

## ASSET PURCHASE AGREEMENT

THIS ASSET PURCHASE AGREEMENT (this “Agreement”) is made and entered into this 14th day of May, 2013 by and between BROADY MEDIA GROUP, LLC, a Tennessee limited liability company (“Buyer”), and WENO, INC., a Tennessee not-for-profit corporation (“Seller”) (or Seller and Buyer each a “Party,” or together, the “Parties”).

### Recitals

**WHEREAS**, Seller holds authorizations issued by the Federal Communications Commission (the “FCC”) for the following AM radio station (the “Station”):

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

**WHEREAS**, Seller desires to sell the assets used and useful in the operation of the Station, including its FCC authorizations, to Buyer and Buyer desires to purchase all such assets; and

**WHEREAS**, consummation of the transactions provided for in this Agreement are subject to the prior approval of the FCC.

### Agreement

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

1     **Sale and Assignment of Assets.** Subject to the Parties’ meeting the requirements for Closing (as defined and specified below), Seller will sell, assign, transfer and deliver to Buyer all of the assets and rights of every kind and nature, real, personal, and mixed, tangible and intangible now or hereafter owned by Seller or in which Seller now or hereafter has an interest that are used or useful in the operation of the Station, including assets and rights acquired by Seller or arising between the date hereof and the Closing Date, including, without limitation, the following (all of which are hereinafter collectively called the “Assets”):

1.1     **Licenses.** All licenses, permits and authorizations issued by the FCC (including antenna structure registrations) which are transferable or assignable, used or useful in the operation of the Station, as listed on Schedule 1.1 (the “Licenses”);

1.2     **Tangible Assets.** All tangible assets of Seller used or useful in the operation of the Station listed on Schedule 1.2 (the “Tangible Assets”);

1.3     **Assigned Leases and Contracts.** The leases, contracts and agreements listed on Schedule 1.3 (collectively, the “Assigned Leases and Contracts”);

1.4 **Call Letters.** All right, title and interest of the Seller in and to the use of the call letters for Station WENO (the “Call Letters”):

1.5 **Intangible Assets.** All goodwill, copyrights, trademarks, websites, domain names or other intangible property rights, if any, which the Seller may have acquired or used in the operation of the Station as set forth on Schedule 1.5 (the “Intangible Assets”);

1.6 **Business Records.** All business records of the Station relating exclusively to their operations including without limitation, tapes, computer disks and software; accounting journals, receipts ledgers and donor lists; and the Station’s logs and the WENO public inspection files (the “Business Records”); and

1.7 **Excluded Assets.** The Assets to be assigned hereunder shall not, however, include (a) cash and cash equivalents, deposits and bank accounts; (b) any insurance policies specifying Seller as owner or beneficiary and any proceeds therefrom; (c) the Station’s accounts receivable (the “Accounts Receivable”); (d) business and corporate records or materials relating to Seller generally; and (e) the broadcast tower and transmitter building associated with WENO.

## 2 **Purchase Price and Payment/Escrow Deposit.**

2.1 **Purchase Price.** In consideration for the sale, assignment, transfer and conveyance of the Assets, and upon satisfaction in full of the terms and conditions of this Agreement, at Closing Buyer shall pay Seller the sum of Three Hundred Thousand One Hundred Dollars (\$300,100.00) (the “Purchase Price”) plus or minus any adjustment to be made pursuant to Section 2.4, payable by wire transfer of available U.S. funds on the Closing Date (defined below). Buyer shall receive as a credit against the Purchase Price all sums paid by Buyer to Seller under that certain Time Brokerage Agreement dated September 30, 2011 by and between the parties.

2.2 **Allocation of Purchase Price.** The Purchase Price shall be allocated amongst the FCC Licenses, Tangible Assets and Intangible Assets in accordance with a schedule reasonably determined by Buyer and exchanged with Seller no later than three (3) business days before the Closing Date. In the event that the Purchase Price is changed for any reason, the allocation of the Purchase Price shall be prorated accordingly. Buyer and Seller agree that the allocation shall be conclusive and binding on Buyer and Seller for all purposes, including without limitation, reporting and disclosure requirements of the Internal Revenue Service.

2.3 **Proration of Income and Expenses.** Except as otherwise provided herein, all expenses arising from Seller's ownership of the Assets to be conveyed hereunder that are customarily prorated shall be prorated between Buyer and Seller in accordance with generally accepted accounting principles as of 12:01 a.m., Eastern time, on the Closing Date (the “Adjustment Time”), on the basis that all expenses which accrue prior to the Adjustment Time are for the account of Seller, and all expenses which accrue after the Adjustment Time are for the account of Buyer. Such prorations shall include, without limitation, rents, real property, ad valorem, and other property taxes (but excluding taxes arising by reason of the assignment of the

Assets as contemplated hereby, which shall be paid by Seller), contract payments, utility charges, business, programming, music and other license fees currently paid by Seller, and similar prepaid and deferred items attributable to the ownership of the Station or the Assets. The prorations and adjustments contemplated by this Section, to the extent practicable, shall be made on the Closing Date to the Purchase Price. As to those prorations and adjustments not capable of being ascertained on the Closing Date, an adjustment and proration shall be made within thirty (30) days following the Closing Date, with payment made by wire transfer of immediately available funds to an account designated by the party who is to receive such payment. In the event of any disputes between the parties as to such adjustments, the amounts not in dispute shall nonetheless be paid at such time and such disputes shall be resolved by an independent certified public accountant mutually acceptable to the parties, and the fees and expenses of such accountant shall be paid one-half by Seller and one-half by Buyer. The decision of such accountant shall be rendered within ninety (90) days after the Closing and shall be conclusive and binding on the parties.

**2.4 Additional Accommodations and Arrangements.** In addition to the Purchase Price, Buyer agrees to make the following additional accommodations to Seller:

(a) Buyer and Seller will at Closing enter into a Transmitter Site Lease (the “Lease”) in the form of Exhibit A for the WENO transmitter site.

**3 No Assumption of Liabilities.** Buyer shall not assume and shall not be obligated to pay any of the liabilities or obligations of Seller, except liabilities and obligations arising or accruing on or after the Closing Date with respect to the Assigned Leases and Contracts. Upon assumption by Buyer of the Assigned Leases and Contracts, Buyer shall be entitled to all of Seller’s rights and benefits thereunder and shall relieve Seller of its obligations to perform the same.

**4 Seller’s Representations and Warranties.** The following representations and warranties shall survive for one (1) year from the Closing Date. For purposes of this Section 4, all references to the “knowledge of Seller” or to the “best of Seller’s knowledge” shall mean the actual knowledge of the principals of Seller. The Seller represents and warrants to Buyer as of the date hereof and as of the Closing Date, with respect to the Station, as follows:

**4.1 Formation, Standing and Power.** Seller is a Tennessee not-for-profit corporation, validly existing and in good standing under the laws of the State of Tennessee. Seller has all necessary power and authority to own, use and assign its properties and Assets and to transact its business as now being conducted.

**4.2 Authority for Transaction.** Seller’s execution and delivery of this Agreement, its compliance with the provisions hereof and the consummation of all of the transactions contemplated hereby have all been duly and validly authorized by all necessary action on the part of Seller, including approval by the Seller’s board of trustees, and this Agreement is valid and binding upon Seller in accordance with its terms.

4.3 **Licenses.** Seller is, and on the Closing Date will be, the holder of the Licenses, all of which are in full force and effect. The Licenses constitute all material licenses, permits and governmental authorizations and approvals necessary for the operation of the Station. Seller is in compliance with each of the Licenses and knows of no facts related to Seller, its affiliates, the Station or the Licenses which could lead to any such revocation, suspension or limitation of any License. Seller has no reason to believe that any License will not be renewed, nor has any person or entity informed Seller that such person or entity intends to oppose such renewal or application for a license.

4.4 **Sufficiency of Assets.** On the Closing Date, Seller shall deliver to Buyer all the Tangible Assets listed on Schedule 1.2, which shall include transmitting equipment that are currently used by the Station in its operations, which equipment is operational and has been serviced and maintained by Seller in accordance with normal industry standards and practices and applicable FCC rules and regulations.

4.5 **Leases and Contracts.** Schedule 1.3 contains a true and complete list of all Assigned Leases Contracts, and Seller has delivered to Buyer complete and correct copies of all of the Assigned Leases and Contracts on Schedule 1.3 (including amendments and modifications thereto) to the extent such Assigned Contracts are in writing (and to the extent such contracts are not in writing, a description of the material terms of such Assigned Leases and Contracts). The Assigned Leases and Contracts are now and will, on the Closing Date, be valid, binding and in full force and effect except with respect to expiration dates and other limitations contained within such instruments. Seller, and to the best of Seller's knowledge, each other party thereto have complied in all material respects with all provisions of the Assigned Leases and Contracts required to be complied with by them and neither Seller nor, to best of Seller's knowledge, any such other party is in default in any material respect thereunder, and no event has occurred which, but for the passage of time or giving of notice or both would or might constitute a default or termination under any Assigned Lease or Contract. Each such Assigned Lease or Contract may be assigned in accordance with its terms or written consent to an assignment will have been received by the Closing Date. By the Closing Date, Seller will provide Buyer with evidence satisfactory to Buyer that any amounts in arrears on the Assigned Leases and Contracts have been paid up to the Closing Date.

4.6 **Employees and Agreements Relating to Employment.** The names of all employees of the Station, their current rate of compensation and all fringe benefits are as set forth on Schedule 4.6. Except as set forth on Schedule 4.6, there is (a) no written employment contract with any employee of the Station, (b) no obligation, contingent or otherwise, under any employment arrangement, (c) no collective bargaining agreement, (d) no employee pension, retirement, profit sharing, bonus or similar plan, and (e) no union has been certified or sought recognition as a bargaining agent for any employee of the Station. Buyer shall have no obligation to employ any employee after the Closing, but may discuss potential employment with any employee prior to the Closing.

4.7 **Legal Proceedings.** No litigation, court or administrative proceeding is pending or, so far as is known to the Seller, threatened against Seller relating to the Station or any

Asset to be conveyed hereunder which would affect Buyer's enjoyment of the Assets, or which would hinder or prevent the consummation of the transactions contemplated by this Agreement, and Seller does not know, or have reasonable grounds to know, of any basis for any such possible action.

**4.8 Compliance with Licenses, Laws, Regulations and Orders.** To the knowledge of Seller, Seller is in compliance with all material terms and conditions of all Licenses, laws, regulations and orders applicable to its business and operations (including the Assets) including, without limitation, compliance with the Communications Act of 1934, as amended (the "Communications Act") and all regulations issued by the FCC. Seller is not charged with violating or, to the best of Seller's knowledge, threatened with a charge of violating or under investigation with respect to a possible violation of, any provision of any License, or any federal, state or local law or administrative ruling or regulations relating to any aspect of its business. To the knowledge of Seller, all of Seller's Assets operate in compliance with all material terms and conditions of the Licenses and all laws, ordinances, codes, regulations (including applicable engineering standards required to be met under applicable FCC rules) and other requirements of any governmental authority having jurisdiction over the Assets.

**4.9 No Conflict.** Neither the execution and delivery of this Agreement by Seller, nor compliance by Seller with any of the provisions hereof, nor the consummation of the transactions contemplated hereby, will:

- (a) conflict with or result in a breach of any provision of the Seller's Articles of Incorporation, By-laws or other organizational or corporate documents;
- (b) result in a default, or give rise to any right of termination, cancellation or acceleration, under any term, condition or provision of any contract, encumbrance or other instrument or obligation to which Seller is a party or by which Seller or any of Seller's Assets may be bound; or
- (c) violate any order, writ, injunction, decree, statute, rule or regulation applicable to Seller, or any of its Assets.

Except for the approval of the FCC, and such consents as may be necessary for assignment of the Assigned Leases or Contracts as specified on Schedule 1.3, no consent, waiver or approval by, notice to or filing with any person or entity is required in connection with the execution and delivery of this Agreement by Seller, compliance by Seller with any of the provisions hereof or the consummation of the transactions contemplated hereby.

**4.10 Operation of Station.** The Station presently is, and at Closing will be operating in material compliance with all laws, regulations and orders, including without limitation, compliance with the Communications Act and all regulations issued by the FCC thereunder, and the terms and conditions of the Licenses, and Seller knows of no breach or facts which might amount to a breach of any such law, regulation or order.

4.11 **Insurance.** The insurance policies owned by Seller or of which Seller is a named beneficiary (the “Insurance”) will be in effect through the Closing Date and will be fully in effect in accordance with their terms, with no default in the payment of premiums on any such policy and no ground for cancellation or avoidance of any portion thereof or for reduction of the coverage provided thereby. Such Insurance consists of general liability, fire, casualty, property and workmen’s compensation policies in amounts customary for the broadcast industry in Nashville, Tennessee.

4.12 **Liabilities.** As of the Closing Date, all of Seller’s liabilities, except for those liabilities arising on or after the Closing Date relating to the Assigned Leases and Contracts, shall have been fully paid and discharged and no creditors of Seller shall have any claim on the Assets for payment of such liabilities. There are no liens currently outstanding against any of the Assets.

4.13 **No Misleading Statements.** The representations and warranties of Seller herein, or in any Schedule hereto, do not contain any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements contained herein or therein not materially misleading.

4.14 **Broker.** Seller has not incurred nor become liable for any broker’s commission or finder’s fee relating to the transactions contemplated under this Agreement. Seller agrees to indemnify and hold Buyer harmless from any claims for brokerage fees, finder’s fees or commissions asserted by any person acting on Seller’s behalf in connection with this transaction.

4.15 **Liens.** There are no outstanding liens (including, without limitation, any tax lien), claim, charge, security interest, mortgage, pledge, easement, lease, license, right of first offer or first refusal, conditional sale or other title retention agreement, defect in title or other restriction of any kind on the Assets (collectively, the “Liens”), or other restrictions, options, agreements, arrangements or commitments of any kind that have been issued, made or granted to any person relating to the Station.

5 **Buyer’s Representations and Warranties.** The following representations and warranties shall survive for one year from the Closing Date. The Buyer represents and warrants to Seller, as of the date hereof and as of the Closing Date, as follows:

5.1 **Buyer’s Qualifications.** Buyer is legally and financially qualified to acquire the Station. Buyer knows of no fact or circumstance which would, under the federal antitrust laws, the Communications Act, or the rules, regulations, and policies of the FCC, disqualify or preclude Buyer from being approved as an assignee of the Licenses. Should Buyer become aware of any such fact or circumstance, it will promptly so inform Seller and Buyer will use its best efforts to remove any such disqualification or preclusion. Buyer will not take any action that Buyer knows, or has reason to believe, would result in such disqualification. There are no facts which, under the Communications Act or the rules, regulations and policies of the FCC that would prevent the consummation of the transactions contemplated by this Agreement. To Buyer’s knowledge, there are no proceedings, complaints, notices of forfeiture, claims, or

investigations pending or threatened against Buyer that would prohibit Buyer from (a) assuming the Licenses or (b) prosecuting the Assignment Application (defined below). No person or entity has informed Buyer that such person or entity intends to oppose the Assignment Application or consummation of the transactions contemplated by this Agreement.

**5.2 Formation, Standing and Power.** Buyer is a limited liability company validly existing and in good standing under the laws of the State of Tennessee and is qualified to do business in the State of Tennessee. Buyer has all necessary power and authority to execute and deliver this Agreement, to comply with the provisions hereof and to consummate the transactions contemplated hereby.

**5.3 Authority for Transaction.** Buyer's execution and delivery of this Agreement, its compliance with the provisions hereof and the consummation of all of the transactions contemplated hereby have been duly and validly authorized by all necessary action on the part of Buyer, and this Agreement is valid and binding upon Buyer in accordance with its terms.

**5.4 No Conflict.** Neither the execution and delivery of this Agreement by Buyer, nor compliance by Buyer with any of the provisions hereof, nor the consummation of the transactions contemplated hereby will:

(a) conflict with or result in a breach of any provision of Buyer's Articles of Organization, Regulations or other organizational or corporate documents;

(b) result in a default, or give rise to any right of termination, cancellation or acceleration, under any term, condition or provision of any contract, encumbrance or other instrument or obligation to which Buyer is a party or by which it or any of its properties or assets may be bound; or

(c) violate any order, writ, injunction, decree, statute, rule or regulation applicable to Buyer or any of its properties or assets.

Except for the approval of the FCC and certain filings required to be made with the FCC after the Closing Date, no consent, waiver or approval by, notice to or filing with any person or entity is required in connection with the execution and delivery of this Agreement by Buyer, compliance by Buyer with any of the provisions hereof or the consummation of the transactions contemplated hereby.

**5.5 Legal Proceedings.** There is no legal, equitable, administrative or arbitration action, suit, proceeding or known investigation pending or, to Buyer's knowledge, threatened against or affecting Buyer or any of its assets which, if adversely determined, would adversely affect the ability of Buyer to consummate the transactions contemplated hereby.

**5.6 No Misleading Statements.** The representations and warranties of Buyer herein, or in any Schedule hereto, do not contain any untrue statements of a material fact or omit

to state a material fact necessary in order to make the statements contained herein or therein not materially misleading.

5.7 **Broker.** Buyer has not incurred or become liable for any broker's commission or finder's fee relating to the transactions contemplated by this Agreement. Buyer agrees to indemnify and hold Seller harmless from any claims for brokerage fees, finder's fees or commissions asserted by any person, acting on Buyer's behalf in connection with this transaction.

## 6 **Seller's Covenants.**

### 6.1 **Indemnification.**

(a) The sole and exclusive remedy which Buyer shall have against Seller under this Agreement after the Closing Date shall be the right to proceed for indemnification in the manner and only to the extent provided by this Section 6. Seller hereby indemnifies Buyer and holds it and its agents, successors and assigns harmless, with respect to demands for indemnification asserted by Buyer, as provided by this Section 6.1, within one (1) year after the Closing Date from, against and in respect of:

(1) the ownership and operation of the Station prior to the Closing, including, but not limited to all liabilities, obligations, claims against and contracts of Seller of every kind and nature whatsoever, at any time existing or asserted, whether or not accrued, whether fixed, contingent or otherwise, whether known or unknown, and whether or not recorded on the books and records of Seller, arising out of or by reason of this or any other transaction or event occurring prior or subsequent to the Closing, which have not been assumed by Buyer; and

(2) all losses, damages and deficiencies resulting from any failure or breach of any representation or warranty, or any breach or nonfulfillment of any covenant or agreement, of Seller made in this Agreement; and

(3) all actions, suits, proceedings, claims, demands, assessments, judgments, fines, amounts paid in settlement, costs and expenses (including reasonable attorneys' fees and expenses) incident to any of the foregoing.

(b) If a demand for indemnification arises out of a claim made against Buyer by a person not a party to this Agreement or affiliated with a party to this Agreement (a "Third Party Claim"), Buyer shall give prompt notice thereof to Seller, stating in reasonable detail the nature of the Third Party Claim, the identity of the Third Party Claimant and the specific representations, warranties or covenants which Buyer contends Seller has breached. Such notice shall also indicate whether Buyer intends to defend against the Third Party Claim. If Buyer shall defend against the Third Party Claim, Seller shall cooperate in all reasonable respects with Buyer



in such defense, shall make available to Buyer all records and other materials reasonably required by Buyer in such defense, and shall have the right to participate in such defense. If Buyer does not intend to defend against the Third Party Claim, then Seller may assume defense of the Third Party Claim through legal counsel of its choice reasonably satisfactory to Buyer, in which event Buyer shall cooperate in all reasonable respects with Seller in such defense, and shall make available to Seller and its counsel all records and other materials reasonably required by them in such defense, but Seller shall at all times control such defense. If Seller reaches a settlement with the Third Party Claimant which results in any liability to Buyer, or if a judgment is rendered against Buyer which judgment is not properly appealed or appealable, then Buyer shall be entitled to indemnification in an amount sufficient to discharge the Third Party Claim.

(c) If Buyer asserts a demand for indemnification hereunder, but such demand is not based upon a Third Party Claim, Buyer shall notify Seller thereof, stating in reasonable detail the nature of Buyer's claim and the specific representations, warranties and covenants which Buyer contends Seller has breached. Seller shall have fifteen (15) days after the effective date of such notice to accept or reject Buyer's demand for indemnification. If Seller accepts such demand for indemnification, it shall pay the amount of indemnification claimed by Buyer. If no acceptance is received by Buyer within such 15-day period, Seller shall be deemed to have rejected the demand. In the event Seller rejects Buyer's demand for indemnification or fails to accept such demand within such 15-day period, the parties shall proceed to an action in a court of competent jurisdiction to determine if Buyer is entitled to indemnification. If the court rules in favor of Buyer, Buyer shall be entitled to indemnification to the extent provided in such judicial decision. If the court rules in favor of Seller, Seller shall have no further liability on Buyer's claim.

(d) If there is any disagreement between Buyer and Seller concerning the validity of any demand for indemnification asserted under Section 6.1, then such disagreement shall, as provided by Section 6.1(c) or otherwise on demand of either party, be filed with a court of competent jurisdiction in Nashville, Tennessee. Buyer and Seller agree to be bound by the final decision of said court as to any indemnification obligation.

**6.2 Access and Information.** Seller shall give Buyer and its representatives full but reasonable access during normal business hours throughout the period prior to Closing to the operations, properties, books, contracts, agreements, leases, commitments and records of the Station; provided, however, that Buyer shall give Seller reasonable advance notice of exercising this right. Seller shall furnish to Buyer all information concerning the Station's affairs as Buyer may reasonably request.

**6.3 Conduct of Station's Business.** Prior to Closing, without the written consent of Buyer, Seller shall not enter into any transaction other than those in the ordinary course of the business of the Station and shall operate the Station in the normal and usual manner. Without limiting the foregoing, Seller shall:

(i) not enter into any employment contract relating to the Station or increase the compensation paid to any employee of the Station;

- (ii) refrain from hiring, firing, releasing or transferring any employee of the Station;
- (iii) maintain in force the Insurance;
- (iv) not make any material reduction in the price or terms for the sale of program time or announcements on the Station;
- (v) refrain from making any sale, lease, transfer or other disposition of any of the Assets;
- (vi) refrain from modifying, amending, altering or terminating any of the Assigned Leases or Contracts or waiving any default or breach thereunder or modifying, altering or terminating, any other right relating to or included in the Assets;
- (vii) maintain its books and records in accordance with prior practice; maintain the Assets in adequate condition, ordinary wear and tear excepted; maintain supplies of inventory and spare parts relating to the Station consistent with past practices;
- (viii) promptly notify Buyer upon Seller's becoming aware of the resignation or contemplated resignation of any supervisory employee of the Station;
- (ix) operate the Station in accordance with the Licenses, or any FCC-issued Special Temporary Authorization, and comply with all laws, rules and regulations applicable to it, including the rules and regulations of the FCC;
- (x) refrain from subjecting any of the Assets to any lien, claim, charge, or encumbrance on the Assets;
- (xi) refrain from doing or omitting to do any act which will cause a breach of, or default under, or termination of, any Assigned Lease or Contract;
- (xii) take such action as may be reasonably necessary to obtain any required consents of third parties to the transactions contemplated herein;
- (xiii) refrain from entering into any other lease or contract or agreement not in effect on the date hereof and not listed on Schedule 1.3;
- (xiv) provide to Buyer, concurrently with filing thereof, copies of all reports to and other filings with the FCC relating to the Station; and provide to Buyer, promptly upon receipt thereof by Seller, a copy of (i) any notice from the FCC or any other governmental authority of the revocation, suspension, or limitation of the rights under, or of any proceeding for the revocation, suspension, or limitation of the rights under (or that such authority may in the future, as the result of failure to comply with laws or regulations or for any other reason, revoke, suspend or limit the rights under) any License, or any other license or permit held by Seller

respecting the Station, and (ii) to the extent they may be available from the FCC, copies of all protests, complaints, challenges or other documents filed with the FCC by third parties concerning the Station and, promptly upon the filing or making thereof, copies of Seller's responses to such filings; provide Buyer in writing immediately upon learning of the institution or written threat or action against the Seller involving the Station or Assets before the FCC or any other governmental agency;

(xv) not permit any of the Licenses to expire or to be surrendered or voluntarily modified, or take any action (or fail to take any action) which could cause the FCC or any other governmental authority to institute proceedings for the suspension, revocation or limitation of rights under any License; or fail to prosecute with due diligence any pending applications to any governmental authority with respect to the Station or any such Licenses, except for proceedings affecting the radio broadcasting industry generally; and

(xvi) pay or cause to be paid or provided for when due (except to the extent contested in good faith for which proper reserves shall have been established) all income, property, use, franchise, excise, social security, withholding, worker's compensation and unemployment insurance taxes and all other taxes of or relating to Seller, the Assets and the employees required to be paid to city, county, state, Federal and other governmental units up to the Closing Date.

**6.4 Risk of Loss.** Seller shall bear all risk of loss or damage by fire, theft, breakage, explosion, earthquake, accident, flood, rain, storm, riot, acts of God or public enemy, or other casualty or cause, reasonable wear and tear excepted, to any of the Assets to be assigned to Buyer hereunder occurring prior to the Closing. In the event any loss or damage occurs, the proceeds of the Insurance covering such loss shall be used by Seller to repair, replace or restore any such loss prior to the Closing; provided, however, that, if the proceeds of such Insurance are not sufficient to repair, replace or restore the loss, and Seller does not provide additional funds for such purpose upon request by Buyer, Buyer if not then in default may terminate this Agreement. In the event such loss or damage prevents the broadcast transmission of the Station in the normal and usual manner, Seller shall give prompt written notice thereof to Buyer. If Seller cannot restore the facilities so that transmission can be resumed in the normal and usual manner within thirty (30) days, Buyer, if not then in default, shall have the right after such 30-day period to terminate this Agreement by giving written notice to Seller. In the event of any such termination pursuant to this Section 6.4 neither party shall have any further right or liability hereunder.

**6.5 Other Proposals.** Seller shall not, nor shall Seller permit any of its employees, agents, directors or officers to, solicit or entertain any inquiries or proposals or participate in any discussions, negotiations or agreements relating to the sale, merger or consolidation of Seller or the sale of all or substantially all of Assets prior to the Closing Date.

**6.6 COBRA.** Seller shall be responsible for satisfying any and all obligations under the continuation coverage provisions of the Consolidated Omnibus Budget Reconciliation Act of 1985, as amended ("COBRA"), to provide continuation coverage to or with respect to all employees and their beneficiaries (to whom COBRA is applicable) as a result of any "qualifying

event” as defined in Section 4980B of the Code and Section 603 of ERISA occurring on or before the Closing Date. This covenant confers no rights or benefits on any party other than Buyer and may not be used by present or past Seller employees, their beneficiaries or any other third parties as the basis for claims against Seller.

## **7 Buyer’s Covenants.**

### **7.1 Indemnification.**

(a) From and after the Closing, Buyer shall be responsible for and hereby indemnifies Seller and holds it and its agents, successors and assigns harmless, with respect to demands for indemnification asserted by Seller, as provided by this Section 7.1, within one (1) year after the Closing Date from, against and in respect of:

(1) The operation of the Station subsequent to the Closing, including, but not limited to any and all claims, liabilities and obligations arising or required to be performed under the Assigned Contracts assumed by Buyer;

(2) All losses, damages and deficiencies resulting from any failure or breach of any representation or warranty, or any breach or non-fulfillment of any covenant or agreement, of Buyer made in this Agreement; and

(3) All actions, suits, proceedings, claims, demands, assessments, judgments, fines, penalties, amounts paid in settlement, costs and expenses (including reasonable attorneys’ fees and expenses) incident to any of the foregoing.

(b) If a demand for indemnification arises out of a claim made against Seller by a person not a party to this Agreement or affiliated with a party to this Agreement (a “Third Party Claim”), Seller shall give prompt notice thereof to Buyer, stating in reasonable detail the nature of the Third Party Claim and the specific representations, warranties or covenants which Seller contends Buyer has breached. Such notice shall also indicate whether Seller intends to defend against the Third Party Claim. If Seller shall defend against the Third Party Claim, Buyer shall cooperate in all reasonable respects with Seller in such defense, shall make available to Seller all records and other materials reasonably required by Seller in such defense, and shall have the right to participate in such defense. If Seller does not intend to defend against the Third Party Claim, then Buyer may assume defense of the Third Party Claim through legal counsel of its choice, reasonably satisfactory to Seller, in which event Seller shall cooperate in all reasonable respects with Buyer in such defense and shall make available to Buyer and its counsel all records and other materials reasonably required by them in such defense, but Buyer shall at all times control such defense. If Buyer reaches a settlement with the Third Party Claimant which results in any liability to Seller, or if a judgment is rendered against Seller which judgment is not properly

appealed or appealable, then Seller shall be entitled to indemnification in an amount sufficient to discharge the Third Party Claim.

(c) If Seller asserts a demand for indemnification hereunder, but such demand is not based upon a Third Party Claim, Seller shall notify Buyer thereof, stating in reasonable detail the nature of Seller's claim and the specific representations, warranties and covenants which Seller contends Buyer has breached. Buyer shall have fifteen (15) days after the effective date of such notice to accept or reject Seller's demand for indemnification. If Buyer accepts such demand for indemnification, it shall pay the amount of indemnification claimed by Seller. If no acceptance is received by Seller within such 15-day period, Buyer shall be deemed to have rejected the demand. In the event Buyer rejects Seller's demand for indemnification or fails to accept such demand within such 15-day period, the parties shall immediately submit the controversy to arbitration in accordance with the provisions of Section 7.1(d). If the arbitrator(s) render an award in the arbitration proceeding in favor of Seller, Seller shall be entitled to indemnification to the extent provided in such award. If the arbitrator(s) render an award in favor of Buyer, Buyer shall have no further liability on Seller's claim.

(d) If there is any disagreement between Seller and Buyer concerning the validity of any demand for indemnification asserted under Section 7.1, then such disagreement shall, as provided by Section 7.1(c) or otherwise on demand of either party, be filed with a court of competent jurisdiction in Nashville, Tennessee. Buyer and Seller agree to be bound by the final decision of said court as to any indemnification obligation.

## **8 Application for FCC Approval.**

**8.1 Filing and Prosecution of Application.** Buyer and Seller shall, within five (5) business days from the date of this Agreement, join in an application (the "Assignment Application") to be filed with the FCC requesting its written consent (the "FCC Consent") to the assignment of the Licenses from Seller to Buyer. Buyer and Seller shall proceed with due diligence and promptly take all steps necessary to the expeditious prosecution of the Assignment Application to a favorable conclusion, using their best efforts throughout.

**8.2 Expenses.** Each party shall bear its own expenses in connection with the preparation of the applicable sections of the FCC application and in connection with the prosecution of such application. Seller and Buyer will divide and pay equally any filing fee imposed by the FCC.

**8.3 Designation for Hearing.** If, for any reason, with respect to any application for assignment of the Licenses, the staff of the FCC advises that designation for hearing will be required, either party, if not then in default, shall have the right, by written notice within thirty (30) days of such notification, to terminate this Agreement, in which event neither party shall have any rights or liabilities hereunder.

8.4 **Time of FCC Consent.** If the Assignment Application has not been granted and become a Final Order (as defined below) within eighteen (18) months from the date of filing the Assignment Application with the FCC, either Party, if not then in default, may terminate this Agreement by giving written notice to the other.

8.5 **Control of Station.** This Agreement shall not be consummated until the FCC has given its written consent to the assignment of the Licenses of the Station to the Buyer. Buyer shall not, directly or indirectly, control, supervise, direct or attempt to control, supervise or direct the operation of the Station, but such operation shall be the sole responsibility of Seller.

## 9 **Conditions to Parties' Obligations.**

9.1 **Conditions to Buyer's Obligations.** The obligations of Buyer to complete the transactions provided for herein shall be subject, at its election, to satisfaction on or before the Closing Date of each of the following conditions:

(a) Representations and warranties: all representations and warranties of Seller contained in this Agreement shall be true and correct in all material respects as of the Closing Date (except as may be otherwise provided in this Agreement), and Buyer shall have received a certificate to that effect, dated the Closing Date, signed by an officer of Seller;

(b) Pre-Closing obligations: Seller shall have performed all material obligations required to be performed by Seller hereunder, the performance of which has not been waived by Buyer, and Buyer shall have received a certificate to that effect, dated the Closing Date, signed by an officer of Seller;

(c) Due authorization: Seller's execution and delivery of this Agreement, its compliance with the provisions hereof and the consummation of all of the transactions contemplated hereby shall have been duly and validly authorized by all necessary action on the part of Seller, including due authorization and approval thereof by its members, and Buyer shall have received a duly certified copy of all actions taken effecting the same;

(d) Seller's consents: all necessary notices, filings, consents, waivers and approvals shall have been given, made or obtained, as the case may be, by Seller, and Buyer shall have received a true copy of each thereof;

(e) No bar: there shall not be in effect any judgment, decree or order of, or position taken by, any court or administrative body of competent jurisdiction, nor shall there have been any action, suit, proceeding or known investigation instituted or threatened, unless any such action for money damages is fully bonded by cash or surety bond, nor shall any law or regulation have been enacted or any action taken thereunder, which would, in Buyer's reasonable judgment, restrain or prohibit, make illegal, or subject Buyer to material damage as a result of, the consummation of the transactions contemplated hereby;

(f) Licenses: The Licenses (i) shall have been approved for assignment to Buyer through grant of the Assignment Application with no conditions materially adverse to either Party, (ii) shall be valid and existing authorizations in every respect for the purpose of operating the Station, (iii) shall have been issued by the FCC under the Communications Act for the full terms thereof, (iv) shall contain no adverse modifications of the terms of the Licenses as of the date of the Licenses and except for proceedings that affect the radio broadcasting industry generally, and (v) no proceeding for any revocation, suspension or modification shall be in effect, and neither Seller nor Buyer shall have received any notice that any governmental authority may institute any such proceedings.

(g) Further closing documents: Seller shall have delivered to Buyer the following documents and instruments in forms reasonably satisfactory to counsel to Buyer:

- (1) Bill of Sale transferring to Buyer title to the Tangible Assets, the Intangible Assets and the Business Records;
- (2) An Assignment and Assumption Agreement assigning to Buyer the Assigned Leases and Contracts;
- (3) An Assignment of the Licenses and the Call Letters;
- (4) The Lease, duly executed by Seller; and
- (5) Such other documents as Buyer may reasonably request.

(h) Prepaid credits: except as otherwise provided herein, all prepaid expenses shall have been prorated between Buyer and Seller to the Closing Date; and

(i) Possession: Seller shall have delivered to Buyer actual possession of the Assets.

**9.2 Conditions to Seller's Obligations.** The obligations of Seller to complete the transactions provided for herein shall be subject, at its election, to satisfaction on or before the Closing Date of each of the following conditions:

(a) Representations and warranties: All representations and warranties of Buyer contained in this Agreement shall be true and correct in all material respects as of the date hereof and as of the Closing Date as though made on and as of the Closing Date (except as may be otherwise provided in this Agreement), and Seller shall have received a certificate to that effect, dated the Closing Date, signed by an officer of Buyer;

(b) Pre-Closing obligations: Buyer shall have performed all material obligations required to be performed by it hereunder, the performance of which has not been

waived by Seller, and Seller shall have received a certificate to that effect, dated the Closing Date, signed by an officer of Buyer;

(c) Due authorization: Buyer's execution and delivery of this Agreement, its compliance with the provisions hereof and the consummation of all of the transactions contemplated hereby shall have been duly and validly authorized by all necessary action on the part of Buyer;

(d) No bar: There shall not be in effect any judgment, decree or order of, or position taken by, any court or administrative body of competent jurisdiction, nor shall there have been any action, suit, proceeding or known investigation instituted or threatened, unless any such action for money damages is fully bonded by cash or surety bond, nor shall any law or regulation have been enacted or any action taken thereunder, which would, in Seller's reasonable judgment, restrain or prohibit, make illegal, or subject Seller to material damage as a result of consummation of the transactions contemplated hereby; and

(e) Further closing documents: Buyer shall have delivered to Seller the following documents and instruments:

- (1) An Assignment and Assumption Agreement by which Buyer assumes the Assigned Leases and Contracts;
- (2) The Lease, duly executed by Buyer;
- (3) The Purchase Price; and
- (4) Such other documents as Seller may reasonably request.

**9.3 Mutual Conditions.** The obligations of Buyer and Seller to consummate this Agreement and the transactions contemplated hereby are subject to satisfaction at the time of the Closing of the condition that the FCC shall have issued the FCC Consent, any condition to the effectiveness of such FCC Consent and approval which is specified therein shall have been met and, subject to Buyer's rights in the next succeeding sentence, the same shall have become a Final Order. Notwithstanding the foregoing, either Seller or Buyer may waive the condition precedent that the FCC Consent shall have become a Final Order (which waiver, if made by one party, shall be deemed also made by the other party), provided, however, that the FCC Consent shall have been issued by the FCC without opposition thereto by any person. As used in this Agreement, "Final Order" shall mean an order of the FCC with respect to which no appeal, no petition for rehearing, reconsideration, or stay, and no other administrative or judicial action contesting such consent or approval, is pending and as to which the time for filing any such appeal, petition or other action has expired or, if filed, has been denied, dismissed, or withdrawn and the time for instituting any further legal proceeding has expired.



10      **Closing.** Subject to the terms and conditions herein stated, the parties agree as follows:

10.1      **Closing Date.** The closing (the “Closing”) of the transactions contemplated by this Agreement shall occur on a mutually agreeable date not later than ten (10) days following the date on which the FCC Consent shall have been initially granted (the “Closing Date”) and the closing conditions set forth in this Agreement have either been waived or satisfied, (provided the conditions in Section 9.3 are satisfied)i. Such Closing shall take place at the offices of Seller’s counsel in Washington, DC, or by electronic mail and facsimile followed by overnight delivery service at 10:00 a.m. on the Closing Date, or such other place and time as mutually agreed. Notwithstanding the foregoing, Buyer may, upon five (5) business days’ written notice to Seller, waive the Final Order requirement and specify an alternate Closing Date at any time following grant of the FCC Consent.

10.2      **Failure to Close; Termination.** This Agreement may be terminated at any time prior to the Closing Date, as follows:

- (a)      by the mutual consent of Seller and Buyer;
- (b)      by Buyer, upon notice to Seller, if on the Closing Date, without any breach by Buyer of its obligations hereunder, Seller has not complied with one or more of the conditions set forth in Section 9.1 (and such compliance is not waived by Buyer) or if Seller shall have breached any of its representations, warranties or obligations hereunder (which breach shall not have been cured in all material respect or waived prior to the earlier of the Closing Date or within thirty (30) days after Buyer has given notice to Seller of such breach); or
- (c)      by Seller, upon notice to Buyer, if on the Closing Date, without any breach by Seller of its obligations hereunder, Buyer has not complied with one or more of the conditions set forth in Section 9.2 (and such compliance is not waived by Seller) or if Buyer shall have breached any of its representations, warranties or obligations hereunder (which breach shall not have been cured in all material respect or waived prior to the earlier of the Closing Date or within thirty (30) days after Seller has given notice to Buyer of such breach); or
- (d)      as provided by Sections 6.4, 8.3, or 8.4 of this Agreement.

In the event of any termination as provided by this Section 10.2, this Agreement shall thereupon become void and of no effect, provided, however, that nothing in this Section 10.2 shall be deemed to release any party from liability for any breach by such party of the terms and provisions of this Agreement or impair the right of the Buyer to compel specific performance of Seller of its obligations under this Agreement.

11      **Remedies.** Notwithstanding anything to the contrary herein contained, it is agreed that the rights and privileges granted to Buyer in this Agreement are special and unique and that the Buyer shall be entitled to seek injunctive and other equitable relief, including without limitation specific performance, in a court of competent jurisdiction, and if such relief is granted,

the Buyer shall be entitled to recover from the Seller all costs and expenses (including reasonable attorneys' fees) incurred in securing such injunctive or other equitable relief. In lieu of seeking injunctive or equitable relief, Buyer may seek monetary damages but Buyer may not seek both injunctive or equitable relief and monetary damages. In the event of Buyer's breach of this Agreement, Seller shall be entitled to terminate this Agreement and shall have no further liability to Buyer.

## 12 Further Covenants.

12.1 **Taxes.** All taxes originating from this transaction shall be paid by the party responsible by law to pay such tax.

12.2 **Expenses of the Parties.** Except as otherwise expressly provided in this Agreement, all expenses involved in the preparation, negotiation, authorization and consummation of this Agreement and the transactions contemplated hereby, including all fees and expenses of agents, representatives, counsel and accountants, shall be borne solely by the party who shall have incurred the same, and no other party shall have any responsibility with respect thereto.

12.3 **Confidentiality.** Except for necessary disclosure to such party's directors, officers, members, employees, counsel, accountants, lenders and other agents, and except for the disclosure contemplated by Section 8 and such disclosure as may be required by law (including applicable tax laws), each party shall keep the provisions of this Agreement confidential both prior and subsequent to the Closing Date.

12.4 **Broker's Fee.** Each party has warranted that no brokers have employed in connection with this transaction; notwithstanding this, each party will be solely responsible for any and all brokerage fees asserted against it by a person or entity claiming entitlement to such fees as a result of this transaction.

12.5 **Further Assurances.** Each party shall cooperate with the other, take such further action, and execute and deliver such further documents, as may be reasonably requested by any other party in order to carry out the terms and purposes of this Agreement. Without limiting the generality of the foregoing, from and after the Closing Date:

(a) each party shall file all tax returns consistent with the allocation of the Purchase Price set forth in Section 2 of this Agreement and no party shall take any position on audit or in litigation which is inconsistent with such allocation if such position would result in the payment of any additional tax by, or the disallowance of any deduction or credit to, any other party; and

(b) upon request, each party shall take such action and deliver to the requesting party such further instruments of assignment, conveyance or transfer and other documents of further assurance as in the opinion of counsel to the requesting party may be reasonably desirable to assure, complete and evidence the full and effective transfer, conveyance

and assignment of the Assets and possession thereof to Buyer, its successors and assigns, and the performance of this Agreement by Seller and Buyer in all respects.

**12.6 Accounts Receivable.** Title to the Station's accounts receivables shall at all times rest with Seller. Any funds or checks coming into the possession of Buyer that are attributable to Seller's accounts receivables will be promptly turned over to Seller.

### **13 General Provisions.**

**13.1 Survival of Representations, Warranties and Covenants.** The several representations, warranties and covenants of the parties herein contained, and the provisions hereof which by their terms are to be performed after the Closing Date, shall survive the Closing Date for the periods set forth herein, and shall be effective regardless of any investigation which may have been or may be made at the time by or on behalf of the party to whom such representations, warranties, covenants and agreements are made.

**13.2 Amendment and Waiver.** This Agreement may be amended only by a writing executed by each of the parties hereto. No waiver of compliance with any provision or condition hereof, and no consent provided for herein, shall be effective unless evidenced by an instrument in writing duly executed by the party sought to be charged therewith. No failure on the part of any party to exercise, and no delay in exercising, any of its rights hereunder shall operate as a waiver thereof, nor shall any single or partial exercise by any party of any right preclude any other or future exercise thereof or the exercise of any other right.

**13.3 Assignment.** Neither party may assign this Agreement without the prior written consent of the other, except to an entity that controls, is controlled by, or is under common control with the assigning party; provided, however, that no such assignment shall relieve the assigning party of its obligations hereunder. Subject to the foregoing, this Agreement shall be binding upon and inure to the benefit of the Parties and their respective successors and assigns.

**13.4 Notices.** All notices, requests, demands, and other communications pertaining to this Agreement shall be in writing and shall be deemed duly given when delivered personally (which shall include delivery by Federal Express, UPS, or USPS Express Mail, or other recognized courier service that issues a receipt or other confirmation of delivery) to the party for whom such communications is intended, addressed as follows.

If to Buyer:  
Broady Media Group, LLC  
3855 Clarksville Pike  
Nashville, TN 37218

with a copy (which shall not constitute notice) to:  
Lawrence Wilson, Esq.  
2400 Crestmoore Road

Nashville, TN 37215

If to Seller:

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.  
4101 Albemarle Street NW #324  
Washington, DC 20016-2151  
Telephone: (202) 681-2201

Any party may change its address for the purpose hereof by giving notice in accordance with the provisions of this Section 13.4.

**13.5 Binding Effect.** Subject to the provisions of Section 13.3, this Agreement shall be binding upon and shall inure to the benefit of the parties and their respective successors and assigns. This Agreement creates no rights of any nature in any person not a party hereto.

**13.6 Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of Tennessee without regard to the choice of law rules utilized in that jurisdiction, and the obligations of the parties hereto are subject to all federal, state, or municipal laws or regulations now or hereafter in force and to the regulations of the FCC and all other governmental bodies or authorities presently or hereafter duly constituted and any legal action with respect hereto shall be brought in the state or federal court in Davidson County, Tennessee.

**13.7 Effect of Agreement.** This Agreement sets forth the entire understanding of the parties, and supersedes any and all prior agreements, arrangements and understandings, written or oral, relating to the subject matter hereof.

**13.8 Headings; Counterparts.** The Article and Section headings of this Agreement are for convenience of reference only and do not form a part hereof and do not in any way modify, interpret or construe the intention of the parties. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

**13.9 Force Majeure.** Each party acknowledges and agrees that a party will not be liable for any failure to timely perform any of its obligations under this Agreement if such failure is due, in whole or in part, directly or indirectly, to accidents, fires, floods, governmental

actions, war, civil disturbances, other causes beyond such party's control or any other occurrence which would generally be considered an event of force majeure.

IN WITNESS WHEREOF, the parties have duly executed this Agreement on the date first written above.

**SELLER:**

WENO, INC.

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

Title: \_\_\_\_\_

**BUYER:**

BROADY MEDIA GROUP, LLC

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

**List of Schedules and Exhibits**

Schedule 1.1	FCC Licenses
Schedule 1.2	Tangible Assets
Schedule 1.3	Assigned Leases and Contracts
Schedule 1.5	Intangible Assets
Schedule 2.3	Allocation of Purchase Price
Exhibit A	Transmitter Site Lease