

LEASE

THIS LEASE ("**Lease**") is entered into and effective this ____ day of _____, 2017 (the "**Effective Date**"), by and between the ZEPOL ROAD, LLC., a Delaware limited liability company (the "**Landlord**"), and CITY OF FRESNO, a California municipal corporation (the "**Tenant**").

RECITALS

A. The Landlord is the owner of real property ("**Real Property**") located at 1322 East Shaw Avenue, Fresno, California 93710, and the Building (as later defined) located on it. The Real Property and the Building are collectively the "**Property**."

B. The Landlord desires to lease to the Tenant, and the Tenant desires to lease from the Landlord the Premises (as later defined) for the term and subject to the terms, covenants, agreements, and conditions in this Lease.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing and of the covenants, conditions, and premises hereinafter contained to be kept and performed by the respective parties, the parties hereby mutually agree as follows:

1. **Premises.** The Landlord leases to the Tenant, and the Tenant leases from the Landlord, the Premises for the term and subject to the terms, covenants, agreements, and conditions later set forth, to each of which the Landlord and the Tenant mutually agree.

(a) "Premises." The "**Premises**" means the portion of the Building, described as 391 rentable square feet of space known as Suite 190.

(b) "Building." The "**Building**" means the building constructed on the Real Property known as Starpoint Towers, any property interest in the area of Starpoint Towers, and all other improvements on or appurtenances to the Real Property or the streets abutting the Real Property. The Building includes, but is not limited to, an office building with four floors of office space, and a parking lot located adjacent to the Starpoint Towers.

2. **Term.** The Landlord leases to the Tenant the Premises for the term of five years commencing on the Commencement Date (as later defined), and ending at 11:59:59 p.m. on the date before the fifth-year anniversary of this Lease (the "**Lease Term**"), unless earlier terminated in accordance with the provisions of this Lease. The "**Commencement Date**" means fourteen days after the Landlord's substantial completion of the Premises in accordance with the Tenant's punch list.

3. **Rent.** Beginning on the Commencement Date, the rent shall be \$391 ("**Rent**") per month, payable to the Landlord on a monthly basis in the Tenant's normal course of business, at the address of the Landlord stated on the signature page of this Lease or at another location the Landlord may designate.

(a) "Security Deposit." The Tenant shall not be required to pay a security deposit under this Lease.

(b) Escalation. Rent shall not escalate or increase during the Lease Term.

4. **Use.** The Premises shall be used for general office purposes. The Tenant shall not do or permit to be done on the Premises, nor bring or keep or permit to be brought or kept in the Premises, anything (i) which is prohibited by or in conflict with any law, ordinance, or governmental rule or, (ii) which is prohibited by the standard form of fire insurance policy or, (iii) which will increase the existing rate of or affect fire or other insurance on the Building or its contents or cause a cancellation of any insurance policy covering the Building or any part of it or its contents. The Tenant shall not use or store in the Premises any hazardous or toxic substances, with the sole exception of reasonably necessary substances that are kept in reasonably necessary quantities for normal office operations, provided their use and storage are in accordance with applicable laws. The Tenant shall not do or permit anything to be done on the Premises that will obstruct or interfere with the rights of other tenants of the Building, or injure or annoy them, or use or allow the Premises to be used for any unlawful purposes, nor shall the Tenant cause, maintain, or permit any nuisance or waste on or about the Premises.

5. **Services.**

(a) The Landlord shall furnish (i) electricity for lighting and the operation of office machines, (ii) heat and air conditioning, to the extent reasonably required for the comfortable occupancy by the Tenant in the Tenant's use of the Premises during the period from 8:00 a.m. to 6:00 p.m. on weekdays (including holidays), (iii) elevator service, (iv) lighting replacement, for building standard lights, (v) restroom supplies, (vi) window washing with reasonable frequency, (vii) water for the restrooms and kitchen areas, and (viii) security guard services and daily janitor services during the times and in the manner that these services are customarily furnished in comparable office buildings in the area. The Landlord may establish reasonable measures to conserve energy and water, including but not limited to, automatic light shut off after hours and efficient lighting forms, so long as these measures do not unreasonably interfere with the Tenant's use of the Premises.

(b) The Landlord shall not be in default under this Lease, nor be liable for any damages resulting from, nor shall the required rental be abated because of: (i) the installation, use, or interruption of use of any equipment in connection with furnishing the previously listed services, (ii) failure to furnish or delay in furnishing these services, when failure or delay is caused by accident or conditions beyond the reasonable control of the Landlord or by necessary repairs or improvements to the Premises or to the Building, or (iii) the limitation, curtailment, rationing, or restrictions on use of water, electricity, gas, or any other form of energy serving the Premises or the Building. The Landlord shall use reasonable efforts to diligently remedy interruptions in the furnishing of these services.

(c) On receipt of a bill, the Tenant shall reimburse the Landlord for the cost of all heat or air conditioning provided to the Premises during hours requested by the Tenant when those services are not otherwise furnished by the Landlord. The cost

shall be a per hour charge reflecting the electrical energy, labor, and fixed plant costs (excluding depreciation) of running the heating and air conditioning system.

(d) In the event the Landlord, at the Tenant's request, provides services to the Tenant that are not otherwise provided for in this Lease, the Tenant shall pay the Landlord's reasonable charges for these services on billing of the Landlord.

6. **Independent Contractor.** In the furnishing of the services provided for herein, the Landlord is acting solely as an independent contractor. Neither the Landlord, nor any of its officers, agents, or employees shall be deemed an officer, agent, employee, joint venturer, partner, or associate of the Tenant for any purpose. The Tenant shall have no right to control or supervise or direct the manner or method by which the Landlord shall perform its work and functions. However, the Tenant shall retain the right to administer this Lease so as to verify the Landlord is performing its obligations in accordance with the terms and conditions thereof.

Because of its status as an independent contractor, the Landlord and its officers, agents, and employees shall have absolutely no right to employment rights and benefits available to the Tenant employees. The Landlord shall be solely liable and responsible for all payroll and tax withholding and for providing to, or on behalf of, its employees all employee benefits including, without limitation, health, welfare, and retirement benefits. In addition, together with its other obligations under this Lease, the Landlord shall be solely responsible, indemnify, defend, and save the Tenant harmless from all matters relating to employment and tax withholding for and payment of the Landlord's employees, including, without limitation, (i) compliance with Social Security and unemployment insurance withholding, payment of workers' compensation benefits, and all other laws and regulations governing matters of employee withholding, taxes, and payment; and (ii) any claim of right or interest in the Tenant employment benefits, entitlements, programs, or funds offered employees of the Tenant whether arising by reason of any common law, de facto, leased, or co-employee rights, or other theory. It is acknowledged that during the Lease Term, the Landlord may be providing services to others unrelated to the Tenant or to this Lease.

7. **Operating Expenses and Property Taxes.** The Landlord shall be responsible for paying all Operating Expenses (as later defined) and Property Taxes (as later defined).

(a) **"Operating Expenses"** means (i) all costs of management, operation, and maintenance of the Building, including without limitation: wages, salaries, and payroll burden of employees; property management fees and other related compensation; janitorial, maintenance, security, and other services; power, water, waste disposal, and other utilities; materials and supplies; maintenance and repairs; license costs; insurance premiums and the deductible portion of any insured loss under the Landlord's insurance; and depreciation on personal property; and (ii) the cost of any capital improvements made to the Building by the Landlord that (1) are made in the reasonable expectation of reducing other Operating Expenses during the term of this Lease, (2) are required for the health and safety of tenants, or (3) are required under any governmental law or regulation that was not applicable to the Building at the time it was constructed, this cost to be amortized over a reasonable period determined by the

Landlord, together with interest on the unamortized balance at the rate of ten percent per annum, or a higher rate equal to that paid by the Landlord on funds borrowed for the purpose of constructing or installing those capital improvements. Operating Expenses shall not include: Property Taxes; costs incurred in connection with the repair of damage to the Building, to the extent the Landlord is reimbursed by insurance proceeds; and capital items other than those referred to in clause (ii).

(b) **“Property Taxes”** means all real property taxes (and any tax levied wholly or partly in lieu of real property taxes) levied against the Building, and all real estate tax consultant expenses and attorney’s fees incurred for the purpose of maintaining an equitable assessed valuation of the Building.

8. Improvements and Alterations.

(a) The alterations described in **Exhibit A**, attached and incorporated herein by reference, shall be completed prior to the Commencement Date at the expense of the party designated on **Exhibit A**.

(b) The Tenant shall provide all furnishings, equipment, and additional fixtures necessary for its intended use of the Premises. With the prior written consent of the Landlord, the Tenant shall have the right to improve, add to, or alter the Premises, provided, however, that any such improvements, additions, or alterations shall (i) be those consistent with the use of the Premises by the Tenant under this Lease, and (ii) on termination or expiration of this Lease, shall be removed from the Premises and the Premises restored to its original condition.

(c) Any equipment, fixtures, or apparatuses installed in or on the Premises by the Tenant shall continue to be the property of the Tenant.

9. Access and Possession.

(a) Early Access. The Landlord shall grant the Tenant a period of fourteen calendar days prior to the Commencement Date to access the Premises for the purpose of making the Premises ready for the Tenant’s use, including, but not limited to, installation of furniture, fixtures, equipment, and telecommunications and computer cabling. If the Tenant accesses or occupies the Premises prior to the Commencement Date, the Tenant’s early access or occupancy of the Premises shall be subject to all the provisions of this Lease, except that the Tenant’s early access or occupancy shall not advance the Commencement Date or the expiration date of this Lease. During such period of early access or occupancy, the Tenant shall not be required to pay Rent, real property taxes, insurance premiums for any insurance carried by the Landlord, or the Landlord’s charges for maintenance costs.

(b) Possession. The Landlord shall deliver to the Tenant possession of the Premises on the Commencement Date. Any delay in delivery of possession to the Tenant shall postpone the commencement of Rent accordingly, but shall not otherwise affect this Lease.

(c) Access. Upon the Commencement Date, and subject to the terms and conditions of this Lease, the Tenant shall have access to the Premises twenty-four hours a day, seven days a week, and 365 days a year.

10. **Insurance.** The Landlord acknowledges the Tenant is self-insured, and shall not be required to maintain any supplemental or excess coverage.

11. **Maintenance and Repairs.**

(a) The Landlord, at its cost and expense, shall be responsible for maintaining the public and Common Areas (as later defined) of the Building, including, but not limited to, the exterior roof and walls, structural supports, foundation, lobbies, stairs, elevators, corridors, restrooms, all exterior landscaping, irrigation systems, grounds keeping, lighting, paving, security gates, windows, and doors, and the mechanical, plumbing, and electrical equipment serving the Building, and the structure itself, in reasonably good order and condition so as to meet the reasonable needs of the Tenant, except for damage, and normal wear and tear, caused by the Tenant. The Landlord shall not be responsible for maintenance of carpeting or janitorial service and supplies to the Premises.

(b) The Landlord, at its cost and expense, shall be responsible for making major (capital) repairs or replacement of the major working components of the heating and air conditioning system when necessary, unless the repair or replacement is necessitated by any act or omission of the Tenant, its employees, agents, or invitees, which shall be the Tenant's responsibility. The Landlord shall inspect the heating and air conditioning system prior to the Tenant taking occupancy to ensure all components are in good and working order.

(c) With exception to the services to be furnished by the Landlord, the Tenant, at its cost and expense, and subject to the Tenant's governing board's discretionary appropriation of funds, shall maintain the Premises in good and safe condition, including all interior surfaces of walls, windows, plate glass, doors, and ceilings, and all fixtures or equipment installed by the Tenant. The Tenant shall surrender the Premises at termination of this Lease in the same condition as received, except for normal wear and tear and except for changes authorized by the Landlord. The Tenant shall be responsible for routine maintenance of air conditioning, heating units, interior lighting, bathroom fixtures, and interior painting of the Premises.

(d) In the event the Landlord neglects, fails, or refuses to maintain the Premises as aforesaid within forty-eight hours (except for repair or replacement of air conditioning, heating, or plumbing, which shall be within twenty-four hours) after written notice has been given by the Tenant, the Tenant may, at the Tenant's sole option, cure any such default by performance and any act, including payment of any money, and subtract the cost thereof from the Rent. Conditions (other than normal wear and tear) caused solely by the Tenant and not subject to the control of the Landlord are excluded from this provision.

12. **Common Area.**

(a) The Landlord grants to the Tenant for the benefit of the Tenant and its employees, contractors, and invitees, the non-exclusive right to use the Common Area (as later defined) subject to any rules or regulations of the Landlord for the management, safety, care, and cleanliness of the Common Area.

(b) **“Common Area”** means all areas and facilities outside the Premises and within the exterior boundary line of the Property that are provided and designated by the Landlord from time to time for the general non-exclusive use of the Landlord, the Tenant, and other tenants of the Landlord and their respective employees, suppliers, shippers, customers, contractors, and invitees, including parking areas, loading and unloading areas, trash areas, roadways, walkways, driveways, and landscaped areas.

13. **Janitorial Services.** The Tenant shall be responsible for janitorial service within the Premises, including payment for the janitorial service.

14. **Parking.** A total of three “reserved” parking spaces in a parking lot adjacent to the Premises are exclusively assigned to the Tenant for parking vehicles. All gates, if any, shall be electronically controlled and accessible by the Tenant. The Landlord warrants this parking area constitutes an integral part of the Premises which if, for any reason, becomes unavailable for use by the Tenant during the life of this Lease, constitutes a breach of this Lease. The Tenant shall not park vehicles outside the parking area on the Landlord’s adjacent property to the Premises, except in the event of law enforcement action by the police department in the vicinity.

15. **Entry.** Upon twenty-four hours’ prior written notice to the Tenant, the Landlord, or its representatives, shall have the right to enter the Premises during business hours to carry out any building management or business purpose in or about the building. The normal business of the Tenant or its invitees shall not be unnecessarily inconvenienced.

16. **Signs.**

(a) The Landlord, at the Landlord’s sole expense, shall provide the Tenant with building standard lobby signage, which will identify the name of the Tenant.

(b) The Tenant shall not place or permit to be placed in, upon, about, or outside the Premises any sign, notice, drapes, shutters, blinds, or display of any kind, without the prior written consent of the Landlord.

17. **Surrender of Possession, and Holding Over.**

(a) It is mutually understood and agreed that upon termination of this Lease, the Tenant will surrender the Premises to the Landlord in its condition at the Commencement Date (as above defined) less reasonable wear and tear, which the Tenant is not obligated hereunder to repair or replace.

(b) If Tenant holds over after this Lease expires or otherwise terminates, the Tenant’s continued occupancy will be a month-to-month tenancy subject to the provisions of this Lease (excluding the Lease Term) and to termination upon sixty days’ written notice from the Landlord. In the event the Tenant holds over, Rent shall be set at the same rate as during the Lease Term for the initial three months, and may be increased by the Landlord thereafter to no more than 125 percent of the Rent.

18. **Hazardous Substance.**

(a) The Landlord represents, covenants, and warrants there are no Hazardous Substances (as later defined) located in, on, or about the Property.

(b) The Tenant shall not be responsible for any losses, liability, or costs (including, but not limited to, consulting, engineering, clean-up, disposal, or legal costs) arising in whole or in part from any form of toxic material or hazardous substance existing on the Premises prior to the Tenant taking original possession of the Premises pursuant to this Lease. After the Tenant takes possession of the Premises, the Tenant shall not be responsible for any losses, liability, or costs (including, but not limited to, consulting, engineering, clean-up, disposal, or legal costs) arising in whole or in part from (i) any pre-existing condition, or (ii) any form of toxic material or hazardous substance on the Premises which is not directly caused or generated by the Tenant.

(c) **“Hazardous Substances”** means and shall include, without limitation, flammable, explosive, or radioactive materials; asbestos; polychlorinated biphenyls (PCBs); chemicals known to cause cancer or reproductive toxicity; pollutants; contaminants; hazardous wastes; toxic substances or related materials; petroleum and petroleum products; and all substances declared to be hazardous or toxic under any law or regulation now or hereafter enacted or promulgated by any governmental authority.

(d) If at any time during the term of this Lease, Hazardous Substances are discovered by either party to be on the Property, such party shall immediately notify the other party in writing of such occurrence. Within sixty days from the discovery of Hazardous Substances on the Property, the Landlord and the Tenant shall meet and confer and the Landlord shall provide to the Tenant time estimates for the Landlord to remove the Hazardous Substances or otherwise to make the Property safe and lawful under this Lease. At any time after the discovery of the Hazardous Substances on the Property, the Tenant may, at its sole discretion, terminate this Lease upon thirty days' written notice to the Landlord.

(e) The Tenant shall not be responsible for any losses, liability, or costs (including legal costs) arising in whole or in part for complications arising from any pre-existing condition within the Property (including the Premises).

19. **Liability.**

(a) The Landlord, its officers, employees, agents, and authorized volunteers shall be free from any and all liability and claims of any kind for loss or damage to property of the Tenant or any other person, or for any injury to or death of any person, arising out of: (i) the Tenant's use and occupancy of the Premises, or any work, activity, or other things allowed or suffered by the Tenant to be done in, on, or about the Premises; (ii) any breach or default by the Tenant of any of the Tenant's obligations under this Lease; or (iii) any act or omission of the Tenant, its officers, officials, employees, agents, invitees, or contractors.

(b) The Tenant, its officers, officials, employees, agents, and authorized volunteers shall be free from any and all liability and claims of any kind for loss or damage to property of the Landlord or any other person, or for any injury to or death of any person, arising out of: (i) the Landlord or any other tenant's use and occupancy of the Property (as above defined), or any work, activity, or other things allowed or suffered by the Landlord or any other tenant to be done in, on, or about the Property; (ii) any breach or default by Landlord of any of Landlord's obligations under this Lease; (iii) any act or omission of the Landlord, its partners, officers, directors,

employees, agents, invitees, or contractors, and any other tenant, its officers, directors, employees, agents, employees, invitees, or contractors; or (iv) structural failures or from external causes to walls, roof, and floor.

(c) The parties acknowledge that as between the Landlord and the Tenant, each is responsible for the negligence of its own officers, officials, partners, directors, employees, agents, invitees, and contractors.

20. **Destruction.** If the Premises are damaged or destroyed as a result of fire, earthquake, act of God, or any other identifiable event of a sudden, unexpected, or unusual nature (hereinafter "**Casualty**"), then the Landlord shall either promptly and diligently repair the damage at the Landlord's own cost, or terminate this Lease as hereinafter provided.

(a) If the Landlord elects to repair the Casualty damage to the Premises, then the Landlord shall within thirty days after the date of Casualty provide written notice (hereinafter "**Notice of Repair**") to the Tenant indicating the anticipated time required to repair. The Landlord shall bear the cost of all repairs to the Premises, except the cost to repair any alterations or fixtures of a temporary nature installed or attached thereto by the Tenant. Such repairs shall restore the Premises to substantially the same condition as that existing at the Commencement Date (as defined above). Such repairs shall also be made in compliance with all applicable state and local building codes. The Landlord shall not be liable to the Tenant for compensation for any loss of business, or any inconvenience or annoyance arising from repair of the Premises as a result of the Casualty except for rent reduction as hereinafter provided. The Tenant shall be responsible at its sole cost and expense for the replacement of its personal property.

(b) The Landlord may only elect to terminate the Lease due to Casualty if (i) the Premises have been destroyed or substantially destroyed by said Casualty; and (ii) the estimated time to repair the Premises exceeds 120 days from the date of the Casualty. The Landlord shall provide the Tenant with written notice of the election to terminate within thirty days after the date of the Casualty.

(c) In the event of Casualty, the Tenant's obligation to pay the rent shall be reduced beginning on the date of the Casualty. Such reduction shall be proportional to the damage caused to the Premises by the Casualty as determined by the Landlord and the Tenant in writing. If the Landlord elects to repair the Premises pursuant to the terms of this Lease, then the rent reduction shall continue until the date of substantial completion of repair.

(d) If the Tenant does not receive a Notice of Repair from the Landlord within thirty days after a Casualty, or if the anticipated period of repair contained in the Notice of Repair exceeds 120 days, then the Tenant may elect to terminate this Lease as provided in this Lease. In such case, the Tenant shall have the right to demand that the Landlord refund any monies which, in the judgment of the Tenant were paid to the Landlord pursuant to the Lease but which were not earned by the Landlord by consequence of the Casualty. Upon receipt of such demand, the Landlord shall promptly refund all such monies.

21. **Condemnation.** Should, during the Lease Term, title and possession of the Premises be taken under the power of eminent domain by any public or quasi-public agency or entity, this Lease shall terminate as of 12:01 a.m. of, whichever first occurs, the date legal title of said Premises becomes vested in or actual physical possession of said Premises is taken by the agency or entity exercising the power of eminent domain and both the Landlord and the Tenant shall thereafter be released from all obligations under this Lease.

22. **Termination.**

(a) Termination by Tenant for Non-appropriation. In the sole event of non-appropriation relating to this Lease, the Tenant shall have the right to terminate this Lease at the end of any fiscal year of the Tenant, in the manner and subject to the terms specified in this paragraph. The Tenant shall endeavor to give written notice of such termination not less than sixty days prior to the end of such fiscal year, and shall notify the Landlord of any anticipated termination. For purposes of this paragraph, "fiscal year" shall mean the twelve month fiscal period of the Tenant, which commences on July 1 in every calendar year and ends on June 30 of the following calendar year. For purposes of this paragraph, "non-appropriation" shall mean the failure of the Tenant or the Tenant's governing body to appropriate money for any fiscal year of the Tenant sufficient for the continued performance of this Lease by the Tenant.

(1) The Tenant obligation to pay Rent and any other payment obligations under this Lease shall constitute a current expense to the Tenant for the Tenant's beneficial use and occupancy of the Premises. Rent shall be payable only from current funds, budgeted and appropriated, on deposit in a reserve fund, or otherwise legally available for Rent. This Lease does not create an immediate debt for aggregate Rent, and is not a pledge of the Tenant's full faith and credit.

(2) During its annual budgeting process, the Tenant shall consider, and will use best efforts to appropriate funding to meet its Rent, maintenance, and other estimated costs under this Lease for the fiscal year under consideration.

(b) If either party materially defaults in the performance of any condition or covenant in this Lease, the other party may terminate this Lease upon thirty days' prior written notice, but only if the defaulting party fails to rectify said default within thirty days after written notice of the default is served upon the defaulting party by the other party. In the event, however, that any default complained of hereunder is of such nature that the same cannot be rectified in such thirty days, then such default shall be deemed to be rectified if the defaulting party shall have commenced the compliance of the provisions hereof breached by it within such thirty day period and shall with all diligence prosecute the work or perform the particular provisions until the same shall have been fully rectified or performed.

(c) The Tenant may, without any damage being attributed to the Landlord, terminate this Lease without cause upon 180 days' prior written notice to the Landlord.

(d) Upon termination of this Lease, an equitable adjustment shall be made concerning advance rent and any other advance payments made by the Tenant to the Landlord.

23. **Assignment and Subletting.** Any assignment or subletting of any portion of the Premises, whether by operation of law or otherwise, without prior written consent of the Landlord is void and shall be a breach of this Lease, and at the option of the Landlord, shall terminate this Lease.

24. **Options to Extend.**

(a) Options. The Tenant may elect to extend the Lease Term of this Lease ("**Extension Option(s)**") for all or any portion of the Premises for two additional periods of five years each (collectively, the "**Extension Periods**"; individually, the "**First Extension Period**" and "**Second Extension Period**"), by delivering to the Landlord not later than six months before the end of the initial Lease Term of this Lease, or the First Extension Period, as applicable, a written notice (the "**Option Notice**") of such election. The First Extension Period shall commence on the day immediately following the last day of the Lease Term, and the Second Extension Period, shall commence on the day immediately following the last day of the First Extension Period, and shall be subject to all the terms and conditions of this Lease except that the rent for the applicable Extension Period shall be determined in accordance with subsection (d) below.

(b) Options Not Personal. The Extension Options set forth herein are not personal to the Tenant and may be exercised by any assignee of the Lease permitted under the terms of this Lease or by any subtenant to which this right is specifically granted. However, no such Extension Option is assignable separate and apart from this Lease.

(c) Rent During Extension Periods. The Rent for each Extension Period shall be ninety percent of the Fair Market Rental Rate (as later defined) as of the commencement of the applicable Extension Period.

(d) Fair Market Rental Rate. The term "**Fair Market Rental Rate**" shall mean the annual amount per rentable square foot that the Landlord has accepted in current transactions (those transactions where the essential economic terms and conditions were agreed upon twelve months prior to the commencement date for the applicable renewal term or the expansion space, as applicable) between nonaffiliated parties from new, nonexpansion (unless the expansion is pursuant to a comparable definition of Fair Market Rental Rate), nonrenewal (unless the renewal is pursuant to a comparable definition of Fair Market Rental Rate), and nonequity tenants of comparable credit-worthiness, for comparable space (size and height), for a comparable use, for a comparable period of time ("**Comparable Transactions**") in the Building, or to the extent there are not a sufficient number of Comparable Transactions in the Building, then Comparable Transactions will also include what a comparable landlord of a Comparable Building (as later defined) with comparable vacancy factors would accept in Comparable Transactions. "**Comparable Buildings**" means buildings of comparable size and vintage and construction in the same postal code, or other geographical area as the parties may mutually agree to. In any determination of Comparable Transactions appropriate consideration shall be given to the annual rental rates per rentable square

foot, the standard of measurement by which the rentable square footage is measured, the ratio of rentable square feet to usable square feet, the type of escalation clause (e.g., whether increases in additional rent are determined on a net or gross basis, and if gross, whether such increases are determined according to a base year or a base dollar amount expense stop), the extent of the Tenant's liability under the Lease, parking rights and obligations, signage rights, abatement provisions reflecting free rent or no rent during the period of construction or subsequent to the commencement date as to the space in question, brokerage commissions, if any, which would be payable by the Landlord in similar transactions, length of the lease term, size and location of premises being leased, building standard work letter or tenant improvement allowances, if any, the condition of the base building and the Landlord's responsibility with respect thereto, the value, if any, of the existing tenant improvements (with such value being judged with respect to the utility of such existing tenant improvements to the general business office user and not this particular Tenant) and other generally applicable conditions of tenancy for such Comparable Transactions. The intent is that the Tenant will obtain the same rent and other economic benefits that the Landlord would otherwise give in Comparable Transactions and that the Landlord will make, and receive the same economic payments and concessions that the Landlord would otherwise make, and receive in Comparable Transactions.

The Landlord shall determine the Fair Market Rental Rate by using its good faith judgment. The Landlord shall provide written notice of such amount within twenty days after the Tenant provides the notice to the Landlord exercising the Tenant's option rights, which require a calculation of the Fair Market Rental Rate. The Tenant shall have thirty days ("**Tenant's Review Period**") after receipt of Landlord's notice of the new rental within which to accept such rental in writing. In the event the Tenant fails to accept the new rental proposed by the Landlord, the Landlord and the Tenant shall attempt to agree upon such Fair Market Rental Rate, using their best good faith efforts. If the Landlord and the Tenant fail to reach agreement within fifteen days following the Tenant's Review Period ("**Outside Agreement Date**"), then such determination shall be made in accordance with subsection (e) below. Failure of the Tenant to so elect in writing within the Tenant's Review Period shall conclusively be deemed its disapproval of the Fair Market Rental Rate determined by the Landlord.

In the event the Landlord fails to timely generate the initial written notice of the Landlord's opinion of the Fair Market Rental Rate, which triggers the negotiation period of this subsection, then the Tenant may commence such negotiations by providing the initial notice, in which event the Landlord shall have fifteen days ("**Landlord's Review Period**") after receipt of the Tenant's notice of the new rental within which to accept such rental. In the event the Landlord fails to accept in writing such rental proposed by the Tenant, then such proposal shall be deemed rejected, and the Landlord and the Tenant shall attempt in good faith to agree upon such Fair Market Rental Rate, using their best good faith efforts. If the Landlord and the Tenant fail to reach agreement within fifteen days following the Landlord's Review Period (which shall be, in such event, the "**Outside Agreement Date**" in lieu of the above definition of such date), then such determination shall be made in accordance with subsection (e) below.

(e) Submittal to MAI. If the Landlord and the Tenant are unable to agree on a mutually acceptable rental rate not later than two months prior to the expiration of the Lease Term, then the Landlord and the Tenant shall each appoint a qualified MAI appraiser doing business in the area with not less than five years of experience, in turn those two independent MAI appraisers shall appoint a third MAI appraiser, and the majority shall decide upon the fair market rental for the Premises as of the expiration of the term. The Landlord and the Tenant shall equally share in the expense of this appraisal. Nothing in this Lease shall be construed to require the rent during an Extension Period to be higher than the highest level of rent during the Lease Term.

(f) Documentation. Immediately after the rent for the applicable Extension Period is determined pursuant to this section, the Landlord and the Tenant shall execute an amendment to the Lease stating the new rent in effect.

(g) Tenant Improvement Allowance. The Landlord shall provide a tenant improvement allowance in an amount equal to \$10 per rentable square foot.

25. [Intentionally Omitted].

26. **Notices.** All notices, demands, consents, or requests which may be or are required to be given by a party hereunder, shall be in writing, and shall be sent by United States registered or certified mail, postage prepaid, return receipt requested, addressed to the respective party at the address set forth on the signature page of this Lease or at such other place as the party may from time to time designate in a written notice to the other party. Notices, demands, consents, or requests served in the manner above described shall be deemed sufficiently served or given one Tenant-business day after the date of the mailing thereof.

27. **Severability.** The provisions of this Lease are severable, and the invalidity or unenforceability of any portion of this Lease shall not affect the remainder. Any invalid portion shall be deemed rewritten to make it valid so as to carry out as near as possible the expressed intention of the parties.

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

29. **Attorney's Fees.** If either party is required to commence any proceeding or legal action to enforce or interpret any term, covenant, or condition of this Lease, the prevailing party in such proceeding or action shall be entitled to recover from the other party its reasonable attorney's fees and legal expenses.

30. **Titles and Headings.** The titles or headings to sections shall have no effect on interpretation of provisions.

31. **Entire Agreement.** This Lease, together with each attached exhibit, shall constitute the entire agreement of the parties, and may be modified only by a writing signed by the parties. This Lease merges and supersedes all prior negotiations, representations, and agreements.

32. **Interpretation.** The parties acknowledge that this Lease in its final form is the result of the combined efforts of the parties and that, should any provision of this Lease be found to be ambiguous in any way, such ambiguity shall not be resolved by construing this Lease in favor of or against either party, but rather by construing the terms in accordance with their generally accepted meaning.

33. **Exhibits.** Each exhibit and attachment referenced in this Lease is, by the reference, incorporated into and made a part of this Lease.

34. **Successors.** The provisions of this Lease shall apply to and bind the heirs, successors, and assigns of the parties.

35. **Waiver.** The failure of either party to enforce a provision of this Lease shall not be deemed a waiver for any purpose.

36. **Late Charge.** If Rent is not paid within five days after the due date, the Tenant agrees to pay a late charge of zero dollars plus interest at zero percent per annum on the delinquent amount. The Tenant further agrees to pay zero dollars for each dishonored check.

37. **Subordination.** This Lease, at the Landlord's option, shall be subordinate to the lien of any first deed of trust or first mortgage subsequently placed upon the real property of which the Premises are a part, and to any advances made on the security of the Premises, and to all renewals, modifications, consolidations, replacements, and extensions; provided, however, that as to the lien of any deed of trust or mortgage, the Tenant's right to quiet possession of the Premises shall not be disturbed if the Tenant is not in default and so long as the Tenant pays the rent and observes and performs all of the provisions of this Lease, unless this Lease is otherwise terminated pursuant to its terms. If any mortgagee, trustee, or ground landlord elects to have this Lease prior to the lien of a mortgage, deed of trust, or ground lease, and gives written notice to the Tenant, this Lease shall be deemed prior to that mortgage, deed of trust, or ground lease, whether this Lease is dated prior or subsequent to the date of that mortgage, deed of trust, or ground lease or the date of recording.

38. **Governing Law and Venue.** This Lease shall be governed by, and construed and enforced in accordance with, the laws of the State of California, excluding, however, any conflict of laws rule which would apply the law of another jurisdiction. Venue for purposes of the filing of any action regarding the enforcement or interpretation of this Lease and any rights and duties hereunder shall be Fresno County, California.

39. **No Third Party Beneficiaries.** The rights, interests, duties, and obligations defined within this Lease are intended for the specific parties hereto as identified in the preamble of this Lease. Notwithstanding anything stated to the contrary in this Lease, it is not intended that any rights or interests in this Lease benefit or flow to the interest of any third parties.

40. **Compliance With All Laws.** As to the Premises, the Landlord and the Tenant shall comply with, and shall ensure compliance by all contractors and subcontractors with all applicable laws and regulations, including the payment of prevailing wages pursuant to Section 1770 et seq. of the California Labor Code.

41. **Accessibility and Americans With Disabilities Act.**

(a) A Certified Access Specialist (“**CASp**”) can inspect the Premises and determine whether the Premises comply with all of the applicable construction-related accessibility standards under state law. Although state law does not require a CASp inspection of the Premises, the Landlord may not prohibit the Tenant from obtaining a CASp inspection of the Premises for the occupancy or potential occupancy of the Tenant, if requested by the Tenant. The parties shall mutually agree on the arrangements for the time and manner of the CASp inspection, the payment of the fee for the CASp inspection, and the cost of making any repairs necessary to correct violations of construction-related accessibility standards within the Premises. (See Cal. Civ. Code, § 55.53.)

(b) The Premises have not undergone an inspection by a CASp.

(c) In the event repairs or modifications are necessary to correct violations of construction-related accessibility standards, the Landlord, at its cost and expense, shall be solely responsible for bringing the Premises into compliance with such standards. In the event the Tenant is listed as a defendant in a lawsuit, which includes a claim concerning the accessibility of the Premises, the Landlord shall indemnify and hold harmless the Tenant to the extent the claim arises from or is related to violations of construction-related accessibility standards of the Premises.

42. **Brokers.**

(a) The parties represent and warrant they have incurred no liabilities or claims for brokerage commissions or finder’s fees in connection with the negotiation or execution of this Lease and they have not dealt with or have any knowledge of any real estate broker, agent, or salesperson in connection with this Lease except for those identified below in subsection (d).

(b) The Landlord agrees to indemnify, defend, and hold the Tenant harmless from and against, all of such liabilities and claims (including, without limitation, attorney’s fees and costs) made by any other broker, agent, or salesperson claiming to represent the Landlord in connection with this Lease.

(c) The Tenant agrees to indemnify, defend, and hold the Landlord harmless from and against, all of such liabilities and claims (including, without limitation, attorney’s fees and costs) made by any other broker, agent, or salesperson claiming to represent the Tenant in connection with this Lease.

(d) The parties have authorized the following real estate brokers or agents:

Landlord’s Broker/Agent: [Name] (Lic. [#####])

Tenant’s Broker/Agent: Tony Cortopassi (Lic. 01413706)

[SIGNATURE PAGE FOLLOWS]

SIGNATURE PAGE

IN WITNESS WHEREOF, the parties have executed this Lease at Fresno, California, the day and year first above written.

Landlord:

ZEPOL ROAD, LLC.,
a Delaware limited liability company

Tenant:

CITY OF FRESNO,
a California municipal corporation

By: _____
(Signature)

By: _____
[Name]

(Print Name)

[Title]
[Department]

(Print Title) (if corporation or LLC, Board Chair,
Pres., or Vice Pres.)

ATTEST:
YVONNE SPENCE, CMC
City Clerk

By: _____
(Signature)

By: _____
Deputy

(Print Name)

APPROVED AS TO FORM:
Douglas T. Sloan
City Attorney

(Print Title) (if corporation or LLC, CFO,
Treasurer, Secretary, or Assistant Secretary)

By: _____
Seth Mehrten
Deputy City Attorney

Addresses:

Zepol Road, LLC.
Attn: [Name],
[Title]
[Street Address]
[City], [State] [Zip]
Tel: (###) ###-####
Fax: (###) ###-####

City of Fresno
Attn: [Name],
[Title]
[Street Address]
Fresno, CA [Zip]
Tel: (###) ###-####
Fax: (###) ###-####

Attachments:

- 1. Exhibit A - Punch List

Exhibit A

PUNCH LIST

The Landlord, at its cost and expense, shall:

1. Replace carpet suitable for general business office use.
2. Paint the walls in the Premises.

The Landlord shall endeavor to complete this list by 5:00 p.m. on May 10, 2017.