

REC 14 CONCESSIONAIRE CONTRACTS EVALUATION

1.0 EXECUTIVE SUMMARY

Shaver Lake is owned by Southern California Edison (SCE) and is operated under the Federal Energy Regulatory Commission (FERC or Commission) License for Project No. 67. In accordance with the FERC License, SCE has allowed recreational facility development along the shores of Shaver Lake. The recreational facilities are generally operated by concessionaires, each under a separate license agreement with SCE.

Three concessionaires operate recreational facilities at Shaver Lake, within the FERC Project No. 67 Project boundary, including: 1) Sierra Marina; 2) Shaver Lake Marina; and 3) Steve Elming, dba Shaver Lake Water Sports. SCE also leases certain other lands around Shaver Lake to private organizations for recreational purposes, such as the Camp Chawanakee, Gold Arrow Camp, the Fishing Club, and the Shaver Lake Lodge, some of which are outside Project boundaries. During stakeholder consultation, the owner of Sierra Marina indicated his belief that some of the language contained in the SCE license agreement, and potentially the FERC License, constrains their operations, particularly the ability to obtain financing for recreation improvement projects.

SCE reviewed and evaluated the existing FERC Project No. 67 License and its license agreements to determine whether either contains terms or conditions that could unreasonably hinder recreation operations or development. In addition, SCE interviewed two of the marina operators to solicit their opinions about how specific conditions affect their operations. Attempts to interview the owner of Shaver Lake Water Sports were unsuccessful.

Article 34 of the FERC Project No. 67 License was found to potentially inhibit recreation operations or development. The FERC License gives SCE some limited flexibility in issuing permits for certain recreational development at Shaver Lake. If the recreational development meets the exceptions in Article 34, SCE may allow recreational development without first obtaining FERC permission. Otherwise, SCE needs FERC permission to allow private recreational development at Shaver Lake.

Next, three of the 37 terms and conditions contained in SCE's standard license agreement were considered by two of the existing license holders to influence recreation operations and development. The terms were: No. 2 "Term", No. 3 "Consideration", and No. 27 "Termination".

Condition No. 2 "Term" establishes the overall term of a license agreement. The "Termination" condition (No. 27) allows SCE to terminate their agreements with Shaver Lake Marina and Sierra Marina with six months (180 days) notice. SCE can terminate their agreement with Shaver Lake Water Sports with 30 days notice. The concessionaires consider the "Termination" clause a serious impediment to conducting

business because it inhibits the concessionaires from obtaining financing to capitalize improvements. SCE includes a short termination period in its license agreements to ensure that the documents are legally characterized as licenses and are not considered to be real estate entitlements, such as a lease. This ability to terminate the license on short notice is also consistent with the requirements of the California Public Utilities Commission (CPUC) General Order 69-C. Without such a term, the license agreements would need to be approved by the CPUC.

Condition No. 3 “Consideration” was identified as a secondary issue. The “Consideration” condition establishes a set amount that the concessionaire must pay SCE for the use of the property over the term of the agreement, based on a fixed percentage of gross revenues. The concessionaires believe that an adjusting percentage, based on gross revenue, would be more advantageous to them. SCE uses the consideration term to recover SCE’s costs and compensate its ratepayers for the use of SCE land by private parties. A variable rate would need to be higher than a fixed rate for lower levels of gross revenue. In total, the likely payments to SCE would be about the same.

2.0 STUDY OBJECTIVES

The study objective was identified in the REC 14, Concessionaire Contracts Evaluation Work Plan as follows:

- Evaluate SCE’s existing concessionaire contract conditions to determine if they are having an unreasonable effect on private development of recreation support facilities at Shaver Lake.

2.1 STUDY ELEMENTS COMPLETED

The Work Plan identified three elements to be completed as part of this study. Two of those study elements have been completed, as follows:

- Existing concessionaire contract(s) and FERC license conditions were examined for any provision that may affect development of recreation support services on Project lands or waters.
- Concessionaires were interviewed to ascertain contract or license term conditions that affect the development of recreational support services on Project lands and waters.

2.2 OUTSTANDING STUDY ELEMENTS

The Work Plan identified a third study element, which has not been completed, as follows:

- Identify potential concessionaire contract or license conditions revisions which would enhance recreational support facilities, if appropriate, on Project lands and waters.

This study element will be completed as SCE proceeds with the development of Protection, Mitigation and Enhancement (PM&E) measures in coordination with the stakeholders.

3.0 STUDY IMPLEMENTATION

3.1 STUDY AREA

This study focused on concessionaires with facilities located on Shaver Lake, within the FERC Project No. 67 boundary. Shaver Lake is the only reservoir within the Big Creek Alternative Licensing Process (ALP) study area that is owned and operated by SCE. All other Project reservoirs are located on public land managed by the USDA Forest Service (USDA-FS). Recreation development at these other reservoirs is carried out under contracts maintained by the Sierra National Forest (SNF). This study does not address USDA-FS concessionaire contracts.

There are three recreation facilities operated by concessionaires located at Shaver Lake, within the FERC Project No. 67 boundary, as follows:

- **Sierra Marina:** Sierra Marina provides ski boat, pontoon boat, fishing boat, and personal watercraft rentals. Sierra Marina also operates a store and fueling station, boat maintenance and repair, and provides slips and docking facilities for public use.
- **Shaver Lake Marina:** Shaver Lake Marina provides ski boat, pontoon boat, fishing boat, and personal watercraft rentals. They also operate a store and fueling station, limited watercraft repairs and provide public docking facilities.
- **Steve Elming, dba Shaver Lake Water Sports:** Shaver Lake Water Sports specializes in boat rentals. They carry a variety of boats including, ski boats, fishing boats, canoes, and kayaks. Shaver Lake Water Sports operates from a small marina where they dock their own boats. However, they do not operate a store or public docking facilities.

These facilities operate under license agreements with SCE. Of these, the Sierra Marina was specifically identified on the Project Nexus Matrix as a facility that may be affected by language contained in either the Project No. 67 License from FERC or in SCE's license agreement.

4.0 STUDY METHODOLOGY

SCE reviewed the conditions contained in the current FERC License to determine whether the FERC License may restrict recreational development. In addition, SCE reviewed and evaluated its concessionaire license agreements to determine whether the licenses contain terms that may unreasonably limit the development of private recreational facilities on Shaver Lake.

After reviewing the license conditions, SCE conducted interviews with the concessionaires at the Sierra Marina and at Shaver Lake Marina to solicit information

about how specific license agreement and FERC License conditions affect their operations and/or restrict development of their recreational support facilities. Attempts to contact a representative of Shaver Lake Water Sports were unsuccessful.

5.0 STUDY RESULTS AND ANALYSIS

Concessionaire operations at Shaver Lake are dictated, in part, by the terms and conditions contained in the existing FERC License and in SCE's license agreements, as discussed in the following.

FERC License

The FERC license enables SCE to develop recreational support facilities for use by the public. Article 34 of the Order Issuing New License (August 9, 1978) "prohibits, without further Commission approval, the further use and occupancy of project lands and waters other than as specifically authorized by this license." However, the FERC License does authorize SCE to issue permits "... for landscape plantings and the construction, operation, and maintenance of access roads, power and telephone distribution lines, piers, landings, boat docks, or similar structures and facilities, and embankments, bulkheads, retaining walls, or other similar structures for erosion control to protect the existing shoreline." Other permits would require Commission approval. The full text of Article 34 is included in Appendix A of this report, for reference.

As indicated, the FERC License is very general with respect to SCE's contractual conditions for concession operators. The FERC license allows SCE to enter into an agreement with concession operators, but it does not specify contract terms and conditions.

SCE License Agreements

Concessionaires operating recreation facilities on SCE Project lands or waters must adhere to the terms and conditions contained in an SCE-issued license agreement. SCE's standard License Agreement is contained in Appendix B. As indicated, SCE's standard agreement contains 37 terms and conditions. SCE may incorporate additional, more specific, terms into a license agreement based upon the activity authorized under the license. According to the two concessionaires interviewed, three of the 37 conditions affect their ability to make further improvements to their recreation facilities. However, all improvements at both marinas were made under the terms of the above referenced license agreements, or prior agreements with similar conditions. Shaver Lake Marina has only been in operation since 1996 and successfully funded all of their improvements. The conditions of concern to the concessionaires are:

No. 2. Term: Establishes the time length of the license agreement. The standard term for these types of activities is five years. Depending upon the situation, SCE may also issue licenses for shorter or longer terms.

No. 3, Consideration: This clause sets the amount the licensee will pay SCE for the use of the property over the term of the agreement.

No. 27. Termination: This condition establishes SCE's right to terminate the license agreement with written notice. SCE's Standard License Agreement typically contains a 30 day termination clause. However, SCE modified their agreements with Sierra Marina and Shaver Lake Marina to include a 180 day termination clause, to allow them to complete their current recreation season should termination occur in the midst of the summer months.

According to the concessionaires, the "Termination" clause is a serious impediment to conducting business. The Termination condition specifically states:

"This Agreement may be canceled and terminated by either the Licensor or Licensee, at any time, upon (180) day notice in writing. Licensee will peaceably quit, surrender, and, prior to termination date, restore the Property to a condition satisfactory to the Licensor. Termination, cancellation or expiration does not release Licensee from any liability or obligation (indemnity or otherwise) which Licensee may have incurred. Licensee's continued presence after termination shall be deemed a trespass."

According to the marina operators, the "Termination" clause conflicts with the "Term" clause. The 180 day termination clause essentially renders the agreement a six month agreement, regardless of the term length.

The concessionaires believe that the six month (180-day) termination condition constrains financing to fund improvements to the recreation facilities. The concessionaires find that financial institutions do not consider an agreement that may be terminated with six months notice to be a long enough term to lend funds to make capital improvements. Instead, concessionaires must pay cash for any needed improvements. Concessionaires believe that this inhibits their ability to expand operations and increase revenues. They believe that it may also dissuade potential buyers should the concessionaires decide to sell their businesses.

The concessionaires also believe that the "Consideration" condition affects their business. Currently, the concessionaires are charged a percentage of the annual gross revenues. The percentage is fixed regardless of revenue generated. The concessionaires think that an adjusting percentage, based on gross revenue, would be more advantageous. As predetermined revenue targets are met, the percentage would decrease. This would be an incentive for the concessionaire to make capital improvements resulting in increased revenues. However, the issue of fair compensation is beyond the scope of this report. As noted above, SCE is entitled to charge its licensees a reasonable rental value. SCE attempts to set a rate that recovers SCE's costs and provides compensation to its ratepayers for the use of SCE land. The argument posed by the concessionaires also assumes that the marinas can increase in size at their pleasure, which would bring in additional revenue. But, a larger marina may not be in the public interest. Moreover, the marina owner would also need to obtain a Fresno County Conditional Use Permit. The County permitting process would

control the expansion of either of these facilities based on parking, public facilities, improved ingress, egress, and other public interest considerations. Moreover, an increased marina would also require CPUC approval at this time. Thus, SCE must determine a reasonable rental value based upon the existing facility's size, and not a hypothetical future size with unknown revenue. SCE notes that any requests for license agreement renegotiations should be addressed through the designated representatives of SCE's Corporate Real Estate Operations.

6.0 CONSULTATION

Sheldon Sandstrom, Sierra Marina

Greg Powell, Shaver Lake Marina

Dwight Barnes, Southern California Edison

Terri Loun, Southern California Edison

APPENDIX A
Order Issuing New License, Article 34

Article 34 of the Order Issuing New License (August 9, 1978)

Project No. 67

Article 34. In the interests of protecting and enhancing the scenic, recreational, and other environmental values of the project, Licensee: (1) shall supervise and control the use and occupancy of project lands and waters; (2) shall prohibit, without further Commission approval, the further use and occupancy of project lands and waters other than as specifically authorized by this license; (3) may authorize, without further Commission approval, the use and occupancy of project lands and waters for landscape plantings and the construction, operation, and maintenance of access roads, power and telephone distribution lines, piers, landings, boat docks, or similar structures and facilities, and embankments, bulkheads, retaining walls, or other similar structures for erosion control to protect the existing shoreline; (4) shall require, where feasible and desirable the multiple use and occupancy of facilities for access to project lands and waters; and (5) shall ensure to the satisfaction of the Commission's authorized representative that all authorized uses and occupancies of project lands and waters: (a) are consistent with shoreline aesthetic values, (b) are maintained in a good state of repair, and (c) comply with State and local health and safety regulations. Under item (3) of this Article, Licensee may, among other things, institute a program for issuing permits to a reasonable extent for the authorized types of use and occupancy of project lands and waters. Under appropriate circumstances, permits may be subject to the payment of a fee in a reasonable amount. Before authorizing construction of bulkheads or retaining walls Licensee shall: (a) inspect the site of the proposed construction, (b) determine that the proposed construction is needed, and (c) consider whether the planting of vegetation or the use of riprap would be adequate to control erosion at the site. If an authorized use or occupancy fails to comply with the conditions of this Article, or with any reasonable conditions imposed by the Licensee for the protection of the environmental quality of project lands and waters, the Licensee shall take appropriate action to correct the violations, including, if necessary, cancellation of the authorization and removal of any non-complying structures or facilities. The Licensee's consent to an authorized use or occupancy of project lands and waters shall not, without its express agreement, place upon the Licensee any obligation to construct or maintain any associated facilities. Within one year, Licensee shall furnish a copy of its guidelines and procedures used to implement the provisions of this Article to the Commission's authorized representative and its Director, Office of Electric Power Regulation. Whenever the Licensee makes any modifications to those guidelines and procedures, it shall promptly furnish a copy to each of those persons. The Commission reserves the right to require modifications to these guidelines and procedures.

APPENDIX B
SCE's Standard License Agreement

NAME

RP File No.
Property No. PLLF734G61
Account No. 0000

L I C E N S E A G R E E M E N T

I N D E X

1. USE
 2. TERM
 3. CONSIDERATION
 4. INSURANCE
 5. LICENSOR'S USE OF THE PROPERTY
 6. LICENSEE'S IMPROVEMENTS
 7. LICENSEE'S PERSONAL PROPERTY
 8. HEIGHT LIMITATIONS
 9. ACCESS AND CLEARANCES
 10. PARKING
 11. FLAMMABLES, WASTE AND NUISANCES
 12. PESTICIDES AND HERBICIDES
 13. HAZARDOUS WASTE
 14. SIGNS
 15. FENCING
 16. PARKWAYS AND LANDSCAPING
 17. IRRIGATION EQUIPMENT
 18. UNDERGROUND TANKS
 19. UNDERGROUND FACILITIES
 20. UTILITIES
 21. TAXES, ASSESSMENTS AND LIENS
 22. EXPENSE
 23. ASSIGNMENTS
 24. COMPLIANCE WITH LAW
 25. GOVERNING LAW
 26. INDEMNIFICATION
 27. TERMINATION
 28. EVENTS OF DEFAULT
 29. REMEDIES
 30. NON-POSSESSORY INTEREST
 31. WAIVER
 32. AUTHORITY
 33. ATTORNEY FEES
 34. ELECTRIC AND MAGNETIC FIELDS
 35. NOTICES
 36. RECORDING
 37. COMPLETE AGREEMENT
- APPENDIX: GUIDELINES FOR STANDARD LICENSEE IMPROVEMENTS

RP File No.
Property No. PLFL734G61
Account No. 0000

LICENSE AGREEMENT

THIS AGREEMENT, made as of the _____ day of _____, 20____, between SOUTHERN CALIFORNIA EDISON COMPANY (SCE), a corporation organized under the laws of the State of California, hereinafter called "Licensor", and NAME hereinafter called "Licensee";

WITNESSETH: That Licensor, for and in consideration of the faithful performance by Licensee of the terms, covenants and agreements hereinafter set forth to be kept and performed by Licensee, does hereby give to Licensee the license to use that certain real property described below and depicted on Exhibit "A" attached hereto and made a part hereof of the ("Property") solely for the purpose hereinafter specified, upon and subject to the terms, reservations, covenants and conditions hereinafter set forth.

The subject Property is located in the City of _____, County of _____, State of California further described as follows:

TYPE_LEGAL_DESCRIPTION_HERE

SUBJECT TO:

Covenants, conditions, restrictions, reservations, exceptions, rights and easements, whether or not of record including but not limited to, the following:

TYPE_SUBJECT_TO_ITEMS_HERE

1. Use: Licensee will use the Property for horticulture purposes only. Licensor makes no representation, covenant, warranty or promise that the Property is fit for any particular use, including the use for which this Agreement is made and Licensee is not relying on any such representation, covenant, warranty or promise. Licensee's failure to make such use of the Property as determined by the Licensor in its sole discretion, will be grounds for immediate termination of this Agreement in accordance with Article 28.

2. Term: Unless otherwise terminated as provided herein, this Agreement will be in effect for a term of five (5) years commencing on the first day of December, 2002 and ending on the last day of November, 2007. Licensee acknowledges that this Agreement does not entitle Licensee to any subsequent agreement, for any reason whatsoever, regardless of the use Licensee makes of the Property, the improvements Licensee places on or makes to the Property, or for any other reason.

3. Consideration: Licensee will pay to Licensor the sum of _____ and 00/100 Dollars (\$0,000.00) upon the execution and delivery of this Agreement for the first year;

All payments subsequent to the initial payment will be paid to the Southern California Edison Company, Post Office Box 800, Rosemead, California, 91770, Attention: Corporate Accounting Department - Accounts Receivable.

All accounts not paid within 30 days of the agreed upon due date will be charged a late fee on all amounts outstanding.

4. **Insurance:** During the term of this Agreement, Licensee shall maintain the following insurance:

Licensee shall provide Licensor with proof of such insurance by submission of certificates of insurance, pursuant to Section 35 "Notices," at least ten days prior to the effective date of this Agreement. Such insurance shall not be canceled nor allowed to expire nor be materially reduced without thirty days prior written notice to Licensor.

5. **Licensor's Use of the Property:** Licensee agrees that Licensor, its successors and assigns, have the right to enter upon the Property, at any time, for any purpose, and the right to conduct any activity on the Property. Exercise of these rights by Licensor, its successors and assigns, will not result in compensation to Licensee for any damages whatsoever to personal property and/or crops located on the Property.

6. **Licensee's Improvements:** Licensee must submit, for Licensor's prior written approval, complete improvement plans, including grading plans, identifying all existing and proposed improvements, a minimum of sixty (60) days prior to making any use of the Property. Licensee must submit, for Licensor's prior written approval plans for any modifications to such improvements. Written approval may be modified and/or rescinded by Licensor for any reason whatsoever. At any time, Licensee may be required to modify and/or remove any or all such previously approved improvements at Licensee's risk and expense and without any compensation from Licensor. Licensor is not required, at any time, to make any improvements, alterations, changes or additions of any nature whatsoever to the Property. Licensee expressly acknowledges that any expenditures or improvements will in no way alter Licensor's right to terminate in accordance with Article 27.

7. **Licensee's Personal Property:** All approved equipment and other property brought, placed or erected on the Property by Licensee shall be and remain the Property of Licensee, except as otherwise set forth herein. If Licensee is not in default hereunder, Licensee shall have the right to remove the same from the Property at any time prior to the expiration or earlier termination of this Agreement; provided, however, that Licensee shall promptly restore any damage to the Property caused by the removal. If Licensee is in default, however, such equipment or other property shall not be removed by Licensee without Licensor's written consent until Licensee has cured such default, and Licensor shall have a lien thereon to the extent thereof.

8. **Height Limitations:** Any equipment used by Licensee or its agents, employees or contractors, on and/or adjacent to the Property, will be used and operated so as to maintain a minimum clearance of twenty-five (25) feet from all overhead electrical conductors.

All trees and plants on the Property will be maintained by Licensee at a maximum height of fifteen (15) feet. If requested by Licensor, Licensee will remove any tree and/or other planting.

9. **Access and Clearances:** Licensee will provide Licensor with adequate access to all of Licensor's facilities on the Property and at no time will there be any interference with the free movement of Licensor's equipment and materials over the Property. Licensor may require Licensee to provide and maintain access roads within the Property, at a minimum usable width of sixteen (16) feet, together with commercial driveway aprons and curb depressions capable of supporting a gross load of forty (40) tons on a three-axle vehicle. The minimum width of all roads shall be increased on curves by a distance equal to 400/inside radius of curvature. All curves shall have a radius of not less than 50 feet measured at the inside edge of the usable road surface. Unless otherwise specified in writing by Licensor, Licensee will make no use of the area directly underneath Licensor's towers and will maintain the following minimum clearances at all times:

- a. A 25-foot-radius around all tower legs.
- b. A 10-foot-radius around all steel and wood poles.

NOTE: Additional clearance shall be required for structures and other material improvements.

10. **Parking:** Licensee will not park, store, repair or refuel any motor vehicles or allow parking, storage, repairing or refueling of any motor vehicles on the Property unless specifically approved in writing by Licensor.
11. **Flammables, Waste and Nuisances:** Licensee will not, nor allow others to, place or store any flammable or waste materials on the Property or commit any waste or damage to the Property or allow any to be done. Licensee will keep the Property clean, free from weeds, rubbish and debris, and in a condition satisfactory to Licensor. Licensee will be responsible for the control of and will be liable for any damage or disturbance, caused by dust, odor, flammable or waste materials, noise or other nuisance disturbances. Licensee will not permit dogs on the Property.
12. **Pesticides and Herbicides:** Any pesticide or herbicide applications and disposals will be made in accordance with all federal, state, county and local laws. All horticulture Licensees are required to provide a copy of the annual License for Pest Exclusion/Nursery Program from the State of California, Department of Food and Agriculture. Licensee will dispose of all pesticides, herbicides and any other toxic substances declared to be either a health or environmental hazard as well as all materials contaminated by such substances, including but not limited to, containers, clothing and equipment in the manner prescribed by law.
13. **Hazardous Waste:** Licensee will not engage in, or permit any other party to engage in, any activity on the Property that violates federal, state or local laws, rules or regulations pertaining to hazardous, toxic or infectious materials and/or waste. Licensee will indemnify and hold Licensor, its directors, officers, agents and employees, and its successors and assigns, harmless from any and all claims, loss, damage, actions, causes of action, expenses and/or liability arising from leaks of, spills of, and/or contamination by or from hazardous materials as defined by applicable laws or regulations, which may occur during and after the Agreement term, and are attributable to the actions of, or failure to act by, Licensee or any person claiming under Licensee.
14. **Signs:** Licensee must obtain written approval from Licensor prior to the construction or placement of any sign, signboard or other form of outdoor advertising.
15. **Fencing:** Licensee may install fencing on the Property with prior written approval from Licensor. Such fencing will include double drive gates, a minimum of sixteen (16) feet in width, designed to accommodate Licensor's locks, in locations specified by Licensor. Licensee will ground and maintain all fencing.
16. **Parkways and Landscaping:** Licensee will keep parkway and sidewalk areas adjacent to the Property free of weeds and trash. Licensee will maintain parkways and provide landscaping that is compatible with adjoining properties and that is satisfactory to Licensor.
17. **Irrigation Equipment:** Any irrigation equipment located on the Property prior to the commencement of this Agreement, including but not limited to pipelines, well pumping equipment and other structures, is the property of Licensor and will remain on and be surrendered with the Property upon termination of this Agreement. Licensee will maintain, operate, repair and replace, if necessary, all irrigation equipment at its own expense.
18. **Underground Tanks:** Licensee will not install underground or above-ground storage tanks, as defined by any and all applicable laws or regulations, without Licensor's prior written approval.
19. **Underground Facilities:** Any underground facilities installed or maintained by Licensee on the Property must have a minimum cover of three feet from the top of the facility and be capable of withstanding a gross load of forty (40) tons on a three-axle vehicle. Licensee will compact any earth to

a compaction of ninety percent (90%). Licensee will relocate its facilities at its own expense so as not to interfere with Licensor's proposed facilities.

20. Utilities: Licensee will pay all charges and assessments for, or in connection with, water, electric current or other utilities which may be furnished to or used on the Property.

21. Taxes, Assessments and Liens: Licensee will pay all taxes and assessments which may be levied upon any crops, personal property, and improvements, including but not limited to, buildings, structures, and fixtures on the Property. Licensee will keep the Property free from all liens, including but not limited to, mechanics liens and encumbrances by reason of use or occupancy by Licensee, or any person claiming under Licensee. If Licensee fails to pay the above-mentioned taxes, assessments or liens when due, Licensor will have the right to pay the same and charge the amount to the Licensee. All accounts not paid within 30 days of the agreed upon due date will be charged a "late fee" on all amounts outstanding up to the maximum rate allowed by law.

22. Expense: Licensee will perform and pay all obligations of Licensee under this Agreement. All matters or things herein required on the part of Licensee will be performed and paid for at the sole cost and expense of Licensee, without obligation on the part of Licensor to make payment or incur cost or expense for any such matters or things.

23. Assignments: This Agreement is personal to Licensee, and Licensee will not assign, transfer or sell this Agreement or any privilege hereunder in whole or in part, and any attempt to do so will be void and confer no right on any third party.

24. Compliance with Law: Licensee will comply with all applicable federal, state, county and local laws, all covenants, conditions and restrictions of record and all applicable ordinances, zoning restrictions, rules, regulations, orders and any requirements of any duly constituted public authorities now or hereafter in any manner affecting the Property or the streets and ways adjacent thereto. Licensee will obtain all permits and other governmental approvals required in connection with Licensee's activities hereunder.

25. Governing Law: The existence, validity, construction, operation and effect of this Agreement and all of its terms and provisions will be determined in accordance with the laws of the State of California.

26. Indemnification: Licensee shall hold harmless, defend and indemnify Licensor, its officers, agents and employees, and its successors and assigns, from and against all claims, loss, damage, actions, causes of actions, expense and/or liability arising from or growing out of loss or damage to property, including that of Licensor, or injury to or death of persons, including employees of Licensor resulting in any manner whatsoever, directly or indirectly, by reason of this Agreement or the use or occupancy of the Property by Licensee or any person claiming under Licensee.

27. Termination: This Agreement may be canceled and terminated by either Licensor or Licensee, at any time, upon thirty (30) days notice in writing. Licensee will peaceably quit, surrender and, prior to termination date, restore the Property to a condition satisfactory to the Licensor. Termination, cancellation or expiration does not release Licensee from any liability or obligation (indemnity or otherwise) which Licensee may have incurred. Licensee's continued presence after termination shall be deemed a trespass.

28. Events of Default: The occurrence of any of the following shall constitute a material default and breach of this Agreement by Licensee:

- (a) Any failure by Licensee to pay the consideration due in accordance with Article 3, or to make any other payment required to be made by Licensee hereunder when due.

- (b) The abandonment or vacating of the Property by Licensee.
- (c) Any attempted assignment or subletting of this Agreement by Licensee in violation of Article 23.
- (d) The violation by Licensee of any resolution, ordinance, statute, code, regulation or other rule of any governmental agency in connection with Licensee's activities pursuant to this Agreement.
- (e) A failure by Licensee to observe and perform any other provision of this Agreement to be observed or performed by Licensee, where such failure continues for the time period specified in a written notice thereof by Licensor to Licensee.
- (f) Any attempt to exclude Licensor from the licensed premises.
- (g) The making by Licensee of any general assignment for the benefit of creditors; the appointment of a receiver to take possession of substantially all of Licensee's assets located on the Property or of Licensee's privileges hereunder where possession is not restored to Licensee within five (5) days; the attachment, execution or other judicial seizure of substantially all of Licensee's assets located on the Property or of Licensee's privileges hereunder, where such seizure is not discharged within five (5) days.
- (h) Any case, proceeding or other action brought against Licensee seeking any of the relief mentioned in "clause g" of this Article which has not been stayed or dismissed within thirty (30) days after the commencement thereof.

29. **Remedies:** In the event of any default by Licensee, then in addition to any other remedies available to Licensor at law or in equity, Licensor shall have the immediate option to terminate this Agreement and all rights of Licensee hereunder by giving written notice of termination to Licensee. Upon termination, Licensor will have the right to remove Licensee's personal property from the Property, including but not limited to, buildings, structures and fixtures. In addition, Licensor may immediately recover from Licensee all amounts due and owing hereunder, plus interest at the maximum rate permitted by law on such amounts until paid, as well as any other amount necessary to compensate Licensor for all the detriment proximately caused by Licensee's failure to perform its obligations under this Agreement.

30. **Non-Possessory Interest:** Licensor retains full possession of the Property and Licensee will not acquire any interest temporary, permanent, irrevocable, possessory or otherwise by reason of this Agreement, or by the exercise of the permission given herein. Licensee will make no claim to any such interest. Any violation of this provision will immediately void and terminate this Agreement.

31. **Waiver:** No waiver by Licensor of any provision hereof shall be deemed a waiver of any other provision hereof or of any subsequent breach by Licensee of the same or any other provision. Licensor's consent to or approval of any act shall not be deemed to render unnecessary the obtaining of Licensor's consent to or approval of any subsequent act by Licensee.

32. **Authority:** This Agreement is pursuant to the authority of and upon, and is subject to the conditions prescribed by General Order No. 69-C of the Public Utilities Commission of the State of California dated and effective July 10, 1985, which General Order No. 69-C, by this reference, is hereby incorporated herein and made a part hereof.

33. **Attorneys' Fees:** In the event of any action, suit or proceeding against the other, related to this Agreement, or any of the matters contained herein, the successful party in such action, suit or proceeding shall be entitled to recover from the other party reasonable attorney fees incurred.

34. Electric and Magnetic Fields ("EMF"): There are numerous sources of power frequency electric and magnetic field ("EMF"), including household or building wiring, electrical appliances and electric power transmission and distribution facilities. There have been numerous scientific studies about the potential health effects of EMF. Interest in a potential link between long-term exposures to EMF and certain diseases is based on the combination of this scientific research and public concerns.

While some 30 years of research have not established EMF as a health hazard, some health authorities have identified magnetic field exposures as a possible human carcinogen. Many of the questions about specific diseases have been successfully resolved due to an aggressive international research program. However, potentially important public health questions remain about whether there is a link between EMF exposures in homes or work and some diseases including childhood leukemia and a variety of other adult diseases (e.g. adult cancers and miscarriages). While scientific research is continuing on a wide range of questions relating to exposures at both work and in our communities, a quick resolution of the remaining scientific uncertainties is not expected.

Since Licensee plans to license or otherwise enter SCE's property that is in close proximity to SCE's electric facilities, SCE wants to share with Licensee and those who may enter the property under this agreement, the information available about EMF. Accordingly, SCE has attached to this document, a brochure that explains some basic facts about EMF and that describes SCE's policy on EMF. SCE also encourages you to obtain other information as needed to assist you in understanding the EMF respect to your planned use of this property.

35. Notices: All notices required to be given by either party will be made in writing and deposited in the United States mail, first class, postage prepaid, addressed as follows:

To Licensor: Southern California Edison Company
Corporate Real Estate Department
Real Estate Operations Division
14799 Chestnut St.
Westminster CA 92683

To Licensee:

Business Telephone No. (310) 632-
Residence Telephone No. (310) 635-0

Licensee will immediately notify Licensor of any address change.

36. Recording: Licensee will not record this Agreement.

37. Complete Agreement: Licensor and Licensee acknowledge that the foregoing provisions and any addenda and exhibits attached hereto constitute the entire Agreement between the parties.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed in duplicate as of the day and year herein first above written.

SOUTHERN CALIFORNIA EDISON COMPANY

By _____ LICENSOR

Right of Way Agent

SCE Standard License Agreement Terms and Conditions

Real Estate Operations
Department

Corporate Real Estate

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