

COMMERCIAL LEASE

This lease agreement is made and entered into by and between **AMI WEALTH STRATEGIES, LLC**, a Texas limited liability company, (Landlord) and **CITY OF MCKINNEY**, a Texas home-rule municipal corporation, (Tenant) (collectively the "Parties") upon the Effective Date (defined below) of this commercial lease ("Lease").

WITNESSETH:

1. **LEASE OF PROPERTY.** Landlord is the owner of a certain tract of land situated in Collin County, Texas, which is legally described as Lots 63a, 63b, 64b, 65c, 65d and 65g, Block 8, of the McKinney Original Donation, and more commonly referred to as 210 N. Tennessee Street, McKinney, Texas 75069 (the "Property"). Landlord hereby leases to Tenant and Tenant hereby leases from Landlord the Property with the improvements thereon, containing approximately 16,940 square feet, more or less, and including full, exclusive use of the basement under the Property, hereinafter called the "Leased Premises."
2. **TERM OF LEASE.** The primary term of this Lease shall be for a period of sixty (61) months, subject to annual appropriations, commencing on the first day of July, 2017 ("Commencement Date") and ending at 11:59 p.m. on the 31st day of July, 2022 ("Initial Term") with the Tenant taking possession of the Leased Premises under the terms and conditions of this Lease on or about July 1, 2017 ("Effective Date"). After the expiration of the Initial Term, and, unless sooner terminated as hereinafter provided, the Lease may be renewed, upon the written agreement of the Parties, for up to one additional sixty (60) month term(s) (the "Renewal Term") at such rates as may then be agreed to by the Parties.
3. **PRE-TERM RIGHT OF OCCUPANCY.** Notwithstanding the aforementioned "Term of Lease," Tenant shall have the right to occupy the Leased Premises no later than July 1, 2017 to afford Tenant time to begin finishing out the interior of the Leased Premises for Tenant's use.
4. **RENT.** "Rent" means Basic Rent (defined below), and all other sums that Tenant owes to Landlord under this Lease as NNN Expenses (defined below). The "Basic Rent" is the total sum per square foot of Leased Premises actually available to Tenant for occupancy per year. The Basic Rent for the Leased Premises shall be as follows during the Initial Term as provided below.
 - (a) **Month 1** (Pre-Term Occupancy). The Basic Rent of the Leased Premises shall be \$ ZERO per month beginning July 1, 2017 through July 31, 2017. Tenant will pay NNN Expenses equal to \$8,365 during month 1.
 - (b) **Months 2 through 14** (August 1, 2017 – August 31, 2018). The Basic Rent for the Leased Premises shall be \$ 26,700 per month plus NNN Expenses.

(c) **Months 15 through 26** (September 1, 2018 – August 31, 2019). The Basic Rent for the Leased Premises shall increase to \$28,000 per month plus NNN Expenses.

(d) **Months 27 through 50** (September 1, 2019 – August 31, 2021). The Basic Rent for the Leased Premises shall increase to \$29,300 per month plus NNN Expenses.

(e) **Months 51 through 61** (September 1, 2021 – July 31, 2022). The Basic Rent for the Leased Premises shall increase to \$30,575 per month plus NNN Expenses.

Tenant agrees to and shall pay Rent to Landlord by direct deposit or at such other place Landlord shall designate from time to time in writing, as rent for the Leased Premises, the Basic Rent as set forth herein-above without demand in advance on or before the 1st day of each month, commencing on the first day of July, 2017, and continuing thereafter until the end of the Initial Term and any Renewal Term agreed to by the Parties. Tenant will pay first month's rent and NNN Expenses equal to \$35,065 in advance at the time of lease execution. This payment shall be applied to the August 1, 2017 payment for basic rent and NNN Expenses.

Adjustment to the Basic Rent, if any, attributable to building operation costs (limited solely to building insurance, real estate taxes and common area maintenance costs) for the Leased Premises, which amounts are defined below as "NNN Expenses" shall be determined as provided in Paragraph Nos. 4 and 5. The term "building insurance," as used in this provision, shall mean and include the cost of all insurance identified in Paragraph No. 9, below. "Building insurance" does not mean or include any insurance deductibles, levels of self-insurance coverage or retainage for which the Landlord may be responsible or any insurance coverages beyond the insurance identified in Paragraph No. 9, below. The phrase "real estate taxes," as used in this provision, shall exclude the following: (A) penalties and interest on real estate taxes due to Landlord's failure to timely pay real estate taxes, (B) inheritance taxes, (C) gift taxes, (D) franchise taxes, (E) federal and state taxes on income, (F) transfer taxes, (G) excise taxes, (H) capital stock taxes, (I) estate taxes, and (J) succession taxes. During each calendar year or partial calendar year of the term of this Lease, Tenant shall pay to Landlord, in advance concurrently with each monthly installment of Basic Rent, an amount equal to the NNN Expenses for such calendar year or part thereof divided by the number of months therein. Should the term of this Lease commence or terminate as to any portion of the Leased Premises at any time other than the 1st day of a calendar year, Tenant's Proportionate Share of NNN Expenses shall be prorated accordingly. Rent received after the tenth day of the month shall be deemed delinquent, and subject to the provisions of the Texas Prompt Payment Act.

5. NNN EXPENSES. Each year during the Initial Term and any Renewal Term of this Lease, in addition to the base rent, Landlord shall pay NNN Expenses which include real estate taxes and the insurance coverage described in Paragraph No. 9, below,

assessed against the Leased Premises, the fees billed for maintenance of the common area of the Leased Premises and parking fees. In addition to Basic Rent, Tenant shall pay, NNN expenses in an amount not to exceed Eight Thousand Three Hundred Sixty-Five Dollars (\$8,365.00) for the Pre-Term Occupancy period and that portion of the first year of this Lease running between July 1 and December 31, 2017 (the "Base Year"). Landlord shall provide Tenant with "Supporting Documentation," defined below, regarding the amount of the NNN Expenses to be paid during the Base Year within fifteen (15) days after the execution of this Lease. The amount of NNN Expenses may be adjusted during January and February of each year of the Lease, as NNN Expenses change provided that Landlord supplies Tenant a statement of any and all such changes together with supporting tax statements, insurance invoices and/or maintenance contracts from the proper authority ("Supporting Documentation") documenting any increase in NNN Expenses on or before February 28 of the then current calendar year to allow Tenant an opportunity to budget and appropriate the funds required to pay such increase in NNN Expenses.

6. UTILITIES. Tenant is responsible for the payment of all utility charges.

7. USE. Tenant shall use the Leased Premises for the following purpose and no other: City Government and any lawful purposes incidental thereto, including but not limited to offices, kitchen and break room facilities, handicap accessible restroom facilities, meeting/conference rooms, storage and secure entry points.

8. SECURITY DEPOSIT. N/A

9. INSURANCE. Landlord shall pay, and Tenant shall reimburse Landlord as provided in Paragraphs 3 and 4, above, for fire and extended coverage insurance on the buildings and other improvements on the Leased Premises in an amount not less than appraised value, which amount may increase yearly in proportion to the increase in market value of the premises.

Tenant shall provide public liability and property damage insurance for its business operation on the Leased Premises in an amount of \$1,000,000 which policy shall cover the Landlord as well as the Tenant. Said insurance policies required to be provided by Tenant herein shall name Landlord as an additional insured. Tenant shall provide Landlord with certificates of insurance evidencing the coverage required herein. Tenant shall be solely responsible for fire and casualty insurance on Tenant's personal property on or about the Leased Premises. If Tenant does not maintain such insurance, Landlord may notify Tenant of such failure and if Tenant does not deliver to Landlord within thirty (30) days after such notice certification showing all such insurance to be in full force and effect, Landlord may at its option, take out the necessary insurance to comply with the provision hereof and pay the premiums on the items specified in such notice, and Tenant covenants thereupon on demand to reimburse and pay Landlord any amount so paid or expended in the payment of the insurance premiums required hereby and specified in the notice.

10. CONDITION OF PREMISES. Tenant has examined and will accept the Leased Premises, as suitable for the purposes for which the same are leased, subject to Landlord's performance of the following repairs and improvements prior to the date on which Tenant begins occupying the Leased Premises:

- (a) _____; and,
- (b) _____

11. MAINTENANCE AND REPAIRS. Landlord shall keep the plumbing, electrical, foundation, the exterior walls (except glass; windows; doors; closure device; molding, and hardware; and interior painting or other treatment of exterior walls), and the roof of the Leased Premises in good repair except that the Landlord shall not be required to make any repairs occasioned by the act or negligence of Tenant, its employees, subtenants, licensees, and concessionaires. Further, Tenant is responsible for the repair and maintenance of the heating and cooling equipment within the Leased Premises. Landlord will deliver all mechanicals in good operating condition and warrant the good operation thereof for 365 days after the Commencement Date. Tenant will enter into a quarterly maintenance agreement with a qualified hvac service provider for the hvac system to change filters and service all units on a regular basis. During the term of this Lease, Tenant shall keep the Leased Premises in good and clean condition, and at the termination of this Lease Tenant shall deliver the Leased Premises in good order and condition, normal wear and tear excepted. Normal wear and tear means deterioration which occurs without Tenant's negligence, carelessness, accident or abuse. Landlord, at its cost, shall be responsible for any capital expenditure in the replacement of heating and cooling equipment. Upon replacement, the cost of such equipment shall be added to the Basic Rent for the percentage of such cost represented by the remaining months of the Lease divided by the useful life (in months) of the equipment.

12. ALTERATIONS. Tenant shall have the right at Tenant's cost to modify and update the interior and parking fields of the Leased Premises to comply with any applicable handicap accessibility requirements and improve the curb appeal of the Leased Premises. Tenant shall also have the right to finish out the interior for Tenant's use including, but not limited to, removing and relocating walls, electrical wiring, and plumbing and adding computer networking equipment necessary to establishing offices, meeting/conference rooms, kitchen and break room facilities, handicap accessible restroom facilities, storage and secure entry-points. All alterations performed by Tenant shall meet all current Americans with Disabilities Act ("ADA") requirements. All alterations over \$10,000.00 must be approved in writing by Landlord prior to commencement of improvements. All improvements and alterations will be consistent with the current building design and style.

All alterations, additions, and improvements, except trade fixtures, shall become the property of Landlord and shall remain upon and be surrendered with the Leased

Premises as a part of thereof on the termination of this Lease. Any damage caused by the installation or removal of trade fixtures shall be repaired at Tenant's expense prior to the expiration of the Lease term. All alterations, improvements, additions, and repairs made by Tenant shall be performed in a good and workmanlike manner. Tenant shall have no responsibility to restore the Leased Premises to its pre-Lease configuration and condition.

13. COMPLIANCE WITH LAWS AND REGULATIONS. Tenant shall, at its own expense, comply with all laws, orders, and requirements of all governmental entities with reference to the use and occupancy of the Leased Premises.

14. ASSIGNMENT AND SUBLETTING. Tenant shall not assign this Lease nor sublet the Leased Premises or any interest therein without first obtaining the written consent of Landlord. An assignment or subletting without the written consent of Landlord shall be void and shall, at the option of Landlord, terminate this Lease.

15. DESTRUCTION. In the event the Leased Premises is partially damaged or rendered partially unfit for occupancy by fire or other casualty, Tenant shall give immediate notice to Landlord. Landlord shall have the right, by giving written notice to Tenant within thirty (30) days after the occurrence of such fire or other casualty, to terminate this Lease as of the date of such notice. Tenant shall have no obligation to pay the Basic Rent and NNN Expenses if the Leased Premises is rendered unsuitable for Tenant's use or if Tenant is not allowed to enter the Leased Premises by Landlord or any governmental authority.

If Landlord does not exercise the right to terminate this Lease in accordance with this section, Landlord shall repair such damage and restore the Leased Premises and/or Property to substantially the same condition as existed immediately prior to the occurrence of the casualty. Such repairs shall be made at Landlord's expense unless due to Tenant's negligence. Landlord shall allow Tenant a fair reduction of Basic Rent and NNN Expenses during the time the Leased Premises are partially unfit for occupancy. Such reduction of Basic Rent and NNN Expenses shall be proportionate to the area of the Leased Premises that are partially unfit for occupancy. A total destruction of the Leased Premises shall automatically terminate this Lease effective as of the date of such total destruction, and Tenant shall be entitled to a pro rata refund of the remaining, applicable Basic Rent and NNN Expenses payment made to Landlord. In the event Landlord exercises the right to terminate the Lease, Tenant shall be entitled to a pro rata refund of the remaining, applicable Basic Rent and NNN Expenses payment made to Landlord.

16. TENANT DEFAULT AND REMOVAL OF ABANDONED PROPERTY. If Tenant abandons the Leased Premises or otherwise defaults in the performance of any obligations or covenants herein, Landlord may enforce the performance of this Lease in any manner provided by Texas law. This Lease may be terminated at Landlord's discretion if such abandonment or default continues for a period of 10 days after Landlord notifies Tenant of such abandonment or default and of Landlord's intention to

declare this Lease terminated. Such notice shall be sent by Landlord to Tenant's last known address by certified mail. If Tenant has not completely removed or cured default within the 10-day period, this Lease shall terminate. Thereafter, Landlord or its agents shall have the right, without further notice or demand, to enter the Leased Premises and remove all property without being deemed guilty of trespass and without waiving any other remedies for arrears of rent or breach of covenant.

17. INTERRUPTION OF UTILITIES. Landlord or Landlord's agent may not interrupt or cause the interruption of utility service paid directly to the utility by Tenant unless interruption results from bona fide repairs, construction, or an emergency. If any utility services furnished by Landlord are interrupted and continue to be interrupted despite the good faith efforts of Landlord to remedy same, Landlord shall not be liable in any respect for damages to the person or property of Tenant or Tenant's employees, agents, or guests, and same shall not be construed as grounds for constructive eviction or abatement of rent. Landlord shall use reasonable diligence to repair and remedy such interruption promptly.

18. SUBORDINATION. Landlord is hereby irrevocably vested with full power and authority to subordinate this Lease to any mortgage, deed of Trust, or other lien hereafter placed on the demised premises and Tenant agrees on demand to execute such further instruments subordinating this Lease as Landlord may request, provided such subordination shall be on the express condition that this Lease shall be recognized by the mortgagee, and the rights of Tenant shall remain in full force and effect during the term of this Lease so long as Tenant shall continue to perform all of the covenants and conditions of this Lease.

19. DAMAGE OR INJURY. Landlord and its employees and agents shall not be liable to Tenant, and Tenant hereby waives all claims against Landlord, for any damage to or loss or theft of any property or for any bodily or personal injury, illness or death of any person in, on or about the Easement Area arising at any time and from any cause whatsoever, except to the extent caused by the gross negligence or willful misconduct of Landlord. This section shall survive the termination of this Lease with respect to any damage, bodily or personal injury, illness or death occurring prior to such termination. The provisions of this section are solely for the benefit of the Parties hereto and are not intended to create or grant any rights, contractual or otherwise, to any other person or entity. Notwithstanding the foregoing, nothing contained in this Lease is intended to, nor shall it be deemed or interpreted as, waiving Tenant's sovereign or official immunity under the laws of the State of Texas.

20. SIGNAGE. Tenant shall have the right to post or paint such signs at, on, or about the Leased Premises as are necessary to the Tenant's use of the Leased Premises. Such signs may be any combination of interior or exterior signs, wall signs, window signs, pole signs or monument signs so long as such signage complies with the Code of Ordinances, City of McKinney. Tenant shall have the right, at Tenant's sole determination, to leave or remove such signage from and about the Leased Premises

provided that Tenant does not damage the Leased Premises in its removal of such signage.

21. PARKING. Tenant shall at all times have exclusive use of all sixty-four (64) parking spaces on or adjacent to the Property and which are owned and/or controlled by Landlord. Tenant shall have the right to restripe the parking spaces as necessary to conform to the Americans with Disabilities Act. Tenant will give 10 days notice prior to any restriping. Prior to Tenant occupancy, Tenant shall be responsible for parking lot repairs, resurface and re-striping per City of McKinney Code. Landlord will reimburse the Tenant up to \$25,000.00 for parking lot repairs one time during the lease term upon completion of the job and receipt of invoice from Tenant.

22. TENANT BANKRUPTCY. If Tenant becomes bankrupt or makes voluntary assignment for the benefit of creditors or if a receiver is appointed for Tenant, Landlord may terminate this Lease by giving five (5) days written notice to Tenant of Landlord's intention to do so.

23. COMDEMNATION. If the whole or any substantial part of the Leased Premises is taken for any public or quasi-public use under any governmental law, ordinance or regulation or by right of eminent domain or should the Leased Premises be sold to a condemning authority under threat of condemnation, this Lease shall terminate and the rent shall be abated during the unexpired portion of the Lease effective from the date of the physical taking of the Leased Premises.

24. HAZARDOUS MATERIALS. Landlord warrants and represents that the Leased Premises does not contain "Hazardous Materials", as that phrase is defined herein. For purposes of this provision, the phrase "Hazardous Materials" shall mean and include any toxic contaminated or other hazardous materials including, without limitation, asbestos, polychlorinated biphenyls ("PCBs"), transformers, underground storage containers, any radioactive materials, lead, cyanide, dichlorodiphenyltrichloroethane ("DDT"), acids, pesticides, and any other substance forming a component part of the improvements which has heretofore or may in the future be determined to contain toxic wastes, hazardous materials, or undesirable substances injurious to the health of occupants working in or around the Leased Premises.

25. BROKER'S FEES. Tenant warrants that it had no dealings with any real estate broker or agents in connection with the negotiation of this Lease and it knows of no agent or broker who is entitled to a commission in connection with this Lease.

26. NOTICES. Notices to Tenant shall be by certified mail or other delivery to:

City Manager
City of McKinney, Texas
P.O. Box 517
McKinney, Texas 75069

Notices to Landlord shall be by certified mail or other delivery to:

Ami Wealth Strategies, LLC
210 North Tennessee Street
Suite 200
McKinney, Texas 75069.

27. DEFAULT BY LANDLORD. In the event of breach by Landlord of any covenant, warranty, term or obligation of this Lease, then Landlord's failure to cure same or commence a good faith effort to cure same within 10 days after written notice thereof by Tenant shall be considered a default and shall entitle Tenant either to terminate this Lease or cure the default and make the necessary repairs and any expense incurred by Tenant shall be reimbursed by the Landlord after reasonable notice of the repairs and expenses incurred. In the event of any default by Landlord during the Initial Term or any Renewal Term, Tenant shall be entitled to a pro rata refund of the remaining Basic Rent and/or NNN Expenses payment(s) made to Landlord without the necessity for demand of such repayment.

28. LANDLORD SIGNS. During the last thirty (30) days of this Lease, a "For Lease" sign may be displayed on the Leased Premises and the Leased Premises may be shown at reasonable times to prospective tenants subject to Landlord's advance written request to and the written consent of the Tenant, which consent will not be unreasonably withheld.

29. RIGHT OF ENTRY. Landlord shall have the right during normal business hours to enter the demised premises; a) to inspect the general condition and state of repair thereof, b) to make repairs required or permitted under this Lease, or c) for any other reasonable purpose. Further, Landlord shall have the right to enter at any other time in the event of an emergency such as a fire, flood, smoke or any other obvious peril.

30. WAIVER OF BREACH. The waiver by Landlord or Tenant of any breach of any provision of this Lease shall not constitute a continuing waiver or a waiver of any subsequent breach of the same or a different provision of this Lease.

31. BINDING OF HEIRS AND ASSIGNS. Subject to the provisions of this Lease pertaining to assignment of the Tenant's interest, all provisions of this Lease shall extend to and bind, or inure to the benefit not only of the parties to this Lease but to each and every one of the heirs, executors, representatives, successors, and assigns of Landlord and or Tenant.

32. RIGHTS AND REMEDIES CUMULATIVE. The rights and remedies established by this Lease are cumulative and the use of any right by either party shall not preclude or waive its right to use any or all other remedies. Said rights and remedies are given in addition to any other rights the parties may have by law, statute, ordinance, or otherwise.

33. TEXAS LAW TO APPLY. This agreement shall be construed under and in accordance with the laws of the State of Texas. Venue shall be exclusive in Collin County, Texas.

34. LEGAL CONSTRUCTION. In case any one or more of the provisions contained in this agreement 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 hereof and this agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.

35. PRIOR AGREEMENTS SUPERSEDED. Beginning on its Effective Date, this agreement shall constitute the sole and only agreement of the parties to this Lease and supersedes any prior understandings or written or oral agreements between the parties respecting the subject matter of this Lease.

36. AMENDMENT. No amendment, modification, or alteration of the terms hereof shall be binding unless it is in writing, dated subsequent to the date hereof, and duly executed by the parties.

37. ATTORNEY'S FEES. Any signatory to this Lease who is the prevailing party in any legal proceeding against any other signatory brought under or with relation to this Lease or this transaction shall be additionally entitled to recover court costs, reasonable attorney fees, and all other out-of-pocket costs of litigation from the non-prevailing party.

38. MISCELLANEOUS.

a) Landlord will not be responsible for any lost or stolen articles regardless of whether such loss occurs when the Leased Premises is locked against entry or not.

b) Smoking is not allowed in any portion of the Building. No open flames, candles, etc. are allowed pursuant to city ordinance.

c) Notwithstanding anything to the contrary, Tenant has the right to cancel this Lease at the end of Tenant's fiscal year, which fiscal year ends on September 30 of each year, if the City Council fails or refuses to budget sufficient funds for the continuation of this Lease beyond the end of the Tenant's then current fiscal year. Upon such occurrence, Tenant shall vacate the Leased Premises at the end of the then current year of the Lease; and, Tenant shall not be obligated to pay, and shall have no responsibility or liability for the payment of the, Basic Rent and/or any NNN Expenses for any additional year(s) of the Lease. Although not an obligation, Tenant will endeavor to provide provide Landlord at least three (3) months written advance notice of an anticipated lack of sufficient funding to continue this Lease through the next successive fiscal year.

d) Landlord will remove the following from the building unless agreed otherwise

in writing: Generac generator, trip-lite UPS and all IT related power equipment, TV's, furniture, water machine, vending machines and server racks.

THIS LEASE IS A LEGAL DOCUMENT. READ IT CAREFULLY. IF YOU DO NOT UNDERSTAND THE EFFECT OF ANY PART OF THIS LEASE, SEEK COMPETENT LEGAL ADVICE.


EXECUTED this ____ day of _____, 2017.

LANDLORD:

AMI WEALTH STRATEGIES, LLC

TENANT:

CITY OF MCKINNEY, TEXAS



JOSEPH H. BOGDAN
President
210 North Tennessee Street
Suite 200
McKinney, Texas 75069

PAUL G. GRIMES
City Manager
City of McKinney, Texas
P.O. Box 517
McKinney, Texas 75069

Phone: 972-672-8624
FAX: 877-787-2312
Email: jbogdan@spartacor.com

Phone: _____
Email: _____

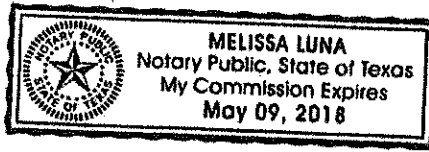
ATTEST:

SANDY HART, TRMC, MMC
City Secretary
DENISE VICE, TRMC
Assistant City Secretary

APPROVED AS TO FORM:

MARK S. HOUSER
City Attorney

STATE OF TEXAS §
COUNTY OF COLLIN §



This instrument was acknowledged before me on May 8, 2017 by JOSEPH H. BOGDAN in his capacity as President of **AMI WEALTH STRATEGIES, LLC**, a Texas limited liability company, on behalf of said limited liability company.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this the 8th day of 2017.

Notary Public, State of Texas

Melissa M. Luna

Melissa M. Luna
(print name)

My commission expires:

May 9, 2018

[Signatures continued on following page.]

STATE OF TEXAS §
COUNTY OF COLLIN §

This instrument was acknowledged before me on _____, 2017 by Paul G. Grimes, City Manager of the **CITY OF MCKINNEY, TEXAS**, a Texas home-rule municipality, on behalf of the said municipality.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this the _____ day of _____ 20____.

Notary Public, State of Texas

My commission expires:

(print name)
