

**LEASE AGREEMENT
RADIO TOWER LOCATED AT NORTH PARK – BERRY TOWER**

This Lease Agreement made and entered into by and between the County of Laramie, Wyoming, referred to as LESSOR, and Visionary Communications, Inc., P.O. Box 2799, Gillette, Wyoming 82717, referred to as LESSEE.

In consideration of LESSEE's representations in LESSEE's payment of rent, in the sum of Three Hundred Dollars (\$300.00) per month, payable on the tenth (10) day of each month, and performance of the other provisions of this Lease Agreement, LESSOR leases to LESSEE the broadcasting tower located approximately one (1) mile west of I-25 on the south side of Horse Creek Road, in Laramie County, Wyoming, and the broadcasting tower located about ½ mile past mile marker 22 off Horse Creed Road, in Laramie County (hereinafter referred to as "leased premises"), with the following provisions:

LEASE DESCRIPTION

**SECTION ONE
TERM**

- A. This Lease Agreement will be for five (5) years beginning the date the last signature is affixed to this lease agreement ("Commencement Date"). Renewal must be accomplished through the submission in writing of a request for said renewal to LESSOR and a further agreement in writing between the parties.
- B. Neither the LESSOR nor its agent have made any representations with respect to the leased premises, including but not limited to, fitness for a particular purpose, except as expressly set forth in the provisions of this Lease Agreement and no rights, easements or licenses are acquired by LESSEE by implication or otherwise except as expressly set forth in the provisions of this Lease Agreement. The taking possession of the leased property by LESSEE shall be conclusive evidence that the LESSEE accepts the same "as is" and that the leased premises is in good condition at the time possession was taken.

If LESSEE takes possession of the leased premises prior to the commencement date of this Lease Agreement, LESSEE will pay rent at the rate and in the manner required by this Lease Agreement, and such possession in all other respects will be subject to the applicable provisions of this Lease Agreement.

**SECTION TWO
NOTICE OF INTENT TO VACATE OR RENEW**

- A. At least ninety (90) days before the end of this Lease Agreement, or any term thereof upon renewal, LESSEE shall notify LESSOR in writing that LESSEE will sign a new Lease Agreement, renew this Agreement or that the leased premises will be vacated at the end of the term specified in this Lease Agreement. If this lease is not renewed, or terminated according

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to the terms herein, and LESSEE remains in possession, its terms will continue month-to month until notice is given by LESSOR that it is to be terminated. In that event, LESSEE will give up possession within thirty (30) days.

- B. In spite of anything contained in this Lease Agreement to the contrary, LESSOR will not be obligated to enter into a new Lease Agreement or to agree to a continuation of possession of the premises by LESSEE on any terms.

**SECTION THREE
RENT**

- A. All payments of rent or other sums due LESSOR under this Lease Agreement shall be made payable to the Laramie County Treasurer's Office, and mailed to the Laramie County Clerk, P.O. Box 608, Cheyenne, Wyoming 82003.
- B. Any payment more than ten (10) days past due shall be subject to a late fee of Twenty-Five Dollars (\$25.00). In the event of any past due payment, the LESSOR, at the LESSOR's sole discretion, may elect to apply any amounts owed to the LESSEE for advertising or other services toward any lease payments past due under this Lease Agreement. Past due amounts, including late fees, reasonable attorney fees, and costs, shall accrue interest at a rate of ten percent (10%) per annum until paid in full. In any action, litigation, arbitration, or other proceeding by which the LESSOR seeks to enforce its rights under this Lease Agreement (whether in contract, tort, or both) or seeks a declaration of any rights or obligations under this Lease Agreement, the LESSOR, if prevailing, shall be awarded its reasonable attorney fees, costs and expenses incurred.

**SECTION FOUR
UTILITIES**

LESSOR shall initiate, contract for and obtain, in its name, all electricity services, and LESSOR shall pay all charges for those services as they become due.

LESSEE shall be liable for any injury or damages to the equipment or services lines of the utility suppliers that are located on the leased premises, resulting from the negligent or deliberate acts of LESSEE, or the agents of LESSEE.

**SECTION FIVE
QUIET ENJOYMENT**

- A. Upon LESSEE paying the agreed amount pursuant to this Lease Agreement and performing all other provisions of this Lease Agreement, LESSOR agrees that LESSEE shall peacefully and quietly have, hold, and enjoy the leased premises during the term of this Lease Agreement. LESSOR shall provide LESSEE with keys to unlock the gate during the term of this lease, so LESSEE will have access to the tower.

SECTION SIX USE OF PREMISES

- A. LESSEE is to use the leased premises for the sole purpose of providing Ethernet connection to Laramie County School District #1 from the radio tower on the leased premises, subject to the terms of this Lease Agreement.
- B. LESSEE shall operate and maintain the leased premises and any facilities or fixtures thereon in complete accord with any applicable law, regulation or statute whether state, local or federal.
- C. LESSEE shall fully defend, indemnify and hold harmless LESSOR against any and all claims, demands, actions, suits of any kind or nature whatsoever arising from any environmental damage to the leased premises caused by LESSEE's use of the leased premises, including but not limited to, the discharge, release or contamination of the leased premises by hazardous substances as defined by the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. §§ 9601-9675 and 40 C.F.R. Part 302.
- D. LESSEE will use and occupy the leased premises in a clean and wholesome manner and in compliance with all applicable governmental requirements and all rules promulgated by LESSOR relating to such occupancy.

SECTION SEVEN CONDITION OF PREMISES

- A. LESSEE agrees that no representation as to condition or repair of the leased premises, and no promise to alter, repair, or improve the leased premises has been made except as contained in this Lease Agreement. Further, the LESSOR does not extend any warranties, express or implied, including but not limited to, issues regarding signal strength.
- B. LESSEE shall keep the leased premises, during the term of this Lease Agreement, in good repair; and at the expiration of this Lease Agreement, yield and deliver the leased premises and any improvements existing at the time of the granting of this Lease Agreement in like condition as when taken, reasonable wear and tear excepted.
- C. At the termination of this Lease Agreement, any improvements or fixtures on the leased premises created, installed or constructed by LESSEE, including but not limited to, buildings and structures constructed on the leased premises shall be removed at the expense of LESSEE and in accord with any applicable law, regulation or statute unless the parties agree, in writing, to some other disposition of said fixtures or improvements.

SECTION EIGHT RESERVED RIGHT TO ENTER THE PREMISES

LESSOR reserves the right to inspect the leased premises at all reasonable times.

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SECTION NINE ADJUSTMENTS

LESSOR shall have the right to make the following adjustments in this Lease Agreement upon written notice to LESSEE of not less than thirty (30) days:

- A. Changes required by federal, state, or local law or rule or regulation.

SECTION TEN DAMAGE BY FIRE OR OTHER CASUALTY

- A. LESSEE accepts full responsibility for loss to any improvement on and to the leased premises.
- B. It is impermissible for the LESSEE to interfere with the signal of the LESSOR on the tower. If LESSEE interferes with the signal of the LESSOR, LESSOR may terminate the LESSEE's signal immediately, without notice, until the interference problem is resolved to the satisfaction of the Laramie County Emergency Management Director. The Laramie County Emergency Management Director has sole discretion to determine the outcome of the matter.
- C. It is impermissible for the LESSEE to interfere with the signal of any prior lessee on the tower. If LESSEE interferes with the signal of another lessee, the parties shall notify, in writing, the Laramie County Emergency Management Director. If the matter cannot be resolved by the parties to the satisfaction of the Laramie County Emergency Management Director, the LESSOR may terminate both leases. The Laramie County Emergency Management Director has sole discretion to determine the outcome of the matter.

SECTION ELEVEN LESSOR'S NON-LIABILITY

- A. LESSOR will not be liable for damages to person or property sustained by LESSEE or LESSEE's invitees, or other persons due to the leased premises becoming out of repair, arising from leakage of gas, steam, water, or sewer pipes, or from defective wiring, or operation of any equipment on the leased premises, unless such damage is proximately caused by the sole negligence of LESSOR.
- B. LESSOR shall not be responsible or liable to LESSEE for any loss or damage that may be occasioned by or through the acts or omissions of persons occupying leased premises, adjoining premises or any part of the leased premises or premises adjacent to or connected with the leased premises.
- C. LESSOR shall not be liable for any damage or injury to any person or property that occurs on the leased premises resulting from the use of the leased premises by LESSEE.

To the fullest extent permitted by law, LESSEE agrees to indemnify and hold harmless LESSOR, its elected and appointed officials, employees and volunteers from any and all liability

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for injuries, damages, claims, penalties, or actions, arising from or in connection with LESSEE's use of the leased premises. LESSEE shall carry liability insurance sufficient to cover its obligations under this provision and provide LESSOR with proof of such insurance. Further, LESSEE shall defend and hold harmless LESSOR, its elected officers, agents, and employees from and against any and all claims, actions, suits of any kind or nature whatsoever arising under any applicable worker's compensation laws or any other law, duty, regulation or statute as a result of any careless, negligent or intentional act or failure to act on the part of LESSEE, its employees or agents connected with or engaged in the performance of LESSEE's obligations hereunder, or resulting from any careless, negligent or intentional act or failure to act of LESSEE, its agents or employees, for which claims, demands, and suits may be brought against the LESSOR, its officers, directors, agents and employees, or costs incurred by them in defending any action arising from any such claim, including but not limited to, reasonable attorney fees, except to the extent such liability is attributable to the sole negligent or intentional actions of LESSOR, its officers, directors, agents, and employees as finally determined by a Court of competent jurisdiction.

SECTION TWELVE ASSIGNMENT AND SUBLEASE

LESSEE shall not assign this Lease Agreement nor sublet the leased premises without first obtaining LESSOR's written consent which shall not be unreasonably withheld.

SECTION THIRTEEN TERMINATION

- A. If LESSEE should default under or violate the terms of this Lease Agreement, LESSOR shall have the right, among others, to terminate this Lease Agreement and to repossess the leased premises and cause LESSEE to vacate the leased premises in the manner provided by law. If this should occur, LESSEE will pay LESSOR the expenses incurred in obtaining possession of the demised premises and all other damages sustained by LESSOR to the extent permitted by law.
- B. In addition to the above, this Lease Agreement may be terminated by LESSEE, with one (1) years prior written notice to LESSOR or upon mutual written agreement by both parties.
- C. If LESSEE ceases to use the leased premises as a Radio Broadcasting tower, LESSOR may terminate the lease upon thirty (30) days written notice.

SECTION FOURTEEN REMEDIES NOT EXCLUSIVE

Each of the rights and remedies provided in this Lease Agreement will be cumulative and not exclusive.

SECTION FIFTEEN SEVERABILITY

If any provisions of this Lease Agreement should be or become invalid, such invalidity shall not in any way affect any of the other provisions of this Lease Agreement, which shall continue to remain in full force and effect.

SECTION SIXTEEN ENTIRE AGREEMENT

This Lease Agreement shall constitute the entire agreement between the parties. Any prior understanding or representation of any kind preceding the date of this Lease Agreement shall not be binding upon either party except to the extent incorporated in this Lease Agreement.

SECTION SEVENTEEN MODIFICATION OF AGREEMENT

Any modification of this Lease Agreement or additional obligation assumed by either party in connection with this Agreement shall be binding only if evidenced in a writing signed by each party or an authorized representative of each party.

SECTION EIGHTEEN BINDING EFFECT

The provisions of this Lease Agreement will be binding upon and will be for the benefit of LESSOR and LESSEE and their respective successors in interest.

SECTION NINETEEN GOVERNING LAW AND JURISDICTION

- A. The parties mutually understand and agree that this Lease Agreement shall be governed by and interpreted pursuant to the laws of the State of Wyoming. If any provision of this Lease Agreement is held invalid or unenforceable by any court of competent jurisdiction, or if the LESSOR is advised of any such actual or potential invalidity or unenforceability, such holding or advice shall not invalidate or render unenforceable any other provision hereof. It is the express intent of the parties that provisions of this Lease Agreement are fully severable.
- B. The District Court of the First Judicial District in the State of Wyoming shall have exclusive jurisdiction over any action arising out of this Lease Agreement. The parties hereby waive any objection that a suit or proceeding brought in the foregoing jurisdiction is brought in an improper or inconvenient forum or otherwise should be heard in any other forum for any reason.

The parties hereby agree if either party shall bring suit hereon in any other jurisdiction than the above named, the parties shall cooperate fully in the removal, transfer or dismissal, as necessary, of any such proceeding to the end. No suit concerning this Lease Agreement shall lie, except in the aforementioned jurisdiction. The foregoing provisions of this paragraph are agreed

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by the parties to be a material inducement to LESSOR and to LESSEE in executing this Lease Agreement.

SECTION TWENTY GOVERNMENTAL IMMUNITY

LESSOR does not waive its Governmental Immunity, as provided by any applicable law including WYO. STAT. § 1-39-101 *et seq.* (2005), by entering into this contract and it fully retains all immunities and defenses provided by law with regard to any action, whether in tort or contract, based on this Lease Agreement.

SECTION TWENTY-ONE NOTICES

- A. All notices, demands, or other writings in this Lease Agreement provided to be given or made or sent, or which may be given or made or sent, by either part to the other, shall be deemed to have been fully given or made or sent when made in writing and deposited in the United States mail, registered and postage prepaid, and addressed as follows:

TO LESSOR: Laramie County
 P.O. Box 608
 309 W. 20th Street
 Cheyenne, WY. 82003

TO LESSEE: Visionary Communications, Inc.,
 Attention: Greg Worthen
 P.O. Box 2799
 Gillette, WY 82717
 cc: gworthen@visionarybroadband.com

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- B. The address to which any notice, demand, or other writing may be given or made or sent to any party as above provided may be changed by written notice given to the other party.

SECTION TWENTY-TWO THIRD PARTY BENEFICIARY

The parties do not intend to create in any other individual or entity the status of third party beneficiary, and this Lease Agreement shall not be construed so as to create such status. The rights, duties and obligations contained in this Lease Agreement shall operate only between the parties of the Lease Agreement and shall inure solely to the benefit of the parties to this Lease Agreement. The parties to this Lease Agreement intend and expressly agree that only parties signatory to this Lease Agreement shall have any legal or equitable right to seek to enforce this Lease Agreement, to seek any remedy arising out of a party's performance or failure to perform any term or condition of this Lease Agreement, or to bring action for breach of this Lease Agreement.

SECTION TWENTY-THREE PARAGRAPH HEADINGS

The titles of the paragraphs of this Lease Agreement are solely for the convenience of the parties and shall not be used to explain, modify, simplify, or aid in the interpretation of the provisions of this Lease Agreement.

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LEASE AGREEMENT

between

LARAMIE COUNTY, WYOMING AND VISIONARY COMMUNICATIONS, INC.

SIGNATURE PAGE

LARAMIE COUNTY, WYOMING

By: _____

Gunnar Malm, Chairman, Laramie County Commissioners

Date: _____

ATTEST:

By: _____

Debra Lee, Laramie County Clerk

Date: _____

VISIONARY COMMUNICATIONS, INC.

By:  _____

Greg Worthen, Secretary, Visionary Communications, Inc.

Date: 5-14-20

This Lease is effective the date of the last signature affixed to this page.

REVIEWED AND APPROVED AS TO FORM ONLY:

By:  _____

Gladys Ayokosok, Laramie County Attorney's Office

Date: 5/20/20

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