

# **Time Brokerage Agreement**

**By and Between**

**Larko Communications, Inc.**

**and**

**Brian R. Walsh**

March 6, 2015

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## **Time Brokerage Agreement**

This Time Brokerage Agreement ("TBA") is made and entered into as of March 6, 2015, by and between Larko Communications, Inc. ("Larko"), an Indiana corporation, 405 Lower Huntington Road, Fort Wayne, Indiana 46819; and Mr. Brian R. Walsh ("Buyer"), an individual residing at 722 East Center Street, Warsaw, Indiana 46580.

### **WITNESSETH**

WHEREAS, Larko is the owner of radio broadcast Station WMYQ(FM), South Whitley, Indiana ("Station") and operates Station pursuant to a license issued by the Federal Communications Commission ("Commission"); and

WHEREAS, Station was operated by Larko from December 8, 2014 through February 3, 2015, but has been silent since February 3, 2015; and

WHEREAS, Larko on February 28 requested that the Commission grant it Special Temporary Authority to remain silent for a period of up to thirty days; and

WHEREAS, Buyer has been associated in the past with Blessed Beginnings Communications, Inc., licensee of low-power FM station WIOE-LP, Warsaw, Indiana, but terminated all his attributable interests in both on January 5, 2015, pursuant to Commission authorization, File No. BTCL 20141212AAJ; and

WHEREAS, the parties and the Estate of Christopher Larko ("Estate") expect to enter into a separate Asset Purchase Agreement ("APA"), within fourteen days of the date hereof which will provide for Buyer to purchase the broadcast license and certain other assets used in the operation of Station; and

WHEREAS, Buyer is simultaneously making an Earnest Money Deposit ("Deposit") in the amount of Fifteen Thousand Dollars with Roehling Broadcast Services, Ltd,

Unionville, Indiana ("Broker"), to secure its performance under this TBA and the planned APA.

WHEREAS, Deposit shall be held by Broker pursuant to the terms of an Escrow Agreement being executed simultaneously herewith by Larko, Estate, Buyer and Broker; and

WHEREAS, Buyer shall, simultaneously with the execution of the APA, increase the amount of the Deposit by Twenty Thousand Dollars, which amount shall also be held by Broker pursuant to the terms of the Escrow Agreement; and

WHEREAS, Buyer and Larko desire to enter this TBA pursuant to which Buyer will sell advertising time on Station and provide programming for Station, pursuant to the terms hereof, and subject in all respects to Larko's ultimate control, pending the sale of Station to Buyer.

**NOW THEREFORE**, in consideration of the premises and their mutual promises and undertakings herein, the parties, intending to be legally bound, agree as follows:

**1. Term of this TBA.** This TBA shall commence on the date hereof and shall continue until the earlier of June 30, 2015, or the date the sale of Station to Buyer is consummated. If the sale is not consummated by June 30, 2015, this TBA shall be extended at the written election of either party for one or more additional periods of not more than sixty days each, provided, however, that either Larko or Buyer, if not then in default hereunder, may terminate this TBA on five days written notice, without being in default hereunder, if the APA is not executed within the time specified in the fifth recital above, provided, however, Larko may not so terminate this TBA unless it has provided a materially complete draft of the APA and Appendices to Buyer within five days of the date hereof.

**2. Other Termination of this TBA.** If not otherwise in material default hereunder or under the TBA, either party may terminate this TBA upon a material default by the other party.

In the event of any default hereunder, except in Buyer's reimbursement of Larko's expenses, the party claiming the default shall give notice pursuant to Section 24 and the defaulting party shall have a period of seven days to cure the default.

If Larko and Buyer agree that Station will not be sold under the terms of the APA, this TBA may be terminated by either party, if not then in default hereunder or under the APA, upon fourteen day's written notice after the APA is terminated to permit an orderly transition of Station operation back to Larko.

**3. Station Operations.** Station's main studio shall be maintained in space leased by Larko at 1301 North Detroit Street, Warsaw, Indiana. Larko shall employ and pay a full-time General Manager who shall oversee Station's day-to-day operation and not less than one additional full-time employee, both of whom shall work from Station's main studio. Larko shall provide these employees with equipment and supplies consistent with prevailing industry practice for similarly situated small-market radio stations.

Station's call sign shall not be changed prior to its sale to Buyer. During the term hereof, Buyer may, consistent with all applicable Commission Rules and policies, broadcast announcements stating that the music format of Station has been changed to the music format formerly used at WIOE-LP.

**4. Facilities and Equipment to be Used by Buyer Pursuant Hereto.** Buyer shall use certain facilities and equipment owned by Larko as specified in *Exhibit 1*. Larko has delivered all of the items specified in Section 1 of *Exhibit 1* to Station's transmitter building. Buyer agrees that it has advised Larko that it does not wish now to

make use of Larko's music library, its "on air computer" or the software on that computer.

Buyer shall produce Station's programming from his existing studio and office facilities at 722 East Center Street, Warsaw. Buyer shall also conduct his administrative and sales activities from that location. He plans also to use certain equipment and a music library owned by him as specified in **Exhibit 2**. The items specified in **Exhibit 2** are currently in the possession of Buyer in Warsaw. Certain of that equipment may be moved into Station's transmitter building for the duration of this TBA. Any items listed in Exhibit 2 that may be installed in the transmitter building shall be installed and/or removed at Buyer's expense.

If the sale of Station is consummated as planned, Larko shall convey the items specified in Sections 1 and 2 of **Exhibit 1** to Buyer. Until the sale is consummated, this TBA shall not be deemed to create in either party any ownership interest in the facilities, equipment, software or music library now owned by the other party.

During the term of this TBA, Buyer may, at his expense, modify the configuration or use of the items listed in **Exhibit 1**. However, he shall not relocate, dispose of or physically modify any of the equipment or software of Larko or Estate without the prior written consent of Larko, which consent shall not be unreasonably withheld or delayed. If the sale of Station is not consummated as planned, Buyer shall at Larko's option and Buyer's expense, return all items listed in **Exhibit 1** to their condition, use and configuration as of the date hereof.

**5. Maintenance of Equipment, etc. Listed in Exhibits 1 and 2.** Buyer shall be responsible for, and bear the cost of, all maintenance and repair to the items listed in **Exhibit 2**. He shall also be responsible for, and bear the cost of, routine maintenance

and repair of the items listed in Section 1 of *Exhibit 1*, except for repairs occasioned by fire or other casualty.

**6. Buyer's Obligation to Protect Larko's Equipment in Transmitter Building.** During the term of this TBA, Buyer shall, at its cost, repair or replace any equipment listed in Section 1 of Exhibit 1, which is damaged or removed by Buyer or any third party which Buyer permits into Larko's transmitter building.

**7. Compliance with the Communications Act and Commission's Rules and Regulations.** The parties recognize that the Communications Act of 1934, as amended ("Act"), and the Commission through its Rules and Regulations ("Rules"), particularly 47 CFR Part 73 ("Rules"), extensively regulate the day-to-day operations of all radio broadcast stations and that additional regulations apply to stations operating under time brokerage agreements. The parties further recognize that a broadcast licensee cannot delegate to a third party its ultimate responsibility for regulatory compliance.

Notwithstanding Larko's legal responsibility for Station's operation, the parties agree that, on a day-to-day basis, it shall be primarily Buyer's duty hereunder to assure that Station operates in compliance with the Act and the Commission's Rules. Buyer acknowledges that he is an experienced broadcaster familiar with the Act and the Rules and that he is represented by well qualified communications law counsel.

No provision of this TBA shall be construed to limit Larko's ability or responsibility at any time to meet its obligations as licensee to assure that Station is operated in the public interest and in compliance with the Act or the Rules.

Should the Commission determine that any provisions of this TBA are inconsistent with Larko's duties as a licensee, Larko and Buyer shall modify those provisions so as to make this TBA consistent with the Commission's determination.



Should the Commission in the future change its Rules or policies governing time brokerage agreements, Larko and Buyer shall negotiate modifications to this TBA to conform to such changes. Should Larko and Buyer not agree on such modifications, Larko shall have the right to make changes it reasonably deems necessary to fulfill its duties as a licensee, provided it is not otherwise then in default hereunder or under the APA. In making such changes, Larko shall not be deemed to have breached this TBA. In the event any such modifications made by Larko are unacceptable to Buyer, Buyer may terminate this TBA, provided he is not then in default hereunder or under the APA. Such termination shall not be deemed a default hereunder.

**8. Dealings with the Commission and the Public.** Larko shall be solely responsible for filing all reports and applications required under the Act or the Commission's Rules and for responding to all inquiries from the Commission. Larko shall also be solely responsible for responding to all inquiries or complaints from the public. Buyer shall cooperate fully with Larko in gathering facts needed to respond to such inquiries or complaints and shall conduct such investigations as may be necessary to gather those facts.

Each party shall promptly provide the other with complete information about all such inquiries or complaints, including copies of all written materials.

As further described in Section 12 hereof, Larko shall be responsible for ascertaining the community needs and problems of the South Whitley area. Buyer shall, subject to Larko's review and approval, develop and broadcast appropriate programming responsive to the community needs identified by Larko. Buyer shall cooperate fully with Larko in the maintenance of the Public File, including, without limitation, the quarterly lists of community

problems/responsive programs. Maintenance of the Public File shall at all times be Larko's ultimate responsibility.

Buyer shall maintain all operating logs and other logs required by the Commission's Rules so that Larko can meet its responsibilities in this regard.

Buyer shall provide Larko such information concerning his employment practices and decisions as needed for Larko to assure Station's full compliance with the Commission's equal employment requirements. Any equal employment reports required by the Commission's Rules relating to Buyer's staffing of Station, shall be drafted by him and then reviewed and approved by Larko. Larko shall place them in Station's Public File.

**9. Programming Standards and Practices.** Except as described in Section 10 hereof, Buyer shall, at its expense, cause Station to broadcast not less than sixteen hours of programming per day, seven days per week. The programming shall consist primarily of music, news, sports, weather and other information. Buyer may use programming from any source except that he shall not use any programming broadcast by WIOE-LP. Buyer's programming shall be delivered to Station's broadcast transmission equipment in form ready for broadcast.

Buyer shall assure that his programming meets the additional standards of Larko, such as:

- Buyer shall not broadcast any profane or indecent programming or any hoaxes.
- Buyer shall keep accurate and sufficient financial records to be able to demonstrate that no party has paid it to broadcast particular programming in a manner contrary to Sections 317 or 507 of the Act or the Commission's related Rules.
- Buyer shall broadcast all station identification and other announcements required by the Commission's Rules (e.g., announcements concerning the filing of certain applications with the Commission).

- Should this TBA be in force during any portion of an election campaign when the Commission's political broadcast Rules are applicable, Buyer shall provide Larko sufficient information to determine that Station is being operated in full compliance with the political broadcast requirements of the Act and the Commission Rules, such as lowest unit charge, equal opportunities, the censorship ban, the extensive record keeping requirements, etc.
- Buyer shall assure that all terms of any station or advertiser promotion are disclosed as required by state and federal laws and regulations and are otherwise conducted in full compliance with such laws and regulations.
- Buyer's programming shall be of broadcast quality.
- Buyer shall not obtain any of its programming from, or have an attributable interest in, the licensee of any low power FM station.

**10. Larko's Right to Reject or Preempt Programming.** Larko shall have the right to reject any of Buyer's program or commercial matter if it is not of broadcast quality or is, in Larko's reasonable judgement, otherwise contrary to the public interest.

Larko shall also have the right to preempt any Buyer programing with other broadcast matter if: i) Larko, in its reasonable discretion, deems the other programming to be of greater national, regional or local importance; ii) an emergency situation exists; or iii) Larko deems it necessary to broadcast other programming to comply with any law.

Larko shall not be deemed in breach of this TBA if it rejects or preempts any of Buyer's programming pursuant to this Section 9. Larko shall keep a record of all Buyer programming which it rejects or preempts. The compensation which Larko is to receive under Section 16 shall be reduced pro-rata in the event it rejects or preempts any of Buyer's programming,

**11. Buyer's Option to Terminate this TBA if Larko Excessively Rejects or Preempts Buyer's Programming.** So long as Buyer is not otherwise in default hereunder or under the APA, he shall have the option of terminating this TBA on ten day's

written notice to Larko if Larko should reject or preempt ten percent or more of Buyer's programming during any calendar week or more than three hours in any twenty-four hour period, except when such rejection or preemption results from emergency conditions or other conditions outside Larko's control.

**12. Programming Responsive to Community Needs.** Larko shall be responsible for ascertaining the community needs and problems of South Whitley and environs. With assistance from Buyer, it shall periodically survey community leaders and members of the general public to determine their views as to the most important community problems confronting the area. Buyer, in consultation with Larko, shall provide programming designed to help listeners understand and treat those problems and needs. By the fifth day of each calendar quarter, Buyer shall provide Larko a draft list of the most significant community problems treated by Station's programming in the preceding calendar quarter. Larko shall review, and may revise, that list. Larko shall timely place the final version of the list in Station's Public File. Buyer's draft shall include the date, time and duration of each such program, a list of participants in each program and a specific description of how each program treated a particular community problem.

Larko, in its sole discretion, may prepare additional programs treating community problems and needs and Buyer shall cause Station to broadcast those programs at mutually agreed times.

**13. Ownership of Programs.** Neither Buyer nor Larko shall have any ownership interest in programs produced by the other. Buyer shall have no interest in Larko's music library unless the sale transaction closes as contemplated. No programming produced by either party may be rebroadcast without the producer's prior written consent.

**14. Larko Staff Presence.** Larko shall engage a full-time General Manager and one full-time staff person who shall work each day at Station's main studio and be supervised exclusively by Larko, thus providing Larko the management and staff presence required by the Commission's main studio Rule.

**15. Compliance with Other Federal and State Laws and Regulations.** Buyer shall operate Station in compliance with all other applicable federal, state and local laws and regulations. The parties shall modify this TBA as necessary to bring it into compliance with such laws and regulations.

**16. Financial Arrangements Between the Parties.** Buyer and Larko shall maintain separate financial accounts; Buyer shall have no authority to hire any person to be employed by Larko and shall not provide any consideration of any kind to any Larko employee, except indirectly under Section 16 hereof; Buyer shall have no authority to bind Larko to any financial or contractual obligation.

Larko shall be responsible for the payment of all operating expenses and keeping those payments current, subject to reimbursement by Buyer after the expenses have been paid and invoiced to Buyer.

Buyer shall obtain, and pay for, its own separate music licenses from ASCAP, BMI and SESAC.

Any failure by Buyer to pay current music license fees shall be a default hereunder.

Buyer shall have the exclusive right to sell advertising time on Station during the term hereof and shall be entitled to retain all Station revenues.

All Station operating expenses shall be paid initially by Larko, **except:** the compensation of Buyer's employees; any other sales, programming, promotional or administrative expenses of Buyer; Buyer's insurance costs (property, casualty and liability);

and Buyer's other expenses such as music license fees and legal and accounting expenses. On the second and fifteenth days of each month, Larko shall deliver to Buyer invoices for the amounts of the operating expenses described in Section 16 hereof and paid by Larko. Buyer shall, within five days of being invoiced, deliver to Larko Immediately Available Funds in the amount of those expenses.

As between Buyer and Larko, Buyer shall pay all fines or forfeitures imposed by any governmental entity, and any damages awarded to a private party, based upon Buyer's programming or other operation of Station.

Buyer shall maintain liability and other insurance in amounts sufficient to protect Larko's interest; provided that in no event shall liability insurance be less than Seven Hundred Thousand Dollars. Buyer shall add Larko as an additional named insured on its policies.

Buyer shall not modify the facilities or equipment of Larko except as provided in Section 3 or as authorized in writing by Larko.

Real and personal property taxes on Larko's property and facilities shall be borne as provided in the APA.

Any failure by Buyer to timely reimburse Larko for such expenses shall be deemed a default hereunder and Larko shall have the option of terminating this TBA and receiving the the Earnest Money Deposit as liquidated damages for Buyer's default hereunder pursuant to the procedures described in the Escrow Agreement.

**17. Station's Operating Expenses to be Reimbursed to Larko by Buyer.**

Buyer shall reimburse Larko for the following operating expenses as provided in Section 16:

- compensation and other employment costs for Larko's General Manager and staff person;

- electricity and communications services to the transmitter site;
- repairs and maintenance to Larko's building, tower, transmitter and other Larko equipment used by Buyer in the operation of Station, including electrical and mechanical systems;
- Larko's casualty and liability insurance on its facilities, equipment and operation, including on its leased main studio;
- reasonable long distance telephone costs of Larko's General Manager;
- transmitter site lease costs under 2010 lease between Larko and Estate, currently \$ 393.92 per month;
- main studio lease costs in the amount of seven hundred dollars per month, which shall include utility services;
- A pro-rata share of the Commission's annual Regulatory Fee, which amount shall be due at the earlier of sale of Station or the payment date for the 2015 Regulatory Fee.

**18. Larko's Representations and Warranties.** Larko hereby represents

and warrants that:

- it has full power and authority to enter into this TBA and that it is fully enforceable against Larko;
- it resumed Station operation on December 8, 2014, and operated it continuously until February 3, 2015, when it suspended operations and returned an EAS receiver and certain other borrowed equipment to Buyer;
- Apart from the matters disclosed in its pending license renewal application, Larko is unaware of any facts relating to it that could cause the Commission to deny the planned application for Commission consent to sale of Station to Buyer. Apart from resolution of the matters disclosed in the renewal application, Larko knows of no facts relating to it which would prevent routine approval of the sale application.

**19. Buyer's Representations and Warranties.** Buyer hereby represents

and warrants that:

- he has full power and authority to enter into this TBA and that this agreement is fully enforceable against him;
- pursuant to Commission authorization granted January 5, 2015, File No. BTCL - 20141212AAJ, he on that date terminated all attributable interests he

previously held in Blessed Beginnings Communications, Inc. and WIOE-LP and is now fully qualified under all applicable Commission's Rules and policies to enter into this TBA;

- Buyer knows of no facts relating to it which could cause the Commission to deny the planned application for Commission consent to sale of Station to Buyer. Buyer knows of no facts relating to it which would prevent routine approval of the sale application.

**20. Indemnification of Buyer By Larko.** Larko shall indemnify and hold Buyer and his attorneys, affiliates, representatives, agents, successors or assigns harmless from and against any and all liabilities, losses, costs, expenses, judgments, orders, settlements, obligations, deficiencies, claims, suits, proceedings (whether formal or informal), investigations, liens or other damages of any nature, absolute, contingent or otherwise, including, without limitation, costs of suit, attorneys' fees and expenses, (all of the foregoing items for purposes of this TBA are referred to as "Damages"), resulting from a material breach of any representation, warranty, covenant, agreement or obligation of Larko contained herein, or in any agreement or instrument delivered pursuant to this Agreement, or from any material misrepresentation in, or omission from, any certificate or other instrument furnished to Buyer by Larko pursuant to this TBA, or in connection with any transactions contemplated by it.

The term "Damages" as used in this TBA is not limited to matters asserted by third-parties against a party, but includes Damages incurred or sustained by a party in the absence of third-party claims.

**21. Indemnification of Larko and Estate by Buyer.** Buyer shall indemnify and hold Larko and Estate and their attorneys, affiliates, representatives, agents, officers, directors, successors or assigns, harmless from and against any Damages, as defined in Section 19, resulting from, arising out of, or incurred with respect to a material



breach of any representation, warranty, covenant, agreement or obligation of Buyer contained herein, or in any agreement or instrument delivered pursuant to this TBA, or from any material misrepresentation in, or omission from, any certificate or other instrument furnished by Buyer to Seller pursuant to this TBA, or in connection with any of the transactions contemplated by it.

**22. Indemnity Procedures.** Promptly after the receipt by any party (the "Indemnified Party") of notice of (a) any claim or (b) the commencement of any action or proceeding which may entitle such party to indemnification hereunder, such party shall, within ten days of such event, give the other party (the "Indemnifying Party") written Notice of such claim or the commencement of such action or proceeding and shall permit the Indemnifying Party to assume the defense of any such claim or any litigation resulting from such claim.

If such claim does not arise from the claim of a third party, the Indemnifying Party shall have thirty (30) days after such Notice to cure the conditions giving rise to such claim to the Indemnified Party's reasonable satisfaction. Failure by the Indemnifying Party to notify an Indemnified Party of its election to defend any such claim or action by a third party within thirty (30) days after Notice thereof shall have been given to the Indemnifying Party shall be deemed a waiver by the Indemnifying Party of its rights to defend such claim or action.

If the Indemnifying Party assumes the defense of any such claim or litigation resulting therefrom with counsel reasonably acceptable to the Indemnified Party, the Indemnifying Party shall take all steps necessary in the defense or settlement of such claim or litigation resulting therefrom and hold the Indemnified Party harmless from and against any Damages caused by or arising out of any settlement approved by the Indemnifying

Party or any judgment in connection with such claim or litigation resulting therefrom; however, the Indemnified Party may participate, at its expense, in the defense of such claim or litigation. The Indemnified Party shall cooperate and make available all books and records reasonably necessary and useful in connection with the defense. Except with the prior written consent of the Indemnified Party, the Indemnifying Party shall not, in the defense of such claim or any litigation resulting therefrom, consent to the entry of any judgment (other than a judgment of dismissal on the merits without cost) or enter into any settlement which does not include as an unconditional term thereof the giving by the claimant or the plaintiff to the Indemnified Party of a release from all Damages in respect of such claim or litigation.

If the Indemnifying Party shall not assume the defense of any such claim or litigation resulting therefrom, the Indemnified Party may, but shall have no obligation to, defend against such claim or litigation in such manner as it may deem appropriate, and the Indemnified Party may compromise or settle such claim or litigation without the Indemnifying Party's consent. Within thirty (30) days of written request, the Indemnifying Party shall promptly reimburse the Indemnified Party for the amount of all Damages incurred by the Indemnified Party in connection with the defense against or settlement of such claim or litigation. If no settlement of the claim or litigation is made, the Indemnifying Party shall promptly reimburse the Indemnified Party for the amount of any judgment rendered with respect to such claim or in such litigation.

The parties agree that any indemnity payments made pursuant to this Article will be treated by the parties on all applicable tax returns as an adjustment to the Purchase Price.

**23. No Third Party Beneficiaries.** Nothing herein expressed or implied is intended to, nor shall it be construed to, confer upon or give to any person or entity other

than the parties hereto and their successors or permitted assigns, any rights or remedies under or by reason of this TBA.

**24. Notices.** Any notices required or permitted hereunder shall be sent by certified mail, postage prepaid with return receipt requested, or by overnight or same day delivery service, with delivery confirmation, and addressed as follows:

If to Larko, to: Ms. Kelli J. Richards  
Larko Communications, Inc.  
405 Lower Huntington Road  
Fort Wayne, Indiana 46819

with a copy to: James R. Cooke  
Law offices of James R. Cooke  
2821 Beechwood Circle  
Arlington, VA 22207

If to Buyer, to: Mr. Brian R. Walsh  
722 East Center Street  
Warsaw, Indiana 54307

with a copy to: Peter Gutmann, Esq  
Womble, Carlyle, Sandridge & Rice, PLLC  
Fifth Floor  
1200 19<sup>th</sup> Street, N. W.  
Washington, D. C. 20036

Parties may change their addresses for notice by written notice as described above. Notices shall be deemed effective upon their documented receipt. The provision of notice by telephone, facsimile or to counsel shall not constitute notice hereunder.

**25. Severability.** In the event that any one or more of the provisions contained in this TBA or in any other instrument referred to herein, shall, for any reason, be held to be invalid, illegal or unenforceable in any respect, then to the maximum extent permitted by law, such invalidity, illegality or unenforceability shall not affect any other provision of this TBA or any other such instrument, and this TBA shall be construed as if such invalid, illegal or unenforceable provision or provisions had not been contained herein.

**26. Governing Law; Venue; Enforcement.** This TBA shall be construed and enforced in accordance with the laws of Indiana without regard to the conflict of laws provisions thereof.

Except as such jurisdiction may be preempted by a bankruptcy or like proceeding, any action, suit or other proceeding with respect to this TBA shall be brought in the courts of Allen County, Indiana, and each party consents to and accepts for itself and in respect of its property, the jurisdiction of such courts. Nothing herein shall prevent either party from bringing or removing any such to the United States District court for the Northern District of Indiana, Fort Wayne Division. Each party irrevocably waives any objection, which it may now or hereafter have to the bringing of any such action, suit or other proceeding in such courts.

Should any party hereto institute any action or proceeding at law or in equity to enforce or defend any provision of this Agreement, the prevailing party shall be entitled to recover from the losing party or parties its costs and expenses, including reasonable attorneys' fees and costs for services rendered to the prevailing party in such action or proceeding.

**27. Counterparts.** This TBA may be signed in counterparts with the same effect as if the signature of each such counterpart were upon the same instrument.

**28. Headings.** The headings of the provisions of this TBA are inserted as a matter of convenience and for reference purposes only and in no way define, limit or describe the scope of this TBA nor the intent of any provision.

**29. Time of the Essence.** Time is deemed to be of the essence with respect to this TBA.

**30. Amendment or Waiver.** This TBA may not be amended except by an instrument in writing signed on behalf of each of the parties hereto.

No waiver of any right under this TBA or waiver of a breach of it shall be effective unless in writing and signed by the party or parties waiving such right or breach. No waiver of any right or waiver of any breach shall constitute a waiver of any other or similar right or breach and no failure to enforce any right under this TBA shall preclude or affect the later enforcement of such right.

31. **Entire Agreement.** This TBA, with Exhibits, and the Escrow Agreement, constitute the entire agreement and understanding of the parties hereto relating to the matters provided for herein and supersede any and all prior agreements, arrangements, negotiations, discussions and understandings relating to those matters.

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

Larko                      LARKO COMMUNICATIONS, INC.

  
Kelli J. Richards, President

BUYER                      Brian R. Walsh, Individually



No waiver of any right under this TBA or waiver of a breach of it shall be effective unless in writing and signed by the party or parties waiving such right or breach. No waiver of any right or waiver of any breach shall constitute a waiver of any other or similar right or breach and no failure to enforce any right under this TBA shall preclude or affect the later enforcement of such right.

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

Larko                      LARKO COMMUNICATIONS, INC.

---

Kelli J. Richards, President

BUYER                      Brian R. Walsh, Individually

Brian R. Walsh

TBA  
Exhibit 1

1. Following is equipment owned by Larko and presently located in Station's transmitter building. As Buyer operates Station pursuant to this TBA, it may use such of this equipment as it chooses, pursuant to Section 3 hereof. It shall be conveyed to Buyer upon sale of Station.

	Wood Frame Building	14' x 20'	
1	300 ft Guyed Tower	Rohn 55G	none
1	Tower Light Controller	Pi-Rod	none
1	3 Bay FM Antenna	RCA BFC-3E	none
1	300 ft 1-5/8" Air Coax	Cablewave HCC-158	none
1	FM Transmitter	Energy-Onix ECO-6	60422
1	Modulation Monitor	Belar FMM-2	
1	Stereo Monitor	Belar FMS-2	
1	Composite Processor	Mod Sciences CP803	11232126
1	Remote Control Unit	Sine RFC-1/B	1130
2	Relay Panels	Sine RP-8	none
1	Silence Sensor	Sine AFS	none
1	STL Receiver 950 MHz	Marti R-15C	183
1	4' Receive Antenna	Mark P-948	
1	280 ft 7/8" Foam Coax	Cablewave FLC-78	
1	Equipment Rack	?	
2	Gas Regulator	Harris	
1	Surge Suppressor	InterMatic IGT-240R	LA302R
1	FM Exciter	BE FX-30	RX1782
1	Audio processor	Orban Optimod 8100A-1	
1	Audio processor	Orban Optimod 8100A-XT	
1	Audio Processor	Orban Optimod 8100A-ST	
1	Backup UPS	APC XS1500	
1	McMartin BF5K transmitter (not currently operational; lightning strike).		

2. Larko owns the following additional equipment, stored in a different location, which shall also be conveyed to Buyer upon sale:

1	Audio Switcher	Broadcast Tools Model #SS8-2
1	Dual Compressor / Gate	DBX 266XL
1	Satellite receiver	Starguide 3
1	Satellite receiver	Starguide 3
1	Satellite receiver	X-Digital XDS Pro
1	Dual Compressor	Alesis 3630
1	Dual Compressor	Audio Logic AL660
1	MINI-MIX 12A On-Air Board	Audiogram Corp
1	Microphone	RE-27

TBA  
Exhibit 2

Following is equipment owned by Buyer which it may employ to operate Station under this TBA:

- i) Dell Optiplex 9020 desktop computer with Arrakis Automation Digilink software.
- ii) Sage Digital Endec, EAS encoder/decoder.
- iii) Two Dayton EAS AF 200 3C receivers to monitor LP 1 and LP2 stations.
- iv) Moseley 505C STL receiver. Planned for future use; will initially use Internet service at transmitter site.