

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

LEASE AGREEMENT

THIS LEASE AGREEMENT (“Lease”) is made and entered into this 9<sup>th</sup> day August, 2022, by and between FRESNO-AIR LTD, a California Limited Partnership, 8050 N. Palm Ave., Suite 300, Fresno, CA 93711 (“LESSOR”), and the COUNTY OF FRESNO, a Political Subdivision of the State of California, 333 W. Pontiac Way, Clovis, CA 93612 (“LESSEE”). LESSOR and LESSEE may be referred to in this Lease individually as a “Party” or collectively at times as the “Parties”.

1. LEASED PREMISES - LESSOR hereby leases to LESSEE office space consisting of approximately 38,921 square feet as shown on Exhibit “A”, attached and incorporated by this reference, together with approximately 201 parking spaces, at the location commonly known as 2719 N. Air Fresno Drive, Suite 107, Fresno, CA 93727 (hereinafter "Premises" or “Project”).

2. TERM -The term of this LEASE shall be for two (2) years (“Initial Term”) commencing on October 1, 2022 (the “Effective Date”), and shall end on September 30, 2024.

Notwithstanding any other provisions of this Lease, following the expiration of the Initial Term, this Lease shall continue on a month-to-month basis (“Month-to-Month Term”), subject to all the terms and conditions herein, until LESSEE provides thirty (30) days’ prior written notice to terminate this Lease, or LESSOR provides thirty (30) days’ prior written notice to terminate this Lease. As to the LESSEE, the Director of Internal Services/Chief Information Officer or their designee, shall be authorized to deliver such written notice of termination.

Upon the delivery of a termination notice by one Party to the other, both Parties shall schedule a walkthrough of the Premises, to occur no later than 14 days before the termination date, to review the condition of the Premises for handover of possession.

3. RENT – LESSEE’s obligations to pay rents and any other amounts due under the Agreement shall be subject to LESSEE’s constitutional debt limitation (Article XVI, Section 19 of the California Constitution). From and after the Effective Date and throughout the Initial Term, and through any potential Month-to-Month period following the Initial Term, LESSEE shall pay to LESSOR without offset, demand or prior notice, rent (“Rent”) for the Premises on or before the first of each month, according to the following schedule:

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

Lease Term	Rent Per Month
Year One	\$34,536.93
Year Two	\$35,227.67
Month-to-Month	\$35,932.22

In addition to the Rent, LESSEE shall pay to LESSOR an amount of \$8,173.41 (\$0.21 per square foot) per month for LESSOR's Operating Costs, as described in Section 6. Herein, for the first year of the Initial Term.

4. UTILITIES – LESSEE is responsible to pay for only electricity, natural gas, telephone and internet services for the Premises.

5. USE - LESSEE shall use the Premises as office space by the Department of Behavioral Health or any other County department or authorized agent. LESSEE agrees to comply with all applicable laws, ordinances and regulations in connection with such use.

LESSOR covenants that the Premises are suitable for the intended use. LESSOR further covenants that the Premises shall be in compliance with all applicable laws, ordinances and regulations, including but not limited to safety regulations, health and building codes.

6. OPERATING COST – LESSOR, at LESSOR's sole cost and expense, shall maintain and keep the Premises in good order, condition, and repair and in good sanitary condition, including, but not limited to the following expenses (collectively, "Operating Costs"):

- a) Premises Operating Cost, including:
  - Property Taxes
  - Property Insurance
  - Contract Services (Landscaping, Pest Control, etc.)
  - Property Management
  - Project Repairs
  - Project Common Area Utilities
- b) Premises Maintenance Cost, including:
  - all exterior and interior maintenance as needed due to normal wear and tear;
  - air conditioning systems and units, heating systems and units, plumbing systems and units, fire sprinkler/suppression systems and units, smoke alarm/fire detection systems, electrical system and units, lighting systems and units, roof, landscape, parking lot/area, parking lot lighting, and common area;
  - all landscaping and landscaping irrigation systems;
  - bird control and pest control;
  - water systems, sewer systems, and garbage systems;
  - structural condition of the building(s) and structures located on the Premises; and,

- 1 • all exterior and interior painting of the Premises as needed due to normal wear and tear; and,
- 2 • graffiti abatement that includes immediately removing graffiti or other defacements from the Premises.

3  
4 LESSOR agrees that the Premises will always be maintained and repaired in a condition  
5 acceptable for LESSEE'S intended use of the Premises. LESSOR covenants, warrants, and  
6 represents that the Premises shall be maintained in substantially the same condition as existed  
7 on Delivery of Possession.

8 The Operating Cost shall be \$8,173.41 (\$0.21 per square foot) per month for the first year  
9 of the Initial Term. Upon agreement of the Parties, the Operating Cost may be adjusted  
10 annually thereafter based on LESSOR's prior year's actual cost to maintain and keep the  
11 Premises in substantially the same condition as it shall have existed on Delivery of Possession.

12 Within 30 days of the anniversary of the Effective Date, LESSOR shall deliver to LESSEE  
13 for review and approval, a statement, with invoices, documenting the prior year's actual  
14 Operating Costs ("Operating Cost True-Up"). The amount on the Operating Cost True Up shall  
15 be divided by twelve, and shall be used for the next year's monthly Operating Costs. In no  
16 event shall any annual increase in Operating Costs exceed five percent (5%) over the prior  
17 year's amount. If LESSOR's actual Operating Cost for the prior year is less than the cost paid  
18 that year by LESSEE, then LESSOR shall issue a refund to LESSEE within 45 days of  
19 producing the Operating Cost True Up, and the Operating Cost of the succeeding year will be  
20 adjusted to LESSOR's actual Operating Cost for that prior year. If LESSOR's actual Operating  
21 Cost for the prior year was greater than the Operating Cost paid by LESSEE for that year, then  
22 within 45 days of receiving an approved statement, LESSEE shall pay to the LESSOR the  
23 difference between those two sums, but the amount LESSEE pays shall not exceed a five  
24 percent (5%) increase on any Operating Cost for that prior year. LESSEE's payment of any  
25 Operating Cost shall be prorated for any partial months of the LEASE term. Any adjustments  
26 to Operating Cost shall not be a limitation on LESSOR's obligation to maintain and repair the  
27 Premises pursuant to terms and conditions of the LEASE.

28 7. JANITORIAL SERVICES AND COST – LESSEE, at LESSEE's sole cost and

1 expense, shall be responsible for janitorial services and supplies at the Premises.

2 8. TENANT IMPROVEMENTS TO THE PREMISES – LESSEE, at its sole cost and  
3 expense, shall provide all labor, material and equipment for the installation of demountable  
4 walls, modular furniture, and electrical work as necessary, as shown on Exhibit “B”. It is agreed  
5 upon by both parties that all upon the termination or expiration of this LEASE, all demountable  
6 walls installed in the premises by LESSEE shall remain with the Premises and shall become  
7 the property of the LESSOR.

8 9. INDEPENDENT CONTRACTOR - In performance of the work, duties and obligations  
9 assumed by LESSOR under this LEASE, it is mutually understood and agreed that LESSOR,  
10 including any and all of the LESSOR'S officers, agents, and employees will at all times be acting  
11 and performing as an independent contractor, and shall act in an independent capacity and not as  
12 an officer, agent, servant, employee, joint venturer, partner, or associate of the LESSEE.  
13 Furthermore, LESSEE shall have no right to control or supervise or direct the manner or method  
14 by which LESSOR shall perform its work and function. However, LESSEE shall retain the right to  
15 administer this LEASE so as to verify that LESSOR is performing its obligations in accordance  
16 with the terms and conditions thereof.

17 LESSOR and LESSEE shall comply with all applicable provisions of law and the rules  
18 and regulations, if any, of governmental authorities having jurisdiction over matters the subject  
19 thereof.

20 Because of its status as an independent contractor, LESSOR shall have absolutely no  
21 right to employment rights and benefits available to LESSEE employees. LESSOR shall be  
22 solely liable and responsible for providing to, or on behalf of, its employees all legally-required  
23 employee benefits. In addition, LESSOR shall be solely responsible and save LESSEE  
24 harmless from all matters relating to payment of LESSOR'S employees, including compliance  
25 with Social Security withholding and all other law and regulations governing such matters. It is  
26 acknowledged that during the term of this LEASE, LESSOR may be providing services to  
27 others unrelated to the LESSEE or to this LEASE.

28 10. COMPLIANCE WITH ALL LAWS – As to the Premises, LESSOR shall comply

1 with, and shall ensure compliance by all contractors and subcontractors with, all applicable  
2 laws and regulations, including the payment of prevailing wages pursuant to Section 1770  
3 et.seq. of the Labor Code.

4 For any portion of any of LESSOR's work, service, and/or function (including, but not  
5 limited to, any construction, alteration, installation, demolition, repair, or maintenance work), to be  
6 performed, either directly or under any agreements with any contractors and/or suppliers  
7 (including their respective sub-contractors at any tier) or otherwise, with respect to the Premises in  
8 relation to this Lease, (collectively, the "Work"), that is a "public work" for the purposes of Chapter  
9 1 (commencing with § 1720) of Part 7 of Division 2 of the California Labor Code (collectively,  
10 "Chapter 1 of the Labor Code"), (i) LESSOR shall comply with, and cause all such contractors  
11 and/or suppliers (including their respective sub-contractors at any tier) to comply with, all  
12 applicable provisions of Chapter 1 of the Labor Code with respect to the Work, and (ii) prior to  
13 causing any Work to be performed under any agreements with any contractors and/or suppliers,  
14 or otherwise, LESSOR shall incorporate all of the provisions of this Section 10 into such  
15 agreements.

16 LESSOR shall promptly provide a copy to LESSEE of any correspondence, notices,  
17 and/or orders, in any written form, and/or any documents initiating legal action (collectively, "DIR  
18 Administrative or Legal Action") by or on behalf of the Director of the Department of Industrial  
19 Relations of the State of California, including any representative thereof (collectively, the "DIR") to  
20 or against LESSOR, and LESSOR's written responses, in any written form, thereto, that relate to  
21 any Work, or any portion thereof, provided however, LESSOR's provision of such copy of any DIR  
22 Administrative or Legal Action, and/or LESSOR's responses thereto, or failure to provide same or  
23 to timely provide same, shall not impose any obligation upon LESSEE with respect to LESSOR's  
24 obligations under this Section 10. LESSOR acknowledges that the DIR provides the following  
25 internet resource: <https://www.dir.ca.gov/OPRL/DPreWageDetermination.htm>

26 LESSEE does not make any representation, or provide any guidance, to LESSOR as to (i)  
27 the nature, type, or scope of the Work, or any portion thereof, to be performed by LESSOR, either  
28 directly or under any agreements with any contractors and/or suppliers (including their respective

1 sub-contractors at any tier), that constitutes a "public work," or (ii) the sufficiency of the DIR's  
2 internet resource, above, for purposes of compliance with this Section 10.

3 11. BREACH OF OBLIGATION TO MAINTAIN - In the event LESSOR breaches its  
4 obligation to maintain the Premises as herein provided, LESSEE shall give written notice to  
5 LESSOR within fifteen (15) days of the discovery of such breach. LESSOR shall then have  
6 thirty (30) days from the date of notice to cure its breach, provided, however, that if the item of  
7 maintenance is of such a nature that it requires more than thirty (30) days to complete, then  
8 LESSOR shall have such additional time as is necessary to complete such maintenance as  
9 long as LESSOR commences work on such maintenance within said thirty (30) day period and  
10 diligently prosecutes such maintenance to completion. Subject to the foregoing, if the period  
11 for cure expires and if, in LESSEE'S reasonable determination, LESSOR has failed to cure,  
12 then LESSEE may, at its election:

- 13 A. Terminate this LEASE upon thirty (30) days written notice to LESSOR. In  
14 such case, LESSEE shall have the right to demand LESSOR refund any  
15 monies which were paid to LESSOR pursuant to the LEASE but which were  
16 not earned by LESSOR by consequence of its breach. Upon receipt of such  
17 demand, LESSOR shall promptly refund all such monies; or  
18 B. Cure LESSOR'S breach and deduct the cost of such cure, together with  
19 reasonable administrative costs, from LESSEE'S future rent obligation.  
20 LESSEE'S decision to cure LESSOR'S breach shall not constitute a waiver  
21 of any rights or remedies that LESSEE may have arising from this LEASE or  
22 by operation of law.

23 If LESSOR's failure to maintain the Premises is of an urgent nature, and impairs LESSEE's ability  
24 to conduct its business operations, or occupy the Premises, then LESSOR shall have five (5)  
25 business days from notification of the breach to repair the Premises so that LESSEE may resume  
26 operations. If LESSOR fails to satisfactorily perform such repairs, then LESSEE may cure the  
27 default and deduct the cost from the next month's rent.

28 12. ABATEMENT OF RENT AND OTHER PAYMENTS DUE TO CASUALTY,

1 CONDEMNATION, PROHIBITED USE, OR TITLE DEFECT

2 A. Abatement – Notwithstanding anything to the contrary in this Lease, (i)  
3 LESSEE’s obligations to pay Rent, and/or any other amounts otherwise due  
4 and payable to LESSOR, shall be abated during any period, and to the extent,  
5 that the Premises, or any portion thereof (in the case of an affected portion of  
6 the Premises, then, such abatement shall also be in proportion thereof), cannot  
7 be used and occupied by LESSEE pursuant to this Lease as a result of any  
8 Casualty with respect to the Premises, or any portion thereof, any title defect,  
9 or of any Condemnation or Prohibited Use of the Premises, or any portion  
10 thereof, and (ii) any abatement of Rent, and/or any other amounts otherwise  
11 due and payable to LESSOR shall not be deemed to be a default under this  
12 Lease on the part of LESSEE.

13 B. Period of Abatement – Abatement of any Rent and/or any other amounts  
14 otherwise due and payable to LESSOR shall only suspend the period during  
15 which LESSEE is otherwise required to pay Rent and/or any other amounts  
16 otherwise due and payable to LESSOR. This shall not relieve LESSEE from its  
17 duty to pay Rent, and/or any other amounts otherwise due and payable to  
18 LESSOR pursuant to this Lease once the condition giving rise to the  
19 abatement has been cured, corrected, eliminated, or satisfactorily resolved.  
20 Such abatement shall continue for the period commencing with the date of  
21 such title defect, or of any Casualty, Condemnation, or Prohibited Use of the  
22 Premises, or any portion thereof, and ending with the cure, correction,  
23 elimination or satisfactory resolution of the title defect, Casualty,  
24 Condemnation, or Prohibited Use of the Premises, whereby LESSEE may use  
25 and occupy the Premises, or the adversely affected portion thereof, pursuant to  
26 this Lease. Cure, correction, elimination or satisfactory resolution may, upon  
27 prior mutual written approval of LESSOR and LESSEE (which the parties will  
28 negotiate in good faith and without unreasonable delay), occur in commercially

1 reasonable stages, as determined by the nature of the problem being  
2 remedied and the impact that such staged remedial action and the  
3 coordination and timing thereof would have on LESSEE. LESSEE's Director of  
4 Internal Services/CIO, or his/her designee, shall be authorized to execute such  
5 written approval for LESSEE.

6 C. Rent – During this period of abatement, LESSEE shall only pay Rent,  
7 and/or any other amounts otherwise due and payable to LESSOR for the  
8 portion of the Premises that LESSEE is able to use and occupy.

9 D. Rental Interruption or Loss Insurance – During the occurrence of any  
10 Casualty that is covered by rental interruption insurance or rental loss  
11 insurance in Section 16, herein, the proceeds of any rental interruption  
12 insurance or rental loss insurance that LESSOR may receive as a result of  
13 such Casualty shall be applied by LESSOR, to the credit of LESSEE, for the  
14 Rent; LESSOR shall so inform LESSEE of any such amounts so received.

15 13. TERMINATION – LEASE may be terminated if any of the following occur :

16 A. LESSEE may terminate this LEASE if LESSOR has materially breached any  
17 obligation stated in this LEASE.

18 B. LESSOR may terminate this LEASE, if LESSEE has materially breached  
19 any obligation of LESSEE stated in this LEASE.

20 C. NON-FUNDING TERMINATION - This LEASE is contingent on the  
21 allocation of funds by a governmental agency. Should funds not be  
22 allocated, this LEASE may be terminated by the Board of Supervisors by  
23 giving at least thirty (30) days prior written notice to LESSOR. LESSEE  
24 shall pay to LESSOR, within forty-five (45) days after the LEASE termination  
25 date, any unpaid accrued rent due LESSOR.

26 D. NO ACCELERATION OF FUTURE RENT OR OTHER  
27 PAYMENTS/AMOUNTS – Notwithstanding anything to the contrary  
28 contained herein this LEASE or any right or remedy of which LESSOR may  
otherwise avail itself pursuant to applicable law, any right of LESSOR to

1 recover any Rent as provided in this Lease shall be without acceleration of  
2 any future Rent before it is due and payable hereunder. LESSOR hereby  
3 expressly waives its right to accelerate Rent in the event of a termination of  
4 this Lease, pursuant to California Civil Code section 1951.2.

5 Except in the event LESSEE terminates pursuant to Section C. NON-FUNDING  
6 TERMINATION above, if either LESSOR or LESSEE chooses to terminate this LEASE as  
7 provided herein, then: (a) written notice of such termination shall be provided to the other party,  
8 and (b) where required by this LEASE, such notice shall specify the reason for termination and,  
9 (c) unless otherwise provided in this LEASE, such notice shall have an effective a date of  
10 termination of not less than ninety (90) days from the date of such notice.

11 In case of any termination of this LEASE by LESSEE, either the County Administrative  
12 Officer, or the Director of Internal Services/Chief Information Officer, or the Director of the  
13 Department of Social Services, or one of their designees, is authorized to provide such notice  
14 to terminate this LEASE.

15 14. DESTRUCTION OR DAMAGE FROM CASUALTY - If the Premises are damaged  
16 or destroyed as a result of fire, earthquake, act of God, or any other identifiable event of a  
17 sudden, unexpected, or unusual nature (hereinafter "Casualty"), then LESSOR shall either  
18 promptly and diligently repair the damage at is own cost, or terminate this LEASE as  
19 hereinafter provided.

20 A. LESSOR'S Election to Repair: If LESSOR elects to repair the Casualty  
21 damage to the Premises, then it shall within thirty (30) days after the date of  
22 Casualty provide written notice (hereinafter "Notice of Repair") to LESSEE  
23 indicating the anticipated time required to repair. LESSOR shall bear the  
24 cost of all repairs to the Premises, including the cost to repair any alterations  
25 or fixtures installed or attached thereto by LESSEE. Such repairs shall  
26 restore the Premises to substantially the same condition as that existing at  
27 the time of Casualty; such repairs shall also be made in compliance with all  
28 applicable state and local building codes. LESSOR shall not be liable to  
LESSEE for compensation for any loss of business, or any inconvenience or

1 annoyance arising from repair of the Premises as a result of the Casualty  
2 except for rent reduction as hereinafter provided. LESSEE shall be  
3 responsible at its sole cost and expense for the replacement of its personal  
4 property.

5 B. LESSOR'S Election to Terminate Due to Casualty: LESSOR may only elect  
6 to terminate the LEASE due to Casualty if: the Premises have been  
7 destroyed or substantially destroyed by said Casualty; and the estimated  
8 time to repair the Premises exceeds ninety (90) days from the date of the  
9 Casualty. LESSOR shall provide LESSEE with written notice of its election  
10 to terminate within thirty (30) days after the date of Casualty, specifying a  
11 termination date not less than thirty (30) days from the date of said notice.

12 C. Rent Reduction Due to Casualty: In the event of Casualty, LESSEE'S  
13 obligation to pay the rent shall be reduced beginning on the date of the  
14 Casualty. Such reduction shall be proportional to the damage caused to the  
15 Premises by the Casualty as mutually determined by LESSEE and  
16 LESSOR. If LESSOR elects to repair the Premises pursuant to the terms of  
17 this LEASE, then the rent reduction shall continue until the date of  
18 substantial completion of repair.

19 D. LESSEE'S Election to Terminate Due to Casualty: If LESSEE does not  
20 receive a Notice of Repair from LESSOR within thirty (30) days after the  
21 Casualty, or if the anticipated period of repair contained in the Notice of  
22 Repair exceeds ninety (90) days, then LESSEE may elect to terminate this  
23 LEASE. LESSEE shall provide LESSOR with written notice of its election to  
24 terminate this Lease, specifying a termination date not less than thirty (30)  
25 days from the date of said notice. In such case, LESSEE shall have the right  
26 to demand that LESSOR refund any monies which were paid to LESSOR  
27 pursuant to the LEASE but which were not earned by LESSOR by  
28 consequence of the Casualty. Upon receipt of such demand, LESSOR shall

1 promptly refund all such monies.

2 15. HOLD HARMLESS - LESSOR will indemnify, defend, and hold LESSEE  
3 harmless from and against any and all liabilities, claims, demands, actions, proceedings, costs  
4 (including attorney's fees and costs), expenses or damages of any kind or nature and in any  
5 manner directly or indirectly caused, occasioned or contributed to by reason of the negligence,  
6 whether active or passive, or omissions of LESSOR or anyone acting under its direction or  
7 control or on its behalf in connection with or incidental to the performance of this LEASE.

8 The parties acknowledge that as between LESSOR and LESSEE, each is responsible  
9 for the negligence of its own employees and invitees.

10 The provisions of this Section 15 shall survive termination or expiration of this LEASE.

11 16. INSURANCE - LESSOR shall maintain in full force and effect during the term of  
12 this LEASE the following policies of insurance:

13 A. Commercial General Liability – Commercial General Liability insurance with  
14 limits of not less than Two Million Dollars (\$2,000,000) per occurrence and  
15 an annual aggregate limit of not less than Four Million Dollars (\$4,000,000).

16 This policy shall be issued on an occurrence basis. LESSOR shall add  
17 LESSEE as an additional insured.

18 B. Property Insurance – Against all risk of loss to property, at full replacement  
19 cost with no coinsurance penalty provision.

20 C. Rental Loss Insurance – A policy of rental interruption or rental loss  
21 insurance against loss, total or partial, of the use and occupancy of the  
22 Premises, in an amount sufficient to pay Rent hereunder for a twenty-four  
23 (24) month period, as a result of the hazards covered by the insurance  
24 policy required under Section 15(B), herein.

25 D. Worker's Compensation - A policy of Worker's Compensation insurance as  
26 may be required by the California Labor Code.

27 E. Lessor may recover the cost of this insurance in accordance with Paragraph  
28 6, hereinabove.

1           Within thirty (30) days of the execution of this LEASE, LESSOR shall provide LESSEE  
2 with certificates of insurance with proper endorsements naming the LESSEE as the additional  
3 insured. The policy is to be written by an admitted insurer licensed to do business in California  
4 and with an A.M. Best rating of A FSC VII or better. A Certificate of Insurance confirming the  
5 insurance coverage as described in this Section shall be mailed to: County of Fresno, Internal  
6 Services, Attn: Lease Services (L-298), 333 W. Pontiac Way, Clovis, CA 93619.

7           LESSEE shall maintain during the term of this LEASE the following policies of  
8 insurance, which coverages may be provided in whole or in part through one or more programs  
9 of self-insurance:

10           A. Commercial General Liability insurance with limits of not less than Two Million  
11           Dollars (\$2,000,000) per occurrence and an annual aggregate of not less than  
12           Four Million Dollars (\$4,000,000). This policy shall be issued on an occurrence  
13           basis and LESSEE shall add LESSOR as an additional insured.

14           B. All-Risk property insurance covering the personal property of LESSEE.

15           17. SURRENDER OF POSSESSION - Upon the expiration or termination of this  
16 LEASE, LESSEE will surrender Premises to LESSOR in such condition as existing at the  
17 commencement of this LEASE, less reasonable wear and tear, less the effects of any Casualty  
18 as herein defined, and less the effects of any breach of LESSOR'S covenant to maintain.  
19 LESSEE will not be responsible for any damage which LESSEE was not obligated hereunder  
20 to repair.

21           18. FIXTURES - LESSOR agrees that any equipment, fixtures or apparatus installed  
22 in or on the Premises by LESSEE shall continue to be the property of LESSEE and may be  
23 removed by LESSEE at any time. LESSOR agrees that modular furniture shall be considered  
24 fixtures under this LEASE. LESSEE shall pay for the repair of any damage caused by the  
25 removal of fixtures. Any fixtures not removed after LESSEE surrenders possession shall  
26 become the property of LESSOR.

27           19. RIGHT OF ENTRY - LESSOR, or its representative(s), upon twenty-four (24) hour  
28 notice, shall have the right to enter the Premises at any time during business hours, or at such

1 other time as LESSEE deems appropriate, to make any alterations, repairs or improvements to  
2 the Premises. The normal business of LESSEE or its invitees shall not be unnecessarily  
3 inconvenienced. In the event of an emergency, LESSOR may enter the Premises at any time  
4 without giving prior notice to LESSEE.

5 20. AMENDMENT - This LEASE may be amended in writing by the mutual consent of  
6 the parties without in any way affecting the remainder.

7 21. NON-ASSIGNMENT - LESSEE shall not assign or transfer its rights or obligations  
8 under this LEASE, or sub-lease said Premises or any portion thereof, without the prior written  
9 consent of the LESSOR.

10 22. GOVERNING LAW - Venue for any action arising out of or relating to this LEASE  
11 shall be in Fresno County, California. This LEASE shall be governed by the laws of the State  
12 of California.

13 23. NOTICES - The persons and their addresses having authority to give and receive  
14 notices under this Lease including the following:

15 LESSEE:

16 County of Fresno (L-298)  
17 Director of Internal Services/CIO  
333 W. Pontiac Way  
18 Clovis, CA 93612  
FAX: (559) 600-5927

LESSOR:

Fresno Air, LTD  
c/o Russell G. Smith, Inc.  
8050 N. Palm Ave., Suite 300  
Fresno, CA 93711

19 All notices between the LESSEE and the LESSOR provided for or permitted under this Lease must  
20 be in writing and delivered either by personal service, by first-class United States mail, by an  
21 overnight commercial courier service, or by telephonic facsimile transmission. A notice delivered  
22 by personal service is effective upon service to the recipient. A notice delivered by first-class  
23 United States mail is effective three LESSEE business days after deposit in the United States mail,  
24 postage prepaid, addressed to the recipient. A notice delivered by an overnight commercial courier  
25 service is effective one LESSEE business day after deposit with the overnight commercial courier  
26 service, delivery fees prepaid, with delivery instructions given for next day delivery, addressed to  
27 the recipient. A notice delivered by telephonic facsimile is effective when transmission to the  
28 recipient is completed (but, if such transmission is completed outside of LESSEE business hours,

1 then such delivery shall be deemed to be effective at the next beginning of a LESSEE business  
2 day), provided that the sender maintains a machine record of the completed transmission. For all  
3 claims arising out of or related to this Lease, nothing in this section establishes, waives, or  
4 modifies any claims presentation requirements or procedures provided by law, including but not  
5 limited to the Government Claims Act (Division 3.6 of Title 1 of the Government Code, beginning  
6 with section 810).

7 24. AUDITS AND INSPECTIONS – At LESSEE’s request, LESSOR shall at any time  
8 during business hours, and as often as the LESSEE may deem necessary, make available to  
9 the LESSEE for examination, records and data with respect to the matters covered by this  
10 Lease. The LESSOR shall, upon request by the LESSEE, permit the LESSEE to audit and  
11 inspect all of such records and data necessary to ensure LESSOR’S compliance with the terms  
12 of this Lease.

13 If this Lease exceeds ten thousand dollars (\$10,000.00), LESSOR shall be subject to  
14 the examination and audit of the California State Auditor for a period of three (3) years after  
15 final payment under contract (Government Code Section 8546.7).

16 25. COUNTERPARTS – This Lease may be executed in one or more counterparts  
17 (which may be facsimile or .pdf e-mail counterparts followed by originals), each of which will be  
18 deemed an original and all, taken together, will constitute one and the same instrument.

19 26. DISCLOSURE OF SELF DEALING TRANSACTIONS – This provision is only  
20 applicable if the LESSOR is operating as a corporation (a for-profit or non-profit corporation) or  
21 if during the term of this LEASE, the LESSOR changes its status to operate as a corporation.

22 Members of LESSOR’S Board of Directors shall disclose any self-dealing transactions  
23 that they are a party to while LESSOR is providing goods or performing services under this  
24 LEASE. A self-dealing transaction shall mean a transaction to which the LESSOR is a party  
25 and in which one or more of its directors has a material financial interest. Members of the  
26 Board of Directors shall disclose any self-dealing transactions that they are a party to by  
27 completing and signing a *Self-Dealing Transaction Disclosure Form* Exhibit “C”, attached  
28 hereto and by this reference incorporated herein, and submitting it to the County of Fresno

1 prior to commencing with the self-dealing transaction or immediately thereafter.

2 27. ELECTRONIC SIGNATURES – The parties agree that this Lease may be  
3 executed by electronic signature as provided in this section. An “electronic signature” means  
4 any symbol or process intended by an individual signing this Lease to represent their signature,  
5 including but not limited to (1) a digital signature; (2) a faxed version of an original handwritten  
6 signature; or (3) an electronically scanned and transmitted (for example by PDF document) of a  
7 handwritten signature. Each electronic signature affixed or attached to this Lease (1) is  
8 deemed equivalent to a valid original handwritten signature of the person signing this Lease for  
9 all purposes, including but not limited to evidentiary proof in any administrative or judicial  
10 proceeding, and (2) has the same force and effect as the valid original handwritten signature of  
11 that person. The provisions of this section satisfy the requirements of Civil Code section  
12 1633.5, subdivision (b), in the Uniform Electronic Transaction Act (Civil Code, Division 3, Part  
13 2, Title 2.5, beginning with section 1633.1). Each party using a digital signature represents that  
14 it has undertaken and satisfied the requirements of Government Code section 16.5, subdivision  
15 (a), paragraphs (1) through (5), and agrees that each other party may rely upon that  
16 representation. This Lease is not conditioned upon the parties conducting the transactions  
17 under it by electronic means and either party may sign this Lease with an original handwritten  
18 signature

19 28. FORCE MAJEURE - This section 28 shall only be effective up to the date of  
20 Delivery of Possession. Any prevention, delay or stoppage due to strikes, lockouts, labor  
21 disputes, acts of God, except with respect to the obligations imposed with regard to Rent and  
22 other charges to be paid by LESSEE pursuant to this LEASE (collectively, the "Force  
23 Majeure"), notwithstanding anything to the contrary contained in this LEASE, shall excuse the  
24 performance of such party for a period equal to any such prevention, delay or stoppage and,  
25 therefore, if this LEASE specifies a time period for performance of an obligation of either party,  
26 that time period shall be extended by the period of any delay in such party's performance  
27 caused by a Force Majeure.

28 29. ENTIRE LEASE - This LEASE constitutes the entire LEASE between the LESSOR

1 and LESSEE with respect to the subject matter hereof and supersedes all prior leases,  
2 negotiations, proposals, commitments, writings, advertisements, publications, and  
3 understandings of any nature whatsoever unless expressly referenced in this LEASE.

4 This LEASE shall be binding on and inure to the benefit of LESSOR'S heirs, successors,  
5 and assigns.

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

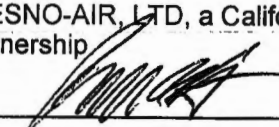
27

28

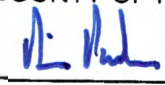
1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

EXECUTED as of the date first herein written.

**LESSOR:**  
FRESNO-AIR, LTD, a California Limited Partnership

By:   
\_\_\_\_\_  
Russell G. Smith, Managing Member of High Sierra Development, LLC, General Partner

**LESSEE:**  
COUNTY OF FRESNO

  
\_\_\_\_\_  
Brian Pacheco, Chairman of the Board of Supervisors of the County of Fresno

ATTEST:  
Bernice E. Seidel  
Clerk of the Board of Supervisors  
County of Fresno, State of California

By:   
\_\_\_\_\_  
Deputy

FOR ACCOUNTING USE ONLY:

ORG: 5630  
Account: 7340  
Fund: 0001  
Subclass: 10000

Exhibit A - Premises

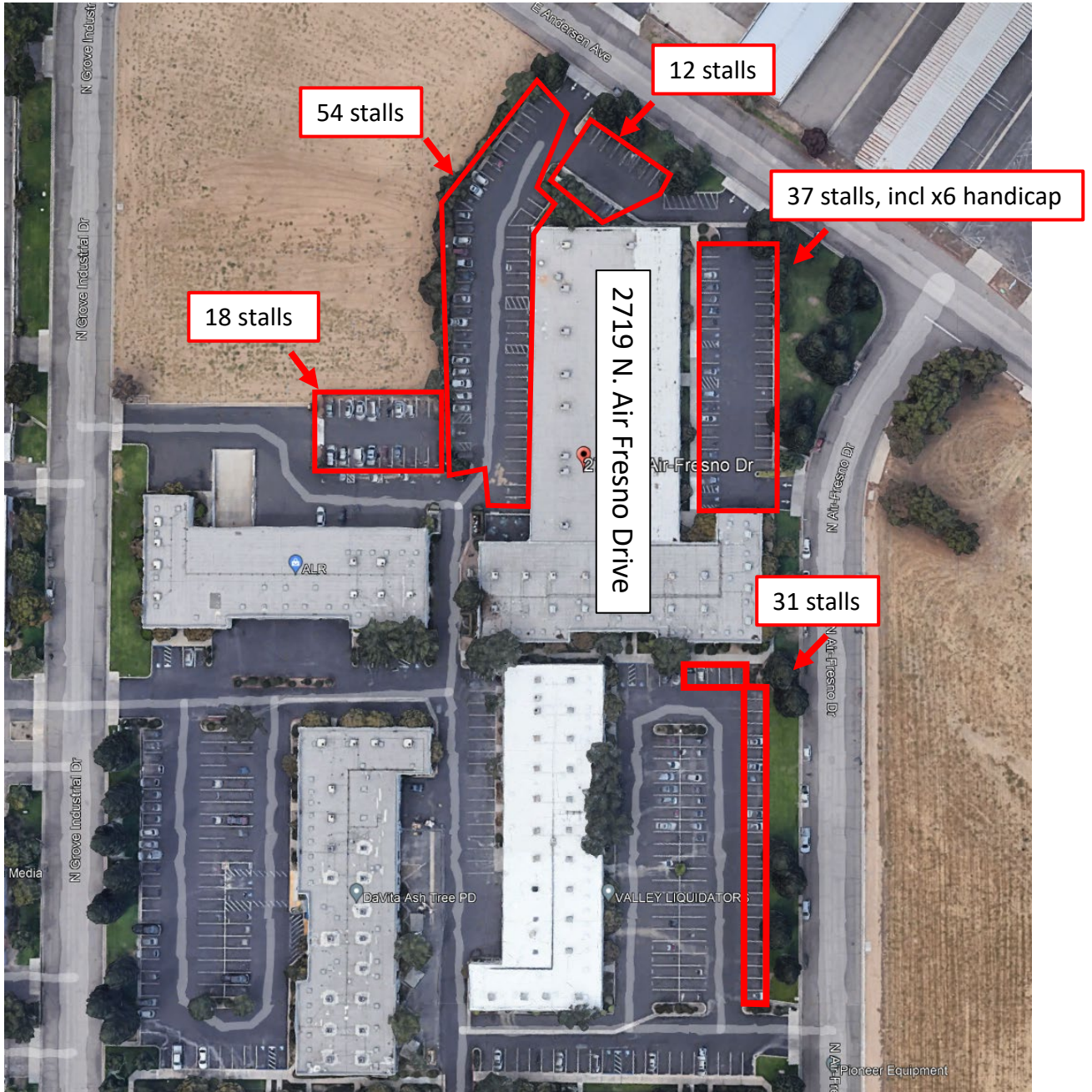


Exhibit B - Tenant Improvements

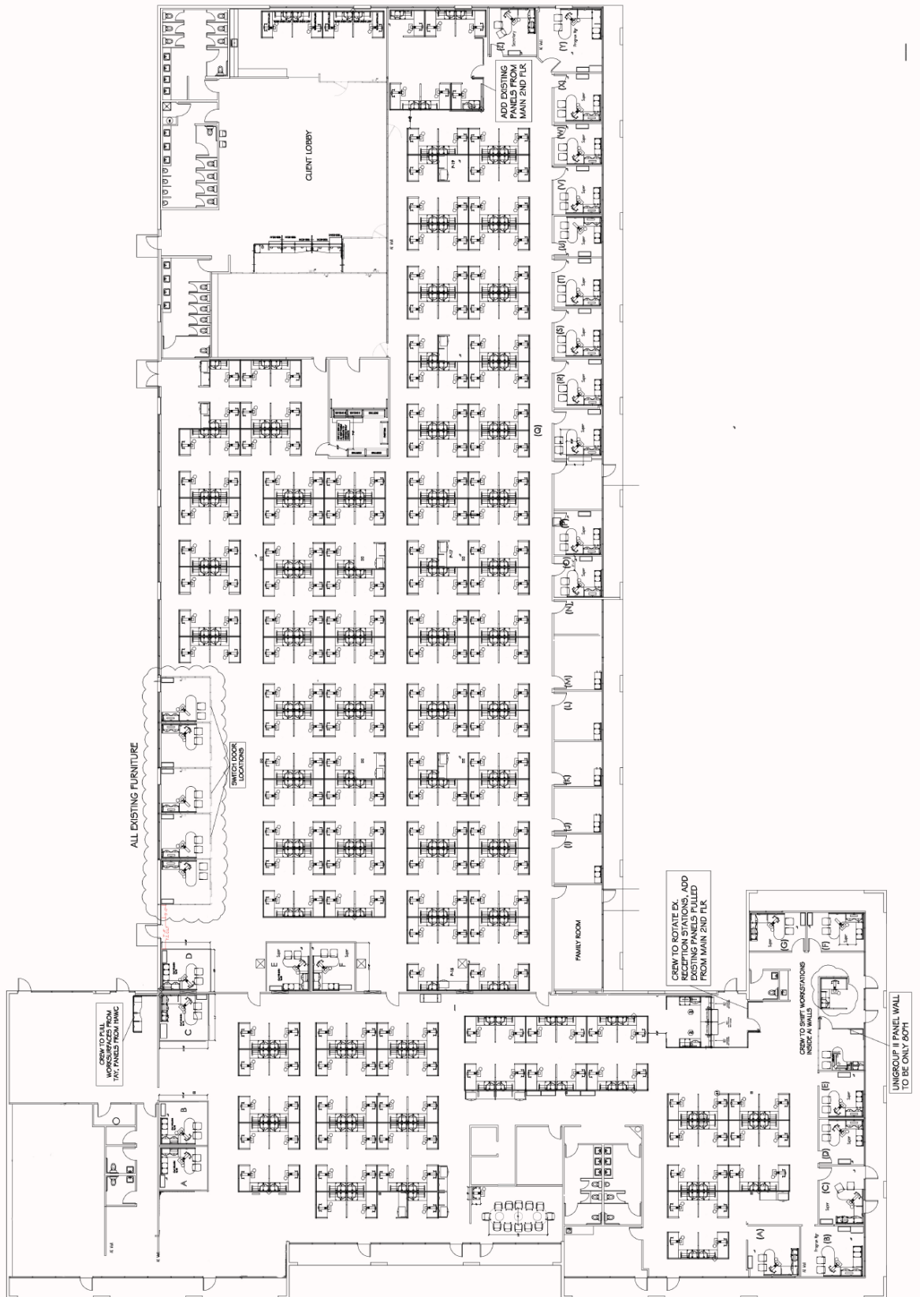


Exhibit C

## SELF-DEALING TRANSACTION DISCLOSURE FORM

In order to conduct business with the County of Fresno (hereinafter referred to as “County”), members of a contractor’s board of directors (hereinafter referred to as “County Contractor”), must disclose any self-dealing transactions that they are a party to while providing goods, performing services, or both for the County. A self-dealing transaction is defined below:

*“A self-dealing transaction means a transaction to which the corporation is a party and in which one or more of its directors has a material financial interest”*

The definition above will be utilized for purposes of completing this disclosure form.

### INSTRUCTIONS

- (1) Enter board member’s name, job title (if applicable), and date this disclosure is being made.
- (2) Enter the board member’s company/agency name and address.
- (3) Describe in detail the nature of the self-dealing transaction that is being disclosed to the County. At a minimum, include a description of the following:
  - a. The name of the agency/company with which the corporation has the transaction; and
  - b. The nature of the material financial interest in the Corporation’s transaction that the board member has.
- (4) Describe in detail why the self-dealing transaction is appropriate based on applicable provisions of the Corporations Code.
- (5) Form must be signed by the board member that is involved in the self-dealing transaction described in Sections (3) and (4).

Exhibit C

<b>(1) Company Board Member Information:</b>			
<b>Name:</b>		<b>Date:</b>	
<b>Job Title:</b>			
<b>(2) Company/Agency Name and Address:</b>			
<b>(3) Disclosure (Please describe the nature of the self-dealing transaction you are a party to):</b>			
<b>(4) Explain why this self-dealing transaction is consistent with the requirements of Corporations Code 5233 (a):</b>			
<b>(5) Authorized Signature</b>			
<b>Signature:</b>		<b>Date:</b>	