

ASSET PURCHASE AGREEMENT

THIS AGREEMENT ("Agreement") is dated as of the ^{15th} day of August, 2017, by and between **PACIFIC RADIO GROUP, INC.**, a corporation organized under the laws of the State of Hawaii ("Seller") and **KING'S CATHEDRAL AND CHAPELS**, a Hawaii not-for-profit 501(c)(3) corporation ("Buyer"):

WHEREAS, Seller is the licensee of Stations **KKON(AM)**, Facility No. 70382, Kealahou, Hawaii, and **KHLO(AM)**, Facility No. 37210, Hilo, Hawaii (the "Stations"); and

WHEREAS, the Seller desires to assign and the Buyer desires to acquire certain assets, authorizations, and goodwill of the Stations in order to serve the public interest, convenience, and necessity; and

WHEREAS, as a part of the transactions contemplated by this Agreement, Seller intends to donate to Buyer the FCC Licenses and transmission equipment owned by Seller for the Stations; and

WHEREAS, the grant by the Federal Communications Commission ("FCC") of an application on FCC Form 314 for FCC consent for assignment of license of the Stations (which application will contain this Agreement), is an express condition precedent to the obligation of the Buyer to consummate this Agreement.

NOW, THEREFORE, the parties hereto agree as follows:

1. **Assets to Be Sold.** In consideration for the payments and other good and valuable consideration stated in the paragraphs below, and upon the terms and conditions set forth herein, on the Closing Date, Seller shall sell, assign, transfer, convey, and deliver to Buyer free and clear of all liens, claims, encumbrances, security interests, charges, and restrictions, except as specifically stated in Paragraphs 3 and 4 below, (i) the Stations' licenses ("FCC Licenses"), (ii) the transmission equipment owned by Seller (the "Tangible Personal Property"), and (iii) all records pertaining to the Stations required by the FCC to be maintained by Seller, including the Stations' 47 C.F.R. §73.3526 "Public File".

2. **Consideration for Assignment of License.** As the consideration for the assignment of the Station Licenses, on the Closing Date, and upon the consummation of the other transactions contemplated by this Agreement, Seller will donate to Buyer all of Seller's right, title, and interest in and to the licenses for the Stations granted by the FCC. Buyer, as a non-profit corporation possessing 26 U.S.C. §501(c)(3) status granted by the Internal Revenue Service, will then issue a receipt in a form acceptable to Seller and its counsel recognizing that Seller has made a donation to Buyer of an asset with a fair market value of One Hundred and Ninety-Five Thousand Five Hundred Dollars (\$195,500.00). The parties agree and understand that this provision also encompasses any broadcast auxiliary stations licensed by the FCC to the Stations.

3. **Cash; Accounts and Donations Receivable; Excluded Assets.** It is specifically agreed and understood that any cash on hand at the Stations as of the Closing Date shall be

retained by the Seller. Further, Seller shall retain any bank accounts, cash equivalents and securities and other investments owned by Seller as of the Closing Date. All accounts receivable of the Stations and notes receivable in favor of Seller in existence as of the Closing Date shall be the property of the Seller. Seller is solely responsible for collecting its own receivables. Following Closing, Buyer will promptly forward to Seller any monies it receives from third parties relating to the operations of the Stations for periods prior to Closing upon instructions to be provided by Seller to Buyer. Further, the Sale Assets shall not include Seller's books and records pertaining to corporate organization, taxation, employee pension, and other benefit plans, or accounts receivable. Additionally, any and all assets exclusively related to the operations of Seller's other radio station(s) are excluded from this Agreement.

4. **No Liabilities Assumed Other Than Those Expressly Disclosed.** The parties hereto agree and understand that this Agreement is for a sale and purchase of the Sale Assets free and clear of any liens or other encumbrances as of the Closing Date. There are no contracts, leases, and/or understandings to be assigned by Seller and assumed by Buyer. Therefore, Buyer does not assume, pay or discharge any debts or obligations of Seller with respect to the Stations. In this regard, as Buyer intends to operate the Stations as a non-commercial, educational AM stations after Closing, Seller agrees that (a) it will not sell any advertising on the Stations which is to be aired after the Closing Date and (b) it will ensure that the Stations will perform all commercial announcements that it is required to air pursuant to barter or "trade out" contracts prior to the Closing Date, so that its barter balance is no worse than "zero" (any products or services which have accrued in favor of Seller as the result of such barter or "trade out" contracts shall remain the property of Seller after the Closing Date). Any and all liabilities pertaining to the Stations which are incurred by or on behalf of the Stations subsequent to the Closing Date may only be incurred by the Buyer and shall be discharged by the Buyer. Buyer agrees to hold Seller harmless with respect to any liabilities incurred by Buyer subsequent to closing. The Buyer is not obligated to hire any of Seller's employees at the Stations.

5. **FCC Consent.** It is understood and agreed by all parties that the prior written consent of the FCC to an application on FCC Form 314 for consent to the voluntary assignment of the licenses of the Stations (the "Application") is required before consummation of this Agreement can occur. The Application shall be filed as soon after the date hereof as is practicable. Except as otherwise provided herein, each party shall pay its own legal fees and other expenses incurred with the preparation and execution of this Agreement and the Application. Buyer's portion of the Application shall demonstrate that Buyer is a non-profit corporation and will contain a showing that it is non-feeable. In the event that the FCC assesses an application fee upon the Application, then such FCC Filing Fee shall be paid promptly by Buyer.

6. **Closing Date.** The parties hereto agree and understand that this transaction may not be consummated unless and until the FCC shall have granted the FCC Form 314 application described in the preceding section. The Closing Date will be a weekday no later than the fifth (5th) business day subsequent to the date upon which the consent of the FCC to said FCC Form 314 application shall have been granted. It is contemplated that the actions of the parties required to effectuate the Closing will be performed by mail, and/or electronically.

7. **Seller's Representations and Warranties.** Seller hereby represents and warrants each of the following, the truth and accuracy of which has induced Buyer to enter into this Agreement:

a. **Organization, Standing and Authority.** Seller is a corporation duly organized and validly existing under the laws of the State of Hawaii. Seller has all requisite individual or corporate power and authority (i) to own, lease, and use the Sale Assets as now owned, leased, and used, (ii) to conduct the business and operations of the Stations as now conducted, and (iii) to execute and deliver this Agreement and the documents contemplated hereby and thereby, and to perform and comply with all of the terms, covenants, and conditions to be performed and complied with by Seller hereunder and thereunder. Seller is not a participant in any joint venture or partnership with any other person or entity with respect to any part of the operations of the Stations or any of the Sale Assets.

b. **Authorization and Binding Obligation.** The execution, delivery, and performance of this Agreement by Seller have been duly authorized by all necessary actions on the part of Seller and its owners. This Agreement has been duly executed and delivered by Seller and constitutes the legal, valid, and binding obligations of Seller, enforceable against it in accordance with their respective terms except as the enforceability of this Agreement and the may be affected by bankruptcy, insolvency, or similar laws affecting creditors' rights generally, and by judicial discretion in the enforcement of equitable remedies.

c. **Absence of Conflicting Agreements.** Subject to obtaining the FCC's consent to the Application, the execution, delivery, and performance by Seller of this Agreement and the documents contemplated hereby and thereby (with or without the giving of notice, the lapse of time, or both): (i) do not require the consent of any third Parties; (ii) will not conflict with any provision of the organizational documents of Seller; (iii) will not conflict with, result in a breach of, or constitute a default under, any applicable law, judgment, order, ordinance, injunction, decree, rule, regulation, or ruling of any court or governmental instrumentality; (iv) will not conflict with, constitute grounds for termination of, result in a breach of, constitute a default under, or accelerate or permit the acceleration of any performance required by the terms of, any agreement, instrument, license, or permit to which Seller is a Party or by which Seller may be bound; and (v) will not create any claim, liability, mortgage, lien, pledge, condition, charge, or encumbrance of any nature whatsoever upon any of the Sale Assets.

d. **Governmental Licenses.** Seller is the authorized legal holder of the FCC Licenses. To the best of Seller's knowledge, said FCC Licenses comprise all of the licenses, permits, and other authorizations required from any governmental or regulatory authority for the lawful conduct of the business and operations of the Stations in the manner and to the full extent they are now conducted, and the FCC Licenses are not subject to any restriction or condition not disclosed therein that would limit the full operation of the Stations as now operated. To Seller's knowledge, the FCC Licenses are in full force and effect, and the conduct of the business and operations of the Stations is in accordance therewith in all material respects. Seller has no reason to believe that the Stations' FCC Licenses would not be renewed by the FCC or other granting authority in the ordinary course. The Stations currently are silent. To Seller's knowledge, there are no FCC enforcement proceedings or investigations ongoing pertaining to the Stations and

Seller has no knowledge of or reason to believe that any such proceedings or investigations are pending or threatened against the Stations.

f. Title and Condition of Tangible Personal Property. The Tangible Personal Property being assigned to Buyer will not be subject to any security interest, mortgage, pledge, conditional sales agreement, or other lien or encumbrance. Each material item of Tangible Personal Property is available for immediate use in the business and operations of the Stations. All Tangible Personal Property is being sold "as is, where is", *i.e.*, in such condition as exists at the time of Closing.

g. Consents. Except for the FCC Consent described above ("Consents"), no third party consents are required (i) to consummate this Agreement and the transactions contemplated hereby, or (ii) to permit Seller to assign or transfer the Assets to Buyer.

h. Intangibles. No intangible personal property other than the Stations' FCC Licenses and their call letters are being sold hereunder.

p. Broker. Neither Seller nor any person acting on Seller's behalf has incurred any other liability for any finders' or brokers' fees or commissions with any other person or entity in connection with the transactions contemplated by this Agreement.

8. Buyer's Representations and Warranties. Buyer represents and warrants to Seller, the truth and accuracy of each of the following being expressly material to Seller's execution of this Agreement, as follows:

a. Organization, Standing and Authority. Buyer is a non-profit corporation incorporated, duly organized and validly existing under the laws of the State of Hawaii. Buyer has all requisite corporate power and authority (i) to own, lease, and use the Sale Assets as now owned, leased, and used, (ii) to conduct the operations of the Stations, and (iii) to execute and deliver this Agreement and the documents contemplated hereby and thereby, and to perform and comply with all of the terms, covenants, and conditions to be performed and complied with by Buyer hereunder and thereunder.

b. Authorization and Binding Obligation. The execution, delivery, and performance of this Agreement by Buyer have been duly authorized by all necessary actions on the part of Buyer. This Agreement has been duly executed and delivered by Buyer and constitutes the legal, valid, and binding obligations of Buyer, enforceable against Buyer in accordance with its respective terms except as the enforceability of this Agreement may be affected by bankruptcy, insolvency, or similar laws affecting creditors' rights generally and by judicial discretion in the enforcement of equitable remedies.

c. Absence of Conflicting Agreements. Subject to obtaining the Consents, the execution, delivery, and performance by Buyer of this Agreement and the documents contemplated hereby and thereby (with or without the giving of notice, the lapse of time, or both): (i) do not require the consent of any third Party; (ii) will not conflict with the Articles of Incorporation or By-laws of Buyer; (iii) will not conflict with, result in a breach of, or constitute a default under, any law, judgment, order, injunction, decree, rule, regulation, or ruling of any court or governmental instrumentality; or (iv) will not conflict with, constitute grounds for

termination of, result in a breach of, constitute a default under, or accelerate or permit the acceleration of any performance required by the terms of, any agreement, instrument, license, or permit to which Buyer is a Party or by which Buyer may be bound, such that Buyer could not acquire or operate the Sale Assets.

d. Broker. Neither Buyer nor any person acting on Buyer's behalf has incurred any liability for any finders' or brokers' fees or commissions in connection with the transactions contemplated by this Agreement.

e. Qualifications. Buyer is legally and financially qualified including, but not limited to, the Communications Act of 1934, as amended, and the rules, regulations and policies of the FCC to acquire the Stations and to timely consummate all of the transactions called for herein, and no waiver will be necessary under the rules, regulations, and policies of the FCC for Buyer to acquire the Stations.

f. Full Disclosure. No representation or warranty made by Buyer in this Agreement or in any certificate, document, or other instrument furnished or to be furnished by Buyer pursuant hereto contains or will contain any untrue statement of a material fact, or omits or will omit to state any material fact and required to make any statement made herein or therein not misleading.

g. Claims and Legal Actions. There is currently no litigation pending or to the knowledge of Buyer, threatened, against or relating to Buyer that would prevent or materially impede the consummation of the transactions contemplated by this Agreement, nor does Buyer know of any basis, including performance of Buyer's obligations set forth herein, for such litigation. Buyer is not subject to any order, judgment, writ, injunction or decree of any court or governmental agency or entity which could have a material adverse effect on its ability to consummate the transactions contemplated herein.

9. Conditions Precedent to Buyer's Obligation to Closing. The obligations of Buyer under this Agreement are, at its election, subject to the fulfillment on or prior to the Closing Date of each of the following conditions precedent. The parties agree and understand that Buyer's decision to enter into and perform under the terms of this Agreement has been materially premised upon the fulfillment of each of the following conditions, and Seller agrees that all of them are material:

a. The FCC Form 314 application described above shall have been granted, and that Seller shall have complied with any conditions imposed on it by the FCC Consent to the extent required under the terms of this Agreement.

b. All representations and warranties of the Seller contained in this Agreement shall be true and complete in all material respects at and as of the Closing Date as though made at and as of that time except to the extent that breaches of the representations and warranties of Seller materially adversely affect the Stations taken as a whole.

c. Seller shall have performed and complied in all material respects with all covenants, agreements, and conditions required by this Agreement to be performed or complied with by it prior to or on the Closing Date.

d. Seller shall have made or stand willing to make all the deliveries to Buyer at Closing, which shall include various instruments and documents, all of which shall be in a form reasonably satisfactory to Buyer and its counsel, to wit:

i. One or more bills of sale for all the Tangible Personal Property to be sold under this Agreement;

iii. An assignment of Seller's rights in the FCC Licenses for the Stations;

iv. A "Closing Certificate" of Seller certifying the truth and accuracy of the representations and warranties made by Seller in this Agreement; and

v. Any other closing document or instrument reasonably requested by Buyer or its counsel which may be needed to effectuate all of the transactions called for by this Agreement; and

e. No suit, action, claim, or governmental proceeding shall be pending, and no order, decree or judgment of any court, agency or other governmental authority shall have been rendered against any Party hereto which: (A) would render it unlawful, as of the Closing Date, to effect the transactions contemplated by this Agreement in accordance with its terms; (B) questions the validity or legality of any transaction contemplated hereby; or (C) seeks to enjoin any transaction contemplated hereby.

10. **Conditions Precedent to Seller's Obligations.** The obligations of Seller under this Agreement are, at its election, subject to the satisfaction on or prior to the Closing Date of each of the following conditions precedent:

a. The FCC Form 314 application described above be granted;

b. All of the representations and warranties made by Buyer herein shall be in all material respects true and correct as of the Closing Date;

c. Buyer shall provide to Seller a "Closing Certificate" certifying the truth and accuracy of Buyer's representations and warranties made in this Agreement;

d. Buyer shall have provided to Seller an instrument described in Section 2 above, satisfactory to Seller and its counsel, documenting the donation of the Stations' FCC Licenses and Tangible Personal Property from Seller to Buyer; and

e. There shall have been no material breach by Buyer in the performance of any of its covenants or agreements contained herein.

11. **Mutual Cooperation.** The parties agree and pledge to each other total mutual cooperation to achieve approval by the FCC of the Application including, but not limited to, prosecuting the Application in good faith and in due diligence so as to achieve grant and finality thereof as expeditiously as practicable, and to take no action to delay or defeat approval.

12. **Termination.**

a. In the event that FCC approval of the assignment of the FCC Licenses of the Stations from Seller to Buyer shall not have been granted by May 1, 2018, either party shall have the right to unilaterally terminate this agreement by giving written notice to the other party of its intention to do so, *provided, however*, that the party seeking to so terminate is not itself in material breach hereof. Upon such notice, this Agreement shall have no further force and effect.

b. If the FCC designates the application contemplated by this Agreement for hearing, either party shall have the option of terminating this Agreement by notice to the other party prior to the commencement of the hearing if the terminating party shall not be in default under the provisions of this Agreement; provided that the terminating party shall not be entitled to terminate this Agreement if the hearing results from or was caused by (i) any failure on the part of such party to furnish or make available to the FCC information required to be supplied by such party, or (ii) the willful furnishing by such party of incorrect, inaccurate, or incomplete information to the FCC, or (iii) a protest resulting from the solicitation of such protest by the party seeking to terminate this Agreement.

13. **Risk of Loss; Set-off.** Seller shall bear all risk of loss in connection with the Stations prior to the Closing Date. In the event that prior to the Closing Date the Stations, or any of the Sale Assets which are material to the operation of the Stations, be substantially damaged or destroyed and not replaced or promptly repaired, then Buyer at its sole option may agree to consummate its purchase of the Stations upon an agreement of set-off or credit for such damaged or destroyed Sale Assets having been reached; if Seller and Buyer cannot agree as to an appropriate set-off or credit for such damaged or destroyed assets, Seller and Buyer shall submit the dispute to the nearest office of the American Arbitration Association for resolution. The cost

14. **Successors and Assigns.** This Agreement shall be binding upon and shall inure to the benefit of the parties hereto, their heirs, personal representatives, successors, and assigns. An assignment shall not relieve the parties of their obligations to guarantee the prompt performance of any and all of their respective obligations thereunder. Buyer may assign its rights hereunder to any legally and financially qualified person or entity that it may choose, subject to approval of the Seller which shall not unreasonably be withheld.

15. **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of Hawaii; the forum for any disputes arising hereunder shall be the courts of Hawaii County, Hawaii.

16. **Indemnification.**

a. **By Seller.** Seller shall indemnify, defend, and save Buyer, its affiliates, successors, and assigns, harmless against and from all liabilities, claims, losses, damages, cost and expenses (including reasonable attorney's fees) resulting from (i) the conduct of business and operations by Seller of the Stations' Assets prior to the Closing Date, (ii) any misrepresentation of breach of warranty, representation, or covenant contained in this Agreement by Seller, (iii) any claims or actions brought by any member of Seller against Buyer as a result of or in connection with this transaction, (iv) any claim or action of any kind by or on behalf of any

employee or former employee of Seller or the unlawful conduct of any such employee, and (v) all actions, suits, proceedings, demands, damages, assessments, judgments, costs, reasonable attorneys' fees on any appeal, and expenses incident to any of the foregoing or incident to any enforcement by Buyer of any covenant of agreement on the part of Seller set forth in this Agreement.

b. By Buyer. Buyer will defend and save Seller, its affiliates, successors, and assigns harmless against and from all liabilities, claims, losses, damages, costs, and expenses (including reasonable attorneys' fees) resulting from (i) any misrepresentation or breach of warranty, representation, or covenant by Buyer contained in this Agreement, (ii) the conduct of business and operations by Buyer of the Stations' Assets following the Closing Date and (iii) any claims or actions brought by any principal of Buyer against Seller as a result of or in connection with this transaction, and (iv) all actions, suits, proceedings, demands, damages, assessments, judgments, costs, reasonable attorneys' fees (including reasonable attorneys' fees on any appeal) and expenses incident to any of the foregoing or incident to any enforcement by Seller of any covenant or agreement on the part of Buyer set forth in this Agreement.

c. Claims Pursuant to Indemnities. If any claim covered by the foregoing indemnities is asserted against any other indemnified party (the "Indemnitee"), the Indemnitee shall promptly give the other party (the "Indemnitor") notice of such claim.

17. Headings. The headings of the paragraphs of this Agreement are for the convenience of the parties only, and do not in any way modify, interpret, or construe the meaning of the provisions hereof.

18. Notices. All notices required or permitted to be given hereunder shall be in writing and copies shall be effective when sent by registered or certified mail, postage and fees prepaid, addressed as follows:

If to Seller:

Mr. Richard Charles Bergson
Pacific Radio Group, Inc.
311 Ano St.
Kahului, HI 96732

with a copy to:

Dan J. Alpert, Esq.
The Law Office of Dan J. Alpert
2120 N. 21st Rd.
Arlington, VA 22201

If to Buyer:

Dr. James Marocco, Sr. Pastor
King Cathedral

777 Mokulele Hwy.
Kahului, HI 96732

19. **Survival of Representations, Warranties and Covenants.** The parties agree that the representations, warranties, and covenants made by them herein shall survive the Closing Date for a period of one (1) year subsequent to the Closing Date.

20. **Entire Agreement.** The foregoing constitutes the entire and whole agreement of the parties, and may not be modified, amended, or changed in any way unless in writing signed by all parties hereto. The failure of any party hereto to enforce at any time any provision of this Agreement shall not be construed to be a waiver of such provision, nor in any way to affect the validity of this Agreement or any part hereof, or the right of any party thereafter to enforce each and every such provision. No waiver of any breach of this Agreement shall be held to constitute a waiver of any other or subsequent breach.

21. **Counterparts.** This Agreement may be signed in one or more counterparts, each of which shall be considered an original counterpart, and shall become a binding Agreement when the parties shall have each executed one counterpart.

22. **Severability.** The event that any of the provisions contained in this Agreement is held to be invalid, illegal, or unenforceable shall not affect any other provision hereof, and this Agreement shall be construed as if such invalid, illegal, or unenforceable provisions had not been contained herein.

23. **Confidentiality.** Subject to the requirements of applicable law (including FCC rules requiring the filing of this Agreement as part of the Application), Buyer and Seller shall each keep confidential all information obtained by them with respect to the other party hereto in connection with this Agreement and the negotiations preceding this Agreement, and will use such information solely in connection with the transactions contemplated by this Agreement, and if the transactions contemplated hereby are not consummated for any reason, each shall return to each other party hereto, without retaining a copy thereof, any schedules, documents or other written information obtained from such other party in connection with this Agreement and the transactions contemplated hereby. Notwithstanding the foregoing, no party shall be required to keep confidential or return any information which is: (i) known or available through other lawful sources, not bound by a confidentiality agreement with the disclosing party; (ii) or becomes publicly known through no fault of the receiving party or its agents; (iii) required to be disclosed pursuant to an order or request of a judicial or governmental authority (provided the party other than the disclosing party is given reasonable prior notice of the order or request and the purpose of the disclosure); or (iv) developed by the receiving party independently of the disclosure by the disclosing party. Nothing contained herein shall preclude Buyer from discussing the Stations or this Agreement with present or potential donors, benefactors, or sponsors.

24. **Construction of Agreement.** This Agreement is the product of negotiation and preparation by, between and among Buyer and Seller and their respective attorneys. Accordingly, the parties hereto acknowledge and agree that this Agreement shall not be deemed prepared or drafted by one party or another, or the attorneys for one party or another, and shall be construed accordingly.

**[This Remainder of this Page Intentionally Left Blank;
Signatures Appear On Following Page]**

IN WITNESS WHEREOF, the parties hereto have executed this agreement as of the day and year first written above.

SELLER

PACIFIC RADIO GROUP, INC.

By: _____


Richard Charles Bergson
President

BUYER

KING'S CATHEDRAL AND CHAPELS

By: _____


James Marocco
Senior Pastor