

STANDARD FORM 2
FEBRUARY 1965 EDITION
GENERAL SERVICES
ADMINISTRATION
FPR (41CFR) 1D16.601

U.S. GOVERNMENT
LEASE FOR REAL PROPERTY

DATE OF LEASE:

7/28/2008

LEASE No. GS-09B-02191

THIS LEASE, made and entered into this date between Malpais LLC, an Arizona Limited Liability Company

whose address is: P.O. Box 86387
Tucson, AZ 85754

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 considerations hereinafter mentioned, covenant and agree as follows:

1. The Lessor hereby leases to the Government the following described premises:
4,725 rentable square feet (r.s.f.), yielding approximately 4,500 ANSI/BOMA Office Area square feet and related space located on the first floor of the building commonly known as Riverfront Plaza Offices located at 1360 W. Irvington Road, Tucson, Arizona, 85746, together with twenty reserved, on-site surface parking spaces for Official Government Vehicles, as depicted on the attached Site Plan (Exhibit A) (the "Premises"), to be used for SUCH PURPOSES AS DETERMINED BY THE GENERAL SERVICES ADMINISTRATION.

2. PARAGRAPH 2 IS INTENTIONALLY OMITTED.

3. The Government shall pay the Lessor annual rent of \$163,708.08 at the rate of \$13,642.34 per month in arrears. Rent for a lesser period shall be prorated. Rent checks shall be payable to:

Malpais, LLC
P.O. Box 86387
Tucson, AZ 85754

4. The Government may terminate this lease in whole or in part effective at any time after the fifth (5th) year of this lease by giving at least ninety (90) days' prior notice in writing to the Lessor. No rental shall accrue after the effective date of termination. Said notice shall be computed commencing with the day after the date of mailing.

5. PARAGRAPH 5 IS INTENTIONALLY OMITTED.

6. The Lessor shall furnish to the Government as part of the rental consideration, the following:
- A. The twenty (20) parking space(s) described in Paragraph 1 and additional spaces as required by local code.
 - B. All labor, materials, equipment, design, professional fees, permit fees, inspection fees, utilities, construction drawings (including, without limitation, plans and specifications); construction costs and services and all other similar costs and expenses associated with making the space, common areas, and related facilities ready for occupancy in accordance with the requirements of this lease and the Government's design intent drawings. Rent is subject to adjustment in accordance with Paragraph 1.11, "Tenant Improvement Rental Adjustment" of the SFO. All cost associated with services, utilities, maintenance, repair, replacement, inspections, improvements and other requirements as required by the Solicitation For Offers No. 7AZ2015 and its attachments.
 - C. Adequate space for telecommunications antennae and transmission devises in accordance with Paragraph entitled, "Telecommunications: Local Exchange Access," of the Solicitation for Offers.

7. The following are attached and made a part hereof:

All terms, conditions, and obligations of the Lessor and the Government as set forth in the following:

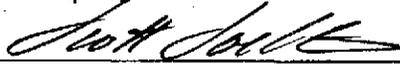
- a) Sheets no. 1-3 containing Paragraphs 9-24;
- b) The Solicitation For Offers Number 7AZ2015 (pages 1-39) (all references to SFO shall also refer to any Special Requirements and Amendments);
- c) Amendment 1 (1 page);
- d) Attachment 5 – Space Allocation Worksheet (1 page);
- e) GSA Form 3517B (pages 1-33);
- f) GSA Form 3518 (pages 1-7);
- g) Floor Plan/Site Plan (Exhibit "A", pages 1-3);

8. The following changes were made in this lease prior to its execution:

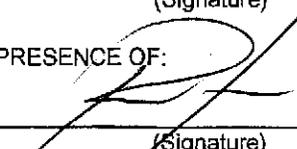
Paragraphs 2 and 5 of this STANDARD FORM 2 were deleted in their entirety. Paragraphs 9 through 23 have been added.

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

LESSOR: Malpais, LLC

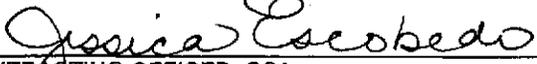
BY 
(Signature)

(Signature)

IN PRESENCE OF:  (RANDI TURNER)
(Signature)

P.O. Box 86387
TULSON, AZ 85746
(Address)

UNITED STATES OF AMERICA: GENERAL SERVICES ADMINISTRATION, Public Buildings Service:

BY 
CONTRACTING OFFICER, GSA

9. TO HAVE AND TO HOLD the Premises with their appurtenances for the term beginning on the day the space is accepted by the Government as complete and ready for occupancy through the following ten (10) years term in accordance with the Paragraph entitled "Inspection of Premises" herein, subject to termination rights as may be hereinafter set forth.

10. The Lessor shall have ninety (90) working days from Notice to Proceed to complete the build-out of the entire space. All items specified in Lease Agreement and as delineated on the Government Approved Design Intent Drawings shall be provided by the Lessor.

11. **GOVERNMENT'S PERCENTAGE OF OCCUPANCY:** For the purpose of this lease, the Government's percentage of occupancy as of the date hereof is twenty-five and seventy-two one hundredths percent (25.72%) based upon an occupancy of 4,725 rentable square feet in a building of 18,369 rentable square feet. This percentage shall be subject to adjustment to take into account additions or reductions of the amount of space as may be contemplated in this lease or amendments hereto.

12. **OPERATING COST:** The base rate operating cost rent is established at \$5.47 per rentable square foot per annum. This amount is not subject to annual adjustments.

13. **ADJUSTMENT FOR VACANT PREMISES:** Pursuant to Paragraph 3.10, "Adjustment for Vacant Premises", in the event of the Government vacating in whole or in part prior to lease expiration, the rental will be reduced by \$3.37 per rentable square foot per annum for operating expenses. If the Government vacates during the first year of the lease the adjustment increases by four percent per annum through the fifth year and is fixed at \$4.01 per rentable square foot for years 6-10.

14. **OVERTIME USAGE:** Pursuant to Paragraph 7.3, "Overtime Usage", upon request by the GSA Field Office Manager, the Lessor shall provide heating, ventilation, and air-conditioning (HVAC) at any time beyond normal service hours (8:00 a.m. - 4:00 p.m., Monday through Friday, and except Federal Holidays ("Normal Hours"), at a rate of \$20.00 per hour. The rate of \$20.00 per hour is for the entire lease term. The Lessor will not charge the Government if Lessor otherwise provides these services to other building tenants during the Government's overtime hours.

15. **TENANT IMPROVEMENT ALLOWANCE:** The maximum Tenant Improvement Allowance has been established by Paragraph 1.10, "Tenant Improvements Included In Offer." The Tenant Improvement Allowance shall be amortized over the (ten) 10 year term of the lease agreement at an interest rate (amortization rate) of 7.75% per year. In the event the Government exercises its right to terminate the lease after the five year firm term, the Government is not required to reimburse Lessor for any unamortized tenant improvements. Lessor is providing the first Six Dollars per ABOA square feet (\$6.00/ABOA-SF) of this allowance as a negotiated concession. The total dollar value of this concession is Twenty-seven Thousand Dollars (\$27,000.00) and shall be applied toward the Tenant Improvements. The balance of the Tenant Improvements shall be amortized in accordance with Paragraph 1.10.

16. **BUDGET AND PRICE PROPOSALS/CONSTRUCTION SCHEDULE**

A. Budget and Price Proposals for Tenant Improvements

(1) In accordance with Paragraph entitled 3.12(B)(2), "Construction Schedule and Acceptance of Tenant Improvements" of the Solicitation For Offers, Lessor shall submit to the Government a budget proposal within 10 working days of receipt of the Government Approved Design Intent Drawings which shall meet the requirements of the Lease Agreement.

B. Failure to submit budget proposal referenced above and Tenant Improvement Price Proposal per Paragraph 3.12(E) of the Solicitation For Offers, will constitute Lessor delay. In the event that either the budget proposal or Tenant Improvement Price Proposal the Tenant Improvement Allowance specified in the Lease, then the construction schedule shall be revised to afford the Government sufficient time to review and resolve the difference.

C. The construction schedule required in Paragraph 3.12, "Construction Schedule and Acceptance of Tenant Improvements" of the SFO shall also include adequate time for additional review by the Government of Working Drawings/Construction Drawings. All references to "working days" in Paragraph 3.12, "Construction Schedule and Acceptance of Tenant Improvements" of the SFO shall not include the period from December 15 through January 1 of any calendar year.

D. In addition to the submission requirements specified under Paragraph 3.12(G), "Construction Schedule of Tenant Improvements" of the SFO, Acceptance of Space, Lessor shall provide to the Government the final total costs of the completed Tenant Improvements in a format meeting the requirements of Paragraph 3.2 10 working days prior to "Substantial Completion". Lessor acknowledges that the Government will not be responsible for the payment of any changes to the Tenant Improvements not approved in writing by the Contracting Officer in accordance with the terms of this Lease.

17. **INSPECTION OF PREMISES:**

A. The Lessor shall notify the Government ten (10) working days in advance of the anticipated substantial completion date as defined in Paragraph 1 of the GSA Form 3517. Within ten (10) working days after the date the Lessor notifies the Government that the space is "substantially complete," the Government shall inspect the Premises and

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Lessor Government

appurtenances. Within five (5) business days after the inspection, the Government shall notify the Lessor of any deficiencies in the Premises and appurtenances and the Lessor shall thereafter diligently pursue remedying any defects. If any subsequent Government inspection is required to confirm conformance with the results of a prior inspection, any such subsequent inspection and notification of the results of such inspection shall be made in accordance with the foregoing procedure and the time frames.

- B. The period during which rent shall be deemed to have commenced for the Premises shall be the date that the entire space is accepted for occupancy by the Government (or the date accepted for occupancy, subject to completion of a written punchlist of items not materially affecting beneficial occupancy which are yet to be finished.) The space will not be considered acceptable for occupancy until the Government receives the final tenant improvement cost. Any items to be completed or corrected that have been identified at the acceptance of the space as a punchlist item and which do not affect beneficial occupancy shall be completed by the Lessor within 30 calendar days of acceptance.
- C. Neither the Government's acceptance of the Premises for occupancy or acceptance of related appurtenances, nor the Government's occupancy of the Premises, shall be construed as a waiver of any requirement or right of the Government under this lease, or as otherwise prejudicing the Government with respect to any such requirement or right, or as an acceptance of any latent defect or condition.

18. OCCUPANCY REPORTS:

- A. **Building Systems:** In accordance with Paragraph 4.6 "Building Systems," of the Solicitation For Offers No. 7AZ2015, the Lessor may be requested to furnish at no cost to the Government the required building system reports prior to the Government's occupancy of the Premises.
- B. **Acoustical Requirements:** In accordance with Paragraph 5.21 "Acoustical Requirements" of the Solicitation For Offers No. 7AZ2015, the Lessor may be requested to furnish at no cost to the Government the required acoustical reports prior to the Government's occupancy of the Premises.

19. UNAUTHORIZED IMPROVEMENTS: All questions pertaining to this lease agreement shall be referred in writing to the General Service Administration Contracting Officer. This contract is between GSA and Malpais, LLC. GSA assumes no financial responsibility for any cost incurred by the Lessor except as provided by the term of the lease agreement or authorized in writing by the GSA Contracting Officer. **If Lessor delivers space with improvements not authorized or requested in writing by the GSA Contracting Officer, then Lessor shall not be entitled to compensation if the improvements remain in place after the Government's acceptance of the space.**

20. Wherever the words "Offeror", "Lessor" 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 this 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 "Premises".

21. Pursuant to Paragraph 3.1, "Unit Costs for Adjustment", the following negotiated amounts may be used, during the first year of the lease to price alterations costing \$100,000 or less. These prices may be indexed or renegotiated to apply to subsequent years of the lease upon mutual agreement of the Lessor and the Government.

ITEM	UNIT COST
Cost per linear foot of office subdividing ceiling-high portioning	\$ [redacted] /linear foot
Cost per floor-mounted duplex electrical outlet	\$ [redacted] /each
Cost per wall-mounted duplex electrical outlet	\$ [redacted] /each
Cost per floor-mounted fourplex (double duplex) electrical outlet.	\$ [redacted] /each
Cost per wall-mounted fourplex (double duplex) electrical outlet.	\$ [redacted] /each
Cost per dedicated clean electrical computer receptacle.	\$ [redacted] /each
Cost per floor-mounted telephone outlet.	\$ [redacted] /each
Cost per wall-mounted telephone outlet.	\$ [redacted] /each
Cost per interior door, including hardware.	\$ [redacted] /each

22. COMMISSION AND COMMISSION CREDIT:

The Lessor and the Broker have agreed to a cooperating lease commission of [redacted] of the firm term value of this 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

Initials: AM & [Signature]
 Lessor & Government

