

10.2 Expenses. Except as otherwise provided herein, each party shall pay its own costs and expenses incurred in connection with the negotiation, preparation and performance of this Agreement.

10.3 Survival of Covenants, Representations and Warranties. The representations and warranties in this Agreement shall survive the Closing for a period of twelve (12) months from the Closing Date whereupon they shall expire and be of no further force and effect, except that the representations and warranties of Seller in Section 3.4 regarding title to the Personal Tangible Assets shall continue in full force and effect until expiration of the applicable statute of limitations. The covenants and agreements in this Agreement shall survive Closing in accordance with their terms.

10.4 Notices. All notices, demands and requests required or permitted to be given under the provisions of this Agreement shall be in writing and shall be deemed given when delivered personally or by facsimile transmission with confirming copy by certified mail, return receipt requested or by nationally recognized “next-day” delivery service, addressed as follows:

- (a) If to Seller: Willow Farm, Inc.  
31 Woodbury Street  
South Hamilton, MA 01982  
Attn: Keating Willcox  
Telephone: (978) 921-1578  
Facsimile: (978) 468-1954  
  
cc: Wiley Rein LLP  
1776 K Street NW  
Washington, DC 20006  
Attn: Marnie Sarver  
Telephone: 202-719-4289  
Facsimile: 202-719-7142
- (b) If to Buyer: Costa-Eagle Radio Ventures  
Limited Partnership  
462 Merrimack Street  
Methuen, MA 01344  
Attn: Patrick J. Costa  
Telephone: (978) 686-9966  
Facsimile: (978) 682-0010  
  
cc: John R. Wilner, Esq.  
Fleischman and Harding LLP  
1255 23<sup>rd</sup> Street, N.W.

Washington, D.C. 20037  
Telephone: (202) 939-7900  
Facsimile: (202) 939-0928

or any such other addresses as the parties may from time to time designate in writing.

10.4 Benefit and Assignment. This Agreement shall be binding upon and inure to the benefit of the parties hereto, and their respective successors and permitted assigns. This Agreement constitutes an agreement solely among the parties hereto, and is not intended to and will not confer any right, remedies, obligation, or liabilities, legal or equitable, including any right of employment on any person (including but not limited to any employee or former employee of Seller) other than the parties hereto and their respective successors or assigns, or otherwise create any third party beneficiary rights for any person under or by reason of this Agreement. Nothing in this Agreement, expressed or implied, is intended to or shall constitute a partnership or joint venture or make the parties hereto partners or participants in a joint venture. This Agreement shall not be assigned, including by operation of law or change of control of a party, without the prior written consent of the other party hereto.

10.5 Governing Law; Choice of Forum. This Agreement shall be governed, construed and enforced in accordance with the laws of the State of Massachusetts, without giving effect to the principles of conflicts of law of such state. The parties agree that any legal action, suit or proceeding arising out of or relating to this Agreement or the agreements and transactions contemplated hereby shall be instituted in any federal or state court located in the State of Massachusetts, which shall be the exclusive jurisdiction and venue of said legal proceedings, and each party hereto consents to the personal jurisdiction of such courts and waives any objection that such party may now or hereafter have to the personal jurisdiction of such courts or the laying of venue of any such action, suit or proceeding in any such courts.

10.6 Counterparts. This Agreement may be signed in any number of counterparts with the same effect as if the signature on each such counterpart were upon the same instrument.

10.7 Entire Agreement. This Agreement, all appendices, schedules and exhibits hereto and all agreements to be delivered by the parties pursuant hereto, represent the entire understanding and agreement between the parties hereto with respect to the subject matter hereof, supersede all prior negotiations between such parties. No party makes any representation or warranty with respect to the transactions contemplated by this Agreement except as expressly set forth in this Agreement.

10.8 Amendment; Waiver. This Agreement can be amended, supplemented, modified, changed or any provision hereof waived only by an agreement or waiver in writing that makes specific reference to this Agreement or any document delivered pursuant hereto, as the case may be, and that is signed by the party against whom enforcement of any such amendment, supplement, modification or waiver is sought.

10.9 Further Actions. Buyer and Seller shall execute such other documents and take such other actions as may be reasonably necessary or desirable for the performance of this Agreement and the consummation of the transactions contemplated hereby.

10.10 No Implied Waiver. No delay on the part of the parties hereto to exercise any right, power or privilege shall operate as a waiver.

10.11 Rules of Construction. All section titles or captions in this Agreement shall be for convenience only, shall not be deemed part of this Agreement and shall in no way define, limit, extend or describe the scope or intent of any provisions of this Agreement. Except as specifically provided otherwise, alphanumerical references to “Sections,” “Exhibits” and “Schedules” are to the respective sections of, and exhibits and schedules to, this Agreement. Whenever the context may require, any pronoun used in this Agreement shall include the corresponding masculine, feminine or neuter forms, and the singular form of nouns, pronouns and verbs shall include the plural and vice versa. The Schedules and Exhibits attached hereto are hereby incorporated herein and made a part of this Agreement. Any reference in this Agreement to schedules and exhibits shall be deemed to be a reference to such schedules and exhibits as amended and in effect from time to time. Whenever the word “including” is used herein, it shall be construed to mean “including without limitation.”

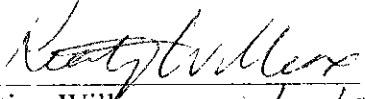
10.12 Severability. If any court or governmental authority holds any provision in this Agreement invalid, illegal or unenforceable under any applicable law, then, so long as no party is deprived of the benefits of this Agreement in any material respect, this Agreement shall be construed with the invalid, illegal or unenforceable provision deleted and the validity, legality and enforceability of the remaining provisions contained herein shall not be affected or impaired thereby.

[Signature Page Follows]

**SIGNATURE PAGE TO ASSET PURCHASE AGREEMENT**

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized officers on the day and year first above written.

**Seller:****Willow Farm, Inc.**

By:   
Keating Willcox 12/27/2010  
President

**Buyer:****Costa-Eagle Radio Ventures  
Limited Partnership**

By: \_\_\_\_\_  
Patrick J. Costa  
President  
Costa Communications Corp.  
General Partner

**SIGNATURE PAGE TO ASSET PURCHASE AGREEMENT**

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized officers on the day and year first above written.

**Seller:**

**Willow Farm, Inc.**

By: \_\_\_\_\_  
Keating Willcox  
President

**Buyer:**

**Costa-Eagle Radio Ventures  
Limited Partnership**

By:  \_\_\_\_\_  
Patrick J. Costa  
President  
Costa Communications Corp.  
General Partner