

This Lease is made and entered into between

City of Minot

(Lessor), whose principal place of business is 515 2nd Ave SW Minot, ND 58701, and whose interest in the Property described herein is that of Fee Owner, and

The United States of America

(Government), acting by and through the designated representative of the U.S. Customs and Border Protection (CBP), upon the terms and conditions set forth herein.

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

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

2400 N. Broadway
Minot, ND 58703

and more fully described in Section 1 and Exhibit A, together with rights to the use of parking and other areas as set forth herein, to be used for such purposes as determined by CBP.

LEASE TERM

To Have and To Hold the said Premises with their appurtenances for the term beginning on _____ 2020 and continuing through _____ 2021 inclusive for a term of one-year. At the expiration of this term the Lease will automatically renew on a year-to-year basis upon the anniversary of the Lease Term Commencement Date each year thereafter for __19__ (nineteen) additional years but not beyond _____ 2040 unless or until the Government gives at least 90 days' notice in writing of its intent not to renew to the Lessor.

The signatory to this Lease for the Lessor represents and warrants that he or she is a duly authorized representative of the Lessor, with full power and authority to enter into this Lease and to bind the Lessor with regard to all matters relating to this agreement.

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:

FOR THE GOVERNMENT:

Name: _____
Title: _____
Entity Name: _____
Date: _____

Name: Michael Sedgebeer
Title: Lease Contracting Officer
U.S. Customs and Border Protection
Date: _____

WITNESSED FOR THE LESSOR BY:

Name: _____
Title: _____
Date: _____

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SECTION 1 THE PREMISES, RENT, AND OTHER TERMS

1.01 THE PREMISES (SEP 2015)

The Premises are described as follows:

A. Federal Inspection Services (FIS): 2,125.4 square feet of FIS Space (the Premises), located at 2400 N. Broadway Minot, ND 58703 as depicted on the floor plan(s) attached hereto as Exhibit A.

1.02 EXPRESS APPURTENANT RIGHTS (SEP 2013)

The Government shall have the non-exclusive right to the use of Appurtenant Areas, and shall have the right to post Rules and Regulations Governing Conduct on Federal Property, Title 41, CFR, Part 102-74, Subpart C within such areas. The Government will coordinate with Lessor to ensure signage is consistent with Lessor's standards. Appurtenant to the Premises and included in the Lease are rights to use the following:

A. Parking: 2 parking spaces as depicted on the plan attached hereto as Exhibit B. 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. Antennas, Satellite Dishes and Related Transmission Devices: (1) Space located on the roof of the Building sufficient in size for the installation and placement of telecommunications equipment, (2) the right to access the roof of the Building, and (3) use of all Building areas (e.g., chases, plenums, etc.) necessary for the use, operation, and maintenance of such telecommunications equipment at all times during the term of this Lease.

1.03 RENT AND OTHER CONSIDERATION (ON-AIRPORT) (APR 2015)

A. The Government shall pay no rent.

B. In exchange for the Government's agreement to locate inspectional personnel on-site, the Lessor shall do the following:

1. Provide the leasehold interest in the Property described in the paragraph entitled "The Premises,"
2. Bear 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. Perform or satisfy all other obligations set forth in this Lease, and in its attached exhibits, and,
4. Provide 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 RIGHTS (ON-AIRPORT) (SEP 2013)

The Government may terminate this Lease, in whole or in part, at any time during the term of this Lease, or any renewal periods with 90 days' prior written notice to the Lessor if the operations supported by the Premises are closed, if the Lessor does not meet its obligations set forth in this Lease, or if the Government exercises its discretion to reduce its operational presence. 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.

1.05 RENEWAL RIGHTS (SEP 2013)

At the expiration of the initial term of one year, this Lease will automatically renew on a year-to-year basis at the option of the Government for 19 **YEARS** but not beyond _____ 2040, and all other terms and conditions of this Lease, as same may have been amended, shall remain in force and effect during any renewal term or holdover period.

1.06 DOCUMENTS INCORPORATED IN THE LEASE (ON-AIRPORT) (APR 2015)

The following documents are attached to and made part of the Lease:

DOCUMENT NAME	NO. OF PAGES	EXHIBIT
Floor Plan(s)	1	A
Parking Plan(s)	1	B
GSA Form 3518-SAM, Addendum to System for Award Management (SAM) Representations and Certifications (Acquisitions of Leasehold Interests in Real Property)	2	C
Representation Regarding Certain Telecommunications and Video Surveillance Services or Equipment (Acquisitions of Leasehold Interests in Real Property)	2	D

SECTION 2 GENERAL TERMS, CONDITIONS, AND STANDARDS

2.01 DEFINITIONS AND GENERAL TERMS (OCT 2016)

Unless otherwise specifically noted, all terms and conditions set forth in this Lease shall be interpreted by reference to the following definitions, standards, and formulas:

- A. Appurtenant Areas. Appurtenant Areas are defined as those areas and facilities on the Property that are not located within the Premises, but for which rights are expressly granted under this Lease, or for which rights to use are reasonably necessary or reasonably anticipated with respect to the Government's enjoyment of the Premises and express appurtenant rights. Appurtenant Areas include, but are not limited to, parking areas and space located on the roof of the Building where telecommunications devices may be located.
- B. Building. The building(s) situated on the Property in which the Premises are located.
- C. Contract. Contract and contractor means Lease and Lessor, respectively.
- D. Contractor. Contractor shall mean Lessor.
- E. Days. All references to "day" or "days" in this Lease shall mean calendar days, unless specified otherwise.
- F. FAR. All references to the FAR shall be understood to mean the Federal Acquisition Regulation, codified at 48 CFR Chapter 1.
- G. GSAR. All references to the GSAR shall be understood to mean the GSA supplement to the FAR, codified at 48 CFR Chapter 5.
- H. Lease Term Commencement Date. The Lease Term Commencement Date means the date on which the Lease term commences.
- I. Lease Award Date. The date the Lease Contracting Officer (LCO) executes the lease and mails or otherwise furnishes written notification of the executed Lease to the Lessor (date on which the parties' obligations under the Lease begin).
- J. Premises. The Premises are defined as the total Office Area or other type of Space, together with all associated common areas, described in Section 1 of this Lease, and delineated by plan in the attached exhibit. Parking and other areas to which the Government has rights under this Lease are not included in the Premises.
- K. Property. The Property is defined as the land and Buildings in which the Premises are located, including all Appurtenant Areas (e.g., parking areas) to which the Government is granted rights.
- L. Space. The Space shall refer to that part of the Premises to which the Government has exclusive use, such as Office Area, or other type of Space. Parking areas to which the Government has rights under this Lease are not included in the Space.
- M. Office Area. For the purposes of this Lease, Space shall be measured in accordance with the standard (Z65.1-2017) provided by American National Standards Institute/Building Owners and Managers Association (ANSI/BOMA) for Office Area, which means "the area where a tenant normally houses personnel and/or furniture, for which a measurement is to be computed." References to ABOA mean ANSI/BOMA Office Area.
- N. Working Days. Working Days shall mean weekdays, excluding Saturdays and Sundays and Federal holidays.

2.02 AUTHORIZED REPRESENTATIVES (OCT 2016)

Signatories to this Lease shall have full authority to bind their respective principals with regard to all matters relating to this Lease. No other persons shall be understood to have any authority to bind their respective principals, except to the extent that such authority may be explicitly delegated by notice to the other party, or to the extent that such authority is transferred by succession of interest. The Government shall have the right to substitute its LCO by notice, without an express delegation by the prior LCO.

2.03 WAIVER OF RESTORATION (OCT 2016)

The Lessor shall have no right to require the Government to restore the Premises and/or Property upon termination of the Lease, and waives all claims against the Government for waste, damages, or restoration arising from or related to (a) the Government's normal and customary use of the Premises and/or Property during the term of the Lease (including any extensions thereof), as well as (b) any initial or subsequent alteration to the Premises and/or Property regardless of whether such alterations are performed by the Lessor or by the Government. At its sole option, the Government may abandon property in the Space following expiration of the Lease, in which case the property will become the property of the Lessor and the Government will be relieved of any liability in connection therewith.

Notwithstanding the above, all data entered and/or stored in any manner on the equipment used or operated by the Government on or in connection with the Property shall belong to the United States and is confidential and protected information. It shall be CBP's responsibility to properly remove said data before possession of any equipment is transferred to the Lessor. In the event data inadvertently remains on any of the equipment upon transfer, Lessor shall keep the information confidential and immediately notify CBP so that CBP can remove the data.

2.04 RELOCATION RIGHTS (JUN 2012)

If it becomes necessary in the orderly development of the Airport, Lessor may require the relocation of Premises to other space at the Airport which, in the reasonable judgment of Lessor and CBP, is similar and suitable for the purposes for which this Lease is entered as such purposes are set forth herein. Should such relocation be necessary, the Lessor shall provide the Government a minimum of 120 days prior written notice. Lessor shall bear all costs for such relocation, including all costs for moving furniture, office equipment, telephone and data lines, and any other costs associated with

replicating necessary operational features provided in the space originally leased. The replacement space will be provided under the same terms as agreed to under this Lease, including that the new location shall meet CBP's operational requirements and that the Government shall not pay rent.

2.05 NOTICES

A. Any notice, consent, or approval to be given under this Lease shall be in writing, and delivered by hand or sent by Express Mail or comparable service, or by a certified or registered mail, postage prepaid and return receipt requested, to the following addresses:

To the Lessor at: City of Minot Attn.: Rick Feltner 515 2nd Ave SW Minot, ND 58701

To CBP at: U.S. Customs and Border Protection, Field Operations Facilities, Program Management Office; ATTN: FOF Lease Contracting Officer; 6650 Telecom Drive, Suite 100, Indianapolis, IN 46278.

Notice shall be computed commencing with the day after the date of mailing.

B. In the event of an emergency, either party may provide notice by telephone, and all telephone notice shall be followed by a written notice as soon as practicable to the respective officials designated as follows:

The emergency contact and phone number for the Lessor is: Rick Feltner 701-857-4724 RICK.FELTNER@MINOTND.ORG

The emergency contact and phone number for CBP is: Jefferson Gleason 701-720-7440 JEFFERSON.L.GLEASON@CBP.DHS.GOV or Michael Dockter 701-720-5165 MICHAEL.J.DOCKTER@CBP.DHS.GOV

2.06 ACCEPTANCE OF SPACE AND CERTIFICATE OF OCCUPANCY (ON-AIRPORT) (MAY 2015)

A. The Lessor shall provide floor plans for the Space and a valid Certificate of Occupancy (C of O), issued by the local jurisdiction, for the intended use of the Government. If the local jurisdiction does not issue C of O's or if the C of O is not available, the Lessor may satisfy this condition by providing a report prepared by a licensed fire protection engineer that verifies that the Space complies with all applicable local fire protection and life safety codes and ordinances and all fire protection and life safety-related requirements of this Lease.

B. 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.

2.07 ALTERATIONS PRIOR TO ACCEPTANCE (JUN 2012)

The Government's rights stated in paragraph 2.08 "Alterations" also apply to initial build-out of the Premises.

2.08 ALTERATIONS

With prior written approval by the Lessor, the Government shall have the right during the term of this Lease and any renewal periods to make alterations, attach fixtures, and erect structures or signs in or upon the Premises hereby leased, which fixtures, additions or structures so placed in, on, upon, or attached to the said Premises shall be and remain the property of the Government and may be removed or otherwise disposed of by the Government. Nothing herein alters, limits, or waives the Lessor's obligation to provide modifications, repairs, replacements, and improvements required for the proper operation of the Property, the Building, and the Premises.

2.09 SYSTEM FOR AWARD MANAGEMENT (APR 2015)

The Lessor must have an active registration in the System for Award Management (SAM), via the Internet at <https://www.acquisition.gov>, prior to the Lease award and throughout the life of the Lease. To remain active, the Lessor is required to update or renew its registration annually. No change of ownership of the leased Premises will be recognized by the Government until the new owner registers in SAM.

2.10 SECURITY UPGRADES DUE TO IMMEDIATE THREAT (APR 2011)

The Government reserves the right, at its own expense, with its own personnel, and at its sole discretion, to heighten security in the Building under Lease during heightened security conditions due to emergencies such as terrorist attacks, natural disaster, and civil unrest.

2.11 FIRE AND CASUALTY DAMAGE

If the Building in which the Premises are located is totally destroyed or damaged by fire or other casualty, this Lease shall immediately terminate. If the Building in which the Premises are located is only partially destroyed or damaged, so as to render the Premises untenable, or not usable for their intended purpose, the Lessor shall have the option to elect to repair and restore the Premises or terminate the Lease. The Lessor shall be permitted a reasonable amount of time, not to exceed **180 days** from the event of destruction or damage, to repair or restore the Premises, if the Lessor submits to the Government a reasonable schedule for repair of the Premises within **30 days** of the event of destruction or damage. If the Lessor fails to timely submit a reasonable schedule for completing the work, the Government may elect to terminate the Lease effective as of the date of the event of destruction or damage. If the Lessor elects to repair or restore the Premises, but fails to repair or restore the Premises within **180 days** from the event of destruction or damage, or fails to diligently pursue such repairs or restoration so as to render timely completion commercially impracticable, the Government may terminate the Lease effective as of the date of the destruction or damage. Termination of the Lease by either party under this clause shall not give rise to liability for either party. This clause shall not apply if the event of destruction or damage is caused by the Lessor's negligence or willful misconduct. In the event of termination under this clause, should Lessor continue to require inspectional services to be performed by the Government at the Airport, Lessor agrees to provide the Government with suitable, alternate space at the Airport at no cost to the Government.

2.12 DEFAULT BY LESSOR

The following conditions shall constitute default by the Lessor, and shall give rise to the following rights and remedies for the Government:

- A. Prior to Acceptance of the Premises. Failure by the Lessor to diligently perform all obligations required for acceptance of the Premises within the times specified, without excuse, shall constitute a default by the Lessor. Subject to provision of notice of default to the Lessor, and provision of a reasonable opportunity for the Lessor to cure its default, the Government may terminate the Lease on account of the Lessor's default of a material obligation required for acceptance of the Premises (i.e., Lessor's material breach of the Lease, as determined under the federal common law of government contracts).
- B. After Acceptance of the Premises. Failure by the Lessor to perform any service, to provide any item, or satisfy any requirement of this Lease, without excuse, shall constitute a default by the Lessor. Subject to provision of notice of default to the Lessor, and provision of a reasonable opportunity for the Lessor to cure its default, the Government may terminate the Lease on account of the Lessor's default of any obligation under this Lease.
- C. Grounds for Termination. The Government may terminate the Lease if:
 - 1. The Lessor's default persists notwithstanding provision of notice and reasonable opportunity to cure by the Government, or
 - 2. The Lessor fails to take such actions as are necessary to prevent the recurrence of default conditions.
- D. Excuse. Failure by the Lessor to timely deliver the Premises or perform any service, provide any item, or satisfy any requirement of this Lease shall not be excused if its failure in performance arises from:
 - 1. Circumstances within the Lessor's control;
 - 2. Circumstances about which the Lessor had actual or constructive knowledge prior to the Lease Award Date that could reasonably be expected to affect the Lessor's capability to perform;
 - 3. The condition of the Property;
 - 4. The acts or omissions of the Lessor, its employees, agents or contractors; or
 - 5. The Lessor's inability to obtain sufficient financial resources to perform its obligations.

The rights and remedies specified in this clause are in addition to any and all remedies to which the Government may be entitled as a matter of law or under this Lease.

2.13 INTEGRATED AGREEMENT

This Lease, upon execution, contains the entire agreement of the parties and supersedes any and all prior oral or written representations, understandings, or agreements among or between them. No prior written or oral agreement, express or implied, shall be construed or relied upon by either party to contradict the provisions of the Lease. Except as expressly attached to and made part of the Lease, communications by either party that occurred prior to Lease execution shall not be incorporated in the Lease.

2.14 MUTUALITY OF OBLIGATION

The obligations and covenants of the Lessor, and the Government's obligation to perform such other obligations as may be specified herein, are interdependent.

2.15 COMPLIANCE WITH APPLICABLE LAW

Lessor shall comply with all federal, state, and local laws applicable to its ownership and leasing of the Premises, including, without limitation, laws applicable to the construction, demolition, ownership or alteration and obtain all necessary permits, licenses and similar items at its own expense. Nothing in this Lease shall be construed as a waiver of the sovereign immunity of the Government. This Lease shall be governed by federal law.

2.16 MAINTENANCE OF THE PROPERTY, RIGHT TO INSPECT

The Lessor shall maintain the Premises, including the systems, equipment, fixtures, and appurtenances furnished by the Lessor under this Lease, in good repair and tenantable condition at the Lessor's sole expense. The Lessor shall maintain the Premises in a safe and healthful condition according to applicable OSHA standards, including standards governing indoor air quality, existence of mold and other biological hazards or hazardous materials, at the Lessor's sole expense. The Government shall have the right, at any time after the Lease is signed and during the term of the Lease, and any renewal periods, to inspect all areas of the Property to which access is necessary for the purpose of determining the Lessor's compliance with this clause. When accompanied by a Government escort, the Lessor shall have the right to enter any part of the Premises at reasonable or necessary times for the purposes of inspection, protection or exercising its right as owner and operator of the Airport and as Lessor.

2.17 DELIVERY AND CONDITION

- A. Unless the Government elects to have the Premises occupied in increments, the Premises must be delivered ready for occupancy as a complete unit. The Government reserves the right to determine when the Premises are substantially complete.
- B. If the Premises do not substantially comply with the provisions of this Lease, the Contracting Officer may terminate this Lease in accordance with Paragraph 1.04, Termination Rights, and/or Paragraph 2.12, Default by Lessor, of this Lease.

2.18 FAILURE IN PERFORMANCE

In the event of any failure by the Lessor to provide any service, utility, maintenance, repair or replacement required under this Lease, the Government may, by contract or otherwise, perform the requirement and seek reimbursement from the Lessor for the resulting costs to the Government, including all administrative costs; provided however, before undertaking to perform any obligation of Lessor, Government shall provide Lessor not less than thirty (30) days' prior written notice during which Lessor shall be permitted to cure any alleged default and further provided that such cure period shall be extended by an additional thirty (30) days if, at the expiration of the notice/cure period, the Lessor is diligently pursuing to cure or otherwise resolve such alleged default. If the Government elects to perform any such requirement, the Government and each of its contractors shall be entitled to access the Premises to perform any such requirement, and the Lessor shall afford and facilitate such access. Alternatively, the Government may terminate this Lease pursuant to Paragraph 1.04, Termination Rights, and/or Paragraph 2.12, Default by Lessor, of this Lease. The aforementioned remedies are not exclusive and are in addition to any other remedies which may be available under this Lease or at law. Pursuant to 19 C.F.R. § 24.3a, any amounts due CBP under the terms of this agreement not reimbursed within 30 days of billing will begin accruing interest charges based on current U.S. Treasury borrowing rates and may ultimately be referred for collection.

2.19 CHANGE OF OWNERSHIP

A. If during the term or any renewal periods of the Lease, title to the Property is transferred, the Lease is assigned, or the Lessor changes its legal name, the Lessor and its successor shall comply with the requirements of FAR Subpart 42.12. If title is transferred, the Lessor shall notify the Government within five days of the transfer of title.

B. The Government and the Lessor may execute a Change of Name Agreement if the Lessor is changing only its legal name, and the Government's and the Lessor's respective rights and obligations remain unaffected. A sample form is found at FAR 42.1205.

C. If title to the Property is transferred, or the Lease is assigned, the Government, the original Lessor (Transferor), and the new owner or assignee (Transferee) shall execute a Novation Agreement providing for the transfer of Transferor's rights and obligations under the Lease to the Transferee. When executed on behalf of the Government, a Novation Agreement will be made part of the Lease via Lease Amendment.

D. In addition to all documents required by FAR 42.1204, the LCO may request additional information (e.g., copy of the deed, bill of sale, certificate of merger, contract, court decree, articles of incorporation, operation agreement, partnership certificate of good standing, etc.) from the Transferor or Transferee to verify the parties' representations regarding the transfer, and to determine whether the transfer of the Lease is in the Government's interest.

E. If the LCO determines that recognizing the Transferee as the Lessor is not in the Government's interest, the Transferor shall remain fully liable to the Government for the Transferee's performance of obligations under the Lease, notwithstanding the transfer.

F. As a condition for being recognized as the Lessor, the Transferee must register in the System for Award Management (SAM) (See FAR 52.232-33), and complete and sign GSA Form 3518-SAM, Addendum to System for Award Management (SAM) Representations and Certifications (Acquisitions of Leasehold Interests in Real Property)(see Exhibit C).

2.20 CLAUSES INCORPORATED BY REFERENCE (SIMPLIFIED) (OCT 2018)

This Lease incorporates the following clauses by reference, with the same force and effect as if they were given in full text. All citations to the FAR or GSAR are provided for convenience of reference, and shall not be understood as subjecting this Lease to any provision of the FAR or GSAR except to the extent that clauses prescribed by the FAR or GSAR are expressly incorporated into this Lease.

1. FAR 52.204-7, SYSTEM FOR AWARD MANAGEMENT (OCT 2018)
2. FAR 52.204-13, SYSTEM FOR AWARD MANAGEMENT MAINTENANCE (OCT 2018)
3. FAR 52.204-25 PROHIBITION ON CONTRACTING FOR CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE SERVICES OR EQUIPMENT (AUG 2019)
4. FAR 52.222-21, PROHIBITION OF SEGREGATED FACILITIES (APRIL 2015)
5. FAR 52.222-26, EQUAL OPPORTUNITY (SEP 2016)
6. FAR 52.232-33, PAYMENT BY ELECTRONIC FUNDS TRANSFER-SYSTEM FOR AWARD MANAGEMENT (OCT 2018)
7. FAR 52.233-1, DISPUTES (MAY 2014)
8. GSAR 552.204-70 REPRESENTATION REGARDING CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE SERVICES OR EQUIPMENT (AUG 2019)
9. GSAR 552.215-70, EXAMINATION OF RECORDS BY GSA (JUL2016)
10. GSAR 552.270-31, PROMPT PAYMENT (JUN 2011)

SECTION 3 CONSTRUCTION STANDARDS AND COMPONENTS

3.01 CBP STANDARDS (ON-AIRPORT) (SEP 2013)

- A. The Premises have been designed, constructed, and maintained in accordance with the standards set forth herein and completed prior to acceptance of the Space. If there is a conflict on the standards the more stringent will apply. Any future upgrades of the Premises shall be completed in accordance with the approved Airport Technical Design Standards (hereinafter referred to as "CBP Standards") at that time.
- B. Base structure and building enclosure components shall be complete. All common areas accessible by the Government, such as lobbies, fire egress corridors and stairwells, elevators, garages, and service areas, shall be complete. Restrooms shall be complete and operational. All newly installed building components, including but not limited to, heating, ventilation, and air conditioning (HVAC), electrical, ceilings, sprinklers, etc., shall be furnished, and installed. Circulation corridors are provided as part of the base building only on multi-tenanted floors where the corridor is common to more than one tenant. On single-tenant floors, only the fire egress corridor necessary to meet code is provided as part of the Space.

3.02 MEANS OF EGRESS (MAY 2015)

- A. Prior to occupancy, the Premises and any parking garage areas shall meet or will be upgraded to meet, either the applicable egress requirements in the National Fire Protection Association, Life Safety Code (NFPA 101), or the International Code Council, International Building Code (IBC), each current as of the Lease Award Date, or use an alternative approach or method that achieves an equivalent level of safety deemed acceptable by the Government.
- B. The Space shall have unrestricted access to a minimum of two remote exits on each floor of Government occupancy.
- C. Interlocking or scissor stairs located on the floor(s) where Space is located shall only count as one exit stair.
- D. A fire escape located on the floor(s) where Space is located shall not be counted as an approved exit stair.
- E. Doors shall not be locked in the direction of egress unless equipped with special locking hardware in accordance with requirements of NFPA 101 or the IBC.

3.03 AUTOMATIC FIRE SPRINKLER SYSTEM (SEP 2013)

- A. Any portion of the Space located below-grade, including parking garage areas, and all areas in a Building referred to as "hazardous areas" (defined in National Fire Protection Association (NFPA) 101) that are located within the entire Building (including non-Government areas) shall be protected by an automatic fire sprinkler system or an equivalent level of safety.
- B. For Buildings in which any portion of the Space is on or above the sixth floor, then, at a minimum, the Building up to and including the highest floor of Government occupancy shall be protected by an automatic fire sprinkler system or an equivalent level of safety.
- C. For Buildings in which any portion of the Space is on or above the sixth floor, and lease of the Space will result, either individually or in combination with other Government Leases in the Building, in the Government leasing 35,000 or more ANSI/BOMA Office Area SF of Space in the Building, then the entire Building shall be protected throughout by an automatic fire sprinkler system or an equivalent level of safety.
- D. Automatic fire sprinkler system(s) shall be installed in accordance with the requirements of NFPA 13, Standard for the Installation of Sprinkler Systems that was in effect on the actual date of installation.
- E. Automatic fire sprinkler system(s) shall be maintained in accordance with the requirements of NFPA 25, Standard for the Inspection, Testing, and Maintenance of Water-based Fire Protection Systems (current as of the Lease Award Date).
- F. "Equivalent level of safety" means an alternative design or system (which may include automatic fire sprinkler systems), based upon fire protection engineering analysis, which achieves a level of safety equal to or greater than that provided by automatic fire sprinkler systems.

3.04 FIRE ALARM SYSTEM (SEP 2013)

- A. A Building-wide fire alarm system shall be installed in the entire Building in which any portion of the Space is located on the 3rd floor or higher.
- B. The fire alarm system shall be installed in accordance with the requirements of NFPA 72, National Fire Alarm and Signaling Code that was in effect on the actual date of installation.
- C. The fire alarm system shall be maintained in accordance with the requirements of NFPA 72, National Fire Alarm and Signaling Code (current as of the Lease Award Date).
- D. The fire alarm system shall transmit all fire alarm signals to the local fire department via any of the following means: directly to the local fire department, to the (911) public communications center, to a central station, to a remote supervising station, or to a proprietary supervising station.
- E. If the Building's fire alarm control unit is over 25 years old as of the Lease Award Date, Lessor shall install a new fire alarm system in accordance with the requirements of NFPA 72, National Fire Alarm and Signaling Code (current as of the Lease Award Date), prior to Government acceptance and occupancy of the Space.

3.05 ENERGY INDEPENDENCE AND SECURITY ACT (DEC 2011)

- A. The Energy Independence and Security Act (EISA) establishes the following requirements for Government Leases in Buildings that have not earned the ENERGY STAR® Label conferred by the Environmental Protection Agency (EPA) within one year prior to the due date for final proposal revisions ("most recent year").
- B. If this Lease was awarded under any of EISA's Section 435 statutory exceptions, the Lessor shall either:
 - 1. Earn the ENERGY STAR® Label prior to acceptance of the Space (or not later than one year after the Lease Award Date of a succeeding or superseding Lease); or
 - 2. Complete energy efficiency and conservation improvements if any, agreed to by Lessor in lieu of earning the ENERGY STAR® Label prior to acceptance of the Space (or not later than one year after the Lease Award Date of a succeeding or superseding Lease).
- C. If this Lease was awarded to a Building to be built or to a Building predominantly vacant as of the due date for final proposal revisions and was unable to earn the ENERGY STAR® label for the most recent year (as defined above) due to insufficient occupancy, but was able to demonstrate sufficient evidence of capability to earn the ENERGY STAR® label, then Lessor must earn the ENERGY STAR® label within 18 months after occupancy by the Government.

3.06 ACCESSIBILITY (FEB 2007)

The Building, leased Space, and areas serving the leased Space shall be accessible to persons with disabilities in accordance with the Architectural Barriers Act Accessibility Standard (ABAAS), Appendices C and D to 36 CFR Part 1191 (ABA Chapters 1 and 2, and Chapters 3 through 10). To the extent the standard referenced in the preceding sentence conflicts with local accessibility requirements, the more stringent shall apply.

3.07 MECHANICAL, ELECTRICAL, PLUMBING: GENERAL (APR 2011)

The Lessor shall provide and operate all Building equipment and systems in accordance with applicable technical publications, manuals, and standard procedures. Mains, lines, and meters for utilities shall be provided by the Lessor. Exposed ducts, piping, and conduits are not permitted in office Space.

3.08 RESTROOMS (ON-AIRPORT) (JUN 2012)

Government employees shall have access to all public restroom facilities for men and women in the Airport terminal at all times.

3.09 HEATING, VENTILATION, AND AIR CONDITIONING (ON-AIRPORT) (APR 2011)

- A. Temperatures shall conform to local commercial equivalent temperature levels and operating practices to maximize tenant satisfaction. These temperatures shall be maintained throughout the leased Premises and service areas, regardless of outside temperatures, during the hours of operation specified in this Lease. The Lessor shall perform any necessary systems start-up required to meet the commercially equivalent temperature levels prior to the first hour of each day's operation. At all times, humidity shall be maintained below 60 percent relative humidity.
- B. The Lessor shall conduct HVAC system balancing after all HVAC system alterations during the term of the Lease and shall make a reasonable attempt to schedule major construction outside of office hours.
- C. Normal HVAC systems maintenance shall not disrupt tenant operations.

3.10 TELECOMMUNICATIONS: LOCAL EXCHANGE ACCESS (ON-AIRPORT) (SEP 2013)

- A. The Government may elect to contract its own telecommunications (voice, data, video, Internet, or other emerging technologies) service in the Space. The Government may contract with one or more parties to have inside wiring (or other transmission medium) and telecommunications equipment installed pursuant to a separate agreement. In the event future upgrades are required, the Lessor shall bear all costs associated with the upgrade.
- B. The Lessor shall allow the Government's designated telecommunications providers access to utilize existing Building wiring to connect its services to the Government's Space. If the existing Building wiring is insufficient to handle the transmission requirements of the Government's designated telecommunications providers, the Lessor shall provide access from the point of entry into the Building to the Government's floor Space, subject to any inherent limitations in the pathway involved.
- C. The Lessor shall allow the Government's designated telecommunications providers to affix telecommunications antennas (high frequency, mobile, microwave, satellite, or other emerging technologies), subject to weight and wind load conditions, to roof, parapet, or Building envelope as required.

SECTION 4

UTILITIES, SERVICES, AND OBLIGATIONS DURING THE LEASE TERM

4.01 SERVICES, UTILITIES, AND MAINTENANCE (ON-AIRPORT) (SEP 2013)

The Lessor is responsible for providing all utilities necessary for Premises and tenant operations at the Lessor's sole expense. The following services, utilities, and maintenance shall be provided by the Lessor seven (7) days per week, twenty-four (24) hours per day, including Saturday, Sunday and federal holidays. (check all that apply):

- | | | | | |
|--|---|---|---|--|
| <input checked="" type="checkbox"/> HEAT | <input checked="" type="checkbox"/> TRASH REMOVAL | <input checked="" type="checkbox"/> ELEVATOR SERVICE | <input checked="" type="checkbox"/> INITIAL & REPLACEMENT LAMPS, TUBES & BALLASTS & STARTERS | <input checked="" type="checkbox"/> OTHER (Specify below) |
| <input checked="" type="checkbox"/> ELECTRICITY | <input checked="" type="checkbox"/> CHILLED DRINKING WATER | <input checked="" type="checkbox"/> WINDOW WASHING | <input checked="" type="checkbox"/> PAINTING FREQUENCY | <u>Resilient Floors: twice per year clean per the specifications in main corridors and heavy traffic areas and annually in offices and secondary lobbies and corridors. Strip & apply 4 coats of finish to resilient floors in restrooms. Strip & refinish main corridors and other heavy traffic areas. As Required: Properly maintain plants and lawns. Provide and empty exterior ash cans and clean area of any discarded cigarette butts.</u> |
| <input checked="" type="checkbox"/> POWER (Special Equip.) | <input checked="" type="checkbox"/> AIR CONDITIONING | Frequency <u>Twice per year all interior and exterior and other glass surfaces</u> | Space <u>See 4.07 below</u> | |
| <input checked="" type="checkbox"/> WATER (Hot & Cold) | <input checked="" type="checkbox"/> RESTROOM SUPPLIES | <input checked="" type="checkbox"/> CARPET CLEANING | Public Areas <u>See 4.07 below</u> | |
| <input checked="" type="checkbox"/> SNOW REMOVAL | <input checked="" type="checkbox"/> JANITORIAL SERV. & SUPP. <u>3 times weekly: Sweep entrances, lobbies & corridors, spot sweep floors, spot vacuum carpets, clean drinking fountains, sweep and damp mop or scrub restroom, clean all restroom fixtures, Sweep sidewalks, parking areas & driveways (weather permitting).</u> | Frequency <u>Annually shampoo carpets in corridors and lobbies & every 2 years shampoo carpets in all offices and other non-public areas.</u> | <input checked="" type="checkbox"/> PEST CONTROL <u>Pest Control: Control pests as appropriate, using Integrated Pest Management techniques, as specified in the GSA Environmental Management Integrated pest Management Technique Guide (E402-1001).</u> | |
| <input checked="" type="checkbox"/> SECURITY & MONITORING SERVICES | FIRE | | | |

The Lessor shall have an onsite building superintendent or a locally designated representative available to promptly respond to deficiencies, and immediately address all emergency situations.

4.02 PROVISION OF SERVICES, ACCESS, AND NORMAL HOURS FOR AIRPORT OCCUPANCIES (SEP 2013)

The Government shall have access to the Premises and its Appurtenant Areas at all times at no cost, including the use, during other than normal hours, of necessary services and utilities such as elevators, restrooms, lights, and electric power. Cleaning shall be performed while CBP Officers are present. CBP's normal hours of operation are seven (7) days a week 9:00am to 5:00pm or by appointment.

4.03 SECURITY MONITORING AND INTRUSION DETECTION SYSTEM (APR 2017)

Lessor agrees to provide and maintain security monitoring for the Premises comprised of interior/exterior CCTV monitoring and an intrusion detection system. Lessor agrees to provide Lessee with access to CCTV feeds and/or recording, locally or remotely, upon request. Lessor shall provide Lessee with the access code to arm/disarm the intrusion detection system, and Lessor shall instruct the intrusion detection system monitoring service to directly contact the Lessee with immediate notification in the event any alarm is triggered.

4.04 MAINTENANCE AND TESTING OF SYSTEMS (SEP 2013)

A. The Lessor is responsible for the total maintenance and repair of the Property and leased Premises at the Lessor's sole expense. Such maintenance and repairs include the site and private access roads. All equipment and systems shall be maintained to provide reliable, energy efficient service without unusual interruption, disturbing noises, exposure to fire or safety hazards, uncomfortable drafts, excessive air velocities, or unusual emissions of dirt. The Lessor's maintenance responsibility includes initial supply and replacement of all supplies, materials, and equipment necessary for such maintenance. Maintenance, testing, and inspection of appropriate equipment and systems shall be done in accordance with current applicable codes, and inspection certificates shall be displayed as appropriate. Copies of all records in this regard shall be forwarded to the Government's designated representative.

B. At the Lessor's sole expense, the Government reserves the right to require documentation of proper operations, inspection, testing, and maintenance of fire protection systems, such as, but not limited to, fire alarm, fire sprinkler, standpipes, fire pump, emergency lighting, illuminated exit signs, emergency generator, to ensure proper operation. These tests shall be witnessed by the Government's designated representative.

4.05 RECYCLING (ON-AIRPORT) (JUN 2012)

Where state or local law, code, or ordinance requires recycling programs (including mercury-containing lamps) for the Space to be provided pursuant to this Lease, the Lessor shall comply with such state and local law, code, or ordinance in accordance with Paragraph 2.15, Compliance with Applicable Law. During the Lease term and any renewal period, the Lessor agrees, upon request, to provide the Government with additional information concerning recycling programs maintained in the Building and in the Leased Space.

4.06 RANDOLPH-SHEPPARD COMPLIANCE (SEP 2013)

During the term of the Lease and any renewal periods, the Lessor may not establish vending facilities within the leased Space that will compete with any Randolph-Sheppard vending facilities.

4.07 MAINTENANCE OF PROVIDED FINISHES

A. Paint, wall coverings. Lessor shall maintain all wall coverings and high performance paint coatings in "like new" condition for the life of the Lease. All painted surfaces, shall be repainted at the Lessor's sole expense, including the moving and returning of furnishings, any time during the occupancy by the Government if the paint is not "like new". All work shall be done after normal working hours as defined elsewhere in this Lease. In addition to the foregoing requirement,

1. Lessor shall repaint common areas at least every Four (4) years.
2. Lessor shall perform cyclical repainting of the Premises every Six (6) years of occupancy. This cost, including the moving and returning of furnishings, as well as disassembly and reassembly of systems furniture, shall be at the Lessor's sole expense, however the Government is responsible for the secure removal and return of computer and related equipment and any files and documents.

B. Carpet and flooring.

1. The Lessor shall repair or replace flooring at any time during the Lease term when:
 - (i) Backing or underlayment is exposed;
 - (ii) There are noticeable variations in surface color or texture;
 - (iii) Carpet has curls, upturned edges, or other noticeable variations in texture;
 - (iv) Tiles are loose; or,
 - (v) Tears or tripping hazards are present.
2. Notwithstanding the foregoing, the Lessor shall replace all carpet in the Premises every ten (10) years with a product which meets the requirements in the CBP Standards.

Repair or replacement shall include the moving and returning of furnishings, including disassembly and reassembly of systems furniture, if necessary, at the Lessor's sole expense, however the Government is responsible for the secure removal and return of computer and related equipment and any files and documents. Work shall be performed after normal hours as established elsewhere in this Lease.

4.08 SAFEGUARDING AND DISSEMINATION OF SENSITIVE BUT UNCLASSIFIED (SBU) BUILDING INFORMATION (SEP 2013)

This paragraph applies to all recipients of SBU Building information, including: bidders, awardees, contractors, subcontractors, Lessors, suppliers, and manufacturers.

A. MARKING SBU. Contractor-generated documents that contain Building information must be reviewed by CBP to identify any SBU content, before the original or any copies are disseminated to any other parties. If SBU content is identified, the LCO may direct the contractor, as specified elsewhere in this contract, to reprint or affix SBU document markings to the original documents and all copies, before any dissemination.

B. AUTHORIZED RECIPIENTS. Building information considered SBU must be protected with access strictly controlled and limited to those individuals having a need to know such information. Those with a need to know may include Federal, state, and local government entities, and nongovernment entities engaged in the conduct of business on behalf of or with CBP. Nongovernment entities may include architects, engineers, consultants, contractors, subcontractors, suppliers, and others submitting an offer or bid to CBP or performing work under a CBP contract or subcontract. Contractors must provide SBU Building information when needed for the performance of official Federal, state, and local government functions, such as for code compliance reviews and for the issuance of Building permits. Public safety entities such as fire and utility departments may require access to SBU Building information on a need to know basis. This paragraph must not prevent or encumber the dissemination of SBU Building information to public safety entities.

C. DISSEMINATION OF SBU BUILDING INFORMATION:

1. BY ELECTRONIC TRANSMISSION. Electronic transmission of SBU information outside of the CBP firewall and network must use session (or, alternatively, file encryption). Sessions (or files) must be encrypted with an approved NIST algorithm, such as Advanced Encryption Standard (AES) or Triple Data Encryption Standard (3DES), in accordance with Federal Information Processing Standards Publication (FIPS PUB) 140-2, Security Requirements for Cryptographic Modules. Encryption tools that meet FIPS 140-2 are referenced on the NIST web page found at the following URL: <http://csrc.nist.gov/groups/STM/cmvp/documents/140-1/1401vend.htm>. All encryption products used to satisfy the FIPS 140-2 requirement should have a validation certificate that can be verified at <http://csrc.nist.gov/groups/STM/cmvp/validation.html#02>. (Not all vendors of security products that claim conformance with FIPS 140-2 have validation certificates.) Contractors must provide SBU Building information only to authorized representatives of state, Federal, and local government entities and firms currently registered as "active" in the SAM database at <https://www.acquisition.gov> that have a need to know such information. If a subcontractor is not registered in SAM and has a need to possess SBU Building information, the subcontractor shall provide to the contractor its DUNS number or its tax ID number and a copy of its business license.

2. BY NON-ELECTRONIC FORM OR ON PORTABLE ELECTRONIC DATA STORAGE DEVICES. Portable electronic data storage devices include but are not limited to CDs, DVDs, and USB drives. Non-electronic forms of SBU Building information include paper documents.

a. By mail. Utilize only methods of shipping that provide services for monitoring receipt such as track and confirm, proof of delivery, signature confirmation, or return receipt.

b. In person. Contractors must provide SBU Building information only to authorized representatives of state, Federal, and local government entities and firms currently registered as "active" in the SAM database that have a need to know such information.

3. RECORD KEEPING. Contractors must maintain a list of the state, Federal, and local government entities and the firms to which SBU is disseminated under sections C1 and C2 of this paragraph. This list must include at a minimum:

- a. The name of the state, Federal, or local government entity or firm to which SBU has been disseminated;
- b. The name of the individual at the entity or firm who is responsible for protecting the SBU Building information, with access strictly controlled and limited to those individuals having a need to know such information;
- c. Contact information for the named individual; and
- d. A description of the SBU Building information provided.

Once work is completed, or for leased Space with the submission of the as built drawings, the contractor must collect all lists maintained in accordance with this paragraph, including those maintained by any subcontractors and suppliers, and submit them to the LCO.

D. **RETAINING SBU DOCUMENTS.** SBU Building information (both electronic and paper formats) must be protected, with access strictly controlled and limited to those individuals having a need to know such information.

E. **DESTROYING SBU BUILDING INFORMATION.** SBU Building information must be destroyed such that the marked information is rendered unreadable and incapable of being restored, or returned to the LCO, when no longer needed, in accordance with guidelines provided for media sanitization available at <http://csrc.nist.gov/publications/PubsTC.htm#Forensics>. At the Web site, locate SP 800-88, Guidelines for Media Sanitization, available at HTTP://CSRC.NIST.GOV/PUBLICATIONS/NISTPUBS/800-88/NISTSP800-88_REV1.PDF and click on the file name NISTSP800-88_REV1.pdf. From there, you can choose to "Save" or "Download" the file. If SBU Building information is not returned to the LCO, examples of acceptable destruction methods for SBU Building information are burning or shredding hardcopy; physically destroying portable electronic storage devices such as CDs, DVDs, and USB drives; deleting and removing files from electronic recycling bins; and removing material from computer hard drives using a permanent-erase utility such as bit-wiping software or disk crushers.

F. **NOTICE OF DISPOSAL.** The contractor must notify the LCO that all SBU Building information has been destroyed, or returned to the LCO, by the contractor and its subcontractors or suppliers in accordance with section (e) of this paragraph, with the exception of the contractor's record copy. For Leases, this notice must be submitted to the LCO in writing at the completion of the Lease term.

G. **INCIDENTS.** All improper disclosures of SBU Building information must be reported immediately to the LCO. If the contract provides for progress payments, the LCO may withhold approval of progress payments until the contractor provides a corrective action plan explaining how the contractor will prevent future improper disclosures of SBU Building information.

H. **SUBCONTRACTS.** The Contractor must insert the substance of this paragraph in all subcontracts.

4.09 INDOOR AIR QUALITY (OCT 2016)

A. The Lessor shall control airborne contaminants at the source and/or operate the Space in such a manner that the GSA indicator levels for asbestos, mold, carbon monoxide (CO), carbon dioxide (CO₂), and formaldehyde (HCHO) are not exceeded. The indicator levels for office areas shall be: Asbestos 70 s/mm²; mold (see paragraph entitled "mold"); CO 9 ppm; CO₂ 700 ppm above outdoor air; formaldehyde 0.016 ppm.

B. The Lessor shall use available odor-free or low odor products when applying paints, glues, lubricants, and similar wet products. When such equivalent products are not available, lessor shall use the alternative products outside of working hours. Except in an emergency, the Lessor shall provide at least 72 hours advance notice to the Government before applying chemicals or products with noticeable odors in occupied spaces and shall adequately ventilate those spaces during and after application.

C. The Lessor shall serve as first responder to any occupant complaints about indoor air quality (IAQ). The Lessor shall promptly investigate such complaints and implement the necessary controls to address each complaint. Investigations shall include testing as needed at Lessor's expense, to ascertain the source and severity of the complaint.

D. The Government reserves the right to conduct independent IAQ assessments and detailed studies in Space that it occupies, as well as in space serving the Space (e.g., common use areas, mechanical rooms, HVAC systems, etc.). The Lessor shall assist the Government in its assessments and detailed studies by:

1. Making available information on Building operations and Lessor activities;
2. Providing access to Space for assessment and testing, if required; and
3. Implementing corrective measures required by the LCO.

E. The Lessor shall provide to the Government safety data sheets (SDS) upon request for the following products prior to their use during the term of the Lease: adhesives, caulking, sealants, insulating materials, fireproofing or firestopping materials, paints, carpets, floor and wall patching or leveling materials, lubricants, clear finish for wood surfaces, janitorial cleaning products, pesticides, rodenticides, and herbicides. The Government reserves the right to review such products used by the Lessor within:

1. The Space;
2. Common Building areas;
3. Ventilation systems and zones serving the Space; and
4. The area above suspended ceilings and engineering space in the same ventilation zone as the Space.

F. Where hazardous gasses or chemicals (any products with data in the Health and Safety section of the SDS sheets) may be present or used, including large-scale copying and printing rooms, segregate areas with deck-to-deck partitions with separate outside exhausting at a rate of at least 0.5 cubic feet per minute per SF, no air recirculation. The mechanical system must operate at a negative pressure compared with the surrounding spaces of at least an average of 5 Pa (pascal) (0.02 inches of water gauge) and with a minimum of 1 Pa (0.004 inches of water gauge) when the doors to the rooms are closed.

4.10 HAZARDOUS MATERIALS (ON-AIRPORT) (OCT 2016)

The leased Space shall be free of hazardous materials, hazardous substances, and hazardous wastes, as defined by and according to applicable Federal, state, and local environmental regulations including, but not limited to, the following:

A. The leased Space shall be free of all asbestos containing materials, except undamaged asbestos flooring in the Space or undamaged boiler or pipe insulation outside the Space, in which case an asbestos management program conforming to EPA guidance shall be implemented.

B. The Lessor shall provide Space to the Government that is free from ongoing water leaks or moisture infiltration. The space and ventilation zones serving the space shall also be free of visible mold or actionable airborne mold.

1. Actionable mold is airborne mold of types and concentrations in excess of that found in the local outdoor air or non-problematic control areas elsewhere in the same building.

2. The Lessor shall be responsible for conducting the remediation in accordance with the relevant provisions of the document entitled "Mold Remediation in Schools and Commercial Buildings" (EPA 402-K-01-001, March 2001), published by EPA, as same may be amended or revised from time to time, and any other applicable Federal, state, or local laws, regulatory standards, and guidelines.

3. The Lessor acknowledges and agrees that the Government shall have a reasonable opportunity to inspect the leased Space after conclusion of the remediation. If the results of the Government's inspection indicate that the remediation does not comply with the plan or any other applicable Federal, state, or local laws, regulatory standards, or guidelines, the Lessor, at its sole cost, expense, and risk, shall immediately take all further actions necessary to bring the remediation into compliance.

4. If the Lessor fails to exercise due diligence, or is otherwise unable to remediate the actionable mold, the Government may implement a corrective action program in accordance with 2.18, Failure in Performance.

4.11 OCCUPANT EMERGENCY PLANS (SEP 2013)

The Lessor is required to cooperate, participate and comply with the development and implementation of the Government's Occupant Emergency Plan (OEP) and if necessary, a supplemental Shelter-in Place (SIP) Plan. Periodically, the Government may request that the Lessor assist in reviewing and revising its OEP and SIP Plan. The Plans, among other things, must include an annual emergency evacuation drill, emergency notification procedures for the Lessor's Building engineer or manager, Building security, local emergency personnel, and Government agency personnel.

SECTION 5 ADDITIONAL TERMS AND CONDITIONS

5.01 IDENTITY VERIFICATION OF PERSONNEL

- A. The Government reserves the right to verify identities of personnel with routine pre-occupancy and/or unaccompanied access to the Premises. The Lessor shall comply with the agency personal identity verification procedures below that implement [Homeland Security Presidential Directive-12](#) (HSPD-12), Office of Management and Budget (OMB) guidance [M-05-24](#), and Federal Information Processing Standards Publication (FIPS PUB) Number 201, as amended.
- B. The Lessor shall insert this paragraph in all subcontracts when the subcontractor is required to have physical access to a federally controlled facility or access to a federal information system. Lessor compliance with sub-paragraphs below will suffice to meet the Lessor's requirements under HSPD-12, OMB M-05-24, and FIPS PUB Number 201.
- C. The Government reserves the right to conduct background checks on Lessor personnel and contractors with routine access to the Premises.
- D. Upon request, the Lessor will notify the Government whether it will use either the manual process and submit completed fingerprint charts and background investigation forms, or use the electronic process of ID verification, completed through the e-QIP system. This would be done for each employee of the Lessor, as well as employees of the Lessor's contractors or subcontractors, who will provide building operating services requiring routine access to the Premises for a period greater than six (6) months. The Government may also require this information for the Lessor's employees, contractors, or subcontractors who will be engaged to perform alterations or emergency repairs in the Government's Space or, in consultation with the Lessor, reasonably allow such employees, contractors, and subcontractors access to the Premises without such fingerprinting and background investigation if escorted at all times by a Lessor's contractor/personnel who has successfully undergone such fingerprinting and has a current background investigation.

MANUAL PROCESS

The Lessor shall provide Form FD 258, Fingerprint Chart (available from the Government Printing Office at <http://bookstore.gpo.gov>), and Standard Form 85P, [Questionnaire for Public Trust Positions](#), completed by each person and returned to the Lease Contracting Officer (LCO) (or the LCO's designated representative) within thirty (30) days from receipt of the forms.

ELECTRONIC PROCESS

- A. The electronic process will be done through the e-QIP system. The Lessor's contractor/personnel will receive an email along with instructions for completing the Office of Personnel Management Electronic Questionnaire (e-QIP).
- B. The contractor/personnel will have up to seven (7) business days to login and complete the e-QIP for the background investigation.
- C. The contractor/personnel will be instructed to access the website, and will receive on screen instructions which include but are not limited to:
1. How to Log In;
 2. How to Answer and Create New Golden Questions;
 3. What Additional Documents to Send;
 4. How to Print and Sign two Signature Forms (Certification That My Answers Are True);
 5. How to complete the submission process, press the "Release /Request Transmit to the Agency" and exit the process; and
 6. Where to Send.
- D. The Lessor must ensure prompt input, and timely receipt of the following, from its contractor/personnel:
1. Two (2) FBI Fingerprint Cards (Form FD-258) or one (1) card produced by a livescan device;
 2. Certification That My Answers Are True; and
 3. Authorization for Release of Information.
- E. The Lessor must ensure the LCO (or the LCO's designated representative) has all of the requested documentation to ensure the completion of the background investigation.
- F. Based on the information furnished, the Government will conduct background investigations of the contractor/personnel. The LCO will advise the Lessor in writing if a contractor/personnel fails the investigation, and, effective immediately, the individual will no longer be allowed to work or be assigned to work in the Premises. Provided however, the foregoing provisions of this subsection shall not apply to individuals under escort by a Lessor's contractor/personnel who has successfully undergone fingerprinting and has a current background investigation.
- G. Throughout the life of the Lease, the Lessor shall provide the same data for any new employees, contractors, or subcontractors who will be assigned to the Premises. In the event the Lessor's contractor or subcontractor is subsequently replaced, the new contractor or subcontractor is not required to submit another set of these forms for contractor/personnel who were cleared through this process while employed by the former contractor or subcontractor. The Lessor shall resubmit Form FD 258 and Standard Form 85P for every contractor/personnel on a five

(5) year basis. Provided however, the foregoing provisions of this subsection shall not apply to individuals under escort by a Lessor's contractor/personnel who has successfully undergone fingerprinting and has a current background investigation.

5.02 SECURITY

The Lessor shall ensure that the Premises conform, at the Lessor's sole expense to Department of Homeland Security and Customs and Border Protection Minimum Security Requirements, as well as the Physical Security Criteria for Federal Facilities established by the Interagency Security Committee.

5.03 LIABILITY

- A. The Lessor may seek remedy for claims against the Government in accordance with the Federal Tort Claims Act, 28 U.S.C. §§ 2671 et. seq.
- B. The Lessor shall save harmless and indemnify the Government from any claimed or adjudged liability arising out of the maintenance or condition of the Property.

5.04 AVAILABILITY OF FUNDS

In accordance with 31 U.S.C. § 1341 and 41 U.S.C. § 6301, and other applicable federal laws, CBP's liability under this Lease and every term and condition herein is contingent upon the availability of appropriated funds from which payment for contract purposes can be made. Nothing in this Lease may be considered as implying that Congress will at a later date appropriate funds sufficient to meet deficiencies. Nothing in this Lease may be construed or interpreted to obligate the Government to any current or future expenditure of funds in advance of, or in excess of, the availability of appropriations, nor does this Lease obligate the Government to spend funds for any particular project or purpose, even if funds are available.

5.05 SOVEREIGN IMMUNITY

Nothing in this Lease constitutes or can be construed as a waiver of sovereign immunity.

5.06 NO PRIVATE RIGHT OR BENEFIT CREATED

The parties agree that this Lease is not intended and should not be construed to create any right or benefit, substantive or procedural, enforceable at law by an outside party against either the Lessor or the Government.