

## **ESCROW AGREEMENT**

**THIS ESCROW AGREEMENT** (this "Agreement") is made and entered into as of this 8<sup>th</sup> day of December, 2005, by and among Lazer Broadcasting Corporation, a California corporation, or its assigns ("Buyer"), Phillip J. Plank, an individual resident of the State of California or his assigns ("Seller"), and MCH Enterprises, Inc., as escrow agent ("Agent"). The parties hereto are individually referred to herein as a "Party" or collectively as the "Parties."

### **RECITALS**

WHEREAS, pursuant to that certain Asset Purchase Agreement, dated on even date herewith, by and between Buyer and Seller (the "Purchase Agreement"), Buyer has agreed to acquire from Seller, and Seller has agreed to sell to Buyer, all of the Station Assets (as such term is defined in the Purchase Agreement), relating to the operation of radio broadcast Station KSSB(FM), licensed to Calipatria, California, FCC Facility Identification Number 52469 (the "Station");

WHEREAS, it is a condition to the execution of the Purchase Agreement that Buyer, Seller and Agent execute and deliver this Agreement;

WHEREAS, unless otherwise defined herein, capitalized terms used herein shall have the meanings assigned to them in the Purchase Agreement.

NOW, THEREFORE, in consideration of the recitals and of the respective agreements and covenants contained herein, and intending to be legally bound hereby, the Parties agree as follows:

### **ARTICLE I**

#### **Section 1.1    Escrow Deposit**

(a) Concurrently with the execution of this Agreement, Buyer shall deliver to Agent, pursuant to the provisions of the Purchase Agreement, the sum of One Hundred Fifty Thousand Dollars (\$78,000.00) (the "Escrow Deposit") in the form of immediately available funds.

(b) The Escrow Deposit shall be held by Agent for the benefit of Buyer and Seller as provided in this Agreement.

**Section 1.2    Acceptance of Appointment as Agent.** Seller and Buyer, by executing of this Agreement, appoint Agent as escrow agent, and Agent, by executing this Agreement, accepts its appointment as escrow agent with respect to the Escrow Deposit and agrees to hold and deliver the Escrow Deposit in accordance with the terms of this Agreement.

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Section 1.3 Disbursement of the Escrow Deposit. Agent shall discharge its duties of distribution and disposal pursuant to this Agreement, upon compliance with joint written instructions of Seller and Buyer or their duly designated representatives delivered to Agent. If Agent shall not have received such joint written instructions and a controversy shall exist between Buyer and Seller as to the correct disposition of the Escrow Deposit, Agent may, at its election, (a) continue to hold the Escrow Deposit until he receives such joint written instructions or a final order by a court of competent jurisdiction directing the disposition of the Escrow Deposit, (b) resign as provided under Section 2.1(d) below, or (c) commence an interpleader action in a court of competent jurisdiction and pay the Escrow Deposit to such court. Upon Agent doing the actions permitted under either subsection (b) or (c) above, its duties, responsibilities, and liabilities with respect to the Escrow Deposit shall terminate.

Section 1.4 Investment of Proceeds of the Escrow Deposit.

(a) Agent shall hold the Escrow Deposit in escrow, and shall invest the Escrow Deposit in Permitted Investments (as hereinafter defined). Agent shall hold and release the Escrow Deposit in accordance with the terms of this Agreement.

(b) "Permitted Investments" shall mean direct obligations of the U.S. government having maturities of 90 days or less, money market funds that invest solely in direct obligations of the United States government, and such other investments as may be specified from time to time to Agent by joint written instructions from Buyer and Seller. As and when the Escrow Deposit is to be released under this Agreement, Agent shall cause the Permitted Investments to be converted into cash. Neither Buyer nor Seller nor Agent shall be liable for any loss of principal or income due to the choice of Permitted Investments in which the Escrow Deposit is invested or the choice of Permitted Investments converted into cash pursuant to this subsection (b).

(c) All interest on the Escrow Deposit shall be the property of Buyer and shall be distributed by Agent to Buyer upon final distribution of the Escrow Deposit under Section 1.3 above.

## ARTICLE II

### AGENT

Section 2.1 Rights and Responsibilities of Agent.

(a) The duties and responsibilities of Agent shall be limited to those expressly set forth in this Agreement and Agent shall not be subject to, nor obligated to recognize, any other agreement between, or direction or instruction of, the Parties to this Agreement, unless such agreement, direction or instruction is in writing and signed by both Buyer and Seller, and provided to Agent.

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(b) If any controversy arises between the Parties, or with any other party, concerning the subject matter of this Agreement, its terms or conditions, Agent will not be required to determine the controversy or to take any action regarding it. Agent may hold all documents and funds and may wait for settlement of any such controversy by final appropriate legal proceedings or other means as, in Agent's discretion, Agent may require, despite what may be set forth elsewhere in this Agreement. In such event, Agent will not be liable for interest or damage. Furthermore, Agent, at its option, may file an action of interpleader requiring the parties to answer and litigate any claims and rights among themselves. Agent is authorized to deposit with the clerk of the court all documents and funds held in escrow. All costs, expenses, charges and reasonable attorney fees incurred by Agent due to the interpleader action shall be paid one-half by Buyer and one-half by Seller. Upon initiating such action, Agent shall be fully released and discharged of and from all obligations and liability imposed by the terms of this Agreement.

(c) In performing any duties under this Agreement, Agent shall not be liable to any Party for damages, losses, or expenses, except as a result of negligence or willful misconduct on the part of Agent. Agent shall not incur any such liability for any action taken or omitted in reliance upon any instrument, including any written statement or affidavit provided for in this Agreement, that Agent shall in good faith believe to be genuine, nor will Agent be liable or responsible for forgeries, fraud, impersonations, or determining the scope of any representative authority. In the absence of knowledge that any action taken or purported to be taken hereunder is wrongful, Agent is not responsible for determining and verifying the authority of any person acting or purporting to act on behalf of any Party.

(d) Agent, and any successor Agent, may resign at any time as escrow agent hereunder by giving at least thirty (30) days' prior written notice to Seller and Buyer. Upon such resignation and the appointment of a successor escrow agent, the resigning Agent shall be absolved from any and all further liability in connection with the exercise of its powers and duties as escrow agent hereunder, except for liability arising in connection with his own negligence or willful misconduct. Upon their receipt of notice of resignation from Agent, Buyer and Seller shall use reasonable efforts jointly to designate a successor Agent. In the event Buyer and Seller do not agree upon a successor escrow agent within thirty (30) days after the receipt of such notice, Agent so resigning may petition any court of competent jurisdiction for the appointment of a successor agent or other appropriate relief and any such resulting appointment shall be binding upon all parties hereto. By mutual agreement, Buyer and Seller shall have the right at any time upon not less than ten (10) days' prior written notice to Agent to terminate the appointment of Agent, or successor Agent, as agent hereunder. Agent or successor Agent shall continue to act as escrow agent until a successor is appointed and qualified to act as Agent.

Section 2.2 Expenses of Agent. Agent shall be entitled to reimbursement for its reasonable expenses actually incurred by it in connection with its duties under this Agreement (the "Agent Expenses"). Except as otherwise provided herein, all Agent

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Expenses shall be invoiced periodically by Agent and shall be an equally shared obligation of Buyer and Seller.

Section 2.3 Indemnification of Agent. The Parties and their respective successors and assigns agree, jointly and severally, to indemnify and hold Agent harmless against any and all losses, claims, damages, liabilities, and expenses, including reasonable costs of investigation, reasonable legal counsel fees and disbursements that may be imposed on Agent or incurred by Agent in connection with the performance of its duties under this Agreement, including, but not limited to, any litigation arising from this Agreement or involving its subject matter; *provided, however*, neither Buyer nor Seller nor their successors and assigns need indemnify Agent for any loss, claim, damage, liability or expense caused by Agent's negligence or willful misconduct.

Section 2.4 Agent's Representation of Seller. Buyer acknowledges that Agent has represented Seller in connection the Purchase Agreement, and is providing its services under this Escrow Agreement at the request of, and as an accommodation to, the Parties. Buyer agrees that the provision of services by Agent under this Agreement does not create any attorney-client relationship or otherwise bar or limit the ability of Agent to represent Seller in connection with the transactions contemplated under the Purchase Agreement and its consummation, or in any litigation or other proceedings that might arise, provided, however, that in the event of such litigation or proceedings, Agent shall proceed in accordance with Sections 1.3(b) or (c) above.

### ARTICLE III

#### MISCELLANEOUS

Section 3.1 Notices. Any notice required or allowed under this Agreement shall be in writing and shall be deemed given when delivered personally, mailed by certified mail, return receipt requested (postage prepaid), or sent by an overnight delivery service (charges prepaid), and addressed to the following:

(a) If to Seller:

Mr. Phillip J. Plank  
P.O. Box 1708  
Calipatria, CA 92233

PW  
(b) If to Buyer:

Alfredo Plascencia, President  
Lazer Broadcasting Corporation  
200 South A Street, Suite 400  
Oxnard, CA 93030

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

Harry C. Martin, Esquire  
Fletcher, Heald & Hildreth, P.L.C.  
1300 North 17<sup>th</sup> Street, 11<sup>th</sup> Floor  
Arlington, VA 22209

(c) If to Agent:

MCH Enterprises, Inc.  
179 Niblick Road, PMB #319  
Paso Robles, CA 93446  
Attention: Brett E. Miller

or to any other address as the Parties may from time to time designate in writing.

Section 3.2 Assignment. This Agreement and the rights and duties hereunder shall be binding upon and inure to the benefit of the Parties and the successors and permitted assigns of each of the Parties. No rights, obligations or liabilities hereunder shall be assignable by any Party without the prior written consent of the other Party. Seller may assign its rights under this Agreement for estate planning purposes only in accordance with the provisions of Section 11.1 of the Purchase Agreement; *provided, however*, that any such assignee duly executes and delivers an agreement to assume Seller's obligations under this Agreement.

Section 3.3 Amendment. This Agreement may be amended or modified only by an instrument in writing duly executed by Agent, Buyer and Seller.

Section 3.4 Waivers. Any waiver by any Party of any breach of or failure to comply with any provision of this Agreement by any other Party shall be in writing and shall not be construed as, or constitute, a continuing waiver of such provision, or a waiver of any other breach of, or failure to comply with, any other provision of this Agreement.

Section 3.5 Construction. This Agreement shall be construed and enforced in accordance with and governed by the laws of the State of California without giving effect to the choice of law provisions thereof that may direct the application of the laws of another jurisdiction. Any proceedings to enforce this Agreement shall be commenced in a court of competent jurisdiction in the State of California. The Parties agree not to assert or interpose any defenses, and do hereby waive the same, to the conferral of personal

jurisdiction and venue by such court in any suit, action or proceeding. The headings in this Agreement are solely for convenience of reference and shall not be given any effect in the construction or interpretation of this Agreement. Unless otherwise stated, references to Sections and Exhibits are references to Sections and Exhibits of this Agreement.

Section 3.6 Third Parties. Nothing expressed or implied in this Agreement is intended, or shall be construed, to confer upon or give any person or entity other than Buyer, Seller and Agent, and their respective permitted successors and assigns, any rights or remedies under, or by reason of, this Agreement.

Section 3.7 Waiver of Offset Rights. Agent hereby waives any and all rights to offset that it may have against the Escrow Deposit including, without limitation, claims arising as a result of any claims, amounts, liabilities, costs, expenses, damages, or other losses that Agent may be otherwise entitled to collect from any Party.

Section 3.8 Attorneys Fees/Costs of Suit. If either Buyer or Seller institute a legal action against the other with respect to the Escrow Deposit, the prevailing Party shall be entitled to its attorneys' fees and costs of suit, including the cost of any appeals.

Section 3.9 Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed any original and all of which together shall constitute a single instrument.

Section 3.10 Severability. If any provision in this Agreement is held to be invalid, illegal, or unenforceable, this Agreement shall be construed as if such invalid, illegal, or unenforceable provision had not been contained herein, provided that the provision held to be invalid, illegal, or unenforceable is not central to the purpose of this Agreement to provide the terms and conditions for the holding and disbursement of the Escrow Deposit in accordance with the provisions of the Purchase Agreement.

Section 3.11 Contract Interpretation. The Parties acknowledge that both Parties have caused this Agreement to be reviewed and approved by legal counsel of their own choice, or have consciously chosen not to seek such counsel. This Agreement has been specifically negotiated, and any presumption that an ambiguity contained in this Agreement shall be construed against the Party that caused this Agreement to be drafted shall not apply to the interpretation of this Agreement.

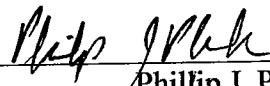
[SIGNATURE PAGE FOLLOWS]

[SIGNATURE PAGE TO ESCROW AGREEMENT]

**IN WITNESS WHEREOF**, Seller, Buyer and Agent have executed this Agreement as of the day and year first written above.

**SELLER:**

  
**PHILIP J. PLANK**

  
Philip J. Plank

**BUYER:**

**LAZER BROADCASTING CORPORATION**

By: \_\_\_\_\_  
Alfredo Plascencia, President

**AGENT:**

**MCH ENTERPRISES, INC.**

By: \_\_\_\_\_  
Brett E. Miller

[SIGNATURE PAGE TO ESCROW AGREEMENT]

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**SELLER:**

**PHILIP J. PLANK**

\_\_\_\_\_  
Philip J. Plank

**BUYER:**

**LAZER BROADCASTING CORPORATION**

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

Alfredo Plascencia, President

**AGENT:**

**MCH ENTERPRISES, INC.**

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

Brett E. Miller



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**SELLER:**

**PHILLIP J. PLANK**

\_\_\_\_\_  
Phillip J. Plank

**BUYER:**

**LAZER BROADCASTING CORPORATION**

By: \_\_\_\_\_  
Alfredo Plascencia, President

**AGENT:**

**MCH ENTERPRISES, INC.**

By: Brett E. Miller  
Brett E. Miller