

**AIRPORT USE PERMIT
MONTGOMERY FIELD AIRPORT**

This One-Year Permit is executed by and between THE CITY OF SAN DIEGO, a municipal corporation, herein called "CITY" and SELECTACALL of Southern California, herein called "PERMITTEE" for the purpose of PERMITTEE installing and maintaining a backlighted direct-telephone display system ("System") in a portion of the lobby of the Montgomery Field Airport's Terminal Building herein called "PREMISES", with the following terms and conditions:

1. **PREMISES:** The PREMISES consists of City-owned property described as a portion of the lobby in the Montgomery Field Terminal Building, located in the City of San Diego and County of San Diego, as shown on Exhibit "A" hereof, which by this reference shall be included as part of this permit.
2. **USE:** PERMITTEE is hereby granted the exclusive right to install and maintain a lighted, telephone display ("System") on the PREMISES for public use. "System" for the purpose of this permit shall include all auxiliary equipment required for installation and operation of the display and telephone.
3. **TERM:** This is a (1) one-year term permit, commencing on November 15, 1995 and terminating on November 14, 1996. However, provided PERMITTEE is in compliance with the terms and conditions of this permit, PERMITTEE may extend the term of this permit two (2) one-year periods, not to exceed a total permit term of three (3) years by requesting the extension(s) in writing to CITY within thirty (30) days prior to expiration of the permit term and paying its one-year permit fees as stated below in paragraph 4.
4. **NON-REFUNDABLE ANNUAL PERMIT FEES:** In consideration of this permit, PERMITTEE shall pay CITY a non-refundable annual permit fee in the amount of Two Hundred Fifty Dollars (\$250) on or before November 15, 1995 and on or before the fifteenth day of November in each one-year extension period. The fees shall be paid by U.S. currency or cashier's check, made payable to the City Treasurer. The annual permit fees are non-refundable except as allowed in Paragraph 20, herein. All payments are to be delivered to the following address or at another location specified by CITY:

Office of the City Treasurer
City of San Diego
P.O. Box 2289
San Diego, CA 92112-4165

5. **INDEMNITY:** PERMITTEE agrees to defend, indemnify, protect, and hold the CITY, its agents, officers, and employees harmless from and against any and all claims asserted or liability established for damages or injuries to any person or property, including injury to PERMITTEE's employees, invitees, guests, agents, or officers, which arise out of or are in any manner directly or indirectly connected with the development or operation of the permit area or the work and operations to be performed under this agreement, and all

expenses of investigating and defending against same; provided, however, that PERMITTEE's duty to indemnify and hold harmless shall not include any claims or liability arising from the established active negligence, sole negligence, or sole willful misconduct of the CITY, its agents, officers, or employees.

6. **INSURANCE:** PERMITTEE certifies that a policy of public liability, in which "the City of San Diego" is named as an additional insured, has been secured in an amount of not less than One Million Dollars (\$1,000,000) combined single limit liability with an occurrence claims form and that said policy shall be kept in force for the duration of this permit. A certificate of said insurance shall be filed with the City Real Estate Assets Department/Airports Division upon execution of this permit.
7. **TAXES, ASSESSMENTS AND FEES:** The terms of the Permit may result in the creation of a possessory interest. If such possessory interest is vested in a private party to this Permit, the private party may be subjected to payment of personal property taxes levied on such interest. PERMITTEE shall be responsible for the payment of, and shall pay before they become delinquent, all taxes, assessments and fees assessed or levied upon PERMITTEE or the area covered by the Permit or any interest therein, including, but not limited to buildings, structures, fixtures, equipment or other property installed or constructed thereon. PERMITTEE further agrees not to allow such taxes, assessments or fees to become delinquent, and as such to become a lien against the area covered by this Permit or any improvements thereto. Nothing herein contained shall be deemed to prevent or prohibit the PERMITTEE from contesting the validity or amount of any such tax assessment or fee in the manner authorized by law.
8. **NONDISCRIMINATION:** PERMITTEE agrees not to discriminate in any manner against any person or persons on account of race, color, religion, gender, sexual orientation, medical status, national origin, age, marital status, or physical disability in PERMITTEE's use of the permit area, including but not limited to the providing of goods, services, facilities, privileges, advantages, and accommodations, and the obtaining and holding of employment.
9. **SECURITY:** PERMITTEE shall be solely responsible for the security of its System, the premises and any damage to CITY-owned property caused from use, vandalism, theft or removal of its System from the premises.
10. **RELOCATION ASSISTANCE WAIVER:** PERMITTEE hereby acknowledges and agrees that PERMITTEE waives all rights to any form of relocation assistance provided for by Local, State or Federal law that PERMITTEE may be entitled to by reason of this permit.
11. **ASBESTOS DISCLOSURE.** CITY discloses to PERMITTEE that portions of the structural components of the premises do contain asbestos. PERMITTEE acknowledges having received notice from CITY of the presence of such asbestos in accordance with Health and Safety Code Section 25915. PERMITTEE shall disclose the existence of asbestos on the leased premises to any installers or repairmen, as required by Health and

Safety Code Section 25915. PERMITTEE agrees to indemnify and hold CITY harmless from any loss or claim which may result from the existence of asbestos on the leased premises. PERMITTEE shall not under any circumstances enter or disturb the ceiling area or otherwise cause asbestos exposure to anyone. Methods for installation and removal of all equipment shall be performed in a safe manner preapproved by the Airport's Operations Manager.

12. HAZARDOUS/TOXIC WASTE: PERMITTEE will not allow the installation or release of hazardous substances in, on, under, or from the premises. For the purposes of this provision, a release shall include but not be limited to any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leeching, dumping, or otherwise disposing of hazardous substances. "Hazardous substances: shall mean those hazardous substances listed by the Environmental Protection Agency in regularly released reports and any other substances incorporated into the State's list of hazardous substances. A copy of the presently effective EPA and State lists is on file in the Office of the City Clerk as Document 769704 and by this reference is incorporated herein.

In the event of any release of a hazardous substance, PERMITTEE shall be responsible for all costs of remediation and removal of such substances in accordance with applicable rules and regulations of governmental authorities.

PERMITTEE agrees to assume the defense of, indemnify, and hold CITY harmless from any and all claims, costs, and expenses related to environmental liabilities resulting from PERMITTEE'S operations on the premises, including but not limited to costs of environmental assessments, costs of remediation and removal, any necessary response costs, damages for injury to natural resources or the public, and costs of any health assessment or health effect studies.

If PERMITTEE knows or has reasonable cause to believe that any hazardous substance has been released on or beneath the premises, PERMITTEE shall give written notice to the City Manager within ten (10) days of receipt of such knowledge or cause for belief. Provided, however, if PERMITTEE knows or has reasonable cause to believe that such substance is an imminent and substantial danger to public health and safety, PERMITTEE shall notify the City Manager immediately upon receipt of this knowledge or belief and shall take all actions necessary to alleviate such danger. PERMITTEE will notify the City Manager immediately of any notice of violation received or initiation of environmental actions or private suits relative to the premises. In addition, PERMITTEE and PERMITTEE'S sublessees shall not utilize or sell any hazardous substance on the property without the prior written consent of CITY.

13. OTHER REGULATIONS: All use of Airport property under this Permit shall be in accordance with the laws of the United States of America, the State of California and the Rules and Regulations promulgated by their authority with reference to aviation and air navigation and in accordance with all applicative rules and regulations and ordinance of the City of San Diego now in force, or thereafter prescribed or promulgated by resolution

or ordinance or by State or Federal Law.

14. **UTILITIES:** CITY shall pay for reasonable use of electricity used, as determined by the sole discretion of the CITY. PERMITTEE shall pay the cost of phone service and any other costs for installation repair, use, and removal of the System. PERMITTEE shall obtain all permits and licenses required by local, state or Federal agencies at his expense. All costs shall be paid when due.
15. **MAINTENANCE:** PERMITTEE shall routinely inspect the System, to make any necessary repairs and to clean the System. A current 24-hour service phone number will be posted on the display for the purpose of reporting any malfunctions of the System. PERMITTEE shall service the System within 48 hours or replace the System within one week, as necessary, from notification of the malfunction.

Failure to maintain the System in good operative order as required herein will be cause for early termination of this permit by CITY.

16. **OWNERSHIP OF EQUIPMENT:** The System shall remain the property of PERMITTEE at all times. Prior to expiration of this agreement, PERMITTEE shall remove the System and restore the permit area to its original condition at its expense.
17. **ASSIGNMENT OR SUBLETTING:** PERMITTEE shall not assign its interest in this permit or sublet all or any portion of the permit area without the prior written consent of the Airport's Deputy Director, which shall not be unreasonably withheld. The Sublessee or Assignee must meet normal CITY qualification requirements including good credit rating, good references and reasonable proof of ability to perform the terms and conditions of this permit. The CITY may also charge PERMITTEE its standard fee for authorizing a sublease or assignment.
18. **OPERATION PERMIT:** The CITY requires that certain businesses, located off the airport, that come onto the airport to conduct business purchase an annual operation permit. PERMITTEE should refer businesses intending to advertise on it's System to the Airport Assets Manager to determine if an operation permit is required.
19. **SECURITY DEPOSIT:** PERMITTEE shall deposit with CITY a cash security deposit in the sum of Five Hundred Dollars (\$500) on or before the commencement date of this permit. All or any portion of the principal sum shall be available unconditionally to CITY for correcting any default or breach of the permit by PERMITTEE successors or assigns, or for payment of expenses incurred by CITY as a result of PERMITTEE'S failure to faithfully perform all terms, covenants, and conditions of this permit.

PERMITTEE will maintain the required security deposit throughout the permit term including any extensions and for ninety (90) days thereafter unless previously released by CITY. Failure to do so shall be considered a default and is grounds for immediate termination of this permit.

termination of this permit.

In the event CITY utilizes all or any portion of the security deposit. PERMITTEE shall reimburse the deposit within ten (10) days of notice from CITY to bring the security deposit up to the full specified amount.

Any unused security deposit will be returned to PERMITTEE within ninety (90) days following expiration or termination of this permit, provided PERMITTEE has faithfully complied with all terms, covenants, and conditions hereof.

20. EARLY TERMINATION: CITY and PERMITTEE herein mutually agree that CITY may terminate this permit early for the purpose of remodeling the premises by serving PERMITTEE with a prior 90-day written notice. Should CITY exercise it's right to terminate the permit early, as provided in this paragraph, CITY shall prorate the annual permit fee as of the termination date and refund any remaining unused balance of the paid annual permit fee to PERMITTEE.

IN WITNESS HEREOF, this PERMIT AGREEMENT is executed by CITY acting by an through its City Manager and by PERMITTEE, acting by and through its lawful, authorized designee.

THE CITY OF SAN DIEGO

Date: 10/25/95

By: RJ Collins
Acting Director, Real Estate Assets

PERMITTEE: SELECTACALL of Southern California

Date: 10-24-95

By: Joe E. Beyer

APPROVED as to form and legality this 30 day of Oct., 1995.

JOHN W. WITT, City Attorney

By: [Signature]
Chief Deputy City Attorney

(a:selecall.pmt)

AIRCRAFT PARKING

AIRCRAFT PARKING

"SITE PLAN"

ENTRANCE

← PREMISES

MONTGOMERY
FIELD
AIRPORT
OPERATIONS

CITY OF SAN DIEGO
AIRPORT NOISE
ABATEMENT OFFICE

SUITE
"B"

SUITE
"A"

CONFERENCE ROOM

AIRPORT LOBBY

ENTRANCE

SUITE
"E"

SUITE
"D"

SUITE
"C"

VENDING
MACHINES

ENTRANCE

(3750)

JOHN J. MONTGOMERY DRIVE

EXHIBIT "A"

Permit AREA COVERING 48' x 36' ON
The NORTHWEST WALL of Lobby