

## COMMERCIAL LEASE

### Basic Information

**Date:** October \_\_\_\_, 2024

**Landlord:** Telenetwork Properties, Ltd., a Texas limited partnership

**Landlord's Address:** 2900 W. McCarty Lane, San Marcos, Texas 78666

**Tenant:** City of San Marcos, Texas

**Tenant's Address:** 630 E Hopkins, San Marcos, TX 78666

**Leased Premises:**

Square feet: 11,400 sq. feet (approximate), Suite. 105

Name of Building: A 128,938 square foot commercial space, including all buildings, parking, drives, improvements, equipment, fixtures, property and facilities (if any), as from time to time altered, expanded or reduced by the Landlord in its sole discretion, as shown on the site plan attached hereto as Exhibit "A".

Street address/suite: 350 Barnes Drive, Suite 105, San Marcos, Texas 78666

**Term (years):** 20

**Commencement Date:** November 1, 2024

**Expiration Date:** October 31, 2044

**Base Rent (annually):** \$1.90/square foot (monthly)

Rent may be increased annually at the rate of 2.5%

**Additional Rent:** Tenant will pay its proportionate share of all annual Operating Expenses such as Taxes, Insurance and Common Area Expenses (NNN). NNN expenses are estimated at \$0.57/SF.

**WSecurity Deposit:** Waived

**Permitted Use:** Conduct a governmental court for municipal and public purposes.

### Insurance:

1. Tenant will carry a commercial general liability policy with minimum coverage of \$1,000,000 per occurrence / \$2,000,000 policy aggregate, including coverage for bodily injury and death, personal injury coverage, and third-party property damage coverage; contractual liability coverage insuring the indemnity obligations of Tenant under this Lease. Tenant shall also maintain a policy of Causes of Loss – Special Forms (formally called “All Risks of Physical Loss” Property Insurance) on its fixtures, equipment, merchandise, trade fixtures, alterations and other property placed at the Leased Premises. Such policies

must be in effect as of the Commencement Date and must be maintained at all times during Tenant's occupancy of the Leased Premises and during the Term. A certificate evidencing all insurance policies required to be maintained by Tenant shall be deposited with Landlord within five (5) business days prior to the Commencement Date and current certificates shall be deposited with Landlord at all times during Tenant's occupancy of the Leased Premises and during the Term. If Tenant fails to maintain such required insurance coverage at any time during the Term, Landlord may, following written notice to Tenant and Tenant's failure to procure such coverage within five (5) days of the date thereof, procure such coverage at Tenant's expense. Upon the occurrence of any event resulting in a claim and/or loss which should reasonably be considered to be covered by any of the foregoing insurance policies, Tenant and/or Landlord (as applicable) shall make all appropriate claims on such policies and shall use all reasonable efforts to pursue such claims with any proceeds therefrom to be applied to satisfy the claim and/or loss or as may be otherwise be required by the policies.

2. Landlord will carry property insurance to cover the building and the common area, for replacement and liability in amounts the landlord determines reasonable and appropriate.

#### **A. Definitions**

1. "Agent" means agents, contractors, employees, licensees, and, to the extent under the control of the principal, invitees.
2. "Tenant's Operating Hours" means 8:00 A.M. to 5:00P.M. Monday - Friday or such occasional extra hours of operation as Tenant determines is necessary to properly and efficiently carry out the Permitted Use activities.
3. "Common Areas" means all facilities and areas of the Building and the related land that are intended and designated by Landlord from time to time for the common, general, and nonexclusive use of all tenants of the Building. Landlord has the exclusive control over and right to manage the Common Areas.
4. "Essential Services" means the following services: (a) air-conditioning and heating to the Premises reasonable for the Permitted Use (exclusive of air-conditioning or heating for electronic data- processing or other specialized equipment) during Tenant's Operating Hours and other times as Tenant and Landlord may agree on; (b) hot and cold water for lavatory and drinking purposes; (c) janitorial service and periodic window washing of the common area; (d) electric current for normal office machines and the Building's standard lighting reasonable for the Permitted Use; and (e) lighting in Common Areas and fluorescent lights in the Building's standard light fixtures in the Premises; (f) permitting Tenant the quiet enjoyment of the Premises ().
5. "Injury" means (a) harm to or impairment or loss of property or its use, (b) harm to or death of a person, or (c) "personal and advertising injury" as defined in the form of liability insurance Tenant is required to maintain.
6. "Lienholder" means the holder of a deed of trust covering the Premises.
7. "Operating Expenses" means all reasonable expenses, including real property taxes, that Landlord pays in connection with the ownership, operation, and maintenance of the Building, except principal and interest on any debt, expenditures classified as capital expenditures for federal income tax purposes, and expenses for which Tenant is required to reimburse Landlord such as utilities, janitorial service, maintenance/repairs, property management, and insurance.

8. "Pro Rata Share" means the percentage derived by dividing the square footage of the Leased Premises by the square footage of the Building.
9. "Rent" means Base Rent plus any other amounts of money payable by Tenant to Landlord.

## **B. Tenant's Obligations**

### **1. Tenant agrees to –**

- a. Lease the Premises for the entire Term beginning on the Commencement Date and ending on the Termination Date. Accept the Premises AS IS.
- b. Obey (i) all laws relating to Tenant's use, maintenance of the condition, and occupancy of the Premises and Tenant's use of any Common Areas in the Building; (ii) any requirements imposed by utility companies serving or insurance companies covering the Premises or Building; and (iii) any rules and regulations for the Building and Common Areas adopted by Landlord that apply equally to all tenants in the Building, do not conflict with this Lease, and do not unreasonably interfere with Tenant's Permitted Use.
- c. Pay monthly, in advance, on the first day of the month, the Base Rent and Additional Rent to Landlord at Landlord's Address.
- d. Pay a late charge of 5 percent of any Rent not received by Landlord by the fifteenth day after it is due.
- e. Obtain and pay for all utility services used by Tenant and not provided by Landlord under the terms of this Lease.
- f. Allow Landlord to enter the Premises during Tenant's Operating Hours and with reasonable advance notice to perform Landlord's obligations and inspect the Premises. Advance notice is not required by Landlord in the event of an emergency, in which case entry may be outside of Tenant's Operating Hours and simultaneous notice is sufficient.
- g. Repair, replace, and maintain any part of the Premises that Landlord is not obligated to repair, replace, or maintain hereunder, normal wear excepted. Premises must be kept in a clean and sanitary condition.
- h. Submit in writing to Landlord any request for repairs, replacement, and maintenance that are the obligations of Landlord hereunder.
- i. Reimburse Landlord for the amount of any actual Operating Expenses in excess of estimated Operating Expenses paid by Tenant in the form of Additional Rent following Tenant's receipt of a reconciliation of Tenant's Pro Rata Share of the actual Operating Expenses incurred by Landlord during the preceding calendar year and the estimated Operating Expenses paid by Tenant for the same period in the form of Additional Rent. Any such reconciliation shall be delivered within one hundred and twenty (120) days following the end of the calendar year to which the reconciliation applies.
- j. If requested, deliver to Landlord a financing statement perfecting the security interest created by this lease.

- k. Vacate the Premises and return all keys to the Premises on termination or expiration of this Lease.
- l. On request, execute an estoppel certificate that states the Commencement Date and Termination Date of the lease, identifies any amendments to the lease, describes any rights to extend the Term or purchase rights, lists defaults by Landlord, and provides any other information reasonably requested.
- m. Arrange with Landlord in advance for any heating, air-conditioning, or electrical needs in excess of the services provided by Landlord and pay for such additional services as billed by Landlord.
- n. RELEASE LANDLORD AND LIENHOLDER, AND THEIR RESPECTIVE AGENTS, FROM ANY INJURY (AND ANY RESULTING OR RELATED CLAIM, ACTION, LOSS, LIABILITY, OR REASONABLE EXPENSE, INCLUDING ATTORNEY'S FEES AND OTHER FEES AND COURT AND OTHER COSTS) CAUSED BY TENANT'S OR ITS AGENT'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OCCURRING IN ANY PORTION OF THE PREMISES.

**2. Tenant agrees not to –**

- a. Use the Premises for any purpose other than the Permitted Use.
- b. Create a nuisance.
- c. Unreasonably interfere with Landlord's or any other tenant's normal business operations or Landlord's management of the Building.
- d. Permit any waste.
- e. Use the Premises in any way that would increase insurance premiums, or void insurance on the Building.
- f. Allow a lien to be placed on the Premises arising from work performed, materials furnished, or obligations incurred by tenant.
- g. Assign this lease or sublease any portion of the Premises without Landlord's written consent.
- h. Place any signs on the Premises or Building without Landlord's written consent.

**C. Landlord's Obligations**

**1. Landlord agrees to –**

- a. Lease to Tenant the Premises for the entire Term beginning on the Commencement Date and ending on the Expiration Date, subject in all cases to the terms of this Lease.
- b. Obey all laws relating to Landlord's operation of the Building and Common Areas.
- c. Provide the Essential Services.
- d. Repair, replace, and maintain the (i) roof, (ii) foundation, (iii) Common Areas, (iv) structural soundness of the exterior walls, doors, windows, and interior corridors (including walls/doors/glass/windows), (v) leasehold improvements within the tenant's leased premises only as required by Section D.5. of this Lease, and (vi) other structures or equipment serving the Premises

outside of the Tenant's Suite Landlord will repair and replace the HVAC systems if damaged by an act of God such as a storm systems

- e. Provide Tenant promptly after receipt of a written request from Tenant with a reconciliation of Tenant's Pro Rata Share of the actual Operating Expenses incurred by Landlord during the preceding calendar year and the estimated Operating Expenses paid by Tenant for the same period in the form of Additional Rent and reimburse Tenant for the amount of any such estimated Operating Expenses paid by Tenant in excess of Tenant's Pro Rata Share of actual Operating Expenses for the preceding calendar year. Any such reconciliation shall be delivered within one hundred and twenty (120) days following the end of the calendar year to which the reconciliation applies.
- f. Provide Tenant with detailed invoices for all heating, air-conditioning, and electrical charges in excess of the Essential Services for which Landlord is entitled reimbursement.
- g. RELEASE TENANT AND ITS AGENTS AND CLIENTS, FROM ANY INJURY (AND ANY RESULTING OR RELATED CLAIM, ACTION, LOSS, LIABILITY, OR REASONABLE EXPENSE, INCLUDING ATTORNEY'S FEES AND OTHER FEES AND COURT AND OTHER COSTS) CAUSED BY LANDLORD'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OCCURRING IN ANY PORTION OF THE PREMISES.

**2. Landlord agrees not to –**

- a. Interfere with Tenant's possession of the Premises as long as Tenant is not in default.
- b. Unreasonably withhold consent to a proposed assignment or sublease.

**D. General Provisions**

**Landlord and Tenant agree to the following:**

- 1. *Alterations.* Any physical additions or improvements to the Premises made by Tenant will become the property of Landlord. Landlord may require that Tenant, at the end of the Term and at Tenant's expense, remove any physical additions and improvements, repair any alterations, and restore the Premises to the condition existing at the Commencement Date, normal wear excepted.
- 2. *Abatement.* Tenant's covenant to pay Rent and Landlord's covenants are independent. Except as otherwise provided, Tenant will not be entitled to abate Rent for any reason.
- 3. *Insurance.* Tenant and Landlord will maintain the respective insurance coverages required in this Lease.
- 4. *Release of Claims/Subrogation.* Each party hereto hereby waives any cause of action it might have against the other party on account of any loss or damage that is insured under any insurance policy required to be maintained hereunder or which would have been insured against loss or damage had the insurance required to be maintained hereunder been in full force and effect. Each party hereto agrees that it will request its applicable insurance carrier(s) to endorse all applicable policies waiving the carrier's rights of recovery under subrogation or otherwise against the other party.
- 5. *Casualty/Total or Partial Destruction*
  - a. If the Premises are damaged by casualty and can be restored within one hundred twenty days, Landlord will, at its expense, restore the areas it is responsible for under section C.1.d. and any

leasehold improvements within the Premises that are not within Tenant's obligations under B.2.i. to substantially the same condition that existed before the casualty and Tenant will, at its expense, be responsible for replacing any of its damaged furniture, equipment, and personal property and performing Tenant's obligations. If Landlord fails to complete the portion of the restoration for which Landlord is responsible, Tenant may terminate this lease by written notice delivered to Landlord before Landlord completes Landlord's restoration obligations.

- b. If the Premises cannot be restored within one hundred twenty days, Landlord has an option to restore the Premises. If Landlord chooses not to restore, this lease will terminate. If Landlord chooses to restore, Landlord will notify Tenant of the estimated time to restore and give Tenant an option to terminate this lease by notifying Landlord within ten days. If Tenant does not terminate this lease, the lease will continue and Landlord will restore the Premises as provided in D.5.a. above.
  - c. To the extent the Premises are untenantable after the casualty, the Rent will be adjusted as may be fair and reasonable during any such period Tenant is unable to occupy the Leased Premises.
  - d. *Condemnation/Substantial or Partial Taking*
    - i. If the Premises cannot be used for the purposes contemplated by this lease because of condemnation or purchase in lieu of condemnation, this lease will terminate.
    - ii. If there is a condemnation or purchase in lieu of condemnation and this lease is not terminated, Landlord will, at Landlord's expense, restore the Premises, and the Rent payable during the unexpired portion of the Term will be adjusted as may be fair and reasonable.
    - iii. Tenant will have no claim to the condemnation award or proceeds in lieu of condemnation.
6. *Default by Landlord/Events.* Defaults by Landlord are failing to comply with any provision of this lease within thirty days after written notice and failing to provide Essential Services to Tenant within ten days after written notice.
7. *Default by Landlord/Tenant's Remedies.* Tenant's remedies for Landlord's default are to sue for damages and, if Landlord does not provide an Essential Service within thirty days after default, terminate this lease.
8. *Default by Tenant/Events.* Defaults by Tenant are (a) failing to pay timely Rent, (b) abandoning the Premises or vacating a substantial portion of the Premises, and (c) failing to comply within ten days after written notice with any provision of this lease other than the defaults set forth in (a) and (b).
9. *Default by Tenant/Landlord's Remedies.* Landlord's remedies for Tenant's default are to (a) enter and take possession of the Premises and sue for Rent as it accrues; (b) enter and take possession of the Premises, after which Landlord may relet the Premises on behalf of Tenant and receive the rent directly by reason of the reletting, and Tenant agrees to reimburse Landlord for any expenditures made in order to relet and to pay the difference between the Rent hereunder and rent received by reason of reletting (provided such reletting is the result of a bona fide, arms'-length transaction between Landlord and a third party); (c) enter the Premises and perform Tenant's obligations; and (d) terminate this lease by written notice and sue for damages. Landlord may enter and take possession of the Premises by self-help, by picking or changing locks if necessary, and may lock out Tenant or any other person who may be occupying the Premises, until the default is cured, without being liable for damages.

10. *Default/Waiver.* It is not a waiver of default if the nondefaulting party fails to declare immediately a default or delays in taking any action. Pursuit of a remedy does not preclude pursuit of another remedy.
11. *Mitigation.* Landlord has mitigated the loss of rent if Landlord, within thirty days after Tenant's loss of possession, (a) places a "For Lease" sign at the Premises, (b) places the Premises on Landlord's inventory of properties for lease, (c) makes Landlord's inventory available to area brokers on a monthly basis, (d) advertises the Premises for lease in a suitable trade journal in the county in which the Premises are located, and (e) shows the Premises to prospective tenants who request to see it.
12. *Holdover.* If Tenant does not vacate the Premises following termination of this lease, Tenant will become a tenant at will and must vacate the Premises on receipt of notice from Landlord. No holding over by Tenant, whether with or without the consent of Landlord, will extend the Term. If Tenant does not vacate on termination date then the tenant will pay the entire next month in full plus NNN charges without proration. If the tenant does not vacate by the second month, base rent will be charged at 150%.
13. *Alternative Dispute Resolution.* Landlord and Tenant agree to mediate in good faith before filing a suit for damages.
14. *Attorney's Fees.* If either party retains an attorney to enforce this lease, the party prevailing in litigation is entitled to recover reasonable attorney's fees and other fees and court and other costs.
15. *Venue.* Exclusive venue is in Hays County, Texas.
16. *Entire Agreement.* This lease is the entire agreement of the parties concerning the lease of the Premises by Landlord to Tenant. There are no representations, warranties, agreements, or promises pertaining to the Premises or the lease of the Premises by Landlord to Tenant, and Tenant is not relying on any statements or representations of any agent of Landlord, that are not in this lease.
17. *Amendment of Lease.* This lease may be amended only by an instrument in writing signed by Landlord and Tenant.
18. *Limitation of Warranties.* THERE ARE NO IMPLIED WARRANTIES OF MERCHANTABILITY, OF FITNESS FOR A PARTICULAR PURPOSE, OR OF ANY OTHER KIND ARISING OUT OF THIS LEASE, AND THERE ARE NO WARRANTIES THAT EXTEND BEYOND THOSE EXPRESSLY STATED IN THIS LEASE.
19. *Notices.* Any notice required or permitted under this lease must be in writing. Any notice required by this lease will be deemed to be given (whether received or not) the earlier of receipt or three business days after being deposited with the United States Postal Service, postage prepaid, certified mail, return receipt requested, and addressed to the intended recipient at the address shown in this lease. Notice may also be given by regular mail, personal delivery, courier delivery, or e-mail and will be effective when received. Any address for notice may be changed by written notice given as provided herein.
20. *Use of Common Areas and Parking.* Tenant and tenant's customers will have the nonexclusive right to use the Common Areas and Parking, subject to any reasonable rules and regulations that Landlord may prescribe.
21. *Abandoned Property.* Landlord may retain, destroy, or dispose of any property left on the Premises at the end of the Term.

#### **E. Special Provisions**

**Notwithstanding any other provision in this lease to the contrary, Landlord and Tenant agree to the following:**

1. All obligations of the Tenant, including, but not limited to, any duty to indemnify, shall be enforceable against Tenant only to the extent permitted by law and with the limitation that Tenant, in no manner waives any limitations on liability or any immunity granted or allowed by applicable laws or the Texas Constitution, including comparative negligence or liability laws.
2. Any limitation on liability of Landlord shall not extend to any liability, losses or damages caused in whole or in part by the negligent acts or omissions or willful misconduct of Landlord after applying comparative negligence or liability laws.
3. Notwithstanding anything to the contrary, Landlord shall not assert or enforce a lien or security interest against any property of Tenant that is not permitted by applicable law to be asserted or enforced against a Texas municipality. Moreover, any lawful lien or security interest shall be subordinate to any interest in property of the State of Texas or the United States of America arising by virtue of any funding agreements such entities may have with the Tenant.
4. The obligations under this Lease are contingent upon the annual appropriation of funds by the San Marcos City Council. If such funding is not received and appropriated by the City Council in any fiscal year during the term of this lease, the Lease term will be adjusted to terminate concurrently with the end of the period for which funding has been appropriated. Alternatively, if such funding is awarded to Tenant for a specific fiscal year, but the actual Rent due for that fiscal year exceeds the amount of funding, Landlord agrees that Tenant shall be liable only for payment of the lesser amount of the fiscal year funds awarded to Tenant and appropriated by the City Council, provided however in no event will the Rent be less than 85% of the prior year's Rent. Tenant will have one year to make the Rent back up; if Tenant does not pay full back-Rent within one year of lack of funding, Landlord may terminate this lease and will be entitled to payment of any back-Rent up to the amount of then-appropriated funds for the same.
5. No rent will be charged for the first 120 days to allow Tenant to renovate the leased premises for its intended use.
6. Landlord has 90 days to remove furniture, fixtures and equipment that Tenant has not specifically accepted, such as kitchen-use appliances and items.
7. The Tenant desires to buy the entire building. The Landlord may consider, at their discretion, selling the entire building to the Tenant during the term of this Lease. At the seventh, eleventh, fourteenth, and seventeenth year anniversary dates of the commencement of this Lease, the Tenant can terminate this Lease if the Tenant has not acquired the entire building at those interval years. The Tenant plans to invest \$1,263,600 million in interior improvements for Tenant's use and \$1,336,400 million in major systems improvements that support the Tenant's occupation of the Premises. If the Tenant buys the entire building at the seventh year, the Landlord will credit \$500,000 toward the purchase price. If the Tenant buys the entire building at the eleventh year, the Landlord will credit \$250,000 toward the purchase price. If the Landlord sells the entire building to the Tenant, the purchase price will be determined through an independent appraisal by a jointly agreed-upon certified real estate appraiser. During the term of this Lease, the Landlord agrees that no other person nor entity will be allowed to purchase, lease, or offered a right-of-first refusal to purchase the entire building without first making such an offer to the Tenant; provided, however, that Landlord is permitted sell and/or transfer the building to any affiliate in which the Landlord's ultimate principals or their trust or testate successors own a controlling interest. Upon the receipt of any such third party offer to purchase or lease the building, Landlord shall make the same offer



(as to both price and terms) to Tenant. Tenant shall have ninety (90) days to respond to such a purchase offer or thirty (30) days to respond to such a lease offer. If Tenant rejects such offer or fails to respond within the applicable response period, Tenant's right of first refusal as to the applicable third-party offer shall be deemed forever waived, and Landlord may proceed with the sale and/or lease to the third party. During the term of this Lease, the Landlord also agrees that no other person nor entity will be allowed to lease or offered a right-of-first refusal to lease Suites 102 and 109 and to assume the lease for Suite 101 without first making such an offer to the Tenant. Upon the receipt of any such third party offer to lease the applicable Suites, Landlord shall make the same offer (as to both price and terms) to Tenant. Tenant shall have thirty (30) days to respond to such offer. If Tenant rejects such offer or fails to respond within such 30-day period, Tenant's right of first refusal as to the applicable third-party offer shall be deemed forever waived, and Landlord may proceed with the lease to the third party. These suites are marked as currently located in Exhibit "B" to this lease and this provision applies to the suites as located there on the effective date of this lease. To protect Tenant's interests in this section, the parties agree that Landlord will not rent these other suites to political organizations, liquor stores, smoke shops, or sexually oriented businesses.

8. Parties agree that Landlord is responsible for maintenance outside the leased premises, and Tenant inside the premises. Tenant will maintain the HVAC system, while Landlord will replace the HVAC system damaged by events of a force majeure nature such as storms.
9. Tenant is authorized to modify the building for court security purposes, including the back exterior windows, film on the front exterior windows, and installation and removal, if necessary, of large brick-shaped rocks in the front. Tenant is also authorized to adjust the fire suppression sprinkler system to accommodate the leased space, with related security system adjustments. Tenant will be able to access the fire riser room in the back of the building.
10. Tenant will remove the OneSupport sign, installing and paying for a new sign, of reasonable expense, above Suite 109, although Tenant is not responsible to damage to the existing sign
11. Tenant will be provided 50 parking places. 30 in the front for citizens (prospective jurors) and 20 in the back for staff, prosecutor and marshals. Tenant may install a fence for part of all of the back parking lot for security purposes. Tenant may install a security and lock system for the spaces it leases at the time.

LANDLORD

TELENETWORK PROPERTIES, LTD., a Texas  
limited partnership

By: tN Properties, Inc., its General Partner

By: \_\_\_\_\_  
Anthony Herrera, President

TENANT

CITY OF SAN MARCOS

By: \_\_\_\_\_  
Stephanie Reyes, City Manager

**Exhibit “A”**

**Site Plan**

**Exhibit “B”**

**Suites**