

US GOVERNMENT LEASE FOR REAL PROPERTY

DATE OF LEASE

Dec. 27, 2010

LEASE NO.

GS-07B-16810

THIS LEASE, made and entered into this date by and between KENSINGTON MANAGEMENT, LLC

Whose address is 3000 BRIARCREST DRIVE
SUITE 206
BRYAN, TX 77802-3054

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:

Phase I: A total of 9,622 rentable square feet (RSF) of office and related space, which yields 8,189 ANSI/BOMA Office Area square feet (USF)

Phase II: A total of 4,106 rentable square feet (RSF) of office and related space, which yields 3,646 ANSI/BOMA Office Area square feet (USF)

A total of 13,728 rentable square feet (RSF) of office and related space, which yields 11,835 ANSI/BOMA Office Area square feet (USF) of space at Wells Fargo Plaza, 3000 Briarcrest Drive, Bryan, Texas 77802-3054 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 twenty-four (24) onsite reserved surface parking spaces for the exclusive use of the Government.

2. TO HAVE AND TO HOLD the said premises with their appurtenances for the term beginning on the date the Government accepts the leased premises but not to exceed 120 calendar days following the Government's issuance of Tenant Improvement Notice to Proceed and continuing for a term of fifteen (15) years, subject to termination and renewal rights as may be hereinafter set forth. Pursuant to General Clause section 552.270-19 the Government elects to accept the space incremental and pay rent based on its pro rate share upon substantial completion and acceptance of each Phase of buildout. The term will be a composite of the two acceptance dates.

3. The Government shall pay the Lessor annual rent at the following rate:

TERM	MONTHLY RENT	ANNUAL RENT
Years 1-10	\$31,974.75	\$383,697.00
Years 11-15	\$26,632.32	\$319,587.84

The above listed rent is for the total 13,728 RSF/11,835 USF. The Government will pay rent based on its pro rate share upon substantial completion and acceptance of the space. Rent shall be paid monthly in arrears. Rent for a lesser period shall be prorated. Rent shall be made payable to:

Kensington Management, LLC
3000 Briarcrest Dr., Suite 206
Bryan, TX 77802-3054

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

LESSOR

KENSINGTON MANAGEMENT, LLC

BY _____

[Redacted Signature]

Asst

(Title)

IN PRESENCE OF _____

[Redacted Signature]

[Redacted Address]

(Signature)

(Address)

UNITED STATES OF AMERICA

BY _____

[Redacted Signature]

Contracting Officer, General Services Administration

(Official Title)

4. The Government may terminate this lease in whole or in part at any time on or after the tenth (10th) year by giving at least 90 days' notice in writing to the Lessor and 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. This lease has no renewal options.

6. The Lessor shall furnish to the Government, as part to the rental consideration, the following:

A. Those facilities, services, supplies, utilities, maintenance, space improvements, parking and special requirements. This is a fully-serviced lease in accordance with SFO 9TX2305 dated February 4th, 2010.

B. Build out in accordance with standards set forth in SFO 9TX2305 dated February 4th, 2010, and the Government's design intent drawings. Government space plans have been completed and will be delivered to the Lessor upon award. All tenant alterations to be completed by the lease effective date identified under Paragraph 2 above. The Lessor hereby waives restoration.

C. Deviations to the approved design intent drawings will not be permitted unless prior written authorization is obtained from the GSA Contracting Officer.

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

A. Solicitation for Offers 9TX2305 dated February 4th, 2010 (53 pages)

B. Special Requirements (43 pages)

C. Amendment No. 1 to SFO 9TX2305 (1 page).

D. Amendment No. 2 to SFO 9TX2305 (1 page).

E. GSA Form 3517 entitled GENERAL CLAUSES (Rev. [11/05]) (33 pages)

F. GSA Form 3518 entitled REPRESENTATIONS AND CERTIFICATIONS (Rev. [1/07]) (7 pages)

G. Exhibit A – Base Plan (1 page)

H. Exhibit B – Legal Description (1 page)

8. In accordance with the SFO paragraph 3.2 entitled *Tenant Improvements Included in Offer*, Tenant Improvements in the total amount of \$442,392.00 shall be amortized through the rent for ten (10) years at the rate of 8.00%. The annual cost included in the rent is \$64,409.23.

9. In accordance with the SFO paragraph 4.2 B.9. entitled *Percentage of Occupancy*, the percentage of Government occupancy is established as 9.93%.

10. In accordance with the SFO paragraph 4.3 entitled *Operating Costs* are \$62,462.40 per annum. This lease is subject to operating cost escalation.

11. In accordance with the SFO paragraph 4.1 C. entitled *Common Area Factor*, the common area factor is established as 1.1599 (13,728 RSF/11,835 USF).

12. In accordance with the SFO paragraph 4.4 entitled *Adjustment for Vacant Premises*, the adjustment is established as \$.50/USF for vacant space (rental reduction).

13. In accordance with the SFO Paragraph 4.6 entitled *Overtime Usage*, The rate for overtime usage is established as \$30.00 per hour for the entire building or any portion thereof. Overtime shall not be charged during normal building hours of operation or during the normal hours of operation, which is 7 am – 6 pm Monday through Friday and 8 am – 1 pm Saturday. A separate meter will be installed to track HVAC for areas requiring 24-hour HVAC operation outside of normal business hours and will be reimbursed upon receipt of a proper invoice.

14. Building Security Amortized Costs (BSAC) in the total amount of \$101,965.00 shall be amortized through the rent for 120 months at the rate of 8.00%. The annual cost included in the rent is \$14,845.40.

15. In accordance with the SFO paragraph 4.2 entitled *Tax Adjustments*, this lease is subject to real estate tax adjustment. The percentage of occupancy is 9.93%.

16. Fees applicable to Tenant Improvements shall not exceed:

General Conditions – 6.0%

General Contractor – 10.0%

Architectural/Engineering – \$3.00 per USF.

Lessor Project Management Fee – 0.0%

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UNITED STATES OF AMERICA

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17. In accordance with Paragraph 2.4 (Broker Commission and Commission Credit), Studley, Inc. ("Studley") is the authorized real estate broker representing GSA in connection with this lease transaction. The Lessor and Studley have agreed to a cooperating lease commission of [REDACTED] of the firm term value of this lease ("Commission"). The total amount of the Commission is [REDACTED]. This Commission is earned upon lease execution and payable (i) one-half (1/2) when the Lease is awarded and (ii) one-half (1/2) upon the earlier of Tenant's occupancy of the premises leased pursuant to the Lease or the commencement date of the Lease. Due to the Commission Credit described in Paragraph 2.4, only [REDACTED] which is [REDACTED] of the Commission, will be payable to Studley when the Lease is awarded. The remaining [REDACTED], which is [REDACTED] of the Commission ("Commission Credit"), shall be credited to the Government as follows:

The shell rental portion of the annual rental payments (\$242,024.64 / 12 months = \$20,168.72 per month) due and owing shall be reduced to fully recapture this Commission Credit. The reduction in shell rent shall commence with the first full month of the rental payments and continue throughout the fourth month of the lease term as indicated in the following schedule of adjusted Monthly Rent:

Month 1:	\$31,974.75 minus prorated Commission Credit of [REDACTED] equals [REDACTED] adjusted First Month's Rent
Month 2:	\$31,974.75 minus prorated Commission Credit of [REDACTED] equals [REDACTED] adjusted Second Month's Rent
Month 3:	\$31,974.75 minus prorated Commission Credit of [REDACTED] equals [REDACTED] adjusted Third Month's Rent
Month 4:	\$31,974.75 minus prorated Commission Credit of [REDACTED] equals [REDACTED] adjusted Fourth Month's Rent

18. Per the Debt Collection Improvement Act, effective July 27, 1996, Electronic Funds Transfer (EFT) shall be required on all existing and new lease contracts after January 1, 1998. An enrollment form is attached to be completed and returned with this contract.

19. All questions pertaining to this Lease shall be referred to the Contracting Officer of General Services Administration (GSA) or their designee. The Government occupant is not authorized to administer this lease, and GSA assumes no responsibility for any cost incurred by the Lessor except as provided by the terms of this Lease or authorized in writing by Contracting Officer or their designee. The Lessor will not be reimbursed for any services not provided for in this Lease, including but not limited to: repairs, alterations and overtime services. Additionally, rental will not be paid for occupancy in whole or in part except for the term specified herein.

20. Unauthorized Improvements: All questions pertaining to this lease agreement shall be referred in writing to the General Services Administration Contracting Officer. This contract is between GSA and Kensington Management, 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."**

21. Lease No. GS-07B-15152 will be terminated effective upon the Commencement Date for Phase II of buildout, of Lease No. GS-07B-16810. The Commencement Date shall be established by Supplemental Lease Agreement upon acceptance of the Phase II buildout of the leased premises by the Government and will be based on a composite of the Phase I and Phase II Commencement Dates.

22. SFO 9TX2305, Section 5.6 *Liquidated Damages* is deleted and replaced with the following:

"5.6 LIQUIDATED DAMAGES (AUG 2008)

In case of failure on the part of the Lessor to complete the work within the time fixed in the lease contract, the Lessor shall pay the Government as fixed and agreed liquidated damages, pursuant to this paragraph, the sum of \$250.00 for each and every calendar day that the delivery is delayed beyond the date specified for delivery of all the space ready for occupancy by the Government. This remedy is not exclusive and is in addition to any other remedies which may be available under this lease or at law. This liquidated sum is not meant as a penalty, but as an approximation of actual damages that would be suffered by the Government as a result of the Lessor's delay."

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23. SFO 9TX2305, Section 5.10 *Construction Schedule and Acceptance of Tenant Improvements* is deleted and replaced with the following:

"5.10 CONSTRUCTION SCHEDULE AND ACCEPTANCE OF TENANT IMPROVEMENTS (SEP 2009)

- A. The construction schedule shall commence upon lease award, unless otherwise expressly agreed by the Lessor and Government as stated in the lease. The schedule shall be divided into seven tasks for each phase. These are: 1) the generation of the design intent drawings; 2) the Government's approval of the design intent drawings; 3) the Lessor's generation of the Government's construction documents; 4) the Government's review of the construction documents; 5) the TI submittal, review and Notice to Proceed (NTP) process; 6) the Lessor's construction of the subject leased area; and 7) the Government's incremental acceptance of the Lessor's construction. Each of these tasks is detailed below. References to "approval" shall mean such approval granted by the GSA Contracting Officer. During the construction schedule, the Government may request regularly scheduled progress meetings and request that the Lessor keep meeting minutes of discussion topics and attendance. During design and construction, the Lessor may discover instances where the Government's directives conflict. In such cases, the Lessor shall immediately notify the GSA Contracting Officer so that the Government may issue a determination as to how to proceed beyond the building shell.
- B. DESIGN INTENT DRAWINGS:
The Government shall prepare and provide to the Lessor the Government's approved design intent drawings based upon the base building drawings provided by the Lessor as required in the "BUILDING AND SITE INFORMATION SUBMITTALS" paragraph of this SFO. These design intent drawings will detail the Tenant Improvements to be made by the Lessor within the Government-demised area. Design intent drawings, for the purposes of this lease, are defined as fully-dimensioned drawings of the leased space which consist of enough information to prepare construction drawings including: 1) furniture, wall, door, and built-in millwork locations; telephone, electrical, and data outlet types and locations; and repositioned sprinklers, ceilings, and lighting, where impacted; 2) specifications necessary for calculation of electrical and HVAC loads; and 3) all finish and signage selections. Design intent drawings have been completed by the Government and will be delivered upon lease award.
- C. WORKING/CONSTRUCTION DRAWINGS:
The Lessor shall prepare, as part of the Tenant Improvement Allowance, final working/construction drawings for the improvements illustrated on 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. Working/construction drawings shall also be annotated with all applicable specifications. The resulting product shall reflect requirements which are substantially the same as that specified by the Government-approved design intent drawings and shall incorporate neither extraneous additions nor deletions of requirements. The Lessor's working/construction drawings shall be due to the Government within thirty (30) calendar days of the Government's approval of the design intent drawings. Working/construction drawings shall clearly identify 1) Tenant Improvements already in place and 2) the work to be done by the Lessor or others.
- D. REVIEW OF WORKING/CONSTRUCTION DRAWINGS:
The Government retains the right to review, and request modifications (if necessary) to, the Lessor's construction documents prior to the Lessor's commencement of interior construction. The Government's review of the construction documents is limited to the construction documents' conformance to the specific requirements of the SFO and to the approved design intent drawings. The Government shall perform all reviews of construction documents within ten (10) working days of receipt of such from the Lessor. Should the Government require that modifications be made to the Lessor's construction documents, the Government shall state such in writing to the Lessor, and the Lessor shall have ten (10) working days to cure all noted defects before returning the construction documents to the Government for a subsequent review. Upon complete Government review for conformance of the construction documents to the design intent drawings, the Lessor shall obtain the necessary permits. Notwithstanding the Government's review of the construction documents, the Lessor is solely responsible and liable for the technical accuracy of the construction documents in meeting all requirements and provisions of the lease and the Government-approved design intent drawings. The Lessor shall obtain the necessary permits and may commence construction of the shell space.
- E. TENANT IMPROVEMENTS PRICE PROPOSAL
Within ten (10) working days of Government review for conformance of the construction drawings, the Lessor must submit the written price proposal along with adequate cost and pricing data or the documentation of the competitive proposals (as described in the "Tenant Improvements Pricing Requirements" paragraph in this section) and for any costs or credits to the Government that are beyond the scope of the original SFO and its attachments. Any work shown on the construction documents that is building shell shall be clearly identified and priced as such. After negotiation and acceptance of the Tenant Improvements price, **A NOTICE TO PROCEED SHALL BE TRANSMITTED TO THE LESSOR**, and the Lessor shall commence construction of the Tenant Improvements.

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F. CONSTRUCTION OF TENANT IMPROVEMENTS:

The Lessor shall construct all Tenant Improvements in accordance with 1) the Government reviewed working/construction drawings and 2) all terms and conditions of the SFO. The Lessor shall complete Tenant Improvements within 120 calendar days of receiving the notice to proceed from the Government. The Lessor shall furnish a detailed construction schedule (such as Critical Path Method) to the Government within 5 days of issuance of the notice to proceed. Such schedule shall also indicate the dates available for the Government contractors to install telephone/data lines or equipment. The Government reserves the right to access any space within the building during the conduct of interior construction for the purposes of performing inspections or for installing Government-furnished equipment. The Government shall coordinate with the Lessor the activity of Government contractors in order to minimize conflicts with, and disruption to, other contractors on site. Access shall not be denied to authorized Government officials including, but not limited to, Government contractors, subcontractors, or consultants acting on behalf of the Government with regard to this project.

G. ACCEPTANCE OF SPACE AND CERTIFICATE OF OCCUPANCY:

Fourteen (14) calendar days prior to the completion of interior construction, the Lessor shall issue written notice to the Government to inspect the space. The Government shall have ten (10) working days to inspect and to either accept or reject the subject space.

1. Substantially completed space will be accepted by the Government, incrementally, subject to the completion of minor punch list items (see the Definitions paragraph of GSA Form 3517, General Clauses). Space which is not substantially complete will not be accepted by the Government. Should the Government reject the Lessor's space as not substantially complete as defined herein, the Lessor shall immediately undertake remedial action and when ready shall issue a subsequent notice to inspect to the Government.

2. The Lessor shall provide a valid final/permanent Certificate of Occupancy, issued by the local jurisdiction, for the intended use of the Government and shall maintain and operate the building in conformance with current local codes and ordinances. If the local jurisdiction does not issue Certificates of Occupancy, the Lessor shall obtain the services of a licensed fire protection engineer to verify the offered space meets all applicable local codes and ordinances to ensure an acceptable level of safety is provided.

H. RENT COMMENCEMENT:

The rent commencement date (for each increment) shall be the date that space acceptance is made by the Government. Any rental paid by the Government prior to actual occupancy shall be less the cost for services and utilities

I. LEASE COMMENCEMENT:

The Government shall issue GSA Form 276, Supplemental Lease Agreement, to establish the lease commencement date after the acceptance of all space, if different from the date previously established in the lease. In any case, the lease commencement date shall not be prior to the rent commencement date.

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