

## ESCROW AGREEMENT

**THIS ESCROW AGREEMENT (“Escrow Agreement”)** is entered into as of the 13<sup>th</sup> day of September 2011, by and among Pacific Empire Radio Corporation, an Idaho corporation (“**Seller**”), RJ Broadcasting Idaho, LLC, a Utah limited liability company and RJ Broadcasting Idaho LS, LLC, a Utah limited liability company (“**Buyer**”), and Callister Nebeker & McCullough, a Utah professional corporation (“**Escrow Agent**”), all at the addresses set forth in Paragraph 8 below.

### RECITALS:

A. **WHEREAS**, Buyer and Seller, contemporaneous with execution of this Escrow Agreement, are entering into an Asset Purchase Agreement (the “**Purchase Agreement**”), under which Buyer agrees, subject to the terms and conditions set forth therein, to purchase the assets used or useful in the operation of the radio stations KGTM (FIN: 12665) and KRXX (FIN: 12664), both licensed to Rexburg, Idaho, and KBJX (FIN: 73616), licensed to Shelley, Idaho (collectively the “**Station**”); and

B. **WHEREAS**, the parties have agreed that Buyer will deposit in escrow with Escrow Agent the sum of \$55,000 to be held and applied toward the purchase price of the Station pursuant to the terms of the Purchase Agreement.

**NOW, THEREFORE**, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and in consideration of the promises, agreements, and covenants set forth herein, the parties hereto, intending legally to be bound, hereby agree as follows:

1. **Appointment of Escrow Agent.** Buyer and Seller each hereby appoints Callister Nebeker & McCullough as Escrow Agent to receive, hold, administer and deliver the Escrow Deposit in accordance with this Escrow Agreement and the Purchase Agreement, and Callister Nebeker & McCullough hereby accepts such appointment, all subject to and upon the terms and conditions set forth herein. Escrow Agent shall not charge a fee for its services except as set forth in Section 6.3 below.

2. **Escrow Deposit.** Buyer herewith deposits with Escrow Agent the sum of \$55,000 (hereinafter referred to as the “**Escrow Deposit**”) and Escrow Agent acknowledges such deposit.

3. **Escrow Agent’s Role Purely Ministerial.** Escrow Agent’s duties hereunder are purely ministerial and it shall not have any duties or liabilities hereunder except those specifically set forth and undertaken by it herein.

4. **Investments.**

(a) **Approved Investments.** Escrow Agent shall invest and reinvest the Escrow Deposit in federally insured savings, money market accounts or certificates of deposit of any commercial bank, or in securities of the United States of America, of not more than three (3)

months duration, or as may be otherwise jointly directed in a writing signed by both Buyer and Seller.

(b) **Payment of Interest Together with Escrow Deposit.** All interest and earnings derived from said investments shall accrue to the Escrow Deposit and shall be paid to the party receiving the Escrow Deposit unless otherwise jointly directed in a writing signed by both Buyer and Seller or unless directed by either an arbitrator (as provided in this Escrow Agreement or in the Purchase Agreement) or by a court having jurisdiction.

5. **Release of Escrow Deposit.** Escrow Agent shall hold the Escrow Deposit until it delivers all or part of the Escrow Deposit as provided below.

(a) **Joint Instructions.** If Escrow Agent receives written instructions signed by both Seller and Buyer, Escrow Agent shall deliver the Escrow Deposit to Buyer, Seller or successor escrow agent in accordance with said instructions.

(b) **Seller's Demand.** If Escrow Agent receives a written notice signed by the Seller stating that Seller is entitled to all or any portion of the Escrow Deposit, Escrow Agent shall have hand-delivered a copy thereof to Buyer and, unless Escrow Agent receives a written objection from the Buyer within ten (10) business days after such hand-delivery, Escrow Agent shall deliver to Seller all or such portion of the Escrow Deposit as specified in the notice from Seller. If Escrow Agent receives a written objection from the Buyer, Escrow Agent shall continue to hold the Escrow Deposit. At the same time that Seller provides to Escrow Agent any written notice stating its entitlement to all or any portion of the Escrow Deposit, Seller shall also provide Buyer with a copy thereof. At the same time that Buyer provides to Escrow Agent any written objection, Buyer shall also provide Seller with a copy thereof.

(c) **Buyer's Demand.** If Escrow Agent receives a written notice signed by the Buyer stating that Buyer is entitled to all or any portion of the Escrow Deposit, Escrow Agent shall have hand-delivered a copy thereof to Seller and, unless Escrow Agent receives a written objection from Seller within ten (10) business days after such hand-delivery, Escrow Agent shall deliver to Buyer all or such portion of the Escrow Deposit as specified in the notice from Buyer. If Escrow Agent receives a written objection from Seller, Escrow Agent shall continue to hold the Escrow Deposit.

(d) **Immediate Funds.** All deliveries of funds by Escrow Agent to either Seller, Buyer or successor escrow agent as provided for herein shall be either in immediately available funds, or by DELIVERY OF FULL TITLE, and all incidents of ownership to any certificates of deposit or other instruments by which the Escrow Deposit is held that are not immediately available in cash because of subsequent maturity dates.

6. **Limited Liability of Escrow Agent.** Escrow Agent has been induced to accept its duties under this Escrow Agreement subject to the following terms and conditions:

(a) **General Limitation of Liability.** In performing any of its duties hereunder, or upon the claimed failure to do so, Escrow Agent shall not be liable to anyone for any damage, loss, expense or other claim which may be incurred as a result of Escrow Agent's alleged action

or omission; provided however, Escrow Agent shall be liable only for damages directly caused by its default or misconduct.

(b) **Limitation of Liability For Investment Decisions.** Without limiting the foregoing, Escrow Agent shall not in any event be liable, and Seller and Buyer shall jointly and severally indemnify and hold harmless Escrow Agent, in connection with Escrow Agent's investment or reinvestment of the Escrow Deposit in good faith, including without limitation any delays (not resulting from its gross misconduct or willful default) in the investment or reinvestment of the Escrow Deposit, or any loss of income incident to any such delays.

(c) **Escrow Agent Indemnification.** Buyer and Seller each hereby agree to indemnify and hold harmless Escrow Agent against any and all losses, claims, damages, liabilities and expenses, including, without limitation, reasonable costs of investigation, litigation and counsel fees and disbursements which may be imposed upon Escrow Agent or incurred by it in connection with its acceptance of this appointment as Escrow Agent hereunder or the performance of its duties hereunder, including, without limitation, any litigation arising from this Escrow Agreement or involving the subject matter hereof; except, as provided in Section 6.1 of this Escrow Agreement.

(d) **Escrow Deposit Must Be Held Until Dispute Resolved.** In the event of any dispute or disagreement between Buyer and Seller resulting in adverse claims or demands being made in connection with the Escrow Deposit, or if Escrow Agent in good faith is in doubt as to any action it should take hereunder, Escrow Agent shall be entitled to hold the Escrow Deposit until it receives (1) a final non-appealable order of a court of competent jurisdiction in the state of Missouri or (2) a written agreement executed by Buyer and Seller directing delivery of the Escrow Deposit, in which event Escrow Agent shall deliver the Escrow Deposit in accordance with such order or agreement.

(e) **Escrow Deposit Tendered in Court or to Arbitrator Upon Dispute.** In alternative to Section 6.4 of this Escrow Agreement, in the event of any dispute or disagreement between Buyer and Seller sufficient in the sole discretion of Escrow Agent to justify its doing so, Escrow Agent shall be entitled to tender the Escrow Deposit into the registry or custody of any court of competent jurisdiction in the state of Utah, and to initiate such legal proceedings (including arbitration) as it deems appropriate, including, without limitation, an interpleader action, for determination of the respective rights, titles and interests of Seller and Buyer therein and thereafter shall be forthwith released and discharged from all further duties, liabilities and obligations under this Escrow Agreement. Any such legal action may be brought in any such court as Escrow Agent shall determine to have jurisdiction and each party agrees to submit to the jurisdiction of the court or to an arbitrator so designated by Escrow Agent.

(f) **No Obligations Under Purchase Agreement.** This Escrow Agreement expressly sets forth all the duties of Escrow Agent with respect to any and all matters pertinent hereto. Escrow Agent shall only be bound by the provisions of this Escrow Agreement and shall not be bound by or incur any liability with respect to the Purchase Agreement or any other agreement or understanding between Buyer and Seller except as herein expressly provided. Specifically, Escrow Agent shall not make, be required to make, or be liable in any manner for its failure to make, any determination under the Purchase Agreement or any other agreement, including

without limitation any determination of whether Buyer or Seller has complied with the terms of the Purchase Agreement or is entitled to delivery of payment of any or all of the Escrow Deposit or to any other right or remedy under the Purchase Agreement.

(g) **Escrow Agent Not a Beneficiary.** Except as stated herein, Escrow Agent does not have any interest in the Escrow Deposit held hereunder, but is serving as escrow holder only.

**7. Resignation, Replacement and Successor Escrow Agent.**

(a) **Resignation.** Escrow Agent (and any successor escrow agent) may at any time resign as such by delivering notice of its resignation to Buyer and Seller and by delivering the Escrow Deposit to a successor escrow agent or escrow agents jointly designated by Buyer and Seller in writing, or if Buyer and Seller cannot agree on the successor escrow agent within fifteen (15) days of notice of Escrow Agent's resignation, to any court of competent jurisdiction, whereupon the resigning Escrow Agent shall be discharged of and from any and all further obligations arising in connection with this Escrow Agreement.

(b) **Replacement.** Buyer and Seller may at any time replace Escrow Agent (and any successor escrow agent) with a successor escrow agent or escrow agents if jointly agreed to in writing and notice of replacement is delivered to Escrow Agent. Upon receiving notice of replacement, Escrow Agent shall deliver the Escrow Deposit to the successor escrow agent or escrow agents within five (5) business days, whereupon the replaced Escrow Agent shall be fully discharged of and from any and all liabilities and obligations arising in connection with this Escrow Agreement.

**8. Notices.** Any notices, objections or other communications required or permitted hereunder shall be in writing and shall be deemed to have been duly given (i) on the date of personal delivery to an officer of the other party, or (ii) if sent by telecopy or facsimile machine to the number shown below, on the date of such confirmed facsimile or telecopy transmission, provided a copy is sent by commercial overnight delivery service, prepaid, or by deposit in accordance with this Section of a change of address or change of telecopy number:

if to Buyer, then to:

Rich Broadcasting, LLC  
1401 East Stillwood Drive  
Salt Lake City, UT 84117  
Attn: Richard O. Mecham  
Tel: (801) 277-6139  
Email: [richard@richbroadcasting.com](mailto:richard@richbroadcasting.com)

If to Escrow Agent, then to:

Laurie S. Hart, Esq.  
Callister Nebeker & McCullough  
Zions Bank Building Suite 900  
10 E. South Temple  
Salt Lake City, UT 84133  
Tel: (801) 530-7456  
Facsimile: (801) 364-9127  
Email: [lshart@cnmlaw.com](mailto:lshart@cnmlaw.com)

if to Seller, then to: Pacific Empire Radio Corporation  
Attn: John Taylor  
P.O. Box 538  
Lewiston, ID 83501  
Email:jtaylor@cropinsurance.com

with a copy to: David Tillotson, Esq.  
Law Office of David Tillotson  
4606 Charleston Terrace, N.W.  
Washington, DC 20007  
Tel: (202) 625-6241  
Facsimile: (202) 965-2018  
Email: dtlaw@starpower.net

Notices or communications so given shall be deemed to have been given on the date so delivered or mailed; provided however that no notice or communication given to Escrow Agent shall be deemed effective until actually received by Escrow Agent. Any address set forth above may be changed by notice given pursuant to this Section 8.

9. **Miscellaneous.**

(a) **Partial Invalidity.** Any provision of this Escrow Agreement, which may be determined by competent authority to be prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective or unenforceable without invalidating the remaining provisions hereof, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction. It is expressly understood, however, that the parties hereto intend each and every provision of this Escrow Agreement to be valid and enforceable and hereby knowingly waive all rights to object to any provision of this Escrow Agreement.

(b) **No Assignment.** This Escrow Agreement shall be binding upon and inure solely to the benefit of the parties hereto and their respective successors and assigns, and shall not be enforceable by or inure to the benefit of any third party. No party may assign any of its rights or obligations under this Escrow Agreement without the written consent of the other parties, except to the extent that Buyer or Seller may assign their respective rights under the Purchase Agreement as may be provided therein.

(c) **Modification; Waiver.** This Escrow Agreement may only be modified or terminated by a writing signed by the parties hereto. No waiver of any right arising hereunder shall be effective unless in a writing signed by the party to be charged with such waiver.

(d) **Counterparts.** This Escrow Agreement may be executed in multiple counterparts, all of which taken together shall constitute one and the same instrument. The exchange of copies of this Agreement and of signature pages hereto by facsimile or electronic mail in portable document format (PDF) shall constitute effective execution and delivery of this

Agreement. Signatures of the parties transmitted by facsimile or electronic mail in portable document format shall be deemed to be the parties' original signatures for all purposes.

(e) **Headings.** The headings contained herein are for reference purposes only, and shall not in any way affect the meaning or interpretation of the respective provisions of this Escrow Agreement.

(f) **Governing Law.** This Escrow Agreement shall be interpreted by the laws of the State of Utah.

(g) **Construction.** The parties have had the opportunity to consult with legal counsel regarding the drafting of the terms and conditions of this Escrow Agreement. Accordingly, the language used in this Escrow Agreement will be deemed to be language chosen by the parties to express their mutual intent. In the event an ambiguity or question of intent arises, this Escrow Agreement will be construed as if drafted jointly by the parties, and no presumption or burden of proof will arise favoring or disfavoring any person or entity by virtue of the authorship of any of the provisions of this Agreement.

**[Signature Page Follows]**

IN WITNESS WHEREOF, the parties have duly executed this Escrow Agreement as of the date set forth above.

**SELLER:**  
**PACIFIC EMPIRE RADIO CORPORATION,**  
an Idaho Corporation

By: \_\_\_\_\_  
John Taylor, Chief Executive Officer

**BUYER:**  
**R.J. BROADCASTING, LLC,** a Utah limited  
liability company

By: *Richard O. Mecham*  
Richard O. Mecham, Manager

**R.J. BROADCASTING LS, LLC,** a Utah limited  
liability company

By: *Richard O. Mecham*  
Richard O. Mecham, Manager

**ESCROW AGENT:**  
**CALLISTER, NEBEKER & McCULLOUGH**

By: \_\_\_\_\_  
Laurie S. Hart, Director and Secretary