

## **TIME BROKERAGE AGREEMENT**

This TIME BROKERAGE AGREEMENT, is entered into as of this \_\_\_\_ day of October, 2010, (this "Agreement"), by and between ANCHOR RADIO OF NASHVILLE, LLC, a Delaware limited liability company (the "Programmer") and WENO, INC., a Tennessee not-for-profit corporation ("Licensee").

### **RECITALS:**

WHEREAS, Licensee owns and operates the following AM radio station ( the "Station") licensed by the Federal Communications Commission (the "FCC"):

WENO (AM) Nashville, Tennessee, FCC Facility ID 71507

WHEREAS, Licensee desires to obtain a regular source of programming and income for the Station; and

WHEREAS, Programmer desires to purchase time for the broadcast of programming on the Station and for the sale of advertising time included in that programming; and

WHEREAS, Programmer and Licensee have entered into an Asset Purchase Agreement of even date herewith (the "Purchase Agreement") whereby Licensee has agreed to sell and Purchaser has agreed to purchase substantially all of the assets of the Station.

NOW, THEREFORE, in consideration of the mutual covenants herein contained, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto hereby agree as follows:

1. (a) Sale of Time. Subject to the provisions of this Agreement and to applicable rules, regulations and policies of the FCC, Licensee agrees to make the Station's broadcasting transmission facilities available to Programmer for the entirety of its broadcast day for broadcast of Programmer's programs on the Station originating either from Programmer's studio, from Licensee's studio or otherwise. Programmer will have the right to broadcast on the Station during the Term (as defined in Section 2 below). Notwithstanding the foregoing, Programmer agrees to cooperate with Licensee regarding completion of existing programming commitments for the Station and to broadcast those programming commitments through their termination date, not to exceed 30 days.

(b) (i) Reservation of public interest time. In the event that Programmer does not broadcast programming sufficient to meet FCC requirements for public affairs programming or fails to provide Licensee with records sufficient to meet the FCC's requirements for public affairs programming, Licensee reserves one hour per week of the Station's time for its own use in order to air such programming.

(ii) Downtime for maintenance. Licensee may perform maintenance on

the Station's facilities, including taking the Station dark, as necessary to meet FCC and FAA requirements, manufacturer recommendations, and good engineering practice standards, provided that Licensee shall use reasonable efforts to schedule such maintenance during the overnight hours. No allowance shall be made for a Station's downtime for up to three hours of maintenance per month.

2. Term. Subject to earlier termination as set forth in Section 10 below, the initial term of this Agreement shall begin at 12:01 A.M., local Station time, on December 1, 2010 (the "Effective Date"); and shall continue for twelve (12) months (the "Term").

3. Consideration. As consideration for the airtime made available hereunder during the Term, Programmer shall pay to Licensee the amounts described in Schedule A hereto.

4. Licensee's Authority. Notwithstanding anything to the contrary in this Agreement, Licensee shall have full authority and power over the operation of the Station during the Term. Licensee shall be responsible for all programming it furnishes for broadcast on the Station and for the payment of the salaries of all of its employees, all of whom shall report solely to and be accountable solely to the Licensee. Licensee shall retain the right to interrupt or preempt Programmer's programming at any time if Licensee determines the programming is not in the public interest or violates this Agreement, or in case of an emergency or Emergency Alert ("EAS") activation, or for the purpose of providing programming which Licensee in its sole discretion determines to be of greater national, regional or local importance, provided that Licensee shall promptly pay to Programmer any revenues received by Licensee as a result of such interruption or preemption. Programmer will properly prepare and furnish to Licensee such information, records and reports in sufficient detail as is necessary to enable Licensee to comply with all rules and policies of the FCC or any other government agency.

5. Advertising and Programming Revenues. Programmer shall retain all revenues from the sale of advertising time on the programming it broadcasts, or causes to be broadcast, on the Station.

6. Compliance with FCC Requirements

(a) Programmer will provide, make available to and shall sell time to political candidates from the time it purchases from Licensee in compliance in all material respects with the Communications Act of 1934, as amended (the "Act"), and the rules, regulations and policies of the FCC.

(b) Upon request by Licensee, Programmer shall use commercially reasonable efforts to provide Licensee with payola affidavits in the form reasonably acceptable to Licensee, signed by such of Programmer's employees and at such times as Licensee may reasonably request in writing, and shall notify Licensee promptly of any violations it learns of relating to the Act, including Sections 317 and 508 thereof.

(c) Programmer shall maintain and deliver to the Station and Licensee such records and information required by the FCC to be placed in the public inspection file of the Station relating to the broadcast of political programming and advertisements, in accordance with the provisions of Sections 73.1943 and 73.3526 of the FCC's rules, and pertaining to the broadcast of sponsored programming addressing political issues or controversial issues of public importance, in accordance with the provisions of Section 73.1212 of the FCC's rules. In particular, and without limitation, Programmer shall promptly provide to Licensee complete records of all requests for broadcast time made by or on behalf of any candidate for public office, together with information concerning the disposition of such requests and the charges made. Programmer also shall consult with Licensee concerning the Programming to ensure that the Station are compliant with the Act and all other applicable statutes and the rules, regulations and policies of the FCC, as announced from time to time, with respect to the carriage of political advertisements and programming and the charges permitted therefore, including without limitation the equal time and lowest unit rate provisions of the Act. In the event that it is necessary for Licensee to make time directly available to political candidates in order to comply with the provisions of the Act, Programmer shall immediately relinquish such amounts of time as Licensee shall reasonably require, and Licensee shall promptly pay to Programmer all advertising revenues realized thereby.

(d) Licensee shall maintain a main studio for the Station pursuant to the rules and regulations of the FCC and shall employ such employees as shall be necessary or advisable for the operations of the Station (the "Station Employees") and the maintenance of the Station's main studio pursuant to the rules and regulations of the FCC. The Station Employees shall be solely accountable to Licensee.

7. Programmer's Representations, Warranties and Covenants. Programmer represents, warrants and covenants to Licensee that:

(a) Qualification. Programmer is legally qualified, empowered and able to enter into and carry out this Agreement, and this Agreement constitutes the valid and binding obligations of Programmer.

(b) FCC Compliance. All of the programming, advertising and promotional material Programmer broadcasts on the Station shall be in accordance in all material respects with the rules, regulations and policies of the FCC and the Act, the terms of the Station's FCC licenses and all other laws and regulations applicable to the conduct of the Station's businesses (collectively, "Applicable Law"), and the reasonable standards established by Licensee, including but not limited to the FCC's payola and plugola regulations. Programmer shall cooperate with Licensee so that Licensee may fulfill its FCC obligations.

(c) Station Identification. Programmer shall broadcast the Station's call sign as required by the FCC. Programmer may use the call signs during the term hereof in connection with its promotional activities.

(d) Emergency Broadcasting. Programmer shall cooperate with Licensee to insure that all required EAS announcements are broadcast as required by the FCC rules and regulations.

(e) Correspondence. Programmer shall promptly forward to Licensee any mail which it may receive from any agency of government or any correspondence from members of the public relating to the Station or to any of Programmer's programming broadcast on the Station.

8. Licensee's Representations, Warranties and Covenants. Licensee represents, warrants and covenants to Programmer that:

(a) Qualification. Licensee is legally qualified, empowered and able to enter into and carry out this Agreement, and this Agreement constitutes the valid and binding obligations of Licensee.

(b) Licenses; FCC Compliance. Licensee represents and warrants that it owns and holds all material licenses, permits and authorizations, issued by the FCC or otherwise, necessary for the operation of the Station as currently conducted (the "Licenses"). Licensee shall be responsible for maintaining the Station's overall compliance with the FCC's rules, including the maintenance of the Station's quarterly issues/programs lists and public inspection files.

(c) Station Operation. The Station is operating and shall continue to operate in technical compliance with its licenses and authorizations and the FCC's rules pertaining to the Station's technical operations.

9. Indemnification.

(a) Programmer shall indemnify and hold Licensee harmless from and against any and all claims, losses, costs, liabilities, damages and expenses of every kind, nature and description arising out of or resulting from Programmer's broadcasts on the Station pursuant to this Agreement. The obligation of Programmer to indemnify and hold Licensee harmless as set forth in this Agreement shall survive any termination of this Agreement and shall continue until the expiration of all applicable statutes of limitations as to the parties hereto and to claims of third parties.

(b) Licensee shall indemnify and hold Programmer harmless from and against any and all claims, losses, costs, liabilities, damages and expenses of every kind, nature and description arising out of or resulting from Licensee's broadcasts on the Station pursuant to this Agreement. The obligation of Licensee to indemnify and hold Programmer harmless as set forth in this Agreement shall survive any termination of this Agreement and shall continue until the expiration of all applicable statutes of limitations as to the parties hereto and to claims of third parties.

10. Termination.

(a) Grounds. In addition to any other remedies available at law or equity, this Agreement may be terminated as set forth below by either Licensee or Programmer, as applicable, by written notice to the other, if the party seeking to terminate is not then in material default or breach of this Agreement, upon the occurrence of any of the following:

(i) By either party if this Agreement is declared invalid or illegal in whole or material part by an order or decree of the FCC or any other administrative agency or court of competent jurisdiction, such order or decree has become final and no longer subject to further administrative or judicial review, and this Agreement cannot be reformed, in a manner reasonable acceptable to Programmer and Licensee, to remove and/or eliminate the violation;

(ii) By Licensee if Programmer is in material breach of its obligations hereunder and such breach has not been cured by Programmer within thirty (30) days after notice thereof by Licensee;

(iii) By Programmer if Licensee is in material breach of its obligations hereunder and such breach has not been cured by Licensee within thirty (30) days after notice thereof by Programmer;

(iv) The mutual written consent of both parties;

(v) By Licensee, if Programmer shall make a general assignment for the benefit of creditors, files or has filed against it a petition for bankruptcy, reorganization or an arrangement for the benefit of creditors, or for the appointment of a receiver, trustee or similar creditors' representative for the property or assets of such party under any federal or state insolvency law, which if filed against such party, has not been dismissed within one hundred eight (180) days thereof;

(vi) By either party if there has been a change in FCC rules, policies or case law precedent that would cause this Agreement in whole or in substantial part or any material provision hereof to be in material violation thereof, such change is not the subject of an appeal or further administrative review, and this Agreement cannot be reformed, in a manner reasonable acceptable to Programmer and Licensee, to remove and/or eliminate the violation;

(vii) By Programmer if the Station fails to broadcast a reasonably acceptable signal for more than twenty-five (25) hours in any thirty (30) day period;

(viii) Automatically if Programmer purchases the Station pursuant to the Programmer's exercise of its rights under the Purchase Agreement;

(ix) By either party in the event the other party is in material, uncured

breach of the Purchase Agreement and the terminating party is not itself in breach hereof; or

(x) Upon sixty days' notice by either the Programmer or the Licensee should the Purchase Agreement be terminated in accordance with its terms.

(b) Attorneys' Fees. Should either party institute any action or proceeding at law or in equity to enforce any provision of this Agreement, including an action for declaratory relief, or for damages by reason of an alleged breach of any provision of this Agreement by the other party, or otherwise in connection with this Agreement, or any provision hereof, the prevailing party shall be entitled to recover from the other party reasonable attorneys' fees and court costs in such action or proceeding.

(c) Return of equipment and premises. Upon termination of this Agreement for any reason other than the consummation of the Closing under the Purchase Agreement, Programmer shall return to Licensee any equipment or property and keys and possession of any Licensee-owned or leased premises the Station used by Programmer, its employees or agents and owned by Licensee in substantially the same condition as such property, equipment and premises existed at the commencement of this Agreement, reasonable wear and tear excepted.

(d) No Release of Liability through Termination. No termination pursuant to Section 10 shall relieve any party of liability it would otherwise incur for breach of this Agreement.

11. Notices. All necessary notices, demands and requests permitted or required under this Agreement shall be in writing and shall be deemed given (a) upon receipt if delivered by hand or by an overnight courier service (e.g., Federal Express, UPS, etc.); (b) upon transmission if delivered by facsimile, electronic mail or other electronic means; or (c) three (3) days after being mailed by certified mail, return receipt requested, postage prepaid, addressed as follows:

If to Programmer:

Anchor Radio of Nashville, LLC  
2001 West Broadway, Suite 12  
Louisville, KY 40203  
Attention: Russ Jones  
Telephone: (502) 239-8483

with a copy (which shall not constitute notice) to:

Francisco Montero, Esquire  
Fletcher, Heald & Hildreth, P.L.C.  
1300 North 17<sup>th</sup> Street  
Arlington, Virginia 22209

Telephone: (703) 812- 0480

If to Licensee:

Trevecca Nazarene University  
333 Murfreesboro Road  
Nashville, Tennessee 37210  
Attention: David Caldwell  
Telephone: (615) 248-7790

with a copy (which shall not constitute notice) to:

Anthony T. Lepore, Esquire, P.A.  
P.O. Box 823662  
South Florida, FL 33082-3662  
Telephone: (954) 433-2126

or such other persons or addresses as either party may hereafter specify in writing to the other.

12. Modification and Waiver. No modification of any provision of this Agreement shall in any event be effective unless the same shall be in writing and then such modification shall be effective only in the specific instance and for the purpose for which given.

13. Construction. This Agreement shall be construed in accordance with the internal laws of Tennessee and the obligations of the parties hereto are subject to all federal, state and local laws and regulations now or hereafter in force and to the rules, regulations and policies of the FCC and all other government entities or authorities presently or hereafter to be constituted.

14. Headings. The headings contained in this Agreement are included for convenience only and no such heading shall in any way alter the meaning of any provision.

15. Counterpart Signature. This Agreement may be signed in one or more counterparts, each of which shall be deemed a duplicate original, binding on the parties hereto notwithstanding that the parties are not signatory to the original or the same counterpart.

16. Entire Agreement. This Agreement supersedes any prior agreements between the parties, and contains all of the terms agreed upon with respect to the subject matter hereof. This Agreement may not be altered or amended except by an instrument in writing signed by the party against whom enforcement of any such change is sought.

17. No Partnership or Joint Venture Created. Nothing in this Agreement shall be construed to make Licensee and Programmer partners or joint venturers or to afford any rights to any third party other than as expressly provided herein.

18. Assignment. This Agreement shall be binding upon and shall inure to the benefit

of the parties hereto and their respective successors and permitted assigns. No party may assign its interest or delegate its duties under this Agreement without the prior written consent of the other party, which consent shall not be unreasonably withheld or delayed. Notwithstanding the foregoing, Programmer may assign its rights under this Agreement to one or more entities controlled by, controlling, or under common control with Programmer, provided, however, that Programmer shall continue to be liable for the obligations imposed on Programmer hereunder should such assignee or assignees fail or refuse to perform such obligations.

19. Certifications.

(a) Licensee's Certification. Licensee hereby certifies that it maintains ultimate control over the Station's facilities, including specifically control over the Station's finances, personnel and programming.

(b) Programmer's Certification. Programmer hereby certifies that this Agreement complies with the provisions of paragraphs (a) (1) and (e) (1) of Section 73.3555 of the FCC's rules.

20. Force Majeure Events. Any failure or delay in the performance of either parties' obligations under this Agreement, which is not directly or indirectly the fault of that party or its employees or agents due to acts of God, *force majeure* or any other causes beyond the control of that party (collectively, "*Force Majeure Events*"), shall not constitute a breach of this Agreement.

*[The remainder of this page left intentionally blank]*



IN WITNESS WHEREOF, the parties have executed this Time Brokerage Agreement to be effective as of the date first above written.

PROGRAMMER:

**ANCHOR RADIO OF NASHVILLE, LLC**

By: \_\_\_\_\_  
Name:  
Title:

LICENSEE:

**TREVECCA NAZARENE UNIVERSITY**

By: \_\_\_\_\_  
Name:  
Title:

## **SCHEDULE A**

During the Term of this Agreement, Programmer shall pay to Licensee, as consideration for the air time made available pursuant to the Agreement, a sum equal to reimbursement of Licensee's monthly Operating Expenses as defined below, but not to exceed \$5,000.00 per month.

For purposes of this Agreement, Operating Expenses shall include the following:

1. Transmitter site utilities; transmission system operations.
2. The salaries, commissions, payroll taxes, insurance, bonuses and related costs for the employees employed by Licensee for purposes of compliance with the Act and the FCC Rules;
3. Music licensing fees applicable to the Programs (if not paid directly by Programmer);
4. Insurance premiums for (a) property and casualty insurance for the Station's transmitting equipment) and (b) general liability insurance.
5. A prorated portion of the Station's annual FCC regulatory fees, and Station's compliance with FCC rules and regulations, except for filings and matters in the ordinary course that are required of all FCC Licensees, and the cost of filing the assignment application.

A monthly payment in the amount of \$5,000.00 per month shall be paid by Programmer to Licensee on the first day of every month during the term hereof (the "Monthly Payment") to be applied against reimbursement of Operating Expenses. The Monthly Payment shall be reconciled to actual Operating Expenses on a monthly basis, with appropriate adjustments made to "true up" actual Operating Expenses versus the Monthly Payment made in advance by Programmer. Such "true up" adjustments shall occur within ten (10) days of the end of each month for the prior month, and a final "true up" adjustment shall be made on the Closing Date of the transaction contemplated by the Purchase Agreement, or if no Closing occurs, within thirty (30) days after the termination of this Agreement.