

U.S. GOVERNMENT
LEASE FOR REAL PROPERTY

DATE OF LEASE

8-7-09

LEASE NO.

GS-02B-23679

NY7485ZZ

THIS LEASE, made and entered into this date by and between **West Willows Amherst Portfolio Equities LLC**

whose address is c/o Acquest Development
80 Curtwright Drive, Suite 5
Williamsville, NY 14221

and whose interest in the property hereinafter described is that of owner

hereinafter called the Lessor, and the UNITED STATES OF AMERICA, hereinafter called the Government:

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

1. The Lessor hereby leases to the Government the following described premises:

A total of 3,080 rentable square feet (RSF) of office and related space, which yields 2,940 ANSI/BOMA Office Area square feet (USF) located on the ground floor of the one-story building known and designated as Inducon Office Park, 90 Curtwright Drive, Williamsville, New York, in accordance with the attached floor plan labeled Exhibit "A" attached hereto and made a part hereof to be used for such purposes as determined by the General Services Administration. Included in the rent at no additional cost to the Government are fourteen (14) designated parking spaces for the Government's exclusive use.

IN WITNESS WHEREOF, the parties hereto have hereunto subscribed their names as of the date first above written.

LESSOR **West Willows Amherst Portfolio Equities LLC**

BY 

BY

(Signature)

IN PRESENCE 

(Signature)

UNITED STATES OF AMERICA GENERAL SERVICES ADMINISTRATION 

BY 

Contracting Officer
(Official title)

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RENTAL
SERVICES DIVISION
GENERAL SERVICES ADMINISTRATION

RIDER TO LEASE
GS-02B-23679

2. The following are attached hereto and made a part hereof:
 - a. Lease Rider, Paragraphs 2 through 22,
 - b. Section 1: Summary, Paragraphs 1.1 through 1.5,
 - c. Section 2: Miscellaneous, Paragraphs 2.1 through 2.11,
 - c. Section 3: General Architecture, Paragraphs 3.1 through 3.12,
 - d. Section 4: Architectural Finishes, Paragraphs 4.1 through 4.23,
 - e. Section 5: Mechanical, Electrical, Plumbing, Paragraphs 5.1 through 5.19,
 - f. Section 6: Services, Utilities, Maintenance, Paragraphs 6.1 through 6.8,
 - g. Section 7: Safety and Environmental Management, Paragraphs 7.1 through 7.12,
 - h. Section 8: Lease Security Standards, Paragraphs 8.1 through 8.8,
 - k. General Clauses - GSA. Form 3517A, Paragraphs 1 through 6,
 - l. Representations & Certifications - GSA Form 3518A, Paragraphs 1 through 8,
 - n. Demising Plan, Exhibit "A",
3. The term of this Lease shall commence upon Substantial Completion of all alterations specified in this Lease and on Design Intent Drawings (DID's) to be provided by the Lessor pursuant to Paragraph 2.8 and shall run for a period of ten (10) years thereafter. The commencement date of the Lease shall be more particularly set forth by a Supplemental Lease Agreement.
4. The Government may terminate this Lease in whole or in part at any time on or after the last day of the fifth (5th) year by giving at least one hundred eighty (180) days' prior notice in writing to the Lessor and no rental shall accrue after the effective date of termination. Said one hundred eighty (180)-day period shall be computed commencing with the day after the date of mailing of the notice by the Government.
5. The Lessor agrees to contribute a Tenant Improvement (TI) Allowance of \$133,623.00 toward the cost of TI. Such contribution has been included as part of the rental consideration set forth in Paragraph 6 below. The Lessor's contribution toward the TI cost will be amortized over the 5-year firm term of the lease compounded at an interest rate of 6.00% per annum (\$10.06 per rentable square foot per annum). If the TI cost exceeds \$133,623.00 then the Government shall have the option to either (i) pay the Lessor the difference between \$133,623.00 and the total TI cost in a one-time lump sum payment upon Substantial Completion of the TI, acceptance thereof by the Government and submission of a proper invoice by the Lessor, or (ii) have the right to amortize the difference into the rent in the same manner as set forth above. In the event the TI cost is less than \$133,623.00, only the actual TI cost shall be amortized into the annual rent in the same manner as set forth above and the rental rate set forth in Paragraph 6 below shall be reduced accordingly. Such additional payment or rental reduction, if applicable, will be memorialized in a

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Supplemental Lease Agreement. Notwithstanding anything to the contrary, the Lessor will be absorbing the cost of three (3) months TI amortization during the three (3) months of free rent as provided for in Paragraphs 6 and 7 below.

6. The Government shall pay the Lessor annual rental as follows:
For year 1 of the lease term a total annual rental of \$17.23 per rentable square foot for a total of \$53,083.50 per annum at the rate of \$5,898.17 per month (starting in month 4) in arrears; which annual rental includes \$10.06 per rentable square foot (\$30,999.68 per annum) for the amortization of the Lessor's contribution to the TI cost. This annual rental shall be subject to adjustment as set forth in Paragraph 5 above.

For years 2 through 5 of the lease term a total annual rental of \$22.98 per rentable square foot for a total of \$70,778.00 per annum at the rate of \$5,898.17 per month in arrears; which annual rental includes \$10.06 per rentable square foot (\$30,999.68 per annum) for the amortization of the Lessor's contribution to the TI cost. This annual rental shall be subject to adjustment as set forth in Paragraph 5 above.

For years 6 through 10 of the lease term a total annual rental of \$12.92 per rentable square foot for a total of \$39,793.60 per annum at the rate of \$3,316.13 per month in arrears; which annual rental includes \$0.00 per rentable square foot (\$0.00 per annum) for the amortization of the Lessor's contribution to the TI cost. This annual rental shall be subject to adjustment as set forth in Paragraph 5 above.

Rent for a lesser period shall be prorated. Rent checks shall be made payable to:

West Willows Amherst Portfolio Equities LLC
c/o Acquest Development
80 Curtwright Drive, Suite 5
Williamsville, NY 14221.

7. The Lessor and the Broker have agreed to a cooperating lease commission of [REDACTED] of the firm term value of the lease. The total amount of the commission is [REDACTED]. The Lessor shall pay the Broker no additional commissions associated with this lease transaction. In accordance with the "Broker Commission and Commission Credit" paragraph, the Broker has agreed to forgo [REDACTED] of the commission that it is entitled to receive in connection with this lease transaction ("Commission Credit"). The Commission Credit is [REDACTED]. The Lessor agrees to pay the Commission less the Commission Credit to the Broker in accordance with the "Broker Commission and Commission Credit" paragraph in the SFO attached to and forming a part of this lease. The shell rental payments due and owing under this lease shall be reduced to fully recapture this Commission Credit. The reduction in shell rent shall commence with the first month of the rental payments and continue until

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fully recaptured. Additionally, the Lessor has agreed to provide three (3) months free rent upon the commencement of this Lease.

First Months Rental Payment –None

Second Months Rental Payment –None

Third Months Rental Payment –None

Fourth Month's Rental Payment \$5,898.17 minus prorated Commission Credit of [REDACTED] equals [REDACTED] adjusted Fourth Month's Rent.

Fifth Month's Rental Payment \$5,898.17 minus prorated Commission Credit of [REDACTED] equals [REDACTED] adjusted Fifth Month's Rent.

Sixth Month's Rental Payment \$5,898.17 minus prorated Commission Credit of [REDACTED] equals [REDACTED] adjusted Sixth Month's Rent.

8. For the purposes of operating cost escalations, in accordance with Paragraph 2.4 of this Lease, the annual base cost of services is \$15,700.00 (\$5.10 rsf/\$5.34 usf).
9. For the purposes of tax adjustments in accordance with Paragraph 2.3 of this Lease, the Government's percentage of occupancy is 6.77% the building.
10. All services, maintenance and utility costs during normal business hours specified in Paragraph 6.2 of this lease are included in the rental consideration. Services, utilities and maintenance shall be provided by the Lessor in accordance with the specifications in this lease at no additional cost to the Government.
11. Pursuant to Paragraph 6.3 of the Lease, there is an additional charge of \$45.00/hour for the use of overtime heating and air-conditioning service beyond the Government's normal hours as stipulated in Paragraph 6.2 of this Lease.
12. The electric for the supplemental HVAC in room(s) that require 24/7 HVAC shall be provided as part of the rental consideration.
13. For the purposes of Adjustment for Vacant Premises, in accordance with Paragraph 2.7 of the Lease, the rent shall be reduced by \$2.75 rsf/\$2.88 usf.
14. The Lessor shall be solely responsible for the technical accuracy of the construction documents to be developed by the Lessor from the approved design intent drawings and the construction of the leased premises as required by this Lease including but not

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limited to, HVAC requirements, lighting placement, plumbing and fire/life safety requirements.

15. Wherever the words "Offeror" or "Successful Offeror" appear in this Lease, they shall be deemed to mean "Lessor"; wherever the words "Solicitation", "Solicitation for Offers", or "SFO" appear in the Lease, they shall be deemed to mean "this Lease"; wherever the words "space offered for Lease" appear in this Lease, they shall be deemed to mean "Leased Premises."
16. Each employee of the Lessor and/or its contractor(s) shall be (1) a citizen of the United States of America; (2) an alien who has been lawfully admitted for permanent residence as evidenced by Alien Registration Receipt Card, Form I-151; or (3) an alien who presents other evidence from the Immigration and Naturalization Service that employment will not affect his/her immigration status.
17. In no event shall the Lessor enter into negotiations concerning the space leased or to be leased with representatives of Federal agencies other than the employees of the General Services Administration or personnel authorized by the Contracting Officer.
18. Lessor shall not be reimbursed for any services not provided for in the Lease including, but not limited to, repairs and alterations, nor will any rental be paid for occupancy in whole or in part except for the Lease term specified in this Lease, unless approved in advance and in writing by an authorized official of the General Services Administration.
19. If, during the term of this Lease including extensions, title to this property is transferred to another party either by sale, foreclosure, condemnation or other transaction, the Lessor (transferor) shall promptly notify the Contracting Officer of said transfer. The following information shall accompany this notification:
 - A certified copy of the deed transferring title to the property from the Lessor to the new owner.
 - A letter from the new owner assuming, approving, and agreeing to be bound by the terms of this Lease.
 - A letter from the Lessor waiving all rights under this Lease against the Government up to the effective date of the transfer.
 - The new owner's employer identification or Social Security Number.
 - A completed "Payment Information Form" SF388I (Provided to the Lessor by the Government)
 - The new owner's full legal name. If a corporation, indicate the state of incorporation. If a partnership, list all partners fully. If a limited partnership, list all general partners fully and identify under the laws of

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which state the limited partnership is created. If a realty trust, give names of all trustees and the recording date of the trust.

The foregoing information must be received by the fifteenth day of the month in which the transfer of title will be effected. The rent for that month, adjusted in accordance with the effective date of the transfer will be processed to the Lessor. Initial rental payment, including the applicable portion of rent for the month during which the transfer occurred, to the new owner will be processed on the first day of the second month following the transfer of title. If the notification of transfer and related information is not received until the sixteenth day of that month (or later), in which the transfer of title will be effected, the full contract rental for the month will be forwarded to the Lessor. In this instance, it will be the responsibility of both the Lessor and the new owner to submit, in conjunction with the other requested information, a letter of agreement regarding disposition of the monthly rent with respect to the effective date of transfer. In any instance, failure to submit the documentation required for transfer of title will result in a stop payment of rent until such time as the Contracting Officer receives all documentation.

20. The Lessor shall install and maintain 10 lbs. ABC multipurpose fire extinguishers throughout the leased premises at such locations that the maximum traveled distance between extinguishers is fifty (50) feet. A sign shall be placed above the extinguisher so its location is apparent from a distance. The Lessor shall insure that the leased premises comply with all applicable fire and safety provisions.
21. The Government shall have the right to install a satellite dish and/or antenna on the roof of the building at no additional rental cost to the Government.
22. The Lessor shall provide and install a drinking fountain adjacent to the toilet rooms.

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