

TOWER EQUITIES, LLC.
1704 JUSTIN ROAD
METAIRIE, LA 70001
(504) 585-9200 / (800) 627-4644 / (504) 585-9211 FAX

RADIO TOWER RENTAL AGREEMENT

STATE OF ALABAMA
COUNTY OF BALDWIN

This RADIO TOWER RENTAL AGREEMENT (the "Agreement") is made and entered into by and between TOWER EQUITIES, LLC, a _____ limited liability company (the "Landlord"), and the BALDWIN COUNTY COMMISSION, a political subdivision of the State of Alabama (the "Tenant"), and is effective on the later date of execution by Landlord or Tenant (the "Effective Date").

W I T N E S S E T H:

In consideration of the covenants herein contained between Landlord and Tenant, and the rentals agreed to be paid, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties mutually agree as follows:

Section I.

Landlord hereby grants permission to Tenant to install and operate the following described radio communications equipment on or in the Landlord's radio communications facility located at the following location which is referred to herein as the "leased premises":

N. Latitude 30°14'14.6"

W. Longitude 87°52'01.2"

- A. 1 (ONE) TX antenna located at a location that would accommodate the tip of antenna to be at 280ft.**
- B. 1 (ONE) 1 5/8" coax transmission line between transmit antenna and radio equipment.**
- C. 1 (ONE) RX antenna located at a location that would accommodate the tip of antenna to be at 250ft.**
- D. 1 (ONE) Tower Top Amplifier (TTA) to be located at base of RX antenna.**
- E. 1 (ONE) 7/8" coax transmission line to TTA.**
- F. 1 (ONE) 1/2" test line to TTA.**

These cables to be firmly attached to the tower with metal cable ties, hanger kits, or wrap-lock, at every diagonal or cross brace, not to exceed 4 ft. spacing and approved by the Landlord.

NO PLASTIC OR TEFLON TIE WRAPS are allowed.

The cables are to be electrically bonded to the tower at the antenna and at the point the cables leave the tower to the equipment shelter. Additional bonding of the cable shall be at the discretion of the Tenant.

All cables are to be painted to comply with FAA regulations upon installation.

All cables are to be permanently tagged with type of antenna, frequency, owner's name and service company with contact numbers at top and bottom of each line.

G. Radio communications equipment consisting of: GTR 8000 Expandable Site Subsystem, (5) Base Radio and associated equipment. All equipment is to be located in a free standing 19" rack provided by Tenant and shall be installed in the Landlord's compound near the base of the tower. A copy of the Federal Communications Commission authorization for this equipment shall be furnished to Landlord upon request.

Section II.

Landlord agrees that, during the term of this Agreement, Tenant shall have reasonable ingress and egress, subject to established security procedures, to said tower for the purpose of maintenance and repairs to said equipment.

It is further agreed, however, that only Tenant's employees or qualified contractors approved by the Tenant will be permitted to install or remove antennas, coaxial cables, or equipment or to enter or climb the Landlord's structure or building.

Such contractors are to provide the Landlord with a Certificate of Insurance naming Landlord as an additional insured on their policy PRIOR to beginning work, such Certificate of Insurance shall indicate that a waiver of subrogation is provided in favor of Landlord on all policies required in Section XII of this Agreement.

Section III.

Tenant covenants and agrees that the Tenant's equipment and its installation, operation and maintenance will:

- A. Not damage the building or tower structure and accessories thereto.
- B. Not cause harmful interference which is measurable in accordance with then-existing industry standards to the Landlord's radio equipment or the radio

equipment of other tenants on said tower, as long as said equipment was installed by the Landlord or other tenants prior to the execution of this Agreement.

All transmitters will be equipped with intermod panels, transmitter circulators, or other interference suppression devices approved by the Landlord.

In the event there is interference with Tenant's equipment, Landlord will promptly take all steps to correct and eliminate the problem within a reasonable period of time.

If the Landlord is unable to eliminate the problem, the Tenant may remove its equipment from the Landlord's property, and this Agreement shall therefore be terminated.

A reasonable period of time shall be determined by the nature of the interference and the time frame necessary to isolate, order and install materials to correct the problem.

Tenant shall be permitted to install, maintain and/or provide access to and use of, as necessary during any power interruption, a temporary power source and all related equipment and appurtenances at the tower or elsewhere in such locations as reasonably approved by Landlord. Tenant shall have the right to install conduits connecting the temporary power source and related appurtenances to the tower.

- C. Not interfere with the maintenance of the Landlord's tower and the tower lighting system.
- D. Comply with all applicable rules and regulations of the Federal Communications Commission and the electrical codes of the City and/or State concerned.

All equipment shall be attached to the provided equipment shelter ground system.

All entrance cables, RF and landline, shall be equipped with lightning surge protectors and attached to the provided ground system.

- E. Under this Agreement, the Landlord assumes no responsibility for licensing, operation and/or maintenance of the Tenant's radio equipment.
- F. The Landlord has the responsibility of observing tower lights and maintenance of records including notification to the Federal Aviation Administration of any failure and repairs and correction of the same.

Section IV.

The term of this Agreement shall commence on the first day of the month after the installation of the radio communications facility is complete and run for a period of five (5) years. If either party desires to terminate this Agreement as of the last day of the term, or any automatic renewal thereof, that party shall give written notice of such termination to the other party at least ninety (90) days before the expiration of the term. In the absence of such notice,

the term of this Agreement shall automatically renew for a successive five (5) year term. Under no circumstances shall the term of this Agreement exceed four (4) consecutive five (5) year terms totaling twenty (20) years.

At termination, Tenant will remove all property installed on Landlord's premises and leave said premises in the same condition existing as of the Effective Date of this Agreement, ordinary wear and tear and occurrences for which Tenant is not responsible hereunder excepted.

Section V.

Tenant hereby covenants and agrees to pay to Landlord monthly rent during the initial term of this Agreement in the amount of \$1,000.00 for the above-described equipment as set forth in Section I.

The first payment of monthly rent shall be made to Landlord on the first (1st) day of the month after the installation of the equipment is complete, and all subsequent monthly rent payments shall be made on the first (1st) day of each successive month thereafter during the initial term of this Agreement. Any partial month shall be prorated based on the monthly rental rate.

The Tenant agrees that the Landlord will in no way be responsible for power interruptions or outages.

Monthly rent for any renewal term shall be adjusted every five (5) years to equal the purchasing power of the previous five-year term increase based on cost of living increase or an additional 10%, whichever is more; provided, however that such increase shall not exceed 12.5%. The monthly rent shall be adjusted by any change in the Index now known as "United States Bureau of Labor Statistics, Consumer Price Index, for ALL Urban Consumers," hereinafter referred to as the "Index". If such Index shall be discontinued with no successor or comparable successor Index, the parties shall attempt to agree upon a substitute formula, but if the parties are unable to agree upon a substitute formula, then the matter shall be determined by arbitration in accordance with the rules of the American Arbitration Association then prevailing. Such adjustment shall be accomplished by multiplying the basic monthly rental by a fraction, the numerator of which shall be the Index for the month preceding the first day of the renewal term, and the denominator of which shall be the corresponding monthly Index for the month preceding the first day of the previous lease term; provided, however, that this computation of the rent adjustment shall never result in a reduction from the previous term's rent.

The parties acknowledge that electrical service is currently supplied to the leased premises. Tenant agrees to take steps necessary to procure for its own account, and pay the cost of, electrical power and fuel for generator used by Tenant's installation at the leased premises. Tenant shall have the sole and exclusive right for the entire term of this Agreement to use all electrical equipment and maintain generator currently existing at the leased premises and shall not be required to purchase or pay the cost of any additional electrical equipment to handle Tenant's power at the leased premises.

In the event that additional lessees occupy any portion of the leased premises after the Effective Date of this Agreement, Landlord shall require such lessee(s) to procure for its own account, and pay the cost of, electrical power used by such lessee at the leased premises. Landlord shall also require any and all additional lessees who occupy any portion of the leased premises to provide their own electrical equipment and shall prohibit them from using any of the electrical equipment then-existing at the leased premises or in-use by Tenant. Under no circumstances shall Tenant be responsible for payment of the cost of electrical services used by other lessees at the leased premises or the cost or provision of equipment of other lessees at the leased premises and Landlord shall indemnify, defend and hold Tenant harmless for the same.

Tenant may install conduits connecting the temporary power source and related appurtenances to the leased premises. Tenant shall also be permitted, at any time during the term of this Agreement, to install, maintain and/or provide access to and use of, as necessary during any power interruption at the leased premises or otherwise, a temporary power source, and all related equipment and appurtenances within the leased premises, or elsewhere on the property in such locations as reasonably approved by Landlord.

Section VI.

During the term of this Agreement, Tenant shall not change the frequency, power, or character of its equipment without first obtaining the WRITTEN consent of the Landlord.

The parties rights under this Agreement may not be sold, subleased, assigned, or transferred at any time except to Tenant's principal, affiliates or subsidiaries of its principal or to any company upon which Tenant is merged or consolidated. As to other parties, Tenant's rights hereunder may not be sold, subleased, assigned, or transferred without the written consent of the Landlord, such consent not to be unreasonably withheld.

Section VII.

Subject to all applicable statutory caps on liability or limitations of liability, Landlord does hereby agree to indemnify and save harmless Tenant from any claims, demands, or causes of action for property damage or personal injuries caused by the Landlord, Landlord's officers, agents, employees, contractors, tenants and customers, arising out of the Landlord's use, operation, occupancy, or possession of the leased premises or the installation, maintenance and operation of any of Landlord's equipment.

Section VIII.

The following shall be considered events of default by the Tenant:

- A. Failure to pay rentals required hereunder when due;
- B. Failure to cure, within thirty (30) days after written notice thereof, any breach of these promises, undertakings and terms and conditions in this Agreement;

- C. Abandonment of the leased premises; and
- D. Failure to provide proper evidence of required insurance.

In the event there is a breach by Tenant with respect to any of the provisions of this Agreement or its obligations under it, including the payment of rent, Landlord shall give Tenant written notice of such breach. After receipt of such written notice, Tenant shall have fifteen (15) days in which to cure any monetary breach and thirty (30) days in which to cure any non-monetary breach, provided Tenant shall have an additional sixty (60) day period beyond the thirty (30) days if the nature of the cure is such that it reasonably requires more than thirty (30) days. Thereafter, Landlord may terminate the Agreement immediately and without any further notice. Within thirty (30) days following the termination of this Agreement, Tenant shall remove its equipment and return the leased portion of Landlord's tower in the condition it was before Tenant's equipment was installed. Should Tenant fail to remove its equipment as provided anywhere in this paragraph, Landlord may, at its option, either (1) remove Tenant's equipment or have it removed by a third party, and in either event, Tenant shall reimburse Landlord for costs incurred by Landlord of such removal, or (2) elect to treat this Agreement in full force and effect and shall be entitled to collect the rentals provided for hereunder.

Section IX.

The parties hereto stipulate that the rights herein granted relate to real property. In the event any sales or use tax should ever be payable on account of this Agreement or any rental payments herein reserved, the Tenant hereby agrees to pay its proportionate share as additional rental or to furnish such documentation as is necessary or appropriate to establish that such rental payments are exempt from sales or use tax.

Section X.

All notices and other communications required or permitted hereunder and payments of rentals due hereunder shall be considered properly given or made when deposited with the U. S. Postal Service, properly addressed and bearing sufficient postage, but shall only be considered to be effective when actually received. The addresses of the parties for all purposes hereof shall be as follows:

LANDLORD: **TOWER EQUITIES, LLC.**
 1704 JUSTIN ROAD
 METAIRIE, LA. 70001

TENANT: **Baldwin County Commission**
 c/o _____
 312 Courthouse Square
 Bay Minette, AL 36507

Section XI.

Tenant shall, at its sole cost and expense and at all times during the term of this Agreement, maintain in effect a policy or policies of insurance: (a) covering its personal property located on the leased premises and Tenant's improvements to the leased premises paid for and installed by Tenant, providing protection against any peril included under insurance industry practices within classification "special or all-risk coverage", providing protection as deemed desirable by Tenant with respect to its personal property and to the full insurable value of its Tenant's improvements paid for by Tenant: (b) Commercial General Liability insurance with minimum limits of \$ 1,000,000 for injury to or death of one or more persons in any one occurrence and \$1,000,000 for damage to or destruction of properties in any one occurrence. Tenant shall name Landlord as an additional insured as its interests may appear in regards to the aforementioned policies and shall furnish Landlord with a certificate of insurance. The certificate must show that a waiver of subrogation is provided in favor of the certificate holder. There is to be a 60-day notice of cancellation on the certificate. Should the leased premises and/or Tenant's personal property be sublet upon, said subtenant shall be required to maintain similar insurance and agree to furnish Landlord with certificates or adequate proof of such insurance. Workers Compensation coverage must be carried by the Tenant and any of his subcontractors including a waiver of subrogation.

Section XII

In the event of damage by fire or other casualty to any part of the property comprising the tower that cannot reasonably be expected to be repaired within forty-five (45) days following same or, if any part of the property comprising the tower is damaged by fire or other casualty so that such damage may reasonably be expected to disrupt Tenant's operations for more than forty-five (45) days, then Tenant may, at any time following such fire or other casualty, provided Landlord has not completed the restoration required to permit Tenant to resume its operation, terminate this Agreement upon fifteen (15) days prior written notice to Landlord. Any such notice of termination shall cause this Agreement to expire with the same force and effect as though the date set forth in such notice were the date originally set as the expiration date of this Agreement and the parties shall make an appropriate adjustment, as of such termination date, with respect to payments due to the other under this Agreement. Notwithstanding the foregoing, the rent shall abate during the period of repair following such fire or other casualty in proportion to the degree to which Tenant's use of the premises is impaired.

Section XIII

In the event of any condemnation of all or any portion of the property comprising the tower, this Agreement shall terminate as to the part so taken as of the date the condemning authority takes title or possession, whichever occurs first. If as a result of a partial condemnation, Tenant, in Tenant's sole discretion, is unable to use the property for the purposes intended hereunder, or if such condemnation may reasonably be expected to disrupt Tenant's operations for more than forty-five (45) days, Tenant may, at Tenant's option, terminate this Agreement as of the date the condemning authority takes such possession. If Tenant does not terminate this Agreement in accordance with the foregoing, this Agreement shall remain in full force and effect as to the portion of the premises remaining.

Section XIV

This Agreement is to be construed according to the laws of the State of Alabama with proper venue lying in Baldwin County.

(Signature Pages Follow)

IN WITNESS WHEREOF, each of the parties has caused this Agreement to be executed in duplicate originals by their duly authorized representatives on the respective dates entered below.

TENANT:

BALDWIN COUNTY, ALABAMA

**BY: _____ / _____
Billie Joe Underwood, Chairman/Date**

ATTEST:

Wayne Dyess, County Administrator /Date

STATE OF ALABAMA

COUNTY OF BALDWIN

I, _____, a notary public in and for said county in said state, hereby certify that Billie Joe Underwood, whose name as Chairman of the Baldwin County Commission, and Wayne Dyess, whose name as County Administrator of the Baldwin County Commission, a political subdivision of the State of Alabama, are signed to the foregoing instrument and who are known to me, acknowledged before me on this day that, being informed of the contents of such instrument, they, as such officers and with full authority, executed the same voluntarily for and as the act of said commission on the day the same bears date.

Given under my hand and official seal this _____ day of _____, 2020.

Notary Public, Baldwin County, Alabama
My Commission Expires: _____

LANDLORD:

TOWER EQUITIES, LLC

BY: _____

Print

Name: _____

Title: _____

STATE OF _____

COUNTY OF _____

I, _____, a Notary Public, in and for said County in said State, hereby certify that _____, whose name as _____ of TOWER EQUITIES, LLC, a _____ limited liability company, is signed to the foregoing instrument and who is known to me, acknowledged before me on this day that, being informed of the contents of the instrument, (s)he, as such officer and with full authority, executed the same voluntarily for and as the act of said company.

Given under my hand and seal this _____ day of _____, 2020.

Notary Public
My Commission Expires: _____