

LEASE NO. GS-09B-02998

Standard Lease
GSA FORM L201C (August 2011)

This Lease is made and entered into between

TOD Brokaw, LLC

("the Lessor"), whose principal place of business is 10121 Miller Avenue, Suite #200, Cupertino, CA 95014, and whose interest in the Property described herein is that of Fee Owner, and

The United States of America

("the Government"), acting by and through the designated representative of the General Services Administration ("GSA"), upon the terms and conditions set forth herein.

Witnesseth: The parties hereto, for the consideration hereinafter mentioned, covenant and agree as follows:

The Lessor hereby leases to the Government the Premises described herein, being all or a portion of the Property located at

1450 Coleman Avenue, Santa Clara, CA 95050-4349

and more fully described in Section 1 and depicted in Exhibit A, together with rights to the use of parking and other areas as set forth herein.

To Have and To Hold the said Premises with their appurtenances for the term beginning upon acceptance of the Premises as required by this Lease and continuing for a period of

15 Years, 10 Years Firm,

subject to termination and renewal rights as may be hereinafter set forth, to be used for such purposes as determined by GSA. The commencement date of this Lease, along with any applicable termination and renewal rights, shall more specifically be set forth in a Lease Amendment upon substantial completion and acceptance of the space by the Government.

In Witness Whereof, the parties to this Lease evidence their agreement to all terms and conditions set forth herein by their signatures below, to be effective as of the date of delivery of the fully executed Lease to the Lessor.

FOR THE LESSOR:

TOD Brokaw, LLC,

a California limited liability company

By: H/S Brokaw, LLC,

a California limited liability company

Its: Manager

By: 

Edward D. Storm

Its: Managing Member

FOR THE GOVERNMENT:


Megan Stefani

Lease Contracting Officer

Date: 2/14/12

WITNESSED BY:



Name:

Missie Callinan

Title:

Senior Property Manager

Date:

2/14/2012

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SECTION 1 THE PREMISES, RENT, AND OTHER TERMS

1.01 THE PREMISES

The Premises are described as follows:

Office and Related Space: 36,057 rentable square feet (RSF), yielding 33,751 ANSI/BOMA Office Area (ABOA) square feet of office and related space (based upon a Common Area Factor of 6.8324%, located on the 1st floor of the Building, as depicted on the floor plan(s) attached hereto as Exhibit B.

1.02 EXPRESS APPURTENANT RIGHTS

The Government shall have the non-exclusive right to the use of Appurtenant Areas, and shall have the right to post Government Rules and Regulations within such areas. The Government will coordinate with the Lessor to ensure signage is consistent with the Lessor's standards. Appurtenant to the Premises and included with the Lease are rights to use the following:

A. Parking: 271 surface parking spaces as depicted on the plan attached hereto as Exhibit A. In addition, the Lessor shall provide such additional parking spaces as required by the applicable code of the local government entity having jurisdiction over the Property.

B. Antennae, Satellite Dishes and Related Transmission Devices: Space located on the roof of the Building sufficient in size for the installation and placement (subject to plans and specifications therefor reasonably approved in advance by Lessor, that shall not unreasonably withheld) of the telecommunications equipment as such may be described herein, together with the right to access the roof and use of, all building areas (e.g., chases, plenums) necessary for the use, operation and maintenance of such equipment at all times during the term of this Lease.

1.03 RENT AND OTHER CONSIDERATION

A. The Government shall pay the Lessor annual rent payable monthly in arrears at the following rates:

	YEARS 1 - 5		YEARS 6 - 10	
	ANNUAL RENT	ANNUAL RATE/RSF	ANNUAL RENT	ANNUAL RATE/RSF
SHELL RENTAL RATE	\$698,424.09	\$19.37	\$761,884.41	\$21.13
TENANT IMPROVEMENTS RENTAL RATE*	\$208,404.88	\$5.78	\$208,404.88	\$5.78
OPERATING COSTS*	\$286,653.15	\$7.95	\$286,653.15	\$7.95
BUILDING SPECIFIC SECURITY COSTS	\$0.00	\$0.00	\$0.00	\$0.00
FULL SERVICE RATE	\$1,193,482.12	\$33.10	\$1,256,942.44	\$34.86

*The Tenant Improvements Allowance is amortized at a rate of 4.5 percent per annum for 10 years.

	YEARS 11 - 15	
	ANNUAL RENT	ANNUAL RATE/RSF
SHELL RENTAL RATE	\$827,868.72	\$22.96
TENANT IMPROVEMENTS RENTAL RATE*	\$0.00	\$0.00
OPERATING COSTS*	\$286,653.15	\$7.95
BUILDING SPECIFIC SECURITY COSTS	\$0.00	\$0.00
FULL SERVICE RATE	\$1,114,521.87	\$30.91

B. Rent is subject to adjustment based upon a physical mutual measurement of the Space upon acceptance, not to exceed 33,933 ABOA sq. ft. based upon the methodology outlined under the "Payment" clause of GSA Form 3517.

C. Rent is subject to adjustment based upon the final Tenant Improvement cost to be amortized in the rental rate, as agreed upon by the parties subsequent to the Lease Award Date.

D. If the Government occupies the Premises for less than a full calendar month, then rent shall be prorated based on the actual number of days of occupancy for that month.

E. Rent shall be paid to the Lessor by electronic funds transfer in accordance with the provisions of the General Clauses. Rent shall be payable to the Payee designated in the Lessor's Central Contractor Registration.

F. The Lessor shall provide to the Government, in exchange for the payment of rental and other specified consideration, the following:

1. The leasehold interest in the Property described in "Paragraph 1.01 THE PREMISES" created herein;

2. All costs, expenses and fees to perform the work required for acceptance of the Premises in accordance with this Lease, including all costs for labor, materials, and equipment, professional fees, contractor fees, attorney fees, permit fees, inspection fees, and similar such fees, and all related expenses;

3. Performance or satisfaction of all other obligations set forth in this Lease; and

4. All services, utilities, and maintenance required for the proper operation of the Property, the Building, and the Premises in accordance with the terms of the Lease, including, but not limited to, all inspections, modifications, repairs, replacements, and improvements required to be made thereto to meet the requirements of this Lease.

1.04 TERMINATION RIGHT

The Government may terminate this Lease, in whole or in part, at any time effective after the firm term of this Lease by providing not less than 120 days' prior written notice to the Lessor. The effective date of the termination shall be the day following the expiration of the required notice period or the termination date set forth in the notice, whichever is later. No rental shall accrue after the effective date of termination.

1.05 DOCUMENTS INCORPORATED BY REFERENCE

The following documents are incorporated by reference, as though fully set forth herein:

DOCUMENT NAME	No. OF PAGES	EXHIBIT
SITE PLAN	1	A
FLOOR PLAN	1	B
MODERNIZATION PLAN (INCLUDING RENDERINGS)	51	C
GSA FORM 3517B GENERAL CLAUSES	33	D
GSA FORM 3518, REPRESENTATIONS AND CERTIFICATIONS	7	E
SPECIAL REQUIREMENTS, DATED MARCH 2011	47	F
STRUCTURED CABLE PLANT STANDARD MARCH 2011	65	G
COMPUTER AND TELEPHONE ROOM STANDARD MARCH 2011	9	H

1.06 TENANT IMPROVEMENT ALLOWANCE

The Tenant Improvement Allowance for purposes of this Lease is \$49.65 per ABOA sq. ft. The Tenant Improvement Allowance is the amount that the Lessor shall make available for the Government to be used for the Tenant Improvements. This amount is amortized in the rent over the firm term of this Lease at an annual interest rate of 4.5 percent.

1.07 TENANT IMPROVEMENT RENTAL ADJUSTMENT (APR 2011)

A. The Government, at its sole discretion, shall make all decisions as to the use of the TI Allowance. The Government may use all or part of the Tenant Improvement Allowance. The Government may return to the Lessor any unused portion of the Tenant Improvement Allowance in exchange for a decrease in rent according to the agreed-upon amortization rate over the firm term.

B. The Government shall have the right to make lump sum payments for any or all work covered by the Tenant Improvement Allowance. That part of the Tenant Improvement Allowance amortized in the rent shall be reduced accordingly. At any time after occupancy and during the firm term of the Lease, the Government, at its sole discretion, may choose to pay lump sum for any part or all of the remaining unpaid amortized balance of the Tenant Improvement Allowance. If the Government elects to make a lump sum payment for the Tenant Improvement Allowance after occupancy, the payment of the Tenant Improvement Allowance by the Government will result in a decrease in the rent according to the amortization rate over the firm term of the Lease.

C. If it is anticipated that the Government will spend more than the allowance identified above, the Government shall have the right to either:

1. Reduce the Tenant Improvement requirements;
2. Pay lump sum for the overage upon completion and acceptance of the improvements; or
3. Increase the rent according to the negotiated amortization rate over the firm term of the Lease.

1.08 TENANT IMPROVEMENT FEE SCHEDULE

For pricing Tenant Improvement Costs as defined herein, the following rates shall apply for the initial build-out of the Space.

	INITIAL BUILD-OUT
ARCHITECT/ENGINEER FEES (\$ PER ABOA SQ. FT.)	
LESSOR'S PROJECT MANAGEMENT FEE (% OF CONSTRUCTION COSTS)	

1.09 PERCENTAGE OF OCCUPANCY FOR TAX ADJUSTMENT, ESTABLISHMENT OF TAX BASE

As of the Lease Award Date, the Government's Percentage of Occupancy, as defined in the Real Estate Tax Adjustment clause of this lease is **100.00** percent. The percentage of occupancy is derived by dividing the total Government space of **36,057** RSF by the total building space of **36,057** rentable square feet.

The Real Estate Tax Base, as defined in the Real Estate Tax Adjustment clause of the Lease is **\$100,800.00**.

1.10 OPERATING COST BASE

The parties agree that for the purpose of applying the clause titled "Operating Costs Adjustment" that the Lessor's base rate for operating costs shall be **\$7.95** per rentable sq. ft.

1.11 RATE FOR ADJUSTMENT FOR VACANT LEASED PREMISES

In accordance with the section entitled "Adjustment for Vacant Premises" if the Government fails to occupy or vacates the entire or any portion of the Leased Premises prior to expiration of the term of the Lease, the operating costs paid by the Government as part of the rent shall be reduced by **\$5.43** per ABOA sq. ft. per annum of space vacated by the Government.

1.12 HOURLY OVERTIME HVAC RATES

The following rates shall apply in the application of the clause titled "Overtime HVAC Usage:"

\$50.00 per hour for the entire space.

1.13 24-HOUR HVAC REQUIREMENT (APR 2011)

The Hourly Overtime HVAC rate specified above shall not apply to any portion of the Premises that is required to have heating and cooling 24 hours per day. If 24-hour HVAC is required by the Government for any designated rooms or areas of the Premises, such services shall be provided by the Lessor at an annual rate of **\$76.00** per ABOA sq. ft. of the area receiving the 24-hour HVAC.

1.14 ADDITIONAL BUILDING IMPROVEMENTS

In addition to construction of the Tenant Improvements as required in this Lease, the Lessor shall be required to complete all necessary upgrades to meet the building shell standards as specified throughout this lease contract and in the "Modernization Plan" labeled as Exhibit C and attached hereto. These improvements include, but are not limited to, Fire/Life Safety systems, structural / seismic upgrades, roof replacement, HVAC replacement, asbestos/lead remediation and/or removal, exterior façade modification (including the installation of new window bays), and installation of energy efficiency (Energy Star) features, prior to acceptance of the Space. Further, Lessor acknowledges that the test fit layout provided during the procurement phase was used to demonstrate that the [REDACTED] program of requirements would fit in the offered space of the proposed building, and does not demonstrate the final design intent of the tenant agency. The test fit is subject to change at Lessor's sole expense during the DID production phase based upon the direction of the tenant agency.