

Robert E. Shannon
City Attorney of Long Beach
333 West Ocean Boulevard
Long Beach, California 90802-4664
Telephone (562) 570-2200

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29003
SITE LICENSE

between

CAL WEST INDUSTRIAL PROPERTIES, LLC.
a California limited liability company

and

THE CITY OF LONG BEACH

1 SITE LICENSE

2
3 THIS SITE LICENSE ("License") is made and entered into as of
4 Dec 7, 2004, by and between CAL WEST INDUSTRIAL PROPERTIES, a
5 California limited liability company ("Cal West") and the CITY OF LONG BEACH, a municipal
6 corporation ("City") pursuant to a minute order adopted by the City Council of the City of Long
7 Beach at its meeting of August 24, 2004.
8

9 1. RECITALS: This License is made with reference to the following facts and
10 objectives:

11 1.1 Cal West owns the real property ("Property") described in Exhibit "A" attached
12 hereto and incorporated herein by this reference.

13 1.2 City desires to construct thereon and operate a flight track and community web
14 facility ("Flight Tracking System").

15 1.3 Cal West is willing to permit City to construct the Flight Tracking System on the
16 terms, covenants and conditions set forth in this License.
17

18 2. PREMISES AND ACCESS:

19 2.1 Cal West hereby grants City a license to construct and attach the Flight Tracking
20 System on the exterior side of the real property located in the City of Garden Grove,
21 California, commonly known as 7446-7472 Oranewood Avenue, Building A ("Property"),
22 at the location identified in Exhibit "B" attached hereto and incorporated herein by this
23 reference (the "Site"). The Flight Tracking System consists of two (2) Sky Trak antennae,
24 one (1) Sky Trak receiver and a Sky Trak Processor. The license granted hereby includes
25 space in another building of the Property ("Adjacent Building" and, together with the Site,
26 the "Premises") in which the Sky Trak Processor will be mounted.
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1 2.2 The license granted hereby is not exclusive. Cal West hereby reserves the right
2 to grant, renew, or extend similar licenses to others, provided that no such license shall
3 render utilization of the Site by City impractical. In addition, Cal West retains the right to
4 use the roof of the Property, including the portion thereof on which the Flight Tracking
5 System is installed, for any purpose whatsoever, provided that City shall at all times have
6 reasonable access to, and Cal West shall not unreasonably interfere with the use of the Site
7 by City for the intended purpose.
8

9 2.3 City shall have the right (but not the obligation) following the full execution of
10 this License and prior to the Commencement Date on 24 hour advance notice to Cal West
11 and during normal business hours to enter the Property for the purpose of making inspections
12 and engineering surveys and other tests as may be reasonably required to determine the
13 suitability of the Property for construction and development of the Flight Tracking System
14 and to prepare for the construction and development of Flight Tracking System. City's rights
15 of access and to install utilities under this paragraph 2.3 include, but are not limited to, the
16 right to install, maintain and service telephone lines connecting the base station of Flight
17 Tracking System and the minimum point of entry (MPOE) or other point of presence of the
18 telephone service provider at the Premises.
19

20 3. TERM: This License shall be for a term of five (5) years ("Term") commencing on
21 the first to occur ("Commencement Date") of (i) the date City commences construction of the Flight
22 Tracking System, or (ii) three (3) months after the Effective Date (defined below).
23

24 4. USE OF PREMISES:

25 4.1 City is authorized to use the Premises for construction and development of the
26 Flight Tracking System and providing radar and flight data to the Long Beach Municipal
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1 Airport ("Airport") including, the transmission and reception of radio communication signals
2 on various frequencies, but excluding FM radio service. Such use shall include the right to
3 install, construct, operate, maintain, repair, replace and service the Flight Tracking System.
4

5 4.2 The City may keep or use, on or about the Premises such materials, supplies,
6 equipment and machinery as are necessary or customary in the operation of the permitted
7 uses; provided however that City, in handling hazardous substances or wastes, shall fully
8 comply with all laws, rules, regulations and orders of governmental agencies having
9 jurisdiction.
10

11 4.3 At all times in its use and occupancy of the Premises and in the conduct of its
12 operations thereon, City, at its cost, shall comply with all applicable federal, state, regional
13 and local laws, ordinances and regulations.
14

15 4.4 Construction of any improvements not already constructed by City shall be
16 completed only in accordance with the provisions of paragraph 6 of this License including,
17 without limitation, the requirement that the plans and specifications therefore be approved
18 in writing by Cal West, which approval shall not be unreasonably withheld or delayed.

19 4.5 City shall not bring onto or permit to be brought onto the Property any hazardous
20 substances, except for those contained in its back-up power batteries, i.e. lead-acid batteries,
21 and properly stored, reasonable quantities of common materials use in telecommunications
22 operations, i.e. cleaning solvents. City shall handle, store and dispose of all hazardous
23 substances in accordance with all applicable federal, state or local laws or regulations
24 ("Laws"). For purposes of this License, the term "hazardous substance" means any
25 substance, chemical, pollutant, or waste that is presently identified as hazardous, toxic or
26 dangerous under any Laws and specifically includes, but is not limited to, asbestos and
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1 asbestos containing materials, polychlorinated biphenyls (PCBs) and petroleum or other fuels
2 (including crude oil or any portion or derivative thereof). City shall notify Cal West upon
3 the discovery of any hazardous substances and immediately cease operation of the Flight
4 Tracking System, not disturb the hazardous substances and follow the reasonable directions
5 of Cal West regarding such hazardous substances.
6

7 5. LICENSE FEE: Subject to the provisions of subparagraph 5.1, City shall pay to Cal
8 West, as license fee for the use of the Premises, without deduction, setoff, prior notice or demand,
9 the sum of Five Thousand Dollars (\$5,000.00) per year ("License Fee") payable in full on January 1
10 of each year during the Term. The License Fee shall be adjusted by three percent (3%) on each
11 anniversary of the Commencement Date.
12

13 6. CONSTRUCTION OF IMPROVEMENTS AND ALTERATIONS: City shall not
14 construct or make any improvements or alterations to the Premises without the prior consent of Cal
15 West. City shall obtain all permits required for the construction of the Flight Tracking System and
16 any other improvements on the Premises and for the conduct of its operations thereon. City shall
17 comply with applicable provisions of the Americans with Disabilities Act (42 USCS Sections 12101,
18 et seq.) ("Act") and regulations promulgated pursuant thereto in City's use of the Premises and
19 operations conducted thereon. Any improvement or alteration shall be constructed, erected and
20 installed by City at its sole cost and expense in accordance with plans and specifications approved
21 in writing by Cal West, which approval shall not be unreasonably withheld or delayed.
22

23
24 6.1 The final plans and specifications for the Flight Tracking System ("Plans") and
25 the precise location of the Flight Tracking System shall be subject to the prior written
26 approval of Cal West, which may be given by initialing and returning to City a copy of the
27 Plans. The Flight Tracking System shall be installed only in accordance with the Plans.
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1 6.2 City shall have the right to do all work necessary to prepare, add, maintain and
2 alter the Premises for construction and development of the Flight Tracking System and to
3 install utility lines and transmission lines connecting antennas, transmitters, receivers and
4 other equipment. All of City's construction and installation work shall be performed at
5 City's sole cost and expense in a good and workmanlike manner and shall under no
6 circumstance adversely affect the rights or occupancy of users of the Property.
7

8 6.3 Cal West shall provide access to City, City's employees, agents, contractors and
9 subcontractors to the Premises 24 hours a day, seven days a week, at no charge to City. Cal
10 West hereby grants to City such rights of ingress and egress over the Property as may be
11 necessary and consistent with the authorized use of the Premises.
12

13 6.4 Cal West shall, at its expense, maintain all access roadways or driveways from
14 the nearest public roadway to the Premises in a manner sufficient to allow access.
15

16 6.5 City shall have the right, subject to the prior approval of the location by Cal
17 West, which approval shall not be unreasonably withheld, to install (or bring utilities across
18 the Property) utilities to service and operate the Flight Tracking System. Installation of
19 utilities and the ongoing cost of the same shall be at City's sole cost and expense, and shall
20 be subject to the reasonable requirements and conditions of Cal West. City shall also have
21 the right to improve the present utilities on or near the Premises (including emergency or
22 back-up battery or transportable generator power) so long as such action does not adversely
23 affect the use or enjoyment of the Property by any other authorized user and provided,
24 further, that all such work shall be subject to the prior written approval of Cal West.
25

26 7. INTERFERENCE:

27 7.1 The Flight Tracking System shall not disturb or interfere with uses which exist
28

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1 on the Premises on the Effective Date ("Pre-Existing Uses").

2 7.2 Cal West shall not use or permit the use of any portion of Cal West's property
3 in an way which interferes unreasonably with the operation on the Flight Tracking System.
4 Cal West shall take prompt action to terminate any interference with City's operation of the
5 Flight Tracking System that Cal West has the right to terminate, and shall cooperate with
6 City to obtain the termination of any interference with City's operations that are beyond the
7 control of Cal West. The parties acknowledge that continuing interference will cause
8 irreparable injury to City, and therefore City shall have the right to bring an action against
9 the interfering party to enjoin such interference.
10

11 8. MAINTENANCE AND REPAIR: City, at its cost, shall keep and maintain the
12 Premises in good and substantial repair and condition and shall perform all necessary maintenance.
13

14 8.1 City, at its cost, shall keep the Premises free and clear of rubbish, debris and litter
15 at all times. City, at its cost, further agrees to keep and maintain all of the Premises in a safe,
16 clean, wholesome and sanitary condition under all applicable federal, state, local and other
17 laws, rules, regulations and orders and subject to the reasonable requirements of Cal West.
18 No offensive refuse, matter, nor any substance constituting any unnecessary, unreasonable
19 or unlawful fire hazard, nor material detrimental to the public health shall be permitted to be
20 or remain on the Premises and City shall prevent such material or matter from being or
21 accumulating upon the Premises.
22

23 8.2 All fire protection sprinkler systems, standpipe systems, fire alarm systems,
24 portable fire extinguishers and other fire-protective or extinguishing systems or appliances
25 which may be installed on the Premises shall be maintained by City, at its cost, in an
26 operative condition at all times. All repairs and servicing shall be made in accordance with
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1 the provisions of the Long Beach Municipal Code, Chapter 18.48 and all revisions thereto
2 and all other applicable rules, regulations, statutes and ordinances.

3 8.3 City shall provide personnel to accompany Cal West's representatives on periodic
4 inspections of the Premises to determine City's compliance with the provisions of this
5 License.
6

7 9. UTILITIES: City, at its cost, shall make arrangements for and pay for all utility
8 installations and services furnished to or used by it, including without limitation gas, internet,
9 telephone, trash collection and water, and for all connection charges. Cal West, at its cost, shall
10 make arrangements for electricity service. The cost of electricity service shall be borne by City.
11

12 No interruption in power shall render Cal West liable in any respect for damages to either
13 person or property (of any kind or nature) nor relieve City from fulfillment of any covenant or
14 agreement hereof, unless caused by the negligent or willful misconduct of Cal West or its employees.

15 Cal West shall have no liability (of any kind or nature whatsoever) to City if any of City's equipment
16 fails because of a loss of any electrical power, unless caused by the negligence or willful misconduct
17 of Cal West or its employees. Cal West shall at all times be able to shut down the electrical service
18 to the site or Premises and Cal West's equipment in connection with any maintenance operation
19 conducted for the Premises. Cal West agrees to make a reasonable effort to schedule any such
20 shutdown outside the City's normal business day. In the event of any such shutdown, Cal West shall
21 contact City at:
22

23 Name: Sharon Diggs-Jackson
24 Address: 4100 Donald Douglas Dr.
25 Telephone No.: 562/570-2636

26 10. MECHANICS' LIENS: City shall pay all costs for construction done by it or caused
27 by it to be done on the Premises. City shall keep the Premises free and clear of all mechanics' liens
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1 resulting from construction done by or for City. City shall have the right to contest the correctness
2 or the validity of any such lien if, immediately on demand by Cal West, City procures and records
3 a lien release bond issued by a corporation authorized to issue surety bonds in California in an
4 amount equal to one and one-half times the amount of the claim of lien. The bond shall meet the
5 requirements of Civil Code Section 3143 and shall provide for the payment of any sum that the
6 claimant may recover on the claim (together with costs of suit, if claimant recovers in the action).
7
8 City agrees that it will at all times save Cal West free and harmless and indemnify Cal West against
9 all claims for labor or materials in connection with the construction, erection, maintenance,
10 installation or removal of improvements made upon the Premises by City, or from additions or
11 alterations made thereto, or the repair of the same, by or for City, and the costs of defending against
12 any such claim, including reasonable attorneys' fees.
13

14 11. INDEMNIFICATION City shall defend, indemnify, hold, protect and save harmless
15 Cal West, its officials, employees, and agents, members, affiliates, subsidiaries, successors and
16 assigns ("indemnified parties") from and against any and all actions, suits, proceedings, claims,
17 demands, damages, losses, liens, costs, expenses or liabilities (including reasonable attorneys fees)
18 of any kind or nature whatsoever ("claims"), which may be brought, made, filed against, imposed
19 upon or sustained by the indemnified parties, or any of them, based on or arising out of, or pertaining
20 to the construction and installation, maintenance or removal of the Flight Tracking System and/or
21 alleging injury to or death of persons or damage to property, including property owned by or under
22 the care and custody of City and that such injury, death or damage arises from or is attributable to
23 or caused, directly or indirectly by the use of the Premises or any equipment or materials located
24 thereon, or from operations conducted thereon by City, its agents, employees or invitees, or by any
25 person or persons acting on behalf of City and with City's knowledge and consent, express or
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1 implied.

2 Cal West shall notify City of any claim, shall tender its defense to City, and shall assist City
3 as may reasonably be requested in the defense thereof. Upon such notification and tender, City shall
4 have independent duties to defend such claim, and to indemnify the indemnified parties except to
5 the extent that such injury, death or damage is determined by a court of competent jurisdiction to
6 have been caused by the active negligence or wilful misconduct of the indemnified parties. Payment
7 of a claim by an indemnified party shall not be a condition precedent to recovery under this
8 indemnity.
9

10
11 12. SIGNS: No signs or placards of any type or design, except safety or regulatory signs
12 prescribed by law, shall be painted, inscribed or placed in or on the Premises without the prior
13 written consent of Cal West, which consent shall not be unreasonably withheld. Upon the expiration
14 or termination of this License, City, at its cost, shall remove promptly and to the reasonable
15 satisfaction of Cal West any and all signs and placards placed by it upon the Premises.

16
17 13. DEFAULT: The occurrence of any of the following shall constitute a default:

18 (i) Failure by City to pay the License Fee as and when due, if the failure
19 continues for ten (10) days after notice has been given by Cal West to City;

20 (ii) The filing by or against City of a petition to have City adjudged a bankrupt
21 or a petition for reorganization or arrangement under any law relating to bankruptcy, unless
22 released within sixty (60) days;

23 (iii) The appointment of a trustee or receiver to take possession of substantially
24 all of City's assets located at the Premises or of City's interest in this License;

25 (iv) Any attachment where such seizure is not discharged within thirty (30) days;

26 (v) The filing of any tax lien against City not discharged within thirty (30) days;
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1 or

2 (vi) Failure by City to perform any other provision of this License if the failure
3 to perform is not cured within thirty (30) days after notice has been given by Cal West;
4 provided, if the default cannot reasonably be cured within thirty (30) days, City shall not be
5 in default if City commences to cure the default within the thirty (30) day period and
6 diligently and in good faith continues to cure the default.
7

8 13.1 Notices given under this paragraph 13 shall specify the alleged default and the
9 applicable provisions of this License, and shall demand that City perform the provisions of
10 this License or pay the License Fee that is in arrears, as the case may be, within the
11 applicable period of time or that City quit the Premises. No such notice shall be deemed a
12 forfeiture or a termination of this License unless Cal West so elects in its notice to City.
13

14 13.2 Upon any such termination by Cal West, all improvements of whatsoever
15 character constructed, erected or installed upon the Premises by City shall, at City's option,
16 immediately become the property of Cal West. If Cal West does not so elect, then City shall,
17 at its sole cost and expense, remove such improvements without payment of any kind to Cal
18 West within fifteen (15) days of the expiration or earlier termination of this License.
19

20 13.3 The remedies of Cal West shall be cumulative and in addition to any other
21 remedies available.
22

23 13.4 For the purpose of this paragraph, each of the covenants, conditions and
24 agreements imposed upon or to be performed by City shall, at the option of the Cal West, be
25 deemed to be either covenants or conditions, regardless of how designated in this License.
26

27 14. FORCE MAJEURE: Neither party to this License shall be deemed to be in default
28 in the performance of the terms, covenants or conditions of this License, if such party is prevented

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1 from performing said terms, covenants or conditions hereunder by causes beyond its control,
2 including, without limitation, earthquake, flood, fire, explosion or similar catastrophe, war,
3 insurrection, riot or other civil disturbance, or any other cause reasonably beyond the control of the
4 defaulting party, but excluding strikes or other labor disputes, lockouts or work stoppages. In the
5 event of the happening of any of such contingencies, the party delayed from performance shall
6 immediately give the other party written notice of such contingency, specifying the cause for delay
7 or failure. The party so delayed shall use reasonable diligence to remove the cause of delay, and if
8 and when the occurrence or condition which delayed or prevented the performance shall cease or be
9 removed, the party delayed shall notify the other party immediately, and the delayed party shall
10 recommence its performance of the terms, covenants and conditions of this License.
11

12
13 14.1 If the Premises are not reasonably useable in whole or in part for the uses
14 delineated in paragraph 4 by reason of any cause contemplated by this paragraph, for a period
15 of ten (10) days or longer, City shall have the option of terminating this License in its entirety
16 by giving Cal West written notice.
17

18 14.2 During any period in which the Premises are not reasonably useable in whole
19 or in part for the uses delineated in paragraph 4 by reason of any cause contemplated by this
20 paragraph 14, City shall not be relieved of its obligation to pay any sum already due to Cal
21 West at the time of the occurrence.
22

23 14.3 Notwithstanding the foregoing, the occurrence of any cause contemplated by
24 this paragraph 14 shall not excuse or otherwise delay performance by City of its obligation
25 to obtain all required permits, licenses, approvals and consents from governmental agencies
26 having jurisdiction for the operation and conduct of permitted activities.
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28 15. TERMINATION BY ACTION OF OTHERS: In the event the United States of

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1 America, the State of California, or any agency or instrumentality of said governments other than
2 the City of Long Beach shall, by condemnation or otherwise, take title, possession or the right to
3 possession of the Premises, or any part thereof, or deny City the right to use the Premises as
4 contemplated by this License, or if any court shall render a decision which has become final and
5 which will prevent the performance by Cal West of any of its obligations under this License, and if
6 such taking, denial or decision substantially impairs the utility of the Premises to City, then either
7 party may, at its option, terminate this License as of the date of such taking, denial or decision, and
8 all further obligations of the parties shall end, except as to:
9

10 (i) Any award to which City may be entitled from the condemning authority for
11 loss or damage suffered by City, including but not limited to relocation benefits and City's
12 interest in its building, improvements, trade fixtures and removable personal property, so
13 long as the award, if any, to Cal West is not reduced thereby;
14

15 (ii) Obligations of indemnity which arise under the provisions of paragraph 11;
16 or
17

18 (iii) Any obligations or liabilities which shall have accrued prior to the date of
19 taking.

20 16. TERMINATION BY CITY: City shall have the right to terminate this License on
21 the occurrence of one or more of the following events:

22 (i) City determines at any time after the Commencement Date that any
23 governmental or non-governmental license, permit, consent, approval, easement or restriction
24 waiver that is necessary to enable City to install and operate Flight Tracking System cannot
25 be obtained or renewed at reasonable expense or in a reasonable time period;
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27 (ii) City determines at any time after the Commencement Date, in the reasonable
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1 exercise of its sound business judgment, that the Premises are not appropriate or suitable for
2 its operations for economic, environmental or technological reasons or problems with signal
3 strength or interference not encompassed by paragraph 7 above.

4
5 (iii) Any pre-existing Communications Facility, or any communications facilities
6 or other structures of any kind now or hereafter located on or in the vicinity of the Premises
7 interferes with the Flight Tracking System and City is unable to correct such interference
8 through reasonable feasible means; or

9
10 (iv) Cal West commits a default under this License and fails to cure such default
11 within the thirty (30) days of receipt of written notice from City specifying the default,
12 provided that if the period to diligently cure takes longer than 30 days and Cal West
13 commences to cure the default within the 30-day notice period, then Cal West shall have
14 such additional time as shall be reasonably necessary to diligently effect a complete cure.

15 17. SURRENDER OF POSSESSION: Upon the termination of this License (whether
16 by lapse of time or otherwise), City, at its cost, shall restore the Premises to as good a state and
17 condition as the same were upon the date City originally took possession thereof, reasonable wear
18 and tear and damage by the elements excepted, and shall thereafter peaceably surrender possession.


19
20 17.1 All improvements of any kind constructed, erected or installed upon the
21 Premises by City shall be and remain the property of City during the term of this License.
22 Prior to termination, City shall remove all of its improvements and, at its cost, shall repair
23 any damage caused by such removal; provided, the Cal West, at its option, may elect to take
24 title to said improvements in lieu of requiring City to remove the same and restore the
25 Premises. The obligations contained in this paragraph shall remain in full force and effect,
26 notwithstanding the expiration or termination of this License.
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1 17.2 Except as to property owned by Cal West, or property in which City may have
2 an interest, upon termination of this License (whether by lapse of time or otherwise) City
3 shall cause all other property upon the Premises, whether or not such property be owned by
4 City or by third parties, to be removed from the Premises prior to the termination date and
5 shall cause to be repaired any damage occasioned by such removal; provided, however, that
6 if any of such property is not with due diligence susceptible of removal prior to the
7 termination date, the City's obligation hereunder shall be to remove it in the most
8 expeditious manner and as rapidly as possible following the termination date. If the property
9 is not so removed from the Premises, Cal West shall have the right to remove and/or sell
10 and/or destroy the same (subject to the interest of any person other than City therein) at City's
11 expense, and City agrees to pay the reasonable cost of any such removal, sale, or destruction.

12 18. ASSIGNMENT: City shall not assign, sublet or otherwise transfer (whether
13 voluntary or involuntary) this License or any interest therein without the prior written consent of Cal
14 West, which consent shall not be unreasonably withheld or delayed.

15 19. INSURANCE: City shall maintain in force, at its expense, during the term of the
16 License the following insurance coverages:

17 Property Insurance. All risks of direct physical loss (or form equivalent) covering
18 business personal property including, but not limited to, on or around the Building in an
19 amount equal to 100% of replacement cost thereof and including (i) agreed amount
20 endorsement (negating co-insurance clause) and (ii) waiver of subrogation in favor of
21 Cal West 
22 ~~Licensor~~.

23 Liability Insurance. Commercial general liability (CG0001 form or equivalent) for
24 bodily injury, property damage and personal injury liability with a per occurrence limit of
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1 \$1,000,000 and general aggregate shall be \$2,000,000. Coverage to include contractual
2 liability, products/completed operations liability and owners and contractors protective
3 liability. ^{City} Licensee's liability policy shall not contain any unique exclusions, specifically any
4 exclusions citing alleged injury or damage as a result of exposure to electronic magnetic
5 fields, transmitters or other electrical emanations. Coverage may be provided using primary
6 and umbrella/excess liability forms and/or under blanket policies of insurance. ^{Cal West} Licensor and
7 Manager shall be named as additional insureds by endorsement. Such insurance shall be
8 primary and not contributing with any other insurance maintained by ^{Cal West} Licensor or Manager.
9

10 Business Auto Liability. With a per accident limit of \$1,000,000 covering all owned,
11 non-owned and hired vehicles.

12 Workers Compensation and Employers Liability. With statutory compensation
13 benefits and \$1,000,000 per coverage bodily injury and disease limits.

14 All policies shall be written with insurers rate A:VII or better in the most current
15 Best's Key Rating Guide. All policies provided for herein shall expressly provide that such
16 policies shall not be cancelled, non-renewed or materially altered without thirty (30) days
17 prior written notice to Cal West. Evidence of required insurance and applicable
18 endorsements shall be provided to Cal West prior to the commencement of any construction
19 or operations by City at the Site.

20 (a) Self-Insurance. City may assume risk of loss to property and other exposures,
21 including workers' compensation and auto liability for which City may be contractually liable under
22 this License. The scope of coverage provided by the City's self-insurance program shall be equal
23 to any insurance which is required by this License and City waives any and all rights of recovery
24 against Cal West, its agents and employees, for loss to the City, its agents or employees, or any of
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1 them, or its property or the property of others under its control, where such loss is insured against
2 by the City's self-insurance program.

3 (b) Contractors. City shall require all its contractors and vendors to obtain and maintain
4 policies of insurance with minimum limits and scope of coverage as follows:

5
6 Commercial General Liability. With a per occurrence limit of \$1,000,000 and
7 general aggregate limit of \$2,000,000 on a per project basis. (If not on a per project basis,
8 general aggregate limit shall be \$5,000,000).

9
10 Business Auto Liability. With a per accident limit of \$1,000,000 covering all owned,
11 non-owned and hired vehicles.

12 Workers Compensation and Employers Liability. With a statutory benefits and
13 \$1,000,000 per coverage part for bodily injury and disease.

14 Cal West shall be added as an additional insured under the commercial general liability
15 policy endorsement; such coverage to be primary and non-contributing with any other insurance.

16 No independent contractor or vendor shall be permitted to begin activities involving the Building
17 until evidence of required insurance is provided and approved by Cal West. Evidence of required
18 insurance and applicable endorsements shall be provided to ^{Cal West CFS} ~~Licensors~~ at the Premises prior to the
19 commencement to any construction operations.

20
21 (c) Cal West shall maintain in force, at its expense (which may be chargeable by Cal
22 West to other licensees of the Premises in accordance with written contracts), during the License
23 Term the following insurance coverage:

24
25 Property Insurance. All Risks of direct physical loss (or form equivalent) covering
26 the Premises in an amount equal to 100% of replacement cost thereof an including a waiver
27 of subrogation in favor of City. Payments for covered losses under this policy shall be made
28

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1 solely to Cal West and/or mortgagees as their interest may appear and as directed by Cal
2 West.

3 20. MISCELLANEOUS PROVISIONS:

4
5 20.1 Any notice, demand, request, consent, approval or communication that either
6 party desires or is required to give to the other party or to any other person shall be in writing
7 and either served personally or sent by prepaid, first-class mail. The addresses of the parties
8 are as follows:

9 To Cal West: *C/O RREEF Management Company*
7245 Garden Grove Blvd., Suite E
Garden Grove, CA 92841 (S) *cfj*
Attn: Property Manager

10
11 To City: City of Long Beach
12 333 West Ocean Boulevard
13 Long Beach, CA 90802
14 Attn: Airport Manager

15 Either party may change its address by notifying the other party in writing of such change.

16 Notice shall be deemed communicated within forty-eight (48) hours from the time of mailing if
17 mailed as provided in this subparagraph and as of the time of receipt if personally served.

18 20.2 City agrees, subject to applicable laws, rules and regulations, that no person
19 shall be subject to discrimination in the performance of this License on the basis of race,
20 color, religion, national origin, sex, sexual orientation, AIDS, HIV status, age, disability,
21 handicap, or Vietnam Era veteran status. City shall take affirmative action to ensure that
22 applicants are employed and that employees are treated during employment without regard
23 to any of these bases, including but not limited to employment, upgrading, demotion,
24 transfer, recruitment, recruitment advertising, layoff, termination, rates of pay or other forms
25 of compensation, and selection for training, including apprenticeship. City agrees to post in
26 conspicuous places available to employees and applicants for employment, and subject to the
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1 reasonable approval of Cal West, notices to be provided by the City setting out the provisions
2 of this nondiscrimination clause. City shall in all solicitations or advertisements for
3 employees state that all qualified applicants will receive consideration for employment
4 without regard to these bases.
5

6 20.3 The parties hereby waive all claims against the other for damage or loss caused
7 by any suit or proceeding commenced by a third party, directly or indirectly attacking the
8 validity of this License, or any part thereof, or by any judgment or award in any suit or
9 proceeding declaring this License null, void or voidable, or delaying the same, or any part
10 thereof, from being carried out, provided that City shall not be liable for payment of
11 compensation hereunder to the extent that, during any period, it is so prevented from
12 exercising its rights hereunder.
13

14 20.4 The use of paragraph headings or captions in this License is solely for the
15 purpose of convenience, and the same shall be entirely disregarded in construing any part or
16 portion of this License.
17

18 20.5 This License shall be governed by the laws of the State of California, both as
19 to interpretation and performance.
20

21 20.6 No waiver by either party at any time of any of the terms, conditions, covenants
22 or agreements of this License shall be deemed or taken as a waiver at any time thereafter of
23 the same or any other term, condition, covenant or agreement herein contained nor of the
24 strict and prompt performance thereof by the party obligated to perform. No delay, failure
25 or omission of either party to exercise any right, power, privilege or option arising from any
26 default nor subsequent acceptance of compensation then or thereafter accrued shall impair
27 any such right, power, privilege or option or be construed to be a waiver of any such default
28

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1 or relinquishment thereof or acquiescence therein. No option, right, power, remedy or
2 privilege of either party hereto shall be construed as being exhausted or discharged by the
3 exercise thereof in one or more instances. It is agreed that each and all of the rights, powers,
4 options or remedies given to the parties by this License are cumulative, and no one of them
5 shall be exclusive of the other or exclusive of any remedies provided by law, and that the
6 exercise of one right, power, option, or remedy by a party shall not impair its rights to any
7 other right, power, option or remedy.
8

9 20.7 This License shall be binding upon and shall inure to the benefit of the
10 successors and assigns of Cal West and shall be binding upon and inure to the benefit of the
11 permitted successors and assigns of City.
12

13 20.8 Should any of the covenants, conditions or agreements of this License be held
14 by a court of competent jurisdiction to be illegal or in conflict with any applicable law, or
15 with any provision of the Charter of the City of Long Beach, the validity of the remaining
16 portions or provisions shall not be affected thereby.
17

18 20.9 If either party commences an action against the other party arising out of or in
19 connection with this License, the prevailing party shall be entitled to have and recover from
20 the losing party reasonable attorneys' fees and costs of suit.
21

22 20.10 This License may be amended or terminated at any time by the written mutual
23 agreement of the parties.
24

25 20.11 All provisions, whether covenants or conditions on the part of Cal West, shall
26 be deemed to be both covenants and conditions.
27

28 20.12 This License constitutes the whole agreement between City and Cal West.
There are no terms, obligations or conditions other than those contained herein. No

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1 modification or amendment of this License shall be valid and effective, unless evidenced by
2 a written agreement signed by the parties which makes specific reference to this License.

3
4 20.13 This License is subject and subordinate to any Mortgage (as defined below)
5 now or hereafter placed upon Property, and to the provisions of any reciprocal easement,
6 operating agreement, declaration, restrictive covenant, and all other encumbrances and
7 matters of public record applicable to the Property. However, any Holder (as defined below)

8 may elect to make this Agreement prior to the lien of its Mortgage, by written notice to
9 ^{cf @ city} Licensee. ^{cf @ city} Licensee shall execute such documentation as ^{cf @ Cal West} Licensor or any Holder may request

10 from time to time, in order to confirm the matters set forth in this Paragraph. If any
11 foreclosure proceedings are initiated by any Holder or deed in lieu is granted or any ground

12 lease is terminated, ^{cf @ city} Licensee agrees, upon written request of any such Holder or any
13 purchaser at foreclosure sale, to attorn to such party and to execute and deliver any

14 instruments necessary or appropriate to evidence or effectuate such attornment (provided
15 such Holder or purchaser shall agree to accept this Agreement and not disturb ^{cf @ city} Licensee's

16 occupancy, so long as ^{cf @ city} Licensee does not default hereunder). In the event of attornment, no
17 Holder shall be (i) liable for any act or omission of ^{cf @ Cal West} Licensor, or subject to any offset or

18 defense which ^{cf @ city} Licensee might have against ^{cf @ Cal West} Licensor (prior to such Holder becoming
19 ^{cf @ Cal West} Licensor, or (ii) bound by any future modification of this Agreement not consented to by

20 such Holder. ^{cf @ city} Licensee agrees to give any Holder by certified mail, return receipt requested,
21 a copy of any notice of default served by ^{cf @ city} Licensee upon ^{cf @ Cal West} Licensor, provided that prior to such

22 notice ^{cf @ city} Licensee has been notified in writing (by way of service on ^{cf @ city} Licensee of a copy of an
23 assignment of lease and/or licenses, or otherwise) of the address of such Holder. ^{cf @ city} Licensee

24 further agrees that if ^{cf @ Cal West} Licensor fails to cure such default within the times permitted ^{cf @ Cal West} Licensor

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for cure hereunder, any such Holder whose address has been provided to ^{of City} Licensee shall have an additional period of thirty (30) days in which to cure (or such additional time as may be required due to causes beyond such Holder's control, so long as such Holder is reasonably seeking to cure, which time shall include time to obtain possession of the Building, by power of sale or judicial action, if necessary to effect a cure). Until the time allowed as aforesaid for such Holder to cure such default has expired without cure, ^{of City} Licensee shall have no right to terminate this Agreement by virtue of ^{of Cal West} Licensor's default. "Mortgage" means any mortgage, deed of trust, ground lease and other such encumbrance now or hereafter placed upon the Property or any part thereof, and all renewals, modifications, consolidations, replacement or extensions thereof, and all indebtedness now or hereafter secured thereby and all interest therein. "Holder" means the holder of any Mortgage at the time in questions, and where such Mortgage is a ground lease, such term shall refer to the ground lessor.

21. EFFECTIVE DATE: This License shall be effective on the date ("Effective Date")

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executed by the City.

CAL WEST INDUSTRIAL PROPERTIES, a
California limited liability company

November 29, 2004

By: [Signature]
Name: Scott Recknor
Title: District Manager

_____, 2004

~~By: _____
Name: _____
Title: _____~~

"Cal West"

CITY OF LONG BEACH, a municipal corporation,

Dec 7, 2004

By: Christine J. Shippey ASSISTANT
City Manager

"City" EXECUTED TO SECTION 301 OF
THE CITY CHARTER.

The foregoing License is hereby approved as to form this 7th day of December, 2004.

ROBERT E. SHANNON, City Attorney

By: [Signature]
Deputy City Attorney

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City Attorney of Long Beach
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Exhibit "A"

Exhibit "A"

All that certain land situated in the State of California, County of Orange, City of Garden Grove, described as follows:

Those portions of Parcels 1, 2, 3 and 4 as shown on a map recorded in Book 110, pages 39 to 41 inclusive, of parcel maps, in the Office of the County Recorder of said county, included within Parcels 2, 3 and 4 of the instrument entitled "Minor Lot Line Adjustment" recorded May 26, 1978 in Book 12691, pages 1992 and 1993, Official Records, in the Office of the County Recorder of said county.

Exhibit "B"

