

GENERAL SERVICES ADMINISTRATION PUBLIC BUILDINGS SERVICE SUPPLEMENTAL LEASE AGREEMENT	SUPPLEMENTAL AGREEMENT NO. 5	DATE 3/14/2003
	TO LEASE NO. GS-02B-23182	

ADDRESS OF PREMISES 1100 Raymond Boulevard
Newark, New Jersey 07072

THIS AGREEMENT, made and entered into this date by and between **Newark Center Building Company**
a New York limited partnership
whose address is **C/O Gerald S. Kaufman**
39 South LaSalle Street, Suite 1010
Chicago, IL. 60603

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

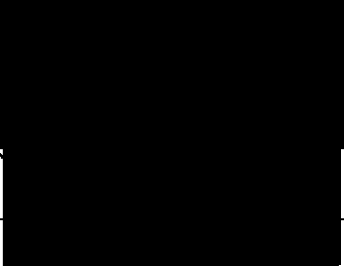
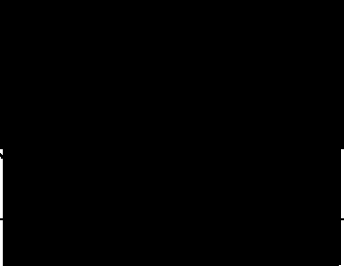
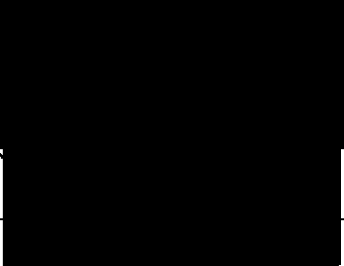
WHEREAS, the parties hereto desire to amend the above lease.

NOW THEREFORE, these parties for the considerations hereinafter mentioned covenant and agree that the said Lease is amended, effective March 14, 2003 as follows:

See Attached

All other terms and conditions of the Lease shall remain in force and in effect.

IN WITNESS WHEREOF, the parties have subscribed their names as of the above date.

LESSOR		Company	BY: NEWARK MANAGEMENT, LLC GEN'L PARTNER
BY			BY: GERALD S. KAUFMAN MGR (Title)
IN PRESEN			39 S. LA SALLE ST. #1010 CHICAGO, IL 60603 (Address)

UNITED STATES OF AMERICA, GENERAL SERVICES ADMINISTRATION

BY  Contracting Officer
(Official Title)

①

Supplemental Lease Agreement ("SLA") No. 5

WHEREAS the parties hereto desire to amend the above lease.

NOW THEREFORE, these parties for the considerations hereinafter mentioned covenant and agree that the said Lease is amended, effective March 14, 2003, as follows:

1. The Lessor and the Government for purposes of Lease Rider Paragraph 24 and Paragraph 1 of Supplemental Lease Agreement ("SLA") #4 agree that the Lessor and the Government have measured the space to be leased, as shown on the attached drawings, Exhibit A, and that consistent therewith the total measurement of the leased space is revised to provide for a total of an additional 2,548 ANSI/BOMA oa ("oa") square feet which is 2,998 rentable square feet ("RSF"), and that accordingly Paragraph 7 of the Lease Rider is deleted and the following Paragraph 7 inserted in its place:
 7. The leased space shall include office space on the first, third, fourth and fifth floors, and below-grade parking space, of the building in these amounts:
 - a. first floor areas A & B – 18,817 ANSI/BOMA oa square feet (22,138 rentable square feet);
 - b. first floor area C, 10,283 ANSI/BOMA oa square feet (12,098 rentable square feet);
 - c. third floor – 32,575 ANSI/BOMA oa square feet (38,324 rentable square feet);
 - d. fourth floor – 51,181 ANSI/BOMA oa square feet (60,214 rentable square feet);
 - e. fifth floor – 61,251 ANSI/BOMA oa square feet (72,062 rentable square feet);
 - f. below-grade parking basement – 30,400 gross square feet.

For a total of 174,107 ANSI/BOMA oa square feet leased equaling 204,837 RSF leased.

The parties agree the above figures in revised Paragraph 7 are their joint measurements for the areas shown on the attached drawings, Exhibit A, pursuant to Lease Rider Paragraph 24, and are to be in lieu of a joint measurement following substantial completion and acceptance of the space for those areas, and are also the measurements pursuant to SLA #4 Paragraph 1.

Where shafts are not shown on the attached drawings, Exhibit A, but were previously existing, the Lessor agrees that those shafts have been removed at the expense of the Lessor, and that those areas are being leased to the Government and are included in the above measurements.

The above measurements do not include any square footage for any roof top spaces, mechanical rooms, or any other additional space, which spaces have not yet been leased by the Government, and if desired, for which lease terms and conditions need to be negotiated and mutually agreed upon in a subsequent SLA.

2. Paragraph 22 of the Lease Rider is revised by deleting the figure "1,232,914.00" and inserting in its place the figure "1,331,441.00".

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3. Effective April 1, 2003, the annual and monthly rents set forth in Paragraph 3 of Standard Form 2 of the Lease shall be amended as follows: “the annual rent of \$5,026,493.50 at the rate of \$418,874.45 per month for the years from November 1, 2002 to March 31, 2007 of the term in arrears” shall be changed to : “the annual rent of \$5,105,940.50 at the rate of \$425,495.04 per month for the years from April 1, 2003 to March 31, 2007 of the term in arrears”.
4. Paragraph 2 of SLA #4 is deleted and the following inserted in its place:




Upon rent commencement of the first floor area C space, as provided in Paragraph 4 of SLA #4, “the annual rent of \$5,105,940.50 at the rate of \$425,495.04 per month in arrears” shall be changed to: “the annual rent of \$5,428,180.50 at the rate of \$452,348.38 per month for the years from _____ (the rent commencement of the first floor area C space) to March 31, 2007 of the term in arrears”; “the annual rent of \$5,500,691.00 at the rate of \$458,390.91 per month” shall be changed to: “the annual rent of \$5,940,273.00 at the rate of \$495,023.00 per month” for the years from April 1, 2007 to March 31, 2012 of the term in arrears; “the annual rent of \$6,149,393.18 at the rate of \$512,449.43 per month” shall be changed to: “the annual rent of \$6,640,815.54 at the rate of \$553,401.00 per month” for the years from April 1, 2012 to May 31, 2016 in arrears. Rent for a lesser period shall be prorated. Rent checks shall be made payable to:

Newark Center Building Company
c/o Bruce A. Rosen, CPA
7 Cobblestone Court
Centerport, New York 11721

5. Paragraph 13. of the Lease Rider is deleted and the following inserted in its place:

13. A. All costs for the buildout of the tenant improvements, including any associated design costs, and permit and expediting costs for tenant improvements, excluding however costs for the work enumerated in Paragraphs 9 through 12 above, shall be born by the Government. The Lessor shall provide the Government a tenant improvement allowance of one million dollars (\$1,000,000.00) against the Government’s final tenant improvement buildout cost which includes the 7% and 10% mark ups set forth below. The allowance may be taken by the Government, in whole or portions, against the gross tenant improvement buildout cost or as a credit against the per foot buildout rate amortized over a term to be agreed upon between the parties. Further, the allowance is separate from any credit the Government may be entitled to under Paragraph 12 above.

B. The interest rate to be used for the Government’s tenant improvement buildout costs, which the parties by a Supplemental Lease Agreement agree may be amortized, is eight and three-quarters percent (8.75%) per annum. Further, it is agreed that should the tenant space include a laboratory and/or firing range, or other extraordinary use, for that special

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space or spaces, the parties shall negotiate reasonable adjustments to this lease in a Supplemental Lease Agreement to reasonably compensate the Lessor for all additional costs (e.g. utility, overtime, fire safety and special cleaning costs).

C. The Lessor shall designate a GC/CM. The GC/CM shall prepare and promptly submit to the Government, a list of reputable trade contractors. A minimum of three such contractors will be solicited to submit competitive bids on the tenant improvement work. The Government shall have the right to add additional qualified trade contractors. The GC/CM shall thereafter solicit bids from these trade contractors or vendors and shall share the results of the bids with the Government. Bids shall be submitted in standard AIA format. The Government shall have the right to sit in on bid selection negotiations. Subject to the approval of the Government and the Government issuing a Notice to Proceed for the subject work, which shall not be unreasonably withheld or delayed, the GC/CM shall award the various works to the lowest responsive bidders. (The Notices to Proceed issued by the Government shall contain a clearly defined description of the work to be performed and an agreed to price or agreed formula for calculating the price.) The total of these bids shall constitute the trade and vendor costs of the tenant improvements. To this shall be added the reasonable general conditions costs incurred by the GC/CM in the prosecution of the tenant improvement work, which costs shall include necessary directly applied trade labor, construction equipment and material, and customary out-of-pocket expenses, but which shall not include any costs for the GC/CM's management, supervision or home office support except as provided below. The total of the trade and vendor costs and general conditions costs shall constitute the construction cost of the tenant improvement. To these construction costs, and any other tenant improvement buildout costs, including but not limited to permitting and expediting costs, a mark up for the Lessor's GC/CM of seven percent (7%) and a mark up for the Lessor of 10% shall be added. As part of its tenant improvement buildout costs, the Government agrees to bear the costs of GC/CM management staffing in the not-to-exceed (N-T-E) amount of Four Hundred Fifty Thousand (\$450,000.00) Dollars (based upon a construction duration not to exceed the nine (9) month period of February 25, 2003 – November 24, 2003 and in accordance with the Exhibit B). Changes in this staffing which may result in a change to the N-T-E amount will only be made at the direction of the Government. It is agreed that to this \$450,000.00 only, or any adjustment to it, the mark up for the above GC/CM of seven percent (7%) shall not apply, but that the mark up for the Lessor of ten percent (10%) shall apply.

6. SLA #3 states that "the Government will obligate \$5,932,625.00 for the construction of certain tenant improvement build-out costs..., which are a Government expense under the lease. The final price for the construction of these tenant improvement buildout costs will be established in accordance with lease and will be established by one or more Supplemental Lease Agreements." It is agreed by the parties that the above language is revised and the following language added after the word Agreements: "Notwithstanding the above the Government shall issue one or more Notices to Proceed for all or part of the tenant

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(4)

improvement build out costs and the Government shall then be obligated to make progress payments as stated in this Lease, as amended, to the Lessor for that work, including but not limited to the obtaining of products and material. Each Notice to Proceed shall specify the work to be performed and the agreed price or agreed formula for calculating the price. The Government agrees that when the above \$5,932,625.00 is reached that if no additional funds have been provided by an SLA that pursuant to Paragraph 13, the Government hereby agrees that for any additional tenant improvement buildout costs, that such amounts are to be amortized over the balance of the Lease term at the eight and three-quarters percent (8.75%) as stated in Paragraph 13 of the Lease, and added to the rent payments which increased rent payments shall be due and start effective upon the date a cash progress payment or other payment would otherwise be due to the Lessor, such modified rent to be confirmed in a subsequent SLA.”

7. Progress Payments

As stated in Paragraph 6 above, with respect to the buildout of the tenant improvements and related Government expenses pursuant to the Lease, the Government agrees to make progress payments to the Lessor as follows:

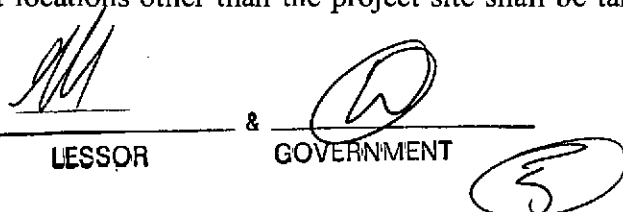
The Government will make progress payments to the Lessor in accordance with the Prompt Payment Clause of the General Clauses of the Lease and with the language below. All payment requests made by the Lessor shall be delivered to the GSA Contracting Officer.

The Lessor may request a progress payment from the Government as the work proceeds, but not more frequently than once a month, when the amount due to the Lessor equals or exceeds \$100,000 (except that the last installment may be less than \$100,000), or at more frequent intervals as determined by the Lessor and the GSA Contracting Officer, on estimates of work accomplished or materials stored that meet the standards of quality established under the Lease, as approved by the Lessor and the GSA Contracting Officer, and the Government will make progress payments accordingly.

The Lessor’s request for progress payments shall include the following substantiation : (i) an itemization of the amounts requested including the general conditions and the mark ups, related to the various elements of work required by the Lease covered by the payment requested; (ii) a listing of the amount included for work performed by each subcontract under the contract; (iii) a listing of the total amount of each subcontract under the contract; (iv) a listing of the amounts previously paid to each such subcontractor under the contract; and (v) additional supporting data in a form and detail reasonably required by the GSA Contracting Officer.

In authorization of progress payments, the GSA Contracting Officer shall take into consideration material delivered on the site and preparatory work. Material delivered to the Lessor at locations other than the project site shall be taken into consideration if the Lessor

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furnishes satisfactory evidence that it has acquired title to such material and that the material will be used to perform the buildout of the tenant improvements.

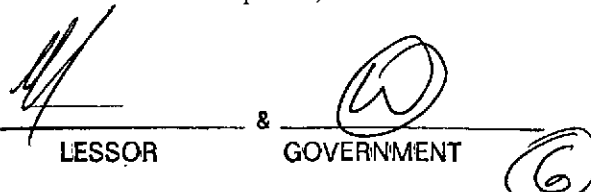
Lessor Certification. Along with each request for progress payments, GC/CM, through the Lessor, shall furnish the following certification to the Government as a condition for payment (however, if the Lessor elects to delete (4) from the certification, the certification is still acceptable): “the GC/CM hereby certifies, to the best of its knowledge and belief, that: (1) The amounts requested are only for performance of the tenant improvement buildout costs including the general conditions and the mark-ups in accordance with the construction drawings and specifications, and terms and conditions of the Lease, as modified by this Agreement and any Notice to Proceed issued by the Government to the Lessor; (2) Payments to subcontractors and suppliers have been made from previous payments received pursuant to this Agreement and the Lease, and timely payments will be made from the proceeds of the payment covered by this certification, in accordance with subcontractor agreements; (3) This request for progress payments does not include any amounts which the GC/CM intends to withhold or retain from a subcontractor or supplier in accordance with the terms and conditions of the subcontract; and (4) This certification is not to be construed as final acceptance of a subcontractor’s performance.”

Changes in the work. The Government and the Lessor may order changes in the work within the general scope of the Lease and consistent with the General Clauses of the Lease, consisting of additions, deletions or other revisions, the cost and the time to complete the work to be adjusted accordingly. Such changes in the work shall be authorized only by written change order signed by the Government and the Lessor, or by a written construction change directive signed by the Government and the Lessor. The additional cost or credit to the cost from a change in the work shall be determined by mutual agreement of the parties to the change order or construction change directive and in addition shall include the GC/CM’s mark up of 7% and the Lessor’s mark-up of 10% of such cost.

Final payment. Any amount for tenant improvement buildout costs due to the Lessor and not previously paid, or amortized and included in the rent pursuant to the Lease, as amended, shall be paid to the Lessor, or amortized and included in the rent pursuant to the Lease, as amended, no later than upon substantial completion, or occupancy, whichever is earlier, for any segment of any area leased. (The segments being the first floor area A and B; the first floor area C; the third floor main building area; the third floor Mulberry Street end area; the fourth floor area; the fifth floor non-lab area; and the fifth floor lab area.)

8. Notwithstanding any other provision of the Lease, including but not limited to Paragraphs 3.16 C and D. at page 19 and 20 of the Lease, the working/construction drawings for all space leased by the Government pursuant to this Lease shall be prepared and provided by the Government at its own expense, and the Government will be solely responsible and liable for

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the technical accuracy of the working/construction drawings in meeting all requirements and provisions of the lease and the Government-approved design intent drawings. The working/construction drawings shall include all mechanical, electrical, plumbing, fire safety, lighting, structural, and architectural improvements scheduled for inclusion into the Government-demised area and shall fully comply with the Lease including the Solicitation to the Lease and shall meet all codes and requirements of government authorities. Working/construction drawings shall also be annotated with all applicable specifications.

9. In Paragraph 8 of the SLA #4, the language “fifty-six percent (56%)” is changed to read “fifty-six and 74/100 percent (56.74%)”.
10. By signing this SLA, the Lessor waives no rights it may have against the Government with respect to previous delays of the Government or otherwise.

All other terms and conditions of the Lease shall remain in force and in effect.

IN WITNESS WHEREOF, the parties subscribed their names as of the above date.

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