

## **ASSET PURCHASE AGREEMENT**

**THIS ASSET PURCHASE AGREEMENT** (the “Agreement”) is made and entered into this 29th day of September 2017, by and between Southern TV Corporation, Debtor-in-Possession, a Florida corporation (“Debtor”) and LOW COUNTRY MEDIA 35, LLC, a South Carolina limited liability company (“Buyer”).

### **INTRODUCTION**

**WHEREAS**, Debtor is subject to a case filed under Chapter 11 of the title 11 of the United State Code (11 U.S.C. §§ 101, *et seq.*) (the “Bankruptcy Code”) in the United States Bankruptcy Court, Southern District of Georgia, Savannah Division (the “Court”), with the proceeding identified as *In Re: Southern TV Corporation, Debtor* (Case No. 17-40134-EJC); and

**WHEREAS**, Debtor is the holder of broadcast licenses issued by the FCC (defined below) for television stations WGSA(TV), Channel 35, Baxley, Georgia (FCC License File No. BLCDT-20071120AJC, Facility ID No. 69446), W32BJ, Channel 32, Beaufort, Etc., South Carolina (FCC License File No. BLTT-19970401JB, Facility ID No. 69449, and W41CR, Channel 41, Hinesville-Richmond, Georgia (FCC License File No. BLTTL-20060605AAA, Facility ID No. 69450) (the “Stations”); and

**WHEREAS**, pursuant to an Order of the Court, dated September 21, 2017, Debtor was authorized to hold an Auction for the Purchased Assets (defined below); and

**WHEREAS**, on September 21, 2017, Buyer was the highest bidder at the Auction conducted by Debtor; and

**WHEREAS**, Debtor desires to sell and Buyer desires to purchase the Purchased Assets pursuant to the terms and conditions hereinafter set forth and subject to the prior approval of the Court.

### **AGREEMENT**

**NOW, THEREFORE**, in consideration of the mutual covenants and agreements set forth herein and other good and valuable consideration, Debtor and Buyer agree as follows.

### **ARTICLE I**

#### **DEFINITIONS**

The following terms, as used in this Agreement, shall have the meanings set forth in this Section:

“Buyer” shall have the meaning set forth in the introductory paragraphs to this Agreement.

“Closing” shall mean the consummation of the transactions contemplated herein pursuant to the terms and conditions of this Agreement, including the receipt of a Final Order.

“Closing Date” shall mean a date to be agreed upon between Debtor and Buyer not later than twenty (20) days following date on which the Grant becomes Final, or on such other date or at such other time or place or manner (e.g. by correspondence) as is mutually agreed upon by the parties hereto.

“Court” shall have the meaning set forth in the introductory paragraphs to this Agreement.

“Debtor” shall have the meaning set forth in the introductory paragraphs to this Agreement.

“Deposit” shall have the meaning set forth in Section 2.2.

“FCC” shall mean the Federal Communications Commission or successor commission or regulatory agency.

“FCC License Assignment” shall have the meaning set forth in Section 2.1.

“Final” shall mean a Grant or an Order which has not been stayed, vacated or otherwise rendered ineffective when either (i) all applicable periods for reconsideration, review, appeal or setting aside (“Appeal”) of such Grant or Order shall have passed without an action having been taken, or (ii) if any such Appeal shall have been taken, such Appeal shall have been dismissed and all applicable periods for further Appeal of the Grant or Order shall have passed.

“Grant” shall mean the FCC’s grant of the approval of the assignment of the License from the Debtor to Buyer.

“Grant Date” shall mean the date on which the Grant becomes effective, without regard to any period for review of appeal of said approval.

“H&A” shall have the meaning set forth in Section 3.4.

“Licenses” shall mean the federal broadcast licenses currently held by Debtor and issued by the FCC granting authority to operate the Stations.

“Purchased Assets” shall mean all of Debtor’s right, title and interest in and to the FCC Licenses for the Stations, and any and all other licenses, rights, permits and authorizations issued to Debtor by the FCC or any other governmental or regulatory agency.

“Order” shall mean the Order of the Court approving the sale and transfer of the Purchased Assets to be sold hereunder to Buyer, free and clear of all liens, claims and encumbrances.

“Stations” shall have the meaning set forth in the introductory paragraphs to this Agreement.

## **ARTICLE II**

### **PURCHASE AND SALE OF PURCHASED ASSETS**

2.1. Purchase and Sale of Purchased Assets. Upon the terms and subject to the conditions of this Agreement, including, but not limited to entry of an Order by the Court, on the Closing Date, Debtor will sell, transfer, assign, convey and deliver, all of the Debtor’s right, title and interest in and to all of the Purchased Assets to Buyer, AS IS and WHERE IS without any warranties or any guaranties as to the condition or quality of or title to any of the Purchased Assets transferred pursuant hereto. Buyer will purchase the Purchased Assets from Debtor, as provided in the Order, for the consideration set forth in this Agreement. The sale, transfer, assignment and conveyance of the Purchased Assets to be purchased hereunder will be made by the execution and delivery at the Closing of an Assignment of License (“FCC License Assignment”) and such other documents as may be reasonably requested by Buyer.

2.2. Deposit. Coincident with the Auction, Buyer delivered to Debtor a nonrefundable deposit in the amount of ONE HUNDRED TWENTY THOUSAND Dollars (\$120,000) (the “Deposit”). Pursuant to the Court, the Deposit shall be held in trust by Fletcher, Heald & Hildreth, PLC. Upon the Closing, the Deposit shall be credited against the Purchase Price.

2.3. Consideration for Sale and Transfer. In consideration for the purchase and sale of the Purchased Assets herein provided, Buyer shall pay to Debtor the total amount of ONE MILLION TWO HUNDRED THOUSAND Dollars (\$1,200,000.00) (the “Purchase Price”) via wire transfer or other readily available funds, which amount due at the Closing shall be reduced by the amount of the Deposit.

## **ARTICLE III**

### **PERMITS, WARRANTIES, OR COVENANTS MADE BY DEBTOR**

3.1. Permits and Licenses. Buyer and Debtor agree that Exhibit 3.1 accurately describes the FCC Licenses of Debtor for the Stations. Buyer acknowledges that it is responsible for obtaining its own licenses and permits that it may require to conduct its business and to operate the Stations other than the Licenses.

3.2. No Warranties Made by Debtor. The sale of the Purchased Assets to be sold hereunder is made without any representation or warranty as to the condition or quality of any of the Purchased Assets or as to title to any of the Purchased Assets to be purchased hereunder, or as to any other matter relating to any or all of the Purchased Assets or as to the merchantability or fitness of any of the Purchased Assets for any purpose whatsoever. Buyer understands and acknowledges that Buyer has not been influenced to enter into this transaction by Debtor or any of Debtor's agents, employees, or representatives and that Buyer has inspected or caused inspections of the Purchased Assets to be made, satisfactory for Buyer to enter into this Agreement.

3.3 Covenant to Cooperate in Resumption of Station Operations. It being understood that the Stations are off the air and must resume operations pursuant to licensed or otherwise authorized parameters (*i.e.*, with facilities and/or parameters granted Special Temporary Authorization by the FCC) on or before April 21, 2018, Debtor hereby covenants to cooperate with and assist Buyer, at Buyer's expense, in any efforts Buyer may undertake to resume operations of one or more of the Stations prior to Closing, including submitting and prosecuting filings with the FCC and/or entering into temporary operations agreements, such as a Time Brokerage Agreement, whereby Buyer would provide programming to one or more of the Stations prior to the Closing.

3.4 Broker. The sole broker for this transaction is Hadden & Associates, Inc. ("H&A"), employed and retained by Debtor and approved by the Court in such capacity. Debtor is solely responsible for any broker fees owed to H&A.

## **ARTICLE IV**

### **REPRESENTATIONS AND WARRANTIES OF BUYER**

4.1. Authority, etc. Buyer is a corporation duly organized, validly existing and in good standing under the laws of the state of its incorporation and shall, not later than the date of the Final Order, be duly authorized to conduct business in the State of Georgia. The execution and consummation of the transactions contemplated hereby are within Buyer's power, have been duly authorized by all necessary action and do not contravene or constitute a default under any provision of the charter or by-laws of Buyer or of applicable law or regulation or of any agreement, judgment, injunction, order, decree or other instrument binding upon Buyer or its properties. The execution, delivery and performance by Buyer of this Agreement will require no action by or in respect of, or filing with, any governmental body, agency or official other than the FCC consent described in Article V.

4.2. FCC Matters. Buyer is legally, financially and otherwise qualified to be the licensee of, acquire, own and operate the Station under the Communications Act of 1934, as amended, and the rules, regulations and written policies of the FCC. There are no facts known to Buyer that would, under existing law and the existing rules, regulations, written policies and procedures of the FCC, disqualify Buyer as an assignee of the Licenses or as the owner and operator of the Stations. No waiver of any FCC rule or

written policy on behalf of Buyer is necessary for the consent of the FCC described in Article V hereof to be obtained. There is no action, suit or proceeding pending or to Buyer's knowledge, threatened against Buyer which questions the legality or propriety of the transactions contemplated by this Agreement or could materially adversely affect Buyer's ability to perform its obligations hereunder.

4.3 No Broker. Other than H&A, no other 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 for which Debtor could become liable or obligated.

4.4 Financial Ability. Buyer represents and warrants that it has available cash-on-hand or financing under existing credit facilities sufficient to fund the Purchase Price hereunder.

## **ARTICLE V**

### **TRANSFER OF FCC LICENSES AS CONDITION OF SALE**

5.1. Application. Buyer and Debtor acknowledge that the FCC Licenses may not lawfully be assigned from the Debtor to Buyer without the prior consent of the FCC and agree to join and cooperate in preparing an application to the FCC for consent to such assignment. Each party will be responsible for preparing its own section of the application at its own expense. The application shall be submitted to the FCC within five (5) days after the date of this Agreement. Buyer shall pay the filing fees required by the FCC in connection with the application.

5.2. Prosecution. Both parties shall prosecute the assignment application in good faith, including promptly providing any additional information which the FCC requests or requires; and neither party shall knowingly take any action or fail to take any action that would jeopardize FCC approval of the assignment application except pursuant to its right of termination under this Agreement. This Section 5.2 shall not be construed as requiring either party to take any action, or incur any expense, to oppose any challenge to the assignment application which may be filed by any private party or to appear or participate in any administrative hearing or judicial appeal from any dismissal or denial of the assignment application.

5.3. Drop-Dead Date. If the FCC designates the assignment application or any other application pertaining to the Stations for hearing at any time for any reason, or if the FCC has not granted the assignment application within one year (365 days) after it is tendered to the FCC, then Buyer shall have the right to terminate the Agreement without liability upon written notice to Debtor and Debtor shall dismiss the application. Effective upon such dismissal, the obligations to acquire Purchased Assets and assign the Licenses under this Agreement shall cease.

5.4. Control of the Station. This Agreement shall not be consummated prior to the Grant Date. Until the Closing, Buyer shall not, directly or indirectly, control, supervise, direct or attempt to control, supervise or direct the operation of the Stations. After the Closing, Debtor shall not directly or indirectly control or attempt to control or operate the Stations, and such control and operation shall be the sole responsibility of Buyer. Debtor and Buyer hereby certify, pursuant to Section 73.1150 of the FCC Rules, that Debtor will retain no right of reversion or other interest in the Licenses or the Purchased Assets after the Closing.

## **ARTICLE VI**

### **CONDITIONS PRECEDENT TO OBLIGATIONS OF DEBTOR**

Unless waived by Debtor, such waiver to be approved by the Court, the obligations of Debtor to sell the Purchased Assets to be purchased hereunder are subject to the satisfaction on or prior to the Closing of the following conditions: (i) the Court shall have entered the Order and the Order shall have become Final; (ii) Buyer shall have paid to Debtor the Purchase Price in accordance with the terms hereof; (iii) Buyer shall have delivered to Debtor the documents identified in Section 8.2 hereof, which documents shall be in form and substance reasonably satisfactory to Debtor and its counsel; (iv) the representations and warranties of Buyer contained herein shall be true and correct in all material respects as if made on the Closing Date; (v) Buyer shall have fulfilled all of its obligations hereunder; and (vi) the FCC shall have issued its Grant approving assignment of the Licenses to Buyer and the Grant shall have become Final, unless waived by Buyer pursuant to Section 8.4 hereof.

## **ARTICLE VII**

### **CONDITIONS PRECEDENT TO OBLIGATIONS OF BUYER**

Unless waived by Buyer, the obligations of Buyer to buy the Purchased Assets are subject to the satisfaction on or prior to the Closing of the following conditions: (i) the Court shall have entered the Order and the Order shall have become Final; (ii) Debtor shall have delivered or caused to be delivered to Buyer the items identified in Section 8.1 hereof, which items shall be in form and substance reasonably satisfactory to Buyer and its counsel; and (iii) the FCC shall have issued its Grant approving assignment of the Licenses to Buyer.

## **ARTICLE VIII**

### **CLOSING**

8.1. Debtor's Responsibilities. At the Closing, Debtor shall execute and deliver or cause to be delivered to Buyer the FCC License Assignment document signed by Debtor.

8.2. Buyer's Responsibilities. At the Closing, Buyer shall (i) pay to Debtor the Purchase Price (less the amount of the Deposit) in immediately available funds; (ii) deliver to Debtor a certificate of an officer of Buyer regarding incumbency, charter and bylaws and certifying that Buyer's representations and warranties are true and correct in all material respects as of the date hereof and as of the Closing Date, and (iii) delivery to Debtor a good standing certificate and certified organizational documents from the Secretary of State of Georgia. Unless otherwise agreed, each party shall be responsible for all legal and other fees incurred by such party in connection with the negotiation of this Agreement and consummation of the transactions contemplated hereby.

8.3. Other Actions. The parties will take such other actions and execute such other documents reasonably requested or necessary to consummate the transactions contemplated hereby.

8.4 Closing Date. The Closing shall occur within twenty (20) days after the date by which the FCC Grant shall have become Final, or on an earlier date selected by the Buyer after the Grant Date.

## **ARTICLE IX**

### **DEFAULT**

In the event Buyer fails to tender the balance of the Purchase Price at the time and place provided herein or otherwise fails to perform any of its obligations in accordance with the terms and conditions of this Agreement, Debtor may resell the Purchased Assets to be purchased hereunder without notice to Buyer and without previously tendering a conveyance to Buyer. Such resale shall not in any way release Buyer from liability for breach of contract or otherwise and, in case of such default, Debtor shall, whether or not the Purchased Assets to be sold hereunder are resold, retain the Deposit in addition to any other remedies available at law or equity damages.

## **ARTICLE X**

### **MISCELLANEOUS**

10.1. Entire Agreement. This Agreement and the Exhibits delivered pursuant hereto, constitute the entire agreement between the parties hereto pertaining to the subject matter hereof and supersede all prior and contemporaneous agreements, understandings, negotiations and discussions, whether written or oral, of the parties, and there are no representations, warranties or other agreements between the parties in connection with the subject matter hereof.

10.2. Section Headings. The section headings are for reference only and will not limit or control the meaning of any provision of this Agreement.

10.3. Waiver. No delay or omission on the part of any party hereto in exercising any right hereunder will operate as a waiver of such right or any other right under this Agreement.

10.4. Exhibits. All Exhibits referred to in this Agreement are integral parts of this Agreement as if fully set forth herein and all statements appearing therein shall be deemed to be representations.

10.5. Successors and Assigns. This Agreement will inure to the benefit of and bind the respective successors and assigns of the parties hereto. Nothing expressed or referred to in this Agreement is intended or will be construed to give any person other than the parties to this Agreement or their respective successors or permitted assigns any legal or equitable right, remedy or claim under or in respect of this Agreement or any provision contained herein, it being the intention of the parties to this Agreement that the Agreement be for the sole and exclusive benefit of such parties or such successors and assigns and not for the benefit of any other person. Notwithstanding the above, neither Debtor nor Buyer will have the right to assign their rights and obligations hereunder.

10.6. Amendments. This Agreement may be amended, but only in writing, signed by the parties hereto.

10.7. Counterparts. This Agreement may be executed in any number of counterparts, each of which will be an original, but all of which together will comprise one and the same instrument.

10.8. Time is of the Essence. Time is of the essence with respect to all aspects of this Agreement.

10.9. Notices. All notices, requests, demands and other communications required or permitted to be given or made under this Agreement will be in writing and will be delivered personally or will be sent postage prepaid by United States registered or certified mail, return receipt requested or via overnight courier, as follows:

(a) To Debtor at:

Southern TV Corporation, DIP  
c/o James L Drake, Jr.  
7 E Congress St # 901  
Savannah, GA 31401  
Phone: 912-790-1533

With a copy to:

Davina Sashkin  
Fletcher Heald & Hildreth, PLC  
1300 N. 17<sup>th</sup> Street, 11<sup>th</sup> Floor  
Arlington, VA 22314  
Phone: 703-812-0458



(b) To Buyer at:

Low Country Media 35, LLC  
c/o Jeffrey C. Winemiller  
1011 Jonte Lane  
Manning, South Carolina 29102-4211  
Phone: 717-226-3535  
Fax: \_\_\_\_\_

With a copy to:

Scott W. Pohlman, Esq.  
Hale Ball  
10511 Judicial Drive  
Fairfax, VA 220300  
Phone: 703-218-8350  
Fax: 703-591-5082

10.10. Governing Law, Jurisdiction. Debtor is a Florida corporation, doing business in Georgia. To the extent not governed by federal law, the validity, interpretation, construction and performance of this Agreement will be governed by and construed in accordance with the laws of the State of Georgia without reference to its laws governing conflicts. Each party hereby irrevocably consents and submits to the exclusive jurisdiction of the Court with respect to any and all disputes arising hereunder.

[The remainder of this page is intentionally blank. Signatures appear on the next page.]

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

**BUYER:**

**LOW COUNTRY MEDIA 35, LLC**

By:   
Jeffrey C. Winemiller, Manager

**DEBTOR:**

**SOUTHERN TV CORPORATION,  
Debtor-in-Possession**

By:   
Title: