

## **ASSET PURCHASE AGREEMENT**

**THIS ASSET PURCHASE AGREEMENT** (this “Agreement”) is made and entered into as of this 31st day of January, 2017, by and between **SUMMITMEDIA, LLC**, a Delaware limited liability company (“Buyer”) and **IRON CITY RADIO, L.L.C.**, an Alabama limited liability company (“Seller”).

### **WITNESSETH:**

**WHEREAS**, Seller holds the Federal Communications Commission (“FCC”) license for Station W271BN, licensed to Birmingham, Alabama (Facility I.D. 148321) (the “Station”), and the respective affiliated broadcast license(s), all as may be more particularly described on Exhibit A attached hereto;

**WHEREAS**, Seller has agreed to sell the assets of the Station described herein to Buyer, and Buyer has agreed to purchase such assets on the terms and conditions set forth herein.

**NOW, THEREFORE**, for and in consideration of the mutual covenants and agreements herein contained, it is agreed by and between Seller and Buyer that:

1. **APPLICATION TO COMMISSION.** The parties shall cooperate in the prompt preparation and filing, within ten (10) business days from the date of execution of this Agreement, of an application with the Federal Communications Commission (the “Commission”), requesting its consent to the assignment of the licenses and authorizations for the Station to Buyer. Buyer may form a subsidiary to own any or all licenses associated with the Station and Seller acknowledges that such subsidiary may be a party to the application with the Commission. Buyer and Seller shall share equally the filing fee for such application. The parties shall cooperate in the diligent submission of any additional information requested by the Commission with respect to such application, and will take all steps that are necessary and proper to the expeditious prosecution of such application to a favorable conclusion. Neither Buyer nor Seller shall take any intentional action, or intentionally fail to take such action the failure of which to take that would reasonably be expected to have the effect of preventing or materially delaying the receipt of the consent of the Commission.

2. **ASSETS TO BE TRANSFERRED.**

(a) On the Closing Date, as defined in Paragraph 13 hereof, Seller will assign, transfer, sell, convey and deliver to Buyer any and all assets utilized by Buyer in the operation of the Station, including, without limitation:

(i) The FCC licenses and other authorizations (including call signs) issued by the Commission for the operation of the Station listed in Exhibit A;

(ii) The antenna, transmitter and transmission line used in the operation of the Station set forth on Schedule 2(a)(ii) attached hereto (the "Tangible Personal Property"); and

(iii) The Tower Lease Agreement with LIN Television Corporation d/b/a WIAT-TV(as successor-in-interest to NVT Birmingham, LLC) as "Lessor" for the Station's tower/antenna/transmitter site used in the operation of the Station, set forth on Schedule 2(a)(iii) attached hereto (the "Tower Lease Agreement").

(b) Notwithstanding the foregoing, the assets to be transferred by Seller to Buyer do not include: (i) Seller's cash and cash equivalents; (ii) accounts receivable; (iii) any employment agreements or any pension, profit-sharing or cash or deferred compensation (Section 401k) plans or trusts or any other employee benefit plan or arrangement and the assets thereof, if any; (iv) any insurance contracts, accounts payable or notes payable; or (v) those items listed in Schedule 2(b) attached hereto.

(c) The licenses, authorizations, Tangible Personal Property, and any other property to be transferred as described in Paragraph 2(a) above (the "Purchased Assets"), are to be assigned, transferred and conveyed to Buyer, by good and sufficient bills of sale, assignments, and/or other documents of transfer (the "Closing Documents"), satisfactory in form and substance to Seller and to Buyer, its consulting engineer, if any, and its counsel. The Purchased Assets will be conveyed to Buyer free and clear of any claims, liabilities, mortgages, deeds of trust, assignments, liens, pledges, conditions, charges or encumbrances of any nature whatsoever, except for obligations under the Tower Lease Agreement and liens for taxes not yet due and payable as of the Closing Date.

(d) Except with respect to any obligations to perform under the Tower Lease Agreement, Buyer expressly is not assuming any liabilities or obligations of Seller under this Agreement or through the transactions described herein.

3. **PURCHASE PRICE.** The aggregate purchase price ("Purchase Price") to be paid on the Closing Date by Buyer for the Purchased Assets shall be Three Hundred, Thirty-Seven Thousand, and No/Dollars (\$337,000.00), comprised of cash, and paid to Seller by federal wire transfer of same-day funds. All prepaid items and all expenses arising from the operation of the Station shall be prorated between Seller and Buyer as of 12:01 a.m. on the Closing Date in accordance with generally accepted accounting principles and any applicable terms in that certain Local Marketing Agreement dated January 12, 2010, originally between Seller and Cox Radio, Inc. (which assigned its interests therein to Buyer) (the "Local Marketing Agreement"), as amended, except that to the extent an item is not known as of the Closing Date, the parties will either estimate the item or defer proration of such item until it is known.

4. **REPRESENTATIONS AND WARRANTIES OF SELLER.** Seller hereby represents and warrants that:

(a) Seller is and as of the Closing Date will be a limited liability company organized under the laws of and duly qualified to transact business in the State of Alabama. This Agreement constitutes the legal, valid and binding obligation of Seller, enforceable in accordance with its terms. Seller has taken all necessary action to authorize the execution, delivery and performance of this Agreement;

(b) Subject to obtaining the approval of the Commission, and the consent of the LIN Television Corporation d/b/a WIAT-TV(as successor-in-interest to NVT Birmingham, LLC) as "Lessor" to assign the Station's Tower Lease Agreement to Buyer, the execution, delivery and performance of this Agreement by Seller (i) does not and will not require the consent of any third party; and (ii) does not and will not conflict with, result in a breach of, or constitute a default under any agreement, instrument, license or permit to which Seller is a party or by which Seller may be bound, or under any law, judgment, order, decree, rule, regulation or ruling of any court or governmental instrumentality, which is applicable to Seller;

(c) Seller is and on the Closing Date will be the holder of the Commission authorizations and licenses for the Station as authorized under the Communications Act of 1934, as amended, and, to the best knowledge of Seller, such authorizations and licenses are in full force and effect, and Seller's ownership and operation of the Station are in compliance with the Communications Act of 1934, as amended, the Commission's rules and regulations. Seller does not know of any reason which would disqualify it under the Communications Act of 1934, as amended, from owning or operating the Station, or which would cause the Commission to deny its consent to the assignment of the authorizations and licenses of the Station to the Buyer;

(d) The Seller leases Station's tower/antenna/transmitter site space from LIN Television Corporation d/b/a WIAT-TV (as successor-in-interest to NVT Birmingham, LLC) which is the "Lessor" under the Tower Lease Agreement. Under the Tower Lease Agreement in Section 8.03, the Lessor is responsible for Federal Aviation Administration ("FAA") "no hazard" determinations for the antenna structure and so far as Seller is aware has obtained such determinations as the tower is registered in the name of the Lessor with the Commission as tower ASR1037278;

(e) Seller owns and has good title to the Tangible Personal Property. All items of transmitting and other broadcast equipment included in the Purchased Assets will permit the Station to operate in accordance with the terms of the licenses and authorizations issued by the Commission, all applicable Commission rules and regulations and with all other applicable laws, rules and regulations; provided however, the Buyer uses certain of its owned equipment to provide programming for the Station pursuant to the Local Marketing Agreement between the Buyer and Seller. The Tangible Personal Property is being assigned to Buyer in its current condition. Buyer is aware of and satisfied with the operation of the Tangible Personal Property;

(f) No owned real property is part of the Purchased Assets;

(g) The Lessor under the Tower Lease Agreement under Section 8.03 is responsible for conforming the tower to meet applicable Environmental Protection Agency ("EPA") regulations, as they apply to broadcasting stations whose facilities produce non-ionizing radio emissions. Seller is aware of no violations of applicable EPA regulations by the Lessor or of the Station;

(h) Other than the W271BN, the call sign of the Station, and goodwill, if any, associated therewith, to knowledge of Seller, there are no intellectual property rights owned by or licensed to Seller and exclusively held for use in the business and operation of the Station, (the "Business Intellectual Property"). As Buyer is aware, Buyer provides programming for the Station pursuant to a Local Marketing Agreement and accordingly Buyer uses its own intellectual property rights and has established good will in providing programming and promoting its activities in programming the Station;

(i) Except for any rulemaking proceedings generally affecting the radio broadcasting industry, to the best knowledge of Seller, there are no claims, legal actions, suits, or governmental investigations in progress or pending, or to Seller's knowledge, threatened with respect to Seller's ownership or operation of the Station or otherwise relating to the Purchased Assets; and

(j) Seller has not engaged a broker in connection with this transaction.

**5. REPRESENTATIONS AND WARRANTIES OF BUYER.** Buyer represents and warrants that:

(a) Buyer is and as of the Closing Date will be a limited liability company organized under the laws of the state of Delaware and duly qualified to transact business in the State of Alabama.

(b) Buyer has taken all necessary action to authorize the execution, delivery and performance of this Agreement. This Agreement constitutes the legal, valid and binding obligation of Buyer, enforceable in accordance with its terms.

(c) Buyer has not engaged a broker in connection with this transaction.

(d) Buyer is qualified under the rules and regulations of the FCC to be the holder of an FCC Licenses and to own the Purchased Assets, and has funds available on hand or through financing commitments enabling payment of the Purchase Price, as adjusted, at Closing.

(e) There is no decree, judgment, order, claim, litigation or proceeding pending before any court, commission, or agency or, to Buyer's knowledge, threatened against Buyer which seeks to enjoin or prohibit, or which otherwise questions the validity of, any action taken or to be taken in connection with this Agreement.

**6. COVENANTS.**

(a) Seller covenants and agrees that between the date hereof and the time of the Closing, Seller shall conduct the business of the Station in the ordinary course in all material respects. Subject to and without limiting the foregoing, Seller shall, with respect to the Station, use commercially reasonable efforts to preserve intact the Station and the business organization (including employees) of the Station. Without limiting the foregoing, between the date hereof and Closing, except as permitted by this Agreement or with the prior written consent of Buyer, which shall not be unreasonably withheld, delayed or conditioned, Seller shall:

(i) subject to the other provisions of this Paragraph 6, and the Local Marketing Agreement with the Buyer whereby Buyer provides programming for the Station, operate the Station in the ordinary course and conduct the Station in all material respects in accordance with the Communications Laws and with all other applicable laws, regulations, rules and orders;

(ii) not adversely modify, and in all material respects maintain in full force and effect, the Commission licenses and authorizations for the Station;

(iii) other than for the purpose of disposing of obsolete or worthless assets, not (A) sell, lease, license or dispose of or agree to sell, lease, license or dispose of any of the Purchased Assets unless replaced with similar items of substantially equal or greater value and utility, (B) create, assume or permit to exist any Liens upon any of the Purchased Assets, except for Permitted Liens, or (C) merge, dissolve or liquidate;

(iv) maintain and replace the Purchased Assets, in the ordinary course of business;

(v) promptly enter into with the Commission, and comply, in all material respects, with the terms of, tolling, escrow, assignment and assumption or similar agreements as requested by the Commission to obtain grant of the application described in Paragraph 1 with respect to the Station;

(vi) not agree, commit or resolve to take any actions prohibited by this Paragraph 6;

(vii) not make any engineering or technical change which reduces the power or coverage of the Station or which requires the consent of or filing with the Commission, except as permitted by Commission rules for periods of maintenance or as reasonably necessary due to matters outside of Seller's reasonable control;

(viii) promptly deliver to Buyer copies of any reports, applications or other documents filed with the Commission; and

(ix) promptly notify Buyer of (A) any Broadcast Interruption (defined below), (B) any inquiry, investigation or proceeding which, to the knowledge of Seller, has been initiated by the Commission or any other governmental entity

relating to the Station, and (C) any petition to deny, informal objection or other objection that has been filed against the Station or which could reasonably affect Buyer's operation of the Station.

As used in this Agreement, "Broadcast Interruption" means (i) a Station is off the air or operating at a power level resulting in a material reduction in coverage, or (ii) if the regular broadcast transmissions of a Station in the normal and usual manner are otherwise interrupted or discontinued.

(b) Buyer and Seller mutually covenant and agree that, contemporaneously with the Closing, the Local Marketing Agreement, as amended, shall terminate and be of no further force or effect, and no further amounts shall be payable from Buyer to Seller thereunder.

7. **INDEMNIFICATION.** Seller shall indemnify and hold harmless the Buyer, its officers, employees and agents from and against any and all losses, claims, debts, demands, obligations, costs, expenses and fees, including attorney's fees, arising out of or resulting from (i) the breach of any of the representations, warranties, covenants, agreements or provisions of this Agreement by Seller, (ii) the exercise or enforcement by the Buyer of any right, privilege or option granted to it in this Agreement and (iii) the ownership or operations of the Station prior to Closing. Likewise, Buyer shall indemnify and hold harmless Seller, its respective officers, employees and agents from and against any and all losses, claims, debts, demands, obligations, costs, expenses and fees, including attorney's fees, arising out of or resulting from (i) the breach of any of the representations, warranties, covenants, agreements or provisions of this Agreement by Buyer, (ii) the exercise or enforcement by Seller of any right, privilege or option granted to it in this Agreement and (iii) the ownership or operations of the Station as of or after Closing.

8. **EXPENSES.** Subject to Paragraph 1 hereof, Buyer and Seller shall each pay their respective costs and expenses for attorneys, accountants, brokers and advisors retained by or representing them in connection with this Agreement and the transactions described herein. Buyer and Seller shall each pay one-half of all sales, use and transfer taxes arising out of this Agreement.

9. **ASSUMPTION OF LIABILITIES AND OBLIGATIONS.** Except as set forth in subparagraph (b), below, as of the Closing Date, Buyer shall pay, discharge and perform all obligations and liabilities arising out of events occurring on or after the Closing Date related to Buyer's ownership of the Purchased Assets, the Tower Lease Agreement, or its conduct of the business or operations of the Station on or after the Closing Date. All other obligations and liabilities of Seller, including any that relate to Seller's ownership or operation of the Station or the Purchased Assets, or the Tower Lease Agreement prior to the Closing Date, and those relating to contractual obligations, if any, of Seller prior to Closing Date relating to the Station or the Purchased Assets, other than Buyer's obligations under the Local Marketing Agreement between the parties, shall remain and be the obligations and liabilities solely of Seller.

**10. CONDITIONS PRECEDENT OF SELLER.** All obligations of Seller under this Agreement are subject to the fulfillment, prior to or at the Closing Date, of each of the following conditions:

(a) The Commission shall have granted its approval of the assignment of the Station's licenses and authorizations to Buyer through a final, non-appealable order.

(b) LIN Television Corporation d/b/a WIAT-TV(as successor-in-interest to NVT Birmingham, LLC) as "Lessor" shall not have cancelled its consent to the assignment and assumption of the Tower Lease Agreement from Seller to the Buyer reflected in its January 25, 2017, execution of the Consent to Assignment and Estoppel Agreement, attached in Schedule 10(b);

(c) Buyer shall have executed the Assignment and Assumption of Tower Lease Agreement, attached in Schedule 10(c);

(d) Buyer shall have paid the Purchase Price.

(e) All representations and warranties of Buyer made herein shall be true and correct as of the Closing Date, and Buyer shall have delivered to Seller a certificate executed by Buyer to such effect.

(f) As of the Closing Date, Buyer shall have complied with all covenants and conditions of this Agreement, and Buyer shall have delivered to Seller a certificate executed by Buyer to such effect.

(g) As of the Closing Date, no claim, action, suit or proceeding concerning the Purchased Assets or seeking to enjoin, restrain, or prohibit the consummation of this transaction shall be pending before any state, local or federal court, the FCC, or any other governmental agency or authority; and

(h) Buyer shall have executed and delivered to Seller the Closing Documents.

**11. CONDITIONS PRECEDENT OF BUYER.** All obligations of Buyer under this Agreement are subject to the fulfillment, prior to or at the Closing Date, of each of the following conditions:

(a) The Commission shall have granted its approval of the assignment of the Station's licenses and authorizations to Buyer through a final, non-appealable order without any conditions adverse to Buyer.

(b) There shall not have been any material adverse change in the condition or quality of the Purchased Assets or the Station.

(c) LIN Television Corporation d/b/a WIAT-TV(as successor-in-interest to NVT Birmingham, LLC) as "Lessor" shall not have cancelled its consent to the assignment and assumption of the Tower Lease Agreement without revision of the

terms and conditions currently set forth therein from Seller to the Buyer reflected in its January 25, 2017, execution of the Consent to Assignment and Estoppel Agreement, attached in Schedule 10(b);

(d) Seller shall have executed the Assignment and Assumption of Tower Lease Agreement, attached in Schedule 10(c);

(e) Seller shall have executed and delivered to Buyer the Closing Documents.

(f) All representations and warranties of Seller made herein shall be true and correct as of the Closing Date, and Seller shall have delivered to Buyer a certificate executed by the Seller to such effect.

(g) As of the Closing Date, Seller shall have complied with all covenants and conditions of this Agreement, and Seller shall have delivered to Buyer a certificate executed by Seller to such effect.

(h) Seller shall have delivered to Buyer the attached confirmation in Schedule 11(h) from the Alabama Secretary of State of the existence of Seller and filing of Annual Reports.

## **12. TERMINATION.**

(a) If the conditions to Closing set forth in Paragraphs 10 and 11 of this Agreement shall not have been satisfied within a period of twelve (12) months from the date of this Agreement, either Seller or Buyer may thereafter terminate this Agreement by giving written notice to the other; provided, however, that the party desiring to terminate shall not then be in breach of this Agreement and have been notified in writing of such breach by the other party hereto.

(b) If, prior to the Closing Date, any damage or destruction of any of the Purchased Assets materially impairs the value of the Station or materially impairs signal transmission by the Station in accordance with the licenses and authorizations issued by the Commission, either Seller or Buyer may terminate this Agreement; provided, however, that the party desiring to terminate shall not then be in breach of this Agreement and have been then notified in writing of such breach by the other party thereof and such party shall not have caused or materially contributed to such damage or destruction. Neither Seller nor Buyer shall have recourse against the other if termination occurs as a result of the impairment or transmission problems described in this Paragraph which are not the fault of either party.

(c) If either Buyer or Seller shall be in breach of this Agreement, and such breach shall not have been cured after thirty (30) days' written notice, the other party, if not then in breach and having received written notice thereof, may terminate this Agreement. In the event of a breach of this Agreement by Seller, Buyer alternatively shall have a right of specific performance of this Agreement (plus recovery of reasonable attorneys' fees), as Buyer and Seller agree the Purchased Assets are unique assets.



13. **CLOSING.** The Closing Date, as used throughout this Agreement, means the date on which the consummation of the transaction contemplated hereby occurs. The Closing Date shall be within ten (10) days following the order of the Commission approving the application for assignment of the licenses of the Station to Buyer through a final, non-appealable order, subject to the satisfaction of any other conditions precedent set forth above; provided however, the parties may agree to waive the need for a final, non-appealable order and mutually agree on a Closing Date after release of the initial order approving the application for assignment of the licenses of the Station to Buyer. The parties hereby acknowledge that the Closing as contemplated in this Agreement shall be conditioned upon all necessary conditions and prerequisites for the sale and purchase for each, including Commission consent, having been satisfied.

14. **CONTROL OF THE STATION.** Prior to the Closing Date, Buyer shall not, directly or indirectly, control, supervise or direct, the operations of the Station; such operations (including supervision of programming, personnel and finances) shall be the sole responsibility of Seller until this Agreement is consummated.

15. **SURVIVAL.** The representations, warranties, and indemnifications of Buyer and Seller set forth herein, including, without limitation, those set forth in Paragraphs 4, 5, 6, and 7, shall survive the Closing Date for Twelve (12) months.

16. **CONSTRUCTION.** This Agreement shall be construed and enforced in accordance with the laws of the State of Alabama, without regard to the conflict of laws provisions thereof.

17. **SUCCESSORS AND ASSIGNS.** Seller may not assign its rights or obligations hereunder to any other party without Buyer's prior written consent. Buyer may freely assign this Agreement to any other affiliated party, including, without limitation, an entity wholly-owned by Buyer upon the provision of written notice to the Seller. This Agreement shall inure to the benefit of and be binding upon the permitted successors and assigns of the respective parties hereto.

18. **COOPERATION.** Seller and Buyer shall each cooperate, take such actions and execute and deliver such documents as may be reasonably requested by either party in order to carry out the provisions and purposes of this Agreement.

19. **NOTICES.** Any notice, demand or request required or permitted to be given under the provisions of this Agreement shall be in writing and shall be deemed to have been duly delivered on the date of personal delivery or the date of receipt if sent by registered or certified mail, postage prepaid and return receipt requested, and shall be deemed to have been received on the date of personal delivery or on the date set forth on the return receipt, to the following addresses or to such other address as any party may request, in the case of Seller, by notifying Buyer, and in the case of Buyer, by notifying Seller:

To Buyer: SummitMedia LLC  
2700 Corporate Drive, Suite 115  
Birmingham, Alabama 35242  
Attn: Darryl Grondines

With a copy, which shall not constitute notice, to:

Butler Snow LLP  
1819 5<sup>th</sup> Avenue North, Suite 1000  
Birmingham, Alabama 35203  
Attn: Russell L. Irby, III

To Seller: Iron City Radio, L.L.C.  
1359 Carmichael Way  
Montgomery, AL 36106  
Attn: Allan G. Stroh

With a copy, which shall not constitute notice, to:  
Fletcher, Heald & Hildreth, PLC  
1300 North 17<sup>th</sup> Street, 11<sup>th</sup> Floor  
Arlington, VA 22209  
Attn: M. Scott Johnson

20. **COUNTERPARTS.** This Agreement may be executed in one or more counterparts, each of which will be deemed an original but all of which together will constitute one and the same instrument.

21. **ENTIRE AGREEMENT.** This Agreement constitutes the entire agreement between the parties and supersedes all prior agreements or understandings.

**[SIGNATURES ON FOLLOWING PAGE]**

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

**SELLER:**

**IRON CITY RADIO, L.L.C.**

By: \_\_\_\_\_

Allan G. Stroh, Managing Member

**BUYER:**

**SUMMITMEDIA, LLC**

By: \_\_\_\_\_

Darryl Grondines  
Chief Financial Officer

**[Signature Page to Asset Purchase Agreement]**

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

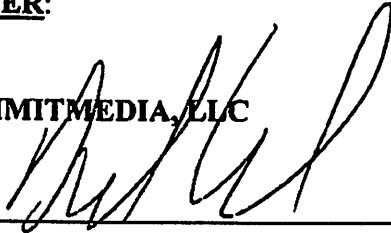
**SELLER:**

**IRON CITY RADIO, L.L.C.**

By: \_\_\_\_\_  
Allan G. Stroh, Managing Member

**BUYER:**

**SUMMITMEDIA, LLC**

By:  1/21/17  
Darryl Grondines  
Chief Financial Officer

**[Signature Page to Asset Purchase Agreement]**

**SCHEDULE 2(a)(ii)**

**Tangible Personal Property**

The antenna, transmitter and transmission line used by the Station and located at the tower/antenna/transmitter site. The Buyer has inspected the foregoing equipment and is satisfied with the condition of the Tangible Personal Property.