

ASSET PURCHASE AGREEMENT

THIS AGREEMENT, made and entered into as of this 26th day of May, 2005, by and between Great Northern Radio LLC, a Delaware limited liability company (the "Seller"), and Vox Communications Group LLC, a Delaware limited liability company, or its designated corporation or limited liability company of which Vox Communications Group LLC is a shareholder or member (the "Buyer").

Recitals

Seller is the licensee and operator of WUPE-FM, WBEC-AM and WUHN-AM, each licensed to Pittsfield, Massachusetts (collectively, the "Stations").

Subject to the consent of the Federal Communications Commission ("FCC"), Buyer desires to acquire all or substantially all of the assets used or useful in the operation of the Stations, including but not limited to designated leases, contracts, agreements, and licenses used or useful in the operation of the Stations, with certain exceptions as provided herein, and Seller desires to transfer such assets to Buyer.

Agreement

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

1 **Sale and Transfer of Assets.** At Closing, Seller will sell, assign, transfer and deliver to Buyer the following assets which pertain to the Stations (which are hereinafter collectively called the "Assets"):

1.1 All licenses, permits and authorizations issued by any governmental or regulatory agency which are transferable or assignable, used or useful in the operation of, or in connection with the operation of, the Stations, as listed on Schedule 1.1 (the "Licenses");

1.2 All tangible assets of Seller used or useful in the operation of the Stations listed on Schedule 1.2, and any replacements thereof acquired prior to Closing (the "Tangible Assets");

1.3 The leases, contracts and agreements listed on Schedule 1.3, to the extent transferable or assignable, all of which shall be in effect on the Closing Date unless otherwise described or noted on Schedule 1.3 or which have expired by their terms (the "Assigned Contracts").

1.4 All right, title and interest of the Seller in and to the use of the call letters for the Stations;

1.5 All goodwill, copyrights, trademarks or other similar rights, if any, which the Seller may have acquired or used in the operation of the Stations, to the extent Seller has the right to use and assign them (the "Intangible Assets");

1.6 All business records of the Stations relating to their operation, but not including tax records and original journals;

1.7 All accounts receivable of the Seller accepted by the Buyer at Closing.

The Assets to be transferred hereunder shall not, however, include cash, bank accounts, investments or deposits all of which shall remain the property of the Seller (the "Excluded Assets").

2 **Purchase Price and Payment.**

At the Closing, Buyer shall pay in immediately available funds, by bank check, certified check or by wire transfer, to one or more accounts per the written instruction of Seller as consideration for all of the Assets to be sold and bought hereunder pursuant to Section 1, the amount of Six Million Nine Hundred Thousand Dollars (\$6,900,000), plus the purchase price for the accounts receivable mutually agreed upon by Seller and Buyer (together, the "Purchase Price"), which Purchase Price shall be allocated to the Assets as set forth on Schedule 2.0.

3 **No Assumption of Liabilities.** Except as otherwise specifically set forth herein, Buyer shall not assume and shall not be obligated to pay any of the liabilities or obligations of Seller, except liabilities and obligations arising or accruing on or after the Closing Date relating to the Assigned Contracts. Upon assumption by Buyer of the Assigned Contracts Buyer shall be entitled to all of Seller's rights and benefits thereunder and shall relieve Seller of its obligations to perform the same. Buyer shall indemnify Seller, as provided in Section 7.1(a)(1), with respect to all such Assigned Contracts from and after the Closing Date.

4 **Seller's Representations and Warranties.** The Seller represents and warrants to Buyer as of the date hereof and as of the Closing Date, as follows:

4.1 **Formation, Standing and Power.** Seller is a limited liability company duly formed, validly existing and in good standing under the laws of the State of Delaware, and is authorized to transact business as a foreign limited liability company and is in good standing under the laws of the Commonwealth of Massachusetts. Seller has all necessary limited liability company power and authority to own, use and transfer its properties and assets and to transact its business as now being conducted. There is no other jurisdiction in which the character or use of Seller's assets or the nature of its business makes necessary the licensing or qualification of Seller to do business.

4.2 **Authority for Transaction.** Seller's execution and delivery of this Agreement, its compliance with the provisions hereof and the consummation of all of the transactions contemplated hereby have all been duly and validly authorized by all necessary limited liability company action on the part of Seller and this Agreement is valid and binding upon Seller in accordance with its terms.

4.3 **Licenses.** Seller is, and on the Closing Date will be, the holder of the Licenses, all of which are in full force and effect.

4.4 **Condition of Assets.** Each item comprising the Tangible Assets is in operating condition, other than those designated on Schedule 1.2 as not being in operating condition.

4.5 **Title.** Seller has, and shall transfer to Buyer at the Closing, title to the Tangible Assets, subject only to the Permitted Encumbrances as set forth on Schedule 4.5.

4.6 **Contracts, Leases, Agreements, Etc.** The Licenses, Assigned Contracts and Intangible Assets to be transferred or assigned to Buyer under Section 1 of this Agreement will, on the Closing Date, be in full force and effect and on the Closing Date there will be no Licenses or Assigned Contracts (not including this Agreement) which will be binding on the Buyer with respect to the Assets other than those specifically described in Sections 1.1 or 1.3, or on Schedules 1.1 and 1.3, or leases, contracts and agreements not inconsistent with the provisions of this Agreement entered into in the usual course of the business of the Stations after the date hereof. Each such contract, lease or agreement may be transferred in accordance with its terms, or approval for transfer will have been received by the Closing Date.

4.7 **Employees and Agreement Relating to Employment.** The names of all employees of the Stations, their current rate of compensation and all fringe benefits are as set forth in Schedule 4.7. Except as set forth on Schedule 4.7, there is (i) no written employment contract with any employee of the Stations, (ii) no obligation, contingent or otherwise, under any employment arrangement, (iii) no collective bargaining agreement, (iv) no employees pension, retirement, profit sharing, bonus or similar plans, and (v) no union has been certified or sought recognition as a bargaining agent for any employee of the Stations.

4.8 **Legal Proceedings, Etc.** No litigation, court or administrative proceeding is pending or, so far as is known to the Seller, no investigation, litigation, or court or administrative proceeding is threatened against Seller relating to the Stations or any Asset to be conveyed hereunder which would affect Buyer's enjoyment of the Assets, or which would hinder or prevent the consummation of the transactions contemplated by this Agreement.

4.9 **Compliance with Licenses, Laws, Regulations and Orders.** Seller is now, and at Closing will be, in compliance with all material terms and conditions of all Licenses, laws, regulations and orders applicable to its business and operations including compliance with the Federal Communications Act and all regulations issued by the FCC.

4.10 **No Conflict.** Neither the execution and delivery of this Agreement by Seller, nor compliance by Seller with any of the provisions hereof, nor the consummation of the transactions contemplated hereby, will:

- (a) conflict with or result in a breach of any provision of Seller's Operating Agreement or Certificate of Formation;
- (b) result in a default, or give rise to any right of termination, cancellation or acceleration, under any term, condition or provision of any contract, encumbrance or other instrument or obligation to which Seller is a party or by which Seller or any of Seller's properties or assets may be bound, except for such contracts, encumbrances, instruments and obligations set forth on Schedule 4.10; or
- (c) violate any order, writ, injunction, decree, statute, rule or regulation applicable to Seller, or any of its properties or assets.

Except for filings under the Federal Communications Act with the FCC, and except as set forth on Schedule 4.10, no consent, waiver or approval by, notice to or filing with any person is required in connection with the execution and delivery of this Agreement by Seller, compliance by Seller with any of the provisions hereof or the consummation of the transactions contemplated hereby.

4.11 **No Broker.** Seller has retained no broker in connection with the transaction contemplated hereby. Seller agrees to indemnify and hold Buyer harmless from and against claims for commissions made by any broker other than a broker retained by Buyer or claiming to have been retained by Buyer for the purposes of this transaction.

4.12 **Liabilities.** As of the Closing Date, all of Seller's liabilities, except for those liabilities arising on or after the Closing Date relating to the Assigned Contracts, shall have been fully paid and discharged and no creditors of Seller shall have any claim on the Assets for payment of such liabilities.

5 **Buyer's Representations and Warranties.** The Buyer represents and warrants to Seller, as of the date hereof and as of the respective Closing Date relating to the Station so purchased, as follows:

5.1 **Buyer's Qualifications.** Buyer is legally, and on the Closing Date will be financially, qualified to become a licensee of the FCC and to close the transactions contemplated by this Agreement, and to the best of Buyer's knowledge, none of its officers, directors, owners or partners is or will be legally disqualified from becoming an FCC licensee.

5.2 **Formation, Standing and Power.** Buyer is a limited liability company duly formed, validly existing and in good standing under the laws of the State of Delaware and will, on the Closing Date, be authorized to transact business in the Commonwealth of Massachusetts. Buyer has all necessary power and authority to execute and deliver this Agreement, to comply with the provisions hereof and to consummate the transactions contemplated hereby.

5.3 **Authority for Transaction.** Buyer's execution and delivery of this Agreement, its compliance with the provisions hereof and the consummation of all of the transactions contemplated hereby have been duly and validly authorized by all necessary company action on the part of Buyer, and this Agreement is valid and binding upon Buyer in accordance with its terms.

5.4 **No Conflict.** Neither the execution and delivery of this Agreement by Buyer, nor compliance by Buyer with any of the provisions hereof, nor the consummation of the transactions contemplated hereby will:

- (a) conflict with or result in a breach of any provision of Buyer's Operating Agreement or Certificate of Formation;
- (b) result in a default, or give rise to any right of termination, cancellation or acceleration, under any term, condition or provision of any contract, encumbrance or other instrument or obligation to which Buyer is a party or by which it or any of its properties or assets may be bound; or
- (c) violate any order, writ, injunction, decree, statute, rule or regulation applicable to Buyer or any of its properties or assets.

Except for filings under the Federal Communications Act with the FCC, which shall be obtained on or prior to Closing, no consent, waiver or approval by, notice to or filing with any person is required in connection with the execution and delivery of this Agreement by Buyer, compliance by Buyer with any of the provisions hereof or the consummation of the transactions contemplated hereby.

5.5 **Legal Proceedings, Etc.** There is no legal, equitable, administrative or arbitration action, suit, proceeding or known investigation pending or, to Buyer's knowledge, threatened against or affecting Buyer or any of its assets which, if adversely determined, would adversely affect the ability of Buyer to consummate the transactions contemplated hereby.

5.6 **Broker.** Buyer has not retained any broker in connection with the transactions contemplated hereby, and Buyer agrees to indemnify and hold Seller harmless from and against claims for commissions made by any broker retained or allegedly retained by Buyer.

6 **Seller's Covenants.**

6.1 **Indemnification.**

(a) The sole and exclusive remedy which Buyer shall have against Seller under this Agreement after the Closing Date shall be the right to proceed for indemnification in the manner and only to the extent provided by this Section 6.1. Seller shall be responsible for, and hereby indemnifies Buyer and holds it and its partners, agents, successors and assigns harmless, with respect to demands for indemnification asserted by Buyer, as provided by this Section 6.1, within six (6) months after the Closing Date from, against and in respect of:

- (1) all liabilities, obligations, claims against and contracts of Seller of every kind and nature whatsoever, at any time existing or asserted, whether or not accrued, whether fixed, contingent or otherwise, whether known or unknown, and whether or not recorded on the books and records of Seller, arising out of or by reason of this or any other transaction or event occurring prior or subsequent to the Closing, which are not assumed by Buyer; and
- (2) all losses, damages and deficiencies resulting from any failure or breach of any representation or warranty, or any breach or non-fulfillment of any covenant or agreement, of Seller made in this Agreement; and
- (3) all actions, suits, proceedings, claims, demands, assessments, judgments, fines, amounts paid in settlement, costs and expenses (including reasonable attorneys' fees and expenses) incident to any of the foregoing.

(b) If a demand for indemnification arises out of a claim made against Buyer by a person not a party to this Agreement or affiliated with a party to this Agreement (a "Third Party Claim"), Buyer shall give notice thereof to Seller, stating in reasonable detail the nature of the Third Party Claim, the identity of the Third Party Claimant and the specific representations, warranties or covenants which Buyer contends Seller has breached. Such notice shall also indicate whether Buyer intends to defend against the Third Party Claim. If Buyer shall defend against the Third Party Claim, Seller shall cooperate in all reasonable respects with Buyer in such defense, shall make available to Buyer all records and other materials reasonably required by Buyer in such defense, and shall have the right to participate in such defense. If Buyer does not intend to defend against the Third Party Claim, then Seller may assume defense of the Third Party Claim through legal counsel of its choice reasonably satisfactory to Buyer, in which event Buyer shall cooperate in all reasonable respects with Seller in such defense, shall make available to them all records and other materials reasonably required by them in such defense, but Seller shall at all times control such defense. So long as a Third Party Claim is pending and is not resolved, Buyer shall hold in abeyance its demand for indemnification. If Seller reaches a settlement with the Third Party Claimant which results in any liability to Buyer, or if a judgment

is rendered against Buyer which judgment is not properly appealed or appealable, then Buyer shall be entitled to indemnification in an amount sufficient to discharge the Third Party Claim. Each party shall be responsible for its own costs and expenses, including legal fees, incurred in defending a Third Party Claim, except that Seller shall pay Buyer's actual costs and expenses (including legal fees) incurred in connection with defending a claim which is determined adversely to Seller and which shall be found to have constituted a breach of Seller's representations, warranties and covenants hereunder.

(c) If Buyer asserts a demand for indemnification hereunder, but such demand is not based upon a Third Party Claim, Buyer shall notify Seller thereof, stating in reasonable detail the nature of Buyer's claim and the specific representations, warranties and covenants which Buyer contends Seller has breached. Seller shall have 15 days after the effective date of such notice to accept or reject Buyer's demand for indemnification. If Seller accepts such demand for indemnification, it shall pay the amount of indemnification claimed by Buyer. If no acceptance is received by Buyer within such 15-day period, Seller shall be deemed to have rejected the demand. In the event Seller rejects Buyer's demand for indemnification or fails to accept such demand within such 15-day period, the parties shall immediately submit the controversy to arbitration in accordance with the provisions of Section 6.1(d). If the arbitrator(s) render an award in the arbitration proceeding in favor of Buyer, Buyer shall be entitled to indemnification to the extent provided in such award. If the arbitrator(s) render an award in favor of Seller, Seller shall have no further liability on Buyer's claim. So long as Buyer's claim is pending and is not resolved, Buyer shall hold in abeyance its demand for indemnification.

(d) If there is any disagreement between Buyer and Seller concerning the validity of any demand for indemnification asserted under Section 6.1, then such disagreement may, as provided by Section 6.1(c) or otherwise on demand of either party, be referred to arbitration in the City of Manchester, New Hampshire. Buyer and Seller shall attempt to agree on the appointment of a single arbitrator. If they are unable to agree, a panel of three arbitrators shall be appointed: one arbitrator shall be appointed by Buyer, one shall be appointed by Seller, and one shall be appointed by the two so appointed. The determination in writing of such arbitrator(s), signed by at least two of them (if there be more than one), shall be final and binding on the parties. Such determination shall be made as soon as practicable after the reference of the claim to arbitration. The arbitrators shall be governed by the Commercial Arbitration Rules of the American Arbitration Association then in effect, and shall have full power to make such regulations and to give such orders and directions in all respects as they shall deem expedient, as well as in respect to the claims and differences referred to them, and also with respect to the mode and times of executing and performing any of the acts or things which may be awarded or directed to be done. The arbitrator(s) shall also allocate among the parties the fees and expenses of the arbitrators and the actual costs and expenses (including legal fees) incurred by the parties in connection with the demand for indemnification and the arbitration in an equitable manner consistent with the decision of the arbitrator(s) regarding the resolution of the claims and differences referred to them, which allocation shall form part of the arbitrator(s)' written determination.

(e) Notwithstanding any other provision hereof, Buyer shall not be entitled to make a claim for indemnification against Seller under this Agreement except to the extent that the aggregate amount of such indemnification obligations claimed by Buyer exceeds the amount of Thirty Thousand Dollars (\$30,000.00), but once such aggregate has been exceeded, Seller shall be obligated to pay all indemnification obligations for which it would be liable hereunder, not just those that exceed such amount; provided, however, that Seller's indemnification obligation hereunder shall be limited, in the aggregate, to \$350,000.

6.2 **No Right of Set-Off.** Any payments which may be due to Seller from Buyer shall not be used by Buyer to satisfy any demands for indemnification asserted against Seller under Section 6.1, or any other demand or claim against Seller, and if so used by Buyer, such shall be and constitute a breach of this Agreement and such other document, if any, under which the payment was due.

6.3 **Access and Information.** Seller shall give Buyer and its representatives full but reasonable access during normal business hours throughout the period prior to Closing to the operations, properties, books, contracts, agreements, leases, commitments and records of the Stations; provided, however, that Buyer shall give Seller reasonable advance notice of exercising this right. Seller shall furnish to Buyer all information concerning the Stations' affairs as Buyer may reasonably request.

6.4 **Risk of Loss.** Seller shall bear all risk of loss or damage to any of the Assets to be transferred to Buyer hereunder occurring prior to the Closing. In the event any loss or damage occurs, the proceeds of any insurance policy covering such loss shall be used by Seller to repair, replace or restore any such loss prior to the Closing; provided, however, that, if the proceeds of such insurance are not sufficient to repair, replace or restore the loss, and Seller does not provide additional funds for such purpose upon request by Buyer, Buyer if not then in default may terminate this Agreement. In the event such loss or damage prevents the broadcast transmission of the Stations in the normal and usual manner, Seller shall give prompt written notice thereof to Buyer. If Seller cannot restore the facilities so that transmission can be resumed in the normal and usual manner within 15 days, Buyer, if not then in default, shall have the right after such 15-day period to terminate this Agreement by giving written notice to Seller. In the event of any such termination pursuant to this Section 6.4 neither party shall have any right or liability hereunder.

7 **Buyer's Covenants.**

7.1 **Indemnification.**

(a) Buyer shall be responsible for and hereby indemnifies Seller and holds it and its members, managers, agents, successors and assigns harmless, with respect to demands for indemnification asserted by Seller, as provided by this Section 7.1, within six (6) months after the Closing Date from, against and in respect of:

- (1) All of Buyer's post-closing obligations under the Assigned Contracts; and
- (2) All losses, damages and deficiencies resulting from any failure or breach of any representation or warranty, or any breach or non-fulfillment of any covenant or agreement, of Buyer made in this Agreement; and
- (3) All actions, suits, proceedings, claims, demands, assessments, judgments, fines, penalties, amounts paid in settlement, costs and expenses (including reasonable attorneys' fees and expenses) incident to any of the foregoing.

(b) If a demand for indemnification arises out of a claim made against Seller by a person not a party to this Agreement or affiliated with a party to this Agreement (a "Third Party Claim"), Seller shall give notice thereof to Buyer, stating in reasonable detail the nature of the Third Party Claim, the identity of the Third Party Claimant and the specific representations, warranties or covenants which Seller contends Buyer has breached. Such notice shall also indicate whether Seller intends to defend against the Third Party Claim. If Seller shall defend against the Third Party Claim, Buyer shall cooperate in all reasonable respects with Seller in such defense, shall make available to Seller all records and other materials reasonably required by Seller in such defense, and shall have the right to participate in such defense. If Seller does not intend to defend against the Third Party Claim, then Buyer may assume defense of the Third Party Claim through legal counsel of its choice reasonably satisfactory to Seller, in which event Seller shall cooperate in all reasonable respects with Buyer in such defense, but Buyer shall at all times control such defense. So long as a Third Party Claim is pending and is not resolved, Seller shall hold in abeyance its demand for indemnification. If Buyer reaches a settlement with the Third Party Claimant which results in any liability to Seller, or if a judgment is rendered against Seller which judgment is not properly appealed or appealable, then Seller shall be entitled to indemnification in an amount sufficient to discharge the Third Party claim. Each party shall be responsible for its own costs and expenses, including legal fees, incurred in defending a Third Party Claim except that Buyer shall pay Seller's actual costs and expenses (including legal fees) incurred in connection with defending a claim which is determined adversely to Buyer and which shall be found to have constituted a breach of Buyer's representations, warranties and covenants hereunder.

(c) If Seller asserts a demand for indemnification hereunder, but such demand is not based upon a Third Party Claim, Seller shall notify Buyer thereof, stating in reasonable detail the nature of Seller's claim and the specific representations, warranties and covenants which Seller contends Buyer has breached. Buyer shall have 15 days after the effective date of such notice to accept or reject Seller's demand for indemnification. If Buyer accepts such demand for indemnification, it shall pay the amount of indemnification claimed by Seller. If no acceptance is received by Seller within such 15-day period, Buyer shall be deemed to have rejected the demand. In the event Buyer rejects Seller's demand for indemnification or fails to accept such demand within such 15-day period, the parties shall immediately submit the

controversy to arbitration in accordance with the provisions of Section 7.1(d). If the arbitrator(s) render an award in the arbitration proceeding in favor of Seller, Seller shall be entitled to indemnification to the extent provided in such award. If the arbitrator(s) render an award in favor of Buyer, Buyer shall have no further liability on Seller's claim. So long as Seller's claim is pending and is not resolved, Seller shall hold in abeyance its demand for indemnification.

(d) If there is any disagreement between Seller and Buyer concerning the validity of any demand for indemnification asserted under Section 7.1, then such disagreement may, as provided by Section 7.1(c) or otherwise on demand of either party, be referred to arbitration in the City of Manchester, New Hampshire. Buyer and Seller shall attempt to agree on the appointment of a single arbitrator. If they are unable to agree, a panel of three arbitrators shall be appointed: one arbitrator shall be appointed by Buyer, one shall be appointed by Seller, and one shall be appointed by the two so appointed. The determination in writing of such arbitrator(s), signed by at least two of them (if there be more than one), shall be final and binding on the parties. Such determination shall be made as soon as practicable after the reference of the claim to arbitration. The arbitrators shall be governed by the Commercial Arbitration Rules of the American Arbitration Association then in effect, and shall have full power to make such regulations and to give such orders and directions in all respects as they shall deem expedient, as well as in respect to the claims and differences referred to them, and also with respect to the mode and times of executing and performing any of the acts or things which may be awarded or directed to be done. The arbitrators shall also allocate among the parties the fees and expenses of the arbitrators and the actual costs and expenses (including legal fees) incurred by the parties in connection with the demand for indemnification and the arbitration in an equitable manner consistent with the decision of the arbitrator(s) regarding the resolution of the claims and differences referred to them, which allocation shall form part of the arbitrator(s)' written determination.

(e) Notwithstanding any other provision hereof, Seller shall not be entitled to make a claim for indemnification against Buyer under this Agreement except to the extent that the aggregate amount of such indemnification obligations claimed by Seller exceeds the amount of Thirty Thousand Dollars (\$30,000.00), but once such aggregate has been exceeded, Buyer shall be obligated to pay all indemnification obligations for which it would be liable hereunder, not just those that exceed such amount; provided, however, that Buyer's indemnification obligation hereunder shall be limited, in the aggregate, to \$350,000.

7.2 **No Right of Set-Off.** Any payments which may be due to Buyer from Seller shall not be used by Seller to satisfy any demands for indemnification asserted against Buyer under Section 7.1, or any other demand or claim against Buyer, and if so used by Seller, such shall be and constitute a breach of this Agreement and such other document, if any, under which the payment was due.

8 **Application for FCC Approval.**

8.1 **Filing and Prosecution of Application.** Buyer and Seller shall within ten days from the date of this Agreement, join in applications to be filed with the FCC requesting its

written consent to the assignment of the Licenses of the Stations from Seller to Buyer. Buyer and Seller shall proceed with due diligence and promptly take all steps necessary to the expeditious prosecution of such applications to a favorable conclusion, using their best efforts throughout.

8.2 **Expenses.** Each party shall bear its own expenses in connection with the preparation of the applicable sections of the FCC applications and in connection with the prosecution of such applications. Seller and Buyer will divide and pay equally any filing fee or grant fee imposed by the FCC or any fees or expenses incurred with respect to a joint application.

8.3 **Designation for Hearing.** If, for any reason, with respect to any application for assignment of the Licenses, the staff of the FCC advises that designation for hearing will be required, either party, if not then in default, shall have the right, by written notice within 30 days of such notification, to terminate this Agreement, in which event neither party shall have any rights or liabilities hereunder.

8.4 **Time of FCC Consent.** If approval of the transfer of the Licenses has not become final (all protests and appeals having been decided or dismissed, or barred by the expiration of time) within one year from the date of filing the applications for transfer with the FCC, either party, if not then in default, may terminate this Agreement by giving written notice to the other. Upon such termination, neither party shall have any right or liability hereunder. Buyer may elect, however, at its sole risk to consummate the transactions contemplated by this Agreement under an FCC approval which has not become final as herein provided.

8.5 **Control of Station.** This Agreement shall not be consummated until the FCC has given its written consent to the transfer of the Licenses of the Stations to the Buyer. Until the Closing, Buyer shall not, directly or indirectly, control, supervise, direct or attempt to control, supervise or direct the operation of the Stations, but such operation shall be the sole responsibility of Seller.

9 **Conditions to Parties' Obligations.**

9.1 **Conditions to Buyer's Obligations.** Unless waived in writing by Buyer on or before the Closing Date, the obligations of Buyer to complete the transactions provided for herein shall be subject, at Buyer's election, to satisfaction on or before the Closing Date of each of the following conditions:

(a) Representations and warranties: all representations and warranties of Seller contained in this Agreement shall be true and correct in all material respects as of the date hereof and as of the Closing Date as though made on and as of the Closing Date (except as may be otherwise provided in this Agreement), and Buyer shall have received a certificate to that effect, dated the Closing Date, signed by a member of Seller;

(b) Pre-Closing obligations: Seller shall have performed all obligations required to be performed by Seller hereunder, the performance of which has not been waived by

Buyer, and Buyer shall have received a certificate to that effect, dated the Closing Date, signed by a member of Seller;

(c) Due authorization: Seller's execution and delivery of this Agreement, its compliance with the provisions hereof and the consummation of all of the transactions contemplated hereby shall have been duly and validly authorized by all necessary limited liability company action on the part of Seller;

(d) Seller's consents, etc.: all notices, filings, consents, waivers and approvals set forth in Section 4.10 or in Schedule 4.10 shall have been given, made or obtained, as the case may be, by Seller, and Buyer shall have received a true copy of each thereof;

(e) No bar: there shall not be in effect any judgment, decree or order of, or position taken by, any court or administrative body of competent jurisdiction, nor shall there have been any action, suit, proceeding or known investigation instituted or threatened, nor shall any law or regulation have been enacted or any action taken thereunder, which would restrain or prohibit, make illegal, or subject Buyer to material damage as a result of, the consummation of the transactions contemplated hereby;

(f) FCC consent: the FCC shall have given the consent contemplated by Section 8;

(g) Further closing documents: Seller shall have delivered to Buyer the following documents and instruments in form reasonably satisfactory to counsel to Buyer:

- (1) certificates of the Secretaries of State of the State of Delaware and Commonwealth of Massachusetts attesting to the good standing of Seller in such jurisdictions as of a date reasonably proximate to the Closing Date;
- (2) warranty bills of sale, assignments and other instruments of transfer and conveyance, each duly executed by Seller, transferring to Buyer title to each item comprising the Assets;
- (3) an assignment, duly executed by Seller, of each Assigned Contract together with any third party consents required by any such Contract;
- (4) a certificate of the manager of Seller certifying as to the due adoption of resolutions authorizing this Agreement and the transactions contemplated hereby; and

(h) Prorations: except as otherwise expressly provided herein, all amounts due under the Assigned Contracts, taxes, assessments, utilities, insurance and water charges shall have been prorated between Buyer and Seller to the Closing Date;

(i) Possession: Seller shall have delivered to Buyer actual possession of the Assets;

(j) Other matters: Buyer shall have received such other instruments and documents as shall have been reasonably requested by counsel to Buyer on or before the Closing Date.

9.2 **Conditions to Seller's Obligations.** Unless waived in writing by Seller on or before the Closing Date, the obligations of Seller to complete the transactions provided for herein shall be subject, at its election, to satisfaction on or before the Closing Date of each of the following conditions:

(a) Representations and warranties: all representations and warranties of Buyer contained in this Agreement shall be true and correct in all respects as of the date hereof and as of the Closing Date as though made on and as of the Closing Date (except as may be otherwise provided in this Agreement), and Seller shall have received a certificate to that effect, dated the Closing Date, signed by the managing member of Buyer;

(b) Pre-Closing obligations: Buyer shall have performed all obligations required to be performed by it hereunder, the performance of which has not been waived by Seller, and Seller shall have received a certificate to that effect, dated the Closing Date, signed by the managing member of Buyer;

(c) Due authorization: Buyer's execution and delivery of this Agreement, its compliance with the provisions hereof and the consummation of all of the transactions contemplated hereby shall have been duly and validly authorized by all necessary company action on the part of Buyer;

(d) Buyer's consents, etc.: all notices, filings, consents, waivers and approvals set forth in Section 5.4 shall have been given, made or obtained, as the case may be, by Buyer, and Seller shall have received a true copy of each thereof;

(e) No bar: there shall not be in effect any judgment, decree or order of, or position taken by, any court or administrative body of competent jurisdiction, nor shall there have been any action, suit, proceeding or known investigation instituted or threatened, nor shall any law or regulation have been enacted or any action taken thereunder, which would, in Seller's reasonable judgment, restrain or prohibit, make illegal, or subject Seller to material damage as a result of, the consummation of the transactions contemplated hereby;

(f) FCC consent: the FCC shall have given the consent contemplated by Section 8;

(g) Further closing documents: Buyer shall have delivered to Seller the following documents and instruments:

- (1) certificates of the Secretaries of State of the State of Delaware and Commonwealth of Massachusetts attesting to the good standing of Buyer in such jurisdictions as of a date reasonably proximate to the Closing Date;
- (2) an instrument of assumption of the Assigned Contracts, in form reasonably satisfactory to counsel to Seller, duly executed by Buyer;
- (3) a certificate of the managing member of Buyer certifying as to the due adoption of resolutions authorizing this Agreement and the transactions contemplated hereby;

(h) Prorations.: except as otherwise expressly provided herein, all Assigned Contracts, taxes, assessments, utilities, insurance and water charges shall have been prorated between Buyer and Seller to the Closing Date;

(i) Other matters: Seller shall have received such other instruments and documents as shall have been reasonably requested by counsel to Seller on or before the Closing Date.

10 **Closing.** Subject to the terms and conditions herein stated, the parties agree as follows:

10.1 **Closing Date.** The Closing of the transaction provided for in this Agreement shall be held not later than 3 business days following the date upon which the FCC consent to assignment of the Licenses from Seller to Buyer has become final (i.e., no action, request for stay, petition for rehearing or reconsideration, or appeal is pending and the time for filing such request, petition, or appeal has expired) (the "Closing Date"). The Closing shall take place at the offices of Sheehan Phinney, Bass + Green, Professional Association, 1000 Elm Street, Manchester, New Hampshire 03101 at 10:00 AM or such other place and time as mutually agreed. Notwithstanding the foregoing, Buyer shall have the right to require closing at any time following FCC approval which has not yet become final.

10.2 **Failure to Close; Termination.** This Agreement may be terminated at any time prior to the Closing Date, to the extent not already consummated, as follows:

- (a) by the mutual consent of Seller and Buyer;
- (b) by Buyer, upon notice to Seller, if events occur which, without any breach by Buyer of its obligations hereunder, render impossible compliance with one or more of the conditions set forth in Section 9.1 (and such compliance is not waived by Buyer); or

- (c) by Seller, upon notice to Buyer, if events occur which, without any breach by Seller of its obligations hereunder, render impossible compliance with one or more of the conditions set forth in Section 9.2 (and such compliance is not waived by Seller); or
- (d) as provided by Sections 6.4, 8.3, and 8.4 of this Agreement.

In the event of any termination as provided by this Section 10.2, this Agreement shall thereupon become void and of no effect, without any liability on the part of any party.

11 **Additional Remedies.** Notwithstanding anything to the contrary herein contained, it is agreed that the rights and privileges granted to the parties in this Agreement are special and unique and that the parties shall be entitled to seek injunctive and other equitable relief, including without limitation specific performance, in a court of competent jurisdiction, and if such relief is granted, the party who sought that relief shall be entitled to recover from the other party all costs and expenses (including reasonable attorneys' fees) incurred in securing such injunctive or other equitable relief.

12 **Accounts Receivable.** For 90 days after the Closing Date, Seller shall cooperate with Buyer in collecting the accounts receivable by forwarding to Buyer every 7 days without deduction any accounts receivable received by Seller.

13 **Further Covenants.**

13.1 **Transfer Taxes.** All sales or use taxes payable by reason of the sale and transfer of any of the Assets hereunder shall be paid by Seller. All transfer taxes and any tax due under any applicable real property gains tax laws shall be paid by Buyer.

13.2 **Expenses of the Parties.** Except as otherwise expressly provided in this Agreement, all expenses involved in the preparation, negotiation, authorization and consummation of this Agreement and the transactions contemplated hereby, including all fees and expenses of agents, representatives, counsel and accountants, shall be borne solely by the party who shall have incurred the same, and no other party shall have any responsibility with respect thereto.

13.3 **Confidentiality.** Except for necessary disclosure to such party's shareholders, members, partners, directors, officers, employees, counsel, accountants, bankers and other agents, and except for the disclosure contemplated by Section 8 and such disclosure as may be required by law, each party shall keep the provisions of this Agreement confidential both prior and subsequent to the Closing Date. Without limiting the generality of the foregoing, no party shall make any press release or advertisement with respect to the transactions contemplated hereby without the prior consent of Buyer and Seller, unless such party determines, upon the advice of counsel, that such action is required by law.

13.4 **Further Assurances.** Each party shall cooperate with the other, take such further action, and execute and deliver such further documents, as may be reasonably requested by the other party in order to carry out the terms and purposes of this Agreement, including but not limited to such action by Seller that will permit a reasonably satisfactory title insurance policy to be issued to Buyer. Without limiting the generality of the foregoing, from and after the Closing Date:

- (a) each party shall file all tax returns consistent with the allocation of the Purchase Price set forth in Schedule 2.0 (allocating the purchase price exclusively among the categories of buildings, land, equipment, capital improvements, FCC licenses, and goodwill), and no party shall take any position on audit or in litigation which is inconsistent with such allocation if such position would result in the payment of any additional tax by, or the disallowance of any deduction or credit to, any other party; and
- (b) on the request of Buyer, Seller shall take such action and deliver to Buyer such powers of attorney and further instruments of assignment, conveyance or transfer and other documents of further assurance as in the opinion of counsel to Buyer may be reasonably desirable to assure, complete and evidence the full and effective transfer, conveyance and assignment of the Assets and possession thereof to Buyer, its successors and assigns, and the performance of this Agreement by Seller in all respects.

14 **General Provisions.**

14.1 **Survival of Representations, Warranties and Covenants.** The several representations, warranties and covenants of the parties herein contained, and the provisions hereof which by their terms are to be performed after the Closing Date, shall survive the Closing Date for six (6) months and shall be effective for six (6) months regardless of any investigation which may have been or may be made at the time by or on behalf of the party to whom such representations, warranties, covenants and agreements are made.

14.2 **Amendment and Waiver.** This Agreement may be amended only by a writing executed by each of the parties hereto. No waiver of compliance with any provision or condition hereof, and no consent provided for herein, shall be effective unless evidenced by an instrument in writing duly executed by the party sought to be charged therewith. No failure on the part of any party to exercise, and no delay in exercising, any of its rights hereunder shall operate as a waiver thereof, nor shall any single or partial exercise by any party of any right preclude any other or future exercise thereof or the exercise of any other right.

14.3 **Assignment.** No party shall assign or attempt to assign any of its rights or obligations under this Agreement without the prior written consent of each of the other parties

IN WITNESS WHEREOF, the parties have duly executed this Agreement on the date first written above.

SELLER:

Great Northern Radio LLC
By Its Sole Member
Vox Radio Group, LP
By Its General Partner
Vox Media Corporation

By: 

Bruce G. Danziger, President

BUYER:

Vox Communications Group LLC
By Its Managing Member
Vox Broadcasting LLC

By: 

Bruce G. Danziger, Manager

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