

Article 3

Term of Agreement

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3 **3.1 Term.** The primary term of this Agreement shall be five (5) years commencing on the
4 date the Lessee first takes occupancy of the Premises ("First Date of Occupancy"). In no event
5 shall the term of this Lease extend beyond five (5) years after the actual First Date of
6 Occupancy, except as provided in section 3.2, "Extension," or Article 7, "Termination and
7 Suspension," below.

8 The actual First Date of Occupancy shall be fixed by written acknowledgement signed
9 by both Parties to the Lease. The Lessee's occupancy of the Premises, and obligation to pay
10 monthly rents under Article 4, shall commence only after Lessor's completion of Lessor
11 Improvements provided in Exhibit A to this Agreement, titled "Lessor Improvements," and
12 Lessor providing Lessee with a certificate of occupancy of the Premises by the City of Fresno.
13 The Lessor shall make all such improvements to the Premises at the Lessor's sole expense.
14 Occupancy shall not commence until Lessor Improvements are completed to the mutual
15 satisfaction of both Parties.

16 The Lessor shall allow the Lessee access to the Premises prior to the First Date of
17 Occupancy, for the purpose of installing furniture and network equipment, provided however,
18 such access, or any activities in connection therewith, shall not obligate Lessee for the payment
19 of any monthly rents under Article 4.

20 **3.2 Extension.** The term of this Agreement may be extended for no more than two, one-
21 year periods only upon written approval of both parties at least 60 days before the first day of
22 the next one-year extension period. The County Administrative Officer or the Director of Internal
23 Services/Chief Information Officer or his or her designee is authorized to sign the written
24 approval on behalf of the Lessee based on the Lessor's satisfactory performance. The
25 extension of this Agreement by the Lessee is not a waiver or compromise of any default or
26 breach of this Agreement by the Lessor existing at the time of the extension whether or not
27 known to the Lessee.

1 **Article 4**

2 **Rent, Invoices, and Payments**

3 4.1 **Monthly Rent.** The Lessee agrees to pay, and the Lessor agrees to receive, monthly
4 rent for the use of its premises under this Agreement as described in Exhibit B to this
5 Agreement, titled "Rent Schedule." The Lessee's obligation to pay rent does not begin until the
6 actual First Date of Occupancy. The Lessee shall pay the Lessor rent in advance on or about
7 the first of each month after the actual First Date of Occupancy.

8 4.2 **Maximum Rent.** The maximum Rent payable to the Lessor under this Agreement
9 including the initial five-year term and execution of both extensions is \$407,037.96. The Lessor
10 acknowledges that the Lessee is a local government entity, and does so with notice that the
11 Lessee's powers are limited by the California Constitution and by State law, and with notice that
12 the Lessor may receive compensation under this Agreement only for services performed
13 according to the terms of this Agreement and while this Agreement is in effect, and subject to
14 the maximum amount payable under this section 4.2. The Lessor further acknowledges that the
15 Lessee's employees have no authority to pay the Lessor except as expressly provided in this
16 Agreement.

17 4.3 **Utilities.** The Lessor shall pay for all natural gas, water, garbage, and sewer
18 services provided to the Premises. The Lessee shall procure and pay for its telecommunications
19 services used by Lessee at the Premises. The Lessee shall pay the Lessor for electricity in
20 advance on or about the first of each month as depicted in Exhibit C to this Agreement, titled
21 "Utilities Schedule," provided however, the Lessee's obligation to pay the Lessor for electricity
22 does not begin until the actual First Date of Occupancy, referenced in Section 4.1.

23 4.4 **Invoices.** The Lessor shall submit monthly invoices to the Fresno County Sheriff's
24 Office, Attn: Business Office, 2200 Tulare St., Fresno, CA 93721. The Lessor shall submit each
25 invoice 60 days prior the month in which the Lessee uses the Premises and, for the last invoice,
26 in any event within 60 days after the end of the term or termination of this Agreement.

27 4.5 **Payment.** The Lessee shall pay rent for each month for each correctly completed
28 and submitted invoice not later than the first day of the month, provided however, such due date

1 shall be extended by each day that Lessor is late in submitting such a correctly completed
2 invoice under Section 4.4. The Lessee shall remit any payment to the Lessor's address
3 specified in the invoice.

4 **4.6 Incidental Expenses.** The Lessor is solely responsible for all of its costs and
5 expenses that are not specified as payable by the Lessee under this Agreement.

6 **Article 5**

7 **Notices**

8 **5.1 Contact Information.** The persons and their addresses having authority to give and
9 receive notices provided for or permitted under this Agreement include the following:

10 **For the Lessee:**
11 County of Fresno
12 Director of Internal Services
13 333 W. Pontiac Way
14 Clovis, CA 93612
15 (559) 600-6200
16 isdcontracts@fresnocountyca.gov

17 **For the Lessor:**
18 Marilena Marrelli
19 JCM Farming Inc.
20 3160 Lionshead Avenue, Unit 1
21 Carlsbad, CA 92010
22 (760) 597-7011

23 **5.2 Change of Contact Information.** Either party may change the information in section
24 5.1 by giving notice as provided in section 5.3.

25 **5.3 Method of Delivery.** Each notice between the Lessee and the Lessor provided for or
26 permitted under this Agreement must be in writing, state that it is a notice provided under this
27 Agreement, and be delivered either by personal service, by first-class United States mail, by an
28 overnight commercial courier service, or by Portable Document Format (PDF) document
attached to an email.

(A) A notice delivered by personal service is effective upon service to the recipient.

(B) A notice delivered by first-class United States mail is effective three Lessee
business days after deposit in the United States mail, postage prepaid, addressed to the
recipient.

1 (C) A notice delivered by an overnight commercial courier service is effective one
2 Lessee business day after deposit with the overnight commercial courier service,
3 delivery fees prepaid, with delivery instructions given for next day delivery, addressed to
4 the recipient.

5 (D) A notice delivered by telephonic facsimile transmission or by PDF document
6 attached to an email is effective when transmission to the recipient is completed (but, if
7 such transmission is completed outside of the Lessee business hours, then such
8 delivery is deemed to be effective at the next beginning of a Lessee business day),
9 provided that the sender maintains a machine record of the completed transmission.

10 5.4 **Claims Presentation.** For all claims arising from or related to this Agreement,
11 nothing in this Agreement establishes, waives, or modifies any claims presentation
12 requirements or procedures provided by law, including the Government Claims Act (Division 3.6
13 of Title 1 of the Government Code, beginning with section 810).

14 **Article 6**

15 **Destruction or Damage from Casualty**

16 6.1 If the premises are damaged or destroyed as a result of fire, earthquake, act of God,
17 or any other identifiable event of a sudden, unexpected, or unusual nature (hereinafter
18 "Casualty"), then the Lessor shall either promptly and diligently repair the damage at its own
19 cost, or terminate the Agreement as hereinafter provided.

20 (A) If the Lessor elects to repair the Casualty damage to the premises, then it shall
21 within 30 days after the date of Casualty provide written notice (hereinafter "Notice of
22 Repair") to the Lessee indicating the anticipated time required to repair. The Lessor shall
23 bear the cost of all repairs to the premises, including the cost to repair any alteration or
24 fixtures installed or attached thereto by the Lessee. Such repairs shall restore the
25 premises to substantially the same condition as the existing at the commencement of
26 this Agreement and shall be made in compliance with all applicable state and local
27 building codes. The Lessor shall not be liable to the Lessee for compensation for any
28 loss of business, or any inconvenience or annoyance arising from repair of the premises

1 as a result of the Casualty except for rent reduction as hereinafter provided. The Lessee
2 shall be responsible at its sole cost and expense for the replacement of its personal
3 property.

4 (B) The Lessor may only elect to terminate the Agreement due to Casualty if: the
5 premises have been destroyed or substantially destroyed by said Casualty; and the
6 estimated time to repair the premises exceeds 240 days from the date of the Casualty.
7 The Lessor shall provide the Lessee with written notice of its election to terminate within
8 30 days after the date of Casualty.

9 (C) In the event of Casualty, the Lessee's obligation to pay rent shall be reduced
10 beginning on the date of the Casualty. Such reduction shall be proportional to the
11 damage caused to the premises by the Casualty as determined by the Lessee. If the
12 Lessor elects to repair the premises pursuant to the terms of this Agreement, then the
13 rent reduction shall continue until the date of the local governing body issuing a safe to
14 stock certificate for the premises.

15 (D) If the Lessee does not receive a Notice of Repair from the Lessor within 30 days
16 after a Casualty, or if the anticipated period of repair contained in the Notice of Repair
17 exceeds 240 days, then the Lessee may elect to terminate this Agreement as hereinafter
18 provided. In such case, the Lessee shall have the right to demand that the Lessor refund
19 any monies which, in the judgment of the Lessee, were paid to the Lessor pursuant to
20 the Agreement but which were not earned by the Lessor by consequence of the
21 Casualty. Upon receipt of such demand, the Lessor shall promptly refund all such
22 monies.

23 **Article 7**

24 **Termination and Suspension**

25 **7.1 Termination for Non-Allocation of Funds.** The terms of this Agreement are
26 contingent on the approval of funds by the appropriating government agency. If sufficient funds
27 are not allocated, then the Lessee, upon at least 30 days' advance written notice to the Lessor,
28 may:

- 1 (A) Modify the services provided by the Lessor under this Agreement; or
- 2 (B) Terminate this Agreement.

3 **7.2 Termination for Breach.**

4 (A) Upon determining that a breach (as defined in paragraph (C) below) has
5 occurred, the Lessee may give written notice of the breach to the Lessor. The written
6 notice may suspend performance under this Agreement, and must provide at least 30
7 days for the Lessor to cure the breach.

8 (B) If the Lessor fails to cure the breach to the Lessee's satisfaction within the time
9 stated in the written notice, the Lessee may terminate this Agreement immediately.

10 (C) For purposes of this section, a breach occurs when, in the determination of the
11 Lessee, the Lessor has:

- 12 (1) Obtained or used funds illegally or improperly;
- 13 (2) Failed to comply with any part of this Agreement;
- 14 (3) Submitted a substantially incorrect or incomplete report to the Lessee; or
- 15 (4) Improperly performed any of its obligations under this Agreement.

16 **7.3 Termination without Cause.** In circumstances other than those set forth above, the
17 Lessee may terminate this Agreement by giving at least 30 days advance written notice to the
18 Lessor.

19 **7.4 No Penalty or Further Obligation.** Any termination of this Agreement by the Lessee
20 under this Article 7 is without penalty to or further obligation of the Lessee.

21 **7.5 Lessee's Rights upon Termination.** Upon termination for breach under this Article
22 7, the Lessee may demand repayment by the Lessor of any monies disbursed to the Lessor
23 under this Agreement that, in the Lessee's sole judgment, were not expended in compliance
24 with this Agreement. The Lessor shall promptly refund all such monies upon demand. This
25 section survives the termination of this Agreement.

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Article 8

Independent Relationship

8.1 **Status.** Nothing contained in this Agreement shall create, or be deemed to create any relationship of principal-agent, master-servant, employer-employee, partnership, joint venture, or association between the Lessor and the Lessee. The relationship between the Lessor and the Lessee is that of independent contractor, with each party at all times acting in an independent capacity from the other.

8.2 **Verifying Performance.** The Lessee has no right to control, supervise, or direct the manner or method of the Lessor's performance under this Agreement, but the Lessee may verify that the Lessor is performing according to the terms of this Agreement.

8.3 **Benefits.** Because of its status as an independent contractor, the Lessor has no right to employment rights or benefits available to the Lessee's employees. The Lessor is solely responsible for providing to its own employees all employee benefits required by law. The Lessor shall save the Lessee harmless from all matters relating to the payment of the Lessor's employees, including compliance with Social Security withholding and all related regulations.

8.4 **Services to Others.** The parties acknowledge that, during the term of this Agreement, the Lessor may provide services to others unrelated to the Lessee.

Article 9

Indemnity and Defense

9.1 **Indemnity.** The Lessor shall indemnify and hold harmless and defend the Lessee (including its officers, agents, employees, and volunteers) against all claims, demands, injuries, damages, costs, expenses (including attorney fees and costs), fines, penalties, and liabilities of any kind to the Lessee, the Lessor, or any third party that arise from or relate to the performance or failure to perform by the Lessor (or any of its officers, agents, sub-contractors, or employees) under this Agreement. The Lessee may conduct or participate in its own defense without affecting the Lessor's obligation to indemnify and hold harmless or defend the Lessee.

9.2 **Survival.** This Article 9 survives the termination of this Agreement.

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Article 10

Insurance

10.1 The Lessor shall comply with all the insurance requirements in Exhibit D to this Agreement, titled "Insurance Requirements".

Article 11

Inspections, Audits, and Public Records

11.1 **Inspection of Documents.** The Lessor shall make available to the Lessee, and the Lessee may examine at any time during business hours and as often as the Lessee deems necessary, all of the Lessor's records and data with respect to the matters covered by this Agreement, excluding attorney-client privileged communications. The Lessor shall, upon request by the Lessee, permit the Lessee to audit and inspect all of such records and data to ensure the Lessor's compliance with the terms of this Agreement.

11.2 **State Audit Requirements.** If the compensation to be paid by the Lessee under this Agreement exceeds \$10,000, the Lessor is subject to the examination and audit of the California State Auditor, as provided in Government Code section 8546.7, for a period of three years after final payment under this Agreement. This section survives the termination of this Agreement.

11.3 **Public Records.** The Lessee is not limited in any manner with respect to its public disclosure of this Agreement or any record or data that the Lessor may provide to the Lessee. The Lessee's public disclosure of this Agreement or any record or data that the Lessor may provide to the Lessee may include but is not limited to the following:

(A) The Lessee may voluntarily, or upon request by any member of the public or governmental agency, disclose this Agreement to the public or such governmental agency.

(B) The Lessee may voluntarily, or upon request by any member of the public or governmental agency, disclose to the public or such governmental agency any record or data that the Lessor may provide to the Lessee, unless such disclosure is prohibited by court order.

1 (C) This Agreement, and any record or data that the Lessor may provide to the
2 Lessee, is subject to public disclosure under the Ralph M. Brown Act (California
3 Government Code, Title 5, Division 2, Part 1, Chapter 9, beginning with section 54950).

4 (D) This Agreement, and any record or data that the Lessor may provide to the
5 Lessee, is subject to public disclosure as a public record under the California Public
6 Records Act (California Government Code, Title 1, Division 10, Chapter 3, beginning
7 with section 7920.200) ("CPRA").

8 (E) This Agreement, and any record or data that the Lessor may provide to the
9 Lessee, is subject to public disclosure as information concerning the conduct of the
10 people's business of the State of California under California Constitution, Article 1,
11 section 3, subdivision (b).

12 (F) Any marking of confidentiality or restricted access upon or otherwise made with
13 respect to any record or data that the Lessor may provide to the Lessee shall be
14 disregarded and have no effect on the Lessee's right or duty to disclose to the public or
15 governmental agency any such record or data.

16 **11.4 Public Records Act Requests.** If the Lessee receives a written or oral request
17 under the CPRA to publicly disclose any record that is in the Lessor's possession or control, and
18 which the Lessee has a right, under any provision of this Agreement or applicable law, to
19 possess or control, then the Lessee may demand, in writing, that the Lessor deliver to the
20 Lessee, for purposes of public disclosure, the requested records that may be in the possession
21 or control of the Lessor. Within five business days after the Lessee's demand, the Lessor shall
22 (a) deliver to the Lessee all of the requested records that are in the Lessor's possession or
23 control, together with a written statement that the Lessor, after conducting a diligent search, has
24 produced all requested records that are in the Lessor's possession or control, or (b) provide to
25 the Lessee a written statement that the Lessor, after conducting a diligent search, does not
26 possess or control any of the requested records. The Lessor shall cooperate with the Lessee
27 with respect to any Lessee demand for such records. If the Lessor wishes to assert that any
28 specific record or data is exempt from disclosure under the CPRA or other applicable law, it

1 must deliver the record or data to the Lessee and assert the exemption by citation to specific
2 legal authority within the written statement that it provides to the Lessee under this section. The
3 Lessor's assertion of any exemption from disclosure is not binding on the Lessee, but the
4 Lessee will give at least 10 days' advance written notice to the Lessor before disclosing any
5 record subject to the Lessor's assertion of exemption from disclosure. The Lessor shall
6 indemnify the Lessee for any court-ordered award of costs or attorney's fees under the CPRA
7 that results from the Lessor's delay, claim of exemption, failure to produce any such records, or
8 failure to cooperate with the Lessee with respect to any Lessee demand for any such records.

9 **Article 12**

10 **Disclosure of Self-Dealing Transactions**

11 12.1 **Applicability.** This Article 12 applies if the Lessor is operating as a corporation, or
12 changes its status to operate as a corporation.

13 12.2 **Duty to Disclose.** If any member of the Lessor's board of directors is party to a self-
14 dealing transaction, he or she shall disclose the transaction by completing and signing a "Self-
15 Dealing Transaction Disclosure Form", Exhibit E to this Agreement, and submitting it to the
16 Lessee before commencing the transaction or immediately after.

17 12.3 **Definition.** "Self-dealing transaction" means a transaction to which the Lessor is a
18 party and in which one or more of its directors, as an individual, has a material financial interest.

19 **Article 13**

20 **General Terms**

21 13.1 **Maintenance and Janitorial Services.** The Lessor shall be responsible for the
22 structural condition of the premises and for all exterior and interior maintenance, including but
23 not limited to the air condition, heating, roof, painting, landscaping, and parking lot. The Lessor
24 covenants that the Premises shall be maintained in substantially the same condition as that
25 existing at the commencement of this Agreement. Maintenance and janitorial services shall be
26 carried out at the sole expense of the Lessor.

27 13.2 **Breach of Obligation to Maintain.** In the event the Lessor breaches its obligation to
28 maintain the Premises as herein provided, the Lessee may give written notice to the Lessor

1 within 15 days of the discovery of such breach. The Lessor shall then have 30 days from the
2 date of notice to cure its breach. If the period for cure expires and if, in the Lessee's reasonable
3 determination, the Lessor has failed to cure, then the Lessee may, at their election:

4 (A) Terminate this Agreement as herein after provided. In such case, the Lessee
5 shall have the right to demand the Lessor refund any monies which, in the judgement of
6 the Lessee, were paid to the Lessor pursuant to the Agreement but which were not
7 earned by the Lessor by consequence of its breach. Upon receipt of such demand, the
8 Lessor shall promptly refund all such monies; or

9 (B) Cure the Lessor's breach and deduct the cost of such cure, together with
10 reasonable administrative costs, from the Lessees' future rent obligation. The Lessee's
11 decision to cure the Lessor's breach shall not constitute a waiver of any rights or
12 remedies that the Lessee may have arising from this Agreement or by operation of law.

13 **13.3 Surrender of Possession.** Upon the expiration or termination of this Agreement, the
14 Lessee will surrender the premises to the Lessor in such condition as that existing at the
15 commencement of this Agreement, less reasonable wear and tear, less the effects of any
16 Casualty as herein defined, and less the effects of any breach of the Lessor's covenant to
17 maintain. The Lessee will not be responsible for any damage with the Lessee is not obligated
18 here under to repair.

19 **13.4 Fixtures.** The Lessor agrees that any equipment, fixtures or apparatus installed in or
20 on the Premises by the Lessor shall continue to be the property of that governmental entity and
21 may be removed by that governmental entity at any time. The respective governmental entity
22 shall repair damage caused by the removal of its fixtures. Any fixtures not removed with the
23 Lessee surrender possession shall become the property of the Lessor.

24 **13.5 Right of Entry.** The Lessor, or its representative(s), upon twenty-four (24) hour
25 notice, shall have the right to enter the premises at any time during business hours, or at such
26 other time as the Lessee deems appropriate, to make any alterations, repairs or improvements
27 to the premises. The normal business of the Lessee or its invitees shall not be unnecessarily
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1 inconvenienced. In the event of an emergency, the Lessor may enter the premises at any time
2 without giving prior notice to the Lessee.

3 **13.6 Estoppel Certificate.** The Lessee shall, at any time upon not less than thirty (30)
4 days prior request by the Lessor, execute, acknowledge and deliver to the Lessor a written
5 estoppel certificate, in a form reasonably satisfactory to both parties, certifying that this
6 Agreement is unmodified and in full force and effect (or, if there have been modifications, that
7 the same is in full force and effect as modified and stating the modifications) and, if applicable,
8 the dates to which the monthly rent and any utilities have been paid in advance. Any such
9 statement delivered pursuant to this Article 13.6 may be relied upon by third persons, including
10 a prospective purchaser or encumbrancer of the Premises.

11 **13.7 Subordination, Non-Disturbance and Attornment.** If after the Effective Date,
12 LESSOR desires to obtain a loan from a bank (the "Bank") and thereby encumbers the Real
13 Property with a deed of trust ("Deed of Trust"), the Parties agree, and LESSOR shall cause the
14 Bank, as beneficiary of the Deed of trust, to agree, to enter into a Subordination, Non-
15 Disturbance, and Attornment Agreement ("SNDA") in form and substance reasonably
16 acceptable to LESSEE, LESSOR, and the Bank. The agreed-upon SNDA shall include the
17 following terms, generally outlined below, which outline not an exhaustive list of terms, or the
18 specific terms, for the agreed-upon SNDA:

19 (A) This LESSEE shall subordinate the priority of this Lease to the Deed of Trust;

20 (B) In the event of a foreclosure of the Deed of Trust, or a transfer of the Real
21 Property in lieu thereof or in any other manner whereby Bank or its successors-in-
22 interest succeed to the interest of LESSOR under this Lease, so long as there shall then
23 exist no breach or event of default by LESSEE under this Lease which has continued to
24 exist for such period of time (after notice, if any, required by this Lease) as would entitle
25 LESSOR to terminate this Lease: (a) this Lease, including the leasehold interest of
26 LESSEE hereunder, and any sublease permitted under Section 2(a), herein, including
27 the sub-leasehold interest of such any sublessee thereunder, shall not be disturbed or
28 otherwise adversely affected by reason of such foreclosure or transfer of the Real

1 Property in lieu thereof or in any other manner; (b) other than as set forth in the SNDA,
2 none of LESSEE's rights and interest under this Lease, or the rights and interest of any
3 such sub-lessee under such sub-lease, shall be affected in any way by reason of any
4 default under the Deed of Trust, and this Lease shall continue in full force and effect; (c)
5 Bank and its successors-in-interest shall recognize and accept LESSEE as the lessee
6 under this Lease, subject to the terms and conditions of this Lease as modified by the
7 SNDA; (d) the Bank and its successors-in-interest as lessor under this Lease, shall have
8 all of the rights and obligations of LESSOR under this Lease (provided that neither Bank
9 nor such successors-in-interest shall be liable for any act or omission of LESSOR as the
10 prior lessor under this Lease, except that LESSEE shall be entitled to exercise all of its
11 rights and remedies under this Lease with respect to continuing defaults hereunder
12 resulting from the acts or omissions of LESSOR arising after Bank, or its successor-in-
13 interest, has received LESSEE's notice to Bank, or its successor-in-interest, with respect
14 to such defaults and has not, after a reasonable opportunity to cure, under the SNDA
15 cured the same under the SNDA); (e) Bank shall not join LESSEE as a party defendant
16 in any action or foreclosure proceeding unless such joinder is with respect to this Lease,
17 including the Real Property, and required by law to foreclose the Deed of Trust, then
18 only for such purpose and not for the purpose of terminating this Lease; and (f) LESSEE
19 shall to attorn to the Bank, and its transferee, as if the Bank and such transferee were
20 LESSOR under this Lease;

21 (C) Upon LESSEE's receipt of written demand from Bank, which shall include notice
22 of same has been given in writing to LESSOR, that Bank has elected to terminate the
23 license granted to LESSOR to collect Rents from LESSEE under this Lease, as provided
24 in the Deed of Trust, and directing LESSEE to make payment thereof directly to Bank,
25 (a) LESSEE shall, for any Rents due and payable thirty (30) days thereafter, comply with
26 such written demand and direction to pay and shall not be required to determine whether
27 LESSOR is in default under any obligations to Bank, or to honor any conflicting demand
28 from LESSOR, and (b) LESSEE shall be entitled to full credit under this Lease for any

1 Rents paid to Bank in accordance with such written demand and direction to the same
2 extent as if such Rents were paid directly to LESSOR;

3 (D) Any disputes between or among the Bank, including its successors-in-interest,
4 and LESSOR shall be dealt with and adjusted solely between or among the Bank,
5 including its including its successors-in-interest, and LESSOR; and

6 (E) The SNDA shall be governed by California law.

7 **13.8 Memorandum of Lease.** Upon the parties' execution of this LEASE, the parties shall
8 enter into a Memorandum of Lease, a form of which is attached hereto and incorporated herein
9 by this reference as Exhibit F. LESSEE is authorized to immediately thereafter record the fully
10 executed Memorandum of Lease against the Premises with the County of Fresno Recorder's
11 Office.

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13 **13.9 Modification.** Except as provided in Article 7, "Termination and Suspension," this
14 Agreement may not be modified, and no waiver is effective, except by written agreement signed
15 by both parties. The Lessor acknowledges that the Lessee employees have no authority to
16 modify this Agreement except as expressly provided in this Agreement.

17 **13.10 Non-Assignment.** Neither party may assign its rights or delegate its obligations
18 under this Agreement without the prior written consent of the other party.

19 **13.11 Governing Law.** The laws of the State of California govern all matters arising from
20 or related to this Agreement.

21 **13.12 Jurisdiction and Venue.** This Agreement is signed and performed in Fresno
22 County, California. The Lessor consents to California jurisdiction for actions arising from or
23 related to this Agreement, and, subject to the Government Claims Act, all such actions must be
24 brought and maintained in Fresno County.

25 **13.13 Construction.** The final form of this Agreement is the result of the parties' combined
26 efforts. If anything in this Agreement is found by a court of competent jurisdiction to be
27 ambiguous, that ambiguity shall not be resolved by construing the terms of this Agreement
28 against either party.

1 13.14 **Days.** Unless otherwise specified, “days” means calendar days.

2 13.15 **Headings.** The headings and section titles in this Agreement are for convenience
3 only and are not part of this Agreement.

4 13.16 **Severability.** If anything in this Agreement is found by a court of competent
5 jurisdiction to be unlawful or otherwise unenforceable, the balance of this Agreement remains in
6 effect, and the parties shall make best efforts to replace the unlawful or unenforceable part of
7 this Agreement with lawful and enforceable terms intended to accomplish the parties’ original
8 intent.

9 13.17 **Nondiscrimination.** During the performance of this Agreement, the Lessor shall not
10 unlawfully discriminate against any employee or applicant for employment, or recipient of
11 services, because of race, religious creed, color, national origin, ancestry, physical disability,
12 mental disability, medical condition, genetic information, marital status, sex, gender, gender
13 identity, gender expression, age, sexual orientation, military status or veteran status pursuant to
14 all applicable State of California and federal statutes and regulation.

15 13.18 **No Waiver.** Payment, waiver, or discharge by the Lessee of any liability or obligation
16 of the Lessor under this Agreement on any one or more occasions is not a waiver of
17 performance of any continuing or other obligation of the Lessor and does not prohibit
18 enforcement by the Lessee of any obligation on any other occasion.

19 13.19 **Entire Agreement.** This Agreement, including its exhibits, is the entire agreement
20 between the Lessor and the Lessee with respect to the subject matter of this Agreement, and it
21 supersedes all previous negotiations, proposals, commitments, writings, advertisements,
22 publications, and understandings of any nature unless those things are expressly included in
23 this Agreement. If there is any inconsistency between the terms of this Agreement without its
24 exhibits and the terms of the exhibits, then the inconsistency will be resolved by giving
25 precedence first to the terms of this Agreement without its exhibits, and then to the terms of the
26 exhibits.

27 13.20 **No Third-Party Beneficiaries.** This Agreement does not and is not intended to
28 create any rights or obligations for any person or entity except for the parties.

1 13.21 **Authorized Signature.** The Lessor represents and warrants to the Lessee that:

2 (A) The Lessor is duly authorized and empowered to sign and perform its obligations
3 under this Agreement.

4 (B) The individual signing this Agreement on behalf of the Lessor is duly authorized
5 to do so and his or her signature on this Agreement legally binds the Lessor to the terms
6 of this Agreement.

7 13.22 **Electronic Signatures.** The parties agree that this Agreement may be executed by
8 electronic signature as provided in this section.

9 (A) An "electronic signature" means any symbol or process intended by an individual
10 signing this Agreement to represent their signature, including but not limited to (1) a
11 digital signature; (2) a faxed version of an original handwritten signature; or (3) an
12 electronically scanned and transmitted (for example by PDF document) version of an
13 original handwritten signature.

14 (B) Each electronic signature affixed or attached to this Agreement (1) is deemed
15 equivalent to a valid original handwritten signature of the person signing this Agreement
16 for all purposes, including but not limited to evidentiary proof in any administrative or
17 judicial proceeding, and (2) has the same force and effect as the valid original
18 handwritten signature of that person.

19 (C) The provisions of this section satisfy the requirements of Civil Code section
20 1633.5, subdivision (b), in the Uniform Electronic Transaction Act (Civil Code, Division 3,
21 Part 2, Title 2.5, beginning with section 1633.1).

22 (D) Each party using a digital signature represents that it has undertaken and
23 satisfied the requirements of Government Code section 16.5, subdivision (a),
24 paragraphs (1) through (5), and agrees that each other party may rely upon that
25 representation.

26 (E) This Agreement is not conditioned upon the parties conducting the transactions
27 under it by electronic means and either party may sign this Agreement with an original
28 handwritten signature.

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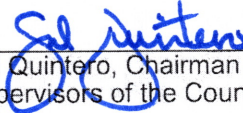
The parties are signing this Agreement on the date stated in the introductory clause.

Lessor:

Lessee:

JCM Farming Inc.

County of Fresno



Marilena Marrelli, President

Sal Quintero, Chairman of the Board of Supervisors of the County of Fresno

3160 Lionshead Avenue, Unit 1
Carlsbad, CA 92010

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

By Alexandra Vicira
Deputy

For accounting use only:
Sheriff

Org No.: 3111
Account No.: 7340
Fund No.: 0001
Subclass No.: 10000

Exhibit A

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Lessor Improvements

Improvements: Prior to commencement of this Agreement, the Lessor, at the Lessor's sole expense, shall have the following work/improvements completed in the Premises:

1. New carpet throughout the Premises. Carpet color and style shall be chosen by the Lessee from samples provided by the Lessor.
2. New paint throughout the Premises. Paint color to be chosen by the Lessee from samples provided by the Lessor.
3. New sink with upper and lower cabinetry in breakroom. See floor plan.
4. Extend existing wall to cover the hallway. See floor plan.
5. Add deadbolts to existing doors. See floor plan.
6. Repair ceiling tiles as needed.

Exhibit A

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FLOOR PLAN



770 EAST SHAW AVE #330

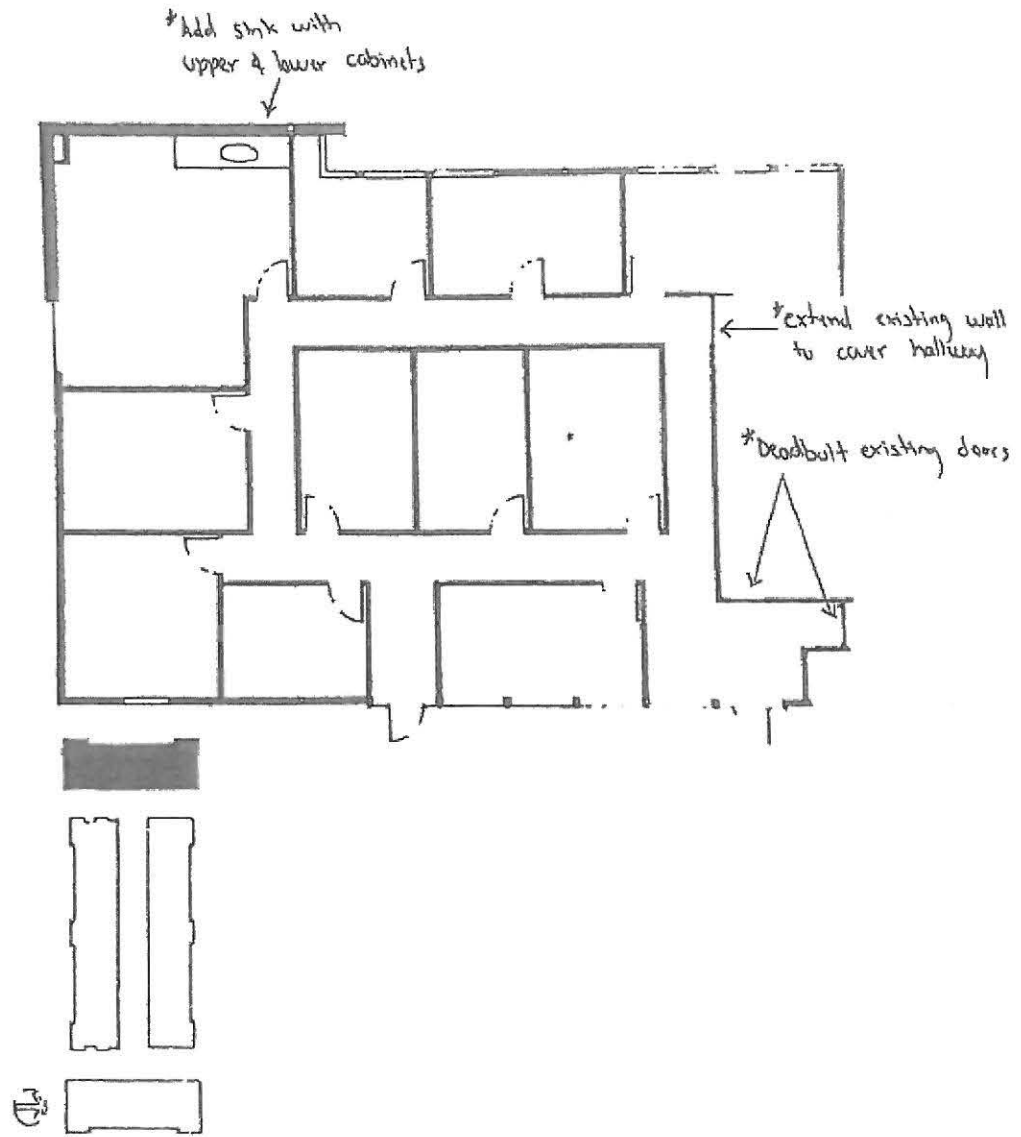


Exhibit B

Rent Schedule

The maximum Rent payable to the Lessor under this Agreement including the initial five-year term and execution of both extensions is \$407,037.96

	Cost Sq/Ft	Monthly Rent	Annual Rent
Year 1	\$1.25	\$4,421.25	\$53,055.00
Year 2	\$1.29	\$4,562.73	\$54,752.76
Year 3	\$1.33	\$4,704.21	\$56,450.52
Year 4	\$1.37	\$4,845.69	\$58,148.28
Year 5	\$1.41	\$4,987.17	\$59,846.04
Year 6	\$1.45	\$5,128.65	\$61,543.80
Year 7	\$1.49	\$5,270.13	\$63,241.56

Exhibit C

Utilities Schedule

The maximum charge for Utilities payable to the Lessor under this Agreement including the initial five-year term and execution of both extensions is \$59,421.60.

	Cost Sq/Ft	Monthly Utilities	Annual Utilities
Years 1-7	\$0.20	\$707.40	\$8,488.80

Exhibit D

Insurance Requirements

1. Required Policies

Without limiting the Lessee's right to obtain indemnification from the Lessor or any third parties, the Lessor, at its sole expense, shall maintain in full force and effect the following insurance policies throughout the term of this Agreement.

- (A) **Commercial General Liability.** Commercial general liability insurance with limits of not less than Two Million Dollars (\$2,000,000) per occurrence and an annual aggregate of Four Million Dollars (\$4,000,000). This policy must be issued on a per occurrence basis. Coverage must include products, completed operations, property damage, bodily injury, personal injury, and advertising injury. The Lessor shall obtain an endorsement to this policy naming the County of Fresno, its officers, agents, employees, and volunteers, individually and collectively, as additional insureds, but only insofar as the operations under this Agreement are concerned. Such coverage for additional insureds will apply as primary insurance and any other insurance, or self-insurance, maintained by the Lessee is excess only and not contributing with insurance provided under the Lessor's policy.
- (B) **Automobile Liability.** Automobile liability insurance with limits of not less than One Million Dollars (\$1,000,000) per occurrence for bodily injury and for property damages. Coverage must include any auto used in connection with this Agreement.
- (C) **Workers Compensation.** Workers compensation insurance as required by the laws of the State of California with statutory limits.
- (D) **Employer's Liability.** Employer's liability insurance with limits of not less than One Million Dollars (\$1,000,000) per occurrence for bodily injury and for disease.
- (E) **Acceptability of Insurers.** All insurance policies required under this Agreement must be issued by admitted insurers licensed to do business in the State of California and possessing at all times during the term of this Agreement an A.M. Best, Inc. rating of no less than A: VII.
- (F) **Notice of Cancellation or Change.** For each insurance policy required under this Agreement, the Lessor shall provide to the Lessee, or ensure that the policy requires the insurer to provide to the Lessee, written notice of any cancellation or change in the policy as required in this paragraph. For cancellation of the policy for nonpayment of premium, the Lessor shall, or shall cause the insurer to, provide written notice to the Lessee not less than 10 days in advance of cancellation. For cancellation of the policy for any other reason, and for any other change to the policy, the Lessor shall, or shall cause the insurer to, provide written notice to the Lessee not less than 30 days in advance of cancellation or change. The Lessee in its sole discretion may determine that the failure of the Lessor or its insurer to timely provide a written notice required by this paragraph is a breach of this Agreement.
- (G) **Lessee's Entitlement to Greater Coverage.** If the Lessor has or obtains insurance with broader coverage, higher limits, or both, than what is required under this Agreement, then the Lessee requires and is entitled to the broader coverage, higher limits, or both. To that end, the Lessor shall deliver, or cause its broker or producer to deliver, to the Lessee's Risk Manager certificates of insurance and endorsements for all of the

Exhibit D

coverages that have such broader coverage, higher limits, or both, as required under this Agreement.

- (H) **Waiver of Subrogation.** The Lessor waives any right to recover from the Lessee, its officers, agents, employees, and volunteers any amounts paid under the policy of worker's compensation insurance required by this Agreement. The Lessor is solely responsible to obtain any policy endorsement that may be necessary to accomplish that waiver, but the Lessor's waiver of subrogation under this paragraph is effective whether or not the Lessor obtains such an endorsement.
- (I) **Lessee's Remedy for Lessor's Failure to Maintain.** If the Lessor fails to keep in effect at all times any insurance coverage required under this Agreement, the Lessee may, in addition to any other remedies it may have, suspend or terminate this Agreement upon the occurrence of that failure, or purchase such insurance coverage, and charge the cost of that coverage to the Lessor. The Lessee may offset such charges against any amounts owed by the Lessee to the Lessor under this Agreement.
- (J) **Sub-Contractors.** The Lessor shall require and verify that all sub-contractors used by the Lessor to provide services under this Agreement maintain insurance meeting all insurance requirements provided in this Agreement. This paragraph does not authorize the Lessor to provide services under this Agreement using sub-contractors.

Exhibit E

Self-Dealing Transaction Disclosure Form

In order to conduct business with the County of Fresno ("Lessee"), members of a Lessor's board of directors ("Lessor"), must disclose any self-dealing transactions that they are a party to while providing goods, performing services, or both for the Lessee. 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 used 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 Lessee. 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.

The form must be signed by the board member that is involved in the self-dealing transaction described in Sections (3) and (4).

Exhibit E

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

EXHIBIT F

<p>This document is recorded solely for the purposes of and benefit of the COUNTY OF FRESNO, a political subdivision of the State of California. See below for exemptions of this recorded document from recording fees and documentary transfer tax.</p> <p>AND WHEN RECORDED MAIL TO:</p> <p>County of Fresno Director of Internal Services/ Chief Information Officer 333 W. Pontiac Way Clovis, CA 93612</p>	<p>FOR RECORDER'S USE ONLY</p>
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EXEMPT FROM RECORDING FEES PURSUANT TO GOV'T. CODE SECTIONS 6103, 27383 AND 27388.1(a)(2)(D)(AB 110, SB 2) AND DOCUMENTARY TRANSFER TAX PURSUANT TO REVENUE AND TAXATION CODE SECTION 11922.

MEMORANDUM OF LEASE

THIS MEMORANDUM OF LEASE ("Memorandum") is made and entered into this ___ day of ___ 2023, by and JCM Farming, Inc., a California corporation ("Lessor") whose address as of the date hereof is at 3160 Lionshead Avenue, Unit 1, Carlsbad, CA 92010, and the County of Fresno, a political subdivision of the State of California ("Lessee");

A. Lessor represents that it is the majority (controlling interest) fee owner of that certain improved real property located in Fresno County, State of California, and having a street address of 770 E. Shaw Avenue, Suite 330, Fresno, CA 93710 ("Premises");

B. Pursuant to that certain Lease Agreement of the same date as this Memorandum of Lease (the "Lease Agreement"), Lessor has leased to Lessee certain Premises (as defined in the Lease Agreement) located on and constituting a portion of the Real Property;

C. The Lease Agreement is effective on the first date of occupancy of the Premises by Lessee ("First Date of Occupancy"), and its term is five (5) years. The term of this Agreement may extend beyond five years after the First Date of Occupancy for an additional two (2) year period.

D. Pursuant to the terms and conditions of the Lease Agreement, this Memorandum is to be recorded in the Official Records of the Fresno County Recorder with respect to the Real Property, for the purpose of memorializing the existence of the

Lease Agreement, and the terms and conditions of which inure to the benefit of, and bind the Lessor, the Lessee, and their respective successors and assigns. Any third-party interested in obtaining information about the Lease Agreement may contact the parties at the above-referenced addresses;

E. A copy of the Lease Agreement may be obtained from the Clerk of the Fresno County Board of Supervisors, 2281 Tulare Street, Fresno, California 93721;

F. This Memorandum of Lease does not constitute the Lease Agreement, and is only an abbreviated form, containing a summary of only a few of the terms and conditions of the Lease Agreement. In the event that there is any inconsistency between this Memorandum of Lease and the Lease Agreement, the terms and conditions of the Lease Agreement shall prevail over this Memorandum of Lease.

IN WITNESS WHEREOF, this Memorandum of Lease has been executed as of the day and year first above written.

LESSOR:
JCM FARMING, INC.

By: _____

[Notary Attestation-Attached]

LESSEE:
COUNTY OF FRESNO:

By: _____
Robert W. Bash, Director of Internal Services/
Chief Information Officer

[Notary Attestation-Attached]

CALIFORNIA NOTARY ACKNOWLEDGEMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California
County of _____

On _____ before me, _____ (insert name and title of the officer), personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____ (Seal)

CALIFORNIA NOTARY ACKNOWLEDGEMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California
County of _____

On _____ before me, _____ (insert name and title of the officer), personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____ (Seal)