

REVOCABLE LICENSE AGREEMENT
FOR
NON-FEDERAL USE OF REAL PROPERTY
BETWEEN
THE UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
FEDERAL AVIATION ADMINISTRATION
AND
MONTEREY COUNTY, CALIFORNIA

License No: DTFAWN-11-J-00012
BSR Anderson Peak VORTAC
Monterey, California

This License Is Not Reimbursable

THIS REVOCABLE LICENSE AGREEMENT (hereinafter "Agreement"), made and entered into this _____ day of _____ 2012, by and between the FEDERAL AVIATION ADMINISTRATION, hereinafter referred to as the "FAA" and MONTEREY COUNTY, CALIFORNIA, hereinafter referred to as the "Licensee".

WITNESSETH

WHEREAS, the United States of America, acting by and through the FAA owns an Air Navigation VORTAC facility located on Anderson Peak, Monterey, CA under permit with the Forest Service; and

WHEREAS, the portion of this land utilized by the Anderson Peak, Big Sur VORTAC Site is available for use by the Licensee; and

WHEREAS, it has been determined that Licensee's use of the subject facility will not interfere with, or adversely impact FAA's mission, and has also determined that granting

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Monterey County, CA use of the site under conditions and limitations set forth below is in the best interest of the United States; and

WHEREAS, it is in the public's interest to improve property utilization and permit this secondary use; and

NOW THEREFORE, the FAA does hereby grant unto the Licensee permission to use Rack Space in the Big Sur VORTAC equipment room, hereinafter referred to as the "Demised Premises", all as shown on Exhibit A, subject to the following terms and conditions:

A. SPECIAL CONDITIONS

1. **TERM.** This Agreement shall be effective upon signatures by both authorized contracting officials of the FAA and the Licensee until 09/30/2031, and is revocable at the will of the FAA. The Licensee agrees to provide FAA thirty (30) day's written notice of its intent to surrender of the Demised Premises.
2. **DESCRIPTION OF PROPERTY.** The Premises consists of Vault Space and equipment on the antenna tower, accepted in its condition, as shown on Big Sur, California Mountain Top VORTAC facility site layout, which is attached hereto and made a part hereof.
3. **PURPOSE OF AGREEMENT.** The Premises shall be used by the Licensee to transmit broadcasting and radio frequencies.
4. **CONSIDERATION.** The Licensee shall, as needed, maintain the immediate 400 feet, adjacent to the Air Navigation VORTAC facility, of the shared service road.
5. **ACCESS ROAD MAINTENANCE.** Shared maintenance of the immediate 400 feet of shared service road, not to exceed \$5,000.00 in any fiscal year, includes performing dirt and gravel (DG) installation, asphaltting, grading, wash out repair, debris removal, and general service to the standards of repair and safety acceptable to the FAA. Any damage to the shared service road caused by the Licensee will be the sole responsibility of the Licensee to repair and restore.
6. The Licensee must comply with all conditions or restrictions stated with full understanding that the FAA has full rights to the facility and all collocated entities will follow all FAA protocols:

All tenants must adhere, but not limited to, the following FAA facility security and infrastructure requirements:

- a. Call the point of contact (SSC Manger) upon entry and departure into and out of VORTAC facility; and
- b. Secure all doors, gates, and access points are locked upon departure

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- c. Remove any debris prior to departure; and
 - d. Coordinate all installations, removals, and changes, including electrical configurations, with MRY SSC; and
 - e. Coordinate all power requirements, including the turning on and off of breakers, with MRY SSC/never shut unknown breakers; and
 - f. Report any and all unauthorized personnel to the appropriate authorities; and
 - g. Report any issues with the facility i.e building issues (damage) and security issues; and
 - h. Tenants, at no time, shall enter the VORTAC counterpoise area.
7. The Licensee shall not cause or permit any electrical/electronic radiating devices, apparatus, or equipment on the Demised Premises that may interfere or conflict with the operation of the FAA communications facility. No electrical/electronic radiating devices shall be installed upon the Demised Premises that exceed 100 watts of radiated power. The use and operation of the Demised Premises by Licensee shall be so conducted that interference is not caused to radio electronic equipment operated by the FAA or its other permitted users. If such operations cause interference to the FAA operations, Licensee shall shut down all equipment causing the interference and remain shut down until the interference problem is resolved and Licensee shall, at no cost to the FAA, take corrective measures needed to eliminate the interference problem.
8. The licensee shall be liable to all third parties for any possible electromagnetic radiation hazard or damage which may be caused by licensed equipment and/or transmitters located within the FAA facility that are installed by the Licensee.
9. The Licensee must provide adequate security for the Premises.
10. NOTICES. Notices may be sent to the following addresses:

(a) Federal Aviation Administration

Western Logistics Service Area
Real Estate & Utilities Group, ANM-53
1601 Lind Ave SW
Renton, WA 98057

(b) Monterey County, California

Monterey County Department of Emergency Communications
1322 Natividad Road
Salinas, CA 93906
(831) 769-8882 Office
(831) 769-8896 Fax

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B. GENERAL CONDITIONS

1. **COMPLIANCE.** Any use made of the Premises, and for any work performed thereon by the Licensee, including the installation and removal of any article or thing, shall be approved by the FAA prior to commencement of any installation or future addition or installation work and shall be accomplished in a manner satisfactory to the FAA.
2. **LAWS AND ORDINANCES.** In the exercise of any privileges granted by this Agreement, Licensee shall comply with all applicable State, municipal and local laws, and the rules, orders, regulations and requirements of Federal governmental departments and bureaus.
3. **MAINTENANCE.** Licensee shall maintain the improvements and Premises to the standards of repair, orderliness, neatness, sanitation, and safety acceptable to the FAA. Upon request, the Licensee shall allow inspection of the Premises by FAA or Government Representatives, to insure proper use and protection of the Premises.
4. **DAMAGE.** Except as may be otherwise provided by the Special Conditions above, no FAA property shall be destroyed, displaced, or damaged by the Licensee in the exercise of the privileges granted by this Agreement without the prior written consent of the FAA. In such event, the Licensee shall, at the FAA's request, promptly replace, return, repair and restore any such property to a condition satisfactory to the FAA.
5. **INDEMNIFICATION.** Licensee hereby agrees to indemnify, defend and save harmless, the FAA, its officers, agents and employees from:
 - (a) Any and all claims and demands which may be made against the FAA, its officers, agents or employees by reason of any injury to, or death of, any person, or damage suffered or sustained by any person or corporation caused by, or alleged to have been caused by, any intentional or negligent act or omission of Licensee or any of Licensee's contractors, agents, employees, or persons invited or allowed on the Premises by Licensee;
 - (b) Liability for any and all damage to; or destruction of the property of the FAA, occupied or used by Licensee, caused by any act or omission, negligent or otherwise, of Licensee or any of Licensee's contractors, agents, employees or persons invited or allowed on the Premises by Licensee.
6. **OPERATION.** The Licensee shall confine activities on the Premises strictly to those necessary for the enjoyment of the privilege hereby licensed, and shall refrain from marring or impairing the appearance of said property, obstructing access thereto, interfering with the transaction of Government business and the convenience of the public, or jeopardizing the safety of persons or property, or causing justifiable public

criticism.

7. **RESTORATION.** Upon termination of the use of this License, Licensee shall restore the Premises to the condition existing on the effective date of this License, reasonable wear and tear excepted, and repair any damage caused by its presence or use. Any property of Licensee installed or located on the Premises shall be removed. At the option of the FAA, the FAA's property may be required to be restored to its original condition upon thirty (30) days' written notice to the FAA. If the Licensee fails to remove all structures and improvements, except those owned by the FAA, within a reasonable period, they shall become the property of the FAA. This, however, will not relieve Licensee of liability for the cost of their removal and the restoration of the Premises. The FAA reserves the right to remove Licensee's improvements, restore the Premises to a satisfactory condition, and hold Licensee liable for all costs if the Licensee fails to remove said structures and improvements and restore the Premises as directed by the FAA.
8. **EXPENSE.** Any cost, expense, or liability connected with, or in any manner incident to, the granting, exercise, enjoyment, or relinquishment of this Agreement shall be assumed and discharged by the Licensee.
9. **FUTURE REQUIREMENTS.** The Licensee shall promptly comply with such further conditions and requirements as the FAA may hereafter prescribe.
10. **ATTEMPTED VARIATION.** There shall be no variation or departure from the terms of this Agreement without prior written consent of the FAA.
11. **TRANSFERABILITY.** This Agreement is not transferable. If the Licensee, through voluntary sale or transfer, or through enforcement of contract, foreclosure, tax sale, or other valid legal proceeding shall cease to be the owner of the physical improvements situated on the Premises, this Agreement shall automatically terminate.
12. **INSURANCE.** All insurance required by this Agreement shall be in such form, for such periods of time, and with such insurers as the FAA may require or approve. A Certificate of Insurance or a certified copy of each policy of insurance taken out hereunder shall be deposited with the FAA's Local Representative prior to use of the Premises.

Licensee agrees that not less than thirty (30) days prior to the expiration of any insurance required by this Licensee, it will deliver to the FAA's Local Representative a Certificate of Insurance or a certified copy of each renewal policy to cover the same risks.
13. **HAZARDOUS SUBSTANCES (License) (4/12).** The Licensee shall not store, release, or dispose of any hazardous substance on the FAA's property that is subject to this Permit. Hazardous substances are those substances designated by the

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Environmental Protection Agency which may present substantial danger to human health and the environment. If any hazardous substance contamination is found after the inspection or investigation of the subject site by FAA or by any other duly authorized Federal agency, and the contamination is determined by FAA to be a direct result of the Licensee's actions, the Licensee agrees to pay for any and all cost(s) incurred to identify, evaluate and remediate the contamination.

14. ENVIRONMENTAL LIABILITY (License) (4/12). In the exercise of any privileges granted by this Agreement, Licensee is required to comply with environmental laws and regulations and exercise due diligence to prevent any negative effects on the environment (i.e., wetlands, soil, air, water, or groundwater.) The Licensee shall comply with any use restrictions and use only the area designated in this License. If any contamination or damage to property is found after the FAA's inspection/investigation, or the inspection/investigation by any other duly authorized Federal agency, and is a direct result of the Licensee's actions, as determined by the FAA, the Licensee agrees to pay for any and all cost(s) incurred to evaluate, clean up, and restore the damaged property.

15. NONDISCRIMINATION.

- (a) Licensee agrees that no person shall be discriminated against in connection with the use made by the Licensee of the Premises, on the grounds specified in Title VI of the Civil Rights Act of 1964 (78 Stat, 238, 252; 42 U.S.C. 2000 (d)).
- (b) Licensee shall obtain from each person or firm who, through contractual or other arrangements with the Licensee, provides services, benefits or performs work on the Premises, a written agreement whereby said person or firm agrees to assume the same obligations with respect to nondiscrimination as those imposed upon Licensee as indicated above. Licensee shall furnish a copy of such agreement to the FAA.
- (c) The breach by the Licensee of conditions relating to nondiscrimination shall constitute sufficient cause for cancellation and revocation of this Agreement.

16. OFFICIALS NOT TO BENEFIT. No member of, or Delegate to Congress, or Resident Commissioner shall be admitted to any share or part of this Agreement or to any benefits that may arise therefrom; but this provision shall not be construed to extend to this Agreement if made with a corporation for its general benefit.

17. COVENANT AGAINST CONTINGENT FEES. The Licensee warrants that it has not employed any person to solicit or secure this Agreement upon any agreement for a commission, percentage, brokerage or contingent fee. Breach of this warranty shall give the Government the right to annul this Agreement or, in its discretion, to recover from the Licensee the amount of such commission, percentage, brokerage, or contingent fee in addition to the consideration herein set forth. This warranty shall not apply to commissions payable by the Licensee upon contracts or sales secured or made through bona fide established commercial or selling agencies maintained by the

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Licensee for the purpose of securing business.

18. ANTI-KICKBACK. The Anti-Kickback Act of 1986 (41 U.S.C. 51-58) (the Act), prohibits any person from (1) Providing or attempting to provide or offering to provide any kickback; (2) Soliciting, accepting, or attempting to accept any kickback; or (3) Including, directly or indirectly, the amount of any kickback in the lease contract price charged by the Lessor to the United States or in the lease contract price charged by a subcontractor to the Lessor or higher tier subcontractor.
19. CHANGE OF ADDRESS. In the case of change of address, the Licensee shall immediately notify the FAA, in accordance with Section A.12. herein.
20. BREACH. This License may be terminated and revoked upon breach of any conditions herein or otherwise at the discretion of the FAA.
21. EFFECTIVE DATE. This License shall be effective on the date it has been fully executed by the parties hereto.
22. GOVERNING LAW. This License shall be governed by Federal Law.
23. CONTRACT DISPUTES

(a) All contract disputes and arising under or related to this lease contract shall be resolved through the Federal Aviation Administration (FAA) dispute resolution system at the Office of Dispute Resolution for Acquisition (ODRA) and shall be governed by the procedures set forth in 14 C.F.R. Parts 14 and 17, which are hereby incorporated by reference. Judicial review, where available, will be in accordance with 49 U.S.C. 46110 and shall apply only to final agency decisions. A Lessor may seek review of a final FAA decision only after its administrative remedies have been exhausted.

(b) All Contract Disputes shall be in writing and shall be filed at the following address:

Office of Dispute Resolution for Acquisition, AGC-70,
Federal Aviation Administration,
800 Independence Ave, S.W.,
Room 323,
Washington, DC 20591,
Telephone: (202) 267-3290,
Facsimile: (202) 267-3720

(c) A contract dispute against the FAA shall be filed with the ODRA within two (2) years of the accrual of the lease contract claim involved. A contract dispute is considered to be filed on the date it is received by the ODRA.

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IN WITNESS WHEREOF, the parties hereto have hereunto subscribed their names as of the date written above.

MONTEREY COUNTY, CALIFORNIA

By: _____

Title: _____

Date: _____

UNITED STATES OF AMERICA

DEPARTMENT OF TRANSPORTATION

FEDERAL AVIATION ADMINISTRATION

By: _____

Title: _____

Date: _____