

## **ASSET PURCHASE AGREEMENT**

This Asset Purchase Agreement (A Agreement@) is dated as of August 10, 2001 and is made by and between **Zavaletta Broadcasting of the Rio Grande Valley, LLC**, a Texas limited liability company ("Rio Grande"), **Zavaletta Broadcasting of Laredo, LLC**, a Texas limited liability company ("Laredo", and together with Rio Grande, "Seller"), **PAULINO BERNAL**, an individual residing in the State of Texas ("PB") and **Bernal Christian Television Network, Inc.**, a corporation organized under the laws of the State of Texas, ("BCTN", and together with PB, "Buyer").

### **Recitals**

1. Rio Grande holds the licenses, permits, and other authorizations issued by the Federal Communications Commission ("FCC") used in connection with the operation of KZAV-LP, Channel 20, Brownsville, Texas, and KZMC-LP, Channel 35, McAllen, Texas, and Laredo holds the licenses, permits, and other authorizations issued by the FCC used in connection with the operation of KZLD-LP, Channel 25, Laredo, Texas. Each of the aforementioned three low power television stations is referred to herein as a "Station" and they are collectively referred to herein as the "Stations". The licenses, permits and other authorizations issued by the FCC for the Stations are collectively referred to herein as the "FCC Licenses."
2. Seller desires to sell, assign and transfer to Buyer, to the fullest extent permitted by law, the FCC Licenses, as well as the other assets owned or held by Seller and used or useful in the operation of the Stations.
3. Buyer desires to acquire the FCC Licenses and the other assets owned or held by Seller and used or useful in the operation of the Stations, all under the terms described herein.
4. Seller and Buyer have executed a Time Brokerage Agreement (the "TBA@) dated June 1, 2001, pursuant to which Buyer will utilize substantially all of the time on the Stations.

NOW, THEREFORE, in consideration of the foregoing and the mutual promises and covenants contained herein, the parties hereto hereby agree as follows:

## **ARTICLE 1. Closings and Exchange of Consideration.**

### **1.1 Closings.**

#### **1.1.1 Initial Closing.**

The closing of the purchase and sale of the Station Assets (the "Initial Closing"), as hereinafter defined, shall be held at the offices of Buyer at 4501 N. McColl, McAllen, Hidalgo County, Texas on August 31, 2001, whereby Texas State Bank will provide the loan funding to the escrow account for the "Initial Closing". (the Initial Closing Date@)

#### **1.1.2 Final Closing.**

The closing of the purchase and sale of the FCC Assets (the "Final Closing"), as hereinafter defined, shall be held at the offices of Seller at 603 East Charles Street, Brownsville, Texas within ten business days following the date on which the last of the conditions to the obligations of Buyer and Seller to proceed with the Final Closing shall have been satisfied (or waived in writing); provided, however, that the parties shall not be obligated to proceed with the Final Closing if the order by the FCC granting its consent to the assignment of the FCC Licenses from Seller to Buyer (the "FCC Order") contains conditions that are materially adverse to Buyer or Seller. The date on which the Final Closing occurs is hereinafter referred to as the Final Closing Date.

#### **1.1.3 Exchange of Documents.**

At the Initial Closing and the Final Closing, each party shall execute and deliver to the other party the items specified herein as well as any additional document(s) and item(s) reasonably necessary for the consummation of the transactions contemplated herein. Such additional documents shall be reasonably satisfactory to the other party as to both form and substance.

### **1.2 Consideration Conveyed by Seller at the Initial Closing.**

#### **1.2.1 Station Assets.**

Subject to the terms and conditions of this Agreement, Seller shall assign, convey, transfer and deliver to the Buyer at the Initial Closing the Station Assets, which shall include the following items:

(a) Property. Real and personal property (excluding the FCC Assets described below), both tangible and intangible, owned or held by Seller and used or useful in the operation of the Stations, the material items of which are listed on **Schedule 1** attached hereto.

(b) Contracts. All contracts, leases and other agreements, whether oral or written, of any kind relating to the operation of the Stations (excluding tower leases for the towers for each of the Stations (the "Tower Leases") and network affiliation agreements (the "Network Affiliation Agreements") for the Stations), including those which are identified on **Schedule 2** attached hereto.

(c) Records. Any and all files, program logs, and other records

that relate to the operation of the Stations in the possession of Seller on the date hereof, except Seller=s records that pertain to the organization of the Seller and the local public file together with all records required by the FCC to be kept by the Stations.

(d) Goodwill. All of Seller=s goodwill in and going concern value of the Stations.

(e) Marketing Items. All trademarks, call signs, service marks, franchises, patents, trade names, jingles, fictitious names, slogans and logotypes owned or used by Seller as of the date hereof in connection with the operation of the Stations.

(f) Programming and Copyrights. All intellectual property, programs and programming materials and elements of whatever form or nature owned or licensed for use by Seller and used in the operation of the Stations as of the date hereof, whether recorded on tape or any other medium or intended for live performance, and whether completed or in production and all related common law and statutory copyrights owned or licensed for use by Seller and used in the operation of the Stations.

### **1.3 Consideration Conveyed by Seller at the Final Closing.**

#### **1.3.1 FCC Assets.**

Subject to the terms and conditions of this Agreement, Seller shall assign, convey, transfer and deliver to the Buyer at the Final Closing the FCC Assets, which shall include the following items:

(a) FCC Licenses. Sellers right title and interest in and to the FCC Licenses, a list of which is set forth on **Schedule 3** hereto.

(b) Transmission Facilities. The transmission facilities for the Stations, including, without limitation, the transmission lines, antennas, and master controls.

(c) Local Public File. The local public files for the Stations together with all records required by the FCC to be kept by the Stations.

(d) Contracts. All contracts, leases and other agreements, whether oral or written, of any kind relating to the operation of the Stations (including the Tower Leases and the Network Affiliation Agreements for the Stations) not assigned at the Initial Closing.

#### **1.4 Excluded Assets.**

Notwithstanding any other provision of this Agreement, Seller shall retain ownership of, and there shall be excluded from the Station Assets and the FCC Assets, to the extent in existence on the Initial Closing Date or the Final Closing Date, the following assets (the Excluded Assets):

(a) Accounts Receivable. All notes and accounts receivable

of Seller relating to or arising out of Seller=s operation of the Stations prior to June 1, 2001.

(b) Cash and Investments. All cash on hand or in bank accounts and all cash equivalents and similar investments of Seller, such as certificates of deposit.

(c) Prepaid Items. All deposits, reserves and prepaid expenses and taxes (unless prorated as provided in this Agreement).

(d) Certain Personal Property. All non-material tangible personal property disposed of or consumed in the ordinary course of business of the Stations.

(e) Insurance. All contracts of insurance, proceeds and insurance claims made by Seller relating to the Station Assets or the FCC Assets prior to the Final Closing.

(f) Securities. Any and all securities owned or held by Seller.

(g) Claims. Any and all claims of Seller with respect to transactions which transpire prior to the Final Closing Date, including, without limitation, claims for tax refunds.

(h) Miscellaneous Assets. Pension, profit-sharing, savings plans and trusts, and any assets thereof.

(i) Organizational Documents. Seller=s books and original records that pertain to the organization, existence or capitalization of Seller.

(j) Identified Assets. Those assets listed on **Schedule 4**, if any.

The Station Assets and the FCC Assets shall be sold and conveyed to Buyer free and clear of all debts, liens, claims, financing leases, security interests and encumbrances or liabilities of any kind or nature ("Encumbrances"), except for liens for current taxes not yet due and payable and other matters reasonably approved by Buyer (the APermitted Encumbrances).

#### **1.5 Seller=s Retained Liabilities.**

Unless reflected in a document executed by Buyer, Buyer shall not assume or be liable for the following:

- (a) Any contract, agreement or lease not expressly assumed by Buyer hereunder;

- (b) Any obligation of Seller arising out of any contract of insurance, any pension, retirement or profit-sharing plan, or any trust or other benefit plan;
- (c) Any litigation, proceeding or claim relating to the business or operation of the Stations prior to June 1, 2001, regardless of whether such litigation, proceeding or claim is pending, threatened or asserted before, on or after the Final Closing, or
- (d) Any obligation (including but not limited to wages, salaries, vacation pay, payroll taxes, COBRA coverage or severance payments) to or for persons employed by Seller (recognizing that Buyer has no obligation to employ any of Seller=s employees).

#### **1.6 Consideration Conveyed by Buyer.**

##### **1.6.1 Purchase Price.**

The purchase price for the Station Assets and the FCC Assets is THREE MILLION FOUR HUNDRED THOUSAND AND NO/100THS DOLLARS (\$3,400,000.00) (the APurchase Price@).

##### **1.6.2 Method for Payment of Purchase Price.**

The Purchase Price is to be paid by Buyer to Seller in the following manner:

- a. At the Initial Closing, the Station Assets shall be purchased by Buyer for the sum of one million one hundred seventy four thousand dollars (\$1,174,000.00) in cash, which amount shall be placed into an escrow account (the "Escrow Account") pending Final Closing. Buyer and Seller shall execute an escrow agreement (the "Escrow Agreement") with the escrow agent, Texas State Bank, (the "Escrow Agent"), which Escrow Agreement shall set forth the rights and responsibilities of Buyer, Seller and Escrow Agent with respect to the Escrow Account. In addition to the terms and conditions typically provided in escrow agreements, the Escrow Agreement shall provide that a condition to the obligation of Escrow Agent to release the funds from the Escrow Account prior to a Final Closing shall be that Texas State Bank shall have delivered a release of any and all liens it has on the Station Assets to Seller and Escrow Agent.
- b. At the Final Closing, Buyer shall deliver to Seller the difference between the Purchase Price and (i) the consideration of \$1,174,000 placed into the Escrow Account at the Initial Closing plus (ii) the TBA Credit (as defined below), which amount shall be calculated in accordance with the following principles: Seller shall credit toward the Purchase Price fifty percent (50%) of the monthly lease payment actually paid by Buyer to Seller under the TBA for the month of July, 2001 (i.e., \$12,500), plus one hundred percent (100%) of the monthly lease payment actually paid by Buyer to Seller under the TBA for the months of August, September, October, November and December of 2001 (i.e., \$25,000 for each such month) plus fifty percent (50%) of the monthly lease payment actually

paid by Buyer to Seller under the TBA for the month of January, 2002 and each month thereafter in the year 2002 (the "TBA Credit"). In addition, at the Final Closing, Buyer and Seller shall execute joint written instructions instructing the Escrow Agent to release the funds in the Escrow Account, together with any interest thereon, to Seller and deliver such instructions to the Escrow Agent.

#### **1.7 Allocation.**

The Purchase Price shall be allocated between tangible and intangible assets in accordance with the allocation attached hereto as **Schedule 5**. Seller and Buyer shall use such allocation for all purposes related to the valuation of the Station Assets and FCC Assets, including, without limitation, in connection with any federal, state, county or local tax returns. Neither Seller nor Buyer shall take any position in any tax return, tax proceeding, tax audit or otherwise that is inconsistent with such allocation.

#### **1.8 Application for FCC Consent.**

No later than five (5) business days following the Initial Closing Date, the parties shall prepare and file with the FCC an application (the "Application") to obtain the consent of the FCC to the assignment of the FCC Licenses from Seller to Buyer. Buyer and Seller shall diligently take, or cooperate in the taking of, all steps necessary and appropriate to expedite the preparation of the Application and its prosecution to a favorable conclusion. Seller and Buyer will promptly provide each other with a copy of any pleading, order or other document served on it relating to the Application. Seller and Buyer will use their best efforts and otherwise cooperate with each other in responding to any information requested by the FCC relating to the Application, in making any amendment to this Agreement requested by the FCC which does not adversely affect either party in a material manner, and in defending against any petition, complaint or objection which may be filed against the Application. Seller and Buyer shall each pay one-half of any FCC filing fees.

### **ARTICLE 2. Representations and Warranties of Seller.**

Each Seller represents and warrants to Buyer as to the truth of the following matters:

#### **2.1 Status.**

Each Seller is a limited liability company organized under the laws of the State of Texas, validly existing and in good standing in the State of Texas and has the power to carry on the business of the Stations as now being conducted, to own, hold and use the Station Assets and the FCC Assets, and to enter into and consummate the transactions contemplated by this Agreement.

#### **2.2 Licenses.**

Seller is the holder of the FCC Licenses listed in **Schedule 3** to this Agreement.

To Seller's knowledge, the FCC Licenses constitute all of the licenses, permits and authorizations required under the Communications Act of 1934, as amended (the "Act"), and the current rules and policies of the FCC for the

operation of the Stations as currently conducted. Seller has filed with the FCC all material applications, reports, antenna structure registrations and other disclosures required by the Act and by FCC rules and policies and has paid any and all required regulatory fees. Other than proceedings of general applicability to the broadcasting industry, there is not now pending or, to Seller=s knowledge, threatened, any petition, complaint, objection (whether formal or informal), investigation, order to show cause, notice of violation, notice of apparent liability or notice of forfeiture or other proceeding by or before the FCC or any court against Seller with respect to any matter affecting the Stations. Prior to June 1, 2001, the Stations were operating in material compliance with the FCC Licenses, the Act, and the rules and policies of the FCC.

### **2.3 Condition of and Title to Assets.**

Each item of the personal property included in the Station Assets is in good repair and working condition, ordinary wear and tear excepted, and, during Seller=s ownership thereof, each item has been maintained, in all material respects, according to industry standards. The Station Assets are free and clear of all debts, claims, liabilities, security interests, mortgages, pledges, liens, conditional sales agreements, leases, encumbrances or charges of any kind or nature whatsoever except for the Permitted Encumbrances and such liabilities expressly assumed by Buyer hereunder.

### **2.4 Employees.**

Seller acknowledges that Buyer is not required to employ any employee of Seller associated with the Stations. Seller shall be responsible for all employees currently employed by Seller at the Stations, including but not limited to all insurance for employees and all claims for unemployment made by said employees upon their termination. **Seller acknowledges that Buyer is merely purchasing the assets of the Stations for the use and operation of Low Power television broadcasting. Buyer is not responsible for the employees of the Stations, as same shall remain under the supervision and control of Seller.**

### **2.5 Taxes.**

Seller has filed all required federal, state and local tax returns and paid all taxes, interest and penalties due with respect to Seller=s interest in the Station Assets or its operation of the Stations. Seller shall indemnify, defend, save and hold Buyer harmless from and against all claims, obligations and liabilities for all taxes, interest and penalties attributable to Seller=s ownership or operation of the Stations and the ownership or holding of the Station Assets prior to the Initial Closing Date.

### **2.6 Contracts.**

Seller has provided true copies of all written contracts, leases and agreements to which Seller is a party as of the date of this Agreement relating to the Stations. Seller has complied in all material respects with all contracts, leases and agreements and is not in default beyond any applicable grace periods thereunder. To Seller=s knowledge, no other contracting party is in material default under any of the contracts, leases or agreements. All contracts, leases and agreements are in full force and effect.

### **2.7 Litigation.**

Seller has not been operating under and is not subject to, or in default with respect to, any order, judgment, writ, injunction or decree of any court or any federal, state, municipal or other governmental department, commission, board, agency or instrumentality, foreign or domestic, which has had or could reasonably be expected to have a material adverse effect on the Station Assets or the operation of the Stations. There is no litigation, arbitration, or proceeding of any nature (Litigation) pending by or against, or, to Seller's knowledge, threatened against the Stations or Seller which relates to or affects the Station Assets or the business of the Stations or which materially interferes or could reasonably be expected materially to interfere with Seller's:

- (a) Right, title to, or interest in the Station Assets;
- (b) Operation of the Stations, or
- (c) Ability to transfer the Station Assets to Buyer free of such Litigation.

#### **2.8 No Defaults.**

Neither the execution and delivery by Seller of this Agreement nor the consummation by Seller of the transactions contemplated herein are events that, by themselves or with the giving of notice or the passage of time or both,

- (a) Constitute a material violation of or will conflict with or result in any material breach of or any default under:
  - (i) The terms, conditions, or provisions of any arbitration award, judgment, law, order, decree, writ or regulation to which Seller is subject, or
  - (ii) Any agreement or instrument to which Seller is a party or by which Seller is bound, or
- (b) Will result in the creation or imposition of any lien, charge, or encumbrance on any of the Station Assets.

#### **2.9 Seller Action.**

All Seller organizational actions and proceedings necessary to be taken by or on the part of Seller in connection with the transactions contemplated by this Agreement and necessary to make the Agreement effective have been duly and validly taken. This Agreement has been duly and validly authorized, executed, and delivered by Seller and constitutes the valid and binding agreement of Seller, enforceable in accordance with and subject to its terms, except as enforcement may be limited by laws affecting the enforcement of creditors' rights or equitable principles generally.

#### **2.10 Brokers.**

There is no broker or finder or other person who would, as a result of any agreement of or action taken by Seller, have any valid claim against any of the parties to this Agreement for a commission or brokerage fee in connection with this Agreement or the transactions contemplated herein.

#### **2.11 Insolvency.**

No insolvency proceedings of any character, including, without limitation, bankruptcy, receivership, reorganization, composition or arrangement with creditors, voluntary or involuntary, affecting Seller or any of the Station Assets, is pending or, to Seller's knowledge, threatened, and Seller has neither made any assignment for



the benefit of creditors, nor taken any actions with a view to, or which would constitute the basis for, the institution of any such insolvency proceeding.

#### **2.12 Approvals.**

No approval of any third party, governmental agency or court is required to be obtained by Seller with regard to the assignment of the FCC Licenses and sale of the Station Assets, except as follows:

- (a) Parties to certain contracts, leases or agreements being assumed by Buyer under this Agreement must consent to such assignment.
- (b) The approval of the FCC for the assignment of the FCC Licenses to Buyer must be obtained.

### **ARTICLE 3. Representations and Warranties of Buyer.**

Buyer represents and warrants to Seller as to the truth of the following matters:

#### **3.1 Status.**

BCTN is a Texas corporation duly organized, validly existing and in good standing in the State of Texas and has the power to enter into and consummate the transactions contemplated by this Agreement. PB has the capacity to enter into and consummate the transactions contemplated by this Agreement.

#### **3.2 No Defaults.**

Neither the execution and delivery by Buyer of this Agreement nor the consummation by Buyer of the transactions contemplated herein are events that, by themselves or with the giving of notice or the passage of time or both, constitute a material violation of or will conflict with or result in any material breach of or any default under:

- (a) The terms, conditions or provisions of any arbitration award, judgment, law, order, decree, writ or regulation to which Buyer is subject.
- (b) The certificate of incorporation or other organizational documents of Buyer, or
- (c) Any agreement or instrument to which Buyer is a party or by which it is bound.

#### **3.3 Organizational Action.**

All Buyer organizational actions and proceedings necessary to be taken by or on the part of Buyer in connection with the transactions contemplated by this Agreement and necessary to make the Agreement effective have been duly and validly taken. This Agreement has been duly and validly authorized, executed, and delivered by Buyer and constitutes the valid and binding agreement of Buyer, enforceable in accordance with and subject to its terms, except as enforcement may be limited by laws affecting the enforcement of creditors' rights or equitable principles generally. Buyer has provided Seller with a copy of the consent authorizing the execution, delivery and consummation of this Agreement.

#### **3.4 Brokers.**

There is no broker or finder or other person who would, as a result of any

agreement of or action taken by Buyer, have any valid claim against any of the parties to this Agreement for a commission or brokerage fee in connection with this Agreement or the transactions contemplated herein.

### **3.5 Litigation.**

There is no litigation, arbitration, dispute, proceeding or investigation of any nature pending by or against, or, to Buyer=s knowledge, threatened against or affecting Buyer that would affect Buyer=s ability to consummate the transactions contemplated herein.

### **3.6 Qualification as a Broadcast Licensee.**

To its knowledge, Buyer is legally qualified under the Act and all other applicable federal, state and local laws, rules and regulations, to hold the FCC Licenses.

### **3.7 Buyer Capability.**

Buyer has the financial ability to consummate the transactions contemplated by this Agreement.

### **3.8 Insolvency.**

No insolvency proceeding of any character, including, without limitation, bankruptcy, receivership, reorganization, composition or arrangement with creditors, voluntary or involuntary, affecting Buyer is pending or, to Buyer's knowledge, threatened, and Buyer has neither made any assignment for the benefit of creditors, nor taken any actions with a view to, or which would constitute the basis for, the institution of any such insolvency proceeding.

### **3.9 Approvals.**

No approvals of any third party, governmental agency or court is required to be obtained by Buyer with regard to the assignment of the FCC Licenses to Buyer and purchase of the Station Assets, except as follows:

- (a) Parties to certain contracts, leases or agreements being assumed by Buyer under this Agreement must consent to such assignment.
- (b) The approval of the FCC for the assignment of the FCC Licenses to Buyer must be obtained.

## **ARTICLE 4. Covenants of Seller Pending the Final Closing.**

Seller covenants and agrees that, from the date of this Agreement to and including the Final Closing Date (unless another date is provided for herein), subject to the provisions of this Agreement, it will take, or refrain from taking, the following actions:

### **4.1 Maintenance of Station.**

Except as otherwise contemplated under the TBA, Seller shall continue to carry on the Stations= business and keep books of account, records, and files in the ordinary course of business and shall continue to operate the Stations in all material respects in accordance with the terms of the FCC Licenses and in material compliance with all applicable rules, regulations, policies and laws. To that end, Seller will file with the FCC any and all reports, applications, and disclosures as may be required by the Act or FCC rules or policies. Seller shall maintain in full force and effect through and including the Final Closing Date the existing property damage,

liability and other insurance with respect to the FCC Assets.

#### **4.2 Organization, Good Will, Promotion.**

Except as otherwise contemplated under the TBA, Seller will use its commercially reasonable efforts to preserve the business operations of the Stations intact and shall cooperate with Buyer to preserve the goodwill of the Stations.

#### **4.3 Access to Facilities, Files and Records.**

At the reasonable request of Buyer, Seller shall give Buyer and its representatives the following:

- (a) Reasonable access during normal business hours to all facilities, property, accounts, title papers, insurance policies, licenses, agreements, commitments, records, machinery, fixtures, furniture and inventories related to the Stations or the Station Assets, and
- (b) All such other information concerning the affairs of the Stations as Buyer may reasonably request. The rights of Buyer under this Section shall not be exercised in such a manner as to interfere unreasonably with the business of the Stations.

#### **4.4 Notice of Proceedings.**

Seller will notify Buyer promptly (and in any event within five (5) business days) upon becoming aware of any actual or threatened claim, dispute, arbitration, litigation, complaint, judgment, order, decree, action or proceeding relating to Seller, the Stations, the Station Assets or the consummation of this Agreement or any transaction contemplated herein.

#### **4.5 Representations and Warranties.**

Seller shall give notice to Buyer promptly upon the occurrence of, or upon becoming aware of the impending or threatened occurrence of, any event that would cause or constitute a material breach of any of Seller's representations or warranties in this Agreement.

#### **4.6 Confidential Information.**

Seller shall not disclose to third parties (except its agents and representatives who will be bound by this section) any information designated as confidential and received from Buyer or its agents in the course of investigating, negotiating and performing the transactions contemplated by this Agreement; provided, that no information shall be deemed to be confidential that:

- (a) Becomes publicly known or available other than through disclosure by Buyer;
- (b) Is rightfully received by Seller from a third party other than Buyer, or
- (c) Is independently developed by Seller.

#### **4.7 Compliance with Law.**

Seller will comply in all material respects with all applicable federal, state and local laws, ordinances and regulations, including but not limited to the Act and the rules and policies of the FCC and the laws of the State of Texas.

#### **4.8 Consummation of Agreement.**

Seller shall fulfill and perform all conditions and obligations to be fulfilled and

performed by Seller under this Agreement and make every reasonable effort to cause the transactions contemplated by this Agreement to be fully carried out.

#### **ARTICLE 5. Covenants of Buyer Pending the Final Closing.**

Buyer covenants and agrees that, from the date of this Agreement to and including the Final Closing Date (unless another date is provided for herein), it will take, or refrain from taking, the following actions:

##### **5.1 Confidential Information.**

Buyer shall not disclose to third parties (except its agents and representatives who will be bound by this section) any information designated as confidential and received from Seller or its agents in the course of investigating, negotiating and performing the transactions contemplated by this Agreement; provided, that no information shall be deemed to be confidential that:

- (a) Becomes publicly known or available other than through disclosure by Seller;
- (b) Is rightfully received by Buyer from a third party other than Seller, or
- (c) Is independently developed by Buyer.

##### **5.2 Consummation of Agreement.**

Buyer shall fulfill and perform all conditions and obligations to be fulfilled and performed by Buyer under this Agreement and make every reasonable effort to cause the transactions contemplated by this Agreement to be fully carried out.

##### **5.3 Representations and Warranties.**

Buyer shall give notice to Seller promptly upon the occurrence of, or upon becoming aware of the impending or threatened occurrence of, any event that would cause or constitute a material breach of any of the representations and warranties of Buyer in this Agreement.

##### **5.4 Notice of Proceedings.**

Buyer will promptly (and in any event within five (5) business days) notify Seller upon becoming aware of any actual or threatened claim, dispute, arbitration, litigation, complaint, judgment, order, decree, action or proceeding relating to Buyer, the Station, the Station Assets or the consummation of this Agreement or any transaction contemplated herein.

##### **5.5 Maintenance of Stations and Goodwill.**

Subject to the terms of the TBA and to Seller's unfettered control of the Stations pending the Final Closing, Buyer shall cooperate with Seller to maintain the Station Assets and to preserve the business operations of the Stations intact, including, without limitation, the goodwill of the Stations.

##### **5.6 Compliance with Law.**

Buyer will comply in all material respects with all applicable federal, state and local laws, ordinances and regulations, including but not limited to the Act and the rules and policies of the FCC and the laws of the State of Texas.

##### **5.7 Performance under Contracts and Leases.**

Buyer will perform in all material respects its obligations under, and keep in good standing, all contracts, leases and agreements which are assigned to Buyer

from Seller under the terms of this Agreement.

## **ARTICLE 6. Mutual Covenants and Understandings of Buyer and Seller**

### **6.1 Possession and Control.**

Notwithstanding any other provision of this Agreement or the TBA, between the date hereof and the Final Closing Date, Buyer shall not directly or indirectly control, supervise or direct, or attempt to control, supervise or direct, the business and operations of the Stations, and such operation, including complete control and supervision of all programming, finances and employment shall be the sole responsibility of Seller. On and after the Final Closing Date, Seller shall have no control over, or right to intervene, supervise, direct or participate in, the business and operations of the Stations.

### **6.2 Public Announcements.**

Seller and Buyer shall consult with each other before making any public statements with respect to this Agreement or the transactions contemplated herein and shall not issue any such press release or make any such public statement without the prior consent of the other party, which shall not be unreasonably withheld, conditioned or delayed.

### **6.3 Unwind Arrangements.**

In the event that this Agreement is terminated following the Initial Closing but prior to the Final Closing, Buyer and Seller agree that (i) Buyer shall promptly deliver to Seller the Station Assets (free and clear of any and all Encumbrances), and (ii) upon Seller's receipt of the Station Assets (free and clear of any and all Encumbrances), Buyer and Seller shall deliver joint written instructions to the Escrow Agent instructing the Escrow Agent to deliver to Buyer the funds in the Escrow Account; provided, however, that in such event, Seller shall have no obligation to return or refund any other monies paid to Seller by Buyer until such time under the TBA and the interest on the funds in the Escrow Account shall be divided equally between Buyer and Seller. Upon the receipt of an FCC order requiring Buyer to return the FCC Licenses to Seller following the Final Closing, Seller agrees that upon Seller's receipt of the Station Assets (free and clear of any and all Encumbrances), and the FCC Assets (free and clear of any and all Encumbrances), Seller shall deliver to Buyer all cash delivered to Seller by Buyer at the Final Closing (including the funds delivered to Seller from the Escrow Account; provided, however, that Seller shall retain one half of the interest earned on the funds in the Escrow Account prior to Final Closing). In either event, if the parties must proceed to unwind the transactions consummated pursuant to either the Initial Closing or the Final Closing in accordance with this section, Seller and Buyer agree to cooperate to place Buyer and Seller in the same positions they were in immediately prior to the Initial Closing and to ensure that neither party has been otherwise economically damaged; provided, however, that Buyer shall, at its own cost and expense, place the Station Assets and the FCC Assets in the same location each such asset was located as of June 1, 2001.

## **ARTICLE 7. Conditions Precedent To Buyer's Obligation At The Initial Closing.**

The obligations of Buyer to purchase the Station Assets and to proceed with the Initial Closing are subject to the satisfaction (or waiver in writing by Buyer) at or prior to the Initial Closing of each of the following conditions:

### **7.1 Representations and Covenants.**

Each of the representations and warranties (other than those representations and warranties which by their terms are as of a specific date) of Seller made in this Agreement shall be true and correct in all material respects, as though made on or as of the Initial Closing Date.

### **7.2 Consents.**

Seller shall have obtained prior to the Initial Closing Date all consents, authorizations or approvals necessary to affect valid assignments to Buyer of the Station Assets.

### **7.3 Delivery of Documents.**

Seller shall have delivered to Buyer the documents required to be delivered by Seller to Buyer at the Initial Closing pursuant to Section 9.1.

### **7.4. Legal Proceedings.**

No governmental authority shall have enacted, enforced, issued or entered any law, rule, regulation or order, including in connection with any action or proceeding brought by a third party (not subsequently dismissed, settled or otherwise terminated), which prohibits or invalidates the transactions contemplated by this Agreement or prevents, limits, restricts or impairs the ownership, use or operation of the Station Assets or the Stations by Buyer, other than an action or proceeding instituted by Buyer.

## **ARTICLE 8. Conditions Precedent To Seller's Obligation At The Initial Closing.**

The obligations of Seller to sell, transfer, convey and deliver the Station Assets and to proceed with the Initial Closing are subject to the satisfaction (or waiver in writing by Seller) at or prior to the Initial Closing of each of the following conditions:

### **8.1 Representations and Covenants.**

Each of the representations and warranties of Buyer made in this Agreement shall be true and correct in all material respects, as though made on or as of the Initial Closing Date.

### **8.2 Deliveries by Buyer.**

Buyer shall have delivered to Seller or into the Escrow Account, as the case may be, (i) the consideration required to be paid at the Initial Closing under Section 1.6.2 hereof and (ii) the documents required to be delivered by Buyer to Seller at the Initial Closing pursuant to Section 9.2.

### **8.3 Legal Proceedings.**

No governmental authority shall have enacted, enforced, issued or entered any law, rule, regulation or order, including in connection with any action or proceeding brought by a third party, (not subsequently dismissed, settled, or

otherwise terminated) which prohibits or invalidates the transactions contemplated by this Agreement, other than an action or proceeding instituted by Seller.

## **ARTICLE 9. Deliveries At The Initial Closing.**

### **9.1 Deliveries by Seller.**

At or before the Initial Closing, Seller shall deliver to Buyer the following:

(a) Contracts, Agreements and Instruments. The following documents dated as of the Initial Closing Date and duly executed by Seller, in form and substance reasonably satisfactory to Buyer and sufficient to transfer and convey to Buyer all of Seller's right, title and interest (of the quality required in this Agreement) in and to the Station Assets:

(i) an Assignment of Contracts and Leases (excluding the Tower Leases and the Network Affiliation Agreement);

(ii) a Bill of Sale;

(iii) the Escrow Agreement;

(iv) all such general instruments of transfer, assignment and conveyance, grant deeds, certificates of title, assignments, evidences of consent or waiver, and other instruments or documents in form and substance satisfactory to Buyer, as shall be necessary to evidence the sale, assignment, transfer and conveyance of the Stations Assets to Buyer in accordance with this Agreement.

(b) Consents. Originals of all consents necessary to effect valid assignments to Buyer of the Station Assets, including but not limited to any scheduled contracts.

(c) Certified Resolution. A copy of (i) an action by written consent of the members of Seller, certified as being correct and complete and then in full force and effect, authorizing the execution, delivery and performance of this Agreement and the consummation of the transactions contemplated hereby and (ii) a copy of the certificate of formation and operating agreement of Seller, certified by the corporate secretary of Seller as being true, correct and complete as of the Initial Closing Date.

(d) Officers' Certificate.

(i) a certificate of Seller signed by an officer or manager certifying that all conditions set forth in Article 7 have been satisfied; and

(ii) a certificate signed by the corporate secretary of Seller as to the incumbency of the officer of Seller executing the aforementioned certificate on behalf of the Seller.

(e) Other Documents. Such other documents to be delivered by Seller hereunder as are reasonably necessary for Buyer to effectuate and document the transactions contemplated hereby.

### **9.2 Deliveries by Buyer.**

At or before the Initial Closing, Buyer shall deliver to Seller or into the Escrow Account, as the case may be, the following:

(a) Purchase Price. \$1,174,000 in cash into the Escrow Account and a duly executed copy of the Escrow Agreement to Seller;

(b) Certified Resolution. A copy of (i) the resolutions of the board of

directors of Buyer, certified as being correct and complete and then in full force and effect, authorizing the execution, delivery and performance of this Agreement and the consummation of the transactions contemplated hereby and (ii) a copy of the certificate of incorporation and by-laws of Buyer, certified by the corporate secretary of Buyer as being true, correct and complete as of the Initial Closing Date.

(c) Officers' Certificate.

(i) a certificate of Buyer signed by an officer certifying that all conditions set forth in Article 8 have been satisfied; and

(ii) a certificate signed by the corporate secretary of Buyer as to the incumbency of the officer of Buyer executing the aforementioned certificate on behalf of the Buyer.

(d) Other Documents. Such other documents to be delivered by Buyer hereunder as are reasonably necessary for Seller to effectuate the transactions contemplated hereby.

**ARTICLE 10. Conditions Precedent To Buyer's Obligation At The Final Closing.**

The obligations of Buyer to purchase the FCC Assets and to proceed with the Final Closing are subject to the satisfaction (or waiver in writing by Buyer) at or prior to the Final Closing of each of the following conditions:

**10.1 Representations and Covenants.**

The representations and warranties of Seller made in Sections 2.1, 2.2, 2.4, 2.7, 2.8, 2.9, 2.10, 2.11 and 2.12 of this Agreement shall be true and correct in all material respects as though made on or as of the Final Closing Date; provided, however, that each of the aforementioned representations and warranties which concern both the Station Assets and the FCC Assets shall be made with respect to the FCC Assets only. Seller shall have performed or complied in all materials respects with all covenants and agreements required by this Agreement to be performed or complied with by Seller prior to the Final Closing.

**10.2 Consents.**

Seller shall have obtained prior to the Final Closing Date all consents, authorizations or approvals necessary to effect valid assignments to Buyer of the FCC Assets, except for the FCC Order, which shall be governed by Section 10.4.

**10.3 Delivery of Documents.**

Seller shall have delivered to Buyer the documents required to be delivered by Seller to Buyer at the Final Closing pursuant to Section 12.1.

**10.4 FCC Order.**

The FCC Order shall have been granted and shall be in full force and effect.

**10.5 Legal Proceedings.**

No governmental authority shall have enacted, enforced, issued or entered any law, rule, regulation or order, including in connection with any action or proceeding brought by a third party (not subsequently dismissed, settled or otherwise terminated), which prohibits or invalidates the transactions contemplated by this Agreement or prevents, limits, restricts or impairs the ownership, use or operation of the Station Assets, the FCC Assets or the Stations by Buyer, other than



an action or proceeding instituted by Buyer.

## **ARTICLE 11. Conditions Precedent To Seller's Obligation At The Final Closing.**

The obligations of Seller to sell, transfer, convey and deliver the FCC Assets and to proceed with the Final Closing are subject to the satisfaction (or waiver in writing by Seller) at or prior to the Final Closing of each of the following conditions:

### **11.1 Representations and Covenants.**

Each of the representations and warranties of Buyer made in this Agreement shall be true and correct in all material respects, as though made on or as of the Final Closing Date, and Buyer shall have performed and complied in all material respects with all covenants and agreements required by this Agreement to be performed or complied with by Buyer prior to the Final Closing.

### **11.2 Deliveries by Buyer.**

Buyer shall have delivered to Seller (i) the consideration required to be paid at the Final Closing under Section 1.6.2 hereof and (ii) any other document required to be delivered by Buyer to Seller at the Final Closing pursuant to Section 12.2.

### **11.3 FCC Order.**

The FCC Order shall have been granted and shall have become a Final Order (as defined in the next sentence). "Final Order" means an FCC Order as to which the time for filing a request for administrative or judicial review, or for instituting administrative review sua sponte, shall have expired without any such filing having been made or notice of such review having been issued; or, in the event of such filing or review sua sponte, as to which such filing or review shall have been disposed of favorably to the FCC assignment grant and the time for seeking further relief with respect thereto shall have expired without any request for such further relief having been filed.

### **11.4 Legal Proceedings.**

No governmental authority shall have enacted, enforced, issued or entered any law, rule, regulation or order, including in connection with any action or proceeding brought by a third party, (not subsequently dismissed, settled, or otherwise terminated) which prohibits or invalidates the transactions contemplated by this Agreement, other than an action or proceeding instituted by Seller.

## **ARTICLE 12. Deliveries At The Final Closing**

### **12.1 Deliveries by Seller.**

At or before the Final Closing, Seller shall deliver to Buyer the following:

(a) Contracts, Agreements and Instruments. The following documents dated as of the Final Closing Date and duly executed by Seller, in form and substance reasonably satisfactory to Buyer and sufficient to transfer and convey to Buyer all of Seller's right, title and interest (of the quality required in this Agreement) in and to the FCC Assets:

- (i) an Assignment of Contracts and Leases (including the Tower Leases and the Network Affiliation Agreement);
- (ii) a Bill of Sale;
- (iii) an Assignment of FCC Licenses;

(iv) joint written instructions to the Escrow Agent instructing the Escrow Agent to release the funds in the Escrow Account, together with interest thereon, to Seller;

(v) all such other general instruments of transfer, assignment and conveyance, grant deeds, certificates of title, assignments, evidences of consent or waiver, and other instruments or documents in form and substance satisfactory to Buyer, as shall be necessary to evidence the sale, assignment, transfer and conveyance of the FCC Assets to Buyer in accordance with this Agreement.

(b) Consents. Originals of all consents necessary to effect valid assignments to Buyer of the FCC Assets;

(c) Certified Resolution. A copy of (i) an action by written consent of the members of Seller, certified as being correct and complete and then in full force and effect, authorizing the execution, delivery and performance of this Agreement and the consummation of the transactions contemplated hereby and (ii) a copy of the certificate of formation and operating agreement of Seller, certified by the corporate secretary of Seller as being true, correct and complete as of the Final Closing Date.

(d) Officers' Certificate.

(i) a certificate of Seller signed by an officer or manager certifying that all conditions set forth in Article 10 have been satisfied; and

(ii) a certificate signed by the corporate secretary of Seller as to the incumbency of the officer of Seller executing the aforementioned certificate on behalf of the Seller.

(e) Other Documents. Such other documents to be delivered by Seller hereunder as are reasonably necessary for Buyer to effectuate and document the transactions contemplated hereby.

## **12.2 Deliveries by Buyer.**

At or before the Final Closing, Buyer shall deliver to Seller the following:

(a) Purchase Price. The cash consideration required to be paid at the Final Closing under Section 1.6.2 and joint written instructions, duly executed by Buyer, instructing the Escrow Agent to release the funds in the Escrow Account, together with interest thereon, to Seller.

(b) Certified Resolution. A copy of (i) the resolutions of the board of directors of Buyer, certified as being correct and complete and then in full force and effect, authorizing the execution, delivery and performance of this Agreement and the consummation of the transactions contemplated hereby and (ii) a copy of the certificate of incorporation and by-laws of Buyer, certified by the corporate secretary of Buyer as being true, correct and complete as of the Final Closing Date.

(c) Officers' Certificate.

(i) A certificate of Buyer signed by an officer thereof certifying that all conditions set forth in Article 11 have been satisfied; and

(ii) a certificate signed by the corporate secretary of Buyer as to the incumbency of the officer of Buyer executing the aforementioned certificate on behalf of the Buyer.

(d) Other Documents. Such other documents to be delivered by Buyer hereunder as are reasonably necessary for Seller to effectuate the transactions contemplated hereby.

## **ARTICLE 13. Miscellaneous.**

### **13.1 Termination of Agreement.**

This Agreement may be terminated under one or more of the following circumstances:

- (a) By the mutual consent of the parties hereto;
- (b) By Seller or Buyer, if the Final Closing has not occurred within twelve (12) months after the date of this Agreement;
- (c) By Seller or Buyer, if the FCC designates the Application for hearing or denies the Application;
- (d) by Buyer, by written notice of termination delivered to Seller, if Seller is in material default of its obligations hereunder and has failed to cure such default to Buyer's reasonable satisfaction within thirty (30) days following written notice of such default sent by Buyer to Seller;
- (e) by Seller, by written notice of termination delivered to Buyer, if Buyer is in material default of its obligations hereunder and has failed to cure such default to Seller's reasonable satisfaction within thirty (30) days following written notice of such default sent by Seller to Buyer;
- (f) by Seller (if not then in material default of its obligations hereunder), if the Initial Closing has not occurred on the date that is five business days following the date of this Agreement; and
- (g) by Buyer or Seller, if the TBA is terminated pursuant to the terms thereof.

### **13.2 Liabilities Upon Termination**

#### **13.2.1 Seller=s Remedies.**

If the parties hereto shall fail to consummate the Initial Closing or the Final Closing due solely to Buyer=s material breach of any representation, warranty, covenant or condition hereunder, and not due to the default of Seller, then Seller shall be entitled to any and every remedy available at law or equity, including but not limited to specific performance of the terms of this Agreement and of Buyer=s obligation to consummate the transactions contemplated hereby.

#### **13.2.2 Buyer=s Remedies.**

If the parties hereto shall fail to consummate the Initial Closing or the Final Closing due solely to Seller=s material breach of any representation, warranty, covenant or condition hereunder, and not due to the default of Buyer, then Buyer shall be entitled to any and every remedy available at law or equity, including but not limited to specific performance of the terms of this Agreement and of Seller=s obligation to consummate the transactions contemplated hereby.

#### **13.2.3 TBA Option.**

In the event the FCC denies its consent to the assignment of the FCC Licenses to Buyer, Seller extends to Buyer the option to continue to lease substantially all of the time on the Stations at the same rate currently provided for in the TBA for a period of twelve months following the date of issuance of such FCC denial; provided, however, that Seller shall be under no obligation to extend such option to Buyer if Buyer is in breach of the representations, warranties, covenants or other obligations hereunder or under the TBA.

#### **13.2.4 Survival of Confidentiality Obligations.**

Notwithstanding any other provision of this Agreement, the provisions of Sections 4.6 and 5.1 shall survive any termination of this Agreement.

#### **13.3 Expenses.**

Except as otherwise provided herein, each party hereto shall be solely responsible for all fees and expenses each party incurs in connection with the transactions contemplated by this Agreement, including, without limitation, legal fees incurred in connection herewith; provided, that the FCC filing fees shall be divided equally between Seller and Buyer; and, provided further, that all transfer, sales, use or other taxes or assessments imposed by any governmental body on the sale of the Station Assets and the FCC Assets shall be paid in accordance with local customary practice.

#### **13.4 Assignments.**

Neither Buyer nor Seller may assign its rights or obligations under this Agreement without the prior written consent of the other party.

#### **13.5 Further Assurances.**

From time to time prior to, at and after the Initial Closing, each party hereto will execute all such instruments and take all such actions any other party shall reasonably request in connection with effectuating the intent and purpose of this Agreement and all transactions contemplated by this Agreement, including, without limitation, the execution and delivery of any and all confirmatory and other instruments in addition to those to be delivered at the Initial Closing.

#### **13.6 Notices.**

All notices, demands and other communications authorized or required by this Agreement shall be in writing, shall be delivered by personal delivery, by United States certified mail-return receipt requested (postage prepaid), by overnight delivery service (charges prepaid), or by facsimile, and shall be deemed to have been given or made when personally delivered, within five (5) days after being

deposited in the mail, postage prepaid, within one (1) day after being delivered to an overnight delivery service, charges prepaid, or upon receipt of the facsimile notice, demand or communications. Notices shall be delivered to each party at the following addresses (or at such other address as any party may designate in writing to the other parties):

If to Seller:

Dr. Joseph Zavaletta, M.D.  
ZVALETTA BROADCASTING GROUP, L.L.C.  
45 Calle Cenizo  
Brownsville, Texas 78520

With copies to:

Mike Ezell  
Attorney at Law  
P.O. Box 2878  
312 E. Van Buren  
Harlingen, Texas 78551  
Facsimile: 956-421-4258

John C. Quale  
Skadden, Arps, Slate, Meagher & Flom LLP  
1440 New York Avenue, NW  
Washington, DC 20005  
Facsimile: 202-371-7475

If to Buyer:

Paulino Bernal  
Individually and President of  
BERNAL CHRISTIAN TELEVISION NETWORK, INC.  
4501 N. McColl Road  
McAllen, TX 78501  
Facsimile:

With a copy to:

Brent Bishop  
Ellis, Koeneke & Ramirez, LLP  
1101 Chicago  
McAllen, Texas 78501-4892  
Facsimile: 956-682-0820

### **13.7 Law Governing.**

Except to the extent governed by federal law, this Agreement shall be governed by, construed and enforced in accordance with the laws of the State of Texas without regard to such State=s conflicts of laws provisions. Venue of any litigation arising under or in relation to this Agreement shall lie solely in Cameron County, Texas.

### **13.8 Waiver of Provisions.**

The terms, covenants, representations, warranties and conditions of this Agreement may be waived only by a written instrument executed by the party waiving compliance. The failure of any party at any time or times to require performance of any provision of this Agreement shall not affect the exercise of a party=s rights at a later date. No waiver by any party of any condition or the breach of any provision, term, covenant, representation or warranty contained in this Agreement in any one or more instances shall be deemed to be or construed as a further or continuing waiver of any such condition or of the breach of any other provision, term, covenant, representation or warranty of this Agreement.

### **13.9 Counterparts.**

This Agreement may be executed in counterparts, and all counterparts so executed shall collectively constitute one agreement, binding on all of the parties hereto, notwithstanding that all the parties are not signatory to the original or the same counterpart.

### **13.10 Litigation Expenses.**

If a formal legal proceeding is instituted by a party to enforce that party=s rights under this Agreement, then the party prevailing in the proceeding shall be reimbursed by the other party for all reasonable costs incurred thereby, including but not limited to reasonable attorneys= fees.

### **13.11 Seller=s Access to Records.**

Any records delivered to Buyer by Seller relating to the operation of the Stations or Seller=s business shall be maintained by Buyer for a period of four (4) years from and after the Final Closing Date. Upon reasonable prior notice, Seller shall be entitled to inspect and copy any of such records. In the event that Buyer wishes to dispose of such records, then Buyer shall give Seller thirty (30) days= prior written notice and an opportunity for Seller to retrieve such records at Seller=s expense.

### **13.12 Entire Agreement.**

This Agreement, the TBA, and the Escrow Agreement constitute the entire agreement among the parties in regard to the subject matter hereof and supersede and cancel any and all prior or contemporaneous agreements and understandings between them, and may not be amended except in a writing signed by the parties.

### **13.13 Headings and Cross-references.**

Headings of the sections have been included for convenience of reference only and shall in no way limit or affect the meaning or interpretation of the specific provisions of this Agreement. All cross-references to sections herein shall mean the section of this Agreement unless otherwise stated or clearly required by the context.

Words such as Aherein@ and Ahereof@ shall be deemed to refer to this Agreement as a whole and not to any particular provision of this Agreement unless otherwise stated or clearly required by the context. The term Aincluding@ means Aincluding without limitation.@

**13.14 No Partnership Between Buyer and Seller**

Nothing in this document should be construed as creating a partnership or other form of joint venture agreement between the parties.

IN WITNESS WHEREOF, the parties have caused this Asset Purchase Agreement to be duly executed as of the day and year first written above.

**ZAVALETTA BROADCASTING OF THE RIO  
GRANDE VALLEY, L.L.C.**

By: 

Dr. Joseph Zavaletta, M., Manager

**ZAVALETTA BROADCASTING OF LAREDO,  
L.L.C.**

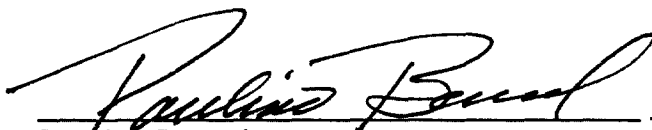
By: 

Dr. Joseph Zavaletta, M.D., Manager

**BERNAL CHRISTIAN TELEVISION  
NETWORK, INC.**

By: 

Paulino Bernal  
President

  
Paulino Bernal  
An individual

## **TAB 5**