

AMENDED AND RESTATED OPTION AND ASSET PURCHASE AGREEMENT

THIS AMENDED AND RESTATED AND OPTION AND ASSET PURCHASE AGREEMENT (“Agreement”) is made and entered into as of November 11, 2019, and amends and supersedes that certain Option and Asset Purchase Agreement made and entered into as of October 31, 2018, by and between **Mitten Media, LLC**, a Michigan limited liability company (“Seller”), and **45 North Media Inc**, a Michigan corporation (“Buyer”).

RECITALS

WHEREAS, Seller holds the authorization(s) issued by the Federal Communications Commission (“FCC”) authorizing the operation of FM radio station WMTE-FM, 101.5 MHz, Manistee, Michigan, FCC Facility ID No. 4109 (“Station”);

WHEREAS, Seller and Buyer have entered into a Local Programming and Marketing Agreement dated as of October 31, 2018 (“LMA”), pursuant to which Seller agreed to make available to Buyer airtime on the Station and accept for broadcast the programs of Buyer on the terms and conditions set forth in the LMA; and

WHEREAS, Seller desires to sell and Buyer desires to purchase the Station and substantially all assets used and useful in the operation of the Station on the terms and subject to the conditions set forth herein; and

WHEREAS, in order to induce Buyer to enter into this Agreement, Seller is willing to enter into this Agreement and make certain representations and warranties to, and covenants and agreements with, Buyer, and in order to induce Seller to enter into this Agreement, Buyer is willing to enter into this Agreement and make certain representations and warranties to, and covenants and agreements with, Seller.

NOW, THEREFORE, in consideration of the foregoing premises and the mutual covenants and agreements hereinafter set forth, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto, intending to be legally bound, hereby agree as follows:

ARTICLE 1 **OPTION**

1.1 Option to Purchase. Seller and Buyer hereby acknowledge that Buyer is exercising its option to purchase the Assets on the terms and conditions as hereinafter provided in this Agreement.

ARTICLE 2 **PURCHASE AND SALE OF ASSETS**

2.1 Assignment and Acquisition of Assets. On the Closing Date (as hereinafter defined), Seller shall sell, assign, transfer, convey and deliver to Buyer and Buyer shall purchase and assume from Seller, all of the right, title and interest of Seller in and to (collectively, “Assets”): (i) the licenses and any other authorizations issued to Seller by the FCC used and useful exclusively

in the operation of the Station as set forth on *Schedule 1* (collectively, “FCC Licenses”); (ii) the improvements to the real property as set forth on *Schedule 2* (“Real Estate Improvements”); (iii) the tangible personal property used or held for use by Seller in the operation of the Station as set forth on *Schedule 3*, and any replacements thereto (“Tangible Personal Property”); (iv) the intangible property rights of Seller which are used in connection with the operations of the Station, including without limitation the call letters of the Station, and any rights and goodwill associated therewith (collectively, “Intangible Property”), including all the intangible property rights of Seller set forth on *Schedule 4*; (v) the contracts, leases and agreements set forth on *Schedule 5*, together with all contracts, leases and agreements entered into or extended by Seller between the date hereof and the Closing Date in connection with the operation of the Station, provided that Buyer has consented in writing to the entering into or extending of such contract, lease or agreement (“Assumed Contracts”); and (vi) the files and records of Seller relating to the operations of the Station or the Assets, all technical information and engineering data relating to the Station, and all files and records for the Station required to be maintained in accordance with the FCC public file rules.

2.2 No Liens. The Assets shall be transferred to Buyer free and clear of all charges, conditions, community property interests, options, hypothecations, attachments, conditional sales, title retentions, rights of first refusal, debts, security interests, mortgages, trusts, claims, pledges or other liens, liabilities, encumbrances or rights of third parties whatsoever (“Liens”), except for liens for taxes not yet due and payable and liens that will be released at or prior to the Closing Date (“Permitted Liens”).

2.3 Excluded Items. Notwithstanding anything to the contrary contained herein, it is expressly understood and agreed that the transaction involving the assignment of the Assets shall not include any assets or licenses owned or held by the Seller relating to stations or enterprises other than the Station, cash on hand held by Seller or in Seller’s bank accounts, Seller’s company seal, minute books, charter documents, ownership record books and such other books and records as pertain to the organization, existence or capitalization of Seller and duplicate copies of such records as are necessary to enable Seller to file its tax returns and reports as well as any other records or materials relating to Seller generally and not involving or relating to the Assets.

2.4 Allocation. On or before the Closing Date, Seller and Buyer shall work in good faith to determine an allocation of Purchase Price (defined below) among the Assets that complies with Section 1060 of the Internal Revenue Code of 1986, as amended. If Buyer and Seller have not mutually agreed on an allocation of the Purchase Price, then Seller and Buyer shall be entitled to report the allocation as they so determine in their sole discretion, respectively; each party shall deliver a copy of their IRS Form 8594 to the other promptly after filing such form.

2.5 Proration. Subject to the LMA, the parties agree to prorate all items of income and expenses which are incurred, accrued or payable, as of 11:59 p.m. local time of the day preceding the Closing. The items to be prorated shall include power and utilities charges, FCC regulatory fees (based on the most recent information available from the FCC about the cost of such regulatory fees for the Station), taxes upon the basis of the most recent tax bills and information available, security deposits (to the extent any such deposit is assigned to the benefit of the other party hereunder), and similar prepaid and deferred items. The prorations shall, insofar

as feasible, be determined and paid on the Closing Date, with any final settlement and payment to be made within forty-five (45) days after the Closing Date.

ARTICLE 3 **CONSIDERATION**

3.1 Deposit. For and in partial consideration of the execution and delivery of this Agreement, Seller acknowledges that Buyer has paid to Seller the sum of TWELVE THOUSAND DOLLARS (\$12,000.00) (“Deposit”). The Deposit is non-refundable and shall not be subject to rescission or any other equitable remedy, except in the event of a termination of this Agreement pursuant to **Section 16.1.2** or **Section 10.6**. The Deposit shall be credited against the Purchase Price payable at Closing (as hereinafter defined).

3.2 Delivery of Consideration at Closing. At Closing (as hereinafter defined) Buyer agrees to pay to Seller the sum of THIRTY-EIGHT THOUSAND DOLLARS (\$38,000.00) as the purchase price for the Assets (“Purchase Price”), to be paid as follows:

3.2.1 The Deposit paid by Buyer to Seller shall be credited to Buyer against the Purchase Price payable at Closing.

3.2.2 The LMA Monthly Fees (as defined by the Amended and Restated LMA Schedule A) made by Buyer pursuant to the LMA, up to the amount of EIGHTEEN THOUSAND DOLLARS (\$18,000.00), shall be credited to Buyer against the Purchase Price payable at Closing.

3.2.3 At Closing, Buyer shall pay to Seller the balance of the Purchase Price in cash by wire transfer of immediately available funds.

ARTICLE 4 **CLOSING**

4.1 Closing. The consummation of the sale and purchase of the Assets provided for in this Agreement (“Closing”) shall take place on or before the tenth (10th) business day after the date the FCC Consent (as hereinafter defined) has become a “Final Order”, or on such later day after such FCC Consent as Buyer and Seller may mutually agree, or if Buyer waives a “Final Order” pursuant to **Section 11.2** hereof, on such day as permitted by such Section, subject to the satisfaction or waiver of the conditions set forth in ARTICLE 11 or ARTICLE 12. The date on which the Closing is to occur is referred to herein as the “Closing Date.” For purposes of this Agreement, the term “Final Order” means action by the FCC, or by its Media Bureau acting pursuant to delegated authority, consenting to the FCC Application (as hereinafter defined) which is not reversed, stayed, enjoined, set aside, annulled or suspended, and with respect to which action no timely request for stay, petition for rehearing or appeal is pending, and as to which the normal time for filing any such request, petition or appeal or reconsideration by the FCC on its own motion has expired. The Closing shall be held by mail, electronic exchange of documents, or in such other manner as mutually agreed upon by the parties.

4.2 Outside Closing Date. Notwithstanding the foregoing, in no event shall the Closing occur later than November 1, 2021 (“Outside Closing Date”).

ARTICLE 5

GOVERNMENTAL CONSENTS

5.1 FCC Consent. It is specifically understood and agreed by Buyer and Seller that the assignment of the FCC Licenses is expressly conditioned on and is subject to the prior consent and approval of the FCC, including the Media Bureau pursuant to delegated authority, without the imposition of any conditions materially adverse to Seller or Buyer with respect to the assignment of the FCC Licenses from Seller to Buyer ("FCC Consent").

5.2 FCC Application. Buyer and Seller agree to file an application with the FCC for the FCC Consent ("FCC Application") not later than ten (10) business days after the date hereof. Buyer and Seller shall prosecute the FCC Application with all reasonable diligence and otherwise use their best efforts to obtain the FCC Consent as expeditiously as practicable (but neither Buyer nor Seller shall have any obligation to satisfy complainants or the FCC by taking any steps which would have a material adverse effect upon Buyer or Seller). If the FCC Consent imposes any condition on Buyer or Seller, such party shall use its best efforts to comply with such condition; provided, however, that neither Buyer nor Seller shall be required hereunder to comply with any condition that would have a material adverse effect upon it. 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 ARTICLE 16.

ARTICLE 6

REPRESENTATIONS AND WARRANTIES OF BUYER

Buyer hereby makes the following representations and warranties to Seller, each of which is true and correct on the date hereof and shall remain true and correct through to and survive the Closing as provided in ARTICLE 15.

6.1 Organization and Standing. Buyer is a corporation duly organized, validly existing and in good standing under the laws of the State of Michigan.

6.2 Authorization and Binding Obligation. Buyer has all necessary power and authority required for a corporation to enter into and perform this Agreement and the transactions contemplated hereby, to hold the Assets and to carry on the business of the Station upon the consummation of the transactions contemplated by this Agreement. Buyer's execution, delivery and performance of this Agreement and the transactions contemplated hereby have been duly and validly authorized by all necessary action on its part and, assuming the due authorization, execution and delivery of this Agreement by Seller, this Agreement will constitute the valid and binding obligation of Buyer, enforceable against it in accordance with its terms, except as limited by laws affecting creditors' rights or equitable principles generally.

6.3 Qualification. To the best of Buyer's knowledge, there are no facts which, under the Communications Act of 1934, as amended, or the rules and published policies of the FCC promulgated thereunder (collectively, "Communications Laws"), would disqualify Buyer as an assignee of the FCC Licenses, or that that would reasonably be expected to delay the FCC's processing of the FCC Application because of Buyer's qualifications, and no waiver of any FCC

rule or policy with respect to Buyer or its attributable parties is necessary for the FCC Consent to be obtained.

6.4 Absence of Conflicting Agreements or Required Consents. Except as set forth in ARTICLE 5 with respect to governmental consents, the execution, delivery and performance of this Agreement by Buyer: (a) do not conflict with the provisions of the articles of organization or the limited liability company agreement (or other organization documents) of Buyer; (b) do not require the consent of any third party which has not already been obtained by Buyer; (c) will not violate any applicable law, judgment, order, injunction, decree, rule, regulation or ruling of any governmental authority to which Buyer is bound; and (d) will not, either alone or with the giving of notice or the passage of time, or both, conflict with, constitute grounds for termination of or result in a breach of the terms, conditions or provisions of, or constitute a default under, any agreement, instrument, license or permit to which Buyer is now subject.

6.5 Litigation. There is no claim, litigation, proceeding or investigation pending or, to the best of Buyer's knowledge, threatened against Buyer, that could have a material adverse effect on Buyer's ability to perform its obligations pursuant to this Agreement. Buyer is not in violation of any law, regulation, or ordinance or any other requirement of any governmental body or court which could have a material adverse effect on Buyer's ability to perform its obligations pursuant to this Agreement.

6.6 Commissions or Finder's Fees. Neither Buyer nor any person or entity acting on behalf of Buyer has agreed to pay a commission, finder's fee or similar payment in connection with this Agreement or any matter related hereto to any person or entity.

6.7 No Effect of Investigation. The representations and warranties of Buyer shall be unaffected by an investigation heretofore or hereafter made by Seller; provided that Seller shall use reasonable efforts to notify Buyer of any facts of which Seller has actual knowledge that would cause any of the representations and warranties set forth in ARTICLE 6 to be materially false or misleading.

6.8 Absence of Insolvency. No insolvency proceedings of any character including bankruptcy, receivership, reorganization, composition or arrangements with creditors, voluntary or involuntary, affecting Buyer are pending or, to the knowledge of Buyer, threatened, and Buyer has not made any assignment for the benefit of creditors, or taken any action with a view to, or which would constitute the basis for the institution of, any such insolvency proceedings.

6.9 Funds. Buyer will have sufficient funds to pay the Purchase Price at the Closing.

ARTICLE 7

REPRESENTATIONS AND WARRANTIES OF SELLER

Seller makes the following representations and warranties to Buyer, each of which is true and correct on the date hereof and shall remain true and correct through to and survive the Closing as provided in ARTICLE 15:

7.1 Organization and Standing. Seller is a limited liability company duly organized, validly existing and in good standing under the laws of the State of Michigan, and has the power

and authority to hold the Assets.

7.2 Authorization and Binding Obligation. Seller has all necessary power and authority required for a limited liability company to enter into and perform this Agreement and the transactions contemplated hereby. Seller's execution, delivery and performance of this Agreement and the transactions contemplated hereby have been duly and validly authorized by all necessary action on its part and, assuming the due authorization, execution and delivery of this Agreement by Buyer, this Agreement will constitute the valid and binding obligation of Seller, enforceable against it in accordance with its terms, except as limited by laws affecting creditors' rights or equitable principles generally.

7.3 Absence of Conflicting Agreements or Required Consents. Except as set forth in ARTICLE 5 with respect to governmental consents, the execution, delivery and performance of this Agreement by Seller: (a) do not conflict with the provisions of the articles of organization or the limited liability company agreement (or other organization documents) of Seller; (b) do not require the consent of any third party which has not already been obtained by Seller; (c) will not violate any applicable law, judgment, order, injunction, decree, rule, regulation or ruling of any governmental authority to which Seller is bound; and (d) will not, either alone or with the giving of notice or the passage of time, or both, conflict with, constitute grounds for termination of or result in a breach of the terms, conditions or provisions of, or constitute a default under, any agreement, instrument, license or permit to which Seller is now subject.

7.4 FCC Licenses. Seller is the authorized legal holder of the FCC Licenses which are in full force and effect, in good standing and unimpaired by any act of Seller or its members, directors, officers, employees or agents. The FCC Licenses are not subject to any material adverse restrictions or conditions except those set forth on such authorization or which apply generally to radio station authorizations of its type. At the time of Closing, Seller shall be the authorized legal holder of the FCC Licenses, which shall be in full force and effect, in good standing and unimpaired by any act of Seller or its members, directors, officers, employees or agents, and none of which is subject to any material adverse restrictions or conditions except those set forth on such authorization or which apply generally to radio station authorizations of its type. To the best knowledge of Seller, there are no facts which, under the Communications Laws, would disqualify Seller as assignor of the FCC Licenses.

7.5 Litigation. There is no claim, litigation, proceeding or investigation pending or, to the best of Seller's knowledge, threatened against Seller that could have a material adverse effect on Seller's ability to perform its obligations pursuant to this Agreement. Seller is not in violation of any law, regulation, or ordinance or any other requirement of any governmental body or court which could have a material adverse effect on Seller's ability to perform its obligations pursuant to this Agreement.

7.6 Compliance With Laws. To the knowledge of Seller, Seller is complying, in all material respects, with all laws, rules and regulations, including without limitation all Communications Laws applicable to the operation of the Station, and all decrees and orders of any court or governmental authority which are applicable to Seller's ownership or operation of the Station. Seller is not in violation of, and has not received any notice asserting any non-compliance by it in connection with, the FCC Licenses.

7.7 Taxes. Seller has, in respect of the Station's business and the Assets, duly filed all foreign, federal, state, county and local income, excise, property, sales, use, franchise and other tax returns and reports which are required to have been filed by it under applicable law, and has paid all taxes which have become due pursuant to such returns or pursuant to any assessments which have become payable.

7.8 Real Estate Improvements. *Schedule 2* contains a list of material items of the Real Estate Improvements included in the Assets. Seller has good and marketable title to the Real Estate Improvements, which at Closing shall be free and clear of Liens, except Permitted Liens.

7.9 Tangible Personal Property. *Schedule 3* contains a list of material items of Tangible Personal Property included in the Assets. Seller has good and marketable title to the Tangible Personal Property, which at Closing shall be free and clear of Liens, except Permitted Liens.

7.10 Intangible Property. *Schedule 4* contains a description of the Intangible Property included in the Assets. To Seller's knowledge, Seller's use of the Intangible Property does not infringe upon any third-party rights in any material respect, no material Intangible Property is the subject of any pending, or, to the knowledge of Seller threatened, legal proceedings claiming infringement or unauthorized use, and Seller has not received any written notice that its use of any material Intangible Property is unauthorized or infringes upon the rights of any other person. Seller owns or has the right to use and transfer to Buyer the Intangible Property, which at Closing shall be free and clear of Liens, except Permitted Liens.

7.11 Real Property Leases. *Schedule 5* includes a description of each lease of real property or similar agreement included in the Assumed Contracts ("Real Property"). To the knowledge of Seller, none of the underlying real property associated with the Assumed Contracts is subject to any suit for condemnation or other taking by any public authority. There is no owned real property included in the Assets.

7.12 Environmental. To the best of Seller's knowledge, (i) Seller is in material compliance with all environmental laws necessary for the operation of the Station, (ii) Seller has all material permits required by any environmental law necessary for the operation of the Station, and (iii) Seller has not prior to the date of this Agreement, received any written complaint, citation or other communication, whether from a governmental authority or otherwise, regarding environmental matters relating to any activities of Seller, its affiliates or any of their employees, agents or representatives acting on behalf of or at the direction of Seller with respect to the Station.

7.13 Instruments of Conveyance; Good Title. Seller has good and marketable title to the Assets, and except as otherwise set forth herein, no consent on the part of any other party is necessary for the sale and transfer thereof to Buyer. The instruments to be executed by Seller and delivered to Buyer at the Closing, conveying the Assets to Buyer, will transfer all of Seller's right, title and interest in and to the Assets to Buyer, free and clear of Liens.

7.14 Undisclosed Liabilities. To Seller's knowledge, no liability or obligation of any nature, whether accrued, absolute, contingent or otherwise, relating to Seller or the Station exists which could, after the Closing, result in any form of transferee liability against Buyer or subject

the Assets to any Liens or otherwise affect the full, free and unencumbered use of the Assets by Buyer.

7.15 Commissions or Finder's Fees. Neither Seller nor any person or entity acting on behalf of Seller has agreed to pay a commission, finder's fee or similar payment in connection with this Agreement or any matter related hereto to any person or entity.

7.16 No Effect of Investigation. The representations and warranties of Seller shall be unaffected by an investigation heretofore or hereafter made by Buyer; provided that Buyer shall use reasonable efforts to notify Seller of any facts of which Buyer has actual knowledge, that would cause any of the representations and warranties set forth in ARTICLE 7 to be materially false or misleading.

ARTICLE 8 **COVENANTS OF BUYER**

8.1 Closing. Subject to ARTICLE 11, on the Closing Date, Buyer shall purchase the Assets from Seller as provided in ARTICLE 2.

8.2 Notification. Buyer shall provide Seller prompt written notice of: (a) any change in any of the information contained in the representations and warranties made in ARTICLE 6 of which it becomes aware; and (b) any litigation, arbitration or administrative proceeding pending or, to its knowledge, threatened against Buyer which challenges the transactions contemplated hereby.

8.3 No Inconsistent Action. Buyer shall not take any action which: (a) is materially inconsistent with or which breaches its obligations under this Agreement; or (b) would cause any representation or warranty of Buyer contained herein to be or become false or invalid.

ARTICLE 9 **COVENANTS OF SELLER**

9.1 Closing. Subject to ARTICLE 12, on the Closing Date, Seller shall sell to Buyer the Assets as provided in ARTICLE 2.

9.2 Notification. Seller shall provide Buyer prompt written notice of: (a) any change in any of the information contained in the representations and warranties made in ARTICLE 7 of which it becomes aware; and (b) any litigation, arbitration or administrative proceeding pending or, to its knowledge, threatened against Seller which challenges the transactions contemplated hereby.

9.3 No Inconsistent Action. Seller shall not take any action which: (a) is materially inconsistent with or which breaches its obligations under this Agreement; or (b) would cause any representation or warranty of Seller contained herein to be or become false or invalid.

9.4 Exclusivity. Seller agrees that, commencing on the date hereof through the Closing or earlier termination of this Agreement, Buyer shall have the exclusive right to consummate the transactions contemplated herein, and during such exclusive period, Seller agrees that, unless

Buyer consents in writing otherwise, neither Seller nor any member, officer, employee or other representative or agent of Seller: (a) will initiate, solicit or encourage, directly or indirectly, any inquiries, or the making or implementation of any proposal or offer with respect to an acquisition or any purchase of the Assets (any such inquiry, proposal or offer being hereinafter referred to as an “Acquisition Proposal” and any such transaction being hereinafter referred to as an “Acquisition”); (b) will engage in any negotiations concerning, or provide any confidential information or data to, or have any discussions with, any person relating to an Acquisition Proposal, or otherwise facilitate any effort or attempt to make or implement an Acquisition Proposal; or (c) will continue any existing activities, discussions or negotiations with any parties conducted heretofore with respect to any Acquisition Proposal or Acquisition and will take the necessary steps to inform the individuals or entities referred to above of the obligations undertaken by them in this **Section 9.4**.

9.5 Consents. Seller shall use commercially reasonable efforts to obtain, and Buyer shall use commercially reasonable efforts to cooperate with Seller in obtaining: (i) any third-party consents necessary for the assignment of any Assumed Contract (which shall not require any payment to any such third party), and (ii) execution of reasonable estoppel certificates by lessors under any leases for real property requiring consent to assignment.

ARTICLE 10

JOINT COVENANTS

Buyer and Seller hereby covenant and agree that between the date hereof and the Closing Date it shall act in accordance with the following:

10.1 Confidentiality.

10.1.1 Subject to the requirements of applicable law, Buyer and Seller shall each keep confidential all information obtained by it with respect to the other party hereto in connection with this Agreement and the negotiations preceding this Agreement (“Confidential Information”); provided that the parties hereto may furnish such Confidential Information to its employees, agents and representatives who need to know such Confidential Information (including its financial and legal advisers, its banks and other lenders) (collectively, “Representatives”). Each party hereto shall, and shall cause each of such party’s Representatives to, use the Confidential Information solely in connection with the transactions contemplated by this Agreement. If the transactions contemplated hereby are not consummated for any reason, each party shall return to such other party hereto, without retaining a copy thereof, any schedules, documents or other written information obtained from such other party in connection with this Agreement and the transactions contemplated hereby.

10.1.2 Notwithstanding anything contained in **Section 10.1**, no party shall be required to keep confidential or return any Confidential Information which: (a) is known or available through other lawful sources, not bound by a confidentiality agreement with the disclosing party; (b) is or becomes publicly known through no fault of the receiving party or its agents; (c) is required to be disclosed pursuant to an order or request of a judicial or governmental authority (provided the disclosing party is given reasonable prior notice of the order or request and

the purpose of the disclosure); or (d) is developed by the receiving party independently of the disclosure by the disclosing party.

10.2 Cooperation. Subject to express limitations contained elsewhere herein, Buyer and Seller agree to cooperate fully with one another in taking any reasonable actions (including without limitation, reasonable actions to obtain the required consent of any governmental instrumentality or any third party) necessary or helpful to accomplish the transactions contemplated by this Agreement, including but not limited to the satisfaction of any condition to closing set forth herein.

10.3 Control of FCC Licenses. Subject to the LMA, Buyer shall not, directly or indirectly, control, supervise or direct the operations of the Seller or assume any control of the FCC Licenses or the Station prior to the Closing. Such operations, including complete control and supervision of the FCC Licenses and the Station, shall be the sole responsibility of Seller.

10.4 License Modifications. At Buyer's option and upon Buyer's request and at Buyer's expense, Seller shall submit to the FCC one or more applications for a minor modification of the FCC Licenses for the Station, specifying modifications mutually agreeable to Seller and Buyer (each a "Modification Application"). Seller agrees to cooperate with Buyer in that preparation and submission and Buyer shall promptly reimburse Seller for its reasonable, out-of-pocket costs relating to the preparation, submission and prosecution of each Modification Application. In no event shall any Modification Application or construction thereunder delay the schedule of Closing nor shall the grant of any Modification Application or construction thereunder become a condition of Closing.

10.5 Bulk Sales Laws. Buyer hereby waives compliance by Seller with the provisions of the "bulk sales" or similar laws of any state.

10.6 Risk of Loss.

10.6.1 The risk of any loss, or damage or destruction to any of the Assets to be transferred to Buyer hereunder from fire or other casualty or cause, shall be borne by Seller at all times prior to the Closing hereunder.

10.6.2 It shall be the responsibility of Seller to take all commercially reasonable steps to repair or cause to be repaired and to restore the Assets to the condition they were in prior to any such loss, damage or destruction.

10.6.3 Seller agrees to continue to maintain until the Closing Date such policies of insurance as are currently in force and which pertain to the Assets, or other policies providing substantially equivalent coverage. The proceeds of or any claim for any loss, payable under any insurance policy with respect thereto, shall be used to repair, replace, or restore any such Assets to their former condition.

10.6.4 Seller shall notify Buyer within five (5) days of any loss or damage to any of the Assets to be transferred hereunder from fire, casualty or other causes. Such notice shall specify the loss or damage incurred, the cause thereof, if known, or reasonably ascertainable, and the insurance coverage.

10.6.5 If Seller cannot restore the facilities so that normal and usual transmission can be resumed before the Closing, the Closing shall be postponed, the exact date and time of such postponed Closing to be agreed to by Buyer and Seller within ten (10) days of the above notice. Provided, however, that the Closing shall not be postponed if the proximate cause for such loss, damage or destruction described in this **Section 10.6.5** is due to the action or inaction of Buyer.

10.6.6 In the event of any loss, damage or destruction that impairs the ability of the Station to operate with its full licensed facilities, Buyer may, at its option, terminate this Agreement if the Station does not operate with full licensed facilities for any period in excess of ten (10) consecutive days at any time prior to the Closing Date. Should Buyer elect not to terminate in these circumstances, in the event the facilities cannot be restored within thirty (30) days after Buyer's election not to terminate, then Buyer shall have the option to terminate this Agreement by written notice to Seller. Provided, however, that Buyer shall not have the right to terminate this Agreement if the proximate cause for such loss, damage or destruction is due to the action or inaction of Buyer.

10.6.7 In the event of any termination by Buyer under this Section, in addition to any other rights or remedies available to Buyer, Buyer shall be entitled to have the Deposit returned immediately to Buyer without any further obligation hereunder on the part of either party.

ARTICLE 11

CONDITIONS OF CLOSING BY BUYER

The obligations of Buyer hereunder are, at its option, subject to satisfaction, at or prior to the Closing Date, of each of the following conditions:

11.1 Representations, Warranties and Covenants.

11.1.1 All representations and warranties of Seller made in this Agreement, the LMA or in any Schedule or document delivered pursuant hereto, shall be true and complete in all material respects as of the date hereof and on and as of the Closing Date as if made on and as of that date, except for changes expressly permitted or contemplated by the terms of this Agreement or the LMA.

11.1.2 All material terms, covenants and conditions made in this Agreement and the LMA to be complied with and performed by Seller on or prior to the Closing Date shall have been complied with or performed in all material respects.

11.1.3 Buyer shall have received a certificate, dated as of the Closing Date, executed by an officer of Seller, to the effect that: (a) the representations and warranties of Seller contained in this Agreement are true and complete in all material respects on and as of the Closing Date as if made on and as of that date; and (b) that Seller has complied with or performed in all material respects all material terms, covenants and conditions to be complied with or performed by it on or prior to the Closing Date.

11.2 Governmental Consents. The FCC Consent shall have been obtained by Final Order; provided, that Buyer may, upon notice to Seller, waive a Final Order in which case, Closing shall take place no earlier than five (5) business days from the date of such notice and no later than ten (10) business days from the date of such notice, the specific date of closing to be chosen by Buyer, subject to the satisfaction or waiver of the conditions set forth in ARTICLE 11 or ARTICLE 12.

11.3 Governmental Authorizations. Seller shall be the holder of the FCC Licenses and, other than as set forth in **Section 10.4** hereto, there shall not have been any modification of the FCC Licenses which has a material adverse effect on the FCC Licenses. No proceeding shall be pending which seeks, or the effect of which reasonably could be, to revoke, cancel, suspend or, subject to **Section 10.4** hereto, adversely modify the FCC Licenses.

11.4 Adverse Proceedings. No suit, action, claim or governmental proceeding shall be pending against, and no other decree or judgment of any court, agency or other governmental authority shall have been rendered (and remain in effect) against, any party hereto which would render it unlawful, as of the Closing Date, to effect the transactions contemplated by this Agreement in accordance with its terms.

11.5 Closing Documents. Seller shall have delivered or caused to be delivered to Buyer, on the Closing Date, each of the documents required to be delivered by it pursuant to **Section 14.1**.

ARTICLE 12

CONDITIONS OF CLOSING BY SELLER

The obligations of Seller hereunder are, at its option, subject to satisfaction, at or prior to the Closing Date, of each of the following conditions:

12.1 Representations, Warranties and Covenants.

12.1.1 All representations and warranties of Buyer made in this Agreement, the LMA or in any Schedule or document delivered pursuant hereto, shall be true and complete in all material respects as of the date hereof and on and as of the Closing Date as if made on and as of that date, except for changes expressly permitted or contemplated by the terms of this Agreement or the LMA.

12.1.2 All material terms, covenants and conditions made in this Agreement and the LMA to be complied with and performed by Buyer on or prior to the Closing Date shall have been complied with or performed in all material respects.

12.1.3 Seller shall have received a certificate, dated as of the Closing Date, executed by an officer of Buyer, to the effect that: (a) the representations and warranties of Buyer contained in this Agreement are true and complete in all material respects on and as of the Closing Date as if made on and as of that date; and (b) that Buyer has complied with or performed in all material respects all material terms, covenants and conditions to be complied with or performed by it on or prior to the Closing Date.

12.2 Governmental Consents. The FCC Consent shall have been obtained. Seller acknowledges that it shall not be a condition of Closing for Seller that the FCC Consent has become a Final Order.

12.3 Adverse Proceedings. No suit, action, claim or governmental proceeding shall be pending against, and no other decree or judgment of any court, agency or other governmental authority shall have been rendered (and remain in effect) against, any party hereto which would render it unlawful, as of the Closing Date, to effect the transactions contemplated by this Agreement in accordance with its terms.

12.4 Closing Documents and Payment. Buyer shall have delivered or caused to be delivered to Seller, on the Closing Date, each of the documents required to be delivered by it pursuant to **Section 14.2**, and Buyer shall have paid Seller the balance of the Purchase Price, as contemplated by ARTICLE 3.

ARTICLE 13 **TRANSFER TAXES; FEES AND EXPENSES**

13.1 Expenses. Except as set forth in **Sections 13.2 and 13.3** or otherwise expressly set forth in this Agreement, each party hereto shall be solely responsible for all costs and expenses incurred by it in connection with the negotiation, preparation and performance of and compliance with the terms of this Agreement including, but not limited to, the costs and expenses incurred pursuant to ARTICLE 5 and the fees and disbursements of counsel and other advisors.

13.2 Transfer Taxes and Similar Charges. All costs of transferring the Assets in accordance with this Agreement, including recordation, transfer and documentary taxes and fees, and any excise, sales or use taxes, shall be paid by the party upon whom such taxes and fees are imposed by law.

13.3 Governmental Filing or Grant Fees. Any filing or grant fees imposed by any governmental authority the consent of which or the filing with which is required for the consummation of the transactions contemplated hereby shall be divided equally between Buyer and Seller.

ARTICLE 14 **ITEMS TO BE DELIVERED AT CLOSING**

14.1 Seller's Deliveries. At the Closing, Seller shall deliver or cause to be delivered to Buyer the following:

14.1.1 Certified resolutions of the member(s) of Seller approving the execution and delivery of this Agreement and authorizing the consummation of the transactions contemplated hereby;

14.1.2 A certificate of Seller dated the Closing Date, in the form described in **Section 11.1.3**;

14.1.3 An estoppel certificate/consent to assignment from Seller to Buyer, in a form reasonably satisfactory to Buyer, for each of the Real Property leases specified on *Schedule 5*.

14.1.4 Such other certificates, assignments and other instruments of conveyance, assignment and transfer, including without limitation any necessary consents to conveyance, assignment or transfer, all in form reasonably satisfactory to Buyer and Buyer's counsel, as shall be effective to vest in Buyer all of Seller's right, title and interest in the Assets, free, clear and unencumbered (except for Permitted Liens and the right of the United States Government in the FCC Licenses).

14.1.5 Such additional information, materials, agreements, documents and instruments as Buyer and its counsel may reasonably request in order to consummate the Closing.

14.2 Buyer's Deliveries. At the Closing, Buyer shall deliver or cause to be delivered to Seller the following:

14.2.1 Certified resolutions of the board of directors of Buyer approving the execution and delivery of this Agreement and authorizing the consummation of the transactions contemplated hereby;

14.2.2 A certificate of Buyer, dated the Closing Date, in the form described in **Section 12.1.3**.

14.2.3 The balance of the Purchase Price in immediately available funds.

14.2.4 Such additional information, materials, agreement, documents and instruments as Seller and its counsel may reasonably request in order to consummate the Closing.

ARTICLE 15 **SURVIVAL**

15.1 Survival of Representations, Etc. It is the express intention and agreement of the parties to this Agreement that all covenants and agreements (collectively, "Agreements") and all representations and warranties (collectively, "Warranties") made by Buyer and Seller in this Agreement shall survive the Closing (regardless of any knowledge, investigation, audit or inspection at any time made by or on behalf of Buyer or Seller; provided Seller and Buyer comply with the applicable notification obligations set forth in the last paragraph of ARTICLE 6 and ARTICLE 7, respectively) for one (1) year following the Closing.

15.2 Indemnification.

15.2.1 Seller shall defend, indemnify and hold harmless Buyer from and against any and all losses, costs, damages, liabilities and expenses, including reasonable attorneys' fees and expenses ("Damages") incurred by Buyer arising out of or related to any breach of the Agreements or Warranties given or made by Seller in this Agreement.

15.2.2 Buyer shall defend, indemnify and hold harmless Seller from and against any and all Damages incurred by Seller arising out of or related to any breach of the Agreements and Warranties given or made by Buyer in this Agreement.

ARTICLE 16

TERMINATION RIGHTS

16.1 Termination. This Agreement may be terminated at any time prior to Closing as follows:

16.1.1 Upon the mutual written agreement of Buyer and Seller, this Agreement may be terminated on such terms and conditions as so agreed; or

16.1.2 By written notice of Buyer to Seller if Seller breaches in any material respect any of its representations or warranties or defaults in any material respect in the observance or in the due and timely performance of any of its covenants or agreements herein and such breach or default is not cured within thirty (30) days of the date of notice of breach or default served by Buyer; or

16.1.3 By written notice of Seller to Buyer if Buyer breaches in any material respect any of its representations or warranties or defaults in any material respect in the observance or in the due and timely performance of any of its covenants or agreements herein and such breach or default is not cured within thirty (30) days of the date of notice of breach or default served by Seller; or

16.1.4 By written notice of either party to the other if the FCC by staff action or action by the full FCC dismisses or denies by Final Order the FCC Application, provided that the right to terminate this Agreement under this section shall not apply to any party whose action or inaction in fulfilling a material obligation under this Agreement shall have been a cause for the failure of the FCC to dismiss or deny the FCC Application as provided herein; or

16.1.5 By written notice of either party to the other if the FCC by staff action or action by the full FCC designates for hearing the FCC Application, whether or not such party is in material default or breach of this Agreement, provided, further, that if Seller's action or inaction in fulfilling a material obligation under this Agreement shall have been a cause for such designation, upon termination, the Deposit shall be returned to Buyer, and if Buyer's action or inaction in fulfilling a material obligation under this Agreement shall have been a cause for such designation, upon termination, the Deposit shall be kept by Seller as liquidated damages; or

16.1.6 By written notice of either party to the other if any court of competent jurisdiction shall have issued an order, decree or ruling or taken any other action restraining, enjoining or otherwise prohibiting the transactions contemplated by this Agreement, provided that the right to terminate this Agreement under this section shall not apply to any party whose action or inaction in fulfilling a material obligation under this Agreement shall have been a cause for the court to act as provided herein; or

16.1.7 By written notice of either party to the other if the other party breaches in any material respect any of its representations or warranties or defaults in any material

respect in the observance or in the due and timely performance of any of its covenants or agreements in the LMA and such breach or default is not cured within cure period specified in the LMA; or

16.1.8 By ten (10) days written notice of Seller to Buyer or of Buyer to Seller if the Closing shall not have been consummated on or by the Outside Closing Date, as contemplated by **Section 4.2**.

Notwithstanding the foregoing, no party hereto may effect a termination hereof if such party is in material default or breach of this Agreement, except for a termination due to the designation for hearing of the FCC Application.

16.2 Liability. Except as set forth in **Section 16.4**, the termination of this Agreement under **Section 16.1** shall not relieve any party of any liability for breach of this Agreement prior to the date of termination.

16.3 Monetary Damages, Specific Performance and Other Remedies. The parties recognize that if Seller refuses to perform under the provisions of this Agreement or Seller otherwise breaches such that the Closing does not occur, monetary damages alone will not be adequate to compensate Buyer for its injury. Buyer shall therefore be entitled to obtain specific performance of the terms of this Agreement in addition to any other remedies, including but not limited to monetary damages, that may be available to it. If any action is brought by Buyer to enforce this Agreement, Seller shall waive the defense that there is an adequate remedy at law. In the event of a filing by either party of a lawsuit for damages, specific performance, or other remedy, the winning party shall be entitled to reimbursement by the losing party of reasonable legal fees and expenses incurred by the winning party.

16.4 Seller's Liquidated Damages. If the parties hereto shall fail to consummate this Agreement on the Closing Date due to a material breach hereof by Buyer or the termination pursuant to its terms of the LMA due to a material breach by Buyer, and Seller is at that time not in material breach hereof or of the LMA, then Buyer shall be liable to Seller for liquidated damages in the amount of the Deposit, which amount will be secured by Seller by retaining the Deposit paid by Buyer hereunder. It is understood and agreed that such liquidated damages amount represents Buyer's and Seller's reasonable estimate of actual damages and does not constitute a penalty. Recovery of liquidated damages shall be the sole and exclusive remedy of Seller against Buyer for failing to consummate this Agreement and shall be applicable regardless of the actual amount of damages sustained and all other remedies are deemed waived by Seller. Seller and Buyer hereby expressly acknowledge that this **Section 16.4** shall survive the termination of this Agreement.

ARTICLE 17

MISCELLANEOUS PROVISIONS

17.1 Certain Interpretive Matters and Definitions. Unless the context otherwise requires: (a) all references to Sections, Articles or Schedules are to Sections, Articles or Schedules of or to this Agreement; (b) each term defined in this Agreement has the meaning assigned to it; (c) each accounting term not otherwise defined in this Agreement has the meaning assigned to it in accordance with generally accepted accounting principles as in effect on the date hereof; (d) "or"

is disjunctive but not necessarily exclusive; (e) words in the singular include the plural and vice versa; and (f) all references to "\$" or dollar amounts will be to lawful currency of the United States of America.

17.2 Further Assurances. After the Closing, Seller shall from time to time, at the request of and without further cost or expense to Buyer, execute and deliver such other instruments of conveyance and transfer and take such other actions as may reasonably be requested in order more effectively to consummate the transactions contemplated hereby to vest in Buyer good and marketable title to the Assets being transferred hereunder, free, clear and unencumbered, and Buyer shall from time to time, at the request of and without further cost or expense to Seller, execute and deliver such other instruments and take such other actions as may reasonably be requested in order more effectively to relieve Seller of any obligations being assumed by Buyer hereunder.

17.3 Assignability; No Third Party Rights. This Agreement shall be binding upon and inure to the benefit of the parties hereto, their successors and permitted assigns. This Agreement and the rights, duties and obligations hereunder may not be assigned or delegated in whole or in part by any party hereto without the express written consent of the other party hereto; provided, however, that Buyer may assign its rights, duties and obligations hereunder to an affiliate (i.e. entities controlled by or under common control with Buyer) without the prior written consent of Seller, provided that such assignment would not reasonably be expected to delay the FCC Consent, and provided further that such Buyer shall remain obligated for any of Buyer's obligations hereunder. Each assignee (pursuant to the terms and conditions of this **Section 17.3**) must agree in writing to be bound by the terms of this Agreement to the same extent and in the same manner as the Buyer or any transferring assignee prior to the assignment or delegation, in whole or in part of this Agreement and any of the rights, duties, or obligations hereunder to such assignee. Any purported assignment or delegation of rights, duties or obligations hereunder made in violation of this **Section 17.3** shall be void and of no effect. 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 reason of this Agreement.

17.4 Modification and Waiver; Remedies Cumulative. No modification of any provision of this Agreement shall be effective unless in writing and signed by all parties. No failure or delay on the part of Seller or Buyer in exercising any right or power under this Agreement shall operate as a waiver of such right or power, nor shall any single or partial exercise of any such right or power or the exercise of any other right or power. Except as otherwise provided in this Agreement, the rights and remedies provided in this Agreement are cumulative and are not exclusive of any other rights or remedies which a party may otherwise have.

17.5 Headings. The headings set forth in this Agreement are for convenience only and will not control or affect the meaning or construction of the provisions of this Agreement.

17.6 Governing Law. The construction and performance of this Agreement shall be governed by the laws of the State of Michigan without giving effect to the choice of law provisions thereof. Any action, suit or proceeding brought by any party to this Agreement relating to or

arising out of this Agreement or any other agreement, instrument, certificate or other document delivered pursuant hereto (or the enforcement hereof or thereof) must be brought and prosecuted as to all parties in, and each of the parties hereby consents to service of process, personal jurisdiction and venue in, the state and Federal courts of general jurisdiction located in Michigan. The obligations of the parties hereto are subject to all federal, state and local laws and regulations now or hereafter in force and to the Communications Laws and the laws of all other government entities or authorities presently or hereafter to be constituted.

17.7 Notices. Any notice, demand or request required or permitted to be given under the provisions of this Agreement shall be in writing, including by facsimile, and shall be deemed to have been duly delivered and received on the date of personal delivery, on the third day after deposit in the U.S. mail if mailed by registered or certified mail, postage prepaid and return receipt requested, or on the day after delivery to a nationally recognized overnight courier service if sent by an overnight delivery service for next morning delivery, and shall be addressed to the following addresses, or to such other address as any party may request, as follows:

If to Seller:

Mitten Media, LLC
PO Box 1011
Manistee, MI 49660
Attention: Todd Mohr
Telephone: 231-723-9906

With a copy (which shall not constitute notice) to:

Mark B. Denbo, Esq.
c/o Smithwick & Belendiuk, P.C.
5028 Wisconsin Avenue, N.W., Suite 301
Washington, D.C. 20016
Telephone: 202-350-3656
Facsimile No.: 202-363-4266

If to Buyer:

45 North Media Inc
PO Box 1766
Gaylord, MI 49734
Attention: Bryan D. Hollenbaugh
Telephone: 989-732-2341
Facsimile No.: 989-732-6202

With a copy (which shall not constitute notice) to:

Marissa G. Repp, Esq.
Repp Law Firm
1629 K Street, N.W.
Suite 300
Washington, D.C. 20006-1631
Telephone: 202-656-1619
Facsimile No.: 202-400-3737

17.8 Counterparts. This Agreement may be executed in facsimile or other electronic reproduction in several counterparts, each of which will be deemed to be an original and all of which together will constitute one and the same instrument.

17.9 Severability. The parties agree that if one or more provisions contained in this Agreement shall be deemed or held to be invalid, illegal or unenforceable in any respect under any applicable law, 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.

17.10 Entire Agreement. This Agreement embodies the entire agreement and understanding of the parties hereto and supersedes any and all prior agreements, arrangements and understandings relating to the matters provided for herein.

[Signature Page Follows]

SIGNATURE PAGE TO AMENDED AND RESTATED OPTION AND ASSET PURCHASE
AGREEMENT

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

SELLER

MITTEN MEDIA, LLC

By: 

Name: Todd Mohr
Title: Manager

BUYER

45 NORTH MEDIA INC

By: 

Name: Bryan D. Hollenbaugh
Title: President and Chief Executive Officer

SCHEDULE 1

FCC LICENSES

- FM Broadcast License, Facility ID No. 4109, Manistee, Michigan, FCC File No. BLH-20150130AQB
- Aural Studio Transmitter Link WMV379
- Broadcast Auxiliary Remote Pickup KH6330
- Antenna Structure Registration Number 1251959