

FRESNO YOSEMITE INTERNATIONAL AIRPORT

**GROUND LEASE AGREEMENT
FOR ADMINISTRATION AND OPERATIONS FACILITY**

By and Between

**CITY OF FRESNO
a Municipal Corporation**

And

**ROAM,
a General Partnership between AMERICAN AIRBORNE, EMS.,
a California Corporation; and ROGERS HELICOPTERS, INC.,
a California Corporation**

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GROUND LEASE FOR ADMINISTRATION AND OPERATIONS FACILITY AT [FRESNO YOSEMITE INTERNATIONAL] AIRPORT

This Ground Lease for Administration and Operations Facility at Fresno Yosemite International Airport (Airport) (herein referred to as the "Lease"), by and between the CITY OF FRESNO, a California municipal corporation (herein referred to as "Lessor" or "City") and ROAM, a General Partnership between American Airborne, EMS., a California Corporation; and ROGERS HELICOPTERS, INC., a California Corporation, located at 5484 East Perimeter, Fresno, California 93727 (herein referred to as "Lessee") (Lessor and Lessee herein together referred to as the "Parties"), is made and entered into on this ____ day of _____, 2014 (the "Effective Date"), and evidences the following:

WITNESSETH

WHEREAS, Lessor owns and operates an airport in the City of Fresno, Fresno County, California, known as Fresno Yosemite International Airport (the "Airport"); and

WHEREAS, Lessor hereby desires to lease to Lessee, and Lessee hereby desires to accept from Lessor, the Leased Premises (as defined in Section 2.A of this Lease), for the purposes set forth in this Lease; and

WHEREAS, Lessee agrees to construct and use the New Improvements (as defined in Section 2.B of this Lease) on the Leased Premises in the manner provided for in this Lease.

NOW, THEREFORE, in consideration of the rent herein provided to be paid by Lessee, and such other mutual covenants and consideration as herein provided, Lessor does hereby grant, lease and let to Lessee the Leased Premises, together with the right to use any common, runways, taxiways, and access of and to the Airport upon the following terms and conditions:

SECTION 1. DEFINITIONS

- A. The terms "air carrier", "aircraft" and "air transportation" shall have the same meaning as defined in the Federal Aviation Act of 1958, as amended. All other terms shall be defined, if necessary, in their proper context throughout this Lease.
- B. The term "Director" or "Director of Aviation" shall mean the City of Fresno Director of Aviation or his/her designee.

SECTION 2. LEASED PREMISES & NEW IMPROVEMENTS

A. Leased Premises.

Lessor hereby lets and demises to Lessee and Lessee hereby leases and takes from Lessor 64,402 square feet of land, including existing paved

aircraft ramp (Ramp), located at the Airport, as described by the "Leased Premises Metes and Bounds Description" on Exhibit A and as shown in the "Depiction of Leased Premises" on Exhibit B, all of which are attached hereto and incorporated herein (the "Leased Premises").

B. New Improvements.

Lessee agrees to construct new Administration and Operations Facility, primarily for use to support air ambulance operations, associated parking facilities and related improvements on the Leased Premises and as set forth on "Depiction of New Improvements," attached hereto and incorporated herein as Exhibit C (the "New Improvements"). Immediately upon the Effective Date, and for the duration of construction of New Improvements, Lessee intends to install temporary facilities from which to conduct its operations.

SECTION 3. TERM

This Lease shall commence on the Effective Date and end twenty (20) years after the Date of Beneficial Occupancy (as defined below) (the "Term").

SECTION 4. RENT

A. Rent

As of the Effective Date, Lessee shall pay Lessor rent for the use and occupancy of the Leased Premises at the rate of \$[0.30] per square foot per year, payable monthly in advance in the amount of one thousand six hundred and ten dollars and five cents (\$1,610.05).

For purposes of this Lease, the "Date of Beneficial Occupancy" shall be defined as the earlier of: (i) the date a certificate of occupancy is issued for the New Improvements or (ii) twelve (12) months from the Effective Date.

1. Proration of Rent: For any period less than a full calendar month, for which rent shall be due to be paid to Lessor by Lessee, the rent therefore shall be pro-rated on a 30 day/month basis.

B. Rental Adjustment

Commencing on first day of the month of the anniversary of the effective date, then on this day each year throughout the term of this lease (the "Scheduled Adjustment Date"), including any available option exercised by the Lessee, the amount of monthly rent to be paid to LESSOR by LESSEE shall be increased by the same percentage as the percentage increase in

the U.S. Department of Labor, Bureau of Labor Statistics (USDLBLS) Consumer Price Index (CPI) for Urban Wage Earners and Clerical Workers (all items, U.S. city average) from January 1 to December 31 during the last full calendar year prior to the Scheduled Adjustment Date. The amount of all such annual adjustments shall be determined in the manner illustrated within Exhibit D "Illustration Of Annual Rental Adjustment Computation", attached hereto and made a part hereof. Lessor shall complete the "Annual Rental Adjustment Computation" worksheet as illustrated in Exhibit D hereto, and provide a copy of such worksheet to Lessee, prior to the Scheduled Adjustment Date each year during the life of this lease. In the event of a decrease in the CPI, in any given year, there shall be no rent adjustment. In the event the CPI decreases, monthly rent shall not be adjusted.

1. Effective Period of Provisions: The foregoing rental adjustment provisions shall be effective in the manner described so long as the afore-mentioned CPI data is published by the USDLBLS in substantially the same form and is based generally on the same type data being used on January 1, 2013, and, in the event of any change in form and/or basis of said index, said provisions shall be redefined in writing by LESSOR and LESSEE to a reasonably comparable standard.
2. Retroactive Rent Adjustment: In the event any annual rent adjustment computation shall, for any reason whatsoever, be delayed beyond the Scheduled Adjustment Date, LESSEE shall continue paying the existing monthly rent amount (i.e., the amount being paid immediately prior to the Scheduled Adjustment Date of the new Lease Year) when due until the new rental rate is finally determined by LESSOR.
 - i. Any rent adjustment due as a result of any such late computation shall apply and be paid by LESSEE retroactively as of the first day of the Lease Year for which any such late computation shall be applicable.
 - ii. When any such late computation results in an increase in the monthly rent, LESSEE shall pay the difference between the new rate and the old rate, for each of the months of the Lease Year during which the new rent amount shall have been in effect, together with the next due monthly rent payment.
3. Place of Payment: Rent shall be paid to Lessor at the address shown below or at such place or places at which Lessor may in writing direct the payment thereof from time to time during the term hereof.

City of Fresno Airports Department
Attn: Airports Accounting
4995 E. Clinton Way
Fresno, CA 93727

SECTION 5. USE

A. Use Terms and Conditions

Subject to the other terms and conditions set forth in this Lease, Lessee intends to operate an air ambulance operation as the primary use, ground ambulance operations as the secondary use, along with related aircraft services, general office functions, training, parking, storing, and other air ambulance support operations. Authorization to conduct business on the Leased Premises is strictly dependent upon Lessee maintaining an air operations related business as the primary use which is a material term as defined under Sub-section 14.B. Should Lessee cease air operations, or reduce it to a level which is incidental to the Lessee's operation on the leasehold, that will constitute a default of this lease in accordance with Section 14. Lessee shall use the Leased Premises and the New Improvements only for those uses specifically set forth in this section, unless Lessee obtains the prior written consent of the City's Director of Aviation (the "Director of Aviation"), the consent, of which, shall not be unreasonably withheld. Lessee agrees to comply with applicable grant assurances given by the Lessor to the Federal Aviation Administration ("FAA").

SECTION 6. CAPITAL IMPROVEMENTS

A. Improvements

Within twelve (12) months from the Effective Date of this Lease, Lessee shall Substantially Complete (as defined below) construction of the New Improvements in accordance with the "Scope of Work for New Improvements," attached hereto and incorporated herein as Exhibit E. If Lessee fails to Substantially Complete the New Improvements within twelve (12) months of the Effective Date of this Lease within twelve (12) months of the Effective Date, the City, acting through the Director of Aviation may terminate this Lease.

B. Pre-Construction Approval

1. Prior to entering into any contract for the construction of improvements and facilities, Lessee shall submit two (2) sets of professionally prepared plans and specifications to Director for conceptual review and approval.
2. Although such plans and specifications shall be considered

preliminary, they shall include a definitive site plan and all exterior elevations; building plans with materials, color selections, and structural design; landscaping and irrigation plans; paving and drainage plans; sign drawings; and any other materials which may be required to accurately portray all aspects of the proposed development covered thereby.

3. Director shall have thirty (30) days, following receipt of such plans and specifications, during which to complete a review thereof and provide lessee with written notice of Director's conceptual approval. In the event such notice shall specify that such plans and specifications are approved subject to certain reasonable changes, modifications, additions, deletions, etc., as shall be expressly set forth within said notice, Director's conceptual approval shall be deemed conditioned upon any and all such reasonable modifications, additions, deletions, changes, etc., subsequently being appropriately incorporated within lessee's plans and specifications for the particular development for which any such conditional conceptual approval shall be given.
4. All plans and specifications referred to above and all renovations, remodeling, refurbishing and construction to or upon the leased premises shall meet all applicable City of Fresno, State and Federal fire and building code requirements and provide for construction from material acceptable to Lessor.

C. Costs

The complete cost of developing all necessary plans and specifications as provided herein, payment for permits, fees, licenses and certificates, and the complete cost of construction of the New Improvements upon the Leased Premises by Lessee shall be borne solely by Lessee and be at no expense to Lessor whatsoever.

D. Submission of Plans to City of Fresno Development Department:

1. Not later than sixty (60) days immediately following the date on which Director's conceptual approval is provided to Lessee in writing, Lessee shall submit to the City of Fresno Development Department Plans and Specifications that include any and all changes, modifications, additions and/or deletions required by Director and meet any and all of the requirements applicable to such development, pursuant to the provisions of Section 7.B and then do such things and/or complete such actions as may reasonably be required in order to obtain all applicable building or construction permits (including the filing of an "**Application for Environmental Review**" of the proposed construction project under the California Environmental Quality Act ["CEQA"]) and payment of any and all lawful fees and/or charges associated with

and/or applicable to any and all such things and/or such actions.

2. No construction shall be undertaken in or on the Leased Premises unless and until Lessee's plans and specifications shall have been approved in writing by the City of Fresno Development Department **and lessee shall have been issued and have in hand any and all required permits for such construction.**

E. Construction

1. **Workmanship** Lessee agrees that all work to be performed by it or its contractor(s), including all workmanship and materials, shall be consistent with the quality of similar improvements at airports similarly-situated as the Airport. Such work shall be performed in full compliance and in accordance with the plans and specifications approved by the Director of Aviation, and such work shall be subject to inspection by the Airport and the City of Fresno Development Department during the performance thereof and upon completion.
2. **Claims** Lessee shall assume the risk of loss or damage to all work prior to the completion thereof. Lessee shall repair or replace any such loss or damage existing at the time of completion without cost to Lessor. Lessee shall discharge all obligations to contractors, subcontractors, materialmen, workmen and/or other persons for all work performed and for materials furnished for or on account of Lessee as such obligations mature. Nothing in this Lease shall limit the right of Lessee to contest any claims of any contractor, subcontractor, materialmen, workmen or other person without being considered in breach thereof. Nothing contained in this Lease shall be deemed to constitute consent by Lessor to the making or the attempt to make any claim or lien against the improvements constructed on the Leased Premises. Lessee agrees that any claim or lien filed, noticed or created against the same shall be removed and discharged as soon as reasonably possible. Upon Lessor's written request, through the Director of Aviation, Lessee shall provide lien waivers or certificates of completion from its contractors to ensure that the required capital improvements have been completed according to the agreed upon plan and/or that the contractors, sub-contractors and suppliers have been paid.
3. **Bond** Lessee shall require its contractor(s) to furnish a "Performance Bond" and a "Payment Bond", approved as to form by the City. If Lessee acts as its own licensed contractor during the construction period, this provision shall be waived.
4. **Substantial Completion** For the purposes of this Lease, the term "Substantial Completion" or the phrase "Substantially Complete" shall mean that the New Improvements are sufficiently completed in accordance with the construction documents, specifications, and Exhibit E such that the Lessee may beneficially occupy and use the

New Improvements for the purposes for which it is intended and only trivial and insignificant items remain which do not affect the New Improvements as a whole. The date of issuance of the Certificate of Substantial Completion of the New Improvements shall be determined by the Director of Aviation.

5. **Notification** Lessee shall notify Lessor in writing of the completion of construction of the New Improvements within the time period identified on the Certificate of Substantial Completion.
6. **Extension of Time to Complete** If Lessee is delayed at any time in the progress of constructing the New Improvements by an act or neglect of Lessor, the time to complete the New Improvements shall be extended for such reasonable time as the Director of Aviation may determine. Notwithstanding any other provisions of this Lease, no adjustment shall be made to the Rent due from Lessee or the amount Lessee is required to expend under Section 6.A above and Lessee shall not be entitled to claim or receive any additional compensation as a result of or arising out of any delay, hindrance, disruption, force majeure, impact, or interference, foreseen or unforeseen, resulting in adjustment to timing of the performance of this Lease hereunder, except to the extent caused by the acts, omissions, failures, negligence, or fault of the Lessor.
7. **Notice of Completion** For the purposes of this Lease, the term "Notice of Completion" shall mean that the New Improvements have been completed to the satisfaction of the Airports Department, in accordance with the construction plans, specifications, Exhibit E and all building permits have been signed off by the City of Fresno Development Department. The date of issuance of the Notice of Completion of the New Improvements shall be determined by the Director of Aviation.

F. "As Built" Drawings and Statement of Final Costs

1. Within ninety (90) days following completion of all of the Site Development and Construction Improvements, Lessee shall furnish the Director of Aviation with complete sets of "As Built" drawings and specifications, in electronic PDF and hard copy formats, and a verified statement of final costs (including engineering, architectural and inspection fees), together with receipted invoices for labor and materials and releases therefor, covering any and all such leasehold improvements and specifying the date on which such improvements were completed.

G. Remodel, Renovate or Refurbish the Leased Premises

1. During the term of this Lease, Lessee shall be able to remodel, renovate and refurbish the Leased Premises and the New Improvements, or any part thereof, and to build and construct new additions and improvements thereto and thereon subject to the other terms and conditions of this Lease, under the following conditions:
 - i. For the exterior of the New Improvements and those portions of the Leased Premises surrounding the New Improvements, Lessee shall obtain the Director of Aviation's prior written consent for any remodeling, renovation, refurbishment, or construction.
 - ii. For the interior of the New Improvements, Lessee shall obtain the Director of Aviation's prior written consent for any remodeling, renovation, refurbishment, or construction which has a dollar value of Five Thousand and No/100 Dollars (\$5,000.00) or more, or which would in any way impact the electrical, plumbing, mechanical, communication systems or structure of the New Improvements.

H. Reversion of Improvements or Restoration of Premises

Upon the expiration or termination of this lease, Lessee agrees to quietly and peacefully surrender possession of the Leased Premises. At the sole discretion of the Director of Aviation, Lessee shall either:

- i. Relinquish the Leased Premises with all additions and improvements thereto to Lessor in the same condition as existed upon the Date of Notice of Completion. The Improvements, excluding trade fixtures therein (which shall remain the property of Lessee), shall be owned by the City upon the expiration or termination of this Lease; such improvements shall be given over to Lessor free and clear of any and all encumbrances, liens, claims, or demands of any nature or description whatsoever; or
- ii. Completely remove all improvements erected, constructed, and/or placed in, on or upon the Leased Premises with the land restored to an environmentally clean, properly graded condition free of weeds and rubbish. The complete cost of this restoration shall be borne solely by Lessee at no expense to Lessor whatsoever.

The Director of Aviation shall notify Lessee within sixty (60) days of expiration or termination of this lease of his/her election.

SECTION 7. MAINTENANCE, REPAIRS

A. Lessor's Maintenance and Repair Obligations

1. Lessor hereby agrees to maintain in good repair and in a clean and orderly condition any common areas, taxiways, public aprons, runways, and public access areas, and other public areas of the Airport essential to Lessee's operations that conform with Lessor's and applicable FAA construction specifications.

B. Lessee's Maintenance and Repair Obligations

1. Lessee shall, at all times during the life of this Lease, at Lessee's own cost and expense, keep and maintain the Leased Premises and all buildings, structures, paved surfaces including the leased ramp area, security fences, any security gates installed by Lessee during the life of this Lease, and any and all other improvements constructed, installed, and/or located in and/or on said premises in good order and repair, free of weeds and rubbish, and in a clean, sanitary, sightly and neat condition (Lessor shall have no obligation to provide any services whatsoever in this regard).
2. In the event Lessor deems any repairs required to be made by Lessee necessary and serves Lessee with written notice thereof, if, for any reason whatsoever, Lessee fails to commence such repairs and complete same with reasonable dispatch, Lessor may then make such repairs or cause such repairs to be made and SHALL NOT be responsible to Lessee for any loss or damage that may occur to Lessee's stock or business by reason thereof. If Lessor makes such repairs or causes such repairs to be made, Lessee agrees that the cost thereof shall be payable, AS ADDITIONAL RENT, along with the next monthly rental installment due hereunder after the completion of such repairs and the submission by Lessor to Lessee of a statement of such cost, or if no further rental installments are then payable, within thirty (30) days following submission by Lessor of any such statement.
3. Lessee acknowledges: (1) it has not relied on the representations of Lessor or any of Lessor's employees, agents or representatives; (2) it has inspected the Leased Premises; and (3) it agrees to accept the Leased Premises "AS-IS", "WHERE-IS" and "WITH ALL FAULTS" and in the condition in which such premises exist, including all known and unknown faults and/or deficiencies, recorded and/or unrecorded easements, on the Effective Date of this Lease. Lessee further agrees that the Leased Premises are suitable for Lessee's intended uses of the Leased Premises, subject to Lessor's obligations under this Lease.

C. Exclusive Use Premises

With respect to the Leased Premises, Lessee shall, at its own cost and expense:

1. Have the right, and to the extent hereinafter provided, the obligation (in accordance with applicable laws and ordinances and other applicable provisions of this Lease) to make repairs to or replacements of the New Improvements or other facilities constructed or installed on the Leased Premises; and
2. Have the right to erect or install on the Leased Premises equipment or personal property necessary for the performance of any of Lessee's operations, rights, and privileges provided for by this Lease; and
3. Have the right to construct and install on the Leased Premises any buildings, structures or improvements necessary for continuing operations and any additions to or extensions, modifications or improvements of the New Improvements and all other facilities (in accordance with applicable laws, regulations and ordinances and other applicable provisions of this Lease), subject to the approval of the Director of Aviation; and
4. Keep all fixtures, equipment and personal property, which are open to or visible to the general public, in a clean and orderly condition and appearance at all times (Lessee shall remove any of these items from public view if the Director of Aviation determines them to be unsightly); and
5. Provide and maintain (except for mobile firefighting equipment) all fire protection and safety equipment of every kind and nature required by any code, law, rule, order, ordinance, resolution or regulation; and
6. Provide, at its sole expense, all personnel or contractors (approved by the Director of Aviation) and its own equipment, all security protection for the Leased Premises in accordance with the Fresno Yosemite International Airport Security Plan and U.S. Department of Homeland Security Transportation Security Administration (TSA), or its successor agency regulations; provided, however, that in the event Lessee fails to provide security as herein set forth, Lessor shall provide all such personnel and equipment necessary, and Lessee shall reimburse Lessor for all actual costs and expenses incurred by Lessor for the supplying of such personnel and equipment; and
7. Control the conduct and demeanor of its employees and shall require its employees to wear uniforms where appropriate and display Airport security badges; and
8. Control all vehicular traffic in and among the areas where aircraft may be located, including the aircraft parking ramp, aircraft circulating and ramp vehicle services areas (exclusive of public roadways); take all precautions reasonably necessary to promote the safety of its passengers, employees, customers, business visitors and other persons; and employ such means as may be necessary to direct the movement of vehicular traffic in such areas,

including, but not limited to, any associated pavement markings that may be necessary.

D. Safety of Operations and Repairs

If the performance of any of the foregoing maintenance, repair, replacement or painting obligations of Lessee requires work to be performed where safety of operations are involved, Lessee agrees that it will, at its own expense, post guards or erect barriers or other safeguards in conformance with FAA safety specifications and approved by the Director of Aviation at such locations so as to provide for the safety of work performed. Lessee shall not perform any of the foregoing maintenance, repair, replacement, or painting obligations off of the Leased Premises.

E. Failure to Repair by Lessee

Should any property on the Leased Premises require repairs, replacements, rebuilding or painting, and Lessee fails to commence same after a period of ten (10) days following written notice from the Director of Aviation, or Lessee fails diligently to continue to completion of the repair, replacement, rebuilding or painting of all the property required to be repaired, replaced, rebuilt or painted by Lessee under the terms of this Lease, Lessor may, at its option, and in addition to any other remedies which may be available to it, repair, replace, rebuild or paint all or any of the property included in the said notice, the actual cost thereof to be paid by Lessee on demand. Lessee shall not be responsible for damage to or repair of any property on the Leased Premises caused by Lessor's failure to properly perform any of the maintenance, which it is required to perform under this Lease.

F. Access

In the interest of public safety or where the location or nature of the work performed warrant it, Lessor shall have the continuing right to temporarily deny Lessee's access to or egress from the Leased Premises or common areas, taxiways, runways, ramps, public aprons, public access areas and other public areas of the Airport in performing the work described herein. Lessor shall, however, provide alternate means of access or egress necessary for Lessee's operations reasonably satisfactory to the Parties.

SECTION 8. INSPECTION AND AUDIT BY LESSOR

A. Entry by Lessor for Inspection

Lessor may enter upon the Leased Premises at any reasonable time during normal business hours for any purpose connected with the performance of Lessor's or Lessee's obligations hereunder, including observing the performance by Lessee of obligations under this Lease; provided however, Lessor may enter upon the Leased Premises at any reasonable time to determine the condition of the Leased Premises from a standpoint of safety.

B. Records

Upon reasonable written notice given by Lessor, Lessee shall furnish to Lessor true and accurate records relating to this Lease, including but not limited to, financial statements prepared in accordance with generally accepted accounting practices, reports, resolutions, certifications and other information as may be requested by the Lessor from time to time during the term of this Lease. Additionally, Lessor shall have the right, upon reasonable written notice given to Lessee, to cause an audit to be made, at Lessor's expense, of the books and records of Lessee that relate to Lessee's operations described in this Lease. Lessee agrees to keep all books and records relating to this Lease for a period of five (5) years after the end of the calendar year that such books and records pertain. The terms of this paragraph shall survive the termination or expiration of this Lease.

SECTION 9. INSURANCE AND INDEMNIFICATION

A. Indemnification

1. Lessee shall hold Lessor completely harmless and indemnify, protect and defend Lessor and Lessor's officials, officers, members, employees, agents and volunteers against any and all claims, judgments, fines, damages, demands, liabilities, suits, notices, costs and expenses (including all reasonable costs and expenses for investigation and defense thereof [including, but not limited to attorney fees, court costs and consultants' fees]), or any one, more or all of these, of any nature whatsoever, arising or allegedly arising, directly or indirectly, out of, as a result of, or incident to, or in any way connected with: (1) Lessee's occupancy(ies) and/or use(s) of any part or all of the Leased Premises; (2) Lessee's exercise of any one, more or all of the rights and privileges herein granted; (3) any breach or default in the performance of any obligation on Lessee's part to be performed under the terms of this Lease; and/or (4) any act(s) or omission(s) on the part of Lessee and/or any officer(s), agent(s), employee(s), contractor(s), sub-contractor(s), servant(s), representative(s), tenant(s), or sub-lessees of Lessee during the life hereof, EXCEPT for those claims, judgments, fines, damages, demands, liabilities, suits, notices,

costs and expenses, or any of these, caused SOLELY by the active negligence or willful misconduct of Lessor.

2. Lessor shall give to Lessee reasonable notice of any such claims or actions.
3. **THE PROVISIONS OF THIS SECTION OF THIS ARTICLE SHALL SURVIVE THE EXPIRATION OR EARLY TERMINATION OF THIS LEASE.**

B. Exemption of Lessor:

Lessee hereby specifically warrants, covenants and agrees that Lessor **SHALL NOT** be liable for injury to Lessee's business or any loss of income therefrom or for damage to the goods, wares, merchandise or other property of Lessee, Lessee's employees, patrons, invitees, or any other person whomsoever, in or about the leased premises, **NOR** shall Lessor be liable for injury to the person of Lessee, Lessee's servants, agents, employees, contractors, sub-contractors, tenants, sub-lessees, customers, or invitees, whether or not said damage or injury is caused by or results from fire, steam, electricity, gas, water or rain, or from the leakage, breakage, obstruction or other defects of pipes, sprinklers, wires, appliances, plumbing, air conditioning or lighting fixtures, or from any other cause, whether or not the said damage or injury results from conditions arising in or on any part or all of the leased premises or in or on any of the improvement(s) and facilities appurtenant thereto located therein or thereon, or from other sources or places, and regardless of whether or not the cause of such damage or injury or the means of repairing the same is inaccessible to Lessee, **EXCEPT where such injury, damage, and/or loss shall have been caused SOLELY by the active negligence or willful misconduct of Lessor.** Lessee also covenants and agrees that Lessor **SHALL NOT** be liable for any damages arising from any act or neglect on the part of any third parties.

C. Insurance

1. **Insurance Requirements:** Throughout the life of this Lease, Lessee shall, at Lessee's expense, obtain and at all times maintain in full force and effect such MINIMUM insurance as is set forth within paragraphs "a" and "b" of this sub-section 1, below, acceptable to Lessor's Risk Manager or his/her designee. The insurance limits available to the City of Fresno, its officers, officials, employees, agents and volunteers as additional insureds, shall be the greater of the minimum limits specified herein or the full limit of any insurance proceeds available to the named insured.

a. **AIRCRAFT LIABILITY:**

- (1) Lessee shall carry Aircraft Liability Insurance

(including passengers) if Lessee is to be operating, maintaining or storing any owned aircraft at Airport.

(2) Lessee shall carry non-owned Aircraft Liability Insurance if Lessee engages in the use and/or operation of any non-owned aircraft.

(3) The following limits shall apply to ALL aircraft liability insurance:

Bodily Injury Liability, EXCLUDING Passengers: \$1,000,000.00 per occurrence; AND

Passenger Bodily Injury Liability: A MINIMUM for each occurrence of at least an amount equal to \$100,000.00 per passenger seat for the largest aircraft operated by Lessee; AND

Property Damage liability: \$500,000.00 per occurrence; OR

Combined Bodily Injury and Property Damage Liability: A MINIMUM for each occurrence of at least an amount equal to the SUM of the minimum limits set forth above.

b. GENERAL LIABILITY:

AIRPORT OR "PREMISES" LIABILITY: \$1,000,000.00 per occurrence.

PRODUCTS OR "COMPLETED PRODUCTS/OPERATIONS" LIABILITY: \$500,000.00 per occurrence.

GROUND HANGARKEEPER'S LIABILITY: \$1,000,000.00 per occurrence either INSIDE or OUTSIDE of hangar(s).

c. **ENDORSEMENTS:** The insurance policy(ies) obtained and maintained in force by Lessee pursuant to the provisions of paragraphs 1a and 1b of this Article, above, shall contain the following endorsements:

(1) **Additional Insured:** An additional insured endorsement in favor of City of Fresno, its officers, employees, officials, agents and volunteers.

(2) **Cancellation Notice:** A 30-day written notice of cancellation and/or material change endorsement in favor of City of Fresno.

(3) Primary and Non-contributory: Insurance afforded the

Lessee shall be primary, and no contribution shall be sought from Lessor.

- d. **FIRE AND EXTENDED COVERAGE INSURANCE:** In addition to the insurance specified within paragraphs 1a and 1b of this Article, above, Lessee shall also obtain and maintain in full force and effect a policy of FIRE AND EXTENDED COVERAGE INSURANCE protecting the Leased Premises in a sum sufficient to cover the TOTAL REPLACEMENT VALUE of ALL of the improvements located in or on same on the date the term hereof commences and any and all other improvements which may, at any time and from time to time during the life hereof, be constructed and/or installed therein or thereon by Lessee, and the "Replacement Value" of such coverage shall be maintained current throughout the life of this Lease.
- e. WORKER'S COMPENSATION INSURANCE COVERAGES AS REQUIRED BY THE CALIFORNIA LABOR CODE, WITH COMPLETE WAIVER OF SUBROGATION IN FAVOR OF LESSOR.

D. Additional Insured and Notice of Cancellation or Material Change Endorsements:

Any and all insurance policies required to be maintained by Lessee pursuant to the provisions of this section of this Article of this Lease, shall name the City of Fresno, California and its officers, officials, employees agents and volunteers as ADDITIONAL INSURED and shall contain an unqualified thirty (30) day NOTICE OF CANCELLATION OR MATERIAL CHANGE ENDORSEMENT in favor of the City of Fresno. Should any material change in liability limits occur, City must be notified immediately.

E. Primary Coverage:

SUCH INSURANCE AS SHALL BE MAINTAINED BY LESSEE PURSUANT TO THE INSURANCE PROVISIONS OF THIS LEASE SHALL BE ENDORSED AS BEING PRIMARY COVERAGE WHETHER OR NOT LESSOR, ITS OFFICERS, OFFICIALS, EMPLOYEES, AGENTS, OR VOLUNTEERS SHALL HAVE OTHER INSURANCE AGAINST ANY LOSS COVERED BY SUCH POLICIES and, PRIOR TO THE EXPIRATION OF ANY AND ALL SUCH POLICIES, LESSEE SHALL ENSURE THAT LESSEE'S INSURER(S) PROVIDE LESSOR WITH EVIDENCE OF RENEWALS/CONTINUATIONS THEREOF.

F. Evidence of Insurance:

It is the responsibility of Lessee to ensure that Lessee's insurer(s) provide and maintain current with Lessor valid "Certificates of Insurance" and

additional insured endorsements which shall list the following as additional insured: the City of Fresno, its airports, agents, officers, officials, employees and volunteers (or such other documentation as Lessor, at its option, at any time and from time to time during the life of this Lease, may reasonably require, including copies of policies), which shall clearly evidence the fact that insurance coverage(s) and limit(s) equal to or, at Lessee's option, more extensive/greater than those hereinabove set forth are, without lapse(s) in coverage(s), maintained in full force and effect by Lessee throughout the life of this Lease. Such evidence of insurance shall be provided Lessor at the following address:

City of Fresno
Airports Department
4995 E. Clinton Way
Fresno, CA 93727

or to such other address as Lessor may, from time to time, provide Lessee in writing during the life hereof.

G. Additional Insurance:

With reference to the above-stated minimum insurance requirements, it is mutually understood, acknowledged and expressly agreed that Lessor shall have the right, at any time and from time to time during the life of this Lease, to reasonably require Lessee to purchase and maintain other and/or additional reasonable types/amounts of insurance should Lessor reasonably determine that, with the passing of time and/or changing facts and/or circumstances, the minimum types and amounts of coverages initially required of Lessee under this Section of this Article of this Lease shall be inadequate to cover the potential liability resulting from EITHER Lessee's uses and/or occupancies of the airport and/or the leased premises OR Lessee's activities/operations in, on, to or from same.

SECTION 10. TAXES

A. Taxes and Assessments:

In addition to the rentals, fees, and charges herein set forth, Lessee shall pay, as and when due (but not later than fifteen [15] days prior to the delinquency date thereof) any and all taxes and general and special assessments of any and all types or descriptions whatsoever which, at any time and from time to time during the term of this Lease, may be levied upon or assessed against Lessee, the leased Premises and/or any one or more of the improvements located therein or thereon and appurtenances thereto, other property located therein or thereon belonging to Lessor or Lessee, and/or upon or against Lessee's interest(s) in and to said Premises, improvements and/or other property, including possessory interest as and when such be applicable to Lessee hereunder.

NOTE: Any interest in real property which exists as a result of possession, exclusive use, or a right to possession or exclusive use of any real property (land and/or improvements located therein or thereon) which is owned by the City of Fresno (Lessor) is a **taxable possessory interest**, unless the possessor of interest in such property is exempt from taxation. With regard to any possessory interest to be acquired by Lessee hereunder, Lessee, by its signatures hereunto affixed, warrants, stipulates, confirms, acknowledges and agrees that, prior to its executing this lease, Lessee either took a copy hereof to the office of the Fresno County Tax Assessor or by some other appropriate means, independent of Lessor or any employee, agent, or representative of Lessor, determined, to Lessee's full and complete satisfaction, how much Lessee will be taxed, if at all.

SECTION 11. SUBLETTING AND ASSIGNMENT

A. Right to Sublease

Provided that such sublease does not violate any of the material terms or provisions of this Lease, including authorized use, Lessee shall have the right to sublet any part of the Leased Premises, during the term of this Lease. Any such subletting shall not be considered a release of Lessee from any of its obligations under this Lease.

B. Written Consent

If Lessee should desire to sublet the Leased Premises as a whole, Lessee may do so only after securing the written consent of Lessor. A subletting of the whole Leased Premises, if permitted, shall not release Lessee from its obligations hereunder.

C. Sublease Subject to Terms of this Lease

Should Lessee sublease a portion of the Leased Premises or specific permanent improvements constructed on the Leased Premises, the terms of any sublease agreement of the Leased Premises shall be expressly subject to the terms of this Lease and Lessee shall provide Lessor with a copy of any sublease agreement entered into with any sublessee within fifteen (15) days after the sublease agreement has been entered into, along with any sublessee's name, address and telephone number.

D. Right to Assignment

Lessee shall not assign this Lease, in whole or in part, without the prior written consent of Lessor. An assignment shall not be considered a release of Lessee of any of Lessee's obligations under the terms of the Lease.

Lessor reserves the right to require a new agreement with the Assignee which may consist of new terms, rates, and conditions for the leasehold as a required condition of the assignment.

E. Payment Regarding Sublease or Assignment

In the event of a sublease or assignment, sublessor or assignor shall pay Lessor the greater of: (i) fifty percent (50%) of the excess sublease or assignment revenue attributable to ground rent over and above what the Lessee pays the Lessor for the sublease or assigned premises or (ii) fifty percent (50%) of the difference between the ground Lease rent (as distinguished from any rent that may be paid for the New Improvements) being paid at the time of the sublease or assignment and the appraised market ground lease rent for comparable properties at the Airport. Notwithstanding the foregoing, Lessee shall not be required to share excess sublease rentals with Lessor as long as Lessee continues to occupy space within the New Improvements. Lessor acknowledges that the amounts, if any, payable to Lessor pursuant to this Section 11 shall be net of any and all costs and expenses incurred by Lessee in connection with any assignment or sublease.

SECTION 12. UTILITIES

A. Costs and Expenses

1. During the term hereof, Lessee shall make its own arrangements for and pay all charges for water, sewer, gas, electricity, telephone, trash collection and other utility service(s) ("Utilities") supplied to and used on the Leased Premises. All such charges shall be paid before delinquency, and Lessor and the Leased Premises shall be protected and held harmless by Lessee therefrom. Should Lessee make arrangements for any Utilities through the City's Finance Department's Utilities Billing and Collection Section (e.g. water, sewage, and/or solid waste [trash] disposal), Lessee agrees to pay to Lessor, monthly, upon receipt of the billing(s) therefor at the then current rates as established from time to time by ordinances of Lessor for such services, such sum(s) as shall be due for any and all such services provided to the Leased Premises during the term hereof.
2. Upon Lessee's obtaining of any and all required permits and the payment of any required charges or fees, Lessee is hereby granted the right to connect to any and all storm drains, sanitary sewers and/or water and utility outlets as shall be available and/or provided to service the Leased Premises.
3. The construction/installation of any and all connections to any and all utility systems, including, without limitation, water service lines and associated fixtures, piping, plumbing and hardware, sewer connector lines, and storm drain inlets, feeder lines, etc., shall be the obligation of Lessee at Lessee's own cost and expense.

4. Lessor shall not be liable to Lessee for any interruption in or curtailment of any utility service, nor shall any such interruption or curtailment constitute a constructive eviction or grounds for rental abatement in whole or in part hereunder.

SECTION 13. LIENS

Lessee shall cause to be removed any and all liens of any nature arising out of or because of any construction, renovation, or remodeling performed by it or any of its contractors or subcontractors on the Leased Premises, or arising out of or because of the performance of any work or labor by it or them, or the furnishing of any material to it or them for use in making improvements on the Leased Premises. Lessee may, however, contest the validity or amount of such liens. The foregoing provision is not intended to prevent any reasonable method of construction financing by Lessee.

SECTION 14. TERMINATION BY LESSOR/EVENTS OF DEFAULT

Lessor reserves the right to terminate this Lease before the end of the Term or during any option period if any of the following circumstances should occur:

A. Failure to Pay

Lessee shall fail to make any payment due Lessor under this Lease on the date that same is due, as described in Section 4.B., and shall not cure such failure within thirty (30) days after written notice thereof to Lessee. After such a period of default, the Director of Aviation may deliver or cause to be delivered to Lessee a written notice of termination of this Lease. Lessee's receipt of such written notice shall be sufficient to terminate this Lease. Receipt shall be defined as the third (3rd) business day following deposit in regular U.S. Mail of a certified, postage pre-paid envelope containing notice of termination to be delivered to Lessee's address as indicated in Section 43 herein.

B. Material Terms

Other than as set forth in Section 14.A above, if Lessee shall fail to meet and observe any material term, condition or covenant of this Lease and shall fail to cure the same within thirty (30) days after receipt of written notice thereof by the Director of Aviation to Lessee, or, if such failure cannot reasonably be cured within the said thirty (30) days, Lessee shall not have commenced to cure such failure within said thirty (30) period or shall not have commenced to cure such failure within such thirty (30) day period with reasonable diligence and good faith.

C. Insolvency

Lessee shall become insolvent, or shall make a transfer in fraud of creditors, or shall make an assignment for the benefit of creditors, or a receiver or trustee shall be appointed for all or substantially all of the assets of Lessee.

D. Bankruptcy

Lessee shall file a voluntary petition under any section or chapter of the National Bankruptcy Act, as amended, or any similar law or statute of the United States or any State thereof, or an involuntary petition in bankruptcy is filed against Lessee and is not dismissed within sixty (60) days after such filing.

E. Abandon, Desert, or Vacate Leased Premises

Lessee shall abandon, desert, or vacate the Leased Premises, except as a result of a Force Majeure event as set forth in Section 33 of this Lease, provided, however, that Lessee's failure to occupy the Leased Premises due to a condition described in Section 19.A or Section 19.C under this Lease shall not constitute an event of default hereunder and shall not permit Lessor to terminate this Lease.

F. Non-Wavier

Lessor's failure to exercise its right to terminate this Lease upon determination of a default shall not waive Lessor's right to terminate this Lease at any subsequent time during the remaining term of this Lease unless such default has been cured in all material respects.

SECTION 15. REMEDIES FOR EVENTS OF DEFAULT

1. **Abandonment:** If Lessee abandons the Leased Premises, this lease shall continue in effect. Lessor shall not be deemed to terminate this Lease as a result of such material default and breach other than by written notice of termination served upon Lessee by Lessor, and Lessor shall have all of the remedies available to Lessor under Section 1951.4 of the Civil Code of the State of California so long as Lessor does not terminate Lessee's right to possession of the Leased Premises, and Lessor may enforce all of Lessor's rights and remedies under this Lease, including the right to recover the rent as it becomes due under this Lease. After abandonment of the Leased Premises by Lessee, Lessor may, at any time thereafter, give notice of termination.
2. **Termination:** Following the occurrence of any material default and breach of this Lease by Lessee as set forth within this Section,

above, Lessor may then immediately, or at any time thereafter, terminate this Lease by service of a minimum of ten (10) days advance written notice to such effect upon Lessee and this lease shall terminate at 11:59:59 p.m., on the termination date specified within such notice.

3. Such notice shall set forth the following:
 - a. The default and breach which resulted in such termination by Lessor; and
 - i. Demand For Possession, which, in the event only ten (10) days advance notice shall be given by Lessor, shall be effective at 12:00:01 A.M., on the eleventh (11th) calendar day following the date on which the notice in which such demand is contained shall be sufficiently served upon Lessee by Lessor in conformity with the "Notice" provisions of this Lease; or, if more than the minimum number of days advance notice shall be given, at 12:00:01 a.m., on the next day following the date specified within such notice as being the date of termination hereof.
 - b. Such notice may contain any other notice which Lessor shall be required or desire to give under this Lease.
4. Possession: Following termination of this Lease by Lessor pursuant to the provisions of this Section, without prejudice to other remedies Lessor may have by reason of Lessee's default and breach and/or by reason of such termination, Lessor may:
 - a. Peaceably re-enter the Leased Premises upon voluntary surrender thereof by Lessee or remove Lessee and/or any other persons and/or entities occupying the Leased Premises therefrom, using such legal proceedings as may be available to Lessor under the laws or judicial decisions of the State of California;
 - b. Repossess the Leased Premises or re-let the Leased Premises or any part thereof for such term (which may be for a term extending beyond the term of this Lease) at such rental and upon such other terms and conditions as Lessor in Lessor's sole discretion shall determine, with the right to make reasonable alterations and repairs to the Leased Premises; and
 - c. Remove all personal property therefrom and store all personal property not belonging to Lessor in a public warehouse or elsewhere at the cost of and for the account of Lessee.
5. **Recovery:** Following termination of this Lease by Lessor pursuant

to the provisions above, Lessor shall have all the rights and remedies available to Lessor under Section 1951.2 of the Civil Code of the State of California. The amount of damages Lessor may recover following such termination of this lease shall include:

- a. The worth at the time of award of the unpaid rent which had been earned at the time of termination of this Lease;
- b. The worth at the time of award of the amount by which the unpaid rent which would have been earned after termination of this Lease until the time of award exceeds the amount of such rental loss that Lessee proves could have been reasonably avoided;
- c. The worth at the time of award of the amount by which the unpaid rent for the balance of the term after the time of award exceeds the amount of such rental loss for the same period Lessee proves could be reasonably avoided; and
- d. Any other amount necessary to compensate Lessor for all the detriment proximately caused by Lessee's failure to perform Lessee's obligations under this Lease or which in the ordinary course of things would be likely to result therefrom.

6. **Additional Remedies:** Following the occurrence of any material default and breach of this Lease by Lessee as set forth within this Article, above, in addition to the foregoing remedies, Lessor may maintain Lessee's right to possession, in which case this Lease shall continue in effect whether or not Lessee shall have abandoned the Leased Premises and, so long as this Lease is not terminated by Lessor or by a decree of a court of competent jurisdiction, Lessor shall be entitled to enforce all of Lessor's rights and remedies under this Lease, including the right to recover the rent as it becomes due thereunder and, during any such period, Lessor shall have the right to remedy any default of Lessee, to maintain or improve the Leased Premises without terminating this Lease, to incur expenses on behalf of Lessee in seeking a new Lessee, to cause a receiver to be appointed to administer the Leased Premises, and to add to the rent payable hereunder all of Lessor's reasonable costs in so doing, with interest at the maximum reasonable rate then permitted by law from the date of such expenditure until the same is repaid.

7. **Other:** In the event Lessee causes or threatens to cause a breach of any of the covenants, terms or conditions contained in this Lease, Lessor shall be entitled to obtain all sums held by Lessee, by any trustee or in any account provided for herein, to enjoin such breach or threatened breach and to invoke any remedy allowed at law, in equity, by statute or otherwise as though re-entry, summary

proceedings and other remedies were not provided for in this Lease.

8. **Cumulative Remedies**: Each right and remedy of Lessor provided for in this Article or now or hereafter existing at law, in equity, by statute or otherwise shall be cumulative and shall not preclude Lessor from exercising any other rights or from pursuing any other remedies provided for in this Lease now or hereafter available to Lessor under the laws or judicial decisions of the State of California.
9. **Indemnification**: Nothing contained within this Article affects the right of Lessor to indemnification by Lessee, as elsewhere within this Lease provided, for liability arising from personal injuries or property damage prior to the termination of this Lease.

SECTION 16. SURVIVAL OF THE OBLIGATION OF LESSEE

- A. In the event that this Lease is terminated in accordance with the provisions of this Lease, and in the event that Lessor has re-entered, regained or resumed possession of the Leased Premises, all rent obligations of Lessee under this Lease shall survive such termination or cancellation, re-entry, regaining or resumption of possession and shall remain in full force and effect for the full term of this Lease, and the amount or amounts of rent or charges shall become due and payable to Lessor to the same extent, at the same time or times and in the same manner as if no termination, cancellation, re-entry, regaining or resumption of possession had taken place.
- B. In the event that this Lease is terminated in accordance with the provisions of this Lease, and in the event that Lessor has re-entered, regained or resumed possession of the Leased Premises, all of Lessee's environmental obligations under this Lease shall survive such termination or cancellation, re-entry, regaining or resumption of possession and shall remain in full force and effect for the full term of this Lease.
- C. Lessor, upon termination or cancellation, or upon re-entry, regaining or resumption of possession pursuant to this Lease, may occupy the Leased Premises or may relet the Leased Premises, and shall have the right to permit any person, firm or corporation to enter upon the Leased Premises and use the same. Such reletting may be of the entire Leased Premises or a part thereof, or of the Leased Premises or a part thereof together with other space, and for a period of time the same as or different from the balance of the term remaining under this Lease, and on terms and conditions the same or different from those set forth in this Lease. Lessor shall, upon termination or cancellation, or upon re-entry, regaining or

resumption of possession pursuant to this Lease, have the right to repair or to make structural or other changes to the Leased Premises, including changes which alter the character of the Leased Premises and the suitability thereof for the purposes of Lessee under this Lease, without unreasonably affecting or altering or diminishing the value of the Leased Premises or the obligations of Lessee hereunder. Any reletting shall not be construed to be an acceptance of surrender. Lessor shall attempt to relet the Leased Premises as soon as reasonably possible.

- D.** In the event of any reletting or any actual use and occupancy by Lessor (the mere right to use and occupy not being sufficient, however) there shall be credited to the account of Lessee against its survived payment obligations under this Lease any amount actually received by or accruing to Lessor from any lessee, licensee, permittee or other occupier in connection with the use of the Leased Premises or portion thereof during the balance of the Lease as the same is originally stated in this Lease, or from the market value of the occupancy of such portion of the Leased Premises as Lessor may receive or accrue for its benefit during such period of actual use and occupancy; provided however, notwithstanding the value of any amounts received by Lessor, Lessor shall never owe Lessee for any actions in this Section 16.D.

SECTION 17. ADDITIONAL RENT AND CHARGES

If Lessor has paid any sum or sums, or has incurred any obligations or expense, which Lessee has agreed to pay or reimburse Lessor for, or Lessor is required to pay any sum or sums or incurs any obligations or expense by reason of the failure, neglect or refusal of Lessee to perform or fulfill any one or more of the conditions or due to regulatory fines assessed to Lessor which are the result of actions or inactions of Lessee or of Lessee's failure to comply with Federal, State or Local regulations, covenants or agreements contained in this Lease or as a result of any act or omission of Lessee contrary to the conditions, covenants and agreements of this Lease, Lessee agrees to pay the sum or sums so paid or the expense so incurred, including all interest, costs, damages and penalties, and the same may be added to any installment of rent thereafter due under this Lease. Each and every part of the additional sums incurred under this provision shall constitute additional rent, recoverable by Lessor in the same manner and with the same remedies as if it were originally a part of the basic rental.

SECTION 18. QUIET ENJOYMENT

- A.** Lessor covenants that as of the Effective Date of this Lease, it has good, right and lawful authority to execute this Lease, that Lessor has good and indefeasible title to all lands, improvements and related facilities, including all premises leased hereunder free and clear of all liens, claims and encumbrances, and that throughout the term hereof, Lessee shall have, hold and enjoy peaceful and uninterrupted possession of the premises

leased hereunder, subject always to the payment of the rent and other charges and the performance of the covenants, as herein provided to be paid and performed by Lessee. These covenants extend to and shall be enforceable by Lessee and, in the event of Lessee's default, its sublessees and permitted assigns.

- B. Notwithstanding any provision of this Lease, Lessor expressly reserves its proprietary rights, whatever they may be and upon reasonable advance notice to Lessee, to impose reasonable regulations which might have the effect of limiting Lessee's operations during the term of this Lease, provided such regulations are imposed for the purpose of promoting the safety and welfare of the citizens of the City of Fresno. It is understood that Lessor's position is that Lessor is not liable to Lessee for any damages resulting from compliance with the regulations by Lessee. However, it is understood that Lessee reserves the right, whatever it may be, to contest any such regulations and protect its interests.
- C. Lessee understands and acknowledges that Lessor is attempting to control or reduce the level of noise in neighborhoods near the Airport. Therefore, Lessee agrees that it shall: (i) undertake good faith efforts to control and reduce as much as is practicable the noise emanating from operations of the Leased Premises or in conjunction with the activities conducted thereon; (ii) conduct all of its operations and activities in a manner having due regard for noise levels in neighborhoods in close proximity to the Airport; and (iii) shall at all times act in good faith to cooperate with and support Lessor in its efforts to reduce noise from the Airport's operations.

SECTION 19. TERMINATION BY LESSEE

Before the end of the Term, Lessee may terminate this Lease and any or all of its obligations hereunder at any time that Lessee is not in default in the payment of any amounts due to Lessor by giving Lessor sixty (60) days' written notice upon or after the happening of any one of the following events or Lessee may elect to abate rental and extend the Term as provided in this Section 19:

A. Use of Airport for National Defense

The assumption by the United States Government, or any agency or instrumentality thereof, of the operations, control or use of the Airport for National Defense in such a manner as to preclude Lessee, for a period of ninety (90) days or more, from using such Airport in the conduct of its business. Lessor shall not be liable to Lessee if the latter is so dispossessed, but for any time that such takes place, the rental required of Lessee shall be abated, and that period of time shall be added as an extension of the Term. The foregoing provision is not intended to waive any rights or privileges which either Lessor or Lessee may possess as to compensation of any kind from the United States Government, or any

agency or instrumentality thereof for such an assumption of use or control of the Airport as is described in this Section 19.

B. Material Default

A material default on the part of Lessor to meet and observe any of the covenants herein contained, if such default has continued for a period of one hundred and twenty (120) days or more after written notice to Lessor by Lessee, unless Lessor has begun, and is continuing, in good faith, to remedy the default in such interval.

C. Public Health and Safety

Where a public health or safety demand causes Lessor to restrict Lessee's full and unrestricted access and egress to and from the Leased Premises or other public airport facilities in such a manner that the Leased Premises are not fit for their intended purpose for a period of ninety (90) days or more, the rent required of Lessee shall be abated during any such restricted period and that period of time shall be added as an extension of the term of this Lease.

SECTION 20. NO WAIVER OF RIGHT TO DECLARE FORFEITURE

Any failure or neglect of Lessor or Lessee at any time to declare a forfeiture of this Lease for any breach or default whatsoever hereunder shall not be taken or considered as a waiver of the rights thereafter to declare a forfeiture for like or other or succeeding breach or default.

SECTION 21. LESSEE'S RIGHT TO REMOVE PROPERTY

A. Right to Remove Property

Lessee shall be entitled, during the term of this Lease and upon termination hereof, to remove from the Leased Premises, or any part thereof, all personal property, trade fixtures, tools, machinery, equipment, portable buildings, materials and supplies placed thereon by it; provided that: (i) Lessee shall repair all damage resulting from such removal and (ii) Lessee shall not owe Lessor any rental, fees or additional rental, pursuant to the Lease. Lessor will allow Lessee not more than thirty (30) days after the termination date hereof for such removal unless additional time is mutually agreed upon.

B. Failure to Remove Property

If Lessee fails to remove its property within thirty (30) days after the termination of or expiration of this Lease, Lessor may remove such property to a public warehouse for deposit or retain the same in its own possession at the cost of, and for the account of Lessee, without becoming liable for any loss or damage which may be occasioned thereby. If Lessee fails to take possession and

remove such property, after paying any appropriate rental or storage fees, within sixty (60) days after termination of the Lease, the property shall be deemed to be abandoned and Lessor may dispose of same as required by law. In the event Lessor shall remove or cause to be removed any personal property from the Leased Premises, pursuant to this Section 21.B, Lessor shall not be held liable or responsible for any damage incurred to Lessee's personal property as a result of such removal.

C. Public Storage Facility

In the event Lessor assumes possession of the Leased Premises prior to lease termination, Lessor may remove all of Lessee's property from the Leased Premises and store the same in a public storage facility or elsewhere at the cost of, and for the account of, Lessee, without becoming liable for any loss or damage which may be occasioned thereby.

SECTION 22. SURRENDER OF PREMISES

Lessee covenants and agrees to yield and deliver peaceably to Lessor possession of the Leased Premises, on the date of cessation of the letting, whether such be by termination, expiration or otherwise, promptly and in as good condition as at the commencement of the letting, except for reasonable wear and tear arising from the use of the Leased Premises, to the extent permitted elsewhere in this Lease and except for damage or destruction by fire or casualty not caused by Lessee's negligence.

SECTION 23. CONDEMNATION

A. Condemnation or Eminent Domain

If, during the term of this Lease, as the same may be extended under the terms hereof, or otherwise by agreement of the parties hereto, the entire Leased Premises shall be taken by condemnation or eminent domain proceedings, and such taking relates to the entire fee simple of the Leased Premises, as well as the right, title and interest of Lessee, then this Lease shall terminate effective as of the effective date of such taking, and all rights, titles, interests, covenants, agreements and obligations of the parties hereto thereafter accruing shall cease and terminate except as hereinafter set forth. In the event of such taking, the entire compensation and damages (if not apportioned by the condemnation decree) shall be fairly and equitably apportioned between the Parties in accordance with respective damage and loss sustained by the fee simple estate and the leasehold estate granted hereunder.

If, during the term of this Lease, a portion of the Leased Premises, shall be taken and Lessor and Lessee mutually agree that the remaining portion of the Leased Premises can be used for the uses permitted under this

Lease, then the Lease will continue and the rental thereafter payable by Lessee shall be reduced in the same proportion as the area of the part taken by condemnation shall bear to the total area of the Leased Premises, including value of the improvements immediately prior to the condemnation; provided, however, that if Lessee, in its discretion, determines that so much of the Leased Premises has been taken as to materially impair the operation of Lessee's business, Lessee shall have the option to terminate this Lease as of the date of such taking by giving written notice to Lessor of termination within fifteen (15) days after possession of such part has been taken, whereupon this Lease shall be of no further force or effect, and Lessor and Lessee shall be relieved of any obligations or liabilities under this Lease as of the date of such taking. Any compensation and damages that may be the result of such taking shall (if not apportioned by a condemnation decree) be fairly and equitably apportioned between the Parties.

SECTION 24. NON-DISCRIMINATION

- A. Lessee, for itself, its successors in interest and assigns, as a part of the consideration hereof, does hereby covenant and agree as a covenant running with the land that in the event facilities are constructed, maintained, or otherwise operated on the said property described in this Lease for a purpose for which a Department of Transportation ("DOT") program or activity is extended or for another purpose involving the provisions of similar services or benefits, Lessee shall maintain and operate such facilities and services in compliance with all other requirements imposed pursuant to 49 CFR Part 21, Nondiscrimination in Federally Assisted Programs of the Department of Transportation, and as said Regulations may be amended.
- B. Lessee, for itself, its successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree, as a covenant running with the land that: (i) no person on the grounds of race, color, national origin, or disability shall be excluded from participation in, denied the benefits of or be otherwise subjected to discrimination in the use of said facilities; (ii) in the construction of any improvements on, over, or under such land and the furnishing of services thereon, no person on the grounds of race, color, national origin, or disability shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination; and (iii) Lessee shall use the premises in compliance with all other requirements imposed by or pursuant to 49 CFR Part 21, Nondiscrimination in Federally Assisted Programs of the Department of Transportation, and as said Regulations may be amended.
- C. Lessee ensures that it will comply with pertinent statutes, executive orders and such rules as are promulgated to ensure that no person shall, on the

grounds of race, creed, color, national origin, sex, age, or disability be excluded from participating in any activity conducted with or benefiting from federal assistance. This provision obligates Lessee or its transferee for the period during which federal assistance is extended to the airport program, except where federal assistance is to provide, or is in the form of personal property or real property or interest therein or structures or improvements thereon. In these cases, the provision obligates Lessee or any transferee for the longer of the following periods: (i) the period during which the property is used by the sponsor or any transferee for a purpose for which federal assistance is extended, or for another purpose involving the provision of similar services or benefits or (ii) the period during which the airport sponsor or any transferee retains ownership or possession of the property.

- D. Lessee agrees to ensure that disadvantaged business enterprises as defined in 49 CFR Parts 23 and 26 have the maximum opportunity to participate in the performance of contracts financed in whole or in part with federal funds provided under this Lease. In this regard, Lessee shall take all necessary and reasonable steps in accordance with 49 CFR Parts 23 and 26 to ensure that disadvantaged business enterprises have the maximum opportunity to compete for and perform such contracts. Lessee shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of DOT-assisted contracts.
- E. As a condition of this Lease, Lessee covenants that it will take all necessary actions to insure that, in connection with any work under this Lease, Lessee, its associates and subcontractors, will not discriminate in the treatment or employment of any individual or groups of individuals on the grounds of race, color, religion, national origin, age, sex or disability unrelated to job performance, either directly, indirectly or through contractual or other arrangements. Lessee shall also comply with all applicable requirements of the Americans with Disabilities Act, 42 U.S.C.A. §§12101-12213, as amended. In this regard, Lessee shall keep, retain and safeguard all records relating to this Lease or work performed hereunder for a minimum period of three (3) years from final lease completion, with full access allowed to authorized representatives of Lessor, upon request, for purposes of evaluating compliance with this and other provisions of this Lease.
- F. In the event of Lessee's breach of any of the above nondiscrimination covenants, Lessor, according to the provisions of this Lease, shall have the right to terminate this Lease and to re-enter and repossess the Leased Premises and the facilities thereon, and hold the same as if the Lease had never been made or issued.

SECTION 25. SIGNS

A. Approval of Signs

All exterior signs on the Leased Premises shall comply with the pertinent ordinances of the City of Fresno, and also shall be approved by the Director of Aviation. Unless otherwise specifically authorized, all exterior signs on the Leased Premises shall conform in general appearance to the existing signs displayed at the Airport.

B. Removal of Signs

Upon the expiration or termination of this Lease, Lessee shall remove, obliterate or paint out, as required by the Director of Aviation, any and all signs and advertising on the Leased Premises if pertaining to Lessee, and in this regard, Lessee shall restore the Leased Premises to the same condition as prior to the placement thereon of any signs or advertising, ordinary wear and tear excepted. In the event that Lessee fails to remove, obliterate or paint out each and every sign or advertisement of Lessee the Director of Aviation may, at his or her option, have the necessary work performed at the expense of Lessee, and the charge therefore shall be paid by Lessee to Lessor upon demand.

SECTION 26. GOVERNMENTAL REQUIREMENTS - RULES AND REGULATIONS

- A.** Except as otherwise set forth herein, Lessee agrees to obtain, from all governmental authorities having jurisdiction, all licenses, certificates and permits necessary for the conduct of its operations on the Leased Premises and to keep them current.
- B.** In conducting those operations permitted on the Leased Premises as set forth in Section 5, throughout this Lease, and in construction and installation of facilities and improvements, Lessee agrees to comply with all present and future federal, state, and local laws, statutes, orders, rulings, and rules and regulations, and amendments thereto, including, but not limited to, any laws, statutes, orders, and rules and regulations cited in any grant assurances agreed to by the Lessor in accepting any grants pursuant to the Airport Improvement Program created by the Airport and Airway Improvement Act of 1982 (Public Law 97-248), as amended or replaced by successor programs.
- C.** Lessor has established, and may, from time to time, establish or modify, rules and regulations pertaining to the Airport and Lessee covenants to observe all such rules and regulations. Nothing in this Section 26 shall be construed to imply that Lessee is waiving its right to contest or challenge such rules and regulations.

SECTION 27. No Representations or Warranties

Subject to Lessor's obligations under this Lease, Lessee acknowledges and agrees by its acceptance hereof that the Leased Premises is conveyed "as is, where is", in its present condition with all faults and subject to all easements, claims of easements and deed restrictions whether recorded or unrecorded in the public records, and that Lessor has not made and does not hereby make and specifically disclaims any representations, guarantees, promises, covenants, agreements, or warranties of any kind or character whatsoever, unless otherwise provided for herein, whether express or implied, oral or written, past, present, or future of, as to, concerning or with respect to the nature, quality or condition of the Leased Premises, the income to be derived, the suitability of the Leased Premises for uses allowed under this Lease, or merchantability or fitness for a particular purpose.

SECTION 28. ENVIRONMENTAL CONCERNS AND MONITORING REQUIREMENTS

- A. Lessee hereby releases, discharges and holds Lessor harmless from, and agrees to indemnify Lessor against claims, liabilities, suits, damages, expenses and fines arising out of or resulting from any release, discharge, spill, contamination or pollution by or from hazardous wastes or substances on the Leased Premises caused by or arising from the failure of Lessee, its sublessees, contractors, subcontractors, agents, officers invitees or representatives to comply with any applicable Governmental Regulations (as defined herein). Lessee shall have the sole responsibility for the remediation of, and shall bear all costs and liabilities for any release, discharge, spill, contamination or pollution by or from hazardous wastes or substances: (i) caused by Lessee, its sublessees, contractors, subcontractors, agents, officers invitees and representatives, or (ii) occurring on or under the Leased Premises during the term of this Lease. Lessee's obligations and liabilities under this paragraph shall continue only if and so long as Lessee is and remains responsible for any such release, spill, discharge, or contamination of hazardous substances or wastes as described in the immediately preceding sentence. Notwithstanding any provision in this Section 28 or any other provision of this Lease, Lessee shall not be liable for any release, spill discharge, contamination or pollution by or from hazardous wastes or substances (a) occurring or existing prior to the Effective Date of this Lease, unless caused by Lessee; (b) caused by Lessor, its contractors, subcontractors, agents, officers, invitees, or representatives; or (c) occurring after expiration or earlier termination of the term of this Lease, and not caused by Lessee or a sublessee or a customer of either. In addition, notwithstanding any provision in this Section 28 or any other provision of this Lease, Lessee shall not be liable for any release, spill, discharge, contamination or pollution by or from hazardous wastes or substances resulting from any underground storage tanks, pits or hydrant systems under the Leased

Premises that are not otherwise owned or operated by Lessee.

- B. Lessee acknowledges that its uses of the Leased Premises and the operations, maintenance and activities conducted thereon may be subject to federal, state and local environmental laws, rules and regulations, collectively referred to as "Governmental Regulations", including with limitation, the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"), as amended, the Resource Conservation and Recovery Act ("RCRA"), as amended, the Clean Water Act, as amended, the Clean Air Act, as amended, and other regulations promulgated thereunder by any federal, state or local governmental agencies. As a material covenant of this Lease, Lessee, at its sole expense, shall comply with all such present and future Governmental Regulations applicable to Lessee's construction, operations, maintenance, use and activities on the Leased Premises.
- C. Lessee shall, at its sole expense, make all submissions and provide all information to the appropriate governmental authorities of the state, the U.S. Environmental Protection Agency ("USEPA") and any other local, state or federal authority or agency which requires submission of information regarding any spill, discharge or other reportable release of hazardous wastes or substances for which Lessee or its sublessee is responsible on the Leased Premises during the term of this Lease. Lessee shall provide copies of all such submissions and information to the Director of Aviation or his/her designated agent. Lessor shall, at its sole expense, make all such submissions and provide all such information to the appropriate governmental authorities regarding any spill, discharge or other reportable release of hazardous wastes or substances for which lessor is responsible.
- D. Should a governmental authority having jurisdiction over environmental matters, including the Lessor, determine that a response or plan of action be undertaken due to any spill, discharge, contamination, release or pollution of hazardous substances or wastes for which Lessee is responsible on the Lease Premises during the term of this Lease, whether sudden or gradual, accidental or intentional, Lessee shall, at its sole expense, prepare and submit the required plans and undertake, implement and diligently perform the required action, response or plan to completion in accordance with the applicable rules and direction of such governmental authority or authorities and to their reasonable satisfaction. Lessor shall, at its sole expense, prepare and submit any such required plans and undertake, implement and diligently perform any such required action, response or plan to completion in accordance with the applicable rules and direction of governmental authority or authorities due to any spill, discharge, contamination, release or pollution of hazardous substances or wastes for which Lessor is responsible.

- E. Lessee shall, at its own expense, demonstrate and maintain any required records, reports and financial responsibility in accordance with pertinent laws, rules and regulations regarding Underground Storage Tanks (USTs) at any new aircraft fueling facilities. Upon request by Lessor, Lessee shall annually provide Lessor with documentation demonstrating financial responsibility concerning environmental obligations imposed upon Lessee by this Lease. In the event Lessee's financial responsibility should lapse at any time during the leasehold estate or mode of financial responsibility change, Lessee shall immediately notify the Director of Aviation or his/her designated agent.
- F. Lessee's obligations under this Section shall survive any assignment or subletting of the Leased Premises, provided, Lessor does not specifically release Lessee from its obligations herein through Lessor's consent to assignment or sublease. Furthermore, Lessee's obligations under this Section shall survive the expiration or earlier termination of this Lease as to any activity or omissions which occurred during the term of the Lease.
- G. Prior to Lessee's start of construction on the New Improvements, Lessee shall have the right to conduct a Site Assessment or such other testing of the Leased Premises as Lessee deems necessary to determine the existing environmental condition of the Leased Premises (collectively, the "Environmental Reports"). Lessor and Lessee agree that the results of the Environmental Reports shall establish a baseline representing the environmental condition of the Leased Premises existing prior to the Term, which can be compared to future Environmental Reports to determine the changes, if any, in the environmental condition of the Leased Premises during the Term.
- H. The term "hazardous wastes" is used herein as it is defined in 42 U.S.C. Section 6901 et seq. The term "hazardous substances" is used herein as it is defined in CERCLA. These terms shall also include, for the purposes of the Lease, any substance requiring special treatment, handling, manifesting and records according to a governmental authority.

SECTION 29. FORCE MAJEURE

Neither Lessor nor Lessee shall be deemed in violation of this Lease if it is prevented from performing any of its obligations hereunder by reasons of Force Majeure. For purposes of this Lease, "Force Majeure" means contingencies, causes or events beyond the reasonable control of Lessor or Lessee, including acts of nature or a public enemy, war, riot, civil commotion, insurrection, state, federal or municipal government or de facto governmental action (unless caused by acts or omissions of Lessee), fires, explosions, floods, strikes, boycotts, embargoes, or shortages of materials, acts of terrorism, acts of God, casualty losses, unavoidable accidents, floods, fire, explosion,

inclement weather, impossibility of performance, any event or action that is legally recognized as a defense to a contract action in the State of California, or other circumstances that are beyond the reasonable control of Lessor or Lessee; provided, however, that this Section 29 shall not apply to failure of Lessee to pay the rentals, fees and charges specified under this Lease. In the event of Force Majeure where Lessee is prevented from performing any of its obligations due to the above stated circumstances, Lessee shall notify Lessor in writing within ten (10) days following such circumstances. Lessor, through its Director of Aviation, shall notify Lessee within twenty (20) days whether Lessor, in its sole discretion, concurs with the reasons for Lessee's delays.

SECTION 30. BROKERAGE

Lessor and Lessee each represent and warrant that no broker has been engaged on its behalf in the negotiation of this Lease and that there is no such broker who is or may be entitled to be paid a commission in connection therewith. Lessor and Lessee each shall indemnify and save harmless the other of and from any claim for commission or brokerage made by any such broker when such claim is based in whole or in part upon any act or omission by Lessor or Lessee.

SECTION 31. RELATIONSHIP OF PARTIES

This Lease does not constitute or make Lessee the agent or representative of Lessor for any purpose whatsoever.

SECTION 32. NO PARTNERSHIP, JOINT VENTURE OR JOINT ENTERPRISE

It is agreed that no partnership, joint venture or joint enterprise exists between the Parties or between Lessor and any other person, and Lessor shall not be responsible in any way for any debts of or cash flow deficits incurred by Lessee in construction of or operation of the Leased Premises or for the debts or obligations of Lessee or any other person or for any cleanup costs or damages incurred by Lessee.

SECTION 33. CONFLICT OF INTEREST

No officer or employee shall have any financial interest, direct or indirect, in any contract with the City or be financially interested, directly or indirectly, in the sale to the City of any land, materials, supplies or services, except on behalf of the City as an officer or employee. No officer or employee shall be in litigation with the City or any of its agents at the time this Lease is executed. Lessee shall complete Exhibit B, "Disclosure of Conflict of Interest," and update same if/when any responses thereto change, so that City may determine whether a conflict exists. Any violation of this section, with knowledge, express or implied, of the person or corporation contracting with the City shall render the contract involved voidable by the City Manager or the City Council.

SECTION 34. GIFT TO PUBLIC SERVANT

- A. Lessor may terminate this Lease immediately if Lessee has offered, or agreed to confer any benefit upon an employee or official of the City of Fresno that such employee or official is prohibited by law from accepting.
- B. For purposes of this section, "benefit" means anything reasonably regarded as economic gain or economic advantage, including benefit to any other person in whose welfare the beneficiary is interested, but does not include a contribution or expenditure made and reported in accordance with law.
- C. Notwithstanding any other legal remedies, the City of Fresno may require Lessee to remove any employee of Lessee from the Leased Premises who has violated the restrictions of this section or any expenditures made as a result of the improper offer, agreement to confer, or conferring of a benefit to an employee or official of the City of Fresno.

SECTION 35. CONSTRUCTION AND APPLICATION OF TERMS

- A. Wherever in this Lease a third person singular, neuter pronoun or adjective is used, referring to Lessee, the same shall be taken and understood to refer to Lessee, regardless of the actual gender or number thereof.
- B. Whenever in this Lease Lessee is placed under an obligation or covenant to do or refrain from or is prohibited from doing or is entitled or privileged to do, any act or thing, its obligations shall be performed or its rights or privileges shall be exercised only by its officers and employees and other duly authorized representatives, or by permitted assigns or subleases of this Lease of all or any part of the Leased Premises.
- C. Lessee's representative, herein specified (or such substitute as Lessee may hereafter designate in writing) shall have full authority to act for Lessee in connection with this Lease and any things done or to be done under the Lease.
- D. In case any one or more of the provisions contained in this Lease shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision thereof and this Lease shall be considered as if such invalid, illegal, or unenforceable provision had never been contained in this Lease.

SECTION 36. VENUE AND GOVERNING LAW

The obligations of the parties to this Lease shall be performable in Fresno County, California, and if legal action is necessary in connection with or to enforce rights under this Lease, exclusive venue shall lie in Fresno County, California. This Lease shall be governed by, and construed in accordance with, the laws and court decisions of the State of California, without regard to conflict of law or choice of law principles of California or of any other state.

SECTION 37. SUCCESSORS AND ASSIGNS

Subject to the limitations upon assignment herein contained, this Lease shall be binding upon and inure to the benefit of the parties hereto, their respective successors and assigns.

SECTION 38. NOTICES

Notices hereunder shall be sufficient if sent and received by certified or registered mail, postage fully prepaid, to:

LESSOR:

City of Fresno –Airports Department
Attn. Director of Aviation
4995 East Clinton Way
Fresno, CA 93727

LESSEE:

ROAM
5484 East Perimeter
Fresno, CA 93727

or to such other respective addresses as the parties may from time to time designate to each other in writing. Notice will be deemed delivered to the party to whom addressed on the third (3rd) business day following the date on which the same is deposited, postage fully prepaid, in the U.S. mail, by certified or registered mail.

SECTION 39. LEASEHOLD MORTGAGES PERMITTED

- A. Lessee shall, subject to the written approval of Lessor, have the right to encumber by mortgage, deed of trust or other instrument in the nature thereof (each such mortgage, deed of trust or other instrument being herein called a "leasehold mortgage") this Lease, Lessee's leasehold estate and all of Lessee's rights, title and interest hereunder, including its right to use and occupy the Leased Premises and all of its right and interest in and to any and all buildings, other improvements and fixtures now or hereafter placed on the Leased Premises and any sublease covering the Leased Premises or any portion thereof; and, in such event, upon Lessee's written request to Lessor, Lessor will execute and deliver a reasonable estoppel certificate addressed to the leasehold mortgagee confirming, among other things, the terms of this Section 39 and agreeing

to recognize the leasehold mortgage or any purchaser of the mortgaged leasehold at foreclosure in the same manner as an assignee of this Lease. Notwithstanding the foregoing, no mortgagee or trustee or anyone that claims by, through or under a leasehold mortgage (herein called a "leasehold mortgage") shall, by virtue thereof, acquire any greater right in the Leased Premises and in any building or improvement thereon than Lessee then had under this Lease, and provided further that any leasehold or subleasehold mortgage and the indebtedness secured thereby shall at all time be and remain inferior and subordinate to all of the conditions, covenants and obligations of this Lease and to all of the rights of the Lessor hereunder. In no event shall Lessee have the right to encumber, subordinate or render inferior in any manner Lessor's fee simple title in and to the Leased Premises.

- B. Subject to Lessee's and/or any sublessee's authorization, any such leasehold mortgagee, at its option, at any time before the rights of Lessee shall have been terminated, may pay any of the rents due hereunder or may affect any insurance, or may pay any taxes, or may do any other act or thing or make any other payment required of Lessee by the terms of this Lease, or may do any act or thing which may be necessary and proper to be done in the observance of the covenants and conditions of this Lease, or to prevent the termination of this Lease and may use insurance proceeds to pay any sum required to be paid by Lessee hereunder; and all payments so made and all things so done and performed by any such leasehold or subleasehold mortgagee shall be as effective to prevent a forfeiture of the rights of the Lessee hereunder as the same would have been if done and performed by the Lessee instead of by such leasehold mortgagee.
- C. Leasehold mortgagee, an assignee of this Lease or otherwise, or any other party who shall acquire any rights and interest of Lessee under the terms of the Lease through a conveyance, assignment ("conveyance" and "assignment" does not mean Lessee's granting of the leasehold mortgage), foreclosure, deed in lieu of foreclosure or any other appropriate proceedings thereof, shall become liable to Lessor for the payment or performance of any obligation of Lessee under the Lease, including without limitation, any of Lessee's indemnification obligations to Lessor and any of Lessee's obligations relating to asbestos containing materials removal or disposal, or any other environmental liabilities.
- D. During such time as Lessee's leasehold estate is subject to a leasehold mortgage, this Lease may not be modified or voluntarily surrendered without the prior written consent of the leasehold mortgagee; provided however, that this Lease may be terminated without the consent of the leasehold mortgagee if a default or other cause for termination under this lease occurs and is not corrected or satisfied in accordance with the terms

and conditions of the Lease, provided the leasehold mortgagee has received all notices from Lessor that Lessor is required to give Lessee under the Lease.

SECTION 40. SECTION HEADINGS

The section headings herein are for convenience of reference and are not intended to define or limit the scope of any provisions of this Lease.

SECTION 41. COUNTERPARTS

This Lease may be executed in any number of counterparts, each of which shall be an original. If this Lease is executed in counterparts, then it shall become fully executed only as of the execution of the last such counterpart called for by the terms of this Lease to be executed.

SECTION 42. ENTIRE LEASE; NO ORAL MODIFICATIONS

This Lease (with all referenced exhibits, attachments, and provisions incorporated by reference) embodies the entire agreement of both parties, superseding all oral or written previous and contemporary agreements between the parties relating to matters set forth in this Lease. Except as otherwise provided elsewhere in this Lease, this Lease cannot be modified without written supplemental agreement executed by both parties.

[SIGNATURES APPEAR ON THE FOLLOWING PAGE]

SECTION 43. SIGNATURES

EXECUTED and effective this ____ day of _____, 2014 ("Effective Date") by the CITY OF Fresno, Lessor, and by ROAM, Lessee, acting by and through its duly authorized officer.

City of Fresno
A Municipal Corporation

By: _____
Kevin R. Meikle,
Director of Aviation (Interim)

ATTEST:
Yvonne Spence, CMC
City Clerk

By: _____
Deputy

APPROVED AS TO FORM:
Douglas T. Sloan
City Attorney

By: _____
Raj Singh Badhesha Date
Deputy City Attorney

Address for Notice:
City of Fresno
Airports Department
4995 E. Clinton Way
Fresno, CA 93727

LESSEE:

**ROAM, a General Partnership
between American Airborne, Ems.,
a California Corporation; and ROGERS
HELICOPTERS, INC., a California
Corporation**

By: _____

Name: Erik S. Peterson

Title: Corporate Secretary, Legal Counsel
(Board Chair, Pres. Or Vice Pres.)

By: _____

Name: _____

Title: _____
(Board Treasurer, Secretary or Assistant
Secretary)

Address for Notice:

ROAM, a General Partnership between
American Ambulance, EMS & Rogers Helicopter
5484 East Perimeter
Fresno, CA 93727

LIST OF EXHIBITS

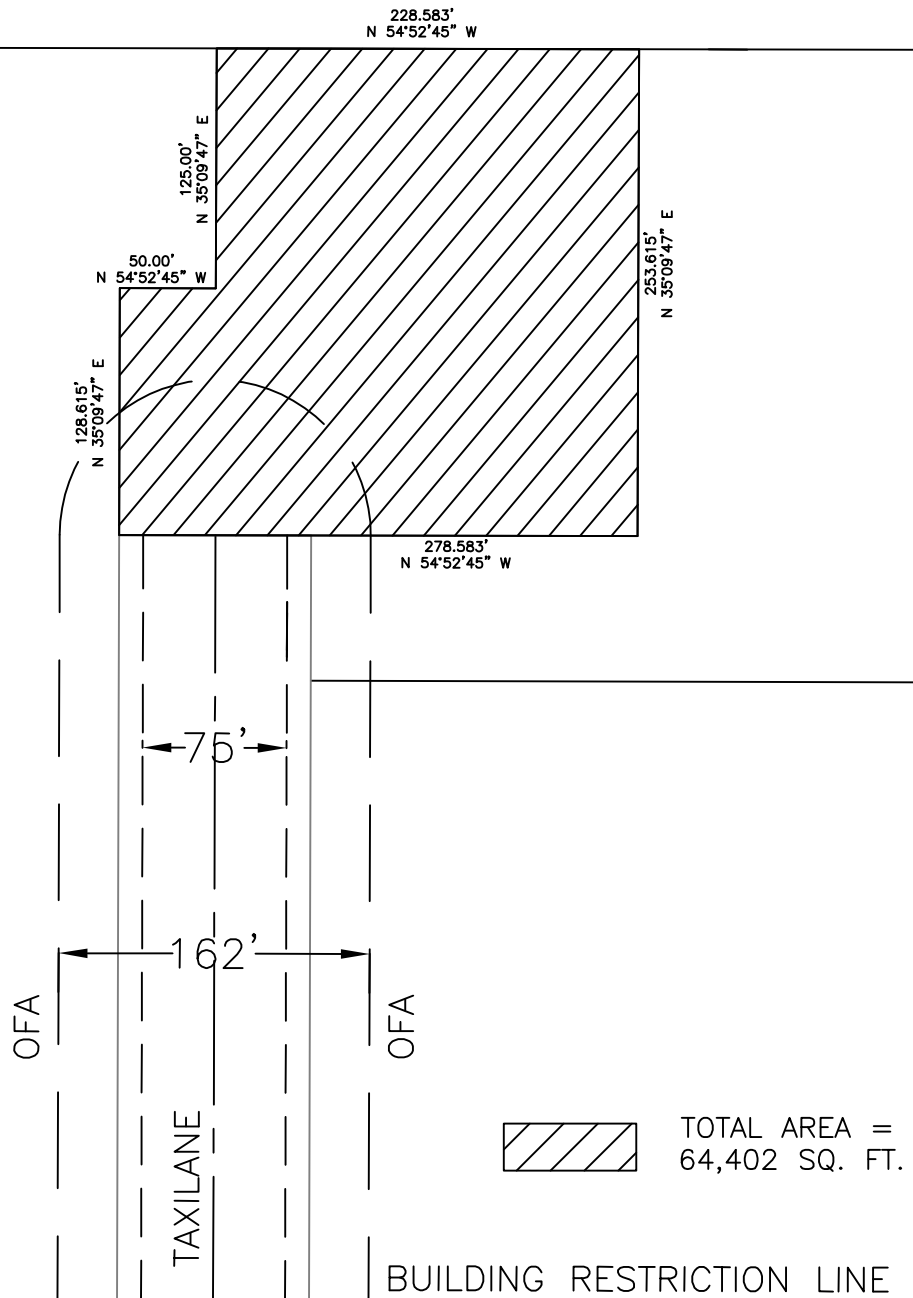
EXHIBIT A	Leased Premises Metes and Bounds Description
EXHIBIT B	Depiction of Leased Premises
EXHIBIT C	Disclosure of Conflict of Interest
EXHIBIT D	Illustration of Annual Rental Adjustment Computation
EXHIBIT E	Scope of Work for New Improvements



FS

AIRCORP WAY

BOYINGTON DRIVE



SERVICE ROAD

REVISIONS/REFERENCE
REV. 7/3/14, DJY
REV. 7/11/14, DJY
REV. 11/4/14, JSG



CITY OF FRESNO
AIRPORTS DEPARTMENT
4995 EAST CLINTON WAY
FRESNO, CALIFORNIA 93727
PHONE: 559-621-4500

FRESNO YOSEMITE INTERNATIONAL AIRPORT

EXHIBIT "A" SKYLIFE LEASE

ENG\ARCHIVE\25A\25A0434.dwg

KRA NO. _____
FUND NO. _____
ORG NO. _____
ACTIVITY _____
PROJECT I.D. _____

AIRPORTS DEPARTMENT

DIRECTOR OF AVIATION
KEVIN R. MEIKLE, ARCHITECT

APPROVED
CONST. ENG. _____ OFFICE ENG. _____
CITY DESIGN ENG. _____

DR. BY: DJY
CH. BY: RD
DATE: 06-24-2014
SCALE: 1"=100'

CITY DRAWING NO. 25-A-434
SHEET NO. 1

OF 1 SHEETS



FRESNO YOSEMITE
INTERNATIONAL AIRPORT

Skylife Lease Site Exhibit

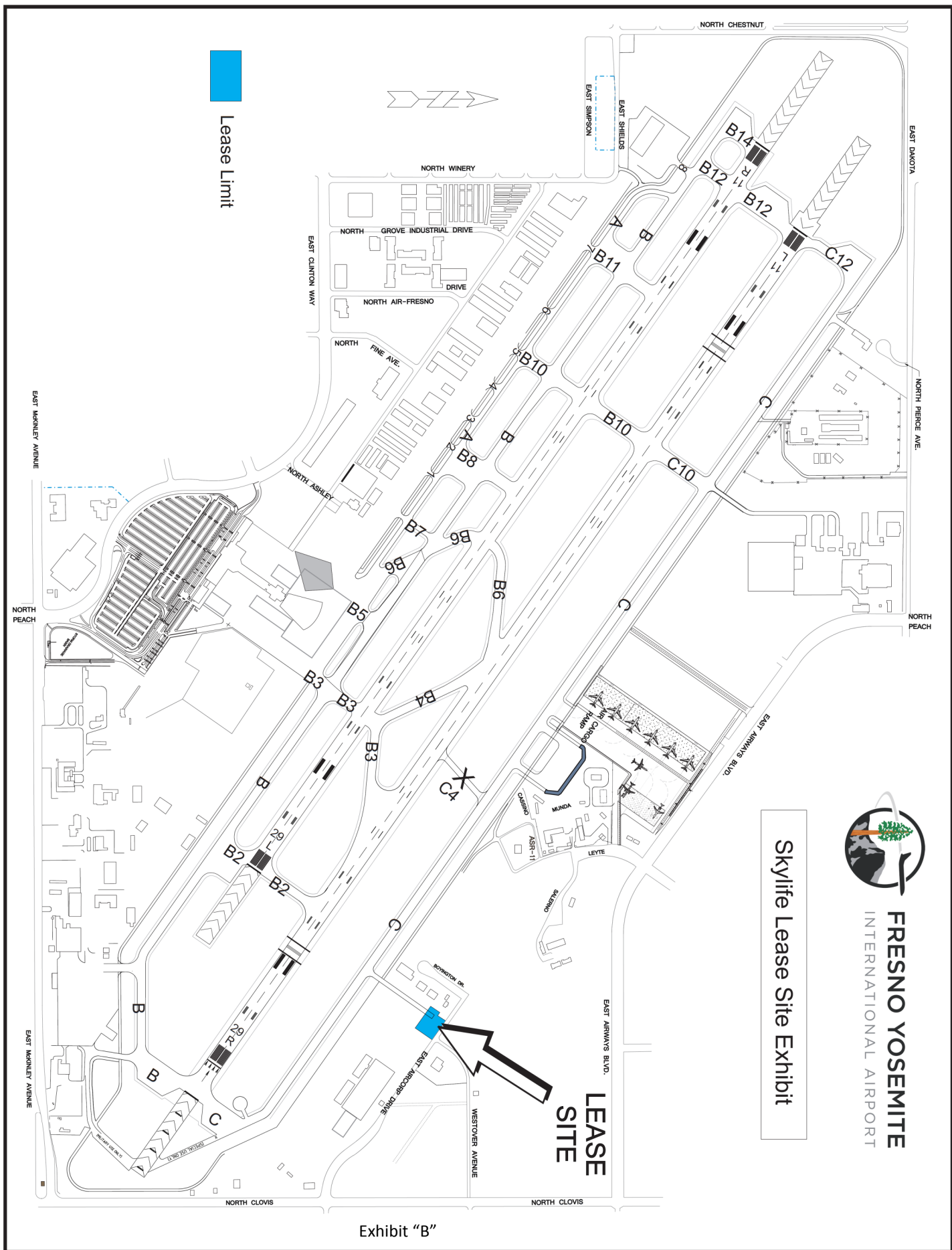


Exhibit "B"

Exhibit C
DISCLOSURE OF CONFLICT OF INTEREST

SKYLIFE LEASE AGREEMENT
PROJECT TITLE

		YES*	NO
1	Are you currently in litigation with the City of Fresno or any of its agents?	<input type="checkbox"/>	<input type="checkbox"/>
2	Do you represent any firm, organization or person who is in litigation with the City of Fresno?	<input type="checkbox"/>	<input type="checkbox"/>
3	Do you currently represent or perform work for any clients who do business with the City of Fresno?	<input type="checkbox"/>	<input type="checkbox"/>
4	Are you or any of your principals, managers or professionals, owners or investors in a business which does business with the City of Fresno, or in a business which is in litigation with the City of Fresno?	<input type="checkbox"/>	<input type="checkbox"/>
5	Are you or any of your principals, managers or professionals, related by blood or marriage to any City of Fresno employee who has any significant role in the subject matter of this service?	<input type="checkbox"/>	<input type="checkbox"/>
6	Do you or any of your subcontractors have, or expect to have, any interest, direct or indirect, in any other contract in connection with this Project?	<input type="checkbox"/>	<input type="checkbox"/>
* If the answer to any question is yes, please explain in full below.			

Explanation: _____

☐ Additional page(s) attached.

Signature

Date

(name)

(company)

(address)

(city state zip)

NOTICE OF ANNUAL RENTAL ADJUSTMENT
(Based on USDLBLS Consumer Price Index
for Urban Wage Earners and Clerical Workers -
ALL ITEMS, U.S. CITY AVERAGE)

FRESNO YOSEMITE INTERNATIONAL AIRPORT

DATE:

RE: PIE IN THE SKY AIR GROUP
LEASE AND AGREEMENT

=====

ANNUAL RENTAL ADJUSTMENT COMPUTATION
FOR LEASE YEAR COMMENCING:
July 1, 2011

=====

The rental adjustment calculation shown to the right was
completed in keeping with the intent of the agreement for
Pie in the Sky Air Group at 1234 N. Airways, Fresno CA
Lease Agreement

USDLBLS CPI - JAN-DEC.,	2010	213.967 *
USDLBLS CPI - JAN-DEC.,	2011	221.575 *
AMOUNT OF CPI CHANGE	7.608
PERCENTAGE CPI CHANGE	3.5557%
CURRENT ANNUAL RENTAL	\$50,000.00
AMOUNT OF ADJUSTMENT	\$1,777.84

THE CITY OF FRESNO - AIRPORTS DEPARTMENT
AND
PIE IN THE SKY AVIATION

NEW MONTHLY RENTAL
EFFECTIVE July 1, 2011 \$51,777.84

=====

EFFECTIVE July 1, 2011

ANNUAL RENTAL WILL BE: \$51,777.84

Prepared by: CITY OF FRESNO - AIRPORTS
PROPERTIES SECTION
4995 E. CLINTON WAY
FRESNO, CA 93727-1504

TELEPHONE: (559) 621-4500

If you have any questions concerning this matter,
please contact the undersigned at (559) 621-4511.

City of Fresno - Airports Administration

NOTES: * PER USDL/BLS

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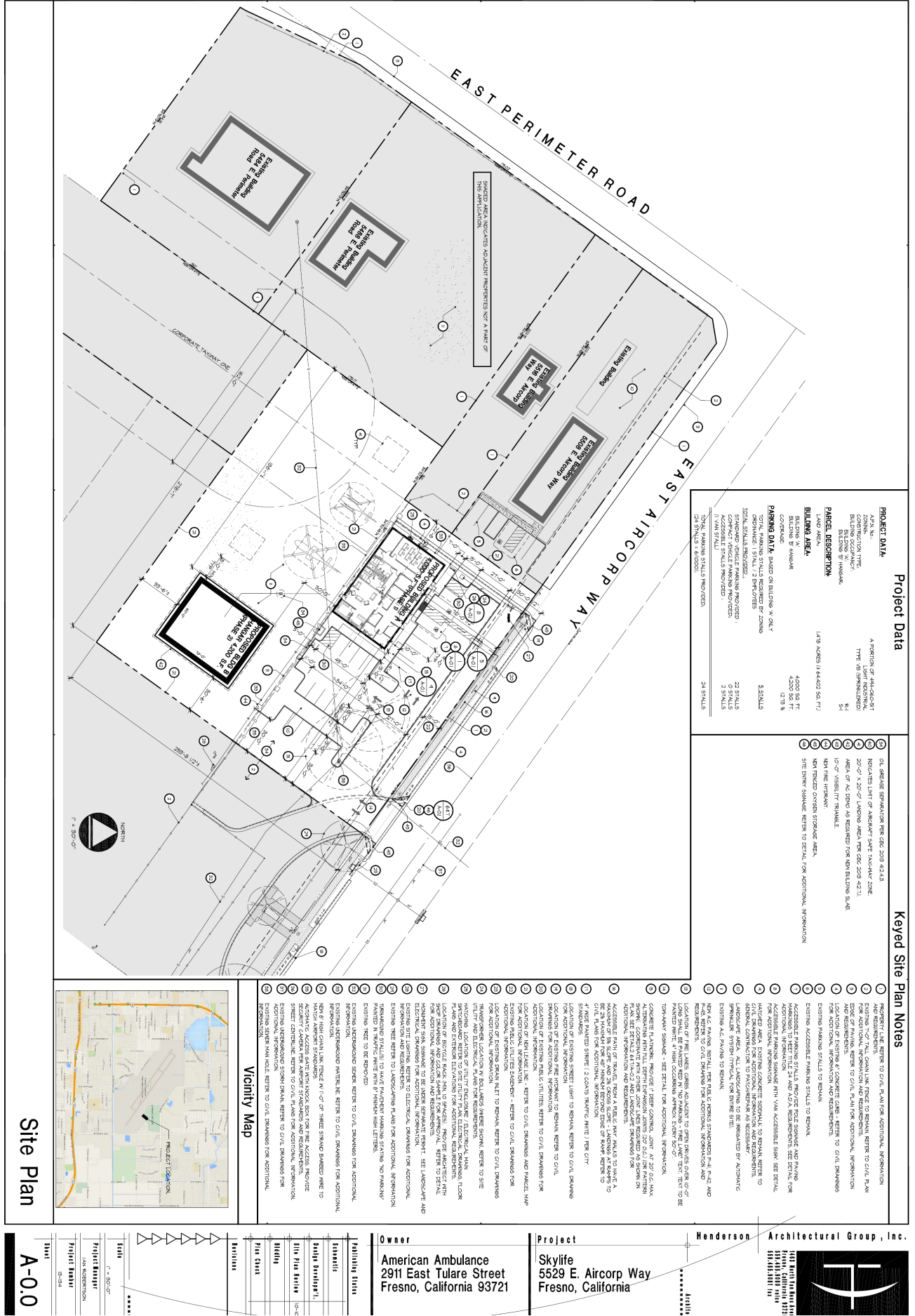


Exhibit "E" Scope of Work