

## **WBNV AND WWKC ASSET PURCHASE AGREEMENT**

THIS ASSET PURCHASE AGREEMENT (this "Agreement") is made as of November 1st, 2014 between W. Grant Hafley, P. O. Box 3820 Cottonwood, Arizona 86326 ("Seller") and AVC Communications, Inc. 4988 Skyline Drive Cambridge Ohio 43725 ("Buyer").

### **Recitals**

A. Seller is the sole owner and licensee of radio stations WBNV (FM) Barnesville, Ohio (Facility ID No.70553) and WWKC (FM), Caldwell, Ohio (Facility ID No.70554) (collectively, the "Stations") pursuant to certain authorizations issued by the Federal Communications Commission (the "FCC");

B. Seller holds an Operating License (File No. BLH-910712KC) for full-power commercial FM radio station WBNV (FM), Barnesville, Ohio along with its associated Aural Intercity Relay (WME 730). Seller also holds an Operating License (File No. BLH-890707KB) for a full-power commercial FM radio station WWKC (FM), Caldwell, Ohio along with its associated Aural Intercity Relay (WLI 761).

C. Subject to the terms and conditions set forth herein, Seller desires to sell to Buyer, and Buyer desires to purchase from Seller, the Station Assets (defined below). The parties recognize that control of the Stations may not be conveyed to buyer without the prior consent of the FCC

### **Agreement**

NOW, THEREFORE, taking the foregoing into account, and in consideration of the mutual covenants and agreements set forth herein, the parties, intending to be legally bound, hereby agree as follows:

#### **ARTICLE 1: PURCHASE OF ASSETS**

1.1. **Station Assets.** On the terms and subject to the conditions hereof, at Closing (defined below), Seller shall sell, assign, transfer, convey and deliver to Buyer, and Buyer shall purchase and acquire from Seller, all right, title and interest of Seller in and to the assets of Seller that are used or held for use in the operation of the Stations and listed as hereto (the "Station Assets"). The Station Assets shall consist of:

(a) all licenses, permits and other authorizations issued to Seller by the FCC, including without limitation those described in **Schedule 1** (the "FCC Licenses");

(b) Only those items of Seller's equipment listed in **Schedule 2** (the "Tangible Personal Property");

(c) The Station Assets shall be transferred to Buyer free and clear of liens, claims and encumbrances of any nature whatsoever ("Liens") except for the Assumed Obligations (defined below).

(d) Buyer and Seller shall enter into WBNV Tower Site Lease Agreement for the use of the WBNV tower site.

(e) Buyer and Seller shall enter into WWKC Tower Site Lease Agreement for the use of the WWKC tower site.

1.2 Excluded Assets. Notwithstanding anything to the contrary contained herein, the Station Assets shall not include any assets used in the operation of any other station owned or operated by Seller.

1.3. Assumed Obligations. At Closing, Buyer shall assume the obligations of Seller arising during, or attributable to, any period of time on or after the Closing Date (defined below) under the FCC Licenses. Buyer does not assume, and will not be deemed by execution and delivery of this Agreement or the consummation of the transactions contemplated hereby, to have assumed, any other liabilities or obligations of Seller.

1.4. Purchase Price. In consideration for the sale of the Stations Asset to the Buyer, Buyer shall pay Seller the total sum of ONE MILLION ONE HUNDRED THIRTY SIX THOUSAND, THREE HUNDRED NINETY-EIGHT DOLLARS AND 55/100 (\$1,136,398.55) (the "Purchase Price"). The Purchase Price plus interest at 3.5% shall be paid over a period of 180 months at \$8,123.91 per month. Additional principal amounts may be applied to the Purchase Price at any time during the term of this agreement without penalty as set forth in **Schedule 3** attached hereto the "Amortization Schedule".

1.5. Promissory Note. The payment of the Purchase Price shall be paid by execution by Buyer and delivered to Seller at closing a Promissory Note dated November 1st, 2014 as set forth in **Exhibit A**.

1.6. Closing. The consummation of the sale and purchase of the Station Assets provided for in this Agreement (the "Closing") shall take place on the fifth business day after issuance of the FCC Consent (defined below), unless a petition to deny or other objection is filed against the FCC Application (defined below), in which event at Buyer's option the Closing shall take place on the fifth business day after the date the FCC Consent becomes Final (defined below), in any case subject to the satisfaction or waiver of the conditions required to be satisfied or waived pursuant to Articles 5 or 6 below (other than those requiring the taking of action at the Closing). The date on which the Closing is to occur is referred to herein as the "Closing Date."

1.7. FCC Application.

(a) As soon as practicable (but in no event later than five (5) business days after the date of this Agreement), Buyer and Seller shall file an application with the FCC requesting FCC consent to the assignment of the FCC Licenses from Seller to Buyer (the "FCC Application"). The FCC's consent to the assignment of the FCC Licenses contemplated hereby without any material adverse conditions other than those of general applicability is referred to herein as the "FCC Consent." Seller and Buyer shall make commercially reasonable efforts to obtain the FCC Consent. Each party shall promptly provide the other with a copy of any pleading, order or other document served on it relating to such application and shall furnish all information required by the FCC and shall promptly provide to the FCC any additional information requested in processing the FCC Application.

(b) For purposes of this Agreement, the term “Final” means that action shall have been taken by the FCC (including action duly taken by the FCC’s staff, pursuant to delegated authority) which shall not have been reversed, stayed, enjoined, set aside, annulled or suspended; with respect to which no timely request for stay, petition for rehearing, appeal or certiorari or *sua sponte* action of the FCC with comparable effect shall be pending; and as to which the time for filing any such request, petition, appeal, certiorari or for the taking of any such *sua sponte* action by the FCC shall have expired or otherwise terminated.

## ARTICLE 2: SELLER REPRESENTATIONS AND WARRANTIES

Seller hereby represents and warrants to Buyer as follows:

2.1. Organization. Seller is duly organized, validly existing and in good standing under the laws of the jurisdiction of its organization. Seller has the requisite power and authority to execute, deliver and perform this Agreement and to consummate the transactions contemplated hereby.

2.2. Authorization. This Agreement is a legal, valid and binding agreement of Seller enforceable in accordance with its terms, except in each case as such enforceability may be limited by bankruptcy, moratorium, insolvency, reorganization or other similar laws affecting or limiting the enforcement of creditors’ rights generally and except as such enforceability is subject to general principles of equity (regardless of whether such enforceability is considered in a proceeding in equity or at law).

2.3. No Conflicts. The execution and delivery by Seller of this Agreement and the consummation by Seller of the transactions contemplated hereby does not conflict with any law, judgment, order, or decree to which Seller is subject or require the approval, consent, authorization or act of, or the making by Seller of any declaration, filing or registration with, any third party or any governmental authority, except the FCC Consent.

2.4. FCC Licenses. Seller is the holder of the FCC Licenses described in **Schedule 1**. The FCC Licenses are in full force and effect and have not been revoked, suspended, canceled, rescinded or terminated and have not expired.

2.5. Personal Property. **Schedule 2** contains a list of all Tangible Personal Property included in the Station Assets. Seller has title to the Tangible Personal Property free and clear of Liens. The Tangible Personal Property is being delivered “as-is/where-is” without any warranties except for a warranty of clear title.

2.6. No Finder. No broker, finder or other person is entitled to a commission, brokerage fee or other similar payment in connection with this Agreement or the transactions contemplated hereby as a result of any agreement or action of Seller or any party acting on Seller’s behalf.

### ARTICLE 3: BUYER REPRESENTATIONS AND WARRANTIES

Buyer hereby represents and warrants to Buyer as follows:

3.1. Organization. Buyer is duly organized, validly existing and in good standing under the laws of the jurisdiction of its organization, and is qualified to do business in the jurisdiction in which the Station Assets are located. Buyer has the requisite power and authority to execute, deliver and perform this Agreement and to consummate the transactions contemplated hereby.

3.2. Authorization. The execution, delivery and performance of this Agreement by Buyer has been duly authorized and approved by all necessary action of Buyer and does not require any further authorization or consent of Buyer. This Agreement is a legal, valid and binding agreement of Buyer enforceable in accordance with its terms, except in each case as such enforceability may be limited by bankruptcy, moratorium, insolvency, reorganization or other similar laws affecting or limiting the enforcement of creditors' rights generally and except as such enforceability is subject to general principles of equity (regardless of whether such enforceability is considered in a proceeding in equity or at law).

3.3. No Conflicts. The execution and delivery by Buyer of this Agreement and the consummation by Buyer of the transactions contemplated hereby does not conflict with any organizational documents of Buyer or any law, judgment, order or decree to which Buyer is subject, or require the approval, consent, authorization or act of, or the making by Buyer of any declaration, filing or registration with, any third party or any governmental authority, except the FCC Consent.

3.4. Qualification. Buyer is legally, financially and otherwise qualified to be the licensee of, acquire, own and operate the Stations under the Communications Act and the rules, regulations and policies of the FCC.

3.5. No Finder. No broker, finder or other person is entitled to a commission, brokerage fee or other similar payment in connection with this Agreement or the transactions contemplated hereby as a result of any agreement or action of Buyer or any party acting on Buyer's behalf.

### ARTICLE 4: COVENANTS

Buyer and Seller hereby further covenant and agree as follows:

4.1. Confidentiality. Subject to the requirements of applicable law, all non-public information regarding the parties and their business and properties that is disclosed in connection with the negotiation, preparation or performance of this Agreement shall be confidential and shall not be disclosed to any other person or entity, except the parties' representatives and lenders for the purpose of consummating the transactions contemplated by this Agreement.

4.2. Control. Buyer shall not, directly or indirectly, control, supervise or direct the operation of the Stations prior to Closing. Consistent with the Communications Act and the FCC rules and regulations, control, supervision and direction of all Stations operations prior to Closing shall remain the responsibility of Seller as the holder of the FCC Licenses.

4.3. Seller Covenants. Between the date hereof and the Closing Date, Seller shall: (i) maintain in effect the FCC Licenses, (ii) file with the FCC all required reports with respect to the Stations, (iii) promptly deliver to Buyer copies of any material reports, applications or written responses to the FCC related to the Stations which are filed during such period, (iv) keep all Tangible Personal Property in good operating condition (ordinary wear and tear excepted), and (v) not modify any of the FCC Licenses except as contemplated herein.

4.4. Risk of Loss. Seller shall bear the risk of any loss of or damage to any of the Station Assets at all times until the Closing, and Buyer shall bear the risk of any such loss or damage thereafter.

## ARTICLE 5: CLOSING DELIVERIES

5.1. Seller Documents. At Closing, Seller shall deliver to Buyer such bills of sale, assignments and other instruments of conveyance, assignment and transfer as may be necessary to convey, transfer and assign the Station Assets to Buyer, free and clear of Liens.

5.2. Buyer Documents. At Closing, Buyer shall deliver to Seller an executed Promissory Note dated November 1, 2014 for an amount in accordance with Section 1.4.

## ARTICLE 6: SURVIVAL; INDEMNIFICATION

6.1. Survival. The representations and warranties in this Agreement shall survive Closing for a period of one (1) year from the Closing Date whereupon they shall expire and be of no further force or effect, except those under this Article 6 that relate to Damages (defined below) for which written notice is given by the indemnified party to the indemnifying party prior to the expiration, which shall survive until resolved. The covenants in this Agreement shall survive until performed.

### 6.2. Indemnification.

(a) From and after Closing, 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 resulting from: (i) any breach or default by Seller under this Agreement; or (ii) the business or operation of the Stations before Closing.

(b) From and after Closing, Buyer shall defend, indemnify and hold harmless Seller from and against any and all Damages incurred by Seller arising out of or resulting from (i) any breach or default by Buyer under this Agreement; or (ii) the business or operation of the Stations after Closing.

### 6.3. Procedures.

(a) The indemnified party shall give prompt written notice to the indemnifying party of any demand, suit, claim or assertion of liability by third parties that is subject to indemnification hereunder (a "Claim"), but a failure to give such notice or delaying such notice shall not affect the indemnified party's rights or the indemnifying party's obligations except to the extent the indemnifying party's ability to remedy, contest, defend or settle with respect to such Claim is thereby prejudiced and provided that such notice is given within the time period described in Section 6.1.

(b) The indemnifying party shall have the right to undertake the defense or opposition to such Claim with counsel selected by it. In the event that the indemnifying party does not undertake such defense or opposition in a timely manner, the indemnified party may undertake the defense, opposition, compromise or settlement of such Claim with counsel selected by it at the indemnifying party's cost (subject to the right of the indemnifying party to assume defense of or opposition to such Claim at any time prior to settlement, compromise or final determination thereof).

(c) Anything herein to the contrary notwithstanding:

(i) the indemnified party shall have the right, at its own cost and expense, to participate in the defense, opposition, compromise or settlement of the Claim;

(ii) the indemnifying party shall not, without the indemnified party's written consent, settle or compromise any Claim or consent to entry of any judgment which does not include the giving by the claimant to the indemnified party of a release from all liability in respect of such Claim; and

(iii) in the event that the indemnifying party undertakes defense of or opposition to any Claim, the indemnified party, by counsel or other representative of its own choosing and at its sole cost and expense, shall have the right to consult with the indemnifying party and its counsel concerning such Claim and the indemnifying party and the indemnified party and their respective counsel shall cooperate in good faith with respect to such Claim.

## ARTICLE 7: MISCELLANEOUS PROVISIONS

7.1. Termination. This Agreement may be terminated prior to Closing as follows:

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

(b) by written notice of Buyer to Seller if Seller breaches in any material respect its representations or warranties or defaults in any material respect in the performance of its covenants or agreements herein contained and such breach or default is not cured within the Cure Period (defined below);

(c) by written notice of Seller to Buyer if Buyer breaches in any material respect its representations or warranties or defaults in any material respect in the performance of its covenants or agreements herein contained and such breach or default is not cured within the Cure Period; provided, however, that the Cure Period shall not apply to Buyer's obligation to pay the Purchase Price at Closing; or

(d) by either Buyer or Seller, by written notice to the other, if the FCC Consent has not been obtained within six (6) months after the date the FCC Application is filed with the FCC.

Each party shall give the other prompt written notice upon learning of any breach or default by the other party under this Agreement. The term "Cure Period" as used herein means a period commencing on the date Buyer or Seller receives from the other written notice of breach or default hereunder and continuing until the earlier of (i) twenty (20) calendar days thereafter or (ii) the Closing Date; provided, however, that if the breach or default is non-monetary and cannot reasonably be cured within such period but can be cured before the Closing Date, and if diligent efforts to cure promptly commence, then the Cure Period shall continue as long as such diligent efforts to cure continue, but not beyond the Closing Date. Termination of this Agreement shall not relieve any party of any liability for breach or default under this Agreement prior to the date of termination. Notwithstanding anything contained herein to the contrary, Sections 4.1 (Confidentiality) and 7.7 (Expenses) shall survive any termination of this Agreement.

7.2. Further Assurances. After Closing, each party shall from time to time, at the request of and without further cost or expense to the other, execute and deliver such other instruments of conveyance and assumption and take such other actions as may reasonably be requested in order to more effectively consummate the transactions contemplated hereby.

7.3. Assignment. Neither party may assign this Agreement without the prior written consent of the other party hereto. The terms of this Agreement shall bind and inure to the benefit of the parties' respective successors and any permitted assigns, and no assignment shall relieve any party of any obligation or liability under this Agreement.

7.4. Amendments. No amendment or waiver of compliance with any provision hereof or consent pursuant to this Agreement shall be effective unless evidenced by an instrument in writing signed by the party against whom enforcement of such amendment, waiver, or consent is sought.

7.5. Governing Law. The construction and performance of this Agreement shall be governed by the laws of the State of Ohio without giving effect to the choice of law provisions thereof.

7.6. Notices. Any notice pursuant to this Agreement shall be in writing and shall be deemed delivered on the date of personal delivery or confirmed facsimile transmission or confirmed delivery by a nationally recognized overnight courier service, and shall be addressed as set forth on **EXHIBIT B** attached hereto (or to such other address as any party may request by written notice).

7.7. Expenses. Each party 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.

7.8. Entire Agreement. This Agreement (including the Exhibits and Schedules hereto) constitutes the entire agreement and understanding among the parties hereto with respect to the subject matter hereof, and supersedes all prior agreements and understandings with respect to the subject matter hereof. No party makes any representation or warranty with respect to the transactions contemplated by this Agreement except as expressly set forth in this Agreement.

7.9. Counterparts. This Agreement may be executed in separate counterparts, each of which will be deemed an original and all of which together will constitute one and the same agreement.

IN WITNESS WHEREOF, the parties have executed this Asset Purchase Agreement as of the date first set forth above.

SELLER:

By: W. Grant Hafley  
W. Grant Hafley  
Individual

BUYER:

AVC COMMUNICATIONS, INC.

By: Joel Losego  
Name: Joel Losego  
Title: President