

OFFICE BUILDING LEASE
(Santa Barbara Plaza)

1. PARTIES.

This lease dated, for reference purposes only, June 20, 2019, is made by and between Fresno-Air LTD, a California Limited Partnership (herein called "Landlord"), and San Joaquin Valley College, Inc., a California corporation (herein called "Tenant").

2. PREMISES.

Landlord does hereby lease to Tenant and Tenant hereby leases from Landlord that certain office space (herein called "Premises") known as 2665 N. Air Fresno Drive, Suites 101, 103, 106 and 107, Fresno, California said Premises being agreed for the purpose of this Lease, to have an area of approximately 10,048 square feet, as approximately shown in the attached floorplan, Exhibit "A". The Premises is part of a six building office/warehouse project that consists of 2589, 2665, and 2789 North Air Fresno and also 2590, 2666 and 2720 North Grove Industrial Avenue, Fresno, California 93727 (collectively, the "Building"). For the avoidance of doubt, the Monthly Rent stated herein is not tied to square footage and is not subject to adjustment should the actual size be determined to be different.

3. TERM.

The term of the Lease ("Term") shall be for Seven (7) years, with an estimated commencement date of November 1, 2019 and an estimated expiration date of October 31, 2026.

The actual commencement date shall be upon Substantial Completion of the Tenant Improvements described in Exhibit "B" below. At that time, Landlord shall draft a Memorandum to Lease that will commemorate the actual commencement and actual expiration dates and also show a monthly rent schedule revised to reflect such dates.

Notwithstanding anything contained in this Lease to the contrary, provided that this Lease is still in effect, Tenant shall have one (1) option (the "Option") to extend the Term for an additional five (5) years (the "Renewal Term"), upon and subject to the following terms and conditions:

(a) Tenant must deliver notice to Landlord stating that Tenant is exercising the Option for the Renewal Term in writing to Landlord no earlier than nine (9) months and no later than six (6) months prior to the expiration date of the original Term.

(b) At the time Tenant delivers the written notice exercising its Option, Tenant shall not be in monetary default or material, non-monetary default beyond all applicable notice and cure periods under this Lease and this Lease must be in full force and effect;

(c) The Monthly SF Rent for the Renewal Term shall be a continuation of the then current rental rate, with two percent (2%) annual escalations, whereby the first (1st) year of the Renewal Term shall be subject to a two percent (2%) increase over the previous year with continued two percent (2%) annual increases thereafter. Upon commencement of the Renewal Term, the Monthly TI Amortization shown below in Section 5 shall be removed from the total Monthly Rent schedule and deemed to be paid in full (i.e. total Monthly Rent for the first (1st) year of the Renewal Term shall be \$15,004.20).

4. POSSESSION.

- a. If the Landlord, for any reason whatsoever, cannot deliver possession to the Tenant at the commencement of the Term, this Lease shall not be void or voidable, nor shall Landlord be liable to Tenant for any loss or damage resulting therefrom, but in that event, all Rent shall be abated during the period between the commencement of said Term and the time when Landlord delivers possession.
- b. In the event that Landlord shall permit Tenant to occupy the Premises prior to the commencement date of the Term, such occupancy shall be subject to all the provisions of this Lease. Said early possession shall not advance the termination date herein provided.
- c. In the event of early and/or late possession of the Premises, Tenant shall, at Landlord's sole discretion, execute a Memorandum to Lease hereto and made a part hereof and in accordance with subparagraph a. and b. of this paragraph 4.
- d. In no event shall the commencement of this Lease commence later than the 1st day of the first full calendar month following Substantial Completion of the Tenant Improvements. Substantial Completion shall be deemed to occur when the Landlord obtains a "safe to occupy" certificate or similar clearance document from the City of Fresno.

5. RENT.

Tenant agrees to pay Landlord, without prior notice or demand, monthly base rent plus an amortized tenant improvement amount (collectively, "Monthly Rent") during the Term, payable as follows:

<u>Months</u>	<u>Monthly SF Rent</u>	<u>Monthly TI Amortization</u>	<u>Monthly Rent</u>
1-12	\$13,062	\$4,361	\$17,423

13-24	\$13,324	\$4,361	\$17,684
25-36	\$13,590	\$4,361	\$17,951
37-48	\$13,862	\$4,361	\$18,223
49-60	\$14,139	\$4,361	\$18,500
61-72	\$14,422	\$4,361	\$18,783
73-84	\$14,710	\$4,361	\$19,071

Tenant shall pay to Landlord the first (1st) monthly installment of Monthly Rent when Tenant executes this Lease. Tenant hereby agrees to pay Landlord on the first day of each month, commencing on the second month of the Term and a like sum on or before the first day of each and every successive calendar month thereafter during the Term. Monthly Rent for any period during the Term which is for less than one (1) month shall be a prorated portion of the monthly installment herein, based upon a thirty (30) day month. Said Monthly Rent shall be paid to Landlord, without deduction or offset in lawful money of the United States of America, which shall be legal tender at the time of payment. The Monthly Rent, Tenant's share of Direct Expenses, and any other amounts owing by Tenant to Landlord under this Lease are herein collectively referred to as the "Rent."

Landlord acknowledges that Tenant's use of the Premises is subject to the Motor Room and Electrical Lab being complete and fully functioning in order to be inspected and approved by the California Industrial Board prior to September 2019, which is a requirement for Tenant to be permitted to admit students beginning in November 2019. In connection with the foregoing, and notwithstanding anything in this Lease to the contrary, in the event that the Motor Room and Electrical Lab (as further described on Exhibit "A") are not complete and fully functioning at the level required to satisfy the related requirements of the California Industrial Board by September 6, 2019, then Tenant shall have no obligation to pay Monthly Rent or any other charges due under this Lease until the sooner of May 1, 2020 or upon mutual agreement of occupancy and rent commencement dates.

6. INTEREST AND LATE CHARGES.

If Tenant fails to pay any Rent Base or other amounts or charges which Tenant is obligated to pay under the terms of this Lease by the date ten (10) days after such Monthly Rent is due, the unpaid amounts shall bear interest at the lesser of seven percent (7%) per annum or the maximum rate then allowed by Law (the "Interest Rate"). Tenant acknowledges that the late payment of any monthly installment of Monthly Rent will cause Landlord to lose the use of that money and incur costs and expenses not contemplated under this Lease, including without limitation, administrative and collection costs and processing and accounting expenses, the exact amount of which is extremely difficult to ascertain. Therefore, in addition to interest, if any such installment is not received by Landlord within ten (10) days from the date it is due, Tenant shall pay Landlord a late charge equal to five percent (5%) of such installment. Landlord and Tenant agree that this late charge represents a reasonable estimate of such costs and expenses and is fair compensation to Landlord for the loss suffered from such nonpayment by Tenant. Acceptance of any interest or late charge shall

not constitute a waiver of Tenant's default with respect to such nonpayment by Tenant nor prevent Landlord from exercising any other rights or remedies available to Landlord under this lease.

7. TENANT IMPROVEMENTS.

Landlord shall deliver the Premises in "turn-key" condition in accordance with the Floor Plan (Exhibit "A") and Work Letter (Exhibit "B"). All computers and phone data/cabling and equipment shall be provided by Tenant.

Landlord and Tenant hereby acknowledge that the construction budget for this project is \$684,000. Landlord is contributing \$300,000 towards the cost of construction and Tenant will contribute \$384,000 to pay for the cost of construction. Landlord and Tenant hereby agree to deposit said amounts on or before June 21, 2019, to be held by a mutually acceptable escrow officer for disbursement in accordance with a mutually acceptable, customary, escrow agreement. After construction is completed, any remaining funds in the trust account shall be credited back to Tenant against future Monthly Rent. To the extent such funds are not sufficient to complete the improvements as described by the Floor Plan and the Work Letter, Landlord will be required to fund any additional amounts.

8. INTENTIONALLY OMITTED

9. OPERATING EXPENSE ADJUSTMENTS.

For the purpose of this Article, the following terms are defined as follows:

BASE YEAR: The full calendar year 2020.

COMPARISON YEAR: Each calendar year of the Term after the Base Year.

DIRECT EXPENSES: All direct costs of operation and maintenance, as determined by standard accounting practices, and shall include the following costs by way of illustration, but not limited to: real property taxes and assessments; water and sewer charges; insurance premiums for insurance coverage in amounts and types carried by prudent Landlords for comparable buildings; other utilities to the extent not separately metered; janitorial services; costs directly incurred in the management of the Building but excluding any corporate overhead of Landlord, if any; air conditioning & heating; elevator maintenance, supplies, materials, equipment and tools; and maintenance, costs, and upkeep of all parking and common areas (collectively, "Direct Expenses"). Notwithstanding the foregoing, Direct Expenses shall not include (i) depreciation

on the Building of which the Premises are a part therein, (ii) income taxes, franchise taxes, or similar tax of Landlord, or any income, profits or revenue tax, imposed upon the rent or other benefit received by Landlord under this Lease, (iii) labor costs attributable to the corporate office of Landlord or to Landlord's general overhead, (iv) increases in real property taxes after any sale, transfer, or change in ownership due to a reassessment of the Building by the appropriate governmental authority pursuant to the terms of Proposition 13 (as adopted by the voters of the State of California in the June, 1978 election (“**Proposition 13**”), (v) the cost of providing any service directly to and paid directly by any other tenant, (vi) costs of any items to the extent Landlord receives reimbursement from insurance proceeds or from a third party; (vii) any real estate brokerage commissions or other costs incurred in procuring tenants, (viii) costs of items considered capital repairs, replacements, improvements and equipment under generally accepted accounting principles consistently applied, (ix) marketing costs or legal fees for the Building, (x) penalties and interest, except to the extent cause by the failure of Tenant to comply with its obligations under this Lease, (xi) depreciation, amortization of principal and interest on mortgages or ground lease payments, (xii) costs associated with tenant improvements or other inducements to tenants, (xiii) expenses in connection with services or other benefits which are not offered or made available to Tenant or for which Tenant is charged directly, (xiv) costs relating to art or sculptures, (xv) fees paid to affiliates of Landlord which are not at arms-length (with the exception of a three percent (3%) property management fee to Russell G. Smith Inc., and amounts to Construction Consulting of Fresno for overhead and profit relating to improvements to the common areas) , and (xvi) costs arising from Landlord’s charitable or political contributions or donations.

If the Direct Expenses paid or incurred by the Landlord for the Comparison Year on account of the operation or maintenance of the Building of which the Premises are a part are in excess of the Direct Expenses paid or incurred for the Base Year, then the Tenant shall pay 8.7% of the excess amount, which percentage shall be proportionally adjusted in the event of a Measurement Event. This percentage is that portion of the total rentable area of the Building occupied by the Tenant hereunder.

Notwithstanding anything to the contrary in this Lease, the amount of Controllable Expenses that Landlord may include in its calculation of Direct Expenses for any calendar year shall

not increase by more than 5% per calendar year on a cumulative, compounded basis. For purposes of this Section, “**Controllable Expenses**” means all Direct Expenses excluding expenses relating to the cost of (a) utilities, (b) insurance, (c) real estate taxes and assessments (to the extent owed by Tenant), (d) increases due to union-related or prevailing wage agreements, (e) natural disasters, terrorist actions or other force majeure events and (f) upgrading the Building or Premises to comply with applicable laws that are amended, become effective, or are interpreted or enforced differently after the commencement of the Lease.

Landlord shall give to Tenant on or before the first day of May of each year following the respective Comparison Year a detailed statement of all Direct Expenses for such year as well as the increase in Rent payable by Tenant hereunder (the "Annual Expense Statement"), but failure by Landlord to give such statement by said date shall not constitute a waiver of its right to require an increase in Rent. Upon receipt of the statement for the first Comparison Year, Tenant shall pay in full the total amount of increase due for the first Comparison Year. Based on each prior Comparison Year, Landlord shall provide Tenant with a good faith estimate of Direct Expenses for the coming Comparison Year, and Tenant shall pay Landlord, concurrently with the regular Monthly Rent payment next due following the receipt of such statement, an amount equal to one twelfth the amount which would be payable by Tenant at the end of the year based on such estimate. Within thirty (30) days of Tenant's receipt of the Annual Expense Statement from Landlord, Tenant shall pay a lump sum equal to such total increase in Direct Expenses for the Comparison Year over the Base Year, less the total of the monthly installments of estimated increases paid in the previous calendar year. If the Annual Expense Statement shows that Tenant's share of Direct Expenses are less than the preceding year, any overpayment made by Tenant relating to the estimated monthly installments of Direct Expenses shall be refunded to Tenant within thirty (30) days of Tenant's receipt of the Annual Expense Statement.

If the Building is not 95% occupied during any full or partial Comparison Year (including the Base Year) or if Landlord is not supplying services to 95% of the total rentable square footage of the Building during a full or partial Comparison Year, Direct Expenses shall be determined as if the Building had been 95% occupied and Landlord had been supplying services to 95% of the rentable square footage of the Building during that period.

If a category or categories of services are provided or an unexpected increase in services are provided by Landlord in “subsequent” calendar year(s), but not the Base Year, the Base Year shall be retroactively adjusted to reflect the Direct Expenses which would have been incurred during the Base Year had such category or categories of services been provided during the Base Year. For instance, in the event that Landlord does not carry earthquake insurance during the Base Year but elects to carry such insurance at any time during the Term, Direct Expenses for the Base Year shall be adjusted to reflect what Direct Expenses would have been during the Base Year if Landlord had so maintained earthquake insurance.

Even though the Term has expired and Tenant has vacated the Premises, when the final

determination is made of Tenant's share of Direct Expenses for the year in which this Lease terminates, Tenant shall immediately pay any increase due over the estimated expenses paid and conversely any overpayment made in the event said expenses decrease shall be immediately refunded by Landlord to Tenant.

Landlord grants Tenant upon not less than ten (10) Business Days' prior written notice to Landlord, access to all books, accounts, records and reports relating to any and all amounts payable by Tenant to Landlord under this Lease, and will permit a complete audit to be made, by Tenant or a third party designated by Tenant, of all such amounts. Should any such audit by Tenant disclose that Landlord overcharged Tenant for Direct Expenses or other amounts payable under this Lease, the amount of any overpayment (with interest) shall promptly be refunded to Tenant, and if such audit discloses that Landlord overcharged Tenant by more than five percent (5%), Landlord shall reimburse Tenant the actual, out-of-pocket costs of such audit.

Notwithstanding anything contained in this Article, the Monthly Rent payable by Tenant shall in no event be less than the Monthly Rent specified in Article 5 hereinabove unless Tenant is permitted to abate Rent in accordance with the terms of this Lease.

10. USE.

Tenant shall use the Premises for general office, vocational and laboratory classroom purposes and shall not use or permit the Premises to be used for any other purpose without the prior written consent of Landlord, not to be unreasonably withheld, conditioned or delayed.

Tenant shall not do or permit anything to be done in or about the Premises nor bring or keep anything therein which will in any way materially increase the existing rate of or affect any fire or other insurance upon the Building or any of its contents, or cause cancellation of any insurance policy covering said Building or any part thereof or any of its contents. Tenant shall not do or permit anything to be done in or about the Premises which will materially obstruct or interfere with the rights of other tenants or occupants of the Building or injure them or use or allow the Premises to be used for any unlawful purpose nor shall Tenant cause, maintain or permit any nuisance in, on or about the Premises. Tenant shall not commit or suffer to be committed any intentional waste in or upon the Premises.

With the exception of any current Tenants in the project, specifically Vocational Management Services, Inc., Landlord shall not, during the term of this Lease (including any extensions thereof), lease any space in the Building to any other tenant, or consent to a sublease or an assignment, to any other person or entity whose business is in direct competition with Tenant, which includes operating a post-secondary educational facility including, but not limited to, vocational and/or technical training.

11. UTILITIES.

Tenant shall pay during the Term for all gas, electricity, and janitorial service separately metered to the Premises. Otherwise such expenses shall be included as part of Direct Expenses. Landlord shall contract with the City of Fresno for trash disposal for the Building and Tenant shall reimburse Landlord Tenant's pro rata share of such service and any future increases. Tenant's current prorata share of such charge is \$0.016 per square foot per month of the rentable area of Tenant's Premises and shall be paid each month along with Tenant's Monthly Rent. Landlord shall provide water and sewer service.

12. PROPERTY TAXES.

Tenant shall pay or cause to be paid, before delinquency, any and all taxes levied or assessed and which become payable during the Term upon all Tenant's leasehold improvements (other than the initial Tenant Improvements described in the Work Letter), equipment, furniture, fixtures, and personal property located in the Premises; except that which has been paid for by Landlord and is the standard of the Building. In the event any or all of the Tenant's leasehold improvements, equipment, furniture, fixtures and personal property shall be assessed and taxed with the Building, Tenant shall pay to Landlord its share of such taxes within ten (10) days after delivery to Tenant by Landlord of a statement in writing setting forth the amount of such taxes applicable to Tenant's property.

13. RULES AND REGULATIONS.

Tenant shall faithfully observe and comply with the rules and regulations, illustrated in Exhibit "C", of which Landlord shall from time to time promulgate. Landlord reserves the right from time to time to make all reasonable modifications to said rules. The additions and modifications to those rules shall be binding ten (10) days after Tenant delivered a copy of such revised rules.

Landlord shall not be responsible to Tenant for the nonperformance of any of said rules by any other tenants or occupants; however, Landlord shall use commercially reasonable efforts to enforce such rules upon request by Tenant.

14. HOLDING OVER.

Any holding over after the expiration of the Term with the consent of Landlord, express or implied, shall be a tenancy from month to month, terminable only upon thirty (30) days' written notice from either party to the other, reserving unto the Landlord the right to sooner terminate this Lease upon default of Tenant as herein provided, upon each and every of the other terms, conditions and covenants herein, insofar as the same may be applicable, excepting that the base rent herein received shall be at the rate of One Hundred Twenty (120%) of the monthly base rent at the expiration of the Term, payable in advance, in lieu of the Monthly Rent specified in Paragraph 5 hereof.

If Tenant unlawfully holds over, Tenant shall indemnify and hold Landlord harmless from all loss and liability, including any claim made by any successive tenant founded upon Tenant's failure to timely surrender the Premises.

15. NOTICES.

All notices, approvals and demands permitted or required to be given under this Lease shall be in writing and deemed duly served or given if personally delivered, if otherwise served according to California law or sent by certified or registered U.S. mail, postage prepaid, and addressed as follows: (a) if to Landlord, to Landlord's Mailing Address and to the Building Manager, and (b) if to Tenant, to Tenant's Mailing Address. Landlord and Tenant may from time to time by notice to the other designate another place for receipt of future notices.

16. BROKERS.

Tenant and Landlord each warrant that they have dealt with no other real estate brokers or agents in connection with the negotiation of this Lease except: Russell G. Smith, Inc., who represents Landlord and Colliers International (Bobby Fena) who represents Tenant. Tenant and Landlord shall each indemnify the other against all costs, expenses, attorneys' fees, liens and other liability for commissions or other compensation claimed by any broker or agent claiming the same by, through or under the indemnifying party, other than the broker(s) specifically identified above.

Russell G. Smith, Inc., its principal and or its Agents, is a principal in the Building and Tenant hereby confirms it was timely advised as such and its consents to same.

17. SERVICES FURNISHED BY LANDLORD.

Landlord agrees to furnish (or cause a third party provider to furnish) the following services to Tenant during the Term: (1) water service; (2) Building standard heat and air conditioning ("HVAC") during all hours; and (3) electricity to the Premises for customary lighting, office machines and other equipment of low electrical consumption. The cost of water services shall be the sole responsibility of Landlord. The utility costs of HVAC and electrical services shall be the sole responsibility of the Tenant or included as part of the Direct Expenses. Upon the interruption of any such service, Landlord shall use commercially reasonable efforts to remedy such failure, including providing portable generators if applicable.

18. GENERAL PROVISIONS.

The General Provisions which are attached hereto are incorporated herein and made a part hereof by this reference.

18. EXHIBITS AND ADDENDA.

The exhibits and addenda listed below (unless lined out) are incorporated by reference in this Lease:

- a. Exhibit "A" - Floor Plan
- b. Exhibit "B" - Tenant Improvements
- c. Exhibit "C" - Rules and Regulations
- d. Exhibit "D" – Tenant Directive
- e.
- f. Addenda

_____ NONE _____

THE PARTIES HERETO HAVE EXECUTED THIS LEASE AT THE PLACE AND ON THE DATES SPECIFIED IMMEDIATELY ADJACENT TO THEIR RESPECT SIGNATURES. THIS LEASE HAS BEEN PREPARED FOR SUBMISSION TO YOUR ATTORNEY FOR HIS APPROVAL. NO REPRESENTATION OR RECOMMENDATION IS MADE BY THE REAL ESTATE BROKER OR ITS AGENTS OR EMPLOYEES AS TO THE LEGAL SUFFICIENCY, LEGAL EFFECT, OR TAX CONSEQUENCES OF THIS LEASE OR THE TRANSACTIONS RELATING THERETO.

LANDLORD
Fresno-Air Ltd., a California
Limited Partnership

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

Date: _____

TENANT
San Joaquin Valley College, Inc. a
California corporation

By: _____

Title: _____

Date: _____

GENERAL PROVISIONS

1. PLATS AND RIDERS.

Clauses, plats and riders, if any, signed by the Landlord and the Tenant and endorsed on or affixed to this Lease are a part hereof.

2. WAIVER.

The waiver by either party of any term, covenant or condition herein contained shall not be deemed to be a waiver of such term, covenant or condition on any subsequent breach of the same, or any other term, covenant or condition herein contained. The subsequent acceptance of Rent hereunder by Landlord shall not be deemed a waiver of any preceding breach by Tenant of any term, covenant or condition of this Lease, other than the failure of the Tenant to pay the particular Rent so accepted, regardless of Landlord's knowledge of such preceding breach at the time of the acceptance of such Rent.

3. JOINT OBLIGATION.

If there be more than one Tenant the obligations hereunder imposed upon Tenants shall be joint and several.

4. MARGINAL HEADINGS.

The marginal headings and Article titles to the Articles of this Lease are not a part of this Lease and shall have no effect upon the construction or interpretation of any part hereof.

5. TIME.

Time is of the essence of this Lease and each and all of its provisions in which performance is a factor. As used herein, "Business Day" shall mean any day other than a Saturday, Sunday or California or Federal holiday on which banks in California are generally closed.

6. SUCCESSORS AND ASSIGNS.

The covenants and conditions herein contained, subject to the provisions as to assignment, apply to and bind the heirs, successors, executors, administrators and assigns of the parties hereto.

7. RECORDATION.

Neither Landlord nor Tenant shall record this Lease or a short form memorandum hereof without the prior written consent of the other party.

8. QUIET POSSESSION.

Upon Tenant paying the Rent reserved hereunder and observing and performing all of the covenants, conditions and provisions on Tenant's part to be observed and performed hereunder, Tenant shall have quiet possession of the Premises for the entire Term, subject to all provisions of this Lease.

9. PRIOR AGREEMENTS.

This Lease contains all of the agreements of the parties hereto with respect to any matter covered or mentioned in this Lease, and no prior agreements or understanding pertaining to any such matters shall be effective for any purpose. No provision of this Lease may be amended or added to except by an agreement in writing signed by the parties hereto or their respective successors in interest. This Lease shall not be effective or binding on any party until fully executed by both parties hereto.

10. INABILITY TO PERFORM.

This Lease and the obligations of either party hereunder shall not be affected or impaired because the other party is unable to fulfill any of its obligations hereunder or is delayed in doing so, if such inability or delay is caused by reason of strike, labor troubles, acts of God, or any other cause beyond the reasonable control of the other party.

11. ATTORNEYS' FEES.

In the event of any action or proceeding brought by either party against the other under this Lease the prevailing party shall be entitled to recover all costs and expenses including the fees of its attorneys in such action or proceeding in such amount as the court may adjudge reasonable attorneys' fees.

12. SALE OF PREMISES BY LANDLORD.

In the event of any sale of the Building, Landlord shall be and is hereby entirely freed and relieved of all liability under any and all of its covenants and obligations contained in or derived from this Lease arising out of any act, occurrence or omissions occurring after the consummation of such sale; and the purchaser, at such sale or any subsequent sale of the Premises shall be deemed, without any further agreement between the parties or their successors in interest or between the parties and any such purchaser to have assumed and agreed to carry out any and all of the covenants and obligations of the Landlord under this Lease.

13. SUBORDINATION, ATTORNMENT.

Upon request of the Landlord, Tenant will in writing subordinate its rights hereunder to the lien of any first mortgage, or first deed of trust to any bank, insurance company or other lending institution, now or hereafter in force against the land and Building of which the Premises are a part, and upon any buildings hereafter placed upon the land of which the Premises are a part, and to all advances made or hereafter to be made upon the security thereof. Notwithstanding any contrary provision in this Article 13, a condition precedent to the subordination of this Lease to the lien of any mortgage or deed of trust or any ground lease is that Landlord shall obtain for the benefit of Tenant a commercially reasonable non-disturbance and attornment agreement from the holder of any such future mortgage or deed of trust providing to the effect that no steps or proceedings taken by reason of Landlord's default under such future mortgage or lease shall terminate this Lease, nor shall Tenant be named a defendant in any proceedings for foreclosure of such mortgage or termination of any such lease, nor be disturbed by virtue of such step or proceedings, as long as there shall be no uncured default by Tenant under this Lease (a "Market NDA"). Prior to the commencement of the Lease, Landlord shall obtain for the benefit of Tenant a Market NDA from the holder of any existing mortgage, deed of trust, or ground lease.

In the event any proceedings are brought for foreclosure, or in the event of the exercise of the power of sale under any mortgage or deed of trust made by the Landlord covering the Premises, the Tenant shall attorn to the purchaser upon any such foreclosure or sale and recognize such purchaser as the Landlord under this Lease.

The provisions of this Article to the contrary notwithstanding, and so long as Tenant is not in default hereunder, this Lease shall remain in full force and effect for the full Term hereof.

14. NAME.

Tenant shall not use the name of the Building or the development in which the Building is situated for any purpose other than as an address of the business to be conducted by the Tenant in the Premises.

15. SEPARABILITY.

Any provision of this Lease which shall prove to be invalid, void or illegal shall in no way affect, impair or invalidate any other provision hereof and such other provision shall remain in full force and effect.

16. CUMULATIVE REMEDIES.

No remedy or election hereunder shall be deemed exclusive but shall, wherever possible, be cumulative with all other remedies at law or in equity.

17. CHOICE OF LAW.

This Lease shall be governed by the laws of the State in which the Premises are located.

18. SIGNS AND AUCTIONS.

Tenants shall not place any sign upon the Premises or Building or conduct any auction thereon without Landlord's prior written consent. Notwithstanding the foregoing, Tenant shall be permitted to place signage on the east facing fascia of the Building, above or near Tenant's entryway and also on Tenant's entry glass. All signage shall be subject to Landlord's reasonable approval and installed at Tenant's sole cost and expense, and shall conform to any codes enforced by the City of Fresno. Upon the expiration or sooner termination of the Lease, Tenant shall remove all signage from the Premises at Tenant's sole expense and make any necessary repairs to the Building due to such removal.

19. COMPLIANCE WITH LAW.

Tenant shall not use the Premises or permit anything to be done in or about the Premises which will in any way conflict with any law, statute, ordinance or government's rule or regulation now in force or which may hereafter be enacted or promulgated. Tenant shall, at its sole cost and expense, promptly comply with all laws, statutes, ordinances and governmental rules, regulations or requirements now in force or which may hereafter be in force, and with the requirements of any board of fire insurance

underwriters or other similar bodies now or hereafter constituted relating to, or affecting the condition, use or occupancy of the Premises, excluding structural changes not related to or affected by Tenant's improvements or acts. The judgment of any court of competent jurisdiction or the admission of Tenant in any action against Tenant, whether Landlord be a party thereto or not that Tenant has violated any law, statute, ordinance or governmental rule, regulation or requirement, shall be conclusive of that fact as between the Landlord and Tenant. Landlord shall, without cost to Tenant except as may be otherwise expressly provided in this Lease, comply with all applicable laws, statutes, ordinances, governmental regulations or requirements now in force or which may hereafter be in force. Landlord shall, at its own expense, (a) comply with the Americans with Disabilities Act of 1990 (as amended), the Federal Occupational Safety and Health Act of 1970 (as amended) and all regulations or standards as are or may be promulgated thereunder, and (b) procure each and every permit, license, certificate or other authorization now or hereafter required in connection with the lawful and proper use of the Building and the Premises. Nothing in this Article 19 shall require Tenant to make any structural repairs or alterations to the Premises or any other portion of the Building.

20. ALTERATIONS AND ADDITIONS.

Tenant shall not make or suffer to be made any alterations, additions or improvements to or on the Premises or any part thereof without the written consent of Landlord, not to be unreasonably withheld, conditioned or delayed. Any alterations, additions or improvements to or of said Premises including, but not limited to, wall covering, paneling and built-in cabinet work, but excepting movable furniture and trade fixtures, shall on the expiration of the Term become a part of the realty and belong to the Landlord and shall be surrendered with the Premises. In the event Landlord consents to the making of any alterations, additions or improvements to the Premises by Tenant, the same shall be made by Tenant at Tenant's sole cost and expense, and any contractor or person selected by Tenant to make the same must first be approved of in writing by the Landlord. In connection with the approval of any Alterations, Landlord may require, by notice in writing at the time of such approval, the removal by Tenant of such Alteration upon the expiration or sooner termination of the Lease (a "Special Installation"). Upon the expiration or sooner termination of the Term, Tenant shall, upon written demand by Landlord, given at least thirty (30) days prior to the end of the Term, at Tenant's sole cost and expense, forthwith and with all due diligence remove any Special Installations, and Tenant shall, forthwith and with all due diligence at its sole cost and expense, repair any damage to the Premises caused by such removal. Other than with respect to Special Installations, Tenant shall have no obligation to remove any Alterations, additions or improvements upon the expiration or sooner termination of the Lease.

21. REPAIRS.

- a. By taking possession of the Premises, Tenant shall be deemed to have accepted the Premises as being in good, sanitary order, condition and repair. Tenant shall, at Tenant's sole cost and expense, keep the non-structural aspects of the Premises and every part thereof in good condition and repair other than Landlord's repair obligations pursuant to Article 21b. below. Tenant's responsibility shall specifically include, but not be limited to, interior walls and wall-coverings, electrical systems which are located within and exclusively service the Premises, floor coverings, windows, doors, window coverings, ceiling panels, lighting fixtures, and cabinetry and those plumbing fixtures which are reserved for Tenant's private use. Tenant shall, upon the expiration or sooner termination of this Lease, surrender the Premises to the Landlord in good condition, reasonable wear and tear excepted. Except as specifically provided in an addendum, if any, to this Lease, Landlord shall have no obligation

whatsoever to alter, remodel, improve, repair, decorate or paint the Premises or any part thereof and the parties hereto affirm that Landlord has made no representations to Tenant respecting the condition of the Premises or the Building except as specifically herein set forth.

- b. Notwithstanding the provisions of Article 21a. hereinabove, Landlord shall repair and maintain the structural portions of the Building, including the foundation, exterior walls, basic plumbing, heating, and air-conditioning systems installed or furnished by Landlord, building systems, common areas, the roof, any elevators, and the parking facilities, exterior signage and entrances, floor joists, window frame sashes, the exterior side of demising walls, the structural portions of the Building, utility meters, vertical ducts, flues and other venting, downspouts, gutters, and the mechanical, electrical, fire-life safety, plumbing, sprinkler systems unless such maintenance and repairs are caused in part or in whole by the act, neglect, fault or omission of any duty by the Tenant, its agents, servants, employees or invitees, in which case Tenant shall pay to Landlord the reasonable cost of such maintenance and repairs. Landlord shall not be liable for any failure to make any such repairs or to perform any maintenance unless such failure shall persist for an unreasonable time after written notice of the need of such repairs or maintenance is given to Landlord by Tenant. Except with respect to any repair of Landlord in accordance with Article 21b. hereof, there shall be no abatement of Rent and no liability of Landlord by reason of any injury to or interference with Tenant's business arising from the making of any repairs, alterations or improvements in or to any portion of the Building or the Premises or to any fixtures, appurtenances and equipment therein. Notwithstanding any of the terms and conditions set forth in this Lease to the contrary, if Tenant provides notice to Landlord of Landlord's failure to repair and/or maintain the common areas and/or Building systems and equipment or any of its other repair obligations under this Article, which failure materially and adversely affects the conduct of Tenant's use of the Premises, and Landlord fails to commence corrective action within a reasonable period of time, given the circumstances, after the receipt of such notice, but in any event not later than ten (10) days after receipt of such notice, then Tenant shall deliver an additional ten (10) days' notice to Landlord specifying the required repair. If Landlord has not commenced the required repair within such additional ten (10) day period and thereafter diligently pursue such repair to completion, Tenant shall have the right to conduct such repair, and Tenant thereafter shall be entitled to offset such amount as a credit against the next installments of Rent payable under the Lease.

22. LIENS.

Tenant shall keep the Premises and the property in which the Premises are situated free from any liens arising out of any work performed, materials furnished or obligations incurred by Tenant. Landlord may require, at Landlord's sole option that Tenant shall provide to Landlord, at Tenant's sole cost and expense a lien and completion bond in an amount equal to one and one-half times any and all estimated cost of any improvements, additions, or alterations in the Premises, to insure Landlord against any liability for mechanics' and materialmen's liens and to insure completion of the work. Tenant shall give Landlord no less than twenty (20) days prior written notice before commencing construction of any kind on the Premises so that Landlord may post notice of non-responsibility within ten (10) days thereafter in accordance with Section 3094 of the California Civil Code.

23. ASSIGNMENT AND SUBLETTING.

Tenant shall not either voluntarily or by operation by law, assign, transfer, mortgage, pledge, hypothecate or encumber this Lease or any interest therein, and shall not sublet the said Premises or

any part thereof, without the written consent of Landlord first had and obtained, which consent shall not be unreasonably withheld, and a consent to one assignment, subletting, occupation or use by any other person shall not be deemed to be a consent to any subsequent assignment, subletting, occupation or use by another person. Any such assignment or subletting without such consent shall be void, and shall, at the option of the Landlord, constitute a default under this Lease:

- a. If Tenant is a partnership, a withdrawal or change, voluntary, involuntary, or by operation of law, of the partner or partners owning 51% or more of the partnership, or the dissolution of the partnership, shall be deemed a voluntary assignment.
- b. If Tenant is a corporation, any dissolution, merger, consolidation, or other reorganization of Tenant, or the sale or other transfer of a control-percentage of the capital stock of Tenant, or the sale of 51% of the value of the assets of Tenant, shall be deemed a voluntary assignment. The phrase "controlling percentage" means the ownership of, and the right to vote, stock possessing at least 51% of the total combined voting power of all classes of Tenant's capital stock issued, outstanding and entitled to vote for the election of directors. This paragraph shall not apply to corporations the stock of which is traded through an exchange or over the counter.

Notwithstanding anything to the contrary contained in this Lease, Tenant may assign its interest in the Lease:

(a) to a successor corporation into which or with which Tenant is merged or consolidated in accordance with applicable statutory provisions for the merger or consolidation of corporations,

(b) to a wholly-owned subsidiary of Tenant, or

(c) to a corporation to which Tenant shall sell all or substantially all of Tenant's assets; and the liabilities of the corporations participating in the merger or consolidation or of the transferor corporation must be assumed by the corporation surviving the merger or created by the consolidation or by the transferee corporation, in the event of a transfer to a wholly-owned subsidiary or a sale of all or substantially all assets, and that corporation (except in the case of a wholly-owned subsidiary) must have a net worth at least equal to the net worth of Tenant at the time of execution of the Lease. Upon delivery to Landlord, by a successor corporation to which the Lease is assigned or transferred, of the agreement of the corporation to be bound by the terms, covenants, and conditions of the Lease to be performed by Tenant after the date of the assignment or transfer, Tenant shall be released and discharged from all obligations later arising under the Lease, except where the transfer is to a wholly-owned subsidiary of Tenant.

24. HOLD HARMLESS.

Tenant shall indemnify and hold harmless Landlord against and from any and all claims arising from Tenant's use of the Premises for the conduct of its business or from any activity, work, or other thing done, permitted or suffered by the Tenant in or about the Building, and shall further indemnify and hold harmless Landlord against and from any and all claims arising from any breach or default in the performance of any obligation on Tenant's part to be performed under the terms of this Lease, or arising from any act or negligence of the Tenant, or any officer, agent, employee, guest, or invitee of

Tenant, and from all and against all cost, attorneys' fees, expenses and liabilities incurred in or about any such claim or any action or proceeding brought thereon, and, in any case, action or proceeding be brought against Landlord shall defend the same at Tenant's expense by counsel reasonably satisfactory to Landlord; provided, however, that Tenant shall have no obligation to indemnify Landlord for any claims caused by or due to the gross negligence or willful misconduct of Landlord, its agents, servants or employees. Tenant as a material part of the consideration to Landlord hereby assumes all risk of damage to property or injury to persons, in, upon or about the Premises, from any cause other than Landlord's gross negligence or willful misconduct, and Tenant hereby waives all claims in respect thereof against Landlord.

Landlord or its agent shall not be liable for any damage to property entrusted to employees of the Building, nor for loss or damage to any property by theft or otherwise, nor for any injury to or damage to persons or property resulting from fire, explosion, falling plaster, steam, gas, electricity, water or rain which may leak from any part of the Building or from the pipes, appliances or plumbing works therein or from the roof, street, or subsurface or from any other place resulting from dampness or any other cause whatsoever, unless caused by or due to the gross negligence or willful misconduct of Landlord, its agents, servants or employees. Landlord or its agents shall not be liable for interference with the light or other incorporeal hereditaments, loss of business by Tenant. Tenant shall give prompt notice to Landlord in case of fire or accidents in the Premises or in the building or of defects therein or in the fixtures or equipment. Notwithstanding the foregoing, Landlord shall indemnify and hold harmless Tenant against and from any and all claims arising from the gross negligence or willful misconduct of Landlord, its agents, servants or employees.

The provisions of this Section 24 shall survive the expiration or sooner termination of this Lease.

25. SUBROGATION.

As long as their respective insurers so permit, Landlord and Tenant hereby mutually waive their respective rights of recovery against each other for any loss insured by fire, extended coverage and other property insurance policies existing for the benefit of the respective parties. Each party shall obtain any special endorsements, if required by their insurer to evidence compliance with the aforementioned waiver.

26. LIABILITY INSURANCE.

Tenant shall, at Tenant's expense, obtain and keep in force during the Term of this Lease a policy of comprehensive public liability insurance insuring Landlord and Tenant against any liability arising out of the ownership, use, occupancy or maintenance of the Premises and all areas appurtenant thereto. The limit of said insurance shall not, however, limit the liability of the Tenant hereunder. Tenant may carry said insurance under a blanket policy, providing, however, said insurance by Tenant shall have a Landlord's protective liability endorsement attached thereto. If Tenant shall fail to procure and maintain said insurance, Landlord may, but shall not be required to, procure and maintain same, but at the expense of Tenant. Insurance required hereunder, shall be in companies rated A- or better in "Best's Insurance Guide". Tenant shall deliver to Landlord prior to occupancy of the Premises certificates evidencing the existence and amounts of such insurance with loss payable clauses satisfactory to Landlord and shall continue to provide evidence of such insurance throughout the Term of this lease within ten (10) days of any request by Landlord. To the extent available on commercially reasonable terms, no policy shall be cancelable or subject to reduction of coverage except after ten (10) days prior written notice to Landlord.

Tenant at its cost shall maintain public liability and property liability insurance with liability limits of not less than one million dollars (\$1,000,000) per person and one million dollars (\$1,000,000) per occurrence, and property damage limits of not less than five hundred thousand dollars (\$500,00) per occurrence, and Landlord shall be named as an additional insured, and the policy shall contain cross-liability endorsements. Tenant shall maintain at its sole cost insurance coverage on all of the plate glass in the Premises at its full replacement cost.

27. ENTRY BY LANDLORD.

Landlord reserves and shall at any and all times have the right, upon no less than forty-eight (48) hours' notice, except in the case of an emergency, to enter the Premises, inspect the same, to submit said Premises to prospective purchasers or tenants (but only to prospective Tenants during the last nine (9) months of the Term), to post notices of non-responsibility, and may for that purpose erect scaffolding and other necessary structures where reasonably required by the character of the work to be performed, always providing that the entrance to the Premises shall not be blocked thereby, and further providing that the business of the Tenant shall not be interfered with unreasonably. Tenant hereby waives any claim for damages or for any injury or inconvenience to or interference with Tenant's business, any loss of occupancy or quiet enjoyment of the Premises, any other loss occasioned thereby so long as Landlord uses commercially reasonable efforts to protect Tenant's property and personnel from loss and injury and to avoid interfering with the conduct of Tenant's business. In the event Tenant is prevented from using and does not use the Premises, or any portion thereof, as a result of a repair by Landlord which was not necessitated by Tenant or Tenant's employees, contractors, licensees, or invitees, then Rent shall be abated or reduced proportionately during such time that Tenant continues to be so prevented from using the Premises or a portion thereof. For each of the aforesaid purposes, Landlord shall at all times have and retain a key with which to unlock all of the doors in, upon and about the Premises, excluding Tenant's vaults, safes and files, and Landlord shall have the right to use any and all means which Landlord may deem proper to open said doors in an emergency, in order to obtain entry to the Premises without liability to Tenant except for any failure to exercise due care for Tenant's property. Any entry to the Premises obtained by Landlord by any of said means, or otherwise shall not under any circumstances be construed or deemed to be a forcible or unlawful entry into, or a detainer of, the Premises, or an eviction of Tenant from the Premises or any portion thereof.

28. RECONSTRUCTION.

In the event the Premises or the Building of which the Premises are a part of are damaged by fire or other perils covered by extended coverage insurance, Landlord agrees to forthwith repair the same in a diligent and workmanlike manner to be completed within one hundred thirty-five (135) days; and this Lease shall remain in full force and effect, except that Tenant shall be entitled to a proportionate reduction of the Rent while such repairs are being made and until Tenant may lawfully reoccupy the Premises for the conduct of Tenant's business, such proportionate reduction to be based upon the extent to which the damage or the making of such repairs interferes with the business carried on by the Tenant in the Premises. Such restoration shall be to substantially the same condition prior to the casualty, except for modifications required by applicable laws or by any lender.

In the event the Premises or the Building of which the Premises are a part are damaged as a result of any cause other than the perils covered by fire and extended coverage insurance, then Landlord shall forthwith repair the same, provided the extent of the destruction be less than fifty (50%) percent of the

then full replacement cost of the Premises or the Building of which the Premises are a part. In the event the destruction of the Premises or the Building is to an extent greater than fifty (50%) percent of the full replacement cost, then Landlord shall have the option: (1) to repair or restore such damage in a diligent and workmanlike manner to be completed within one hundred thirty-five (135) days, this Lease continuing in full force and effect, but the Rent to be proportionately reduced as hereinabove in this Article provided; or (2) give notice to Tenant at any time within thirty (30) days after such damage terminating this Lease as of the date specified in such notice, which date shall be not less than thirty (30) days and no more than sixty (60) days after the giving of such notice; provided, however, that if Landlord so elects to terminate this Lease, Landlord shall, to the extent such amounts are covered under insurance required to be carried by Landlord under this Lease and are made available to Landlord by any applicable lender, pay to Tenant the unamortized costs of any leasehold improvements to the Premises which were paid by Tenant pursuant to Article 7. In the event of giving such notice, this Lease shall expire and all interest of the Tenant in the Premises shall terminate on the date on the date so specified in such notice and the Rent, reduced by a proportionate amount, based upon the extent, if any, to which such damage materially interfered with the business carried on by the Tenant in the Premises, shall be paid up to date of said such termination.

Notwithstanding anything to the contrary contained in this Article, Landlord shall not have any obligation whatsoever to repair, reconstruct or restore the Premises when the damage resulting from any casualty covered under this Article occurs during the last twelve (12) months of the Term of this Lease or any extension thereof, and if Landlord does not elect to restore the Premises, this Lease shall automatically terminate.

Landlord shall not be required to repair any injury or damage by fire or other cause, or to make any repairs or replacement of any panels, decoration, office fixtures, railing, floor covering, partitions, or any other property installed in the Premises by Tenant other than restoring the Premises in accordance with the condition described in Article 7.

Other than as described in this Article relating to the abatement of Rent, Tenant shall not be entitled to any compensation or damages from Landlord for loss of the use of the whole or any part of the Premises or for loss of Tenant's personal property or for any inconvenience or annoyance occasioned by damage, repair, reconstruction or restoration to and/or of the Premises.

If the Premises are rendered unusable for the conduct of Tenant's business or the common areas and/or access to the Premises is materially affected by reason of such damage, Landlord shall give Tenant a reasonable estimate of the time required for repair as soon as practicable (Landlord's estimate is hereinafter referred to as the "Estimated Repair Period"). This Lease may be terminated by Tenant following a casualty in the following situations: (i) if the Estimated Repair Period exceeds one hundred thirty-five (135) days from the date of damage and Tenant gives notice of its election to terminate within thirty (30) days after receipt of Landlord's estimate, such cancellation to be effective ten (10) days after such notice of cancellation is given; or (ii) the repair or restoration work is not actually completed by the later of (a) one hundred thirty-five (135) days from the date of damage or (b) the expiration of the Estimated Repair Period, and such failure continues for an additional thirty (30) days after the expiration of such period and notice from Tenant, such cancellation to be effective at the end of such thirty (30) day period

29. DEFAULT.

The occurrence of any one or more of the following events shall constitute a default and breach of

this Lease by Tenant.

- a. The failure by Tenant to make any payment of Rent or any other payment required to be made by Tenant hereunder, as and when due, where such failure shall continue for a period of three (3) Business Days after written notice thereof by Landlord to Tenant.
- b. The failure by Tenant to observe or perform any of the covenants, conditions or provisions of this Lease to be observed or performed by the Tenant, other than described in Article 29b. above, where such failure shall continue for a period of thirty (30) days after written notice thereof by Landlord to Tenant; provided, however, that if the nature of Tenant's default is such that more than thirty (30) days are reasonably required for its cure, then Tenant shall not be deemed to be in default if Tenant commences such cure within said thirty (30) day period and thereafter diligently prosecutes such cure to completion.
- c. The making by Tenant of any general assignment or general arrangement for the benefit of creditors; or the filing by or against Tenant of a petition to have Tenant adjudged a bankrupt, or a petition for reorganization or arrangement under any law relating to bankruptcy (unless, in the case of a petition filed against Tenant, the same is dismissed within ninety (90) days); or the appointment of a trustee or a receiver to take possession of substantially all of Tenant's assets located at the Premises or of Tenant's interest in this Lease, where possession is not restored to Tenant within ninety (90) days; or the attachment, execution or other judicial seizure of substantially all of Tenant's assets located at the Premises or of Tenant's interest in this Lease, where such seizure is not discharged in ninety (90) days.

30. REMEDIES IN DEFAULT.

In the event of any such material default or breach by Tenant, Landlord may at any time thereafter during the continuance of such event, upon thirty (30) days' written notice to Tenant, and without limiting Landlord in the exercise of a right or remedy which Landlord may have by reason of such default or breach:

- a. Terminate Tenant's right to possession of the Premises by any lawful means, in which case this Lease shall terminate and Tenant shall immediately surrender possession of the Premises to Landlord. In such event Landlord shall be entitled to recover from Tenant all damages incurred by Landlord by reason of Tenant's default including, but not limited to, the cost of recovering possession of the Premises; expenses of reletting, including necessary renovation and alteration of the Premises, reasonable attorney's fees, any real estate commission actually paid; the worth at the time of award by the court having jurisdiction thereof of the amount by which the unpaid Rent for the balance of the Term after the time of such award exceeds the amount of such rental loss for the same period that Tenant proves could be reasonably avoided; that portion of the leasing commission paid by Landlord and applicable to the unexpired Term of this lease. Unpaid installments of Rent or other sums shall bear interest from the date due at the rate of seven (7%) percent per annum. In the event Tenant shall have abandoned the Premises, Landlord shall have the option of (a) taking possession of the Premises and

recovering from Tenant the amount specified in this paragraph, or (b) proceeding under the provisions of the following Article 30b.

- b. Landlord can continue this Lease in full force and effect, and the Lease will continue in effect as long as Landlord does not terminate Tenant's right to possession, and Landlord shall have the right to collect Rent when due. During the period Tenant is in default, Landlord can enter the Premises and relet them, or any part of them, to third parties for Tenant's account. Tenant shall be liable immediately to Landlord for all costs Landlord incurs in reletting the Premises, including, without limitation, brokers' commissions, expenses of remodeling the Premises required by the reletting, and like costs. Reletting can be for a period shorter or longer than the remaining Term of this Lease. Tenant shall pay to Landlord the Rent due under this Lease on the dates the Rent is due, less the Rent the Landlord receives from any reletting. No act by Landlord allowed by this paragraph shall terminate this Lease unless Landlord notifies Tenant that Landlord elects to terminate this Lease. After Tenant's default and for as long as Landlord does not terminate Tenant's right to possession of the Premises, if Tenant obtains Landlord's consent Tenant shall have the right to assign or sublet its interest in this Lease, but Tenant shall not be released from liability. Landlord's consent to a proposed assignment or subletting shall not be unreasonably withheld. Unpaid installments of Rent or other sums shall bear interest from the date due at the rate of seven percent (7%) per annum.
- c. Pursue any other remedy now or hereafter available to Landlord under the laws or judicial decision of the State in which the Premises are located.

If Landlord fails to perform any of its obligations hereunder within thirty (30) days (or immediately in the event of an emergency) after written notice from Tenant specifying in reasonable detail such failure (or if the failure cannot be corrected through the exercise of reasonable diligence within such thirty (30) day period, if Landlord does not commence to correct same within such thirty (30) day period and thereafter diligently prosecute the same to completion), Landlord shall be in default. Upon any such default by Landlord under this Lease, Tenant may exercise any of its rights provided at law or in equity. If Landlord's breach or default results in Tenant ceasing operations in the Premises or any portion thereof, and such cessation continues for a period in excess of twenty four (24) hours, Landlord shall reimburse Tenant for all out-of-pocket costs incurred by Tenant in connection with such closure, including, without limitation, payroll and other labor expenses, and the cost to replace perishable inventory.

31. EMINENT DOMAIN.

If more than twenty-five (25%) percent of the Premises shall be taken or appropriated by any public or quasi-public authority under the power of eminent domain, either party hereto shall have the right, at its option, to terminate this Lease, and Landlord shall be entitled to any and all income, rent, award, or any interest therein whatsoever which may be paid or made in connection with such public or quasi-public use or purpose, and Tenant shall have no claim against Landlord for the value of any unexpired Term of this Lease; however, Tenant shall have the right to file any separate claim available to Tenant for Tenant's property, the unamortized costs of any leasehold improvements to the Premises, the value

of the unexpired Term, Tenant's trade fixtures, business damages and moving expenses if separately allocated and any other losses incurred by Tenant, provided the filing of the claim does not diminish the award which would otherwise be receivable by Landlord. In the event that the related authority does not grant Tenant a separate award for its portion of the unamortized costs of the leasehold improvements, then Landlord shall assign to Tenant an equitable portion of its award relating to the unamortized costs of the leasehold improvements to the Premises. If either less than or more than twenty-five (25%) percent of the Premises is taken, or neither party elects to terminate as herein provided, the Rent thereafter to be paid shall be equitably reduced. If any part of the Building other than the Premises may be so taken or appropriated, Landlord shall have the right, at its option, to terminate this Lease and shall be entitled to the entire award as above provided.

32. OFFSET STATEMENT.

Each party shall at any time and from time-to-time upon not less than ten ((10 days' prior written notice from the other party execute, acknowledge and deliver to the other party a statement in writing, (a) certifying that this Lease is unmodified and in full force and effect (or, if modified, stating the nature of such modification and certifying that this Lease as so modified, is in full force and effect) and the date to which the Rent and other charges are paid in advance, if any, and (b) acknowledging that there are not, to the party's knowledge, any uncured defaults on the part of the other party hereunder, or specifying such defaults if any are claimed. Any such statement may be relied upon by a prospective purchaser or encumbrancer of all or any portion of the real property of which the Premises are a part.

33. PARKING.

Tenant shall have the right to use in common with other tenants or occupants of the Building the parking facilities of the Building. Landlord shall furnish to Tenant no less than four (4) parking spaces per thousand square feet of space occupied by Tenant. There shall be no charge to Tenant or Tenant's guests for such parking spaces during the Term.

34. AUTHORITY OF PARTIES.

- a. Corporate Authority. If Tenant is a corporation, each individual executing this Lease on behalf of said corporation represent and warrants that he is duly authorized to execute and deliver this Lease on behalf of said corporation, in accordance with a duly adopted resolution of the board of directors of said corporation or in accordance with the by-laws of said corporation, and that this Lease is binding upon said corporation in accordance with its terms.
- b. Limited Partnerships. If the Landlord herein is a limited partnership, it is understood and agreed that any claims by Tenant on Landlord shall be limited to the assets of the limited partnership, and furthermore, Tenant expressly waives any and all rights to proceed against the individual partners or the officers, directors or shareholders of any corporate partner, except to the extent of their interest in said limited partnership.

35. MODIFICATION FOR LENDER.

If, in connection with obtaining financing for the building, the lender shall request reasonable

modifications in this Lease as a condition to such financing Tenant will not unreasonably withhold, delay, or defer its consent thereto, provided that such modifications do not increase the obligations of Tenant hereunder or materially adversely affect the leasehold interest hereby created.

36. PERSONAL PROPERTY.

Upon the expiration of their Term, or upon any earlier termination of their Lease, Tenant shall quit and surrender possession of said Premises to Landlord in the same condition as upon delivery of possession to Tenant hereunder, reasonable wear and tear and damage by acts of God, the elements and unavoidable casualty excepted. Before surrendering possession of said Premises, Tenant shall, without expense to Landlord, remove or cause to be removed from said Premises all signs, furnishings, equipment, trade fixtures, merchandise, and other personal property installed or placed therein that may readily be removed without damage to the Premises, and all debris and rubbish, and Tenant shall repair all damage to said Premises resulting from such removal. If requested by Landlord, Tenant shall execute, acknowledge, and deliver to Landlord an instrument in writing releasing and quitclaiming to Landlord all right, title and interest of Tenant in and to said Premises by reason of this Lease or otherwise. If Tenant fails to remove any of its signs, furnishings, equipment, etc. within ten (10) days after the expiration or termination of the Lease, then Landlord may, at its sole option, subject to applicable law, (1) deem any or all of such items abandoned and the sole property of Landlord, or (2) remove any and all such items and dispose of same in any manner.

37. FORCE MAJEURE.

The period of time during which either party is prevented or delayed in the performance or making of any improvement or repairs or fulfilling any obligation required under this lease (except for the payment of Rent due Lessor) due to unavoidable delays caused by fire, catastrophe, strikes, lockouts, picketing or strike threats, civil commotion, acts of God or the public enemy, government prohibitions or regulations, or inability to obtain materials by reason thereof, or any similar or like cause beyond such party's reasonable control shall be added to such parties time for performance thereof and such party shall have no liability by reason thereof.

38. ACCESSIBILITY; AMERICANS WITH DISABILITIES ACT.

The Premises: have not undergone an inspection by a Certified Access Specialist (CASp). Note: A Certified Access Specialist (CASp) can inspect the subject premises and determine whether the subject premises comply with all of the applicable construction-related accessibility standards under state law. Although state law does not require a CASp inspection of the subject premises, the commercial property owner or lessor may not prohibit the lessee or tenant from obtaining a CASp inspection of the subject premises for the occupancy or potential occupancy of the lessee or tenant, if requested by the lessee or tenant. The parties shall mutually agree on the arrangements for the time and manner of the CASp inspection, the payment of the fee for the CASp inspection, and the cost of making any repairs necessary to correct violations of construction-related accessibility standards within the premises.

ACKNOWLEDGED:

LANDLORD

**Fresno-Air Ltd., a California
Limited Partnership**

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

Date: _____

TENANT

**San Joaquin Valley College, Inc.
a California corporation**

By: _____

Title: _____

Date: _____

EXHIBIT “A”
Approximate Floor Plan

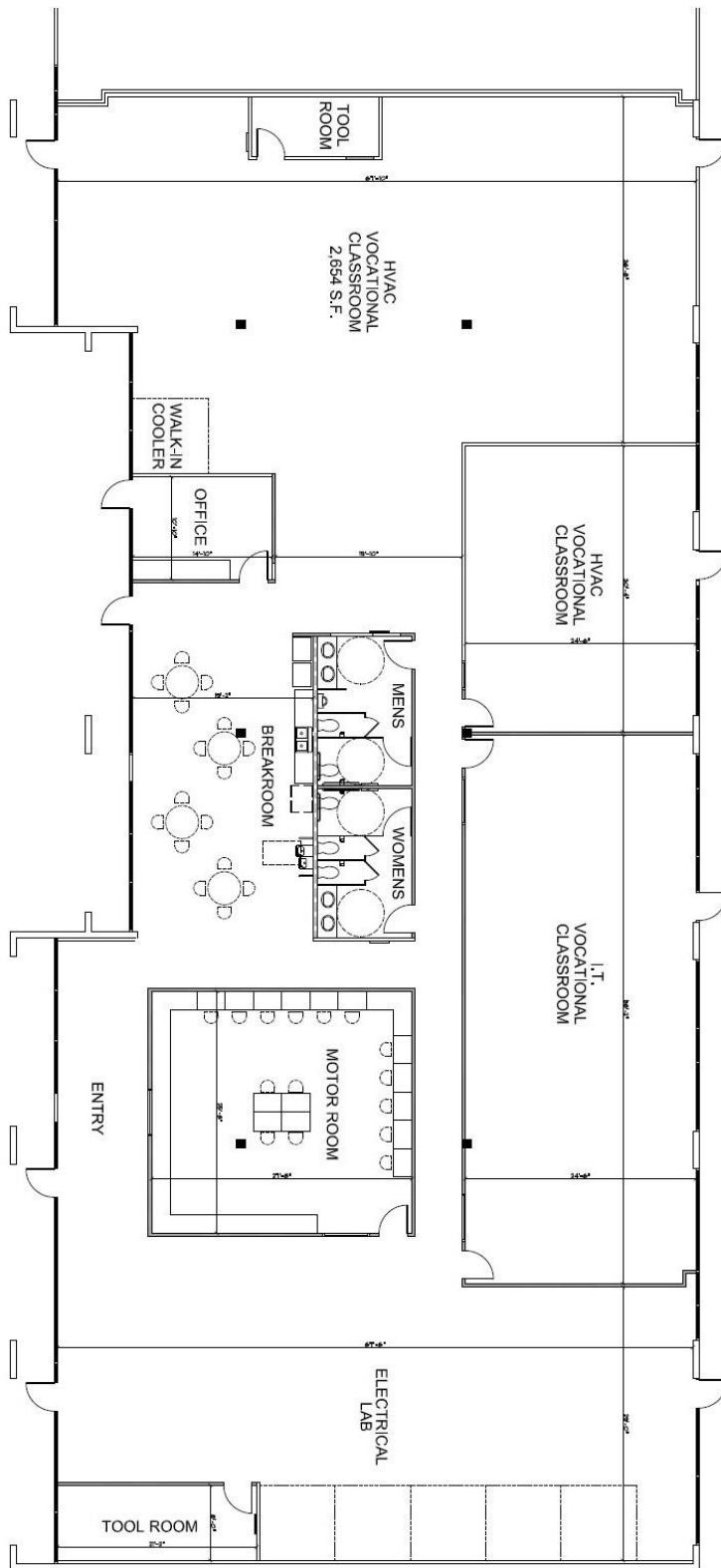


EXHIBIT "A"
Floorplan – continued



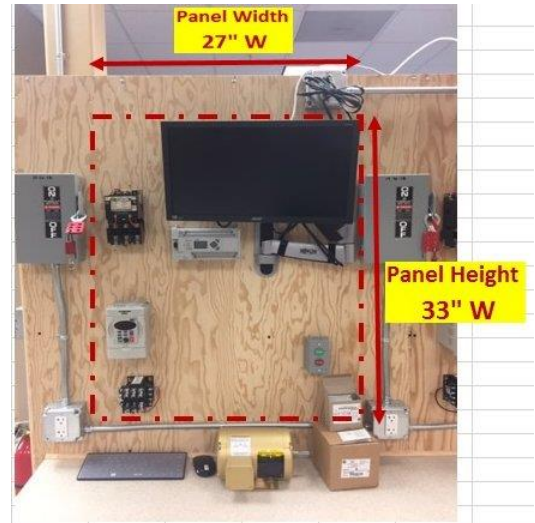
MOTOR ROOM (example only)



MOTOR ROOM- cont. (example)



**MOTOR ROOM – panels
(example only)**



**MOTOR ROOM – panel detail
(example)**



Electrical lab – (example)

EXHIBIT “B”

Tenant Improvements

THIS WORK LETTER supplements the Lease between Landlord and Tenant to which this Work Letter is attached as **Exhibit B**.

Landlord agrees to perform or to cause Landlord’s contractor to perform in Landlord’s standard manner and using Landlord’s standard materials in compliance with all applicable laws, statutes, ordinances, governmental regulations or requirements now in force or which may hereafter be in force, the following “turn-key” Tenant improvement work (“**Tenant Improvements**”) in the Premises:

- 1) Remove/demolish existing walls, carpet and ceiling grid inside the Premises.
- 2) Construct a floorplan as approximately depicted in Exhibit “A” above.
*Floorplan shall include three (3) large vocational classrooms (2 HVAC classrooms, 1 IT classroom with 12 station counter and lower cabinets), 1 large Motor Room with perimeter counter on three walls, 2 Tool Rooms, 1 private office, a breakroom area with new cabinetry and plumbing, and new men’s/women’s restrooms adjacent to the breakroom area. Floorplan will also include an Electrical Lab with open walls, as approximately depicted in the photographs shown in Exhibit “A”. The five electrical lab stations shall measure 8’ by 8’ and will be constructed using open wall, wood frame construction.
- 3) Install sufficient electrical systems and components to power all of the rooms listed above as approximately depicted in the photographs shown in Exhibit “A”.
- 4) The floorplan shall be mostly an open ceiling design, with hard ceilings located in the common area restrooms and tool rooms, and drop ceilings located in the motor room and private office.
- 5) Install new, building standard lighting throughout the Premises.
- 6) Provide plumbing, including an in-floor shop sink, adjacent to the Tool room located in the HVAC vocational classroom. Plumbing shall include a cold water angle stop to allow for the future installation of ice machines (Ice machines provided at Tenant’s expense)
- 7) Remove the existing roll up door and replace with two large doors, approximately 3’x8’ per door, in order to create a potential opening of approx. 6’x8’ for the purposes of bringing in various mechanical and HVAC equipment.
- 8) Install flooring throughout the Premises using mutually agreeable materials and colors
- 9) Paint the Premises using mutually agreeable colors
- 10) Ensure all plumbing, electrical and HVAC systems are delivered in good working order
- 11) Professionally clean the Premises prior to occupancy
- 12) Re-key the Premises prior to occupancy

- 13) Provide and install 9 hanging ceiling mounts for installation of 60- inch televisions
- 14) Construct a self-contained sewer room with separate HVAC service.

Landlord shall, at its own expense, (a) comply with the Americans with Disabilities Act of 1990 (as amended), the Federal Occupational Safety and Health Act of 1970 (as amended) and all regulations or standards as are or may be promulgated thereunder.

Landlord shall retain an architect approved by Tenant (acting reasonably) (the "Architect") to prepare the plans and drawings (the "Construction Drawings") of the Tenant Improvements, to be approved by Tenant in Tenant's sole discretion within ten (10) days after Tenant receives such drawings. Tenant's review of the Construction Drawings shall not obligate Tenant to review the same, for quality, design, code compliance or other like matters. Accordingly, Tenant shall have no liability whatsoever in connection therewith and shall not be responsible for any omissions or errors contained in the Construction Drawings.

Any additional work, change of work or any materials or installations other than the work set forth in the approved Construction Drawings or specifically set forth and described herein ("**Tenant's Overstandard Work**") which Landlord agrees, in its sole and absolute discretion, to have Landlord's contractor perform over and above the Tenant Improvements shall be done pursuant to such contractor's standard "cost plus fee" contract, which contract shall provide for payment of (i) a "general conditions" fee for performance of "general conditions" (e.g., trash clean-up and hauling, job lighting and power, insurance, safety protection, security and hoists) equal to ten percent (10%) of Tenant's Overstandard Work, and (ii) a contractor's fee equal to ten percent (10%) of all other costs of Tenant's Overstandard Work. If the aggregate cost of all Tenant's Overstandard Work to which Landlord agrees is less than \$5,000, the whole thereof shall be payable within five (5) Business Days of Landlord's billing Tenant therefor. If the aggregate cost of all Tenant's Overstandard Work exceeds \$5,000, such amount shall be payable fifty percent (50%) upon Tenant's signing the agreement wherein Landlord agrees to perform Tenant's Overstandard Work with the balance payable in substantially equal progress payments within five (5) Business Days after receiving Landlord's bill therefor. All payments owed by Tenant in connection with any Tenant's Overstandard Work shall be collectible as additional Rent under the Lease.

"**Tenant Delay**" shall mean any delay in the completion of the Tenant Improvements resulting from the actions of Tenant including: (i) Tenant's failure to specify the quality or color of any material or work to be performed by Landlord in the Premises within five (5) Business Days of delivery of samples thereof to Tenant, or (ii) delays caused by Tenant Overstandard Work. If there shall be any Tenant Delay, then Tenant shall be required to commence the payment of Rent under the Lease based on the Commencement Date that would have occurred but for the Tenant Delay.

Landlord shall send Tenant written notice, at least fifteen (15) days in advance, of Landlord's anticipated date of Substantial Completion. Substantial Completion of Improvements in the Premises shall be certified to Tenant in writing by Landlord's architect or contractor. Landlord, at its sole cost and expense, shall provide Tenant with final as-built plans of the Premises promptly following Landlord's receipt thereof.

Substantial Completion. For purposes of this Lease, the terms “Substantial Completion,” “Substantially Completed” and “Substantially Complete” shall each mean that all Tenant Improvements have been completed in accordance with the Lease, the Construction Drawings and this Work Letter, except for those minor or insubstantial items of Tenant Improvements that can be completed without causing substantial interference with Tenant’s access to or use of the Premises (i.e., the “punch-list” items). Landlord shall warrant the Tenant Improvements to be free from defects in workmanship and materials for a period of twelve (12) months following final completion of the Tenant Improvements, and if applicable, shall assign to Tenant any warranties provided to Landlord in connection with the Tenant Improvements at the expiration of such twelve (12) month period. The Premises shall be delivered to Tenant with the Tenant Improvements Substantially Completed, in good, broom-free condition, free from all tenancies, leases or occupancy rights of others of any kind, free of all violations, orders or notices of violation of all public or quasi-public authority, with a watertight and leak-free roof, with all building machinery in good working order and condition, and ready for use and occupancy by Tenant.

Except as otherwise expressly set forth herein, Landlord shall, at Landlord’s sole cost and expense, obtain such occupancy permits and other licenses as may be required to be obtained to permit the use and occupancy of the Premises for the permitted use hereunder, including, but not limited to, the Certificate of Occupancy. Landlord shall diligently pursue such permits and licenses at its sole cost and expense and shall provide Tenant with reasonable evidence of its application thereof. Notwithstanding anything herein to the contrary, in the event that Landlord is unable to obtain the necessary permits and licenses in a timely manner despite the use of its best efforts, then Tenant, at Tenant’s option and at Landlord’s sole cost and expense, shall have, after prior written notice to Landlord and a reasonable opportunity to cure, the right to apply for such permits and licenses.

EXHIBIT “C”

RULES AND REGULATIONS

1. No sign, placard, picture, advertisement, name or notice shall be inscribed, displayed or printed or affixed on or to any part of the outside or inside of the building without the written consent of Landlord, not to be unreasonably withheld. Landlord shall have the right to remove any such non-permitted sign, placard, picture, advertisement name, or notice without notice to and at the expense of Tenant.

All approved signs or lettering on doors shall be printed, painted, affixed, or inscribed at the expense of Tenant by a person approved of by Landlord. Tenant shall not place anything or allow anything to be placed near the glass of any window, door, partition, or wall which may appear unsightly from outside the Premises; provided, however, that Landlord may furnish and install a Building standard window covering on all exterior windows. Tenant shall not without prior written consent of Landlord cause or otherwise sunscreen any window.

2. The sidewalks, halls, passages, exits, entrances, elevators, and stairways shall not be obstructed in a material manner by any of the Tenants or used by them for any purpose other than for ingress and egress from their respective Premises.
3. Tenant shall not alter any lock or install any new or additional locks or any bolts on any doors or windows of the Premises with the written permission of Landlord.
4. The toilet rooms, urinals, wash bowls, and other apparatus shall not be used for any purpose other than that for which they were constructed. The expense of any breakage, stoppage, or damage resulting from the violation of this rule shall be borne by the Tenant who, or whose employees or invitees shall have caused it.
5. Tenant shall not overload the floor of the Premises or in any way deface the Premises or any part thereof.
6. No furniture, freight, or equipment which is large or heavy shall be brought into the Building through a shared entrance without prior notice to Landlord. Landlord shall have the right to prescribe in writing in advance, (i) the weight, size, and position of all safes and other heavy equipment brought into the Building and (ii) the times and manner of moving the same in and out of the Building. Safes or other heavy objects shall, if considered necessary by Landlord, stand on supports of such thickness as is necessary to properly distribute the weight. Landlord will not be responsible for loss of or damage to any such safe or property from any cause, and all damage done to the Building by moving or maintaining any such safe or other property shall be repaired at the expense of Tenant.

7. Tenant shall use commercially reasonable efforts to mitigate any noise, odors, and/or vibrations which interfere with other tenants. Tenant shall not allow any animals or birds be brought in or kept in or about the Premises or the Building other than service animals.
8. The Premises shall not be used for the storage of merchandise, for washing clothes, or for lodging.
9. Tenant shall not use any method of heating or air conditioning other than that supplied by Landlord without Landlord's consent, not to be unreasonably withheld.
10. Landlord will direct electricians as to where and how telephone and telegraph wires are to be introduced. No boring or cutting for wires will be allowed without the consent of the Landlord. The location of telephones, call boxes, and other office equipment affixed to the Premises shall be subject to the approval of Landlord.
11. Landlord reserves the right to exclude or expel from the Building any person who, in the reasonable judgment of Landlord is intoxicated or under the influence of liquor or drugs, or who shall in any manner do any act in violation of any of the rules and regulations of the Building.
12. No vending machine or machines of any description shall be installed, maintained, or operated upon the Premises without the written consent of the Landlord, not to be unreasonably withheld. Nothing herein shall be deemed to prevent Tenant and its agents, employees, contractors and invitees from bringing onto the Building and the Premises for personal use ice, coffee, milk, soft drinks and similar food and beverages.
13. Subject to the provisions of the Lease, Landlord shall have the right, exercisable without notice and without liability to Tenant, to change the name and street address of the Building of which the Premises are a part.
14. Tenant shall not disturb, solicit, or canvas any occupant of the Building and shall cooperate to prevent same.
15. Without the written consent of Landlord, Tenant shall not use the name of the Building in connection with or in promoting or advertising the business of Tenant except as Tenant's address.
16. Landlord shall have the right to control and operate the public portions of the Building and the public facilities, and heating and air conditioning, as well as facilities furnished for the common use of the Tenants, in such manner as it deems best for the benefit of the Tenants generally.

17. All entrance doors in the Premise shall be left locked when the Premises are not in use, and all doors opening to public corridors shall be kept closed except for normal ingress and egress from the Premises.

18. Tenant agrees to comply with any regulations which local, state, or Federal authorities may impose pertaining to the use of air conditioning and/or heating facilities. Should Tenant fail to comply, then Tenant agrees to pay any fees or penalties which may be imposed on Tenant, Landlord, or Landlord's Agents in connection with such failure, and Tenant shall indemnify and hold Landlord and Agents harmless against such fees or penalties.

EXHIBIT "D"

TENANT EMERGENCY DIRECTIVE

TENANT: _____

PROPERTY: _____

EMAIL ADDRES: _____

DURING BUSINESS HOURS (8:30 A.M. - 5:00 P.M.)

CONTACT: BUSINESS PHONE HOME PHONE

_____	_____	_____
_____	_____	_____
_____	_____	_____

AFTER BUSINESS HOURS (5:00 P.M. - 8:30 A.M.)

CONTACT: HOME PHONE

_____	_____
_____	_____
_____	_____

ALL CHECKS SHOULD BE MADE PAYABLE TO: Fresno Air Ltd.

Return To: Russell G. Smith, Inc
8050 N. Palm Ave., Suite 300
Fresno, CA 93711

